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UNITED STATES SECURITIES AND EXCHANGE COMMISSION
Washington, DC 20549

FORM 10-K

(Mark One)

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

For the fiscal year ended December 26, 2009

or

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

For the transition period from _____ to _____

Commission file number 1-10948

Office Depot, Inc.

(Exact name of registrant as specified in its charter)

Delaware (State or other jurisdiction of incorporation or organization)	**59-2663954** (I.R.S. Employer Identification No.)
6600 North Military Trail, Boca Raton, Florida (Address of principal executive offices)	**33496** (Zip Code)

(561) 438-4800
(Registrant's telephone number, including area code)
Securities registered pursuant to Section 12(b) of the Act:

Title of each class	Name of each exchange on which registered
Common Stock, par value $0.01 per share	New York Stock Exchange

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

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

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

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports) and (2) has been subject to such filing requirements for the past 90 days: Yes ☑ No ☐

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

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

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer or a smaller reporting company. See the definitions of "large accelerated filer" "accelerated filer," and "smaller reporting company " in Rule 12b-2 of the Exchange Act.

Large accelerated filer ☑	Accelerated filer ☐	Non-accelerated filer ☐ (Do not check if a smaller reporting company)	Smaller reporting company ☐

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

The aggregate market value of voting stock held by non-affiliates of the registrant as of June 27, 2009 (based on the closing market price on the Composite Tape on June 26, 2009) was approximately $1,253,387,286 (determined by subtracting from the number of shares outstanding on that date the number of shares held by affiliates of Office Depot, Inc.).

The number of shares outstanding of the registrant's common stock, as of the latest practicable date: At January 23, 2010, there were 274,737,010 outstanding shares of Office Depot, Inc. Common Stock, $0.01 par value.

Documents Incorporated by Reference:

Certain information required for Part III of this Annual Report on Form 10-K is incorporated by reference to the Office Depot, Inc. definitive Proxy Statement for its 2010 Annual Meeting of Shareholders, which shall be filed with the Securities and Exchange Commission pursuant to Regulation 14A of the Securities Act of 1934, as amended, within 120 days of Office Depot, Inc.'s fiscal year end.

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PART I

Item 1. Business.

Office Depot, Inc. is a global supplier of office products and services. The company was incorporated in 1986 with the opening of our first retail store in Fort Lauderdale, Florida. In fiscal year 2009, we sold $12.1 billion of products and services to consumers and businesses of all sizes through our three business segments: North American Retail Division, North American Business Solutions Division and International Division. Sales are processed through multiple channels, consisting of office supply stores, a contract sales force, an outbound telephone account management sales force, internet sites, direct marketing catalogs and call centers, all supported by our network of supply chain facilities and delivery operations.

Additional information regarding our business segments is presented below and in Management's Discussion and Analysis of Financial Condition and Results of Operations ("MD&A") and, along with financial information about geographic areas, in Note N — Segment Information of Notes to Consolidated Financial Statements located elsewhere in this Annual Report on Form 10-K.

North American Retail Division

Our North American Retail Division sells a broad assortment of merchandise through our chain of office supply stores in the U.S. and Canada. We currently offer general office supplies, computer supplies, business machines and related supplies, and office furniture from national brands as well as our own private brands. See the Merchandising section below for additional product information. Most stores also contain a Copy & Print Depot™ offering printing, reproduction, mailing, shipping, and other services. Also, we maintain nationwide availability of a PC support and network installation service that provides our customers with in-home, in-office and in-store support for their technology needs.

Our retail stores are designed to provide a positive shopping experience for the customer. We strive to optimize visual presentation, product placement, shelf capacity and in-stock positions. Our goal is to maintain sufficient inventory in the stores to satisfy current and near-term customer needs, while controlling the overall working capital invested in inventory.

In recent years, we have developed a store format that we call "M2." This design is intended to provide improved lines of sight, effective product adjacencies and updated signage and lighting, while lowering overall operating costs. We have two versions of this format, "M2M" and "M2S". The square footage of the M2M stores is approximately 20,000, and the square footage of the M2S stores is approximately 15,000. These formats are being used for all new store openings and remodels. While we believe the current M2 format is a desirable design and an improvement over prior designs, we may continue to modify it in the future.

At the end of 2009, our North American Retail Division operated 1,152 office supply stores throughout the U.S. and Canada. The largest concentration of our retail stores is in California, Texas and Florida, but we have broad representation across North America. The count of open stores may include locations temporarily closed for remodels or other factors. Store opening and closing activity for the last three years has been as follows:

	Open at Beginning of Period	Opened	Closed	Open at End of Period	Relocated
2007	1,158	71	7	1,222	3
2008	1,222	59	14	1,267	7
2009	**1,267**	**6**	**121**	**1,152**	**6**

The number of store closings in 2009 followed a strategic review of Division operations as discussed in MD&A.

We currently plan to add approximately 20 new retail stores in North America in 2010. Also, we will continue to review locations as leases become due and will close or relocate stores when appropriate.

During 2009, most store replenishment was handled through our crossdock flow-through distribution facilities where bulk merchandise is sorted for distribution and shipped to the requesting stores about three times per week. During 2009, we closed six crossdock facilities and transitioned the operations to existing distribution centers. These multi-purpose facilities, which share real estate, technology, warehouse management systems and inventory, satisfy the needs of both retail stores and delivery customers. Benefits of this consolidation include improved inventory management as well as improved service resulting from our ability to replenish stores five days per week. We plan to continue our supply chain consolidation efforts during 2010, resulting in an increase in the number of these combination facilities and additional crossdock closures. Additional information on our North American supply chain network is provided in the discussion of the North American Business Solutions Division below. Crossdock facility opening and closing activity for the last three years has been as follows:

	Open at Beginning of Period	Opened	Closed	Open at End of Period
2007	10	2	—	12
2008	12	—	—	12
2009	**12**	**—**	**6**	**6**

North American Business Solutions Division

Our North American Business Solutions Division sells nationally branded and private brand office supplies, technology products, furniture and services by means of a dedicated sales force, through catalogs and electronically through our internet sites. We strive to ensure that our customers' needs are satisfied through various channel offerings. Our direct business is tailored to serve small- to medium-sized customers. Our direct customers can order products from our catalogs, by phone or through our public web sites (www.officedepot.com), including our public web site devoted to technology products (www.techdepot.com).

Our contract business employs a dedicated sales force that services the office supply needs of predominantly medium-sized to large customers. We believe sales representatives contribute to customer loyalty by building relationships with customers and providing information, business tools and problem-solving solutions to them. We offer contract customers the convenience of shopping on dedicated web sites and in our retail locations, while honoring their contract pricing in lieu of retail pricing. We also use telephone account management for outbound sales contacts with our customers. Sales made at retail locations to our contract customers are included in the results of our North American Retail Division.

We also entered into government contracts in response to requests for proposals and through a third-party, multi-state contract available to local and state government agencies, school districts (K-12), higher education and non-profit organizations nationwide. We were awarded this contract on January 2, 2006 with an initial expiration date of January 1, 2010. We renewed the contract for an additional year, and the contract now expires on January 1, 2011. Multi-state contracts enable individual states, municipalities or agencies to utilize the buying power of multiple entities, which results in lower costs to these customers. These contracts include an administrative fee payable to a third-party administrator. We also have some direct contracts with certain states and federal agencies. As part of the normal process of doing business with local and state governmental agencies, we are subject to audits and reviews of these government contracts. See "Part I — Item 3 — Legal Proceedings" for additional discussion.

During 2009, contract and direct customers' orders were filled primarily through deliveries from our distribution centers ("DCs") located across the United States. We closed four DCs during the first half of 2009. Additionally, during 2009, we disposed of our DC in Canada in conjunction with the sale of a small business in that country. We also closed six crossdock facilities and transitioned the operations to existing DCs during 2009. These

combination facilities, which share real estate, technology, warehouse management systems and inventory, hold inventory for both North American Divisions. Benefits of this consolidation include improved inventory management as well as improved service resulting from our ability to replenish stores more frequently. We plan to continue our supply chain consolidation efforts during 2010, resulting in an increase in the number of these combination facilities and additional DC and crossdock closures. DC opening and closing activity for the last three years has been as follows:

	Open at Beginning of Period	Opened/ Acquired	Closed/ Sold	Open at End of Period
2007	20	1[1]	—	21
2008	21	—	1	20
2009	**20**	**—**	**5[1]**	**15[2]**

(1) The DC added in 2007 was obtained in the acquisition of a small contract business in Canada. This business, including the DC, was sold during 2009.

(2) Five of the fifteen DCs we operated as of December 26, 2009, were combination facilities.

Inventory is held in our DCs at levels we believe sufficient to meet current and anticipated customer needs. We utilize processes to evaluate the appropriate timing and quantity of reordering with the objective of controlling our investment in inventory, while at the same time ensuring customer satisfaction. Certain purchases are sent directly from the manufacturer to our customers. Some supply chain facilities and some retail locations also house sales offices and administrative offices supporting our contract business. We have outsourced our inbound call center activities; however, in-house staff manages what we consider to be the most critical points of customer interaction.

Over the past several years, we have implemented technologies to assist with reordering, stocking, the pick-and-pack process and delivery operations. We have also increased our use of third-party delivery services and reduced our own fleet of vehicles where cost reductions could be achieved without compromising customer service levels.

Because sales and marketing efforts and catalog production have similarities between the North American Business Solutions Division and the International Division, those topics are addressed separately after the three segment discussions, though they are integral to understanding the processes and management of these Divisions. Also, the Merchandising section below provides additional product information.

International Division

As of December 26, 2009, Office Depot sold to customers in 51 countries throughout North America, Europe, Asia and Latin America. We operate wholly-owned entities, majority-owned entities or participate in other ventures covering 40 countries and have alliances in an additional 11 countries. The Merchandising section below provides information on product offerings throughout the company. International operations are managed on a geographic basis, and the International Division operates separate regional headquarters for Europe/Middle East (The Netherlands), Asia (Hong Kong) and Latin America (South Florida).

Our International Division sells office products and services through direct mail catalogs, contract sales forces, internet sites and retail stores, using a mix of company-owned operations, joint ventures, licensing and franchise agreements, alliances and other arrangements. We maintain distribution centers and call centers throughout Europe and Asia to support these operations. Currently, we have catalog offerings in 15 countries outside of North America and operate more than 40 separate web sites in the International Division. At the end of 2009, the International Division operated, through wholly-owned or majority-owned entities, 137 retail stores in France, Hungary, Israel, South Korea and Sweden. In addition, we participate under licensing and merchandise arrangements in 100 stores in South Korea, Thailand and the Middle East. Following a strategic review of the business in late 2008, we closed our retail operations in Japan during 2009.

Since 1994, we have participated in a joint venture selling office products and services in Mexico and Central and South America. In recent years, this venture, Office Depot de Mexico, has grown in size and scope and now includes 195 retail locations in Mexico, Colombia, Costa Rica, El Salvador, Guatemala, Honduras, and Panama, as well as call centers and distribution centers to support the delivery business in certain areas. We provide services to the venture through management consultation, product selection, product sourcing and information technology services. Because we participate equally in this business with a partner, we account for the activity under the equity method and venture sales of approximately $826 million in 2009 are not reflected in our revenues nor in our consolidated retail comparable store statistics. Our portion of venture results is included in Miscellaneous income, net in the Consolidated Statements of Operations.

Including company-owned operations, joint ventures, licensing and franchise agreements we sell office products through 432 retail stores outside the U.S. and Canada.

International Division store and distribution center operations are summarized below (includes only wholly-owned and majority-owned entities):

	Office Supply Stores			
	Open at Beginning of Period	Opened/ Acquired	Closed	Open at End of Period
2007	125	26	3	148
2008	148	15[1]	1	162
2009	**162**	**4**	**29**	**137**

(1) Includes 13 retail stores obtained in the acquisition of the business in Sweden.

	Distribution Centers			
	Open at Beginning of Period	Opened/ Acquired	Closed	Open at End of Period
2007	32	2	1	33
2008	33	19[2]	9	43
2009	**43**	**1**	**5**	**39**

(2) Includes 12 DCs obtained in the acquisition of the business in India and four DCs obtained in the acquisition of the business in Sweden. The majority of the DC's obtained in the 2008 acquisitions are smaller in size than those in other geographies.

Merchandising

Our merchandising strategy is to meet our customers' needs by offering a broad selection of nationally branded office products, as well as private brand products and services. Our selection of private brand products has increased in breadth and level of sophistication over time. We currently offer general office supplies, computer supplies, business machines and related supplies, and office furniture under various labels, including Office Depot®, Viking Office Products®, Foray®, Ativa®, Break Escapes™, Niceday™ and Worklife™.

Total company sales by product group were as follows:

	2009	2008*	2007*
Supplies	66.2%	63.2%	61.5%
Technology	21.9%	23.9%	25.9%
Furniture and other	11.9%	12.9%	12.6%
	100.0%	100.0%	100.0%

* Conformed to current year product classification.

We classify our products into three categories: (1) supplies, (2) technology, and (3) furniture and other. The supplies category includes products such as paper, binders, writing instruments, school supplies, and ink and toner. The technology category includes products such as desktop and laptop computers, monitors, printers, cables, software, digital cameras, telephones, and wireless communications products. The furniture and other category includes products such as desks, chairs, luggage, sales in our copy and print centers, and other miscellaneous items.

We buy substantially all of our merchandise directly from manufacturers and other primary suppliers, including direct sourcing of private brand products from domestic and offshore sources. We also enter into arrangements with vendors that can lower our unit product costs if certain volume thresholds or other criteria are met. For additional discussion regarding these arrangements, see the Critical Accounting Policies section of MD&A.

We operate separate merchandising functions in North America, Europe and Asia as well as in our joint ventures. Each group is responsible for selecting, purchasing and pricing merchandise as well as managing the product life cycle of our inventory. In recent years, we have increasingly used global offerings across all regions to further reduce our product cost while maintaining product quality.

We operate a global sourcing office in Shenzhen, China, which allows us to take more direct control of our product sourcing, logistics and quality assurance. This office consolidates our purchasing power with Asian factories and, in turn, helps us to increase the scope of our private brand offerings.

Sales and Marketing

Our marketing programs are designed to attract new customers and to drive frequency of customer visits to our stores and web sites and increase the “share of wallet” of our existing customers by capturing more of what they spend in total on the products we sell. We regularly advertise in major newspapers in most of our North American markets. We also advertise through local and national radio, network and cable television advertising campaigns, and direct marketing efforts. Our direct marketing efforts have been expanding and now include advertising via the internet and social networking.

We offer customer loyalty programs that provide customers with rewards that can be applied against future Office Depot purchases or other incentives. These programs have provided us with valuable information enabling us to market more effectively to our customers. These programs may change in popularity in the future, and we may make alterations to them from time to time.

We perform periodic competitive pricing analyses to monitor each market, and prices are adjusted as necessary to adhere to our pricing philosophy and further our competitive positioning. We generally expect our everyday prices to be highly competitive with other resellers of office products.

We acquire new customers by selectively mailing specially designed catalogs and by making on-premises sales calls to prospective customers. We also make outbound sales calls using dedicated agents through our telephone account management program. We obtain the names of prospective customers in new and existing markets through the purchase of selected lists from outside marketing information services and other sources as well as through the use of a proprietary mailing list system. We also acquire customers through e-mail marketing campaigns and online affiliates. We are a primary sponsor of NASCAR® and are currently designated NASCAR® ’s official office products partner. No single customer in any of our segments accounts for more than 10% of our total sales.

We consider our business to be only somewhat seasonal, with sales generally trending lower in the second quarter, following the “back-to-business” sales cycle in the first quarter and preceding the “back-to-school” sales cycle in the third quarter and the holiday sales cycle in the fourth quarter. Certain working capital components may build and recede during the year reflecting established selling cycles. Business cycles can and have impacted our operations and financial position when compared to other periods. See “Item 1A — Risk Factors” for additional discussion.

Catalogs

We use catalogs to market directly to both existing and prospective customers throughout our operations globally. Our catalog offerings typically include all of our products at their regular low prices. Prospecting catalogs with special offers designed to attract new customers are mailed at certain intervals. In addition, specialty and promotional catalogs may be delivered more frequently to selected customers. We also produce a Green Book® catalog, which features products that are recyclable, energy efficient, or otherwise have a reduced impact on the environment. We continually evaluate our catalog offerings for efficiency and effectiveness at generating incremental revenues.

Copy and Print

Most of our North American retail stores contain a Copy & Print Depot™ offering printing, reproduction, mailing, shipping, and other services. We participate in the exclusive "Xerox Certified Print Specialist" program, which certifies associates as experts in the area of digital imaging and printing. In addition to the in-store locations, we operate ten regional print facilities, which support copy and print orders taken in our North American Retail and North American Business Solutions Divisions. In 2009, we began offering copy and print services to our customers in the U.K. through our e-commerce business. We are currently evaluating the prospect of deploying this service to other customers in Europe.

Intellectual Property

Through our subsidiary, we hold trademark registrations domestically and worldwide and have numerous other applications pending worldwide for the names "Office Depot", "Viking", "Ativa", "Foray", "Realspace", and others. We consider the trademark for the Office Depot name the most significant trademark held by us because of its impact on market awareness across all of our businesses and on customers' identification with us. As with all domestic trademarks, our trademark registrations in the United States are for a ten year period and are renewable every ten years, prior to their respective expirations, as long as the trademarks are used in the regular course of trade.

Industry and Competition

We operate in a highly competitive environment in all three of our segments. We believe that we compete favorably on the basis of price, service, relationships and selection. We compete with office supply stores, wholesale clubs, discount stores, mass merchandisers, food and drug stores, computer and electronics superstores, internet-based companies and direct marketing companies. These companies, in varying degrees, compete with us in substantially all of our current markets.

Other office supply retail companies market similarly to us in terms of store format, pricing strategy, product selection and product availability in the markets where we operate, primarily those in the United States and Canada. We anticipate that in the future we will face increased competition from these chains.

Internationally, we compete on a similar basis to North America. Outside of the U.S. and Canada, we sell through contract and catalog channels in 20 countries and operate retail stores in five countries through wholly-owned or majority-owned entities. Additionally, our International Division provides office products and services in 29 countries through joint ventures, licensing and franchise agreements, cross-border transactions, alliances and other arrangements.

Employees

As of January 23, 2010, we had approximately 41,000 employees worldwide. Our workforce is largely non-union and our labor relations are generally good. In certain international locations, changes in staffing or work arrangements may need approval of local works councils or other bodies.

Environmental Activities

As both a significant user and seller of paper products, we have developed environmental practices that are values-based and market-driven. Our environmental initiatives center on three guiding principles: (1) recycling and pollution reduction; (2) sustainable forest management; and (3) issue awareness and market development for environmentally preferable products. We offer thousands of different products containing recycled content, including from 35% to 100% post-consumer waste content paper and technology recycling services in our retail stores.

Office Depot continues to implement environmental programs in line with our stated environmental vision to "increasingly buy green, be green and sell green" — including environmental sensitivity in our packaging, operations and sales offerings. In January 2009, our "Green" retail store prototype received a Leadership in Energy and Environmental Design (LEED) Gold Certification from the U.S. Green Building Council. Additional information on our green product offerings can be found at www.officedepot.com/buygreen.

Available Information

We maintain a web site at www.officedepot.com. We make available, free of charge, on the "Investor Relations" section of our web site, our annual reports on Form 10-K, quarterly reports on Form 10-Q, current reports on Form 8-K and amendments to those reports filed or furnished pursuant to Section 13(a) or 15(d) of the Exchange Act, as soon as reasonably practicable after we electronically file or furnish such materials to the U.S. Securities and Exchange Commission ("SEC"). In addition, the public may read and copy any of the materials we file with the SEC at the SEC's Public Reference Room at 100 F Street, NE, Washington DC 20549. The public may obtain information on the operation of the Public Reference Room by calling the SEC at 1-800-SEC-0330. The SEC maintains an internet site that contains reports, proxy and information statements and other information regarding issuers, such as the company, that file electronically with the SEC. The address of that website is www.sec.gov.

Additionally, our corporate governance materials, including governance guidelines; the charters of the Audit, Compensation, Finance, and Governance and Nominating Committees; and the code of ethical behavior may also be found under the "Investor Relations" section of our web site at www.offficedepot.com.

Executive Officers of the Registrant

Steve Odland — Age: 51

Mr. Odland has been Chairman, Chief Executive Officer and a Director since early 2005. Prior to joining Office Depot, Inc., he was Chairman, Chief Executive Officer and President of AutoZone, Inc., from 2001 until 2005. Previously he was an executive with Ahold USA from 1998 to 2000, President of the Foodservice Division of Sara Lee Bakery from 1997 to 1998 and was employed by The Quaker Oats Company from 1981 to 1996 in various executive positions. Mr. Odland is also a director of General Mills, Inc.

Charles Brown — Age: 56

Mr. Brown has been President, International since 2005. In 2007, oversight of business development was added to his role. He was the company's Executive Vice President and Chief Financial Officer from 2001 to 2005. Prior to that, Mr. Brown was Senior Vice President, Finance and Controller since he joined our company in 1998. Before joining Office Depot, he was Senior Vice President and Chief Financial Officer of Denny's, Inc. from 1996 until 1998; from 1994 until 1995, he was Vice President and Chief Financial Officer of ARAMARK International; and from 1989 until 1994, he was Vice President and Controller of Pizza Hut International, a Division of PepsiCo, Inc. Mr. Brown assumed the role of acting Chief Financial Officer of the company effective March 1, 2008 and served in that role until August 2008, when Michael Newman began his role as the company's permanent Chief Financial Officer.

Elisa Garcia — Age: 52

Ms. Garcia was appointed Executive Vice President, General Counsel and Corporate Secretary in July 2007 with overall responsibility for global compliance matters and governmental relations. Prior to joining Office Depot, Ms. Garcia served as General Counsel and Corporate Secretary of Domino's Pizza, Inc. from April 2000. Prior to joining Domino's Pizza, Ms. Garcia served as Latin American Regional Counsel for Philip Morris International, and Corporate Counsel for GAF Corporation.

Monica Luechtefeld — Age: 61

Ms. Luechtefeld was appointed Executive Vice President, E-Commerce and Direct Marketing in March 2009. Prior to this role, Ms. Luechtefeld held the position of Executive Vice President, Information Technology since early 2005. She was also responsible for business development from early 2005 to 2007. She assumed responsibility for supply chain from 2007 through 2008. Previously, she was Executive Vice President of E-Commerce from 2000. Prior to this role, she held several officer positions including Vice President, Marketing and Sales Administration and Vice President of Contract Marketing & Business Development. Ms. Luechtefeld joined Office Depot in 1993, serving as General Manager of the Southern California Region of Office Depot until 1996.

Michael Newman — Age: 53

Mr. Newman was appointed Executive Vice President, Chief Financial Officer in August 2008. Prior to joining Office Depot, Mr. Newman served as Chief Financial Officer of Platinum Research Organization, Inc. from April 2007 through February 2008. Prior to joining Platinum Research Organization, Mr. Newman was employed as an independent consultant since 2005. Mr. Newman also served as Chief Financial Officer of Blackstone Crystal Holdings Capital Partners from 2004 to 2005 and Chief Financial Officer of Radio Shack Corp. from 2001 to 2004. Mr. Newman also held Chief Financial Officer roles at Intimate Brands and Hussmann International (which was acquired by Ingersoll-Rand in 2000). He also spent 17 years at General Electric in a variety of management roles both in the United States and Europe.

Kevin Peters — Age: 52

Mr. Peters has been Executive Vice President, Supply Chain since October 2007. In March 2009, Mr. Peters assumed the additional responsibility of leading the company's Information Technology organization. Prior to joining Office Depot, Mr. Peters spent five years in management roles at W. W. Grainger, Inc., most recently as Senior Vice President, Supply Chain. Prior to W. W. Grainger, Mr. Peters spent 11 years at The Home Depot, serving as the company's Vice President and General Manager, Strategic Initiatives, Toronto/San Diego. He also has held positions in physical distribution operations, purchasing and inventory management at McMaster-Carr Supply Company.

Carl (Chuck) Rubin — Age: 50

Mr. Rubin was appointed President, North American Retail in early 2006. Prior to assuming that position, Mr. Rubin held the position of Executive Vice President, Chief Merchandising Officer and Chief Marketing Officer since 2004. Before joining the company, Mr. Rubin spent six years with Accenture Ltd., most recently as Partner, where he worked for clients, including Office Depot, across retail formats in the department, specialty and e-commerce channels, as well as new business startups. Prior to joining Accenture, Mr. Rubin spent six years in specialty retailing and 11 years in department store retailing, where he served as General Merchandise Manager and a member of the Executive Committees for two publicly-held companies.

Steven Schmidt — Age: 55

Mr. Schmidt was appointed President, North American Business Solutions in July 2007. Prior to joining Office Depot, Mr. Schmidt spent 11 years with the ACNielsen Corporation, most recently serving as President and Chief Executive Officer. Prior to joining ACNielsen, Mr. Schmidt spent eight years at the Pillsbury Food Company, serving as President of its Canadian and Southeast Asian operations. He has also held management positions at PepsiCo and Procter & Gamble.

Daisy Vanderlinde — Age: 58

Ms. Vanderlinde was appointed Executive Vice President, Human Resources in late 2005. Prior to joining Office Depot, Ms. Vanderlinde was Senior Vice President, Human Resources and Loss Prevention, for AutoZone Inc. from 2001 to 2005, and was a member of the Executive Committee. Ms. Vanderlinde has also served as a senior HR officer for other retailers, including Tractor Supply Company, Marshalls, Inc., and The Broadway Stores.

Mark Hutchens — Age: 44

Mr. Hutchens was appointed Senior Vice President and Controller in September 2008. Prior to assuming that position, Mr. Hutchens held the position of Senior Vice President of Finance, International Division since late 2006. Prior to joining the company, Mr. Hutchens served as Assistant Treasurer at Yum! Brands, Inc., from February 2005 to November 2006 and as General Auditor from November 2003 to February 2005. In addition, Mr. Hutchens served in a variety of senior management positions at Yum! from May 1996 to November 2003. Prior to joining Yum! Mr. Hutchens served in various management positions at Ford Motor Company, where he was employed until May 1996.

Information with respect to our directors is incorporated herein by reference to information included in the Proxy Statement for our 2010 Annual Meeting of Shareholders.

Item 1A. Risk Factors.

In addition to risks and uncertainties in the ordinary course of business that are common to all businesses, important factors that are specific to our industry and our company could materially impact our future performance and results. We have provided below a list of these risk factors that should be reviewed when considering our securities. These are not all the risks we face, and other factors currently considered immaterial or unknown to us may impact our future operations.

Our recent transaction with funds advised by BC Partners, Inc. dilutes the interests of our common shareholders, may discourage, delay or prevent a change in control of our company and grants important rights to BC Partners, Inc. — The Series A and Series B Preferred Stock that we sold to funds advised by BC Partners, Inc. (the “Investors”) is immediately convertible into shares of the company’s common stock at an initial conversion price of $5.00 per share (subject to a conversion cap). The investment equates to an initial ownership interest of approximately 20%, assuming the full conversion of each series of preferred stock into the company’s common stock. Any sales in the public market of the shares of common stock issuable upon such conversion could adversely affect prevailing market prices of our common stock.

The initial dividend rate is 10% on both the Series A and Series B Preferred, and dividends are paid quarterly in cash or are added to the liquidation preference at the company’s option and subject to certain restrictions. To the extent that dividends are added to the liquidation preference, this will further increase the ownership interest of the Investors and further dilute the interests of the common shareholders.

The holders of the Series A and Series B Preferred Stock are entitled to vote with the holders of the company's common stock on an as-converted basis, subject to any limitations imposed by any New York Stock Exchange ("NYSE") stockholder approval requirements. The Investors have agreed to cause all of their common stock and preferred stock entitled to vote at any meeting of the company's shareholders to be present at such meeting and to vote all such shares in favor of any nominee or director nominated by the company's Corporate Governance and Nominating Committee, against the removal of any director nominated by the company's Corporate Governance and Nominating Committee and, with respect to any other business or proposal, in accordance with the recommendation of the board of directors (other than with respect to the approval of any proposed business combination agreement between the company and another entity). This may discourage, delay or prevent a change in control of our company, which could deprive our shareholders of an opportunity to receive a premium for their common stock as part of a sale of our company.

Furthermore, the company has entered into an Investor Rights Agreement pursuant to which the company granted certain rights to the Investors that may restrain the company's ability to take certain actions in the future. Subject to certain exceptions, for so long as the Investors' ownership percentage is equal to or greater than 10%, the approval of at least one of the directors designated to the company's board of directors by the Investors is required for the company to incur any indebtedness for borrowed money in excess of $200 million in the aggregate during any fiscal year if the ratio of the consolidated debt of the company and its subsidiaries to the trailing four quarter adjusted EBITDA of the company and its subsidiaries, on a consolidated basis, is more than 4x. In addition, for so long as the Investors' ownership percentage is (i) equal to or greater than 15%, the Investors are entitled to nominate three of our fourteen directors, (ii) less than 15% but more than 10%, the Investors are entitled to nominate two of our fourteen directors and (iii) less than 10% but more than 5%, the Investors are entitled to nominate one of our fourteen directors. There can be no assurance that the interests of the Investors are aligned with that of our other shareholders. Investor interests can differ from each other and from other corporate interests and it is possible that this significant shareholder may have interests that differ from us and those of other shareholders. If the Investors were to sell, or otherwise transfer, all or a large percentage of their holdings, our stock price could decline and we could find it difficult to raise capital, if needed, through the sale of additional equity securities.

Economic Conditions May Cause a Decline in Business and Consumer Spending Which Could Adversely Affect Our Business and Financial Performance — Our operating results and performance depend significantly on worldwide economic conditions and their impact on business and consumer spending. The decline in business and consumer spending resulting from the global recession and the deterioration of global credit markets has caused our comparable store sales to decline from prior periods and we have experienced similar declines in our other domestic and international businesses. Our business and financial performance may continue to be adversely affected by current and future economic conditions and the level of consumer debt and interest rates, which may cause a continued or further decline in business and consumer spending.

Supplier Credit and Order Fulfillment Risk — We purchase products for resale under credit arrangements with our vendors. In recent years, we have worked to set payment terms to our vendors under these credit arrangements to occur at a time approximately equal to the anticipated time it takes to sell the vendor's products. In weak global markets, vendors may seek credit insurance to protect against non-payment of amounts due to them. If we continue to experience declining operating performance, and if we experience severe liquidity challenges, vendors may demand that we accelerate our payment for their products. If vendors begin to demand accelerated payment of amounts due to them or if they begin to require advance payments or letters of credit before goods are shipped to us, these demands could have a significant adverse impact on our operating cash flow and result in a severe drain on our liquidity. Borrowings under our existing credit facility could reach maximum levels under such circumstances and we would seek alternative liquidity measures but may not be able to meet our obligations as they become due. In addition if our suppliers are unable to access liquidity or become insolvent, they could be unable to supply us with product. Also, some of our suppliers may serve other industries. Any adverse impacts to those industries, as a result of the economic slowdown or credit crisis, could have a ripple effect on these suppliers which could adversely impact their ability to supply us as necessary. Any such

disruptions could negatively impact our ability to deliver products and services to our customers, which in turn could have an adverse impact on our business, operating results, financial condition or cash flow.

Liquidity — Historically, we have generated positive cash flow from operating activities and have had access to broad financial markets that provide the liquidity we need to operate our business. Together, these sources have been used to fund operating and working capital needs, as well as invest in business expansion through new store openings, capital improvements and acquisitions. However, due to the downturn in the global economy our operating results have diminished. In September 2008, we entered into a $1.25 billion asset based credit facility to provide liquidity. Also, as discussed above, we issued $350 million in redeemable preferred stock in June 2009. Continued distress in the financial markets has resulted in extreme volatility in the capital markets and diminished liquidity and credit availability. There can be no assurance that our liquidity will not be adversely affected by changes in the financial markets and the global economy. In addition, deterioration in our financial results could negatively impact our credit ratings. The tightening of the credit markets or a downgrade in our credit ratings could make it more difficult for us to access funds, to refinance our existing indebtedness, to enter into agreements for new indebtedness or to obtain funding through the issuance of securities. If such conditions were to recur, we would seek alternative sources of liquidity but may not be able to meet our obligations as they become due.

Financial Covenants in Existing Credit Facility — Our asset based credit facility contains a fixed charge coverage ratio covenant that is operative only when borrowing availability is below $187.5 million or prior to a restricted transaction, such as incurring additional indebtedness, acquisitions, dispositions, dividends, or share repurchases. The agreement also contains representations, warranties, affirmative and negative covenants, and default provisions. A breach of any of these covenants could result in a default under our credit agreement. Upon the occurrence of an event of default under our credit agreement, the lenders could elect to declare all amounts outstanding to be immediately due and payable and terminate all commitments to extend further credit. If the lenders accelerate the repayment of borrowings, we may not have sufficient assets to repay our asset based credit agreement and our other indebtedness. Also, should there be an event of default, or need to obtain waivers following an event of default, we may be subject to higher borrowing costs and/or more restrictive covenants in future periods. Acceleration of any obligation under any of our material debt agreements or instruments will permit the holders of our other material debt to accelerate their obligations. See “Liquidity and Capital Resources”.

Litigation / Regulatory Risks — The company and certain of its directors and executive officers (both current and former officers) are often involved in various legal proceedings, which may involve class action lawsuits, state and federal governmental inquiries and investigations, employment, tort, consumer litigation and intellectual property litigation. Certain of these legal proceedings are described in detail in our Legal Proceedings Section. These legal proceedings may be a significant distraction to management and could expose us to significant defense costs, fines, penalties, suspensions, debarments and liability to private parties for monetary recoveries and attorneys’ fees, any of which could have a material adverse effect on our business and results of operations.

Litigation and governmental investigations could result in substantial additional costs. Certain states, and federal agencies, are investigating our pricing under certain contracts. Although we are cooperating with the governmental agencies in these matters, they may determine that we have violated some laws or regulations, and if so, we may face sanctions, including, but not limited to, significant monetary penalties, injunctive relief and loss of business. The company has reached a proposed settlement with the staff of the SEC to resolve the previously disclosed SEC inquiry that commenced in July of 2007 and the formal investigation disclosed in January of 2008 with respect to contacts and communications with financial analysts, inventory receipt and reserves, timing of vendor payments, certain intercompany loans, certain payments to foreign officials, inventory obsolescence and timing and recognition of vendor program funds. Under the proposed settlement, the company, without admitting or denying liability, has agreed to pay a civil penalty and to consent to a cease and desist order from committing or causing violations of Regulation FD and Sections 13(a) and 13(b) of the Securities Exchange

Act of 1934 (and related rules) which require the maintenance of accurate books and records and internal controls. The proposed settlement is contingent on the review and approval of final documentation by the company and the SEC staff, and is subject to approval by the SEC Commissioners. There can be no assurance that the SEC Commissioners will approve the staff's recommendation. The company has also been informed that the company's CEO and two former employees each received "Wells" notices from the staff of the SEC's Miami Regional Office advising them that the regional staff has made a preliminary decision to recommend that the SEC bring civil enforcement actions against them for possible violations of Regulation FD. Under the processes established by the SEC, these individuals will have an opportunity to present their perspective and to address the issues raised by the SEC staff prior to any action being taken by the SEC.

See "Part I — Item 3 — Legal Proceedings" for a description of pending litigation and governmental proceedings and investigations.

Competition — We compete with a variety of retailers, dealers, distributors, contract stationers, direct marketers and internet operators throughout our worldwide operations. This is a highly competitive marketplace that includes such retail competitors as office supply stores, warehouse clubs, computer and electronics stores, mass merchant retailers, local merchants, grocery and drug-store chains as well as other competitors including direct mail and internet merchants, contract stationers, and direct manufacturers. Our competitors may be local, regional, national or international. Further, competition may come from highly-specialized low-cost merchants, including ink refill stores and kiosks, original equipment manufacturers, concentrated direct marketing channels including well-funded and broad-based enterprises. There is a possibility that any or all of these competitors could become more aggressive in the future, thereby increasing the number and breadth of our competitors. In recent years, new and well-funded competitors have begun competing in certain aspects of our business. For example, two major common carriers of goods have retail outlets that allow them to compete directly for copy, printing, packaging and shipping business, and offer products and services similar to those we offer. While they do not yet have the breadth of products that we offer, they are extremely competitive in the areas of package shipping and copy and print centers. Recently, the so-called warehouse clubs have expanded upon their "in-store" offerings by adding catalog and internet sales channels, offering a broad assortment of office products for sale on a direct delivery basis. In order to achieve and maintain expected profitability levels in our three operating divisions, we must continue to grow by adding new customers and taking market share from competitors and using pricing necessary to retain existing customers. If we fail to adequately address and respond to these pressures in both North America and internationally, it could have a material adverse effect on our business, financial condition, results of operations and cash flows.

Government Contracts — One of our largest U.S. customer groups consists of various state and local governments, government agencies and non-profit organizations. Our relationship with this customer group is subject to uncertain future funding levels and federal and state procurement laws and requires restrictive contract terms; any of these factors could curtail current or future business. Contracting with state and local governments is highly competitive and can be expensive and time-consuming, often requiring that we incur significant upfront time and expense without any assurance that we will win a contract. Our ability to compete successfully for and retain business with the federal and various state and local governments is highly dependent on cost-effective performance. Our government business is also sensitive to changes in national and international priorities and U.S., state and local government budgets.

Execution of Expansion Plans — We plan to open approximately 20 stores in the North American Retail Division during 2010. Circumstances outside of our control could negatively impact these anticipated store openings. We cannot determine with certainty whether our new store openings, including some newly sized or formatted stores or retail concepts, will be successful. The failure to expand by successfully opening new stores as planned, or the failure of a significant number of these stores to perform as planned, could have a material adverse effect on our business, financial condition, results of operations and cash flows.

International Activity — As of December 26, 2009, we sold to customers in 51 countries throughout North America, Europe, Asia and Latin America. We operate wholly-owned entities, majority-owned entities or participate in other ventures covering 40 countries and have alliances in an additional 11 countries. As a result of our global operations, we face such risks as foreign currency fluctuations, unfavorable foreign trade policies, unstable political and economic conditions, and, because some of our foreign operations are not wholly owned, the potential for compromised operating control in certain countries. In addition, we are required to comply with multiple foreign laws and regulations that may differ substantially from country to country, requiring significant management attention and cost. In addition, the business cultures in certain areas of the world are different than those that prevail in the United States, and we may be at a competitive disadvantage against other companies that do not have to comply with standards of financial controls, Foreign Corrupt Practices Act requirements, or business integrity that we are committed to maintaining as a U.S. publicly traded company. Our results may continue to be affected by all of these factors. All of these risks could have a material adverse effect on our business, financial condition, results of operations and cash flows.

Product Availability; Potential Cost Increases — In addition to selling our private brand merchandise, we are a reseller of manufacturers' branded items and are thereby dependent on the availability and pricing of key products, including ink, toner, paper and technology products, to name a few. As a reseller, we cannot control the supply, design, function or cost of many of the products we offer for sale. Disruptions in the availability of raw materials used in production of these products may adversely affect our sales and result in customer dissatisfaction. Further, we cannot control the cost of manufacturers' products and cost increases must either be passed along to our customers or result in an erosion of our earnings. Failure to identify desirable products and make them available to our customers when desired and at attractive prices could have a material adverse effect on our business, financial condition, results of operations and cash flows.

Global Sourcing of Products/Private Brand — In recent years, we have substantially increased the number and types of products that we sell under our private brands including Office Depot® and other proprietary brands. Sources of supply may prove to be unreliable, or the quality of the globally sourced products may vary from our expectations. Economic and civil unrest in areas of the world where we source such products, as well as shipping and dockage issues could adversely impact the availability or cost of such products, or both. Moreover, as we seek indemnities from the manufacturers of these products, the uncertainty of realization of any such indemnity and the lack of understanding of U.S. product liability laws in certain parts of Asia make it more likely that we may have to respond to claims or complaints from our customers. Most of our imported goods to the United States arrive from Asia, and the ports through which these goods are imported are located primarily on the U.S. West Coast. Therefore, we are subject to potential disruption of our supplies of goods for resale due to labor unrest, security issues or natural disasters affecting any or all of these ports. Finally, as a significant importer of manufactured goods from foreign countries, we are vulnerable to security concerns, labor unrest and other factors that may affect the availability and reliability of ports of entry for the products that we source. Any of these circumstances could have a material adverse effect on our business, financial condition, results of operations and cash flows.

Possible Business Disruption Because of Weather — Weather conditions may affect any business, especially retail businesses, including snow storms, high winds and heavy rain. Because of our heavy concentration in the southern United States (including Florida and the Gulf Coast), our company may be more susceptible than some others to the effects of tropical weather disturbances. For example, during 2004 and 2005, we sustained disruption to our businesses in the United States due to the number and severity of weather events in the Southeastern United States, including record numbers of hurricanes. Winter storm conditions in the Midwest and Southwest, areas that also have a large concentration of our business activities, could result in supply chain constraints or other business disruptions. We believe that we have taken reasonable precautions to prepare for any such weather-related events, but our precautions may not be adequate to deal with such events in the future. As these events occur in the future, if they should impact areas in which we have concentrations of retail stores or distribution facilities, such events could have a material adverse effect on our business, financial condition, results of operations and cash flows.

New Systems and Technology — From time to time, we modify our information systems and technology to increase productivity and efficiency. We are undertaking certain system enhancements and conversions that, if not done properly, could divert the attention of our workforce during development and implementation and constrain for some time our ability to provide the level of service our customers demand as well as our ability to complete requisite filings with the SEC. Also, when implemented, the new systems and technology may not provide the benefits anticipated and could add costs and complications to our ongoing operations. A failure to effectively convert to these systems or to realize the intended efficiencies could have a material adverse effect on our business, financial condition, results of operations and cash flows.

Labor — We are heavily dependent upon our labor force to identify new customers and provide desired products and services to existing customers. We attempt to attract and retain an appropriate level of personnel in both field operations and corporate functions. Our compensation packages are designed to provide benefits commensurate with our level of expected service. However, within our retail operations, we face the challenge of filling many positions at wage scales that are appropriate to the industry and competitive factors. We operate in a number of jurisdictions. It can be cumbersome to comply with labor laws and regulations, many of which vary from jurisdiction to jurisdiction. This has added to our labor costs in some locales as we have had to add personnel to monitor and track compliance with sometimes arcane rules and regulations that impact retailers in particular. As a result of these and other factors, we face many external risks and internal factors in meeting our labor needs, including competition for qualified personnel, overall unemployment levels, works councils (in our international locations), prevailing wage rates, as well as rising employee benefit costs, including insurance costs and compensation programs. We also engage third parties in some of our processes such as delivery and transaction processing and these providers may face similar issues. Changes in any of these factors, including especially a shortage of available workforce in the areas in which we operate, could interfere with our ability to adequately provide services to customers and result in increasing our labor costs. Any failure to meet increasing demands on securing our workforce could have a material adverse effect on our business, financial condition, results of operations and cash flows.

Unionization — While our management believes that our employee relations are good, we cannot be assured that we will not experience pressure from labor unions or become the target of campaigns similar to those faced by our competitors. The potential for unionization could increase if the United States Congress passes federal legislation that would facilitate labor organization. The unionization of a significant portion of our workforce could increase our overall costs at the affected locations and adversely affect our flexibility to run our business in the most efficient manner to remain competitive or acquire new business. In addition, significant union representation would require us to negotiate wages, salaries, benefits and other terms with many of our employees collectively and could adversely affect our results of operations by increasing our labor costs or otherwise restricting our ability to maximize the efficiency of our operations.

Fuel Costs — We operate a large network of stores and delivery centers around the globe. As such, we purchase significant amounts of fuel needed to transport products to our stores and customers. We also incur significant shipping costs to bring products from overseas producers to our distribution systems. While we may hedge our anticipated fuel purchases, the underlying commodity costs associated with this transport activity have been volatile in recent periods and disruptions in availability of fuel could cause our operating costs to rise significantly to the extent not covered by our hedges. Additionally, we rely on predictable costs and available energy to light our stores and operate our equipment. Increases in any of the components of energy costs could have an adverse impact on our earnings, as well as our ability to satisfy our customers in a cost effective manner. Any of these factors that could impact the availability or cost of our energy resources could have a material adverse effect on our business, financial condition, results of operations and cash flows.

Possible Changes to Our Global Tax Rate — As a result of our operations in many foreign countries, in addition to the United States, our global tax rate is derived from a combination of applicable tax rates in the various jurisdictions in which we operate. Depending upon the sources of our income, any agreements we may have with taxing authorities in various jurisdictions, and the tax filing positions we take in various jurisdictions, our overall

tax rate may be lower or higher than that of other companies or higher or lower than our tax rates have been in the past. At any given point in time, we base our estimate of an annual effective tax rate upon a calculated mix of the tax rates applicable to our company and to estimates of the amount of income likely to be generated in any given geography. The loss of one or more agreements with taxing jurisdictions, a change in the mix of our business from year to year and from country to country, changes in rules related to accounting for income taxes, changes in tax laws in any of the multiple jurisdictions in which we operate or adverse outcomes from the tax audits that regularly are in process in any of the jurisdictions in which we operate could result in an unfavorable change in our overall tax rate. Additionally, during the third quarter of 2009, we recorded tax expense of approximately $322 million to establish valuation allowances on deferred tax assets in certain taxing jurisdictions. Although we anticipate being able to remove the valuation allowances in future periods, as long as they are in place, we are unable to record deferred tax benefits in those jurisdictions. This consequence will cause our effective tax rate to be volatile, possibly changing from period to period. Unfavorable changes in our overall tax rate could have a material adverse effect on our business, financial condition, results of operations and cash flows.

Regulatory Environment — While businesses are subject to regulatory matters relating to the conduct of their businesses, including consumer protection laws, advertising regulations, wage and hour regulations and the like, certain jurisdictions have taken a particularly aggressive stance with respect to such matters and have stepped up enforcement, including fines and other sanctions. We transact substantial amounts of business in certain such jurisdictions, and to the extent that our business locations are exposed to what might be termed a challenging enforcement environment or legal or regulatory systems that authorize or encourage private parties to pursue relief under so-called private attorney general laws and similar authorizations for private parties to pursue enforcement of governmental laws and regulations, the resulting fines and exposure to third party liability (such as monetary recoveries and recoveries of attorneys fees) could have a material adverse effect on our business and results of operations, including the added cost of increased preventative measures that we may determine to be necessary to conduct business in such locales.

Compromises of our Information Security — Through our sales and marketing activities, we collect and store certain personal information that our customers provide to purchase products or services, enroll in promotional programs, register on our web site, or otherwise communicate and interact with us. We also gather and retain information about our associates in the normal course of business. We may share information about such persons with vendors that assist with certain aspects of our business. Despite instituted safeguards for the protection of such information, we cannot be certain that all of our systems are entirely free from vulnerability to attack. A breach of our security system resulting in customer or employee personal information being obtained by unauthorized persons could adversely affect our reputation, disrupt our operations and expose us to claims from customers, financial institutions, payment card associations and other persons, which could have a material adverse effect on our business, financial conditions and results of operations. In addition, our online operations at www.officedepot.com depend upon the secure transmission of confidential information over public networks, including information permitting cashless payments.

Disclaimer of Obligation to Update

We assume no obligation (and specifically disclaim any such obligation) to update these Risk Factors or any other forward-looking statements contained in this Annual Report to reflect actual results, changes in assumptions or other factors affecting such forward-looking statements.

Item 1B. Unresolved Staff Comments.

None.

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Item 2. Properties.

As of January 23, 2010, our North American Retail Division operated 1,130 office supply stores in 46 U.S. states, the District of Columbia and Puerto Rico and 21 office supply stores in five Canadian provinces. As of January 23, 2010, our International Division operated 137 office supply stores (excluding our participation in arrangements through non-consolidated entities) in five countries outside of the United States and Canada. The following table sets forth the locations of these facilities.

STORES

State/Country	#	State/Country	#
UNITED STATES:			
Alabama	20	North Dakota	2
Alaska	2	Ohio	14
Arizona	5	Oklahoma	17
Arkansas	12	Oregon	19
California	149	Pennsylvania	14
Colorado	39	Puerto Rico	6
Connecticut	4	South Carolina	21
Delaware	3	South Dakota	1
District of Columbia	1	Tennessee	27
Florida	144	Texas	147
Georgia	49	Utah	9
Hawaii	4	Virginia	25
Idaho	6	Washington	37
Illinois	47	West Virginia	2
Indiana	22	Wisconsin	14
Iowa	3	Wyoming	3
Kansas	8	TOTAL UNITED STATES	1,130
Kentucky	21		
Louisiana	37	**CANADA:**	
Maryland	27	Alberta	6
Massachusetts	2	British Columbia	7
Michigan	22	Manitoba	2
Minnesota	11	Ontario	5
Mississippi	16	Saskatchewan	1
Missouri	25	TOTAL CANADA	21
Montana	4		
Nebraska	6	FRANCE	49
Nevada	19	HUNGARY	17
New Jersey	10	ISRAEL	46
New Mexico	7	SOUTH KOREA	12
New York	10	SWEDEN	13
North Carolina	37	TOTAL OUTSIDE NORTH AMERICA	137

We closed one North American retail store during January 2010.

As of January 23, 2010, we had 21 North American supply chain facilities in 15 U.S. states. These facilities, which support our North American Retail and North American Business Solutions Divisions, included fifteen DCs and six crossdock facilities. Five of the fifteen DCs we operated as of January 23, 2010, were combination facilities, which share real estate, technology, warehouse management systems and inventory and satisfy the needs of both retail stores and delivery customers. As of January 23, 2010, we also had 39 DCs in 16 countries outside of the United States and Canada, which support our International Division. The following tables set forth the locations of our supply chain facilities as of January 23, 2010.

DCs (North America)

State	#	State	#
UNITED STATES:			
Arizona	1	Massachusetts	1
Florida	1	Minnesota	1
California	2	New Jersey	1
Colorado	1	Ohio	1
Georgia	1	Texas	2
Illinois	1	Washington	1
Maryland	1	TOTAL UNITED STATES	15

Crossdock Facilities (North America)

State	#	State	#
UNITED STATES:			
Florida	1	Mississippi	1
Georgia	1	Pennsylvania	1
Illinois	1	Texas	1
		TOTAL UNITED STATES	6

International DCs

Country	#	Country	#
Belgium	1	Italy	1
China	6	Japan	1
Czech Republic	1	South Korea	1
France	5	Spain	1
Germany	2	Sweden	3
India	10	Switzerland	1
Ireland	1	The Netherlands	1
Israel	1	United Kingdom	3
		TOTAL INTERNATIONAL	39

Our corporate offices in Boca Raton, Florida consist of approximately 625,000 square feet of office space in three interconnected buildings. This facility is being leased over 15 years with certain renewal options. The lease is accounted for as a capital lease. We also lease a corporate office in Venlo, the Netherlands which is approximately 226,000 square feet in size, and own a systems data center in Charlotte, North Carolina which is approximately 53,000 square feet in size.

Although we own a small number of our retail store locations and several of our European distribution centers, most of our facilities are leased or subleased, with initial lease terms expiring in various years through 2032.

Item 3. Legal Proceedings.

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

As previously disclosed, the company reached a proposed settlement with the staff of the U.S. Securities and Exchange Commission ("SEC") to resolve the previously disclosed SEC inquiry that commenced in July of 2007 and the formal investigation disclosed in January of 2008 with respect to contacts and communications with financial analysts, inventory receipt and reserves, timing of vendor payments, certain intercompany loans, certain payments to foreign officials, inventory obsolescence and timing and recognition of vendor program funds. The company and its officers and employees have cooperated with the SEC staff in this investigation. The SEC staff intends to recommend to the SEC a proposed settlement with respect to the company which would conclude for the company all matters arising from the SEC investigation. Under the proposed settlement, the company, without admitting or denying liability, has agreed to pay a civil penalty and to consent to a cease and desist order from committing or causing violations of Regulation FD and Sections 13(a) and 13(b) of the Securities Exchange Act of 1934 (and related rules) which require the maintenance of accurate books and records and internal controls. Regulation FD is a rule regarding communication with analysts and investors. The proposed settlement is contingent on the review and approval of final documentation by the company and the SEC staff, and is subject to approval by the SEC Commissioners. There can be no assurance that the SEC Commissioners will approve the staff's recommendation. The company has also been informed that the company's CEO and two former employees each received "Wells" notices from the staff of the SEC's Miami Regional Office advising them that the regional staff has made a preliminary decision to recommend that the SEC bring civil enforcement actions against them for possible violations of Regulation FD. Under the processes established by the SEC, these individuals will have an opportunity to present their perspective and to address the issues raised by the SEC staff prior to any action being taken by the SEC.

On January 14, 2010, the federal court in the Southern District of Florida dismissed the Second Consolidated Amended Complaint filed by the New Mexico Educational Retirement Board, lead plaintiff in a Consolidated Lawsuit, with prejudice. On February 9, 2010, the lead plaintiff filed a notice to appeal this decision. As background, in early November 2007, two putative class action lawsuits were filed against the company and certain of its executive officers alleging violations of the Securities Exchange Act of 1934. The allegations made in these lawsuits primarily related to the accounting for vendor program funds. Each of the foregoing lawsuits was filed in the Southern District of Florida and captioned as follows: (1) Nichols v. Office Depot, Inc., Steve Odland and Patricia McKay filed on November 6, 2007 and (2) Sheet Metal Worker Local 28 Pension Fund v. Office Depot, Inc., Steve Odland and Patricia McKay filed on November 5, 2007. On March 21, 2008, the court in the Southern District of Florida entered an Order consolidating the class action lawsuits (the "Consolidated Lawsuit"). Lead plaintiff in the Consolidated Lawsuit, the New Mexico Educational Retirement Board, filed its Consolidated Amended Complaint on July 2, 2008, and its Second Consolidated Amended Complaint on April 20, 2009.

In addition, in the ordinary course of business, our sales to and transactions with government customers may be subject to audits and review by governmental authorities and regulatory agencies. Many of these audits and reviews are resolved without incident; however, we have had several claims and inquiries by certain governmental agencies into contract pricing, and additional inquiries may follow. While these claims may assert large demands, we do not believe that contingent liabilities related to these matters, either individually or in the aggregate, will materially affect our financial position, results of our operations or cash flows.

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

The company held a special meeting of stockholders on October 14, 2009. Of the total number of common shares outstanding on August 28, 2009, a total of 224,590,051 were represented in person or by proxy. Results of votes with respect to proposals submitted at that meeting are as follows:

a. To consider a proposal to approve the conversion at the option of the holders of our 10% Series A Redeemable Convertible Participating Perpetual Preferred Stock into shares of our common stock in excess of 19.99% of the shares of our common stock outstanding on June 23, 2009, in compliance with the rules of the New York Stock Exchange. Our stockholders voted to approve this proposal with 220,850,091 votes for and 3,610,189 votes against. There were 129,771 abstentions.

b. To consider a proposal to approve the conversion at the option of the holders of our 10% Series B Redeemable Conditional Convertible Participating Perpetual Preferred Stock into shares of our common stock and the right of the holders of the Series B Preferred to vote with shares of our common stock on as-converted basis. Our stockholders voted to approve this proposal with 221,614,968 votes for and 2,841,336 votes against. There were 133,747 abstentions.

c. To approve the adjournment of the Special Meeting to solicit additional proxies if there are insufficient proxies at the Special Meeting to approve each of the foregoing proposals. Our stockholders voted to approve this proposal with 207,905,413 votes for and 16,510,386 votes against. There were 174,253 abstentions.

PART II

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

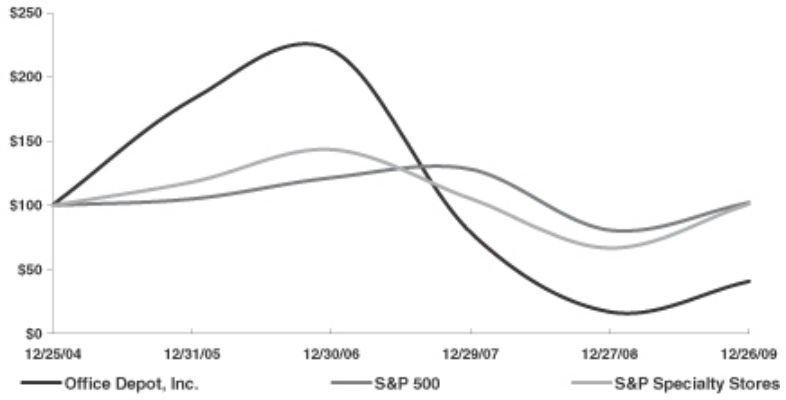
Our common stock is listed on the New York Stock Exchange ("NYSE") under the symbol "ODP." As of the close of business on January 23, 2010, there were 7,459 holders of record of our common stock. The last reported sale price of the common stock on the NYSE on January 23, 2010 was $5.99.

The following table sets forth, for the periods indicated, the high and low sale prices of our common stock, as quoted on the NYSE Composite Tape. These prices do not include retail mark-ups, markdowns or commission.

	High	Low
2009		
First Quarter	**$ 4.170**	**$ 0.590**
Second Quarter	**5.370**	**1.250**
Third Quarter	**6.940**	**3.480**
Fourth Quarter	**7.840**	**5.570**
2008		
First Quarter	$ 15.540	$ 10.600
Second Quarter	14.390	10.690
Third Quarter	11.430	5.510
Fourth Quarter	5.940	1.450

We have never declared or paid cash dividends on our common stock. Our asset based credit facility includes limitations in certain circumstances on restricted payments including share repurchases and the payment of cash dividends. These restrictions are based on the then-current and pro-forma fixed charge coverage ratio and borrowing availability at the point of consideration. Further, so long as investors in our redeemable preferred stock own at least 10% of the common stock voting rights, on an as-converted basis, the affirmative vote of a majority of the shares of preferred stock then outstanding and entitled to vote is required for the declaration or payment of a dividend on common stock if dividends on the preferred stock have not been paid in full in cash.

COMPARISON OF 5 YEAR CUMULATIVE TOTAL RETURN*
Among Office Depot, Inc., The S&P 500 Index
And The S&P Specialty Stores Index



*$100 invested on 12/25/04 in stock or 12/31/04 in index, including reinvestment of dividends.
Indexes calculated on month-end basis.

The foregoing graph shall not be deemed to be filed as part of this Form 10-K and does not constitute soliciting material and should not be deemed filed or incorporated by reference into any other filing of the company under the Securities Act of 1933, as amended, or the Securities Exchange Act of 1934, as amended, except to the extent the company specifically incorporates the graph by reference.

On April 25, 2007, the board of directors authorized a common stock repurchase program whereby we were authorized to repurchase $500 million of our common stock. The company has not made any repurchases under this authorization, and the remaining authorized amount at December 26, 2009 was $500 million. As previously mentioned, the company’s asset based credit facility includes limitations in certain circumstances on restricted payments including share repurchases.

Item 6. Selected Financial Data.

The following table sets forth selected consolidated financial data at and for each of the five fiscal years in the period ended December 26, 2009. It should be read in conjunction with the Consolidated Financial Statements and Notes thereto, included in Item 8 of this report, and Management's Discussion and Analysis of Financial Condition and Results of Operations, included in Item 7 of this report.

(In thousands, except per share amounts and statistical data)	**2009**	2008	2007	2006	2005[3]
Statements of Operations Data:					
Sales	**$12,144,467**	$14,495,544	$15,527,537	$15,010,781	$14,278,944
Net earnings (loss) attributable to Office Depot, Inc [1][2]	**$ (596,465)**	$ (1,478,938)	$ 395,615	$ 503,471	$ 273,792
Net earnings (loss) available to common shareholders [1][2]	**$ (626,971)**	$ (1,478,938)	$ 395,615	$ 503,471	$ 273,792
Net earnings (loss) per share:					
Basic	**$ (2.30)**	$ (5.42)	$ 1.45	$ 1.79	$ 0.88
Diluted	**(2.30)**	(5.42)	1.43	1.75	0.87
Statistical Data:					
Facilities open at end of period:					
United States and Canada:					
Office supply stores	**1,152**	1,267	1,222	1,158	1,047
Distribution centers	**15**	20	21	20	20
Crossdock facilities	**6**	12	12	10	10
Call centers	**—**	—	—	—	3
International [4]:					
Office supply stores	**137**	162	148	125	70
Distribution centers	**39**	43	33	32	25
Call centers	**29**	27	31	30	31
Total square footage — North American Retail Division	**28,109,844**	30,672,862	29,790,082	28,520,269	26,261,318
Percentage of sales by segment:					
North American Retail Division	**42.1%**	42.2%	43.9%	45.2%	45.6%
North American Business Solutions Division	**28.7%**	28.6%	29.1%	30.5%	30.1%
International Division	**29.2%**	29.2%	27.0%	24.3%	24.3%
Balance Sheet Data:					
Total assets	**$ 4,890,346**	$ 5,268,226	$ 7,256,540	$ 6,557,438	$ 6,098,525
Long-term debt, excluding current maturities	**662,740**	688,788	607,462	570,752	569,098
Redeemable preferred stock, net	**355,308**	—	—	—	—

(1) Fiscal year 2009 Net loss attributable to Office Depot, Inc. and Net loss available to common shareholders include charges of approximately $322 million to establish valuation allowances on certain deferred tax assets. See Management's Discussion and Analysis of Financial Condition and Results of Operations for additional information.

(2) Fiscal year 2008 Net loss attributable to Office Depot, Inc. and Net loss available to common shareholders include impairment charges for goodwill and trade names of $1.27 billion and other asset impairment charges of $222 million. See Management's Discussion and Analysis of Financial Condition and Results of Operations for additional information.

(3) Includes 53 weeks in accordance with our 52 — 53 week reporting convention.

(4) Facilities of wholly-owned or majority-owned entities operated by our International Division.

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

RESULTS OF OPERATIONS

OVERVIEW

Our business is comprised of three segments. The North American Retail Division includes our retail office supply stores in the U.S. and Canada, which offer office supplies and services, computers and business machines and related supplies, and office furniture. Most stores also offer a copy and print center offering printing, reproduction, mailing and shipping. The North American Business Solutions Division sells office supply products and services in the U.S. and Canada directly to businesses through catalogs, internet web sites and a dedicated sales force. Our International Division sells office products and services through catalogs, internet web sites, a dedicated sales force and retail stores.

Our fiscal year results are based on a 52- or 53-week retail calendar ending on the last Saturday in December. Each of the three years addressed in this Management's Discussion and Analysis of Financial Condition and Results of Operations ("MD&A") is based on 52 weeks. Our next 53 week fiscal year will occur in 2011. Our comparable store sales relate to stores that have been open for at least one year. A summary of factors important to understanding our results for 2009 is provided below and further discussed in the narrative that follows this overview.

- Total company sales were $12.1 billion in 2009, down 16% compared to 2008. Sales in North America decreased 16% for the year and comparable store sales in North American Retail decreased 14%. International Division sales decreased 16% in U.S. dollars and 9% in local currencies.

- Gross margin for 2009 improved by 30 basis points from 2008, following a 140 basis point decline in the prior year. The increase in 2009 primarily reflects improved product margins and lower levels of inventory shrink and valuation charges partially offset by the deleveraging of fixed property costs on lower sales levels.

- As part of our previously announced strategic reviews, we recorded charges of $253 million, $199 million and $40 million in 2009, 2008 and 2007, respectively. These expenses (the "Charges") include primarily charges for lease accruals, severance expenses and asset impairments.

- Total operating expenses were down $1.9 billion compared to 2008. Of this amount, $1.3 billion relates to the non-cash charges for impairment of goodwill and trade names recognized in 2008. The remaining change primarily reflects lower payroll and advertising expenses as well as reductions in distribution costs and fixed asset impairments.

- During the third quarter of 2009, we recorded a non-cash tax expense to establish valuation allowances on deferred tax assets of $321.6 million ($1.18 per share) because of the uncertainty of future realizability of these assets.

- Diluted (loss) earnings per share for 2009, 2008, and 2007 were $(2.30), $(5.42), and $1.43, respectively. The Charges had a per share impact of $0.86, $5.01 and $0.11 in 2009, 2008 and 2007, respectively.

- Cash flow from operating activities was $296 million in 2009, compared to $468 million in 2008, primarily reflecting the reduction in business performance related to weak economic conditions.

- On June 23, 2009, we issued $350 million of redeemable preferred stock and received cash, net of fees paid, of approximately $325 million. During the second half of 2009, we accrued paid-in-kind dividends on the redeemable preferred stock totaling approximately $30 million, measured at fair value.

OPERATING RESULTS

Our overall sales decreased 16% in 2009, and 7% in 2008, and increased 3% in 2007. Adverse economic conditions throughout our sales territories contributed to the declines for 2008 and 2009. The 2007 sales increase was driven by higher U.S. dollar sales in the International Division.

The increase in gross profit as a percentage of sales in 2009 resulted primarily from improved product margins and lower levels of inventory shrink and valuation charges partially offset by the deleveraging of fixed property costs on lower sales levels. Gross margins in 2008 reflect significant deleveraging of fixed property cost on lower sales as well as the impact of a highly promotional environment. An increase in private brand sales and a shift to core supplies benefited gross margin in 2008.

Total operating expenses as a percentage of sales was 30.1% in 2009, 38.3% in 2008 and 25.9% in 2007. The 2009, 2008 and 2007 amounts include Charges of $240 million, $183 million and $40 million, respectively. The 2008 amount also includes goodwill and trade name impairment charges of $1.3 billion and operational asset impairments of $109 million. After considering these charges, the remaining 2008 operating expenses were approximately 60 basis points lower than in 2009 and 190 basis points higher than in 2007. The 2009 and 2008 changes reflect the impact of relatively fixed levels of labor costs on a declining sales base. The 2009 change also includes the deleveraging of fixed distribution costs on lower sales while the 2008 change reflects increases in legal and professional fees and the impact of no bonus expense in 2007.

Discussion of other income and expense items, including material Charges and changes in interest and taxes follows our review of segment results.

NORTH AMERICAN RETAIL DIVISION

(Dollars in millions)	**2009**	2008	2007
Sales	**$ 5,113.6**	$ 6,112.3	$ 6,813.6
% change	**(16)%**	(10)%	—%
Division operating profit (loss)	**$ 105.5**	$ (29.2)	$ 354.5
% of sales	**2.1%**	(0.5)%	5.2%

Sales in our North American Retail Division decreased 16% in 2009 and 10% in 2008. During 2009, we closed 120 underperforming stores as part of the strategic review initiated during the fourth quarter of 2008. Comparable store sales in 2009 from the 1,139 stores that were open for more than one year decreased 14%. Comparable store sales in 2008 from the 1,207 stores that were open for more than one year decreased 13% for the full year and showed successive declines throughout each quarter of the year. The sales declines in both 2009 and 2008 were driven by macroeconomic factors as consumers and small business customers curtailed their spending in response to the global financial crisis that began in 2008. While transaction counts were down in 2009, a drop in average order value was the greater contributor to our sales decline. Additionally, our commitment to proactively reduce promotions in select categories resulted in lower sales compared to 2008. Within each of our three major product categories of supplies, technology and furniture, we experienced sales declines compared to 2008. The negative comparable store sales were driven by fewer sales of higher priced, discretionary categories in furniture and technology.

The North American Retail Division reported operating profit of approximately $106 million in 2009, compared to an operating loss of $29 million in 2008. This measure of operating performance is consistent with the internal reporting of results used to manage the business and allocate resources and does not include charges associated with the strategic decisions made as part of the internal review initiated during the fourth quarter of 2008. Please see Charges discussion in the “Corporate and Other” section of MD&A.

The increase in Division operating profit for 2009 was driven by lower asset impairments, an improvement in product margins and lower operating expenses. The improvement in product margins was driven primarily by a more favorable product mix, lower levels of inventory shrinkage and valuation charges as well as lower product costs. These product margin improvements were partially offset by the deleveraging of fixed property costs on lower sales levels. During 2008, we recorded fixed asset impairment charges of approximately $98 million. Store impairment charges in 2009 totaled $3 million. Additionally, as a result of the 2008 fixed asset impairments, we experienced lower levels of depreciation expense. During 2009, we closed underperforming stores as part of the strategic review initiated during the fourth quarter of 2008 contributing to the increase in Division operating profit in 2009. Operating expenses, including distribution costs and payroll and advertising expenses were down in both 2008 and 2009. In addition to the fixed asset impairment charges, the operating loss in 2008 included increased levels of inventory shrink compared to 2007. Division operating profit in both 2008 and 2009 was negatively impacted by the unfavorable impact our sales volume decline had on gross margin and operating expenses (the “flow through” impact).

At the end of 2009, we operated 1,152 retail stores in the U.S. and Canada. We opened six new stores during 2009 and 59 stores during 2008. During 2009, we closed 121 stores in North America, of which 120 were part of the strategic review initiated during the fourth quarter of 2008. We anticipate opening approximately 20 stores in 2010. Also, we will continue to review locations as leases become due and will close or relocate stores when appropriate.

NORTH AMERICAN BUSINESS SOLUTIONS DIVISION

(Dollars in millions)	**2009**	2008	2007
Sales	**$ 3,483.7**	$ 4,142.1	$ 4,518.4
% change	**(16)%**	(8)%	(1)%
Division operating profit	**$ 98.2**	$ 119.8	$ 220.1
% of sales	**2.8%**	2.9%	4.9%

Sales in our North American Business Solutions Division decreased 16% in 2009 and 8% in 2008. The sales declines in both 2009 and 2008 reflect the impact of challenging economic conditions. The 2009 decline was principally driven by a decrease in the number of customer transactions, which resulted in part from aggressive pricing from some of our competitors in our large, national accounts and contraction in our public sector business. On a product category basis, the Division experienced weakness in durables such as furniture, technology and peripherals, as customers delayed their purchases of these products in favor of consumables like paper, ink and toner.

Division operating profit totaled $98 million in 2009, compared to $120 million in 2008. This measure of operating performance is consistent with the internal reporting of results used to manage the business and allocate resources and does not include charges associated with the strategic decisions made as part of the internal review initiated during the fourth quarter of 2008. Please see Charges discussion in the “Corporate and Other” section of MD&A.

The decrease in Division operating profit in 2009 was driven by the flow through impact of lower sales levels as well as lower product margins, reflecting a less profitable product mix and cost increases that could not be passed on to our customers. Division operating profit for 2009 also reflects increased promotions in our direct business during the first half of the year. These negative impacts were partially offset by reductions in operating expenses, including a decrease in distribution costs as well as lower payroll and advertising expenses. The decrease in Division operating profit in 2008 resulted primarily from the flow through impact of lower sales levels, an increased accrual for bad debts consistent with the economic downturn and higher costs related to advertising and professional fees.

INTERNATIONAL DIVISION

(Dollars in millions)	**2009**	2008	2007
Sales	**$ 3,547.2**	$ 4,241.1	$ 4,195.6
% change	**(16)%**	1%	15%
% change in local currency sales	**(9)%**	(2)%	6%
Division operating profit	**$ 119.6**	$ 157.2	$ 231.1
% of sales	**3.4%**	3.7%	5.5%

Sales in our International Division in U.S. dollars decreased 16% in 2009 and increased 1% in 2008. Local currency sales decreased 9% in 2009 and 2% in 2008. The sales declines in both 2009 and 2008 resulted from the global economic crisis, which had a negative effect on both business investment and office supply expenditures and resulted in lower sales levels in both our contract and direct businesses. Although we are becoming more effective at retaining our higher value customers, sales in the direct business declined 11% in local currency in 2009 because of softness in higher priced items such as furniture and technology. Sales in the contract business declined 8% in local currency as larger businesses have reduced their workforces and their discretionary spending on office supplies. Additionally, the International Division's sales were reduced in 2009 as a result of our exit from the retail business in Japan.

Division operating profit totaled $120 million in 2009, compared to $157 million in 2008. This measure of operating performance is consistent with the internal reporting of results used to manage the business and allocate resources and does not include charges associated with the strategic decisions made as part of the internal review initiated during the fourth quarter of 2008 nor a goodwill impairment charge of $863 million recognized at the corporate level in 2008. Please see Charges discussion in the "Corporate and Other" section of MD&A.

The decreases in Division operating profit in 2009 and 2008 were driven by the flow through impact of lower sales levels. This negative impact was partially offset by lower operating expenses, including a decrease in distribution costs as well as lower payroll and advertising expenses. Other factors, including a shift to lower margin customers and cost increases that could not be fully passed on to our customers, negatively impacted Division operating profit in both 2009 and 2008. During 2008, we also recorded a non-cash gain of approximately $13 million related to the curtailment of a defined benefit pension plan in the UK and non-cash impairment charges of approximately $11 million related to our customer list intangible assets.

For U.S. reporting, the International Division's sales are translated into U.S. dollars at average exchange rates experienced during the year. The Division's reported sales were negatively impacted by approximately $305 million in 2009 and positively impacted by $127 million in 2008 from changes in foreign currency exchange rates. Division operating profit was negatively impacted by $6 million in 2009 and positively impacted by $2 million in 2008 from changes in foreign exchange rates. Internally, we analyze our international operations in terms of local currency performance to allow focus on operating trends and results.

CORPORATE AND OTHER

Asset Impairments, Exit Costs and Other Charges

During the fourth quarter of 2008, we announced the launch of an internal review of assets and processes with the goal of positioning the company to deal with the degradation in the global economy and to benefit from its eventual improvement. The results of that internal review led to decisions to close stores, exit certain businesses and write off certain assets that were not seen as providing future benefit. These decisions resulted in material charges that were recognized during the fourth quarter of 2008 and fiscal year 2009. Additional information about these activities is provided below.

As of the end of 2009, we have substantially completed all activities falling under our strategic reviews. Although we do not expect to recognize new Charges under these programs in future periods, positive and negative adjustments to previously accrued amounts as well as accretion on discounted long-term accruals such as lease obligations will continue to impact our results in future periods. We currently estimate accretion of approximately $15 million for 2010 and declining amounts in subsequent periods. All such amortizations and settlements or adjustments to related accruals will be included in store and warehouse operating and selling expenses and recognized at the corporate level, outside of Division operating profit.

During 2008, we also recognized material goodwill and trade name impairment Charges. In 2007, we recognized Charges associated with the ending stages of a previously-disclosed business review. A summary of the Charges and the line item presentation of these amounts in our accompanying Consolidated Statements of Operations is as follows.

(Dollars in millions, except per share amounts)	**2009**	2008	2007
Cost of goods sold and occupancy costs	**$ 13**	$ 16	$ —
Store and warehouse operating and selling expenses	**188**	52	25
Goodwill and trade name impairments	**—**	1,270	—
Other asset impairments	**26**	114	—
General and administrative expenses	**26**	17	15
Total pre-tax Charges	**253**	1,469	40
Income tax effect	**(19)**	(103)	(11)
After-tax impact	**$ 234**	$ 1,366	$ 29
Per share impact	**$ 0.86**	$ 5.01	$ 0.11

Of the total 2009 Charges, approximately $194 million either have or are expected to require cash settlement, including longer-term lease obligations that will require cash over multi-year lease terms; approximately $59 million of Charges are non-cash items.

The primary components of Charges during 2008 and 2009 include:

- *Goodwill and Trade Name Impairments* — We perform our annual review of goodwill and other non-amortizing intangible assets during the fourth quarter. As a result of this review for 2008, we recorded non-cash Charges of $1.2 billion to write down goodwill and $57 million related to the impairment of trade names. As previously disclosed and summarized here, our recoverability assessment of these non-amortizing intangible assets considered company-specific projections, assumptions about market participant views and the company's overall market capitalization around the testing period. No impairments were identified in 2009 or 2007.

- *Retail Store Initiatives* — As a result of the strategic review, we closed certain stores in North America and exited our retail operations in Japan. Additionally, we reduced the planned number of North American retail store openings for 2009. In total, we closed 126 stores in North America and 27 stores in Japan. Six of the North American locations were closed during the fourth quarter of 2008 and the remaining stores were closed during 2009. The stores closed under this program were underperforming stores or stores that were no longer a strategic fit for the company. The Charges associated with the initiatives related to our retail stores totaled $122 million and $104 million in 2009 and 2008, respectively. The 2009 Charges were primarily related to lease accruals, inventory write downs, severance expenses and other facility closure costs. Included in the 2009 Charges is the impact of a reclassification to the accrued lease liability of previously accrued lease related costs such as tenant improvement allowances and various rent credits associated with facilities closed during 2009. The net effect of this reclassification was to lower the lease-related Charges recognized in 2009 by approximately $32 million. The 2008 Charges related primarily to asset impairments, inventory write downs and lease accruals.

- *Supply Chain Initiatives* — As a result of the strategic review of our supply chain operations, we consolidated certain facilities in North America and Europe. During 2009, we closed five distribution centers and six crossdock facilities in North America and completed the consolidation of our distribution centers in Europe.

Charges related to these actions totaled approximately $57 million in 2009 and related primarily to lease accruals, inventory write downs, severance expenses and other facility closure costs. The 2008 Charges under these initiatives totaled approximately $22 million and consisted primarily of accelerated depreciation, severance related costs and lease accruals.

- *Asset Sales and Sale-Leaseback Transactions* — As a result of the strategic review and to enhance liquidity, we entered into multiple sale and sale-leaseback transactions. Total proceeds from these transactions were approximately $150 million and are included in the investing section on our Consolidated Statement of Cash Flows. Losses on these transactions are included in the Charges and totaled approximately $22 million in 2009. Gains have been deferred and will reduce rent expense over the related leaseback periods. One transaction was the sale of an asset previously classified as a capital lease. Payments to satisfy the existing capital lease obligation are included in the financing section of the Consolidated Statement of Cash Flows. An additional sale-leaseback arrangement associated with operating properties included provisions that resulted in the transaction being accounted for as a financing. Accordingly, approximately $19 million has been included in long-term debt on the Consolidated Balance Sheet at December 26, 2009.

- *Headcount Reductions and Other Restructuring Activities* — Each of the Divisions, as well as Corporate eliminated positions in an effort to centralize activities and eliminate geographic redundancies. Total severance and termination benefit costs associated with these actions totaled approximately $22 million and $13 million during 2009 and 2008, respectively. During 2009, we also recorded Charges for contract terminations on certain leased assets totaling approximately $17 million and for other restructuring activities totaling approximately $7 million. Additionally, we recognized a non-cash loss of approximately $6 million in conjunction with the disposition of other assets during 2009. Charges for other restructuring activities in 2008 totaled approximately $60 million and related primarily to asset write downs and costs associated with the restructuring of our back office operations and call centers in Europe.

The Charges recognized in 2007 totaled $40 million and related primarily to the consolidation of warehouses and distribution centers in North America and Europe as well as management restructuring and call center consolidation in Europe.

In addition to the Charges that relate to the strategic reviews, during 2008, we recognized other material charges because of the downturn in our business. Those charges include material asset impairments relating to stores we continue to operate, charges to impair amortizing customer relationship intangible assets, as well as an increase in our allowance for bad debts related to our private label credit card portfolio and certain other accounts receivable balances to reflect the economic downturn. As these charges are considered reflective of operating an ongoing business in difficult times, they were included in the 2008 Division operating results.

General and Administrative Expenses

Total general and administrative expenses (“G&A”) decreased from $743 million in 2008 to $723 million in 2009. The portion of G&A expenses considered directly or closely related to division activity is included in the measurement of Division operating profit. The company continues to evaluate G&A and other expense allocation across the Divisions and may refine methodologies in future periods. Other companies may charge more or less G&A expenses and other costs to their segments, and our results therefore may not be comparable to similarly titled measures used by other companies. The remainder of the total G&A expenses are considered corporate expenses. A breakdown of G&A is provided in the following table:

(Dollars in millions)	**2009**	2008	2007
Division G&A	**$ 361.7**	$ 394.6	$ 341.8
Corporate G&A	**361.4**	348.6	303.9
Total G&A	**$ 723.1**	$ 743.2	$ 645.7
% of sales	**6.0%**	5.1%	4.2%

Decreases in Division G&A in 2009 were primarily driven by reductions in payroll related costs and the impact of changes in foreign exchange rates offset partially by higher levels of performance-based variable pay.

Corporate G&A includes Charges of approximately $26 million, $17 million and $15 million in 2009, 2008 and 2007, respectively. After considering these charges, corporate G&A expenses increased by $4 million in 2009 and $40 million in 2008. The change in 2009 primarily reflects increased depreciation expense and higher levels of performance-based variable pay. The increase in depreciation expense resulted primarily from the capital lease associated with our new corporate campus as well as the company's implementation of a new enterprise software system which was placed in service at the beginning of the third quarter of 2009. The increases were offset partially by reduction in legal and professional fees as well as lower payroll-related costs. Corporate G&A for 2009 also includes approximately $9 million from the effect of accelerated vesting of certain employee stock grants following approval of the redeemable preferred stock issuance. Change in control features in certain employment contracts could result in additional G&A expenses in future periods if covered executives are involuntarily, or in certain cases, voluntarily terminated. The 2008 increase primarily reflects higher performance-based variable pay, costs for professional and legal fees and approximately $7 million of severance charges related to a voluntary exit incentive program for certain corporate employees.

Gain on Sale of Building

In December 2006, in connection with a decision to move to a new, leased, headquarters facility, we sold our corporate campus and entered into a leaseback agreement pending completion of the new facility. The sale resulted in a gain of approximately $21 million recognized in 2006 and $15 million deferred over the leaseback period. We recognized approximately $7 million in amortization of the deferred gain on the sale during both 2008 and 2007. This amortization largely offset the rent expense during the leaseback period. During 2007, we entered into a longer-term lease on our current corporate campus, and we moved into this facility during the fourth quarter of 2008.

Other Income and Expense

(Dollars in millions)	**2009**	2008	2007
Interest income	**$ 2.4**	$ 10.0	$ 9.4
Interest expense	**(65.6)**	(68.3)	(63.1)
Miscellaneous income, net	**17.1**	23.7	27.8

Interest expense decreased for 2009 compared to 2008, reflecting a reduction in interest expense on borrowings as we did not borrow under our asset based credit facility during the second half of 2009. Partially offsetting this positive factor was increased interest expense resulting from the amortization of debt issuance costs related to our asset based credit facility and the capital lease associated with our corporate campus. The decrease in interest income during 2009 resulted primarily from lower investment rates. The increase in interest expense in 2008 was driven by additional capital leases and a higher level of short-term borrowings throughout the year.

Our net miscellaneous income consists of our earnings of joint venture investments, royalty income, gains and losses related to foreign exchange transactions, and realized gains and impairments of other investments. The majority of miscellaneous income is attributable to equity in earnings from our joint venture in Mexico, Office Depot de Mexico. The decrease in 2009 primarily reflects lower joint venture earnings resulting from changes in foreign currency exchange rates. This decrease was partially offset by the impact of foreign currency transactions as we recognized lower foreign currency losses in 2009, compared to 2008. The decrease in 2008 reflects foreign currency losses offset partially by higher joint venture earnings.

Income Taxes

(Dollars in millions)	**2009**	2008	2007
Income tax expense (benefit)	**$ 287.6**	$ (98.6)	$ 63.0
Effective income tax rate*	**(92)%**	6%	14%

* Income taxes as a percentage of earnings (loss) before income taxes.

During 2009, the company recognized income tax expense of $287.6 million. The expense primarily reflects valuation allowances recorded in the third quarter totaling $321.6 million, with $279.1 million related to domestic deferred tax assets and $42.5 million related to foreign deferred tax assets. The establishment of valuation allowances and development of projected annual effective tax rates requires significant judgment and is impacted by various estimates. Both positive and negative evidence, as well as the objectivity and verifiability of that evidence, is considered in determining the appropriateness of recording a valuation allowance on deferred tax assets. An accumulation of recent pre-tax losses is considered strong negative evidence in that evaluation. Because of the downturn in our performance during this recessionary period, as well as the significant restructuring activities and charges we have taken in response, during the third quarter of 2009 the cumulative pre-tax results for the past 36 months of certain taxing jurisdictions reached or nearly reached loss positions. While we have seen signs that cause us to be optimistic about the future, we are likely to be adding to the accumulated pre-tax losses in these jurisdictions before the projected return to profitability of these operations. We may be able to use some of these assets to reduce taxes payable in coming quarters or by carrying back to prior years. Further, we anticipate being able to remove the valuation allowances in future periods when positive evidence outweighs the negative evidence from the relevant look-back period. However, the actual timing and amount of potential removal of the valuation allowances by jurisdiction currently cannot be reliably estimated. The short-term consequence of being unable to record deferred tax benefits will cause our effective tax rate to be volatile, possibly changing significantly from period to period.

The decrease in the effective income tax rate during 2008 reflects the largely non-deductible nature of the goodwill impairment charge and non-deductible foreign interest, as well as the impact of a $47 million increase in deferred tax asset valuation allowances resulting from the change to loss positions in certain jurisdictions. The effective tax rate for 2007 reflects the impact from 2007 discrete benefits and valuation allowance changes, as well as the impact from a shift in the mix of pretax income, reflecting a higher proportion of international earnings taxed at lower rates. The 2007 discrete items include a benefit of approximately $10 million from the reversal of an accrual for uncertain tax positions and a local jurisdiction ruling that secured certain prior year filing positions. Additionally in 2007, because of a jurisdictional restructuring, changes in foreign country tax law and certain book to tax return adjustments, we recognized tax benefits totaling $48 million, primarily related to eliminations of valuation allowances on deferred tax assets.

In general, the effective tax rate in future periods can be affected by variability in our mix of domestic and foreign income, the variance of actual results to projected results, utilization of deferred tax assets, the statutory tax rates in various jurisdictions, changes in the rules related to accounting for income taxes, outcomes from tax audits that regularly are in process and our assessment of the need for accruals for uncertain tax positions.

The company periodically seeks to limit future tax expense by entering into tax ruling agreements with international jurisdictions. As part of the process of obtaining these tax ruling agreements, it is possible that the company may have to concede significant tax attributes in the negotiating process which may increase tax expense. Such a concession should not have a near-term cash tax impact.

LIQUIDITY AND CAPITAL RESOURCES

Liquidity

At December 26, 2009, we had approximately $660 million in cash and equivalents and another $726 million available under our asset based credit facility based on the December borrowing base certificate. We consider our resources adequate to satisfy our cash needs at least over the next twelve months. We anticipate that market conditions will continue to be challenging through 2010, and in response, we are focused on maximizing cash flow. We have made strong progress towards reducing inventory levels and remain focused on accelerating the collection of our accounts receivable balances. During the first half of 2009, we entered into sale-leaseback transactions and sales of certain assets, and during the third quarter of 2009, we entered into a committed factoring arrangement in France that allows us to sell certain foreign trade receivables to a third party which provides up to approximately $85 million additional liquidity, depending on the level of eligible receivables and currency exchange rates. As of December 26, 2009, we had not sold any receivables under this agreement.

We hold cash throughout our service areas, but we principally manage our cash through regional headquarters in North America and Europe. We may move cash between those regions from time to time through short-term transactions and have used these cash transfers at the end of fiscal quarterly periods to pay down borrowings outstanding under our credit facilities. Although such transfers and debt repayments took place during the first three quarters of 2007, we completed a non-taxable distribution to the U.S. in the amount of $220 million during the fourth quarter of 2007, thereby permanently repatriating this cash. Additional distributions, including distributions of foreign earnings or changes in long-term arrangements could result in significant additional U.S. tax payments and income tax expense. Currently, there are no plans to change our expectation of foreign earnings reinvestment or the long-term nature of our intercompany arrangements, though accounting impacts of any change in these classifications would be recognized in the period of the change.

On September 26, 2008, the company entered into a Credit Agreement (the “Agreement”) with a group of lenders, which provides for an asset based, multi-currency revolving credit facility (the “Facility”) of up to $1.25 billion. The amount that can be drawn on the Facility at any given time is determined based on percentages of certain accounts receivable, inventory and credit card receivables (the “Borrowing Base”). At December 26, 2009, the company was eligible to borrow approximately $872 million of the Facility. The Facility includes a sub-facility of up to $250 million which is available to certain of the company’s European subsidiaries (the “European Borrowers”). Certain of the company’s domestic subsidiaries (the “Domestic Guarantors”) guaranty the obligations under the Facility. The Agreement also provides for a letter of credit sub-facility of up to $400 million. All loans borrowed under the Agreement may be borrowed, repaid and reborrowed from time to time until September 26, 2013 (or, in the event that the company’s existing 6.25% Senior Notes are not repaid, then February 15, 2013), on which date the Facility matures.

All amounts borrowed under the Facility, as well as the obligations of the Domestic Guarantors, are secured by a lien on the company’s and such Domestic Guarantors’ accounts receivables, inventory, cash and deposit accounts. All amounts borrowed by the European Borrowers under the Facility are secured by a lien on such European Borrowers’ accounts receivable, inventory, cash and deposit accounts, as well as certain other assets. At the company’s option, borrowings made pursuant to the Agreement bear interest at either, (i) the alternate base rate (defined as the higher of the Prime Rate (as announced by the Agent) and the Federal Funds Rate plus 1/2 of 1%) or (ii) the Adjusted LIBOR Rate (defined as the LIBOR Rate as adjusted for statutory revenues) plus, in either case, a certain margin based on the aggregate average availability under the Facility. The Agreement also contains representations, warranties, affirmative and negative covenants, and default provisions which are conditions precedent to borrowing. The most significant of these covenants and default provisions include a capital expenditure limitation of $500 million in any fiscal year and limitations in certain circumstances on acquisitions, dispositions, share repurchases and the payment of cash dividends. The cash dividend restrictions are based on the then-current and proforma fixed charge coverage ratio and borrowing availability at the point of consideration. The company has never declared or paid cash dividends on its common stock. The company was in compliance with all financial covenants at December 26, 2009. The Facility also includes provisions whereby if the global availability is less than

$218.8 million, or the European availability is below $37.5 million, the company's cash collections go first to the agent to satisfy outstanding borrowings. Further, if total availability falls below $187.5 million, a fixed charge coverage ratio test is required which, based on current forecasts, could effectively eliminate additional borrowing under the Facility. Any event of default that is not cured within the permitted period, including non-payment of amounts when due, any debt in excess of $25 million becoming due before the scheduled maturity date, or the acquisition of more than 40% of the ownership of the company by any person or group, could result in a termination of the Facility and all amounts outstanding becoming immediately due and payable.

At December 26, 2009, we had approximately $726 million of available credit under our asset based credit facility (the "Facility"). At December 26, 2009, there were no borrowings outstanding under the Facility and there were letters of credit outstanding under the Facility totaling approximately $146 million. An additional $0.7 million of letters of credit were outstanding under separate agreements. Average borrowings under the Facility from December 27, 2008 to June 27, 2009 were approximately $180 million at an average interest rate of 3.92%. We did not borrow under our asset based credit facility during the second half of 2009.

In addition to our borrowings under the Facility, we had short-term borrowings of $44.1 million. These borrowings primarily represent outstanding balances under various local currency credit facilities for our international subsidiaries that had an effective interest rate at the end of the year of approximately 2.35%. The majority of these short-term borrowings represent outstanding balances on uncommitted lines of credit, which do not contain financial covenants.

In December 2008, the company's credit rating was downgraded which provided the counterparty to the company's private label credit card program the right to terminate the agreement and require the company to repurchase the outstanding balance credit card receivables. The company and the counterparty subsequently amended the agreement to permanently eliminate this provision. The company maintains a $25 million letter of credit in support of this agreement.

Redeemable Preferred Stock Issuance

On June 23, 2009, we issued 274,596 shares of 10.00% Series A Redeemable Convertible Participating Perpetual Preferred Stock ("Series A Preferred Stock"), and 75,404 shares of 10.00% Series B Redeemable Conditional Convertible Participating Perpetual Preferred Stock ("Series B Preferred Stock" together the "Preferred Stock") for net proceeds of approximately $325 million. Each share of Preferred Stock has an initial liquidation preference of $1,000 and the conversion rate of $5.00 per common share allow the two series of preferred stock to be initially convertible into 70 million shares of common stock. The conversion rate is subject to anti-dilution adjustments. In compliance with the rules of the New York Stock Exchange, Office Depot requested shareholder approval for the conversion and voting rights for these shares. Approval was received at the shareholder meeting on October 14, 2009.

Dividends on the Preferred Stock are payable quarterly and will be paid in-kind or, in cash, only to the extent that the company has funds legally available for such payment and a cash dividend is declared by the company's board of directors and allowed by credit facilities. The company's asset based credit facility currently limits the ability to make such payments. The company may seek modifications to the credit facility to allow for dividends to be paid in cash. If not paid in cash, an amount equal to the cash dividend due will be added to the liquidation preference and measured for accounting purposes at fair value. The dividend rate will be reduced to (a) 7.87% if, at any time after June 23, 2012, the closing price of the company's common stock is greater than or equal to $6.62 per share for a period of 20 consecutive trading days, or (b) 5.75% if, at any time after June 23, 2012, the closing price of the company's common stock is greater than or equal to $8.50 per share for a period of 20 consecutive trading days.

The board of directors approved dividends equal to the stated dividend rate on the Preferred Stock for periods through January 1, 2010. The stated-rate dividend has been added to the liquidation preference of the respective Series A and Series B Preferred Stock, in lieu of making a cash payment. This $18.1 million increase in liquidation preference in lieu of a cash payment has no impact on the Consolidated Statements of Cash Flows.

For accounting purposes, the company measured the fair value of the dividend using a binomial simulation model that captured the intrinsic value of the underlying common stock on the declaration date and the option value of the shares and future dividends. The dividend resulted in $30.5 million in the aggregate, which includes the $18.1 million increase in liquidation preference, being charged against additional paid-in capital and added to the Preferred Stock carrying value as of December 26, 2009.

After the third anniversary of issuance the Preferred Stock is redeemable, in whole or in part, at the option of the company, subject to the right of the holder to first convert the Preferred Stock the company proposes to redeem. The redemption price is initially 107% of the liquidation preference amount and decreases by 1% each year until reaching 100% after June 23, 2019. At any time after June 23, 2011, if the closing price of the common stock is greater than or equal to $9.75 per share for a period of 20 consecutive trading days, the Preferred Stock is redeemable at 100% of the liquidation preference amount, in whole or in part, at the option of the company, subject to the right of the holder to first convert the Preferred Stock the company proposes to redeem. The Preferred Stock is redeemable at the option of the holder at 101% of the liquidation preference in the event of certain fundamental change provisions (as defined in the Certificate of Designations for each series), including sale, bankruptcy, or delisting of our common stock.

Cash Flows

Cash provided by (used in) our operating, investing and financing activities is summarized as follows:

(Dollars in millions)	**2009**	2008	2007
Operating activities	**$ 296.4**	$ 468.3	$ 411.4
Investing activities	**25.3**	(338.7)	(372.5)
Financing activities	**173.3**	(186.3)	7.9

Operating Activities

The decrease in net cash provided by operating activities in 2009 primarily reflects a reduction in business performance related to weak economic conditions. Depreciation and amortization decreased by approximately $30 million year over year primarily reflecting the impairment of fixed and intangible assets recorded in the fourth quarter of 2008. Although we did experience lower levels of bad debt expense, the decrease in charges for losses on inventories and receivables resulted primarily from lower charges for shrinkage in 2009, compared to 2008. As previously discussed, the company recognized valuation allowances of approximately $322 million related to deferred tax assets during the third quarter of 2009. This represents a non-cash expense, and therefore, it has been added back to our net loss in the Consolidated Statements of Cash Flows to arrive at cash provided by operating activities. Additionally, net cash provided by operating activities includes the impact of non-cash Charges and increases in accruals for severance and lease obligations. We received dividends from our joint venture in Mexico of approximately $14 million in 2009. Working capital was a source of cash of approximately $207 million and $187 million in 2009 and 2008, respectively. The source in 2009 was driven by our continued focus on collecting accounts receivable balances and controlling our inventory levels. Working capital is influenced by a number of factors, including the aging of inventory and timing of vendor payments. The timing of payments is subject to variability during the year depending on a variety of factors, including the flow of goods, credit terms, timing of promotions, vendor production planning, new product introductions and working capital management. For our accounting policy on cash management, see Note A of the Notes to Consolidated Financial Statements. The change in cash flows from operating activities during 2008 reflects improvement in working capital that was significantly offset by a decrease in business performance.

Investing Activities

We invested $131 million, $330 million and $461 million in capital expenditures during 2009, 2008 and 2007, respectively. The 2009 activity primarily includes investments in information technology and distribution network infrastructure costs. In 2008, capital expenditures also related to the opening, relocating and remodeling

of retail stores in North America and expenditures related to our new corporate headquarters facility. In response to the global economic crisis, we significantly reduced our capital expenditures in 2009. As the economy improves, we plan to increase capital expenditures accordingly. We currently estimate that total capital expenditures will be approximately $200 million in 2010 for activities such as new retail stores, investments in our distribution network and ongoing maintenance across all Divisions.

Proceeds from the disposition of assets in 2009, 2008 and 2007 include proceeds from sale-leaseback transactions of $116 million, $67 million and $64 million, respectively. In 2009, we also completed the sale of an asset previously classified as a capital lease, resulting in proceeds of approximately $29 million. Payments to satisfy the existing capital lease obligation are included in the financing section of our Consolidated Statement of Cash Flows. The realized gains on the sale-leaseback transactions are being amortized over the lease terms, and the non-cash losses are reflected as other asset impairments on our Consolidated Statements of Operations. During 2008, we also purchased certain non-operating assets for approximately $39 million. We sold certain of these non-operating assets during the year. We placed restricted cash on deposit in the amount of $6 million and $18 million, respectively, for transactions that were pending at the end of 2008 and 2007.

During 2008, we acquired a majority ownership position in businesses in India and Sweden. The company has the right to acquire or may be required to purchase some or all of the minority interest shares of these businesses at various points over the next year. Also during 2008, we acquired under previously existing put options all remaining minority interest shares of our joint ventures in Israel and China. During 2007, we acquired a Canada-based office products delivery company. Additionally in both 2008 and 2007, we funded previously accrued acquisition-related payments for former owners of entities acquired in 2006.

Financing Activities

Net cash provided by financing activities totaled $173 million compared to a use of cash of $186 million in 2008. The source in 2009 resulted from our issuance of redeemable preferred stock during the second quarter. As previously discussed, we completed the $350 million issuance of redeemable preferred stock on June 23, 2009. These proceeds are shown net of fees paid of approximately $25 million on the transaction during the period. Uses of cash during 2009 period resulted from repayments of borrowings on our asset based credit facility, which totaled $139 million, and $37 million in capital lease payments. Also, during 2009, we incurred approximately $19 million in debt as a result of a land sale-leaseback that was treated as a financing transaction as well as approximately $5 million of other short-term borrowings. Net cash used in financing activities in 2008 primarily resulted from net repayments of short-term borrowings under our previously existing revolving credit facility. At the end of 2007, borrowings under that facility totaled approximately $235 million, all of which was repaid during 2008. This revolving credit facility was replaced with our asset based credit facility during the third quarter of 2008, which had an outstanding balance of approximately $139 million at the end of 2008. In conjunction with our asset based credit facility, we incurred debt issuance costs of approximately $41 million in 2008. In addition to repayments on the revolving credit facility, we also repaid certain other borrowings related to our international subsidiaries and made payments on capital leases. Net cash provided by financing activities in 2007 resulted from higher levels of short-term borrowings to support our working capital needs.

The board of directors has historically authorized a series of common stock repurchase plans, the latest of which is a $500 million authorization in 2007. Under a previously approved plan, we purchased 5.7 million shares at a cost of approximately $200 million in 2007. We did not purchase any shares of our common stock during 2008 or 2009, and as of December 26, 2009 the entire $500 million remained available for additional repurchases under the most recent board approved plan. However, common stock repurchases are currently prohibited under our asset based credit facility and, in certain circumstances, require prior approval under our Preferred Stock agreements. Proceeds from issuance of common stock under our employee related plans totaled $29 million in 2007. Additionally, upon the issuance of certain restricted stock awards, employees surrendered shares to the company equal to approximately $11 million in 2007 in exchange for our settlement of their taxes due on these shares.

Off-Balance Sheet Arrangements

We maintain a merchant services agreement with a third-party financial services company related to our private label credit card program. Under the terms of this agreement, we have recourse for most private label credit card receivables transferred to the third party. This arrangement is a component of our overall liquidity resources, which we consider adequate to satisfy our cash needs at least over the next twelve months. We record an estimate for losses on these receivables as a liability in our Consolidated Balance Sheets. This liability totaled approximately $16 million and $23 million at December 26, 2009 and December 27, 2008, respectively. The total outstanding balance of credit card receivables transferred was approximately $148 million and $184 million at December 26, 2009 and December 27, 2008, respectively. Additionally, during the third quarter of 2009, we entered into a committed accounts receivable factoring arrangement in France that allows us to sell certain foreign trade receivables to a third party. As of December 26, 2009, we had not sold any receivables under this agreement.

As of December 26, 2009, we had no off-balance sheet arrangements, other than the agreements described in the preceding paragraph and operating leases, which are included in the table below.

Contractual Obligations

The following table summarizes our contractual cash obligations at December 26, 2009, and the effect such obligations are expected to have on liquidity and cash flow in future periods:

	Payments Due by Period				
(Dollars in millions)	Total	Less than 1 year	1 - 3 years	4 - 5 years	After 5 years
Contractual Obligations					
Long-term debt obligations [1]	$ 531.9	$ 27.4	$ 54.6	$ 429.0	$ 20.9
Short-term borrowings and other [2]	44.1	44.1	—	—	—
Capital lease obligations [3]	411.4	32.4	58.8	56.2	264.0
Operating lease obligations [4]	2,911.6	524.7	836.5	612.0	938.4
Purchase obligations [5]	108.4	51.4	55.2	1.5	0.3
Other liabilities [6]	11.3	11.3	—	—	—
Total contractual cash obligations	$ 4,018.7	$ 691.3	$ 1,005.1	$ 1,098.7	$ 1,223.6

[1] Long-term debt obligations consist primarily of our $400 million senior notes and the associated contractual interest payments. Also included in this amount are the expected payments (principal and interest) on certain long-term debt obligations related to our international subsidiaries.

[2] Short-term borrowings consist of amounts outstanding under subsidiary lines of credit.

[3] The present value of these obligations are included on our Consolidated Balance Sheets. See Note F of the Notes to Consolidated Financial Statements for additional information about our capital lease obligations.

[4] The operating lease obligations presented reflect future minimum lease payments due under the non-cancelable portions of our leases as of December 26, 2009. Our operating lease obligations are described in Note H of the Notes to Consolidated Financial Statements. In the table above, sublease income is distributed by period.

[5] Purchase obligations include all commitments to purchase goods or services of either a fixed or minimum quantity that are enforceable and legally binding on us that meet any of the following criteria: (1) they are non-cancelable, (2) we would incur a penalty if the agreement was cancelled, or (3) we must make specified minimum payments even if we do not take delivery of the contracted products or services. If the obligation is non-cancelable, the entire value of the contract is included in the table. If the obligation is cancelable, but we would incur a penalty if cancelled, the dollar amount of the penalty is included as a purchase obligation. If we can unilaterally terminate the agreement simply by providing a certain number of days notice or by

paying a termination fee, we have included the amount of the termination fee or the amount that would be paid over the "notice period." As of December 26, 2009, purchase obligations include television, radio and newspaper advertising, sports sponsorship commitments, telephone services, certain fixed assets and software licenses and service and maintenance contracts for information technology. Contracts that can be unilaterally terminated without a penalty have not been included.

(6) Our Consolidated Balance Sheet as of December 26, 2009 includes $654.9 million classified as "Deferred income taxes and other long-term liabilities." This caption primarily consists of our net long-term deferred income taxes, the unfunded portion of our pension plan, deferred lease credits, liabilities under our deferred compensation plans, and accruals for uncertain tax positions. These liabilities have been excluded from the above table as the timing and/or the amount of any cash payment is uncertain. As of December 26, 2009, accruals for uncertain tax positions, net of items offset by net operating losses, totaled approximately $112.5 million. See Note G of the Notes to Consolidated Financial Statements for additional information regarding our deferred tax positions and accruals for uncertain tax positions and Note I for a discussion of our employee benefit plans, including the pension plan and the deferred compensation plan. The table above includes scheduled, acquisition-related payments.

In addition to the above, we have outstanding letters of credit totaling $147 million at December 26, 2009.

CRITICAL ACCOUNTING POLICIES

Our consolidated financial statements have been prepared in accordance with accounting principles generally accepted in the United States of America. Preparation of these statements requires management to make judgments and estimates. Some accounting policies have a significant impact on amounts reported in these financial statements. A summary of significant accounting policies can be found in Note A in the Notes to Consolidated Financial Statements. We have also identified certain accounting policies that we consider critical to understanding our business and our results of operations and we have provided below additional information on those policies.

Vendor arrangements — Our inventory purchases from vendors are generally under evergreen arrangements with periodic updates or annual negotiated agreements. Many of these arrangements require the vendors to make payments to us or provide credits to be used against purchases if and when certain conditions are met. We generally refer to these arrangements as "vendor programs," and they typically fall into two broad categories, with some underlying sub-categories. The largest category is volume-based rebates. Generally, our product costs per unit decline as higher volumes of purchases are reached. Many of our vendor agreements provide that we pay higher per unit costs prior to reaching a predetermined tier, at which time the vendor rebates the per unit differential on past purchases, and also applies the lower cost to future purchases until the next milestone is reached. Current accounting rules provide that companies with a sound basis for estimating their full year purchases, and therefore the ultimate rebate level, can use that estimate to value inventory and cost of goods sold throughout the year. We believe our history of purchases with many vendors provides us with a sound basis for our estimates. If the anticipated volume of purchases is not reached, however, or if we form the belief at any given point in the year that it is not likely to be reached, cost of goods sold and the remaining inventory balances are adjusted to reflect that change in our outlook. We review sales projections and related purchases against vendor program estimates at least quarterly and adjust these balances accordingly. During the fourth quarter of 2007, it became apparent that we were not going to reach the anticipated full year purchase levels and we reduced vendor program income recognized in that period by approximately $30 million. No similar adjustments were required in any quarter in 2008 or 2009. The company has reached agreements with some vendors on terms that set future prices based on negotiation and recognition of historical rebate levels such that the volume-based tiers discussed above have been eliminated. An increase in these arrangements could reduce the impact of volume-based estimates.

The second broad category of arrangements with our vendors is event-based programs. These arrangements can take many forms, including advertising support, special pricing offered by certain of our vendors for a limited time, payments for special placement or promotion of a product, reimbursement of costs incurred to launch a

vendor's product, and various other special programs. These payments are classified as a reduction of costs of goods sold or inventory, as appropriate for the program. Some arrangements may meet the specific, incremental, identifiable cost criteria that allow for direct operating expense offset, but such arrangements are not significant. Additionally, we receive payments from vendors for certain of our activities that lower the vendors' cost to ship their product to our facilities.

Vendor rebates are recognized throughout the year based on judgment and estimates and amounts due from vendors are generally settled throughout the year based on purchase volumes. The final amounts due from vendors are generally known soon after year-end. Substantially all vendor program receivables outstanding at the end of the year are settled within the three months immediately following year-end. We believe that our historic collection rates of these receivables provide a sound basis for our estimates of anticipated vendor payments throughout the year.

Inventory valuation — Inventories are valued at the lower of cost or market value. We monitor active inventory for excessive quantities and slow-moving items and record adjustments as necessary to lower the value if the anticipated realizable amount is below cost. We also identify merchandise that we plan to discontinue or have begun to phase out and assess the estimated recoverability of the carrying value. This includes consideration of the quantity of the merchandise, the rate of sale, and our assessment of current and projected market conditions. If necessary, we record a charge to reduce the carrying value of this merchandise to our estimate of the lower of cost or realizable amount. Additional promotional activities may be initiated and markdowns may be taken as considered appropriate until the product is sold or otherwise disposed. Estimates and judgments are required in determining what items to stock and at what level, and what items to discontinue and how to value them prior to sale.

We also recognize an expense in cost of sales for our estimate of physical inventory loss from theft, short shipment and other factors — referred to as inventory shrink. During the year, we adjust the estimate of our shrink rate accrual following on-hand adjustments and our physical inventory results. These changes in estimates may result in volatility within the year or impact comparisons to other periods.

During 2008, we lowered our inventory levels to lessen working capital requirements and reduce obsolescence risk. Also, following a strategic review of our business in December 2008, we decided to close certain underperforming stores in North America. To facilitate these closures, we contracted with a liquidation firm that guaranteed the amount to be realized for the inventory in those stores. During the fourth quarter of 2008, we recognized a $15 million Charge to adjust that inventory to the net contracted value. That adjustment had no impact on the remaining inventory in other stores or in our supply chain. During 2009, we completed the closure of stores in North America and Japan and certain distribution centers. In conjunction with these closures, we recognized an additional $13 million Charge to facilitate inventory liquidation. The company has no current plans for significant additional closures that could result in similar charges, though some level of closures should be anticipated each year.

Closed store accruals and asset impairments — We regularly assess the performance of each retail store against historic patterns and projections of future profitability. These assessments are based on management's estimates for sales levels, gross margin attainments, and cash flow generation. If, as a result of these evaluations, management determines that a store will not achieve certain operating performance targets, we may decide to close the store. When a store is no longer used for operating purposes, we recognize a liability for the remaining costs related to the property, reduced by an estimate of any sublease income. The calculation of this liability requires us to make assumptions and to apply judgment regarding the remaining term of the lease (including vacancy period), anticipated sublease income, and costs associated with vacating the premises. With assistance from independent third parties to assess market conditions, we periodically review these judgments and estimates and adjust the liability accordingly. In conjunction with the strategic review initiated in the fourth quarter of 2008, we closed 126 stores in North America and 27 stores in Japan. The lease-related costs associated with these closures, which totaled approximately $89 million and $6 million in 2009 and 2008, respectively, were recorded as the facilities closed. These costs were calculated based on our assumption of an extended vacancy period, three years in most cases, reflecting the slow economic conditions and the estimated sublease rates available in

the future. These commitments with no economic benefit to the company were discounted at the credit-adjusted discount rate at the time of each location closure. Future fluctuations in the economy and the market demand for commercial properties could result in material changes in this liability. Costs associated with facility closures are included in store and warehouse operating and selling expenses in our Consolidated Statements of Operations. Because the 2008 and 2009 facility closures are considered part of a company-wide business review, the accretion of the discounted lease liability and potential future positive and negative adjustments to the recorded amounts from settlements or changes in market conditions will be recognized at the corporate level, outside of the determination of Division operating profit. Residual costs and benefits of closures from other periods are included in Division operating profit.

In addition to the decision about whether or not to close a store, store assets are regularly reviewed for recoverability of their carrying amounts. The recoverability assessment requires judgment and estimates of a store's future cash flows. Our impairment analysis builds a cash flow model at the individual store level, beginning with recent store performance and trending the anticipated future results based on chain-wide and individual store initiatives. If the anticipated cash flows of a store cannot support the carrying amount of the store's assets, an impairment charge is recorded to operations as a component of store and warehouse operating and selling expenses. To the extent that management's estimates of future performance are not realized, future assessments could result in material impairment charges. During 2008, we recognized impairment charges of approximately $98 million, which were primarily driven by the significant economic downturn.

Income taxes — Income tax accounting requires management to make estimates and apply judgments to events that will be recognized in one period under rules that apply to financial reporting and in a different period in our tax returns. In particular, judgment is required when estimating the value of future tax deductions, tax credits, and the realizability of net operating loss carryforwards (NOLs), as represented by deferred tax assets. When we believe the realization of all or a portion of a deferred tax asset is not likely, we establish a valuation allowance. Changes in judgments that increase or decrease these valuation allowances impact current earnings.

Because of the downturn in our performance during this recessionary period, as well as the significant restructuring activities and charges we have taken in response, we established valuation allowances totaling approximately $322 million during 2009. The charge to establish the valuation allowance followed the third quarter 2009 condition of reaching or nearly reaching a cumulative 36 month cumulative loss position in two taxing jurisdictions. Judgment is required in projecting when operations will be sufficiently positive to allow a conclusion that utilization of the deferred tax assets will once again be more likely than not. Positive performance in subsequent periods and projections of future positive performance will need to be evaluated against this existing negative evidence. Our effective tax rate in future periods may be positively or negatively impacted by changes in related judgments or pre-tax operations. Deferred tax assets without valuation allowances remain in certain foreign tax jurisdictions.

In addition to judgments associated with valuation accounts, our current tax provision can be affected by our mix of income and identification or resolution of uncertain tax positions. Because income from domestic and international sources may be taxed at different rates, the shift in mix during a year or over years can cause the effective tax rate to change. We base our rate during the year on our best estimate of an annual effective rate, and update those estimates quarterly, with the cumulative effect of a change in the anticipated annual rate reflected in the tax provision of that period. Such changes can result in significant interim reporting volatility.

We file our tax returns based on our best understanding of the appropriate tax rules and regulations. However, complexities in the rules and our operations, as well as positions taken publicly by the taxing authorities may lead us to conclude that accruals for uncertain tax positions are required. We generally maintain accruals for uncertain tax positions until examination of the tax year is completed by the taxing authority, available review periods expire, or additional facts and circumstances cause us to change our assessment of the appropriate accrual amount.

Preferred stock paid-in-kind dividends — In June 2009, we issued $350 million of redeemable preferred stock. The preferred stock carries a stated dividend of 10%, subject to future decreases in certain circumstances, and allows for payment in cash or an increase in the preferred stock's liquidation preference. The company's asset based credit facility includes provisions that currently limit the payment of cash dividends on any stock until the company's fixed charge coverage ratio, as defined, is at least 1.25. This provision has precluded the company from considering payment in cash of the first two quarterly preferred stock dividends. The valuation for accounting purposes of the dividend paid in-kind requires significant judgment to determine the estimated fair value. The company has used a binomial simulation model to measure values of multiple possible outcomes of the various provisions in the agreements that could impact whether the dividend rate would change based on future stock price performance, whether the company would issue a notice to call the preferred shares and whether the holders would convert their preferred stock into common stock. While the fair value of preferred stock dividends paid in-kind has no standing in the contractual rights to liquidation preference of the preferred shareholders nor any cash impact on the company, it impacts the measurement of net income available to common shareholders and reduces earnings per share. Changes in the valuation assumptions such as the risk adjusted rate, stock price volatility and time to call or convert can impact the estimated fair value and therefore the amount reported as net income available to common shareholders and earnings pre share. However, the valuation is most sensitive to changes in the underlying common stock price. For example, a one dollar change in the common stock price from approximate recent levels, holding all other factors constant, could change the estimated quarterly fair value amount by approximately $2 million. This projected sensitivity would not be valid in many circumstances, is provided only for an order of magnitude impact and should not be relied upon for planning purposes. The company believes the model used to estimate fair value is reasonable and appropriate, but the reported dividend amount could change significantly in future periods based on changes in the underlying common stock price and the model inputs. The company may seek modification to its asset based credit facility to allow for preferred stock dividends to be paid in cash, which would eliminate these judgments and estimates for any dividend paid in cash.

SIGNIFICANT TRENDS, DEVELOPMENTS AND UNCERTAINTIES

Competitive Factors — Over the years, we have seen continued development and growth of competitors in all segments of our business. In particular, mass merchandisers and warehouse clubs, as well as grocery and drugstore chains, have increased their assortment of home office merchandise, attracting additional back-to-school customers and year-round casual shoppers. Warehouse clubs have expanded beyond their in-store assortment by adding catalogs and web sites from which a much broader assortment of products may be ordered. We also face competition from other office supply stores that compete directly with us in numerous markets. This competition is likely to result in increased competitive pressures on pricing, product selection and services provided. Many of these retail competitors, including discounters, warehouse clubs, and drug stores and grocery chains, carry basic office supply products. Some of them also feature technology products. Many of them may price certain of these offerings lower than we do, but they have not shown an indication of greatly expanding their somewhat limited product offerings at this time. This trend towards a proliferation of retailers offering a limited assortment of office products is a potentially serious trend in our industry that could impact our results.

We have also seen growth in competitors that offer office products over the internet, featuring special purchase incentives and one-time deals (such as close-outs). Through our own successful internet and business-to-business web sites, we believe that we have positioned ourselves competitively in the e-commerce arena.

Another trend in our industry has been consolidation, as competitors in office supply stores and the copy/print channel have been acquired and consolidated into larger, well-capitalized corporations. This trend towards consolidation, coupled with acquisitions by financially strong organizations, is potentially a significant trend in our industry that could impact our results.

We regularly consider these and other competitive factors when we establish both offensive and defensive aspects of our overall business strategy and operating plans.

Economic Factors — Our customers in the North American Retail Division and many of our customers in the North American Business Solutions Division are predominantly small and home office businesses. Accordingly, these customers may continue to curtail their spending in reaction to macroeconomic conditions, such as changes in the housing market and commodity costs, higher credit costs, credit availability and other factors. The downturn in the global economy experienced over the past two years negatively impacted our sales and profits.

Liquidity Factors — Historically, we have generated positive cash flow from operating activities and have had access to broad financial markets that provide the liquidity we need to operate our business. Together, these sources have been used to fund operating and working capital needs, as well as invest in business expansion through new store openings, capital improvements and acquisitions. However, due to the downturn in the global economy our operating results have diminished. In June 2009, we issued $350 million of redeemable preferred stock and in September 2008, we entered into a $1.25 billion asset based credit facility to provide liquidity. Continued distress in the financial markets has resulted in significant volatility in the capital markets and diminished liquidity and credit availability. There can be no assurance that our liquidity will not be adversely impacted by changes in the financial markets and the global economy. In addition, deterioration in our financial results could negatively impact our credit ratings. The tightening of the credit markets or a downgrade in our credit ratings could make it more difficult for us to access funds, to refinance our existing indebtedness, to enter into agreements for new indebtedness or to obtain funding through the issuance of securities.

MARKET SENSITIVE RISKS AND POSITIONS

The company has adopted an enterprise risk management process patterned after the principles set out by the Committee of Sponsoring Organizations (COSO) in 2004. Management utilizes a common view of exposure identification and risk management. A process is in place for periodic risk reviews and identification of appropriate mitigation strategies.

We have market risk exposure related to interest rates and foreign currency exchange rates. Market risk is measured as the potential negative impact on earnings, cash flows or fair values resulting from a hypothetical change in interest rates or foreign currency exchange rates over the next year. Interest rate changes on obligations may result from external market factors, as well as changes in our credit rating. We manage our exposure to market risks at the corporate level. The portfolio of interest-sensitive assets and liabilities is monitored and adjusted to provide liquidity necessary to satisfy anticipated short-term needs. Our risk management policies allow the use of specified financial instruments for hedging purposes only; speculation on interest rates or foreign currency rates is not permitted.

Interest Rate Risk

We are exposed to the impact of interest rate changes on cash equivalents and debt obligations. The impact on cash and short-term investments held at the end of 2009 from a hypothetical 10% decrease in interest rates would be a decrease in interest income of less than $1 million.

Market risk associated with our debt portfolio is summarized below:

	2009			2008		
(Dollars in thousands)	**Carrying Value**	**Fair Value**	**Risk Sensitivity**	Carrying Value	Fair Value	Risk Sensitivity
$400 million senior notes	**$ 400,172**	**$ 345,966**	**$ 5,420**	$ 400,278	$ 206,000	$ 8,380
Asset based credit arrangement	**$ —**	**$ —**	**$ —**	$ 139,098	$ 139,098	$ 696

The risk sensitivity of fixed rate debt reflects the estimated increase in fair value from a 50 basis point decrease in interest rates, calculated on a discounted cash flow basis. The sensitivity of variable rate debt reflects the possible increase in interest expense during the next period from a 50 basis point change in interest rates prevailing at year-end.

Foreign Exchange Rate Risk

We conduct business in various countries outside the United States where the functional currency of the country is not the U.S. dollar. While our company sells directly or indirectly to customers in 51 countries, the principal operations of our International Division are in countries with Euro and British pound functional currencies. We continue to assess our exposure to foreign currency fluctuation against the U.S. dollar. As of December 26, 2009, a 10% change in the applicable foreign exchange rates would result in an increase or decrease in our operating profit of approximately $12 million.

Although operations generally are conducted in the relevant local currency, we also are subject to foreign exchange transaction exposure when our subsidiaries transact business in a currency other than their own functional currency. This exposure arises primarily from inventory purchases in a foreign currency. At December 26, 2009, the notional amount of foreign exchange forward contracts to hedge certain inventory exposures was $54 million. This amount was $67 million at its highest point during 2009. Also, from time-to-time, we enter into foreign exchange forward transactions to protect against possible changes in exchange rates related to scheduled or anticipated cash movements among our operating entities.

Generally, we evaluate the performance of our international businesses by focusing on the “local currency” results of the business, and not with regard to the translation into U.S. dollars, as the latter is impacted by external factors.

INFLATION AND SEASONALITY

Although we cannot determine the precise effects of inflation on our business, we do not believe inflation has had a material impact on our sales or the results of our operations. We consider our business to be only somewhat seasonal, with sales lower during the second quarter. Certain working capital components may build and recede during the year reflecting established selling cycles. Additionally, business cycles can and have impacted our operations and financial position when compared to other periods.

NEW ACCOUNTING STANDARDS

The Financial Accounting Standards Board (the “FASB”) has codified a single source of U.S. Generally Accepted Accounting Principles (GAAP), the *Accounting Standards Codification*™. Unless needed to clarify a point to readers, we will refrain from citing specific section references when discussing application of accounting principles or addressing new or pending accounting rule changes. There are no recently issued accounting standards that are expected to have a material effect on our financial condition, results of operations or cash flows.

FORWARD-LOOKING STATEMENTS

The Private Securities Litigation Reform Act of 1995 (the “Act”) provides protection from liability in private lawsuits for “forward-looking” statements made by public companies under certain circumstances, provided that the public company discloses with specificity the risk factors that may impact its future results. We want to take advantage of the “safe harbor” provisions of the Act. This Annual Report contains both historical information and other information that you can use to infer future performance. Examples of historical information include our annual financial statements and the commentary on past performance contained in our MD&A. While we have specifically identified certain information as being forward-looking in the context of its presentation, we caution you that, with the exception of information that is historical, all the information contained in this Annual Report should be considered to be “forward-looking statements” as referred to in the Act. Without limiting the generality of the preceding sentence, any time we use the words “estimate,” “project,” “intend,” “expect,” “believe,” “anticipate,” “continue” and similar expressions, we intend to clearly express that the information deals with possible future events and is forward-looking in nature. Certain information in our MD&A is clearly

forward-looking in nature, and without limiting the generality of the preceding cautionary statements, we specifically advise you to consider all of our MD&A in the light of the cautionary statements set forth herein.

Forward-looking information involves future risks and uncertainties. Much of the information in this report that looks towards future performance of our company is based on various factors and important assumptions about future events that may or may not actually come true. As a result, our operations and financial results in the future could differ materially and substantially from those we have discussed in the forward-looking statements in this Report. Significant factors that could impact our future results are provided in Item 1A. Risk Factors included in our 2009 Annual Report on Form 10-K. Other risk factors are incorporated into the text of our MD&A, which should itself be considered a statement of future risks and uncertainties, as well as management's view of our businesses.

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

See the information in the "Market Sensitive Risks and Positions" subsection of Management's Discussion and Analysis of Financial Condition and Results of Operation set forth in Item 7 hereof.

Item 8. Financial Statements and Supplementary Data.

See Item 15(a) in Part IV.

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

None.

Item 9A. Controls and Procedures.

Disclosure Controls and Procedures

Based on management's evaluation which included the participation of the company's Chief Executive Officer ("CEO"), and Chief Financial Officer ("CFO"), as of December 26, 2009, the company's CEO and CFO concluded that the company's disclosure controls and procedures (as defined in Rules 13a-15(e) and 15d-15(e) under the Securities Exchange Act of 1934, as amended ("the Act"), were effective to provide reasonable assurance that information required to be disclosed by the company in reports that the company files or submits under the Act is recorded, processed, summarized and reported within the time periods specified in SEC rules and forms and that such information is accumulated and communicated to the company's management, including the CEO and CFO, to allow timely decisions regarding required disclosures.

Changes in Internal Controls

There have been no changes in the company's internal control over financial reporting that occurred during the company's most recent fiscal year that have materially affected, or are reasonably likely to materially affect, the company's internal control over financial reporting.

Management's Report on Internal Control Over Financial Reporting

Management of Office Depot is responsible for establishing and maintaining adequate internal control over financial reporting as defined in Rule 13a-15(f) under the Act. Our Internal Control structure is designed to provide reasonable assurance to our management and the board of directors regarding the reliability of financial reporting and the preparation and fair presentation of published financial statements.

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

In evaluating our Internal Control, we used the criteria set forth by the Committee of Sponsoring Organizations of the Treadway Commission (COSO) in *Internal Control — Integrated Framework*. Based on our assessment, management has concluded that the company's internal control over financial reporting was effective as of December 26, 2009.

Our internal control over financial reporting as of December 26, 2009, has been audited by Deloitte & Touche LLP, an independent registered public accounting firm, as stated in their report which is provided below.

REPORT OF THE INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

To the Board of Directors and Stockholders of Office Depot, Inc.:

We have audited the internal control over financial reporting of Office Depot, Inc. and subsidiaries (the "Company") as of December 26, 2009, based on criteria established in *Internal Control — Integrated Framework* issued by the Committee of Sponsoring Organizations of the Treadway Commission. The Company's management is responsible for maintaining effective internal control over financial reporting and for its assessment of the effectiveness of internal control over financial reporting, included in the accompanying Management's Report on Internal Control Over Financial Reporting. Our responsibility is to express an opinion on the Company's internal control over financial reporting based on our audit.

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

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

Because of the inherent limitations of internal control over financial reporting, including the possibility of collusion or improper management override of controls, material misstatements due to error or fraud may not be prevented or detected on a timely basis. Also, projections of any evaluation of the effectiveness of the internal control over financial reporting to future periods are subject to the risk that the controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate.

In our opinion, the Company maintained, in all material respects, effective internal control over financial reporting as of December 26, 2009, based on the criteria established in *Internal Control — Integrated Framework* issued by the Committee of Sponsoring Organizations of the Treadway Commission.

We have also audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States), the consolidated financial statements as of and for the fiscal year ended December 26, 2009 of the Company and our report dated February 23, 2010 expressed an unqualified opinion on those financial statements.

/s/ DELOITTE & TOUCHE LLP
Certified Public Accountants

Boca Raton, Florida
February 23, 2010

Item 9B. Other Information.

None

PART III

Item 10. Directors, Executive Officers and Corporate Governance.

Information concerning our executive officers is set forth in Item 1 of this Form 10-K under the caption “Executive Officers of the Registrant.”

Information with respect to our directors and the nomination process is incorporated herein by reference to information included in the Proxy Statement for our 2010 Annual Meeting of Shareholders.

Information regarding our audit committee and our audit committee financial experts is incorporated herein by reference to information included in the Proxy Statement for our 2010 Annual Meeting of Shareholders.

Information required by Item 405 of Regulation S-K is incorporated herein by reference to information included in the Proxy Statement for our 2010 Annual Meeting of Shareholders.

We have adopted a Code of Ethical Behavior in compliance with applicable rules of the SEC that applies to our principal executive officer, our principal financial officer, and our principal accounting officer or controller, or persons performing similar functions. A copy of the Code of Ethical Behavior is available free of charge on the “Investor Relations” section of our web site at www.offficedepot.com. We intend to satisfy any disclosure requirement under Item 5.05 of Form 8-K regarding an amendment to, or waiver from, a provision of this Code of Ethical Behavior by posting such information on our web site at the address and location specified above.

Item 11. Executive Compensation.

Information with respect to executive compensation is incorporated herein by reference to information included in the Proxy Statement for our 2010 Annual Meeting of Shareholders.

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

Information with respect to security ownership of certain beneficial owners and management is incorporated herein by reference to information included in the Proxy Statement for our 2010 Annual Meeting of Shareholders.

Securities Authorized for Issuance Under Equity Compensation Plans

The following table provides information regarding compensation plans under which Office Depot equity securities are authorized for issuance as of December 26, 2009:

Plan category	Number of securities to be issued upon exercise of outstanding options, warrants, and rights (a)	Weighted-average exercise price of outstanding options, warrants and rights (b)	Number of securities remaining available for future issuance under equity compensation plans (c)
Equity compensation plans approved by security holders:			
2007 Long-Term Incentive Plan	24,202,715	$11.81	9,243,229
Retirement Savings Plans	Not Applicable	Not Applicable	Not Applicable
Equity compensation plans not approved by security holders:			
None	—	Not Applicable	—
Total	24,202,715	$11.81	9,243,229

For a description of the equity compensation plans above, see Note I — Employee Benefit Plans included under the heading “Notes to Consolidated Financial Statements.”

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

Information with respect to such contractual relationships is incorporated herein by reference to the information in the Proxy Statement for our 2010 Annual Meeting of Shareholders.

Item 14. Principal Accountant Fees and Services.

Information with respect to principal accounting fees and services and pre-approval policies are incorporated herein by reference to information included in the Proxy Statement for our 2010 Annual Meeting of Shareholders.

PART IV

Item 15. Exhibits and Financial Statement Schedules.

(a) The following documents are filed as a part of this report:

1. The financial statements listed in “Index to Financial Statements.”

2. The financial statement schedules listed in “Index to Financial Statement Schedule.”

3. The exhibits listed in the “Index to Exhibits.”

SIGNATURES

Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized on this 23rd day of February 2010.

OFFICE DEPOT, INC.

By /s/ STEVE ODLAND
Steve Odland
Chief Executive Officer

Pursuant to the requirements of the Securities Exchange Act of 1934, this report has been signed below by the following persons on behalf of the registrant in the capacities indicated on February 23, 2010.

Signature	Capacity
/s/ STEVE ODLAND Steve Odland	Chief Executive Officer (Principal Executive Officer) and Chairman, Board of Directors
/s/ MICHAEL D. NEWMAN Michael D. Newman	Executive Vice President and Chief Financial Officer (Principal Financial Officer)
/s/ MARK E. HUTCHENS Mark E. Hutchens	Senior Vice President and Controller (Principal Accounting Officer)
/s/ LEE A. AULT, III Lee A. Ault, III	Director
/s/ NEIL R. AUSTRIAN Neil R. Austrian	Director
/s/ JUSTIN BATEMAN Justin Bateman	Director
/s/ DAVID W. BERNAUER David W. Bernauer	Director
/s/ THOMAS J. COLLIGAN Thomas J. Colligan	Director
/s/ MARSHA JOHNSON EVANS Marsha Johnson Evans	Director
/s/ DAVID I. FUENTE David I. Fuente	Director
/s/ BRENDA J. GAINES Brenda J. Gaines	Director
/s/ MYRA M. HART Myra M. Hart	Director
/s/ W. SCOTT HEDRICK W. Scott Hedrick	Director
/s/ KATHLEEN MASON Kathleen Mason	Director
/s/ JAMES RUBIN James Rubin	Director
/s/ RAYMOND SVIDER Raymond Svider	Director

INDEX TO FINANCIAL STATEMENTS

REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

To the Board of Directors and Stockholders of Office Depot, Inc.:

We have audited the accompanying consolidated balance sheets of Office Depot, Inc. and subsidiaries (the "Company") as of December 26, 2009 and December 27, 2008, and the related consolidated statements of operations, comprehensive income (loss), stockholders' equity, and cash flows for each of the three fiscal years in the period ended December 26, 2009. These financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on these financial statements based on our audits.

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

In our opinion, such consolidated financial statements present fairly, in all material respects, the financial position of Office Depot, Inc. and subsidiaries at December 26, 2009 and December 27, 2008, and the results of their operations and their cash flows for each of the three fiscal years in the period ended December 26, 2009, in conformity with accounting principles generally accepted in the United States of America.

We have also audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States), the Company's internal control over financial reporting as of December 26, 2009, based on the criteria established in *Internal Control — Integrated Framework* issued by the Committee of Sponsoring Organizations of the Treadway Commission and our report dated February 23, 2010 expressed an unqualified opinion on the Company's internal control over financial reporting.

/s/ DELOITTE & TOUCHE LLP
Certified Public Accountants

Boca Raton, Florida
February 23, 2010

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

	December 26, 2009	December 27, 2008
ASSETS		
Current assets:		
Cash and cash equivalents	**$ 659,898**	$ 155,745
Receivables, net of allowances of $32,802 in 2009 and $45,990 in 2008	**1,121,160**	1,255,735
Inventories	**1,252,929**	1,331,593
Deferred income taxes	**16,637**	196,192
Prepaid expenses and other current assets	**155,705**	183,122
Total current assets	**3,206,329**	3,122,387
Property and equipment, net	**1,277,655**	1,557,301
Goodwill	**19,431**	19,431
Other intangible assets	**25,333**	28,311
Deferred income taxes	**81,706**	269,960
Other assets	**279,892**	270,836
Total assets	**$ 4,890,346**	$ 5,268,226
LIABILITIES AND STOCKHOLDERS' EQUITY		
Current liabilities:		
Trade accounts payable	**$ 1,081,381**	$ 1,251,808
Accrued expenses and other current liabilities	**1,280,296**	1,173,201
Income taxes payable	**6,683**	8,803
Short-term borrowings and current maturities of long-term debt	**59,845**	191,932
Total current liabilities	**2,428,205**	2,625,744
Deferred income taxes and other long-term liabilities	**654,851**	585,861
Long-term debt, net of current maturities	**662,740**	688,788
Total liabilities	**3,745,796**	3,900,393
Commitments and contingencies		
Redeemable preferred stock, net (liquidation preference – $368,116 in 2009)	**355,308**	—
Stockholders' equity:		
Office Depot, Inc. stockholders' equity:		
Common stock – authorized 800,000,000 shares of $.01 par value; issued and outstanding shares – 280,652,278 in 2009 and 280,800,135 in 2008	**2,807**	2,808
Additional paid-in capital	**1,193,157**	1,194,622
Accumulated other comprehensive income	**238,379**	217,197
Retained earnings (accumulated deficit)	**(590,195)**	6,270
Treasury stock, at cost – 5,915,268 shares in 2009 and 5,938,059 shares in 2008	**(57,733)**	(57,947)
Total Office Depot, Inc. stockholders' equity	**786,415**	1,362,950
Noncontrolling interest	**2,827**	4,883
Total stockholders' equity	**789,242**	1,367,833
Total liabilities and stockholders' equity	**$ 4,890,346**	$ 5,268,226

The accompanying Notes to Consolidated Financial Statements are an integral part of these statements.

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

	2009	2008	2007
Sales	**$ 12,144,467**	$ 14,495,544	$ 15,527,537
Cost of goods sold and occupancy costs	**8,752,283**	10,489,785	11,024,639
Gross profit	**3,392,184**	4,005,759	4,502,898
Store and warehouse operating and selling expenses	**2,907,900**	3,322,662	3,381,129
Goodwill and trade name impairments	**—**	1,269,893	—
Other asset impairments	**26,175**	222,379	—
General and administrative expenses	**723,114**	743,174	645,661
Gain and amortization of deferred gain on sale of building	**—**	(7,308)	(7,493)
Operating profit (loss)	**(265,005)**	(1,545,041)	483,601
Other income (expense):			
Interest income	**2,396**	10,013	9,440
Interest expense	**(65,628)**	(68,286)	(63,080)
Miscellaneous income, net	**17,085**	23,666	27,761
Earnings (loss) before income taxes	**(311,152)**	(1,579,648)	457,722
Income tax expense (benefit)	**287,572**	(98,645)	63,018
Net earnings (loss)	**(598,724)**	(1,481,003)	394,704
Less: Net loss attributable to the noncontrolling interest	**(2,259)**	(2,065)	(911)
Net earnings (loss) attributable to Office Depot, Inc.	**(596,465)**	(1,478,938)	395,615
Preferred stock dividends	**30,506**	—	—
Income (loss) available to common shareholders	**$ (626,971)**	$ (1,478,938)	$ 395,615
Net earnings (loss) per share:			
Basic	**$ (2.30)**	$ (5.42)	$ 1.45
Diluted	**(2.30)**	(5.42)	1.43

The accompanying Notes to Consolidated Financial Statements are an integral part of these statements.

OFFICE DEPOT, INC.
CONSOLIDATED STATEMENTS OF COMPREHENSIVE INCOME (LOSS)
(In thousands, except per share amounts)

	2009	2008	2007
Net earnings (loss)	**$(598,724)**	$(1,481,003)	$394,704
Other comprehensive income (loss), net of tax:			
Foreign currency translation adjustments	**25,769**	(248,591)	179,582
Amortization of gain on cash flow hedge	**(1,659)**	(1,659)	(1,659)
Change in deferred pension	**(7,523)**	(24,128)	23,192
Change in deferred cash flow hedge	**4,657**	(4,657)	—
Other	**246**	—	—
Total other comprehensive income (loss), net of tax	**21,490**	(279,035)	201,115
Comprehensive income (loss)	**(577,234)**	(1,760,038)	595,819
Less: comprehensive income (loss) attributable to the noncontrolling interest	**(1,951)**	(2,381)	(459)
Comprehensive income (loss) attributable to Office Depot, Inc.	**$(575,283)**	$(1,757,657)	$596,278

The accompanying Notes to Consolidated Financial Statements are an integral part of these statements.

OFFICE DEPOT, INC.
CONSOLIDATED STATEMENTS OF STOCKHOLDERS' EQUITY
(In thousands, except share amounts)

	Common Stock Shares	Common Stock Amount	Additional Paid-in Capital	Comprehensive Income (Loss)	Accumulated Other Comprehensive Income (Loss)	Retained Earnings (Accumulated Deficit)	Treasury Stock	Noncontrolling Interest	Total Stockholders' Equity
Balance at December 30, 2006	426,177,619	$ 4,262	$1,700,976		$ 295,253	$ 3,370,538	$(2,773,582)	$ 16,023	$ 2,613,470
Comprehensive income, net of tax:									
Net earnings				394,704		395,615		(911)	394,704
Foreign currency translation adjustments				179,582	179,130			452	179,582
Change in deferred pension				23,192	23,192				23,192
Amortization of gain on cash flow hedge				(1,659)	(1,659)				(1,659)
Comprehensive income, net of tax				$ 595,819					$ 595,819
Adoption of FIN 48						17,652			17,652
Acquisition of treasury stock							(210,793)		(210,793)
Grant of long-term incentive stock	765,754	8	(8)						—
Forfeiture of restricted stock	(87,861)	(1)	1						—
Exercise of stock options (including income tax benefits and withholding)	1,849,657	18	43,909						43,927
Issuance of stock under employee stock purchase plans	72,456	1	1,515						1,516
Direct stock purchase plans			46				26		72
Amortization of long-term incentive stock grant			37,745						37,745
Balance at December 29, 2007	428,777,625	4,288	1,784,184		495,916	3,783,805	(2,984,349)	15,564	3,099,408
Acquisition of majority-owned subsidiaries								5,995	5,995
Purchase of subsidiary shares from noncontrolling interest								(14,295)	(14,295)
Comprehensive loss, net of tax:									
Net loss				(1,481,003)		(1,478,938)		(2,065)	(1,481,003)
Foreign currency translation adjustments				(248,591)	(248,275)			(316)	(248,591)
Change in deferred pension				(24,128)	(24,128)				(24,128)
Amortization of gain on cash flow hedge				(1,659)	(1,659)				(1,659)
Change in deferred cash flow hedge				(4,657)	(4,657)				(4,657)
Comprehensive loss, net of tax				$ (1,760,038)					$ (1,760,038)
Acquisition of treasury stock							(944)		(944)
Retirement of treasury stock	(149,940,718)	(1,499)	(626,889)			(2,298,597)	2,926,985		—
Grant of long-term incentive stock	2,307,993	23	(23)						—
Forfeiture of restricted stock	(465,175)	(5)	1						(4)
Exercise of stock options (including income tax benefits and withholding)	109,744	1	(1,222)						(1,221)
Issuance of stock under employee stock purchase plans	10,666	—	(785)						(785)
Direct stock purchase plans			(228)				361		133
Amortization of long-term incentive stock grant			39,584						39,584
Balance at December 27, 2008	280,800,135	2,808	1,194,622		217,197	6,270	(57,947)	4,883	1,367,833
Purchase of subsidiary shares from noncontrolling interest								(105)	(105)
Comprehensive loss, net of tax:									
Net loss				(598,724)		(596,465)		(2,259)	(598,724)
Foreign currency translation adjustments				25,769	25,461			308	25,769
Change in deferred pension				(7,523)	(7,523)				(7,523)
Amortization of gain on cash flow hedge				(1,659)	(1,659)				(1,659)
Change in deferred cash flow hedge				4,657	4,657				4,657
Other				246	246				246
Comprehensive loss, net of tax				$ (577,234)					$ (577,234)
Preferred stock dividends			(30,506)						(30,506)
Grant of long-term incentive stock	258,074	3	(3)						—
Forfeiture of restricted stock	(405,931)	(4)	—						(4)
Share-based payments (including income tax benefits and withholding)			(4,096)						(4,096)
Direct stock purchase plans			(179)				214		35
Amortization of long-term incentive stock grant			33,319						33,319
Balance at December 26, 2009	280,652,278	$ 2,807	$1,193,157		$ 238,379	$ (590,195)	$ (57,733)	$ 2,827	$ 789,242

The accompanying Notes to Consolidated Financial Statements are an integral part of these statements.

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

	2009	2008	2007
Cash flows from operating activities:			
Net earnings (loss)	**$(598,724)**	$(1,481,003)	$ 394,704
Adjustments to reconcile net earnings (loss) to net cash provided by operating activities:			
Depreciation and amortization	**224,115**	254,099	281,383
Charges for losses on inventories and receivables	**80,178**	140,058	109,798
Net earnings from equity method investments	**(30,579)**	(37,113)	(34,825)
Dividends received	**13,931**	—	—
Goodwill and trade name impairments	**—**	1,269,893	—
Other asset impairments	**26,175**	222,379	—
Compensation expense for share-based payments	**33,316**	39,561	37,738
Deferred income taxes and valuation allowances on deferred tax assets	**325,886**	(108,099)	(1,022)
Loss (gain) on disposition of assets	**7,655**	(13,443)	(25,190)
Other operating activities	**7,199**	(5,547)	3,838
Changes in assets and liabilities:			
Decrease in receivables	**126,131**	133,162	25,909
Decrease (increase) in inventories	**37,583**	249,849	(191,685)
Net decrease (increase) in prepaid expenses and other assets	**28,165**	(16,986)	(12,342)
Net increase (decrease) in accounts payable, accrued expenses and other long-term liabilities	**15,408**	(178,554)	(176,921)
Total adjustments	**895,163**	1,949,259	16,681
Net cash provided by operating activities	**296,439**	468,256	411,385
Cash flows from investing activities:			
Capital expenditures	**(130,847)**	(330,075)	(460,571)
Acquisitions, net of cash acquired, and related payments	**—**	(102,752)	(48,036)
Dividends received	**—**	—	25,000
Purchase of assets held for sale and sold	**—**	(38,537)	—
Proceeds from disposition of assets and other	**150,131**	120,632	129,182
Restricted cash for pending transaction	**—**	(6,037)	(18,100)
Release of restricted cash	**6,037**	18,100	—
Net cash provided by (used in) investing activities	**25,321**	(338,669)	(372,525)
Cash flows from financing activities:			
Net proceeds from exercise of stock options and sale of stock under employee stock purchase plans	**35**	503	29,332
Tax benefit from employee share-based exercises	**—**	89	18,266
Acquisition of treasury stock under approved repurchase plans	**—**	—	(199,592)
Treasury stock additions from employee related plans	**—**	(944)	(11,201)
Debt issuance costs	**—**	(40,793)	—
Proceeds from issuance of redeemable preferred stock, net	**324,801**	—	—
Proceeds from issuance of borrowings	**24,321**	139,098	177,413
Payments on long- and short-term borrowings	**(175,863)**	(284,204)	(6,292)
Net cash provided by (used in) financing activities	**173,294**	(186,251)	7,926
Effect of exchange rate changes on cash and cash equivalents	**9,099**	(10,545)	2,616
Net increase (decrease) in cash and cash equivalents	**504,153**	(67,209)	49,402
Cash and cash equivalents at beginning of period	**155,745**	222,954	173,552
Cash and cash equivalents at end of period	**$ 659,898**	$ 155,745	$ 222,954

The accompanying Notes to Consolidated Financial Statements are an integral part of these statements.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

NOTE A — SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

Nature of Business: Office Depot, Inc. ("Office Depot") is a global supplier of office products and services under the Office Depot® brand and other proprietary brand names. As of December 26, 2009, we sold to customers in 51 countries throughout North America, Europe, Asia and Latin America. We operate wholly-owned entities, majority-owned entities or participate in other ventures covering 40 countries and have alliances in an additional 11 countries.

Basis of Presentation: The consolidated financial statements of Office Depot and its subsidiaries have been prepared in accordance with accounting principles generally accepted in the United States of America. All intercompany transactions have been eliminated in consolidation. We have a majority, but not total, ownership interest in entities in South Korea, India and Sweden. Those entities have been consolidated since the date of acquisition with noncontrolling interest presented for the portion we do not own. We also participate in a joint venture selling office products and services in Mexico and Central and South America that is accounted for using the equity method with its results presented in miscellaneous income, net in the Consolidated Statements of Operations. See Note P for information on our investment in Mexico.

Effective at the beginning of the first quarter of 2009, the presentation of noncontrolling interests, previously referred to as minority interest, has been changed in the Consolidated Balance Sheets and Consolidated Statements of Stockholders' Equity to be reflected as a component of total stockholders' equity and in the Consolidated Statements of Operations to be a specific allocation of net earnings (loss). This change in presentation had no impact on the calculation of earnings per share. Changes to disclosures related to noncontrolling interests also resulted in the addition to our financial statements of the Consolidated Statements of Comprehensive Income (Loss).

Fiscal Year: Fiscal years are based on a 52- or 53-week period ending on the last Saturday in December. All years presented are based on 52 weeks.

Estimates and Assumptions: Preparation of these financial statements in conformity with accounting principles generally accepted in the United States of America requires management to make estimates and assumptions that affect amounts reported in the financial statements and related notes. For example, estimates are required for, but not limited to, facility closure costs, asset impairments, amounts earned under vendor programs, contingencies and accruals for valuation allowances on deferred tax assets. Actual results may differ from those estimates.

Foreign Currency: Assets and liabilities of international operations are translated into U.S. dollars using the exchange rate at the balance sheet date. Revenues, expenses and cash flows are translated at average monthly exchange rates. Translation adjustments resulting from this process are recorded in stockholders' equity as a component of accumulated other comprehensive income ("OCI").

Monetary assets and liabilities denominated in a currency other than a consolidated entity's functional currency result in transaction gains or losses from the remeasurement at spot rates at the end of the period. Foreign currency gains and losses are recorded in miscellaneous income, net in the Consolidated Statements of Operations.

Cash Equivalents: All short-term highly liquid securities with maturities of three months or less from the date of acquisition are classified as cash equivalents. Approximately $7 million and $15 million of restricted cash held on deposit was included in other current assets at December 26, 2009 and December 27, 2008, respectively.

Cash Management: Our cash management process generally utilizes zero balance accounts which provide for the settlement of the related disbursement accounts on a daily basis. Accounts payable and accrued expenses as of December 26, 2009 and December 27, 2008 included $77 million and $71 million, respectively, of amounts

not yet presented for payment drawn in excess of disbursement account book balances, after considering existing offset provisions. We may borrow on a cost effective basis during the period, which may result in higher levels of borrowings and invested cash within the period. At the end of the period, cash may be used to minimize borrowings outstanding at the balance sheet date.

Short-term Investments: We held no short-term investments at December 26, 2009 or December 27, 2008. When held, investments typically are available-for-sale debt securities and reported at fair market value, based on quoted market prices using the specific identification method.

Receivables: Trade receivables, net, totaled $770.1 million and $849.6 million at December 26, 2009 and December 27, 2008, respectively. An allowance for doubtful accounts has been recorded to reduce receivables to an amount expected to be collectible from customers. The allowance recorded at December 26, 2009 and December 27, 2008 was $32.8 million and $46.0 million, respectively. Receivables generated through a private label credit card program are transferred to a financial services company. Most of these receivables are transferred with recourse. The estimated fair value liability associated with risk of loss is included in accrued expenses.

Our exposure to credit risk associated with trade receivables is limited by having a large customer base that extends across many different industries and geographic regions. However, receivables may be adversely affected by an economic slowdown in the U.S. or internationally. No single customer accounted for more than 10% of our total sales in 2009, 2008 or 2007.

Other receivables are $351.1 million and $406.1 million as of December 26, 2009 and December 27, 2008, respectively, of which $225.4 million and $288.2 million are amounts due from vendors under purchase rebate, cooperative advertising and various other marketing programs.

Inventories: Inventories are stated at the lower of cost or market value. In-bound freight is included as a cost of inventories. Also, certain vendor allowances that are related to inventory purchases are considered to reduce the product cost. The weighted average method is used to determine the cost of a majority of our inventory and the first-in-first-out method is used for inventory held within our international operations.

Income Taxes: Income tax expense is recognized at applicable U.S. or international tax rates. Certain revenue and expense items may be recognized in one period for financial statement purposes and in a different period’s income tax return. The tax effects of such differences are reported as deferred income taxes. Valuation allowances are recorded for periods in which realization of deferred tax assets does not meet a more likely than not standard. See Note G for additional information on deferred income taxes.

Property and Equipment: Property and equipment additions are recorded at cost. Depreciation and amortization is recognized over their estimated useful lives using the straight-line method. The useful lives of depreciable assets are estimated to be 15-30 years for buildings and 3-10 years for furniture, fixtures and equipment. Computer software is amortized over three years for common office applications, five years for larger business applications and seven years for certain enterprise-wide systems. Leasehold improvements are amortized over the shorter of the estimated economic lives of the improvements or the terms of the underlying leases, including renewal options considered reasonably assured at inception of the leases.

Goodwill and Other Intangible Assets: Goodwill represents the excess of the purchase price and related costs over the value assigned to net tangible and identifiable intangible assets of businesses acquired and accounted for under the purchase method. Accounting rules require that we test at least annually for possible goodwill impairment. Unless conditions warrant earlier action, we perform our test in the fourth quarter of each year using a discounted cash flow analysis that requires that certain assumptions and estimates be made regarding industry economic factors and future profitability. During 2008, we recognized an impairment charge of $1,213.3 million related to goodwill, which is reflected in goodwill and trade name impairments in the Consolidated Statements of Operations.

Unless conditions warrant earlier action, intangible assets with indefinite lives are tested annually for impairment during the fourth quarter and written down to fair value as required. During 2008, a charge of approximately $56.6 million was recorded to impair non-amortizing trade name intangibles. This impairment charge is included in goodwill and trade name impairments in the Consolidated Statements of Operations.

We amortize the cost of other intangible assets over their estimated useful lives. Amortizable intangible assets are reviewed at least annually to determine whether events and circumstances warrant a revision to the remaining period of amortization. During 2008, we concluded that the value of certain amortizing intangible assets was impaired, and we recognized a charge of $10.9 million to fully impair the customer list intangible assets in our International Division. This impairment charge is included in other asset impairments in the Consolidated Statements of Operations.

See Note C for information related to goodwill and other intangible asset impairment charges recognized in 2008.

Impairment of Long-Lived Assets: Long-lived assets with identifiable cash flows are reviewed for possible impairment annually or whenever events or changes in circumstances indicate that the carrying amount of such assets may not be recoverable. Impairment is assessed at the location level, considering the estimated undiscounted cash flows over the asset's remaining life. If estimated cash flows are insufficient to recover the investment, an impairment loss is recognized equal to the estimated fair value of the asset less its carrying value and any costs of disposition. Impairment losses of $3.5 million, $97.7 million and $3.3 million were recognized in 2009, 2008 and 2007, respectively, relating to certain under-performing retail stores. For additional discussion of material asset impairment charges recognized in 2008, see Note C.

Facility Closure Costs: We regularly review store performance against expectations and close stores not meeting our performance requirements. Costs associated with store or other facility closures, principally lease cancellation costs, are recognized when the facility is no longer used in an operating capacity or when a liability has been incurred. Store assets are also reviewed for possible impairment, or reduction of estimated useful lives.

Accruals for facility closure costs are based on the future commitments under contracts, adjusted for anticipated sublease benefits and discounted at the company's risk-adjusted rate at the time of closing. During 2008 and 2009, we recorded charges relating to leases on retail stores and supply chain facilities closed as part of a company-wide business review. These charges totaled $126 million and $10 million in 2009 and 2008, respectively. Additionally, we have recognized charges to terminate existing commitments and to adjust remaining commitments to current market values. These charges totaled $5 million and $9 million in 2009 and 2008, respectively. See Note C for information on the charges related to our company-wide business review. The accrued balance relating to our future commitments under operating leases for our closed facilities was $181 million and $54 million at December 26, 2009 and December 27, 2008, respectively. The short-term and long-term components of this liability are included in accrued expenses and other long-term liabilities, respectively, on the Consolidated Balance Sheets.

Fair Value of Financial Instruments: The estimated fair values of financial instruments recognized in the Consolidated Balance Sheets or disclosed within these Notes to Consolidated Financial Statements have been determined using available market information, information from unrelated third-party financial institutions and appropriate valuation methodologies, primarily discounted projected cash flows. However, considerable judgment is required when interpreting market information and other data to develop estimates of fair value.

Short-term Assets and Liabilities: The fair values of cash and cash equivalents, short-term investments, receivables, accounts payable and accrued expenses and other current liabilities approximate their carrying values because of their short-term nature.

Notes Payable: The fair value of the senior notes was determined based on quoted market prices. The following table reflects the difference between the carrying value and fair value of the senior notes as of December 26, 2009 and December 27, 2008:

	2009		2008	
(Dollars in thousands)	**Carrying Value**	**Fair Value**	Carrying Value	Fair Value
$400 million senior notes	**$ 400,172**	**$ 345,966**	$ 400,278	$ 206,000

Interest Rate Swaps, Foreign Currency and Fuel Contracts: The fair values of our interest rate swaps, foreign currency contracts and fuel contracts are the amounts receivable or payable to terminate the agreements at the reporting date, taking into account current interest and exchange rates. The values are based on market-based inputs or unobservable inputs that are corroborated by market data. There were no interest rate swap agreements in place at the end of 2009 and the amounts receivable or payable under foreign currency and fuel contracts were not significant at the end of 2009. See Note J for additional information on our derivative instruments and hedging activities.

There were no significant differences between the carrying values and fair values of our financial instruments as of December 26, 2009 and December 27, 2008, except as disclosed above.

Accounting for Stock-Based Compensation: We account for stock-based compensation using the fair value method of expense recognition. We use the Black-Scholes valuation model and recognize compensation expense on a straight-line basis over the requisite service period of the grant. We consider alternative models if grants have characteristics that cannot be reasonably estimated using this model.

Accrued Expenses: Included in accrued expenses and other current liabilities in our Consolidated Balance Sheets are accrued payroll-related amounts of approximately $294 million and $205 million at December 26, 2009 and December 27, 2008, respectively.

Revenue Recognition: Revenue is recognized at the point of sale for retail transactions and at the time of successful delivery for contract, catalog and internet sales. Sales taxes collected are not included in reported sales. We use judgment in estimating sales returns, considering numerous factors including historical sales return rates. Although we consider our sales return accruals to be adequate and proper, changes from historical customer patterns could require adjustments to the provision for returns. We also record reductions to our revenues for customer programs and incentive offerings including special pricing agreements, certain promotions and other volume-based incentives. Revenue from sales of extended warranty service plans is either recognized at the point of sale or over the warranty period, depending on the determination of legal obligor status. All performance obligations and risk of loss associated with such contracts are transferred to an unrelated third-party administrator at the time the contracts are sold. Costs associated with these contracts are recognized in the same period as the related revenue.

We recognize a liability for future performance when gift cards are sold and recognize the related revenue when gift cards are redeemed as payment for our products. We recognize as revenue the unused portion of the gift card liability when historical data indicates that additional redemption is unlikely.

Shipping and Handling Fees and Costs: Income generated from shipping and handling fees is classified as revenues for all periods presented. Freight costs incurred to bring merchandise to stores and warehouses are included as a component of inventory and costs of goods sold. Freight costs incurred to ship merchandise to customers are recorded as a component of store and warehouse operating and selling expenses. Shipping costs, combined with warehouse handling costs, totaled $767.6 million in 2009, $911.2 million in 2008 and $963.7 million in 2007.

Advertising: Advertising costs are charged either to expense when incurred or, in the case of direct marketing advertising, capitalized and amortized in proportion to the related revenues over the estimated life of the material, which range from several months to up to one year.

Advertising expense recognized was $453.3 million in 2009, $525.7 million in 2008 and $564.9 million in 2007. Prepaid advertising costs were $37.3 million as of December 26, 2009 and $38.1 million as of December 27, 2008.

Pre-opening Expenses: Pre-opening expenses related to opening new stores and warehouses or relocating existing stores and warehouses are expensed as incurred and included in store and warehouse operating and selling expenses.

Self-Insurance: Office Depot is primarily self-insured for workers' compensation, auto and general liability and employee medical insurance programs. Self-insurance liabilities are based on claims filed and estimates of claims incurred but not reported. These liabilities are not discounted.

Comprehensive Income (Loss): Comprehensive income (loss) represents the change in stockholders' equity from transactions and other events and circumstances arising from non-stockholder sources. Comprehensive income consists of net earnings (loss), foreign currency translation adjustments, realized or unrealized gains (losses) on investment securities that are available-for-sale, deferred pension gains (losses), and elements of qualifying cash flow hedges, net of applicable income taxes. As of December 26, 2009, our Consolidated Balance Sheet reflected OCI in the amount of $238 million, which consisted of $247 million in foreign currency translation adjustments, $6 million in unamortized gain on hedge and $15 million in deferred pension loss.

Vendor Arrangements: We enter into arrangements with substantially all of our significant vendors that provide for some form of consideration to be received from the vendors. Arrangements vary, but generally specify volume rebate thresholds, advertising support levels, as well as terms for payment and other administrative matters. The volume-based rebates, supported by a vendor agreement, are estimated throughout the year and reduce the cost of inventory and cost of goods sold during the year. This estimate is regularly monitored and adjusted for current or anticipated changes in purchase levels and for sales activity. Other promotional consideration received is event-based or represents general support and is recognized as a reduction of cost of goods sold or inventory, as appropriate based on the type of promotion and the agreement with the vendor. Some arrangements may meet the specific, incremental, identifiable criteria that allow for direct operating expense offset, but such arrangements are not significant.

New Accounting Standards: The Financial Accounting Standards Board (the "FASB") has codified a single source of U.S. Generally Accepted Accounting Principles (GAAP), the *Accounting Standards Codification™*. Unless needed to clarify a point to readers, we will refrain from citing specific section references when discussing application of accounting principles or addressing new or pending accounting rule changes. There are no recently issued accounting standards that are expected to have a material effect on our financial condition, results of operations or cash flows.

NOTE B — REDEEMABLE PREFERRED STOCK

On June 23, 2009, Office Depot, Inc. issued 274,596 shares of 10.00% Series A Redeemable Convertible Participating Perpetual Preferred Stock, par value $0.01 per share ("Series A Preferred Stock"), and 75,404 shares of 10.00% Series B Redeemable Conditional Convertible Participating Perpetual Preferred Stock, par value $0.01 per share ("Series B Preferred Stock"), to funds advised by BC Partners, Inc., for $350 million (collectively, the "Preferred Stock"). In compliance with the rules of the New York Stock Exchange ("NYSE"), Office Depot requested shareholder approval for conversion and voting rights for these shares. Approval was received at the shareholder meeting on October 14, 2009.

The initial liquidation value of $1,000 per preferred share and the conversion rate of $5.00 per common share allow the two series of preferred stock to be initially convertible into 70 million shares of common stock. The conversion rate is subject to anti-dilution adjustments. Until converted or otherwise redeemed, the Preferred Stock is recorded outside of permanent equity on the Consolidated Balance Sheets because certain redemption

conditions are not solely within the control of Office Depot. The balance is presented inclusive of accrued dividends and net of approximately $25 million of fees, including issuance costs paid for investment banking, legal and accounting fees, and $3.5 million paid to BC Partners, approximately $2.8 million of which was returned to the investing funds as a portion of a transaction funding fee.

Dividends are payable quarterly, beginning on October 1, 2009, and will be paid in-kind or, in cash, only to the extent that the company has funds legally available for such payment and a cash dividend is declared by the company's board of directors and allowed by credit facilities. The company's asset based credit facility currently limits the ability to make such payments. The company may seek modification to the credit facility to allow cash dividends in future periods. If not paid in cash, an amount equal to the cash dividend due will be added to the liquidation preference and measured for accounting purposes at fair value. After the third anniversary of issuance, the dividend rate will be reduced to:

(i) 7.87% if at any time after June 23, 2010, the closing price of the company's common stock is greater than or equal to $6.62 per share for a period of 20 consecutive trading days, or

(ii) 5.75% if at any time after June 23, 2010, the closing price of the company's common stock is greater than or equal to $8.50 per share for a period of 20 consecutive trading days.

The Preferred Stock also may participate in dividends on common stock, if declared. However, if the closing price of the common stock on the record date for a dividend payment is less than $45.00 per share, the company may not declare or pay a cash dividend on the common stock per share for any fiscal quarter in excess of the Preferred Stock dividend amounts.

The board of directors approved dividends equal to the stated dividend rate on the Preferred Stock for the quarterly periods accrued through January 1, 2010. The stated-rate dividend has been added to the liquidation preference of the respective Series A and Series B Preferred Stock, in lieu of making a cash payment. An increase in the liquidation preference in lieu of a cash payment has no impact on the Consolidated Statements of Cash Flows. The dividend has been accrued through December 26, 2009 by a charge against additional paid-in capital and an increase to the Preferred Stock carrying value. The company measured the fair value of the dividend using a binomial simulation model that captured the intrinsic value of the underlying common stock on the declaration date and the option value of the shares and future dividends. Our model used an adjusted risk rate of 13.5%, a ten-year volatility of 63.5%, the underlying common stock price on the dividend date and other assumptions including probability simulations of various outcomes. This technique resulted in a fair value estimate of approximately $30.5 million, or approximately $12.4 million above the increase in the liquidation preference amounts of the Preferred Stock. The following table reflects the changes in redeemable preferred stock.

(Dollars in thousands)	**Redeemable Preferred Stock, net**
Balance at December 27, 2008	$ —
Issuance of redeemable preferred stock	350,000
Dividends accrued at the stated rate	18,116
Liquidation preference	368,116
Fair value in excess of dividends accrued at the stated rate	12,390
Fees and other	(25,198)
Balance at December 26, 2009	$ 355,308

The Preferred Stock is redeemable, in whole or in part, at the option of the company at any time after June 23, 2012, subject to the right of the holder to first convert the preferred stock the company proposes to redeem. The redemption price is initially 107% of the liquidation preference amount plus any accrued but unpaid dividends

and decreases by 1% each year until reaching 100% after June 23, 2019. At any time after June 23, 2011, if the closing price of the common stock is greater than or equal to $9.75 per share for a period of 20 consecutive trading days, the Preferred Stock is redeemable at 100% of the liquidation preference amount plus any accrued but unpaid dividends, in whole or in part, at the option of the company, subject to the right of the holder to first convert the Preferred Stock the company proposes to redeem.

The Preferred Stock is redeemable at the option of the holder at 101% of the liquidation preference amount plus any accrued but unpaid dividends in the event of a change of control of the company (as defined in the Certificate of Designations for each series), or if the company commences a voluntary bankruptcy, consents to the entry of an order against it in an involuntary bankruptcy, consents to the appointment of a custodian for all or substantially all of its property, makes a general assignment for the benefit of creditors or changes its primary business, or if the common stock ceases to be listed for trading on any of the NASDAQ Global Select Market, the NASDAQ Global Market or the NYSE without the simultaneous listing on another of such exchanges.

For so long as the Investors own 10% or more of the outstanding common stock on an as-converted basis, the affirmative vote of at least a majority of the shares of the Preferred Stock then outstanding and entitled to vote is required for (i) the declaration or payment of a dividend or distribution on the common stock or any other stock that ranks junior to or equally with the Series A Preferred Stock, subject to certain conditions specified in the Certificate of Designations; (ii) the purchase, redemption or other acquisition by the company of any common stock or other stock ranking junior to or equal with the Series A Preferred Stock, subject to certain conditions specified in the Certificate of Designations; (iii) any amendment of the company's Certificate of Incorporation or the Series A Preferred Stock so as to adversely affect the relative rights, preferences, privileges or voting powers of the Series A Preferred Stock; or (iv) the authorization or issuance of, or reclassification into, any capital stock that would rank senior to or equal with the Series A Preferred Stock (including additional shares of Series A Preferred Stock).

In connection with the transaction, the company entered into an Investor Rights Agreement. Subject to certain exceptions, for so long as the Investors' ownership percentage is equal to or greater than 10%, the approval of at least one of the directors designated to the company's board of directors by the Investors is required for the company to incur any indebtedness for borrowed money in excess of $200 million in the aggregate during any fiscal year if the ratio of the consolidated debt of the company and its subsidiaries to the trailing four quarter adjusted EBITDA, as defined, of the company and its subsidiaries, on a consolidated basis, is more than 4x. In addition, for so long as the Investors' ownership percentage is (i) equal to or greater than 15%, the Investors are entitled to nominate three of our fourteen directors, (ii) less than 15% but more than 10%, the Investors are entitled to nominate two of our fourteen directors and (iii) less than 10% but more than 5%, the Investors are entitled to nominate one of our fourteen directors. On June 23, 2009, three directors designated by the Investors were elected to the company's board of directors.

Certain features of the Preferred Stock described above constitute derivatives separable from the preferred stock; however, those features had little or no value at issuance or December 26, 2009 and are not expected to have significant value for the foreseeable future.

In connection with the issuance of the Preferred Stock, the company's board of directors eliminated 500,000 shares of previously authorized but not outstanding Junior Participating Preferred Stock, Series A. Further, the board of directors authorized issuance of 280,000 shares of Series A Preferred Stock, and authorized 80,000 shares of Series B Preferred Stock, of which 274,596 and 75,404, respectively, have been issued. Any such Series A or Series B Preferred Stock that is redeemed, purchased or otherwise acquired by the company or converted into another series of preferred stock shall revert to authorized but unissued shares of preferred stock.

NOTE C — ASSET IMPAIRMENTS, EXIT COSTS AND OTHER CHARGES

During the fourth quarter of 2008, we performed an internal review of assets and processes with the goal of positioning the company to deal with the degradation in the global economy and to benefit from its eventual improvement. The results of that internal review led to decisions to close stores, exit certain businesses and write off certain assets that were not seen as providing future benefit. These decisions resulted in material charges that

were recognized during the fourth quarter of 2008 and fiscal year 2009. We also recognized material goodwill and trade name impairment charges during the fourth quarter of 2008. During 2007, we recognized charges associated with the remaining activities from a previously-disclosed business review. We manage the related costs and programs associated with these activities (collectively, the "Charges") at a corporate level, and accordingly, these amounts are not included in determining Division operating profit.

A summary of the Charges and the line item presentation of these amounts in our accompanying Consolidated Statements of Operations is as follows.

(Dollars in million)	**2009**	2008	2007
Cost of goods sold and occupancy costs	**$ 13**	$ 16	$—
Store and warehouse operating and selling expenses	**188**	52	25
Goodwill and trade name impairments	**—**	1,270	—
Other asset impairments	**26**	114	—
General and administrative expenses	**26**	17	15
Total pre-tax Charges	**$253**	$ 1,469	$ 40

Exit costs

The primary components of Charges associated with exit activities during 2008 and 2009 include:

- *Retail Store Initiatives* — As a result of the strategic review, we closed certain stores in North America and exited our retail operations in Japan. Additionally, we reduced the planned number of North American retail store openings for 2009. In total, we closed 126 stores in North America and 27 stores in Japan. Six of the North American locations were closed during the fourth quarter of 2008 and the remaining stores were closed during 2009. The stores closed under this program were underperforming stores or stores that were no longer a strategic fit for the company. The charges associated with the initiatives related to our retail stores totaled $122 million and $104 million in 2009 and 2008, respectively. The 2009 charges were primarily related to lease accruals, inventory write downs, severance expenses and other facility closure costs. Included in the 2009 charges is the impact of a reclassification to the accrued lease liability of previously accrued lease related costs such as tenant improvement allowances and various rent credits associated with facilities closed during 2009. The net effect of this reclassification was to lower the lease-related charges recognized in 2009 by approximately $32 million. The 2008 charges related primarily to asset impairments, inventory write downs and lease accruals.

- *Supply Chain Initiatives* — As a result of the strategic review of our supply chain operations, we consolidated certain facilities in North America and Europe. During 2009, we closed five distribution centers and six crossdock facilities in North America and completed the consolidation of our distribution centers in Europe. Charges related to these actions totaled approximately $57 million in 2009 and related primarily to lease accruals, inventory write downs, severance expenses and other facility closure costs. The 2008 charges under these initiatives totaled approximately $22 million and consisted primarily of accelerated depreciation, severance related costs and lease accruals.

- *Asset Sales and Sale-Leaseback Transactions* — As a result of the strategic review and to enhance liquidity, we entered into multiple sale and sale-leaseback transactions. Total proceeds from these transactions were approximately $150 million and are included in the investing section on our Consolidated Statement of Cash Flows. Losses on these transactions are included in the Charges and totaled approximately $22 million in 2009. Gains have been deferred and will reduce rent expense over the related leaseback periods. One transaction was the sale of an asset previously classified as a capital lease. Payments to satisfy the existing capital lease obligation are included in the financing section of the Consolidated Statement of Cash Flows. An additional sale-leaseback arrangement associated with operating properties included provisions that resulted in the transaction being accounted for as a financing. Accordingly, approximately $19 million has been included in long-term debt on the Consolidated Balance Sheet at December 26, 2009.

- *Headcount Reductions and Other Restructuring Activities* — Each of the Divisions, as well as Corporate eliminated positions in an effort to centralize activities and eliminate geographic redundancies. Total severance and termination benefit costs associated with these actions totaled approximately $22 million and $13 million during 2009 and 2008, respectively. During 2009, we also recorded charges for contract terminations on certain leased assets totaling approximately $17 million and for other restructuring activities totaling approximately $7 million. Additionally, we recognized a non-cash loss of approximately $6 million in conjunction with the disposition of other assets during 2009. This loss is reflected in other associated costs in the table below. Charges for other restructuring activities in 2008 totaled approximately $60 million and related primarily to asset write downs and costs associated with the restructuring of our back office operations and call centers in Europe.

As previously disclosed, in 2005, we announced a series of activities to restructure operations and recognized charges associated with exit costs, as well as other asset impairments. Associated pre-tax Charges in 2007 totaled $40 million and related primarily to the consolidation of warehouses and distribution centers in North America and Europe as well as management restructuring and call center consolidation in Europe.

Exit cost accruals related to the activities described above are as follows:

(Dollars in millions)	Beginning Balance	Charges Incurred	Cash Payments	Non-cash settlements	Adjustments	Ending Balance
2009						
Cost of goods sold	$ —	$ 13	$ —	$ (13)	$ —	$ —
One-time termination benefits	14	34	(33)	—	(2)	13
Asset impairments and accelerated depreciation	—	39	—	(39)	—	—
Lease and contract obligations	33	149	(57)	36	1	162
Other associated costs	—	18	(12)	(7)	1	—
Total	$ 47	$ 253	$ (102)	$ (23)	$ —	$ 175
2008						
Cost of goods sold	$ —	$ 16	$ —	$ (16)	$ —	$ —
One-time termination benefits	13	32	(28)	(3)	—	14
Asset impairments and accelerated depreciation	—	124	—	(124)	—	—
Lease and contract obligations	17	21	(6)	—	1	33
Other associated costs	—	6	(4)	(2)	—	—
Total	$ 30	$ 199	$ (38)	$ (145)	$ 1	$ 47

Lease accruals on closed facilities reflect the company's best estimate of its obligations under these long-term arrangements, net of sublease assumptions, discounted at the company's estimated unsecured borrowing rate at the time of each location closure. This accrued liability may be adjusted in future periods as actual sublease activity is better or worse than estimated. It is currently expected that any such adjustments, as well as accretion of this liability will be reflected as a component of store and warehouse operating and selling expenses and recognized at the corporate level, outside of Division operating profit, in future periods.

Other asset impairments

In addition to the exit costs discussed above, during 2008, we recognized other material charges because of the downturn in our business. Those charges include goodwill and trade name impairment charges, as well as material asset impairments relating to stores and charges to impair amortizing customer relationship intangible assets.

We perform our annual review of goodwill and other non-amortizing intangible assets during the fourth quarter. As a result of this review for 2008, we recorded non-cash charges of $1,213 million to write down goodwill and $57 million related to the impairment of trade names. Our recoverability assessment of these non-amortizing

intangible assets considered company-specific projections, assumptions about market participant views and the company's overall market capitalization around the testing period. We did not record any impairment charges to goodwill or other non-amortizing intangible assets in 2009 or 2007.

At least annually, we review our stores for possible impairment. Our impairment analysis is based on a cash flow model at the individual store level, beginning with recent store performance and forecasting the anticipated future results based on chain-wide and individual store initiatives. If the anticipated undiscounted cash flows of a store cannot support the carrying amount of the store's assets, an impairment charge to bring the assets to estimated fair value is recorded to operations as a component of store and warehouse operating and selling expenses. Because of the downturn in our business in late 2008, we recorded store asset impairment charges totaling approximately $98 million in 2008. Store impairment charges totaled approximately $3 million in both 2009 and 2007.

We review our amortizing intangible assets at least annually to determine whether events and circumstances warrant a revision to the remaining period of amortization. In developing forecasts for our assessment of goodwill in 2008, we concluded that the value of certain amortizing intangible assets was impaired. Accordingly, during 2008, we incurred a charge of approximately $11 million to fully impair the customer list intangible assets in our International Division. We did not record any impairment charges to amortizing intangible assets in 2009 or 2007.

NOTE D — PROPERTY AND EQUIPMENT

Property and equipment consisted of:

(Dollars in thousands)	**December 26, 2009**	December 27, 2008
Land	**$ 38,456**	$ 80,783
Buildings	**354,630**	472,110
Leasehold improvements	**997,919**	1,067,456
Furniture, fixtures and equipment	**1,703,691**	1,642,485
	3,094,696	3,262,834
Less accumulated depreciation	**(1,817,041)**	(1,705,533)
Total	**$ 1,277,655**	$ 1,557,301

The 2009 changes in land and buildings resulted primarily from sale and sale-leaseback transactions completed during the year. Depreciation expense was $221.0 million, $245.1 million, and $266.7 million in 2009, 2008 and 2007, respectively. These amounts include accelerated depreciation related to the Charges discussed in Note C.

The above table of property and equipment includes assets held under capital leases as follows:

(Dollars in thousands)	**December 26, 2009**	December 27, 2008
Buildings	**$ 269,232**	$ 273,502
Furniture, fixtures and equipment	**43,443**	70,952
	312,675	344,454
Less accumulated depreciation	**(78,143)**	(59,737)
Total	**$ 234,532**	$ 284,717

NOTE E — GOODWILL AND OTHER INTANGIBLE ASSETS

Goodwill

During the fourth quarter of 2008, we performed our annual goodwill impairment testing, which indicated that the goodwill in four of our five reporting units was fully impaired. This resulted in impairment charges totaling $1,213.3 million, most of which was related to acquisitions made in our International and North American Business Solutions Divisions. Approximately $19.4 million of goodwill was not impaired during the fourth quarter of 2008. This remaining goodwill is associated with our North American Business Solutions Division, and the balance has remained constant since December 27, 2008. The components of goodwill by segment are provided in the following table:

(Dollars in thousands)	North American Retail Division	North American Business Solutions Division	International Division	Total
Balance as of December 29, 2007				
Goodwill	$ 2,315	$ 368,628	$ 911,514	$ 1,282,457
Accumulated impairment losses	—	—	—	—
	2,315	368,628	911,514	1,282,457
2008 Changes:				
Goodwill acquired during the year	—	—	73,734	73,734
Purchase price adjustments on 2007 acquisitions	—	734	—	734
Foreign currency translation	(473)	(1,572)	(122,114)	(124,159)
Impairment losses	(1,842)	(348,359)	(863,134)	(1,213,335)
Balance as of December 27, 2008				
Goodwill	1,842	367,790	863,134	$ 1,232,766
Accumulated impairment losses	(1,842)	(348,359)	(863,134)	(1,213,335)
	—	19,431	—	19,431
2009 Changes	—	—	—	—
Balance as of December 26, 2009				
Goodwill	1,842	367,790	863,134	$ 1,232,766
Accumulated impairment losses	(1,842)	(348,359)	(863,134)	(1,213,335)
	$ —	**$ 19,431**	**$ —**	**$ 19,431**

Other Intangible Assets

Indefinite-lived intangible assets related to acquired trade names were $6.2 million and $6.1 million, at December 26, 2009 and December 27, 2008, respectively, and are included in other intangible assets in the Consolidated Balance Sheets. Indefinite-lived intangibles are not subject to amortization. Instead, they are tested for impairment at least annually. During 2008, we recorded impairment charges on indefinite-lived intangibles totaling $56.6 million. The change in the balance during 2009 resulted from changes in foreign currency rates.

Amortizing intangible assets, which are included in other intangible assets in the Consolidated Balance Sheets, include the following:

	December 26, 2009		December 27, 2008	
(Dollars in thousands)	Gross Carrying Value	Accumulated Amortization	Gross Carrying Value	Accumulated Amortization
Customer lists	**$ 28,000**	**$ (9,228)**	$ 28,000	$ (6,683)
Other	**2,600**	**(2,302)**	2,600	(1,706)
Total	**$ 30,600**	**$ (11,530)**	$ 30,600	$ (8,389)

We review our amortizing intangible assets at least annually to determine whether events and circumstances warrant a revision to the remaining period of amortization. During the fourth quarter of 2008, we concluded that the value of certain amortizing intangible assets was impaired, and accordingly, we incurred a charge of $10.9 million to fully impair the customer list intangible assets in our International Division.

Amortization of intangible assets was $3.1 million in 2009, $9.0 million in 2008, and $15.3 million in 2007 (at average foreign currency exchange rates).

The weighted average amortization period for the remaining finite-lived intangible assets is 7.3 years. Estimated future amortization expense for the next five years at December 26, 2009 is as follows:

(Dollars in thousands)	
2010	$ 2,843
2011	2,545
2012	2,545
2013	2,545
2014	2,545

NOTE F — DEBT

Debt consists of the following:

(Dollars in thousands)	**December 26, 2009**	December 27, 2008
Short-term borrowings and current maturities of long-term debt:		
Short-term borrowings	**$ 44,121**	$ 176,644
Capital lease obligations	**14,646**	14,773
Current maturities of long-term debt	**1,078**	515
	$ 59,845	$ 191,932
Long-term debt, net of current maturities:		
$400 million senior notes	**$ 400,172**	$ 400,278
Capital lease obligations	**243,502**	287,349
Other	**19,066**	1,161
	$ 662,740	$ 688,788

On September 26, 2008, the company entered into a Credit Agreement (the “Agreement”) with a group of lenders, which provides for an asset based, multi-currency revolving credit facility (the “Facility”) of up to $1.25 billion. The amount that can be drawn on the Facility at any given time is determined based on percentages of certain accounts receivable, inventory and credit card receivables (the “Borrowing Base”). At December 26, 2009, the company was eligible to borrow approximately $872 million of the Facility based on the December borrowing base certificate. The Facility includes a sub-facility of up to $250 million which is available to certain of the company’s European subsidiaries (the “European Borrowers”). Certain of the company’s domestic subsidiaries (the “Domestic Guarantors”) guaranty the obligations under the Facility. The Agreement also provides for a letter of credit sub-facility of up to $400 million. All loans borrowed under the Agreement may be borrowed, repaid and reborrowed from time to time until September 26, 2013 (or, in the event that the company’s existing 6.25% Senior Notes are not repaid, then February 15, 2013), on which date the Facility matures.

All amounts borrowed under the Facility, as well as the obligations of the Domestic Guarantors, are secured by a lien on the company’s and such Domestic Guarantors’ accounts receivables, inventory, cash and deposit accounts. All amounts borrowed by the European Borrowers under the Facility are secured by a lien on such European Borrowers’ accounts receivable, inventory, cash and deposit accounts, as well as certain other assets.

At the company's option, borrowings made pursuant to the Agreement bear interest at either, (i) the alternate base rate (defined as the higher of the Prime Rate (as announced by the Agent) and the Federal Funds Rate plus 1/2 of 1%) or (ii) the Adjusted LIBOR Rate (defined as the LIBOR Rate as adjusted for statutory revenues) plus, in either case, a certain margin based on the aggregate average availability under the Facility. The Agreement also contains representations, warranties, affirmative and negative covenants, and default provisions which are conditions precedent to borrowing. The most significant of these covenants and default provisions include a capital expenditure limitation of $500 million in any fiscal year and limitations in certain circumstances on acquisitions, dispositions, share repurchases and the payment of cash dividends. The dividend restrictions are based on the then-current and proforma fixed charge coverage ratio and borrowing availability at the point of consideration. We may seek a modification to the Agreement to allow payment of Preferred Stock dividends in cash in future periods. The company has never declared or paid cash dividends on its common stock. The company was in compliance with all financial covenants at December 26, 2009. The Facility also includes provisions whereby if the global availability is less than $218.8 million, or the European availability is below $37.5 million, the company's cash collections go first to the Agent to satisfy outstanding borrowings. Further, if total availability falls below $187.5 million, a fixed charge coverage ratio test is required which, based on current forecasts, could effectively eliminate additional borrowing under the Facility. Any event of default that is not cured within the permitted period, including non-payment of amounts when due, any debt in excess of $25 million becoming due before the scheduled maturity date, or the acquisition of more than 40% of the ownership of the company by any person or group, could result in a termination of the Facility and all amounts outstanding becoming immediately due and payable.

At December 26, 2009, the company had approximately $726.1 million of available credit under the Facility. At December 26, 2009, there were no borrowings outstanding under the Facility and there were letters of credit outstanding under the Facility totaling approximately $146.4 million. An additional $0.7 million of letters of credit were outstanding under separate agreements. Average borrowings under the Facility from December 27, 2008 to June 27, 2009 were approximately $180 million at an average interest rate of 3.92%. We did not borrow under our asset based credit facility during the second half of 2009.

At December 26, 2009, we had short-term borrowings of $44.1 million. These borrowings primarily represent outstanding balances under various local currency credit facilities for our international subsidiaries that had an effective interest rate at the end of the year of approximately 2.35%. The majority of these short-term borrowings represent outstanding balances on uncommitted lines of credit, which do not contain financial covenants.

In December 2008, the company's credit rating was downgraded which provided the counterparty to the company's private label credit card program the right to terminate the agreement and require the company to repurchase the outstanding balance credit card receivables. The company and the counterparty subsequently amended the agreement to permanently eliminate this provision. The company maintains a $25 million letter of credit in support of this agreement.

In August 2003, we issued $400 million senior notes due August 2013. These notes are not callable and bear interest at the rate of 6.25% per year, to be paid on February 15 and August 15 of each year. The notes contain provisions that, in certain circumstances, place financial restrictions or limitations on us. Simultaneous with completing the offering, we liquidated a treasury rate lock. The proceeds are being amortized over the term of the issue, reducing the effective interest rate to 5.87%. During 2004, we entered into a series of fixed-to-variable interest rate swap agreements as fair value hedges on the $400 million of notes. The swap agreements were terminated during 2005.

Capital lease obligations primarily relate to buildings and equipment as indicated in Note D.

Aggregate annual maturities of long-term debt and capital lease obligations are as follows:

(Dollars in thousands)	
2010	$ 77,535
2011	31,441
2012	29,430
2013	429,011
2014	29,164
Thereafter	279,241
Total	875,822
Less amount representing interest on capital leases	153,237
Total	722,585
Less current portion	59,845
Total long-term debt	$ 662,740

NOTE G — INCOME TAXES

The income tax expense (benefit) related to earnings (loss) from operations consisted of the following:

(Dollars in thousands)	**2009**	2008	2007
Current:			
Federal	**$ (41,997)**	$ (16,430)	$ 50,602
State	**2,228**	6,622	728
Foreign	**1,455**	19,262	12,710
Deferred :			
Federal	**233,398**	(125,945)	72,017
State	**46,845**	18,606	(38,183)
Foreign	**45,643**	(760)	(34,856)
Total income tax expense (benefit)	**$ 287,572**	$ (98,645)	$ 63,018

The components of earnings (loss) before income taxes consisted of the following:

(Dollars in thousands)	**2009**	2008	2007
North America	**$ (271,520)**	$ (733,342)	$ 276,040
International	**(39,632)**	(846,306)	181,682
Total	**$ (311,152)**	$ (1,579,648)	$ 457,722

The tax-effected components of deferred income tax assets and liabilities consisted of the following:

(Dollars in thousands)	**December 26, 2009**	December 27, 2008
Foreign and state net operating loss carryforwards	**$ 343,343**	$ 332,844
Deferred rent credit	**104,292**	102,903
Vacation pay and other accrued compensation	**85,912**	69,706
Accruals for facility closings	**54,122**	12,009
Inventory	**23,912**	32,713
Self-insurance accruals	**19,387**	17,144
Deferred revenue	**13,787**	17,198
State credit carryforwards, net of Federal benefit	**10,698**	8,028
Allowance for bad debts	**9,475**	6,637
Accrued rebates	**6,058**	7,840
Basis difference in fixed assets	**—**	66,130
Other items, net	**75,553**	61,465
Gross deferred tax assets	**746,539**	734,617
Valuation allowance	**(656,943)**	(242,481)
Deferred tax assets	**89,596**	492,136
Internal software	**23,857**	93,376
Basis difference in fixed assets	**17,098**	—
Other items, net	**—**	4,669
Deferred tax liabilities	**40,955**	98,045
Net deferred tax assets	**$ 48,641**	$ 394,091

As of December 26, 2009, we had approximately $1.1 billion of foreign and $901.7 million of state net operating loss carryforwards. Of the foreign carryforwards, $765.0 million can be carried forward indefinitely, $27.6 million will expire in 2010, and the balance will expire between 2011 and 2029. Of the state carryforwards, $3.0 million will expire in 2010, and the balance will expire between 2011 and 2029.

U.S. income taxes have not been provided on the undistributed earnings of foreign subsidiaries, which were approximately $1.1 billion as of December 26, 2009. We have reinvested such earnings overseas in foreign operations indefinitely and expect that future earnings will also be reinvested overseas indefinitely.

Valuation allowances have been established to reduce our deferred asset to an amount that is more likely than not to be realized and is based upon the uncertainty of the realization of certain deferred tax assets related to net operating loss carryforwards and other tax attributes. Because of the downturn in our performance during this recessionary period, as well as the significant restructuring activities and charges we have taken in response, during the third quarter of 2009, the company established valuation allowances totaling $321.6 million, with $279.1 million related to domestic deferred tax assets and $42.5 million related to foreign deferred tax assets. The establishment of valuation allowances and development of projected annual effective tax rates requires significant judgment and is impacted by various estimates. Both positive and negative evidence, as well as the objectivity and verifiability of that evidence, is considered in determining the appropriateness of recording a valuation allowance on deferred tax assets. An accumulation of recent pre-tax losses is considered strong negative evidence in that evaluation. The charge to establish the valuation allowance followed the third quarter 2009 condition of reaching or nearly reaching a 36 month cumulative loss position in certain taxing jurisdictions. While the company believes positive evidence exists with regard to the realizability of these deferred tax assets, it is not considered sufficient to outweigh the objectively verifiable negative evidence, including the cumulative 36 month pre-tax loss history. Deferred tax assets without valuation allowances remain in certain foreign tax jurisdictions where supported by the evidence.

The following is a reconciliation of income taxes at the Federal statutory rate to the provision (benefit) for income taxes:

(Dollars in thousands)	**2009**	2008	2007
Federal tax computed at the statutory rate	**$(108,903)**	$(552,877)	$160,203
State taxes, net of Federal benefit	**1,951**	(3,838)	8,217
Foreign income taxed at rates other than Federal	**(21,882)**	(29,684)	(62,393)
Non-deductible goodwill and other impairments	**—**	356,138	—
Increase (reduction) in valuation allowance	**387,735**	47,874	(34,195)
Settlement of tax audits	**—**	—	(941)
Non-deductible foreign interest	**13,198**	40,166	2,392
Change in accrual estimates relating to uncertain tax positions	**5,526**	3,661	(9,097)
Other items, net	**9,947**	39,915	(1,168)
Income tax expense (benefit)	**$ 287,572**	$ (98,645)	$ 63,018

The following table summarizes the activity related to our unrecognized tax benefits during 2009:

(Dollars in thousands)	**2009**	2008
Beginning Balance	**$119,626**	$110,407
Additions based on tax positions related to the current year	**5,505**	10,767
Additions for tax positions of prior years	**19,149**	17,720
Reductions for tax positions of prior years	**(2,820)**	(19,035)
Statute expirations	**(335)**	(233)
Settlements	**—**	—
Ending Balance	**$141,125**	$119,626

Included in the balance of $141.1 million at December 26, 2009, are $125.2 million of net unrecognized tax benefits that, if recognized, would affect the effective tax rate. The difference of $15.9 million primarily results from federal tax impacts on state tax issues and positions which if sustained would be fully offset by a valuation allowance.

We file a U.S. federal income tax return and other income tax returns in various states and foreign jurisdictions. With few exceptions, we are no longer subject to U.S. federal, state and local, or non-U.S. income tax examinations for years before 2000. Our U.S. federal filings for the years 2000 and 2002 through 2008 are under routine examination, and it is reasonably possible that audits for some of these periods will be closed prior to the end of 2010. Additionally, the U.S. federal tax return for 2009 is under concurrent year review. Significant international tax jurisdictions include the UK, the Netherlands, France and Germany. Generally, we are subject to routine examination for years 2001 and forward in these jurisdictions. It is reasonably possible that certain of these audits will close within the next 12 months, which could result in a decrease of as much as $68.5 million or an increase of as much as $35.4 million to our accrued uncertain tax positions. Additionally, we anticipate that it is reasonably possible that new issues will be raised or resolved by tax authorities that may require changes to the balance of unrecognized tax benefits, however, an estimate of such changes cannot reasonably be made.

We recognize interest related to unrecognized tax benefits in interest expense and penalties in the provision for income taxes. We recognized interest and penalties of approximately $4.4 million and $11.5 million in 2009 and 2008, respectively. We had approximately $53.3 million accrued for the payment of interest and penalties as of December 26, 2009.

In connection with the expensing of the fair value of employee stock options, we have elected to calculate our pool of excess tax benefits under the alternative, or "short-cut" method. At adoption, this pool of benefits was approximately $55.3 million and was approximately $101.1 million as of December 26, 2009. This pool may increase in future periods if tax benefits realized are in excess of those based on grant date fair values or may decrease if used to absorb future tax deficiencies determined for financial reporting purposes.

NOTE H — COMMITMENTS AND CONTINGENCIES

Operating Leases: We lease retail stores and other facilities and equipment under operating lease agreements with initial lease terms expiring in various years through 2032. In addition to minimum rentals, there are certain executory costs such as real estate taxes, insurance and common area maintenance on most of our facility leases. Many lease agreements contain tenant improvement allowances, rent holidays, and/or rent escalation clauses. For purposes of recognizing incentives and minimum rental expenses on a straight-line basis over the terms of the leases, we use the date of initial possession to begin amortization.

We recognize a deferred rent liability for tenant improvement allowances and rent holidays and amortize these amounts over the terms of the related leases as a reduction of rent expense. Rent related accruals totaled approximately $270 million and $298 million at December 26, 2009 and December 27, 2008, respectively. The short-term and long-term components of these liabilities are included in accrued expenses and other long-term liabilities, respectively, on the Consolidated Balance Sheets. For scheduled rent escalation clauses during the lease terms or for rental payments commencing at a date other than the date of initial occupancy, we record minimum rental expenses on a straight-line basis over the terms of the leases.

Certain leases contain provisions for additional rent to be paid if sales exceed a specified amount, though such payments have been immaterial during the years presented.

The table below shows future minimum lease payments due under the non-cancelable portions of our leases as of December 26, 2009. These minimum lease payments include facility leases that were accrued as store closure costs. Additional information including optional lease renewals follows this table.

(Dollars in thousands)		
2010	$	533,488
2011		455,564
2012		396,982
2013		342,783
2014		280,630
Thereafter		946,383
		2,955,830
Less sublease income		44,226
Total	$	2,911,604

We determine the lease term at inception to be the non-cancelable rental period plus any renewal options that are considered reasonably assured. Leasehold improvements are depreciated over the shorter of their estimated useable lives or the identified lease term. Lease payments for the next five years and thereafter that include both the non-cancelable amounts from above, plus the renewal options included in our projected lease term are, $537 million for 2010; $481 million for 2011; $438 million for 2012; $401 million for 2013; $367 million for 2014 and $1,964 million thereafter, for a total of $4,188 million, $4,144 million net of sublease income.

Rent expense, including equipment rental, was $498.6 million, $525.8 million and $519.1 million in 2009, 2008, and 2007, respectively. Rent expense was reduced by sublease income of $2.9 million in 2009, $3.1 million in 2008 and $2.8 million in 2007.

Indemnification of Private Label Credit Card Receivables: Office Depot has a private label credit card program that is managed by a third-party financial services company. We transfer the credit card receivable balance each business day, with the difference between the transferred amount and the amount received recognized in store and warehouse operating and selling expense. At December 26, 2009, the outstanding balance of credit card receivables transferred was approximately $148.3 million. The company's estimated liability associated with risk of loss totaled approximately $16 million and $23 million at December 26, 2009 and December 27, 2008, respectively. This accrual is included in accrued expenses on the Consolidated Balance Sheets. Following the company's credit rating downgrade in December 2008, the underlying agreement was amended to permanently eliminate a provision that allowed both parties to terminate the agreement early in the event either party suffered a material adverse change, and put in place a letter of credit arrangement supporting the company's potential exposure on indemnification of the transferred receivable balance. See Note F for additional discussion.

Change in Control Features in Certain Employment Contracts: Following shareholder approval of our Preferred Stock transaction, the vesting of certain employee share-based awards accelerated, resulting in the recognition of approximately $9 million of compensation expense during the fourth quarter of 2009. Additionally, change in control features in certain employment contracts could result in additional expenses in future periods if covered executives are involuntarily, or in certain cases, voluntarily terminated. In February 2010, the employment agreement between the company and its Chief Executive Officer was modified to amend, among other things, certain change in control provisions. Following this amendment, if all remaining executives covered by voluntary termination provisions elected to leave, the required cash payment would aggregate to approximately $8 million.

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

As previously disclosed, the company reached a proposed settlement with the staff of the U.S. Securities and Exchange Commission ("SEC") to resolve the previously disclosed SEC inquiry that commenced in July of 2007 and the formal investigation disclosed in January of 2008 with respect to contacts and communications with financial analysts, inventory receipt and reserves, timing of vendor payments, certain intercompany loans, certain payments to foreign officials, inventory obsolescence and timing and recognition of vendor program funds. The company and its officers and employees have cooperated with the SEC staff in this investigation. The SEC staff intends to recommend to the SEC a proposed settlement with respect to the company which would conclude for the company all matters arising from the SEC investigation. Under the proposed settlement, the company, without admitting or denying liability, has agreed to pay a civil penalty and to consent to a cease and desist order from committing or causing violations of Regulation FD and Sections 13(a) and 13(b) of the Securities Exchange Act of 1934 (and related rules) which require the maintenance of accurate books and records and internal controls. Regulation FD is a rule regarding communication with analysts and investors. The proposed settlement is contingent on the review and approval of final documentation by the company and the SEC staff, and is subject to approval by the SEC Commissioners. There can be no assurance that the SEC Commissioners will approve the staff's recommendation. The company has also been informed that the company's CEO and two former employees each received "Wells" notices from the staff of the SEC's Miami Regional Office advising them that the regional staff has made a preliminary decision to recommend that the SEC bring civil enforcement actions against them for possible violations of Regulation FD. Under the processes established by the SEC, these individuals will have an opportunity to present their perspective and to address the issues raised by the SEC staff prior to any action being taken by the SEC.

On January 14, 2010, the federal court in the Southern District of Florida dismissed the Second Consolidated Amended Complaint filed by the New Mexico Educational Retirement Board, lead plaintiff in a Consolidated Lawsuit, with prejudice. On February 9, 2010, the lead plaintiff filed a notice to appeal this decision. As background, in early November 2007, two putative class action lawsuits were filed against the company and certain of its executive officers alleging violations of the Securities Exchange Act of 1934. The allegations made in these lawsuits primarily related to the accounting for vendor program funds. Each of the foregoing lawsuits was filed in the Southern District of Florida and captioned as follows: (1) Nichols v. Office Depot, Inc., Steve Odland and Patricia McKay filed on November 6, 2007 and (2) Sheet Metal Worker Local 28 Pension Fund v. Office Depot, Inc., Steve Odland and Patricia McKay filed on November 5, 2007. On March 21, 2008, the court in the Southern District of Florida entered an Order consolidating the class action lawsuits (the "Consolidated Lawsuit"). Lead plaintiff in the Consolidated Lawsuit, the New Mexico Educational Retirement Board, filed its Consolidated Amended Complaint on July 2, 2008, and its Second Consolidated Amended Complaint on April 20, 2009.

In addition, in the ordinary course of business, our sales to and transactions with government customers may be subject to audits and review by governmental authorities and regulatory agencies. Many of these audits and reviews are resolved without incident; however, we have had several claims and inquiries by certain governmental agencies into contract pricing, and additional inquiries may follow. While these claims may assert large demands, we do not believe that contingent liabilities related to these matters, either individually or in the aggregate, will materially affect our financial position, results of our operations or cash flows.

NOTE I — EMPLOYEE BENEFIT PLANS

Long-Term Incentive Plan

During 2007, the company's board of directors adopted a new equity incentive plan which obtained shareholder approval on April 25, 2007. This plan is known as the Office Depot, Inc. 2007 Long-Term Incentive Plan (the "Plan") and replaces the Long-Term Equity Incentive Plan which expired in October 2007. We believe the Plan aligns the interests of its officers, directors and key employees with the interests of its shareholders. The Plan permits the issuance of stock options, stock appreciation rights, restricted stock, restricted stock units, performance-based, and other equity-based incentive awards. The option exercise price for each grant of a stock option shall not be less than 100% of the fair market value of a share of common stock on the date the option is granted. Options granted under the Plan become exercisable from one to five years after the date of grant, provided that the individual is continuously employed with the company. All options granted expire no more than ten years following the date of grant.

Long-Term Incentive Stock Plan

A summary of the activity in our stock option plans for the last three years is presented below.

	2009		2008		2007	
	Shares	**Weighted Average Exercise Price**	Shares	Weighted Average Exercise Price	Shares	Weighted Average Exercise Price
Outstanding at beginning of year	**14,479,141**	**$ 22.78**	13,594,302	$ 23.86	12,384,083	$ 20.14
Granted	**11,901,752**	**0.93**	3,185,511	10.56	3,522,720	32.52
Canceled	**(2,178,178)**	**15.99**	(2,190,928)	21.48	(434,863)	25.12
Exercised	**—**	**—**	(109,744)	10.36	(1,877,638)	16.11
Outstanding at end of year	**24,202,715**	**$ 11.81**	14,479,141	$ 22.78	13,594,302	$ 23.86

The weighted-average grant date fair values of options granted during 2009, 2008, and 2007 were $0.69, $4.64, and $10.05, respectively, using the following weighted average assumptions for grants:

- Risk-free interest rates of 2.1% for 2009, 2.7% for 2008, and 4.5% for 2007
- Expected lives of 4.5 years for 2009, 4.4 years for 2008, and 4.7 years for 2007
- A dividend yield of zero for all three years
- Expected volatility ranging from 70% to 118% for 2009, 43% to 65% for 2008, 25% to 43% for 2007

The following table summarizes information about options outstanding at December 26, 2009.

	Options Outstanding			Options Exercisable		
Range of Exercise Prices	Number Outstanding	Weighted Average Remaining Contractual Life (in years)	Weighted Average Exercise Price	Number Exercisable	Weighted Average Remaining Contractual Life (in years)	Weighted Average Exercise Price
$0.85- $4.42	11,382,252	6.17	$ 0.89	1,283,252	6.06	$ 0.93
4.43- 10.00	990,727	3.92	7.40	562,341	2.41	8.07
10.01- 15.00	3,148,622	3.88	11.30	1,810,244	2.91	11.33
15.01- 22.45	3,002,018	3.28	18.28	2,954,876	3.26	18.23
22.46- 41.25	5,679,096	4.01	31.35	5,243,291	3.99	31.21
$0.85- $41.25	24,202,715	4.92	$ 11.81	11,854,004	3.79	$ 20.56

The intrinsic value of options exercised in 2008 and 2007, was $0.3 million, and $33.7 million, respectively. There were no option exercises in 2009.

As of December 26, 2009, there was approximately $12 million of total stock-based compensation expense that has not yet been recognized relating to non-vested awards granted under our option plans. This expense, net of forfeitures, is expected to be recognized over a weighted-average period of approximately 1.6 years. Of the 12.3 million unvested shares, we estimate that 11.7 million, or 95%, will vest. The number of exercisable shares was 11.9 million shares of common stock at December 26, 2009, 8.9 million shares of common stock at December 27, 2008, and 7.9 million shares of common stock at December 29, 2007.

In February 2010, the company’s board of directors approved a stock option exchange program, subject to approval by the company’s shareholders. If approved by shareholders, employees with existing stock options that have an exercise price in excess of the higher of the 52-week high closing price of our common stock or 50% greater than the stock price at start of the exchange program, may elect to exchange those options for a lesser number of new options with an equivalent value. The fair value of the surrendered and new options will be measured using the Black-Scholes option valuation model on the exchange date. The new options will vest over the succeeding three years. The program is structured to be a value-for-value exchange and no significant compensation expense is anticipated. Certain members of senior management will not be allowed to participate and other limitations and features of the proposed exchange programs exist. Approximately 600,000 surrendered options will be retained for future issuance and the remainder will be cancelled.

Restricted Stock and Performance-Based Grants

Our employee share-based awards are generally issued in the first quarter of the year. In 2009, we granted the majority of our awards in stock options. Restricted stock grants typically vest annually over a three-year service period, however, grants made to the company's board of directors vest immediately and are free of restrictions. In 2009, we granted approximately 22,000 shares of restricted stock with a weighted average fair value of $0.85 based on the grant date market price. As of December 26, 2009, all of the shares granted in 2009 had vested. In 2008, we granted to employees approximately 2.7 million shares of time-based restricted stock with annual vesting over a three-year service period valued at the grant date market price of $11.24 per share. A summary of the status of the company's nonvested shares as of December 26, 2009, and changes during the year ended December 26, 2009 is presented below.

	2009		2008		2007	
	Shares	**Weighted Average Grant-Date Price**	Shares	Weighted Average Grant-Date Price	Shares	Weighted Average Grant-Date Price
Nonvested at beginning of year	**2,663,216**	**$ 14.06**	850,115	$ 30.67	1,675,130	$ 19.82
Granted	**21,628**	**0.85**	2,651,737	11.24	670,013	32.46
Vested	**(1,230,397)**	**14.60**	(543,068)	24.22	(1,367,070)	18.31
Forfeited	**(136,285)**	**15.24**	(295,568)	17.81	(127,958)	30.06
Nonvested at end of year	**1,318,162**	**$ 13.21**	2,663,216	$ 14.06	850,115	$ 30.67

As of December 26, 2009, there was approximately $8 million of total unrecognized compensation cost related to nonvested restricted stock. That cost, net of forfeitures, is expected to be recognized over a weighted-average period of 1.1 years. We estimate that 5% of these shares will be forfeited. The total grant date fair value of shares vested during 2009 was approximately $18 million.

Employee Stock Purchase Plan

Prior to the end of 2008, the company maintained an Employee Stock Purchase Plan, which was approved by Office Depot's stockholders. This plan permitted eligible employees to purchase our common stock at 85% of its fair market value. For 2007 and 2008, compensation expense was recognized for the difference between employee cost and fair value. Share needs associated with this plan were satisfied through open market purchases. This plan was terminated, effective December 31, 2008.

Retirement Savings Plans

Eligible company employees may participate in the Office Depot, Inc. Retirement Savings Plan (401(k) Plan), which was approved by the board of directors. This plan allows those employees to contribute a percentage of their salary, commissions and bonuses, up to the higher of $16,500 in 2009 or 50% of their eligible compensation, in accordance with the provisions of Section 401(k) of the Internal Revenue Code. Prior to the end of 2008, employer matching contributions were equivalent to 50% of the first 6% of an employee's contributions, subject to the limits of the plan. Those contributions were invested in the same manner as the participants' pre-tax contributions. The plan also allows for a discretionary matching contribution in addition to the normal match contributions if approved by the board of directors. The compensation and benefits committee of the board of directors amended the plan to eliminate the predetermined matching contributions effective with the first payroll period of 2009.

Office Depot also sponsors the Office Depot, Inc. Non-Qualified Deferred Compensation Plan that, until December 2009, permitted eligible highly compensated employees, who were limited in the amount they could contribute to the 401(k) Plan, to alternatively defer a portion of their salary, commissions and bonuses up to maximums and under restrictive conditions specified in this plan and to participate in company matching

provisions. The matching contributions to the deferred compensation plan were allocated to hypothetical investment alternatives selected by the participants. The compensation and benefits committee of the board of directors amended the plan to eliminate the predetermined matching contributions effective with the first payroll period beginning in 2009. Prior to the end of 2008, all deferred compensation plan participants were given the opportunity to take advantage of the transition election rules provided under the final 409A regulations of the Internal Revenue Code to modify distribution elections previously elected for plans years 2005 through 2008. In October 2009, the compensation and benefits committee amended the plan to no longer accept new deferrals.

During 2009, 2008, and 2007, $1.1 million, $12.6 million, $12.0 million, respectively, was recorded as compensation expense for company contributions to these programs and certain international retirement savings plans.

Pension Plan

The company has a defined benefit pension plan covering a limited number of employees in Europe. During 2008, curtailment of that plan was approved by the trustees and future service benefits ceased for the remaining employees, resulting in a curtailment gain of $11.4 million. Also during 2008, in accordance with accounting standards, the company modified the valuation date of plan obligations and assets from the end of October to the end of December. The impact of this change was an immaterial increase in expense which was recognized in operations rather than as an adjustment to retained earnings. The following table provides a reconciliation of changes in the projected benefit obligation, the fair value of plan assets and the funded status of the plan to amounts recognized on our balance sheets:

(Dollars in thousands)	**December 26, 2009**	December 27, 2008
Changes in projected benefit obligation:		
Obligation at beginning of period	**$ 154,840**	$ 230,408
Service cost	**—**	1,708
Interest cost	**9,006**	13,434
Member contributions	**—**	435
Benefits paid	**(5,041)**	(6,998)
Actuarial loss (gain)	**18,107**	(14,732)
Curtailment (gain)	**—**	(11,437)
Currency translation	**15,219**	(57,978)
Obligation at valuation date	**192,131**	154,840
Changes in plan assets:		
Fair value at beginning of period	**84,454**	162,032
Actual return on plan assets	**22,898**	(38,595)
Company contributions	**5,166**	7,214
Member contributions	**—**	435
Benefits paid	**(5,041)**	(6,998)
Currency translation	**12,906**	(35,634)
Plan assets at valuation date	**120,383**	88,454
Benefit obligation in excess of plan assets	**(71,748)**	(66,386)
Net liability recognized at end of period	**$ (71,748)**	$ (66,386)

The net unfunded amount is classified as a non-current liability in the caption deferred taxes and other long-term liabilities on the Consolidated Balance Sheets. At December 26, 2009, the deferred loss included in OCI was $14.5 million. A valuation allowance has been recognized in the relevant jurisdiction, resulting in no tax benefit. The $14.5 million deferral is not expected to be amortized into income during 2010. At December 27, 2008, the deferred loss included in OCI was $11.9 million before tax and $7.0 million on an after-tax basis. The 2009

change in deferred amounts reflects an actuarial loss during the period, partially offset by investment returns greater than assumed. The pre-tax and after-tax deferred gains at December 29, 2007 were $22.4 million and $17.1 million, respectively. The plan's accumulated benefit obligations were approximately $192.1 million and $154.8 million at the 2009 and 2008 valuation dates, respectively.

The components of net periodic expense are presented below:

(Dollars in thousands)	**2009**	2008	2007
Service cost	**$ —**	$ 1,708	$ 4,477
Interest cost	**9,006**	13,434	11,650
Expected return on plan assets	**(6,291)**	(11,629)	(8,953)
Curtailment and settlement	**—**	(11,437)	—
Net periodic pension (credit) cost	**$ 2,715**	$ (7,924)	$ 7,174

Assumptions used in calculating the funded status included:

	2009	2008	2007
Long-term rate of return on plan assets	**6.89%**	6.62%	6.87%
Discount rate	**5.70%**	5.50%	5.40%
Salary increases	**—**	—	4.40%
Inflation	**3.80%**	3.10%	3.40%

The plan's investment policies and strategies are to ensure assets are available to meet the obligations to the beneficiaries and to adjust plan contributions accordingly. To achieve the objectives, an investment benchmark and target returns have been established with the goal of consistently outperforming the target index by 1%. Close attention is paid to the risks which could arise through a mismatch between the plan's assets and its liabilities and the risks which arise form lack of diversification of investments.

The long-term rate of return on assets assumption has been derived based on long-term UK government fixed income yields, having regard to the proportion of assets in each asset class. The funds invested in equities have been assumed to return 4.0% above the return on UK government securities of appropriate duration. Allowance is made for expenses of 0.5% of assets. At December 26, 2009, the long-term UK government securities yield was 4.47%.

The allocation of assets is as follows:

	Percentage of Plan Assets		**Target Allocation**
	2009	2008	
Equity securities	**71%**	76%	60% - 95%
Debt securities	**27%**	16%	0% - 30%
Real estate	**0%**	1%	0% - 10%
Other	**2%**	7%	0% - 10%
Total	**100%**	100%	

The fair value of plan assets by asset category is as follows:

(Dollars in thousands)	Fair Value Measurements at December 26, 2009			
Asset Category	**Total**	**Quoted Prices in Active Markets for Identical Assets (Level 1)**	**Significant Observable Inputs (Level 2)**	**Significant Unobservable Inputs (Level 3)**
Cash	$ 616	$ 616	$ —	$ —
Equity securities	86,191	86,191	—	—
Debt securities	33,576	33,576	—	—
Total	$ 120,383	$ 120,383	$ —	$ —

Anticipated benefit payments, at December 26, 2009 exchange rates, are as follows:

(Dollars in thousands)	
2010	$ 5,143
2011	5,328
2012	5,520
2013	5,718
2014	5,924
Next five years	32,927

Employer contributions for 2010 are expected to be approximately $5.3 million (at end of period exchange rates) and include amounts agreed upon with the local regulator to lower the unfunded position. The company will review the funding status with the regulator during 2011 and the incremental funding provisions may change in future periods.

The pension plan was part of an entity acquired in 2003. The purchase and sale agreement included a provision whereby the seller is required to pay to the company an amount of unfunded benefit obligation as measured based on certain 2008 data. The company is in the process of resolving this uncertainty with the seller. We currently cannot predict the outcome of this matter. The after-tax effect of the payment from the seller, if any, will be recognized as a credit to income when all associated uncertainties are resolved.

In addition to the net periodic pension cost above, one foreign entity purchased approximately $5 million of nonparticipating annuity contracts in 2009 and anticipates purchasing approximately $5 million in 2010.

NOTE J — DERIVATIVE INSTRUMENTS AND HEDGING

As a global supplier of office products and services we are exposed to risks associated with changes in foreign currency exchange rates, commodity prices and interest rates. Our foreign operations are typically, but not exclusively, conducted in the currency of the local environment. We are exposed to the risk of foreign currency exchange rate changes when we make purchases, sell products, or arrange financings that are denominated in a currency different from the entity's functional currency. Depending on the settlement timeframe and other factors, we may enter into foreign currency derivative transactions to mitigate those risks. We may designate and account for such qualifying arrangements as hedges. Gains and losses on these cash flow hedging transactions are deferred in OCI and recognized in earnings in the same period as the hedged item. Transactions that are not designated as cash flow hedges are marked to market at each period with changes in value included in earnings. Historically, we have not entered into transactions to hedge our net investment in foreign operations but may in future periods.

We also are exposed to the risk of changing fuel prices from inbound and outbound transportation arrangements. Some transportation contracts may provide for specific identification of the fuel cost component such that the risk of fuel price changes may be offset by third-party contracts thereby allowing us to designate and qualify these offsetting contracts as cash flow hedges for accounting purposes. Deferred gains or losses associated with these arrangements would be recorded in OCI until such time as the hedged item impacts earnings. The structure of certain other transportation arrangements, however, precludes applying hedge accounting. In those circumstances, we may enter into derivative transactions to offset the risk of commodity price changes, and the value of the derivative contract is marked to market at each reporting period with changes recognized in earnings. As of December 26, 2009, no fuel contracts remained open with the company.

Interest rate changes on our obligations may result from external market factors, as well as changes in our credit rating. We manage our exposure to interest rate risks at the corporate level. Interest rate-sensitive assets and liabilities are monitored and assessed for market risk. Currently, no interest-rate related derivative arrangements are in place. At December 26, 2009 and December 27, 2008, OCI included the deferred gain from a hedge contract terminated in a prior period. This deferral is being amortized to interest expense through 2013.

In certain markets, we may contract with third parties for our future energy needs. Such arrangements are not considered derivatives because they are within the ordinary course of business and are for physical delivery. Accordingly, these arrangements are not included in the tables below.

Financial instruments authorized under the company's established risk management policy include swaps, options, caps, forwards and futures. Use of derivative financial instruments for trading or speculative purposes is expressly prohibited.

The following tables provide information on our hedging and derivative positions and activity.

Fair Value of Derivative Instruments
As of December 26, 2009

(Dollars in thousands)	Balance Sheet Location	Fair Value
Derivatives designated as hedging instruments:		
Foreign exchange contracts	Other current liabilities	$ 266
Total derivatives		$ 266

Derivatives not designated as hedging instruments	Location of gain/(loss) recognized in earnings	Amount of gain/(loss) recognized in earnings
(Dollars in thousands)		2009
Commodity contracts — fuel	Cost of goods sold and occupancy costs & Store and warehouse operating and selling expenses*	$ 111
Foreign exchange contracts	Miscellaneous income (expense), net	(7,707)
Total		$ (7,596)

Derivatives designated as cash flow hedges	Amount of gain/(loss) recognized in OCI	Location of gain/(loss) reclassified from OCI into earnings	Amount of gain/(loss) reclassified from OCI into earnings
(Dollars in thousands)	2009		2009
Foreign exchange contracts	$ (266)		$ —
Commodity contracts — fuel hedges	2,919	Cost of goods sold and occupancy costs & Store and warehouse operating and selling expenses*	(6,800)
Total	$ 2,653		$ (6,800)

* Approximately 60% of the losses for 2009 are reflected in cost of goods sold and occupancy costs. The remaining 40% of the losses are reflected in store and warehouse operating and selling expenses.

As of December 26, 2009, there were no hedging arrangements requiring collateral. However, we may be required to provide collateral on certain arrangements in the future. The fair values of our foreign currency contracts and fuel contracts are the amounts receivable or payable to terminate the agreements at the reporting date, taking into account current exchange rates. The values are based on market-based inputs or unobservable inputs that are corroborated by market data.

NOTE K — CAPITAL STOCK

Preferred Stock

In connection with issuance of the Preferred Stock, the company's board of directors eliminated 500,000 shares of previously authorized but not outstanding Junior Participating Preferred Stock, Series A. As of December 26, 2009, there were 1,000,000 shares of $0.01 par value preferred stock authorized of which none were issued or outstanding.

Treasury Stock

The Office Depot board of directors has historically authorized a series of common stock repurchase plans, the latest of which is a $500 million authorization in 2007. Under a previously approved plan, we purchased approximately 5.7 million shares at a cost of $199.6 million in 2007. We did not purchase any shares of our common stock during 2008 or 2009, and as of December 26, 2009 the entire $500 million remains available for repurchase under the current authorization. However, common stock repurchases are currently prohibited under our asset based credit facility and, in certain circumstances, require prior approval under our Preferred Stock agreements.

During the second quarter of 2008, we retired approximately 150 million shares of treasury stock. This was a non-cash transaction, and the reduction in the treasury stock account was offset by changes in other equity accounts. The par value of the retired shares was charged against common stock, and the excess of purchase price over par value was allocated between additional paid-in capital and retained earnings using a pro rata method. The impact of this transaction on the Consolidated Balance Sheet was to reduce common stock, additional paid-in capital, retained earnings and treasury stock by approximately $1.5 million, $626.9 million, $2,298.6 million and $2,927.0 million, respectively.

NOTE L — EARNINGS PER SHARE

Basic earnings per share is based on the weighted average number of shares outstanding during each period. Diluted earnings per share reflects the impact of assumed exercise of dilutive stock options, vesting of restricted stock and assumed conversion of redeemable preferred stock.

The following table represents the calculation of net earnings (loss) per common share — basic and diluted:

(In thousands, except per share amounts)	**2009**	2008	2007
Basic Earnings Per Share			
Numerator:			
Income (loss) available to common shareholders	**$ (626,971)**	$ (1,478,938)	$ 395,615
Denominator:			
Weighted-average shares outstanding	**272,828**	272,776	272,899
Basic earnings (loss) per share	**$ (2.30)**	$ (5.42)	$ 1.45
Diluted Earnings Per Share			
Numerator:			
Net earnings (loss) attributable to Office Depot, Inc.	**$ (596,465)**	$ (1,478,938)	$ 395,615
Denominator:			
Weighted-average shares outstanding	**272,828**	272,776	272,899
Effect of dilutive securities:			
Stock options and restricted stock	**3,836**	289	3,041
Redeemable preferred stock	**36,418**	—	—
Diluted weighted-average shares outstanding	**313,082**	273,065	275,940
Diluted earnings (loss) per share	**N/A**	N/A	$ 1.43

Awards of options and nonvested shares representing an additional 14.7 million, 15.4 million and 4.3 million shares of common stock were outstanding for the years ended December 26, 2009, December 27, 2008 and December 29, 2007, respectively, but were not included in the computation of diluted earnings per share because their effect would have been antidilutive. The amount indicated in the table above for the 2009 impact of the redeemable preferred stock is the average, calculated from the date of original issuance during the year. The liquidation preference amount at December 26, 2009 would be convertible into approximately 73.6 million shares of common stock. The diluted share amounts for 2009 and 2008 are provided for informational purposes, as the net loss for the periods causes basic earnings per share to be the most dilutive.

Preferred stock dividends are deducted from net income in calculating basic earnings per share ("EPS") and, if dilutive, the dividends are added back to the numerator while the denominator in increased for the if-converted number of shares for diluted EPS. In periods of positive earnings, and if certain conditions are met, the company will report EPS recognizing both the dividends distributed to the Preferred Stock and any participation rights the Preferred Stock may have in hypothetical distributions of earnings to common stockholders. The company has never paid a dividend on common stock and is currently precluded from such payments under its credit agreements, but the EPS calculation could be impacted in future periods. If dividends on the Preferred Stock are paid in-kind, the fair value increment over the dividend at the stated rate could be allocated to the Preferred Stock in this calculation and reduce the EPS reportable to the common stockholders. The Preferred Stock agreements do not recognize this accounting allocation and no rights are transferred to the Preferred Stockholders.

NOTE M — SUPPLEMENTAL INFORMATION ON OPERATING, INVESTING AND FINANCING ACTIVITIES

Additional supplemental information related to the Consolidated Statements of Cash Flows is as follows:

(Dollars in thousands)	**2009**	2008	2007
Cash interest paid (net of amounts capitalized)	**$ 52,631**	$ 55,208	$ 53,948
Cash taxes paid (refunded)	**(28,320)**	18,848	126,182
Non-cash asset additions under capital leases	**1,813**	197,912	18,435
Non-cash paid-in-kind dividends (see Note B)	**30,506**	—	—

NOTE N — SEGMENT INFORMATION

Office Depot operates in three segments: North American Retail Division, North American Business Solutions Division, and International Division. Each of these segments is managed separately primarily because it serves a different customer group. The accounting policies for each segment are the same as those described in the summary of significant accounting policies (see Note A). Our measure of Division operating profit is based on the measure of performance reported internally to manage the business and for resource allocation. This measure allocates to the respective Divisions those general and administrative expense considered directly or closely related to their operations. Remaining G&A expenses and Charges that are managed at the corporate level are not allocated to the Divisions for measurement of Division operating profit. See Note C for discussion of Charges. Other companies may charge more or less of these items to their segments and our results may not be comparable to similarly titled measures used by other entities.

The following is a summary of our significant accounts and balances by segment, reconciled to our consolidated totals.

(Dollars in thousands)		North American Retail Division	North American Business Solutions Division	International Division	Eliminations and Other*	Consolidated Total
Sales	**2009**	**$ 5,113,553**	**$ 3,483,724**	**$ 3,547,190**	**$ —**	**$ 12,144,467**
	2008	6,112,335	4,142,146	4,241,063	—	14,495,544
	2007	6,813,575	4,518,356	4,195,606	—	15,527,537
Division operating profit (loss)	**2009**	**$ 105,542**	**$ 98,163**	**$ 119,604**	**$ —**	**$ 323,309**
	2008	(29,221)	119,766	157,232	—	247,777
	2007	354,547	220,137	231,056	(73)	805,667
Capital expenditures	**2009**	**$ 40,600**	**$ 21,145**	**$ 20,281**	**$ 48,821**	**$ 130,847**
	2008	103,973	9,215	77,859	139,028	330,075
	2007	197,284	18,494	129,928	114,865	460,571
Depreciation and amortization	**2009**	**$ 90,973**	**$ 15,471**	**$ 29,032**	**$ 88,639**	**$ 224,115**
	2008	126,212	19,745	30,744	77,398	254,099
	2007	133,012	27,135	45,291	75,945	281,383
Charges for losses on receivables and inventories	**2009**	**$ 41,740**	**$ 16,932**	**$ 21,506**	**$ —**	**$ 80,178**
	2008	80,354	36,471	23,233	—	140,058
	2007	66,036	33,375	10,387	—	109,798
Net earnings from equity method investments	**2009**	**$ —**	**$ —**	**$ 30,579**	**$ —**	**$ 30,579**
	2008	—	—	37,113	—	37,113
	2007	—	—	34,825	—	34,825
Assets	**2009**	**$ 1,619,854**	**$ 726,296**	**$ 1,493,985**	**$ 1,050,211**	**$ 4,890,346**
	2008	1,866,460	799,820	1,780,863	821,083	5,268,226

* Amounts included in “Eliminations and Other” consist of inter-segment sales, if any, which are generally recorded at the cost to the selling entity, and assets (including all cash and equivalents) and depreciation related to corporate activities.

A reconciliation of the measure of Division operating profit to consolidated earnings from continuing operations before income taxes follows.

(Dollars in thousands)	**2009**	2008	2007
Division operating profit	**$ 323,309**	$ 247,777	$805,667
(Add)/subtract:			
Charges (see Note C)	**253,383**	1,468,684	39,982
General and administrative expenses — corporate	**334,931**	324,134	282,084
Interest expense	**65,628**	68,286	63,080
Interest income	**(2,396)**	(10,013)	(9,440)
Miscellaneous income, net	**(17,085)**	(23,666)	(27,761)
Earnings (loss) before income taxes	**$(311,152)**	$(1,579,648)	$457,722

As of December 26, 2009, we sold to customers in 51 countries throughout North America, Europe, Asia and Latin America. We operate wholly-owned entities, majority-owned entities or participate in other ventures covering 40 countries and have alliances in an additional 11 countries. There is no single country outside of the United States in which we generate 10% or more of our total revenues. Geographic financial information relating to our business is as follows (in thousands).

	Sales			Property and Equipment	
	2009	2008	2007	**2009**	2008
United States	**$ 8,476,404**	$ 10,083,984	$ 11,165,664	**$ 1,059,236**	$ 1,216,991
International	**3,668,063**	4,411,560	4,361,873	**218,419**	340,310
Total	**$ 12,144,467**	$ 14,495,544	$ 15,527,537	**$ 1,277,655**	$ 1,557,301

NOTE O — ACQUISITIONS

During 2008, we acquired a majority ownership position in businesses in India and Sweden, both of which are reflected in our International Division. The company has the right to acquire or may be required to purchase some or all of the noncontrolling interest shares of these businesses at various points over the next year. Also during 2008, we acquired under previously existing put options all remaining noncontrolling interest shares of our joint ventures in Israel and China.

During 2007, we acquired Axidata, Inc., a Canada-based office products delivery company. The subsequent activities have been included in our North American Business Solutions Division.

The transactions for 2008 and 2007 have been included in our consolidated results since the dates of acquisition. The size of these acquisitions is not material to periods presented.

NOTE P — INVESTMENT IN UNCONSOLIDATED JOINT VENTURE

Since 1994, we have participated in a joint venture in Latin America, Office Depot de Mexico. Because we participate equally in this business with a partner, we account for this investment using the equity method. Our proportionate share of Office Depot de Mexico's net income or loss is presented in miscellaneous income, net in the Consolidated Statements of Operations. During the first quarter of 2009, we received a $13.9 million dividend from this venture. Our investment balance at year end 2009 and 2008 of $168.6 million and $147.1 million, respectively, is included in other assets in the Consolidated Balance Sheets. The following tables provide summarized unaudited information from the balance sheet and statement of earnings for Office Depot de Mexico:

(Dollars in thousands)	**2009**	2008	2007
Statement of earnings:			
Sales	**$ 825,603**	$ 952,566	$ 850,824
Gross profit	**243,957**	278,764	245,295
Net income	**61,159**	74,226	69,651

(Dollars in thousands)	**December 31, 2009**	December 31, 2008
Balance Sheet:		
Current assets	**$ 219,030**	$ 207,661
Non-current assets	**260,074**	241,726
Current liabilities	**141,944**	155,017
Non-current liabilities	**—**	—

NOTE Q — QUARTERLY FINANCIAL DATA (UNAUDITED)

(In thousands, except per share amounts)	First Quarter	Second Quarter	Third Quarter[1]	Fourth Quarter[2]
Fiscal Year Ended December 26, 2009				
Net sales	**$3,225,264**	**$ 2,824,141**	**$ 3,029,207**	**$ 3,065,855**
Gross profit	**910,262**	**764,048**	**860,123**	**857,751**
Net loss attributable to Office Depot, Inc.	**(54,739)**	**(82,072)**	**(398,034)**	**(61,620)**
Net loss available to common shareholders	**(54,739)**	**(82,558)**	**(412,965)**	**(76,709)**
Net loss per share*:				
Basic	**$ (0.20)**	**$ (0.31)**	**$ (1.51)**	**$ (0.28)**
Diluted	**(0.20)**	**(0.31)**	**(1.51)**	**(0.28)**

* Due to rounding, the sum of the quarterly earnings per share amounts may not equal the reported earnings per share for the year.

(1) Net loss for the quarter includes a charge of approximately $322 million to establish valuation allowances on certain deferred tax assets. For additional information see Note G.

(2) Net loss for the quarter includes pretax Charges of approximately $58 million (aggregate of $253 million through the four quarters of 2009). For additional information on the Charges, see Note C.

	First Quarter	Second Quarter	Third Quarter	Fourth Quarter[1]
Fiscal Year Ended December 27, 2008				
Net sales	$3,962,017	$ 3,605,073	$3,657,857	$ 3,270,597
Gross profit	1,168,680	983,516	1,024,441	829,122
Net earnings (loss) attributable to Office Depot, Inc.	68,773	(2,002)	(6,698)	(1,539,011)
Net earnings (loss) available to common shareholders	68,773	(2,002)	(6,698)	(1,539,011)
Net earnings (loss) per share*:				
Basic	$ 0.25	$ (0.01)	$ (0.02)	$ (5.64)
Diluted	0.25	(0.01)	(0.02)	(5.64)

* Due to rounding, the sum of the quarterly earnings per share amounts may not equal the reported earnings per share for the year.

(1) Net earnings (loss) for the quarter includes pretax Charges of approximately $1,437.1 million (aggregate of $1,468.9 million through the four quarters of 2008). For additional information on the Charges, see Note C.

REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

To the Board of Directors and Stockholders of Office Depot, Inc.:

We have audited the consolidated financial statements of Office Depot, Inc. and subsidiaries (the "Company") as of December 26, 2009 and December 27, 2008, and for each of the three fiscal years in the period ended December 26, 2009, and the Company's internal control over financial reporting as of December 26, 2009, and have issued our reports thereon dated February 23, 2010; such consolidated financial statements and reports are included elsewhere in this Form 10-K. Our audits also included the consolidated financial statement schedule of the Company listed in the accompanying index at Item 15(a)2. This consolidated financial statement schedule is the responsibility of the Company's management. Our responsibility is to express an opinion based on our audits. In our opinion, such consolidated financial statement schedule, when considered in relation to the basic consolidated financial statements taken as a whole, presents fairly, in all material respects, the information set forth therein.

/s/ DELOITTE & TOUCHE LLP
Certified Public Accountants

Boca Raton, Florida
February 23, 2010

Table of Contents

INDEX TO FINANCIAL STATEMENT SCHEDULES

All other schedules have been omitted because they are not applicable, not required or the information is included elsewhere herein.

SCHEDULE II

OFFICE DEPOT, INC.
VALUATION AND QUALIFYING ACCOUNTS
(In thousands)

Column A Description	Column B Balance at Beginning of Period	Column C Additions — Charged to Expense	Column D Deductions — Write-offs, Payments and Other Adjustments	Column E Balance at End of Period
Allowance for doubtful accounts:				
2009	**$45,990**	**22,020**	**35,208**	**32,802**
2008	$46,316	33,736	34,062	45,990
2007	$32,581	32,163	18,428	46,316

INDEX TO EXHIBITS

Exhibit Number	Exhibit	
3.1	Restated Certificate of Incorporation	(1)
3.2	Amended and Restated Bylaws	(15)
3.3	Certificate of Elimination of the Junior Participating Preferred Stock, Series A	(24)
3.4	Certificate of Designations of the 10.00% Series A Redeemable Convertible Participating Perpetual Preferred Stock	(24)
3.5	Certificate of Designations of the 10.00% Series B Redeemable Conditional Convertible Participating Perpetual Preferred Stock	(24)
4.1	Form of Certificate representing shares of Common Stock	(2)
4.2	Indenture, dated as of August 11, 2003, for the $400 million 6.250% Senior Notes due August 15, 2013, by and between Office Depot, Inc. and SunTrust Bank	(3)
4.3	Supplemental Indenture No. 1, dated as of August 11, 2003, for the $400 million 6.250% Senior Notes due August 15, 2013, by and between Office Depot, Inc. and SunTrust Bank	(4)
4.4	Supplemental Indenture No. 2, dated as of October 9, 2003, for the $400 million 6.250% Senior Notes due August 15, 2013, by and between Office Depot, Inc. and SunTrust Bank	(4)
4.5	Investor Rights Agreement, dated as of June 23, 2009, by and among Office Depot, Inc., BC Partners, Inc. and the investors named in the Investor Rights Agreement	(24)
4.6	Registration Rights Agreement, dated as of June 23, 2009, by and among Office Depot, Inc., BC Partners, Inc. and the investors named in the Registration Rights Agreement	(24)
10.01	Lease Agreement dated November 10, 2006, by and between Office Depot, Inc. and Boca 54 North LLC	(23)
10.02	First Amendment to Lease dated July 3, 2007, by and between Office Depot, Inc. and Boca 54 North LLC	(23)
10.03	Amended Offer Letter dated December 31, 2008, for the Employment of Michael Newman as the Chief Financial Officer of Office Depot, Inc.*	
10.04	Offer Letter dated August 22, 2008, for the Employment of Michael Newman as the Chief Financial Officer of Office Depot, Inc.*	(23)
10.05	Office Depot, Inc. 2007 Long-Term Incentive Plan*	(5)
10.06	Form of Indemnification Agreement, dated as of September 4, 1996, by and between Office Depot, Inc. and each of David I. Fuente, Mark D. Begelman, Cynthia R. Cohen, Herve Defforey, W. Scott Hedrick, James L. Heskett, John B. Mumford, Michael J. Myers, Peter J. Solomon, Alan L. Wurtzel, Barry J. Goldstein, F. Terry Bean, Richard M. Bennington, Harry S. Brown, William P. Seltzer and R. John Schmidt, Jr.	(6)
10.07	Severance Agreement, including Release and Non-Competition Agreement, dated September 19, 2000, by and between Office Depot, Inc. and David I. Fuente (schedules and exhibits omitted)*	(7)
10.08	Lifetime Consulting and Non-Competition Agreement dated as of March 1, 2002, by and between Office Depot, Inc. and Irwin Helford*	(8)
10.09	Equity Award Agreement dated as of March 2, 2007, by and between Office Depot, Inc. and Steve Odland*	(16)

Exhibit Number	Exhibit	
10.10	Employment Agreement dated as of March 11, 2005, by and between Office Depot, Inc. and Steve Odland*	(13)
10.11	Amendment to Executive Employment Agreement dated as of February 19, 2010, by and between Office Depot, Inc. and Steve Odland*	(15)
10.12	Employment Offer Letter dated August 25, 2005, by and between Office Depot, Inc. and Patricia A. McKay*	(14)
10.13	Amendment to Executive Employment Agreement dated as of July 26, 2005, by and between Office Depot, Inc. and Charles E. Brown*	(10)
10.14	Executive Employment Agreement dated as of October 8, 2001, by and between Office Depot, Inc. and Charles E. Brown*	(8)
10.15	Amended and Restated Executive Employment Agreement, dated December 31, 2008, by and between Office Depot, Inc. and Charles E. Brown*	
10.16	Change of Control Agreement, dated as of May 28, 1998, by and between Office Depot, Inc. and Charles E. Brown*	(22)
10.17	Amended and Restated Executive Employment Agreement, dated December 31, 2008, by and between Office Depot, Inc. and Carl (Chuck) Rubin*	
10.18	Second Amendment to Executive Employment Agreement, dated January 23, 2006, by and between Office Depot, Inc. and Carl (Chuck) Rubin*	(12)
10.19	First Amendment to Executive Employment Agreement, dated March 7, 2005, by and between Office Depot, Inc. and Carl (Chuck) Rubin*	(11)
10.20	Executive Employment Agreement dated as of March 1, 2004, by and between Office Depot, Inc. and Carl (Chuck) Rubin*	(11)
10.21	Employment Agreement (Change of Control Agreement), dated as of March 1, 2004, by and between Office Depot, Inc. and Carl (Chuck) Rubin*	(11)
10.22	Letter Agreement dated as of March 1, 2004, by and between Office Depot, Inc. and Carl (Chuck) Rubin*	(11)
10.23	Separation Agreement dated as of February 20, 2008, by and between Office Depot, Inc. and Patricia A. McKay	(9)
10.24	Credit Agreement, dated as of September 26, 2008, by and among Office Depot, Inc., as borrower, and JPMorgan Chase Bank, N.A. as administrative agent, Bank of America, N.A. as syndication agent and Citibank, N.A. Wachovia Bank, N.A. and General Electric Capital Corporation as documentation agents.**	
10.25	Change of Control Agreement, dated as of September 17, 2008, by and between Office Depot, Inc. and Michael D. Newman*	(19)
10.26	Amendment to Employment Agreement dated as of February 25, 2008, by and between Office Depot, Inc. and Steve Odland*	(9)
10.27	Amended and Restated Change of Control Agreement, dated as of February 25, 2008, by and between Office Depot, Inc. and Charles E. Brown*	(9)
10.28	Amended and Restated Change of Control Agreement, dated as of February 25, 2008, by and between Office Depot, Inc. and Carl (Chuck) Rubin*	(9)

Exhibit Number	Exhibit	
10.29	Letter Agreement between Citibank, N.A. and Office Depot, Inc., dated December 28, 2008, by and between Citibank (South Dakota), N.A. and Office Depot, Inc.	(17)
10.30	Agency Agreement between Gordon Brothers Retail Partners, LLC and Office Depot, Inc., dated December 9, 2008, by and between Gordon Brothers Retail Partners, LLC and Office Depot, Inc.	(18)
10.31	Amended and Restated Merchant Services Agreement, dated as of February 1, 2004, by and between Office Depot, Inc. and Citibank USA, N.A.	(17)
10.32	Sixth Amendment to Amended and Restated Merchant Services Agreement, dated February 6, 2009, by and between Office Depot, Inc. and Citibank (South Dakota), N.A.	(21)
10.33	First Standstill Letter, dated December 28, 2008, by and between Office Depot, Inc. and Citibank (South Dakota), N.A.	(17)
10.34	Second Standstill Letter, dated December 30, 2008, by and between Office Depot, Inc. and Citibank (South Dakota), N.A.	(17)
10.35	Standby Letter of Credit, dated December 30, 2008, from JPMorgan Chase Bank, N.A. in favor of Citibank (South Dakota), N.A.	(17)
10.36	2008 Office Depot, Inc. Bonus Plan for Executive Management Employees*	(20)
10.37	Securities Purchase Agreement, dated as of June 23, 2009, by and among Office Depot, Inc. and the investors named in the Securities Purchase Agreement	(24)
10.38	Change of Control Agreement, dated as of December 14, 2007, by and between Office Depot, Inc. and Steven M. Schmidt*	(25)
10.39	Amendment to Employment Offer Letter Agreement, dated December 31, 2008, by and between Office Depot, Inc. and Steven Schmidt*	
10.40	Employment Offer Letter Agreement, dated July 10, 2007, by and between Office Depot, Inc. and Steven Schmidt *	
10.41	Agreement for the Financing of Commercial Receivables, dated September 30, 2009, by and between Office Depot BS and Fortis Commercial Finance	(26)
10.42	Specifications Relating to the Back-Up Line Attached to the Agreement for the Financing of Commercial Receivables, dated September 30, 2009, by and between Office Depot BS and Fortis Commercial Finance	(26)
10.43	Seventh Amendment to Amended and Restated Merchant Services Agreement, dated October 13, 2009, by and between Office Depot, Inc. and Citibank N.A.	(26)
10.44	Office Depot, Inc. Amended Long-Term Incentive Plan*	(27)
21	List of Office Depot, Inc.’s Significant Subsidiaries	
23	Consent of Independent Registered Public Accounting Firm	
31.1	Certification of CEO required by Securities and Exchange Commission Rule 13a-14(a) or 15d-14(a)	
31.2	Certification of CFO required by Securities and Exchange Commission Rule 13a-14(a) or 15d-14(a)	

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

* Management contract or compensatory plan or arrangement.

** Denotes that confidential portions of this exhibit have been omitted in reliance on Rule 24b-2 of the Securities Exchange Act of 1934. The confidential portions have been submitted separately to the Securities and Exchange Commission.

(1) Incorporated by reference from the respective annex to the Proxy Statement for Office Depot, Inc.'s 1995 Annual Meeting of Stockholders, filed with the SEC on April 20, 1995.

(2) Incorporated by reference from the respective exhibit to Office Depot, Inc.'s Registration Statement No. 33-39473 on Form S-4, filed with the SEC on March 15, 1991.

(3) Incorporated by reference from the respective exhibit to Office Depot, Inc.'s Registration Statement No. 333-108602 on Form S-4, filed with the SEC on September 8, 2003.

(4) Incorporated by reference from Office Depot, Inc.'s Quarterly Report on Form 10-Q, filed with the SEC on October 27, 2003.

(5) Incorporated by reference from the respective appendix to the Proxy Statement for Office Depot, Inc.'s 2007 Annual Meeting of Shareholders, filed with the SEC on April 2, 2007.

(6) Incorporated by reference from the respective exhibit to Office Depot, Inc.'s Annual Report on Form 10-K405 for the year ended December 28, 1996, filed with the SEC on March 28, 1997.

(7) Incorporated by reference from Office Depot, Inc.'s Quarterly Report on Form 10-Q, filed with the SEC on October 31, 2000.

(8) Incorporated by reference from the respective exhibit to Office Depot, Inc.'s Annual Report on Form 10-K for the year ended December 29, 2001, filed with the SEC on March 19, 2002.

(9) Incorporated by reference from Office Depot, Inc.'s Quarterly Report on Form 10-Q, filed with the SEC on April 29, 2008.

(10) Incorporated by reference from Office Depot, Inc.'s Current Report on Form 8-K, filed with the SEC on August 1, 2005.

(11) Incorporated by reference from the respective exhibit to Office Depot, Inc.'s Annual Report on Form 10-K for the year ended December 25, 2004, filed with the SEC on March 10, 2005.

(12) Incorporated by reference from Office Depot, Inc.'s Current Report on Form 8-K, filed with the SEC on January 24, 2006.

(13) Incorporated by reference from Office Depot, Inc.'s Current Report on Form 8-K, filed with the SEC on March 16, 2005.

(14) Incorporated by reference from Office Depot, Inc.'s Current Report on Form 8-K, filed with the SEC on August 30, 2005.

(15) Incorporated by reference from Office Depot, Inc.'s Current Report on Form 8-K, filed with the SEC on February 22, 2010.

(16) Incorporated by reference from Office Depot, Inc.'s Current Report on Form 8-K, filed with the SEC on March 5, 2007.

(17) Incorporated by reference from Office Depot, Inc.'s Current Report on Form 8-K, filed with the SEC on December 31, 2008.

(18) Incorporated by reference from Office Depot, Inc.'s Current Report on Form 8-K, filed with the SEC on December 10, 2008.

(19) Incorporated by reference from Office Depot, Inc.'s Quarterly Report on Form 10-Q, filed with the SEC on October 29, 2008.

(20) Incorporated by reference from the respective appendix to the Proxy Statement for Office Depot, Inc.'s 2008 Annual Meeting of Shareholders, filed with the SEC on March 13, 2008.

(21) Incorporated by reference from Office Depot, Inc.'s Current Report on Form 8-K, filed with the SEC on February 11, 2009.

(22) Incorporated by reference from Office Depot, Inc.'s Annual Report on Form 10-K for the year ended December 30, 2000, filed with the SEC on March 27, 2001.

(23) Incorporated by reference from Office Depot, Inc.'s Annual Report on Form 10-K for the year ended December 27, 2008, filed with the SEC on February 24, 2009.

(24) Incorporated by reference from Office Depot, Inc.'s Current Report on Form 8-K, filed with the SEC on June 23, 2009.

(25) Incorporated by reference from Office Depot, Inc.'s Quarterly Report on Form 10-Q, filed with the SEC on July 28, 2009.

(26) Incorporated by reference from Office Depot, Inc.'s Quarterly Report on Form 10-Q, filed with the SEC on October 29, 2009.

(27) Incorporated by reference from the Proxy Statement for Office Depot, Inc.'s 2004 Annual Meeting of Shareholders, filed with the SEC on April 1, 2004.

Upon request, we will furnish a copy of any exhibit to this report upon the payment of reasonable copying and mailing expenses.

Exhibit 10.03

AMENDMENT TO OFFER LETTER

Effective December 31, 2008

Office Depot, Inc., a Delaware corporation ("Company"), set out the terms of its offer of employment to the executive named below ("Executive") pursuant to a letter with the date specified below ("Offer Letter"). The Company and the Executive desire to amend the severance provisions of the Offer Letter ("Amendment") in order to evidence documentary compliance with Section 409A of the Internal Revenue Code of 1986, as amended, and the regulatory guidance thereunder, effective on the date specified above.

Executive: Michael D. Newman
Date of Offer Letter: August 22, 2008

In consideration of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. With respect to any quoted language herein, which shall be inserted into your Offer Letter, the parties intend for said quoted language to control to the extent that there is any conflict with the language in the original Offer Letter.

2. The Starting Bonus specified in the Offer Letter and all payments related to such Starting Bonus were completed on or about December 12, 2008.

3. The section of the Offer Letter entitled "**Employment at Will; Severance**" is amended to read as follows:

"Employment at Will/Severance	All employment with Office Depot is at will, and nothing herein shall be construed to constitute an employment agreement or deemed a guarantee of continued employment. In the event that you are terminated due to no fault of your own, the Company will pay to you, less applicable taxes and other deductions required by law, the sum of (i) 18 months of your base salary at the rate in effect on the date of your employment termination, (ii) 18 times the difference between the Company's monthly COBRA charge on your date of employment termination for the type of Company-provided group health plan coverage in effect for you on that date and the applicable active employee charge for such coverage, (iii) a pro-rata bonus under the Company's annual bonus plan for the year in which the termination occurs calculated at the earned rate, and (iv) a bonus calculated at "target" under the Company's annual bonus plan for the calendar year prior to the year of termination to the extent unpaid at the date of termination. The Company must deliver to you a customary release agreement (the "Release")

within seven days following the date of your employment termination. As a condition to receipt of the severance benefits specified in this section, you must (A) sign the Release and return the signed Release to the Company within the time period prescribed in the Release (which will not be more than 45 days after the Company delivers the Release to you), and (B) not revoke the Release within any seven-day revocation period that applies to you under the Age Discrimination in Employment Act of 1967, as amended; the total period of time described in (A) and (B) above is the "Release Period." The Company will pay the severance benefits specified in clauses (i), (ii) and (iv) of this section to you in a lump sum within 15 days following the expiration of the Release Period. In the event you decline or fail for any reason to timely execute and deliver the Release or you revoke the Release, then you will not be entitled to the severance benefits specified in this section. The Company will pay the severance benefit specified in clause (iii) above at the later of the date on which bonuses are paid to other senior executives for such year (but not later than two and one-half months after the last day of such year) or the date specified in the immediately prior sentence. Unless otherwise agreed to in writing by Office Dept, the severance benefits specified in this section shall be in lieu of any severance payment or benefit under any Office Depot severance plan, policy, program or practice (whether written or unwritten) and, therefore, such severance benefits shall be the exclusive source of any severance benefits. In addition, on or about your state date, you will be provided a Change in Control Agreement which provides for severance in the event that you are involuntarily terminated following a Change in Control, as defined therein."

4. The following new section entitled "**Tax Treatment**" is hereby inserted at the end of the Offer Letter:

"Tax Treatment: This letter will be construed and administered to preserve the exemption from Section 409A of the Internal Revenue Code of 1986, as amended, and the guidance thereunder ("Section 409A") of payments that qualify as short-term deferrals pursuant to Treas. Reg. §1.409A-1(b)(4) or that qualify for the two-times compensation exemption of Treas. Reg. §1.409A-1(b)(9)(iii). With respect to other amounts that are subject to Section 409A, it is intended, and this letter will be so construed, that any such amounts payable under this letter and the Company's and your exercise of authority or discretion hereunder shall comply with the provisions of Section 409A so as not to subject you to the payment of interest and additional tax that may be imposed under Section 409A. You acknowledge and agree that the Company has made no representation to you as to the tax treatment of the compensation and benefits provided pursuant to this letter and that you are solely responsible for all taxes due with respect to such compensation and benefits."

* * * * *

Office Depot, Inc.

By: _____
Name: _____
Title: _____

Agreed to and Accepted by Executive

_____
Mike Newman
Date: December 17, 2008

EXECUTIVE EMPLOYMENT AGREEMENT

(For Executive Officers Who Also Have a Change of Control Employment Agreement)

As Amended and Restated Effective December 31, 2008

Office Depot, Inc., a Delaware corporation (the "COMPANY"), and Charles E. Brown ("EXECUTIVE") entered into an employment agreement (the "ORIGINAL AGREEMENT") dated October 8, 2001, as amended on July 26, 2005. The Original Agreement replaced all prior employment agreements and/or amendments thereto, or extensions thereof, between the Company and Executive (the "PRIOR AGREEMENTS") such that the Original Agreement, together with the July 26, 2005 amendment and the Change of Control Employment Agreement (as defined below), presently constitute the entire understanding of the Company and Executive with regard to the employment of Executive by the Company.

The Company and Executive hereby amend and restate the Original Agreement, as amended, in its entirety (the "Agreement") in order to evidence documentary compliance with Section 409A of the Internal Revenue Code of 1986, as amended (the "Code"), and the guidance thereunder (collectively "SECTION 409A") and to otherwise update and clarify the Original Agreement. The Agreement is effective December 31, 2008 (the "EFFECTIVE DATE").

Now therefore, in consideration of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. EMPLOYMENT.

(a) The Company shall employ Executive, and Executive hereby accepts employment with the Company, upon the terms and conditions set forth in this Agreement for the period beginning on the date hereof and ending as provided in paragraph 4 hereof (the "EMPLOYMENT TERM").

(b) The parties hereto also have entered into an Employment Agreement originally dated as of May 28, 1998, and amended and restated as of February 25, 2008, by and between the Company and Executive (the "Change of Control Employment Agreement") which, by its terms, takes effect during the "Employment Period" as defined in such agreement. During any such Employment Period under the Change of Control Employment Agreement, the terms and provisions of the Change of Control Employment Agreement shall control to the extent such terms and provisions are in conflict with the terms and provisions of this Agreement. In addition, during such Employment Period, the Employment Term hereunder shall be tolled and upon expiration of the Employment Period under the Change of Control Employment Agreement the Employment Term hereunder shall recommence.

2. POSITION AND DUTIES.

(a) During the Employment Term, Executive shall serve as President, International and shall have the normal duties, responsibilities and authority attendant to such position, subject to the power of the Company's Chief Executive Officer ("CEO") to expand or limit such duties, responsibilities and authority.

(b) Executive shall report to the CEO, and Executive shall devote Executive's best efforts and Executive's full business time and attention (except for permitted vacation periods and reasonable periods of illness or other incapacity) to the business and affairs of the Company and its Subsidiaries; PROVIDED THAT Executive shall, with the prior written approval of the CEO, be allowed to serve as (i) a director or officer of any non-profit organization including trade, civic, educational or charitable organizations, or (ii) a director of any corporation which is not competing with the Company or any of its Subsidiaries in the office product and office supply industry so long as such duties do not materially interfere with the performance of Executive's duties or responsibilities under this Agreement. Executive shall perform Executive's duties and responsibilities under this Agreement to the best of Executive's abilities in a diligent, trustworthy, businesslike and efficient manner.

(c) Executive shall be based at or in the vicinity of the Company's headquarters BUT may be required to travel as necessary to perform Executive's duties and responsibilities under this Agreement.

(d) For purposes of this Agreement, "SUBSIDIARIES" shall mean any corporation of which the securities having a majority of the voting power in electing directors are, at the time of determination, owned by the Company, directly or through one or more Subsidiaries.

3. BASE SALARY AND BENEFITS.

(a) Initially, Executive's base salary shall be $625,000 per annum (the "BASE SALARY"), which salary shall be payable in regular installments in accordance with the Company's general payroll practices and shall be subject to customary withholding. Executive's Base Salary shall be reviewed at least annually by the Compensation Committee of the Company's Board of Directors (the "Board") and shall be subject to adjustment, but not reduction, as they shall determine based on among other things, market practice and performance. In addition, during the Employment Term, Executive shall be entitled to participate in the Company's Long Term Incentive Plan, as it may be amended from time to time.

(b) In addition to the Base Salary, Executive shall be entitled to participate in the Company's annual bonus plan for senior executives (the "Bonus Plan") as administered by the Compensation Committee at the initial bonus target of 70% of bonusable earnings. If the Board or the Compensation Committee modifies such Bonus Plan during the Employment Term, Executive shall continue to participate at a level no lower than the highest level established for any officer of the Company then at Executive's level. At the discretion of the Board or the Compensation Committee, Executive may be offered from time to time the opportunity to participate in other bonus plans of the Company in lieu of the Bonus Plan and, if Executive chooses to participate in such plan or plans, the provisions of this paragraph 3(b) shall be tolled during the period of such participation.

(c) Executive shall be entitled to paid vacation in accordance with the Company's general payroll practices for officers of the Company then at Executive's level.

(d) The Company shall reimburse Executive for all reasonable expenses incurred by Executive in the course of performing Executive's duties under this Agreement which are consistent with the Company's policies in effect from time to time with respect to travel, entertainment and other business expenses, subject to the Company's requirements with respect to reporting and documentation of such expenses. To the extent that any such reimbursement does not qualify for exclusion from Federal income taxation, the Company will make the reimbursement only if Executive incurs the corresponding expense during the Employment Term and submits the request for reimbursement no later than two months prior to the last day of the calendar year following the calendar year in which the expense was incurred so that the Company can make the reimbursement on or before the last day of the calendar year following the calendar year in which the expense was incurred; the amount of expenses eligible for such reimbursement during a calendar year will not affect the amount of expenses eligible for such reimbursement in another calendar year, and the right to such reimbursement is not subject to liquidation or exchange for another benefit from the Company.

(e) Executive will be entitled to all benefits as are, from time to time, maintained for officers of the Company then at Executive's level, including without limitation: medical, prescription, dental, disability, employee life, group life, accidental death and travel accident insurance plans (collectively, "Insurance Benefits"), profit sharing and retirement benefits.

4. TERM.

(a) The Employment Term shall end on July 25, 2009; PROVIDED THAT (i) the Employment Term shall be extended for one year in the event that written notice of the termination of this Agreement is not given by one party hereof to the other at least six months prior to the end of the Employment Term, and it shall continue thereafter from year to year in like fashion ("evergreen") unless and until either party provides written notice as provided in the first clause of this sentence; PROVIDED FURTHER that (ii) the Employment Term shall terminate prior to such date (A) upon Executive's death or Termination of Employment on account of permanent disability or incapacity (as determined by the Board in its good faith judgment), (B) upon the mutual agreement of the Company and Executive, (C) upon Executive's Termination of Employment initiated by the Company for Cause (as defined below) or without Cause or (D) upon Executive's Termination of Employment initiated by Executive for Good Reason (as defined below) or without Good Reason.

(b) If the Employment Term is terminated upon Executive's Termination of Employment initiated by the Company without Cause or by Executive for Good Reason, Executive shall be entitled to receive (i) an amount equal to the sum of (A) 1.5 multiplied by Executive's Base Salary in effect on the date of such Termination of Employment, and (B) Executive's Pro Rata Bonus (as defined in paragraph (j) below) which amount shall be paid in one lump sum within 30 days following the date of such Termination of Employment except as provided in subsection (f) below, if and only if Executive has not breached the provisions of paragraphs 5, 6 and 7 hereof, (ii) vested and earned (in accordance with the Company's applicable plan or program) but unpaid amounts under incentive plans, deferred compensation plans, and other employer programs of the Company in which Executive is then participating (other than the Pro Rata Bonus) which shall be payable in accordance with the terms of the applicable plan or program, (iii) an amount equal to the Company's monthly COBRA premium in effect on the date of such Termination of Employment under the Company's group health plan for the type of coverage in effect under such plan (e.g., family coverage) for Executive on the

date of such Termination of Employment multiplied by 18 which amount shall be paid in one lump sum within 30 days following the date of such Termination of Employment except as provided in subsection (f) below, and (iv) an amount equal to the Company's aggregate monthly premium for disability insurance, life insurance, accidental death insurance and travel accident insurance in effect on the date of such Termination of Employment under the corresponding Company plans for the type of coverage in effect under such plans for Executive on the date of such Termination of Employment multiplied by 18 which shall be payable in one lump sum within 30 days following the date of such Termination of Employment except as provided in subsection (f) below.

(c) If the Employment Term is terminated upon Executive's Termination of Employment initiated by the Company for Cause or by Executive without Good Reason, Executive shall be entitled to receive (i) Executive's Base Salary through the date of such Termination of Employment which shall be paid in accordance with the Company's standard payroll practices for salary and (ii) vested and earned (in accordance with the Company's applicable plan or program) but unpaid amounts under incentive plans, health and welfare plans, deferred compensation plans, and other employer programs of the Company in which Executive participates which amounts shall be payable in accordance with the terms of the applicable plan or program; provided, however, that Executive shall not be entitled to payment of a Pro Rata Bonus.

(d) If the Employment Term is terminated upon Executive's death, Executive's estate shall be entitled to receive (i) Executive's Base Salary through the date of Executive's death which shall be paid in accordance with the Company's standard payroll practices for salary, (ii) an amount equal to Executive's Pro Rata Bonus (as defined in paragraph (j) below) which amount shall be paid in one lump sum within 30 days following the date of Executive's death, and (iii) vested and earned (in accordance with the Company's applicable plan or program) but unpaid amounts under incentive plans, health and welfare plans, deferred compensation plans, and other employer programs of the Company which Executive participates which shall be payable in accordance with the terms of the applicable plan or program.

(e) If the Employment Term is terminated upon Executive's Termination of Employment on account of Executive's permanent disability or incapacity (as determined by the Board in its good faith judgment), Executive shall be entitled to receive (i) Executive's Base Salary through the date of such Termination of Employment which shall be paid in accordance with the Company's standard payroll practices for salary, (ii) an amount equal to Executive's Pro Rata Bonus (as defined in paragraph (j) below) which amount shall be paid in one lump sum within 30 days following the date of such Termination of Employment except as provided in subsection (f) below, and (iii) vested and earned (in accordance with the Company's applicable plan or program) but unpaid amounts under incentive plans, health and welfare plans, deferred compensation plans, and other employer programs of the Company which Executive participates which shall be payable in accordance with the terms of the applicable plan or program.

(f) Notwithstanding the payment timing specified above, in the event Executive is a "Specified Employee"(as defined below) on the date of Executive's Termination of Employment, as determined by the Company in accordance with rules established by the Company in writing in advance of the "Specified Employee Identification Date" (as defined

below) that relates to the date of Executive's Termination of Employment, the following payments shall be paid no earlier than the date that is six months after the date of Executive's Termination of Employment (if Executive dies after the date of Executive's Termination of Employment but before any such payment is made, such payment will be paid to Executive's estate without regard to any six-month delay that otherwise applies to Specified Employees):

(i) the payments described in Section 4(b)(i), Section 4(b)(iii) and Section 4(b)(iv) to be made to Executive on account of his Termination of Employment initiated by the Company other than for Cause or by Executive for Good Reason; and

(ii) the payment described in Section 4(e)(ii) to be made to Executive on account of his Termination of Employment initiated by the Company on account of Executive's permanent disability or incapacity (as determined by the Board in its good faith judgment).

For purposes of this Agreement, "SPECIFIED EMPLOYEE" shall be defined as provided in Section 409A(a)(2)(B)(i) of the Code and "SPECIFIED EMPLOYEE IDENTIFICATION DATE" shall be defined as provided in Treasury Regulation §1.409A-1(i).

(g) Except as otherwise provided herein, fringe benefits and bonuses (if any) which accrue or become payable after the termination of the Employment Term shall cease upon such termination.

(h) For purposes of this Agreement, "CAUSE" shall mean:

(i) the willful and continued failure of Executive to perform substantially Executive's duties with the Company or one of its affiliates (other than any such failure resulting from incapacity due to physical or mental illness), after a written demand for substantial performance is delivered to Executive by the CEO which specifically identifies the manner in which the CEO believes that Executive has not substantially performed Executive's duties, or

(ii) the willful engaging by Executive in illegal conduct or gross misconduct which is materially and demonstrably injurious to the Company.

For purposes of this provision, no act or failure to act, on the part of Executive, shall be considered "willful" unless it is done, or omitted to be done, by Executive in bad faith or without reasonable belief that Executive's action or omission was in the best interests of the Company. Any act, or failure to act, based upon authority given pursuant to a resolution duly adopted by the Board or upon the instructions of the CEO or based upon the advice of counsel for the Company shall be conclusively presumed to be done, or omitted to be done, by Executive in good faith and in the best interests of the Company. The cessation of employment of Executive shall not be deemed to be for Cause unless and until there shall have been delivered to Executive a copy of a resolution duly adopted by the affirmative vote of not less than three quarters of the entire membership of the Board at a meeting of the Board called and held for such purpose (after reasonable notice is provided to Executive and Executive is given an opportunity, together with counsel, to be heard before the Board), finding that, in the good faith opinion of the Board, Executive is guilty of the conduct described in subparagraph (i) or (ii) above, and specifying the particulars thereof in detail.

(i) For purposes of this Agreement, "GOOD REASON" shall mean:

(i) the assignment to Executive of any duties inconsistent with Executive's position (including status, offices, titles and reporting requirements), authority, duties or responsibilities as contemplated by paragraph 2 of this Agreement, or any other action by the Company which results in a diminution in such position, authority, duties or responsibilities, excluding for this purpose an isolated, insubstantial and inadvertent action not taken in bad faith and which is remedied by the Company promptly after receipt of notice thereof given by Executive;

(ii) any failure by the Company to comply with any of the provisions of paragraph 3 of this Agreement, other than an isolated, insubstantial and inadvertent failure not occurring in bad faith and which is remedied by the Company promptly after receipt of notice thereof given by Executive;

(iii) the Company's requiring Executive to be based at any location other than as provided in paragraph 2(c) hereof; or

(iv) any purported termination by the Company of Executive's employment otherwise than as expressly permitted by this Agreement.

(j) For purposes of this Agreement, "PRO RATA BONUS" shall mean the sum of (i) the product of Executive's target bonus under any current annual incentive plan and a fraction, the numerator of which is the number of days in the current fiscal year through the date of Executive's Termination of Employment and the denominator of which is 365, and (ii) if and to the extent Executive is vested, the product of Executive's target bonus under any long-term incentive plan or performance plan and a fraction, the numerator of which is the number of days in the current performance period through the date of Executive's Termination of Employment and the denominator of which is 365.

(k) For purposes of this Agreement, "TERMINATION OF EMPLOYMENT" shall have the same meaning as "separation from service" under Section 409A(a)(2)(A)(i) of the Code.

5. CONFIDENTIAL INFORMATION. Executive acknowledges that the information, observations and data obtained by Executive while employed by the Company and its Subsidiaries concerning the business or affairs of the Company or any other Subsidiary ("CONFIDENTIAL INFORMATION") are the property of the Company or such Subsidiary. Therefore, Executive agrees that Executive shall not disclose to any unauthorized person or use for Executive's own purposes any Confidential Information without the prior written consent of the Board or the CEO, unless and to the extent that the aforementioned matters become generally known to and available for use by the public other than as a result of Executive's acts or omissions. Executive shall deliver to the Company at the termination of the Employment Term, or at any other time the Company may request, all memoranda, notes, plans, records, reports, computer tapes, printouts and software and other documents and data (and copies thereof) in any form or medium relating to the Confidential Information, Work Product (as defined below) or the business of the Company or any Subsidiary that Executive may then possess or have under Executive's control.

6. INVENTIONS AND PATENTS. Executive acknowledges that all inventions, innovations, improvements, developments, methods, designs, analyses, drawings, reports and all similar or related information (whether or not patentable) that relate to the Company's or any of its Subsidiaries' actual or anticipated business, research and development or existing or future products or services and that are conceived, developed or made by Executive while employed by the Company and its Subsidiaries ("WORK PRODUCT") belong to the Company or such Subsidiary. Executive shall promptly disclose such Work Product to the Board or the CEO and perform all actions reasonably requested by the Board or the CEO (whether during or after the Employment Term) to establish and confirm such ownership (including, without limitation, assignments, consents, powers of attorney and other instruments).

7. NON-COMPETE, NON-SOLICITATION.

(a) In further consideration of the compensation to be paid to Executive hereunder, Executive acknowledges that in the course of Executive's employment with the Company Executive shall become familiar with the Company's trade secrets and with other Confidential Information concerning the Company and its Subsidiaries and that Executive's services shall be of special, unique and extraordinary value to the Company and its Subsidiaries. Therefore, Executive agrees that, during the Employment Term and for one year thereafter (the "NONCOMPETE PERIOD"), Executive shall not directly or indirectly own any interest in, manage, control, participate in, consult with, render services for, or in any manner engage in any business competing with the businesses of the Company or its Subsidiaries, as such businesses exist or are in process on the date of the termination of Executive's employment, within any geographical area in which the Company or its Subsidiaries engage or plan to engage in such businesses. Nothing herein shall prohibit Executive from being a passive owner of not more than 2% of the outstanding stock of any class of a corporation which is publicly traded, so long as Executive has no active participation in the business of such corporation.

(b) During the Noncompete Period, Executive shall not directly or indirectly through another entity (i) induce or attempt to induce any employee of the Company or any Subsidiary to leave the employ of the Company or such Subsidiary, or in any way interfere with the relationship between the Company or any Subsidiary and any employee thereof, (ii) hire any person who was an employee of the Company or any Subsidiary at any time during the Employment Term or (iii) induce or attempt to induce any customer, supplier, licensee, licensor, franchisee or other business relation of the Company or any Subsidiary to cease doing business with the Company or such Subsidiary, or in any way interfere with the relationship between any such customer, supplier, licensee, licensor, franchisee, or business relation and the Company or any Subsidiary (including, without limitation, making any negative statements or communications about the Company or its Subsidiaries).

(c) If, at the time of enforcement of this paragraph 7, a court shall hold that the duration, scope or area restrictions stated herein are unreasonable under circumstances then existing, the parties agree that the maximum duration, scope or area reasonable under such circumstances shall be substituted for the stated duration, scope or area and that the court shall be allowed to revise the restrictions contained herein to cover the maximum period, scope and area permitted by law. Executive agrees that the restrictions contained in this paragraph 7 are reasonable.

(d) In the event of the breach or a threatened breach by Executive of any of the provisions of this paragraph 7, the Company, in addition and supplementary to other rights and remedies existing in its favor, may apply to any court of law or equity of competent jurisdiction for specific performance and/or injunctive or other relief in order to enforce or prevent any violations of the provisions hereof (without posting a bond or other security). In addition, in the event of an alleged breach or violation by Executive of this paragraph 7, the Noncompete Period shall be tolled until such breach or violation has been duly cured.

8. EXECUTIVE'S REPRESENTATIONS. Executive hereby represents and warrants to the Company that (i) the execution, delivery and performance of this Agreement by Executive do not and shall not conflict with, breach, violate or cause a default under any contract, agreement, instrument, order, judgment or decree to which Executive is a party or by which Executive is bound, (ii) Executive is not a party to or bound by any employment agreement, noncompete agreement or confidentiality agreement with any other person or entity and (iii) upon the execution and delivery of this Agreement by the Company, this Agreement shall be the valid and binding obligation of Executive, enforceable in accordance with its terms. Executive hereby acknowledges and represents that Executive has had an opportunity to consult with independent legal counsel regarding Executive's rights and obligations under this Agreement and that Executive fully understands the terms and conditions contained herein.

9. SURVIVAL. Paragraphs 5, 6 and 7 and paragraphs 9 through 19 shall survive and continue in full force in accordance with their terms notwithstanding any termination of the Employment Term.

10. NOTICES. Any notice provided for in this Agreement shall be in writing and shall be either personally delivered, or mailed by first class mail, return receipt requested, to the recipient at the address below indicated:

NOTICES TO EXECUTIVE:

Name: Charles E. Brown
Address: [Address on file with the Company]

NOTICES TO THE COMPANY:

Office Depot, Inc.
6600 N. Military Trail
Boca Raton, Florida 33496
Attention: Chief Executive Officer

and

Office Depot, Inc.
6600 N. Military Trail
Boca Raton, Florida 33496
Attention: Executive Vice President - Human Resources

or such other address or to the attention of such other person as the recipient party shall have specified by prior written notice to the sending party. Any notice under this Agreement shall be deemed to have been given when so delivered or mailed.

11. SEVERABILITY. Whenever possible, each provision of this Agreement shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Agreement is held to be invalid, illegal or unenforceable in any respect under any applicable law or rule in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other provision or any other jurisdiction, but this Agreement shall be reformed, construed and enforced in such jurisdiction as if such invalid, illegal or unenforceable provision had never been contained herein.

12. COMPLETE AGREEMENT. This Agreement and those documents expressly referred to herein and other documents of even date herewith embody the complete agreement and understanding among the parties and supersede and preempt any prior understandings, agreements or representations by or among the parties, written or oral, which may have related to the subject matter hereof in any way (provided, however that during the "Employment Period," as defined in the Change of Control Employment Agreement, the terms and provision of the Change of Control Employment Agreement shall be effective and shall control to the extent there is any conflict between such agreement and this Agreement).

13. NO STRICT CONSTRUCTION. The language used in this Agreement shall be deemed to be the language chosen by the parties hereto to express their mutual intent, and no rule of strict construction shall be applied against any party.

14. COUNTERPARTS. This Agreement may be executed in separate counterparts, each of which is deemed to be an original and all of which taken together constitute one and the same agreement.

15. SUCCESSORS AND ASSIGNS. This Agreement is intended to bind and inure to the benefit of and be enforceable by Executive, the Company and their respective heirs, successors and assigns, except that Executive may not assign Executive's rights or delegate Executive's obligations hereunder without the prior written consent of the Company.

16. CHOICE OF LAW. All issues and questions concerning the construction, validity, enforcement and interpretation of this Agreement and the exhibits and schedules hereto shall be governed by, and construed in accordance with, the laws of the State of Florida, without giving effect to any choice of law or conflict of law rules or provisions (whether of the State of Florida or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than the State of Florida.

17. AMENDMENT AND WAIVER. The provisions of this Agreement may be amended or waived only with the prior written consent of the Company and Executive, and no course of conduct or failure or delay in enforcing the provisions of this Agreement shall affect the validity, binding effect or enforceability of this Agreement.

18. ARBITRATION. Except as to the right of the Company to resort to any court of competent jurisdiction to obtain injunctive relief or specific enforcement of Executive's obligations of confidentiality and non-competition under this Employment Agreement (or otherwise), any dispute or controversy between the Company and Executive arising out of or relating to this Agreement or the breach of this Agreement shall be settled by arbitration administered by the American Arbitration Association ("AAA") in accordance with its Commercial Arbitration Rules then in effect, and judgment on the award rendered by the arbitrator may be entered in any court having jurisdiction thereof. Any arbitration shall be held before a single arbitrator who shall be selected by the mutual agreement of the Company and Executive, unless the parties are unable to agree to an arbitrator, in which case the arbitrator will be selected under the procedures of the AAA. The arbitrator shall have the authority to award any remedy or relief that a court of competent jurisdiction could order or grant, including, without limitation, the issuance of an injunction. However, either party may, without inconsistency with this arbitration provision, apply to any court otherwise having jurisdiction over such dispute or controversy and seek interim provisional, injunctive or other equitable relief until the arbitration award is rendered or the controversy is otherwise resolved. Except as necessary in court proceedings to enforce this arbitration provision or an award rendered hereunder, or to obtain interim relief, or as may otherwise be required by law, neither a party nor an arbitrator may disclose the existence, content or results of any arbitration hereunder without the prior written consent of the Company and Executive. The Company and Executive acknowledge that this Agreement evidences a transaction involving interstate commerce. Notwithstanding any choice of law provision included in this Agreement, the United States Federal Arbitration Act shall govern the interpretation and enforcement of this arbitration provision. The arbitration proceeding shall be conducted in Palm Beach County, Florida unless the parties mutually agree to another location. The Company shall pay the costs of any arbitrator(s) appointed hereunder.

19. TAX TREATMENT. It is intended, and this Agreement will be so construed, that any amounts payable under this Agreement and the Company's and Executive's exercise of authority or discretion hereunder shall either be exempt from or comply with the provisions of Section 409A so as not to subject Executive to the payment of interest and/or any tax penalty that may be imposed under Section 409A. Executive acknowledges and agrees that the Company has made no representation to Executive as to the tax treatment of the compensation and benefits provided pursuant to this Agreement and that Executive is solely responsible for all taxes due with respect to such compensation and benefits.

* * * * *

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first written above.

OFFICE DEPOT, INC.

By: _____
Name: _____
Its: _____

EXECUTIVE

Name: _____
Date: December 29, 2008

Exhibit 10.17

EXECUTIVE EMPLOYMENT AGREEMENT
(For Executive Officers Who Also Have a Change of Control Employment Agreement)

As Amended and Restated Effective December 31, 2008

Office Depot, Inc., a Delaware corporation (the "Company"), and Carl (Chuck) Rubin ("Executive") entered into a restatement of an existing employment agreement (the "Original Agreement") dated January 23, 2006. The Original Agreement replaced all prior employment agreements and/or amendments thereto, or extensions thereof, between the Company and Executive (the "Prior Agreements") such that the Original Agreement, together with the Change of Control Employment Agreement (as defined below), presently constitute the entire understanding of the Company and Executive with regard to the employment of Executive by the Company.

The Company and Executive hereby amend and restate the Original Agreement in its entirety (the "Agreement") in order to evidence documentary compliance with Section 409A of the Internal Revenue Code of 1986, as amended (the "Code"), and the guidance thereunder (collectively "Section 409A") and to otherwise update and clarify the Original Agreement. The Agreement is effective December 31, 2008 (the "Effective Date").

Now therefore, in consideration of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. Employment.

(a) The Company shall employ Executive, and Executive hereby accepts employment with the Company, upon the terms and conditions set forth in this Agreement for the period beginning on the date hereof and ending as provided in paragraph 4 hereof (the "Employment Term").

(b) The parties hereto also have entered into an Employment Agreement originally dated as of March 1, 2004, and amended and restated as of February 25, 2008, by and between the Company and Executive (the "Change of Control Employment Agreement") which, by its terms, takes effect during the "Employment Period" as defined in such agreement. During any such Employment Period under the Change of Control Employment Agreement, the terms and provisions of the Change of Control Employment Agreement shall control to the extent such terms and provisions are in conflict with the terms and provisions of this Agreement. In addition, during such Employment Period, the Employment Term hereunder shall be tolled and upon expiration of the Employment Period under the Change of Control Employment Agreement the Employment Term hereunder shall recommence.

2. Position and Duties.

(a) During the Employment Term, Executive shall serve as President, North American Retail, and shall have the normal duties, responsibilities and authority attendant to such position, subject to the power of the Company's Chairman and Chief Executive Officer ("CEO") or Board of Directors (the "Board") to expand or limit such duties, responsibilities and authority.

(b) Executive shall report to the CEO (or to such other person as the CEO or the Board may designate in the future, such as a Global President or a Chief Operating Officer, in the event such position(s) is/are created in the future) and Executive shall devote Executive's best efforts and Executive's full business time and attention (except for permitted vacation periods and reasonable periods of illness or other incapacity) to the business and affairs of the Company and its Subsidiaries; provided that Executive shall, with the prior written approval of the CEO, be allowed to serve as (i) a director or officer of any non-profit organization including trade, civic, educational or charitable organizations, or (ii) a director of any corporation which is not competing with the Company or any of its Subsidiaries in the office product and office supply industry so long as such duties do not materially interfere with the performance of Executive's duties or responsibilities under this Agreement. Executive shall perform Executive's duties and responsibilities under this Agreement to the best of Executive's abilities in a diligent, trustworthy, businesslike and efficient manner.

(c) Executive shall be based at or in the vicinity of the Company's headquarters but may be required to travel as necessary to perform Executive's duties and responsibilities under this Agreement.

(d) For purposes of this Agreement, "Subsidiaries" shall mean any corporation of which the securities having a majority of the voting power in electing directors are, at the time of determination, owned by the Company, directly or through one or more Subsidiaries.

3. Base Salary and Benefits.

(a) Initially, Executive's base salary shall be $625,000 per annum (the "Base Salary"), which salary shall be payable in regular installments in accordance with the Company's general payroll practices and shall be subject to customary withholding. Executive's Base Salary shall be reviewed at least annually by the Compensation Committee of the Board and shall be subject to adjustment, but not reduction, as they shall determine based on among other things, market practice and performance. In addition, during the Employment Term, Executive shall be entitled to participate in the Company's Long Term Incentive Plan, as it may be amended from time to time.

(b) In addition to the Base Salary, Executive shall be entitled to participate in the Company's annual bonus plan for senior executives (the "Bonus Plan") as administered by the Compensation Committee. If the Board or the Compensation Committee modifies such Bonus Plan during the Employment Term, Executive shall continue to participate at a level no lower than the highest level established for any officer of the Company then at Executive's level. At the discretion of the Board or the Compensation Committee, Executive may be offered from time to time the opportunity to participate in other bonus plans of the Company in lieu of the Bonus Plan and, if Executive chooses to participate in such plan or plans, the provisions of this paragraph 3(b) shall be tolled during the period of such participation.

(c) Executive shall be entitled to paid vacation in accordance with the Company's general payroll practices for officers of the Company then at Executive's level.

(d) The Company shall reimburse Executive for all reasonable expenses incurred by Executive in the course of performing Executive's duties under this Agreement which are consistent with the Company's policies in effect from time to time with respect to travel, entertainment and other business expenses, subject to the Company's requirements with respect to reporting and documentation of such expenses. To the extent that any such reimbursement does not qualify for exclusion from Federal income taxation, the Company will make the reimbursement only if Executive incurs the corresponding expense during the Employment Term and submits the request for reimbursement no later than two months prior to the last day of the calendar year following the calendar year in which the expense was incurred so that the Company can make the reimbursement on or before the last day of the calendar year following the calendar year in which the expense was incurred; the amount of expenses eligible for such reimbursement during a calendar year will not affect the amount of expenses eligible for such reimbursement in another calendar year, and the right to such reimbursement is not subject to liquidation or exchange for another benefit from the Company.

(e) Executive will be entitled to all benefits as are, from time to time, maintained for officers of the Company then at Executive's level, including without limitation: medical, prescription, dental, disability, employee life, group life, accidental death and travel accident insurance plans (collectively, "Insurance Benefits"), profit sharing and retirement benefits.

4. Term.

(a) The Employment Term shall end on July 22, 2009; provided that (i) the Employment Term shall be extended for one year in the event that written notice of the termination of this Agreement is not given by one party hereof to the other at least six months prior to the end of the Employment Term, and it shall continue thereafter from year to year in like fashion ("evergreen") unless and until either party provides written notice as provided in the first clause of this sentence; provided further that (ii) the Employment Term shall terminate prior to such date (A) upon Executive's death or Termination of Employment on account of permanent disability or

incapacity (as determined by the Board in its good faith judgment), (B) upon the mutual agreement of the Company and Executive, (C) upon Executive's Termination of Employment initiated by the Company for Cause (as defined below) or without Cause or (D) upon Executive's Termination of Employment initiated by Executive for Good Reason (as defined below) or without Good Reason.

(b) If the Employment Term is terminated upon Executive's Termination of Employment initiated by the Company without Cause or by Executive for Good Reason, Executive shall be entitled to receive (i) an amount equal to the sum of (A) 1.5 multiplied by Executive's Base Salary in effect on the date of such Termination of Employment, and (B) Executive's Pro Rata Bonus (as defined in paragraph (j) below), if and only if Executive has not breached the provisions of paragraphs 5, 6 and 7 hereof (as determined by a court of competent jurisdiction or by an arbitrator pursuant to paragraph 19 hereof), (ii) vested and earned (in accordance with the Company's applicable plan or program) but unpaid amounts under incentive plans, deferred compensation plans, and other employer programs of the Company in which Executive is then participating (other than the Pro Rata Bonus) which shall be payable in accordance with the terms of the applicable plan or program, (iii) an amount equal to the Company's monthly COBRA premium in effect on the date of such Termination of Employment under the Company's group health plan for the type of coverage in effect under such plan (e.g., family coverage) for Executive on the date of such Termination of Employment multiplied by 18, (iv) an amount equal to the Company's aggregate monthly premium for disability insurance, life insurance, accidental death insurance and travel accident insurance in effect on the date of such Termination of Employment under the corresponding Company plans for the type of coverage in effect under such plans for Executive on the date of such Termination of Employment multiplied by 18, and (v) an amount equal to 1.5 multiplied by Executive's target bonus under the Bonus Plan (calculated without regard to actual Company performance) on the date of such Termination of Employment. The Company must deliver a reasonable release agreement (the "Release") to Executive within seven days following the date of Executive's employment termination. The parties agree that the form of Release attached hereto is reasonable as of the date of execution of this Agreement, but may be required to be modified to conform to changes in legal requirements. Otherwise, the parties agree that this is the form of Release to be used, as referred to herein. As a condition to receipt of the payments specified in clauses (i), (iii), (iv) and (v) of this subsection (b), Executive must (i) sign the Release and return the signed Release to the Company within the following number of days after the date on which the Company delivers the Release to Executive: 21 days if Executive's employment termination is not part of a group termination program within the meaning Section 7(f)(1)(F)(ii) of the Age Discrimination in Employment Act of 1967, as amended (the "ADEA"), and 45 days if Executive's termination is part of such a group termination program (the "Release Period"); and (ii) not revoke the Release within the seven-day revocation period that applies to Executive under the ADEA (the "Revocation Period"). Except as provided in subsection (f) below, the Company will pay the severance benefits specified in this section to Executive in a lump sum within seven days following the expiration of the full Release Period and, if applicable, Revocation Period (e.g., if a 45 day Release Period and a seven day Revocation Period apply, and Executive returns the executed Release on the 10th day following the date of employment termination and does not revoke the Release, payment would be made within seven days following the 53rd day following the date of employment termination). In the event Executive shall decline or fail, except in connection with a good faith dispute about the reasonableness of the form and substance of the Release, to timely execute and deliver such Release, or shall revoke such release, then Executive shall be entitled to receive only those amounts provided pursuant to paragraph 4(c) below provided for an Executive whose employment is terminated by the Company for Cause or by Executive without Good Reason.

(c) If the Employment Term is terminated upon Executive's Termination of Employment initiated by the Company for Cause or by Executive without Good Reason, Executive shall be entitled to receive (i) Executive's Base Salary through the date of such Termination of Employment which shall be paid in accordance with the Company's standard payroll practices for salary and (ii) vested and earned (in accordance with the Company's applicable plan or program) but unpaid amounts under incentive plans, health and welfare plans, deferred compensation plans, and other employer programs of the Company in which Executive participates which amounts shall be payable in accordance with the terms of the applicable plan or program; provided, however, that Executive shall not be entitled to payment of a Pro Rata Bonus.

(d) If the Employment Term is terminated upon Executive's death, Executive's estate shall be entitled to receive (i) Executive's Base Salary through the date of Executive's death which shall be paid in accordance with the Company's standard payroll practices for salary, (ii) an amount equal to Executive's Pro Rata Bonus (as defined in paragraph (j) below) which amount shall be paid in one lump sum within 30 days following the

date of Executive's death, and (iii) vested and earned (in accordance with the Company's applicable plan or program) but unpaid amounts under incentive plans, health and welfare plans, deferred compensation plans, and other employer programs of the Company which Executive participates which shall be payable in accordance with the terms of the applicable plan or program.

(e) If the Employment Term is terminated upon Executive's Termination of Employment on account of Executive's permanent disability or incapacity (as determined by the Board in its good faith judgment), Executive shall be entitled to receive (i) Executive's Base Salary through the date of such Termination of Employment which shall be paid in accordance with the Company's standard payroll practices for salary, (ii) an amount equal to Executive's Pro Rata Bonus (as defined in paragraph (j) below) which amount shall be paid in one lump sum within 30 days following the date of such Termination of Employment (except as provided in subsection (f) below), and (iii) vested and earned (in accordance with the Company's applicable plan or program) but unpaid amounts under incentive plans, health and welfare plans, deferred compensation plans, and other employer programs of the Company which Executive participates which shall be payable in accordance with the terms of the applicable plan or program.

(f) Notwithstanding the payment timing specified above, in the event Executive is a Specified Employee (as defined below) on the date of Executive's Termination of Employment, as determined by the Company in accordance with rules established by the Company in writing in advance of the Specified Employee Identification Date (as defined below) that relates to the date of Executive's Termination of Employment, the following payments shall be paid no earlier than the date that is six months after the date of Executive's Termination of Employment (if Executive dies after the date of Executive's Termination of Employment but before any such payment is made, such payment will be paid to Executive's estate without regard to any six-month delay that otherwise applies to Specified Employees):

(i) the payments described in Section 4(b)(i), Section 4(b)(iii), Section 4(b)(iv) and Section 4(b)(v) to be made to Executive on account of his Termination of Employment initiated by the Company other than for Cause or by Executive for Good Reason; and

(ii) the payment described in Section 4(e)(ii) to be made to Executive on account of his Termination of Employment initiated by the Company on account of Executive's permanent disability or incapacity (as determined by the Board in its good faith judgment).

For purposes of this Agreement, "Specified Employee" shall be defined as provided in Section 409A(a)(2)(B)(i) of the Code and "Specified Employee Identification Date" shall be defined as provided in Treasury Regulation §1.409A-1(i).

(g) Except as otherwise provided herein, fringe benefits and bonuses (if any) which accrue or become payable after the termination of the Employment Term shall cease upon such termination.

(h) For purposes of this Agreement, "Cause" shall mean the willful engaging by Executive in illegal conduct or gross misconduct, but only to the extent such conduct or misconduct is materially and demonstrably injurious to the Company in violation of the Company's Code of Ethical Behavior.

Any act, or failure to act, based upon authority given pursuant to a resolution duly adopted by the Board or upon the instructions of the CEO or based upon the advice of counsel for the Company shall be conclusively presumed to be done, or omitted to be done, by Executive in good faith and in the best interests of the Company. The cessation of employment of Executive shall not be deemed to be for Cause unless and until there shall have been delivered to Executive a copy of a resolution duly adopted by the Company's Board of Directors, finding that, in the good faith opinion of the Board, and after reasonable notice is given to Executive and Executive is given an opportunity, together with counsel, to be heard before the Board, Executive is guilty of the conduct described in paragraph (h) above, and specifying the particulars thereof in detail.

(i) For purposes of this Agreement, "Good Reason" shall mean:

(i) the assignment to Executive of any duties inconsistent with Executive's positions (including status, offices, titles and reporting requirements), authority, duties or responsibilities as contemplated by paragraph 2 of this Agreement, or any other action by the Company which results in a diminution in such position, authority, duties or responsibilities, excluding for this purpose an isolated, insubstantial and inadvertent action not taken in bad faith and which is remedied by the Company promptly after receipt of notice thereof given by Executive; provided, however, that for purposes of this section, Executive's being asked to report to a Global President or a Chief Operating Officer, or such other comparable officer as the CEO or the Board may designate, shall not constitute Good Reason;

(ii) any failure by the Company to comply with any of the material provisions of this Agreement, including without limitation paragraph 3, other than an isolated, insubstantial and inadvertent failure not occurring in bad faith and which is remedied by the Company promptly after receipt of notice thereof given by Executive;

(iii) the Company's requiring Executive to be based at any location other than as provided in paragraph 2(c) hereof; or

(iv) any purported termination by the Company of Executive's employment otherwise than as expressly permitted by this Agreement; or

(v) any determination by a court of competent jurisdiction or an arbitrator that Executive is barred, for any reason, from working with the Company.

(j) For purposes of this Agreement, "Pro Rata Bonus" shall mean the sum of (i) the product of Executive's target bonus under any current annual incentive plan and a fraction, the numerator of which is the number of days in the current fiscal year through the date of Executive's Termination of Employment and the denominator of which is 365, and (ii) if and to the extent Executive is vested, the product of Executive's target bonus under any long-term incentive plan or performance plan and a fraction, the numerator of which is the number of days in the current performance period through the date of Executive's Termination of Employment and the denominator of which is 365.

(k) For purposes of this Agreement, "Termination of Employment" shall have the same meaning as "separation from service" under Section 409A(a)(2)(A)(i) of the Code.

5. Confidential Information. Executive acknowledges that the information, observations and data obtained by Executive while employed by the Company and its Subsidiaries concerning the business or affairs of the Company or any other Subsidiary ("Confidential Information") are the property of the Company or such Subsidiary. Therefore, Executive agrees that Executive shall not disclose to any unauthorized person or use for Executive's own purposes any Confidential Information without the prior written consent of the Board or the CEO, unless and to the extent that the aforementioned matters become generally known to and available for use by the public other than as a result of Executive's acts or omissions. Executive shall deliver to the Company at the termination of the Employment Term, or at any other time the Company may request, all memoranda, notes, plans, records, reports, computer tapes, printouts and software and other documents and data (and copies thereof) in any form or medium relating to the Confidential Information, Work Product (as defined below) or the business of the Company or any Subsidiary that Executive may then possess or have under Executive's control.

6. Inventions and Patents. Executive acknowledges that all inventions, innovations, improvements, developments, methods, designs, analyses, drawings, reports and all similar or related information (whether or not patentable) that relate to the Company's or any of its Subsidiaries' actual or anticipated business, research and development or existing or future products or services and that are conceived, developed or made by Executive while employed by the Company and its Subsidiaries ("Work Product") belong to the Company or such Subsidiary.

Executive shall promptly disclose such Work Product to the Board or the CEO and perform all actions reasonably requested by the Board or the CEO (whether during or after the Employment Term) to establish and confirm such ownership (including, without limitation, assignments, consents, powers of attorney and other instruments).

7. Non-Compete, Non-Solicitation.

(a) In further consideration of the compensation to be paid to Executive hereunder, Executive acknowledges that in the course of Executive's employment with the Company Executive shall become familiar with the Company's trade secrets and with other Confidential Information concerning the Company and its Subsidiaries and that Executive's services shall be of special, unique and extraordinary value to the Company and its Subsidiaries. Therefore, Executive agrees that, during the Employment Term and for a period of 18 months thereafter (the "Noncompete Period"), Executive shall not directly or indirectly own any interest in, manage, control, participate in, consult with, render services for, or in any manner engage in any business competing with the businesses of the Company or its Subsidiaries, as such businesses exist or are in process on the date of the termination of Executive's employment, within any geographical area in which the Company or its Subsidiaries engage or plan to engage in such businesses. Nothing herein shall prohibit Executive from being a passive owner of not more than 2% of the outstanding stock of any class of a corporation which is publicly traded, so long as Executive has no active participation in the business of such corporation. The Company presently does not enforce this paragraph 7(a) in California. However, Executive is still required to sign this Agreement since Executive may already work, or may work in the future, in a state where this paragraph 7(a) is fully enforceable. Moreover, the Company reserves its right to enforce this paragraph 7(a) in all other states in which it is enforceable, and in California in the future, to reflect any legislative or legal developments which will permit its enforcement to the fullest extent permitted by California law.

(b) During the Noncompete Period, Executive shall not directly or indirectly through another entity (i) induce or attempt to induce any employee of the Company or any Subsidiary to leave the employ of the Company or such Subsidiary, or in any way interfere with the relationship between the Company or any Subsidiary and any employee thereof, (ii) hire any person who was an employee of the Company or any Subsidiary at any time during the Employment Term or (iii) induce or attempt to induce any customer, supplier, licensee, licensor, franchisee or other business relation of the Company or any Subsidiary to cease doing business with the Company or such Subsidiary, or in any way interfere with the relationship between any such customer, supplier, licensee, licensor, franchisee, or business relation and the Company or any Subsidiary (including, without limitation, making any negative statements or communications about the Company or its Subsidiaries).

(c) The provisions of this paragraph 7 will be enforced to the fullest extent permitted by the law in the state in which Executive resides or is employed at the time of the enforcement of the provision. If, at the time of enforcement of this paragraph 7, a court shall hold that the duration, scope or area restrictions stated herein are unreasonable under circumstances then existing, the parties agree that the maximum duration, scope or area reasonable under such circumstances shall be substituted for the stated duration, scope or area and that the court shall be allowed to revise the restrictions contained herein to cover the maximum period, scope and area permitted by law. Executive agrees that the restrictions contained in this paragraph 7 are reasonable.

(d) In the event of the breach or a threatened breach by Executive of any of the provisions of this paragraph 7, the Company, in addition and supplementary to other rights and remedies existing in its favor, may apply to any court of law or equity of competent jurisdiction for specific performance and/or injunctive or other relief in order to enforce or prevent any violations of the provisions hereof (without posting a bond or other security). In addition, in the event of an alleged breach or violation by Executive of this paragraph 7 (as determined by a court of competent jurisdiction or an arbitrator pursuant to paragraph 19 hereof), the Noncompete Period shall be tolled until such breach or violation has been duly cured.

8. Executive's Representations. Executive hereby represents and warrants to the Company that (i) the execution, delivery and performance of this Agreement by Executive do not and shall not conflict with, breach, violate or cause a default under any contract, agreement, instrument, order, judgment or decree to which Executive is a party or by which Executive is bound, except as previously disclosed to the Company, (ii) Executive is not a party to or bound by any employment agreement, noncompete agreement or confidentiality agreement with any other person or entity, except as previously disclosed to the Company, and (iii) upon the execution and delivery of

this Agreement by the Company, this Agreement shall be the valid and binding obligation of Executive, enforceable in accordance with its terms. Executive hereby acknowledges and represents that Executive has had an opportunity to consult with independent legal counsel regarding Executive's rights and obligations under this Agreement and that Executive fully understands the terms and conditions contained herein.

9. Survival. Paragraphs 5, 6 and 7 and paragraphs 9 through 20 shall survive and continue in full force in accordance with their terms notwithstanding any termination of the Employment Term.

10. Notices. Any notice provided for in this Agreement shall be in writing and shall be either personally delivered, or mailed by first class mail, return receipt requested, to the recipient at the address below indicated:

Notices to Executive:

Name: Carl Rubin
Address: [Address on file with the Company]

Or to such other residential address as may be reflected in the employment records of the Company.

Notices to the Company:

Office Depot, Inc.
2200 Germantown Road
Delray Beach, Florida 33445
Attention: Chief Executive Officer

and

Office Depot, Inc.
2200 Germantown Road
Delray Beach, Florida 33445
Attention: Executive Vice President - Human Resources

or such other address or to the attention of such other person as the recipient party shall have specified by prior written notice to the sending party. Any notice under this Agreement shall be deemed to have been given when so delivered or mailed.

11. Severability. Whenever possible, each provision of this Agreement shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Agreement is held to be invalid, illegal or unenforceable in any respect under any applicable law or rule in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other provision or any other jurisdiction, but this Agreement shall be reformed, construed and enforced in such jurisdiction as if such invalid, illegal or unenforceable provision had never been contained herein.

12. Complete Agreement. This Agreement and those documents expressly referred to herein and other documents of even date herewith embody the complete agreement and understanding among the parties and supersede and preempt any prior understandings, agreements or representations by or among the parties, written or oral, which may have related to the subject matter hereof in any way (provided, however that during the "Employment Period," as defined in the Change of Control Employment Agreement, the terms and provision of the Change of Control Employment Agreement shall be effective and shall control to the extent there is any conflict between such agreement and this Agreement).

13. No Strict Construction. The language used in this Agreement shall be deemed to be the language chosen by the parties hereto to express their mutual intent, and no rule of strict construction shall be applied against any party.

14. Counterparts. This Agreement may be executed in separate counterparts, each of which is deemed to be an original and all of which taken together constitute one and the same agreement.

15. Successors and Assigns. This Agreement is intended to bind and inure to the benefit of and be enforceable by Executive, the Company and their respective heirs, successors and assigns, except that Executive may not assign Executive's rights or delegate Executive's obligations hereunder without the prior written consent of the Company.

16. Choice of Law. All issues and questions concerning the construction, validity, enforcement and interpretation of this Agreement and the exhibits and schedules hereto shall be governed by, and construed in accordance with, the laws of the State of Florida, without giving effect to any choice of law or conflict of law rules or provisions (whether of the State of Florida or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than the State of Florida.

17. Amendment and Waiver. The provisions of this Agreement may be amended or waived only with the prior written consent of the Company and Executive, and no course of conduct or failure or delay in enforcing the provisions of this Agreement shall affect the validity, binding effect or enforceability of this Agreement.

18. Confidentiality of this Agreement. The parties agree that the terms of this Agreement are confidential. Executive shall not divulge or publicize the terms hereof except as may be necessary to enforce the promises, covenants and/or understandings contained herein or as either party may be required to do so by law, court order, subpoena or other judicial action or government taxing authorities. Executive may disclose the contents of this Agreement to his immediate family, attorneys and accountants, provided however, that any further disclosure of the terms of this Agreement by any of these persons to anyone not included within the terms of this paragraph may be deemed a breach of the Agreement by Executive.

19. Arbitration. Except as to the right of the Company or Executive to resort to any court of competent jurisdiction to obtain injunctive relief or specific enforcement of the parties' obligations under this Employment Agreement (or otherwise), any dispute or controversy between the Company and Executive arising out of or relating to Executive's employment or termination of employment, this Agreement or the breach of this Agreement, including but not limited to disputes involving discrimination arising under common law, and /or federal, state and local laws, shall be settled by arbitration administered by the American Arbitration Association ("AAA") in accordance with its National Rules for the Resolution of Employment Disputes then in effect, and judgment on the award rendered by the arbitrator may be entered in any court having jurisdiction thereof. Any arbitration shall be held before a single arbitrator who shall be selected by the mutual agreement of the Company and Executive, unless the parties are unable to agree to an arbitrator, in which case the arbitrator will be selected under the procedures of the AAA. The arbitrator shall have the authority to award any remedy or relief that a court of competent jurisdiction could order or grant, including, without limitation, the issuance of an injunction. Executive agrees to abide by and accept the final decision of the arbitrator as to the ultimate resolution of any and all covered disputes and understands that arbitration replaces any right to trial by a judge or jury. However, either party may, without inconsistency with this arbitration provision, apply to any court otherwise having jurisdiction over such dispute or controversy and seek interim provisional, injunctive or other equitable relief until the arbitration award is rendered or the controversy is otherwise resolved. Except as necessary in court proceedings to enforce this arbitration provision or an award rendered hereunder, or to obtain interim relief, or as may otherwise be required by law, neither a party nor an arbitrator may disclose the existence, content or results of any arbitration hereunder without the prior written consent of the Company and Executive. The Company and Executive acknowledge that this Agreement evidences a transaction involving interstate commerce. Notwithstanding any choice of law provision included in this Agreement, the United States Federal Arbitration Act shall govern the interpretation and enforcement of this arbitration provision. The arbitration proceeding shall be conducted in Palm Beach County, Florida unless the parties mutually agree to another location. The Company shall pay the costs of any arbitrator(s) appointed hereunder.

20. Tax Treatment. It is intended, and this Agreement will be so construed, that any amounts payable under this Agreement and the Company's and Executive's exercise of authority or discretion hereunder shall either be exempt from or comply with the provisions of Section 409A so as not to subject Executive to the payment of interest and/or any tax penalty that may be imposed under Section 409A. Executive acknowledges and agrees that

the Company has made no representation to Executive as to the tax treatment of the compensation and benefits provided pursuant to this Agreement and that Executive is solely responsible for all taxes due with respect to such compensation and benefits.

* * * * *

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first written above.

OFFICE DEPOT, INC.

By: _____
Name: _____
Its: _____

EXECUTIVE

_____
Name: Carl Rubin
Date: December 23, 2008

Exhibit 10.24

EXECUTION COPY

CREDIT AGREEMENT

dated as of

September 26, 2008,

among

OFFICE DEPOT, INC.,

OFFICE DEPOT INTERNATIONAL (UK) LTD.,

OFFICE DEPOT UK LTD.,

OFFICE DEPOT INTERNATIONAL B.V.,

OFFICE DEPOT B.V.,

OD INTERNATIONAL (LUXEMBOURG) FINANCE S.À R.L.

and

VIKING FINANCE (IRELAND) LTD.,
as Borrowers,

The Lenders Party Hereto

JPMORGAN CHASE BANK, N.A., LONDON BRANCH,
as European Administrative Agent and European Collateral Agent,

JPMORGAN CHASE BANK, N.A.,
as Administrative Agent and US Collateral Agent,

BANK OF AMERICA, N.A.,
as Syndication Agent,

and

CITIBANK, N.A.,

WACHOVIA BANK, NATIONAL ASSOCIATION

and

GENERAL ELECTRIC CAPITAL CORPORATION,

as Documentation Agents

J.P. MORGAN SECURITIES INC.,
BANC OF AMERICA SECURITIES LLC,
CITIGROUP GLOBAL MARKETS INC.
and
WACHOVIA CAPITAL MARKETS, LLC,
as Joint Lead Arrangers and Joint Bookrunners

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SCHEDULES:

EXHIBITS:

CREDIT AGREEMENT dated as of September 26, 2008 (as it may be amended or modified from time to time, this "Agreement"), among OFFICE DEPOT, INC., OFFICE DEPOT INTERNATIONAL (UK) LTD., OFFICE DEPOT UK LTD., OFFICE DEPOT INTERNATIONAL B.V., OFFICE DEPOT B.V., OD INTERNATIONAL (LUXEMBOURG) FINANCE S.à R.L. and VIKING FINANCE (IRELAND) LTD., the other Loan Parties from time to time party hereto, the Lenders party hereto, JPMORGAN CHASE BANK, N.A., LONDON BRANCH, as European Administrative Agent and European Collateral Agent, JPMORGAN CHASE BANK, N.A., as Administrative Agent and US Collateral Agent, BANK OF AMERICA, N.A., as Syndication Agent, and CITIBANK, N.A., WACHOVIA BANK, NATIONAL ASSOCIATION and GENERAL ELECTRIC CAPITAL CORPORATION, as Documentation Agents.

The parties hereto agree as follows:

ARTICLE I

Definitions

SECTION 1.01 Defined Terms. As used in this Agreement, the following terms have the meanings specified below:

"ABR", when used in reference to any Loan or Borrowing, refers to whether such Loan, or the Loans comprising such Borrowing, are bearing interest at a rate determined by reference to the Alternate Base Rate.

"Account" means, individually and collectively, any "Account" referred to in any Security Agreement.

"Account Debtor" means any Person obligated on an Account.

"Adjusted LIBO Rate" means, with respect to any Eurocurrency Borrowing for any Interest Period, an interest rate per annum (rounded upwards, if necessary, to the next 1/16 of 1%) equal to (a) (i) the LIBO Rate for such Interest Period ***multiplied*** by (ii) the Statutory Reserve Rate ***plus*** (b) the Mandatory Cost.

"Administrative Agent" means JPMorgan Chase Bank, N.A., in its capacity as administrative agent for the Lenders hereunder, and its successors in such capacity.

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

"Affiliate" means, with respect to a specified 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.

"Agents" means, individually and collectively, the Administrative Agent, the European Administrative Agent, the US Collateral Agent, the European Collateral Agent, the Syndication Agent and the Documentation Agents.

"Aggregate Availability" means, with respect to all the Borrowers, at any time, an amount equal to (a) the lesser of (i) the aggregate amount of the Commitments and (ii) the Aggregate Borrowing Base ***minus*** (b) the total Revolving Exposure.

"Aggregate Borrowing Base" means the aggregate amount of the US Borrowing Base and the European Borrowing Base; provided that the maximum amount of the European Borrowing Base which may be included as part of the Aggregate Borrowing Base is the European Sublimit.

"Aggregate Borrowing Base Certificate" means a certificate, signed and certified as accurate and complete by a Financial Officer of the Borrower Representative, in substantially the form of Exhibit B-1 or another form which is acceptable to the Administrative Agent in its sole discretion.

"Aggregate Credit Exposure" means, at any time, the aggregate Credit Exposure of all the Lenders.

"Alternate Base Rate" means, for any day, a rate per annum equal to the greater of (a) the Prime Rate in effect on such day and (b) the Federal Funds Effective Rate in effect on such day *plus* 1/2 of 1%. Any change in the Alternate Base Rate due to a change in the Prime Rate or the Federal Funds Effective Rate shall be effective from and including the effective date of such change in the Prime Rate or the Federal Funds Effective Rate, respectively.

"Alternate Rate" means, for any day, the sum of (a) a rate per annum selected by the Administrative Agent, in its reasonable discretion based on market conditions in consultation with the Borrower and the Lenders, *plus* (b) the Applicable Spread for Eurocurrency Loans, *plus* (c) the Mandatory Cost. When used in reference to any Loan or Borrowing, "Alternate Rate" refers to whether such Loan, or the Loans comprising such Borrowing, are bearing interest at a rate determined by reference to the Alternate Rate.

"Applicable Commitment Fee Rate" means, for any day relating to each of Facility A and Facility B, with respect to the commitment fees payable hereunder, the applicable rate per annum set forth below, based upon the daily average Commitment Utilization Percentage during the most recent fiscal quarter of the Company; provided that until the completion of two full fiscal quarters after the Effective Date, the Applicable Commitment Fee Rate shall be the applicable rate per annum set forth below in Category 2:

Commitment Utilization Percentage	**Applicable Commitment Fee Rate**
Category 1 ≥ 50%	.375%
Category 2 < 50%	.50%

For purposes of the foregoing, the Applicable Commitment Fee Rate shall be determined as of the end of each fiscal quarter of the Company; provided that the Commitment Utilization Percentage shall be deemed to be in Category 2 (A) at any time that an Event of Default has occurred and is continuing (other than an Event of Default arising from the failure to deliver any Borrowing Base Certificate) or (B) at the option of the Administrative Agent or at the request of the Required Lenders if the Borrowers fail to deliver any Borrowing Base Certificate that is required to be delivered by them pursuant to Section 5.01, during the period from the expiration of the time for delivery thereof until each such Borrowing Base Certificate is so delivered.

"Applicable Percentage" means, with respect to any Facility A Lender or Facility B Lender, (a) with respect to Revolving Loans, LC Exposure or Swingline Loans, a percentage equal to a fraction the numerator of which is such Lender's Facility A Commitment or Facility B Commitment, as applicable, and the denominator of which is the aggregate amount of the Facility A Commitments or Facility B Commitments, as applicable (or, if the Facility A Commitments or Facility B Commitments, as applicable, have terminated or expired, such Lender's share of the total Facility A Revolving Exposure or Facility B Revolving Exposure, respectively, at that time) and (b) with respect to Protective Advances or with respect to the Aggregate Credit Exposure, a percentage based upon its share of the Aggregate Credit Exposure and the aggregate amount of unused Facility A Commitments or Facility B Commitments, as applicable.

"Applicable Spread" means, for any day, with respect to any ABR Loan, Eurocurrency Loan or Overnight LIBO Loan, as the case may be, the applicable rate per annum set forth below under the caption "ABR Spread", "Eurocurrency Spread" or **"**Overnight LIBO Spread", as the case may be, based upon the daily average Aggregate Availability during the most recent fiscal quarter of the Company; provided that until the completion of two full fiscal quarters after the Effective Date, the Applicable Spread shall be the applicable rate per annum set forth below in Category 3:

Average Aggregate Availability	**ABR Spread**	**Eurocurrency Spread**	**Overnight LIBO Spread**
Category 1 ≥ $750,000,000	1.50%	2.50%	2.50%
Category 2 < $750,000,000 but ³ $500,000,000	1.75%	2.75%	2.75%
Category 3 < $500,000,000 but ³ $250,000,000	2.00%	3.00%	3.00%
Category 4 < $250,000,000	2.25%	3.25%	3.25%

For purposes of the foregoing, the Applicable Spread shall be determined as of the end of each fiscal quarter of the Company based upon the Aggregate Borrowing Base Certificate that are delivered from time to time pursuant to Section 5.01, provided that the Average Aggregate Availability shall be deemed to be in Category 4 (A) at any time that an Event of Default has occurred and is continuing (other than an Event of Default arising from the failure to deliver any Borrowing Base Certificate) or (B) at the option of the Administrative Agent or at the request of the Required Lenders if the Borrowers fail to deliver any Borrowing Base Certificate that is required to be delivered by them pursuant to Section 5.01, during the period from the expiration of the time for delivery thereof until each such Borrowing Base Certificate is so delivered; provided further that if any Borrowing Base Certificate is at any time restated or otherwise revised or if the information set forth in any Borrowing Base Certificate otherwise proves to be false or incorrect such that the Applicable Spread would have been higher than was otherwise in effect during any period, without constituting a waiver of any Default or Event of Default arising as a result thereof, interest due under this Agreement shall be immediately recalculated at such higher rate for any applicable periods and shall be due and payable on demand.

"Approved Fund" has the meaning assigned to such term in Section 9.04.

"Assignment and Assumption" means an assignment and assumption entered into by a Lender and an assignee (with the consent of any party whose consent is required by Section 9.04), and accepted by the Administrative Agent, in the form of Exhibit A or any other form approved by the Administrative Agent.

"Availability Period" means the period from and including the Effective Date to but excluding the earlier of the Maturity Date and the date of termination of the Commitments.

"Available Commitments" means, at any time, the aggregate amount of the Commitments then in effect *minus* the total Revolving Exposure at such time.

"Banking Services" means each and any of the following bank services provided to any Loan Party by any Lender or any of its Affiliates: (a) commercial credit cards, (b) stored value cards and (c) treasury management services (including, without limitation, controlled disbursement, automated clearinghouse transactions, return items, overdrafts and interstate depository network services).

"Banking Services Obligations" of the Loan Parties, means any and all obligations of the Loan Parties, whether absolute or contingent and howsoever and whensoever created, arising, evidenced or acquired (including all renewals, extensions and modifications thereof and substitutions therefor) in connection with Banking Services.

"Banking Services Reserves" means all Reserves which the Administrative Agent from time to time establishes in its Permitted Discretion for Banking Services then provided or outstanding.

"Bankruptcy Code" means the provisions of Title 11 of the United States Code, 11 USC. §§ 101 et seq.

"Board" means the Board of Governors of the Federal Reserve System of the United States.

"Bookrunners" means, individually or collectively, J.P. Morgan Securities Inc., Banc of America Securities LLC, Citigroup Global Markets Inc. and Wachovia Capital Markets, LLC, in their capacities as joint lead arrangers and joint bookrunners hereunder.

"Borrower" or "Borrowers" means, individually or collectively, the Company and the European Borrowers; provided that until such time as the actions described in Section 5.16(b) shall have been completed, the Luxembourg Borrower shall not be deemed to be a Borrower.

"Borrower Representative" means the Company, in its capacity as contractual representative of the Borrowers pursuant to Article XI.

"Borrowing" means (a) Revolving Loans of the same Facility, Type and currency, made, converted or continued on the same date and, in the case of Eurocurrency Loans, as to which a single Interest Period is in effect, (b) a Swingline Loan and (c) a Protective Advance.

"Borrowing Base" means, individually and collectively, each of the Aggregate Borrowing Base, the US Borrowing Base, the UK Borrowing Base and the Dutch Borrowing Base.

"Borrowing Base Certificate" means, individually and collectively, each of the Aggregate Borrowing Base Certificate, the US Borrowing Base Certificate, the UK Borrowing Base Certificate and the Dutch Borrowing Base Certificate.

"Borrowing Base Supplemental Documentation" means the items described on Schedule 5.01(g).

"Borrowing Request" means a request by the Borrower Representative for a Borrowing of Revolving Loans in accordance with Section 2.03.

"Business Day" means any day that is not a Saturday, Sunday or other day on which commercial banks in New York City are authorized or required by law to remain closed; provided that, (a) when used in connection with a Eurocurrency Loan, the term "Business Day" shall also exclude any day on which banks are not open for dealings in deposits in the applicable currency in which interest on such Eurocurrency Loan is calculated in the London interbank market, (b) when used in connection with a European Swingline Loan denominated in Euros or a Eurocurrency Loan denominated in Euros, the term "Business Day" shall also exclude any day which is not a TARGET Day (as determined by the Administrative Agent) and (c) when used in connection with any European Loan or European Letter of Credit, the term "Business Day" shall also exclude any day in which commercial banks in the country where the applicable European Borrower is organized are authorized or required by law to remain closed.

"Canadian Dollars" or "C$" refers to the lawful currency of Canada.

"Capital Expenditures" means, without duplication, any expenditure for any purchase or other acquisition of any asset which would be classified as a fixed or capital asset on a consolidated balance sheet of the Company and its Subsidiaries as shown in the statement of cash flows prepared in accordance with GAAP.

"Capital Lease Obligations" of any Person means the obligations of such Person to pay rent or other amounts under any lease of (or other arrangement conveying the right to use) real or personal property, or a combination thereof, which obligations are required to be classified and accounted for as capital leases on a balance sheet of such Person under GAAP, and the amount of such obligations shall be the capitalized amount thereof determined in accordance with GAAP.

"CAS" means the *Code des Assurances Sociales* which contains the statutory provisions regarding the mandatory affiliation and contributions to the Luxembourg pension and social security schemes regarding employees employed by the Luxembourg Borrower within the territory of the Grand Duchy of Luxembourg.

"CCSS" means the *Centre Commun de la Sécurité Sociale*, which is the Luxembourg authority in charge of the Luxembourg mandatory welfare system.

"Change in Control" means (a) the acquisition of ownership, directly or indirectly, beneficially or of record, by any Person or group (within the meaning of the Securities Exchange Act of 1934 and the rules of the Securities and Exchange Commission thereunder as in effect on the date hereof) of Equity Interests representing more than 40% of the aggregate ordinary voting power represented by the issued and outstanding Equity Interests of the Company; (b) occupation of a majority of the seats (other than vacant seats) on the board of directors of the Company by Persons who were neither (i) nominated by the board of

directors of the Company nor (ii) appointed by directors so nominated; or (c) the Company shall cease to own, free and clear of all Liens or other encumbrances (other than Liens created pursuant to any Loan Document), 100% of the outstanding voting Equity Interests of the Borrowers (other than the Company) on a fully diluted basis (other than any directors' qualifying shares of any Borrower).

"Change in Law" means (a) the adoption of any law, rule, regulation, practice or concession after the date of this Agreement, (b) any change in any law, rule or regulation, practice or concession or in the interpretation or application thereof by any Governmental Authority after the date of this Agreement or (c) compliance by any Lender or any Issuing Bank (or, for purposes of Section 2.15(b), by any lending office of such Lender or by such Lender's or such Issuing Bank's holding company, if any) with any request, guideline or directive (whether or not having the force of law) of any Governmental Authority made or issued after the date of this Agreement.

"Charges" has the meaning assigned to such term in Section 9.17.

"Class", when used in reference to any Loan or Borrowing, refers to whether such Loan, or the Loans comprising such Borrowing, are Revolving Loans, Swingline Loans or Protective Advances.

"Code" means the Internal Revenue Code of 1986, as amended from time to time.

"Collateral" means any and all property of any Loan Party, now existing or hereafter acquired, that may at any time be or become subject to a security interest or Lien in favor of the applicable Collateral Agent (on behalf of the Agents, the Lenders, and the Issuing Banks) pursuant to the Collateral Documents in order to secure the Secured Obligations.

"Collateral Access Agreement" means, individually and collectively, each "Collateral Access Agreement" referred to in any Security Agreement.

"Collateral Agent" means, individually and collectively, the US Collateral Agent and European Collateral Agent.

"Collateral Document" means, individually and collectively, each Security Agreement and each other document granting a Lien upon the Collateral as security for payment of the Secured Obligations.

"Collection Account" means, individually and collectively, each "Collection Account" referred to in any Security Agreement.

"Commitment" means, with respect to each Lender, individually and collectively, the Facility A Commitment and the Facility B Commitment of such Lender.

"Commitment Schedule" means the Schedule attached hereto as Schedule 1.01(a).

"Commitment Utilization Percentage" means, on any date, the percentage equivalent to a fraction (a) with respect to Facility A, (i) the numerator of which is the total Facility A Revolving Exposure and (ii) the denominator of which is the aggregate amount of the Facility A Commitments (or, on any day after termination of the Facility A Commitments, the aggregate amount of the Facility A Commitments in effect immediately preceding such termination) and (b) with respect to Facility B, (i) the numerator of which is the total Facility B Revolving Exposure and (ii) the denominator of which is the aggregate amount of the Facility B Commitments (or, on any day after termination of the Facility B Commitments, the aggregate amount of the Facility B Commitments in effect immediately preceding such termination).

"Company" means Office Depot, Inc., a Delaware corporation.

"Company Plan" has the meaning assigned to such term in Section 5.07(b).

"Confidential Information Memorandum" means the Confidential Information Memorandum dated September 2008 relating to the Borrowers and the Transactions.

"Contribution Notice" means a contribution notice issued by the Pensions Regulator under Sections 38 or 47 of the UK Pensions Act 2004.

"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.

"Corresponding Debt" has the meaning assigned to such term in Section 9.21.

"Credit Card Account Receivables" means any receivables due to any Loan Party in connection with purchases from and other goods and services provided by such Loan Party on the following credit cards: Visa, MasterCard, American Express, Diners Club, Discover, Carte Blanche and such other credit cards as the Administrative Agent shall reasonably approve from time to time, in each case which have been earned by performance by such Loan Party but not yet paid to such Loan Party by the credit card issuer or the credit card processor, as applicable.

"Credit Exposure" means, as to any Facility A Lender or Facility B Lender at any time, the sum of (a) such Lender's Facility A Revolving Exposure or Facility B Revolving Exposure, as applicable, at such time, *plus* (b) an amount equal to its Applicable Percentage, if any, of the aggregate principal amount of Facility A Protective Advances or Facility B Protective Advances, as applicable, outstanding at such time.

"Currency of Payment" has the meaning assigned to such term in Section 9.19.

"Customer Credit Liability Reserves" means, at any time, 50% of the aggregate remaining value at such time of (a) outstanding gift certificates and gift cards sold by the Loan Parties entitling the holder thereof to use all or a portion of the certificate or gift card to pay all or a portion of the purchase price of Inventory, and (b) outstanding merchandise credits issued by and customer deposits received by the Loan Parties.

"Customer-Specific Inventory" means Inventory specifically identified or produced for a particular customer.

"Default" means any event or condition which constitutes an Event of Default or which upon notice, lapse of time or both would, unless cured or waived, become an Event of Default.

"Deferred Cash Discounts" means, with respect to any Loan Party, cash discounts earned by such Loan Party for early payments to vendors which reduce net Inventory costs for such Loan Party.

"Departing Lender" has the meaning assigned to such term in Section 2.19(b).

"Deposit Account Control Agreement" means, individually and collectively, each "Deposit Account Control Agreement" referred to in any Security Agreement.

"Dilution Factors" means, without duplication, with respect to any period, the aggregate amount of all deductions, credit memos, returns, adjustments, allowances, bad debt write-offs and other non-cash credits which are recorded to reduce accounts receivable in a manner consistent with current and historical accounting practices of the Borrowers.

"Dilution Ratio" means, at any date, the amount (expressed as a percentage) equal to (a) the aggregate amount of the applicable Dilution Factors for the 12 most recently ended fiscal months divided by (b) total gross sales for the 12 most recently ended fiscal months.

"Dilution Reserve" means, at any date, the applicable Dilution Ratio *multiplied* by the Eligible Accounts, Eligible Credit Card Receivables or Uninvoiced Accounts Receivable of the applicable Loan Parties, as the context may require, on such date; provided that at all times that the Dilution Ratio is less than 5.0%, the Dilution Reserve shall be zero.

"Disclosed Matters" means the actions, suits and proceedings and the environmental matters disclosed on Schedule 3.06.

"Document" has the meaning assigned to such term in the US Security Agreement.

"Documentation Agents" means, individually and collectively, Citibank, N.A., Wachovia Bank, National Association and General Electric Capital Corporation, in their capacity as Documentation Agents.

"Dollar Equivalent" means with respect to any amount at the time of determination thereof, (a) if such amount is expressed in dollars, such amount, and (b) if such amount is expressed in Euros or Sterling, the amount of dollars that would be required to purchase the amount of such currency based upon the Spot Selling Rate as of such date of determination.

"dollars" or "$" means the lawful money of the United States.

"Dutch Borrower" means, individually and collectively, Office Depot International B.V., a private limited liability company (*besloten vennootschap met beperkte aansprakelijkheid*), incorporated under the law of the Netherlands, having its registered seat (*statutaire zetel*) in Venlo, the Netherlands, registered with the Chamber of Commerce of Limburg under number 12066591 and having its office address at Columbusweg 33, 5928 LA, Venlo, the Netherlands and Office Depot B.V., a private limited liability company (*besloten vennootschap met beperkte aansprakelijkheid*), incorporated under the law of the Netherlands, having its registered seat (*statutaire zetel*) in Venlo, the Netherlands, registered with the Chamber of Commerce of Limburg under number 05047775 and having its office address at Columbusweg 33, 5928 LA, Venlo, the Netherlands.

"Dutch Borrowing Base" means, at any time, with respect to the Dutch Loan Parties, the sum of:

(a) the sum of (i) the product of (A) 85% *multiplied by* (B) the Dutch Loan Parties' Eligible Accounts (other than Eligible Credit Card Receivables) at such time, *minus* the Dilution Reserve related to the Dutch Loan Parties, *minus* any other Reserve related to Accounts of the Dutch Loan Parties, (ii) the product of (A) 90% *multiplied by* (B) the Dutch Loan Parties' Eligible Credit Card Receivables at such time *minus* the Dilution Reserve related to the Dutch Loan Parties, *minus* any other Reserve related to Accounts of the Dutch Loan Parties, and (iii) the product of (A) 75% *multiplied by* (B) the Eligible Uninvoiced Accounts Receivable of the Dutch Loan Parties at such time *minus* the Dilution Reserve related to the Dutch Loan Parties, *plus*

(b) the lesser of (i) the product of (x) 75% *multiplied by* (y) the Dutch Loan Parties' Eligible Inventory, valued at the lower of cost (determined on a first-in-first-out basis or average cost basis) or market value, at such time, *minus* any Reserves related to the Eligible Inventory of the Dutch Loan Parties and (ii) the product of 85% *multiplied by* the High Season or Low Season, if applicable, Net Orderly Liquidation Value percentage (as applicable, based on the borrowing base delivery date as required under Section 5.01(f)) identified in the most recent inventory appraisal ordered by the Administrative Agent *multiplied by* the Dutch Loan Parties' Eligible Inventory, valued at the lower of cost (determined on a first-in-first-out basis or average cost basis) or market value, at such time *minus* any Reserves related to the Eligible Inventory of the Dutch Loan Parties, *plus*

(c) the lesser of (i) the product of (x) 75% *multiplied by* (y) the Dutch Loan Parties' Eligible LC Inventory, valued at the lower of cost (determined on a first-in-first-out basis or average cost basis) or market value, at such time, *minus*, without duplication of any Reserves accounted for in clause (b) above, Reserves relating to the Eligible LC Inventory of the Dutch Loan Parties and (ii) the product of 85% *multiplied by* the High Season or Low Season, if applicable, Net Orderly Liquidation Value percentage (as applicable, based on the borrowing base delivery date as required under Section 5.01(f)) identified in the most recent inventory appraisal ordered by the Administrative Agent *multiplied by* the Dutch Loan Parties' Eligible LC Inventory, valued at the lower of cost (determined on a first-in-first-out basis or average cost basis) or market value, at such time *minus*, without duplication of any Reserves accounted for in clause (b) above, Reserves related to the Eligible LC Inventory of the Dutch Loan Parties.

The Administrative Agent may, in its Permitted Discretion, adjust Reserves used in computing the Aggregate Borrowing Base and the Dutch Borrowing Base, with any such changes to be effective three Business Days after delivery of notice thereof to the Borrower Representative and the Lenders. The Aggregate Borrowing Base and the Dutch Borrowing Base at any time shall be determined by reference to the most recent Aggregate Borrowing Base Certificate and each other Borrowing Base Certificate delivered to the Administrative Agent pursuant to Section 5.01(f) of this Agreement.

"Dutch Borrowing Base Certificate" means a certificate, signed and certified as accurate and complete by a Financial Officer of each Dutch Borrower, in substantially the form of Exhibit B-4 or another form which is acceptable to the Administrative Agent in its sole discretion.

"Dutch Loan Party" means, individually and collectively, any Loan Party (including the Dutch Borrowers) incorporated under the laws of the Netherlands.

"Dutch Security Agreement" means (a) a Dutch law (undisclosed) deed of pledge of receivables, (b) a Dutch law (disclosed) pledge of bank accounts or (c) a Dutch law non-possesory pledge of movable assets, dated as of the date hereof, among the Dutch Borrowers, and the European Collateral Agent, as the same may be amended, restated or otherwise modified from time to time, and any other pledge or security agreement entered into, after the date of this Agreement, by any other Dutch Loan Party (as required by this Agreement or any other Loan Document for the purpose of creating a Lien on the property of any Dutch Loan Party (or any other property located in the Netherlands)), as the same may be amended, restated or otherwise modified from time to time.

"EBITDAR" means, for any period, Net Income for such period *plus* (a) without duplication and to the extent deducted in determining Net Income for such period, the sum of (i) Interest Expense for such period, (ii) income tax expense for such period, (iii) all amounts attributable to depreciation and amortization expense for such period, (iv) Rentals for such period, (v) any items of loss resulting from the sale of assets other than in the ordinary course of business for such period (vi) any non-cash charges for tangible or intangible impairments or asset write downs for such period (excluding any write downs for write-offs of Inventory) and (vii) any other non-cash charges for such period (but excluding any non-cash charge in respect of an item that was included in Net Income in a prior period and any non-cash charge that relates to the write-down or write-off of inventory), *minus* (b) without duplication and to the extent included in Net Income, (i) any items of gain resulting from the sale of assets other than in the ordinary course of business for such period, (ii) any cash payments made during such period in respect of non-cash charges described in clause (a)(vii) taken in a prior period and (iii) any extraordinary gains and any non-cash items of income for such period, all calculated for the Company and its Subsidiaries on a consolidated basis in accordance with GAAP; provided that for purposes of calculating the Fixed Charge Coverage Ratio, EBITDAR for the fiscal quarters ending December 29, 2007, March 29, 2008 and June 28, 2008 shall be deemed to be $232,943,000, $309,600,000 and $218,582,000, respectively.

"Effective Date" means the date on which the conditions specified in Section 4.01 are satisfied (or waived in accordance with Section 9.02).

"Eligible Accounts" means, at any time, the Accounts of any Loan Party which in accordance with the terms hereof are eligible as the basis for the extension of Revolving Loans and Swingline Loans and the issuance of Letters of Credit hereunder. Eligible Accounts shall not include any Account:

(a) which is not subject to a first priority perfected security interest in favor of the applicable Collateral Agent (for the benefit of the Agents, the Lenders and the Issuing Banks);

(b) which is subject to any Lien other than (i) a Lien in favor of the applicable Collateral Agent (for the benefit of the Agents, the Lenders and the Issuing Banks), and (ii) a Permitted Encumbrance which does not have priority over the Lien in favor of the applicable Collateral Agent;

(c) with respect to which (i) the scheduled due date is more than 60 days after the original invoice date, (ii) is unpaid more than (A) 90 days after the date of the original invoice therefor or (B) 60 days after the original due date, or (iii) which has been written off the books of the Borrower or otherwise designated as uncollectible (in determining the aggregate amount from the same Account Debtor that is unpaid hereunder there shall be excluded the amount of any net credit balances relating to Accounts due from an Account Debtor which are unpaid more than 90 days from the date of invoice or more than 60 days from the due date); provided that Accounts owing by Account Debtors whose securities are either rated BBB- or better by S&P or Baa3 or better by Moody's in an aggregate amount (for all Borrowing Bases) not to exceed $25,000,000 at any time may be included in Eligible Accounts, so long as no such Account is not unpaid more than 120 days after the date of the original invoice therefor or more than 120 days after the original due date;

(d) which is owing by an Account Debtor for which more than 50% of the Accounts owing from such Account Debtor and its Affiliates are ineligible hereunder;

(e) (i) which is owing by an Account Debtor to the extent the aggregate amount of Accounts owing from such Account Debtor and its Affiliates to (i) such Loan Party exceeds 15% of the aggregate amount of Eligible Accounts of such Loan Party or (ii) all Loan Parties exceeds 15% of the aggregate amount of Eligible Accounts of all Loan Parties.

(f) with respect to which any covenant, representation, or warranty contained in this Agreement or in any applicable Security Agreement has been breached or is not true;

(g) which (i) does not arise from the sale of goods or performance of services in the ordinary course of business, (ii) is not evidenced by an invoice or other documentation satisfactory to the Administrative Agent which has been sent to the Account Debtor, (iii) represents a progress billing, (iv) is contingent upon the Borrower's completion of any further performance, (v) represents a sale on a bill-and-hold, guaranteed sale, sale-and-return, sale on approval, consignment, cash-on-delivery or any other repurchase or return basis or (vi) relates to payments of interest;

(h) for which the goods giving rise to such Account have not been shipped to the Account Debtor or for which the services giving rise to such Account have not been performed by such Borrower or if such Account was invoiced more than once;

(i) with respect to which any check or other instrument of payment has been returned uncollected for any reason to the extent of such returned payment;

(j) which is owed by an Account Debtor that (i) has applied for or been the subject of a petition or application for, suffered, or consented to the appointment of any receiver, custodian, trustee, administrator, liquidator or similar official for such Account Debtor or its assets, (ii) has had possession of all or a material part of its property taken by any receiver, custodian, trustee or liquidator, (iii) filed, or had filed against it, under any Insolvency Laws, any assignment, application, request or petition for liquidation, reorganization, compromise, arrangement, adjustment of debts, stay of proceedings, adjudication as bankrupt, winding-up, or voluntary or involuntary case or proceeding, (iv) has admitted in writing its inability, or is generally unable to, pay its debts as they become due, (v) has become insolvent, or (vi) ceased operation of its business;

(k) which is owed by any Account Debtor which has sold all or substantially all of its assets;

(l) which is owed by an Account Debtor which (i) does not maintain an office in the United States or Canada (in each case, if any Account Debtor of the Company), England and Wales or Scotland (in each case, if an Account Debtor of any UK Borrower) the Netherlands (if an Account Debtor of any Dutch Borrower) or (ii) is not organized under any applicable law of the United States, any State of the United States or the District of Columbia, Canada or any province of Canada (in each case, if an Account Debtor of the Company), England and Wales or Scotland (in each case, if an Account Debtor of any UK Borrower) or the Netherlands (if an Account Debtor of any Dutch Borrower) unless, in any such case, such Account is backed by a letter of credit acceptable to the Administrative Agent which is in the possession of, has been assigned to and is directly drawable by the Administrative Agent;

(m) which is owed in any currency (i) other than dollars or Canadian Dollars with respect to the US Loan Parties, or (ii) other than dollars, Euros or Sterling with respect to the European Loan Parties;

(n) which is owed by the government (or any department, agency, public corporation, or instrumentality thereof, excluding states of the United States of America) of any country (other than the United Kingdom) and except to the extent that the subject Account Debtor is the federal government of the United States of America and has complied with the Federal Assignment of Claims Act of 1940, as amended (31 USC. § 3727 et seq. and 41 USC. § 15 et seq.), and any other steps necessary to perfect the Lien of the applicable Collateral Agent in such Account have been complied with to the satisfaction of such applicable Collateral Agent;

(o) which is owed by any Affiliate, employee, officer, director, agent or stockholder of any Loan Party;

(p) [reserved];

(q) which is owed by an Account Debtor or any Affiliate of such Account Debtor to which any Loan Party is indebted, but only to the extent of such indebtedness or is subject to any security, deposit, progress payment, retainage or other similar advance made by or for the benefit of an Account Debtor, in each case to the extent thereof;

(r) which is subject to any counterclaim, deduction, defense, setoff or dispute but only to the extent of any such counterclaim, deduction, defense, setoff or dispute;

(s) which is owed by an Account Debtor located in any jurisdiction which requires filing of a "Notice of Business Activities Report" or other similar report in order to permit such Borrower to seek judicial enforcement in such jurisdiction of payment of such Account, unless such Borrower has filed such report or qualified to do business in such jurisdiction;

(t) with respect to which such Borrower has made any agreement with the Account Debtor for any reduction thereof, other than discounts and adjustments given in the ordinary course of business, or any Account which was partially paid and such Borrower created a new receivable for the unpaid portion of such Account;

(u) which does not comply in all material respects with the requirements of all applicable laws and regulations, whether federal, provincial, territorial, state or local, including without limitation the Federal Consumer Credit Protection Act, the Federal Truth in Lending Act and Regulation Z of the Board;

(v) which is for goods that have been sold under a purchase order or pursuant to the terms of a contract or other agreement or understanding (written or oral) that indicates or purports that any Person other than such Borrower has or has had an ownership interest in such goods, or which indicates any party other than such Borrower as payee or remittance party;

(w) which was created on cash on delivery terms;

(x) which is subject to any limitation on assignments or other security interests (whether arising by operation of law, by agreement or otherwise), unless the applicable Collateral Agent has determined that such limitation is not enforceable;

(y) which is governed by the laws of any jurisdiction other than the United States, any State thereof or the District of Columbia, Canada or any province of Canada (in each case, with respect to an Account Debtor of the Company), England and Wales or Scotland (in each case, with respect to an Account Debtor of any UK Borrower) or the Netherlands (with respect to an Account Debtor of any Dutch Borrower);

(z) in respect of which the Account Debtor is a consumer within applicable consumer protection legislation; or

(aa) which the Administrative Agent in its Permitted Discretion determines may not be paid by reason of the Account Debtor's inability to pay; provided that the Aggregate Availability represented by the Eligible Canadian Accounts in the US Borrowing Base shall not exceed $15,000,000 at any time.

In determining the amount of an Eligible Account, the face amount of an Account may, in the Administrative Agent's Permitted Discretion, be reduced by, without duplication, to the extent not reflected in such face amount, (i) the amount of all accrued and actual discounts, claims, credits or credits pending, promotional program allowances, price adjustments, finance charges or other allowances (including any amount that such Borrower may be obligated to rebate to an Account Debtor pursuant to the terms of any agreement or understanding (written or oral)) and (ii) the aggregate amount of all cash received in respect of such Account but not yet applied by such Loan Party to reduce the amount of such Account. Standards of eligibility may be made more restrictive from time to time solely by the Administrative Agent in the exercise of its Permitted Discretion, with any such changes to be effective three days after delivery of notice thereof to the Borrower Representative and the Lenders.

"Eligible Canadian Account" means any Eligible Account owing to the Company by an Account Debtor organized under the laws of Canada.

"Eligible Canadian Inventory" means any Eligible Inventory owned by the Company which is located in Canada.

"Eligible Credit Card Account Receivable" means any Credit Card Account Receivable that (i) has been earned and represents the bona fide amounts due to a Loan Party from a credit card processor and/or credit card issuer, and in each case originated in the ordinary course of business of the applicable Loan Party and (ii) is not excluded as an Eligible Credit Card Receivable pursuant to any of clauses (a) through (i) below; provided that no Credit Card Accounts Receivable of the Dutch Loan Parties or the UK Loan Parties shall be an "Eligible Credit Card Receivable" prior to the completion of a satisfactory initial field examination inclusive of the Dutch Loan Parties' or UK Loan Parties', as applicable, Credit Card Accounts Receivable. Without limiting the foregoing, to qualify as an Eligible Credit Card Account Receivable, a Credit Card Account Receivable shall indicate no person other than a Loan Party as payee or remittance party. Eligible Credit Card Account Receivable shall not include any Credit Card Account Receivable if:

(a) such Credit Card Account Receivable is not owned by a Loan Party and such Loan Party does not have good or marketable title to such Credit Card Account Receivable;

(b) such Credit Card Account Receivable does not constitute an "Account" (as defined in the UCC) or such Credit Card Account Receivable has been outstanding more than five Business days;

(c) the credit card issuer or credit card processor of the applicable credit card with respect to such Credit Card Account Receivable is the subject of any bankruptcy or insolvency proceedings;

(d) such Credit Card Account Receivable is not a valid, legally enforceable obligation of the applicable credit card issuer with respect thereto;

(e) such Credit Card Account Receivable is not subject to a properly perfected security interest in favor of the Administrative Agent, or is subject to any Lien whatsoever other than Permitted Encumbrances contemplated by the processor agreements and for which appropriate reserves (as determined by the Administrative Agent in its Permitted Discretion) have been established or maintained by the Loan Parties;

(f) such Credit Card Account Receivable does not conform in all material respects to all representations, warranties or other provisions in the Loan Documents or in the credit card agreements relating to such Credit Card Account Receivable;

(g) such Credit Card Account Receivable is subject to risk of set-off, non-collection or not being processed due to unpaid and/or accrued credit card processor fee balances, to the extent of the lesser of the balance of such Credit Card Account Receivable or unpaid credit card processor fees;

(h) such Credit Card Account Receivable is evidenced by "chattel paper" or an "instrument" of any kind unless such "chattel paper" or "instrument" is in the possession of the Administrative Agent, and to the extent necessary or appropriate, endorsed to the Administrative Agent; or

(i) such Credit Card Account Receivable does not meet such other usual and customary eligibility criteria for Credit Card Account Receivables as the Administrative Agent may determine from time to time in its Permitted Discretion.

In determining the amount to be so included in the calculation of the value of an Eligible Credit Card Receivable, the face amount thereof shall be reduced by, without duplication, to the extent not reflected in such face amount, (i) the amount of all customary fees and expenses in connection with any credit card arrangements and (ii) the aggregate amount of all cash received in respect thereof but not yet applied by the applicable Loan Party to reduce the amount of such Eligible Credit Card Account Receivable.

"Eligible Inventory" means, at any time, the Inventory of a Loan Party which in accordance with the terms hereof is eligible as the basis for the extension of Revolving Loans and Swingline Loans and the issuance of Letters of Credit hereunder. Eligible Inventory shall not include any Inventory:

(a) which is not subject to a first priority perfected Lien in favor of the applicable Collateral Agent (for the benefit of the Agents, the Lenders and the Issuing Banks);

(b) which is subject to any Lien other than (i) a Lien in favor of the applicable Collateral Agent (for the benefit of the Agents, the Lenders and the Issuing Banks) and (ii) a Permitted Encumbrance which does not have priority over the Lien in favor of the applicable Collateral Agent (for the benefit of the Agents, the Lenders and the Issuing Banks);

(c) which, in the Administrative Agent's Permitted Discretion, is determined to be slow moving, obsolete, unmerchantable, defective, used, unfit for sale or unacceptable due to age, type, category and/or quantity;

(d) with respect to which any covenant, representation, or warranty contained in this Agreement or any applicable Security Agreement has been breached or is not true and which does not conform to all standards imposed by any Governmental Authority;

(e) in which any Person other than the applicable Loan Party shall (i) have any direct or indirect ownership, interest or title to such Inventory or (ii) be indicated on any purchase order or invoice with respect to such Inventory as having or purporting to have an interest therein;

(f) which is not finished goods or which constitutes work-in-process, raw materials, spare or replacement parts, subassemblies, packaging and shipping material, manufacturing supplies, samples, prototypes, bill-and-hold goods, goods that are returned or marked for return, repossessed goods, defective or damaged goods, goods held on consignment, or goods which are not of a type held for sale in the ordinary course of business;

(g) which is not located in the United States or Canada (in each case, with respect to Inventory owned by the Company), England and Wales or Scotland (in each case, with respect to Inventory owned by any UK Borrower) or the Netherlands (with respect to Inventory owned by any Dutch Borrower) or is in transit with a common carrier from vendors and suppliers other than Eligible LC Inventory;

(h) which is located in any (i) warehouse, cross-docking facility, distribution center, regional distribution center or depot or (ii) any retail store located in a jurisdiction providing for a common law landlord's lien on the personal property of tenants, in each case leased by the applicable Loan Party unless (A) the lessor has delivered to the Administrative Agent a Collateral Access Agreement or (B) a Rent Reserve has been established by the Administrative Agent;

(i) which is located in any third party warehouse or is in the possession of a bailee (other than a third party processor) and is not evidenced by a Document (other than bills of lading to the extent permitted pursuant to paragraph (g) above), unless (i) such warehouseman or bailee has delivered to the Administrative Agent a Collateral Access Agreement and such other documentation as the Administrative Agent may require or (ii) a Rent Reserve has been established by the Administrative Agent;

(j) which is being processed offsite at a third party location or outside processor, or is in-transit to or from said third party location or outside processor;

(l) which is the subject of a consignment by the applicable Loan Party as consignor;

(m) [reserved];

(n) which contains or bears any intellectual property rights licensed to the applicable Loan Party unless the Administrative Agent is satisfied that it may sell or otherwise dispose of such Inventory without (i) the consent of each applicable licensor, (ii) infringing the rights of such licensor, (iii) violating any contract with such licensor, or (iv) incurring any liability with respect to payment of royalties other than royalties incurred pursuant to sale of such Inventory under the current licensing agreement;

(o) which is not reflected in a current perpetual inventory report of such Borrower (unless such Inventory is reflected in a report to the Administrative Agent as "in transit" Inventory and constitutes Eligible LC Inventory); provided that the Inventory of Axidata Inc. and TechDepot which is reflected in the general inventory ledger of such Borrower shall be deemed Eligible Inventory;

(p) for which reclamation rights have been asserted by the seller;

(q) (i) for which any contract relating to such Inventory expressly includes retention of title in favor of the vendor or supplier thereof or (ii) for which any contract relating to such Inventory does not address retention of title and the relevant Loan Party has not represented to the Administrative Agent that there is no retention of title in favor of the vendor or supplier thereof; provided that up to 50% of the value of any Inventory of the type described in clause (ii) shall be deemed Eligible Inventory to the extent applicable Retention of Title Reserves have been established in respect thereof; or

(r) which is Customer-Specific Inventory;

provided, that in determining the value of the Eligible Inventory, such value shall be reduced by, without duplication, any amounts representing (a) Deferred Cash Discounts; (b) Vendor Rebates; (c) costs included in Inventory relating to advertising; (d) the shrink reserve; and (e) the unreconciled discrepancy between the general inventory ledger and the perpetual Inventory ledger, to the extent the general Inventory ledger reflects less Inventory than the perpetual inventory ledger; provided further that the Aggregate Availability represented by the Eligible Canadian Inventory in the US Borrowing Base shall not exceed $25,000,000 at any time.

Standards of eligibility may be made more restrictive from time to time solely by the Administrative Agent in the exercise of its Permitted Discretion, with any such changes to be effective three days after delivery of notice thereof to the Borrower Representative and the Lenders.

"Eligible LC Inventory" means the value of commercial and documentary Letters of Credit issued relating to Inventory that has or will be shipped to a Loan Party's location (as to which, in the case of locations leased by a Loan Party, a Collateral Access Agreement has been obtained, or appropriate Rent Reserves have been taken) and which Inventory (a) is or will be owned by a Loan Party, (b) is fully insured on terms satisfactory to the applicable Collateral Agent, (c) is subject to a first priority Lien upon such goods in favor of the Collateral Agent (except for any possessor Lien upon such goods in the possession of a freight carrier or shipping company securing only the freight charges for the transportation of such goods to such Loan Party and other Permitted Encumbrances), (d) is evidenced or deliverable pursuant to documents, notices, instruments, statements and bills of lading that have been delivered to the applicable Collateral Agent or an agent acting on its behalf, and (e) is otherwise deemed to be "Eligible Inventory" hereunder; provided further that no such Inventory of the Dutch Loan Parties or the UK Loan Parties shall be "Eligible LC Inventory" prior to the completion of a satisfactory initial appraisal of such Inventory of the Dutch Loan Parties' or UK Loan Parties', as applicable; provided further that the Aggregate Availability

represented by the Eligible LC Inventory in the US Borrowing Base, the UK Borrowing Base and the Dutch Borrowing Base, collectively, shall not exceed $100,000,000 at any time. The applicable Collateral Agent shall have the right to establish, modify, or eliminate Reserves against Eligible LC Inventory from time to time in its Permitted Discretion. In addition, the applicable Collateral Agent shall have the right, from time to time, to adjust any of the criteria set forth above and to establish new criteria with respect to Eligible LC Inventory in its Permitted Discretion, subject to the approval of the Administrative Agent in the case of adjustments, new criteria or the elimination of Reserves which have the effect of making more credit available or are otherwise adverse to the Lenders; provided, however, for the avoidance of doubt, no such approval shall be required in the case of any adjustment or the elimination of Reserves caused by operation of the provisions of this Agreement relating to the Aggregate Borrowing Base.

"Eligible Uninvoiced Account Receivable" means, at any time, any Account of any Loan Party that is not invoiced which would be excluded from eligibility as an Eligible Account Receivable solely as a result of the application of clause (c) or clause (g)(ii) in the definition thereof. Eligible Uninvoiced Account Receivable shall not include any Account not invoiced:

(a) which does not relate to delivered goods; and

(b) which is uninvoiced within 30 days of delivery of the goods relating thereto;

provided that the Aggregate Availability represented by the Eligible Uninvoiced Accounts Receivables in the US Borrowing Base, the UK Borrowing Base and the Dutch Borrowing Base, collectively, shall not exceed $75,000,000 at any time.

"EMU Legislation" means the legislative measures of the European Council for the introduction of, changeover to or operation of a single or unified European currency.

"Environmental Laws" means all laws, rules, regulations, codes, ordinances, orders, decrees, judgments, injunctions, notices or binding agreements issued, promulgated or entered into by any Governmental Authority, relating in any way to the environment, preservation or reclamation of natural resources, the management, presence, release or threatened release of any Hazardous Material or to health and safety matters.

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

"Equity Interests" means shares of capital stock, partnership interests, membership interests in a limited liability company, beneficial interests in a trust or other equity ownership interests in a Person, and any warrants, options or other rights entitling the holder thereof to purchase or acquire any such equity interest.

"ERISA" means the Employee Retirement Income Security Act of 1974, as amended from time to time.

"ERISA Affiliate" means any trade or business (whether or not incorporated) that, together with a Borrower, is treated as a single employer under Section 414(b) or (c) of the Code or, solely for purposes of Section 302 of ERISA and Section 412 of the Code, is treated as a single employer under Section 414 of the Code.

"ERISA Event" means (a) any "reportable event", as defined in Section 4043 of ERISA or the regulations issued thereunder with respect to a Plan (other than an event for which the 30 day notice period referred to in Section 4043(c) of ERISA is waived); (b) the existence with respect to any Plan of a non-exempt "prohibited transaction," as defined in Section 406 of ERISA and Section 4975(f)(3) of the Code; (c) any failure of any Plan to satisfy the "minimum funding standard" applicable to such Plan (as such term is defined in Section 412 of the Code or Section 302 of ERISA), whether or not waived; (d) the filing pursuant to Section 412(d) of the Code or Section 303(d) of ERISA of an application for a waiver of the minimum funding standard with respect to any Plan, the failure to make by its due date a required installment under Section 412(m) of the Code with respect to any Plan or the failure of any Loan Party or ERISA Affiliate to make any required contribution to any Multiemployer Plan; (e) the incurrence by any Loan Party or any ERISA Affiliate of any liability under Title IV of ERISA with respect to the termination of any Plan including, without limitation, the imposition of any Lien in favor of the PBGC or any Plan; (f) the receipt by any Loan Party or any ERISA Affiliate from the PBGC or a Plan administrator of any notice relating to an intention to terminate any Plan or Plans or to appoint a trustee to administer any Plan under Section 4042 of ERISA; (g) a determination that any Plan is, or is expected to be, in "at risk" status (within the meaning of Title IV of ERISA); (h) the incurrence by any Loan Party or any of its ERISA Affiliates of any liability with respect to the withdrawal or partial withdrawal from any Plan or Multiemployer Plan; or (i) the receipt by any Loan Party or any ERISA Affiliate of any notice, or the receipt by any Multiemployer Plan from any Loan Party or any ERISA Affiliate of any notice, concerning the imposition of Withdrawal Liability or a determination that a Multiemployer Plan is, or is expected to be, insolvent or in reorganization, within the meaning of Title IV of ERISA or in endangered or critical status within the meaning of Section 432 of the Code or Section 305 or Title IV of ERISA.

"Euro" or "€" refers to the single currency of the Participating Member States.

"Eurocurrency" when used in reference to any Loan or Borrowing, refers to whether such Loan, or the Loans comprising such Borrowing, are bearing interest at a rate determined by reference to the Adjusted LIBO Rate.

"European Administrative Agent" means JPMorgan Chase Bank, N.A., London Branch, and its successors and assigns in such capacity (or such of its Affiliates as it may designate from time to time).

"European Availability" means an amount equal to the lesser of (a) the European Sublimit and (b) the European Borrowing Base *minus* the total Revolving Exposure relating to the European Borrowers.

"European Borrower" means, individually and collectively, any UK Borrower, any Dutch Borrower, the Irish Borrower and the Luxembourg Borrower.

"European Borrowing Base" means the sum of the UK Borrowing Base and the Dutch Borrowing Base.

"European Collateral Agent" means JPMorgan Chase Bank, N.A., London Branch, in its capacity as security trustee for itself, the Administrative Agent, the Issuing Banks and the Lenders, and its successors in such capacity (or such of its Affiliates as it may designate from time to time).

"European Full Cash Dominion Period" means any Minimum European Availability Period or any Total Full Cash Dominion Period; provided that a European Full Cash Dominion Period may be discontinued no more than twice in any period of twelve consecutive months.

"European Group" means, collectively, the European Borrowers and their Subsidiaries.

"European Letter of Credit" means any letter of credit or similar instrument (including a bank guarantee) acceptable to the applicable Issuing Bank issued for the purpose of providing credit support to a European Borrower.

"European Loan Parties" means, individually and collectively, the Dutch Loan Parties, the Irish Loan Parties, the Luxembourg Loan Parties, the UK Loan Parties and any other Loan Party that is organized in a member State of the European Union.

"European Loans" means, individually and collectively, the European Revolving Loans, the European Swingline Loans and the European Protective Advances.

"European Protective Advance" has the meaning assigned to such term in Section 2.04.

"European Revolving Loan" means a Revolving Loan made to a European Borrower.

"European Sublimit" means, at all times prior to the termination of the European Sublimit in accordance with Section 2.09, an amount equal to the Facility B Commitments then in effect.

"European Swingline Lender" means J.P. Morgan Europe Limited, in its capacity as lender of European Swingline Loans hereunder, and its successors and assigns in such capacity.

"European Swingline Loan" means a Swingline Loan made to a European Borrower.

"Events of Default" has the meaning assigned to such term in Article VII.

"Excluded Taxes" means, with respect to the Administrative Agent, the European Administrative Agent, either Collateral Agent, any Lender, any Issuing Bank or any other recipient of any payment to be made by or on account of any obligation of any Loan Party hereunder or any other Loan Document, (a) any Other Connection Taxes, (b) U.S. federal withholding Tax imposed by a Requirement of Law in effect at the time a Foreign Lender (other than an assignee under Section 2.19(b)) becomes a party hereto (or designates a new lending office), with respect to any payment made by or on account of any obligation of a US Borrower to such Foreign Lender, except to the extent that such Foreign Lender (or its assignor, if any) was entitled, at the time of designation of a new lending office (or assignment), to receive additional amounts with respect to such withholding Tax under clause (a) of Section 2.17, or (c) Taxes attributable to a Lender's failure to comply with Section 2.17(i).

"Existing Letters of Credit" means the letters of credit referred to on Schedule 2.06 hereto.

"Existing 2013 Senior Notes" means the Company's existing 6.25% senior notes due 2013.

"Facility", when used in reference to any Loan or Borrowing, refers to whether such Loan, or the Loans comprising such Borrowing, are Facility A Loans or Facility B Loans.

"Facility A" means the Facility A Commitments and the extensions of credit made thereunder.

"Facility A Commitment" means, with respect to each Facility A Lender, the commitment, if any, of such Lender to make Facility A Revolving Loans and to acquire participations in Facility A Letters of Credit, Facility A Protective Advances and Facility A Swingline Loans, expressed as an amount representing the maximum possible aggregate amount of such Lender's Facility A Revolving Exposure hereunder, as such commitment may be reduced or increased from time to time pursuant to (a) Section 2.09 and (b) assignments by or to such Lender pursuant to Section 9.04. The initial amount of each Lender's Facility A Commitment is set forth on the Commitment Schedule, or in the Assignment and Assumption pursuant to which such Lender shall have assumed its Facility A Commitment, as applicable. The initial aggregate amount of the Lenders' Facility A Commitments is $1,000,000,000.

"Facility A LC Exposure" means, at any time, the sum of (a) the aggregate undrawn amount of all outstanding Facility A Letters of Credit at such time for the account of the Company *plus* (b) the aggregate amount of all LC Disbursements in respect of Facility A Letters of Credit that have not yet been reimbursed by or on behalf of the Company at such time. The Facility A LC Exposure of any Lender at any time shall be its Applicable Percentage of the total Facility A LC Exposure at such time.

"Facility A Lenders" means the Persons listed on the Commitment Schedule as having a Facility A Commitment and any other Person that shall acquire a Facility A Commitment pursuant to an Assignment and Assumption, other than any such Person that ceases to be a party hereto pursuant to an Assignment and Assumption.

"Facility A Letter of Credit" means any letter of credit or similar instrument (including a bank guarantee) that is (a) acceptable to the applicable Issuing Bank and (b) issued pursuant to Facility A for the purpose of providing credit support to the Company.

"Facility A Loans" means, individually and collectively, the Facility A Revolving Loans, the Facility A Swingline Loans and the Facility A Protective Advances.

"Facility A Obligations" means all unpaid principal of and accrued and unpaid interest on the Facility A Loans (or which would have accrued but for the commencement of any bankruptcy, insolvency, receivership or similar proceeding, regardless of whether allowed or allowable in such proceeding), all Facility A LC Exposure, all accrued and unpaid fees and all expenses, reimbursements, indemnities and other obligations of the Loan Parties to the Facility A Lenders or to any Facility A Lender, the Administrative Agent, any Issuing Bank in respect of a Facility A Letter of Credit or any indemnified party arising under the Loan Documents.

"Facility A Protective Advance" has the meaning assigned to such term in Section 2.04.

"Facility A Revolving Exposure" means, with respect to any Facility A Lender at any time, the sum of the outstanding principal amount of such Lender's Facility A Revolving Loans and its Facility A LC Exposure *plus* an amount equal to its Applicable Percentage of the aggregate principal amount of Facility A Swingline Loans outstanding at such time.

"Facility A Revolving Loans" has the meaning assigned to such term in Section 2.01.

"Facility A Swingline Loan" has the meaning assigned to such term in Section 2.05(a)(i).

"Facility A Swingline Sublimit" means $125,000,000.

"Facility B" means the Facility B Commitments and the extensions of credit made thereunder.

"Facility B Borrower" means, individually and collectively, the Company (in its capacity as a Borrower under Facility B) and the European Borrowers.

"Facility B Commitment" means, with respect to each Facility B Lender, the commitment, if any, of such Lender to make Facility B Revolving Loans and to acquire participations in Facility B Letters of Credit, Facility B Protective Advances and Facility B Swingline Loans, expressed as an amount representing the maximum possible aggregate amount of such Lender's Facility B Revolving Exposure hereunder, as such commitment may be reduced or increased from time to time pursuant to (a) Section 2.09 and (b) assignments by or to such Lender pursuant to Section 9.04. The initial amount of each Lender's Facility B Commitment is set forth on the Commitment Schedule, or in the Assignment and Assumption pursuant to which such Lender shall have assumed its Facility B Commitment, as applicable. The initial aggregate amount of the Lenders' Facility B Commitments is $250,000,000.

"Facility B LC Exposure" means, at any time, the sum of (a) the aggregate undrawn amount of all outstanding Facility B Letters of Credit at such time *plus* (b) the aggregate amount of all LC Disbursements in respect of Facility B Letters of Credit that have not yet been reimbursed by or on behalf of a Facility B Borrower at such time. The Facility B LC Exposure of any Lender at any time shall be its Applicable Percentage of the total Facility B LC Exposure at such time.

"Facility B Lenders" means the Persons listed on the Commitment Schedule as having a Facility B Commitment and any other Person that shall acquire a Facility B Commitment pursuant to an Assignment and Assumption, other than any such Person that ceases to be a party hereto pursuant to an Assignment and Assumption.

"Facility B Letter of Credit" means any letter of credit or similar instrument (including a bank guarantee) issued under this Agreement that is (a) acceptable to the applicable Issuing Bank and (b) issued pursuant to Facility B for the purpose of providing credit support to a Facility B Borrower.

"Facility B Loans" means, individually and collectively, the Facility B Revolving Loans, the Facility B Swingline Loans and the Facility B Protective Advances.

"Facility B Obligations" means all unpaid principal of and accrued and unpaid interest on the Facility B Loans (or which would have accrued but for the commencement of any bankruptcy, insolvency, receivership or similar proceeding, regardless of whether allowed or allowable in such proceeding), all Facility B LC Exposure, all accrued and unpaid fees and all expenses, reimbursements, indemnities and other obligations of the Loan Parties to the Facility B Lenders or to any Facility B Lender, the Administrative Agent, the Issuing Bank or any indemnified party arising under the Loan Documents.

"Facility B Protective Advances" means, collectively, the European Protective Advances and the Facility B US Protective Advances.

"Facility B Revolving Exposure" means, with respect to any Facility B Lender at any time, the sum of the outstanding principal amount of such Lender's Facility B Revolving Loans and its Facility B LC Exposure *plus* an amount equal to its Applicable Percentage of the aggregate principal amount of Facility B Swingline Loans outstanding at such time.

"Facility B Revolving Loans" has the meaning assigned to such term in Section 2.01.

"Facility B Swingline Loans" means, collectively, the European Swingline Loans and the Facility B US Swingline Loans.

"Facility B Swingline Sublimit" means $25,000,000.

"Facility B US Protective Advance" has the meaning assigned to such term in Section 2.04.

"Facility B US Swingline Loan" has the meaning assigned to such term in Section 2.05(a)(ii).

"Federal Funds Effective Rate" means, for any day, the weighted average (rounded upwards, if necessary, to the next 1/100 of 1%) of the rates on overnight Federal funds transactions with members of the Federal Reserve System arranged by Federal funds brokers, as published on the next succeeding Business Day by the Federal Reserve Bank of New York, or, if such rate is not so published for any day that is a Business Day, the average (rounded upwards, if necessary, to the next 1/100 of 1%) of the quotations for such day for such transactions received by the Administrative Agent from three Federal funds brokers of recognized standing selected by it.

"Financial Officer" means the chief financial officer, principal accounting officer, senior vice president – finance, treasurer or controller of a Borrower.

"Financial Support Direction" means a financial support direction issued by the Pensions Regulator pursuant to Section 43 of the UK Pensions Act 2004.

"Fixed Charges" means, with reference to any period, without duplication, cash Interest Expense, *plus* *Rentals*, *plus* scheduled principal payments on Indebtedness made during such period, *plus* dividends or distributions paid in cash, *plus* Capital Lease Obligation payments, *plus* cash contributions to any Plan, all calculated for the Company and its Subsidiaries on a consolidated basis; provided that for purposes of calculating the Fixed Charge Coverage Ratio, Fixed Charges for the fiscal quarters ending December 29, 2007, March 29, 2008 and June 28, 2008 shall be deemed to be $143,819,000, $152,895,000 and $139,142,000, respectively.

"Fixed Charge Coverage Ratio" means, the ratio, determined as of the end of each fiscal quarter of the Company for the most-recently ended four fiscal quarters, of (a) EBITDAR *minus* the unfinanced portion of Capital Expenditures *minus* taxes paid in cash net of refunds, to (b) Fixed Charges, all calculated for the Company and its Subsidiaries on a consolidated basis in accordance with GAAP.

"Floating Charge Reserve" means reserves for taxes, fees, expenses or claims with respect to the Collateral or any European Loan Party including with respect to any Prior Claims.

"Foreign Benefit Arrangements" means any employee benefit arrangement mandated by non-US law that is maintained or contributed to by any Loan Party.

"Foreign Lender" means any Lender or Issuing Bank, (a) with respect to any Borrower other than a US Borrower and any Tax, that is treated as foreign by the jurisdiction imposing such Tax, (b) with respect to any US Borrower, (1) that, is not a "US person" as defined by section 7701(a)(30) of the Code ("US Person"), or (2) any Lender that is a partnership or other entity treated as a partnership for United States federal income tax purposes which is a US Person, but only to the extent the beneficial owners (including indirect partners if its direct partners are partnerships or other entities treated as partnerships for United States federal income tax purposes are US Persons) are not US Persons.

"Foreign Plan" means each employee benefit plan (within the meaning of Section 3(3) of ERISA, whether or not subject to ERISA) that is not subject to US law, including for the avoidance of doubt the UK Pension Scheme, and is maintained or contributed to by any Loan Party.

"Foreign Reorganization" means the corporate reorganization of certain Foreign Subsidiaries as described on Schedule 1.01(b).

"Foreign Subsidiary" means any Subsidiary organized under the laws of any jurisdiction other than a jurisdiction within the United States.

"Full Cash Dominion Period" means, individually and collectively, any Total Full Cash Dominion Period or any European Full Cash Dominion Period.

"Funding Accounts" has the meaning assigned to such term in Section 4.01(h).

"GAAP" means generally accepted accounting principles in the United States.

"Global Headquarters" means the Company's global headquarters to be located in the Arvida Park of Commerce in Boca Raton, Florida.

"Governmental Authority" means the government of the United States, the United Kingdom, the Netherlands, Ireland, Luxembourg or any other nation or any political subdivision thereof, whether state, provisional, territorial or local; the European Central Bank, the Council of Ministers of the European Union or any other supranational body; and any agency, authority, instrumentality, regulatory body, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government.

"Guarantee" of or by any Person (the "guarantor") means any obligation, contingent or otherwise, of the guarantor guaranteeing or having the economic effect of guaranteeing any Indebtedness or other obligation of any other Person (the "primary obligor") in any manner, whether directly or indirectly, and including any obligation of the guarantor, direct or indirect, (a) to purchase or pay (or advance or supply funds for the purchase or payment of) such Indebtedness or other obligation or to purchase (or to advance or supply funds for the purchase of) any security for the payment thereof, (b) to purchase or lease property, securities or services for the purpose of assuring the owner of such Indebtedness or other obligation of the payment thereof, (c) to maintain working capital, equity capital or any other financial statement condition or liquidity of the primary obligor so as to enable the primary obligor to pay such Indebtedness or other obligation or (d) as an account party in respect of any letter of credit or letter of guaranty issued to support such Indebtedness or other obligation; provided, that the term Guarantee shall not include endorsements for collection or deposit in the ordinary course of business.

"Guaranteed Obligations" has the meaning assigned to such term in Section 10.01.

"Guaranteed Parties" has the meaning assigned to such term in Section 10.01.

"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.

"High Season" means all times other than Low Season.

"Immaterial Subsidiary" means, at any date, any Subsidiary of the Company that, together with its consolidated Subsidiaries, (i) does not, as of the most recently ended Test Period, have assets with a value in excess of 2.5% of the consolidated total assets of the Company and its consolidated Subsidiaries and (ii) did not, during the most recently ended Test Period, have revenues exceeding 2.5% of the total revenues of the Company and its consolidated Subsidiaries; provided that, the aggregate assets or revenues of all Immaterial Subsidiaries, determined in accordance with GAAP, may not exceed 5.0% of consolidated assets or consolidated revenues, respectively, of the Company and its consolidated Subsidiaries, collectively, at any time (and the Borrower Representative will designate in writing to the Administrative Agent from time to time the Subsidiaries which will cease to be treated as "Immaterial Subsidiaries" in order to comply with the foregoing limitation).

"Indebtedness" of any Person means, without duplication, (a) all obligations of such Person for borrowed money or with respect to deposits or advances of any kind, (b) all obligations of such Person evidenced by bonds, debentures, notes or similar instruments, (c) all obligations of such Person upon which interest charges are customarily paid, (d) all obligations of such Person under conditional sale or other title retention agreements relating to property acquired by such Person, (e) all obligations of such Person in respect of the deferred purchase price of property or services (excluding current accounts payable incurred in the ordinary course of business), (f) all Indebtedness of others secured by (or for which the holder of such Indebtedness has an existing right, contingent or otherwise, to be secured by) any Lien on property owned or acquired by such Person, whether or not the Indebtedness secured thereby has been assumed, (g) all Guarantees by such Person of Indebtedness of others, (h) all Capital Lease Obligations of such Person, (i) all obligations, contingent or otherwise, of such Person as an account party in respect of letters of credit and letters of guaranty for Indebtedness, (j) all obligations, contingent or otherwise, of such Person in respect of bankers' acceptances, (k) obligations under any liquidated earn-out and (l) any other Off-Balance Sheet Liability. The Indebtedness of any Person shall include the Indebtedness of any other entity (including any partnership in which such Person is a general partner) to the extent such Person is liable therefor as a result of such Person's ownership interest in or other relationship with such entity, except to the extent the terms of such Indebtedness provide that such Person is not liable therefor.

"Indemnified Taxes" means Taxes other than Excluded Taxes.

"Indemnitee" has the meaning assigned to such term in Section 9.03(b).

"Information" has the meaning assigned to such term in Section 9.12.

"Insolvency Laws" means each of the Bankruptcy Code, the UK Insolvency Act 1986, the Council Regulation 1346/2000/EC on insolvency proceedings (European Union), and any other applicable state, provincial, territorial or federal bankruptcy laws, each as now and hereafter in effect, any successors to such statutes and any other applicable insolvency or other similar law of any jurisdiction, including any law of any jurisdiction permitting a debtor to obtain a stay or a compromise of the claims of its creditors against it and including any rules and regulations pursuant thereto. In relation to Luxembourg law, Insolvency Laws means (i) insolvency proceedings (*faillite*) within the meaning of Articles 437 ff. of the Luxembourg

Commercial Code or any other insolvency proceedings pursuant to the Council Regulation (EC) N° 1346/2000 of May 29, 2000 on insolvency proceedings, (ii) controlled management (*gestion contrôlée*) within the meaning of the grand ducal regulation of May 24, 1935 on controlled management, (iii) voluntary arrangement with creditors (*concordat préventif de faillite*) within the meaning of the law of April 14, 1886 on arrangements to prevent insolvency, as amended, (iv) suspension of payments (*sursis de paiement*) within the meaning of Articles 593 ff. of the Luxembourg Commercial Code or (v) voluntary or compulsory winding-up pursuant to the law of August 10, 1915 on commercial companies, as amended. In relation to Irish law, Insolvency Laws means winding up or liquidation and examinership under the Irish Companies Acts 1963-2006.

"Intellectual Property" means, individually and collectively, trademarks, service marks, tradenames, copyrights, patents, trade secrets, industrial designs, internet domain names and other intellectual property, including any applications and registrations pertaining thereto and with respect to trademarks, service marks and tradenames, the goodwill of the business symbolized thereby and connected with the use thereof.

"Interest Election Request" means a request by the Borrower Representative to convert or continue a Borrowing of Revolving Loans in accordance with Section 2.08.

"Interest Expense" means, with reference to any period, total interest expense (including that attributable to Capital Lease Obligations) of the Company and its Subsidiaries for such period with respect to all outstanding Indebtedness of the Company and its Subsidiaries (including all commissions, discounts and other fees and charges owed with respect to letters of credit and bankers' acceptance financing and net costs under Swap Agreements in respect of interest rates to the extent such net costs are allocable to such period in accordance with GAAP), calculated on a consolidated basis for the Company and its Subsidiaries for such period in accordance with GAAP.

"Interest Payment Date" means (a) with respect to any ABR Loan or Overnight LIBO Loan (other than, in each case, a Swingline Loan), the last day of each calendar quarter and the Maturity Date, and (b) with respect to any Eurocurrency Loan, the last day of the Interest Period applicable to the Borrowing of which such Loan is a part and, in the case of a Eurocurrency Borrowing with an Interest Period of more than three months' duration, each day prior to the last day of such Interest Period that occurs at intervals of three months' duration after the first day of such Interest Period and the Maturity Date.

"Interest Period" means with respect to any Eurocurrency Borrowing, the period commencing on the date of such Borrowing and ending on the numerically corresponding day in the calendar month that is one, two, three or six months (or, with the consent of each Lender, nine or 12 months) thereafter, as the Borrower Representative may elect; provided, that (i) if any Interest Period would end on a day other than a Business Day, such Interest Period shall be extended to the next succeeding Business Day unless, in the case of a Eurocurrency Borrowing only, such next succeeding Business Day would fall in the next calendar month, in which case such Interest Period shall end on the next preceding Business Day and (ii) any Interest Period pertaining to a Eurocurrency Borrowing that commences on the last Business Day of a calendar month (or on a day for which there is no numerically corresponding day in the last calendar month of such Interest Period) shall end on the last Business Day of the last calendar month of such Interest Period. For purposes hereof, the date of a Borrowing initially shall be the date on which such Borrowing is made, and thereafter shall be the effective date of the most recent conversion or continuation of such Borrowing.

"Inventory" means, individually and collectively, "Inventory", as referred to in any Security Agreement.

"Inventory Deadline Date" has the meaning assigned to such term in Section 5.16.

"Irish Borrower" means Viking Finance (Ireland) Ltd., a company incorporated under the laws of Ireland.

"Irish Loan Party" means, individually and collectively, any Loan Party (including the Irish Borrower) incorporated under and falling under the jurisdiction of the laws of Ireland.

"Irish Security Agreement" means that certain charge over bank accounts, dated as of the date hereof, between the Irish Borrower and the European Collateral Agent, as the same may be amended, restated or otherwise modified from time, and any other charge or security agreement entered into, after the date of this Agreement, by any other Irish Loan Party (as required by this Agreement or any other Loan Document for the purpose of creating a Lien on the property of any Irish Loan Party (or any other property located in Ireland)), as the same may be amended, restated or otherwise modified from time to time.

"Issuing Bank" means, individually and collectively, JPMorgan Chase Bank, N.A., Bank of America, N.A., Citibank, N.A. and Wachovia Bank, National Association, N.A., together with any other Lenders acceptable to the Administrative Agent, each in its capacity of the issuer of Letters of Credit and its successors in such capacity as provided in Section 2.06(i). Any Issuing Bank may, in its discretion, arrange for one or more Letters of Credit to be issued by Affiliates of such Issuing Bank, in which case the term "Issuing Bank" shall include any such Affiliate with respect to Letters of Credit issued by such Affiliate.

"Joinder Agreement" has the meaning assigned to such term in Section 5.14.

"JPMCB" means JPMorgan Chase Bank, N.A., a national banking association, in its individual capacity, and its successors.

"LC Collateral Account" has the meaning assigned to such term in Section 2.06(j).

"LC Disbursement" means a payment made by an Issuing Bank pursuant to a Letter of Credit.

"LC Exposure" means, at any time, the sum of the Facility A LC Exposure and the Facility B LC Exposure.

"LC Sublimit" $400,000,000; provided that the aggregate LC Exposure in respect of standby Letters of Credit shall not exceed $200,000,000.

"Lenders" means the Facility A Lenders and the Facility B Lenders. Unless the context otherwise requires, the term "Lenders" includes the Swingline Lenders.

"Letter of Credit" means, individually and collectively, each Facility A Letter of Credit and each Facility B Letter of Credit.

"Letter of Credit Request" has the meaning assigned to such term in Section 2.06(a).

"LIBO Rate" means, with respect to any Eurocurrency Borrowing for any Interest Period, the rate appearing on the applicable Reuters Screen (or on any successor or substitute page of such Service, or any successor to or substitute for such Service, providing rate quotations comparable to those currently provided on such page of such Service, as determined by the Administrative Agent or the European Administrative Agent, as applicable, from time to time for purposes of providing quotations of interest rates applicable to deposits in the relevant currency in the London interbank market) at approximately 11:00 a.m., London time, on the Quotation Day, as the rate for deposits in the relevant currency with a maturity comparable to such Interest Period. In the event that such rate is not available at such time for any reason, then the "LIBO Rate" with respect to such Eurocurrency Borrowing for such Interest Period shall be the rate at which deposits in the relevant currency of $5,000,000 (or the Dollar Equivalent thereof) and for a maturity comparable to such Interest Period are offered by the principal London office of the Administrative Agent in immediately available funds in the London interbank market at approximately 11:00 a.m., London time on the Quotation Day.

"Lien" means, with respect to any asset, (a) any mortgage, deed of trust, lien, pledge, hypothecation, encumbrance, charge or security interest in, on or of such asset, (b) the interest of a vendor or a lessor under any conditional sale agreement, capital lease or title retention agreement (or any financing lease having substantially the same economic effect as any of the foregoing) relating to such asset and (c) in the case of securities, any purchase option, call or similar right of a third party with respect to such securities.

"Loan Documents" means this Agreement, any promissory notes issued pursuant to the Agreement, any Letter of Credit applications, the Collateral Documents, the Loan Guaranty and all other agreements, instruments, documents and certificates identified in Section 4.01 executed and delivered to, or in favor of, the Administrative Agent, either Collateral Agent or any Lenders and including all other pledges, powers of attorney, consents, assignments, contracts, notices, letter of credit agreements and all other written matter whether heretofore, now or hereafter executed by or on behalf of any Loan Party, or any employee of any Loan Party, and delivered to the Administrative Agent, either Collateral Agent or any Lender in connection with the Agreement or the transactions contemplated thereby. Any reference in the Agreement or any other Loan Document to a Loan Document shall include all appendices, exhibits or schedules thereto, and all amendments, restatements, supplements or other modifications thereto, and shall refer to the Agreement or such Loan Document as the same may be in effect at any and all times such reference becomes operative.

"Loan Guarantor" means (a) each US Loan Party, with respect to the Obligations of the US Loan Parties, and (b) each Loan Party, with respect to the Obligations of the European Loan Parties.

"Loan Guaranty" means Article X of this Agreement and each separate guaranty, to the extent that such guaranty is permissible under the laws of the country in which the applicable Foreign Subsidiary party to such guaranty is located, in form and substance satisfactory to the Administrative Agent, delivered by each Loan Guarantor that is a Foreign Subsidiary (which guaranty shall be governed by the laws of the country in which such Foreign Subsidiary is located if the Administrative Agent requests that such law govern such guaranty), as it may be amended or modified and in effect from time to time.

"Loan Parties" means the Company, the other Borrowers, the Company's domestic Subsidiaries (other than Immaterial Subsidiaries) and any other Person who becomes a party to this Agreement pursuant to a Joinder Agreement or executes a separate Loan Guaranty and their respective successors and assigns; provided until such time as the actions described in Section 5.16(b) shall have been completed, the Luxembourg Borrower shall not be deemed to be a Loan Party.

"Loans" means the loans and advances made by the Lenders pursuant to this Agreement, including Revolving Loans, Swingline Loans and Protective Advances.

"Local Time" means, (a) local time in London with respect to the times for the receipt of Borrowing Requests for European Revolving Loans, European Swingline Loans and European Letter of Credit Requests to an Issuing Bank, of any disbursement by the European Administrative Agent of European Revolving Loans, European Swingline Loans and European Protective Advances and for payment by the Borrowers with respect to European Revolving Loans, European Swingline Loans and European Protective Advances and reimbursement obligations in respect of European Letters of Credit, (b) local time in New York, with respect to the times for the determination of "Dollar Equivalent", for the receipt of Borrowing Requests of US Revolving Loans, US Swingline Loans, US Protective Advances, US Letter of Credit Requests to an Issuing Bank, for receipt and sending of notices by and disbursement by the Administrative Agent or any Lender and any Issuing Bank and for payment by the Borrowers with respect to US Revolving Loans, US Swingline Loans, US Protective Advances and reimbursement obligations in respect of US Letters of Credit, (c) local time in London, with respect to the times for the determination of "LIBO Rate" and "Overnight LIBO Rate", (d) otherwise, if a place for any determination is specified herein, the local time at such place of determination and (e) otherwise, New York time.

"Low Season" means for any period of determination of any Borrowing Base, any period identified by an appraiser selected and engaged by the Administrative Agent as a low selling period or similar term in the most recent appraisal ordered by the Administrative Agent.

"LSC" has the meaning assigned to such term in Section 5.15.

"Luxembourg" means the Grand Duchy of Luxembourg.

"Luxembourg Borrower" means OD International (Luxembourg) Finance S.À R.L., a private limited liability company (a *société à responsabilité limitée*) incorporated under the laws of Luxembourg, having its registered office at 6C, Parc d'Activités Syrdall, L-5365 Munsbach and registered with the Luxembourg Trade and Companies Register under number B 93.853.

"Luxembourg Loan Party" means, individually and collectively, any Loan Party (including the Luxembourg Borrower) organized under the laws of Luxembourg.

"Luxembourg Security Agreement" means that certain Luxembourg law pledge agreement over bank accounts, dated as of the date hereof, between the Luxembourg Borrower and the European Collateral Agent, as the same may be amended, restated or otherwise modified from time to time, and any other Luxembourg law pledge agreement or security agreement entered into, after the date of this Agreement, by any other Luxembourg Loan Party (as required by this Agreement or any other Loan Document for the purpose of creating a Lien on the property of any Luxembourg Loan Party (or any other property located in Luxembourg)), as the same may be amended, restated or otherwise modified from time to time.

"Mandatory Cost" means, with respect to any period, the percentage rate per annum determined in accordance with Schedule 1.01(c).

"Margin Stock" means "margin stock", as such term is defined in Regulation U of the Board.

"Material Adverse Effect" means a material adverse effect on (a) the business, assets, operations, prospects or condition, financial or otherwise, of the Loan Parties, taken as a whole, (b) the ability of any Loan Party to perform any of its obligations under the Loan Documents to which it is a party, (c) the Collateral, either Collateral Agent's Lien (for the benefit of the Agents, the Lenders and the Issuing Banks) on the Collateral, on the Collateral or the priority of such Liens, or (d) the rights of or benefits available to the Administrative Agent, either Collateral Agent, any Issuing Bank or the Lenders thereunder.

"Material Indebtedness" means Indebtedness (other than the Loans and Letters of Credit), or obligations in respect of one or more Swap Agreements, of any one or more of the Company and its Subsidiaries in an aggregate principal amount exceeding $25,000,000. For purposes of determining Material Indebtedness, the "obligations" of any Borrower or any Subsidiary in respect of any Swap Agreement at any time shall be the maximum aggregate amount (giving effect to any netting agreements) that such Borrower or such Subsidiary would be required to pay if such Swap Agreement were terminated at such time.

"Maturity Date" means the earliest to occur of (i) September 26, 2013, (ii) in the event any of the Existing 2013 Notes remain outstanding, February 15, 2013 or (iii) any earlier date on which the Commitments are reduced to zero or otherwise terminated pursuant to the terms hereof.

"Maximum Liability" has the meaning assigned to such term in Section 10.11.

"Maximum Rate" has the meaning assigned to such term in Section 9.17.

"Mexican Joint Venture" means Office Depot Mexico S.A., an entity organized under the Republic of Mexico.

"Minimum Aggregate Availability Period" means (including by reference to the Levels described below), any period (a) commencing when Aggregate Availability is less than the greater of:

Level 1:	(i) $156,250,000 and (ii) an amount equal to 12.5% of the Commitments then in effect;
Level 2:	(i) $187,500,000 and (ii) an amount equal to 15% of the Commitments then in effect, but more than Level 1;
Level 3:	(i) $218,750,000 and (ii) an amount equal to 17.5% of the Commitments then in effect, but more than Level 1 and Level 2; and
Level 4:	(i) $312,500,000 and (ii) an amount equal to 25% of the Commitments then in effect, but more than Level 1, Level 2 and Level 3.
Level 5:	(i) $500,000,000 and (ii) an amount equal to 40% of the Commitments then in effect, but more than Level 1, Level 2, Level 3 and Level 4.

for five consecutive days (or immediately, in the case of Level 1) and (b) ending after Aggregate Availability is greater than the amounts set forth above (with respect to the applicable Level) for 30 consecutive days (or 60 consecutive days when used in reference to any Full Cash Dominion Period). For the avoidance of doubt, at any time that Aggregate Availability is equal to or greater than the amounts set forth in Level 2, Level 3, Level 4 or Level 5 above, Aggregate Availability shall also be deemed to be greater than the applicable Level(s) below such Level of Aggregate Availability and each Minimum Aggregate Availability Period Level shall include each lesser Level.

"Minimum European Availability Period" means any period (a) commencing when European Availability is less than the greater of (i) $37,500,000 and (ii) an amount equal to 15% of the European Sublimit then in effect for two Business Days and (b) ending (solely with respect to any European Full Cash Dominion Period then in effect) after European Availability is greater than the amounts set forth above (with respect to the applicable Level) for 60 consecutive days.

"Moody's" means Moody's Investors Service, Inc.

"Multiemployer Plan" means a multiemployer plan as defined in Section 4001(a)(3) of ERISA.

"Net Income" means, for any period, the consolidated net income (or loss) of the Company and its Subsidiaries, determined on a consolidated basis in accordance with GAAP; provided that there shall be excluded (a) the income (or deficit) of any Person accrued prior to the date it becomes a Subsidiary or is merged into or consolidated with the Company or any of its Subsidiaries, (b) the income (or deficit) of any Person (other than a Subsidiary) in which the Company or any of its Subsidiaries has an ownership interest, except to the extent that any such income is actually received by the Company or such Subsidiary in the form of dividends or similar distributions and (c) the undistributed earnings of any Subsidiary to the extent that the declaration or payment of dividends or similar distributions by such Subsidiary is not at the time permitted by the terms of any contractual obligation (other than under any Loan Document) or Requirement of Law applicable to such Subsidiary.

"Net Orderly Liquidation Value" means, with respect to Inventory, equipment or intangibles of any Person, the orderly liquidation value thereof as determined in a manner acceptable to the Administrative Agent by an appraiser acceptable to the Administrative Agent, net of all costs of liquidation thereof.

"Netherlands" means the Kingdom of the Netherlands.

"Non-Consenting Lender" has the meaning assigned to such term in Section 9.02(d).

"Non-Funding Lender" has the meaning assigned to such term in Section 2.07(b).

"Non-Paying Guarantor" has the meaning assigned to such term in Section 10.12.

"Obligated Party" has the meaning assigned to such term in Section 10.02.

"Obligations" means the Facility A Obligations and the Facility B Obligations.

"Off-Balance Sheet Liability" of a Person means (a) any repurchase obligation or liability of such Person with respect to accounts or notes receivable sold by such Person, (b) any indebtedness, liability or obligation under any so-called "synthetic lease" transaction entered into by such Person, or (c) any indebtedness, liability or obligation arising with respect to any other transaction which is the functional equivalent of or takes the place of borrowing but which does not constitute a liability on the balance sheets of such Person (other than operating leases).

"Other Connection Taxes" means, with respect to the Administrative Agent, the European Administrative Agent, either Collateral Agent, any Lender, any Issuing Bank or any other recipient of any payment to be made by or on account of any obligation of any Loan Party hereunder or under any other Loan Document, Taxes imposed as a result of a present or former connection between such recipient and the jurisdiction imposing such Tax (other than connections arising from such recipient having executed, delivered, or become a party to, performed its obligations or received payments under, received or perfected a security interest under, sale or assignment of an interest in any Loan or Loan Document, engaged in any other transaction pursuant to, or enforced, any Loan Documents).

"Other Taxes" means all present or future stamp, court or documentary Taxes and any other excise, property, intangible, recording, filing or similar Taxes which arise from any payment made under, from the execution, delivery, performance, enforcement or registration of, or from the receipt or perfection of a security interest under, or otherwise with respect to, any Loan Document.

"Overnight LIBO" means, when used in reference to any Loan or Borrowing, whether such Loan or the Loan comprising such Borrowing accrues interest at a rate determined by reference to the Overnight LIBO Rate.

"Overnight LIBO Rate" means, with respect to any Overnight LIBO Borrowing or overdue amount, (a) the rate of interest per annum (rounded upwards, if necessary, to the next 1/16 of 1%) at which overnight deposits in Euros or Sterling, in an amount approximately equal to the amount with respect to which such rate is being determined, would be offered for such day by a branch or Affiliate of JPMCB in the applicable offshore interbank market for such currency to major banks in such interbank market ***plus*** (b) the Mandatory Cost.

"Parallel Debt" has the meaning assigned to such term in Section 9.21.

"Participant" has the meaning assigned to such term in Section 9.04.

"Participating Member State" means each State so described in any EMU Legislation, and includes, without limitation, each member State of the European Community that adopts or has adopted the Euro as its lawful currency in accordance with EMU Legislation.

"Paying Guarantor" has the meaning assigned to such term in Section 10.12.

"PBGC" means the Pension Benefit Guaranty Corporation referred to and defined in ERISA and any successor entity performing similar functions.

"Pensions Regulator" means the legal entity called the Pensions Regulator established under Part I UK Pensions Act 2004.

"Permitted Acquisition" means any acquisition by the Company or any Subsidiary, whether by purchase, merger or otherwise, of all or substantially all of the assets of, all of the Equity Interests of, or a business line or unit or a division of, any Person; provided that:

(a) such acquisition shall be consensual;

(b) such acquisition shall be consummated in accordance with all Requirements of Law, except where the failure to so comply would not reasonably be expected to have a Material Adverse Effect;

(c) in the case of the acquisition of Equity Interests, all of the Equity Interests (except for any such securities in the nature of directors' qualifying shares) acquired or otherwise issued by such Person or any newly formed Subsidiary of any Borrower in connection with such acquisition shall be directly and beneficially owned 100% by the Company or any Subsidiary; and

(d) in the case of any acquisition in excess of $50,000,000, the Company shall furnish to the Administrative Agent a certificate from a Financial Officer evidencing compliance with Section 6.04(n), together with such detailed information relating thereto as the Administrative Agent may reasonably request to demonstrate such compliance; and

provided further, that it is understood that to the extent the assets acquired are to be included in any Borrowing Base, due diligence in respect of such acquired assets satisfactory to the Administrative Agent, in its Permitted Discretion, shall have been completed.

"Permitted Discretion" means a determination made in good faith and in the exercise of reasonable (from the perspective of a secured asset-based lender) business judgment.

"Permitted Encumbrances" means:

(a) Liens imposed by law for taxes that are not yet due or are being contested in compliance with Section 5.04;

(b) carriers', warehousemen's, mechanics', materialmen's, repairmen's and other like Liens imposed by law, arising in the ordinary course of business and securing obligations that are not overdue by more than 30 days or are being contested in compliance with Section 5.04;

(c) pledges and deposits made in the ordinary course of business in compliance with workers' compensation, unemployment insurance and other social security laws or regulations;

(d) deposits to secure the performance of bids, trade contracts, leases, statutory obligations, surety and appeal bonds, performance bonds and other obligations of a like nature, in each case in the ordinary course of business;

(e) judgment liens in respect of judgments that do not constitute an Event of Default under paragraph (k) of Article VII;

(f) easements, zoning restrictions, rights-of-way and similar encumbrances on real property imposed by law or arising in the ordinary course of business that do not secure any monetary obligations and do not materially detract from the value of the affected property or interfere with the ordinary conduct of business of any Loan Party or any of its Subsidiaries; and

(g) Liens in favor of a credit card processor arising in the ordinary course of business under any processor agreement;

provided that the term "Permitted Encumbrances" shall not include any Lien securing Indebtedness.

"Permitted Fee Receiver" means any US Fee Receiver that, with respect to any fees paid under Section 2.12 (other than commitment fees), delivers to the Borrower and the Administrative Agent, on or prior to the date on which such Person becomes a party hereto (and from time to time thereafter upon the request of the Borrower and the Administrative Agent, unless such Lender or Issuing Bank becomes legally unable to do so solely as a result of a Change in Law after becoming a party hereto),

accurate and duly completed copies (in such number as requested) of one or more of Internal Revenue Service Forms W-9, W-8ECI, W-8EXP, W-8BEN or W-8IMY (together with, if applicable, one of the aforementioned forms duly completed from each direct or indirect beneficial owner of such Lender or Issuing Bank) or any successor thereto that entitle such Lender or Issuing Bank to a complete exemption from U.S. withholding tax on such payments (provided that, in the case of the Internal Revenue Service Form W-8BEN, a Lender or Issuing Bank providing such form shall qualify as a Permitted Lender only if such form establishes such exemption on the basis of the "business profits" or "other income" articles of a tax treaty to which the United States is a party and provides a U.S. taxpayer identification number), in each case together with such supplementary documentation as may be prescribed by applicable law to permit the Borrower or the Administrative Agent to determine whether such Lender or Issuing Bank is entitled to such complete exemption.

"Permitted Investments" means:

(a) direct obligations of, or obligations the principal of and interest on which are unconditionally guaranteed by, the United States (with respect to investments made by the Company), the United Kingdom (with respect to investments made by any UK Borrower), the Netherlands (with respect to investments made by any Dutch Borrower), Ireland (with respect to investments made by the Irish Borrower) or Luxembourg (with respect to investments made by the Luxembourg Borrower) (or by any agency thereof, as applicable, to the extent such obligations are backed by the full faith and credit of such government), in each case maturing within one year from the date of acquisition thereof;

(b) investments in commercial paper maturing within 270 days from the date of acquisition thereof and having, at such date of acquisition, the highest credit rating obtainable from S&P or from Moody's;

(c) investments in certificates of deposit, banker's acceptances and time deposits maturing within 180 days from the date of acquisition thereof issued or guaranteed by or placed with, and money market deposit accounts issued or offered by, any domestic office of any commercial bank organized under the laws of the United States (with respect to investments made by the Company), England and Wales (with respect to investments made by any UK Borrower), the Netherlands (with respect to investments made by any Dutch Borrower), Ireland (with respect to investments made by the Irish Borrower), Luxembourg (with respect to any investments made by the Luxembourg Borrower) or any State or Province thereof, as applicable, in each case, which has a combined capital and surplus and undivided profits of not less than $500,000,000;

(d) fully collateralized repurchase agreements with a term of not more than 30 days for securities described in clause (a) above and entered into with a financial institution satisfying the criteria described in clause (c) above; and

(e) money market funds that (i) comply with the criteria set forth in Securities and Exchange Commission Rule 2a-7 under the Investment Company Act of 1940, (ii) are rated AAA by S&P or Aaa by Moody's and (iii) have portfolio assets of at least $3,000,000,000.

"Permitted Lien" means Liens permitted by Section 6.02.

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

"Plan" means any employee pension benefit plan (as defined in Section 3(3) of ERISA), including any employee welfare benefit plan (as defined in Section 3(1) of ERISA), any employee pension benefit plan (as defined in Section 3(2) of ERISA), and any plan which is both an employee welfare benefit plan and an employee pension benefit plan, and in respect of which any Loan Party or any ERISA Affiliate is (or, if such plan were terminated, would under Section 4069 of ERISA be deemed to be) an "employer" as defined in Section 3(5) of ERISA, except for any Multiemployer Plan, Foreign Plan or Foreign Benefit Arrangement.

"Prime Rate" means the rate of interest per annum publicly announced from time to time by JPMCB as its prime rate at its offices at 270 Park Avenue in New York City; each change in the Prime Rate shall be effective from and including the date such change is publicly announced as being effective.

"Prior Claims" means any security interest created by English law which rank or are capable of ranking prior or pari passu with the European Collateral Agent's security interests against all or part of the Collateral, including amounts owing for employee wages, employee source deductions, pension fund obligations, any sums payable by way of prescribed part for unsecured creditors as provided for by Section 176A Insolvency Act 1986 and expenses of liquidation, administration or winding-up.

"Process Agent" means CT Corporation, A Wolters Kluwer Company, 111 Eight Avenue, New York, NY 10011, acting as designee, appointee and agent of each Loan Party that is not organized under the laws of any State of the United States to accept and forward for and on such Loan Party's behalf, service of any and all legal process, summons, notices and documents that may be served in any action or proceeding arising out of or in connection with this Agreement or any other Loan Document.

"Pro Forma Basis" means, with respect to any test hereunder in connection with any event, that such test shall be calculated after giving effect on a pro forma basis for the period of such calculation to (i) such event as if it happened on the first day of such period or (ii) the incurrence of any Indebtedness by the Company or any Subsidiary and any incurrence, repayment, issuance or redemption of other Indebtedness of the Company or any Subsidiary occurring at any time subsequent to the last day of the Test Period and on or prior to the date of determination, as if such incurrence, repayment, issuance or redemption, as the case may be, occurred on the first day of the Test Period (it being understood that, in connection with any such pro forma calculation prior to the delivery of financial statements for the first fiscal quarter ended after the Effective Date, such calculation shall be made in a manner satisfactory to the Administrative Agent in its Permitted Discretion).

"Projections" has the meaning assigned to such term in Section 5.01(e).

"Protective Advances" has the meaning assigned to such term in Section 2.04.

"Quotation Day" means, in respect of the determination of the LIBO Rate for any period for Loans in Sterling, the day which is (i) the first day of such Interest Period and (ii) a day on which banks are open for general banking business in London; and the Quotation Day in respect of any Interest Period for the Euro is the day that is two Target Days prior the first day of such Interest Period.

"Register" has the meaning assigned to such term in Section 9.04.

"Related Parties" means, with respect to any specified Person, such Person's Affiliates and the respective directors, officers, employees, agents and advisors of such Person and such Person's Affiliates.

"Rentals" means, with reference to any period, the aggregate amount of rent expense payable by the Company and its Subsidiaries under any operating leases, calculated on a consolidated basis for the Company and its Subsidiaries for such period in accordance with GAAP.

"Rent Reserve" means with respect to any store, warehouse, cross-docking facility, distribution center, regional distribution center or depot where any Inventory subject to Liens arising by operation of law is located and with respect to which no Collateral Access Agreement is in effect, a reserve equal to two months' rent at such store, warehouse, cross-docking facility, distribution center, regional distribution center or depot.

"Report" means reports prepared by the Administrative Agent or another Person showing the results of appraisals, field examinations or audits pertaining to the assets of any Borrower from information furnished by or on behalf of any Borrower, after the Administrative Agent has exercised its rights of inspection pursuant to this Agreement, which Reports shall be distributed to the Lenders by the Administrative Agent.

"Required Lenders" means, at any time, Lenders having Credit Exposure and unused Commitments representing more than 50% of the sum of the total Credit Exposure and unused Commitments at such time.

"Requirement of Law" means, as to any Person, the Certificate of Incorporation and By Laws or other organizational or governing documents of such Person, and any law, treaty, rule or regulation or determination of an arbitrator or a court or other Governmental Authority, in each case applicable to or binding upon such Person or any of its property or to which such Person or any of its property is subject.

"Reserves" means, individually and collectively, and without duplication, Customer Credit Liability Reserves, Rent Reserves, unpaid VAT and other government reserves, Floating Charge Reserves, Payroll and Redundancy Reserves, Retention of Title Reserves and any other reserves which the Administrative Agent deems necessary, in its Permitted Discretion, to maintain (including, without limitation, Banking Services Reserves, reserves for consignee's, warehousemen's and bailee's charges (unless a Collateral Access Agreement shall be in effect with respect to the subject property), reserves for Swap Obligations, reserves for contingent liabilities of any Loan Party, reserves for uninsured losses of any Loan Party, reserves for uninsured, underinsured, un-indemnified or under-indemnified liabilities or potential liabilities with respect to any litigation, reserves for taxes, fees, assessments, reserves for the prescribed part of any UK Loan Party's net property that would be made available for the satisfaction of its unsecured liabilities pursuant to Section 176A of the Insolvency Act 1986, reserves with respect to liabilities of any UK Loan Party which constitutes preferential debts pursuant to Section 386 of the Insolvency Act 1986 and other governmental charges) with respect to the Collateral or any Loan Party.

"Restricted Payment" means any dividend or other distribution (whether in cash, securities or other property) with respect to any Equity Interests in 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 Equity Interests in the Company or any option, warrant or other right to acquire any such Equity Interests in the Company.

"Retention of Title Reserves" means with respect to any Eligible Inventory for which (i) there are no contractual terms addressing retention of title in favor of the vendor or supplier thereof and (ii) the applicable Loan Party has not represented to the Administrative Agent that such vendor or supplier does not have retention of title rights, a reserve equal to 50% of the lesser of (A) the value of such Inventory or (B) to the extent the applicable Loan Party has provided the Administrative Agent with reasonable evidence of the amount thereof, the amount of the outstanding payable owing to the applicable Loan Party's vendor in respect of such Eligible Inventory.

"Revolving Exposure" means the sum of the Facility A Revolving Exposure *plus* the Facility B Revolving Exposure.

"Revolving Loan" means a Loan made pursuant to Section 2.01.

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

"Secured Obligations" means all Obligations, together with all Banking Services Obligations and Swap Obligations owing to one or more Lenders or their respective Affiliates; provided that at or prior to the time that any transaction relating to such Swap Obligation is executed, the Lender party thereto or its Affiliate (other than JPMCB) shall have delivered written notice to the Administrative Agent that such a transaction has been entered into and that it constitutes a Secured Obligation entitled to the benefits of the Collateral Documents.

"Security Agreement" means, individually and collectively, any US Security Agreement, any UK Security Agreement, any Dutch Security Agreement, any Irish Security Agreement or any Luxembourg Security Agreement.

"Settlement" has the meaning assigned to such term in Section 2.05(c).

"Settlement Date" has the meaning assigned to such term in Section 2.05(c).

"Spot Selling Rate" means, on any date, as determined by the Administrative Agent, the spot selling rate posted by Reuters on its website for the sale of the applicable currency for dollars at approximately 11:00 a.m., Local Time, two Business Days prior; provided that if, at the time of any such determination, for any reason, no such spot rate is being quoted, the spot selling rate shall be determined by reference to such publicly available service for displaying exchange rates as my be selected by the Administrative Agent, or, in the event no such service is selected, such spot selling rate shall instead be the arithmetic average of spot rates of exchange in the market where its foreign currency exchange operations in respect of the applicable currency are then being conducted, at or about 11.00 a.m. Local Time, on such date for the purchase of the relevant currency for delivery two Business Days later.

"Statutory Reserve Rate" means a fraction (expressed as a decimal), the numerator of which is the number one and the denominator of which is the number one minus the aggregate of the maximum reserve percentages (including any marginal, special, emergency or supplemental reserves) expressed as a decimal established by the Board to which the Administrative Agent is subject with respect to the Adjusted LIBO Rate, for eurocurrency funding (currently referred to as "Eurocurrency Liabilities" in Regulation D of the Board). Such reserve percentages shall include those imposed pursuant to such Regulation D. Eurocurrency Loans shall be deemed to constitute eurocurrency funding and to be subject to such reserve requirements without benefit of or credit for proration, exemptions or offsets that may be available from time to time to any Lender under such Regulation D or any comparable regulation. The Statutory Reserve Rate shall be adjusted automatically on and as of the effective date of any change in any reserve percentage.

"Sterling" or "£" refers to the lawful currency of the United Kingdom.

"Subordinated Indebtedness" of a Person means any Indebtedness of such Person the payment of which is subordinated to payment of the Secured Obligations to the written satisfaction of the Administrative Agent.

"subsidiary" means, (a) with respect to any Person (the "parent") at any date, any corporation, limited liability company, partnership, association or other entity the accounts of which would be consolidated with those of the parent in the parent's consolidated financial statements if such financial statements were prepared in accordance with GAAP as of such date, as well as any other corporation, limited liability company, partnership, association or other entity (i) of which securities or other ownership interests representing more than 50% of the equity or more than 50% of the ordinary voting power or, in the case of a partnership, more than 50% of the general partnership interests are, as of such date, owned, controlled or held, or (ii) that is, as of such date, otherwise Controlled, by the parent or one or more subsidiaries of the parent or by the parent and one or more subsidiaries of the parent and (b) any subsidiary within the meaning of Section 736 of the UK Companies Act of 1985 and a subsidiary undertaking within the meaning of Section 258 of the UK Companies Act of 1985.

"Subsidiary" means any direct or indirect subsidiary of the Company or a Loan Party, as applicable.

"Supermajority Lenders" means, at any time, Lenders having Credit Exposure and unused Commitments representing at least 66 2/3% of the sum of the total Credit Exposure and unused Commitments at such time.

"Supplementary Pension Act" means the Luxembourg law of June 8, 1999 on the supplementary pension schemes, as amended.

"Swap Agreements" means any agreement with respect to any swap, forward, future or derivative transaction or option or similar agreement involving, or settled by reference to, one or more rates, currencies, commodities, equity or debt instruments or securities, or economic, financial or pricing indices or measures of economic, financial or pricing risk or value or any similar transaction or any combination of these transactions; provided that no phantom stock or similar plan providing for payments only on account of services provided by current or former directors, officers, employees or consultants of the Borrowers or the Subsidiaries shall be a Swap Agreement.

"Swap Obligations" of a Person means any and all obligations of such Person, whether absolute or contingent and howsoever and whensoever created, arising, evidenced or acquired (including all renewals, extensions and modifications thereof and substitutions therefor), under (a) any and all Swap Agreements, and (b) any and all cancellations, buy backs, reversals, terminations or assignments of any Swap Agreement transaction.

"Swingline Lender" means, individually and collectively, the US Swingline Lender and the European Swingline Lender, as the context may require.

"Swingline Loan" means, individually and collectively, each US Swingline Loan and each European Swingline Loan, as the context may require.

"Syndication Agent" Bank of America, N.A., in its capacity as Syndication Agent.

"TARGET Day" means any day on which TARGET2 is open for settlement of payments in Euro.

"TARGET2" means the Trans-European Automated Real-time Gross Settlement Express Transfer payment system which utilizes a single shared platform and which was launched on November 19, 2007.

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

"Tax Confirmation" means a confirmation by a Lender to any UK Loan Party that the Person beneficially entitled to interest payable to that Lender in respect of an advance hereunder is either:

(a) a company resident in the United Kingdom for United Kingdom tax purposes;

(b) a partnership each member of which is:

(i) a company so resident in the United Kingdom; or

(ii) a company not so resident in the United Kingdom which carries on a trade in the United Kingdom through a permanent establishment and which brings into account in computing its chargeable profits (for the purposes of section 11(2) of the UK Income and Corporation Taxes Act 1988) the whole of any share of interest payable in respect of that advance that falls to it by reason of sections 114 and 115 of the UK Income and Corporation Taxes Act 1988; or

(c) a company not so resident in the United Kingdom which carries on a trade in the United Kingdom through a permanent establishment and which brings into account interest payable in respect of that advance in computing the chargeable profits (within the meaning of section 11(2) of the UK Income and Corporation Taxes Act 1988) of that company.

"Test Period" means the most recent period of four consecutive fiscal quarters of the Company ended on or prior to such time (taken as one accounting period) in respect of which financial statements for each quarter or fiscal year in such period have been (or have been required to be) delivered pursuant to Section 5.01(a) or 5.01(b), as applicable.

"Total Assets" means, at any date, the amount that would, in conformity with GAAP, be set forth opposite the caption "total assets" (or any like caption) on a consolidated balance sheet of the Company and the Subsidiaries.

"Total Full Cash Dominion Period" means any Level 3 Minimum Aggregate Availability Period; provided that a Total Full Cash Dominion Period may be discontinued no more than twice in any period of twelve consecutive months.

"Transactions" means the execution, delivery and performance by the Borrowers of this Agreement, the borrowing of Loans and other credit extensions, the use of the proceeds thereof and the issuance of Letters of Credit hereunder.

"Treaty" has the meaning assigned to such term in the definition "Treaty State".

"Treaty Lender" means a Lender which:

(a) is treated as a resident of a Treaty State for the purposes of the Treaty;

(b) does not carry on a business in the jurisdiction in which the applicable Borrower is located through a permanent establishment with which that Lender's participation in the Loan is effectively connected.

"Treaty State" means a jurisdiction having a double taxation agreement (a "Treaty") with the jurisdiction in which the relevant Borrower is located which makes provision for full exemption from the imposition of any withholding or deduction for or on account of tax imposed by the Borrower's jurisdiction on interest.

"Type", when used in reference to any Loan or Borrowing, refers to whether the rate of interest on such Loan, or on the Loans comprising such Borrowing, is determined by reference to the Adjusted LIBO Rate, the Alternate Base Rate or the Overnight LIBO Rate.

"UCC" means the Uniform Commercial Code as in effect from time to time in the State of New York or any other state the laws of which are required to be applied in connection with the issue of perfection of security interests.

"UK Borrower" means, individually and collectively, Office Depot International (UK) Ltd. and Office Depot UK Ltd.

"UK Borrowing Base" means, at any time, with respect to the UK Loan Parties, the sum of:

(a) the sum of (i) the product of (A) 85% *multiplied by* (B) the UK Loan Parties' Eligible Accounts at such time, *minus* the Dilution Reserve related to the UK Loan Parties, *minus* any other Reserve related to Accounts of the UK Loan Parties, (ii) the product of (A) 90% *multiplied by* (B) the UK Loan Parties' Eligible Credit Card Receivables at such time *minus* the Dilution Reserve related to the UK Loan Parties, *minus* any other Reserve related to Accounts of the UK Loan Parties, and (iii) the product of (A) 75% *multiplied* by (B) the Eligible Uninvoiced Accounts Receivable of the UK Loan Parties at such time *minus* the Dilution Reserve related to the UK Loan Parties, *plus*

(b) the lesser of (i) the product of (x) 75% *multiplied by* (y) the UK Loan Parties' Eligible Inventory, valued at the lower of cost (determined on a first-in-first-out basis or average cost basis) or market value, at such time, *minus* any Reserves related to the Eligible Inventory of the UK Loan Parties and (ii) the product of 85% *multiplied by* the High Season or Low Season, if applicable, Net Orderly Liquidation Value percentage (as applicable, based on the borrowing base delivery date as required under Section 5.01(f)) identified in the most recent inventory appraisal ordered by the Administrative Agent *multiplied by* the UK Loan Parties' Eligible Inventory, valued at the lower of cost (determined on a first-in-first-out basis or average cost basis) or market value, at such time *minus* any Reserves related to the Eligible Inventory of the UK Loan Parties, *plus*

(c) the lesser of (i) the product of (x) 75% *multiplied by* (y) the UK Loan Parties' Eligible LC Inventory, valued at the lower of cost (determined on a first-in-first-out basis or average cost basis) or market value, at such time, *minus*, without duplication of any Reserves accounted for in clause (b) above, Reserves relating to the Eligible LC Inventory of the UK Loan Parties and (ii) the product of 85% *multiplied by* the High Season or Low Season, if applicable, Net Orderly Liquidation Value percentage (as applicable, based on the borrowing base delivery date as required under Section 5.01(f)) identified in the most recent inventory appraisal ordered by the Administrative Agent *multiplied by* the UK Loan Parties' Eligible LC Inventory, valued at the lower of cost (determined on a first-in-first-out basis or average cost basis) or market value, at such time *minus*, without duplication of any Reserves accounted for in clause (b) above, Reserves related to the Eligible LC Inventory of the UK Loan Parties.

The Administrative Agent may, in its Permitted Discretion, adjust Reserves used in computing the Aggregate Borrowing Base and the UK Borrowing Base, with any such changes to be effective three Business Days after delivery of notice thereof to the Borrower Representative and the Lenders. The Aggregate Borrowing Base and the UK Borrowing Base at any time shall be determined by reference to the most recent Aggregate Borrowing Base Certificate and each other Borrowing Base Certificate delivered to the Administrative Agent pursuant to Section 5.01(f) of this Agreement.

"UK Borrowing Base Certificate" means a certificate, signed and certified as accurate and complete by a Financial Officer of each UK Borrower, in substantially the form of Exhibit B-3 or another form which is acceptable to the Administrative Agent in its sole discretion.

"UK Loan Party" means any Loan Party (including the UK Borrowers) organized under the laws of the United Kingdom.

"UK Non-Bank Lender" has the meaning assigned to such term in Section 2.17(a)(ii).

"UK Pension Scheme" means the Guilbert U.K. Retirement Benefits Plan governed by trust deed and rules dated September 27, 2002, as amended by deed on April 24, 2008.

"UK Qualifying Lender" means a Lender which is beneficially entitled to interest payable to that Lender in respect of an advance to any UK Loan Party hereunder and is either:

(a) a Lender (i) which is a bank (as is defined for the purpose of section 879 of the UK Income Tax Act 2007) making an advance hereunder or (ii) in respect of an advance made hereunder by a Person that was a bank (as so defined) at the time that the advance was made and, in either case, which is within the charge to United Kingdom corporation tax as respects any payments of interest made in respect of that advance;

(b) a Lender which is:

(i) a company resident in the United Kingdom for United Kingdom tax purposes;

(ii) a partnership each member of which is:

(x) a company so resident in the United Kingdom; or

(y) a company not so resident in the United Kingdom which carries on a trade in the United Kingdom through a permanent establishment and which is required to bring into account in computing its chargeable profits (within the meaning of section 11(2) of the UK Income and Corporation Taxes Act 1988) the whole of any share of interest payable in respect of that advance that falls to it by reason of sections 114 and 115 of the UK Income and Corporation Taxes Act 1988;

(iii) a company not so resident in the United Kingdom which carries on a trade in the United Kingdom through a permanent establishment and which brings into account that interest payable in respect of that advance in computing the chargeable profits (for the purposes of section 11(2) of the UK Income and Corporation Taxes Act 1988) of that company; or

(c) a Treaty Lender.

"UK Security Agreement" means (i) the two Debentures, dated as of the date hereof, among the UK Borrowers, respectively, and the European Collateral Agent, (ii) the Deed of Charge, dated as of the date hereof, among the Irish Borrower and the European Collateral Agent, and (iii) the Deeds of Charge, dated as of the date hereof, among the Dutch Borrowers, respectively, and the European Collateral Agent, as the same may be amended, restated or otherwise modified from time, and any other charge or security agreement entered into, after the date of this Agreement, by any other UK Loan Party (as required by this Agreement or any other Loan Document for the purpose of creating a Lien on the property of any UK Loan Party (or any other property located in the United Kingdom)), as the same may be amended, restated or otherwise modified from time to time.

"United Kingdom" and "UK" means the United Kingdom of Great Britain and Northern Ireland.

"United States" and "US" means the United States of America.

"Unliquidated Obligations" means, at any time, any Secured Obligations (or portion thereof) that are contingent in nature or unliquidated at such time, including any Secured Obligation that is: (i) an obligation to reimburse a bank for drawings not yet made under a letter of credit issued by it; (ii) any other obligation (including any guarantee) that is contingent in nature at such time; or (iii) an obligation to provide collateral to secure any of the foregoing types of obligations.

"US Borrower" means any Borrower that is a "United States person" within the meaning of Section 7701(a)(30) of the Code.

"US Borrowing Base" means, at any time, with respect to the US Loan Parties, the sum of:

(a) the sum of (i) the product of (A) 85% *multiplied by* (B) the US Loan Parties' Eligible Accounts (other than Eligible Credit Card Receivables) at such time, *minus* the Dilution Reserve related to the US Loan Parties, *minus* any other Reserve related to Accounts of the US Loan Parties, (ii) the product of (A) 90% *multiplied b*y (B) the US Loan Parties' Eligible Credit Card Receivables at such time *minus* the Dilution Reserve related to the US Loan Parties, *minus* any other Reserve related to Accounts of the US Loan Parties, and (iii) the product of (A) 75% *multiplied by* (B) the Eligible Uninvoiced Accounts Receivable of the US Loan Parties at such time *minus* the Dilution Reserve related to the US Loan Parties, *plus*

(b) the lesser of (i) the product of (x) 75% *multiplied by* (y) the US Loan Parties' Eligible Inventory, valued at the lower of cost (determined on a first-in-first-out basis or average cost basis) or market value, at such time, *minus* any Reserves related to the Eligible Inventory of the US Loan Parties and (ii) the product of 85% *multiplied by* the High Season or Low Season, if applicable, Net Orderly Liquidation Value percentage (as applicable, based on the borrowing base delivery date as required under Section 5.01(f)) identified in the most recent inventory appraisal ordered by the Administrative Agent *multiplied by* the US Loan Parties' Eligible Inventory, valued at the lower of cost (determined on a first-in-first-out basis or average cost basis) or market value, at such time *minus* any Reserves related to the Eligible Inventory of the US Loan Parties, *plus*

(c) the lesser of (i) the product of (x) 75% *multiplied by* (y) the US Loan Parties' Eligible LC Inventory, valued at the lower of cost (determined on a first-in-first-out basis or average cost basis) or market value, at such time, *minus*, without duplication of any Reserves accounted for in clause (b) above, Reserves relating to the Eligible LC Inventory of the US Loan Parties and (ii) the product of 85% *multiplied by* the High Season or Low Season, if applicable, Net Orderly Liquidation Value percentage (as applicable, based on the borrowing base delivery date as required under Section 5.01(f)) identified in the most recent inventory appraisal ordered by the Administrative Agent *multiplied by* the US Loan Parties' Eligible LC Inventory, valued at the lower of cost (determined on a first-in-first-out basis or average cost basis) or market value, at such time *minus*, without duplication of any Reserves accounted for in clause (b) above, Reserves related to the Eligible LC Inventory of the US Loan Parties.

The Administrative Agent may, in its Permitted Discretion, adjust Reserves used in computing the Aggregate Borrowing Base and the US Borrowing Base, with any such changes to be effective three Business Days after delivery of notice thereof to the Borrower Representative and the Lenders. The Aggregate Borrowing Base and the US Borrowing Base at any time shall be determined by reference to the most recent Aggregate Borrowing Base Certificate and each other Borrowing Base Certificate delivered to the Administrative Agent pursuant to Section 5.01(f) of this Agreement.

"US Borrowing Base Certificate" means a certificate, signed and certified as accurate and complete by a Financial Officer of the Borrower Representative, in substantially the form of Exhibit B-2 or another form which is acceptable to the Administrative Agent in its sole discretion.

"US Collateral Agent" means JPMCB, in its capacity as security trustee for itself, the Administrative Agent, the Issuing Banks and the Lenders, and its successors in such capacity.

"US Fee Receiver" means any Person that receives, or through a participating interest participates in, any payments of fees from a US Person under Section 2.12 (other than commitment fees).

"US Letter of Credit" means any letter of credit or similar instrument (including a bank guarantee) acceptable to the applicable Issuing Bank issued in dollars for the purpose of providing credit support to the Company.

"US Loan Party" means, individually and collectively, any Loan Party (including the Company) organized under the laws of the United States.

"US Protective Advance" means a Protective Advance made to or for the account of the Company.

"US Revolving Loan" means a Revolving Loan made to the Company.

"US Security Agreement" means that certain US Security Agreement, dated as of the date hereof, between the Loan Parties party thereto and the US Collateral Agent (for the benefit of the Agents, the Lenders and the Issuing Banks), and any other pledge or security agreement entered into, after the date of this Agreement by any other Loan Party (as required by this Agreement or any other Loan Document for the purpose of creating a Lien on the property of any Loan Party organized in the US (or any other property located therein)), or any other Person, as the same may be amended, restated or otherwise modified from time to time.

"US Swingline Lender" means JPMCB, in its capacity as lender of US Swingline Loans hereunder, and its successors and assigns in such capacity.

"US Swingline Loan" means a Swingline Loan made to the Company.

"VAT" means value added tax as provided for in the VATA 1994 or any similar or substitute tax.

"VATA 1994" means The Value Added Tax Act 1994.

"Vendor Rebates" means, with respect to any Loan Party, credits earned from vendors for volume purchases that reduce net inventory costs for such Loan Party.

"Withdrawal Liability" means liability to a Multiemployer Plan as a result of a complete or partial withdrawal from such Multiemployer Plan, as such terms are defined in Part I of Subtitle E of Title IV of ERISA.

"Working Capital" means, at any date, the excess of current assets of the Company and its Subsidiaries on such date over current liabilities of the Company and its Subsidiaries on such date, all determined on a consolidated basis in accordance with GAAP.

SECTION 1.02 Classification of Loans and Borrowings. For purposes of this Agreement, Loans may be classified and referred to by Facility, (e.g., a "Facility A Loan"), Class (e.g., a "Revolving Loan") or by Type (e.g., a "Eurocurrency Loan"), by Facility and Class (e.g., a "Facility A Revolving Loan") or by Class and Type (e.g., a "Eurocurrency Revolving Loan"). Borrowings also may be classified and referred to by Class (e.g., a "Borrowing of Revolving Loans") or by Type (e.g., a "Eurocurrency Borrowing") or by Class and Type (e.g., a "Eurocurrency Borrowing of Revolving Loans").

SECTION 1.03 Terms Generally. The definitions of terms herein shall apply equally to the singular and plural forms of the terms defined. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. The words "include", "includes" and "including" shall be deemed to be followed by the phrase "without limitation". The word "will" shall be construed to have the same meaning and effect as the word "shall". Unless the context requires otherwise (a) any definition of or reference to any agreement, instrument or other document herein shall be construed as referring to such agreement, instrument or other document as from time to time amended, supplemented or otherwise modified (subject to any restrictions on such amendments, supplements or modifications set forth herein), (b) any reference herein to any Person shall be construed to include such Person's successors and assigns, (c) the words "herein", "hereof" and "hereunder", and words of similar import, shall be construed to refer to this Agreement in its entirety and not to any particular provision hereof, (d) all references herein to Articles, Sections, Exhibits and Schedules shall be construed to refer to Articles and Sections of, and Exhibits and Schedules to, this Agreement and (e) the words "asset" and "property" shall be construed to have the same meaning and effect and to refer to any and all tangible and intangible assets and properties, including cash, securities, accounts and contract rights.

In this Agreement, where it relates to a Dutch Loan Party, a reference to:

(a) a necessary action to authorize, where applicable, includes without limitation:

(i) any action required to comply with the Works Councils Act of the Netherlands (*Wet op de ondernemingsraden*); and

(ii) obtaining an unconditional positive advice (*advies*) from the competent works council(s);

(b) gross negligence includes *grove schuld*;

(c) negligence includes *schuld*;

(d) a security interest includes any mortgage (*hypotheek*), pledge (*pandrecht*), retention of title arrangement (*eigendomsvoorbehoud*), privilege (*voorrecht*), right of retention (*recht van retentie*), right to reclaim goods (*recht van reclame*), and, in general, any right in rem (*beperkte recht*), created for the purpose of granting security (*goederenrechtelijk zekerheidsrecht*);

(e) wilful misconduct includes *opzet*;

(f) a winding-up, administration or dissolution (and any of those terms) includes a Dutch entity being declared bankrupt (*failliet verklaard*) or dissolved (*ontbonden*);

(g) a moratorium includes *surseance van betaling* and granted a moratorium includes *surséance verleend*;

(h) any step or procedure taken in connection with insolvency proceedings includes a Dutch entity having filed a notice under section 36 of the Dutch Tax Collection Act (*Invorderingswet* 1990);

(i) an administrative receiver includes a *curator*;

(j) an administrator includes a *bewindvoerder*; and

(k) an attachment includes a *beslag*.

SECTION 1.04 Accounting Terms; GAAP. Except as otherwise expressly provided herein, all terms of an accounting or financial nature shall be construed in accordance with GAAP, as in effect from time to time; provided that, if the Borrower Representative notifies the Administrative Agent that the Borrowers request an amendment to any provision hereof to eliminate the effect of any change occurring after the date hereof in GAAP or in the application thereof on the operation of such provision (or if the Administrative Agent notifies the Borrower Representative that the Required Lenders request an amendment to any provision hereof for such purpose), regardless of whether any such notice is given before or after such change in GAAP or in the application thereof, then such provision shall be interpreted on the basis of GAAP as in effect and applied immediately before such change shall have become effective until such notice shall have been withdrawn or such provision amended in accordance herewith. In the event that historical accounting practices, systems or reserves relating to the components of the Aggregate Borrowing Base or the Borrowing Base of any Borrower are modified in a manner that is adverse to the Lenders in any material respect, the Borrowers will agree to maintain such additional reserves (for purposes of computing the Aggregate Borrowing Base and the Borrowing Base of each Borrower) in respect to the components of the Aggregate Borrowing Base and the Borrowing Base of each Borrower and make such other adjustments (which may include maintaining additional reserves, modifying the advance rates or modifying the eligibility criteria for the components of the Aggregate Borrowing Base and the Borrowing Base of each Borrower).

SECTION 1.05 Currency Translations. (a) For purposes of this Agreement and the other Loan Documents, where the permissibility of a transaction or determinations of required actions or circumstances depend upon compliance with, or are determined by reference to, amounts stated in dollars, such amounts shall be deemed to refer to dollars or Dollar Equivalents and any requisite currency translation shall be based on the Spot Selling Rate and the permissibility of actions taken under Article VI shall not be affected by subsequent fluctuations in exchange rates (provided that if Indebtedness is incurred to refinance or renew other Indebtedness, and such refinancing or renewal would cause the applicable dollar denominated limitation to be exceeded if calculated at the Spot Selling Rate, such dollar denominated restriction shall be deemed not to have been exceeded so long as (i) such refinancing or renewal Indebtedness is denominated in the same currency as such Indebtedness being refinanced or renewed and (ii) the principal amount of such refinancing or renewal Indebtedness does not exceed the principal amount of such Indebtedness being refinanced or renewed except as permitted under Section 6.01).

(b) For purposes of all calculations and determinations under this Agreement, any amount in any currency other than dollars shall be deemed to refer to dollars or Dollar Equivalents and any requisite currency translation shall be based on the Spot Selling Rate, and all certificates delivered under this Agreement, shall express such calculations or determinations in dollars or Dollar Equivalents.

ARTICLE II

The Credits

SECTION 2.01 Commitments. Subject to the terms and conditions set forth herein, (a) each Facility A Lender agrees to make Revolving Loans (the "Facility A Revolving Loans") from time to time during the Availability Period to the Company in dollars and (b) each Facility B Lender agrees to make Revolving Loans (the "Facility B Revolving Loans") from time to during the Availability Period to the Facility B Borrowers in dollars, Euros and Sterling, if, in each case after giving effect thereto:

(i) the Facility A Revolving Exposure or Facility B Revolving Exposure of any Lender would not exceed such Lender's Facility A Commitment or Facility B Commitment, respectively;

(ii) the total Revolving Exposure would not exceed the lesser of (x) the aggregate amount of the Commitments and (y) the Aggregate Borrowing Base;

(iii) the total Facility A Revolving Exposure would not exceed the lesser of (x) the aggregate amount of the Facility A Commitments and (y) the US Borrowing Base;

(iv) the total Facility B Revolving Exposure would not exceed the lesser of (x) the aggregate amount of the Facility B Commitments and (y) the Aggregate Borrowing Base *minus* the total Revolving Exposure;

(v) the total Facility B Revolving Exposure relating to the European Borrowers would not exceed the European Sublimit; and

(vi) the total Revolving Exposure relating to the Company would not exceed the US Borrowing Base;

subject, in the case of each of clause (ii), (iii) and (iv) above, to the Administrative Agent's authority, in its sole discretion, to make Protective Advances pursuant to the terms of Section 2.04. Within the foregoing limits and subject to the terms and conditions set forth herein, each Borrower may borrow, prepay and reborrow its Revolving Loans.

SECTION 2.02 Loans and Borrowings. (a) Each Loan (other than a Swingline Loan) shall be made as part of a Borrowing consisting of Loans of the same Facility, Class and Type made by the Lenders ratably in accordance with their respective Commitments of the applicable Facility and Class. Each Protective Advance and Swingline Loan shall be made in accordance with the procedures set forth in Sections 2.04 and 2.05.

(b) Subject to Section 2.14, (i) each Borrowing of US Revolving Loans denominated in dollars shall be comprised entirely of ABR Loans or Eurocurrency Loans as the Company may request in accordance herewith, (ii) each Borrowing of US Revolving Loans denominated in Euros or Sterling shall be comprised entirely of Eurocurrency Loans and (iii) each Borrowing of European Revolving Loans shall be comprised entirely of Eurocurrency Loans; provided that all Borrowing of Revolving Loans made on the Effective Date shall be limited to ABR Borrowings of Revolving Loans denominated in dollars. Each Swingline Loan denominated in dollars (other than European Swingline Loans) shall be an ABR Loan and each Swingline Loan denominated in Euros or Sterling and any European Swingline Loan denominated in dollars shall be an Overnight LIBO Loan. Each Lender may make any Eurocurrency Loan to any Borrower by causing, at its option, any domestic or foreign branch or Affiliate of such Lender to make such Loan; provided that any exercise of such option shall not affect the obligation of the Lenders to make Loans in accordance with the terms hereof or Borrowers to repay any such Loan in accordance with the terms of this Agreement.

(c) At the commencement of each Interest Period for any Eurocurrency Borrowing of Revolving Loans, such Borrowing shall be in an aggregate amount that is an integral multiple of $1,000,000 and not less than $5,000,000. ABR Borrowing of Revolving Loans may be in any amount. Borrowings of more than one Type and Class may be outstanding at the same time; provided that there shall not at any time be more than a total of 12 Eurocurrency Borrowings outstanding.

(d) Notwithstanding any other provision of this Agreement, neither the Borrower Representative nor any Borrower shall be entitled to request, or to elect to convert or continue, any Borrowing if the Interest Period requested with respect thereto would end after the Maturity Date.

(e) Each Facility A Loan shall be made in dollars and each Facility B Loan shall be made in dollars, Euros or Sterling.

SECTION 2.03 Requests for Borrowing of Revolving Loans. To request a Borrowing of Revolving Loans, the Borrower Representative (or the applicable Borrower) shall notify the Administrative Agent, in the case of a requested Borrowing of Facility A Revolving Loans, or the Administrative Agent and the European Administrative Agent, in the case of a requested Borrowing of Facility B Revolving Loans, in each case either in writing (delivered by hand or facsimile) in a form approved by the Administrative Agent and/or the European Administrative Agent, as applicable, and signed by the Borrower Representative (or the applicable Borrower) or by telephone as follows:

(a) in the case of an ABR Borrowing, not later than 12:00 p.m., Local Time (or in case of an ABR Borrowing, the proceeds of which are to be applied to finance the reimbursement of an LC Disbursement as contemplated by Section 2.06(e), not later than 9:00 a.m., Local Time) on the date of the proposed Borrowing, and

(b) in the case of a Eurocurrency Borrowing, not later than 10:00 a.m., Local Time, three Business Days before the date of the proposed Borrowing.

Each telephonic Borrowing Request shall be irrevocable and shall be confirmed promptly by hand delivery or facsimile of a written Borrowing Request in a form approved by the Administrative Agent and/or the European Administrative Agent, as applicable, and signed by the Borrower Representative (or the Borrower making such request). Each such telephonic and written Borrowing Request shall specify the following information in compliance with Section 2.01:

(i) the name of the applicable Borrower;

(ii) the aggregate amount of the requested Borrowing and a breakdown of the separate wires comprising such Borrowing;

(iii) the Facility under which such Borrowing shall be made;

(iv) the date of such Borrowing, which shall be a Business Day;

(v) in the case of a Borrowing requested on behalf of a Facility B Borrower, the currency of the requested Borrowing;

(vi) whether such Borrowing is to be an ABR Borrowing or a Eurocurrency Borrowing; and

(vii) in the case of a Eurocurrency Borrowing, the initial Interest Period to be applicable thereto, which shall be a period contemplated by the definition of the term "Interest Period."

If no election as to the Type of Borrowing of Revolving Loans is specified, then (A) a Borrowing of Revolving Loans requested in dollars shall be an ABR Borrowing and (B) a Borrowing of Revolving Loans requested in Euros or Sterling shall be a Eurocurrency Borrowing with an Interest Period of one month. If no Interest Period is specified with respect to any requested Eurocurrency Borrowing of Revolving Loans, then the applicable Borrower shall be deemed to have selected an Interest Period of one month's duration. Promptly following receipt of a Borrowing Request in accordance with this Section, the Administrative Agent or the European Administrative Agent, as applicable, shall advise each Lender of the details thereof and of the amount of such Lender's Loan to be made as part of the requested Borrowing.

SECTION 2.04 Protective Advances. (a) Subject to the limitations set forth below, the Administrative Agent is authorized by the Borrowers and the Lenders, from time to time in the Administrative Agent's sole discretion (but shall have absolutely no obligation to), to make (or authorize the Administrative Agent or the European Administrative Agent, as applicable, to make) (i) Loans to the Company in dollars on behalf of the Facility A Lenders (each such Loan, a "Facility A Protective Advance"), (ii) Loans to the Company in dollars, Euros or Sterling on behalf of the Facility B Lenders (each such Loan, a "Facility B US Protective Advance") and (iii) Loans to any European Borrower in dollars, Euros or Sterling on behalf of the Facility B Lenders (each such Loan, a "European Protective Advances"), which the Administrative Agent, in its Permitted Discretion, deems necessary or desirable (i) to preserve or protect the Collateral, or any portion thereof, (ii) to enhance the likelihood of, or maximize the amount of, repayment of the Loans and other Obligations or (iii) to pay any other amount chargeable to or required to be paid by any of the Borrowers pursuant to the terms of this Agreement, including payments of reimbursable expenses (including costs, fees, and expenses

as described in Section 9.03) and other sums payable under the Loan Documents (any of such Loans are herein referred to as "Protective Advances"); provided that no Protective Advance may remain outstanding for more than 30 days; provided further that the aggregate amount of (A) Protective Advances outstanding at any time shall not (x) exceed $50,000,000 or (y) when added to the total Revolving Exposure, exceed the aggregate amount of the Commitments, (B) Facility A Protective Advances outstanding at any time shall not, when added to the total Facility A Revolving Exposure, exceed the aggregate amount of the Facility A Commitments, (C) Facility B Protective Advances outstanding at any time shall not, when added to the total Facility B Revolving Exposure, exceed the aggregate amount of the Facility B Commitments and (D) European Protective Advances outstanding at any time shall not, when added to the total Facility B Revolving Exposure relating to the European Borrowers, exceed the European Sublimit. Protective Advances may be made even if the conditions precedent set forth in Section 4.02 have not been satisfied. The Protective Advances shall be secured by the Liens in favor of each applicable Collateral Agent (for the benefit of the Agents, the Lenders and the Issuing Banks) in and to the Collateral and shall constitute Obligations hereunder. All Protective Advances denominated in dollars shall be ABR Borrowings and all Protective Advances denominated in Euros or Sterling shall be Overnight LIBO Borrowings. The Administrative Agent's authorization to make Protective Advances may be revoked at any time by the Required Lenders. Any such revocation must be in writing and shall become effective prospectively upon the Administrative Agent's receipt thereof. At any time that there is sufficient Aggregate Availability and the conditions precedent set forth in Section 4.02 have been satisfied, the Administrative Agent may request the Lenders to make a Revolving Loan, in the currency in which the applicable Protective Advance was denominated, to repay a Protective Advance. At any other time the Administrative Agent may require the Lenders to fund, in the currency in which the applicable Protective Advance was denominated, their risk participations described in Section 2.04(b). It is agreed that the Administrative Agent or the European Administrative Agent, as applicable shall endeavor, but without any obligation, to notify the Borrower Representative promptly after the making of any Protective Advance.

(b) Upon the making of a Protective Advance by the Administrative Agent or the European Administrative Agent, as applicable, in accordance with the terms hereof, each Facility A Lender or Facility B Lender, as applicable, shall be deemed, without further action by any party hereto, to have unconditionally and irrevocably purchased from the Administrative Agent or the European Administrative Agent, as applicable, without recourse or warranty, an undivided interest and participation in such Facility A Protective Advance or Facility B Protective Advance, as applicable, in proportion to its Applicable Percentage. From and after the date, if any, on which any Lender is required to fund its participation in any Protective Advance purchased hereunder, the Administrative Agent or European Administrative Agent, as applicable, shall promptly distribute to such Lender, such Lender's Applicable Percentage of all payments of principal and interest and all proceeds of Collateral received by the Administrative Agent in respect of such Protective Advance.

SECTION 2.05 Swingline Loans. (a) Swingline Loans.

(i) The Administrative Agent, the US Swingline Lender and the Facility A Lenders agree that in order to facilitate the administration of this Agreement and the other Loan Documents, promptly after the Borrower Representative requests an ABR Borrowing under Facility A on behalf of the Company, the US Swingline Lender may elect to have the terms of this Section 2.05(a)(i) apply to such Borrowing Request by advancing, on behalf of the Facility A Lenders and in the amount so requested, same day funds to the Company on the applicable Borrowing date to the Funding Account(s) (each such Loan, a "Facility A Swingline Loan"), with settlement among them as to the Facility A Swingline Loans to take place on a periodic basis as set forth in Section 2.05(c). Each Facility A Swingline Loan shall be subject to all the terms and conditions applicable to other ABR Loans funded by the Facility A Lenders, except that all payments thereon shall be payable to the US Swingline Lender solely for its own account. In addition, no Facility A Swingline Loan shall be made if, after giving effect thereto:

(A) the aggregate principal amount of outstanding Facility A Swingline Loans would exceed the Facility A Swingline Sublimit;

(B) the Facility A Revolving Exposure of any Lender would exceed such Lender's Facility A Commitment;

(C) the total Revolving Exposure would exceed the lesser of (x) the sum of the aggregate amount of the Commitments and (y) the Aggregate Borrowing Base; or

(D) the total Facility A Revolving Exposure would exceed the lesser of (x) the aggregate amount of the Facility A Commitments and (y) the US Borrowing Base;

subject, in the case of each of clause (A), (C) and (D) above, to the Administrative Agent's authority, in its sole discretion, to make Protective Advances pursuant to the terms of Section 2.04.

(ii) The Administrative Agent, the US Swingline Lender and the Facility B Lenders agree that in order to facilitate the administration of this Agreement and the other Loan Documents, promptly after the Borrower Representative requests an ABR Borrowing under Facility B on behalf of the Company, the US Swingline Lender may elect to have the terms of this Section 2.05(a)(ii) apply to such Borrowing Request by advancing, on behalf of the Facility B Lenders and in the amount so requested, same day funds to the Company on the applicable Borrowing date to the Funding Account(s) (each such Loan, a "Facility B US Swingline Loan"), with settlement among them as to the Facility B US Swingline Loans to take place on a periodic basis as set forth in Section 2.05(c). Each Facility B US Swingline Loan shall be subject to all the terms and conditions applicable to other ABR Loans funded by the Facility B Lenders, except that all payments thereon shall be payable to the US Swingline Lender solely for its own account. In addition, no Facility B US Swingline Loan shall be made if, after giving effect thereto:

(A) the aggregate principal amount of outstanding Facility B Swingline Loans would exceed the Facility B Swingline Sublimit;

(B) the Facility B Revolving Exposure of any Lender would exceed such Lender's Facility B Commitment;

(C) the total Revolving Exposure would exceed the lesser of (x) the aggregate amount of the Commitments and (y) the Aggregate Borrowing Base; or

(D) the total Facility B Revolving Exposure would exceed the lesser of (x) the aggregate amount of the Facility B Commitments and (y) the Aggregate Borrowing Base *minus* the total Revolving Exposure;

subject, in the case of each of clause (A), (C) and (D) above, to the Administrative Agent's authority, in its sole discretion, to make Protective Advances pursuant to the terms of Section 2.04.

(iii) The European Administrative Agent, the European Swingline Lender and the Facility B Lenders agree that in order to facilitate the administration of this Agreement and the other Loan Documents, promptly after the Borrower Representative requests a Eurocurrency Borrowing on behalf of any European Borrower (or the applicable European Borrower requests such Borrowing), and provided that such Eurocurrency Borrowing request is received by the European Administrative Agent and the European Swingline Lender not later than 10:00 a.m., London time, the European Swingline Lender may elect to have the terms of this Section 2.05(a)(iii) apply to such Borrowing Request by advancing, on behalf of the Facility B Lenders and in the amount so requested, same day funds to the applicable European Borrower on the applicable Borrowing date to the Funding Account(s) (each such Loan, a "European Swingline Loan"), with settlement among them as to the European Swingline Loans to take place on a periodic basis as set forth in Section 2.05(c). Each European Swingline Loan shall be subject to all the terms and conditions applicable to other Eurocurrency Loans funded by the Facility B Lenders, except that (i) such European Swingline Loan shall accrue interest at a rate determined by reference to the Overnight LIBO Rate and (ii) all payments thereon shall be payable to the European Swingline Lender solely for its own account. In addition, no European Swingline Loan shall be made if, after giving effect thereto:

(A) the aggregate principal amount of outstanding Facility B Swingline Loans would exceed the Facility B Swingline Sublimit;

(B) the Facility B Revolving Exposure of any Lender would exceed such Lender's Facility B Commitment;

(C) the total Revolving Exposure would exceed the lesser of (x) the aggregate amount of the Commitments and (y) the Aggregate Borrowing Base;

(D) the total Facility B Revolving Exposure would exceed the lesser of (x) the aggregate amount of the Facility B Commitments and (y) the Aggregate Borrowing Base ***minus*** the total Revolving Exposure; or

(E) the total Facility B Revolving Exposure with respect to the European Borrowers would exceed the European Sublimit;

subject, in the case of each of clause (A), (C) and (D) above, to the Administrative Agent's authority, in its sole discretion, to make Protective Advances pursuant to the terms of Section 2.04.

(b) Lender Participations. Upon the making of a Facility A Swingline Loan or a Facility B Swingline Loan (whether before or after the occurrence of a Default and regardless of whether a Settlement has been requested with respect to such Swingline Loan), each Facility A Lender or Facility B Lender, as applicable, shall be deemed, without further action by any party hereto, to have unconditionally and irrevocably purchased from the applicable Swingline Lender, the Administrative Agent or the European Administrative Agent, as the case may be, without recourse or warranty, an undivided interest and participation in such Swingline Loan in proportion to its Applicable Percentage of the Facility A Commitments or Facility B Commitments, as applicable. The applicable Swingline Lender, the Administrative Agent or the European Administrative Agent may, at any time, require the applicable Lenders to fund, in the currency in which the applicable Swingline Loan was denominated, their participations. From and after the date, if any, on which any Lender is required to fund its participation in any Swingline Loan purchased hereunder, the Administrative Agent or the European Administrative Agent, as applicable, shall promptly distribute to such Lender, such Lender's Applicable Percentage of all payments of principal and interest and all proceeds of Collateral received by such Agent in respect of such Loan.

(c) Swingline Settlements. Each of the Administrative Agent and the European Administrative Agent, on behalf of the US Swingline Lender or the European Swingline Lender, as applicable, shall request settlement (a "Settlement") with the Facility A Lenders or Facility B Lenders, as applicable, on at least a weekly basis or on any earlier date that the Administrative Agent elects, by notifying the applicable Lenders of such requested Settlement by facsimile or e-mail no later than 12:00 noon Local Time (i) on the date of such requested Settlement (the "Settlement Date") with regard to US Swingline Loans and (ii) five Business Days prior to the Settlement Date with regard to European Swingline Loans (or, on the date of such requested Settlement, if a Default or an Event of Default has occurred and is continuing). Each Facility A Lender or Facility B Lender, as applicable (other than the Swingline Lenders, in the case of the Swingline Loans) shall transfer, in the currency in which the applicable Loan was denominated, the amount of such Lender's Applicable Percentage of the outstanding principal amount of the applicable Loan with respect to which Settlement is requested to the Administrative Agent or the European Administrative Agent, as applicable, to an account of such Agent as such Agent may designate, not later than 2:00 p.m., Local Time, on such Settlement Date. Settlements may occur during the existence of a Default and whether or not the applicable conditions precedent set forth in Section 4.02 have then been satisfied. Such amounts transferred to the applicable Agent shall be applied against the amounts of the applicable Swingline Lender's Swingline Loans and, together with such Swingline Lender's Applicable Percentage of such Swingline Loan, shall constitute Revolving Loans of such applicable Lenders, respectively. If any such amount is not transferred to the applicable Agent by any applicable Lender on such Settlement Date, the applicable Swingline Lender shall be entitled to recover such amount on demand from such Lender together with interest thereon as specified in Section 2.07.

SECTION 2.06 Letters of Credit. (a) General. Subject to the terms and conditions set forth herein, the Borrower Representative may request the issuance of Letters of Credit for its own account or for the account of another Borrower (or any Borrower may request the issuance of Letters of Credit for its own account), in a form reasonably acceptable to the Administrative Agent and the applicable Issuing Bank (a "Letter of Credit Request"), at any time and from time to time during the Availability Period. In the event of any inconsistency between the terms and conditions of this Agreement and the terms and conditions of any form of letter of credit application or other agreement submitted by the Borrower Representative or any Borrower to, or entered into by the Borrower Representative or any Borrower with, an Issuing Bank relating to any Letter of Credit, the terms and conditions of this Agreement shall control.

(b) Notice of Issuance, Amendment, Renewal, Extension; Certain Conditions. To request the issuance of a Letter of Credit (or the amendment, renewal or extension of an outstanding Letter of Credit), the Borrower Representative (or the applicable Borrower) shall hand deliver or facsimile (or transmit by electronic communication, if arrangements for doing so have been approved by the applicable Issuing Bank) to the applicable Issuing Bank and the Administrative Agent or European Administrative Agent, as applicable (prior to 9:00 a.m., Local Time, at least three Business Days prior to the requested date of issuance, amendment, renewal or extension) a Letter of Credit Request, or identifying the Letter of Credit to be amended, renewed or extended, and specifying the date of issuance, amendment, renewal or extension (which shall be a Business Day), the date on which such Letter of Credit is to expire (which shall comply with paragraph (c) of this Section), the amount of such Letter of Credit, the currency of such Letter of Credit (which shall be in dollars, in the case of each Facility A Letter of Credit, or dollars, Euros or Sterling, in the case of each Facility B Letter of Credit), the name and address of the beneficiary thereof and such other information as shall be necessary to prepare, amend, renew or extend such Letter of Credit. If requested by the

applicable Issuing Bank, the applicable Borrower also shall submit a letter of credit application on such Issuing Bank's standard form in connection with any request for a Letter of Credit. A Letter of Credit shall be issued, amended, renewed or extended only if (and upon issuance, amendment, renewal or extension of each Letter of Credit the Borrowers shall be deemed to represent and warrant that), after giving effect to such issuance, amendment, renewal or extension (i) the aggregate LC Exposure shall not exceed the LC Sublimit and (ii) the Facility B LC Exposure shall not exceed $25,000,000. In addition, no Letter of Credit shall be issued, amended, renewed or extended if, after giving effect to such issuance, amendment, renewal or extension:

(A) the Facility A Revolving Exposure of any Lender would exceed such Lender's Facility A Commitment;

(B) the Facility B Revolving Exposure of any Lender would exceed such Lender's Facility B Commitment;

(C) the total Revolving Exposure would exceed the lesser of (x) the aggregate amount of the Commitments and (y) the Aggregate Borrowing Base;

(D) the total Facility A Revolving Exposure would exceed the lesser of (x) the aggregate amount of the Facility A Commitments and (y) the US Borrowing Base;

(E) the total Facility B Revolving Exposure would exceed the lesser of (x) the aggregate amount of the Facility B Commitments and (y) the Aggregate Borrowing Base ***minus*** the total Revolving Exposure; or

(F) the total Facility B Revolving Exposure relating to the European Borrowers would exceed the European Sublimit;

(G) the total Revolving Exposure relating to the Company would exceed the US Borrowing Base;

subject, in the case of each of clause (C), (D) and (E) above, to the Administrative Agent's authority, in its sole discretion, to make Protective Advances pursuant to the terms of Section 2.04.

(c) Expiration Date. Each Letter of Credit shall expire at or prior to the close of business on the earlier of (i) the date one year after the date of the issuance of such Letter of Credit (or, in the case of any renewal or extension thereof, one year after such renewal or extension), subject to automatic extension or renewal for successive one-year periods and (ii) the date that is five Business Days prior to the Maturity Date.

(d) Participations. By the issuance of a Letter of Credit (or an amendment to a Letter of Credit increasing the amount thereof) and without any further action on the part of any Issuing Bank or the Lenders, the applicable Issuing Bank hereby grants to each Facility A Lender, with respect to a Facility A Letter of Credit, or each Facility B Lender, with respect to a Facility B Letter of Credit, and each Facility A Lender or Facility B Lender, as applicable, hereby acquires from the applicable Issuing Bank, a participation in such Letter of Credit equal to such Lender's Applicable Percentage of the aggregate amount available to be drawn under such Letter of Credit. In consideration and in furtherance of the foregoing, each Lender hereby absolutely and unconditionally agrees to pay to the Administrative Agent or the European Administrative Agent, as applicable, in the same currency as the applicable LC Disbursement, for the account of the applicable Issuing Bank, such Lender's Applicable Percentage of each LC Disbursement made by such Issuing Bank and not reimbursed by the Borrowers on the date due as

provided in paragraph (e) of this Section, or of any reimbursement payment required to be refunded to the Borrowers for any reason. Each Lender acknowledges and agrees that its obligation to acquire participations pursuant to this paragraph in respect of Letters of Credit is absolute and unconditional and shall not be affected by any circumstance whatsoever, including any amendment, renewal or extension of any Letter of Credit or the occurrence and continuance of a Default or reduction or termination of the Commitments, and that each such payment shall be made without any offset, abatement, withholding or reduction whatsoever.

(e) Reimbursement. If any Issuing Bank shall make any LC Disbursement in respect of a Letter of Credit, the applicable Borrower shall reimburse such LC Disbursement by paying to the Administrative Agent or the European Administrative Agent, as applicable, in the currency in which the applicable Letter of Credit was issued, an amount equal to such LC Disbursement not later than 1:00 p.m., Local Time, on the date that such LC Disbursement is made, if the Borrower Representative or the applicable Borrower shall have received notice of such LC Disbursement prior to 9:00 a.m., Local Time, on such date, or, if such notice has not been received by the Borrower Representative or the applicable Borrower prior to such time on such date, then not later than 11:00 a.m., Local Time, on (i) the Business Day that the Borrower Representative or the applicable Borrower receives such notice, if such notice is received prior to 9:00 a.m., Local Time, on the day of receipt, or (ii) the Business Day immediately following the day that the Borrower Representative or the applicable Borrower receives such notice, if such notice is not received prior to such time on the day of receipt; provided that the Borrower Representative on behalf of the applicable Borrower (or the applicable Borrower) may, subject to the conditions to borrowing set forth herein, request in accordance with Section 2.03 or 2.05 that such payment be financed with a Borrowing of Revolving Loans or Swingline Loan in an equivalent amount and like currency and, to the extent so financed, the Borrower's obligation to make such payment shall be discharged and replaced by the resulting Borrowing of Revolving Loans or Swingline Loan; provided further that no such payment shall be permitted to be financed with a Eurocurrency Borrowing. If any Borrower fails to make such payment when due, the Administrative Agent shall notify each Facility A Lender or Facility B Lender, as applicable, of the applicable LC Disbursement, the payment then due from the Borrowers in respect thereof and such Lender's Applicable Percentage thereof. Promptly following receipt of such notice, each applicable Lender shall pay to the Administrative Agent or the European Administrative Agent, as applicable, in the same currency as the applicable LC Disbursement, its Applicable Percentage of the payment then due from the applicable Borrower, in the same manner as provided in Section 2.07 with respect to Loans made by such Lender (and Section 2.07 shall apply, mutatis mutandis, to the payment obligations of the Lenders), and the applicable Agent shall promptly pay to the applicable Issuing Bank the amounts so received by it from the Lenders. Promptly following receipt by the Administrative Agent or the European Administrative Agent, as the case may be, of any payment from a Borrower pursuant to this paragraph, such Agent shall distribute such payment to the applicable Issuing Bank or, to the extent that Lenders have made payments pursuant to this paragraph to reimburse the applicable Issuing Bank, then such Agent shall distribute such payment to such Lenders and the applicable Issuing Bank as their interests may appear. Any payment made by a Lender pursuant to this paragraph to reimburse the applicable Issuing Bank for any LC Disbursement (other than the funding of Revolving Loans or a Swingline Loan as contemplated above) shall not constitute a Loan and shall not relieve the Borrowers or the Loan Guarantors of their respective obligations to reimburse such LC Disbursement.

(f) Obligations Absolute. The Borrowers' obligations to reimburse LC Disbursements as provided in paragraph (e) of this Section shall be absolute, unconditional and irrevocable, and shall be performed strictly in accordance with the terms of this Agreement under any and all circumstances whatsoever and irrespective of (i) any lack of validity or enforceability of any Letter of Credit or this Agreement, or any term or provision therein, (ii) any draft or other document presented under a Letter of Credit

proving to be forged, fraudulent or invalid in any respect or any statement therein being untrue or inaccurate in any respect, (iii) payment by an Issuing Bank under a Letter of Credit against presentation of a draft or other document that does not comply with the terms of such Letter of Credit, or (iv) any other event or circumstance whatsoever, whether or not similar to any of the foregoing, that might, but for the provisions of this Section, constitute a legal or equitable discharge of, or provide a right of setoff against, the Borrowers' obligations hereunder. Neither the Administrative Agent, either Collateral Agent, the Lenders nor the Issuing Banks, nor any of their Related Parties, shall have any liability or responsibility by reason of or in connection with the issuance or transfer of any Letter of Credit or any payment or failure to make any payment thereunder (irrespective of any of the circumstances referred to in the preceding sentence), or any error, omission, interruption, loss or delay in transmission or delivery of any draft, notice or other communication under or relating to any Letter of Credit (including any document required to make a drawing thereunder), any error in interpretation of technical terms or any consequence arising from causes beyond the control of the applicable Issuing Bank; provided that the foregoing shall not be construed to excuse the applicable Issuing Bank from liability to any Borrower to the extent of any direct damages (as opposed to consequential damages, claims in respect of which are hereby waived by the Borrowers to the extent permitted by applicable law) suffered by such Borrower that are caused by the applicable Issuing Bank's failure to exercise care when determining whether drafts and other documents presented under a Letter of Credit comply with the terms thereof. The parties hereto expressly agree that, in the absence of gross negligence or willful misconduct on the part of an Issuing Bank (as finally determined by a court of competent jurisdiction), such Issuing Bank shall be deemed to have exercised care in each such determination. In furtherance of the foregoing and without limiting the generality thereof, the parties agree that, with respect to documents presented which appear on their face to be in substantial compliance with the terms of a Letter of Credit, the applicable Issuing Bank may, in its sole discretion, either accept and make payment upon such documents without responsibility for further investigation, regardless of any notice or information to the contrary, or refuse to accept and make payment upon such documents if such documents are not in strict compliance with the terms of such Letter of Credit.

(g) Disbursement Procedures. The applicable Issuing Bank shall, promptly following its receipt thereof, examine all documents purporting to represent a demand for payment under a Letter of Credit. The applicable Issuing Bank shall promptly notify the Administrative Agent or the European Administrative Agent, as applicable, and the Borrower Representative (or applicable Borrower) by telephone (confirmed by facsimile) of such demand for payment and whether such Issuing Bank has made or will make an LC Disbursement thereunder; provided that any failure to give or delay in giving such notice shall not relieve the Borrowers or the Loan Guarantors of their obligations to reimburse the applicable Issuing Bank and the Lenders with respect to any such LC Disbursement.

(h) Interim Interest. If any Issuing Bank shall make any LC Disbursement, then, unless a Borrower shall reimburse such LC Disbursement in full on the date such LC Disbursement is made, the unpaid amount thereof shall bear interest, for each day from and including the date such LC Disbursement is made to but excluding the date that a Borrower reimburses such LC Disbursement, at the rate per annum then applicable to ABR Revolving Loans, in the case of an LC Disbursement in respect of a US Letter of Credit denominated in dollars, and at the rate per annum then applicable to Overnight LIBO Loans, in the case of an LC Disbursement in respect of a Letter of Credit denominated in Euros or Sterling or a European Letter of Credit denominated in dollars; provided that, if the Borrowers fail to reimburse such LC Disbursement when due pursuant to paragraph (e) of this Section, then Section 2.13(d) shall apply. Interest accrued pursuant to this paragraph shall be for the account of the applicable Issuing Bank, except that interest accrued on and after the date of payment by any Lender pursuant to paragraph (e) of this Section to reimburse such Issuing Bank shall be for the account of such Lender to the extent of such payment.

(i) Replacement of the Issuing Banks. Any Issuing Bank may be replaced at any time by written agreement among the Borrower Representative, the Administrative Agent (not to be unreasonably withheld or delayed), the replaced Issuing Bank and the successor Issuing Bank. The Administrative Agent shall notify the Lenders of any such replacement of an Issuing Bank. At the time any such replacement shall become effective, the Borrowers shall pay all unpaid fees accrued for the account of the replaced Issuing Bank pursuant to Section 2.12(b). From and after the effective date of any such replacement, (i) the successor Issuing Bank shall have all the rights and obligations of an Issuing Bank under this Agreement with respect to Letters of Credit to be issued thereafter and (ii) references herein to the term "Issuing Bank" shall be deemed to refer to such successor or to any previous Issuing Bank, or to such successor and all previous Issuing Banks, as the context shall require. After the replacement of an Issuing Bank hereunder, the replaced Issuing Bank shall remain a party hereto and shall continue to have all the rights and obligations of an Issuing Bank under this Agreement with respect to Letters of Credit issued by it prior to such replacement, but shall not be required to issue additional Letters of Credit.

(j) Cash Collateralization. If any Event of Default shall occur and be continuing, on the Business Day that the Borrower Representative receives notice from the Administrative Agent or the Required Lenders (or, if the maturity of the Loans has been accelerated, Lenders with LC Exposure representing more than 50% of the total LC Exposure) demanding the deposit of cash collateral pursuant to this paragraph or if any of the other provisions hereof require cash collateralization, the Borrowers shall deposit in an account with the applicable Collateral Agent, in the name of such Collateral Agent and for the benefit of the Agents, the Lenders and the Issuing Banks (the "LC Collateral Account"), an amount, in cash and in the currency in which the applicable Letters of Credit are denominated, equal to 103% of the LC Exposure as of such date *plus* accrued and unpaid interest thereon; provided that the obligation to deposit such cash collateral shall become effective immediately, and such deposit shall become immediately due and payable, without demand or other notice of any kind, upon the occurrence of any Event of Default with respect to any Borrower described in clause (h) or (i) of Article VII. Such deposit shall be held by the applicable Collateral Agent as collateral for the payment and performance of the Secured Obligations. Each Collateral Agent shall have exclusive dominion and control, including the exclusive right of withdrawal, over such account, such account shall be subject to a Deposit Account Control Agreement and/or acknowledgement of notice, as applicable, and each Borrower hereby grants the Collateral Agent (for the benefit of the Agents, the Lenders and the Issuing Banks) a security interest in the LC Collateral Account. Other than any interest earned on the investment of such deposits, which investments shall be made at the option and sole discretion of each Collateral Agent and at each Borrower's risk and expense, such deposits shall not bear interest. Interest or profits, if any, on such investments shall accumulate in such account. Moneys in such account shall be applied by each Collateral Agent to reimburse the applicable Issuing Bank for LC Disbursements for which it has not been reimbursed and, to the extent not so applied, shall be held for the satisfaction of the reimbursement obligations of the Borrowers for the LC Exposure at such time or, if the maturity of the Loans has been accelerated (but subject to the consent of Lenders with LC Exposure representing more than 50% of the total LC Exposure), be applied to satisfy other Secured Obligations. If the Borrowers are required to provide an amount of cash collateral hereunder as a result of the occurrence of an Event of Default, such amount (to the extent not applied as aforesaid) shall be returned to the applicable Borrower or Borrower Representative for the account of the applicable Borrower within two Business Days after all such Defaults have been cured or waived.

(k) On the Effective Date, (i) each Existing Letter of Credit, to the extent outstanding, shall be automatically and without further action by the parties thereto deemed converted into a Facility A Letter of Credit pursuant to this Section 2.06 at the request of the Company and subject to the provisions hereof as if each such Existing Letter of Credit had been issued on the Effective Date, (ii) each such Existing Letter of Credit shall be included in the calculation of LC Exposure and "Facility A LC Exposure" and (iii) all liabilities of the Company and the other Loan Parties with respect to such Existing Letters of Credit shall constitute Obligations.

SECTION 2.07 Funding of Borrowings. (a) Each Lender shall make each Loan to be made by it hereunder on the proposed date thereof by wire transfer of immediately available funds by 2:00 p.m., Local Time, to the account of the Administrative Agent or the European Administrative Agent, as applicable, in an amount equal to such Lender's Applicable Percentage; provided that Swingline Loans shall be made as provided in Section 2.05. Each of the Administrative Agent and the European Administrative Agent, as applicable, will make such Loans available to the Borrower Representative (or, if directed by the Borrower Representative, to the account of the applicable Borrower) by promptly crediting the amounts so received, in like funds, to the Funding Account(s); provided that Revolving Loans made to finance the reimbursement of (i) an LC Disbursement as provided in Section 2.06(e) shall be remitted by the Administrative Agent or the European Administrative Agent, as applicable, to the applicable Issuing Bank and (ii) a Protective Advance shall be retained by the Administrative Agent or the European Administrative Agent, as applicable, and disbursed in its discretion.

(b) Unless the Administrative Agent or the European Administrative Agent, as applicable, shall have received notice from a Lender prior to the proposed date of any Borrowing that such Lender will not make available to the Administrative Agent or the European Administrative Agent, as applicable, such Lender's share of such Borrowing, the Administrative Agent or the European Administrative Agent, as applicable, may assume that such Lender has made such share available on such date in accordance with paragraph (a) of this Section and may, in reliance upon such assumption, make available to the applicable Borrower a corresponding amount. In such event, if a Lender has not in fact made its share of the applicable Borrowing available to the Administrative Agent or the European Administrative Agent, as applicable (a "Non-Funding Lender"), then the applicable Lender and the Borrowers agree (jointly and severally with each other Borrower, but severally and not jointly with the applicable Lenders) to pay to the Administrative Agent or the European Administrative Agent, as applicable, forthwith on demand such corresponding amount with interest thereon, for each day from and including the date such amount is made available to the applicable Borrower to but excluding the date of payment to the Administrative Agent or the European Administrative Agent, as applicable, at (i) in the case of such Lender, the greater of the Federal Funds Effective Rate and a rate determined by the Administrative Agent or the European Administrative Agent, as applicable, in accordance with banking industry rules on interbank compensation or (ii) in the case of the Borrowers, the interest rate applicable to ABR Loans (in the case of dollar-denominated amounts) or Overnight LIBO Loans (in the case of Euro or Sterling-denominated amounts). If such Lender pays such amount to the Administrative Agent or the European Administrative Agent, as applicable, then such amount shall constitute such Lender's Loan included in such Borrowing. Notwithstanding the foregoing, the Borrowers shall preserve their rights and remedies against any Non-Funding Lender which has not made Loans required by the terms and provisions hereof.

SECTION 2.08 Interest Elections. (a) Each Borrowing of Revolving Loans initially shall be of the Type specified in the applicable Borrowing Request and, in the case of a Eurocurrency Borrowing of Revolving Loans, shall have an initial Interest Period as specified in such Borrowing Request. Thereafter, the Borrower Representative may elect to convert such Borrowing to a different Type or to continue such Borrowing and, in the case of a Eurocurrency Borrowing of Revolving Loans, may elect Interest Periods

therefor, all as provided in this Section. The Borrower Representative may elect different options with respect to different portions of the affected Borrowing, in which case each such portion shall be allocated ratably among the Lenders holding the Loans comprising such Borrowing, and the Loans comprising each such portion shall be considered a separate Borrowing. This Section shall not apply to Swingline Borrowings or Protective Advances, which may not be converted or continued.

(b) To make an election pursuant to this Section, the Borrower Representative shall notify the Administrative Agent or the European Administrative Agent, as applicable, of such election by telephone by the time that a Borrowing Request would be required under Section 2.03 if the Borrowers were requesting a Borrowing of Revolving Loans of the Type resulting from such election to be made on the effective date of such election. Each such telephonic Interest Election Request shall be irrevocable and shall be confirmed promptly by hand delivery or facsimile to the Administrative Agent or the European Administrative Agent, as applicable, of a written Interest Election Request in a form approved by the Administrative Agent or the European Administrative Agent, as applicable, and signed by the Borrower Representative.

(c) Each telephonic and written Interest Election Request shall specify the following information in compliance with Section 2.02:

(A) the Borrower, the Facility and the Borrowing to which such Interest Election Request applies and, if different options are being elected with respect to different portions thereof, the portions thereof to be allocated to each resulting Borrowing (in which case the information to be specified pursuant to clauses (iii) and (iv) below shall be specified for each resulting Borrowing);

(B) the effective date of the election made pursuant to such Interest Election Request, which shall be a Business Day;

(C) whether the resulting Borrowing is to be an ABR Borrowing or a Eurocurrency Borrowing; and

(D) if the resulting Borrowing is a Eurocurrency Borrowing, the Interest Period to be applicable thereto after giving effect to such election, which shall be a period contemplated by the definition of the term “Interest Period”.

If any such Interest Election Request requests a Eurocurrency Borrowing but does not specify an Interest Period, then the Borrowers shall be deemed to have selected an Interest Period of one month’s duration.

(d) Promptly following receipt of an Interest Election Request, the Administrative Agent or the European Administrative Agent, as applicable, shall advise each Lender of the details thereof and of such Lender’s portion of each resulting Borrowing.

(e) If the Borrower Representative fails to deliver a timely Interest Election Request with respect to a Eurocurrency Borrowing of Revolving Loans prior to the end of the Interest Period applicable thereto, then, unless such Borrowing is repaid as provided herein, at the end of such Interest Period such Borrowing shall be converted to (i) an ABR Borrowing, in the case of a Eurocurrency Borrowing of Revolving Loans denominated in dollars, or (ii) an Overnight LIBO Borrowing, in the case of a Eurocurrency Borrowing of Revolving Loans denominated in Euros or Sterling. Notwithstanding any contrary provision hereof, if an Event of Default has occurred and is continuing and the Administrative Agent, at the request of the Required Lenders, so notifies the Borrower Representative, then, so long as an Event of Default is continuing (i) no outstanding Borrowing of Revolving Loans may be converted to or continued as a Eurocurrency Borrowing and (ii) unless repaid, (A) each Eurocurrency

Borrowing of Revolving Loans denominated in dollars shall be converted to an ABR Borrowing at the end of the Interest Period applicable thereto and (B) each Eurocurrency Borrowing of Revolving Loans denominated in Euros or Sterling shall be converted to an Overnight LIBO Borrowing at the end of the Interest Period applicable thereto.

SECTION 2.09 Termination and Reduction of Commitments. (a) Unless previously terminated, all Commitments shall terminate on the Maturity Date.

(b) The Borrowers may at any time terminate in full the Commitments and/or may at any time terminate in full the European Sublimit upon (i) the payment in full in cash of all outstanding Loans or European Loans, as applicable, together with accrued and unpaid interest thereon and on any Letters of Credit or European Letters of Credit, as applicable, (ii) the cancellation and return of all outstanding Letters of Credit or European Letters of Credit, as applicable (or alternatively, with respect to each applicable Letter of Credit, the furnishing to the applicable Collateral Agent of a cash deposit in the currency in which the applicable Letters of Credit are denominated (or at the discretion of the Administrative Agent a back up standby letter of credit satisfactory to the Administrative Agent and in the currency in which the applicable Letters of Credit are denominated) equal to 103% of the LC Exposure as of such date), (iii) the payment in full in cash of the accrued and unpaid fees and (iv) the payment in full in cash of all reimbursable expenses and other Obligations or Obligations of the European Borrowers, as applicable, together with accrued and unpaid interest thereon. Upon the termination in full of the European Sublimit and the satisfaction in full of the Obligations of the European Borrowers (other than Obligations in respect of contingent liabilities not then due), (x) the European Borrowers will be released from their obligations under this Agreement and the other Loan Documents (including, but not limited to, all reporting obligations contained in Section 5.01 relating to the European Borrowing Base) in their capacities as such, other than in respect of obligations which expressly survive the term of this Agreement, (y) all Collateral and any Loan Guaranties of the European Borrowers will be released and (z) all events relating to any Minimum European Availability Period will cease to have effect. Notwithstanding the foregoing, the termination of the European Sublimit without a corresponding termination of the Commitments shall have no effect on the availability to the Company of the Facility B Commitments.

(c) The Borrowers may from time to time reduce the Commitments; provided that (i) each such reduction shall be in an amount that is an integral multiple of $1,000,000 and not less than $5,000,000, (ii) each such reduction shall be applied to the Facility A Commitments and the Facility B Commitments ratably in accordance with the aggregate amount of the Commitments at such time and (iii) the Borrowers shall not reduce the Commitments if, after giving effect to any concurrent prepayment of the Loans in accordance with Section 2.10, (A) the total Revolving Exposure would exceed the lesser of (x) the aggregate amount of the Commitments and (y) the Aggregate Borrowing Base, (B) the total Facility A Revolving Exposure would exceed the lesser of (x) the aggregate amount of the Facility A Commitments and (y) the US Borrowing Base, (C) the total Facility B Revolving Exposure would exceed the lesser of (x) the aggregate amount of the Facility B Commitments and (y) the Aggregate Borrowing Base *minus* the total Revolving Exposure or (D) the total Facility B Revolving Exposure with respect to the European Borrowers would exceed the European Sublimit.

(d) The Borrower Representative shall notify the Administrative Agent of any election to terminate or reduce the Commitments or the European Sublimit under paragraph (b) or (c) of this Section at least three Business Days prior to the effective date of such termination or reduction, specifying such election and the effective date thereof. Promptly following receipt of any notice, the Administrative Agent shall advise the Lenders of the contents thereof. Each notice delivered by the

Borrower Representative pursuant to this Section shall be irrevocable; provided that a notice of termination of the Commitments delivered by the Borrower Representative may state that such notice is conditioned upon the effectiveness of other credit facilities, in which case such notice may be revoked by the Borrower Representative (by notice to the Administrative Agent on or prior to the specified effective date) if such condition is not satisfied. Any termination or reduction of the Commitments shall be permanent. Each reduction of the Commitments shall be made ratably among the Lenders in accordance with their respective Commitments.

SECTION 2.10 Repayment of Loans; Evidence of Debt. (a) The Borrowers hereby unconditionally promise to pay to the Administrative Agent or the European Administrative Agent, as applicable (i) for the account of each Lender the then unpaid principal amount of each Revolving Loan on the Maturity Date and (ii) the then unpaid amount of each Protective Advance on the earlier of the Maturity Date and demand by such Agent.

(b) During any Full Cash Dominion Period, on each Business Day, the Administrative Agent or the European Administrative Agent, as applicable, shall apply all funds credited to any applicable Collection Account as of 10:00 a.m., Local Time, on such Business Day (whether or not immediately available) first to prepay any Protective Advances that may be outstanding, pro rata, and second to prepay the Revolving Loans (including Swingline Loans) (without a corresponding reduction in Commitments) and to cash collateralize outstanding LC Exposure; provided that during any Full Cash Dominion Period which is based solely on a European Full Cash Dominion Period (but not a Total Full Cash Dominion Period) the foregoing shall apply exclusively to the European Borrowers (including any Collection Account thereof) and the prepayment and/or cash collateralization of European Protective Advances, European Revolving Loans and Revolving Exposure relating to the European Borrowers in respect of their Facility B Loans. Any such application of funds shall be made (i) from Collections Accounts of the US Loan Parties first in respect of Obligations of the US Loan Parties under each Facility ratably in accordance with the then outstanding amounts thereof and second in respect of Obligations of the European Loan Parties and (ii) from Collections Accounts of the European Loan Parties and shall be made solely in respect of Obligations of the European Loan Parties.

(c) Each Lender shall maintain in accordance with its usual practice an account or accounts evidencing the indebtedness of the Borrowers to such Lender resulting from each Loan made by such Lender, including the amounts of principal and interest payable and paid to such Lender from time to time hereunder.

(d) [Reserved].

(e) The entries made in the accounts maintained pursuant to paragraph (c) or (d) of this Section shall be prima facie evidence of the existence and amounts of the obligations recorded therein; provided that the failure of any Lender, the Administrative Agent or the European Administrative Agent to maintain such accounts or any error therein shall not in any manner affect the obligation of the Borrowers to repay the Loans in accordance with the terms of this Agreement.

(f) Any Lender may request that Loans made by it be evidenced by a promissory note. In such event, the Borrowers shall prepare, execute and deliver to such Lender a promissory note payable to the order of such Lender (or, if requested by such Lender, to such Lender and its registered assigns) and in a form approved by the Administrative Agent. Thereafter, the Loans evidenced by such promissory note and interest thereon shall at all times (including after assignment pursuant to Section 9.04) be represented by one or more promissory notes in such form payable to the order of the payee named therein (or, if such promissory note is a registered note, to such payee and its registered assigns).

SECTION 2.11 Prepayment of Loans. (a) The Borrowers shall have the right at any time and from time to time, and without premium or penalty, to prepay any Borrowing in whole or in part, subject to prior notice in accordance with paragraph (f) of this Section.

(b) Except for Protective Advances permitted under Section 2.04, in the event and on such occasion that:

(i) the Facility A Revolving Exposure or Facility B Revolving Exposure of any Lender exceeds such Lender's Facility A Commitment or Facility B Commitment, respectively;

(ii) the total Revolving Exposure exceeds the lesser of (x) the aggregate amount of the Commitments or (y) the Aggregate Borrowing Base;

(iii) the total Facility A Revolving Exposure exceeds the lesser of (x) the aggregate amount of the Facility A Commitments and (y) the US Borrowing Base;

(iv) the total Facility B Revolving Exposure exceeds the lesser of (x) the aggregate amount of the Facility B Commitments and (y) the Aggregate Borrowing Base *minus* the total Revolving Exposure;

(v) the total Facility B Revolving Exposure relating to the European Borrowers exceeds the European Sublimit; or

(vi) the total Revolving Exposure relating to the Company exceeds the US Borrowing Base;

the Borrowers, as applicable, shall promptly prepay the Revolving Loans, LC Exposure and/or Swingline Loans in an aggregate amount equal to such excess.

(c) The Borrower Representative shall notify the Administrative Agent and the European Administrative Agent, as applicable (and in the case of prepayment of a Swingline Loan, the applicable Swingline Lender) by telephone (confirmed by facsimile) of any prepayment hereunder (i) in the case of prepayment of a Eurocurrency Borrowing of Revolving Loans, not later than 10:00 a.m., Local Time, two Business Days before the date of prepayment, or (ii) in the case of prepayment of an ABR Borrowing of Revolving Loans or an Overnight LIBO Borrowing of Revolving Loans, not later than 10:00 a.m., Local Time, on the Business Day before the date of prepayment. Each such notice shall be irrevocable and shall specify the prepayment date and the principal amount of each Borrowing or portion thereof to be prepaid; provided that, if a notice of prepayment is given in connection with a conditional notice of termination of the Commitments as contemplated by Section 2.09, then such notice of prepayment may be revoked if such notice of termination is revoked in accordance with Section 2.09. Promptly following receipt of any such notice relating to a Borrowing of Revolving Loans, the applicable Agent shall advise the Lenders of the contents thereof. Each partial prepayment of any Borrowing of Revolving Loans shall be in an amount that would be permitted in the case of an advance of a Borrowing of Revolving Loans of the same Type as provided in Section 2.02. Each prepayment of a Borrowing of Revolving Loans shall be applied ratably to the Revolving Loans included in the prepaid Borrowing. Prepayments shall be accompanied by accrued interest to the extent required by Section 2.13.

SECTION 2.12 Fees. (a) The Borrowers agree to pay to the Administrative Agent for the account of each Lender a commitment fee, which shall accrue at the Applicable Commitment Fee Rate on the average daily amount of the Available Commitment of such Lender during the period from and including the Effective Date to but excluding the date on which the Lenders' Commitments terminate. Accrued commitment fees shall be payable in arrears on the last Business Day of each calendar quarter and on the date on which the Commitments terminate, commencing on the first such date to occur after the Effective Date. All commitment fees shall be computed on the basis of a year of 360 days and shall be payable for the actual number of days elapsed.

(b) The Borrowers agree to pay (i) to the Administrative Agent for the account of each Lender a participation fee with respect to its participations in Letters of Credit, which shall accrue at the same Applicable Spread in the case of standby Letters of Credit, and 50% of the Applicable Spread in the case of trade Letters of Credit, in each case used to determine the interest rate applicable to Eurocurrency Revolving Loans on the average daily amount of such Lender's LC Exposure (excluding any portion thereof attributable to unreimbursed LC Disbursements) during the period from and including the Effective Date to but excluding the later of the date on which such Lender's Commitment terminates and the date on which such Lender ceases to have any LC Exposure, and (ii) to the applicable Issuing Bank a fronting fee, which shall accrue at the rate of 0.125% per annum on the average daily amount of the LC Exposure (excluding any portion thereof attributable to unreimbursed LC Disbursements) during the period from and including the Effective Date to but excluding the later of the date of termination of the Commitments and the date on which there ceases to be any LC Exposure, as well as such Issuing Bank's standard fees with respect to the issuance, amendment, renewal or extension of any Letter of Credit or processing of drawings thereunder. Participation fees and fronting fees accrued through and including the last day of each calendar quarter shall be payable on the last Business Day of each calendar quarter and on the date on which the Commitments terminate, commencing on the first such date to occur after the date hereof; provided that all such fees shall be payable on the date on which the Commitments terminate and any such fees accruing after the date on which the Commitments terminate shall be payable on demand. Any other fees payable to an Issuing Bank pursuant to this paragraph shall be payable within 10 days after demand. All participation fees and fronting fees shall be computed on the basis of a year of 360 days and shall be payable for the actual number of days elapsed.

(c) The Borrowers agree to pay to the Administrative Agent, for its own account, fees payable in the amounts and at the times separately agreed upon between the Borrowers and the Administrative Agent.

(d) All fees payable hereunder shall be paid on the dates due, in immediately available dollars, to the Administrative Agent (or to the applicable Issuing Bank, in the case of fees payable to an Issuing Bank) for distribution, in the case of commitment fees and participation fees, to the Lenders. Fees paid shall not be refundable under any circumstances.

SECTION 2.13 Interest. (a) The Loans comprising each ABR Borrowing (including each US Swingline Loan and each Protective Advance denominated in dollars) shall bear interest at the Alternate Base Rate plus the Applicable Spread.

(b) The Loans comprising each Eurocurrency Borrowing shall bear interest at the Adjusted LIBO Rate for the Interest Period in effect for such Borrowing plus the Applicable Spread.

(c) The Loans comprising each Overnight LIBO Borrowing (including each European Swingline Loan and each Facility B Protective Advance denominated in Euros or Sterling) shall bear interest at the Overnight LIBO Rate plus the Applicable Spread.

(d) Notwithstanding the foregoing, during the occurrence and continuance of an Event of Default, the Administrative Agent or the Required Lenders may, at their option, by notice to the Borrower Representative (which notice may be revoked at the option of the Required Lenders notwithstanding any provision of Section 9.02 requiring the consent of "each Lender directly affected thereby" for reductions in interest rates), declare that (i) all Loans and participation fees on account of Letters of Credit shall bear interest at 2% plus the rate otherwise applicable to such Loans or participation fees, as applicable, as provided in the preceding paragraphs of this Section or (ii) in the case of any other amount outstanding hereunder, (x) if such amount is denominated in dollars, such amount shall accrue at 2% plus the rate applicable to ABR Loans as provided in paragraph (a) of this Section, and (y) if such amount is denominated in Euros or Sterling, such amount shall accrue at 2% plus the rate applicable to Overnight LIBO Rate Loans as provided in paragraph (c) of this Section.

(e) Accrued interest on each Loan (for ABR Loans and Overnight LIBO Loans, accrued through the last day of the prior calendar month) shall be payable in arrears on each Interest Payment Date for such Loan and upon termination of the Commitments; provided that (i) interest accrued pursuant to paragraph (d) of this Section shall be payable on demand, (ii) in the event of any repayment or prepayment of any Loan (other than a prepayment of an ABR Loan prior to the end of the Availability Period), accrued interest on the principal amount repaid or prepaid shall be payable on the date of such repayment or prepayment and (iii) in the event of any conversion of any Eurocurrency Loan prior to the end of the current Interest Period therefor, accrued interest on such Loan shall be payable on the effective date of such conversion.

(f) All interest hereunder shall be computed on the basis of a year of 360 days, except that (i) interest computed by reference to the Alternate Base Rate at times when the Alternate Base Rate is based on the Prime Rate shall be computed on the basis of a year of 365 days (or 366 days in a leap year), and shall be payable for the actual number of days elapsed and (ii) interest computed on Loans and Letters of Credit denominated in Sterling shall be computed on the basis of a year of 365 days, and shall be payable for the actual number of days elapsed. The applicable Alternate Base Rate, LIBO Rate or Overnight LIBO Rate shall be determined by the Administrative Agent or the European Administrative Agent, as applicable, and such determination shall be conclusive absent manifest error.

(g) All interest hereunder shall be paid in the currency in which the Loan giving rise to such interest is denominated.

SECTION 2.14 Alternate Rate of Interest. (a) If prior to the commencement of any Interest Period for a Eurocurrency Borrowing:

(A) the Administrative Agent determines (which determination shall be conclusive absent manifest error) that adequate and reasonable means do not exist for ascertaining the Adjusted LIBO Rate or the LIBO Rate, as applicable, for such Interest Period; or

(B) the Administrative Agent is advised by the Required Lenders that the Adjusted LIBO Rate or the LIBO Rate, as applicable, for such Interest Period will not adequately and fairly reflect the cost to such Lenders (or Lender) of making or maintaining their Loans (or its Loan) included in such Borrowing for such Interest Period;

then the Administrative Agent shall give notice thereof to the Borrower Representative and the Lenders by telephone or facsimile as promptly as practicable thereafter and, until the Administrative Agent notifies the Borrower Representative and the Lenders that the circumstances giving rise to such notice no longer exist, (i) any Interest Election Request that requests the conversion of any Borrowing of Revolving Loans to, or continuation of any Borrowing of Revolving Loans as, a Eurocurrency Borrowing shall be ineffective, (ii) if any Borrowing Request requests a Eurocurrency Borrowing of Revolving Loans denominated in dollars, such Borrowing shall be made as an ABR Borrowing and (iii) if any Borrowing Request requests a Eurocurrency Borrowing of Revolving Loans denominated in Euros or Sterling, such Borrowing shall be made as an Alternate Rate Borrowing.

(b) If at any time:

(A) the Administrative Agent determines (which determination shall be conclusive absent manifest error) that adequate and reasonable means do not exist for ascertaining the Overnight LIBO Rate; or

(B) the Administrative Agent is advised by the Required Lenders that the Overnight LIBO Rate will not adequately and fairly reflect the cost to such Lenders (or Lender) of making or maintaining their Loans (or its Loan) included in any Overnight LIBO Borrowing;

then the Administrative Agent shall give notice thereof to the Borrower Representative and the Lenders by telephone or facsimile as promptly as practicable thereafter and, until the Administrative Agent notifies the Borrower Representative and the Lenders that the circumstances giving rise to such notice no longer exist, any Overnight LIBO Borrowing (including any Facility B Swingline Loan denominated in Euros or Sterling) shall be made as an Alternate Rate Borrowing.

SECTION 2.15 Increased Costs. (a) If any Change in Law shall:

(A) subject any Lender or any Issuing Bank to any (or any increase in any) Other Connection Taxes with respect to this Agreement or any other Loan Document, any Letter of Credit, or any participation in a Letter of Credit or any Loan made or Letter of Credit issued by it, except any such Taxes imposed on or measured by its net income or profits (however denominated) or franchise taxes imposed in lieu of net income or profits taxes;

(B) impose, modify or deem applicable any reserve, special deposit or similar requirement against assets of, deposits with or for the account of, or credit extended by, any Lender (except any such reserve requirement reflected in the Adjusted LIBO Rate or Overnight LIBO Rate) or any Issuing Bank; or

(C) impose on any Lender or any Issuing Bank or the London interbank market any other condition affecting this Agreement or Eurocurrency Loans or Overnight LIBO Loans made by such Lender or any Letter of Credit or participation therein;

and the result of any of the foregoing shall be to increase the cost to such Lender of making or maintaining any Eurocurrency Loan or Overnight LIBO Loan (or of maintaining its obligation to make any such Loan) or to increase the cost to such Lender or such Issuing Bank of participating in, issuing or maintaining any Letter of Credit or to reduce the amount of any sum received or receivable by such Lender or such Issuing Bank hereunder (whether of principal, interest or otherwise), then the Borrowers will pay to such Lender or such Issuing Bank, as the case may be, such additional amount or amounts as will compensate such Lender or such Issuing Bank, as the case may be, for such additional costs incurred or reduction suffered.

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

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

(d) Failure or delay on the part of any Lender or any Issuing Bank to demand compensation pursuant to this Section shall not constitute a waiver of such Lender's or such Issuing Bank's right to demand such compensation; provided that the Borrowers shall not be required to compensate a Lender or an Issuing Bank pursuant to this Section for any increased costs or reductions incurred more than 270 days prior to the date that such Lender or such Issuing Bank, as the case may be, notifies the Borrower Representative of the Change in Law giving rise to such increased costs or reductions and of such Lender's or such Issuing Bank's intention to claim compensation therefor; provided further that, if the Change in Law giving rise to such increased costs or reductions is retroactive, then the 270-day period referred to above shall be extended to include the period of retroactive effect thereof.

SECTION 2.16 Break Funding Payments. In the event of (a) the payment of any principal of any Eurocurrency Loan other than on the last day of an Interest Period applicable thereto (including as a result of an Event of Default), (b) the conversion of any Eurocurrency Loan other than on the last day of the Interest Period applicable thereto, (c) the failure to borrow, convert, continue or prepay any Eurocurrency Loan on the date specified in any notice delivered pursuant hereto (regardless of whether such notice may be revoked under Section 2.09(d) and is revoked in accordance therewith), or (d) the assignment of any Eurocurrency Loan other than on the last day of the Interest Period applicable thereto as a result of a request by the Borrower Representative pursuant to Section 2.19, then, in any such event, the Borrowers shall compensate each Lender for the loss, cost and expense attributable to such event. In the case of a Eurocurrency Loan, such loss, cost or expense to any Lender shall be deemed to include an amount determined by such Lender to be the excess, if any, of (i) the amount of interest which would have accrued on the principal amount of such Loan had such event not occurred, at the Adjusted LIBO Rate that would have been applicable to such Loan, for the period from the date of such event to the last day of the then current Interest Period therefor (or, in the case of a failure to borrow, convert or continue, for the period that would have been the Interest Period for such Loan), over (ii) the amount of interest which would accrue on such principal amount for such period at the interest rate which such Lender would bid were it to bid, at the commencement of such period, for dollar deposits of a comparable amount and period from other banks in the eurocurrency market. A certificate of any Lender setting forth any amount or amounts that such Lender is entitled to receive pursuant to this Section shall be delivered to the Borrower Representative and shall be conclusive absent manifest error. The Borrowers shall pay such Lender the amount shown as due on any such certificate within 10 days after receipt thereof.

SECTION 2.17 Taxes. (a) Any and all payments by or on account of any obligation of any Loan Party hereunder or under any other Loan Document shall be made free and clear of and without reduction or withholding for any Indemnified Taxes or Other Taxes; provided that if any applicable law (as determined in the good faith discretion of an applicable Withholding Agent (as defined below)) requires the deduction or withholding of any Indemnified Tax or Other Tax from any such payment (including, for the avoidance of doubt, any such deduction or withholding required to be made by the applicable Loan Party, the Administrative Agent, the European Administrative Agent, any Collateral Agent or, in the case of any Lender that is treated as a partnership for U.S. federal income tax purposes, by such Lender for the account of any of its direct or indirect beneficial owners), the applicable Loan Party, the Administrative Agent, the European Administrative Agent, the applicable Collateral Agent, the Lender or the applicable direct or indirect beneficial owner of a Lender that is treated as a partnership for U.S. federal income tax purposes (any such person a "Withholding Agent") shall make such deductions and timely pay the full amount deducted to the relevant Governmental Authority in accordance with applicable law and, if such Tax is an Indemnified Tax or Other Tax, then the sum payable by the applicable Loan Party shall be increased as necessary so that after making all required deductions (including deductions applicable to additional sums payable under this Section) the Administrative Agent, the European Administrative Agent, each Collateral Agent, any Lender, any Issuing Bank or its beneficial owner, as the case may be, receives an amount equal to the sum it would have received had no such deductions been made. A Loan Party is not required to make any payment to a Lender pursuant to this Section 2.17 for a tax deduction in respect of tax imposed by the United Kingdom from a payment of interest on a Borrowing if on the date on which the payment falls due:

(i) the payment could have been made to the relevant Lender without a tax deduction if it was a UK Qualifying Lender, but on that date that Lender is not or has ceased to be a UK Qualifying Lender other than as a result of any change after the date it became a Lender under this Agreement in (or in the interpretation, administration or application of) any law or Treaty, or any published practice or concession of any relevant taxing authority; or

(ii) (A) the relevant Lender is a UK Qualifying Lender solely under clause (b) of the definition of UK Qualifying Lender (a "UK Non-Bank Lender"), (B) an officer of H.M. Revenue & Customs has given (and not revoked) a direction under section 931 of the UK Income Tax Act 2007 (as that provision has effect on the date on which the relevant Lender became a party to this Agreement) which relates to that payment and that Lender has received from a UK Borrower a certified copy of such Direction; and (C) the payment could have been made to the Lender without any tax deduction in the absence of such Direction; or

(iii) the relevant Lender is a UK Non-Bank Lender and it has not, other than by reason of any change after the date of this Agreement in (or in the interpretation, administration, or application of) any law, or any published practice or concession of any relevant taxing authority, given a Tax Confirmation to a UK Borrower.

(b) Each UK Non-Bank Lender agrees that, prior to becoming a party to this Agreement, it will deliver a Tax Confirmation to the Borrower Representative.

(c) Each UK Non-Bank Lender agrees to promptly notify the Borrower Representative and the Administrative Agent if any of the information contained in the Tax Confirmation of such UK Non-Bank Lender is inaccurate.

(d) Without limiting the provisions of paragraph (a) above, the Borrowers shall timely pay, or at the option of the Administrative Agent, the European Administrative Agent or any Collateral Agent, as applicable, timely reimburse it for the payment of any Other Taxes to the relevant Governmental Authority in accordance with applicable law.

(e) The Borrowers shall jointly and severally indemnify the Administrative Agent, the European Administrative Agent, each Collateral Agent, each Lender and each Issuing Bank, within 10 days after demand therefor, for the full amount of any Indemnified Taxes or Other Taxes payable by the Administrative Agent, the European Administrative Agent, such Collateral Agent, such Lender (or its beneficial owner) or such Issuing Bank, as the case may be (including Indemnified Taxes or Other Taxes imposed or asserted on or attributable to amounts payable under this Section) and any reasonable expenses arising therefrom or with respect thereto, whether or not such Indemnified Taxes or Other Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability delivered to the Borrower Representative by the Administrative Agent, the European Administrative Agent, a Collateral Agent, a Lender or an Issuing Bank (with a copy to the Administrative Agent), as applicable, shall be conclusive absent manifest error. This paragraph (e) shall not apply to the extent that the Indemnified Taxes or Other Taxes (i) are compensated for by an increased payment under Section 2.17(a) or (ii) would have been compensated for by an increased payment under Section 2.17(a) but were not so compensated solely because one of the exclusions in Section 2.17(a)(i), (ii) or (iii) applied.

(f) Each Lender shall indemnify the Administrative Agent, the European Administrative Agent or any Collateral Agent, as applicable, within 10 days after demand therefor, for the full amount of any Excluded Taxes attributable to such Lender that are payable or paid by the Administrative Agent, the European Administrative Agent or any Collateral Agent, and reasonable expenses arising therefrom or with respect thereto, whether or not such Excluded Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability delivered to any Lender by the Administrative Agent shall be conclusive absent manifest error.

(g) As soon as practicable after any payment of Indemnified Taxes or Other Taxes by a Loan Party to a Governmental Authority, the Borrower Representative shall deliver to the Administrative Agent the original or a certified copy of a receipt issued by such Governmental Authority evidencing such payment, a copy of the return reporting such payment or other evidence of such payment reasonably satisfactory to the Administrative Agent.

(h) Each US Fee Receiver hereby represents that it is a Permitted Fee Receiver and agrees to update Internal Revenue Service Form W-9 (or its successor form) or applicable Internal Revenue Service Form W-8 (or its successor form) upon any change in such Person’s circumstances or if such form expires or becomes inaccurate or obsolete, and to promptly notify the Borrowers and the Administrative Agent if such Person becomes legally ineligible to provide such form.

(i) Any Foreign Lender that is entitled to an exemption from or reduction of any applicable withholding tax with respect to payments hereunder or under any other Loan Document shall deliver to the Borrower Representative (with a copy to the Administrative Agent), at the time or times reasonably requested by the Borrower Representative or the Administrative Agent, such properly completed and executed documentation prescribed by applicable law as will permit such payments to be made

without withholding or at a reduced rate of withholding. In addition, any Lender, if requested by the Borrower Representative, the Administrative Agent or the European Administrative Agent or any Collateral Agent, shall deliver such other documentation prescribed by applicable law or reasonably requested by the Borrower Representative or the Administrative Agent as will enable the Borrower Representative, the Administrative Agent or the European Administrative Agent or any Collateral Agent to determine whether or not such Lender is subject to backup withholding or information reporting requirements. Notwithstanding anything to the contrary in the preceding two sentences, the completion, execution and submission of such forms shall not be required if the Foreign Lender is not legally entitled to do so.

Without limiting the generality of the foregoing, in the event that any Borrower is a US Borrower, any Foreign Lender shall, to the extent it is legally entitled to do so, deliver to the Borrower Representative and the Administrative Agent (in such number of copies as shall be requested by the recipient) on or prior to the date on which such Foreign Lender becomes a Lender under this Agreement (and from time to time thereafter upon the request of the Borrower Representative or the Administrative Agent), whichever of the following is applicable:

(i) duly completed copies of Internal Revenue Service Form W-8BEN claiming eligibility for benefits of an income tax treaty to which the United States of America is a party,

(ii) duly completed copies of Internal Revenue Service Form W-8ECI,

(iii) in the case of a Foreign Lender claiming the benefits of the exemption for portfolio interest under section 881(c) of the Code, (x) a certificate substantially in the form of Exhibit E to the effect that such Foreign Lender is not (A) a "bank" within the meaning of section 881(c)(3)(A) of the Code, (B) a "10 percent shareholder" of the Borrower within the meaning of section 881(c)(3)(B) of the Code, (C) a "controlled foreign corporation" described in section 881(c)(3)(C) of the Code and (D) the interest payment in question is not effectively connected with the United States trade or business conducted by such Lender (a "U.S. Tax Compliance Certificate") and (y) duly completed copies of Internal Revenue Service Form W-8BEN,

(iv) to the extent a Foreign Lender is not the beneficial owner (for example, where the Foreign Lender is a partnership or participating Lender granting a typical participation), an Internal Revenue Service Form W-8IMY, accompanied by a Form W-8ECI, W-8BEN, U.S. Tax Compliance Certificate, Form W-9, and/or other certification documents from each beneficial owner, as applicable; provided that, if the Foreign Lender is a partnership (and not a participating Lender) and one or more beneficial owners of such Foreign Lender are claiming the portfolio interest exemption, such Foreign Lender may provide a U.S. Tax Compliance Certificate on behalf of each such beneficial owner, or

(v) any other form prescribed by applicable law as a basis for claiming exemption from or a reduction in United States federal withholding tax duly completed together with such supplementary documentation as may be prescribed by applicable law to permit the Borrower to determine the withholding or deduction required to be made.

Each Lender agrees that if any form or certification it previously delivered by it expires or becomes obsolete or inaccurate in any respect, it shall update such form or certification or promptly notify the Borrower Representative and the Administrative Agent in writing of its legal inability to do so.

(j) If the Administrative Agent, the European Administrative Agent, either Collateral Agent, any Lender or any Issuing Bank determines, in its sole discretion, that it has received a refund of any Indemnified Taxes or Other Taxes as to which it has been indemnified pursuant to this Section 2.17 (including additional amounts paid by any Loan Party pursuant to this Section), it shall pay to the indemnifying party an amount equal to such refund (but only to the extent of indemnity payments made under this Section with respect to the Indemnified Taxes or Other Taxes giving rise to such refund), net of all out-of-pocket expenses (including any Taxes) of the Administrative Agent, the European Administrative Agent, such Collateral Agent, such Lender or such Issuing Bank, as the case may be, and without interest (other than any interest paid by the relevant Governmental Authority with respect to such refund); provided, that such indemnifying party, upon the request of the Administrative Agent, the European Administrative Agent, such Collateral Agent, such Lender or such Issuing Bank, agrees to repay the amount paid over pursuant to this Section 2.17(j) (*plus* any penalties, interest or other charges imposed by the relevant Governmental Authority) to the Administrative Agent, the European Administrative Agent, such Collateral Agent, such Lender or such Issuing Bank in the event the Administrative Agent, the European Administrative Agent, such Collateral Agent, such Lender or such Issuing Bank is required to repay such refund to such Governmental Authority. Notwithstanding anything to the contrary in this paragraph (j), in no event will any Issuing Bank or Lender be required to pay any amount to any Loan Party the payment of which would place the Issuing Bank or such Lender in a less favorable net after-Tax position than the Issuing Bank or such Lender would have been in if the indemnification payments or additional amounts giving rise to such refund had never been paid. This paragraph shall not be construed to require the Administrative Agent, the European Administrative Agent, any Collateral Agent, any Lender or any Issuing Bank to make available its Tax returns (or any other information relating to its Taxes which it deems confidential) to the Borrowers or any other Person nor shall it be construed to require the Administrative Agent, the European Administrative Agent, any Collateral Agent, any Lender or any Issuing Bank, as the case may be, to apply for or otherwise initiate any refund contemplated in this Section 2.17.

(k) All amounts set out, or expressed to be payable under any Loan Document by any party to the Administrative Agent, the European Administrative Agent, either Collateral Agent, any Lender or any Issuing Bank which (in whole or in part) constitute the consideration for VAT purposes shall be deemed to be exclusive of any VAT which is chargeable in connection therewith. If, in connection with this Agreement, VAT is chargeable to, or in respect of any payment made by any Loan Party to, the Administrative Agent, the European Administrative Agent, either Collateral Agent, any Lender or any Issuing Bank, such Loan Party shall promptly pay to the Administrative Agent, the European Administrative Agent, such Collateral Agent, such Lender or such Issuing Bank, as the case may be, an amount equal to the amount of such VAT (and the Administrative Agent, the European Administrative Agent, such Collateral Agent, such Lender or such Issuing Bank, as the case may be, shall promptly provide an appropriate VAT invoice to such party).

(l) Where any party is required under any Loan Document to reimburse the Administrative Agent, the European Administrative Agent, either Collateral Agent, any Lender or any Issuing Bank, as the case may be, for any costs or expenses, that party shall also at the same time pay and indemnify each such Administrative Agent, European Administrative Agent, Collateral Agent, any Lender or any Issuing Bank, as the case may be, against all VAT and any stamp duty, registration or other similar tax payables, in each case incurred in connection with the entry into, performance or enforcement of any Loan Document.

(m) The agreements in this Section shall survive the termination of this Agreement and the payment of the Loans and all other amounts payable hereunder.

SECTION 2.18 Payments Generally; Allocation of Proceeds; Sharing of Set-offs. (a) The Borrowers shall make each payment required to be made by them hereunder (whether of principal, interest, fees or reimbursement of LC Disbursements, or of amounts payable under Section 2.15, 2.16 or 2.17, or otherwise) prior to 2:00 p.m., Local Time, on the date when due, in immediately available funds, without set-off or counterclaim. Except as otherwise expressly set forth herein, all payments of Loans shall be paid in the currency in which such Loans were made. Any amounts received after such time on any date may, in the discretion of the Administrative Agent or the European Administrative Agent, as applicable, be deemed to have been received on the next succeeding Business Day for purposes of calculating interest thereon. All such payments shall be made to the Administrative Agent or the European Administrative Agent, as applicable, at its offices at (i) for payments of US Revolving Loans, US Swingline Loans, LC Disbursements of any Issuing Bank in respect of US Letters of Credit, fronting fees payable to any Issuing Bank in respect of US Letters of Credit, US Protective Advances, fees payable pursuant to Section 2.12(a), participation fees payable pursuant to Section 2.12(b), fees payable pursuant to 2.12(c) and all other payments in dollars, to the Administrative Agent at 270 Park Avenue, New York, New York 10017 USA and (ii) for payments of European Revolving Loans, European Swingline Loans, LC Disbursements of any Issuing Bank in respect of European Letters of Credit, fronting fees payable to the an Issuing Bank in respect of European Letters of Credit and European Protective Advances, to the European Administrative Agent at 125 London Wall, London EC2Y 5AJ, United Kingdom, except payments to be made directly to an Issuing Bank or a Swingline Lender as expressly provided herein and except that payments pursuant to Sections 2.15, 2.16, 2.17 and 9.03 shall be made directly to the Persons entitled thereto. Each of the Administrative Agent and the European Administrative Agent shall distribute any such payments received by it for the account of any other Person to the appropriate recipient, in like funds, promptly following receipt thereof. If any payment hereunder shall be due on a day that is not a Business Day, the date for payment shall be extended to the next succeeding Business Day, and, in the case of any payment accruing interest, interest thereon shall be payable for the period of such extension. All payments hereunder shall be made in dollars, except that all payments in respect of Loans (and interest thereon) and LC Obligations shall be made in the same currency in which such Loan was made or Letter of Credit issued. During any Full Cash Dominion Period, solely for purposes of determining the amount of Loans available for borrowing purposes, checks (in addition to immediately available funds applied pursuant to Section 2.10(b)) from collections of items of payment and proceeds of any Collateral shall be applied in whole or in part against the applicable Obligations as of 10:00 a.m., Local Time, on the Business Day of receipt, subject to actual collection.

(b) Any proceeds of Collateral received by the Administrative Agent (i) not constituting either (A) a specific payment of principal, interest, fees or other sum payable under the Loan Documents (which shall be applied as specified by the Borrowers), (B) a mandatory prepayment (which shall be applied in accordance with Section 2.11) or (C) amounts to be applied from the Collection Account during a Full Cash Dominion Period (which shall be applied in accordance with Section 2.10(b)) or (ii) after an Event of Default has occurred and is continuing and the Administrative Agent so elects or the Required Lenders so direct, such funds shall be applied ratably first, to pay any fees, indemnities, or expense reimbursements including amounts then due to the Administrative Agent, the European Administrative Agent, either Collateral Agent and any Issuing Bank from the Borrowers (other than in connection with Banking Services or Swap Obligations), second, to pay any fees or expense reimbursements then due to the Lenders from the Borrowers (other than in connection with Banking Services or Swap Obligations), third, to pay interest due in respect of the Protective Advances ratably, fourth, to pay the principal of the Protective Advances ratably, fifth, to pay interest then due and payable on the Loans (other than the Protective Advances) ratably, sixth, to prepay principal on the Loans (other than the Protective Advances) and unreimbursed LC Disbursements ratably, seventh, to pay an amount to the

US Collateral Agent equal to 103% of the aggregate undrawn face amount of all outstanding Letters of Credit, to be held as cash collateral for such Obligations, eighth, to payment of any amounts owing with respect to Banking Services and Swap Obligations that are Secured Obligations, ninth, to the payment of any other Secured Obligation due to the Administrative Agent, the European Administrative Agent, either Collateral Agent or any Lender by the Borrowers, and tenth, any balance remaining after the Secured Obligations shall have been paid in full and no Letters of Credit shall be outstanding (other than Letters of Credit which have been cash collateralized in accordance with the foregoing) shall be paid over to the applicable Borrower at its Funding Account. Notwithstanding anything to the contrary contained in this Agreement, unless so directed by the Borrower Representative, or unless a Default is in existence, neither the Administrative Agent, the European Administrative Agent, the Collateral Agents nor any Lender shall apply any payment which it receives to any Eurocurrency Loan of a Class, except (a) on the expiration date of the Interest Period applicable to any such Eurocurrency Loan or (b) in the event, and only to the extent, that there are no outstanding ABR Loans of the same Class and, in any such event, the Borrowers shall pay the break funding payment required in accordance with Section 2.16. Each of the Administrative Agent and the European Administrative Agent and the Lenders shall have the continuing and exclusive right to apply and reverse and reapply any and all such proceeds and payments to any portion of the Secured Obligations. Notwithstanding the foregoing, any such application of proceeds from Collateral of the European Loan Parties shall be made solely in respect of Obligations of the European Loan Parties.

(c) At the election of the Administrative Agent or the European Administrative Agent, as the case may be, all payments of principal, interest, LC Disbursements, fees, premiums, reimbursable expenses (including, without limitation, all reimbursement for fees and expenses pursuant to Section 9.03), and other sums payable under the Loan Documents, may be paid from the proceeds of Borrowings made hereunder whether made following a request by the Borrower Representative pursuant to Section 2.03 or a deemed request as provided in this Section or may be deducted from any deposit account of any Borrower maintained with either the Administrative Agent or the European Administrative Agent. Each Borrower hereby irrevocably authorizes (i) the Administrative Agent and the European Administrative Agent to make a Borrowing for the purpose of paying each payment of principal, interest and fees as it becomes due hereunder or any other amount due under the Loan Documents and agrees that all such amounts charged shall constitute Loans (including Swingline Loans, but such a Borrowing may only constitute a Protective Advance if it is to reimburse costs, fees and expenses as described in Section 9.03) and that all such Borrowings shall be deemed to have been requested pursuant to Sections 2.03, 2.04 or 2.05, as applicable and (ii) the Administrative Agent and the European Administrative Agent to charge any deposit account of any Borrower maintained with such Agent for each payment of principal, interest and fees as it becomes due hereunder or any other amount due under the Loan Documents.

(d) If any Lender shall, by exercising any right of set-off or counterclaim or otherwise, obtain payment in respect of any principal of or interest on any of its Loans or participations in LC Disbursements resulting in such Lender receiving payment of a greater proportion of the aggregate amount of its Loans and participations in LC Disbursements and accrued interest thereon than the proportion received by any other Lender, then the Lender receiving such greater proportion shall purchase (for cash at face value) participations in the Loans and participations in LC Disbursements of other Lenders to the extent necessary so that the benefit of all such payments shall be shared by the Lenders ratably in accordance with the aggregate amount of principal of and accrued interest on their respective Loans and participations in LC Disbursements; provided that (i) if any such participations are purchased and all or any portion of the payment giving rise thereto is recovered, such participations shall be rescinded and the purchase price restored to the extent of such recovery, without interest, and (ii) the provisions of this paragraph shall not be construed to apply to any payment made by the Borrowers pursuant to and in accordance with the express

terms of this Agreement or any payment obtained by a Lender as consideration for the assignment of or sale of a participation in any of its Loans or participations in LC Disbursements to any assignee or participant, other than to the Borrowers or any Subsidiary or Affiliate thereof (as to which the provisions of this paragraph shall apply). Each Borrower consents to the foregoing and agrees, to the extent it may effectively do so under applicable law, that any Lender acquiring a participation pursuant to the foregoing arrangements may exercise against such Borrower rights of set-off and counterclaim with respect to such participation as fully as if such Lender were a direct creditor of such Borrower in the amount of such participation.

(e) Unless the Administrative Agent shall have received notice from the Borrower Representative prior to the date on which any payment is due to the Administrative Agent for the account of the Lenders or an Issuing Bank hereunder that the Borrowers will not make such payment, the Administrative Agent or the European Administrative Agent, as applicable, may assume that the Borrowers have made such payment on such date in accordance herewith and may, in reliance upon such assumption, distribute to the Lenders or the applicable Issuing Bank, as the case may be, the amount due. In such event, if the Borrowers have not in fact made such payment, then each of the Lenders or the applicable Issuing Bank, as the case may be, severally agrees to repay to the Administrative Agent and the European Administration Agent, if applicable, forthwith on demand the amount so distributed to such Lender or such Issuing Bank with interest thereon, for each day from and including the date such amount is distributed to it to but excluding the date of payment to the Administrative Agent or the European Administration Agent, if applicable, at the greater of the Federal Funds Effective Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation.

(f) If any Lender shall fail to make any payment required to be made by it hereunder, then the Administrative Agent and, if applicable, the European Administrative Agent, may, in its discretion (notwithstanding any contrary provision hereof), apply any amounts thereafter received by it for the account of such Lender to satisfy such Lender's obligations hereunder until all such unsatisfied obligations are fully paid.

SECTION 2.19 Mitigation Obligations; Replacement of Lenders. If any Lender requests compensation under Section 2.15, or if the Borrowers are required to pay any additional amount to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 2.17, or is otherwise a Departing Lender (as defined below), then:

(a) such Lender shall use reasonable efforts to designate a different lending office for funding or booking its Loans hereunder or to assign its rights and obligations hereunder to another of its offices, branches or affiliates, if, in the judgment of such Lender, such designation or assignment (i) would eliminate or reduce amounts payable pursuant to Section 2.15 or 2.17, as the case may be, in the future, (ii) would not subject such Lender to any unreimbursed cost or expense and would not otherwise be disadvantageous to such Lender (and the Borrowers hereby agree to pay all reasonable costs and expenses incurred by any Lender in connection with any such designation or assignment) and (iii) would not breach any applicable law;

(b) the Borrowers may, at their sole expense and effort, require such Lender or any Lender that defaults in its obligation to fund Loans hereunder (herein, a "Departing Lender"), upon notice to the Departing Lender and the Administrative Agent, to assign and delegate, without recourse (in accordance with and subject to the restrictions contained in Section 9.04), all its interests, rights and obligations under this Agreement to an assignee that shall assume such obligations (which assignee may be another Lender, if a Lender accepts such assignment); provided that (i) the Borrowers shall have received the prior written

consent of the Administrative Agent (and if a Commitment is being assigned, the Issuing Banks), which consent shall not unreasonably be withheld or delayed, (ii) the Departing Lender shall have received payment of an amount equal to the outstanding principal of its Loans and participations in LC Disbursements and Swingline Loans, accrued interest thereon, accrued fees and all other amounts payable to it hereunder, from the assignee (to the extent of such outstanding principal and accrued interest and fees) or the Borrowers (in the case of all other amounts) and (iii) in the case of any such assignment resulting from a claim for compensation under Section 2.15 or payments required to be made pursuant to Section 2.17, such assignment will result in a reduction in such compensation or payments. A Departing Lender shall not be required to make any such assignment and delegation if, prior thereto, as a result of a waiver by such Lender or otherwise, the circumstances entitling the Borrowers to require such assignment and delegation cease to apply.

SECTION 2.20 Returned Payments. If after receipt of any payment which is applied to the payment of all or any part of the Obligations, the Administrative Agent, the European Administrative Agent, either Collateral Agent, any Issuing Bank or any Lender is for any reason compelled to surrender such payment or proceeds to any Person because such payment or application of proceeds is invalidated, declared fraudulent, set aside, determined to be void or voidable as a preference, impermissible setoff, or a diversion of trust funds, or for any other reason, then the Obligations or part thereof intended to be satisfied shall be revived and continued and this Agreement shall continue in full force as if such payment or proceeds had not been received by the Administrative Agent, the European Administrative Agent, such Collateral Agent, such Issuing Bank or such Lender. The provisions of this Section 2.20 shall be and remain effective notwithstanding any contrary action which may have been taken by the Administrative Agent, the European Administrative Agent, either Collateral Agent, any Issuing Bank or any Lender in reliance upon such payment or application of proceeds. The provisions of this Section 2.20 shall survive the termination of this Agreement.

ARTICLE III

Representations and Warranties

Each Loan Party represents and warrants to the Lenders that:

SECTION 3.01 Organization; Powers. Each of the Loan Parties and each of its Subsidiaries is duly organized or incorporated, validly existing and in good standing under the laws of the jurisdiction of its organization or incorporation, has all requisite power and authority to carry on its business as now conducted and, except where the failure to do so, individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect, is qualified to do business in, and is in good standing in, every jurisdiction where such qualification is required.

SECTION 3.02 Authorization; Enforceability. (a) The Transactions are within each Loan Party's organizational powers and have been duly authorized by all necessary organizational actions and, if required, actions by equity holders. The Loan Documents to which each Loan Party is a party have been duly executed and delivered by such Loan Party and constitute a legal, valid and binding obligation of such Loan Party, enforceable in accordance with its terms, subject to applicable bankruptcy, insolvency, examination, reorganization, moratorium or other laws affecting creditors' rights generally and subject to general principles of equity, regardless of whether considered in a proceeding in equity or at law.

(b) The choice of governing law provisions contained in this Agreement and each other Loan Document are enforceable in the jurisdictions where each Loan Party is organized or incorporated or any Collateral is located. Any judgment obtained in connection with any Loan Document in the jurisdiction of the governing law of such Loan Document will be recognized and be enforceable in the jurisdictions where each Loan Party is organized or any Collateral is located.

(c) Subject to applicable Insolvency Laws, no European Loan Party nor any of its property or assets has any immunity from jurisdiction of any court or from any legal process (whether through service or notice, attachment prior to judgment, attachment in aid of execution, execution or otherwise) under the laws of the jurisdiction in which such European Loan Party is organized in respect of its obligations under the Loan Documents to which it or its property or assets is subject.

(d) The Loan Documents to which each European Loan Party is a party are in proper legal form under the laws of the jurisdiction in which each such European Loan Party is organized or incorporated and existing (i) for the enforcement thereof against each such European Loan Party under the laws of each such jurisdiction and (ii) in order to ensure the legality, validity, enforceability, priority or admissibility in evidence of such Loan Documents. It is not necessary to ensure the legality, validity, enforceability, priority or admissibility in evidence of the Loan Documents to which any European Loan Party is a party that any such Loan Documents be filed, registered or recorded with, or executed or notarized before, any court or other authority in the jurisdiction in which any such European Loan Party is organized or that any registration charge or stamp or similar tax be paid on or in respect of the applicable Loan Documents or any other document, except for any such filing, registration, recording, execution or notarization that is referred to in Section 3.16 or is not required to be made until enforcement of the applicable Loan Document.

(e) All legal requirements of the Luxembourg law of May 31, 1999, as amended, regarding the domiciliation companies have been complied with by the Luxembourg Borrower.

SECTION 3.03 Governmental Approvals; No Conflicts. The Transactions (a) do not require any consent or approval of, registration or filing with, or any other action by, any Governmental Authority, except such as have been obtained or made and are in full force and effect and except for filings necessary to perfect Liens created pursuant to the Loan Documents, and except in the case of court proceedings in a Luxembourg court of the presentation of the Loan Documents, either directly or by way of reference, to an *autorité constituéee*, such court or *autorité constituée* may require registration of all or part of the Loan Documents with the *Administration de l'Enregistement et des Domaines* in Luxembourg, which may result in registration duties, at a fixed rate of € 12 or an *ad valorem* rate which depends on the nature of the registered document, becoming due and payable, (b) will not violate any Requirement of Law applicable to any Loan Party or any of its Subsidiaries, (c) will not violate or result in a default under any indenture, agreement or other instrument binding upon any Loan Party or any of its Subsidiaries or its assets, or give rise to a right thereunder to require any payment to be made by any Loan Party or any of its Subsidiaries, and (d) will not result in the creation or imposition of any Lien on any asset of any Loan Party or any of its Subsidiaries, except Liens created pursuant to the Loan Documents.

SECTION 3.04 Financial Condition; No Material Adverse Change. (a) The Company has heretofore furnished to the Lenders its consolidated balance sheet and statements of income, stockholders equity and cash flows (reported on a monthly basis) (i) as of and for the fiscal years ended December 30, 2006 and December 29, 2007, reported on by Deloitte & Touche LLP, a registered public accounting firm, and (ii) as of and for the fiscal quarters and the portion of the fiscal year ended March 29, 2008 and June 28, 2008, certified by its chief financial officer. Such financial statements present fairly, in all material respects, the financial position and results of operations and cash flows of the Company and its consolidated Subsidiaries as of such dates and for such periods in

accordance with GAAP, subject to year end audit adjustments and the absence of footnotes in the case of the statements referred to in clause (ii) above. Except as set forth on Schedule 3.06, neither the Company nor any of its consolidated Subsidiaries has any material Guarantee obligations, contingent liabilities and liabilities for taxes, or any long-term leases or unusual forward or long-term commitments, including any interest rate or foreign currency swap or exchange transaction or other obligation in respect of derivatives, that are not reflected in the most recent financial statements referred to in this paragraph.

(b) Except for the Disclosed Matters, no event, change or condition has occurred that has had, or could reasonably be expected to have, a Material Adverse Effect, since December 29, 2007.

SECTION 3.05 Properties. (a) Each of the Loan Parties and its Subsidiaries has good and indefeasible title to, or valid leasehold interests in, all its real and personal property, free of all Liens other than Permitted Liens, except where failure would not reasonably be expected to have a Material Adverse Effect.

(b) Each Loan Party and its Subsidiaries owns, or is licensed to use, all material Intellectual Property that is necessary to its business as currently conducted and the use thereof by the Loan Parties and its Subsidiaries does not infringe in any material respect upon the rights of any other Person.

SECTION 3.06 Litigation and Environmental Matters. (a) There are no actions, suits or proceedings by or before any arbitrator or Governmental Authority pending against or, to the knowledge of any Loan Party, threatened against or affecting the Loan Parties or any of their Subsidiaries (i) as to which there is a reasonable possibility of an adverse determination and that, if adversely determined, could reasonably be expected, individually or in the aggregate, to result in a Material Adverse Effect (other than the Disclosed Matters) or (ii) that involve this Agreement or the Transactions.

(b) Except for the Disclosed Matters (i) no Loan Party nor any of its Subsidiaries has received notice of any claim with respect to any material Environmental Liability or knows of any basis for any material Environmental Liability and (ii) except with respect to any other matters that, individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect, no Loan Party nor any of its Subsidiaries (1) has failed to comply with any applicable Environmental Law or to obtain, maintain or comply with any permit, license or other approval required under any Environmental Law or (2) has become subject to any Environmental Liability.

(c) Since the Effective Date, there has been no change in the status of the Disclosed Matters that, individually or in the aggregate, has resulted in, or materially increased the likelihood of, a Material Adverse Effect.

SECTION 3.07 Compliance with Laws and Agreements. Each Loan Party and its Subsidiaries is in compliance with all Requirements of Law applicable to it or its property and all indentures, agreements and other instruments binding upon it or its property, except where the failure to do so, individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect.

SECTION 3.08 Investment Company Status. No Loan Party nor any of its Subsidiaries is an “investment company” as defined in, or subject to regulation under, the Investment Company Act of 1940 and shall not register as, conduct its business or take any action which shall cause it to be registered for the purposes of the European Communities (Markets in Financial Instruments) Regulations 2007.

SECTION 3.09 Taxes. Each Loan Party and its Subsidiaries has timely filed or caused to be filed all Tax returns and reports required to have been filed and has paid or caused to be paid all Taxes required to have been paid by it, except Taxes that are being contested in good faith by appropriate proceedings and for which such Loan Party or such Subsidiary, as applicable, has set aside on its books adequate reserves. No tax liens have been filed and no claims are being asserted with respect to any such taxes. As of the Effective Date, no Taxes are imposed, by withholdings or otherwise, on any payment to be made by any European Borrower under any Loan Document, or are imposed on, or by virtue of, the execution or delivery by any European Borrower of any Loan Document. As of the Effective Date, no European Borrower is required to make any deduction for or on account of Tax from any payment it may make under any Loan Document. Each Borrower is resident for Tax purposes only in the jurisdiction of its establishment or incorporation as the case may be.

SECTION 3.10 ERISA; Benefit Plans. (a) No ERISA Event has occurred or is reasonably expected to occur that, when taken together with all other such ERISA Events for which liability is reasonably expected to occur, could reasonably be expected to result in a Material Adverse Effect. Each Loan Party and ERISA Affiliate is in compliance with the applicable provisions of ERISA, the Code and any other federal, state or local laws relating to the Plans, and with all regulations and published interpretations thereunder, except as could not reasonably be expected to result in a Material Adverse Effect. The present value of all accumulated benefit obligations under each Plan (based on the assumptions used for purposes of Statement of Financial Accounting Standards No. 87) did not, as of the date of the most recent financial statements reflecting such amounts, exceed the fair market value of the assets of such Plan.

(b) Except for the UK Pension Scheme, (i) neither a UK Loan Party nor any of its Subsidiaries or Affiliates is or has at any time been an employer (for the purposes of Sections 38 to 51 of the UK Pensions Act 2004) of an occupational pension scheme which is not a money purchase scheme (both terms as defined in the UK Pensions Schemes Act 1993) and (ii) neither a UK Loan Party nor any of its Subsidiaries or Affiliates is or has at any time been "connected" with or an "associate" of (as those terms are used in Sections 38 and 43 of the UK Pensions Act 2004) such an employer.

(c) The UK Pension Scheme is either fully funded based on the statutory funding objective of Section 222 of the UK Pensions Act 2004 or has in place a recovery plan that satisfies the requirements of Section 226 of the UK Pensions Act 2004.

(d) Except as, in the aggregate, could not reasonably be expected to have a Material Adverse Effect, (i) all employer and employee contributions (including insurance premiums) required by applicable law or by the terms of any Foreign Benefit Arrangement or Foreign Plan (including any policy held thereunder) have been made, or, if applicable, accrued in accordance with normal accounting practices; (ii) other than in relation to the UK Pension Scheme, the accrued benefit obligations of each Foreign Plan (based on those assumptions used to fund such Foreign Plan) with respect to all current and former participants do not exceed the assets of such Foreign Plan; (iii) each Foreign Plan that is required to be registered has been registered and has been maintained in good standing with applicable regulatory authorities; and (iv) each such Foreign Benefit Arrangement and Foreign Plan is in compliance (A) with all material provisions of applicable law and all material applicable regulations and regulatory requirements (whether discretionary or otherwise) and published interpretations thereunder with respect to such Foreign Benefit Arrangement or Foreign Plan and (B) with the terms of such plan or arrangement.

(e) No supplementary pension scheme pursuant to the Supplementary Pension Act has been, or will be, set up within the Luxembourg Borrower until the reimbursement of the Loans. The Luxembourg Borrower warrants that it has complied, and will comply, at all times with its obligation under the statutory provisions of the CAS.

(f) All pension schemes operated or maintained for the benefit of a Loan Party (including in the case of a UK Loan Party, its Subsidiaries or Affiliates) comply with all provisions of the relevant law and employ reasonable actuarial assumptions. Other than in relation to the UK Pension Scheme, no Loan Party has any unsatisfied liability in respect of any pension scheme and there are no circumstances which may give rise to any such liability which could reasonably be expected to have Material Adverse Effect. Each Loan Party shall ensure that all pension schemes operated by or maintained for the benefit of a Loan Party (including in the case of a UK Loan Party, its Subsidiaries or Affiliates) and/or any of its employees are, to the extent required by applicable law, funded or reserved to the extent failure to do so (or, with the expiry of a grace period, the giving of notice, the making of any determination under the Loan Documents or any combination of any of the foregoing taking into account all remedies of the Loan Parties under the Loan Documents) could reasonably be expected to have a Material Adverse Effect.

(g) No occupational pension scheme within the meaning of Section 2 of the Irish Pensions Act has been, or will be, set up by the Irish Borrower until the reimbursement of the Loans.

SECTION 3.11 Disclosure. Each Borrower has disclosed to the Lenders all agreements, instruments and corporate or other restrictions to which it or any Subsidiary is subject, and all other matters known to it, that, individually or in the aggregate, could reasonably be expected to result in a Material Adverse Effect. Neither the Confidential Information Memorandum nor any of the other reports, financial statements, certificates or other information furnished by or on behalf of any Loan Party to the Administrative Agent or any Lender in connection with the negotiation of this Agreement or any other Loan Document (as modified or supplemented by other information so furnished) contains any material misstatement of fact or omits to state any material fact necessary to make the statements therein, in the light of the circumstances under which they were made, and taken as a whole, not misleading; provided that, with respect to projected financial information, the Borrowers represent only that such information was prepared in good faith based upon assumptions believed to be reasonable at the time delivered and, if such projected financial information was delivered prior to the Effective Date, as of the Effective Date.

SECTION 3.12 No Default. No Loan Party nor any of its Subsidiaries is in default in the performance, observance or fulfillment of any of the obligations, covenants or conditions contained in any agreement, instrument or other undertaking to which such Person is a party or by which it or any of its property is bound in any respect that could reasonably be expected to have a Material Adverse Effect. No Default or Event of Default has occurred and is continuing.

SECTION 3.13 Solvency. (a) Immediately after the consummation of the Transactions to occur on the Effective Date, (i) the fair value of the assets of each Loan Party, at a fair valuation, will exceed its debts and liabilities, subordinated, contingent or otherwise; (ii) the present fair saleable value of the property of each Loan Party will be greater than the amount that will be required to pay the probable liability of its debts and other liabilities, subordinated, contingent or otherwise, as such debts and other liabilities become absolute and matured; (iii) each Loan Party will be able to pay its debts and liabilities, subordinated, contingent or otherwise, as such debts and liabilities become due, absolute and matured; and the Luxembourg Borrower is neither in a situation of illiquidity (*cessation de paiements*) nor has access to credit (*credit ébranlé*) within the meaning of Article 437 of the Luxembourg Commercial Code; and (iv) each Loan Party will not have unreasonably small capital with which to conduct the business in which it is engaged as such business is now conducted and is proposed to be conducted after the Effective Date.

(b) No Loan Party intends to, or will permit any of its Subsidiaries to, and no Loan Party believes that it or any of its Subsidiaries will, incur debts beyond its ability to pay such debts as they mature, taking into account the timing of and amounts of cash to be received by it or any such Subsidiary and the timing of the amounts of cash to be payable on or in respect of its Indebtedness or the Indebtedness of any such Subsidiary.

SECTION 3.14 Insurance. Schedule 3.14 sets forth a description of all insurance maintained by or on behalf of the Loan Parties as of the Effective Date. As of the Effective Date, all premiums in respect of such insurance have been paid. The Borrowers believe that the insurance maintained by or on behalf of the Loan Parties and their Subsidiaries are adequate.

SECTION 3.15 Capitalization and Subsidiaries. Schedule 3.15 sets forth, as of the Effective Date, (a) a correct and complete list of the name and relationship to the Company of each and all of the Company's Subsidiaries, (b) a true and complete listing of each class of authorized Equity Interests of each Borrower (other than the Company), of which all of such issued shares are validly issued, outstanding, fully paid and non-assessable (to the extent such concepts are applicable), and owned beneficially and of record by the Persons identified on Schedule 3.15, and (c) the type of entity of the Company and each of its Subsidiaries. All of the issued and outstanding Equity Interests owned by any Loan Party in its Subsidiaries has been (to the extent such concepts are relevant with respect to such ownership interests) duly authorized and issued and is fully paid and non assessable.

SECTION 3.16 Security Interest in Collateral. (a) The provisions of this Agreement and the other Loan Documents create legal and valid Liens on all the Collateral in favor of the applicable Collateral Agent, for the benefit of the Agents, the Lenders and the Issuing Banks, and upon filing of UCC financing statements and the taking of actions or making of filings required for perfection under the laws of the relevant Collateral Documents, as necessary, and, if applicable, the taking of actions or making of filings with respect to Intellectual Property registrations or applications issued or pending, such Liens constitute perfected and continuing Liens on the Collateral, securing the Secured Obligations, enforceable against the applicable Loan Party and all third parties, and having priority over all other Liens on the Collateral, except in the case of (a) Permitted Encumbrances, to the extent any such Permitted Liens would have priority over the Liens in favor of the US Collateral Agent or the European Collateral Agent, as applicable, pursuant to any applicable law, (b) Liens created by a UK Loan Party where registration of particulars of such Liens at the (i) Companies Registration Office in England, Scotland and Wales is required under Section 395 or Section 410, as applicable, of the UK Companies Act 1985 (or the relevant Sections of the UK Companies Act 2006 when it becomes effective), (ii) UK Trade Marks Registry at the Patent Office in England, Scotland and Wales is required and (iii) UK Land Registry or UK Land Charges Registry in England, Scotland and Wales is required. As of the Effective Date, the jurisdictions in which the filing of UCC financing statements are necessary are listed on Schedule 3.16.

(b) In relation to Liens created by a Dutch Security Agreement where registration is required with the Dutch tax authorities, each Loan Party which is a party to the Dutch Security Agreement pursuant to which an undisclosed right of pledge over receivables is granted in favor of the European Collateral Agent undertakes:

(i) to execute a supplemental deed of pledge (as described in such Dutch Security Agreement) on a monthly basis or following the commencement of a European Full Cash Dominion Period or the occurrence of a Default on a weekly basis (or with such other frequency as the European Collateral Agent may in its discretion acting reasonably designate in writing to the relevant Loan Party);

(ii) to register such supplemental deed with the tax authorities within two Business Days of its execution; and

(iii) to promptly provide the European Collateral Agent with a copy of any executed supplemental deed of pledge and evidence satisfactory to the European Collateral Agent of registration.

(c) In relation to any Irish Security Agreement, within 21 days of the execution of the deed of charge, each Loan Party which is a party thereto undertakes to file such Irish Security Agreement in the Irish Companies Registration Office as required under Section 99 of the Irish Companies Act 1963.

SECTION 3.17 Employment Matters. As of the Effective Date, there are no strikes, lockouts or slowdowns, and no material unfair labor practice charges, against any Loan Party or its Subsidiaries pending or, to the knowledge of the Borrowers, threatened. The terms and conditions of employment, hours worked by and payments made to employees of the Loan Parties and their Subsidiaries have not been in material violation of the Fair Labor Standards Act, or any other applicable federal, provincial, territorial, state, local or foreign law dealing with such matters. All material payments due from any Loan Party or any of its Subsidiaries, or for which any claim may be made against any Loan Party or any of its Subsidiaries, on account of wages, vacation pay and employee health and welfare insurance and other benefits, have been paid or accrued as a liability on the books of the Loan Party or such Subsidiary.

SECTION 3.18 Common Enterprise. The successful operation and condition of each of the Loan Parties is dependent on the continued successful performance of the functions of the group of the Loan Parties as a whole and the successful operation of each of the Loan Parties is dependent on the successful performance and operation of each other Loan Party. Each Loan Party expects to derive benefit (and its board of directors or other governing body has determined that it may reasonably be expected to derive benefit), directly and indirectly, from (i) successful operations of each of the other Loan Parties and (ii) the credit extended by the Lenders to the Borrowers hereunder, both in their separate capacities and as members of the group of companies. Each Loan Party has determined that execution, delivery, and performance of this Agreement and any other Loan Documents to be executed by such Loan Party is within its purpose, will be of direct and indirect benefit to such Loan Party, and is in its best interest.

SECTION 3.19 Centre of Main Interests. For the purposes of the Council of the European Union Regulation No. 1346/2000 on Insolvency Proceedings, each European Borrower's centre of main interests (as that term is used in Article 3(1) therein) is situated in its jurisdiction of incorporation and it has no "establishment" (as that term is used in Article 2(h) therein) in any other jurisdiction.

ARTICLE IV

Conditions

SECTION 4.01 Effective Date. The obligations of the Lenders to make Loans and of the Issuing Banks to issue Letters of Credit hereunder shall not become effective until the date on which each of the following conditions is satisfied (or waived in accordance with Section 9.02):

(a) Credit Agreement and Loan Documents. The Administrative Agent (or its counsel) shall have received (i) from each party hereto either (A) a counterpart of this Agreement signed on behalf of such party or (B) written evidence satisfactory to the Administrative Agent (which may include facsimile or .pdf transmission of a signed signature page of this Agreement) that such

party has signed a counterpart of this Agreement and (ii) duly executed copies (or facsimile or .pdf copies) of the Loan Documents and such other certificates, documents, instruments and agreements as the Administrative Agent shall reasonably request in connection with the transactions contemplated by this Agreement and the other Loan Documents, including any promissory notes requested by a Lender pursuant to Section 2.10 payable to the order of each such requesting Lender and written opinions of the Loan Parties' counsel, addressed to the Administrative Agent, the Issuing Banks and the Lenders.

(b) Financial Statements and Projections. The Lenders shall have received (i) audited consolidated financial statements of the Company and its Subsidiaries for their December 30, 2006 and December 29, 2007 fiscal years, (ii) unaudited interim consolidated financial statements of the Company and its Subsidiaries for each fiscal quarter ended after the date of the latest applicable financial statements delivered pursuant to clause (i) of this paragraph as to which such financial statements are available, and such financial statements shall not, in the reasonable judgment of the Administrative Agent, reflect any material adverse change in the consolidated financial condition of the Company and its Subsidiaries, as reflected in the financial statements or projections contained in the Confidential Information Memorandum, as supplemented through September 16, 2008 and (iii) satisfactory (A) quarterly projections through 2009 and (B) annual projections from 2010 through 2013.

(c) Closing Certificates; Certified Certificate of Incorporation; Good Standing Certificates. The Administrative Agent shall have received (i) a certificate of each Loan Party, dated the Effective Date and executed by its Secretary, Assistant Secretary or authorized manager or director, which shall (A) certify the resolutions of its Board of Directors, Board of Managers, members or other body authorizing the execution, delivery and performance of the Loan Documents to which it is a party, (B) identify by name and title and bear the signatures of the Financial Officers and any other officers or managers of such Loan Party authorized to sign the Loan Documents to which it is a party, (C) in respect of each UK Loan Party organized under the laws of England and Wales, contain a statement to the effect that its entry into and performance by it of the transactions contemplated by the Loan Documents do not and will not exceed any limit on its powers to borrow, grant security or give guarantees or indemnities contemplated by the Loan Documents to which it is a party and (D) contain appropriate attachments, including the certificate or articles of incorporation or organization of each Loan Party certified by the relevant authority of the jurisdiction of organization of such Loan Party and a true and correct copy of its by-laws, memorandum and articles of association or operating, management or partnership agreement (or in the case of the Luxembourg Borrower, consolidated articles of incorporation, if applicable), and in the case of the Luxembourg Borrower an excerpt from the Luxembourg Trade and Companies Register not older than one day prior to drawdown; (ii) a long form certificate of good standing, status or compliance, as applicable, for each Loan Party from its jurisdiction of organization (to the extent such concept is relevant or applicable in such jurisdiction); (iii) in relation to the Luxembourg Borrower, a domiciliation certificate issued by the Luxembourg domiciliation agent confirming that (a) it is duly authorized to act as domiciliation agent in Luxembourg in accordance with the Luxembourg law of April 5, 1993, as amended, on the financial sector and has complied with all legal requirements of the Luxembourg law of May 31, 1999, as amended, regarding the domiciliation of companies and the related circulars, (b) a domiciliation agreement has been entered into between MAS International S.à R.L. as domiciliation agent, and the Luxembourg Borrower, as domiciled company, on January 30, 2004 for an unlimited duration, (c) the domiciliation agreement is still in full force and effect as of the date of the domiciliation certificate and any conditions to which the domiciliation agreement is subject have been satisfied; and (d) the domiciled company has complied with all legal requirements of the Luxembourg law of May 31, 1999, as amended, regarding the domiciliation of companies and the related circulars; and (iv) a non-bankruptcy certificate in relation to the Luxembourg Borrower issued not later than one day prior to drawdown by the *2ème section du Greffe du Tribunal d'Arrondissement de Luxembourg*.

(d) No Default Certificate. The Administrative Agent shall have received a certificate, signed by the chief financial officer of the Borrower Representative and dated the initial Borrowing date (i) stating that no Default has occurred and is continuing, (ii) stating that the representations and warranties contained in Article III are true and correct as of such date, and (iii) certifying any other factual matters as may be reasonably requested by the Administrative Agent.

(e) Fees. The Lenders and the Agents shall have received all fees required to be paid, and all expenses for which invoices have been presented (including the reasonable fees and expenses of legal counsel), on or before the Effective Date. All such amounts will be paid with proceeds of Loans made on the Effective Date and will be reflected in the funding instructions given by the Borrower Representative to the Administrative Agent on or before the Effective Date.

(f) Lien Searches. The Administrative Agent shall have received the results of a recent lien search in each of the jurisdictions where assets of the Loan Parties (other than the Dutch Loan Parties) are located, and such search report shall reveal no liens on any of the assets of the Loan Parties except for liens permitted by Section 6.02 or discharged on or prior to the Effective Date pursuant to a pay-off letter or other documentation satisfactory to the Administrative Agent.

(g) Pay-Off Letter. The Administrative Agent shall have received satisfactory pay-off letters (or other satisfactory evidence) for all existing Indebtedness to be repaid from the proceeds of the initial Borrowing listed on Schedule 4.01(g), confirming that all Liens upon any of the property of the Loan Parties constituting Collateral will be terminated concurrently with such payment and all letters of credit issued or guaranteed as part of such Indebtedness shall have been cash collateralized or supported by a Letter of Credit.

(h) Funding Accounts. The Administrative Agent shall have received a notice setting forth the deposit account(s) of the Borrowers (the "Funding Accounts") to which the Lender is authorized by the Borrowers to transfer the proceeds of any Borrowings requested or authorized pursuant to this Agreement.

(i) Solvency. The Administrative Agent shall have received a solvency certificate from a Financial Officer of each Borrower (other than the Dutch Borrower, which shall provide a representation as to solvency in a director's certificate) or, in the case of the Luxembourg Borrower, from the authorised signatory of the Luxembourg Borrower.

(j) Borrowing Base Certificate. The Administrative Agent shall have received (a) an Aggregate Borrowing Base Certificate which calculates the Aggregate Borrowing Base as of the Effective Date and (b) a US Borrowing Base Certificate, UK Borrowing Base Certificate and Dutch Borrowing Base Certificate which calculates each such Borrowing Base as of August 23, 2008.

(k) Closing Availability. After giving effect to all Borrowings to be made on the Effective Date and the issuance of any Letters of Credit on the Effective Date and payment of all fees and expenses due hereunder, and with all of the Loan Parties' indebtedness, liabilities and obligations current, the Borrowers' Aggregate Availability shall not be less than $400,000,000.

(l) Pledged Notes. The US Collateral Agent or the European Collateral Agent, as applicable, shall have received each promissory note (if any) pledged to the US Collateral Agent or the European Collateral Agent, as applicable, pursuant to the Security Agreements endorsed (without recourse) in blank (or accompanied by an executed transfer form in blank) by the pledgor thereof.

(m) Filings, Registrations and Recordings. Each document (including any Uniform Commercial Code financing statement) required by the Collateral Documents or under law or reasonably requested by either Collateral Agent to be filed, registered or recorded in order to create in favor of the applicable Collateral Agent, for the benefit of the Agents, the Lenders and the Issuing Banks, a perfected Lien on the Collateral described therein, prior and superior in right to any other Person (other than with respect to Liens expressly permitted by Section 6.02), shall be in proper form for filing, registration or recordation.

(n) Insurance. The Administrative Agent shall have received evidence of insurance coverage in form, scope, and substance reasonably satisfactory to the Administrative Agent and otherwise in compliance with the applicable terms of the Security Agreements (including Section 5.09 of this Agreement and the applicable provisions of the Security Agreements).

(o) Letter of Credit Application. The Administrative Agent shall have received a properly completed letter of credit application if the issuance of a Letter of Credit will be required on the Effective Date.

(p) Process Agent. The Administrative Agent shall have received evidence of the acceptance by the Process Agent of its appointment as process agent by each Loan Party that is organized outside of the United States.

(q) Other Documents. The Administrative Agent shall have received such other documents as the Administrative Agent, the European Administrative Agent, either Collateral Agent, any Issuing Bank, any Lender or their respective counsel may have reasonably requested.

The Administrative Agent shall notify the Borrowers and the Lenders of the Effective Date, and such notice shall be conclusive and binding. After the Effective Date, the Administrative Agent shall make available to the Lenders executed versions of the Loan Documents. Notwithstanding the foregoing, the obligations of the Lenders to make Loans and of any Issuing Bank to issue Letters of Credit hereunder shall not become effective unless each of the foregoing conditions is satisfied (or waived pursuant to Section 9.02) at or prior to 2:00 p.m., New York time, on September 26, 2008 (and, in the event such conditions are not so satisfied or waived, the Commitments shall terminate at such time).

SECTION 4.02 Each Credit Event. The obligation of each Lender to make a Loan on the occasion of any Borrowing, and of each Issuing Bank to issue, amend, renew or extend any Letter of Credit, is subject to the satisfaction of the following conditions:

(a) The representations and warranties of the Borrowers set forth in this Agreement shall be true and correct in all material respects on and as of the date of such Borrowing or the date of issuance, amendment, renewal or extension of such Letter of Credit, as applicable, except that such representations and warranties (i) that relate solely to an earlier date shall be true and correct as of such earlier date and (ii) shall be true and correct in all respects if they are qualified by a materiality standard.

(b) At the time of and immediately after giving effect to such Borrowing or the issuance, amendment, renewal or extension of such Letter of Credit, as applicable, no Default shall have occurred and be continuing.

(c) Each Borrowing and each issuance of any Letter of Credit shall be made in accordance with the terms of clauses (i) – (vi) of Section 2.01.

Each Borrowing and each issuance, amendment, renewal or extension of a Letter of Credit shall be deemed to constitute a representation and warranty by the Borrowers on the date thereof as to the matters specified in paragraphs (a), (b) and (c) of this Section.

Notwithstanding the failure to satisfy the conditions precedent set forth in paragraphs (a) or (b) of this Section, unless otherwise directed by the Required Lenders, the Administrative Agent may, but shall have no obligation to, continue to make (or authorize the European Administrative Agent to make) Loans and an Issuing Bank may, but shall have no obligation to, issue or cause to be issued any Letter of Credit (or amend, renew or extend any Letter of Credit) for the ratable account and risk of Lenders from time to time if the Administrative Agent believes that making such Loans or issuing or causing to be issued (or amending, renewing or extending) any such Letter of Credit is in the best interests of the Lenders.

ARTICLE V

Affirmative Covenants

Until the Commitments have expired or been terminated and the principal of and interest on each Loan and all fees payable hereunder shall have been paid in full in cash and all Letters of Credit shall have expired or terminated (or have been cash collateralized in accordance with Section 2.06(j) hereof) and all LC Disbursements shall have been reimbursed, each Loan Party executing this Agreement covenants and agrees, jointly and severally with all of the Loan Parties, with the Lenders that:

SECTION 5.01 Financial Statements; Borrowing Base and Other Information. The Borrowers will furnish to the Administrative Agent (with copies to be provided to each Lender by the Administrative Agent):

(a) within 90 days after the end of each fiscal year of the Company, its audited consolidated balance sheet and related statements of operations, stockholders' equity and cash flows as of the end of and for such year, setting forth in each case in comparative form the figures for the previous fiscal year, all reported on by Deloitte & Touche LLP or another registered public accounting firm of recognized national standing (without a "going concern" or like qualification or exception and without any qualification or exception as to the scope of such audit) to the effect that such consolidated financial statements present fairly in all material respects the financial condition and results of operations of the Company and its consolidated Subsidiaries on a consolidated basis in accordance with GAAP consistently applied, accompanied by any management letter prepared by said accountants;

(b) within 45 days after the end of each of the first three fiscal quarters of the Company, its consolidated balance sheet and related statements of operations, stockholders' equity and cash flows as of the end of and for such fiscal quarter and the then elapsed portion of the fiscal year, setting forth in each case in comparative form the figures for the corresponding period or periods of (or, in the case of the balance sheet, as of the end of) the previous fiscal year, all certified by a Financial Officer of the Borrower Representative as presenting fairly in all material respects the financial condition and results of operations of the Company and its consolidated Subsidiaries on a consolidated basis in accordance with GAAP consistently applied, subject to normal year-end audit adjustments and the absence of footnotes;

(c) concurrently with any delivery of financial statements under clause (a) or (b) above, a certificate of a Financial Officer of the Borrower Representative in substantially the form of Exhibit C (i) certifying, in the case of the financial statements delivered under clause (b), as presenting fairly in all material respects the financial condition and results of operations of the Company and its consolidated Subsidiaries on a consolidated basis in accordance with GAAP consistently applied, subject to normal year-end audit adjustments and the absence of footnotes, (ii) certifying as to whether a Default has occurred and, if a Default has occurred, specifying the details thereof and any action taken or proposed to be taken with respect thereto, (iii) setting forth reasonably detailed calculations demonstrating compliance with Section 6.15 (to the extent applicable) and (iv) stating whether any change in GAAP or in the application thereof has occurred since the date of the audited financial statements referred to in Section 3.04 and, if any such change has occurred, specifying the effect of such change on the financial statements accompanying such certificate;

(d) concurrently with any delivery of financial statements under clause (a) above, a certificate of the accounting firm that reported on such financial statements stating whether they obtained knowledge during the course of their examination of such financial statements of any Event of Default (which certificate may be limited to the extent required by accounting rules or guidelines);

(e) as soon as available, but in any event not more than 30 days after the end of each fiscal year of the Company, a copy of the plan and forecast (including a projected consolidated and consolidating balance sheet, income statement and funds flow statement in form acceptable to the Administrative Agent) of the Company for each month of the upcoming fiscal year (the "Projections") in form reasonably satisfactory to the Administrative Agent;

(f) as soon as available, but in any event within 15 Business Days of the end of each calendar month (or within three Business Days of the end of each week at any time during a Level 3 Minimum Aggregate Availability Period), an Aggregate Borrowing Base Certificate, a US Borrowing Base Certificate, a UK Borrowing Base Certificate and a Dutch Borrowing Base Certificate, in each case which calculates such Borrowing Base, and supporting information in connection therewith, together with any additional reports with respect to the Aggregate Borrowing Base, the US Borrowing Base, the UK Borrowing Base or the Dutch Borrowing Base of a Borrower as the Administrative Agent or either Collateral Agent may reasonably request; provided that no UK Borrowing Base Certificate or Dutch Borrowing Base Certificate or additional reports with respect thereto shall be required if the European Sublimit shall have been terminated;

(g) as soon as available but in any event within 15 Business Days of the end of each calendar month (or, except as otherwise provided for on Schedule 5.01(g), within three Business Days of the end of each week at any time during a Level 3 Minimum Aggregate Availability Period) and at such other times as may be reasonably requested by the Administrative Agent or either Collateral Agent, as of the period then ended, all Borrowing Base Supplemental Documentation.

(h) within 45 days of each March 31 and September 30, in the case of the US Loan Parties, and concurrently with any delivery of financial statements under paragraphs (a) and (b) above (or within 15 days of the end of each calendar month during any European Full Cash Dominion Period, in the case of the European Loan Parties), an updated customer list for each Loan Party, which list shall state the customer's name, mailing address and phone number (to the extent available) and shall be certified as true and correct by a Financial Officer of the Borrower Representative;

(i) promptly following any request therefor, such other information regarding the operations, business affairs and financial condition of any Borrower or any Subsidiary, or compliance with the terms of this Agreement, as the Administrative Agent, either Collateral Agent or any Lender (through the Administrative Agent) may reasonably request.

SECTION 5.02 Notices of Material Events. The Borrowers will furnish to the Administrative Agent and each Lender prompt written notice of the following:

(a) the occurrence of any Default or Event of Default;

(b) any actual knowledge of the Loan Parties of, or any receipt of any notice of, any governmental investigation or any litigation, arbitration or administrative proceeding commenced or, to the knowledge of any Loan Party, threatened against any Loan Party or any of its Subsidiaries that (i) seeks damages in excess of $25,000,000, (ii) seeks injunctive relief, (iii) is asserted or instituted against any Plan, its fiduciaries or its assets, (iv) alleges criminal misconduct by any Loan Party or any of its Subsidiaries, (v) alleges the violation of any law regarding, or seeks remedies in connection with, any Environmental Laws, (vi) contests any tax, fee, assessment, or other governmental charge in excess of $25,000,000, or (vii) involves any material product recall;

(c) any Lien (other than Permitted Encumbrances) or claim made or asserted against any of the Collateral;

(d) any loss, damage, or destruction to the Collateral in the amount of $25,000,000 or more per occurrence or related occurrences, whether or not covered by insurance;

(e) any and all default notices received under or with respect to any leased location or public warehouse where Collateral is located (which shall be delivered within five Business Days after receipt thereof);

(f) the occurrence of any ERISA Event or breach of the representations and warranties in Section 3.10 that, alone or together with any other ERISA Events or breaches of such representations and warranties that have occurred, could reasonably be expected to result in liability of the Loan Parties and their Subsidiaries, whether directly or by virtue of their affiliate with any ERISA Affiliate, in an aggregate amount exceeding $25,000,000;

(g) the release into the environment of any Hazardous Material that is required by any applicable Environmental Law to be reported to a Governmental Authority and which could reasonably be expected to lead to any material Environmental Liability;

(h) any other development that results in, or could reasonably be expected to result in, a Material Adverse Effect.

Each notice delivered under this Section shall be accompanied by a statement of a Financial Officer or other executive officer of the Borrower Representative setting forth the details of the event or development requiring such notice and any action taken or proposed to be taken with respect thereto.

SECTION 5.03 Existence; Conduct of Business. Each Loan Party will, and will cause each of its Subsidiaries to, (a) do or cause to be done all things necessary to preserve, renew and keep in full force and effect its legal existence and, except where any of the following could not reasonably be expected to result in a Material Adverse Effect, the rights, qualifications, licenses, permits, franchises, governmental authorizations, intellectual property rights, licenses and permits used or useful in the conduct of its business, and maintain all requisite authority to conduct its business in each jurisdiction in which its business is conducted; provided that the foregoing shall not prohibit any merger, consolidation, liquidation or dissolution permitted under Section 6.03 and (b) carry on and conduct its business in substantially the same manner and in substantially the same fields of enterprise as it is presently conducted.

SECTION 5.04 Payment of Obligations. Each Loan Party will, and will cause each of its Subsidiaries to, pay or discharge all Material Indebtedness and all other material liabilities and obligations, including Taxes, before the same shall become delinquent or in default, except where (a) the validity or amount thereof is being contested in good faith by appropriate proceedings, (b) such Loan Party or such Subsidiary has set aside on its books adequate reserves with respect thereto in accordance with GAAP and (c) the failure to make payment pending such contest could not reasonably be expected to result in a Material Adverse Effect.

SECTION 5.05 Maintenance of Properties. Each Loan Party will, and will cause each of its Subsidiaries to, keep and maintain all property material to the conduct of its business in good working order and condition, ordinary wear and tear excepted, except where the failure to do so could not reasonably be expected to result in a Material Adverse Effect.

SECTION 5.06 Books and Records; Inspection Rights. Without limiting Sections 5.11 or 5.12 hereof, each Loan Party will, and will cause each of its Subsidiaries to, (a) keep proper books of record and account in which full, true and correct entries are made of all dealings and transactions in relation to its business and activities and (b) on up to one occasion per calendar year permit any representatives designated by the Administrative Agent, either Collateral Agent or any Lender (including employees of the Administrative Agent, either Collateral Agent, any Lender or any consultants, accountants, lawyers and appraisers retained by the Administrative Agent, either Collateral Agent or any Lender), upon reasonable prior notice, to visit and inspect its properties and to examine and make extracts from its books and records, and the applicable Loan Party or Subsidiary will make its officers and independent accountants available to discuss its affairs, finances and condition with such representatives, all at such reasonable times as are requested; provided, however, that if an Event of Default has occurred and is continuing, there shall be no limitation on the number of such site visits and inspections. For purposes of this Section 5.06, it is understood and agreed that a single site visit and inspection may consist of examinations conducted at multiple relevant sites and involve one or more relevant Loan Parties and their assets. All such site visits and inspections shall be at the sole expense of the Loan Parties. In addition, after the occurrence and during the continuance of any Event of Default, each Loan Party shall provide the Administrative Agent, each Collateral Agent and each Lender with access to its suppliers. The Loan Parties acknowledge that the Administrative Agent and each Collateral Agent, after exercising its rights of inspection, may prepare and distribute to the Lenders certain Reports pertaining to the Loan Parties' and their respective Subsidiaries assets for internal use by the Administrative Agent, each Collateral Agent and the Lenders.

SECTION 5.07 Compliance with Laws. (a) Each Loan Party will, and will cause each of its Subsidiaries to, comply with all Requirements of Law applicable to it or its property, except where the failure to do so, individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect. All the legal requirements of the Luxembourg law of May 31, 1999, as amended, regarding domiciliation companies have been complied with by the Luxembourg Borrower.

(b) US and Foreign Plans and Arrangements.

(i) For each existing, or hereafter adopted, Foreign Plan and Foreign Benefit Plan (together, a "Company Plan"), each Loan Party will, and will cause each Subsidiary to, in a timely fashion comply with and perform in all material respects all of its obligations under and in respect of such Company Plan, including under any funding agreements and all applicable laws and regulatory requirements (whether discretionary or otherwise).

(ii) All employer or employee payments, contributions or premiums required to be remitted, paid to or in respect of each Company Plan by a Loan Party or any Subsidiary thereof shall be paid or remitted by each Loan Party and each Subsidiary thereof in a timely fashion in accordance with the terms thereof, any funding agreements and all applicable laws.

(iii) The Loan Parties shall deliver to each Lender (A) if requested by such Lender, copies of each annual and other return, report or valuation with respect to each Company Plan, as filed with any applicable Governmental Authority; (B) promptly following receipt thereof, copies of any documents described in Sections 101(k) or 101(l) of ERISA that any Loan Party or any ERISA Affiliate may request with respect to any Multiemployer Plan; provided, that if the Loan Parties or any of their ERISA Affiliates have not requested such documents or notices from the administrator or sponsor of the applicable Multiemployer Plan, then, upon reasonable request of the Administrative Agent, the Loan Parties and/or their ERISA Affiliates shall promptly make a request for such documents or notices from such administrator or sponsor and the Company shall provide copies of such documents and notices to the Administrative Agent (on behalf of each requesting Lender) promptly after receipt thereof; (C) promptly after receipt thereof, a copy of any material direction, order, notice, ruling or opinion that any Loan Party or any Subsidiary of any Loan Party may receive from any applicable Governmental Authority with respect to any Company Plan; (D) notification within 30 days of any increases having a cost to one or more of the Loan Parties and their Subsidiaries in excess of $10,000,000 per annum in the aggregate, in the benefits of any existing Company Plan, or the establishment of any new Company Plan, or the commencement of contributions to any such plan to which any Loan Party was not previously contributing; and (E) notification within 30 days of any voluntary or involuntary termination of, or participation in, a Company Plan.

(c) UK Pension Plans and Benefit Plans.

(i) Each UK Loan Party shall ensure that all pension schemes registered in the UK, operated by, or maintained for the benefit of, it or its Subsidiaries or its Affiliates and/or any of their employees are fully funded based on the statutory funding objective under Section 222 of the UK Pensions Act 2004 or has in place a recovery plan that satisfies the requirements of Section 226 of the UK Pensions Act 2004 and that no action or omission is taken by any UK Loan Party or any of its Subsidiaries or Affiliates in relation to such a pension scheme which has or is reasonably likely to have a Material Adverse Effect (including, without limitation, the termination or commencement of winding-up proceedings of any such pension scheme or any UK Loan Party or any of its Subsidiaries or Affiliates ceasing to employ any active member of such a pension scheme).

(ii) Except in relation to the UK Pension Scheme, each UK Loan Party shall ensure that (A) neither it nor any of its Subsidiaries or Affiliates is at any time an employer (for the purposes of Sections 38 to 51 of the UK Pensions Act 2004) of an occupational pension scheme which is not a money purchase scheme (both terms as defined in the UK Pension Schemes Act 1993), or is "connected" with or an "associate" of (as those terms are used in Sections 38 and 43 of the UK Pensions Act 2004) such an employer and (B) no Person who becomes a Subsidiary or Affiliate of a UK Loan Party after the date of this Agreement, was formerly an employer (for the purposes of Sections 38 to 51 of the UK Pensions Act 2004) of an occupational pension scheme which is not a money purchase scheme (both terms as defined in the UK Pension Schemes Act 1993) or was formerly "connected" with or an "associate" of (as those terms are used in Sections 38 and 43 of the UK Pensions Act 2004) such an employer.

(iii) Each UK Loan Party shall deliver to the Administrative Agent at such times as those reports are prepared in order to comply with the then current statutory or auditing requirements (as applicable either to the trustees of any relevant schemes or to any UK Loan Party or any of its Subsidiaries or Affiliates), actuarial reports in relation to all pension schemes referred to in clause (c)(i) above.

(iv) Each UK Loan Party shall promptly notify the Administrative Agent of any material change in the rate of contributions to any pension schemes referred to in clause (c)(i) above paid or recommended to be paid (whether by the scheme actuary or otherwise) or required (by law or otherwise).

(v) Each UK Loan Party shall promptly notify the Administrative Agent of any investigation or proposed investigation by the Pensions Regulator which may lead to the issue by the Pensions Regulator of a Financial Support Direction or a Contribution Notice to it or any of its Subsidiaries or Affiliates.

(vi) Each UK Loan Party or any of its Subsidiaries or Affiliates shall immediately notify the Administrative Agent if it receives a Financial Support Direction or Contribution Notice from the Pensions Regulator.

(d) European Loan Party Pension Plans and Benefit Plans.

(i) Other than in relation to a money purchase scheme (as defined in the UK Pensions Scheme Act 1993) in the United Kingdom, whose establishment shall be notified to the Administrative Agent as soon as practicable, no European Loan Party shall establish, nor shall it permit any of its Subsidiaries to establish, any voluntary pension scheme and/or any voluntary benefit plan without the prior consent of the Administrative Agent, and shall maintain and operate its obligations under (A) the CAS, if applicable, (B) the benefit plan, if any, and (C) the voluntary pension schemes and/or voluntary benefit plans consented to by the Administrative Agent, if any, in all respects in conformity with the requirements of applicable law or contract.

(ii) All pension schemes applied by a Loan Party comply with all provisions of the relevant law and employ reasonable actuarial assumptions. Except in relation to the UK Pension Scheme, no Loan Party has any unsatisfied liability in respect of any pension scheme and there are no circumstances which may give rise to any liability which could reasonably be expected to have a Material Adverse Effect.

(e) Environmental Covenant. The Loan Parties and each of their Subsidiaries (i) shall be at all times in compliance with all Environmental Laws and (ii) ensure that their assets and operations are in compliance with all Environmental Laws and that no Hazardous Materials are, contrary to any Environmental Laws, discharged, emitted, released, generated, used, stored, managed, transported or otherwise dealt with, except, in each case in subclauses (i) and (ii), where failure to comply with any of the foregoing could not, either singly or in the aggregate, reasonably be expected to have a Material Adverse Effect.

SECTION 5.08 Use of Proceeds. The proceeds of the Loans will be used only (a) to pay fees and expenses in connection with the Transactions and (b) for working capital needs and general corporate purposes. No part of the proceeds of any Loan and no Letter of Credit will be used, whether directly or indirectly, for any purpose that entails a violation of any of the Regulations of the Board, including Regulations T, U and X.

SECTION 5.09 Insurance. Each Loan Party will maintain with financially sound and reputable carriers having a financial strength rating of at least A- by A.M. Best Company (a) insurance in such amounts (with no greater risk retention) and against such risks (including loss or damage by fire and loss in transit; theft, burglary, pilferage, larceny, embezzlement, and other criminal activities; business interruption; and general liability) and such other hazards, as is customarily maintained by companies of established repute engaged in the same or similar businesses operating in the same or similar locations and (b) all insurance required pursuant to the Collateral Documents or (in the case of Loan Parties located outside of the United States) such other insurance maintained with other carriers as is satisfactory to the Administrative Agent in its Permitted Discretion. The Borrowers will furnish to the Lenders, upon request of the Administrative Agent, information in reasonable detail as to the insurance so maintained, which may be a Memorandum of Insurance. The Borrowers shall require all such policies to name the US Collateral Agent or the European Collateral Agent (on behalf of the Agents, the Lenders and the Issuing Banks) as additional insured or loss payee, as applicable.

SECTION 5.10 Casualty and Condemnation. The Borrowers (a) will furnish to the Administrative Agent (for delivery to the Lenders) prompt written notice of any casualty or other insured damage to any material portion of the Collateral or the commencement of any action or proceeding for the taking of any material portion of the Collateral or interest therein under power of eminent domain or by condemnation or similar proceeding and (b) will ensure that the net proceeds of any such event (whether in the form of insurance proceeds, condemnation awards or otherwise) are collected and applied in accordance with the applicable provisions of this Agreement and the Collateral Documents.

SECTION 5.11 Appraisals. On no more than one occasion per calendar year, at the request of the Administrative Agent or either Collateral Agent, the Loan Parties will provide the Administrative Agent or such Collateral Agent with appraisals or updates thereof of their Inventory from an appraiser selected and engaged by the Administrative Agent or such Collateral Agent, and prepared on a

basis satisfactory to the Administrative Agent or such Collateral Agent, such appraisals and updates to include, without limitation, information required by applicable law and regulations. Notwithstanding the foregoing, in addition to the single Inventory appraisal permitted above (a) during any Level 5 Minimum Aggregate Availability Period, one additional Inventory appraisal shall be permitted per year and (b) during any Level 3 Minimum Aggregate Availability Period, up to two additional Inventory appraisals shall be permitted per year; provided, however that if an Event of Default has occurred and is continuing, there shall be no limitation on the number of Inventory appraisals. For purposes of this Section 5.11, it is understood and agreed that a single Inventory appraisal may consist of examinations conducted at multiple relevant sites and involve one or more relevant Loan Parties and their assets. All such Collateral appraisals shall be at the sole expense of the Loan Parties.

SECTION 5.12 Field Examinations. On no more than one occasion per calendar year, at the request of the Administrative Agent or either Collateral Agent, the Loan Parties will permit, upon reasonable notice, the Administrative Agent or either Collateral Agent to conduct a field examination to ensure the adequacy of Collateral included in any Borrowing Base and related reporting and control systems. Notwithstanding the foregoing, in addition to the single annual field examination permitted above (a) during any Level 5 Minimum Aggregate Availability Period, one additional field examination shall be permitted per year and (b) during any Level 3 Minimum Aggregate Availability Period, up to two additional field examinations shall be permitted per year; provided, however that if an Event of Default has occurred and is continuing, there shall be no limitation on the number or frequency of field examinations. For purposes of this Section 5.12, it is understood and agreed that a single field examination may be conducted at multiple relevant sites and involve one or more relevant Loan Parties and their assets. All such field examinations shall be at the sole expense of the Loan Parties.

SECTION 5.13 [Reserved].

SECTION 5.14 Additional Collateral; Further Assurances. (a) Subject to applicable law, the Company and each Subsidiary that is a US Loan Party shall (within five days after such formation or acquisition, or determination that such Subsidiary is no longer an Immaterial Subsidiary, or such longer period as may be agreed to by the Administrative Agent) cause each of their respective Subsidiaries (other than any Immaterial Subsidiary or any Foreign Subsidiary) formed or acquired after the Effective Date or which cease to be Immaterial Subsidiaries (A) to become a US Loan Party by executing and delivering to the Administrative Agent a Joinder Agreement set forth as Exhibit D hereto (each a "Joinder Agreement") or such other Loan Guaranty in form and substance satisfactory to the Administrative Agent and (B) to execute and deliver such amendments, supplements or documents of accession to any Collateral Documents as the applicable Collateral Agent deems necessary for such new Subsidiary grant to such Collateral Agent (for the benefit of the Agents, the Lenders and the Issuing Banks) a perfected first priority security interest in the Collateral described in such Collateral Document with respect to such new Subsidiary. Upon execution and delivery of such documents and agreements, each such Person (i) shall automatically become a Loan Guarantor hereunder and thereupon shall have all of the rights, benefits, duties, and obligations in such capacity under the Loan Documents and (ii) will grant Liens to the applicable Collateral Agent (in each case for the benefit of the Agents, the Lenders and the Issuing Banks), in any property of such Loan Party which constitutes Collateral.

(b) Without limiting the foregoing, each Loan Party will execute and deliver, or cause to be executed and delivered, to the Administrative Agent and each Collateral Agent such documents, agreements and instruments, and will take or cause to be taken such further actions (including the filing and recording of financing statements and other documents and such other actions or deliveries of the type required by Section 4.01, as applicable), which may be required by law or which the Administrative Agent

or either Collateral Agent may, from time to time, reasonably request to carry out the terms and conditions of this Agreement and the other Loan Documents and to ensure perfection and priority of the Liens created or intended to be created by the Collateral Documents, all at the expense of the Loan Parties. In addition, each Loan Party will execute and deliver, or cause to be executed and delivered, to the Administrative Agent and each Collateral Agent filings with any governmental recording or registration office in any jurisdiction required by the Administrative Agent or either Collateral Agent, in the exercise of its Permitted Discretion, in order to perfect or protect the Liens of the applicable Collateral Agent granted under any Collateral Document in any Intellectual Property at the expense of the Lenders.

SECTION 5.15 Financial Assistance. Each European Loan Party shall comply in all respects with applicable legislation governing financial assistance, including Sections 151 to 158 of the UK Companies Act 1985; Section 60 of the Irish Companies Act 1963 to 2006; Article 49-6 of the Luxembourg Law of August 10, 1915 concerning commercial companies, as amended (the "LSC"); and Section 2:98C and 2:207C of the Dutch Civil Code.

SECTION 5.16 Post-Closing Actions. (a) Within the time period disclosed on Schedule 5.16 with respect to each action listed on such Schedule, or such later date as the Administrative Agent shall agree in its reasonable discretion, the actions listed on Schedule 5.16 shall have been completed.

(b) The Company and the Luxembourg Borrower shall use commercially reasonable efforts to register the financial statements of the Luxembourg Borrower for the years 2005, 2006 and 2007 with the Luxembourg Trade and Companies Register and provide evidence reasonably satisfactory to the Administrative Agent that such financial statements have been published with the Luxembourg Trade and Companies Register.

ARTICLE VI

Negative Covenants

Until the Commitments have expired or terminated and the principal of and interest on each Loan and all fees, expenses and other amounts payable under any Loan Document have been paid in full in cash and all Letters of Credit have expired or terminated (or have been cash collateralized in accordance with Section 2.06(j) hereof) and all LC Disbursements shall have been reimbursed, the Loan Parties covenant and agree, jointly and severally, with the Lenders that:

SECTION 6.01 Indebtedness. No Loan Party will, nor will it permit any of its Subsidiaries to, create, incur or suffer to exist any Indebtedness, except:

(a) the Secured Obligations;

(b) Indebtedness existing on the date hereof and set forth on Schedule 6.01 and extensions, renewals and replacements of any such Indebtedness in accordance with clause (f) hereof;

(c) Indebtedness of any Borrower to any Subsidiary or any other Borrower and of any Subsidiary to any Borrower or any other Subsidiary, provided that (i) Indebtedness of any Subsidiary that is not a Loan Party to any Borrower or any Subsidiary that is a Loan Party shall be subject to Section 6.04(d), Section 6.04(f) and Section 6.04(g) and (ii) Indebtedness of any Borrower to any Subsidiary and Indebtedness of any Subsidiary that is a Loan Party to any Borrower or to any other Subsidiary that is not a Loan Party shall be subordinated to the Secured Obligations on terms reasonably satisfactory to the Administrative Agent;

(d) Guarantees by any Borrower of Indebtedness of any Subsidiary or any other Borrower and by any Subsidiary of Indebtedness of any Borrower or any other Subsidiary, provided that (i) the Indebtedness so Guaranteed is permitted by this Section 6.01, (ii) Guarantees by any Borrower or any Subsidiary that is a Loan Party of Indebtedness of any Subsidiary that is not a Loan Party shall be subject to Section 6.04(e) and (iii) Guarantees permitted under this clause (d) shall be subordinated to the Secured Obligations of the applicable Subsidiary if, and on the same terms as, the Indebtedness so Guaranteed is subordinated to the Secured Obligations;

(e) Indebtedness of any Borrower or any Subsidiary incurred to finance the acquisition, construction or improvement of any fixed or capital assets (whether or not constituting purchase money Indebtedness), including Capital Lease Obligations and any Indebtedness assumed in connection with the acquisition of any such assets or secured by a Lien on any such assets prior to the acquisition thereof; provided that (i) such Indebtedness is incurred prior to or within 180 days after such acquisition or the completion of such construction or improvement and (ii) the aggregate principal amount of Indebtedness permitted by this paragraph (e) shall not exceed (A) in the case of any Capital Lease Obligations incurred or outstanding in respect of the Global Headquarters (together with Capital Lease Obligations outstanding in respect of the Global Headquarters listed on Schedule 6.01), $175,000,000 and (B) other than as referred to in clause (A) above and Schedule 6.01, $150,000,000, in each case at any time outstanding;

(f) Indebtedness which represents an extension, refinancing, replacement or renewal of any of the Indebtedness described in paragraphs (b), (e), (i), (j), (k), (l) and (m) of this Section 6.01; provided that, unless otherwise expressly permitted by this Section 6.01, (i) the principal amount of such Indebtedness is not increased, (ii) any Liens securing such Indebtedness are not extended to any additional property of any Loan Party or any of their respective Subsidiaries, (iii) no Loan Party or Subsidiary of any Loan Party that is not originally obligated with respect to repayment of such Indebtedness is required to become obligated with respect thereto, (iv) such extension, refinancing or renewal does not result in a shortening of the average weighted maturity of the Indebtedness so extended, refinanced or renewed, (v) the terms of any such extension, refinancing, or renewal (taken as a whole) are not more restrictive, taken as a whole, than the terms of this Agreement and (iv) if the Indebtedness that is refinanced, renewed, or extended was subordinated in right of payment to the Secured Obligations, then the terms and conditions of the refinancing, renewal, or extension Indebtedness must include subordination terms and conditions that are at least as favorable to the Administrative Agent and the Lenders as those that were applicable to the refinanced, renewed, or extended Indebtedness;

(g) Indebtedness owed to any Person providing workers' compensation, health, disability or other employee benefits or property, casualty or liability insurance, pursuant to reimbursement or indemnification obligations to such person, in each case incurred in the ordinary course of business;

(h) Indebtedness of any Borrower or any Subsidiary in respect of performance bonds, bid bonds, appeal bonds, surety bonds and similar obligations, in each case provided in the ordinary course of business;

(i) Indebtedness of the Company or any other US Loan Party; provided that both immediately before and immediately after giving pro forma effect thereto (i) no Default or Event of Default shall have occurred and be continuing and (ii) the Company shall be in compliance with Section 6.15 (determined on a Pro Forma Basis in respect of the Test Period in effect at such time, to the extent applicable); provided further the aggregate principal amount of Indebtedness permitted by this paragraph (i) shall not exceed $500,000,000 at any time outstanding;

(j) unsecured or subordinated Indebtedness of the Company having no scheduled principal payments or prepayments prior to the Maturity Date; provided that both immediately before and immediately after giving pro forma effect thereto (i) no Default or Event of Default shall have occurred and be continuing and (ii) the Company shall be in compliance with Section 6.15 (determined on a Pro Forma Basis in respect of the Test Period in effect at such time, to the extent applicable); provided further the aggregate principal amount of Indebtedness permitted by this paragraph (j) shall not exceed $500,000,000 at any time outstanding;

(k) Indebtedness of Foreign Subsidiaries; provided that the aggregate principal amount of Indebtedness permitted by this paragraph (k) shall not exceed $250,000,000 at any time outstanding; provided further that the aggregate principal amount of Indebtedness of the European Borrowers permitted by this paragraph (k) shall not exceed $50,000,000 at any time outstanding;

(l) Indebtedness of any Person that becomes a Subsidiary after the date hereof; provided that (i) such Indebtedness exists at the time such Person becomes a Subsidiary or such assets are acquired and is not created in contemplation of or in connection with such Person becoming a Subsidiary or such assets being acquired and (ii) the aggregate principal amount of Indebtedness permitted by this paragraph (l) shall not exceed $100,000,000 at any time outstanding;

(m) intercompany Indebtedness of the Company or any Subsidiary incurred to effectuate the Foreign Reorganization; and

(n) (i) other unsecured Indebtedness not otherwise permitted by this Section 6.01 and (ii) Capital Lease Obligations; provided the aggregate principal amount of all Indebtedness permitted by this paragraph (n) shall not exceed $150,000,000 at any time outstanding.

SECTION 6.02 Liens. No Loan Party will, nor will it permit any of its Subsidiaries to, create, incur, assume or permit to exist any Lien on any property or asset now owned or hereafter acquired by it, or assign or sell any income or revenues (including accounts receivable) or rights in respect of any thereof, except:

(a) Liens created pursuant to any Loan Document;

(b) Permitted Encumbrances;

(c) any Lien on any property or asset of any Borrower or any Subsidiary existing on the date hereof and set forth on Schedule 6.02; provided that (i) such Lien shall not apply to any other property or asset of such Borrower or Subsidiary and (ii) such Lien shall secure only those obligations which it secures on the date hereof and extensions, renewals and replacements thereof that do not increase the outstanding principal amount thereof except to the extent permitted by clause (f) of Section 6.01;

(d) Liens on fixed or capital assets acquired, constructed or improved by any Borrower or any Subsidiary; provided that (i) such security interests secure Indebtedness permitted by clause (e) of Section 6.01, (ii) such security interests and the Indebtedness secured thereby are incurred prior to or within 180 days after such acquisition or the completion of such construction or improvement, (iii) the Indebtedness secured thereby does not exceed 100% of the cost of acquiring, constructing or improving such fixed or capital assets and (iv) such security interests shall not apply to any other property or assets of such Borrower or Subsidiary or any other Borrower or Subsidiary;

(e) any Lien existing on any property or asset (other than Accounts and Inventory) prior to the acquisition thereof by any Borrower or any Subsidiary or existing on any property or asset (other than Accounts and Inventory) of any Person that becomes a Subsidiary after the date hereof prior to the time such Person becomes a Subsidiary; provided that (i) such Lien is not created in contemplation of or in connection with such acquisition or such Person becoming a Subsidiary, as the case may be, (ii) such Lien shall not apply to any other property or assets of such Subsidiary and (iii) such Lien shall secure only those obligations which it secures on the date of such acquisition or the date such Person becomes a Subsidiary, as the case may be and extensions, renewals and replacements thereof that do not increase the outstanding principal amount thereof except to the extent permitted by clause (f) of Section 6.01;

(f) Liens (i) of a collecting bank arising in the ordinary course of business under Section 4-210 of the Uniform Commercial Code in effect in the relevant jurisdiction covering only the items being collected upon or (ii) in favor of a banking institution arising as a matter of law, encumbering amounts credited to deposit or securities accounts (including the right of set-off) and which are within the general parameters customary in the banking industry;

(g) Liens arising out of sale and leaseback transactions;

(h) Liens granted by a Subsidiary that is not a Loan Party in favor of any Borrower or another Loan Party in respect of Indebtedness owed by such Subsidiary;

(i) Liens securing Indebtedness permitted by Section 6.01(i) (including second priority Liens on the Collateral); provided that in the event any such Indebtedness is secured on a second priority basis by Liens on the Collateral, the Secured Obligations shall be secured by a perfected second priority Lien in all assets securing such Indebtedness on a first priority basis, subject to documentation (including an intercreditor agreement) satisfactory to the Agents; provided, however, that such Indebtedness, other than up to $50,000,000 secured solely by real property assets (including fixtures related thereto), shall be in a minimum amount of at least $250,000,000 (without giving effect to repayments, prepayments or redemptions permitted by this Agreement);

(j) Liens securing Indebtedness permitted by Section 6.01(k); and

(k) Liens not otherwise permitted by this Section 6.02 so long as (i) neither (A) the aggregate outstanding principal amount of the obligations secured thereby nor (B) the aggregate fair market value (determined as of the date such Lien is incurred) of the assets subject thereto exceeds (as to the Borrowers and all Subsidiaries) $50,000,000 at any one time and (ii) such Liens do not cover any Collateral other than any non-consensual Liens arising by operation of law.

Notwithstanding the foregoing, none of the Liens permitted pursuant to this Section 6.02 may at any time attach to any Loan Party's (i) Accounts, other than those permitted under clause (a) of the definition of Permitted Encumbrance and clause (a) above and (ii) Inventory, in each case other than those permitted under clauses (a) and (b) of the definition of Permitted Encumbrance and clause (a) above and other than as provided in Section 6.02(i). Notwithstanding anything to the contrary contained in this Agreement or any Collateral Document (including any provision for, reference to, or acknowledgement of, any Lien or Permitted Lien), nothing herein and no approval by the Administrative Agent, either Collateral Agent or the Lenders of any Lien or Permitted Lien (whether such approval is oral or in writing) shall be construed as or deemed to constitute a subordination by the Administrative Agent, either Collateral Agent or the Lenders of any security interest or other right, interest or Lien in or to the Collateral or any part thereof in favor of any Lien or Permitted Lien or any holder of any Lien or Permitted Lien.

SECTION 6.03 Fundamental Changes. (a) No Loan Party will, nor will it permit any of its Subsidiaries to, merge into or consolidate with any other Person, or permit any other Person to merge into or consolidate with it, or liquidate or dissolve, except that, if at the time thereof and immediately after giving effect thereto no Event of Default shall have occurred and be continuing (i) any Subsidiary of a Borrower may merge into a Borrower in a transaction in which such Borrower is the surviving entity, (ii) any Loan Party (other than a Borrower) may merge into any Loan Party in a transaction in which the surviving entity is a Loan Party, (iii) any Subsidiary may transfer its assets to a Loan Party and any Subsidiary which is a non-Loan Party may transfer its assets to a non-Loan Party , (iv) any Subsidiary that is not a Loan Party may liquidate or dissolve if the Company determines in good faith that such liquidation or dissolution is in the best interests of the Company and is not materially disadvantageous to the Lenders and (v) any non-Loan Party may merge into, or consolidate with, another non-Loan Party; provided that any such merger involving a Person that is not a wholly owned Subsidiary immediately prior to such merger shall not be permitted unless also permitted by Section 6.04.

(b) No Loan Party will, nor will it permit any of its Subsidiaries to, engage in any business other than businesses of the type conducted by the Company and its Subsidiaries on the Effective Date and businesses reasonably related or incidental thereto (including the provision of services).

SECTION 6.04 Investments, Loans, Advances, Guarantees and Acquisitions. No Loan Party will, nor will it permit any of its Subsidiaries to, purchase, hold or acquire (including pursuant to any merger with any Person that was not a Loan Party and a wholly owned Subsidiary prior to such merger) any Equity Interests, evidences of indebtedness or other securities (including any option, warrant or other right to acquire any of the foregoing) of, make or permit to exist any loans or advances to, Guarantee any obligations of, or make or permit to exist any investment or any other interest in, any other Person, or purchase or otherwise acquire (in one transaction or a series of transactions) any assets of any other Person constituting a business unit (whether through purchase of assets, merger or otherwise), except:

(a) Permitted Investments, subject to, in the case of Loan Parties, control agreements in favor of the applicable Collateral Agent (in each case for the benefit of the Agents, the Lenders and the Issuing Banks) or otherwise subject to a perfected security interest in favor of the applicable Collateral Agent (in each case for the benefit of the Agents, the Lenders and the Issuing Banks);

(b) investments (and commitments (including consummation of any "put" arrangement in connection therewith) in respect thereof) in existence on the date of this Agreement and described on Schedule 6.04 and renewals, replacements and extensions thereof;

(c) investments by the Loan Parties and their Subsidiaries in Equity Interests in their respective Subsidiaries, provided that in the case of any investments made pursuant to this paragraph (c) after the Effective Date by Loan Parties in Subsidiaries that are not Loan Parties, both immediately before and immediately after giving pro forma effect thereto, (i) no Default or Event of Default shall have occurred and be continuing, (ii) the Fixed Charge Coverage Ratio for the Test Period in effect at the time such investment is to occur is at least 1.00 to 1.00 (determined on a Pro Forma Basis in respect of the Test Period in effect at such time) and (iii) no Level 4 Minimum Aggregate Availability Period shall be in effect;

(d) loans or advances made by (i) any Borrower to any Subsidiary or any other Borrower or (ii) any Subsidiary to any Borrower or any other Subsidiary, provided that in the case of any loans and advances made by Loan Parties to Subsidiaries that are not Loan Parties, both immediately before and immediately after giving pro forma effect thereto, (i) no Default or Event of Default shall have occurred and be continuing, (ii) the Fixed Charge Coverage Ratio for the Test Period in effect at the time such investment is to occur is at least 1.00 to 1.00 (determined on a Pro Forma Basis in respect of the Test Period in effect at such time) and (iii) no Level 4 Minimum Aggregate Availability Period shall be in effect;

(e) Guarantees constituting Indebtedness permitted by Section 6.01, provided that in the case of any Indebtedness of Subsidiaries that are not Loan Parties that is Guaranteed by any Loan Party, both immediately before and immediately after giving pro forma effect thereto, (i) no Default or Event of Default shall have occurred and be continuing, (ii) the Fixed Charge Coverage Ratio for the Test Period in effect at the time such investment is to occur is at least 1.00 to 1.00 (determined on a Pro Forma Basis in respect of the Test Period in effect at such time) and (iii) no Level 4 Minimum Aggregate Availability Period shall be in effect;

(f) investments made by any Loan Party in any Subsidiary that is not a Loan Party of the types described in paragraphs (c), (d) and (e) of this Section 6.04; provided that both immediately before and after giving pro forma effect thereto, (i) no Default or Event of Default shall have occurred and be continuing and (ii) no Level 4 Minimum Aggregate Availability Period shall be in effect; provided further that the aggregate principal amount of all investments permitted by this paragraph (f) shall not exceed $75,000,000 at any time outstanding.

(g) investments (including loans and advances) made by any Loan Party in any Subsidiary that is not a Loan Party; provided that (i) such investments are made in the ordinary course of business in connection with the Company's and its Subsidiaries' cash management systems and (ii) both immediately before and immediately after giving pro forma effect thereto, (i) no Default or Event of Default shall have occurred and be continuing and (ii) no Level 4 Minimum Aggregate Availability Period shall be in effect.

(h) loans or advances made by any Loan Party and the Subsidiaries to their employees on an arms'-length basis in the ordinary course of business consistent with past practices for travel and entertainment expenses, relocation costs and similar purposes up to a maximum of $10,000,000 in the aggregate at any time outstanding;

(i) subject to the applicable provisions of any Security Agreements (including Sections 4.2(a) and 4.4 of the US Security Agreement), notes payable, or stock or other securities issued by Account Debtors to any Loan Party pursuant to negotiated agreements with respect to settlement of such Account Debtor's Accounts in the ordinary course of business, consistent with past practices;

(j) investments in the form of Swap Agreements permitted by Section 6.08;

(k) investments of any Person existing at the time such Person becomes a Subsidiary or consolidates or merges with a Borrower or any Subsidiary (including in connection with a Permitted Acquisition), so long as such investments were not made in contemplation of such Person becoming a Subsidiary or of such merger;

(l) investments received in connection with the dispositions of assets permitted by Section 6.05;

(m) investments constituting deposits described in clauses (c) and (d) of the definition of the term "Permitted Encumbrances";

(n) Permitted Acquisitions; provided that both immediately before and immediately after giving pro forma effect thereto, (i) no Default or Event of Default shall have occurred and be continuing, (ii) the Fixed Charge Coverage Ratio for the Test Period in effect at the time such Permitted Acquisition is to occur shall be at least 1.00 to 1.00 (determined on a Pro Forma Basis in respect of the Test Period in effect at such time) and (iii) no Minimum Aggregate Availability Period shall be in effect;

(o) intercompany investments made in connection with the Foreign Reorganization, including any Indebtedness permitted under Section 6.01(m);

(p) investments made by Loan Parties in Subsidiaries that are not Loan Parties; provided that such investments are part of a series of substantially simultaneous investments by Loan Parties in other Loan Parties that results in substantially all the proceeds of the initial investment being invested, loaned or advanced in one or more Loan Parties; and

(q) other investments not otherwise permitted by this Section 6.04; provided that both immediately before and immediately after giving pro forma effect thereto, (i) no Default or Event of Default shall have occurred and be continuing and (ii) no Level 4 Minimum Aggregate Availability Period shall be in effect; provided further that the aggregate principal amount of all investments permitted by this paragraph (q) shall not exceed $50,000,000 in any fiscal year of the Company.

SECTION 6.05 Asset Sales. No Loan Party will, nor will it permit any of its Subsidiaries to, sell, transfer, lease or otherwise dispose of any asset, including any Equity Interest owned by it, nor will any Borrower permit any Subsidiary to issue any additional Equity Interest in such Subsidiary (other than to another Borrower or another Subsidiary in compliance with Section 6.04), except:

(a) sales, transfers and dispositions of (i) inventory in the ordinary course of business and (ii) used, obsolete, worn out or surplus equipment or property in the ordinary course of business;

(b) sales, transfers and dispositions to any Borrower or any Subsidiary, provided that any such sales, transfers or dispositions involving a Subsidiary that is not a Loan Party shall be made in compliance with Section 6.10 and 6.04;

(c) sales, transfers and dispositions of accounts receivable in connection with the compromise, settlement or collection thereof;

(d) sales, transfers and dispositions of investments permitted by clauses (g), (i) and (j) of Section 6.04;

(e) sales, transfers and dispositions of assets in connection with the Foreign Reorganization;

(f) sales, transfers and dispositions of the Company's Equity Interests in the Mexican Joint Venture;

(g) sale and leaseback transactions;

(h) dispositions resulting from any casualty or other insured damage to, or any taking under power of eminent domain or by condemnation or similar proceeding of, any property or asset of any Borrower or any Subsidiary;

(i) sales, transfers and other dispositions of assets that are not permitted by any other paragraph of this Section, provided that the aggregate fair market value of all assets sold, transferred or otherwise disposed of in reliance upon this paragraph (i) shall not exceed an amount equal to 10% of Total Assets; provided further that the aggregate fair market value of all assets sold, transferred or otherwise disposed of by the Loan Parties in reliance upon this paragraph (i) shall not exceed $150,000,000 during any fiscal year of the Company; provided further that a professional liquidator acceptable to the Administrative Agents shall be engaged in connection with any sale, transfer or other disposition or related series of sales, transfers or other dispositions of more than 10% of the Company's and its Subsidiaries' retail store base;

(j) licenses of Intellectual Property that are in furtherance of, or integral to, other business transactions entered into by the Company or a Subsidiary in the ordinary course of business;

(k) Restricted Payments permitted by Section 6.09;

(l) dispositions of cash and Permitted Investments in the ordinary course of business or in connection with a transaction otherwise permitted under this Agreement; and

(m) dispositions of cash and property permitted by Section 6.04(g),

(n) the dispositions described on Schedule 6.05(n),

provided that all sales, transfers, leases and other dispositions permitted hereby (other than those permitted by paragraphs (b) (to the extent the applicable transaction is solely among Loan Parties), (e), (f), (h), (i), (j) and (k) above) shall be made for fair value and for at least 75% cash consideration.

SECTION 6.06 [Reserved].

SECTION 6.07 [Reserved].

SECTION 6.08 Swap Agreements. No Loan Party will, nor will it permit any of its Subsidiaries to, enter into any Swap Agreement, except (a) Swap Agreements entered into to hedge or mitigate risks to which any Borrower or any Subsidiary has actual exposure (other than those in respect of Equity Interests of any Subsidiary of the Company), and (b) Swap Agreements entered into in order to effectively cap, collar or exchange interest rates (from fixed to floating rates, from one floating rate to another floating rate or otherwise) with respect to any interest-bearing liability or investment of any Borrower or any Subsidiary.

SECTION 6.09 Restricted Payments; Certain Payments of Indebtedness. (a) No Loan Party will, nor will it permit any of its Subsidiaries to, declare or make, or agree to pay or make, directly or indirectly, any Restricted Payment, or incur any obligation (contingent or otherwise) to do so, except (i) each Loan Party and its Subsidiaries may declare and pay dividends or other distributions with respect to its common stock payable solely in additional shares of its common stock, and, with respect to its preferred stock, payable solely in additional shares of such preferred stock or in shares of its common stock; (ii) Subsidiaries may declare and pay dividends ratably with respect to their Equity Interests; (iii) the Company may make Restricted Payments, not exceeding $10,000,000 during any fiscal year, pursuant to and in accordance with equity incentive plans or other benefit plans for management or employees of the Company and the Subsidiaries and for deceased and terminated employees and present and former directors (including from their estates) and (iv) the Company may make other Restricted Payments; provided that both immediately before and immediately after giving pro forma effect thereto, (A) no Default or Event of Default shall have occurred and be continuing, (B) the Fixed Charge Coverage Ratio for the Test Period in effect at the time such Restricted Payment is to occur shall be at least 1.25 to 1.00 (determined on a Pro Forma Basis in respect of the Test Period in effect at such time) and (C) no Level 4 Minimum Aggregate Availability Period shall be in effect. Notwithstanding the foregoing, the Company may purchase, redeem or retire Equity Interests of the Company with (x) the net cash proceeds of the sale of its Equity Interests in the Mexican Joint Venture; provided that, both immediately before and immediately after giving pro forma effect thereto, (1) no Default or Event of Default shall have occurred and be continuing, (2) the Fixed Charge Coverage Ratio for the Test Period in effect at the time such Restricted Payment is to occur shall be at least 1.00 to 1.00 (determined on a Pro Forma Basis in respect of the Test Period in effect at such time) and (3) no Minimum Aggregate Availability Period shall be in effect or (y) up to 50% of the net cash proceeds resulting from any asset sales, transfers or dispositions under Section 6.05(g) or 6.05(i), provided that, such Restricted Payments are made within six months of the applicable asset sale, transfer or disposition and, both immediately before and immediately after giving pro forma effect thereto, (1) no Default or Event of Default shall have occurred and be continuing, (2) the Fixed Charge Coverage Ratio for the Test Period in effect at the time such Restricted Payment is to occur shall be at least 1.00 to 1.00 (determined on a Pro Forma Basis in respect of the Test Period in effect at such time) and (3) Aggregate Availability shall be greater than or equal to $750,000,000.

(b) No Loan Party will, nor will it permit any of its Subsidiaries to, make or agree to pay or make, directly or indirectly, any payment or other distribution (whether in cash, securities or other property) of or in respect of principal of or interest on any Indebtedness, or any payment or other distribution (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 Indebtedness, except:

(A) payment of Indebtedness created under the Loan Documents;

(B) payment of regularly scheduled interest and principal payments as and when due in respect of any Indebtedness, other than payments in respect of the Subordinated Indebtedness prohibited by the subordination provisions thereof;

(C) refinancings of Indebtedness to the extent permitted by Section 6.01;

(D) payment of secured Indebtedness that becomes due as a result of the voluntary sale or transfer of the property or assets securing such Indebtedness;

(E) payment of Indebtedness owed to the Company or any wholly owned Subsidiary;

(F) payment of Indebtedness owed by non-Loan Parties; and

(G) other payments in respect of Indebtedness; provided that both immediately before and immediately after giving pro forma effect thereto, (i) no Default or Event of Default shall have occurred and be continuing, (ii) the Fixed Charge Coverage Ratio for the Test Period in effect at the time such payment is to occur shall be at least 1.25 to 1.00 (determined on a Pro Forma Basis in respect of the Test Period in effect at such time) and (iii) no Level 4 Minimum Aggregate Availability Period shall be in effect.

SECTION 6.10 Transactions with Affiliates. No Loan Party will, nor will it permit any of its Subsidiaries to, sell, lease or otherwise transfer any property or assets to, or purchase, lease or otherwise acquire any property or assets from, or otherwise engage in any other transactions with, any of its Affiliates, except (a) transactions that (i) are in the ordinary course of business and (ii) are at prices and on terms and conditions not less favorable to such Borrower or such Subsidiary than could be obtained on an arm's-length basis from unrelated third parties, (b) transactions between or among any Borrower and any Subsidiary that is a Loan Party not involving any other Affiliate, (c) transactions that are entered into in connection with the Foreign Reorganization, (d) any loans, advances, Guarantees and other investments permitted by Sections 6.04(c), (d), (e) or (i), (e) any Indebtedness permitted under Section 6.01(c), (d) or (i), (f) any Restricted Payment permitted by Section 6.09, (g) loans or advances to employees permitted under Section 6.04, (h) the payment of reasonable fees to directors of any Borrower or any Subsidiary who are not employees of such Borrower or Subsidiary, and compensation and employee benefit arrangements paid to, and indemnities provided for the benefit of, directors, officers or employees of the Borrowers or their Subsidiaries in the ordinary course of business and (i) any issuances of securities or other payments, awards or grants in cash, securities or otherwise pursuant to, or the funding of, employment agreements, stock options, equity incentive and stock ownership plans approved by a Borrower's or Subsidiary's board of directors.

SECTION 6.11 Restrictive Agreements. No Loan Party will, nor will it permit any of its Subsidiaries to, directly or indirectly, enter into, incur or permit to exist any agreement or other arrangement that prohibits, restricts or imposes any condition upon (a) the ability of such Loan Party or any of its Subsidiaries to create, incur or permit to exist any Lien upon any of its property or assets, or (b) the ability of any Subsidiary to pay dividends or other distributions with respect to any shares of its Equity Interests or to make or repay loans or advances to any Borrower or any other Subsidiary or to Guarantee Indebtedness of any Borrower or any other Subsidiary; provided that (i) the foregoing shall not apply to restrictions and conditions imposed by law or by any Loan Document, (ii) the foregoing shall not apply to restrictions and conditions imposed on the Loan Parties existing on the date hereof identified on Schedule 6.11 (but shall apply to any extension or renewal of, or any amendment or modification expanding the scope of, any such restriction or condition), (iii) the foregoing shall not apply to customary restrictions and conditions contained in agreements relating to the sale of a Subsidiary or assets pending such sale, provided such restrictions and conditions apply only to the Subsidiary or assets that is to be sold and such sale is permitted hereunder, and (iv) clause (a) of the foregoing shall not apply to restrictions or conditions imposed by any agreement relating to secured Indebtedness permitted by this Agreement if such restrictions or conditions apply only to the property or assets securing such Indebtedness.

SECTION 6.12 Amendment of Material Documents. No Loan Party will, nor will it permit any of its Subsidiaries to, amend, modify or waive any of its rights under (a) any agreement relating to any Subordinated Indebtedness, the Existing 2013 Senior Notes or any Indebtedness permitted pursuant to Section 6.01(i) or (j) or (b) its certificate of incorporation, by-laws, operating, management or partnership agreement or other organizational documents, in each case to the extent any such amendment, modification or waiver would be materially adverse to the Lenders.

SECTION 6.13 Luxembourg Borrower Restrictions. Notwithstanding anything in this Agreement to the contrary, until such time as the actions described in Section 5.16(b) shall have been completed, no Loan Party shall engage in any transaction or take any of the other corporate (or other organization) action of the types described in Sections 6.03, 6.04, 6.05 or 6.09 with the Luxembourg Borrower and the organizational activities and operations of the Luxembourg Borrower shall be limited to those which it carries on as of the Effective Date.

SECTION 6.14 Capital Expenditures. During any Level 4 Minimum Aggregate Availability Period, the Loan Parties will not, nor will it permit any of its Subsidiaries to, incur or make any Capital Expenditures during any fiscal year of the Company set forth below in an amount exceeding the amount set forth opposite such period:

Period	Maximum Capital Expenditures
2008	$400,000,000
2009	$450,000,000
2010 and thereafter	$500,000,000

SECTION 6.15 Fixed Charge Coverage Ratio. During any Level 2 Minimum Aggregate Availability Period the Loan Parties will not permit the Fixed Charge Coverage Ratio as of the last day of any Test Period (including the last Test Period prior to the commencement of such Minimum Aggregate Availability Period for which financial statements for the quarter or fiscal year then ended have been (or have been required to be) delivered pursuant to Section 5.01(a) or 5.01(b), as applicable) to be less than 1.00 to 1.00.

ARTICLE VII

Events of Default

If any of the following events ("Events of Default") shall occur:

(a) the Borrowers shall fail to pay any principal of any Loan or any reimbursement obligation in respect of any LC Disbursement when and as the same shall become due and payable, whether at the due date thereof or at a date fixed for prepayment thereof or otherwise;

(b) the Borrowers shall fail to pay any interest on any Loan or any fee or any other amount (other than an amount referred to in paragraph (a) of this Article) payable under this Agreement, when and as the same shall become due and payable**,** and such failure shall continue unremedied for a period of three Business Days;

(c) any representation or warranty made or deemed made by or on behalf of any Loan Party or any Subsidiary in or in connection with this Agreement or any Loan Document or any amendment or modification thereof or waiver thereunder, or in any report, certificate, financial statement or other document furnished pursuant to or in connection with this Agreement or any Loan Document or any amendment or modification thereof or waiver thereunder, shall prove to have been incorrect in any respect when made or deemed made (or in any material respect if such representation or warranty is not by its terms already qualified as to materiality);

(d) any Loan Party shall fail to observe or perform any covenant, condition or agreement contained in Section 5.02(a), 5.03 (with respect to a Loan Party's existence) or 5.08 or in Article VI;

(e) any Loan Party shall fail to observe or perform any covenant, condition or agreement contained in this Agreement or any other Loan Document (other than those which constitute a default under another Section of this Article), and such failure shall continue unremedied (i) for a period of one day after the earlier of any Loan Party's knowledge of such breach or notice thereof from the Administrative Agent (which notice will be given at the request of any Lender) if such breach relates to terms or provisions of Section 5.01(f) or 5.01(g), in each case during a Level 3 Minimum Aggregate Availability Period, (ii) for a period of five days after the earlier of any Loan Party's knowledge of such breach or notice thereof from the Administrative Agent (which notice will be given at the request of any Lender) if such breach relates to terms or provisions of Section 5.01, 5.02 (other than Section 5.02(a)), 5.03 through 5.07, 5.09, 5.10 or 5.12 of this Agreement, (iii) for a period of 30 days after the earlier of any Loan Party's knowledge of such breach or notice thereof from the Administrative Agent (which notice will be given at the request of any Lender) if such breach relates to terms or provisions of any other Section of this Agreement or any other Loan Document or (iv) for a period beyond any period of grace (if any) provided in such other Loan Document.

(f) any Loan Party or any Subsidiary shall fail to make any payment (whether of principal or interest and regardless of amount) in respect of any Material Indebtedness, when and as the same shall become due and payable;

(g) any event or condition occurs that results in any Material Indebtedness becoming due prior to its scheduled maturity or that enables or permits (with or without the giving of notice, the lapse of time or both) the holder or holders of any Material Indebtedness or any trustee or agent on its or their behalf to cause any Material Indebtedness to become due, or to require the prepayment, repurchase, redemption or defeasance thereof, prior to its scheduled maturity; provided that this paragraph (g) shall not apply to secured Indebtedness that becomes due as a result of the voluntary sale or transfer of the property or assets securing such Indebtedness;

(h) (i) an involuntary proceeding (including the filing of any notice of intention in respect thereof) shall be commenced or an involuntary petition shall be filed (other than against an Immaterial Subsidiary) seeking (A) bankruptcy, liquidation, winding-up, dissolution, reorganization, examination, suspension of general operations or other relief in respect of a Loan Party or any Subsidiary of a Loan Party (other than any member of the European Group) or its debts, or of a substantial part of its assets, under any Insolvency Law now or hereafter in effect, (B) the composition, rescheduling, reorganization, examination, arrangement or readjustment of, or other relief from, or stay of proceedings to enforce, some or all of the debts or obligations of any Loan Party or any Subsidiary of a Loan Party (other than a member of the European Group), (C) the appointment of a receiver, interim receiver, receiver and manager, liquidator, provisional liquidator, administrator, examiner, trustee, custodian,

sequestrator, conservator, examiner, agent or similar official for any Loan Party or any Subsidiary of a Loan Party (other than a member of the European Group) or for any substantial part of its assets or (E) possession, foreclosure, seizure or retention, sale or other disposition of, or other proceedings to enforce security over any substantial part of the assets of any Loan Party or any Subsidiary of a Loan Party (other than a member of the European Group) and, in any such case, such proceeding or petition shall continue undismissed for 60 days or an order or decree approving or ordering any of the foregoing shall be entered;

(ii) any corporate action, legal proceedings or other procedure or step is taken in relation to:

(A) the suspension of payments, a moratorium of any indebtedness, winding-up, dissolution, administration, examination or reorganisation (by way of voluntary arrangement, scheme of arrangement or otherwise) of any member of the European Group (other than any Immaterial Subsidiary);

(B) a composition, compromise, assignment or arrangement with any creditor of any member of the European Group (other than any Immaterial Subsidiary);

(C) the appointment of a liquidator, receiver, administrative receiver, administrator, examiner, compulsory manager or other similar officer in respect of any member of the European Group (other than any Immaterial Subsidiary) or any of its assets; or

(D) enforcement of any Lien over any assets of any member of the European Group (other than any Immaterial Subsidiary),

or any analogous procedure or step is taken with respect to any member of the European Group (other than any Immaterial Subsidiary) or its assets in any applicable jurisdiction;

(iii) any expropriation, attachment, sequestration, distress or execution or any analogous process in any jurisdiction affects any asset or assets of a member of the European Group (other than any Immaterial Subsidiary) having an aggregate value of $10,000,000 and is not discharged within 30 days;

(i) (i) any Loan Party or any Subsidiary (other than an Immaterial Subsidiary) of a Loan Party (other than a member of the European Group) shall (A) voluntarily commence any proceeding, file any petition, pass any resolution or make any application seeking liquidation, reorganization, administration or other relief under any Insolvency Law now or hereafter in effect, (B) consent to the institution of, or fail to contest in a timely and appropriate manner, any proceeding or petition described in paragraph (h) of this Article, (C) apply for or consent to the appointment of a receiver, interim receiver, receiver and manager, liquidator, assignee, trustee, custodian, sequestrator, administrator, examiner, conservator or similar official for such Loan Party or any such Subsidiary of a Loan Party or for a substantial part of its assets, (D) file an answer admitting the material allegations of a petition filed against it in any such proceeding, (E) make a general assignment for the benefit of creditors or (F) take any action for the purpose of effecting any of the foregoing;

(ii) any member of the European Group (other than any Immaterial Subsidiary) is unable or admits inability to pay its debts as they fall due or is deemed to or declared to be unable to pay its debts under applicable law, suspends or threatens to suspend making payments on any of its debts or, by reason of actual or anticipated financial difficulties, commences negotiations with one or more of its creditors with a view to rescheduling any of its indebtedness;

(iii) the value of the assets of any member of the European Group (other than any Immaterial Subsidiary) is less than its liabilities (taking into account contingent and prospective liabilities);

(iv) a moratorium is declared in respect of any indebtedness of any member of the European Group (other than any Immaterial Subsidiary) (if a moratorium occurs, the ending of the moratorium will not cure any Event of Default caused by that moratorium);

(v) the Luxembourg Borrower is in a situation of illiquidity (*cessation de paiements*) and absence of access to credit (*credit ébranlé*) within the meaning of Article 437 of the Luxembourg Commercial Code or is subject to (i) insolvency proceedings (*faillite*) within the meaning of Articles 437 ff. of the Luxembourg Commercial Code or any other insolvency proceedings pursuant to the Council Regulation (EC) N° 1346/2000 of May 29, 2000 on insolvency proceedings, (ii) controlled management (*gestion contrôlée*) within the meaning of the grand ducal regulation of May 24, 1935 on controlled management, (iii) voluntary arrangement with creditors (*concordat préventif de faillite*) within the meaning of the law of April 14, 1886 on arrangements to prevent insolvency, as amended, (iv) suspension of payments (*sursis de paiement*) within the meaning of Articles 593 ff. of the Luxembourg Commercial Code or (v) voluntary or compulsory winding-up pursuant to the law of August 10, 1915 on commercial companies, as amended; or

(vi) the appointment of an ad hoc director (*administrateur provisoire*) by a court in respect of the Luxembourg Borrower or a substantial part of its assets.

(j) any Loan Party or any Subsidiary (other than an Immaterial Subsidiary) of a Loan Party shall become unable, admit in writing its inability or fail generally to pay its debts as they become due;

(k) one or more judgments for the payment of money in an aggregate amount in excess of $25,000,000 (to the extent not covered by insurance as to which the relevant insurance company has acknowledged coverage) shall be rendered against any Loan Party, any Subsidiary of any Loan Party or any combination thereof and the same shall remain undischarged for a period of 30 consecutive days during which execution shall not be effectively stayed, or any action shall be legally taken by a judgment creditor to attach or levy upon any assets of any Loan Party or any Subsidiary of any Loan Party to enforce any such judgment or any Loan Party or any Subsidiary of any Loan Party shall fail within 30 days to discharge one or more non-monetary judgments or orders which, individually or in the aggregate, could reasonably be expected to have a Material Adverse Effect, which judgments or orders, in any such case, are not stayed on appeal by proper proceedings diligently pursued;

(l) (i) an ERISA Event shall have occurred that, in the opinion of the Required Lenders, when taken together with all other ERISA Events that have occurred, could reasonably be expected to result in a Material Adverse Effect;

(ii) the Pensions Regulator issues a Financial Support Direction or a Contribution Notice to any UK Loan Party or any of its Subsidiaries or its Affiliates unless the aggregate liability of any such UK Loan Party, Subsidiary or Affiliate under all Financial Support Directions and Contribution Notices is less than $10,000,000;

(iv) in relation to the UK Pension Scheme, a statutory debt for the purposes of Section 75 or Section 75A of the Pensions Act 1995 is triggered, of an amount greater than $10,000,000 (or in aggregate with all such other debts within a period of two years is greater than $10,000,000);

(m) a Change in Control shall occur;

(n) the Loan Guaranty shall fail to remain in full force or effect or any action shall be taken to discontinue or to assert the invalidity or unenforceability of the Loan Guaranty, or any Loan Guarantor shall fail to comply with any of the terms or provisions of the Loan Guaranty to which it is a party, or any Loan Guarantor shall deny that it has any further liability under the Loan Guaranty to which it is a party, or shall give notice to such effect;

(o) any Collateral Document shall for any reason fail to create a valid and perfected first priority security interest in any Collateral purported to be covered thereby, except as permitted by the terms of any Collateral Document, or any Collateral Document shall fail to remain in full force or effect or any action shall be taken to discontinue or to assert the invalidity or unenforceability of any Collateral Document;

(p) any material provision of any Loan Document for any reason ceases to be valid, binding and enforceable in accordance with its terms (or any Loan Party shall challenge the enforceability of any Loan Document or shall assert in writing, or engage in any action or inaction based on any such assertion, that any provision of any of the Loan Documents has ceased to be or otherwise is not valid, binding and enforceable in accordance with its terms); or

(q) all the legal requirements of the Luxembourg law of May 31, 1999, as amended, regarding the domiciliation companies have not been complied with by the Luxembourg Borrower;

then, and in every such event (other than an event with respect to the Borrowers described in paragraph (h) or (i) of this Article), and at any time thereafter during the continuance of such event, the Administrative Agent may, and at the request of the Required Lenders shall, by notice to the Borrower Representative, take either or both of the following actions, at the same or different times: (i) terminate the Commitments, and thereupon the Commitments shall terminate immediately, and (ii) declare the Loans then outstanding to be due and payable in whole (or in part, in which case any principal not so declared to be due and payable may thereafter be declared to be due and payable), and thereupon the principal of the Loans so declared to be due and payable, together with accrued interest thereon and all fees and other obligations of the Borrowers accrued hereunder, shall become due and payable immediately, without presentment, demand, protest or other notice of any kind, all of which are hereby waived by the Borrowers; and in case of any event with respect to the Borrowers described in paragraph (h) or (i) of this Article, the Commitments shall automatically terminate and the principal of the Loans then outstanding, together with accrued interest thereon and all fees and other

obligations of the Borrowers accrued hereunder, shall automatically become due and payable, without presentment, demand, protest or other notice of any kind, all of which are hereby waived by the Borrowers. Upon the occurrence and the continuance of an Event of Default, the Administrative Agent and each Collateral Agent may, and at the request of the Required Lenders shall, exercise any rights and remedies provided to such Administrative Agent or Collateral Agent under the Loan Documents or at law or equity, including all remedies provided under the UCC.

ARTICLE VIII

The Administrative Agent, the European Administrative Agent and Collateral Agents

Each of the Lenders and the Issuing Banks hereby irrevocably appoints the Administrative Agent, the European Administrative Agent and each Collateral Agent as its agent and authorizes the Administrative Agent, the European Administrative Agent and each Collateral Agent to take such actions on its behalf, including execution of the other Loan Documents, and to exercise such powers as are delegated to such Agent by the terms of the Loan Documents, together with such actions and powers as are reasonably incidental thereto.

Any bank serving as the Administrative Agent, the European Administrative Agent or a Collateral Agent hereunder shall have the same rights and powers in its capacity as a Lender as any other Lender and may exercise the same as though it were not the Administrative Agent, the European Administrative Agent or a Collateral Agent, and such bank and its Affiliates may accept deposits from, lend money to, invest in and generally engage in any kind of business with the Loan Parties or any Subsidiary of a Loan Party or other Affiliate thereof as if it were not the Administrative Agent, the European Administrative Agent or a Collateral Agent hereunder.

Neither the Administrative Agent, the European Administrative Agent nor either Collateral Agent shall have any duties or obligations except those expressly set forth in the Loan Documents. Without limiting the generality of the foregoing, (a) neither the Administrative Agent, the European Administrative Agent nor either Collateral Agent shall be subject to any fiduciary or other implied duties, regardless of whether a Default has occurred and is continuing, (b) neither the Administrative Agent, the European Administrative Agent nor either Collateral Agent shall have any duty to take any discretionary action or exercise any discretionary powers, except discretionary rights and powers expressly contemplated by the Loan Documents that such Agent is required to exercise in writing as directed by the Required Lenders (or such other number or percentage of the Lenders as shall be necessary under the circumstances as provided in Section 9.02), and (c) except as expressly set forth in the Loan Documents, neither the Administrative Agent, the European Administrative Agent nor either Collateral Agent shall have any duty to disclose, and shall not be liable for the failure to disclose, any information relating to any Loan Party or any of its Subsidiaries that is communicated to or obtained by the bank serving as the Administrative Agent, the European Administrative Agent or either Collateral Agent or any of its Affiliates in any capacity. Neither the Administrative Agent, the European Administrative Agent nor either Collateral Agent shall be liable for any action taken or not taken by it with the consent or at the request of the Required Lenders (or such other number or percentage of the Lenders as shall be necessary under the circumstances as provided in Section 9.02) or in the absence of its own gross negligence or willful misconduct. Neither the Administrative Agent, the European Administrative Agent nor either Collateral Agent shall be deemed to have knowledge of any Default unless and until written notice thereof is given to such Agent by the Borrower Representative or a Lender, and neither the Administrative Agent nor any Collateral Agent shall be responsible for or have any duty to ascertain or inquire into (i) any statement, warranty or representation made in or in connection with any Loan Document,

(ii) the contents of any certificate, report or other document delivered hereunder or in connection with any Loan Document, (iii) the performance or observance of any of the covenants, agreements or other terms or conditions set forth in any Loan Document, (iv) the adequacy, accuracy or completeness of any information (whether oral or written) set forth or in connection with any Loan Document, (v) the legality, validity, enforceability, effectiveness, adequacy or genuineness of any Loan Document or any other agreement, instrument or document, (vi) the creation, perfection or priority of Liens on the Collateral or the existence of the Collateral, or (vii) the satisfaction of any condition set forth in Article IV or elsewhere in any Loan Document, other than to confirm receipt of items expressly required to be delivered to the Administrative Agent, the European Administrative Agent or any Collateral Agent.

The Administrative Agent, the European Administrative Agent and each Collateral Agent shall each be entitled to rely upon, and shall not incur any liability for relying upon, (i) any representation, notice, request, certificate, consent, statement, instrument, document or other writing or communication believed by it to be genuine, correct and to have been authorized, signed or sent by the proper Person, (ii) any statement made to it orally or by telephone and believed by it to be made or authorized by the proper Person or (iii) any statement made by a director, authorized signatory or employee of any Person regarding any matters which may reasonably be assumed to be within his or her knowledge or within his or her power to verify. The Administrative Agent, the European Administrative Agent and each Collateral Agent may consult with legal counsel (who may be counsel for the Borrowers), 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.

The Administrative Agent, the European Administrative Agent and each Collateral Agent may perform any and all its duties and exercise its rights and powers by or through any one or more sub-agents appointed by the Administrative Agent, the European Administrative Agent or each Collateral Agent, as the case may be. The Administrative Agent, the European Administrative Agent and each Collateral Agent and any such sub-agent may perform any and all its duties and exercise its rights and powers through their respective Related Parties. The exculpatory provisions of the preceding paragraphs shall apply to any such sub-agent and to the Related Parties of the Administrative Agent, the European Administrative Agent and each Collateral 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 The Administrative Agent, the European Administrative Agent and each Collateral Agent, as the case may be.

Subject to the appointment and acceptance of a successor Administrative Agent, European Administrative Agent or Collateral Agent, as the case may be, as provided in this paragraph, of the Administrative Agent, the European Administrative Agent and each Collateral Agent, may resign at any time by notifying the Lenders, the Issuing Banks and the Borrower Representative. Upon any such resignation, the Required Lenders shall have the right, in consultation with the Borrowers, to appoint a successor (which shall, in the case of the European Collateral Agent only, be an Affiliate acting through an office in the United Kingdom). If no successor shall have been so appointed by the Required Lenders and shall have accepted such appointment within 30 days after the retiring Agent gives notice of its resignation, then the retiring Agent may, on behalf of the Lenders and the Issuing Banks, appoint its successor in such capacity, which shall be a commercial bank or an Affiliate of any such commercial bank or a Lender (and in the case of the European Collateral Agent only, be an Affiliate acting through an office in the United Kingdom). Upon the acceptance of its appointment as Administrative Agent, European Administrative Agent or a Collateral Agent hereunder by a successor, such successor shall succeed to and become vested with all the rights, powers, privileges, obligations and duties of the retiring Administrative Agent, European Administrative Agent or Collateral Agent, and the retiring Administrative Agent, European Administrative Agent or

Collateral Agent shall be discharged from its duties and any further obligations hereunder. The retiring Administrative Agent, European Administrative Agent or Collateral Agent shall, at its own cost, make available to the successor Administrative Agent, European Administrative Agent or Collateral Agent any documents and records and provide any assistance which the successor Administrative Agent, European Administrative Agent or Collateral Agent may reasonably request for the purposes of performing its functions as Administrative Agent, European Administrative Agent or Collateral Agent under the Loan Documents. The fees payable by the Borrowers to a successor Administrative Agent, European Administrative Agent or Collateral Agent shall be the same as those payable to its predecessor unless otherwise agreed between the Borrowers and such successor. After the Administrative Agent's, European Administrative Agent's or Collateral Agent's resignation hereunder, the provisions of this Article and Section 9.03 shall continue in effect for the benefit of such retiring 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 it was acting as Administrative Agent, European Administrative Agent or Collateral Agent.

Each Lender acknowledges that it has, independently and without reliance upon the Administrative Agent, the European Administrative Agent, either Collateral Agent or any other Lender 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 also acknowledges that it will, independently and without reliance upon the Administrative Agent, the European Administrative Agent, either Collateral Agent or any other Lender 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 related agreement or any document furnished hereunder or thereunder.

Each Lender hereby agrees that (a) it has been provided access to each Report prepared by or on behalf of the Administrative Agent; (b) neither the Administrative Agent, the European Administrative Agent nor either Collateral Agent (i) makes any representation or warranty, express or implied, as to the completeness or accuracy of any Report or any of the information contained therein or any inaccuracy or omission contained in or relating to a Report and (ii) shall be liable for any information contained in any Report; (c) the Reports are not comprehensive audits or examinations, and that any Person performing any field examination will inspect only specific information regarding the Loan Parties and will rely significantly upon the Loan Parties' books and records, as well as on representations of the Loan Parties' personnel and that neither the Administrative Agent, the European Administrative Agent nor either Collateral Agent undertakes any obligation to update, correct or supplement the Reports; (d) it will keep all Reports confidential and strictly for its internal use, and it will not share the Report with any other Person except as otherwise permitted pursuant to Section 9.12 of this Agreement; and (e) without limiting the generality of any other indemnification provision contained in this Agreement, it will pay and protect, and indemnify, defend, and hold the Administrative Agent, the European Administrative Agent, each Collateral Agent and any such other Person preparing a Report harmless from and against, the claims, actions, proceedings, damages, costs, expenses, and other amounts (including reasonable attorney fees) incurred by as the direct or indirect result of any third parties who might obtain all or part of any Report through the indemnifying Lender (except as permitted pursuant to Section 9.12 of this Agreement).

The US Collateral Agent shall act as the secured party, on behalf of the Administrative Agent, the Lenders and the Issuing Banks, with respect to all Collateral of each Loan Party that is organized in any jurisdiction, other than any Participating Member State, and the European Collateral Agent shall act as the secured party, on behalf of the Administrative Agent, the Lenders and the Issuing Banks, with respect to all Collateral of a Loan Party that is organized in any Participating Member State.

Each Lender, each Issuing Bank, the US Collateral Agent, the European Administrative Agent and the Administrative Agent appoints the European Collateral Agent to act as security trustee under and in connection with the UK Security Agreement on the terms and conditions set forth on Schedule 8.

The Syndication Agent and Documentation Agents shall not have any right, power, obligation, liability, responsibility or duty under this Agreement other than those applicable to all Lenders as such.

ARTICLE IX

Miscellaneous

SECTION 9.01 Notices. (a) Except in the case of notices and other communications expressly permitted to be given by telephone (and subject to paragraph (b) below), all notices and other communications provided for herein shall be in writing and shall be delivered by hand or overnight courier service, mailed by certified or registered mail or sent by facsimile, as follows:

(i) if to any Loan Party, to the Borrower Representative at:

Office Depot, Inc.
2200 Old Germantown Road
Delray Beach, FL 33445
Attention: Vice President and Treasurer
Telephone: 561-438-6931
Facsimile: 561-438-3353

with a copy to the General Counsel
2200 Old Germantown Road
Delray Beach, FL 33445

(ii) if to the Administrative Agent, the US Collateral Agent, the Administrative Agent or the US Swingline Lender, to:

JPMorgan Chase Bank, N.A.
270 Park Avenue, Floor 04
New York, NY 10017
Attention: Barry Bergman
Facsimile: 212-270-6637

(iii) if to the European Collateral Agent, to:

JPMorgan Chase Bank, N.A., London Branch
10 Aldermanbury
London EC2V 7RF
Untied Kingdom
Attention: Tim Jacob
Facsimile: +44 20 7325 6813

(iv) if to the European Administrative Agent or the European Swingline Lender, to:

J.P. Morgan Europe Limited
Loans Agency 9th floor
125 London Wall
London EC2Y 5AJ
Untied Kingdom
Attention: Sue Dalton
Facsimile: + 44 20 7777 2542

(v) if to any Issuing Bank, as notified to the Administrative Agent and the Borrower Representative.

(vi) if to any other Lender, to it at its address or facsimile number set forth in its Administrative Questionnaire.

All such notices and other communications (i) sent by hand or overnight courier service, or mailed by certified or registered mail, shall be deemed to have been given when received or (ii) sent by facsimile shall be deemed to have been given when sent, provided that if not given during normal business hours for the recipient, shall be deemed to have been given at the opening of business on the next Business Day for the recipient.

(b) Notices and other communications to the Lenders hereunder may be delivered or furnished by electronic communications (including e-mail and internet or intranet websites) pursuant to procedures approved by the Administrative Agent; provided that the foregoing shall not apply to notices pursuant to Article II or to compliance and no Event of Default certificates delivered pursuant to Section 5.01(d) unless otherwise agreed by the Administrative Agent and the applicable Lender. The Administrative Agent or the Borrower Representative (on behalf of the Loan Parties) may, in its discretion, agree to accept notices and other communications to it hereunder by electronic communications pursuant to procedures approved by it; provided that approval of such procedures may be limited to particular notices or communications. All such notices and other communications (i) sent to an e-mail address shall be deemed received upon the sender's receipt of an acknowledgement from the intended recipient (such as by the "return receipt requested" function, as available, return e-mail or other written acknowledgement), provided that if not given during the normal business hours of the recipient, such notice or communication shall be deemed to have been given at the opening of business on the next Business Day for the recipient, and (ii) posted to an Internet or intranet website shall be deemed received upon the deemed receipt by the intended recipient at its e-mail address as described in the foregoing clause (b)(i) of notification that such notice or communication is available and identifying the website address therefor.

(c) Any party hereto may change its address or facsimile number for notices and other communications hereunder by notice to the other parties hereto.

SECTION 9.02 Waivers; Amendments. (a) No failure or delay by any Agent, any Issuing Bank or any Lender in exercising any right or power hereunder or under any other Loan Document shall operate as a waiver thereof, nor shall any single or partial exercise of any such right or power, or any abandonment or discontinuance of steps to enforce such a right or power, preclude any other or further exercise thereof or the exercise of any other right or power. The rights and remedies of the Agents, the Issuing Banks and the Lenders hereunder and under any other Loan Document are cumulative and are not exclusive of any rights or remedies that they

would otherwise have. No waiver of any provision of any Loan Document or consent to any departure by any Loan Party therefrom shall in any event be effective unless the same shall be permitted by paragraph (b) of this Section, and then such waiver or consent shall be effective only in the specific instance and for the purpose for which given. Without limiting the generality of the foregoing, the making of a Loan or issuance of a Letter of Credit shall not be construed as a waiver of any Default, regardless of whether any Agent, any Lender or any Issuing Bank may have had notice or knowledge of such Default at the time.

(b) Neither this Agreement nor any other Loan Document nor any provision hereof or thereof may be waived, amended or modified except (i) in the case of this Agreement, pursuant to an agreement or agreements in writing entered into by the Borrowers and the Required Lenders or (ii) in the case of any other Loan Document, pursuant to an agreement or agreements in writing entered into by the Administrative Agent, the applicable Collateral Agent (to the extent it is a party to such Loan Document) and each Loan Party that is a party thereto, with the consent of the Required Lenders; provided that no such agreement shall (i) increase the Commitment of any Lender without the written consent of such Lender, (ii) reduce or forgive the principal amount of any Loan or LC Disbursement or reduce the rate of interest thereon, or reduce or forgive any interest or fees payable hereunder, without the written consent of each Lender directly affected thereby, (iii) postpone any scheduled date of payment of the principal amount of any Loan or LC Disbursement, or any date for the payment of any interest, fees or other Obligations payable hereunder, or reduce the amount of, waive or excuse any such payment, postpone the scheduled date of expiration of any Commitment or increase the advance rates set forth in the definition of US Borrowing Base, UK Borrowing Base or Dutch Borrowing Base, without the written consent of each Lender affected thereby, (iv) change Section 2.18(b) or (d) in a manner that would alter the manner in which payments are shared, without the written consent of each Lender, (v) modify eligibility criteria, as such eligibility criteria are in effect on the Effective Date (including adding new categories of eligible assets or reserves), in any manner that has the effect of weakening or eliminating any applicable eligibility criteria or increasing the amounts available to be borrowed hereunder without the written consent of the Supermajority Lenders, (vi) change the definition of "Dilution Reserve" or "Rent Reserve" without the written consent of the Supermajority Lenders, (vii) change any of the provisions of this Section or the definition of "Required Lenders" or "Supermajority Lenders" or any other provision of any Loan Document specifying the number or percentage of Lenders (or Lenders of any Class) required to waive, amend or modify any rights thereunder or make any determination or grant any consent thereunder, without the written consent of each Lender, (viii) release any Loan Guarantor from its obligation under its Loan Guaranty (except as otherwise permitted herein or in the other Loan Documents), without the written consent of each Lender, or (ix) except as provided in paragraph (c) of this Section or in any Collateral Document, release all or substantially all of the Collateral, without the written consent of each Lender; provided further that no such agreement shall amend, modify or otherwise affect the rights or duties of any Agent, any Issuing Bank or any Swingline Lender hereunder without the prior written consent of such Agent, such Issuing Bank or such Swingline Lender, as the case may be. The Administrative Agent may also amend the Commitment Schedule to reflect assignments entered into pursuant to Section 9.04.

(c) The Lenders hereby irrevocably authorize each Collateral Agent, at its option and in its sole discretion, to release any Liens granted to either Collateral Agent by the Loan Parties on any Collateral (i) upon the termination of the all Commitments, payment and satisfaction in full in cash of all Secured Obligations (other than Unliquidated Obligations), and the cash collateralization of all Unliquidated Obligations in a manner reasonably satisfactory to each affected Lender, (ii) constituting property being sold or disposed of if the Loan Party disposing of such property certifies to the applicable Collateral Agent that the sale or disposition is made in compliance with the terms of this Agreement (and each Collateral Agent may rely conclusively on any such certificate, without further inquiry), (iii) constituting property leased to a Loan Party under a lease which has

expired or been terminated in a transaction permitted under this Agreement or (iv) as required to effect any sale or other disposition of such Collateral in connection with any exercise of remedies by a Collateral Agent or the Lenders pursuant to Article VII, or (v) if such Liens were granted by any Loan Party with respect to which 100% of its Equity Interests have been sold in a transaction permitted pursuant to Section 6.05. Except as provided in the preceding sentence, neither Collateral Agent will release any Liens on Collateral without the prior written authorization of the Required Lenders. The Lenders hereby irrevocably authorize the Administrative Agent, at its option and in its sole discretion, to release any Loan Guarantor from its obligation under its Loan Guaranty if 100% of the Equity Interests of such Loan Guarantor have been sold in a transaction permitted pursuant to Section 6.05. Any such release shall not in any manner discharge, affect, or impair the Obligations or any Liens (other than those expressly being released) upon (or obligations of the Loan Parties in respect of) all interests retained by the Loan Parties, including the proceeds of any sale, all of which shall continue to constitute part of the Collateral.

(d) If, in connection with any proposed amendment, waiver or consent requiring the consent of "each Lender" or "each Lender affected thereby," the consent of the Required Lenders is obtained, but the consent of other necessary Lenders is not obtained (any such Lender whose consent is necessary but not obtained being referred to herein as a "Non-Consenting Lender"), then the Borrowers may elect to replace a Non-Consenting Lender as a Lender party to this Agreement, provided that, concurrently with such replacement, (i) another bank or other entity which is reasonably satisfactory to the Borrowers and the Administrative Agent shall agree, as of such date, to purchase for cash the Loans and other Obligations due to the Non-Consenting Lender pursuant to an Assignment and Assumption and to become a Lender for all purposes under this Agreement and to assume all obligations of the Non-Consenting Lender to be terminated as of such date and to comply with the requirements of paragraph (b) of Section 9.04, and (ii) the Borrowers shall pay to such Non-Consenting Lender in same day funds on the day of such replacement (1) all interest, fees and other amounts then accrued but unpaid to such Non-Consenting Lender by the Borrowers hereunder to and including the date of termination, including without limitation payments due to such Non-Consenting Lender under Sections 2.15 and 2.17, and (2) an amount, if any, equal to the payment which would have been due to such Lender on the day of such replacement under Section 2.16 had the Loans of such Non-Consenting Lender been prepaid on such date rather than sold to the replacement Lender.

SECTION 9.03 Expenses; Indemnity; Damage Waiver. (a) Borrowers shall pay (i) all reasonable out-of-pocket expenses incurred by the Administrative Agent, the European Administrative Agent, each Collateral Agent, each Bookrunner and their respective Affiliates, including the reasonable fees, charges and disbursements of counsel for the Administrative Agent, the European Administrative Agent, each Collateral Agent and each Bookrunner (limited, in the absence of an actual conflict of interest, to one counsel and one third party appraiser and/or field examiner in each relevant jurisdiction), as the case may be, in connection with the syndication and distribution (including, without limitation, via the internet or through a service such as Intralinks) of the credit facilities provided for herein, the preparation and administration of the Loan Documents or any amendments, modifications or waivers of the provisions of the Loan Documents (whether or not the transactions contemplated hereby or thereby shall be consummated), (ii) all reasonable out-of-pocket expenses incurred by any Issuing Bank in connection with the issuance, amendment, renewal or extension of any Letter of Credit or any demand for payment thereunder and (iii) all out-of-pocket expenses incurred by any Agent, any Bookrunner, any Issuing Bank or any Lender, including the reasonable fees, charges and disbursements of any counsel for any Agent, any Issuing Bank or any Lender, in connection with the enforcement, collection or protection of its rights in connection with the Loan Documents, including its rights under this Section, or in connection with the Loans made or Letters of Credit issued hereunder, including all such out-of-pocket expenses incurred during any workout, restructuring or negotiations in respect of such Loans or Letters of Credit. Expenses being reimbursed by the Borrowers under this Section include, without limiting the generality of the foregoing, costs and expenses incurred in connection with:

(i) appraisals and insurance reviews;

(ii) field examinations and the preparation of Reports based on the fees charged by a third party retained by the Administrative Agent or either Collateral Agent or the internally allocated fees for each Person employed by the Administrative Agent or either Collateral Agent with respect to each field examination, together with the reasonable fees and expenses associated with collateral monitoring services performed by the Specialized Due Diligence Group of the Administrative Agent (and the Borrowers agree to modify or adjust the computation of the Borrowing Base—which may include maintaining additional Reserves, modifying the advance rates or modifying the eligibility criteria for the components of the Borrowing Base—to the extent required by the Administrative Agent as a result of any such evaluation, appraisal or monitoring);

(iii) background checks regarding senior management and/or key investors, as deemed necessary or appropriate in the sole discretion of the Administrative Agent;

(iv) taxes, fees and other charges for (A) lien and title searches and title insurance and (B) recording the Collateral Documents, filing financing statements and continuations, and other actions to perfect, protect, and continue the Liens of each Collateral Agent;

(v) sums paid or incurred to take any action required of any Loan Party under the Loan Documents that such Loan Party fails to pay or take; and

(vi) forwarding loan proceeds, collecting checks and other items of payment, and establishing and maintaining the accounts and lock boxes, and costs and expenses of preserving and protecting the Collateral.

All of the foregoing costs and expenses may be charged when due to the Borrowers as Revolving Loans or to another deposit account, all as described in Section 2.18(c).

(b) The Borrowers shall, jointly and severally, indemnify the Agents, the Issuing Banks and each Lender, 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, penalties, liabilities and related expenses, including the fees, charges and disbursements of any counsel for any Indemnitee, incurred by or asserted against any Indemnitee arising out of, in connection with, or as a result of (i) the execution or delivery of the Loan Documents or any agreement or instrument contemplated thereby, the performance by the parties hereto of their respective obligations thereunder or the consummation of the Transactions or any other transactions contemplated hereby, (ii) any Loan or Letter of Credit or the use of the proceeds therefrom (including any refusal by any Issuing Bank 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 any Borrower or any of their Subsidiaries, or any Environmental Liability related in any way to any Borrower or any of their 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 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, penalties, liabilities or related expenses 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.

(c) To the extent that the Borrowers fail to pay any amount required to be paid by it to any Agent, any Issuing Bank or any Swingline Lender under paragraph (a) or (b) of this Section, each Lender severally agrees to pay to such Agent, such Issuing Bank or such Swingline Lender, 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, penalty, liability or related expense, as the case may be, was incurred by or asserted against such Agent, such Issuing Bank or such Swingline Lender in its capacity as such.

(d) To the extent permitted by applicable law, no Loan Party shall assert, and each 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 or any agreement or instrument contemplated hereby, the Transactions, any Loan or Letter of Credit or the use of the proceeds thereof.

(e) All amounts due under this Section shall be payable promptly after written demand therefor.

SECTION 9.04 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 (including any Affiliate of any Issuing Bank that issues any Letter of Credit), except that (i) the Borrowers may not assign or otherwise transfer any of their rights or obligations hereunder without the prior written consent of each Lender (and any attempted assignment or transfer by the Borrowers without such consent shall be null and void) and (ii) no Lender may assign or otherwise transfer its rights or obligations hereunder except in accordance with this Section. 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 (including any Affiliate of any Issuing Bank that issues any Letter of Credit), Participants (to the extent provided in paragraph (c) of this Section) and, to the extent expressly contemplated hereby, the Related Parties of each of the Agents, the Issuing Banks and the Lenders) any legal or equitable right, remedy or claim under or by reason of this Agreement.

(b) Subject to the conditions set forth in paragraph (c)(ii) below, any Lender may assign to one or more assignees all or a portion of its rights and obligations under this Agreement (including all or a portion of its Commitment and the Loans at the time owing to it) with the prior written consent (such consent not to be unreasonably withheld) of:

(i) the Borrower Representative, provided that no consent of the Borrower Representative shall be required for an assignment to a Lender, an Affiliate of a Lender, an Approved Fund or, if an Event of Default has occurred and is continuing, any other assignee; and

(ii) the Administrative Agent and the Issuing Banks; provided that no consent of the Administrative Agent or the Issuing Banks shall be required for an assignment to a Lender, an Affiliate of a Lender or an Approved Fund.

(c) Assignments shall be subject to the following additional conditions:

(i) except in the case of an assignment to a Lender or an Affiliate of a Lender or an assignment of the entire remaining amount of the assigning Lender's Commitment or Loans of any Class, the amount of the Commitment or Loans of the assigning Lender subject to each such assignment (determined as of the date the Assignment and Assumption with respect to such assignment is delivered to the Administrative Agent) shall not be less than $5,000,000 unless each of the Borrower Representative and the Administrative Agent otherwise consent, provided that no such consent of the Borrower Representative shall be required if an Event of Default has occurred and is continuing;

(ii) in order to comply with the Dutch Act on the Financial Supervision (*Wet op het financieel toezicht*), the amount transferred under this Section 9.04(c)(ii) shall include an outstanding portion of at least €50,000 (or its equivalent in other currencies) per Lender or such other amount as may be required from time to time by the Dutch Act on the Financial Supervision (or implementing legislation) or if less, the new Lender shall confirm in writing to the Borrowers that it is a professional market party within the meaning of the Dutch Act on the Financial Supervision;

(iii) 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;

(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 $3,500 to be paid by the assignee or the assignor; and

(v) the assignee, if it shall not be a Lender, shall deliver to the Administrative Agent an Administrative Questionnaire in which the assignee designates one or more Credit Contacts to whom all syndicate-level information (which may contain material non-public information about the Company, the Loan Parties and their Related Parties or their respective securities) will be made available and who may receive such information in accordance with the assignee's compliance procedures and applicable laws, including federal, provincial, territorial and state securities laws.

For the purposes of this Section 9.04(b), the term "Approved Fund" has the following meaning:

"Approved Fund" means any Person (other than a natural person) that is engaged in making, purchasing, holding or investing in bank loans and similar extensions of credit in the ordinary course of its business and that is administered or managed by (a) a Lender, (b) an Affiliate of a Lender or (c) an entity or an Affiliate of an entity that administers or manages a Lender.

(d) Subject to acceptance and recording thereof pursuant to paragraph (b)(iv) of this Section, from and after the effective date specified in each Assignment and Assumption the assignee thereunder shall be a party hereto 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 2.15, 2.16, 2.17 and 9.03). Any assignment or transfer by a Lender of rights or obligations under this Agreement that does not comply with this Section 9.04 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 paragraph (g) of this Section.

(e) The Administrative Agent, acting for this purpose as an agent of the Borrowers, shall maintain at one of its offices 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 Commitment of, and principal amount of the Loans and LC Disbursements 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 Borrowers, the Administrative Agent, each Collateral Agent, the Issuing Banks 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 Borrowers, the Issuing Banks and any Lender, at any reasonable time and from time to time upon reasonable prior notice.

(f) Upon its receipt of a duly completed Assignment and Assumption executed by an assigning Lender and an assignee, the assignee's completed Administrative Questionnaire (unless the assignee shall already be a Lender hereunder), the processing and recordation fee referred to in paragraph (c)(iii) of this Section and any written consent to such assignment required by paragraph (b) of this Section, the Administrative Agent shall accept such Assignment and Assumption and record the information contained therein in the Register; provided that if either the assigning Lender or the assignee shall have failed to make any payment required to be made by it pursuant to Section 2.05, 2.06(d) or (e), 2.07(b), 2.18(d) or 9.03(c), the Administrative Agent shall have no obligation to accept such Assignment and Assumption and record the information therein in the Register unless and until such payment shall have been made in full, together with all accrued interest thereon. No assignment shall be effective for purposes of this Agreement unless it has been recorded in the Register as provided in this paragraph.

(g) (i) Any Lender may, without the consent of the Borrowers, any Agent, any Issuing Bank or any Swingline Lender, sell participations to one or more banks or other entities (a "Participant") in all or a portion of such Lender's rights and obligations under this Agreement (including all or a portion of its Commitment and the Loans owing to it); provided that (A) such Lender's obligations under this Agreement shall remain unchanged, (B) such Lender shall remain solely responsible to the other parties hereto for the performance of such obligations and (C) the Borrowers, the Agents, the Issuing Banks 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, modification or waiver described in the first proviso to Section 9.02(b) that affects such Participant. Subject to paragraph (g)(ii) of this Section, the Borrowers agree that each Participant shall be entitled to the benefits of Sections 2.15, 2.16 and 2.17 to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to paragraph (b) of this Section. To the extent permitted by law, each Participant also shall be entitled to the benefits of Section 9.08 as though it were a Lender, provided such Participant agrees to be subject to Section 2.18(c) as though it were a Lender. Each Lender that sells a participation shall, acting solely for this purpose as an agent of the Borrowers, maintain a register on which it enters the name and address of each Participant and the principal amounts (and stated interest) of each participant's interest in the Loans or other obligations under this Agreement (the "Participant Register"). The entries in the Participant Register shall be conclusive absent manifest error, and such Lender shall treat each person whose name is recorded in the Participant Register as the owner of such participation for all purposes of this Agreement notwithstanding any notice to the contrary.

(ii) A Participant shall not be entitled to receive any greater payment under Section 2.15 or 2.17 than the applicable Lender would have been entitled to receive with respect to the participation sold to such Participant, unless the sale of the participation to such Participant is made with the Borrower Representative'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 2.17 unless the Borrower Representative is notified of the participation sold to such Participant and such Participant agrees, for the benefit of the Borrowers, to comply with Section 2.17(g) as though it were a Lender.

(h) Any Lender may at any time pledge or assign a security interest in all or any portion of its rights under this Agreement to secure obligations of such Lender, including without limitation any pledge or assignment to secure obligations to a Federal Reserve Bank, and this Section shall not apply to any such pledge or assignment of a security interest; provided that no such pledge or assignment of a security interest shall release a Lender from any of its obligations hereunder or substitute any such pledgee or assignee for such Lender as a party hereto.

(i) In case of assignment, transfer or novation by the assigning Lender of all or any part of its rights and obligations under any of the Loan Documents, the assigning Lender and its assignee shall agree that, for the purposes of Article 1278 of the Luxembourg Civil Code (to the extent applicable), the Liens created under the Loan Documents, securing the rights assigned, transferred or novated thereby, will be preserved for the benefit of the assignee.

SECTION 9.05 Survival. All covenants, agreements, representations and warranties made by the Loan Parties in the Loan Documents and in the certificates or other instruments delivered in connection with or pursuant to this Agreement or any other Loan Document shall be considered to have been relied upon by the other parties hereto and shall survive the execution and delivery of the Loan Documents and the making of any Loans and issuance of any Letters of Credit, regardless of any investigation made by any such other party or on its behalf and notwithstanding that any Agent, any Issuing Bank or any Lender may have had notice or knowledge of any Default or incorrect representation or warranty at the time any credit is extended hereunder, and shall continue in full force and effect as long as the principal of or any accrued interest on any Loan or any fee or any other amount payable under this Agreement is outstanding and unpaid or any Letter of Credit is outstanding (unless the same has been cash collateralized in accordance with Section 2.06(j) hereof) and so long as the Commitments have not expired or terminated. The provisions of Sections 2.15, 2.16, 2.17 and 9.03 and Article VIII shall survive and remain in full force and effect regardless of the consummation of the transactions contemplated hereby, the repayment of the Loans, the expiration or termination of the Letters of Credit and the Commitments or the termination of this Agreement or any provision hereof.

SECTION 9.06 Counterparts; Integration; Effectiveness. This Agreement may be executed in counterparts (and by different parties hereto on different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. This Agreement, the other Loan Documents and any separate letter agreements with respect to fees payable to the Administrative Agent constitute the entire contract among the parties relating to the subject matter hereof and supersede any and all previous agreements and understandings, oral or written, relating to the subject matter hereof. Except as provided in Section 4.01, this Agreement shall become effective when it shall have been executed by the Administrative Agent and when the Administrative Agent shall have received counterparts hereof which, when taken together, bear the signatures of each of the other parties hereto, and thereafter shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns. Delivery of an executed counterpart of a signature page of this Agreement by facsimile shall be effective as delivery of a manually executed counterpart of this Agreement.

SECTION 9.07 Severability. Any provision of any Loan Document held to be invalid, illegal or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such invalidity, illegality or unenforceability without affecting the validity, legality and enforceability of the remaining provisions thereof; and the invalidity of a particular provision in a particular jurisdiction shall not invalidate such provision in any other jurisdiction.

SECTION 9.08 Right of Setoff. If an Event of Default shall have occurred and be continuing, each Lender and each of its Affiliates is hereby authorized at any time and from time to time, to the fullest extent permitted by law, to set off and apply any and all deposits (general or special, time or demand, provisional or final) at any time held and other obligations at any time owing by such Lender or Affiliate to or for the credit or the account of the Borrowers or any Loan Guarantor against any and all of the Secured Obligations held by such Lender, irrespective of whether or not such Lender shall have made any demand under the Loan Documents and although such obligations may be unmatured. The applicable Lender shall promptly notify the Borrower Representative and the Administrative Agent of such set-off or application, provided that any failure to give or any delay in giving such notice shall not affect the validity of any such set-off or application under this Section. The rights of each Lender under this Section are in addition to other rights and remedies (including other rights of setoff) which such Lender may have.

SECTION 9.09 Governing Law; Jurisdiction; Consent to Service of Process. (a) The Loan Documents (other than those containing a contrary express choice of law provision) shall be governed by and construed in accordance with the laws of the State of New York, but giving effect to federal laws applicable to national banks.

(b) Each Loan Party hereby irrevocably and unconditionally submits, for itself and its property, to the nonexclusive jurisdiction of any US Federal or New York State court sitting in the Borough of Manhattan, New York in any action or proceeding arising out of or relating to any Loan Documents, or for recognition or enforcement of any judgment, and each of the parties hereto hereby irrevocably and unconditionally agrees that all claims in respect of any such action or proceeding may be heard and determined in such New York State or, to the extent permitted by law, in such Federal court. Each of the parties hereto agrees that a final judgment in any such action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law. Nothing in this Agreement or any other Loan Document shall affect any right that the Administrative Agent, the European Administrative Agent, either Collateral Agent, any Issuing Bank or any Lender may otherwise have to bring any action or proceeding relating to this Agreement or any other Loan Document against any Loan Party or its properties in the courts of any jurisdiction.

(c) Each Loan Party hereby irrevocably and unconditionally waives, to the fullest extent it may legally and effectively do so, any objection which it may now or hereafter have to the laying of venue of any suit, action or proceeding arising out of or relating to this Agreement or any other Loan Document in any court referred to in paragraph (b) of this Section. Each of the parties hereto hereby irrevocably waives, to the fullest extent permitted by law, the defense of an inconvenient forum to the maintenance of such action or proceeding in any such court.

(d) Each party to this Agreement irrevocably consents to service of process in the manner provided for notices in Section 9.01. Nothing in this Agreement or any other Loan Document will affect the right of any party to this Agreement to serve process in any other manner permitted by law.

SECTION 9.10 WAIVER OF JURY TRIAL. EACH PARTY HERETO HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT, ANY OTHER LOAN DOCUMENT OR THE TRANSACTIONS CONTEMPLATED THEREBY (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY). EACH PARTY HERETO (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.

SECTION 9.11 Headings. Article and Section headings and the Table of Contents used herein are for convenience of reference only, are not part of this Agreement and shall not affect the construction of, or be taken into consideration in interpreting, this Agreement.

SECTION 9.12 Confidentiality. Each of the Agents, the Issuing Banks and the Lenders agrees to maintain the confidentiality of the Information (as defined below), except that Information may be disclosed (a) to its and its Affiliates' directors, officers, employees and agents, 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, (c) to the extent required by Requirement of Laws or by any subpoena or similar legal process, (d) to any other party to this Agreement, (e) in connection with the exercise of any remedies hereunder or any suit, 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 Loan Parties and their obligations, (g) with the consent of the Borrower Representative or (h) to the extent such Information (i) becomes publicly available other than as a result of a breach of this Section or (ii) becomes available to the Administrative Agent, the Issuing Bank or any Lender on a non-confidential basis from a source other than the Borrowers. For the purposes of this Section, "Information" means all information received from the Borrowers relating to the Borrowers or their business, other than any such information that is available to the Administrative Agent, any Issuing Bank or any Lender on a non-confidential basis prior to disclosure by the Borrowers; provided that, in the case of information received from the Borrowers after the date hereof, such information is clearly identified at the time of delivery as confidential. Any Person required to maintain the confidentiality of Information as provided in this Section shall be considered to have complied with its obligation to do so if such Person has exercised the same degree of care to maintain the confidentiality of such Information as such Person would accord to its own confidential information.

EACH LENDER ACKNOWLEDGES THAT INFORMATION AS DEFINED IN SECTION 9.12 FURNISHED TO IT PURSUANT TO THIS AGREEMENT MAY INCLUDE MATERIAL NON-PUBLIC INFORMATION CONCERNING THE COMPANY AND ITS AFFILIATES AND THEIR RELATED PARTIES OR THEIR RESPECTIVE SECURITIES,

AND CONFIRMS THAT IT HAS DEVELOPED COMPLIANCE PROCEDURES REGARDING THE USE OF MATERIAL NON-PUBLIC INFORMATION AND THAT IT WILL HANDLE SUCH MATERIAL NON-PUBLIC INFORMATION IN ACCORDANCE WITH THOSE PROCEDURES AND APPLICABLE LAW, INCLUDING FEDERAL, PROVINCIAL, TERRITORIAL AND STATE SECURITIES LAWS.

ALL INFORMATION, INCLUDING REQUESTS FOR WAIVERS AND AMENDMENTS, FURNISHED BY THE BORROWERS OR THE ADMINISTRATIVE AGENT PURSUANT TO, OR IN THE COURSE OF ADMINISTERING, THIS AGREEMENT WILL BE SYNDICATE-LEVEL INFORMATION, WHICH MAY CONTAIN MATERIAL NON-PUBLIC INFORMATION ABOUT THE COMPANY, THE LOAN PARTIES AND THEIR RELATED PARTIES OR THEIR RESPECTIVE SECURITIES. ACCORDINGLY, EACH LENDER REPRESENTS TO THE BORROWERS AND THE ADMINISTRATIVE AGENT THAT IT HAS IDENTIFIED IN ITS ADMINISTRATIVE QUESTIONNAIRE A CREDIT CONTACT WHO MAY RECEIVE INFORMATION THAT MAY CONTAIN MATERIAL NON-PUBLIC INFORMATION IN ACCORDANCE WITH ITS COMPLIANCE PROCEDURES AND APPLICABLE LAW, INCLUDING FEDERAL, PROVINCIAL, TERRITORIAL AND STATE SECURITIES LAWS.

SECTION 9.13 Several Obligations; Nonreliance; Violation of Law. The respective obligations of the Lenders hereunder are several and not joint and the failure of any Lender to make any Loan or perform any of its obligations hereunder shall not relieve any other Lender from any of its obligations hereunder. Each Lender hereby represents that it is not relying on or looking to any margin stock for the repayment of the Borrowings provided for herein. Anything contained in this Agreement to the contrary notwithstanding, neither any Issuing Bank nor any Lender shall be obligated to extend credit to the Borrowers in violation of any Requirement of Law.

SECTION 9.14 USA PATRIOT Act. Each Lender that is subject to the requirements of the USA Patriot Act (Title III of Pub. L. 107-56 (signed into law October 26, 2001)) hereby notifies the Borrowers that pursuant to the requirements of such Act, it is required to obtain, verify and record information that identifies the Borrowers, which information includes the names and addresses of the Borrowers and other information that will allow such Lender to identify the Borrowers in accordance with such Act.

SECTION 9.15 Disclosure. Each Loan Party and each Lender hereby acknowledges and agrees that the Administrative Agent and/or its Affiliates from time to time may hold investments in, make other loans to or have other relationships with any of the Loan Parties and their respective Affiliates.

SECTION 9.16 Appointment for Perfection. Each Lender hereby appoints each other Lender as its agent for the purpose of perfecting Liens (in each case for the benefit of the Agents, the Lenders and the Issuing Banks) in assets which, in accordance with Article 9 of the UCC or any other applicable law can be perfected only by possession. Should any Lender (other than either Collateral Agent) obtain possession of any such Collateral, such Lender shall notify the Administrative Agent and, promptly upon the request of the Administrative Agent, shall deliver such Collateral to the applicable Collateral Agent or otherwise deal with such Collateral in accordance with the instructions of the applicable Collateral Agent.

SECTION 9.17 Interest Rate Limitation. Notwithstanding anything herein to the contrary, if at any time the interest rate applicable to any Loan, together with all fees, charges and other amounts which are treated as interest on such Loan under applicable law (collectively the "Charges"), shall exceed the maximum lawful rate (the "Maximum Rate") which may be contracted for, charged, taken, received or reserved by the Lender holding such Loan in accordance with applicable law, the rate of interest payable

in respect of such Loan hereunder, together with all Charges payable in respect thereof, shall be limited to the Maximum Rate and, to the extent lawful, the interest and Charges that would have been payable in respect of such Loan but were not payable as a result of the operation of this Section shall be cumulated and the interest and Charges payable to such Lender in respect of other Loans or periods shall be increased (but not above the Maximum Rate therefor) until such cumulated amount, together with interest thereon at the Federal Funds Effective Rate to the date of repayment, shall have been received by such Lender.

SECTION 9.18 Waiver of Immunity. To the extent that any Borrower has, or hereafter may be entitled to claim or may acquire, for itself, any Collateral or other assets of the Loan Parties, any immunity (whether sovereign or otherwise) from suit, jurisdiction of any court or from any legal process (whether through service of notice, attachment prior to judgment, attachment in aid of execution or otherwise) with respect to itself, any Collateral or any other assets of the Loan Parties, such Borrower hereby waives such immunity in respect of its obligations hereunder and under any promissory notes evidencing the Loans hereunder and any other Loan Document to the fullest extent permitted by applicable Requirements of Law and, without limiting the generality of the foregoing, agrees that the waivers set forth in this Section 9.18 shall be effective to the fullest extent now or hereafter permitted under the Foreign Sovereign Immunities Act of 1976 (as amended, and together with any successor legislation) and are, and are intended to be, irrevocable for purposes thereof.

SECTION 9.19 Currency of Payment. Each payment owing by any Borrower hereunder shall be made in the relevant currency specified herein or, if not specified herein, specified in any other Loan Document executed by the Administrative Agent, the US Collateral Agent or the European Collateral Agent (the "Currency of Payment") at the place specified herein (such requirements are of the essence of this Agreement). If, for the purpose of obtaining judgment in any court, it is necessary to convert a sum due hereunder in a Currency of Payment into another currency, the parties hereto agree that the rate of exchange used shall be that at which in accordance with normal banking procedures the Administrative Agent could purchase such Currency of Payment with such other currency at the Spot Selling Rate on the Business Day preceding that on which final judgment is given. The obligations in respect of any sum due hereunder to any Lender or any Issuing Bank shall, notwithstanding any adjudication expressed in a currency other than the Currency of Payment, be discharged only to the extent that, on the Business Day following receipt by such Lender or Issuing Bank of any sum adjudged to be so due in such other currency, such Lender or Issuing Bank may, in accordance with normal banking procedures, purchase the Currency of Payment with such other currency. Each Borrower agrees that (a) if the amount of the Currency of Payment so purchased is less than the sum originally due to such Lender or Issuing Bank in the Currency of Payment, as a separate obligation and notwithstanding the result of any such adjudication, such Borrower shall immediately pay the shortfall (in the Currency of Payment) to such Lender or Issuing Bank and (b) if the amount of the Currency of Payment so purchased exceeds the sum originally due to such Lender or Issuing Bank, such Lender or Issuing Bank shall promptly pay the excess over to such Borrower in the currency and to the extent actually received.

SECTION 9.20 Conflicts. In the event of any conflict between the terms of this Agreement and the terms of any other Loan Document, the terms of this Agreement shall, to the extent of such conflict, prevail.

SECTION 9.21 Parallel Debt. To grant the security pursuant to any Dutch Security Agreement to the European Collateral Agent, each European Loan Party irrevocably and unconditionally undertakes (and to the extent necessary undertakes in advance (*bij voorbaat*)) to pay to the European Collateral Agent amounts equal to any amounts owing from time to time by a European Loan Party to any Guaranteed Party under any Loan Document as and when those amounts are due.

Each European Loan Party and the Administrative Agent and the Guaranteed Parties acknowledge that the obligations of each Loan Party under this Section 9.21 are several and are separate and independent (*eigen zelfstandige verplichtingen*) from, and shall not in any way limit or affect, the corresponding obligations of that Loan Party to any Guaranteed Party under any Loan Document (its "Corresponding Debt") nor shall the amounts for which each Loan Party is liable under Section 9.21 (its "Parallel Debt") be limited or affected in any way by its Corresponding Debt provided that:

(a) the Parallel Debt of each Loan Party shall be decreased to the extent that its Corresponding Debt has been irrevocably paid or (in the case of guarantee obligations) discharged; and

(b) the Corresponding Debt of each Loan Party shall be decreased to the extent that its Parallel Debt has been irrevocably paid or (in the case of guarantee obligations) discharged; and

(c) the amount of the Parallel Debt of each Loan Party shall at all times be equal to the amount of its Corresponding Debt.

(a) For the purpose of this Section 9.21, the European Collateral Agent acts in its own name and on behalf of itself and not as agent, representative or trustee of any Guaranteed Party, and its claims in respect of each Parallel Debt shall not be held on trust.

(b) The Liens granted under the Dutch Security Agreements to the European Collateral Agent to secure each Parallel Debt is granted to the European Collateral Agent in its capacity as sole creditor of each Parallel Debt.

(c) All monies received or recovered by the European Collateral Agent pursuant to this Section 9.21, and all amounts received or recovered by the European Collateral Agent from or by the enforcement of any Lien granted to secure each Parallel Debt, shall be applied in accordance with Section 2.18(b).

(d) Without limiting or affecting the European Collateral Agent 's rights against the Loan Parties (whether under this Section 9.21 or under any other provision of the Loan Documents), each Loan Party acknowledges that:

(a) nothing in this Section 9.21 shall impose any obligation on the European Collateral Agent to advance any sum to any Loan Party or otherwise under any Loan Document, except in its capacity as Guaranteed Party; and

(b) for the purpose of any vote taken under any Loan Document, the European Collateral Agent shall not be regarded as having any participation or commitment other than those which it has in its capacity as a Guaranteed Party.

For the avoidance of doubt:

(a) the Parallel Debt of each Loan Party will become due and payable (*opeisbaar*) at the same time its Corresponding Debt becomes due and payable; and

(b) a Loan Party may not repay or prepay its Parallel Debt unless directed to do so by the European Collateral Agent or the Lien pursuant to a Dutch Security Agreement is enforced by the European Collateral Agent.

SECTION 9.22 Applicability of Luxembourg Borrower Provisions. Until such time as the actions described in Section 5.16(b) shall have been completed, none of the provisions of Sections 3.02(e), 3.10(e), 3.13(a)(iii), 5.07, 7(i)(v), 7(i)(vi) and 7(q) relating to the Luxembourg Borrower shall be effective.

ARTICLE X

Loan Guaranty

SECTION 10.01 Guaranty. (a) Each Loan Guarantor and any of its successors or assigns (other than those that have delivered a separate Loan Guaranty) hereby agrees that it is jointly and severally liable for, and, as primary obligor and not merely as surety, absolutely and unconditionally guarantees, to the extent permissible under the laws of the country in which such Loan Guarantor is located or organized, to the Lenders, the Agents and the Issuing Banks (collectively, the "Guaranteed Parties") the prompt payment when due, whether at stated maturity, upon acceleration or otherwise, and at all times thereafter, of the Secured Obligations and all costs and expenses including, without limitation, all court costs and attorneys' and paralegals' fees (including allocated costs of in-house counsel and paralegals) and expenses paid or incurred by the Agents, the Issuing Banks and the Lenders in endeavoring to collect all or any part of the Secured Obligations from, or in prosecuting any action against, any Borrower, any other Loan Guarantor or any other guarantor of all or any part of the Secured Obligations (such costs and expenses, together with the Secured Obligations, collectively the "Guaranteed Obligations"). Each Loan Guarantor further agrees that the Guaranteed Obligations may be extended or renewed in whole or in part without notice to or further assent from it, and that it remains bound upon its guarantee notwithstanding any such extension or renewal. All terms of this Loan Guaranty apply to and may be enforced by or on behalf of any domestic or foreign branch or Affiliate of any Lender that extended any portion of the Guaranteed Obligations. Notwithstanding anything in the foregoing to the contrary, in no event shall the Guarantee Obligations of any European Loan Party include the Obligations of the US Loan Parties.

If any payment by a Loan Guarantor or any discharge given by a Guaranteed Party (whether in respect of the obligations of any Loan Guarantor or any security for those obligations or otherwise) is avoided or reduced as a result of insolvency or any similar event: (a) the liability of each Loan Guarantor shall continue as if the payment, discharge, avoidance or reduction had not occurred; and (b) each Guaranteed Party shall be entitled to recover the value or amount of that security or payment from each Loan Guarantor, as if the payment, discharge, avoidance or reduction had not occurred.

The obligations of each Loan Guarantor under this Article X will not be affected by an act, omission, matter or thing which, but for this Article X, would reduce, release or prejudice any of its obligations under this Article X (without limitation and whether or not known to it or any Guaranteed Party) including: (a) any time, waiver or consent granted to, or composition with, any Loan Guarantor or other person; (b) the release of any other Loan Guarantor or any other person under the terms of any composition or arrangement with any creditor of any member of the European Group; (c) the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, take up or enforce, any rights against, or security over assets of, any Loan Guarantor or other person or any non-presentation or non-observance of any formality or other requirement in respect of any instrument or any failure to realise the full value of any security; (d) any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of an Loan Guarantor or any other person; (e) any amendment, novation, supplement, extension (whether of

maturity or otherwise) or restatement (in each case, however fundamental and of whatsoever nature) or replacement of a Loan Document or any other document or security; (f) any unenforceability, illegality or invalidity of any obligation of any person under any Loan Document or any other document or security; or (g) any insolvency or similar proceedings.

Without prejudice to the generality of the above, each Loan Guarantor expressly confirms, as permissible under applicable law, that it intends that this guarantee shall extend from time to time to any (however fundamental) variation, increase, extension or addition of or to any of the Loan Documents and/or any amount made available under any of the Loan Documents for the purposes of or in connection with any of the following: acquisitions of any nature; increasing working capital; enabling investor distributions to be made; carrying out restructurings; refinancing existing facilities; refinancing any other indebtedness; making facilities available to new borrowers; any other variation or extension of the purposes for which any such facility or amount might be made available from time to time; and any fees, costs and/or expenses associated with any of the foregoing.

Each Loan Guarantor waives any right it may have of first requiring any Guaranteed Party (or any trustee or agent on its behalf) to proceed against or enforce any other rights or security or claim payment from any person before claiming from that Loan Guarantor under this Article X. This waiver applies irrespective of any law or any provision of a Loan Document to the contrary.

This guarantee is in addition to and is not in any way prejudiced by any other guarantee or security now or subsequently held by any Guaranteed Party.

This guarantee does not apply to any liability to the extent that it would result in this guarantee constituting unlawful financial assistance within the meaning of Section 151 of the UK Companies Act 1985, or section 60 of the Irish Companies Act 1963, or any equivalent and applicable provisions under the laws of the jurisdiction of incorporation of the relevant Loan Guarantor.

(b) Notwithstanding anything to the contrary in the Credit Agreement, the aggregate obligations and liabilities of any entity incorporated under the laws of the Grand Duchy of Luxembourg (a "Luxembourg Guarantor") with respect to the repayment under a joint and several liability clause of any borrowing, costs or expenses, and the granting of any guarantee, indemnity or security under this Agreement:

(i) shall not include any payment which, if made, would either constitute a misuse of corporate assets as defined under article 171-1 of the LSC or amount to prohibited financial assistance as provided in article 49-6 of the LSC; and

(ii) shall be limited to the aggregate of:

(A) any sums borrowed by such Luxembourg Guarantor or any obligation or liability of such Luxembourg Guarantor's direct or indirect subsidiaries incurred under the Credit Agreement; and

(B) ninety-five percent (95%) of the net assets of such Luxembourg Guarantor, where the net assets means the shareholder's equity (*capitaux propres*, as referred to in article 34 of the Luxembourg law of December 19, 2002 on the commercial register and annual accounts) of such Luxembourg Guarantor as (i) shown in the latest financial statements (*comptes annuels*) available at the date of the relevant payment hereunder and approved by the shareholders of such Luxembourg Guarantor or (ii) existing as of the Closing Date.

SECTION 10.02 Guaranty of Payment. This Loan Guaranty is a guaranty of payment and not of collection. Each Loan Guarantor waives any right to require any Agent, any Issuing Bank or any Lender to sue any Borrower, any other Loan Guarantor, any other guarantor, or any other Person obligated for all or any part of the Guaranteed Obligations (each, an "Obligated Party"), or otherwise to enforce its payment against any collateral securing all or any part of the Guaranteed Obligations.

As an original and independent obligation under this Loan Guaranty, each Loan Guarantor shall:

(a) indemnify each Guaranteed Party and its successors, endorsees, transferees and assigns and keep the Guaranteed Parties indemnified against all costs, losses, expenses and liabilities of whatever kind resulting from the failure by the Loan Parties or any of them, to make due and punctual payment of any of the Secured Obligations or resulting from any of the Secured Obligations being or becoming void, voidable, unenforceable or ineffective against any Loan Party (including, but without limitation, all legal and other costs, charges and expenses incurred by each Guaranteed Party, or any of them, in connection with preserving or enforcing, or attempting to preserve or enforce, its rights under this Loan Guaranty); and

(b) pay on demand the amount of such costs, losses, expenses and liabilities whether or not any of the Guaranteed Parties has attempted to enforce any rights against any Loan Party or any other Person or otherwise.

SECTION 10.03 No Discharge or Diminishment of Loan Guaranty. (a) Except as otherwise provided for herein, the obligations of each Loan Guarantor hereunder are unconditional and absolute and not subject to any reduction, limitation, impairment or termination for any reason (other than the indefeasible payment in full in cash of the Guaranteed Obligations), including: (i) any claim of waiver, release, extension, renewal, settlement, surrender, alteration, or compromise of any of the Guaranteed Obligations, by operation of law or otherwise; (ii) any change in the corporate existence, structure or ownership of any Borrower or any other guarantor of or other person liable for any of the Guaranteed Obligations; (iii) any insolvency, bankruptcy, winding-up, liquidation, reorganization or other similar proceeding affecting any Obligated Party, or their assets or any resulting release or discharge of any obligation of any Obligated Party; or (iv) the existence of any claim, setoff or other rights which any Loan Guarantor may have at any time against any Obligated Party, any Agent, any Issuing Bank, any Lender, or any other person, whether in connection herewith or in any unrelated transactions.

(b) The obligations of each Loan Guarantor hereunder are not subject to any defense or setoff, counterclaim, recoupment, or termination whatsoever by reason of the invalidity, illegality, or unenforceability of any of the Guaranteed Obligations or otherwise, or any provision of applicable law or regulation purporting to prohibit payment by any Obligated Party, of the Guaranteed Obligations or any part thereof.

(c) Further, the obligations of any Loan Guarantor hereunder are not discharged or impaired or otherwise affected by: (i) the failure of any Agent, any Issuing Bank or any Lender to assert any claim or demand or to enforce any remedy with respect to all or any part of the Guaranteed Obligations; (ii) any waiver or modification of or supplement to any provision of any agreement relating to the Guaranteed Obligations; (iii) any release, non-perfection, or invalidity of any indirect or direct security for the obligations of any Borrower for all or any part of the Guaranteed Obligations or any obligations of any other guarantor of

or other person liable for any of the Guaranteed Obligations; (iv) any action or failure to act by any Agent, any Issuing Bank or any Lender with respect to any collateral securing any part of the Guaranteed Obligations; or (v) any default, failure or delay, willful or otherwise, in the payment or performance of any of the Guaranteed Obligations, or any other circumstance, act, omission or delay that might in any manner or to any extent vary the risk of such Loan Guarantor or that would otherwise operate as a discharge of any Loan Guarantor as a matter of law or equity (other than the indefeasible payment in full in cash of the Guaranteed Obligations).

SECTION 10.04 Defenses Waived. To the fullest extent permitted by applicable law, each Loan Guarantor hereby waives any defense based on or arising out of any defense of any Borrower or any other Loan Guarantor or the unenforceability of all or any part of the Guaranteed Obligations from any cause, or the cessation from any cause of the liability of any Borrower or any other Loan Guarantor, other than the indefeasible payment in full in cash of the Guaranteed Obligations. Without limiting the generality of the foregoing, each Loan Guarantor irrevocably waives acceptance hereof, presentment, demand, protest and, to the fullest extent permitted by law, any notice not provided for herein, as well as any requirement that at any time any action be taken by any person against any Obligated Party, or any other person. Each Collateral Agent may, at its election, foreclose on any Collateral held by it by one or more judicial or nonjudicial sales, accept an assignment of any such Collateral in lieu of foreclosure or otherwise act or fail to act with respect to any collateral securing all or a part of the Guaranteed Obligations, compromise or adjust any part of the Guaranteed Obligations, make any other accommodation with any Obligated Party or exercise any other right or remedy available to it against any Obligated Party, without affecting or impairing in any way the liability of such Loan Guarantor under this Loan Guaranty except to the extent the Guaranteed Obligations have been fully and indefeasibly paid in cash. To the fullest extent permitted by applicable law, each Loan Guarantor waives any defense arising out of any such election even though that election may operate, pursuant to applicable law, to impair or extinguish any right of reimbursement or subrogation or other right or remedy of any Loan Guarantor against any Obligated Party or any security.

SECTION 10.05 Rights of Subrogation. No Loan Guarantor will assert any right, claim or cause of action, including, without limitation, a claim of subrogation, contribution or indemnification that it has against any Obligated Party, or any collateral, until the Loan Parties and the Loan Guarantors have fully performed all their obligations to the Agents, the Issuing Banks and the Lenders.

SECTION 10.06 Reinstatement; Stay of Acceleration. If at any time any payment of any portion of the Guaranteed Obligations is rescinded or must otherwise be restored or returned upon the insolvency, bankruptcy, or reorganization of any Borrower or otherwise, each Loan Guarantor's obligations under this Loan Guaranty with respect to that payment shall be reinstated at such time as though the payment had not been made and whether or not the Agents, the Issuing Banks and the Lenders are in possession of this Loan Guaranty. If acceleration of the time for payment of any of the Guaranteed Obligations is stayed upon the insolvency, bankruptcy or reorganization of any Borrower, all such amounts otherwise subject to acceleration under the terms of any agreement relating to the Guaranteed Obligations shall nonetheless be payable by the Loan Guarantors forthwith on demand by the Lender.

SECTION 10.07 Information. Each Loan Guarantor assumes all responsibility for being and keeping itself informed of the Borrowers' financial condition and assets, and of all other circumstances bearing upon the risk of nonpayment of the Guaranteed Obligations and the nature, scope and extent of the risks that each Loan Guarantor assumes and incurs under this Loan Guaranty, and agrees that neither any Agent, any Issuing Bank nor any Lender shall have any duty to advise any Loan Guarantor of information known to it regarding those circumstances or risks.

SECTION 10.08 Termination. The Lenders may continue to make loans or extend credit to the Borrowers based on this Loan Guaranty until five days after it receives written notice of termination from any Loan Guarantor. Notwithstanding receipt of any such notice, each Loan Guarantor will continue to be liable to the Lenders for any Guaranteed Obligations created, assumed or committed to prior to the fifth day after receipt of the notice, and all subsequent renewals, extensions, modifications and amendments with respect to, or substitutions for, all or any part of that Guaranteed Obligations.

SECTION 10.09 Taxes. (a) All payments of the Guaranteed Obligations will be made by each Loan Guarantor free and clear of and without withholding or deduction for any Taxes or Other Taxes; provided that if any Loan Guarantor shall be required to withhold or deduct any Taxes or Other Taxes from such payments, then (i) the sum payable shall be increased as necessary so that after making all required withholdings or deductions (including withholdings or deductions applicable to additional sums payable under this Section) the Administrative Agent, the Collateral Agents, Lender or Issuing Bank (as the case may be) receives an amount equal to the sum it would have received had no such withholdings or deductions been made, (ii) such Loan Guarantor shall make such withholdings or deductions, (iii) such Loan Guarantor shall pay the full amount withheld or deducted to the relevant Governmental Authority in accordance with applicable law and (iv) such Loan Guarantor shall deliver to the Administrative Agent the original or a certified copy of a receipt issued by such Governmental Authority evidencing such payment, and a copy of the return reporting such payment or other evidence of such payment reasonably satisfactory to the Administrative Agent.

SECTION 10.10 Luxembourg Registration Duties. The Luxembourg Borrower shall not be required to pay or indemnify any Lender or the Agents for any registration duties (*droits d'enregistrements*) pertaining to the registration of a Loan Document if such registration is not required to preserve the rights of any such Lender or Agent.

SECTION 10.11 Maximum Liability. The provisions of this Loan Guaranty are severable, and in any action or proceeding involving any corporate law, or any provincial, state, federal or foreign bankruptcy, insolvency, reorganization or other law affecting the rights of creditors generally, if the obligations of any Loan Guarantor under this Loan Guaranty would otherwise be held or determined to be void, voidable, avoidable, invalid or unenforceable on account of the amount of such Loan Guarantor's liability under this Loan Guaranty, then, notwithstanding any other provision of this Loan Guaranty to the contrary, the amount of such liability shall, without any further action by the Loan Guarantors or the Lenders, be automatically limited and reduced to the highest amount that is valid and enforceable as determined in such action or proceeding (such highest amount determined hereunder being the relevant Loan Guarantor's "Maximum Liability". This Section with respect to the Maximum Liability of each Loan Guarantor is intended solely to preserve the rights of the Lenders to the maximum extent not subject to avoidance under applicable law, and no Loan Guarantor nor any other person or entity shall have any right or claim under this Section with respect to such Maximum Liability, except to the extent necessary so that the obligations of any Loan Guarantor hereunder shall not be rendered voidable under applicable law. Each Loan Guarantor agrees that the Guaranteed Obligations may at any time and from time to time exceed the Maximum Liability of each Loan Guarantor without impairing this Loan Guaranty or affecting the rights and remedies of the Lenders hereunder, provided that, nothing in this sentence shall be construed to increase any Loan Guarantor's obligations hereunder beyond its Maximum Liability.

SECTION 10.12 Contribution. In the event any Loan Guarantor (a "Paying Guarantor") shall make any payment or payments under this Loan Guaranty or shall suffer any loss as a result of any realization upon any collateral granted by it to secure its obligations under this Loan Guaranty, each other Loan Guarantor (each a "Non-Paying Guarantor") shall contribute to such Paying Guarantor an amount equal to such Non-Paying Guarantor's "Applicable Percentage" of such payment or payments made, or

losses suffered, by such Paying Guarantor. For purposes of this Article X, each Non-Paying Guarantor's "Applicable Percentage" with respect to any such payment or loss by a Paying Guarantor shall be determined as of the date on which such payment or loss was made by reference to the ratio of (i) such Non-Paying Guarantor's Maximum Liability as of such date (without giving effect to any right to receive, or obligation to make, any contribution hereunder) or, if such Non-Paying Guarantor's Maximum Liability has not been determined, the aggregate amount of all monies received by such Non-Paying Guarantor from the Borrowers after the date hereof (whether by loan, capital infusion or by other means) to (ii) the aggregate Maximum Liability of all Loan Guarantors hereunder (including such Paying Guarantor) as of such date (without giving effect to any right to receive, or obligation to make, any contribution hereunder), or to the extent that a Maximum Liability has not been determined for any Loan Guarantor, the aggregate amount of all monies received by such Loan Guarantors from the Borrowers after the date hereof (whether by loan, capital infusion or by other means). Nothing in this provision shall affect any Loan Guarantor's several liability for the entire amount of the Guaranteed Obligations (up to such Loan Guarantor's Maximum Liability). Each of the Loan Guarantors covenants and agrees that its right to receive any contribution under this Loan Guaranty from a Non-Paying Guarantor shall be subordinate and junior in right of payment to the payment in full in cash of the Guaranteed Obligations. This provision is for the benefit of the Administrative Agent, the Collateral Agents, the Issuing Banks, the Lenders and the Loan Guarantors and may be enforced by any one, or more, or all of them in accordance with the terms hereof.

SECTION 10.13 Liability Cumulative. The liability of each Loan Party as a Loan Guarantor under this Article X is in addition to and shall be cumulative with all liabilities of each Loan Party to the Agents, the Issuing Banks and the Lenders under this Agreement and the other Loan Documents to which such Loan Party is a party or in respect of any obligations or liabilities of the other Loan Parties, without any limitation as to amount, unless the instrument or agreement evidencing or creating such other liability specifically provides to the contrary.

ARTICLE XI

The Borrower Representative

SECTION 11.01 Appointment; Nature of Relationship. The Company is hereby appointed by each of the Borrowers as its contractual representative (herein referred to as the "Borrower Representative") hereunder and under each other Loan Document, and each of the Borrowers irrevocably authorizes the Borrower Representative to act as the contractual representative of such Borrower with the rights and duties expressly set forth herein and in the other Loan Documents. The Borrower Representative agrees to act as such contractual representative upon the express conditions contained in this Article XI. Additionally, each Borrower hereby appoints, to the extent the Borrower Representative requests any Loan on behalf of such Borrower, the Borrower Representative as its agent to receive all of the proceeds of such Loan in the Funding Account(s), at which time the Borrower Representative shall promptly disburse such Loan to such Borrower. Neither the Agents, the Lenders nor the Issuing Banks and their respective officers, directors, agents or employees, shall not be liable to the Borrower Representative or any Borrower for any action taken or omitted to be taken by the Borrower Representative or the Borrowers pursuant to this Section 11.01.

SECTION 11.02 Powers. The Borrower Representative shall have and may exercise such powers under the Loan Documents as are specifically delegated to the Borrower Representative by the terms of each thereof, together with such powers as are reasonably incidental thereto. The Borrower Representative shall have no implied duties to the Borrowers, or any obligation to the Lenders to take any action thereunder except any action specifically provided by the Loan Documents to be taken by the Borrower Representative.

SECTION 11.03 Employment of Agents. The Borrower Representative may execute any of its duties as the Borrower Representative hereunder and under any other Loan Document by or through authorized officers.

SECTION 11.04 Notices. Each Borrower shall immediately notify the Borrower Representative of the occurrence of any Default hereunder, each such notice to refer to this Agreement describing such Default and stating that such notice is a "notice of default." In the event that the Borrower Representative receives such a notice, the Borrower Representative shall give prompt notice thereof to the Administrative Agent, the Collateral Agents and the Lenders. Any notice provided to the Borrower Representative hereunder shall constitute notice to each Borrower on the date received by the Borrower Representative.

SECTION 11.05 Successor Borrower Representative. Upon the prior written consent of the Administrative Agent, the Borrower Representative may resign at any time, such resignation to be effective upon the appointment of a successor Borrower Representative acceptable to the Administrative Agent. The Administrative Agent shall give prompt written notice of such resignation to the Lenders.

SECTION 11.06 Execution of Loan Documents; Borrowing Base Certificate. The Borrowers hereby empower and authorize the Borrower Representative, on behalf of the Borrowers, to execute and deliver to the Agents and the Lenders the Loan Documents and all related agreements, certificates, documents, or instruments as shall be necessary or appropriate to effect the purposes of the Loan Documents, including without limitation, the any Borrowing Base Certificate and any certificates required pursuant to Article V. Each Borrower agrees that any action taken by the Borrower Representative or the Borrowers in accordance with the terms of this Agreement or the other Loan Documents, and the exercise by the Borrower Representative of its powers set forth therein or herein, together with such other powers that are reasonably incidental thereto, shall be binding upon all of the Borrowers.

SECTION 11.07 Reporting. Each Borrower hereby agrees that such Borrower shall furnish promptly after each fiscal month to the Borrower Representative a copy of its Borrowing Base Certificate and any other certificate or report required hereunder or requested by the Borrower Representative on which the Borrower Representative shall rely to prepare the Aggregate Borrowing Base Certificate and the Borrowing Base Certificate of each Borrower and Compliance Certificates required pursuant to the provisions of this Agreement.

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

BORROWERS:

OFFICE DEPOT, INC.

By _____
Name:
Title:

OFFICE DEPOT INTERNATIONAL (UK) LTD.

By _____
Name:
Title:

OFFICE DEPOT UK LTD.

By _____
Name:
Title:

OFFICE DEPOT INTERNATIONAL B.V.

By _____
Name:
Title:

OFFICE DEPOT B.V.

By _____
Name:
Title:

OD INTERNATIONAL (LUXEMBOURG) FINANCE S.À R.L.

By _____
Name:
Title:

VIKING FINANCE (IRELAND) LTD.

By _____
Name:
Title:

LOAN GUARANTORS:

4SURE.COM, INC.

By _____
Name: Jennifer Boese
Title: Vice President and Treasurer

OD AVIATION, INC.

By _____
Name: Jennifer Boese
Title: Vice President and Treasurer

OD INTERNATIONAL, INC.

By _____
Name: Jennifer Boese
Title: Vice President and Treasurer

OD OF TEXAS, LLC

By _____
Name: Jennifer Boese
Title: Vice President and Treasurer

OFFICE DEPOT DELAWARE OVERSEAS FINANCE NO. 1, LLC

By _____
Name: Jennifer Boese
Title: Vice President and Treasurer

SOLUTIONS4SURE.COM, INC.

By _____
Name: Jennifer Boese
Title: Vice President and Treasurer

THE OFFICE CLUB, INC.

By _____
Name: Jennifer Boese
Title: Vice President and Treasurer

VIKING OFFICE PRODUCTS, INC.

By _____
Name: Jennifer Boese
Title: Vice President and Treasurer

JPMORGAN CHASE BANK, N.A., individually, as Administrative Agent, US Collateral Agent and Lender

By _____
Name:
Title:

JPMORGAN CHASE BANK, N.A., LONDON BRANCH, as European Administrative Agent and European Collateral Agent

By _____
Name:
Title:

BANK OF AMERICA, N.A., as Syndication Agent and Lender

By _____
Name:
Title:

CITIBANK, N.A., as Documentation Agent and Lender

By _____
Name:
Title:

WACHOVIA BANK, NATIONAL ASSOCIATION, as
Documentation Agent and Lender

By _____
Name:
Title:

GENERAL ELECTRIC CAPITAL CORPORATION, as Documentation Agent and Lender

By _____
Name:
Title:

SCHEDULE 1.01(a)

COMMITMENTS

Lender	Facility A Commitment	Facility B Commitment	Total Commitment
JPMorgan Chase Bank, N.A.	$ 120,000,000	$ 43,750,000	$ 163,750,000
Bank of America, N.A.	$ 120,000,000	$ 43,750,000	$ 163,750,000
Citibank, N.A.	$ 106,250,000	$ 43,750,000	$ 150,000,000
Wachovia Bank, National Association	$ 106,250,000	$ 43,750,000	$ 150,000,000
General Electric Capital Corporation	$ 120,000,000	$ 30,000,000	$ 150,000,000
Wells Fargo Retail Finance, LLC	$ 150,000,000	0	$ 150,000,000
Fifth Third Bank	$ 52,000,000	$ 13,000,000	$ 65,000,000
Morgan Stanley Bank	$ 40,000,000	$ 10,000,000	$ 50,000,000
RBS Business Capital	$ 40,000,000	$ 10,000,000	$ 50,000,000
The Bank of Nova Scotia	$ 28,000,000	$ 7,000,000	$ 35,000,000
Capital One Leverage Finance Corp	$ 25,000,000	0	$ 25,000,000
U.S. Bank National Association	$ 25,000,000	0	$ 25,000,000
PNC Bank, National Association	$ 25,000,000	0	$ 25,000,000
UBS Loan Finance LLC	$ 20,000,000	$ 5,000,000	$ 25,000,000
Webster Business Credit Corporation	$ 12,500,000	0	$ 12,500,000
UPS Capital Corporation	$ 10,000,000	0	$ 10,000,000
Total Commitments	$ 1,000,000,000	$ 250,000,000	$ 1,250,000

SCHEDULE 1.01(b)

Foreign Reorganization

One or more series of transactions among one or more Loan Parties and/or their Subsidiaries, involving a contribution, sale, exchange, transfer, or distribution in whole or in part, of an interest of a European Loan Party or Subsidiary in exchange for an additional equity interest, consideration evidenced by an intercompany note, other consideration, or any combination thereof, and which transactions may involve the issuance and/or repayment and/or capitalization of the intercompany notes, with or without any compensation for any such sale, exchange or transfer, which ultimately results in one or more European Loan Parties (other than the Company) and/or their Subsidiaries being owned, directly or indirectly, by another European Loan Party or Subsidiary.

SCHEDULE 1.01(c)

MANDATORY COST FORMULA

1. The Mandatory Cost is an addition to the interest rate to compensate Lenders for the cost of compliance with (a) the requirements of the Bank of England and/or the Financial Services Authority (or, in either case, any other authority which replaces all or any of its functions) or (b) the requirements of the European Central Bank.

2. On the first day of each Interest Period (or as soon as possible thereafter) the European Administrative Agent shall calculate, as a percentage rate, a rate (the "Additional Cost Rate") for each Lender, in accordance with the paragraphs set out below. The Mandatory Cost will be calculated by the European Administrative Agent as a weighted average of the Lenders' Additional Cost Rates (weighted in proportion to the percentage participation of each Lender in the relevant Loan) and will be expressed as a percentage rate per annum.

3. The Additional Cost Rate for any Lender lending from a Facility Office in a Participating Member State will be the percentage notified by that Lender to the European Administrative Agent. This percentage will be certified by that Lender in its notice to the European Administrative Agent to be its reasonable determination of the cost (expressed as a percentage of that Lender's participation in all Loans made from that Facility Office) of complying with the minimum reserve requirements of the European Central Bank in respect of loans made from that Facility Office.

4. The Additional Cost Rate for any Lender lending from a Facility Office in the United Kingdom will be calculated by the European Administrative Agent as follows:

(a) in relation to a Loan denominated in Sterling:

$$\frac{AB + C(B - D) + E \times 0.01}{100 - (A + C)} \quad \text{per cent. per annum}$$

(b) in relation to a Loan in any currency other than Sterling:

$$\frac{E \times 0.01}{300} \quad \text{per cent. per annum}$$

Where:

A. is the percentage of Eligible Liabilities (assuming these to be in excess of any stated minimum) which that Lender is from time to time required to maintain as an interest free cash ratio deposit with the Bank of England to comply with cash ratio requirements.

B. is the percentage rate of interest (excluding the Applicable Spread and the Mandatory Cost and, if the Loan is an Unpaid Sum, the additional rate of interest specified in Section 2.10(c) of the Credit Agreement) payable for the relevant Interest Period on the Loan.

C. is the percentage (if any) of Eligible Liabilities which that Lender is required from time to time to maintain as interest bearing Special Deposits with the Bank of England.

D. is the percentage rate per annum payable by the Bank of England to the European Administrative Agent (or such other bank as may be designated by the European Administrative Agent in consultation with the Borrower Representative) on interest bearing Special Deposits.

E. is designed to compensate Lenders for amounts payable under the Fees Rules and is calculated by the European Administrative Agent as being the average of the most recent rates of charge supplied by the Reference Banks to the European Administrative Agent pursuant to paragraph 7 below and expressed in Sterling per £1.0 million.

5. For the purposes of this Schedule:

(a) "Eligible Liabilities" and "Special Deposits" have the meanings given to them from time to time under or pursuant to the Bank of England Act 1998 or (as may be appropriate) by the Bank of England;

(b) "Facility Office" means the office or offices notified by a Lender to the European Administrative Agent in writing on or before the date it becomes a Lender (or, following that date, by not less than five Business Days' written notice) as the office or offices through which it will perform its obligations under this Agreement;

(c) "Fees Rules" means the rules on periodic fees contained in the FSA Supervision Manual or such other law or regulation as may be in force from time to time in respect of the payment of fees for the acceptance of deposits;

(d) "Fee Tariffs" means the fee tariffs specified in the Fees Rules under the activity group A.1 Deposit acceptors (ignoring any minimum fee or zero rated fee required pursuant to the Fees Rules but taking into account any applicable discount rate);

(e) "Reference Banks" means, in relation to each of the Eurodollar Base Rate and the Eurodollar Rate and Mandatory Cost, the principal office in London, England of JPMorgan Chase Bank, N.A., London Branch, or such other bank or banks as may be designated by the European Administrative Agent in consultation with Borrower Representative;

(f) "Tariff Base" has the meaning given to it in, and will be calculated in accordance with, the Fees Rules; and

(g) "Unpaid Sum" means any sum due and payable but unpaid by any Loan Party under the Loan Documents.

6. In application of the above formulae, A, B, C and D will be included in the formulae as percentages (i.e. 5 per cent. will be included in the formula as 5 and not as 0.05). A negative result obtained by subtracting D from B shall be taken as zero. The resulting figures shall be rounded to four decimal places.

7. If requested by the European Administrative Agent, each Reference Bank shall, as soon as practicable after publication by the Financial Services Authority, supply to the European Administrative Agent, the rate of charge payable by that Reference Bank to the Financial Services Authority pursuant to the Fees Rules in respect of the relevant financial year of the Financial Services Authority (calculated for this purpose by that Reference Bank as being the average of the Fee Tariffs applicable to that Reference Bank for that financial year) and expressed in Sterling per £1.0 million of the Tariff Base of that Reference Bank.

8. Each Lender shall supply any information required by the European Administrative Agent for the purpose of calculating its Additional Cost Rate. In particular, but without limitation, each Lender shall supply the following information on or prior to the date on which it becomes a Lender:

(c) the jurisdiction of its Facility Office; and

(d) any other information that the European Administrative Agent may reasonably require for such purpose.

Each Lender shall promptly notify the European Administrative Agent of any change to the information provided by it pursuant to this paragraph.

9. The percentages of each Lender for the purpose of A and C above and the rates of charge of each Reference Bank for the purpose of E above shall be determined by the European Administrative Agent based upon the information supplied to it pursuant to paragraphs 7 and 8 above and on the assumption that, unless a Lender notifies the European Administrative Agent to the contrary, each Lender's obligations in relation to cash ratio deposits and Special Deposits are the same as those of a typical bank from its jurisdiction of incorporation with a Facility Office in the same jurisdiction as its Facility Office.

10. The European Administrative Agent shall have no liability to any person if such determination results in an Additional Cost Rate which over or under compensates any Lender and shall be entitled to assume that the information provided by any Lender or Reference Bank pursuant to paragraphs 3, 7 and 8 above is true and correct in all respects.

11. The European Administrative Agent shall distribute the additional amounts received as a result of the Mandatory Cost to the Lenders on the basis of the Additional Cost Rate for each Lender based on the information provided by each Lender and each Reference Bank pursuant to paragraphs 3, 7 and 8 above.

12. Any determination by the European Administrative Agent pursuant to this Schedule in relation to a formula, the Mandatory Cost, an Additional Cost Rate or any amount payable to a Lender shall, in the absence of manifest error, be conclusive and binding on all parties to this Agreement.

The European Administrative Agent may from time to time, after consultation with Borrower Representative and the Lenders, determine and notify to all parties to this Agreement any amendments which are required to be made to this Schedule 1.01(c) in order to comply with any change in law, regulation or any requirements from time to time imposed by the Bank of England, the Financial Services Authority or the European Central Bank (or, in any case, any other authority which replaces all or any of its functions) and any such determination shall, in the absence of manifest error, be conclusive and binding on all parties to this Agreement.

[*] The asterisk denotes that this Schedule contains confidential information that has been omitted in reliance on Rule 24b-2 of the Securities Exchange Act of 1934. The confidential information has been submitted separately to the Securities and Exchange Commission.

SCHEDULE 2.04 - EXISTING LC'S

Hong Kong Letters of Credit

Applicant	Beneficiary	Beneficiary Country	Advising Bank	Tenor	Tenor of Days	Ccy	Outstanding Amount	Issuing Date	Expiry Date

[*]

[*] The asterisk denotes that this Schedule contains three pages of confidential information that have been omitted in reliance on Rule 24b-2 of the Securities Exchange Act of 1934. The confidential information has been submitted separately to the Securities and Exchange Commission.

SCHEDULE 2.04 - EXISTING LC'S

Hong Kong Banker Acceptances

Related L/C No.	Applicant	Beneficiary	Presenter Country	Tenor	Tenor of Days	Ccy	Bill Amount	Registration Date	Maturity Date

[*]

[*] The asterisk denotes that this Schedule contains five pages of confidential information that have been omitted in reliance on Rule 24b-2 of the Securities Exchange Act of 1934. The confidential information has been submitted separately to the Securities and Exchange Commission.

U.S. Letters of Credit

Correspondent Party Reference Number	Currency	Liab Type	Liab Currency	Liab Outstanding Amount	L/C Available Amount	Beneficiary Consent	Release Date	Expiry / Maturity Date	Beneficiary Name

[*]

[*] The asterisk denotes that this Schedule contains two pages of confidential information that have been omitted in reliance on Rule 24b-2 of the Securities Exchange Act of 1934. The confidential information has been submitted separately to the Securities and Exchange Commission.

SCHEDULE 2.04 - EXISTING LC'S

U.S. Banker Acceptances

Correspondent Party Reference Number	Currency	Liab Type	Liab Currency	Liab Outstanding Amount	L/C Available Amount	Beneficiary Consent	Release Date	Expiry / Maturity Date	Beneficiary Name

[*]

[*] The asterisk denotes that this Schedule contains four pages of confidential information that have been omitted in reliance on Rule 24b-2 of the Securities Exchange Act of 1934. The confidential information has been submitted separately to the Securities and Exchange Commission.

SCHEDULE 2.04 - EXISTING LC'S

Irrevocable Standby Letter of Credit Summary

Beneficiary	Issuing Bank	LC #	Current Expiry Date	Evergreen	Amount	Purpose

[*]

[*] The asterisk denotes that this Schedule contains one page of confidential information that has been omitted in reliance on Rule 24b-2 of the Securities Exchange Act of 1934. The confidential information has been submitted separately to the Securities and Exchange Commission.

SCHEDULE 3.06

DISCLOSED MATTERS

Litigation

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

The Company continues to cooperate with the staff of the United States Securities and Exchange Commission ("SEC") in their formal order of investigation issued in January 2008 covering the matters previously subject to the informal review that commenced July 2007. A formal order of investigation allows the SEC to subpoena witnesses, books, records, and other relevant documents. The matters subject to the investigation include contacts and communications with financial analysts, inventory receipt and reserves, timing of vendor payments, certain intercompany loans, certain payments to foreign officials, inventory obsolescence and timing and recognition of vendor program funds.

In early November 2007, two putative class action lawsuits were filed against the Company and certain of its executive officers alleging violations of the Securities Exchange Act of 1934. In addition, two putative shareholder derivative actions were filed against the Company and its directors alleging various state law claims including breach of fiduciary duty. The allegations in all four lawsuits primarily relate to the accounting for vendor program funds. Each of the above-referenced lawsuits were filed in the Southern District of Florida, and are captioned as follows: (1) Nichols v. Office Depot, Inc., Steve Odland and Patricia McKay filed on November 6, 2007; (2) Sheet Metal Worker Local 28 Pension Fund v. Office Depot, Inc., Steve Odland and Patricia McKay filed on November 5, 2007; (3) Marin, derivatively, on behalf of Office Depot, Inc. v. Office Depot, Inc., Steve Odland, Neil R. Austrian, David W. Bernauer, Abelardo E. Bru, Marsha J. Evans, David I. Fuente, Brenda J. Gaines, Myra M. Hart, Kathleen Mason, Michael J. Myers, and Office Depot, Inc. filed on November 8, 2007; and (4) Mason, derivatively, on behalf of Office Depot, Inc. v. Steve Odland, Neil R. Austrian, David W. Bernauer, Abelardo E. Bru, Marsha J. Evans, David I. Fuente, Brenda J. Gaines, Myra M. Hart, Kathleen Mason, Michael J. Myers, and Office Depot, Inc. filed on November 8, 2007.

On March 21, 2008, the court in the Southern District of Florida entered an Order consolidating the class action lawsuits and an Order consolidating the derivative actions. Lead plaintiff in the consolidated class actions, the New Mexico Educational Retirement Board, filed its Consolidated Amended Complaint on July 2, 2008. The response is due on or before September 2, 2008. These lawsuits are in their early stages and the Company does not currently believe that they will have a material adverse impact on the Company or its results of operations.

Environmental Matters

None.

Government Contracts

One of the Company's largest clients currently consists of a cooperative representing various state and local governments for whom the Company provides office supplies and services either through a cooperative contract arrangement or through individual contracts. The Company's sales under these arrangements to multiple customers were less than 5% of its consolidated sales during the six months ended June 28, 2008. These relationships are subject to uncertain future funding levels and federal and state procurement laws and require restrictive contract terms; any of these factors could curtail current or future business. Contracting with state and local governments is highly competitive and can be expensive and time-consuming, often requiring that the Company incur significant upfront time and expense without any assurance that it will win a contract. The Company's ability to compete successfully for and retain business with these various state and local governments is highly dependent on cost-effective performance. The Company's government business is also sensitive to changes in national and international priorities and U.S., state and local government budgets. Currently, the Company provides office supplies and services to approximately 20 states and numerous local agencies in the United States. Many of these government contracts have provisions that permit the state or local government agency to terminate the contract for convenience with appropriate notice. In addition, in the ordinary course of business, these government contracts may be subject to audits and review by state and local governmental authorities and regulatory agencies. There has been recent negative press regarding some of the Company's government contracts. State and local governments may elect not to renew their contracts and submit them for rebid and may seek to exclude the company from participating in bids. The Company has conducted or is in the process of conducting its own review of numerous government contracts in an effort to verify contract compliance and pricing accuracy and is participating or seeking to participate in bidding for applicable contracts. Nevertheless, additional negative press or allegations of performance issues, even if unfounded, could lead state or local governments to terminate or not renew their contracts with the Company or refuse to allow the Company to participate in bids all of which could have a negative impact on the Company's business.

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SCHEDULE 3.14

INSURANCE

Policy Termination Date	Coverage	Carrier	Territory
4/1/2009	Property, including Business Interruption and Flood Insurance in FEMA flood zones	[*]	Global Coverage
4/1/2010	Environmental	[*]	Global
4/01/2009	Ocean Marine	[*]	Global for all shipments except where prohibited by law or U.S. government decree
6/28/2009	Storage Tank	[*]	Data Center - 1400 Crossbeam Road, Charlotte, NC 28217
10/6/2008	Storage Tank	[*]	Corp. Campus - 02 Western DC -01 Boca Call Center - 01
11/1/2008	Auto	[*]	Domestic
11/1/2008	Aviation	[*]	Global
11/1/2008	GL - Domestic	[*]	US & Puerto Rico
11/1/2008	GL - Foreign	[*]	Global except US,PR & Canada
3/8/2009	Network Risk/ Multimedia Liability	[*]	Global
3/8/2009	XS-Network Risk Multimedia Liab	[*]	Global
11/1/2008	Punitive Damages	[*]	Global
11/1/2008	Punitive Damages Excess	[*]	Global
11/1/2008	Umbrella - Excess	[*]	Global
11/1/2008	Workers Comp. - Domestic	[*]	Domestic
11/1/2008	Workers Comp. - Foreign/EL	[*]	Global except US,PR & Canada
9/1/2009	Crime	[*]	Global
11/30/2008	D&O	[*]	Global
9/1/2009	EPL	[*]	Global
11/30/2008	Fiduciary	[*]	Global

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SCHEDULE 3.15

CAPITALIZATION AND SUBSIDIARIES

US Subsidiaries of the Company:

Name of Subsidiary	*Percentage of Capital Stock Owned by any Loan Party*	*Jurisdiction of Incorporation/ formation*	*Type of Entity*
[*]	[*]	California	Corporation
[*]	[*]	Delaware	Corporation
[*]	[*]	Delaware	Corporation
[*]	[*]	Delaware	Limited liability company
[*]	[*]	Delaware	Limited partnership
[*]	[*]	Delaware	Limited liability company
[*]	[*]	Pennsylvania	Corporation
[*]	[*]	California	Corporation
[*]	[*]	Delaware	Limited liability company
[*]	[*]	Delaware	Limited liability company
[*]	[*]	Delaware	Limited liability company
[*]	[*]	Delaware	Limited liability company
[*]	[*]	Delaware	Corporation
[*]	[*]	Connecticut	Corporation
[*]	[*]	Connecticut	Corporation
[*]	[*]	Virginia	Limited liability company
[*]	[*]	Delaware	Corporation
[*]	[*]	Delaware	Limited liability company
[*]	[*]	Delaware	Limited liability company
[*]	[*]	Delaware	Limited liability company
[*]	[*]	Delaware	Limited liability company

Foreign Subsidiaries of the Company:

Name of Subsidiary	*Percentage of Capital Stock Owned by any Loan Party*	*Jurisdiction of Incorporation/ formation*	*Type of Entity*
[*]	[*]	Austria	Limited liability company
[*]	[*]	Belgium	Private limited company

[*] The asterisk denotes that confidential portions of this Schedule have been omitted in reliance on Rule 24b-2 of the Securities Exchange Act of 1934. The confidential portions have been submitted separately to the Securities and Exchange Commission.

Name of Subsidiary	*Percentage of Capital Stock Owned by any Loan Party*	*Jurisdiction of Incorporation/ formation*	*Type of Entity*
[*]	[*]	Belgium	Private limited company
[*]	[*]	Bermuda	Limited liability company
[*]	[*]	Bermuda	Limited liability company
[*]	[*]	Bermuda	Limited liability company
[*]	[*]	Brazil	Limited liability company
[*]	[*]	Brazil	Limited liability company
[*]	[*]	Canada (Ontario)	Corporation
[*]	[*]	Canada (Alberta)	Unlimited Liability Corporation
[*]	[*]	Cayman	Limited liability company
[*]	[*]	China	Limited liability company
[*]	[*]	China	Limited liability company
[*]	[*]	Colombia	Limited liability company
[*]	[*]	Costa Rica	Anonymous society
[*]	[*]	El Salvador	Limited liability company with Variable Capital
[*]	[*]	Cyprus	Limited liability company
[*]	[*]	Czech Republic	Limited liability company
[*]	[*]	Czech Republic	Limited Liability Company
[*]	[*]	France	Limited liability company
[*]	[*]	France	General Partnership
[*]	[*]	France	General Partnership
[*]	[*]	France	General Partnership
[*]	[*]	France	General Partnership
[*]	[*]	France	General Partnership
[*]	[*]	France	Limited Partnership

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Name of Subsidiary	*Percentage of Capital Stock Owned by any Loan Party*	*Jurisdiction of Incorporation/ formation*	*Type of Entity*
[*]	[*]	France	Limited Partnership
[*]	[*]	France	Limited Partnership
[*]	[*]	Germany	Limited liability company
[*]	[*]	Germany	Limited liability company
[*]	[*]	Germany	Limited liability company
[*]	[*]	Guatemala	Limited liability company
[*]	[*]	Honduras	Limited Partnership
[*]	[*]	Hong Kong	Limited liability company
[*]	[*]	Hungary	Limited liability company
[*]	[*]	Hungary	Limited liability company
[*]	[*]	India	Limited liability company
[*]	[*]	India	Limited liability company
[*]	[*]	Ireland	Limited liability company
[*]	[*]	Ireland	Limited liability company
[*]	[*]	Ireland	Limited liability company
[*]	[*]	Ireland	Limited liability company
[*]	[*]	Ireland	Limited liability company
[*]	[*]	Israel	Limited liability company
[*]	[*]	Italy	Limited liability company
[*]	[*]	Italy	Limited liability company
[*]	[*]	Italy	Limited liability company
[*]	[*]	Japan	Limited liability company
[*]	[*]	Japan	Joint Stock Company
[*]	[*]	Korea (South)	Limited liability company
[*]	[*]	Lithuania	

[*] The asterisk denotes that confidential portions of this Schedule have been omitted in reliance on Rule 24b-2 of the Securities Exchange Act of 1934. The confidential portions have been submitted separately to the Securities and Exchange Commission.

Name of Subsidiary	*Percentage of Capital Stock Owned by any Loan Party*	*Jurisdiction of Incorporation/ formation*	*Type of Entity*
[*]	[*]	Luxembourg	Limited liability company
[*]	[*]	Luxembourg	Limited liability company
[*]	[*]	Luxembourg	Limited liability company
[*]	[*]	Luxembourg	Limited liability company
[*]	[*]	Mexico	Variable Capital Company
[*]	[*]	Mexico	Variable Capital Company
[*]	[*]	Mexico	Variable Capital Company
[*]	[*]	Mexico	Variable Capital Company
[*]	[*]	Mexico	Variable Capital Company
[*]	[*]	Mexico	Variable Capital Company
[*]	[*]	Netherlands	Limited Partnership
[*]	[*]	Netherlands	Limited liability company
[*]	[*]	Netherlands	Limited liability company
[*]	[*]	Netherlands	Limited liability company
[*]	[*]	Netherlands	Limited liability company
[*]	[*]	Netherlands	Limited liability company
[*]	[*]	Netherlands	Limited liability company
[*]	[*]	Netherlands	Limited liability company
[*]	[*]	Netherlands	Limited liability company
[*]	[*]	Netherlands	Limited liability company

[*] The asterisk denotes that confidential portions of this Schedule have been omitted in reliance on Rule 24b-2 of the Securities Exchange Act of 1934. The confidential portions have been submitted separately to the Securities and Exchange Commission.

Name of Subsidiary	*Percentage of Capital Stock Owned by any Loan Party*	*Jurisdiction of Incorporation/ formation*	*Type of Entity*
[*]	[*]	Netherlands	Limited liability company
[*]	[*]	Netherlands	Cooperative Society with statutory liability
[*]	[*]	Netherlands	Limited liability company
[*]	[*]	Panama	Anonymous society
[*]	[*]	Poland	Limited liability company
[*]	[*]	Puerto Rico	Limited liability company
[*]	[*]	Puerto Rico	Corporation
[*]	[*]	Romania	Limited liability company
[*]	[*]	Slovak Republic (Slovakia)	Limited liability company
[*]	[*]	Spain	Limited liability Company
[*]	[*]	Switzerland	Limited liability Company
[*]	[*]	Switzerland	Limited liability Company
[*]	[*]	United Kingdom	Limited liability company
[*]	[*]	United Kingdom	Limited liability company
[*]	[*]	United Kingdom	Limited liability company
[*]	[*]	United Kingdom	Limited liability company
[*]	[*]	United Kingdom	Limited liability company
[*]	[*]	United Kingdom	Limited liability company
[*]	[*]	United Kingdom	Limited liability company
[*]	[*]	United Kingdom	Limited liability company

[*] The asterisk denotes that confidential portions of this Schedule have been omitted in reliance on Rule 24b-2 of the Securities Exchange Act of 1934. The confidential portions have been submitted separately to the Securities and Exchange Commission.

Name of Subsidiary	*Percentage of Capital Stock Owned by any Loan Party*	*Jurisdiction of Incorporation/ formation*	*Type of Entity*
[*]	[*]	United Kingdom	Limited liability company
[*]	[*]	United Kingdom	Limited liability company
[*]	[*]	United Kingdom	Limited liability company
[*]	[*]	United Kingdom	Limited liability company
[*]	[*]	United Kingdom	Limited liability company

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SCHEDULE 4.01(g) – DEBT REPAYMENTS

1. USD $1 Billion Five Year Credit Facility with Citibank as Lead Arranger, the Lenders party thereto and Wachovia Bank, N.A. as Administrative Agent
2. EUR 50 Million BNP Paribas Credit Facility
3. EUR 50 Million Fortis Credit Facility

Office Depot, Inc.
Collateral Monitoring Reporting Requirements
Documents to be Submitted to the Bank

The following information is to be submitted, pursuant to Section 5.01 of the Credit Agreement, for Office Depot, Inc. as noted below.

	Reporting Frequency	Monthly Reporting: Due within Fifteen (15) Business Days	Quarterly	Semi-Annually (per the terms of the Credit Agreement)	Annually (or per terms of Credit Agreement)	Level 3 Minimum Aggregate Availability Period: Due within Three (3) Business Days
1.	**Borrowing Base Certificate in the form of Exhibit B.**	X				X
	Accounts Receivable Supporting Documents:					
1.	Accounts receivable summary aging aged by invoice date or due date, as applicable, by operating division in an electronic format suitable to the Administrative Agent	X				X
2.	Accounts receivable rollforward in a format suitable to the Administrative Agent	X				X
3.	Top 10 accounts receivable balances aged per the most recent summary aging by operating division	X				X
4.	Reconciliation of A/R aging report to the general ledger and financial statements	X	X			X
5.	Top 10 sales concentration on a consolidated basis YTD	X	X			X
6.	Supporting documentation (system generated extract report where applicable) for the A/R ineligibles/ reserves reported on the Borrowing Base Certificate	X				X
7.	U.S. updated customer list for each Loan Party	X		X		
8.	European updated customer list for each Loan Party	X (in the case of a European Cash Dominion Period, otherwise Quarterly)	X			
9.	Uninvoiced Accounts Receivables transaction report detailing customer name, transaction date and amount.	X				X
10.	Credit Card Receivables rollforward in an electronic format suitable to the Administrative Agent	X				X
	Inventory Supporting Documents:					
1.	An inventory perpetual report and schedules detailing each Loan Party's Inventory, in a form satisfactory to the Administrative Agent, (i) by summarized locations, (ii) by department, (iii) by volume on hand and (iv) other schedules as reasonably requested.	X				X
2.	Gross margin and turnover by product segment	X	X			
3.	Reconciliation of perpetual inventory reports to the general ledger and financial statements	X				X
4.	Schedule of monthly rent for all leased locations (to the extent applicable to the Borrowing Base Certificate)	X	X			X
5.	Supporting documentation (system generated extract report where applicable) for the inventory ineligibles/ reserves reported on the Borrowing Base Certificate by product segment	X	X			X
6.	Inventory by vendor listing (for Retention of Title ineligible calculation)	X				X

Reporting Frequency	Monthly Reporting: Due within Fifteen (15) Days from the Fiscal Month End	Quarterly Reporting per the Terms of the Credit Agreement	Semi-Annually (per the Terms of the Credit Agreement)	Annually (or per terms of Credit Agreement)	Level 3 Minimum Aggregate Availability Period: Due within Three (3) Business Days
Other Supporting Documents:					
1. Accounts payable summary aging by vendor	X			X	X
2. Top 10 accounts payable vendor balances by aging category and Loan Party location.	X			X	X
3. Top 10 purchases concentration by vendor by Loan Party location	X			X	X
4. List of vendors with retention of title and their outstanding payables balances by operating entity.	X				X
5. PDF file of Dutch supplemental pledge deed with new receivables attached to the Dutch Tax office. (Please note: As soon as the Dutch Tax office returns the stamped supplemental pledge deeds, the original needs to be couriered to the Collateral Agent in London as soon as possible)	X				
6. Reconciliation of A/P aging to general ledger and financial statements.	X			X	X

Submit to:
JPMorgan Chase Bank
CBC Structuring & Portfolio Group
Attn: Rema A. Daher
270 Park Avenue, 44th Floor
New York, NY 10017
Phone: (212) 270 - 0297
Fax: (646) 534 - 2288
E-Mail: rema.a.daher@jpmorgan.com

Submit European Security Perfection Documents to:
JP Morgan
Attn: Helen Mathie
10 Aldermanbury
London EC2V 7RF
United Kingdom
Phone: +44 (0)20 7325 9724
Fax: +44 (0)20 7325 6813
Email: helen.f.mathie@jpmorgan.com

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SCHEDULE 5.16 TO THE CREDIT AGREEMENT

POST-CLOSING ACTIONS

Action	Timetable
Entry into Deposit Account Control Agreements	Within 60 days of the Effective Date
Entry into Lock Box Agreements	Within 60 days of the Effective Date
Entry into Collateral Access Agreements	Within 60 days of the Effective Date
[*]	Within 120 days of the Effective Date

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SCHEDULE 6.01

EXISTING INDEBTEDNESS

A: Guarantees

[*]	Obligor/Payor	Payee	Guarantor	Date of Guarantee	Date of Expiration
[*]					

[*] The asterisk denotes that this Schedule contains four pages of confidential information that have been omitted in reliance on Rule 24b-2 of the Securities Exchange Act of 1934. The confidential information has been submitted separately to the Securities and Exchange Commission.

B: Intercompany Loans

Borrower	Lender	[*]	[*]
[*]			

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C: Indebtedness

Bank Name	[*]	Obligor	Facility Type	[*]
		[*]		
Capital Leases				
[*]				[*]
[*]				[*]

[*] The asterisk denotes that this Schedule contains one page of confidential information that has been omitted in reliance on Rule 24b-2 of the Securities Exchange Act of 1934. The confidential information has been submitted separately to the Securities and Exchange Commission.

SCHEDULE 6.02

EXISTING LIENS

Office Depot, Inc.

1. Liens in respect of leases on aircraft

2. Liens in respect of Capitalized Leases permitted under Section 6.01

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SCHEDULE 6.04

EXISTING INVESTMENTS

[*]

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SCHEDULE 6.05(n)

SPECIFIED AIRCRAFT DISPOSITIONS

Sale of the following aircraft owned or to be owned by the Company or its Subsidiaries:

1. Hawker [*] (Registration Number [*])
2. Falcon [*] (Registration Number [*])
3. Falcon [*] (Registration Number [*])

[*] The asterisk denotes that confidential portions of this Schedule have been omitted in reliance on Rule 24b-2 of the Securities Exchange Act of 1934. The confidential portions have been submitted separately to the Securities and Exchange Commission.

SCHEDULE 6.11

EXISTING RESTRICTIONS

Transaction Description

1. Amended & Restated Aircraft Lease Agreement between OD Aviation, Inc. and Citicorp N.A. and Guaranty by the Company and certain subsidiaries in connection therewith (restrictions on liens on the aircraft subject to the lease and on the lease itself; restrictions on payments by OD Aviation, Inc. owed to the Company and such subsidiaries upon an event of default under the lease).

2. Indenture relating to Existing Senior 2013 Notes (restrictions on ability to grant liens on certain real property assets and stock of certain subsidiaries).

SCHEDULE 8

EUROPEAN COLLATERAL AGENT UK SECURITY TRUST PROVISIONS

1. Definitions and interpretation

1.1 Terms defined in the Credit Agreement

Terms defined in the Credit Agreement but not in this Schedule shall have the same meanings in this Schedule as in the Credit Agreement.

1.2 Definitions

In addition, in this Schedule:

"Administrator" means any administrator appointed to manage the affairs, business and assets of any Loan Party under the Collateral Documents.

"Facility Office" means the office or offices notified by a Lender to the Administrative Agent in writing on or before the date it becomes a Lender (or, following that date, by not less than five Business Days' written notice) as the office or offices through which it will perform its obligations under the Credit Agreement;

"Finance Party" means, individually and collectively, each Lender, each Issuing Bank and each Agent.

"Losses" means losses (including loss of profit), claims, demands, actions, proceedings, damages and other payments, costs, expenses and other liabilities of any kind.

"Obligor" means any Borrower or any other Loan Party.

"Receiver" means any receiver, receiver and manager or administrative receiver appointed by the European Collateral Agent over all or any of the Collateral under the Collateral Documents whether solely, jointly, severally or jointly and severally with any other person and includes any substitute for any of them appointed from time to time.

2. Security Trustee Provisions

2.1 Role of the European Collateral Agent

The European Collateral Agent shall not be subject to the duty of care imposed on trustees by the Trustee Act 2000.

2.2 No fiduciary duties

The European Collateral Agent shall not be bound to account to any other Finance Party for any sum or the profit element of any sum received by it for its own account.

2.3 Discretions of the European Collateral Agent

(a) The European Collateral Agent may assume that:

(i) no Default has occurred (unless it has actual knowledge of a Default arising under Article VII of the Credit Agreement); and

(ii) any right vested in any other Finance Party has not been exercised.

(b) Notwithstanding that the European Collateral Agent and one or more of the other Finance Parties may from time to time be the same entity, that entity has entered into the Loan Documents in those separate capacities. However, where the Loan Documents provide for the European Collateral Agent and the other Finance Parties to provide instructions to or otherwise communicate with one or more of the others of them, then for so long as they are the same entity it will not be necessary for there to be any formal instructions or other communication, notwithstanding that the Loan Documents provide in certain cases for the same to be in writing.

2.4 Required Lenders instructions

(a) Unless a contrary indication appears in a Loan Document:

(i) the European Collateral Agent shall act in accordance with any instructions given to it by the Required Lenders (or, if so instructed by the Required Lenders or in the absence of an instruction from them, refrain from acting or exercising any power, authority, discretion or other right vested in it as European Collateral Agent); and

(ii) any instructions given by the Required Lenders will be binding on all the Lenders.

(b) The European Collateral Agent may refrain:

(i) from acting (in accordance with the instructions of the Required Lenders (or, if appropriate, the Lenders) or otherwise) until it has received such security and/or indemnity as it may require for any Losses (including any associated irrevocable VAT) which it may incur in complying with the instructions; and

(ii) from doing anything which may in its opinion be a breach of any law or duty of confidentiality or be otherwise actionable at the suit of any person.

(c) In the absence of instructions from the Required Lenders (or, if appropriate, the Lenders), the European Collateral Agent may act (or refrain from taking action) as it considers to be in the best interest of the Required Lenders.

(d) The European Collateral Agent is not authorised to act on behalf of a Lender (without first obtaining that Lender’s consent) in any legal or arbitration proceedings relating to any Loan Document.

2.5 Exclusion of liability

(a) The European Collateral Agent will not be liable for any delay (or any related consequences) in crediting an account with an amount required under the Loan Documents to be paid by the European Collateral Agent if the European Collateral Agent has taken all necessary steps as soon as reasonably practicable to comply with the regulations or operating procedures of any recognised clearing or settlement system used by the European Collateral Agent for that purpose.

(b) The European Collateral Agent shall not be under any obligation to insure any of the Collateral or any certificate, note, bond or other evidence in respect of any of them or to require any other person to maintain that insurance and shall not be responsible for any Losses which may be suffered as a result of the lack or inadequacy of that insurance.

(c) The European Collateral Agent shall not be responsible for any Losses occasioned to the Collateral, however caused, by any Obligor or any other person by any act or omission on the part of any person (including any bank, broker, depository, warehouseman or other intermediary or any clearing system or the operator of it), or otherwise, unless those Losses are occasioned by the European Collateral Agent's own gross negligence or wilful misconduct. In particular the European Collateral Agent shall be not responsible for any Losses which may be suffered as a result of any assets comprised in the Collateral, or any deeds or documents of title to them, being uninsured or inadequately insured or being held by it or by or to the order of any custodian or by clearing organisations or their operators or by any person on behalf of the European Collateral Agent.

(d) The European Collateral Agent shall have no responsibility to any Obligor as regards any deficiency which might arise because such Obligor is subject to any tax in respect of the Collateral or any income or any proceeds from or of them.

(e) The European Collateral Agent shall not be liable for any failure, omission or defect in giving notice of, registering or filing, or procuring registration or filing of, or otherwise protecting or perfecting, the security constituted over the Collateral.

2.6 Lenders' Indemnity to the European Collateral Agent

(a) The European Collateral Agent may, in priority to any payment to the Lenders, indemnify itself out of the Collateral in respect of, and pay and retain, all sums necessary to give effect to this indemnity and to all other indemnities given to it in the other Loan Documents in its capacity as European Collateral Agent. The European Collateral Agent shall have a Lien on the security constituted over the Collateral and the proceeds of enforcement of any Collateral Documents for all such sums.

2.7 Additional European Collateral Agent

The European Collateral Agent may at any time appoint (and subsequently remove) any person to act as a separate security trustee or as a co-trustee jointly with it (any such person, an "Additional European Collateral Agent"):

(a) if it is necessary in performing its duties and if the European Collateral Agent considers that appointment to be in the interest of the Finance Parties; or

(b) for the purposes of complying with or confirming to any legal requirements, restrictions or conditions which the European Collateral Agent deems to be relevant; or

(c) for the purposes of obtaining or enforcing any judgment or decree in any jurisdiction,

and the European Collateral Agent will give notice to the other Parties of any such appointment.

2.8 Confidentiality

(a) In acting as security trustee for the Finance Parties, the European Collateral Agent shall be regarded as acting through its syndication or agency division which shall be treated as a separate entity from any other of its divisions or departments.

(b) If information is received by another division or department of the European Collateral Agent, it may be treated as confidential to that division or department and the European Collateral Agent shall not be deemed to have notice of it.

(c) Notwithstanding any other provision of any Loan Document to the contrary, the European Collateral Agent is not obliged to disclose to any other person:

(i) any confidential information; or

(ii) any other information if the disclosure would or might in its reasonable opinion constitute a breach of any law or a breach of a fiduciary duty.

2.9 Relationship with the Lenders

The European Collateral Agent may treat each Lender as a Lender, entitled to payments under the Collateral Documents and acting through its Facility Office unless it has received not less than five Business Days' prior notice from that Lender to the contrary in accordance with the terms of relevant Collateral Document.

2.10 Credit Appraisal by the Lenders

Without affecting the responsibility of each Obligor for information supplied by it or on its behalf in connection with any Loan Document, each Lender confirms to the European Collateral Agent that it has been, and will continue to be, solely responsible for making its own independent appraisal and investigation of all risks arising under or in connection with any Loan Document, including:

(a) the financial condition, status and nature of each Obligor;

(b) the legality, validity, effectiveness, adequacy or enforceability of any Loan Document and any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Loan Document;

(c) whether that Lender has recourse, and the nature and extent of that recourse, against any party or any of its respective assets under or in connection with any Loan Document, the transactions contemplated by the Loan Documents or any other agreement, arrangement or other document entered into, made or executed in anticipation of, under or in connection with any Loan Document; and

(d) the adequacy, accuracy and/or completeness of any information provided by the European Collateral Agent, any other party or any other person under or in connection with any Loan Document, the transactions contemplated by the Loan Documents or any other agreement, arrangement or other document entered into, made or executed in anticipation of, under or in connection with any Loan Document.

2.11 Security Documents

(a) The European Collateral Agent shall accept without investigation, requisition or objection whatever title any person may have to the assets which are subject to the Collateral Documents and shall not:

(i) be bound or concerned to examine or enquire into the title of any person; or

(ii) be liable for any defect or failure in the title of any person, whether that defect or failure was known to the European Collateral Agent or might have been discovered upon examination or enquiry and whether it is capable of remedy or not.

(b) Upon the appointment of any successor European Collateral Agent under Article VIII of the Credit Agreement, the resigning European Collateral Agent shall execute and deliver any documents and do any other acts and things which may be necessary to vest in the successor European Collateral Agent all the rights vested in the resigning European Collateral Agent under the Collateral Documents.

(c) Each of the other Finance Parties:

(i) authorises the European Collateral Agent to hold each mortgage or charge created pursuant to any Loan Document in its sole name as security trustee for the Finance Parties; and

(ii) requests the Land Registry to register the European Collateral Agent as the sole proprietor of any mortgage or charge so created.

2.12 Distribution of proceeds of enforcement

(a) To the extent that the Collateral Documents provide for the net proceeds of any enforcement to be applied against the Secured Obligations, the European Collateral Agent shall pay them to the European Administrative Agent and the European Administrative Agent shall apply them in payment of any amounts due but unpaid under the Loan Documents, if applicable in the order set out in Section 2.19(b) of the Credit Agreement. This shall override any appropriation made by any Obligor.

(b) The European Collateral Agent may, at its discretion, accumulate proceeds of enforcement in an interest bearing account in its own name.

2.13 No obligation to remain in possession

If the European Collateral Agent, any Receiver or any delegate takes possession of all or any of the Collateral, it may from time to time in its absolute discretion relinquish such possession.

2.14 European Collateral Agent's obligation to account

The European Collateral Agent shall not in any circumstances (either by reason of taking possession of the Collateral or for any other reason and whether as mortgagee in possession or on any other basis):

(a) be liable to account to any Obligor or any other person for anything except the European Collateral Agent's own actual receipts which have not been distributed or paid to that Obligor or the persons entitled or at the time of payment believed by the European Collateral Agent to be entitled to them; or

(b) be liable to any Obligor or any other person for any principal, interest or Losses from or connected with any realisation by the European Collateral Agent of the Collateral or from any act, default, omission or misconduct of the European Collateral Agent, its officers, employees or agents in relation to the Collateral or from any exercise or non-exercise by the European Collateral Agent of any right exercisable by it under the European Security Agreements unless they shall be caused by the European Collateral Agent's own gross negligence or wilful misconduct.

2.15 Receiver's and delegate's obligation to account

All the provisions of Clause 2.14 (above) of the UK Debenture shall apply in respect of the liability of any Receiver or Administrator or delegate in all respects as though every reference in Clause 2.14 (above) to the European Collateral Agent were instead a reference to the Receiver or, as the case may be, Administrator or delegate.

EXHIBIT A

FORM OF
ASSIGNMENT AND ASSUMPTION

Reference is made to the Credit Agreement, dated as of September 26, 2008 (as amended, supplemented or otherwise modified from time to time, the "Credit Agreement"), by and among Office Depot, Inc., Office Depot International (UK) Ltd., Office Depot UK Ltd., Office Depot International B.V., Office Depot B.V., OD International (Luxembourg) Finance S.Á R. L. and Viking Finance (Ireland) Ltd., the other Loan Parties party thereto, the Lenders party thereto, JPMorgan Chase Bank, London Branch, as European Administrative Agent and European Collateral Agent, JPMorgan Chase Bank, N.A., as Administrative Agent and US Collateral Agent, Bank of America, N.A., as Syndication Agent, and Citibank, N.A., Wachovia Bank, National Association and General Electric Capital Corporation, as Documentation Agents. Unless otherwise defined herein, terms defined in the Credit Agreement and used herein shall have the meanings given to them in the Credit Agreement.

The Assignor identified on Schedule l hereto (the "Assignor") and the Assignee identified on Schedule l hereto (the "Assignee") agree as follows:

1. The Assignor hereby irrevocably sells and assigns to the Assignee without recourse to the Assignor, and the Assignee hereby irrevocably purchases and assumes from the Assignor without recourse to the Assignor, as of the Effective Date (as defined below), the interest described in Schedule 1 hereto (the "Assigned Interest") in and to the Assignor's rights and obligations under the Credit Agreement with respect to those credit facilities contained in the Credit Agreement as are set forth on Schedule 1 hereto (individually, an "Assigned Facility"; collectively, the "Assigned Facilities"), in a principal amount for each Assigned Facility as set forth on Schedule 1 hereto.

2. The Assignor (a) makes no representation or warranty and assumes no responsibility with respect to any statements, warranties or representations made in or in connection with the Credit Agreement or with respect to the execution, legality, validity, enforceability, genuineness, sufficiency or value of the Credit Agreement, any other Loan Document or any other instrument or document furnished pursuant thereto, other than that the Assignor is the legal and beneficial owner of the interest being assigned by it hereunder and has not created any adverse claim upon the interest being assigned by it hereunder and that such interest is free and clear of any such adverse claim and (b) makes no representation or warranty and assumes no responsibility with respect to the financial condition of the Borrower, any of its Affiliates or any other obligor or the performance or observance by the Borrower, any of its Affiliates or any other obligor of any of their respective obligations under the Credit Agreement or any other Loan Document or any other instrument or document furnished pursuant hereto or thereto.

3. The Assignee (a) represents and warrants that it is legally authorized to enter into this Assignment and Assumption; (b) confirms that it has received a copy of the Credit Agreement, together with copies of the financial statements delivered pursuant to Section 3.04 thereof and such other documents and information as it has deemed appropriate to make its own credit

analysis and decision to enter into this Assignment and Assumption; (c) agrees that it will, independently and without reliance upon the Assignor, the Agents or any Lender and based on such documents and information as it shall deem appropriate at the time, continue to make its own credit decisions in taking or not taking action under the Credit Agreement, the other Loan Documents or any other instrument or document furnished pursuant hereto or thereto; (d) appoints and authorizes the Agents to take such action as agent on its behalf and to exercise such powers and discretion under the Credit Agreement, the other Loan Documents or any other instrument or document furnished pursuant hereto or thereto as are delegated to the Agents by the terms thereof, together with such powers as are incidental thereto; and (e) agrees that it will be bound by the provisions of the Credit Agreement and will perform in accordance with its terms all the obligations which by the terms of the Credit Agreement are required to be performed by it as a Lender including, if it is organized under the laws of a jurisdiction outside the United States, its obligation pursuant to Section 2.17(i) of the Credit Agreement.

4. The effective date of this Assignment and Assumption shall be the Effective Date of Assignment described in Schedule 1 hereto (the "Effective Date"). Following the execution of this Assignment and Assumption, it will be delivered to the Administrative Agent for acceptance by it and recording by the Administrative Agent pursuant to the Credit Agreement, effective as of the Effective Date (which shall not, unless otherwise agreed to by the Administrative Agent, be earlier than five Business Days after the date of such acceptance and recording by the Administrative Agent).

5. Upon such acceptance and recording, 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 Assignor for amounts which have accrued to the Effective Date and to the Assignee for amounts which have accrued subsequent to the Effective Date.

6. From and after the Effective Date, (a) the Assignee shall be a party to the Credit Agreement and, to the extent provided in this Assignment and Assumption, have the rights and obligations of a Lender thereunder and under the other Loan Documents and shall be bound by the provisions thereof and (b) the Assignor shall, to the extent provided in this Assignment and Assumption, relinquish its rights and be released from its obligations under the Credit Agreement.

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

IN WITNESS WHEREOF, the parties hereto have caused this Assignment and Assumption to be executed as of the date first above written by their respective duly authorized officers on Schedule 1 hereto.

Schedule 1
to Assignment and Assumption with respect to
the Credit Agreement, dated as of September 26, 2008,
among Office Depot, Inc., Office Depot International (UK) Ltd., Office Depot UK Ltd., Office Depot International B.V., Office Depot B.V., OD International (Luxembourg) Finance S.Á R. L. and Viking Finance (Ireland) Ltd., the other Loan Parties party thereto, the Lenders party thereto, JPMorgan Chase Bank, N.A., as Administrative Agent, and the other Agents party thereto

Name of Assignor: _____
Name of Assignee: _____
Effective Date of Assignment: _____

Facility Assigned	Principal Amount Assigned[1]	Commitment Percentage Assigned
	$	. %

[Name of Assignee]

By: _____
Title:

[Name of Assignor]

By: _____
Title:

[1] Note: For any assignment involving a principal amount of less than €50,000,000 (or its equivalent in other currencies), including assignments of undrawn commitments, refer to Section 9.04(c)(ii) of the Credit Agreement.

Accepted for Recordation in the Register:

JPMorgan Chase Bank, N.A., as
Administrative Agent

By: _____
Name:
Title:

Consented by:

Office Depot, Inc.

By: _____

Name: Michael D. Newman
Title: Executive Vice President and
Chief Financial Officer

Consented by:

JPMorgan Chase Bank, N.A., as
Administrative Agent

By: _____
Name:
Title:

Exhibit B-1

Office Depot, Inc.
Form of Borrowing Base Certificate*
For the Period Ended August 23, 2008
(All figures in USD 000's)

(000's US$)		1 US	2 UK	3 Netherlands	4 Total Europe	5 Aggregate Borrowing Base
A.	Available Accounts Receivable (B-2B, B-3B, B-4B)	$ —	$—	$ —	$ —	$ —
B.	Available Credit Card Receivables (B-2B, B-3B, B-4B)	—	—	—	—	—
C.	Available Uninvoiced Accounts Receivables (B-2B, B-3B, B-4B)	—	—	—	—	—
D.	Available Inventory (B-2C, B-3C, B-4C)	—	—	—	—	—
E.	Available LC Inventory (B-2C, B-3C, B-4C)	—	—	—	—	—
F.	Less: Total Reserves (B-2C, B-3C, B-4C)	—	—	—	—	—
G.	Borrowing Base (lines A + B + C + D + E - F)	—	—	—	—	—
H.	Revolving Commitments	$1,000,000	$—	$ —	$250,000	$ 1,250,000
I.	Lesser of lines G and H	$ —			$ —	$ —
J.	Suppressed Availability (G5-H5)	$ —			$ —	$ —
	Revolving Exposure					
	Revolving Loans	$ —	$—	$ —	$ —	$ —
	Swingline Loans	$ —	$—	$ —	$ —	$ —
	Standby Letters of Credit ($200mm cap)	$ —	$—	$ —	$ —	$ —
	Trade and Performance Letters of Credit ($400mm aggregate L/C cap; $25mm aggregate European cap)	$ —	$—	$ —	$ —	$ —
K.	Total Revolving Exposure	$ —	$—	$ —	$ —	$ —
L.	Facility A Excess Availability before Facility B adjustment (I1 – K1)	$ —				
	Adjustment for Facility B's usage of Facility A availability	—				
	Facility A Excess Availability	$ —				
M.	Facility B Excess Availability before Facility A adjustment (I4 - K4)				$ —	
	Adjustment for Facility A utilized by Facility B (Amount of (i) Facility A Borrowing Base less Facility A					
	Exposure limited to the (ii) unused Facility B commitment)				$ —	
	Facility B Excess Availability				$ —	
N.	Total Excess Availability excluding suppressed availability (I1 – K1 + I4 – K4)					$ —
O.	Total Excess Availability including suppressed availability (I1 – K1 + I4 – K4 + J5)					$ —

Officer's Certification:

Pursuant to the Credit Agreement dated as of September 26, 2008, the undersigned Borrower certifies that the information provided in this certificate to JPMorgan Chase Bank, N.A., as Administrative Agent, on behalf of Office Depot, Inc.is accurate and complete in all material respects; provided that, with respect to information regarding third parties that does not relate to transactions between the Loan Parties and such third parties, such information shall be, to the best knowledge of such financial officer, accurate and complete in all material respects.

_____

Signature & Title

The information presented herein is in respect of Office Depot, Inc. and the other Loan Parties (as defined in the Credit Agreement referred to above).

* The Borrowing Base Certificate is to be accompanied by the documentation outlined in Schedule 5.01(g).

Exhibit B-2A

Office Depot, Inc.
Form of US Borrowing Base Certificate*
For the Period Ended August 23, 2008
(All figures in USD 000's)

(000's US$)		Facility A US
A.	Available US Accounts Receivable (B-2B)	$ —
B.	Available US Credit Card Receivables (B-2B)	—
C.	Available US Uninvoiced Accounts Receivables (B-2B)	—
D.	Available US Inventory (B-2C)	—
E.	Available US LC Inventory (B-2C)	—
F.	Less: Total Reserves (B-2C)	—
G.	Borrowing Base (lines A + B + C + D + E - F)	—
H.	Revolving Commitments	$ 1,000,000
I.	Lesser of lines G and H	$ —
J.	Excess Availability	$ —
K.	Total Availability (Including Excess)	$ —
	Revolving Exposure	
	Revolving Loans	$ —
	Swingline Loans	$ —
	Standby Letters of Credit ($200mm global cap)	$ —
	Trade and Performance Letters of Credit ($400mm global aggregate L/C cap; $25mm aggregate European cap)	$ —
L.	Total Revolving Exposure	$ —
M.	US Excess Availability	$ —

Officer's Certification:

Pursuant to the Credit Agreement dated as of September 26, 2008, the undersigned Borrower certifies that the information provided in this certificate to JPMorgan Chase Bank, N.A., as Administrative Agent, on behalf of Office Depot, Inc. is accurate and complete in all material respects; provided that, with respect to information regarding third parties that does not relate to transactions between the Loan Parties and such third parties, such information shall be, to the best knowledge of such financial officer, accurate and complete in all material respects.

_____
Signature & Title

The information presented herein is in respect of Office Depot, Inc. and the other Loan Parties (as defined in the Credit Agreement referred to above).

* The Borrowing Base Certificate is to be accompanied by the documentation outlined in Schedule 5.01(g).

Exhibit B-2B

Office Depot, Inc.
Form of Borrowing Base Certificate*
For the Period Ended August 23, 2008
(All figures in USD 000's)

	US		Total
	Contract & Direct	Tech Depot	
Gross US Accounts Receivables per aging	$ —	$ —	$ —
Canadian accounts receivables (Capped at $15mm)	—	—	—
Total gross accounts receivables	$ —	$ —	$ —
Less ineligibles:			
Past Due > 60 Days Past Due Date	—	—	—
Past Due > 90 Days Past Invoice Date	—	—	—
Addback: BBB-/Baa3 ratings > 120 PDD and PID	—	—	—
Credit Balances Past Due	—	—	—
Cross-Age (50%)	—	—	—
Contra Accounts	—	—	—
Charge Backs (Current)	—	—	—
Government Accounts	—	—	—
Unapplied Cash	—	—	—
Bankrupt/ Insolvent Accounts	—	—	—
Other (Per Terms of the Credit Agreement)	—	—	—
Total ineligibles	—	—	—
Eligible Accounts Receivable	$ —	$ —	$ —
Less:			
Dilution Reserve	—	—	—
Total Reserves	—	—	—
Eligible Accounts Receivable after Reserves	$ —	$ —	$ —
Advance rate	85.0%	85.0%	85.0%
Available Accounts Receivable	$ —	$ —	$ —
Gross US Credit Card Receivables	$ —	$ —	$ —
Less ineligibles:			
Fees and Discounts	—	—	—
Other (Per Terms of the Credit Agreement)	—	—	—
Total ineligibles	—	—	—
Eligible Credit Card Receivables before Dilution Reserve	$ —	$ —	$ —
Dilution Reserve (in excess of 5.0%)	—	—	—
Eligible Credit Card Receivables after Dilution Reserves	$ —	$ —	$ —
Advance rate	90.0%	90.0%	90.0%
Available Credit Card Receivables	$ —	$ —	$ —
Gross US Uninvoiced Accounts Receivables	$ —	$ —	$ —
Less ineligibles:			
Other (Per Terms of the Credit Agreement)	—	—	—
Total ineligibles	—	—	—
Eligible US Uninvoiced Accounts Receivables before Dilution Reserve	$ —	$ —	$ —
Dilution Reserve (in excess of 5.0%)	—	—	—
Eligible US Uninvoiced Accounts Receivables after Dilution Reserve	$ —	$ —	$ —
Advance rate	75.0%	75.0%	75.0%
Available US Uninvoiced Accounts Receivables (capped at $75mm)	$ —	$ —	$ —

The information presented herein is in respect of Office Depot, Inc and the other Loan Parties (as defined in the Credit Agreement referred to above).

* The Borrowing Base Certificate is to be accompanied by the documentation outlined in Schedule 5.01(g).

Exhibit B-2C

Office Depot, Inc.
Form of Borrowing Base Certificate*
For the Period Ended August 23, 2008
(All figures in USD 000's)

	US		Total
	Contract & Direct	Tech Depot	
Gross US Inventory per perpetual	$ —	$ —	$ —
Canada Inventory (capped at $25mm)	—	—	—
Tech Depot Inventory	—	—	—
Total Gross Inventory	$ —	$ —	$ —
Less ineligibles:			
Shrink Allowance	—	—	—
Global Ad Load	—	—	—
Inventory Located Off-site	—	—	—
Inventory In-transit from Vendors	—	—	—
Cash Discount Paid Deferral	—	—	—
Consignment Inventory	—	—	—
Customer-Specific Inventory	—	—	—
Samples	—	—	—
Inventory related Vendor Rebates	—	—	—
Perpetual/ GL Variance	—	—	—
Return to Vendor	—	—	—
Obsolete Reserve	—	—	—
Other (Per the Terms of the Credit Agreement)	—	—	—
Total ineligibles	—	—	—
Eligible Inventory	$ —	$ —	$ —
Lesser of:			
75% Advance rate	75.0%	75.0%	75.0%
NOLV Rate per Appraisal (high season-June-Feb; low season Mar.-May)	85.0%	85.0%	
85% of NOLV	72.3%	72.3%	
Available Inventory	$ —	$ —	$ —
Gross US LC Inventory	$ —	$ —	$ —
Lesser of:			
75% Advance rate	75.0%	75.0%	75.0%
NOLV Rate per Appraisal (high season-June-Feb; low season Mar.-May)	52.4%	52.4%	
85% of NOLV	44.5%	44.5%	
Available LC Inventory	$ —	$ —	$ —
Reserves			
Gift Card Liability (50% Exposure)	—	—	—
Rent Reserve (2 Months)	—	—	—
Other (Per Terms of the Credit Agreement)	—	—	—
Total Reserves	$ —	$ —	$ —
Total US Borrowing Base Availability			$ —

The information presented herein is in respect of Office Depot, Inc. and the other Loan Parties (as defined in the Credit Agreement referred to above).

* The Borrowing Base Certificate is to be accompanied by the documentation outlined in Schedule 5.01(g).

Exhibit B-3A

Office Depot, Inc.
Form of Borrowing Base Certificate*
For the Period Ended August 23, 2008
(All figures in USD 000's)

(000's US$)		UK
A.	Available UK Accounts Receivable (B-3B)	$ —
B.	Available UK Credit Card Receivables (B-3B)	—
C.	Available UK Uninvoiced Accounts Receivables (B-3B)	—
D.	Available UK Inventory (B-3C)	—
E.	Available UK L/C Inventory (B-3C)	—
F.	Less: Total Reserves (B-3C)	—
G.	UK Borrowing Base (lines A + B + C + D + E - F)	—
H.	Revolving Commitments	$ 250,000
I.	Lesser of lines G and H	$ —
J.	Excess Availability	$ —
K.	Total Availability (Including Excess)	$ —
	Revolving Exposure	
	Revolving Loans	
	Swingline Loans	$ —
	Standby Letters of Credit ($200mm cap)	$ —
	Trade and Performance Letters of Credit ($400mm aggregate L/C cap; $25mm aggregate European cap)	$ —
L.	Total Revolving Exposure	$ —
M.	Utilization of Dutch/US Availability	$ —
N.	UK Excess Availability	$ —

Officer's Certification:

Pursuant to the Credit Agreement dated as of September 26, 2008, the undersigned Borrower certifies that the information provided in this certificate to JPMorgan Chase Bank, N.A., as Administrative Agent, on behalf of Office Depot, Inc.is accurate and complete in all material respects; provided that, with respect to information regarding third parties that does not relate to transactions between the Loan Parties and such third parties, such information shall be, to the best knowledge of such financial officer, accurate and complete in all material respects.

Signature & Title

The information presented herein is in respect of Office Depot, Inc. and the other Loan Parties (as defined in the Credit Agreement referred to above).

* The Borrowing Base Certificate is to be accompanied by the documentation outlined in Schedule 5.01(g).

Exhibit B-3B

Office Depot, Inc.
Form of Borrowing Base Certificate*
For the Period Ended August 23, 2008
(All figures in USD 000's)

	UK			Total
	Direct	Contract		
Gross UK Accounts Receivable per aging	$ —	$ —		$ —
Less ineligibles:				
Past Due > 60 Days Past Due Date	—	—		—
Past Due > 90 Days Past Invoice Date	—	—		—
Addback: BBB-/Baa3 ratings > 120 PDD and PID	—	—		—
Credit Balances Past Due	—	—		—
Cross-Age (50%)	—	—		—
Contra Accounts	—	—		—
Charge Backs (Current)	—	—		—
Government Accounts	—	—		—
Unapplied Cash	—	—		—
Bankrupt/ Insolvent Accounts	—	—		—
Outstanding VAT/Other Tax	—	—		—
Other (Per Terms of the Credit Agreement)	—	—	#	—
Total ineligibles	—	—		—
Eligible Accounts Receivable	$ —	$ —		$ —
Less:				
Dilution Reserve (in excess of 5.0%)	—	—		—
Total Reserves	—	—		—
Eligible Accounts Receivable after Reserves	$ —	$ —		$ —
Advance rate	85.0%	85.0%		85.0%
Available Accounts Receivable	$ —	$ —		$ —
Gross UK Credit Card Receivables	$ —	$ —		$ —
Less ineligibles:				
Fees and Discounts	—	—		$ —
Other (Per Terms of the Credit Agreement)	—	—		$ —
Total ineligibles	—	—		$ —
Eligible Credit Card Receivables before Dilution Reserve	$ —	$ —		$ —
Dilution Reserve (in excess of 5.0%)	—	—		—
Eligible Credit Card Receivables after Dilution Reserve	$ —	$ —		$ —
Advance rate	90.0%	90.0%		90%
Available Credit Card Receivables	$ —	$ —		$ —
Gross UK Uninvoiced Accounts Receivables	$ —	$ —		$ —
Less ineligibles:				
Other (Per Terms of the Credit Agreement)	—	—		—
Total ineligibles	—	—		—
Eligible UK Uninvoiced Accounts Receivables before Dilution Reserve	$ —	$ —		$ —
Dilution Reserve (in excess of 5.0%)	—	—		—
Eligible UK Uninvoiced Accounts Receivables after Dilution Reserve	$ —	$ —		$ —
Advance rate	75.0%	75.0%		75.0%
Available UK Uninvoiced Accounts Receivables	$ —	$ —		$ —

The information presented herein is in respect of Office Depot, Inc and the other Loan Parties (as defined in the Credit Agreement referred to above).

* The Borrowing Base Certificate is to be accompanied by the documentation outlined in Schedule 5.01(g).

Office Depot, Inc.
Form of Borrowing Base Certificate*
For the Period Ended August 23, 2008
(All figures in USD 000's)

	UK		
	Direct	**Contract**	**Total**
Gross UK Inventory per perpetual	$ —	$ —	$—
Less ineligibles:			
Shrink Allowance	—	—	—
Global Ad Load	—	—	—
Inventory Located Off-site	—	—	—
Inventory In-transit from Vendors	—	—	—
Cash Discount Paid Deferral	—	—	—
Consignment Inventory	—	—	—
Customer-Specific Inventory	—	—	—
Samples	—	—	—
Inventory related Vendor Rebates	—	—	—
Perpetual/ GL Variance	—	—	—
Return to Vendor	—	—	—
Obsolete Reserve	—	—	—
Contracts which include Retention of Title	—	—	—
Other (Per the Terms of the Credit Agreement)	—	—	—
Total ineligibles	—	—	—
Eligible Inventory	$ —	$ —	$—
Lesser of:			
75% Advance rate	75.0%	75.0%	
NOLV Rate per Appraisal	70.9%	70.9%	
85% of NOLV	60.3%	60.3%	
Available Inventory	$ —	$ —	$—
Gross UK LC Inventory	$ —	$ —	$—
Lesser of:			
75% Advance rate	75.0%	75.0%	
NOLV Rate per Appraisal (high season-June-Feb; low season Mar.-May)	0.0%	0.0%	
85% of NOLV	0.0%	0.0%	
Available LC Inventory (lesser of (i) and (ii)) (capped at $100mm)	$ —	$ —	$—
NOLV Percentage per most recent report:	0%		
Reserves			
Rent Reserve (2 Months)	—	—	—
Floating Charge Reserve for Unsecured Claims	—	—	—
Payroll Related Priming Claims	—	—	—
50% Retention of Title reserve where ROT is unknown	—	—	—
100% Retention of Title reserve where ROT is known but unidentified in inventory	—	—	—
Other (Per Terms of the Credit Agreement)	—	—	—
Total Reserves	$ —	$ —	$—
Total UK Borrowing Base Availability			$—

The information presented herein is in respect of Office Depot, Inc. and the other Loan Parties (as defined in the Credit Agreement referred to above).

* The Borrowing Base Certificate is to be accompanied by the documentation outlined in Schedule 5.01(g).

Exhibit B-4A

Office Depot, Inc.
Form of Borrowing Base Certificate*
For the Period Ended August 23, 2008
(All figures in USD 000's)

		Netherlands
(000's US$)		
A.	Available Dutch Accounts Receivable (B-4B)	$ —
B.	Available Dutch Credit Card Receivables (B-4B)	—
C.	Available Dutch Uninvoiced Accounts Receivables (B-4B)	—
D.	Available Dutch Inventory (B-4C)	—
E.	Available Dutch LC Inventory (B-4C)	—
F.	Less: Total Reserves (B-4C)	—
G.	Borrowing Base (lines A + B + C + D + E - F)	—
H.	Revolving Commitments	$ 250,000
I.	Lesser of lines G and H	$ —
J.	Excess Availability	$ —
K.	Total Availability (Including Excess)	$ —
	Revolving Exposure	
	Revolving Loans	$ —
	Swingline Loans	$ —
	Standby Letters of Credit ($200mm cap)	$ —
	Trade and Performance Letters of Credit ($400mm aggregate L/C cap; $25mm aggregate European cap)	$ —
L.	Total Revolving Exposure	$ —
M.	Utilization of UK/US Availability	$ —
N.	Dutch Excess Availability (I - L)	$ —

Officer's Certification:

Pursuant to the Credit Agreement dated as of September 26, 2008, the undersigned Borrower certifies that the information provided in this certificate to JPMorgan Chase Bank, N.A., as Administrative Agent, on behalf of Office Depot, Inc. is accurate and complete in all material respects; provided that, with respect to information regarding third parties that does not relate to transactions between the Loan Parties and such third parties, such information shall be, to the best knowledge of such financial officer, accurate and complete in all material respects.

Signature & Title

The information presented herein is in respect of Office Depot, Inc. and the other Loan Parties (as defined in the Credit Agreement referred to above).

* The Borrowing Base Certificate is to be accompanied by the documentation outlined in Schedule 5.01(g).

Office Depot, Inc.
Form of Borrowing Base Certificate*
For the Period Ended August 23, 2008
(All figures in USD 000's)

	NL		
	Direct	**Contract**	**Total**
Gross Dutch Accounts Receivable per aging	$ —	$ —	$ —
Less ineligibles:			
Past Due > 60 Days Past Due Date	—	—	—
Past Due > 90 Days Past Invoice Date	—	—	—
Addback: BBB-/Baa3 ratings > 120 PDD and PID	—	—	—
Credit Balances Past Due	—	—	—
Cross-Age (50%)	—	—	—
Contra Accounts	—	—	—
Charge Backs (Current)	—	—	—
Government Accounts	—	—	—
Unapplied Cash	—	—	—
Bankrupt/ Insolvent Accounts	—	—	—
Outstanding VAT/Other Tax	—	—	—
Other (Per Terms of the Credit Agreement)	—	— #	—
Total ineligibles	—	—	—
Eligible Accounts Receivable	$ —	$ —	$ —
Less:			
Dilution Reserve (in excess of 5.0%)	—	—	—
Total Reserves	—	—	—
Eligible Accounts Receivable after Reserves	$ —	$ —	$ —
Advance rate	85.0%	85.0%	85.0%
Available Accounts Receivable	$ —	$ —	$ —
Gross Dutch Credit Card Receivables	$ —	$ —	$ —
Less ineligibles:			
Fees and Discounts	—	—	$ —
Other (Per Terms of the Credit Agreement)	—	—	$ —
Total ineligibles	—	—	$ —
Eligible Credit Card Receivables before Dilution Reserve	$ —	$ —	$ —
Dilution Reserve (in excess of 5.0%)	—	—	—
Eligible Credit Card Receivables after Dilution Reserve	$ —	$ —	$ —
Advance rate	90.0%	90.0%	90%
Available Credit Card Receivables	$ —	$ —	$ —
Gross Dutch Uninvoiced Accounts Receivables	$ —	$ —	$ —
Less ineligibles:			
Other (Per Terms of the Credit Agreement)		—	—
Total ineligibles	—	—	—
Eligible NL Uninvoiced Accounts Receivables before Dilution Reserve	$ —	$ —	$ —
Dilution Reserve (in excess of 5.0%)	—	—	—
Eligible NL Uninvoiced Accounts Receivables after Dilution Reserve	$ —	$ —	$ —
Advance rate	75.0%	75.0%	75.0%
Available NL Uninvoiced Accounts Receivables	$ —	$ —	$ —

The information presented herein is in respect of Office Depot, Inc and the other Loan Parties (as defined in the Credit Agreement referred to above).

* The Borrowing Base Certificate is to be accompanied by the documentation outlined in Schedule 5.01(g).

Office Depot, Inc.
Form of Borrowing Base Certificate*
For the Period Ended August 23, 2008
(All figures in USD 000's)

	NL		
	Direct	**Contract**	**Total**
Gross Dutch Inventory per perpetual	$ —	$ —	$—
Less ineligibles:			
Shrink Allowance	—	—	—
Global Ad Load	—	—	—
Inventory Located Off-site	—	—	—
Inventory In-transit from Vendors	—	—	—
Cash Discount Paid Deferral	—	—	—
Consignment Inventory	—	—	—
Customer-Specific Inventory	—	—	—
Samples	—	—	—
Inventory related Vendor Rebates	—	—	—
Perpetual/ GL Variance	—	—	—
Return to Vendor	—	—	—
Obsolete Reserve	—	—	—
Contracts which include Retention of Title	—	—	—
Other (Per the Terms of the Credit Agreement)	—	—	—
Total ineligibles	—	—	—
Eligible Inventory	$ —	$ —	$—
Lesser of:			
75% Advance rate	75.0%	75.0%	
NOLV Rate per Appraisal	70.2%	70.2%	
85% of NOLV	59.7%	59.7%	
Net Inventory Availability - Lesser of (i) or (ii)	$ —	$ —	$—
Gross Dutch LC Inventory	$ —	$ —	$—
Lesser of:			
75% Advance rate	75.0%	75.0%	
NOLV Rate per Appraisal (high season-June-Feb; low season Mar.-May)	0.0%	0.0%	
85% of NOLV	0.0%	0.0%	
Available LC Inventory (lesser of (i) and (ii)) (capped at $100mm)	$ —	$ —	$—
Reserves			
Rent Reserve (2 Months)	—	—	—
Floating Charge Reserve for Unsecured Claims	—	—	—
Payroll Related Priming Claims	—	—	—
50% Retention of Title reserve where ROT is unknown	—	—	—
100% Retention of Title reserve where ROT is known but unidentified in inventory	—	—	—
Other (Per Terms of the Credit Agreement)	—	—	—
Total Reserves	$ —	$ —	$—
Total Dutch Borrowing Base Availability			$—

The information presented herein is in respect of Office Depot, Inc. and the other Loan Parties (as defined in the Credit Agreement referred to above).

* The Borrowing Base Certificate is to be accompanied by the documentation outlined in Schedule 5.01(g).

EXHIBIT C

FORM OF
COMPLIANCE CERTIFICATE

This Compliance Certificate is delivered pursuant to Section 5.01(c) of the Credit Agreement, dated as of September 26, 2008 (as amended, supplemented or otherwise modified from time to time (the "Credit Agreement"), by and among Office Depot, Inc., Office Depot International (UK) Ltd., Office Depot UK Ltd., Office Depot International B.V., Office Depot B.V., OD International (Luxembourg) Finance S.Á R. L. and Viking Finance (Ireland) Ltd., the other Loan Parties party thereto, the Lenders party thereto, JPMorgan Chase Bank, N.A., London Branch, as European Administrative Agent and European Collateral Agent, JPMorgan Chase Bank, N.A., as Administrative Agent and US Collateral Agent, Bank of America, N.A., as Syndication Agent, and Citibank, N.A., Wachovia Bank, National Association and General Electric Capital Corporation, as Documentation Agents. Unless otherwise defined herein, terms defined in the Credit Agreement and used herein shall have the meanings given to them in the Credit Agreement.

1. I am the duly elected, qualified and acting [Chief Financial Officer] of the Company.

2. I have reviewed and am familiar with the contents of this Certificate.

3. I have reviewed the terms of the Credit Agreement and the Loan Documents and have made or caused to be made under my supervision, a review in reasonable detail of the transactions and condition of the Company during the accounting period covered by the financial statements attached hereto as Attachment 1 (the "Financial Statements").

4. The Financial Statements fairly present in all material respects the financial condition and results of operations of the Company and its consolidated Subsidiaries on a consolidated basis in accordance with GAAP consistently applied, subject to normal year-end audit adjustments and the absence of footnotes.

5. No Default has occurred during or at the end of the account period covered by the Financial Statements, and I have no knowledge of the existence, as of the date of this Certificate, of any condition or event which constitutes an Event of Default [except as set forth below].[1]

6. Attached hereto as Attachment 2 are the reasonably detailed calculations demonstrating compliance with the covenant set forth in Section 6.15 of the Credit Agreement.

7. No change in GAAP or the application thereof has occurred since December 29, 2007.[2]

[1] To the extent a Default/Event of Default has occurred, the details thereof and any action taken or proposed to be taken with respect thereto must be provided.

[2] To the extent a change has occurred, the effect of such change on the financial statements accompanying this certificate must be specified.

IN WITNESS WHEREOF, I have executed this Certificate this day of , 200 .

Name:
Title:

[Attach Financial Statements]

The information described herein is as of , , and pertains to the period from , to , .

[Set forth Covenant Calculations]

EXHIBIT D

FORM OF
ASSUMPTION AND JOINDER AGREEMENT

ASSUMPTION AND JOINDER AGREEMENT dated as of [ ] (the "Joinder Agreement") made by [Insert Name of new Loan Party] a [State of Organization] [corporation, limited partnership or limited liability company] (the "Company") for the benefit of the Lenders (as such term is defined in that certain Credit Agreement, dated as of September 26, 2008 (as amended, supplemented or otherwise modified from time to time, the "Credit Agreement") by and among Office Depot, Inc., Office Depot International (UK) Ltd., Office Depot UK Ltd., Office Depot International B.V., Office Depot B.V., OD International (Luxembourg) Finance S.Á R. L. and Viking Finance (Ireland) Ltd., the other Loan Parties party thereto, the Lenders party thereto, JPMorgan Chase Bank, N.A., London Branch, as European Administrative Agent and European Collateral Agent, JPMorgan Chase Bank, N.A., as Administrative Agent and US Collateral Agent, Bank of America, N.A., as Syndication Agent, and Citibank, N.A., Wachovia Bank, National Association and General Electric Capital Corporation, as Documentation Agents). Unless otherwise defined herein, terms defined in the Credit Agreement and used herein shall have the meanings given to them in the Credit Agreement.

W I T N E S S E T H

The Company is a [State of Organization] [corporation, limited partnership or limited liability company], and is a subsidiary of [US Loan Party]. Pursuant to Section 5.14 of the Credit Agreement, the Company is required to execute this document as a newly [formed] [acquired] [material] subsidiary of [US Loan Party].

NOW, THEREFORE, in consideration of the premises and other good and valuable consideration, the receipt of which is hereby acknowledged, the Company hereby agrees as follows:

SECTION 1. Assumption and Joinder. The Company hereby expressly confirms that it hereby agrees to perform and observe each and every one of the covenants and agreements, and hereby assumes the obligations and liabilities, of a US Loan Party under the Credit Agreement. By virtue of the foregoing, the Company hereby accepts and assumes any liability of a US Loan Party related to each representation or warranty, covenant or obligation made by a US Loan Party in the Credit Agreement, and hereby expressly affirms in all material respects, as of the date hereof, each of such representations, warranties, covenants and obligations as they apply to the Company.

(a) Guarantee. (i) All references to the term "US Loan Party" in the Credit Agreement, or in any document or instrument executed and delivered or furnished, or to be executed and delivered or furnished, in connection therewith shall be deemed to be references to, and shall include, the Company, in each case as of the date hereof.

(ii) The Company, as a US Loan Party, hereby joins in and agrees to be bound by each and all of the provisions of the Credit Agreement, as of the date hereof, as a US Loan Party thereunder with the same force and effect as if originally referred to therein as a US Loan Party.

(b) Collateral Documents. (i) All references to the term "Grantor" in the US Security Agreement, or in any document or instrument executed and delivered or furnished, or to be executed and delivered or furnished, in connection therewith shall be deemed to be references to, and shall include, the Company as of the date hereof.

(ii) The Company, as Grantor, hereby joins in and agrees to be bound by each and all of the provisions of the US Security Agreement, as of the date hereof, with the same force and effect as if originally referred to therein as a Grantor.

(iii) The Company, as Grantor, hereby pledges to the Administrative Agent all Collateral owned by it. The Company, as Grantor, agrees that all Collateral owned by it shall be considered to be part of the Collateral and shall secure the Secured Obligations.

SECTION 2. Representations and Warranties. The Company hereby represents and warrants to the Agents and the Lenders as follows:

(a) The Company has the requisite [corporate, partnership or limited liability company] power and authority to enter into this Joinder Agreement and to perform its obligations hereunder and under the Loan Documents to which it is a party. The execution, delivery and performance of this Joinder Agreement by the Company and the performance of its obligations hereunder and under the Loan Documents to which it is a party, have been duly authorized by all necessary [corporate, partnership or limited liability company] action, including the consent of shareholders, partners or members where required. This Joinder Agreement has been duly executed and delivered by the Company. This Joinder Agreement and the Loan Documents to which it is a party each constitutes a legal, valid and binding obligation of the Company enforceable against it in accordance with its respective terms, subject to applicable bankruptcy, insolvency, reorganization, moratorium and other laws affecting creditors' rights generally and subject to general principles of equity, regardless of whether considered in a proceeding in equity or at law.

(b) The Company has delivered to the Administrative Agent any and all schedules and documents required as a US Loan Party under the Credit Agreement.

SECTION 3. Binding Effect. This Joinder Agreement shall be binding upon the Company and shall inure to the benefit of the Lenders and their respective successors and assigns.

SECTION 4. GOVERNING LAW. **THIS JOINDER AGREEMENT SHALL BE CONSTRUED IN ACCORDANCE WITH, AND GOVERNED BY, THE LAWS OF THE STATE OF NEW YORK.**

SECTION 5. Counterparts. This Joinder Agreement may be executed in any number of counterparts, each of which when so executed and delivered shall constitute an original for all purposes, but all such counterparts taken together shall constitute but one and the same instrument. Any signature delivered by a party by facsimile or ..pdf electronic transmission shall be deemed to be an original signature thereto.

[Signature Pages Follow]

IN WITNESS WHEREOF, the undersigned has caused this Joinder Agreement to be duly executed and delivered by its duly authorized officer as of the date first above written.

[NAME OF COMPANY]

By _____

Name:

Title:

EXHIBIT E

FORM OF EXEMPTION CERTIFICATE

Reference is made to the Credit Agreement, dated as of September 26, 2008 (as amended, supplemented or otherwise modified from time to time, the "Credit Agreement"), by and among Office Depot, Inc., Office Depot International (UK) Ltd., Office Depot UK Ltd., Office Depot International B.V., Office Depot B.V., OD International (Luxembourg) Finance S.Á R. L. and Viking Finance (Ireland) Ltd., the other Loan Parties party thereto, the Lenders party thereto, JPMorgan Chase Bank, N.A., London Branch, as European Administrative Agent and European Collateral Agent, JPMorgan Chase Bank, N.A., as Administrative Agent and US Collateral Agent, Bank of America, N.A., as Syndication Agent, and Citibank, N.A., Wachovia Bank, National Association and General Electric Capital Corporation, as Documentation Agents. Unless otherwise defined herein, terms defined in the Credit Agreement and used herein shall have the meanings given to them in the Credit Agreement. (the "Non-U.S. Lender") is providing this certificate pursuant to Section 2.17(i) of the Credit Agreement. The Non-U.S. Lender hereby represents and warrants that:

1. The Non-U.S. Lender is the sole record and beneficial owner of the Loans in respect of which it is providing this certificate.

2. The Non-U.S. Lender is not a "bank" for purposes of Section 881(c)(3)(A) of the Internal Revenue Code of 1986, as amended (the "Code"). In this regard, the Non-U.S. Lender further represents and warrants that:

(a) the Non-U.S. Lender is not subject to regulatory or other legal requirements as a bank in any jurisdiction; and

(b) the Non-U.S. Lender has not been treated as a bank for purposes of any tax, securities law or other filing or submission made to any Governmental Authority, any application made to a rating agency or qualification for any exemption from tax, securities law or other legal requirements.

3. The Non-U.S. Lender is not a "10 percent shareholder" of the Borrower within the meaning of Section 881(c)(3)(B) of the Code.

4. The Non-U.S. Lender is not a "controlled foreign corporation" receiving interest from a related person within the meaning of Section 881(c)(3)(C) of the Code.

5. The interest payment in question is not effectively connected with the United States trade or business conducted by such Non-U.S. Lender.

IN WITNESS WHEREOF, the undersigned has duly executed this certificate.

[NAME OF NON-U.S. LENDER]

By: _____
Name:
Title:

Date: _____

Exhibit 10.39

AMENDMENT TO OFFER LETTER

Effective December 31, 2008

Office Depot, Inc., a Delaware corporation ("Company"), set out the terms of its offer of employment to the executive named below ("Executive") pursuant to a letter with the date specified below ("Offer Letter"). The Company and the Executive desire to amend the severance provisions of the Offer Letter ("Amendment") in order to evidence documentary compliance with Section 409A of the Internal Revenue Code of 1986, as amended, and the regulatory guidance thereunder, effective on the date specified above.

Executive: Steven Schmidt
Date of Offer Letter: July 10, 2007

In consideration of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. With respect to any quoted language herein, which shall be inserted into your Offer Letter, the parties intend for said quoted language to control to the extent that there is any conflict with the language in the original Offer Letter.

2. To the extent that your Offer Letter contains language regarding the execution of a release of claims and regarding the time and form of payment of the severance benefits, the below language is hereby inserted in your Offer Letter in lieu of such references:

"The Company must deliver to you a customary release agreement (the "Release") within seven days following the date of your employment termination. As a condition to receipt of the severance benefits specified in this section, you must (i) sign the Release and return the signed Release to the Company within the time period prescribed in the Release (which will not be more than 45 days after the Company delivers the Release to you), and (ii) not revoke the Release within any seven-day revocation period that applies to you under the Age Discrimination in Employment Act of 1967, as amended; the total period of time described in (i) and (ii) above is the "Release Period." The Company will pay the severance benefits specified in this section to you in a lump sum within 15 days following the expiration of the Release Period. In the event you decline or fail for any reason to timely execute and deliver the Release or you revoke the Release, then you will not be entitled to the severance benefits specified in this section."

3. The following new section entitled "**Tax Treatment**" shall be inserted at the end of the Offer Letter:

"Tax Treatment: This letter will be construed and administered to preserve the exemption from Section 409A of the Internal Revenue Code of 1986, as amended, and the guidance thereunder of payments that qualify as

short-term deferrals pursuant to Treas. Reg. §1.409A-1(b)(4) or that qualify for the two-times compensation exemption of Treas. Reg. §1.409A-1(b)(9)(iii). You acknowledge and agree that the Company has made no representation to you as to the tax treatment of the compensation and benefits provided pursuant to this letter and that you are solely responsible for all taxes due with respect to such compensation and benefits."

* * * * *

Office Depot, Inc.

By: _____
Name: _____
Title: _____

Agreed to and Accepted by Executive

_____
Name: Steven Schmidt
Date: December 17, 2008

Office DEPOT

CONFIDENTIAL

July 10, 2007

Mr. Steven M. Schmidt
[Address on file with the Company]

Dear Steve:

It is with great pleasure that I confirm our offer of employment with Office Depot in this revised letter. We are looking forward to having you as part of our team.

This letter confirms the details of the offer, which are set forth below. Please note that this offer is contingent upon the satisfactory outcome of both a drug screen and background investigation. This conditional offer is also contingent upon the signing of a non-compete agreement, which is enclosed and verification of all data contained in your submitted resume. This offer will be considered rescinded if not accepted within ten (10) days hereof.

Position:	President, Business Solutions Division, reporting directly to Steve Odland, Chairman and Chief Executive Officer.
Salary:	Base salary of $24,038.46 bi-weekly, which annualized equals $625,000.
Location:	Corporate Headquarters, Delray Beach, Florida.
Start Date:	July 24th, 2007
Next Performance Review:	Performance reviews for the previous calendar year are conducted annually in or around March. To be eligible for an annual performance review and a merit-performance-based salary increase, you must begin employment on or before September 30, 2007.
Bonus Eligibility:	You will be eligible to participate in the Corporate Bonus Plan (the “Plan”). For 2007, you will receive a guaranteed bonus calculated at target (75% of base salary), prorated for the period of your employment during 2007 and payable in March 2008. Payment may be higher than target based on business performance as determined by the CEO.

Car Allowance:	You are eligible to participate in Office Depot's Executive Car Allowance Program and will receive a bi-weekly car allowance of $600.00.
Vacation:	Vacation is accrued at the rate of four weeks per year.
Relocation:	You are eligible to participate in the Corporate relocation program. For more information, please contact Lisa Eckelkamp at (561) 438-0757.
Benefits:	You will be eligible to participate in the following benefit plans (participation shall be in subject to the terms and waiting periods of the specific plans): Medical Prescription Drug Dental Vision Group Basic Life and Accidental Death & Dismemberment Insurance Short and Long Term Group Disability Flexible Spending Accounts Office Depot, Inc. Retirement Savings Plan (401(k) Plan) Deferred Compensation Plan (DCP) (enrollment in the DCP will not be available until January 2008) Employee Stock Purchase Plan (ESPP) Financial Planning Services through AYCO
Equity Compensation:	You will receive a new hire sign-on stock award equal to a total market value of $2.5M on the date of the award, subject to approval by the Chairman of the Compensation Committee of the Board of Directors. At least 25% of the total award value, or $625K, must be taken in stock options. The balance may be taken in the form either of

	stock options or restricted stock, at your election. Please notify me in writing of your election prior to your first day of hire. We expect the award will be approved on or about your first date of hire. The value of this award will be determined using the Black-Scholes methodology and fair market value of Office Depot's stock on the day of grant. The vesting and other terms of the award will be consistent with awards granted to our other officers at your level, with one-third of the total award vesting on each of the first three anniversary dates of the grant date.
Long-Term Incentive Plan:	You will be eligible to participate in the Long-Term Incentive Plan at a level commensurate with your position at the time of the grant in 2008. Currently the annual target is a valuation of $1.4M (subject to Compensation Committee approval).
Non-Compete Agreement:	For and in consideration of the above compensation terms, the sufficiency of which you acknowledge by your acceptance of employment, enclosed is an important document, which requires your execution – the Associate Non-Competition, Confidentiality and Non-Solicitation Agreement. Please return this document within ten (10) days hereof (a return envelope has been provided for your convenience). Your offer for employment is also conditioned upon your representation that you do not have any post-employment obligations (contractual or otherwise) that would limit in any respect your employment with Office Depot and your contemplated duties or otherwise subject Office Depot to liability for breach of any such obligations. Your acceptance of employment shall constitute your affirmation of the foregoing representation.
Employment at Will / Severance:	All employment with Office Depot is at will, and nothing herein shall be construed to constitute an employment agreement or deemed a guarantee of continued employment. In the event that you are terminated due to no fault of your own, you will be entitled to receive (a) a lump sum amount equal to the sum of eighteen (18) months of your annual base salary determined at the time of separation, (b) a lump sum amount equal to eighteen (18) months of the monthly COBRA premium for the type of coverage you may have under the Office Depot group health plan at the time of termination, (c) a pro-rata bonus calculated at "target" under the Plan for the beginning of

	the calendar year of termination through the date of termination, and (d) a bonus calculated at "target" under the Plan for the calendar year prior to the year of termination to the extent unpaid at the date of termination (collectively, the "Severance Payment"). The Severance Payment, less applicable taxes and other deductions required by law, will be made within thirty (30) days of the expiration of any revocation or waiting periods required by law or within thirty (30) days of the date of your termination if no revocation or waiting periods are required by law; provided, however, that the Severance Payment is expressly conditioned upon your execution of a release in favor of Office Depot, Inc., its affiliates, successors and assigns, and your compliance with the covenants contained in said release. Unless otherwise agreed to in writing by Office Depot, the Severance Payment shall be in lieu of any severance payment or benefit under any Office Depot severance plan, policy, program or practice (whether written or unwritten) and, therefore, the Severance Payment shall be the exclusive source of any severance benefits.
Change in Control:	At the present time, not all members of the Company's Executive Committee are covered by Change in Control ("CIC") Agreements. However, we are in the process of presenting to the Company's Compensation Committee at the July 24 meeting a proposal to extend CIC protection to all members of the Executive Committee on an equitable basis. If approved by the Compensation Committee at its next meeting (which we anticipate to be the case), then you would be provided the same CIC protections afforded to other Executive Committee members.

Office Depot is required to verify your eligibility to work in the United States. Accordingly, on your first day of work at Office Depot, you must complete an Employment Eligibility Verification Form and provide original documentation establishing your identity and employment eligibility. The List of Acceptable Documents for this purpose is enclosed for your reference.

If you fail to provide the necessary documentation to establish your identity and eligibility to work in the United States by the close of business of your second day of work, you will not be permitted to work at Office Depot.

Enclosed is the Drug Test Chain of Custody form you must take to the lab. The lab will fill out the form for you. Be sure to take a photo ID with you.

Call ChoicePoint at 800-939-4782 and provide your zip code in order to ascertain the collection site that is most convenient for you. Please let ChoicePoint know that you have a Quest Diagnostics lab sheet, in order to be directed to the correct lab.

Steve, we are excited to have you join management as President, Business Solutions Division. I look forward to your response as soon as practicable.

Sincerely,

Steve Odland
Chairman & CEO

Agreed to and Accepted by:

(Name)

July 11, 2007
Date

Exhibit 21

LIST OF OFFICE DEPOT INC.'S SIGNIFICANT SUBSIDIARIES

Name	Jurisdiction of Incorporation
The Office Club, Inc.	California
OD International, Inc.	Delaware
Office Depot of Texas, L.P.	Delaware
OD Aviation, Inc.	Delaware
Office Depot International (UK) Limited	United Kingdom
Office Depot International B.V.	Netherlands
Office Depot Japan Limited	Japan
Viking Direct B.V.	Netherlands
Viking Finance Ireland, Ltd.	United Kingdom
Office Depot Cooperatief W.A.	Netherlands
Office Depot Europe Holdings Limited	United Kingdom
Office Depot (Holdings) Limited	United Kingdom
Office Depot (Holdings) 2 Limited	United Kingdom
Office Depot UK Limited	United Kingdom
Office 1 Ltd.	United Kingdom
Office Depot Netherlands B.V.	Netherlands
Office Depot BS SAS	France
OD SAS	France
Office Depot (Operations) Holdings B.V.	Netherlands
Office Depot (Holdings) 3 Ltd.	United Kingdom
Office Depot Overseas Limited [(1)]	Bermuda
Heteyo Holding B.V. [(2)]	Netherlands
OD SNC	France
Office Depot Overseas 2 Limited	Bermuda
OD International (Luxembourg) Holdings Sarl	Luxembourg
Office Depot Delaware Overseas Finance No. 1, LLC	Delaware

(1) Includes 80 subsidiaries in the same line of business including Office Depot International (UK) Limited, Office Depot International BV, Office Depot Japan Limited, Viking Direct B.V., Viking Finance Ireland Ltd., Office Depot Cooperatief W.A., Office Depot Europe Holdings Limited, Office Depot (Holdings) Limited, Office Depot (Holdings) 2 Limited, Office Depot UK Limited, Office 1 Ltd., Office Depot Netherlands B.V., Office Depot BS SAS, OD SAS, Office Depot (Operations) Holdings B.V., Office Depot (Holdings) 3 Ltd., Heteyo Holding B.V., OD SNC, Office Depot Overseas 2 Limited, OD International (Luxembourg) Holdings Sarl, and Office Depot Delaware Overseas Finance No. 1, LLC.

(2) Includes 4 subsidiaries in the same line of business.

Exhibit 23

CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

We consent to the incorporation by reference in Registration Statements No. 333-45591, No. 333-59603, No. 333-63507, No. 333-68081, No. 333-69831, No. 333-41060, No. 333-80123, No. 333-90305, No. 333-123527 and No. 333-144936 on Forms S-8 of our reports dated February 23, 2010, relating to the consolidated financial statements of Office Depot, Inc. and the consolidated financial statement schedule of Office Depot, Inc. and the effectiveness of Office Depot, Inc.'s internal control over financial reporting, appearing in this Annual Report on Form 10-K of Office Depot, Inc. for the fiscal year ended December 26, 2009.

/s/ DELOITTE & TOUCHE LLP
Certified Public Accountants

Boca Raton, Florida
February 23, 2010

Exhibit 31.1

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

I, Steve Odland, certify that:

1. I have reviewed this annual report on Form 10-K of Office Depot, Inc.;

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:

   a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

   b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

   c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

   d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

   a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

   b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: February 23, 2010
/s/ STEVE ODLAND
Steve Odland
Chief Executive Officer

Exhibit 31.2

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

I, Michael D. Newman, certify that:

1. I have reviewed this annual report on Form 10-K of Office Depot, Inc.;

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:

   a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

   b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

   c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

   d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

   a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

   b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: February 23, 2010
/s/ MICHAEL D. NEWMAN
Michael D. Newman
Executive Vice President and Chief Financial Officer

Exhibit 32

Office Depot, Inc.

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

In connection with the Annual Report on Form 10-K of Office Depot, Inc. (the "Company") for the fiscal year ended December 26, 2009 as filed with the Securities and Exchange Commission on the date hereof (the "Report"), Steve Odland, as Chief Executive Officer of the Company, and Michael D. Newman, as Chief Financial Officer of the Company, each hereby certifies, pursuant to 18 U.S.C. § 1350, as adopted pursuant to § 906 of the Sarbanes-Oxley Act of 2002, that, to each officer's knowledge:

(1) The Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and

(2) The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

/s/ STEVE ODLAND
Name: Steve Odland
Title: Chief Executive Officer
Date: February 23, 2010

/s/ MICHAEL D. NEWMAN
Name: Michael D. Newman
Title: Chief Financial Officer
Date: February 23, 2010

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

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