

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

FORM 10-Q

(Mark One)

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

For the quarterly period ended February 28, 2003.

OR

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

For the transition period from _____ to _____.

Commission file number 001-16583

ACUITY BRANDS, INC.

(Exact name of registrant as specified in its charter)

Delaware
(State or other jurisdiction of
incorporation or organization)

58-2632672
(I.R.S. Employer Identification Number)

1170 Peachtree Street, N.E., Suite 2400, Atlanta, Georgia 30309
(Address of principal executive offices) (Zip Code)

(404) 853-1400
(Registrant's telephone number, including area code)

None
(Former Name, Former Address and Former Fiscal Year, if Changed Since Last Report)

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

Yes No

Indicate the number of shares outstanding of each of the issuer's classes of common stock, as of the latest practicable date.

Common Stock – \$0.01 Par Value – 41,515, 843 shares as of March 31, 2003.

ACUITY BRANDS, INC.
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ACUITY BRANDS, INC.
CONSOLIDATED BALANCE SHEETS (Unaudited)
(In thousands, except share and per-share data)

	FEBRUARY 28, 2003	AUGUST 31, 2002
ASSETS		
Current Assets:		
Cash and cash equivalents	\$ 9,470	\$ 2,694
Receivables, less allowance for doubtful accounts of \$7,816 at February 28, 2003 and \$8,560 at August 31, 2002	311,289	322,735
Inventories	196,966	216,942
Deferred income taxes	24,140	24,247
Prepayments and other current assets	29,190	24,379
Total Current Assets	571,055	590,997
Property, Plant, and Equipment, at cost:		
Land	14,064	14,746
Buildings and leasehold improvements	162,842	162,296
Machinery and equipment	344,897	339,198
Total Property, Plant, and Equipment	521,803	516,240
Less-Accumulated depreciation and amortization	293,228	275,561
Property, Plant, and Equipment, net	228,575	240,679
Other Assets:		
Goodwill	345,152	344,218
Other intangibles	131,423	133,030
Other	40,970	49,030
Total Other Assets	517,545	526,278
Total Assets	\$ 1,317,175	\$ 1,357,954
LIABILITIES AND STOCKHOLDERS' EQUITY		
Current Liabilities:		
Current maturities of long-term debt	\$ 1,130	\$ 746
Short-term secured borrowings	126,400	129,200
Notes payable	—	2,545
Accounts payable	157,451	161,713
Accrued salaries, commissions, and bonuses	37,262	36,459
Other accrued liabilities	82,793	100,144
Total Current Liabilities	405,036	430,807
Long-Term Debt, less current maturities	392,086	410,630
Deferred Income Taxes	24,867	23,480
Self-Insurance Reserves, less current portion	16,736	16,517
Other Long-Term Liabilities	70,050	74,568
Commitments and Contingencies (Note 10)		
Stockholders' Equity:		
Preferred stock, \$0.01 par value, 50,000,000 shares authorized, none issued	—	—
Common stock, \$0.01 par value, 500,000,000 shares authorized, 41,475,819 shares issued and outstanding	415	414
Paid-in capital	404,483	403,389
Retained earnings	27,618	21,884
Unearned compensation on restricted stock	(433)	(500)
Accumulated other comprehensive loss items	(23,683)	(23,235)
Total Stockholders' Equity	408,400	401,952
Total Liabilities and Stockholders' Equity	\$ 1,317,175	\$ 1,357,954

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

ACUITY BRANDS, INC.
CONSOLIDATED STATEMENTS OF INCOME (Unaudited)
(In thousands, except per-share data)

	THREE MONTHS ENDED		SIX MONTHS ENDED	
	FEBRUARY 28,		FEBRUARY 28,	
	2003	2002	2003	2002
Net Sales	\$ 489,387	\$ 468,245	\$ 994,613	\$ 949,936
Cost of Products Sold	294,054	278,263	592,320	563,444
Gross Profit	195,333	189,982	402,293	386,492
Selling and Administrative Expenses	175,927	162,751	356,605	329,986
Operating Profit	19,406	27,231	45,688	56,506
Other Expense (Income):				
Interest expense, net	9,519	10,186	19,293	20,609
Miscellaneous (income) expense, net	(2,115)	12	(1,997)	264
Total Other Expense	7,404	10,198	17,296	20,873
Income before Provision for Income Taxes	12,002	17,033	28,392	35,633
Provision for Income Taxes	4,321	6,475	10,221	13,541
Net Income	\$ 7,681	\$ 10,558	\$ 18,171	\$ 22,092
Earnings Per Share:				
Basic Earnings per Share	\$ 0.19	\$ 0.26	\$ 0.44	n/a
Basic Weighted Average Number of Shares Outstanding	41,443	41,273	41,417	n/a
Diluted Earnings per Share	\$ 0.19	\$ 0.26	\$ 0.44	n/a
Diluted Weighted Average Number of Shares Outstanding	41,470	41,303	41,444	n/a
Pro Forma Earnings Per Share:				
Basic Earnings per Share	n/a	n/a	n/a	\$ 0.54
Basic Weighted Average Number of Shares Outstanding	n/a	n/a	n/a	41,246
Dividends Declared per Share	\$ 0.15	\$ 0.15	\$ 0.30	\$ 0.15

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

ACUITY BRANDS, INC.
CONSOLIDATED STATEMENTS OF CASH FLOWS (Unaudited)
(In thousands)

	SIX MONTHS ENDED	
	FEBRUARY 28,	
	2003	2002
Cash Provided by (Used for) Operating Activities:		
Net income	\$ 18,171	\$ 22,092
Adjustments to reconcile net income to net cash provided by (used for) operating activities:		
Depreciation and amortization	23,459	25,930
Provision for losses on accounts receivable	1,681	1,971
Gain on the sale of property, plant, and equipment	(887)	(116)
Restructuring and other charges	—	(325)
Change in assets and liabilities net of effect of acquisitions and divestitures-		
Receivables	10,913	(16,213)
Inventories, net	20,785	6,788
Deferred income taxes	1,494	(3,208)
Prepayments and other current assets	(5,599)	(7,951)
Accounts payable	(4,262)	18,634
Other current liabilities	(18,059)	12,580
Other assets and liabilities	6,298	(2,737)
Net Cash Provided by Operating Activities	53,994	57,445
Cash Provided by (Used for) Investing Activities:		
Purchases of property, plant, and equipment	(13,542)	(16,456)
Proceeds from sale of property, plant, and equipment	1,768	1,691
Acquisitions	—	(24,765)
Net Cash Used for Investing Activities	(11,774)	(39,530)
Cash Provided by (Used for) Financing Activities:		
Repayments of notes payable, net	(2,545)	(12,052)
(Repayments) borrowings on revolving credit facility, net	(40,000)	18,700
Repayments of short-term secured borrowings, net	(2,800)	(4,200)
Proceeds from issuance of long-term debt	22,029	—
Repayments of long-term debt	(189)	(2,549)
Dividends	(12,437)	(6,197)
Other financing activities	928	—
Net activity with NSI	—	(18,633)
Net Cash Used for Financing Activities	(35,014)	(24,931)
Effect of Exchange Rate Changes on Cash	(430)	(482)
Net Change in Cash and Cash Equivalents	6,776	(7,498)
Cash and Cash Equivalents at Beginning of Period	2,694	8,006
Cash and Cash Equivalents at End of Period	\$ 9,470	\$ 508
Supplemental Cash Flow Information:		
Income taxes paid during the period	\$ 16,423	\$ 5,153
Interest paid during the period	\$ 19,676	\$ 20,381

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

ACUITY BRANDS, INC.
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Unaudited)
(Amounts in thousands, except share and per-share data and as indicated)

1. DESCRIPTION OF BUSINESS AND BASIS OF PRESENTATION

Acuity Brands, Inc. (“Acuity Brands” or the “Company”) operates in two business segments – lighting equipment and specialty products. The lighting equipment segment produces a full range of indoor and outdoor lighting fixtures for commercial and institutional, industrial, and residential applications for markets throughout the United States, Canada, Mexico, and overseas. The specialty products segment produces maintenance, sanitation, and water treatment products for customers throughout the United States, Canada, and Western Europe.

Prior to November 30, 2001, Acuity Brands was a wholly owned subsidiary of National Service Industries, Inc. (“NSI”) owning and operating the lighting equipment and specialty products businesses. Acuity Brands was spun off from NSI into a separate publicly traded company with its own management and board of directors through a tax-free distribution (“Distribution” or “Spin-off”) of 100 percent of the outstanding shares of common stock of Acuity Brands on November 30, 2001. Each NSI stockholder of record as of November 16, 2001, the record date for the Distribution, received one share of Acuity Brands common stock for each share of NSI common stock held at that date.

The *Consolidated Financial Statements* have been prepared on the historical cost basis in accordance with accounting principles generally accepted in the United States and present the financial position, results of operations, and cash flows of Acuity Brands and its wholly-owned subsidiaries, including Acuity Lighting Group, Inc. (“ALG”) and Acuity Specialty Products Group, Inc. (“ASP”). For periods prior to December 1, 2001, these financial statements were derived from the historical financial statements of NSI. Acuity Brands was allocated certain corporate assets, liabilities, and expenses of NSI during the periods prior to December 1, 2001 based on an estimate of the proportion of such amounts allocable to Acuity Brands, utilizing such factors as total revenues, employee headcount, and other relevant factors. The Company believes these allocations were made on a reasonable basis. The Company believes all amounts allocated to Acuity Brands are a reasonable representation of the costs that would have been incurred if Acuity Brands had performed these functions as a stand-alone company.

In conjunction with the Spin-off, Acuity Brands and NSI entered into various agreements that addressed the allocation of assets and liabilities and defined the Company’s relationship with NSI after the Distribution, including a distribution agreement, a tax disaffiliation agreement, an employee benefits agreement, a transition services agreement, a lease agreement, and a put option agreement. The lease agreement and the put option agreement expired during fiscal 2002. Under the tax disaffiliation agreement, Acuity Brands will indemnify NSI for certain taxes and liabilities that may arise related to the Distribution, and, generally, for deficiencies, if any, with respect to federal, state, local, or foreign taxes for periods before the Distribution. The transition services agreement provides that NSI and Acuity Brands will provide each other services in such areas as information management and technology, employee benefits administration, payroll, financial accounting and reporting, claims administration and reporting, legal, and other areas where NSI and Acuity Brands may need transitional assistance and support. Substantially all of the services under the transition services agreement ceased effective December 31, 2002. Management believes the amounts paid or received associated with these services under the transition services agreement are representative of the fair value of the services provided. In addition, under the transition services agreement, the Company has committed to provide collateral associated with various casualty insurance programs of NSI. See Note 10 *Commitments and Contingencies* for a discussion of NSI’s standby letters of credit.

The interim consolidated financial statements included herein have been prepared by the Company without audit. These interim consolidated financial statements reflect all normal and recurring adjustments which are, in the opinion of management, necessary to present fairly the consolidated financial position as of February 28, 2003, the consolidated results of operations for the three and six months ended February 28, 2003 and 2002, and the consolidated cash flows for the six months ended February 28, 2003 and 2002. Certain reclassifications have been made to the prior year financial statements to conform to the current year presentation. Certain information and footnote disclosures normally included in financial statements prepared in accordance with accounting principles generally accepted in the United States have been condensed or omitted. The Company believes that the disclosures are adequate to make the information presented not misleading. These financial statements should be read in conjunction with the consolidated financial statements of Acuity Brands as of and for the three years ended August 31, 2002 and notes thereto included in the Company’s Annual Report on Form 10-K filed with the Securities and Exchange Commission on November 12, 2002.

The results of operations for the three and six months ended February 28, 2003 are not necessarily indicative of the results to be expected for the full fiscal year because the net sales and income of the Company are generally higher in the second half of its fiscal year and because of the continued uncertainty of general economic conditions impacting the key end markets of the Company.

ACUITY BRANDS, INC.
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Unaudited)
(Amounts in thousands, except share and per-share data and as indicated)

2. RECENT ACCOUNTING STANDARDS

Accounting Standards Adopted during Fiscal 2003

In August 2001, the Financial Accounting Standards Board (“FASB”) issued Statement of Financial Accounting Standards (“SFAS”) No. 144, *Accounting for the Impairment or Disposal of Long-Lived Assets*. SFAS No. 144 supersedes SFAS No. 121, *Accounting for the Impairment of Long-Lived Assets and for Long-Lived Assets to be Disposed Of* and supersedes the provisions of Accounting Principles Board Opinion No. 30, *Reporting the Results of Operations – Reporting the Effects of Disposal of a Segment of a Business, and Extraordinary, Unusual and Infrequently Occurring Events and Transactions* with regard to reporting the effects of a disposal of a segment of a business. SFAS No. 144 provides a single accounting model for long-lived assets to be disposed of and significantly changes the criteria required to classify an asset as held-for-sale. Under SFAS No. 144, more dispositions will qualify for discontinued operations treatment in the income statement and expected future operating losses from discontinued operations will be displayed in discontinued operations in the period in which the losses are incurred. SFAS No. 144 is effective for all fiscal years beginning after December 15, 2001. Acuity Brands adopted this statement effective September 1, 2002. Adoption of this statement did not have a significant effect on the Company’s consolidated results of operations or financial position.

In June 2002, the FASB issued SFAS No. 146, *Accounting for Costs Associated with Exit or Disposal Activities*. SFAS No. 146 addresses financial accounting and reporting for costs associated with exit or disposal activities and nullifies Emerging Issues Task Force Issue No. 94-3, *Liability Recognition for Certain Employee Termination Benefits and Other Costs to Exit an Activity (including Certain Costs Incurred in a Restructuring)*. The principal difference between SFAS No. 146 and Issue No. 94-3 relates to its requirements for recognition of a liability for a cost associated with an exit or disposal activity. SFAS No. 146 requires that a liability for a cost associated with an exit or disposal activity be recognized when the liability is incurred. Under Issue No. 94-3, a liability for an exit cost was recognized at the date of an entity’s commitment to an exit plan. A fundamental conclusion reached by the FASB in SFAS No. 146 is that an entity’s commitment to a plan, by itself, does not create a present obligation to others that meets the definition of a liability. Therefore, SFAS No. 146 eliminates the definition and requirements for recognition of exit costs in Issue No. 94-3. SFAS No. 146 also establishes that fair value is the objective for initial measurement of the liability. SFAS No. 146 is effective for exit or disposal activities that are initiated after December 31, 2002. Acuity Brands adopted SFAS No. 146 effective September 1, 2002. Adoption of this statement did not have a significant effect on the Company’s consolidated results of operations or financial position.

In November 2002, the FASB issued FASB Interpretation No. 45 (“FIN No. 45”), *Guarantor’s Accounting and Disclosure Requirements for Guarantees, Including Indirect Guarantees of Indebtedness of Others*. FIN No. 45 elaborates on the disclosures to be made by a guarantor in its interim and annual financial statements about its obligations under certain guarantees that it has issued. It also clarifies that a guarantor is required to recognize, at the inception of the guarantee, a liability for the fair value of the obligation undertaken in issuing the guarantee. This interpretation does not prescribe a specific approach for subsequently measuring the guarantor’s recognized liability over the term of the related guaranty. This interpretation also incorporates the guidance in FASB Interpretation No. 34, *Disclosure of Indirect Guarantees of Indebtedness of Others*, which is being superseded. The initial recognition and initial measurement provisions of FIN No. 45 are applicable on a prospective basis to guarantees issued or modified after December 31, 2002. The disclosure requirements of FIN No. 45, including those related to product warranties, are effective for financial statements for interim or annual periods ending after December 15, 2002. Acuity Brands adopted FIN No. 45 effective December 1, 2002. Adoption of this interpretation did not have a significant effect on the Company’s consolidated results of operations or financial position.

Accounting Standards Yet to be Adopted

On December 31, 2002, the FASB issued SFAS No. 148, *Accounting for Stock-Based Compensation – Transition and Disclosure – an Amendment of FASB Statement No. 123*. SFAS No. 148 amends SFAS No. 123, *Accounting for Stock-Based Compensation*, to provide alternative methods of transition to the fair value method of accounting for stock-based employee compensation. Additionally, SFAS No. 148 amends the disclosure provisions of SFAS No. 123 to require disclosure in the summary of significant accounting policies of the effects of an entity’s accounting policy with respect to stock-based employee compensation on reported net income and earnings per share in annual and interim financial statements. The statement does not require companies to account for employee stock-based compensation using the fair value method. However, the disclosure provisions are required for all companies with stock-based compensation, regardless of whether the company utilizes the fair value method of accounting described in SFAS No. 123 or the intrinsic value method described in Accounting Principles Board Opinion No. 25, *Accounting for Stock Issued to Employees*. The transition and annual disclosure requirements of SFAS No. 148 are effective for all fiscal

ACUITY BRANDS, INC.
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Unaudited)
(Amounts in thousands, except share and per-share data and as indicated)

years ending after December 15, 2002. The disclosure requirements for interim financial statements are effective for interim periods beginning after December 15, 2002. The Company adopted the disclosure requirements of this standard on March 1, 2003. Adoption of this statement will not have a significant effect on the Company's consolidated results of operations or financial position.

3. GOODWILL AND INTANGIBLE ASSETS

In July 2001, the FASB issued SFAS No. 141, *Business Combinations*, and SFAS No. 142, *Goodwill and Other Intangible Assets*. SFAS 141 prospectively prohibits the pooling of interests method of accounting for business combinations initiated after June 30, 2001. SFAS 142 requires companies to cease amortizing goodwill that existed at June 30, 2001 and establishes a new method for testing goodwill for impairment. Goodwill resulting from acquisitions completed after June 30, 2001 is not amortized. SFAS 142 also requires that an identifiable intangible asset which is determined to have an indefinite useful economic life not be amortized, but be separately tested for impairment using a fair-value-based approach. The Company is required to test its goodwill and intangibles with indefinite useful lives for impairment on an annual basis (or an interim basis if an event occurs that might reduce the fair value of a reporting unit or an intangible asset below its carrying value), which could have an adverse effect on the Company's *Consolidated Financial Statements* if these assets are deemed impaired.

Summarized information for the Company's acquired intangible assets is as follows:

	February 28, 2003		August 31, 2002	
	Gross Carrying Amount	Accumulated Amortization	Gross Carrying Amount	Accumulated Amortization
Amortized intangible assets:				
Trade names and trademarks	\$ 13,030	\$ (1,565)	\$ 13,030	\$ (1,347)
Distribution network	53,000	(6,331)	53,000	(5,448)
Other	17,067	(8,792)	17,076	(8,295)
Total	\$ 83,097	\$ (16,688)	\$ 83,106	\$ (15,090)
Unamortized intangible assets:				
Trade names	\$ 65,014		\$ 65,014	

Acuity Brands has unamortized trade names with indefinite lives that have an aggregate carrying value of \$65.0 million. Additionally, the Company has \$13.0 million in trade names and trademarks with definite useful lives. The Company amortizes trade names with definite lives, trademarks, and the distribution network over their estimated useful lives of 30 years. Other amortized intangible assets consist primarily of patented technology and restrictive covenant agreements, which are amortized over their estimated useful lives of 12 years and 3 years, respectively. The Company recorded amortization expense of \$1,598 and \$2,193 related to intangible assets with definite lives in the first six months of fiscal 2003 and fiscal 2002, respectively.

The changes in the carrying amount of goodwill during the current quarter are summarized as follows:

	ALG	ASP	Total
Balance as of August 31, 2002	\$ 314,103	\$ 30,115	\$ 344,218
Currency translation adjustments	630	304	934
Balance as of February 28, 2003	\$ 314,733	\$ 30,419	\$ 345,152

ALG and ASP each tested goodwill and intangible assets with indefinite useful lives for impairment during the fourth quarter of 2002 as required by SFAS 142, utilizing a combination of valuation techniques including the expected present value of future cash flows, a market multiple approach, and a comparable transaction approach. This analysis did not result in an impairment to be recorded in the fourth quarter of fiscal 2002.

ACUITY BRANDS, INC.
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Unaudited)
(Amounts in thousands, except share and per-share data and as indicated)

4. BUSINESS SEGMENT INFORMATION

	Net Sales	Operating Profit (Loss)	Depreciation and Amortization	Capital Expenditures and Acquisitions
Three Months Ended February 28, 2003				
ALG	\$368,792	\$ 18,826	\$ 9,487	\$ 4,633
ASP	120,595	4,811	1,995	1,620
Corporate	—	(4,231)	211	32
Total	\$489,387	\$ 19,406	\$ 11,693	\$ 6,285

	Net Sales	Operating Profit (Loss)	Depreciation and Amortization	Capital Expenditures and Acquisitions
Three Months Ended February 28, 2002				
ALG	\$352,788	\$22,007	\$ 10,974	\$ 4,635
ASP	115,457	8,387	2,000	1,214
Corporate	—	(3,163)	200	40
Total	\$468,245	\$27,231	\$ 13,174	\$ 5,889

	Net Sales	Operating Profit (Loss)	Depreciation and Amortization	Capital Expenditures and Acquisitions
Six Months Ended February 28, 2003				
ALG	\$751,450	\$44,893	\$ 19,050	\$ 9,554
ASP	243,163	8,482	3,981	3,951
Corporate	—	(7,687)	428	37
Total	\$994,613	\$45,688	\$ 23,459	\$ 13,542

	Net Sales	Operating Profit (Loss)	Depreciation and Amortization	Capital Expenditures and Acquisitions
Six Months Ended February 28, 2002				
ALG	\$716,898	\$47,069	\$ 21,488	\$ 38,695
ASP	233,038	15,298	4,054	2,484
Corporate	—	(5,861)	388	42
Total	\$949,936	\$56,506	\$ 25,930	\$ 41,221

	Total Assets	
	February 28, 2003	August 31, 2002
ALG	\$1,057,436	\$1,100,175
ASP	216,969	220,165
Corporate	42,770	37,614
Total	\$1,317,175	\$1,357,954

ACUITY BRANDS, INC.
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Unaudited)
(Amounts in thousands, except share and per-share data and as indicated)

5. INVENTORIES

Major classes of inventory as of February 28, 2003 and August 31, 2002 were as follows:

	February 28, 2003	August 31, 2002
Raw materials and supplies	\$ 87,220	\$ 99,054
Work-in-process	18,620	19,884
Finished goods	102,522	109,910
	<u>208,362</u>	<u>228,848</u>
Less: reserves	(11,396)	(11,906)
Total	\$ 196,966	\$ 216,942

Inventories are stated at the lower of cost (as determined on a first-in, first-out basis) or market.

6. EARNINGS PER SHARE AND PRO FORMA EARNINGS PER SHARE

The Company computes earnings per share in accordance with SFAS No. 128, *Earnings per Share*. Under this statement, basic earnings per share is computed by dividing net earnings available to common stockholders by the weighted average number of common shares outstanding during the period. Diluted earnings per share is computed similarly but reflects the potential dilution that would occur if dilutive options were exercised and restricted stock awards were vested.

Pro forma basic earnings per share is calculated as net income divided by the pro forma weighted average number of common shares outstanding. Pro forma weighted average shares outstanding has been computed by applying the distribution ratio of one share of Acuity Brands common stock to the historical NSI weighted average shares outstanding for the same period presented. Public trading of Acuity Brands stock did not commence until December 3, 2001; therefore, no historical market share prices exist for the calculation of the potential dilutive effect of stock options for periods prior to the second quarter of fiscal 2002. As a result, pro forma diluted earnings per share are not presented.

The following table calculates basic earnings per common share and diluted earnings per common share for the three and six months ended February 28, 2003 and the three months ended February 28, 2002 and pro forma basic earnings per common share for the six months ended February 28, 2002:

	Three Months Ended		Six Months Ended	
	February 28,		February 28,	
	2003	2002	2003	2002
				PRO FORMA
Basic earnings per common share:				
Net income	\$ 7,681	\$ 10,558	\$ 18,171	\$ 22,092
Basic weighted average shares outstanding (in thousands)	41,443	41,273	41,417	41,246
	<u>\$ 0.19</u>	<u>\$ 0.26</u>	<u>\$ 0.44</u>	<u>\$ 0.54</u>
Diluted earnings per common share:				
Net income	\$ 7,681	\$ 10,558	\$ 18,171	
Basic weighted average shares outstanding (in thousands)	41,443	41,273	41,417	
Add – Shares of common stock issuable upon assumed exercise of dilutive stock options (in thousands)	—	—	—	
Add – Unvested restricted stock (in thousands)	27	30	27	
	<u>41,470</u>	<u>41,303</u>	<u>41,444</u>	
	<u>\$ 0.19</u>	<u>\$ 0.26</u>	<u>\$ 0.44</u>	

ACUITY BRANDS, INC.
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Unaudited)
(Amounts in thousands, except share and per-share data and as indicated)

7. COMPREHENSIVE INCOME

The Company accounts for comprehensive income as prescribed by SFAS No. 130, *Reporting Comprehensive Income*. SFAS 130 requires the reporting of a measure of all changes in equity that result from recognized transactions and other economic events other than transactions with owners in their capacity as owners. Other comprehensive income for the three and six months ended February 28, 2003 and 2002 includes only foreign currency translation adjustments. The calculation of comprehensive income is as follows:

	Three Months Ended February 28,		Six Months Ended February 28,	
	2003	2002	2003	2002
Net income	\$ 7,681	\$ 10,558	\$18,171	\$22,092
Foreign currency translation adjustments	1,011	(1,897)	(448)	(2,449)
Comprehensive Income	\$ 8,692	\$ 8,661	\$17,723	\$19,643

8. SECURED BORROWINGS AND LONG-TERM DEBT

In May 2001, NSI entered into a three-year agreement (the "Receivables Facility") to borrow, on an ongoing basis, up to \$150.0 million secured by an undivided interest in a defined pool of trade accounts receivable of the lighting equipment and specialty products businesses. Borrowings under the Receivables Facility are subject to the annual renewal of a supporting credit line. Effective November 30, 2001, Acuity Brands assumed all of the outstanding borrowings and other obligations under the Receivables Facility. Net trade accounts receivable pledged as security for borrowings under the Receivables Facility totaled \$247.7 million at February 28, 2003. Borrowings at February 28, 2003 under the Receivables Facility totaled \$126.4 million. Interest rates under the Receivables Facility vary with commercial paper rates plus an applicable margin. The effective interest rate, including the commitment and usage fee, was approximately 1.70 percent at February 28, 2003.

During fiscal 2002, the Company entered into a financing agreement ("Revolving Credit Facility") with a group of domestic and international banks, which had two components that allowed for borrowings of up to \$210.0 million. The first component was a \$105.0 million, 364-day committed credit facility that was scheduled to mature in April 2003. The second component was a three-year credit facility that allowed for borrowings up to \$105.0 million and was scheduled to mature in April 2005. The Revolving Credit Facility contained financial covenants including a maximum leverage ratio of total indebtedness to EBITDA (earnings before interest, taxes, depreciation and amortization expense), subject to certain adjustments, and a minimum interest coverage ratio.

In April 2003, the Company modified certain terms and conditions of the Revolving Credit Facility, primarily to incorporate changes to the leverage ratio contained in the agreement and to extend the 364-day component of the credit facility. Under the new terms of the Revolving Credit Facility, the Company's maximum permitted ratio of total indebtedness to adjusted EBITDA, currently at 3.50, decreases to 3.25 at November 30, 2003, and then to 3.00 at May 31, 2004. The leverage ratio is computed at the end of each fiscal quarter. In addition, maximum available borrowings under the 364-day component of the Revolving Credit Facility, which now matures in April 2004, decreased to \$92.5 million from \$105.0 million. No changes were made to the maximum available borrowings or the maturity date of the three-year component of the credit facility. At February 28, 2003, the Company was in compliance with all financial covenants in the Revolving Credit Facility and had no outstanding borrowings under the Revolving Credit Facility.

In October 2002, Acuity Brands entered into a new loan agreement ("Term Loan"), secured by certain land and buildings of the Company. Proceeds from the Term Loan were used to reduce borrowings under the Revolving Credit Facility and to provide the Company additional liquidity. In April 2003, the financial covenants included in the Term Loan were modified to be consistent with the new financial covenants contained in the Revolving Credit Facility noted above. Interest rates under the Term Loan are based on one-month LIBOR plus a margin. Outstanding borrowings under the Term Loan were \$19.8 million at February 28, 2003. The interest rate was approximately 2.84 percent at February 28, 2003.

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9. ACQUISITION

In October 2001, Acuity Brands acquired certain assets and assumed certain liabilities of the American Electric Lighting® and Dark-to-Light® product lines of the Thomas & Betts Corporation. The allocation of the purchase price resulted in goodwill of approximately \$9.3 million. Additionally, the Company recorded \$2.5 million related to the trade names American Electric Lighting® and Dark-to-Light®. The Company will not amortize these trade names, as the Company believes the useful lives are indefinite. The Company believes that the acquisition provides the lighting equipment segment with greater presence in the utility and transportation infrastructure markets and adds breadth to Acuity Brands' current utility offerings in high-end decorative street and area lighting.

10. COMMITMENTS AND CONTINGENCIES

Litigation

Acuity Brands is subject to various legal claims arising in the normal course of business, including patent infringement and product liability claims. Based on information currently available, it is the opinion of management that the ultimate resolution of pending and threatened legal proceedings will not have a material adverse effect on the financial condition or results of operations of Acuity Brands. However, in the event of unexpected future developments, it is possible that the ultimate resolution of such matters, if unfavorable, could have a material adverse effect on the results of operations of Acuity Brands in future periods. Acuity Brands establishes reserves for legal claims when the costs associated with the claims become probable and can be reasonably estimated. The actual costs of resolving legal claims may be substantially higher than the amounts reserved for such claims.

Acuity Brands is currently a defendant in a lawsuit that was filed by Genlyte Thomas Group LLC ("Genlyte Thomas") on March 29, 2000, in the United States District Court, Western District of Kentucky. The lawsuit alleges that certain Lithonia Lighting® products (representing significantly less than 1 percent of total 2002 ALG sales) infringe a Genlyte Thomas patent claim. Genlyte Thomas is seeking an injunction and damages, including lost profits. Genlyte Thomas further alleges that the infringement is willful, and any damages awarded at trial may be multiplied by up to three times if willful infringement is found.

In discovery, which was substantially completed in August 2002, Genlyte Thomas submitted an expert report on its damages claim asserting that Genlyte Thomas has sustained approximately \$20 million in damages, including lost profits. The Company's damage expert stated in his report that, assuming that the patent is valid, enforceable and infringed, total damages based on a reasonable royalty would be between \$1.6 million and \$2.4 million for the period 1994-2001. He does not believe that lost profits are an appropriate measure of damages.

The Company believes that the Genlyte Thomas patent claim is invalid and unenforceable. Therefore, the Company is continuing to defend vigorously the allegations, notwithstanding a recent ruling issued by the Court against the Company that certain Lithonia Lighting lighting fixtures infringe the patent (the issue of validity of the patent was not before the Court). The Company received a formal opinion from independent patent counsel that the patent is invalid because the claim at issue (a) was anticipated by at least one prior art reference and (b) was also obvious in view of a number of combinations of prior art references. During the Company's second quarter ended February 28, 2003, the Court ruled against the Company on its anticipation defense. It is expected that the case, if it proceeds to trial, will not be heard until late calendar 2003 and will focus on the Company's obviousness defense as it relates to the validity of the patent. The Company has reserved the expected defense costs for this litigation.

The Company has dismissed with prejudice the suit it filed against Genlyte Thomas on September 5, 2002, in the United States District Court, Northern District of Georgia, Atlanta division, alleging that certain Genlyte Thomas products infringe certain of the Company's patents related to its Avante® direct/indirect lighting fixtures and its Paramax® 2PM3N Series fluorescent louvered troffer lighting fixtures.

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Environmental Matters

The operations of the Company are subject to comprehensive laws and regulations relating to the generation, storage, handling, transportation, and disposal of hazardous substances and solid and hazardous wastes and to the remediation of contaminated sites. Permits and environmental controls are required for certain of the Company's operations to limit air and water pollution, and these permits are subject to modification, renewal, and revocation by issuing authorities. Acuity Brands believes that it is in substantial compliance with all material environmental laws, regulations, and permits. On an ongoing basis, Acuity Brands incurs capital and operating costs relating to environmental compliance. Environmental laws and regulations have generally become stricter in recent years, and the cost of responding to future changes may be substantial.

Acuity Brands establishes reserves for known environmental claims when the costs associated with the claims become probable and can be reasonably estimated. The environmental reserves of Acuity Brands, for all periods presented in the *Consolidated Financial Statements*, are immaterial. The actual cost of environmental issues may be higher than that reserved due to difficulty in estimating such costs and potential changes in the status of government regulations.

Certain environmental laws can impose liability regardless of fault. The federal Superfund law is an example of such an environmental law. However, management believes that the Company's potential liability under Superfund is mitigated by the presence of other parties who will share in the costs associated with the clean up of sites. The extent of liability is determined on a case-by-case basis taking into account many factors, including the number of other parties whose status or activities also subjects them to liability regardless of fault.

Acuity Brands is currently a party to, or otherwise involved in, legal proceedings in connection with state and federal Superfund sites. Based on information currently available, the Company believes its liability is immaterial at each of the currently active sites which it does not own where it has been named as a responsible party or a potentially responsible party ("PRP") due to its limited involvement at the site and/or the number of viable PRPs. For example, the preliminary allocation among 48 PRPs at the Crymes Landfill site in Georgia indicates that Acuity Brands' liability is not significant, and there are more than 1,000 PRPs at the M&J Solvents site in Georgia. For property that Acuity Brands owns on Seaboard Industrial Boulevard in Atlanta, Georgia, the Company has conducted an investigation on its property and adjoining properties and submitted a Compliance Status Report ("CSR") and a proposed Corrective Action Plan ("CAP") to the State of Georgia Environmental Protection Division ("EPD") pursuant to the Georgia Hazardous Site Response Act. Until the EPD approves the CSR and CAP, Acuity Brands will not be able to determine whether corrective action will be required and what the costs of such action will be.

Guarantees and Indemnities

The Company is a party to contracts entered into in the normal course of business in which it is common for the Company to agree to indemnify third parties for certain liabilities that arise out of or relate to the subject matter of the contract. The Company cannot estimate the potential amount of future payments under these indemnities until events arise that would result in a liability under the indemnities.

In connection with the sale of assets and the divestiture of businesses, the Company from time to time agrees to indemnify the purchaser from liabilities relating to events occurring prior to the sale and conditions existing at the time of the sale. These indemnities generally include potential environmental liabilities, general representations and warranties concerning the asset or business, and certain other liabilities not assumed by the purchaser. Indemnities associated with the divestiture of businesses are generally limited in amount to the sales price of the specific business or are based on a negotiated amount and expire at various times, depending on the nature of the indemnified matter, but in some cases do not expire until the applicable statute of limitations expires. The Company does not believe that any amounts that it may be required to pay under these indemnities will be material to the Company's results of operations, financial position, or liquidity.

Additionally, in conjunction with the separation of their businesses, Acuity Brands and NSI entered into various agreements that addressed the allocation of assets and liabilities and defined the Company's relationship with NSI after the Distribution, including a distribution agreement, a transition services agreement, and a tax disaffiliation agreement. The Company has previously accrued for those liabilities existing at the time of the Distribution that were considered probable and reasonably estimable. The Company has not accrued any additional amounts as a result of the following indemnities:

Distribution Agreement-

The distribution agreement provides that Acuity Brands will indemnify NSI for pre-Distribution liabilities related to the businesses that comprise Acuity Brands and previously owned businesses in the lighting equipment and specialty products segments. This indemnity does not expire and there is no stated maximum potential liability.

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Transition Services Agreement-

In addition to other services described in the agreement, the transition services agreement provides that Acuity Brands will, for a fee, provide letters of credit to secure NSI's obligations under various casualty insurance programs of NSI not to exceed the following amounts:

Period		
Beginning	Ending	Letters of Credit
November 1, 2002	October 31, 2003	\$ 8.0 million
November 1, 2003	October 31, 2004	\$ 5.0 million
November 1, 2004	October 31, 2005	\$ 2.0 million

At February 28, 2003, Acuity Brands had approximately \$8.0 million of outstanding standby letters of credit that were issued for the benefit of NSI under the transition services agreement. In the event NSI is unable to fulfill its obligations under certain of its casualty insurance programs, the standby letters of credit could be drawn upon and Acuity Brands would be required to fund the drawn amount. In such event, NSI would be obligated to reimburse Acuity Brands for such amounts. The management of Acuity Brands believes it is unlikely that these letters of credit will be drawn upon.

Tax Disaffiliation Agreement-

The tax disaffiliation agreement provides that Acuity Brands will indemnify NSI for certain taxes and liabilities that may arise related to the Distribution and, generally, for deficiencies, if any, with respect to federal, state, local, or foreign taxes of NSI for periods before the Distribution. Liabilities determined under the tax disaffiliation agreement terminate upon the expiration of the applicable statute of limitation for such liability. There is no stated maximum potential liability included in the tax disaffiliation agreement.

The Company does not believe that any amounts that it may be required to pay under these indemnities will be material to the Company's results of operations, financial position, or liquidity. The Company cannot estimate the potential amount of future payments under these indemnities until events arise that would result in a liability under the indemnities.

Product Warranty

Acuity Brands records an allowance for the estimated amount of future warranty claims when the related revenue is recognized, primarily based on historical experience. Although historical warranty costs have been within expectations, there can be no assurance that future warranty costs will not exceed historical amounts. If actual future warranty costs exceed historical amounts, additional allowances may be required, which could have a material adverse impact on the Company's operating results in future periods.

The changes in the product warranty reserve during the six months ended February 28, 2003 are summarized as follows:

Balance as of August 31, 2002	\$ 6,879
Additions charged to costs and expenses	1,331
Deductions	(2,054)
	<hr/>
Balance as of February 28, 2003	\$ 6,156

Risks and Uncertainties Related to the Distribution

Creditors of NSI May Challenge the Distribution as a Fraudulent Conveyance

On November 7, 2001, the NSI board of directors made a determination, based on information provided by management and financial experts, that the Distribution was permissible under applicable dividend and solvency laws. There is no certainty, however, that a court would find the decision of the NSI board to be binding on creditors of NSI and Acuity Brands or that a court would reach the same conclusions as the NSI board in determining whether NSI or Acuity Brands was solvent and adequately capitalized at the time of, or after giving effect to, the Distribution. If a court in a lawsuit by an unpaid creditor or representative of creditors, such as a trustee in bankruptcy, were to find that at the time NSI effected the Distribution, NSI or Acuity Brands (1) was insolvent; (2) was rendered insolvent by reason of the Distribution; (3) was engaged in a business or transaction for which their respective remaining assets constituted unreasonably small capital; or (4) intended to incur, or believed it would incur, debts beyond its ability to pay as such debts matured, such court may be asked to void the Distribution (in whole or in part) as a fraudulent conveyance and require that the NSI stockholders return the Acuity Brands shares (in whole or in part) to NSI or require Acuity Brands to fund certain liabilities for the benefit of creditors. The measure of insolvency for purposes of the foregoing would vary depending upon the jurisdiction whose law is being applied. Generally, however, NSI or Acuity Brands would be

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considered insolvent if the fair value of their respective assets was less than the amount of their respective liabilities or if either incurred debt beyond its ability to repay such debt as it matures. Management believes the likelihood that creditors of NSI could successfully challenge the Distribution is remote. Management also believes that the recently announced agreement by a third party to acquire all of the outstanding shares of common stock of NSI through a merger in which stockholders of NSI would receive \$10.00 per share in cash is further confirmation of the continuing solvency of NSI after the Distribution.

Failure to Qualify as a Tax-Free Transaction Could Result in Substantial Liability

NSI and Acuity Brands intend for the Distribution to be tax-free for U.S. Federal income tax purposes. Management of Acuity Brands believes the Distribution was tax-free for U.S. Federal income tax purposes. The Distribution was conditioned upon the receipt by each of NSI and Acuity Brands of opinions from each of King & Spalding, counsel to NSI and Acuity Brands, and Ernst & Young LLP, special tax advisor to NSI and Acuity Brands, that for U.S. Federal income tax purposes the Distribution, as well as the internal reorganization transactions effected in order to separate the Acuity Brands businesses from NSI's remaining businesses, was tax-free to NSI, Acuity Brands, and the stockholders of NSI. Neither NSI nor Acuity Brands requested an advance ruling from the Internal Revenue Service as to the tax consequences of the Distribution. The opinions of King & Spalding and Ernst & Young LLP are subject to certain assumptions and the accuracy and completeness of certain factual representations and statements made by NSI and Acuity Brands and certain other data, documentation and other materials that each of King & Spalding and Ernst & Young LLP deemed necessary for purposes of their respective opinions. If these assumptions and factual representations were incorrect or incomplete in a material respect, the conclusions set forth in the opinions may not be correct. These opinions represent the views of King & Spalding and Ernst & Young LLP as to the interpretation of existing tax law and, accordingly, such opinions are not binding on the Internal Revenue Service or the courts and no assurance can be given that the Internal Revenue Service or the courts will agree with their opinions.

As required under the tax disaffiliation agreement, King & Spalding issued an opinion to NSI to the effect that the third party acquisition of all of the outstanding shares of NSI through a merger and the transactions contemplated therein will not cause Section 355(e) or 355(f) of the Internal Revenue Code of 1986, as amended, to apply to NSI's spin-off of Acuity Brands.

11. RESTRICTED STOCK PROGRAM UNDER THE LONG-TERM INCENTIVE PLAN

In December 2002, the Company reserved 491,560 shares of performance-based restricted stock for issuance to officers and other key employees under the shareholder-approved Acuity Brands, Inc. Long-Term Incentive Plan. The shares are granted in 25 percent increments upon the achievement of at least two of three progressive defined performance measures and the completion of related target years (as defined in the agreement). The performance measures relate to specified levels of debt reduction, cumulative earnings per share measured at each fiscal quarter-end for the trailing four quarters, and stock price targets. The shares vest at the later of the quarter-end in which at least two of the three performance measures are achieved or November 30 of the specified target year. Two-thirds of the value of the restricted shares at the vesting date is paid to the participants in unrestricted shares of the Company and the remainder is paid in cash. Participants may elect to defer payments under this performance-based restricted stock plan into a separate deferred compensation plan. In the event payments are deferred into the deferred compensation plan, the value of the restricted shares would be converted to share units that ultimately would be paid in cash.

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

The following discussion should be read in conjunction with the *Consolidated Financial Statements* and related notes. References made to years are for fiscal year periods.

Overview

History and Purpose

On November 30, 2001, National Service Industries, Inc. spun off its lighting equipment and specialty products businesses into a separate publicly traded company with its own management and board of directors through a tax-free distribution to NSI stockholders ("Distribution" or "Spin-off") of 100 percent of the outstanding shares of common stock of Acuity Brands, Inc. ("Acuity Brands" or "the Company"), which at that time was a wholly-owned subsidiary of NSI owning and operating the lighting equipment and specialty products businesses. Each NSI stockholder of record as of November 16, 2001, the record date for the Distribution, received one share of Acuity Brands common stock for each share of NSI common stock held at that date. The Company operates on a fiscal year end of August 31. Therefore, the results of operations prior to November 30, 2001 are based on certain assumptions more fully described in Note 1 of the *Notes to Consolidated Financial Statements*.

The purpose of this discussion and analysis is to enhance the understanding and evaluation of the results of operations, financial position, cash flows, indebtedness and other key financial information of Acuity Brands and its subsidiaries for the periods ended February 28, 2003 and 2002 and to describe certain potential risk factors associated with the Company. For a more complete understanding of this discussion, please read the *Notes to Consolidated Financial Statements* included in this report. Also, please refer to the Company's Annual Report on Form 10-K for the fiscal year ended August 31, 2002 filed with the Securities and Exchange Commission on November 12, 2002 for additional information regarding the Company, its formation, and potential risk factors associated with the Spin-off.

Company

Acuity Brands is a holding company that owns and manages two business units, each operating a collection of businesses, which sell products and provide services to customers in numerous channels, primarily for consumer, commercial, and industrial applications. The business units of Acuity Brands operate in two distinct segments based on the different products manufactured and the customers served: Acuity Lighting Group ("ALG") and Acuity Specialty Products Group ("ASP"). The Company believes ALG is the world's leading manufacturer and distributor of lighting fixtures, with a broad, highly configurable product offering consisting of roughly 500,000 active products as part of over 2,000 product groups that are sold to approximately 5,000 customers. ALG operates 31 factories and distribution facilities to serve its extensive customer base. ASP is a leading producer and distributor of cleaning and maintenance products in North America and portions of Western Europe. ASP sells over 9,000 different products from six plants and serves over 300,000 customers through a network of distribution centers and warehouses. Acuity Brands, with its principal office in Atlanta, Georgia, has approximately 11,800 employees worldwide.

Critical Accounting Policies

Management's Discussion and Analysis of Financial Condition and Results of Operations addresses the financial condition and results of operations as reflected in the Company's *Consolidated Financial Statements*, which have been prepared in accordance with accounting principles generally accepted in the United States. The preparation of financial statements in conformity with accounting principles generally accepted in the United States requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and reported amounts of revenues and expenses during the reporting period. On an ongoing basis, management evaluates its estimates and judgments, including those related to inventory valuation; depreciation, amortization and the recoverability of long-lived assets, including intangible assets; medical, product warranty and other reserves; litigation; and environmental matters. Management bases its estimates and judgments on its substantial historical experience and other relevant factors, the results of which form the basis for making judgments about the carrying values of assets and liabilities that are not readily apparent from other sources. Actual results could differ from those estimates.

The management of Acuity Brands believes the following represent the Company's critical accounting policies:

Inventories

Acuity Brands records inventory at the lower of cost (on a first-in, first-out basis) or market. Management reviews inventory quantities on hand and records a provision for excess or obsolete inventory primarily based on estimated future demand and current

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market conditions. A significant change in customer demand or market conditions could render certain inventory obsolete and thus could have a material adverse impact on the Company's operating results in the period the change occurs.

Long-Lived and Intangible Assets and Goodwill

Acuity Brands reviews goodwill and intangible assets with indefinite useful lives for impairment on an annual basis or on an interim basis if an event occurs that might reduce the fair value of the long-lived asset below its carrying value. All other long-lived and intangible assets are reviewed for impairment whenever events or circumstances indicate that the carrying amount of the asset may not be recoverable. An impairment loss would be recognized based on the difference between the carrying value of the asset and its estimated fair value, which would be determined based on either discounted future cash flows or other appropriate fair value methods.

In July 2001, the Financial Accounting Standards Board issued Statement of Financial Accounting Standards No. 142 ("SFAS No. 142"), *Goodwill and Other Intangible Assets*. Acuity Brands adopted SFAS No. 142 as of September 1, 2001. SFAS No. 142 requires companies to cease amortizing goodwill that existed at June 30, 2001 and establishes a new method for testing goodwill for impairment. SFAS No. 142 also requires that an identifiable intangible asset that is determined to have an indefinite useful economic life not be amortized, but be separately tested for impairment using a fair-value-based approach. The evaluation of goodwill and intangibles with indefinite useful lives for impairment requires management to use significant judgments and estimates including, but not limited to, projected future revenue, operating results, and cash flow of each of the Company's businesses.

Although management currently believes that the estimates used in the evaluation of goodwill and intangibles with indefinite lives are reasonable, differences between actual and expected revenue, operating results, and cash flow could cause these assets to be deemed impaired. If this were to occur, the Company would be required to charge to earnings the write-down in value of such assets, which could have a material adverse effect on the Company's results of operations and financial position.

Specifically, Acuity Brands has unamortized trade names with an aggregate carrying value of \$65.0 million. Management estimates the fair value of these unamortized trade names using a fair value model based on discounted future cash flows. Future cash flows associated with each of the Company's unamortized trade names are calculated by applying to estimated future revenue a theoretical royalty rate a willing third party would pay for use of the particular trade name. The present value of the resulting after-tax cash flow is management's current estimate of the fair value of the trade names. This fair value model requires management to make several significant assumptions, including estimated future revenue, the royalty rate, and the discount rate.

Differences between expected and actual results can result in significantly different valuations. If future operating results are unfavorable compared to forecasted amounts, the Company may be required to reduce the theoretical royalty rate used in the fair value model. A reduction in the theoretical royalty rate would result in lower expected, future after-tax cash flow in the valuation model. Accordingly, an impairment charge would be recorded at that time. To illustrate the potential impact of unfavorable changes in the assumptions underlying the fair value model, a one hundred basis point reduction in the theoretical royalty rate related to the trade name associated with the acquisition of Holophane® would result in a pre-tax impairment charge of approximately 27 percent, or \$17.0 million, of the carrying value of the trade name.

Self-Insurance

It is the policy of the Company to self insure for certain insurable property and casualty risks consisting primarily of physical loss to property, business interruptions resulting from property losses, workers' compensation, comprehensive general liability, and auto liability. Insurance coverage is obtained for catastrophic property and casualty exposures as well as those risks required to be insured by law or contract. Based on an independent actuary's estimate of the aggregate liability for claims incurred, a provision for claims under the self-insured program is recorded and revised annually. The actuarial estimates are subject to uncertainty from various sources, including, among others, changes in claim reporting patterns, claim settlement patterns, judicial decisions, legislation, and economic conditions. Although Acuity Brands believes that the actuarial estimates are reasonable, significant differences related to the items noted above could materially affect the Company's self-insurance obligations and future expense.

The Company is also self-insured for the majority of its medical benefit plans. The Company estimates its aggregate liability for claims incurred by applying a lag factor to the Company's historical claims and administrative cost experience. The appropriateness of the Company's lag factor is evaluated and revised, if necessary, annually. Although management believes that the current estimates are reasonable, significant differences related to claim reporting patterns, legislation, and general economic conditions could materially affect the Company's medical benefit plan liabilities and future expense.

Product Warranty

Acuity Brands records an allowance for the estimated amount of future warranty claims when the related revenue is recognized, primarily based on historical experience. Although historical warranty costs have been within expectations, there can be no assurance that future warranty costs will not exceed historical amounts. If actual future warranty costs exceed historical amounts,

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additional allowances may be required, which could have a material adverse impact on the Company's operating results in future periods. See Note 10 of the *Notes to Consolidated Financial Statements* for additional information.

Litigation

Acuity Brands reserves for legal claims when costs associated with the claims become probable and can be reasonably estimated. Due to the difficulty in estimating costs of resolving legal claims, actual costs may be substantially higher than the amounts reserved. See Note 10 of the *Notes to Consolidated Financial Statements* for additional information.

Environmental Matters

The Company reserves for known environmental claims when costs associated with the claims become probable and can be reasonably estimated. Acuity Brands' environmental reserves, for all periods presented, are immaterial. The actual cost of resolving environmental issues may be higher than that reserved primarily due to difficulty in estimating such costs and potential changes in the status of government regulations. See Note 10 of the *Notes to Consolidated Financial Statements* for additional information.

Liquidity and Capital Resources

Principal sources of liquidity for the Company are operating cash flows generated primarily from its business segments and various sources of borrowings, primarily from banks. The capital structure of the Company is comprised principally of an asset-backed securitization program, borrowings from banks, senior notes, and the equity of its stockholders. The ability of the Company to generate sufficient cash flow from operations and to be able to access certain capital markets, including banks, is critical for the Company to meet its obligations as they become due and maintain compliance with its debt covenants. The Company's ongoing liquidity will depend on a number of factors, including available cash resources, cash flows from operations, and the Company's ability to comply with covenants contained in certain of its financing agreements. If management's expectations regarding current earnings projections and cash flow or the forecasted reduction in borrowings are not realized, the Company may be required to modify its planned business activities or restructure a portion of its existing debt on potentially less favorable terms and conditions.

Based on current earnings projections and prevailing market conditions, both for customer demand and various capital markets, the Company believes that during fiscal 2003 it will have sufficient liquidity and availability under its financing arrangements to fund its operations as currently planned and its anticipated capital investment and profit improvement initiatives, to repay borrowings as currently scheduled, and to pay the same quarterly stockholder dividends as were paid in 2002. The Company expects to reduce outstanding borrowings by approximately \$40.0 million and to invest approximately \$36.0 million in new tooling, machinery and equipment during fiscal 2003.

Cash Flow

Acuity Brands generated \$54.0 million of cash flow from operations during the first six months of 2003 compared to \$57.5 million generated in the prior year period. Cash flow from operations declined \$3.5 million as improved operating working capital (defined as accounts receivable, net, plus inventory, minus accounts payable) was more than offset primarily by lower earnings, the payment of 2002 bonuses during the first quarter of 2003, and higher payments for income taxes. Additionally, the timing of certain payroll distributions, primarily at ALG, favorably impacted cash flow from operations in the 2003 period. Operating working capital declined approximately \$27.2 million to \$350.8 million at February 28, 2003 from \$378.0 million at August 31, 2002. The decline in operating working capital was primarily due to lower inventory and accounts receivable, partially offset by lower accounts payable. The decrease in inventory was largely due to a planned, temporary decrease in production at ALG as improvements in manufacturing efficiency and productivity allowed ALG to reduce inventory levels while supporting its sales growth initiatives. The decline in accounts receivable was primarily due to the impact of seasonal fluctuations in product shipments.

Capital expenditures were \$13.5 million in the first six months of 2003, down approximately \$3.0 million from the prior year. The Company continues to invest in new tooling and equipment primarily to improve productivity and product quality, increase manufacturing efficiencies, and enhance customer service capabilities in each segment. The decline in capital expenditures was primarily due to lower investment at ALG as the Company continues to better utilize its manufacturing and information systems infrastructure. The Company anticipates that it will begin to accelerate investment in manufacturing and information systems as it consolidates certain operations to take advantage of efficiency improvements and economies of scale.

The Company used its cash flow from operations in the first six months of 2003 primarily to reduce debt, to fund capital expenditures, and to pay dividends. Cash flow from operations in 2002 was used primarily to fund capital expenditures, to fund the activity with NSI prior to the Distribution, to acquire American Electric Lighting, and to pay dividends.

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Capitalization

Total debt outstanding at February 28, 2003 was \$519.6 million, down \$23.5 million from August 31, 2002, as the Company used its cash flow from operations during the first six months of 2003 primarily to reduce debt, to fund capital expenditures, and to pay dividends. In April 2003, the Company amended and restated the 364-day component and amended the three-year component of its Revolving Credit Facility, which improved its financial flexibility. The amended Revolving Credit Facility consists of two components and allows for borrowings up to \$197.5 million. The first component is a 364-day, \$92.5 million facility to be used for general corporate purposes, primarily working capital requirements, and is due in April 2004. The second component is a three-year, \$105 million revolving credit facility to be used for general corporate purposes and is due April 2005. At February 28, 2003, there were no borrowings drawn on either component of this facility.

In October 2002, the Company entered into a new loan agreement (“Term Loan”), secured by certain land and buildings of the Company. Proceeds from the Term Loan of approximately \$20.0 million were used to reduce borrowings under the Revolving Credit Facility and to provide the Company additional liquidity. See Note 8 of the *Notes to Consolidated Financial Statements* for additional information regarding restrictions contained in the Term Loan and the Revolving Credit Facility.

Available borrowings under the Company’s Revolving Credit Facility and Term Loan are limited by certain financial covenants in those agreements, the most restrictive of which is a leverage ratio calculated at the end of each fiscal quarter. The leverage ratio is calculated by dividing total indebtedness at the end of the quarter by EBITDA (earnings before interest, taxes, depreciation and amortization expense), subject to certain adjustments, for the trailing four quarters. As noted above, the Company modified its Revolving Credit Facility in April 2003 primarily to incorporate changes to certain financial covenants contained in the agreement. In addition, size of the Revolving Credit Facility was reduced to \$197.5 million from \$210.0 million. The financial covenants included in the Revolving Credit Facility were modified to allow the Company greater flexibility to more aggressively pursue certain business activities, including profit improvement initiatives and cost reduction programs.

Under the terms of the amended agreement, the Company’s maximum permitted leverage ratio, currently at 3.50, decreases to 3.25 at November 30, 2003, and then to 3.00 at May 31, 2004. Where applicable, the financial covenants included in the Company’s other financing agreements were modified to be consistent with the financial covenants contained in the Revolving Credit Facility. The Company was in compliance with all covenants contained in its financing agreements at February 28, 2003, and had additional borrowing capacity of \$47.9 million at February 28, 2003 under the most restrictive covenant in effect at that time.

During 2003, the Company’s consolidated stockholders’ equity increased \$6.4 million to \$408.4 million at February 28, 2003. The Company’s debt to total capital ratio was 56 percent at February 28, 2003, down from approximately 58 percent at August 31, 2002.

Dividends

The Company paid common stock dividends of \$12.4 million (\$0.30 per share) during the first six months of fiscal 2003. Prior to November 30, 2001, the Company was a subsidiary of NSI, as more fully described above, and did not pay dividends separately to stockholders of NSI. The Company expects to pay annual stockholder dividends of \$0.60 per share during fiscal 2003.

Results of Operations

Second Quarter of Fiscal 2003 Compared to Second Quarter of Fiscal 2002

Consolidated Results

Net sales for the quarter ended February 28, 2003 were \$489.4 million compared to \$468.2 million reported in the year ago period, an increase of \$21.2 million or 4.5 percent. The sales percentage increase occurred equally at both ALG and ASP and was due primarily to the impact of new customers, new product introductions, and greater penetration of certain channels at both ALG and ASP.

Consolidated operating profit in the second quarter of fiscal 2003 decreased \$7.8 million, or 28.7 percent, to \$19.4 million from \$27.2 million reported in the year ago period. Operating profit margins were 4.0 percent in the second quarter fiscal 2003 compared to 5.8 percent in the year ago period. The decline in consolidated operating profit and margin was primarily due to lower absorption of manufacturing costs at ALG caused by a planned, temporary decrease in production to reduce inventory levels; higher material costs, primarily steel and energy related expenses; increased non-discretionary expenses, including insurance; and the cost associated with new product introductions and certain sales and marketing programs at ALG and ASP. The lower absorption of manufacturing costs at ALG resulted in the acceleration of approximately \$2.9 million of greater expense into the second quarter of fiscal 2003.

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Net income for the second quarter of fiscal 2003 decreased 27.4 percent to \$7.7 million from \$10.6 million reported in the second quarter of fiscal 2002. The decrease in net income primarily resulted from lower operating profit at both ALG and ASP and higher corporate expenses, partially offset by gains on the sale of non-core assets, lower interest expense, and a lower effective tax rate. Earnings per share in the second quarter of 2003 was \$0.19 compared to \$0.26 reported in the second quarter of 2002, a decline of 26.9 percent.

Acuity Lighting Group

Net sales at ALG in the second quarter of fiscal 2003 were \$368.8 million compared to \$352.8 million reported in the year ago period, an increase of \$16.0 million or 4.5 percent. The increase was primarily due to greater shipments of products through channels of distribution serving national accounts, home improvement centers, and other key commercial and industrial markets, partially offset by lower shipments to the utility and infrastructure markets. In the second quarter, ALG announced a sales price increase for certain products. The terms and conditions of the price increase resulted in a significant influx of orders in the second quarter, based on pre-increase prices, with delivery dates that extend into the third quarter of fiscal 2003. As a consequence, the backlog at ALG increased \$45 million, or 38 percent, to \$164 million from November 30, 2002.

Operating profit at ALG decreased \$3.2 million to \$18.8 million in the second quarter of fiscal 2003 from \$22.0 million reported in the prior year. Operating profit margins dropped to 5.1 percent from 6.2 percent, as the variable contribution from the higher sales was more than offset by lower absorption of manufacturing costs; continued pricing pressure in certain markets and product mix changes; higher costs for certain raw materials, particularly steel and fuel costs; and greater spending for certain sales and marketing initiatives and for non-discretionary expenses, including insurance. As noted above, a planned, temporary decrease in production resulted in lower absorption of manufacturing costs and reduced inventory levels. The lower absorption of manufacturing costs resulted in the acceleration of approximately \$2.9 million of greater expense into the second quarter of fiscal 2003.

Acuity Specialty Products

Net sales at ASP in the second quarter of fiscal 2003 were \$120.6 million, an increase of 4.5 percent over the year ago period. The increase in sales was driven by greater product penetration in key channels of distribution including home improvement centers and certain industrial market segments, such as food processing and preparation and transportation. In the retail channel, sales grew over the same period in the prior year due primarily to increases in the number of home improvement centers served. Sales in the industrial and institutional ("I&I") channel were greater in the second quarter of fiscal 2003 than the year ago period as a result of increased sales in Europe and slightly higher sales in the U.S. European sales were higher based on increased volume and were also favorably impacted by changes in exchange rates. U.S. sales were slightly higher than the prior year as a result of price increases implemented in the fourth quarter of fiscal 2002 and greater sales in the food and transportation segments.

Operating profit at ASP in the second quarter of fiscal 2003 declined \$3.6 million to \$4.8 million from \$8.4 million reported in the year ago period. Operating margins decreased to 4.0 percent from 7.3 percent a year ago. The decline in operating profit was primarily due to startup costs associated with a number of initiatives, including new product introductions and expanded marketing and logistics programs, all of which are expected to benefit future periods. In addition, ASP experienced higher costs for certain raw materials, primarily d'limonene and certain petroleum-based components, and certain non-discretionary spending, including medical and casualty insurance. The impact of the higher costs was partially offset by increased selling prices and greater contribution margin from the higher sales volume.

Corporate

Corporate expenses were \$4.2 million in the second quarter of fiscal 2003 compared to \$3.2 million in the year ago period. The increase was primarily due to higher expense associated with certain stock-based benefit plans, enhanced audit services, and greater non-discretionary costs including insurance.

Other Expense (Income)

Other expense (income) for Acuity Brands consists primarily of interest expense and other miscellaneous non-operating activity including gains or losses on the sale of assets and foreign currency transactions. Interest expense, net was \$9.5 million, a decrease of \$0.7 million (6.5 percent) from the year ago period. This decrease is the result of reductions in both debt balances and interest rates. Miscellaneous (income) expense primarily includes a pretax gain of approximately \$0.8 million related to the sale of property, plant, and equipment, principally at ASP, and a pretax gain of approximately \$0.9 million related to the sale of certain non-core assets at ALG.

Six Months Ended February 28, 2003 Compared to the Six Months Ended February 28, 2002

Consolidated Results

Net sales for the six months ended February 28, 2003 were \$994.6 million compared to \$949.9 million reported in the year ago period, an increase of \$44.7 million or 4.7 percent. The increase was due to sales gains of 4.8 percent and 4.3 percent at ALG and ASP, respectively, resulting primarily from the impact of new customers, new product introductions, and greater penetration of certain channels at ALG and ASP.

Consolidated operating profit for the six months ended February 28, 2003 was \$45.7 million compared to \$56.5 million reported in the year ago period, a decrease of \$10.8 million or 19.1 percent. Operating profit margins were 4.6 percent in fiscal 2003 compared to 5.9 percent in the respective prior year period. The decline in operating profit and margin was primarily due to lower absorption of manufacturing costs at ALG during the second quarter of fiscal 2003; higher material costs, primarily steel and energy related expenses; increased non-discretionary expenses, including medical and casualty insurance; and the cost associated with new product introductions and certain sales and marketing programs at ALG and ASP.

Net income for the first six months of fiscal 2003 was \$18.2 million, \$0.44 per share, compared to \$22.1 million, \$0.54 per share, reported in the year ago period. The decrease in net income was primarily due to lower operating profit at both ALG and ASP and higher corporate expenses, partially offset by gains on the sale of non-core assets, lower interest expense, and a lower effective tax rate.

Acuity Lighting Group

Net sales at ALG for the first six months of fiscal 2003 were \$751.5 million compared to \$716.9 million in the respective prior period, an increase of \$34.6 million or 4.8 percent. The increase was primarily due to greater shipments of products through channels of distribution serving national accounts, home improvement centers, and other key commercial and industrial markets. Additionally, sales at ALG benefited from the inclusion of the results of American Electric for the full six month period.

Operating profit at ALG was \$44.9 million in the first six months of fiscal 2003 compared to \$47.1 million reported in the prior year, a decrease of \$2.2 million or 4.7 percent. Operating profit margins dropped to 6.0 percent from 6.6 percent, as the variable contribution from the higher sales was more than offset by lower absorption of manufacturing costs; higher material costs, primarily steel and energy related expenses; continued pricing pressure in certain markets and product mix changes; and greater spending for certain sales and marketing initiatives and for non-discretionary expenses, including insurance. As noted above, a planned, temporary decrease in production resulted in lower absorption of manufacturing costs and reduced inventory levels. The lower absorption of manufacturing costs resulted in the acceleration of approximately \$2.9 million of greater expense into the second quarter of fiscal 2003.

Acuity Specialty Products

Net sales at ASP in the first six months of fiscal 2003 were \$243.2 million, an increase of 4.3 percent over the same period one year earlier. The increase in sales was driven by greater product penetration in key channels of distribution including home improvement centers and certain industrial market segments, such as food processing and preparation and transportation. In the retail channel, sales grew over the same period in the prior year primarily due to increases in the number of home improvement centers served. Sales in the I&I channel were greater in the first six months of fiscal 2003 than the year ago period as a result of increased sales in Europe and slightly higher sales in the U.S. European sales were higher based on increased volume and were also favorably impacted by changes in exchange rates. U.S. sales were slightly higher than the prior year as a result of price increases implemented in the fourth quarter of fiscal 2002 and greater sales in the food and transportation segments.

Operating profit at ASP declined \$6.8 million to \$8.5 million from \$15.3 million reported in the year ago period. Operating margins decreased to 3.5 percent from 6.6 percent a year ago. The decline in operating profit was primarily due to startup costs associated with a number of initiatives, including new product introductions, and expanded marketing and logistics programs, all of which are expected to benefit future periods. ASP also experienced higher costs for certain raw materials, including d'limonene and certain petroleum-based components, and certain non-discretionary spending, including insurance. The impact of the higher costs was partially offset by increased selling prices and greater contribution margin from the higher sales volume.

Corporate

Corporate expenses were \$7.7 million in the first six months of fiscal 2003 compared to \$5.9 million in the year ago period. The increase was primarily due to higher expense associated with certain stock-based benefit plans, enhanced audit services, and greater non-discretionary costs, including insurance.

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Other Expense (Income)

Other expense (income) for Acuity Brands consists primarily of interest expense and other miscellaneous non-operating activity including gains or losses on the sale of assets and foreign currency transactions. Interest expense, net was \$19.3 million, a decrease of \$1.3 million (6.4 percent) from the year ago period. This decrease is the result of reductions in both debt balances and interest rates. Miscellaneous (income) expense primarily includes a pretax gain of approximately \$0.9 million related to the sale of property, plant, and equipment, principally at ASP, and a pretax gain of approximately \$0.9 million related to the sale of certain non-core assets at ALG.

Outlook

Management remains optimistic about the long-term potential of the businesses that comprise Acuity Brands. However, management is cautious about near-term results due to uncertainty in the economic environment, particularly for non-residential construction, which is one of the key drivers of the lighting fixture market. Management anticipates that the third quarter of fiscal 2003 will reflect the historical seasonal pattern of greater sales, additional shipments due to the strong backlog at ALG, and the positive impact of various initiatives to enhance margins, including the previously mentioned price increase. Assuming no further deterioration in the economy and the benefit of the initiatives noted above, management continues to expect full year earnings to be in the range of \$1.20 to \$1.40 per share.

Risks Relating to the Distribution

On November 30, 2001, National Service Industries, Inc. spun off its lighting equipment and specialty products businesses into a separate publicly traded company with its own management and board of directors through a tax-free distribution of 100 percent of the outstanding shares of common stock of Acuity Brands, at that time a wholly-owned subsidiary of NSI owning and operating the lighting equipment and specialty products businesses. Each NSI stockholder of record as of November 16, 2001, the record date for the Distribution, received one share of Acuity Brands common stock for each share of NSI common stock held at that date. The following risks associated with Acuity Brands relate principally to the Distribution. If any of these risks develops into an actual event, the business, financial condition or results of operations of Acuity Brands could be materially adversely affected.

Failure to Qualify as a Tax-Free Transaction Could Result in Substantial Liability

NSI and Acuity Brands intend for the Distribution to be tax-free for U.S. Federal income tax purposes. Management of Acuity Brands believes the Distribution was tax-free for U.S. Federal income tax purposes. The Distribution was conditioned upon the receipt by each of NSI and Acuity Brands of opinions from each of King & Spalding, counsel to NSI and Acuity Brands, and Ernst & Young LLP, special tax advisor to NSI and Acuity Brands, that for U.S. Federal income tax purposes the Distribution, as well as the internal reorganization transactions effected in order to separate the Acuity Brands businesses from NSI's remaining business, was tax-free to NSI, Acuity Brands, and the stockholders of NSI. Neither NSI nor Acuity Brands requested an advance ruling from the Internal Revenue Service as to the tax consequences of the Distribution. The opinions of King & Spalding and Ernst & Young LLP are subject to certain assumptions and the accuracy and completeness of certain factual representations and statements made by NSI and Acuity Brands and certain other data, documentation and other materials that each of King & Spalding and Ernst & Young LLP deemed necessary for purposes of their respective opinions. If these assumptions and factual representations were incorrect or incomplete in a material respect, the conclusions set forth in the opinions may not be correct. These opinions represent the views of King & Spalding and Ernst & Young LLP as to the interpretation of existing tax law and, accordingly, such opinions are not binding on the Internal Revenue Service or the courts and no assurance can be given that the Internal Revenue Service or the courts will agree with their opinions.

If the Distribution does not qualify for tax-free treatment, a substantial corporate tax would be payable by the consolidated group of which NSI is the common parent measured by the difference between (1) the aggregate fair market value of the Acuity Brands Shares on the Distribution Date and (2) NSI's adjusted tax basis in the Acuity Brands Shares on the Distribution Date. The corporate level tax would be payable by NSI. However, Acuity Brands agreed under certain circumstances to indemnify NSI for all or a portion of this tax liability. This indemnification obligation, if triggered, could have a material adverse effect on the results of operations and financial position of Acuity Brands. In addition, under the applicable treasury regulations, each member of NSI's consolidated group (including Acuity Brands) is severally liable for such tax liability. Furthermore, if the Distribution does not qualify as tax-free, each NSI stockholder who received Acuity Brands Shares in the Distribution would be taxed as if he had received a cash dividend equal to the fair market value of his Acuity Brands Shares on the Distribution Date.

Even if the Distribution qualifies as tax-free, NSI could nevertheless incur a substantial corporate tax liability under Section 355(e) of the Internal Revenue Code of 1986, as amended (the "Internal Revenue Code" or the "Code"), if NSI or Acuity Brands were to undergo a change in control (whether by acquisition, additional share issuance or otherwise) pursuant to a plan or series of related transactions which include the Distribution. Any transaction, which occurs within the four-year period beginning two years prior to

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the Distribution, is presumed to be part of a plan or series of related transactions that includes the Distribution unless NSI establishes otherwise. Under certain circumstances, Acuity Brands would be obligated to indemnify NSI for all or a portion of this substantial corporate tax liability under the tax disaffiliation agreement. This indemnification obligation would have a material adverse effect on the results of operations and financial position of Acuity Brands.

As required under the tax disaffiliation agreement, King & Spalding issued an opinion to NSI to the effect that the third party acquisition of all of the outstanding shares of NSI through a merger and the transactions contemplated therein will not cause Section 355(e) or 355(f) of the Internal Revenue Code of 1986, as amended, to apply to NSI's spin-off of Acuity Brands.

Creditors of NSI May Challenge the Distribution as a Fraudulent Conveyance

On November 7, 2001, the NSI board of directors, in approving the Distribution, made a determination, based on information provided by management and financial experts, that the Distribution was permissible under applicable dividend and solvency laws. There is no certainty, however, that a court would find the decision of the NSI board to be binding on creditors of NSI and Acuity Brands or that a court would reach the same conclusions as the NSI board in determining whether NSI or Acuity Brands was insolvent at the time of, or after giving effect to, the Distribution. If a court in a lawsuit by an unpaid creditor or representative of creditors, such as a trustee in bankruptcy, were to find that at the time NSI effected the Distribution, NSI or Acuity Brands (1) was insolvent; (2) was rendered insolvent by reason of the Distribution; (3) was engaged in a business or transaction for which their respective remaining assets constituted unreasonably small capital; or (4) intended to incur, or believed it would incur, debts beyond its ability to pay as such debts matured, such court may be asked to void the Distribution (in whole or in part) as a fraudulent conveyance and require that the NSI stockholders return the Acuity Brands Shares (in whole or in part) to NSI or require Acuity Brands to fund certain liabilities for the benefit of creditors. The measure of insolvency for purposes of the foregoing would vary depending upon the jurisdiction whose law is being applied. Generally, however, NSI or Acuity Brands would be considered insolvent if the fair value of their respective assets were less than the amount of their respective liabilities or if they incurred debt beyond their ability to repay such debt as it matures. Management believes the likelihood that creditors of NSI could successfully challenge the Distribution is remote. Management also believes that the recently announced agreement by a third party to acquire all of the outstanding shares of common stock of NSI through a merger in which stockholders of NSI would receive \$10.00 per share in cash is further confirmation of the continuing solvency of NSI after the Distribution.

Cautionary Statement Regarding Forward-Looking Information

This filing contains forward-looking statements, within the meaning of the Private Securities Litigation Reform Act of 1995, that involve risks and uncertainties. Consequently, actual results may differ materially from those indicated by the forward-looking statements. Statements made herein that may be considered forward looking include statements concerning: (a) expected future earnings; (b) the Company's ongoing liquidity including availability under its financing arrangements to: fund operations, anticipated capital investments, and profit improvement initiatives as currently planned; repay borrowings as currently scheduled; pay the same quarterly stockholder dividends as were paid in 2002; reduce debt by approximately \$40.0 million; and invest approximately \$36.0 million in new tooling, machinery and equipment during fiscal 2003; (c) anticipated investments in manufacturing and information systems; (d) expected future benefits of a number of initiatives for which startup costs were incurred, including new product introductions and expanded marketing and logistics programs at Acuity Specialty Products Group; (e) the Company's expectations for the third quarter of 2003 to reflect the historical seasonal pattern of greater sales, additional shipments due to the strong backlog at Acuity Lighting Group, and the positive impact of various initiatives to enhance margins, including the announced price increase; (f) the outcome of pending or future legal or regulatory proceedings; (g) the likelihood that creditors of NSI could successfully challenge the Distribution as a fraudulent conveyance; and (h) the impact of accounting standards yet to be adopted. A variety of risks and uncertainties could cause the Company's actual results to differ materially from the anticipated results or other expectations expressed in the Company's forward-looking statements. The risks and uncertainties include without limitation the following: (a) the uncertainty of general business and economic conditions, including the potential for a more severe slowdown in non-residential construction, changes in interest rates, and fluctuations in commodity and raw material prices or foreign currency rates; (b) the Company's ability to realize the anticipated benefits of initiatives expected to reduce costs, improve profits, enhance customer service, increase manufacturing efficiency, reduce debt, and expand product offerings and brands in the market through a variety of channels; (c) the risk that projected future earnings or cash flows from operations are not realized; (d) unexpected developments in the Company's legal and environmental proceedings; (e) the impact of competition; (f) the uncertainty caused by operations in cyclical industries; (g) the risk that underlying assumptions or expectations related to the Distribution, including, without limitation, expectations regarding projected liabilities and cash flow, prove to be inaccurate or unrealized; (h) the risk that the Distribution fails to qualify as a tax-free transaction; (i) the risk of a work stoppage or an increase in organized labor activity; and (j) the potential for the Company's growth to be limited by the payment of dividends.

Item 3. Quantitative and Qualitative Disclosures about Market Risk

General. Acuity Brands is exposed to market risks that may impact the *Consolidated Balance Sheets, Consolidated Statements of Income, and Consolidated Statements of Cash Flows* due to changing interest rates and foreign exchange rates. Acuity Brands does not currently participate in any significant hedging activities, nor does it currently utilize any significant derivative financial instruments. The following discussion provides additional information regarding Acuity Brands' market risks.

Interest Rates. Interest rate fluctuations expose Acuity Brands' variable-rate debt to changes in interest expense and cash flows. Acuity Brands' variable-rate debt, primarily short-term secured borrowings and amounts outstanding under the Company's Term Loan, amounted to \$159.5 million at February 28, 2003. Based on outstanding borrowings at quarter end, a 10 percent increase in market interest rates at February 28, 2003 would have resulted in additional annual after-tax interest expense of approximately \$0.2 million. A fluctuation in interest rates would not affect interest expense or cash flows related to the \$360.0 million publicly traded notes, Acuity Brands' primary fixed-rate debt. A 10 percent increase in market interest rates at February 28, 2003 would have decreased the fair value of these notes to approximately \$398.1 million. See Note 8 of the *Notes to Consolidated Financial Statements* for additional information regarding the Company's long-term debt.

Foreign Exchange Rates. The majority of Acuity Brands' revenue, expense, and capital purchases are transacted in U.S. dollars. Acuity Brands does not believe a 10 percent fluctuation in average foreign currency rates would have a material effect on its consolidated financial position or results of operations. Acuity Brands does not engage in speculative transactions, nor does Acuity Brands hold or issue financial instruments for trading purposes.

Item 4. Controls and Procedures

Disclosure controls and procedures are controls and other procedures that are designed to ensure that information required to be disclosed in the reports filed or submitted under the Securities Exchange Act is recorded, processed, summarized and reported, within the time periods specified in the Commission's rules and forms. Disclosure controls and procedures include, without limitation, controls and procedures designed to ensure that information required to be disclosed in the reports filed under the Securities Exchange Act is accumulated and communicated to management, including the principal executive officer and principal financial officer as appropriate, to allow timely decisions regarding required disclosure.

As required by Commission rules, the Company has evaluated the effectiveness of the design and operation of its disclosure controls and procedures during the 90 days prior to the filing date of this quarterly report. This evaluation was carried out under the supervision and with the participation of management, including the principal executive officer and principal financial officer. Based on this evaluation, these officers have concluded that the design and operation of the Company's disclosure controls and procedures are effective. However, the Company continued to enhance disclosure controls and procedures during fiscal 2003 by formalizing certain policies and procedures, primarily those involving analyzing and reporting the financial results of its businesses. Because all disclosure procedures must rely to some degree on actions or decisions made by employees throughout the organization, such as reporting of material events, the Company believes that it cannot provide absolute assurance that all control issues and instances of fraud, if any, within the Company will be detected. Limitations within any control system, including the Company's control system, include faulty judgments in decision-making or simple errors or mistakes. In addition, controls can be circumvented by an individual, collusion between two or more people, or by management override of the control. Because of these limitations, misstatements due to error or fraud may occur and not be detected.

Internal controls are designed to provide reasonable assurances that: (a) transactions are executed in accordance with management's general or specific authorization; (b) transactions are recorded as necessary (i) to permit preparation of financial statements in conformity with accounting principles generally accepted in the United States or any other criteria applicable to such statements, and (ii) to maintain accountability for assets; (c) access to assets is permitted only in accordance with management's general or specific authorization; and (d) the recorded accountability for assets is compared with the existing assets at reasonable intervals and appropriate action is taken with respect to any differences. There were no significant changes in internal controls or in other factors that could significantly affect internal controls subsequent to the date they were evaluated. During the second quarter, the Company enhanced its internal controls by formalizing the review of certain judgments and estimates. The Company has an on-going process of reviewing internal controls and other risk areas, including a comprehensive assessment of internal controls utilizing its internal audit efforts, and changes to the internal control structure could result from that process.

PART II. OTHER INFORMATION

Item 1. *Legal Proceedings*

Acuity Brands is subject to various legal claims arising in the normal course of business, including patent infringement and product liability claims. Based on information currently available, it is the opinion of management that the ultimate resolution of pending and threatened legal proceedings will not have a material adverse effect on the financial condition or results of operations of Acuity Brands. However, in the event of unexpected future developments, it is possible that the ultimate resolution of such matters, if unfavorable, could have a material adverse effect on the results of operations of Acuity Brands in future periods. Acuity Brands establishes reserves for legal claims when payments associated with the claims become probable and the costs can be reasonably estimated. The actual costs of resolving legal claims may be substantially higher than the amounts reserved for such claims.

Acuity Brands is currently a defendant in a lawsuit that was filed by Genlyte Thomas Group LLC (“Genlyte Thomas”) on March 29, 2000, in the United States District Court, Western District of Kentucky. The lawsuit alleges that certain Lithonia Lighting® products (representing significantly less than 1 percent of total 2002 ALG sales) infringe a Genlyte Thomas patent claim. Genlyte Thomas is seeking an injunction and damages, including lost profits. Genlyte Thomas further alleges that the infringement is willful, and any damages awarded at trial may be multiplied by up to three times if willful infringement is found.

In discovery, which was substantially completed in August 2002, Genlyte Thomas submitted an expert report on its damages claim asserting that Genlyte Thomas has sustained approximately \$20 million in damages, including lost profits. The Company’s damage expert stated in his report that, assuming that the patent is valid, enforceable and infringed, total damages based on a reasonable royalty would be between \$1.6 million and \$2.4 million for the period 1994-2001. He does not believe that lost profits are an appropriate measure of damages.

The Company believes that the Genlyte Thomas patent claim is invalid and unenforceable. Therefore, the Company is continuing to defend vigorously the allegations, notwithstanding a recent ruling issued by the Court against the Company that certain Lithonia Lighting lighting fixtures infringe the patent (the issue of validity of the patent was not before the Court). The Company received a formal opinion from independent patent counsel that the patent is invalid because the claim at issue (a) was anticipated by at least one prior art reference and (b) was also obvious in view of a number of combinations of prior art references. During the Company’s second quarter ended February 28, 2003, the Court ruled against the Company on its anticipation defense. It is expected that the case, if it proceeds to trial, will not be heard until late calendar 2003 and will focus on the Company’s obviousness defense as it relates to the validity of the patent. The Company has reserved the expected defense costs for this litigation.

The Company has dismissed with prejudice the suit it filed against Genlyte Thomas on September 5, 2002, in the United States District Court, Northern District of Georgia, Atlanta division, alleging that certain Genlyte Thomas products infringe certain of the Company’s patents related to its Avante® direct/indirect lighting fixtures and its Paramax® 2PM3N Series fluorescent louvered troffer lighting fixtures.

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

None.

Item 6. *Exhibits and Reports on Form 8-K*

(a) Exhibits are listed on the Index to Exhibits (page 29).

(b) The Company filed Reports on Form 8-K as follows: on December 20, 2002 related to the Company’s first quarter 2003 earnings release; on March 12, 2003 related to the election of Robert F. McCullough to the Board of Directors; and on March 26, 2003 related to the Company’s second quarter 2003 earnings release.

SIGNATURES

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

DATE: April 14, 2003

ACUITY BRANDS, INC.
REGISTRANT

/s/ JAMES S. BALLOUN

JAMES S. BALLOUN
CHAIRMAN, PRESIDENT AND
CHIEF EXECUTIVE OFFICER

/s/ VERNON J. NAGEL

VERNON J. NAGEL
EXECUTIVE VICE PRESIDENT AND
CHIEF FINANCIAL OFFICER

DATE: April 14, 2003

CERTIFICATIONS

I, James S. Balloun, certify that:

1. I have reviewed this quarterly report on Form 10-Q of Acuity Brands, Inc.;
2. Based on my knowledge, this quarterly 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 quarterly report;
3. Based on my knowledge, the financial statements, and other financial information included in this quarterly 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 quarterly report;
4. The registrant's other certifying officers and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-14 and 15d-14) for the registrant and we have:
 - a) designed such disclosure controls and procedures 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 quarterly report is being prepared;
 - b) evaluated the effectiveness of the registrant's disclosure controls and procedures as of a date within 90 days prior to the filing date of this quarterly report (the "Evaluation Date"); and
 - c) presented in this quarterly report our conclusions about the effectiveness of the disclosure controls and procedures based on our evaluation as of the Evaluation Date;
5. The registrant's other certifying officers and I have disclosed, based on our most recent evaluation, to the registrant's auditors and the audit committee of registrant's board of directors (or persons performing the equivalent function):
 - a) all significant deficiencies in the design or operation of internal controls which could adversely affect the registrant's ability to record, process, summarize and report financial data and have identified for the registrant's auditors any material weaknesses in internal controls; and
 - b) any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal controls; and
6. The registrant's other certifying officers and I have indicated in this quarterly report whether or not there were significant changes in internal controls or in other factors that could significantly affect internal controls subsequent to the date of our most recent evaluation, including any corrective actions with regard to significant deficiencies and material weaknesses.

Date: April 14, 2003

/s/ JAMES S. BALLOUN

James S. Balloun
Chairman, President, and Chief Executive Officer

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I, Vernon J. Nagel, certify that:

1. I have reviewed this quarterly report on Form 10-Q of Acuity Brands, Inc.;
2. Based on my knowledge, this quarterly 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 quarterly report;
3. Based on my knowledge, the financial statements, and other financial information included in this quarterly 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 quarterly report;
4. The registrant's other certifying officers and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-14 and 15d-14) for the registrant and we have:
 - a) designed such disclosure controls and procedures 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 quarterly report is being prepared;
 - b) evaluated the effectiveness of the registrant's disclosure controls and procedures as of a date within 90 days prior to the filing date of this quarterly report (the "Evaluation Date"); and
 - c) presented in this quarterly report our conclusions about the effectiveness of the disclosure controls and procedures based on our evaluation as of the Evaluation Date;
5. The registrant's other certifying officers and I have disclosed, based on our most recent evaluation, to the registrant's auditors and the audit committee of registrant's board of directors (or persons performing the equivalent function):
 - a) all significant deficiencies in the design or operation of internal controls which could adversely affect the registrant's ability to record, process, summarize and report financial data and have identified for the registrant's auditors any material weaknesses in internal controls; and
 - b) any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal controls; and
6. The registrant's other certifying officers and I have indicated in this quarterly report whether or not there were significant changes in internal controls or in other factors that could significantly affect internal controls subsequent to the date of our most recent evaluation, including any corrective actions with regard to significant deficiencies and material weaknesses.

Date: April 14, 2003

/s/ VERNON J. NAGEL

Vernon J. Nagel
Executive Vice President and Chief Financial Officer

INDEX TO EXHIBITS

EXHIBIT 3	(a) Restated Certificate of Incorporation of Acuity Brands, Inc.	Reference is made to Exhibit 3.1 of registrant's Form 8-K as filed with the Commission on December 14, 2001, which is incorporated herein by reference.
	(b) Amended and Restated By-Laws of Acuity Brands, Inc.	Reference is made to Exhibit 3.2 of registrant's Form 8-K as filed with the Commission on December 14, 2001, which is incorporated herein by reference.
EXHIBIT 4	(a) Form of Certificate representing Acuity Brands, Inc. Common Stock	Reference is made to Exhibit 4.1 of registrant's Form 8-K as filed with the Commission on December 14, 2001, which is incorporated herein by reference.
	(b) Stockholder Protection Rights Agreement, dated as of November 12, 2001, between Acuity Brands, Inc. and Wells Fargo Bank Minnesota, N.A.	Reference is made to Exhibit 4.2 of registrant's Form 8-K as filed with the Commission on December 14, 2001, which is incorporated herein by reference.
	(c) First Supplemental Indenture, dated as of October 23, 2001, to Indenture dated January 26, 1999, between National Service Industries, Inc., L&C Spinco, Inc., L&C Lighting Group, Inc., The Zep Group, Inc. and SunTrust Bank.	Reference is made to Exhibit 10.10 of registrant's Form 8-K as filed with the Commission on December 14, 2001, which is incorporated herein by reference.
	(d) Indenture dated as of January 26, 1999.	Reference is made to Exhibit 10.11 to Amendment No. 2 to the Registration Statement on Form 10, filed by L&C Spinco, Inc. on September 6, 2001, which is incorporated herein by reference.
	(e) Form of 6 percent Note due February 1, 2009	Reference is made to Exhibit 10.12 to Amendment No. 2 to the Registration Statement on Form 10, filed by L&C Spinco, Inc. on September 6, 2001, which is incorporated herein by reference.
	(f) Form of 8.375 percent Note due August 1, 2010.	Reference is made to Exhibit 10.13 to Amendment No. 2 to the Registration Statement on Form 10, filed by L&C Spinco, Inc. on September 6, 2001, which is incorporated herein by reference.
EXHIBIT 10(i)A	(1) Amended and Restated 364-Day Revolving Credit Agreement dated as of April 4, 2003 among Acuity Brands, Inc., the Subsidiary Borrowers from time to time hereto, the Lenders from time to time parties hereto, Bank One, N.A., as Administrative Agent, and Wachovia Bank, N.A. as Syndication Agent	Filed with the Commission as part of this Form 10-Q.
	(2) Amendment No. 1 to 3-Year Revolving Credit Agreement	Filed with the Commission as part of this Form 10-Q.

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EXHIBIT 10(iii)A	(1)	Amended Acuity Brands, Inc. Management Compensation and Incentive Plan	Reference is made to Exhibit A of registrant's proxy statement for the Annual Meeting of Stockholders as filed with the Commission on November 12, 2002, which is incorporated herein by reference.
	(2)	Amendment No. 1 to Acuity Brands, Inc. Supplemental Retirement Plan for Executives	Filed with the Commission as part of this Form 10-Q.
	(3)	Acuity Brands, Inc. 2002 Supplemental Executive Retirement Plan	Filed with the Commission as part of this Form 10-Q.
EXHIBIT 99	(1)	Certification pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, signed by James S. Balloun.	Filed with the Commission as part of this Form 10-Q.
	(2)	Certification pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, signed by Vernon J. Nagel.	Filed with the Commission as part of this Form 10-Q.

AMENDED AND RESTATED 364-DAY REVOLVING CREDIT AGREEMENT

DATED AS OF APRIL 4, 2003

AMONG

ACUITY BRANDS, INC.,

**THE SUBSIDIARY BORROWERS
FROM TIME TO TIME PARTIES HERETO,**

THE LENDERS FROM TIME TO TIME PARTIES HERETO,

**BANK ONE, NA (MAIN OFFICE CHICAGO),
as Administrative Agent**

and

**WACHOVIA BANK, NATIONAL ASSOCIATION
as Syndication Agent**

**BANC ONE CAPITAL MARKETS, INC.,
as Lead Arranger and Sole Book Runner**

**SIDLEY AUSTIN BROWN & WOOD
Bank One Plaza
10 South Dearborn Street
Chicago, Illinois 60603**

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AMENDED AND RESTATED 364-DAY REVOLVING CREDIT AGREEMENT

This Amended and Restated 364-Day Revolving Credit Agreement, dated as of April 4, 2003, is entered into among ACUITY BRANDS, INC., a Delaware corporation, ACUITY LIGHTING GROUP, INC., a Delaware corporation, ACUITY SPECIALTY PRODUCTS GROUP, INC., a Delaware corporation, and one or more other Subsidiary Borrowers from time to time parties hereto (whether now existing or hereafter formed), the institutions from time to time parties hereto as Lenders (whether by execution of this Agreement or an assignment pursuant to Section 13.3), BANK ONE, NA, a national banking association having its principal office in Chicago, Illinois, as Administrative Agent and WACHOVIA BANK, NATIONAL ASSOCIATION, as Syndication Agent to amend and restate the Existing Credit Agreement (as defined herein) and, from and after the Effective Date, the Existing Credit Agreement is hereby amended and restated in its entirety. The parties hereto agree as follows:

ARTICLE I DEFINITIONS

1.1. **Certain Defined Terms.** As used in this Agreement:

“**Accounting Changes**” is defined in Section 10.8 hereof.

“**Acquisition**” means any transaction, or any series of related transactions, consummated on or after the Closing Date, by which the Company or any of its Subsidiaries (i) acquires any going business or all or substantially all of the assets of any firm, corporation or limited liability company, or division thereof, whether through purchase of assets, merger or otherwise or (ii) directly or indirectly acquires (in one transaction or as the most recent transaction in a series of transactions) at least a majority (in number of votes) of the securities of a corporation which have ordinary voting power for the election of directors (other than securities having such power only by reason of the happening of a contingency) or a majority (by percentage of voting power) of the outstanding ownership interests of a partnership, limited liability company or any Person.

“**Administrative Agent**” means Bank One in its capacity as contractual representative of the Lenders pursuant to Article XI, and not in its individual capacity as a Lender, and any successor Administrative Agent appointed pursuant to Article XI.

“**Advance**” means a borrowing hereunder consisting of the aggregate amount of several Revolving Loans (i) made by some or all of the Lenders on the same Borrowing Date, or (ii) converted or continued by the Lenders on the same date of conversion or continuation, consisting, in either case, of the aggregate amount of the several Revolving Loans of the same Type and, in the case of Eurodollar Loans, for the same Interest Period.

“**Affected Lender**” is defined in Section 2.20.

“**Affiliate**” of any Person means any other Person directly or indirectly controlling, controlled by or under common control with such Person. A Person shall be deemed to control another Person if the controlling Person is the “beneficial owner” (as defined in Rule 13d-3 under the Securities Exchange Act of 1934) of twenty percent (20%) or more of any class of

voting securities (or other voting interests) of the controlled Person or possesses, directly or indirectly, the power to direct or cause the direction of the management or policies of the controlled Person, whether through ownership of voting securities, by contract or otherwise.

“**Agent**” means any of the Administrative Agent or the Syndication Agent, as appropriate, and “**Agents**” means, collectively, the Administrative Agent and the Syndication Agent.

“**Aggregate Commitment**” means the aggregate of the Commitments of all the Lenders, as may be adjusted from time to time pursuant to the terms hereof. The initial Aggregate Commitment is Ninety Two Million Five Hundred Thousand and 00/100 Dollars (\$92,500,00).

“**Aggregate Outstanding Credit Exposure**” means, at any time, the aggregate of the Outstanding Credit Exposure of all the Lenders.

“**Agreement**” means this Amended and Restated 364-Day Revolving Credit Agreement, as it may be amended, restated, supplemented or otherwise modified and as in effect from time to time.

“**Agreement Accounting Principles**” means generally accepted accounting principles as in effect in the United States from time to time, applied in a manner consistent with that used in preparing the financial statements of the Company referred to in Section 5.4; *provided, however*, that except as provided in Section 10.8, with respect to the calculation of financial ratios and other financial tests required by this Agreement, “**Agreement Accounting Principles**” means generally accepted accounting principles as in effect in the United States as of the Closing Date, applied in a manner consistent with that used in preparing the financial statements of the Company referred to in Section 5.4 hereof.

“**Alternate Base Rate**” means, for any day, a fluctuating rate of interest per annum equal to the higher of (i) the Prime Rate for such day and (ii) the sum of (a) the Federal Funds Effective Rate for such day and (b) one-half of one percent (0.5%) per annum.

“**Applicable Facility Fee Rate**” means, at any time, the percentage rate per annum at which Facility Fees are accruing on the Aggregate Commitment at such time as set forth in the Pricing Schedule.

“**Applicable Margin**” means, with respect to Advances of any Type at any time, the percentage rate per annum which is applicable at such time with respect to Advances of such Type as set forth in the Pricing Schedule.

“**Applicable Utilization Fee Rate**” means, at any time, the percentage rate per annum at which Utilization Fees accrue on the Aggregate Outstanding Credit Exposure at such time as set forth in the Pricing Schedule.

“**Arranger**” means Banc One Capital Markets, Inc., a Delaware corporation, and its successors, in its capacity as Lead Arranger and Sole Book Runner.

“**Article**” means an article of this Agreement unless another document is specifically referenced.

“**Assignment Agreement**” is defined in Section 13.3.1.

“**Assumption Letter**” means a letter of a Subsidiary of the Company addressed to the Administrative Agent and the Lenders, and acknowledged by the Administrative Agent, in substantially the form of Exhibit I hereto, pursuant to which such Subsidiary agrees to become a “Subsidiary Borrower” and agrees to be bound by the terms and conditions hereof.

“**Authorized Officer**” means any of the chief executive officer, president, chief operating officer, chief financial officer, or treasurer of the Company, acting singly.

“**Available Aggregate Commitment**” means, at any time, the Aggregate Commitment then in effect minus the Aggregate Outstanding Credit Exposure at such time.

“**Bank One**” means Bank One, NA, a national banking association having its principal office in Chicago, Illinois, in its individual capacity, and its successors.

“**Borrower**” means, as applicable, any of the Company or any of the Subsidiary Borrowers, together with their respective permitted successors and assigns, and “**Borrowers**” means, collectively, the Company and the Subsidiary Borrowers.

“**Borrowing Date**” means a date on which an Advance is made hereunder.

“**Borrowing Notice**” is defined in Section 2.9.1.

“**Business Day**” means (i) with respect to any borrowing, payment or rate selection of Eurodollar Advances, a day (other than a Saturday or Sunday) on which banks generally are open in Chicago, Illinois for the conduct of substantially all of their commercial lending activities, interbank wire transfers can be made on the Fedwire system and dealings in Dollars are carried on in the London interbank market and (ii) for all other purposes, a day (other than a Saturday or Sunday) on which banks generally are open in Chicago, Illinois for the conduct of substantially all of their commercial lending activities and interbank wire transfers can be made on the Fedwire system.

“**Buying Lender**” is defined in Section 2.24.2.

“**Capitalized Lease**” of a Person means any lease of Property by such Person as lessee which would be capitalized on a balance sheet of such Person prepared in accordance with Agreement Accounting Principles.

“**Capitalized Lease Obligations**” of a Person means the amount of the obligations of such Person under Capitalized Leases which would be shown as a liability on a balance sheet of such Person prepared in accordance with Agreement Accounting Principles.

“**Capital Stock**” means (i) in the case of a corporation, corporate stock, (ii) in the case of an association or business entity, any and all shares, interests, participations, rights or other

equivalents (however designated) of corporate stock, (iii) in the case of a partnership, partnership interests (whether general or limited) and (iv) any other interest or participation that confers on a Person the right to receive a share of the profits and losses of, or distributions of assets of, the issuing Person.

“Cash Equivalent Investments” means, as to any Person, (i) securities issued or directly and fully guaranteed or insured by the United States or any agency or instrumentality thereof (*provided* that the full faith and credit of the United States is pledged in support thereof) having maturities of not more than one year from the date of acquisition, (ii) time deposits and certificates of deposit of any investment grade commercial bank having, or which is the principal banking subsidiary of an investment grade bank holding company organized under the laws of the United States, any State thereof, the District of Columbia or any foreign jurisdiction having capital, surplus and undivided profits aggregating in excess of \$500,000,000, with maturities of not more than one year from the date of acquisition by such Person, (iii) repurchase obligations with a term of not more than ninety (90) days for underlying securities of the types described in clause (i) above entered into with any bank meeting the qualifications specified in clause (ii) above, *provided* that such repurchase obligations are secured by a first priority security interest in such underlying securities which have, on the date of purchase thereof, a fair market value of at least 100% of the amount of the repurchase obligations, (iv) commercial paper issued by any Person incorporated in the United States rated at least A-1 by S&P or P-1 by Moody’s and in each case maturing not more than 270 days after the date of acquisition by such Person, (v) investments in money market funds substantially all of the assets of which are comprised of securities of the types described in clauses (i) through (iv) above, and (vi) demand deposit accounts maintained in the ordinary course of business.

“Change” is defined in Section 3.2.

“Change in Control” means (i) the acquisition by any Person, or two or more Persons acting in concert, of beneficial ownership (within the meaning of Rule 13d-3 of the Securities and Exchange Commission under the Securities Exchange Act of 1934), directly or indirectly, of thirty percent (30%) or more of the outstanding shares of voting stock of the Company; or (ii) the majority of the Board of Directors of the Company fails to consist of Continuing Directors.

“Closing Date” means April 8, 2002, which is the date of the Existing Credit Agreement.

“Code” means the Internal Revenue Code of 1986, as amended, reformed or otherwise modified from time to time, and any rule or regulation issued thereunder.

“Combined Balance Sheets” means the audited combined balance sheets of the Company and its Subsidiaries as of August 31, 2001, a copy of which is attached to the Form 10.

“Combined Commitment” means the sum of (i) the Aggregate Commitment hereunder plus (ii) the “Aggregate Commitment” under and as defined in the 3-Year Credit Agreement.

“Combined Utilized Amount” means, for any date, the sum of (i) the Aggregate Outstanding Credit Exposure as of such date, plus (ii) the “Aggregate Outstanding Credit Exposure” as of such date under (and as defined in) the 3-Year Credit Agreement.

“**Commitment**” means, for each Lender, the obligation of such Lender to make Revolving Loans to a Borrower in an aggregate amount not exceeding the amount set forth on the Commitment Schedule or in an Assignment Agreement executed pursuant to [Section 13.3](#), as it may be modified as a result of any assignment that has become effective pursuant to [Section 13.3.2](#) or as otherwise modified from time to time pursuant to the terms hereof.

“**Commitment Increase Notice**” is defined in [Section 2.24.1](#).

“**Commitment Schedule**” means the Schedule identifying each Lender’s Commitment as of the Effective Date attached hereto and identified as such.

“**Commitment Termination Date**” means the earlier to occur of (i) the Revolving Loan Termination Date, and (ii) the date the Aggregate Commitment is reduced to zero or otherwise terminated pursuant to the terms hereof, including, without limitation, pursuant to [Sections 2.3](#) and [2.6](#) and [Article VIII](#) hereof.

“**Company**” means Acuity Brands, Inc., a Delaware corporation, and its permitted successors and assigns (including, without limitation, a debtor-in-possession on its behalf).

“**Consolidated Net Income**” means, with reference to any period, the net after-tax income (or loss) of the Company and its Subsidiaries calculated on a consolidated basis for such period determined in accordance with Agreement Accounting Principles, excluding minority interests and including only dividends actually received by the Company from any entity which is not a Subsidiary.

“**Consolidated Net Worth**” means at any time the consolidated stockholders’ equity of the Company and its Subsidiaries calculated on a consolidated basis as of such time in accordance with Agreement Accounting Principles.

“**Consolidated Total Assets**” means the total amount of all assets of the Company and its consolidated Subsidiaries, and including amounts attributable to minority interests in Affiliates of the Company to the extent deducted in calculating the Consolidated Total Assets of the Company and its Subsidiaries but only to the extent such Affiliate shall be a Guarantor hereunder, calculated on a consolidated basis as of such time in accordance with Agreement Accounting Principles.

“**Continuing Director**” means, with respect to any Person as of any date of determination, any member of the board of directors of such Person who (i) was a member of such board of directors on the Closing Date, or (ii) was nominated for election or elected to such board of directors with the approval of the required majority of the Continuing Directors who were members of such board at the time of such nomination or election; *provided* that any individual who is so elected or nominated in connection with a merger, consolidation, acquisition or similar transaction shall not be a Continuing Director unless such individual was a Continuing Director prior thereto.

“**Contractual Obligation**” means, for any Person, any provision of any security issued by such Person or of any agreement, instrument or undertaking under which such Person is obligated or by which it or any of the property owned by it is bound.

“**Controlled Group**” means all members of a controlled group of corporations or other business entities and all trades or businesses (whether or not incorporated) under common control which, together with the Company or any of its Subsidiaries, are treated as a single employer under Section 414 of the Code.

“**Conversion/Continuation Notice**” is defined in [Section 2.10](#).

“**Credit Extension**” means the making of an Advance hereunder.

“**Credit Extension Date**” means the Borrowing Date for an Advance.

“**Default**” means an event described in [Article VII](#).

“**Designated Lender**” means, with respect to each Designating Lender, each Eligible Designee designated by such Designating Lender pursuant to [Section 13.1.2](#).

“**Designating Lender**” means, with respect to each Designated Lender, the Lender that designated such Designated Lender pursuant to [Section 13.1.2](#).

“**Designation Agreement**” is defined in [Section 13.1.2](#).

“**Disqualified Stock**” means any Capital Stock that, by its terms (or by the terms of any security into which it is convertible or for which it is exchangeable), or upon the happening of any event, matures or is mandatorily redeemable, pursuant to a sinking fund obligation or otherwise, or redeemable at the option of the holder thereof, in whole or in part, on or prior to the date that is ninety-one (91) days after the Revolving Loan Termination Date.

“**DOL**” means the United States Department of Labor and any successor department or agency.

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

“**Domestic Subsidiary**” means a Subsidiary of the Company organized under the laws of a jurisdiction located in the United States of America.

“**EBIT**” means, for any period for the Company and its consolidated Subsidiaries, the sum of the amounts for such period, without duplication, calculated in each case in accordance with Agreement Accounting Principles, of (i) Net Income, plus (ii) Interest Expense to the extent deducted in computing Net Income, plus (iii) charges against income for foreign, federal, state and local taxes to the extent deducted in computing Net Income, plus (iv) any other non-recurring non-cash charges to the extent deducted in computing Net Income, plus (v) non-cash expenses associated with the Company’s restricted stock program, minus (vi) any non-recurring non-cash credits to the extent added in computing Net Income.

“**EBITDA**” means, for any period for the Company and its consolidated Subsidiaries, the sum of the amounts for such period, without duplication, calculated in each case in accordance with Agreement Accounting Principles, of (i) EBIT, plus (ii) depreciation expense to the extent deducted in computing Net Income, plus (iii) amortization expense, including, without

limitation, amortization of goodwill and other intangible assets to the extent deducted in computing Net Income.

“**Effective Commitment Amount**” is defined in Section 2.24.1.

“**Effective Date**” means April 7, 2003.

“**Eligible Designee**” means a special purpose corporation, partnership, trust, limited partnership or limited liability company that is administered by a Lender or an Affiliate of a Lender and (i) is organized under the laws of the United States of America or any state thereof, (ii) is engaged primarily in making, purchasing or otherwise investing in commercial loans in the ordinary course of its business and (iii) issues (or the parent of which issues) commercial paper rated at least A-1 or the equivalent thereof by S&P or the equivalent thereof by Moody’s.

“**Environmental Laws**” means any and all federal, state, local and foreign statutes, laws, judicial decisions, regulations, ordinances, rules, judgments, orders, decrees, plans, injunctions, permits, concessions, grants, franchises, licenses, agreements and other governmental restrictions relating to (i) the protection of the environment, (ii) the effect of the environment on human health, (iii) emissions, discharges or releases of pollutants, contaminants, hazardous substances or wastes into surface water, ground water or land, or (iv) the manufacture, processing, distribution, use, treatment, storage, disposal, transport or handling of pollutants, contaminants, hazardous substances or wastes or the clean-up or other remediation thereof.

“**ERISA**” means the Employee Retirement Income Security Act of 1974, as amended from time to time, including (unless the context otherwise requires) any rules or regulations promulgated thereunder.

“**Eurodollar Advance**” means an Advance which, except as otherwise provided in Section 2.12, bears interest at a Eurodollar Rate requested by a Borrower pursuant to Sections 2.9 and 2.10.

“**Eurodollar Base Rate**” means, with respect to a Eurodollar Advance for the relevant Interest Period, the applicable British Bankers’ Association Interest Settlement Rate for deposits in Dollars appearing on Reuters Screen FRBD as of 11:00 a.m. (London time) two (2) Business Days prior to the first day of such Interest Period, and having a maturity equal to such Interest Period, *provided* that, (i) if Reuters Screen FRBD is not available to the Administrative Agent for any reason, the applicable Eurodollar Base Rate for the relevant Interest Period shall instead be the applicable British Bankers’ Association Interest Settlement Rate for deposits in Dollars as reported as of 11:00 a.m. (London time) two (2) Business Days prior to the first day of such Interest Period by any other generally recognized financial information service selected by the Administrative Agent, and having a maturity equal to such Interest Period, and (ii) if no such British Bankers’ Association Interest Settlement Rate is available to the Administrative Agent, the applicable Eurodollar Base Rate for the relevant Interest Period shall instead be the rate determined by the Administrative Agent to be the rate at which Bank One or one of its affiliate bank offers to place deposits in Dollars with first-class banks in the London interbank market at approximately 11:00 a.m. (London time) two (2) Business Days prior to the first day of such

Interest Period, in the approximate amount of Bank One's relevant Eurodollar Loan and having a maturity equal to such Interest Period.

"Eurodollar Loan" means a Revolving Loan which, except as otherwise provided in [Section 2.12](#), bears interest at a Eurodollar Rate requested by a Borrower pursuant to Sections [2.9](#) and [2.10](#).

"Eurodollar Rate" means, with respect to a Eurodollar Advance for the relevant Interest Period, the sum of (i) the quotient of (a) the Eurodollar Base Rate applicable to such Interest Period, *divided by* (b) one *minus* the Reserve Requirement (expressed as a decimal) applicable to such Interest Period, *plus* (ii) the then Applicable Margin, changing as and when the Applicable Margin changes.

"Excluded Taxes" means, in the case of each Lender or applicable Lending Installation and each Agent, taxes imposed on its overall net income, and franchise or branch office taxes imposed on it, by (i) the jurisdiction under the laws of which such Lender or Agent is incorporated or organized or any political combination or subdivision or taxing authority thereof or (ii) the jurisdiction in which such Agent's or Lender's principal executive office or such Lender's applicable Lending Installation is located or in which, other than as a result of the transaction evidenced by this Agreement, such Agent or Lender otherwise is, or at any time was, engaged in business (or any political combination or subdivision or taxing authority thereof).

"Exhibit" refers to an exhibit to this Agreement, unless another document is specifically referenced.

"Existing Credit Agreement" means that certain 364-Day Revolving Credit Agreement dated as of April 8, 2002 among the Borrowers, the lenders parties thereto, and Bank One, NA, as administrative agent, as the same has been amended, restated, supplemented or otherwise modified from time to time.

"Extension Request" is defined in [Section 2.23](#).

"Facility Fee" is defined in [Section 2.6.1](#).

"Federal Funds Effective Rate" means, for any day, an interest rate per annum equal to the weighted average of the rates on overnight Federal funds transactions with members of the Federal Reserve System arranged by Federal funds brokers on such day, as published for such day (or, if such day is not a Business Day, for the immediately preceding Business Day) by the Federal Reserve Bank of New York, or, if such rate is not so published for any day which is a Business Day, the average of the quotations at approximately 10:00 a.m. (Chicago time) on such day on such transactions received by the Administrative Agent from three Federal funds brokers of recognized standing selected by the Administrative Agent in its sole discretion.

"Financial Contract" of a Person means (i) any exchange-traded or over-the-counter futures, forward, swap or option contract or other financial instrument with similar characteristics or (ii) any agreements, devices or arrangements providing for payments related to fluctuations of interest rates, exchange rates, forward rates or commodity prices, including, but not limited to, interest rate swap or exchange agreements, forward currency exchange

agreements, interest rate cap or collar protection agreements, forward rate currency, interest rate options puts or warrants.

“**Floating Rate**” means, for any day, a rate per annum equal to the sum of (i) Alternate Base Rate for such day, changing when and as the Alternate Base Rate changes *plus* (ii) the then Applicable Margin, changing as and when the Applicable Margin changes.

“**Floating Rate Advance**” means an Advance which, except as otherwise provided in Section 2.12, bears interest at the Floating Rate.

“**Floating Rate Loan**” means a Revolving Loan or portion thereof, which, except as otherwise provided in Section 2.12, bears interest at the Floating Rate.

“**Foreign Pension Plan**” means any employee benefit plan as described in Section 3(3) of ERISA for which the Company or any member of its Controlled Group is a sponsor or administrator and which (i) is maintained or contributed to for the benefit of employees of the Company, any of its respective Subsidiaries or any member of its Controlled Group, (ii) is not covered by ERISA pursuant to Section 4(b)(4) of ERISA, and (iii) under applicable local law, is required to be funded through a trust or other funding vehicle.

“**Foreign Subsidiary**” means a Subsidiary of the Company which is not a Domestic Subsidiary.

“**Form 10**” means the Form 10 General Report for Registration of Securities Pursuant to Section 12(b) or 12(g) of the Securities Exchange Act of 1934 filed on July 3, 2001 by the Company (File No. 0001144215) with the Commission in connection with the Spin-Off, together with all exhibits and appendices thereto, as amended prior to the Closing Date.

“**Guarantor**” means the Company and each Material Subsidiary of the Company (other than an SPV) that is a Domestic Subsidiary as of the Closing Date and each other Subsidiary that has become a guarantor of the Obligations hereunder in accordance with the terms of Section 6.10.

“**Guaranty**” means that certain Guaranty (and any and all supplements thereto) executed from time to time by each Guarantor (other than the Company) in favor of the Administrative Agent for the benefit of itself and the Lenders, in substantially the form of Exhibit H attached hereto, as amended, restated, supplemented or otherwise modified from time to time.

“**Indebtedness**” of a Person means, without duplication, (a) Indebtedness For Borrowed Money and (b) any other obligation or other financial accommodation which in accordance with Agreement Accounting Principles would be shown as a liability on the consolidated balance sheet of such Person (other than current accounts payable arising in the ordinary course of such Person’s business payable on terms customary in the trade).

“**Indebtedness For Borrowed Money**” of a Person means, without duplication, (a) the obligations of such Person (i) for borrowed money or which has been incurred in connection with the acquisition of property or assets (other than current accounts payable arising in the ordinary course of such Person’s business payable on terms customary in the trade), (ii) under or

with respect to notes payable and drafts accepted which represent extensions of credit (whether or not representing obligations for borrowed money) to such Person, (iii) constituting reimbursement obligations with respect to letters of credit issued for the account of such Person or (iv) for the deferred purchase price of property or services (other than current accounts payable arising in the ordinary course of such Person's business payable on terms customary in the trade), (b) the Indebtedness For Borrowed Money of others, whether or not assumed, secured by Liens on property of such Person or payable out of the proceeds of, or production from, property or assets now or hereafter owned or acquired by such Person, (c) the Capitalized Lease Obligations of such Person, (d) the obligations of such Person under guaranties by such Person of any Indebtedness For Borrowed Money (other than obligations for borrowed money incurred to finance the purchase of property leased to such Person pursuant to a Capitalized Lease of such Person) of any other Person, (e) all Receivable Facility Attributed Indebtedness of such Person, (f) all Off-Balance Sheet Liabilities of such Person, and (g) all Disqualified Stock.

"Interest Expense" means, for any period for any group of Persons, the total gross interest expense of such group of Persons, whether paid or accrued, including, without duplication, the interest component of Capitalized Leases, commitment and letter of credit fees, the discount or implied interest component of Off-Balance Sheet Liabilities, capitalized interest expense, pay-in-kind interest expense, amortization of debt discount and net payments (if any) pursuant to Financial Contracts relating to interest rate protection, all as determined on a consolidated basis in conformity with Agreement Accounting Principles.

"Interest Expense Coverage Ratio" is defined in [Section 6.18.2](#).

"Interest Period" means, with respect to a Eurodollar Advance, a period of seven days or one, two, three or six months or such other period agreed to by the Lenders and the Borrowers, commencing on a Business Day selected by the applicable Borrower pursuant to this Agreement. Such Interest Period shall end on but exclude the day which corresponds numerically to such date seven days or one, two, three or six months or such other agreed upon period thereafter, *provided, however*, that if there is no such numerically corresponding day in such seventh day or next, second, third or sixth succeeding month or such other succeeding period, such Interest Period shall end on the last Business Day of such seventh day or next, second, third or sixth succeeding month or such other succeeding period. If an Interest Period would otherwise end on a day which is not a Business Day, such Interest Period shall end on the next succeeding Business Day, *provided, however*, that if said next succeeding Business Day falls in a new calendar month, such Interest Period shall end on the immediately preceding Business Day.

"IRS" means the United States Internal Revenue Service and any successor agency.

"Lenders" means the lending institutions listed on the signature pages of this Agreement and their respective successors and assigns.

"Lender Increase Notice" is defined in [Section 2.24.1](#).

"Lending Installation" means, with respect to a Lender or the Agents, the office, branch, subsidiary or affiliate of such Lender or Agent listed on the signature pages hereof, or on the

administrative information sheets provided to the Administrative Agent in connection herewith, or on a Schedule or otherwise selected by such Lender or Agent pursuant to [Section 2.18](#).

“**Leverage Ratio**” is defined in [Section 6.18.1](#).

“**Lien**” means any lien (statutory or other), mortgage, pledge, hypothecation, assignment, deposit arrangement, encumbrance or preference, priority or other security agreement or preferential arrangement of any kind or nature whatsoever (including, without limitation, the interest of a vendor or lessor under any conditional sale, Capitalized Lease or other title retention agreement, and, in the case of stock, stockholders agreements, voting trust agreements and all similar arrangements).

“**Loan Documents**” means this Agreement, the Guaranty, each Assumption Letter executed hereunder, and all other documents, instruments, notes (including any Notes issued pursuant to [Section 2.14](#) (if requested)) and agreements executed in connection herewith or therewith or contemplated hereby or thereby, as the same may be amended, restated or otherwise modified and in effect from time to time.

“**Material Adverse Effect**” means a material adverse effect on (i) the business, financial condition, operations or properties of the Company and its Subsidiaries taken as a whole, (ii) the ability of the Company or any of its Subsidiaries to perform its respective obligations under the Loan Documents to which it is a party, or (iii) the validity or enforceability of any of the Loan Documents or the rights or remedies of the Agents or the Lenders thereunder.

“**Material Indebtedness**” is defined in [Section 7.5](#).

“**Material Subsidiary**” means each Borrower (other than the Company) and any other Subsidiary of the Company that at any time has (i) assets with a total book value equal to or greater than five percent (5%) of the aggregate book value of the Consolidated Total Assets of the Company and its Subsidiaries or (ii) Consolidated Net Worth that is equal to or greater than five percent (5%) of the Consolidated Net Worth of the Company and its Subsidiaries, or (iii) assets that contributed five percent (5%) or more of the Company’s Consolidated Net Income, in each case as reported in the most recent annual audited financial statements delivered to the Lenders pursuant to [Section 6.1\(i\)](#) (or, prior to the delivery of the first of such annual audited financial statements, as reported in the Combined Balance Sheets).

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

“**Moody’s Rating**” is defined in the Pricing Schedule.

“**Multiemployer Plan**” means a Plan maintained pursuant to a collective bargaining agreement or any other arrangement to which the Company or any member of its Controlled Group is a party to which more than one employer is obligated to make contributions.

“**Net Income**” means, for any period for any group of Persons, the net earnings (or loss) after taxes of such group of Persons on a consolidated basis for such period taken as a single accounting period determined in conformity with Agreement Accounting Principles.

“**Non-U.S. Lender**” is defined in Section 3.5(iv).

“**Note**” is defined in Section 2.14.

“**NSI**” means National Service Industries, Inc., a Delaware corporation.

“**Obligations**” means all Revolving Loans, advances, debts, liabilities, obligations, covenants and duties owing by the Borrowers to any of the Agents, any Lender, the Arranger, any affiliate of the Agents, any Lender, the Arranger, or any indemnitee under the provisions of Section 10.6 or any other provisions of the Loan Documents, in each case of any kind or nature, present or future, arising under this Agreement or any other Loan Document, whether or not evidenced by any note, guaranty or other instrument, whether or not for the payment of money, whether arising by reason of an extension of credit, loan, foreign exchange risk, guaranty, indemnification, or in any other manner, whether direct or indirect (including those acquired by assignment), absolute or contingent, due or to become due, now existing or hereafter arising and however acquired. The term includes, without limitation, all interest, charges, expenses, fees, attorneys’ fees and disbursements, paralegals’ fees (in each case whether or not allowed), and any other sum chargeable to the Company or any of its Subsidiaries under this Agreement or any other Loan Document.

“**Off-Balance Sheet Liability**” of a Person means (i) Receivables Facility Attributed Indebtedness and any repurchase obligation or liability of such Person or any of its Subsidiaries with respect to Receivables or notes receivable sold by such Person or any of its Subsidiaries (calculated to include the unrecovered investment of purchasers or transferees of Receivables or any other obligation of the Company or such transferor to purchasers/transferees of interests in Receivables or notes receivable or the agent for such purchasers/transferees), (ii) any liability under any sale and leaseback transaction which is not a Capitalized Lease, (iii) any liability under any financing lease or Synthetic Lease or “tax ownership operating lease” transaction entered into by such Person, including any Synthetic Lease Obligations, or (iv) any 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 consolidated balance sheets of such Person, but excluding from this clause (iv) Operating Leases.

“**Operating Lease**” of a Person means any lease of Property (other than a Capitalized Lease) by such Person as lessee which has an original term (including any required renewals and any renewals effective at the option of the lessor) of one year or more.

“**Originator**” means the Company and/or any of its Subsidiaries in their respective capacities as parties to any Receivables Purchase Documents, as sellers or transferors of any Receivables and Related Security in connection with a Permitted Receivables Transfer.

“**Other Taxes**” is defined in Section 3.5(ii).

“**Outstanding Credit Exposure**” means, as to any Lender at any time, the aggregate principal amount of its Revolving Loans outstanding at such time.

“**Participants**” is defined in Section 13.2.1.

“**Payment Date**” means the last day of each March, June, September and December and the Commitment Termination Date.

“**PBGC**” means the Pension Benefit Guaranty Corporation, or any successor thereto.

“**Permitted Acquisition**” is defined in Section 6.12.2.

“**Permitted Liens**” means the Liens expressly permitted under clauses (i) through (xy) of Section 6.13.

“**Permitted Receivables Transfer**” means (i) a sale or other transfer by an Originator to a SPV of Receivables and Related Security for fair market value and without recourse (except for limited recourse typical of such structured finance transactions), and/or (ii) a sale or other transfer (including the grant of Liens) by a SPV to (a) purchasers of, lenders on or other investors in such Receivables and Related Security (or interests therein) or (b) any other Person (including a SPV) in a transaction in which purchasers or other investors purchase or are otherwise transferred such Receivables and Related Security (or interests therein including Liens), in each case pursuant to and in accordance with the terms of the Receivables Purchase Documents.

“**Permitted Refinancing Indebtedness**” means any replacement, renewal, refinancing or extension of any Indebtedness permitted by this Agreement that (i) does not exceed the aggregate principal amount (plus accrued interest and any applicable premium and associated fees and expenses) of the Indebtedness being replaced, renewed, refinanced or extended, (ii) does not have a Weighted Average Life to Maturity at the time of such replacement, renewal, refinancing or extension that is less than the Weighted Average Life to Maturity of the Indebtedness being replaced, renewed, refinanced or extended, and (iii) does not rank at the time of such replacement, renewal, refinancing or extension senior to the Indebtedness being replaced, renewed, refinanced or extended.

“**Person**” means any natural person, corporation, firm, joint venture, partnership, limited liability company, association, enterprise, trust or other entity or organization, or any government or political subdivision or any agency, department or instrumentality thereof.

“**Plan**” means an employee benefit plan which is covered by Title IV of ERISA or subject to the minimum funding standards under Section 412 of the Code as to which the Company or any member of its Controlled Group may have any liability.

“**Pricing Schedule**” means the Schedule identifying the Applicable Margin, Applicable Facility Fee Rate and Applicable Utilization Rate attached hereto identified as such.

“**Prime Rate**” means a rate per annum equal to the prime rate of interest announced from time to time by Bank One or its parent (which is not necessarily the lowest rate charged to any customer), changing when and as said prime rate changes.

“**Property**” of a Person means any and all property, whether real, personal, tangible, intangible, or mixed, of such Person, or other assets owned, leased or operated by such Person.

“**Proposed New Lender**” is defined in Section 2.24.1.

“Pro Rata Share” means, with respect to a Lender, a portion equal to a fraction the numerator of which is such Lender’s Commitment at such time (in each case, as adjusted from time to time in accordance with the provisions of this Agreement) and the denominator of which is the Aggregate Commitment at such time, or, if the Aggregate Commitment has been terminated, a fraction the numerator of which is such Lender’s Outstanding Credit Exposure at such time and the denominator of which is the sum of the Aggregate Outstanding Credit Exposure at such time.

“Purchase Price” means the total consideration and other amounts payable in connection with any Acquisition, including, without limitation, any portion of the consideration payable in cash, all Indebtedness, liabilities and contingent obligations incurred or assumed in connection with such Acquisition and all transaction costs and expenses incurred in connection with such Acquisition, but exclusive of the value of any Capital Stock or other equity interests of the Company or any Subsidiary issued as consideration for such Acquisition.

“Purchasers” is defined in Section 13.3.1.

“Receivable(s)” means and includes all of applicable Originator’s or SPV’s presently existing and hereafter arising or acquired accounts, accounts receivable, and all present and future rights of such Originator or SPV, as applicable, to payment for goods sold or leased or for services rendered (except those evidenced by instruments or chattel paper), whether or not they have been earned by performance, and all rights in any merchandise or goods which any of the same may represent, and all rights, title, security, contracts, books and records, and guaranties with respect to each of the foregoing, including, without limitation, any right of stoppage in transit.

“Receivables and Related Security” means the Receivables and the related security and collections with respect thereto which are sold or transferred by any Originator or SPV in connection with any Permitted Receivables Transfer.

“Receivables Facility Attributed Indebtedness” means the amount of obligations outstanding under a receivables purchase facility on any date of determination that would be characterized as principal if such facility were structured as a secured lending transaction rather than as a purchase.

“Receivables Facility Financing Costs” means such portion of the cash fees, service charges, and other costs, as well as all collections or other amounts retained by purchasers of receivables pursuant to a receivables purchase facility, which are in excess of amounts paid to the Company and its consolidated Subsidiaries under any receivables purchase facility for the purchase of receivables pursuant to such facility and are the equivalent of the interest component of the financing if the transaction were characterized as an on-balance sheet transaction.

“Receivables Purchase Documents” means any series of receivables purchase or sale, credit or servicing agreements generally consistent with terms contained in comparable structured finance transactions pursuant to which an Originator or Originators sell or transfer to SPVs all of their respective right, title and interest in and to certain Receivables and Related Security for further sale or transfer (or granting of Liens) to other purchasers of or investors in

such assets or interests therein (and the other documents, instruments and agreements executed in connection therewith), as any such agreements may be amended, restated, supplemented or otherwise modified from time to time, or any replacement or substitution therefor.

“Receivables Purchase Financing” means any financing consisting of a securitization facility made available to the Company or any of its consolidated Subsidiaries, whereby the Receivables and Related Security (or interests therein) of the Originators are transferred to one or more SPVs, and thereafter to certain investors (or are used as collateral to enable one or more SPVs to obtain loans from certain investors), pursuant to the terms and conditions of the Receivables Purchase Documents.

“Redeemable Preferred Stock” means, for any Person, any preferred stock issued by such Person which is at any time prior to the Commitment Termination Date either (i) mandatorily redeemable (by required sinking fund or similar payments or otherwise) or (ii) redeemable at the option of the holder thereof.

“Regulation D” means Regulation D of the Board of Governors of the Federal Reserve System as from time to time in effect and any successor thereto or other regulation or official interpretation of said Board of Governors relating to reserve requirements applicable to member banks of the Federal Reserve System.

“Regulation T” means Regulation T of the Board of Governors of the Federal Reserve System as from time to time in effect and any successor or other regulation or official interpretation of said Board of Governors relating to the extension of credit by and to brokers and dealers of securities for the purpose of purchasing or carrying margin stock (as defined therein).

“Regulation U” means Regulation U of the Board of Governors of the Federal Reserve System as from time to time in effect and any successor or other regulation or official interpretation of said Board of Governors relating to the extension of credit by banks, non-banks and non-broker lenders for the purpose of purchasing or carrying margin stocks applicable to member banks of the Federal Reserve System.

“Regulation X” means Regulation X of the Board of Governors of the Federal Reserve System as from time to time in effect and any successor or other regulation or official interpretation of said Board of Governors relating to the extension of credit by foreign lenders for the purpose of purchasing or carrying margin stock (as defined therein).

“Reportable Event” means a reportable event, as defined in Section 4043 of ERISA and the regulations issued under such section, with respect to a Plan, excluding, however, such events as to which the PBGC has by regulation or otherwise waived the requirement of Section 4043(a) of ERISA that it be notified within thirty (30) days of the occurrence of such event, *provided, however*, that a failure to meet the minimum funding standard of Section 412 of the Code and of Section 302 of ERISA shall be a Reportable Event regardless of the issuance of any such waiver of the notice requirement in accordance with either Section 4043(a) of ERISA or Section 412(d) of the Code.

“Required Lenders” means Lenders in the aggregate having fifty-one percent (51%) or more of the Aggregate Commitment or, if the Aggregate Commitment has been terminated,

Lenders in the aggregate holding fifty-one percent (51%) or more of the Aggregate Outstanding Credit Exposure.

“**Reserve Requirement**” means, with respect to an Interest Period, the maximum aggregate reserve requirement (including all basic, supplemental, marginal and other reserves) which is imposed under Regulation D on “Eurocurrency liabilities” (as defined in Regulation D).

“**Response Date**” is defined in [Section 2.23](#).

“**Revolving Loan**” means, with respect to a Lender, such Lender’s loan made pursuant to its commitment to lend set forth in [Section 2.1](#) (and any conversion or continuation thereof).

“**Revolving Loan Termination Date**” means April 2, 2004, or any later date as may be specified as the Revolving Loan Termination Date in accordance with [Section 2.23](#).

“**Risk Based Capital Guidelines**” is defined in [Section 3.2](#).

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

“**S&P Rating**” is defined in the Pricing Schedule.

“**Schedule**” refers to a specific schedule to this Agreement, unless another document is specifically referenced.

“**Section**” means a numbered section of this Agreement, unless another document is specifically referenced.

“**Selling Lender**” is defined in [Section 2.24.2](#).

“**Settlement Date**” is defined in [Section 2.24.2](#).

“**Single Employer Plan**” means a Plan maintained by the Company or any member of its Controlled Group for employees of the Company or any member of its Controlled Group.

“**Solvent**” means, when used with respect to any Person, that at the time of determination:

- (i) the fair value of its assets (both at fair valuation and at present fair saleable value) is equal to or in excess of the total amount of its liabilities, including, without limitation, contingent liabilities; and
- (ii) it is then able and expects to be able to pay its debts as they mature; and
- (iii) it has capital sufficient to carry on its business as conducted and as proposed to be conducted.

With respect to contingent liabilities (such as litigation, guarantees and pension plan liabilities), such liabilities shall be computed at the amount which, in light of all the facts and

circumstances existing at the time, represent the amount which can be reasonably be expected to become an actual or matured liability.

“**Spin-Off**” means the distribution by NSI to its stockholders in a tax-free transaction of all of the outstanding capital stock of the Company pursuant to which the Company became a separate publicly-held corporation owned directly by the stockholders of NSI to whom such distribution was made.

“**Spin-Off Transactions**” means the series of transactions contemplated by and described in the Form 10, including, but not limited to the Spin-Off.

“**SPV**” means any special purpose entity established for the purpose of purchasing receivables in connection with a Receivables Purchase Financing permitted under the terms of this Agreement.

“**Stockholders’ Equity**” means, at any time, the shareholders’ equity of the Company and its consolidated Subsidiaries, as set forth or reflected on the most recent consolidated balance sheet of the Company and its consolidated Subsidiaries delivered pursuant to Section 6.1(i) and (ii), as applicable, but excluding any Redeemable Preferred Stock of the Company or any of its consolidated Subsidiaries.

“**Subsidiary**” of a Person means (i) any corporation more than fifty percent (50%) of the outstanding securities having ordinary voting power of which shall at the time be owned or controlled, directly or indirectly, by such Person or by one or more of its Subsidiaries or by such Person and one or more of its Subsidiaries, or (ii) any partnership, limited liability company, association, joint venture or similar business organization more than fifty percent (50%) of the ownership interests having ordinary voting power of which shall at the time be so owned or controlled. Unless otherwise expressly provided, all references herein to a “Subsidiary” shall mean a Subsidiary of the Company.

“**Subsidiary Borrower**” means each of the Company’s Subsidiaries listed on Schedule 1.1, and any other Subsidiaries of the Company duly designated by the Company pursuant to Section 2.22 to request Credit Extensions hereunder, which Subsidiary shall have delivered to the Administrative Agent an Assumption Letter in accordance with Section 2.22 and such other documents as may be required pursuant to this Agreement, in each case, together with its respective successors and assigns, including a debtor-in-possession on behalf of such Subsidiary Borrower.

“**Substantial Portion**” means, with respect to the Property of the Company and its Subsidiaries, Property which (i) represents more than twenty percent (20%) of the consolidated assets of the Company and its Subsidiaries as would be shown in the consolidated financial statements of the Company and its Subsidiaries as at the end of the four fiscal quarter period ending with the fiscal quarter immediately prior to the fiscal quarter in which such determination is made, or (ii) is responsible for providing more than twenty percent (20%) of the Consolidated Net Income of the Company and its Subsidiaries as reflected in the financial statements referred to in clause (i) above.

“**Syndication Agent**” means Wachovia Bank, National Association in its capacity as the syndication agent for the Lenders pursuant to Article XI, and not in its individual capacity as a Lender, and any successor Syndication Agent appointed pursuant to Article XI.

“**Synthetic Lease**” means any so-called “synthetic”, off-balance sheet or tax retention lease, or any other agreement for the use or possession of property creating obligations that are not treated as a capital lease under Agreement Accounting Principles, but that is treated as a financing under the Code.

“**Synthetic Lease Obligations**” means, collectively, the payment obligations of the Company or any of its Subsidiaries pursuant to a Synthetic Lease.

“**Taxes**” means any and all present or future taxes, duties, levies, imposts, deductions, charges or withholdings, and any and all liabilities with respect to the foregoing, but *excluding* Excluded Taxes.

“**3-Year Credit Agreement**” means that certain 3-Year Revolving Credit Agreement, dated as of April 8, 2002, by and among the Company, the subsidiary borrowers parties thereto, the lenders parties thereto, and Bank One, NA, as administrative agent, as the same may be amended, restated, supplemented or otherwise modified and as in effect from time to time.

“**Transaction Documents**” means the Loan Documents and the documents executed and delivered by NSI, the Company or any of their respective Subsidiaries in connection with the Spin-Off, including, without limitation, the Form 10.

“**Transferee**” is defined in Section 13.4.

“**Type**” means, with respect to any Advance, its nature as a Floating Rate Advance or a Eurodollar Advance.

“**Unfunded Liabilities**” means the amount (if any) by which the present value of all vested and unvested accrued benefits under all Single Employer Plans exceeds the fair market value of all such Plan assets allocable to such benefits, all determined as of the then most recent valuation date for such Plans using PBGC actuarial assumptions for single employer plan terminations.

“**Unmatured Default**” means an event which but for the lapse of time or the giving of notice, or both, would constitute a Default.

“**Utilization Fee**” is defined in Section 2.6.2.

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

“**Wholly-Owned Subsidiary**” of a Person means (i) any Subsidiary all of the outstanding voting securities of which shall at the time be owned or controlled, directly or indirectly, by such Person or one or more Wholly-Owned Subsidiaries of such Person, or by such Person and one or more Wholly-Owned Subsidiaries of such Person, or (ii) any partnership, limited liability company, association, joint venture or similar business organization 100% of the ownership interests having ordinary voting power of which shall at the time be so owned or controlled; *provided* that in the case of clause (i) or (ii) above, there shall be excluded (x) directors’ qualifying shares, (y) nominal ownership interests in Foreign Subsidiaries required to be held by third parties under the laws of the foreign jurisdiction in which such Foreign Subsidiary is organized, or (z) Disqualified Stock or Redeemable Preferred Stock.

The foregoing definitions shall be equally applicable to both the singular and plural forms of the defined terms.

Any accounting terms used in this Agreement which are not specifically defined herein shall have the meanings customarily given them in accordance with Agreement Accounting Principles.

1.2. References. Any references to the Company’s Subsidiaries shall not in any way be construed as consent by the Administrative Agent or any Lender to the establishment, maintenance or acquisition of any Subsidiary, except as may otherwise be permitted hereunder. All representations and warranties made on and as of the Effective Date with respect to the Borrowers shall also be and be deemed to include a reference to the Borrowers after taking into effect the consummation of the Spin-Off.

1.3. Supplemental Disclosure. At any time at the reasonable request of the Administrative Agent (which shall not be done more frequently than on a quarterly basis in the absence of a Default) and at such additional times as the Company determines, the Company shall supplement each schedule or representation herein or in the other Loan Documents with respect to any matter hereafter arising which, if existing or occurring at the Effective Date, would have been required to be set forth as an exception to such representation or which is necessary to correct any information in such representation which has been rendered materially inaccurate thereby. Notwithstanding that any such supplement to such representation may disclose the existence or occurrence of events, facts or circumstances which are either prohibited by the terms of this Agreement or any other Loan Documents or which result in the material breach of any representation or warranty, such supplement to such representation shall not be deemed either an amendment thereof or a waiver of such breach unless expressly consented to in writing by Administrative Agent and the requisite number of Lenders under Section 8.2, and no such amendments, except as the same may be consented to in a writing which expressly includes a waiver, shall be or be deemed a waiver by the Administrative Agent or any Lender of any Default disclosed therein. Any items disclosed in any such supplemental disclosures shall be included in the calculation of any limits, baskets or similar restrictions contained in this Agreement or any of the other Loan Documents.

ARTICLE II
THE CREDITS

2.1. Commitment. From and including the Effective Date and prior to the Commitment Termination Date, upon the satisfaction of the conditions precedent set forth in Section 4.1, 4.2 and 4.3, as applicable, each Lender severally and not jointly agrees, on the terms and conditions set forth in this Agreement, to make Revolving Loans to the Borrowers in Dollars from time to time in amounts not to exceed in the aggregate at any one time outstanding of its Pro Rata Share of the Available Aggregate Commitment; *provided* that at no time shall the Aggregate Outstanding Credit Exposure hereunder exceed the Aggregate Commitment. Subject to the terms of this Agreement, the Borrowers may borrow, repay and reborrow Revolving Loans at any time prior to the Commitment Termination Date. The Commitments to lend hereunder shall expire automatically on the Commitment Termination Date.

2.2. [Reserved].

2.3. Required Payments; Termination.

2.3.1. Required Payments. This Agreement shall be effective until the Commitment Termination Date. Any outstanding Advances and all other unpaid Obligations shall be paid in full by the Borrowers on the Commitment Termination Date.

2.3.2. Termination. Notwithstanding the termination of this Agreement on the Commitment Termination Date, until all of the Obligations (other than contingent indemnity obligations) shall have been fully paid and satisfied and all financing arrangements among the Borrowers and the Lenders hereunder and under the other Loan Documents shall have been terminated, all of the rights and remedies under this Agreement and the other Loan Documents shall survive and the Administrative Agent shall be entitled to retain its security interest in and to all existing and future collateral (if any).

2.4. Revolving Loans. Each Advance hereunder shall consist of Revolving Loans made from the several Lenders ratably in proportion to the ratio that their respective Commitments bear to the Aggregate Commitment.

2.5. Types of Advances. The Advances may be Revolving Loans consisting of Floating Rate Advances or Eurodollar Advances, or a combination thereof, selected by the applicable Borrower in accordance with Sections 2.9 and 2.10.

2.6. Facility Fee; Utilization Fee; Reductions in Aggregate Commitment.

2.6.1. Facility Fee. The Borrowers agree to pay to the Administrative Agent for the account of each Lender a facility fee (the “**Facility Fee**”) at a per annum rate equal to the Applicable Facility Fee Rate on the average daily amount of such Lender’s Commitment (regardless of usage) (or, from and after the Commitment Termination Date, such Lender’s average daily Outstanding Credit Exposure) from and including the Effective Date to and including the date on which this Agreement is terminated in full and all Obligations hereunder

have been paid in full pursuant to Section 2.3, payable quarterly in arrears on each Payment Date hereafter and until all Obligations hereunder have been paid in full.

2.6.2. Utilization Fee. If the Combined Utilized Amount exceeds thirty-three and one-third percent (33 1/3%) of the Combined Commitment hereunder (or, if all or any part of the Combined Commitment has been terminated, the Combined Commitment in effect immediately prior to such termination), the Borrowers will pay to the Administrative Agent for the ratable benefit of the Lenders a utilization fee (the "Utilization Fee") at a per annum rate equal to the Applicable Utilization Fee Rate on the Aggregate Outstanding Credit Exposure on such date, payable quarterly in arrears on each Payment Date and on the date this Agreement is terminated in full and all Obligations hereunder have been paid in full pursuant to Section 2.3.

2.6.3. Reductions in Aggregate Commitment. The Borrowers may permanently reduce the Aggregate Commitment in whole, or in part ratably among the Lenders in a minimum amount of \$5,000,000 (and in multiples of \$1,000,000 if in excess thereof), upon at least three (3) Business Days' prior written notice to the Administrative Agent of such reduction, which notice shall specify the amount of any such reduction; *provided, however*, that the amount of the Aggregate Commitment may not be reduced below the Aggregate Outstanding Credit Exposure. All accrued Facility Fees shall be payable on the effective date of any termination of all or any part of the obligations of the Lenders to make Credit Extensions hereunder.

2.7. Minimum Amount of Each Advance. Each Eurodollar Advance shall be in the minimum amount of \$5,000,000 (and in multiples of \$1,000,000 if in excess thereof), and each Floating Rate Advance shall be in the minimum amount of \$1,000,000 (and in multiples of \$250,000 if in excess thereof), *provided, however*, that any Floating Rate Advance may be in the amount of the Available Aggregate Commitment.

2.8. Optional Principal Payments. The Borrowers may from time to time pay, without penalty or premium, all outstanding Floating Rate Advances, or any portion of the outstanding Floating Rate Advances, in a minimum aggregate amount of \$1,000,000 or any integral multiple of \$250,000 in excess thereof, upon prior notice to the Administrative Agent at or before 12:00 noon (Chicago time) one (1) Business Day prior to the date of such payment. The Borrowers may from time to time pay, subject to the payment of any funding indemnification amounts required by Section 3.4 but without penalty or premium, all outstanding Eurodollar Advances, or, in a minimum aggregate amount of \$5,000,000 or any integral multiple of \$1,000,000 in excess thereof, any portion of the outstanding Eurodollar Advances upon five (5) Business Days' prior notice to the Administrative Agent.

2.9. Method of Selecting Types and Interest Periods for New Advances.

2.9.1. Method of Selecting Types and Interest Periods for New Advances. The applicable Borrower shall select the Type of Advance and, in the case of each Eurodollar Advance, the Interest Period applicable thereto from time to time; *provided* that there shall be no more than ten (10) Interest Periods in effect with respect to all of the Revolving Loans at any time, unless such limit has been waived by the Administrative Agent in its sole discretion. The applicable Borrower shall give the Administrative Agent irrevocable notice (a "Borrowing Notice") not later than 10:00 a.m. (Chicago time) on the Borrowing Date of each Floating Rate

Advance, and three (3) Business Days before the Borrowing Date for each Eurodollar Advance, specifying:

- (i) the Borrowing Date, which shall be a Business Day, of such Advance,
- (ii) the aggregate amount of such Advance,
- (iii) the Type of Advance selected, and
- (iv) in the case of each Eurodollar Advance, the Interest Period applicable thereto.

2.9.2. Method of Borrowing. On each Borrowing Date, each Lender shall make available its Revolving Loan or Revolving Loans, if any, not later than noon, Chicago time, in Federal or other funds immediately available to the Administrative Agent, in Chicago, Illinois at its address specified in or pursuant to Article XIV. Unless the Administrative Agent determines that any applicable condition specified in Article IV has not been satisfied, the Administrative Agent will make the funds so received from the Lenders available to the applicable Borrower at the Administrative Agent's aforesaid address by not later than 2:30 p.m. (Chicago time). Notwithstanding the foregoing provisions of this Section 2.9.2, to the extent that a Revolving Loan made by a Lender matures on the Borrowing Date of a requested Revolving Loan, such Lender shall apply the proceeds of the Revolving Loan it is then making to the repayment of principal of the maturing Revolving Loan.

2.10. Conversion and Continuation of Outstanding Advances; No Conversion or Continuation of Eurodollar Advances After Default. Floating Rate Advances shall continue as Floating Rate Advances unless and until such Floating Rate Advances are converted into Eurodollar Advances pursuant to this Section 2.10 or are repaid in accordance with Section 2.8. Each Eurodollar Advance shall continue as a Eurodollar Advance until the end of the then applicable Interest Period therefor, at which time such Eurodollar Advance shall be automatically converted into a Floating Rate Advance unless (x) such Eurodollar Advance is or was repaid in accordance with Section 2.8 or (y) the applicable Borrower shall have given the Administrative Agent a Conversion/Continuation Notice (as defined below) requesting that, at the end of such Interest Period, such Eurodollar Advance continue as a Eurodollar Advance for the same or another Interest Period or be converted into a Floating Rate Advance. Subject to the terms of Section 2.7, the Borrowers may elect from time to time to convert all or any part of an Advance of any Type into any other Type or Types of Advances; *provided* that any conversion of any Eurodollar Advance shall be made on, and only on, the last day of the Interest Period applicable thereto. Notwithstanding anything to the contrary contained in this Section 2.10, no Advance may be converted or continued as a Eurodollar Advance (except with the consent of the Required Lenders) when any Default or Unmatured Default is continuing. The applicable Borrower shall give the Administrative Agent irrevocable notice (a "**Conversion/Continuation Notice**") of each conversion of an Advance or continuation of a Eurodollar Advance not later than 10:00 a.m. (Chicago time) at least one (1) Business Day, in the case of a conversion into a Floating Rate Advance, or three (3) Business Days, in the case of a conversion into or continuation of a Eurodollar Advance, prior to the date of the requested conversion or continuation, specifying:

- (i) the requested date, which shall be a Business Day, of such conversion or continuation,
- (ii) the aggregate amount and Type of the Advance which is to be converted or continued, and
- (iii) the amount of such Advance which is to be converted into or continued as a Eurodollar Advance and the duration of the Interest Period applicable thereto.

Promptly after receipt of any Conversion/Continuation Notice, the Administrative Agent shall provide the Lenders with notice thereof.

2.11. Changes in Interest Rate, etc. Each Floating Rate Advance shall bear interest on the outstanding principal amount thereof, for each day from and including the date such Advance is made or is automatically converted from a Eurodollar Advance into a Floating Rate Advance pursuant to Section 2.10, to but excluding the date it is paid or is converted into a Eurodollar Advance pursuant to Section 2.10 hereof, at a rate per annum equal to the Floating Rate for such day. Changes in the rate of interest on that portion of any Advance maintained as a Floating Rate Advance will take effect simultaneously with each change in the Alternate Base Rate. Each Eurodollar Advance shall bear interest on the outstanding principal amount thereof from and including the first day of the Interest Period applicable thereto to (but not including) the last day of such Interest Period at the interest rate determined by the Administrative Agent as applicable to such Eurodollar Advance based upon the applicable Borrower's selections under Sections 2.9 and 2.10 and otherwise in accordance with the terms hereof. No Interest Period may end after the Revolving Loan Termination Date.

2.12. Rates Applicable After Default. During the continuance of a Default (including the Borrowers' failure to pay any Revolving Loan at maturity) the Required Lenders may, at their option, by notice to the Borrowers (which notice may be revoked at the option of the Required Lenders notwithstanding any provision of Section 8.2 requiring unanimous consent of the Lenders to changes in interest rates), declare that the Advances, all fees or any other Obligations hereunder shall bear interest at the Floating Rate *plus* 2% per annum, *provided* that, during the continuance of a Default under Section 7.6 or 7.7, such interest rate set forth above shall be applicable to all Credit Extensions, Advances, fees and other Obligations hereunder without any election or action on the part of the Administrative Agent or any Lender.

2.13. Method of Payment. All payments of the Obligations hereunder shall be made, without setoff, deduction, or counterclaim, in immediately available funds to the Administrative Agent at the Administrative Agent's address specified pursuant to Article XIV, or at any other Lending Installation of the Administrative Agent specified in writing by the Administrative Agent to the Company, by 12:00 noon (Chicago time) on the date when due and shall be applied ratably by the Administrative Agent among the Lenders. Each payment delivered to the Administrative Agent for the account of any Lender shall be delivered promptly by the Administrative Agent to such Lender in the same type of funds that the Administrative Agent received at such Lender's address specified pursuant to Article XIV or at any Lending Installation specified in a notice received by the Administrative Agent from such Lender. The Administrative Agent is hereby authorized to charge the account of the Borrowers maintained

with Bank One or any of its Affiliates for each payment of principal, interest and fees as it becomes due hereunder.

2.14. Noteless Agreement; Evidence of Indebtedness.

(i) 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 Revolving Loan made by such Lender from time to time, including the amounts of principal and interest payable and paid to such Lender from time to time hereunder.

(ii) The Administrative Agent shall also maintain accounts in which it will record (a) the date and the amount of each Revolving Loan made hereunder and Type thereof and the Interest Period, if any, applicable thereto, (b) the amount of any principal or interest due and payable or to become due and payable from any Borrower to each Lender hereunder, (c) the effective date and amount of each Assignment Agreement delivered to and accepted by it and the parties thereto pursuant to Section 13.3, (d) the amount of any sum received by the Administrative Agent hereunder from the Borrowers and each Lender's share thereof, and (e) all other appropriate debits and credits as provided in this Agreement, including, without limitation, all fees, charges, expenses and interest.

(iii) Subject to Section 13.3.3, the entries maintained in the accounts maintained pursuant to clauses (i) and (ii) above shall be *prima facie* evidence of the existence and amounts of the Obligations therein recorded in the absence of manifest error; *provided, however*, that the failure of the Administrative Agent or any Lender to maintain such accounts or any error therein shall not in any manner affect the obligation of the Borrowers to repay the Obligations in accordance with their terms.

(iv) Any Lender may request that its Revolving Loans be evidenced by a promissory note representing its Revolving Loans substantially in the form of Exhibit E (each, a "**Note**"). In such event, the Borrowers shall prepare, execute and deliver to such Lender such Note or Notes payable to the order of such Lender. Thereafter, the Revolving Loans evidenced by each such Note and interest thereon shall at all times (including after any assignment pursuant to Section 13.3) be represented by one or more Notes payable to the order of the payee named therein or any assignee pursuant to Section 13.3, except to the extent that any such Lender or assignee subsequently returns any such Note for cancellation and requests that such Revolving Loans once again be evidenced as described in clauses (i) and (ii) above.

2.15. Telephonic Notices. The Borrowers hereby authorize the Lenders and the Administrative Agent to extend, convert or continue Advances, effect selections of Types of Advances and transfer funds based on telephonic notices made by any person or persons the Administrative Agent or any Lender in good faith believes to be acting on behalf of a Borrower, it being understood that the foregoing authorization is specifically intended to allow Borrowing Notices and Conversion/Continuation Notices to be given telephonically. The Borrowers agree to deliver promptly to the Administrative Agent a written confirmation, signed by an Authorized Officer, if such confirmation is requested by the Administrative Agent or any Lender, of each telephonic notice. If the written confirmation differs in any material respect from the action

taken by the Administrative Agent and the Lenders, the records of the Administrative Agent and the Lenders shall govern absent manifest error.

2.16. Interest Payment Dates; Interest and Fee Basis. Interest accrued on each Floating Rate Advance shall be payable in arrears on each Payment Date, commencing with the first such date to occur after the Effective Date, on any date on which the Floating Rate Advance is prepaid, whether due to acceleration or otherwise, and at maturity. Interest accrued on that portion of the outstanding principal amount of any Floating Rate Advance converted into a Eurodollar Advance on a day other than a Payment Date shall be payable on the date of conversion. Interest accrued on each Eurodollar Advance shall be payable on the last day of its applicable Interest Period, on any date on which the Eurodollar Advance is prepaid, whether by acceleration or otherwise, and at maturity; *provided*, that interest accrued on each Eurodollar Advance having an Interest Period longer than three (3) months shall also be payable on the last day of each three-month interval during such Interest Period. Interest on Eurodollar Advances, Facility Fees and Utilization Fees shall be calculated for actual days elapsed on the basis of a 360-day year; interest on Floating Rate Advances shall be calculated for actual days elapsed on the basis of a 365/366-day year. Interest shall be payable for the day an Advance is made but not for the day of any payment on the amount paid if payment is received prior to 12:00 noon (Chicago time) at the place of payment. If any payment of principal of or interest on an Advance, any fees or any other amounts payable to any Agent or any Lender hereunder shall become due on a day which is not a Business Day, such payment shall be made on the next succeeding Business Day and, in the case of a principal payment, such extension of time shall be included in computing interest, fees and commissions in connection with such payment.

2.17. Notification of Advances, Interest Rates, Prepayments and Commitment Reductions. Promptly after receipt thereof, the Administrative Agent will notify each Lender of the contents of each Aggregate Commitment reduction notice, Borrowing Notice, Conversion/Continuation Notice, and repayment notice received by it hereunder. The Administrative Agent will notify each Lender of the interest rate applicable to each Eurodollar Advance promptly upon determination of such interest rate and will give each Lender prompt notice of each change in the Alternate Base Rate.

2.18. Lending Installations. Subject to the provisions of Section 3.6, each Lender may book its Revolving Loans at any Lending Installation selected by such Lender, and may change its Lending Installation from time to time. All terms of this Agreement shall apply to any such Lending Installation and the Revolving Loans and any Notes issued hereunder shall be deemed held by each Lender for the benefit of any such Lending Installation. Subject to the provisions of Section 3.6, each Lender may, by written notice to the Administrative Agent and the Company in accordance with Article XIV, designate replacement or additional Lending Installations through which Revolving Loans will be made by it and for whose account Revolving Loan payments are to be made.

2.19. Non-Receipt of Funds by the Administrative Agent. Unless a Borrower or a Lender, as the case may be, notifies the Administrative Agent prior to the time on which it is scheduled to make payment to the Administrative Agent of (i) in the case of a Lender, the proceeds of a Revolving Loan or (ii) in the case of a Borrower, a payment of principal, interest or fees to the Administrative Agent for the account of the Lenders, that it does not intend to make

such payment, the Administrative Agent may assume that such payment has been made. The Administrative Agent may, but shall not be obligated to, make the amount of such payment available to the intended recipient in reliance upon such assumption. If such Lender or Borrower, as the case may be, has not in fact made such payment to the Administrative Agent, the recipient of such payment shall, on demand by the Administrative Agent, repay to the Administrative Agent the amount so made available together with interest thereon in respect of each day during the period commencing on the date such amount was so made available by the Administrative Agent until the date the Administrative Agent recovers such amount at a rate per annum equal to (x) in the case of payment by a Lender, the Federal Funds Effective Rate for such day for the first three (3) days and, thereafter, the interest rate applicable to the relevant Revolving Loan or (y) in the case of payment by a Borrower, the interest rate applicable to the relevant Revolving Loan, including the interest rate applicable pursuant to Section 2.12.

2.20. Replacement of Lender. The Borrowers shall have the right, in their sole discretion, at any time and from time to time to terminate or replace the Commitment of any Lender (an "**Affected Lender**"), in whole, upon at least thirty (30) days' prior notice to the Administrative Agent and such Lender, (a) if such Lender has failed or refused to make available the full amount of any Revolving Loans as required by its Commitment hereunder, (b) if such Lender has been merged or consolidated with, or transferred all or substantially all of its assets to, or otherwise been acquired by any other Person, or (c) if such Lender has demanded that the Borrowers make any additional payment to any Lender pursuant to Section 3.1, 3.2 or 3.5, or if such Lender's obligation to make or continue, or convert Floating Rate Advances into, Eurodollar Advances has been suspended pursuant to Section 3.3; *provided, however* that no such Commitment termination shall reduce the Aggregate Commitment by more than fifteen percent (15%) thereof; *provided further*, that no Default or Unmatured Default shall have occurred and be continuing at the time of such termination or replacement, and that, concurrently with such termination or replacement, (i) if the Affected Lender is being replaced, 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 Advances and other Obligations due to the Affected Lender pursuant to an Assignment Agreement substantially in the form of Exhibit C and to become a Lender for all purposes under this Agreement and to assume all obligations of the Affected Lender to be terminated as of such date and to comply with the requirements of Section 13.3 applicable to assignments, (ii) the Borrowers shall pay to such Affected Lender in immediately available funds on the day of such replacement (A) all interest, fees and other amounts then accrued but unpaid to such Affected Lender by the Borrowers hereunder to and including the date of termination, including without limitation payments due to such Affected Lender under Sections 3.1, 3.2 and 3.5, to the extent applicable, and (B) an amount, if any, equal to the payment which would have been due to such Lender on the day of such replacement under Section 3.4 had the Revolving Loans of such Affected Lender been prepaid on such date rather than sold to the replacement Lender, and (iii) if the Affected Lender is being terminated, the Borrowers shall pay to such Affected Lender all Obligations due to such Affected Lender (including the amounts described in the immediately preceding clauses (i) and (ii) plus the outstanding principal balance of such Affected Lender's Credit Extensions).

2.21. [Reserved].

2.22. Subsidiary Borrowers. The Company may at any time or from time to time, add as a party to this Agreement any Wholly-Owned Subsidiary to be a Subsidiary Borrower hereunder by the execution and delivery to the Administrative Agent and the Lenders of (a) a duly completed Assumption Letter by such Subsidiary, with the written consent of the Borrowers at the foot thereof, (b) such guaranty and subordinated intercompany indebtedness documents and, if applicable, security documents as may be reasonably required by the Administrative Agent and such other opinions, agreements, documents, certificates or other items as may be required by Section 4.3, such documents with respect to any additional Subsidiaries to be substantially similar in form and substance to the Loan Documents executed on or about the date hereof by the Subsidiaries parties hereto as of the Effective Date. No Foreign Subsidiary may be a Subsidiary Borrower. Upon such execution, delivery and consent such Subsidiary shall for all purposes be a party hereto as a Subsidiary Borrower as fully as if it had executed and delivered this Agreement. So long as the principal of and interest on any Credit Extensions made to any Subsidiary Borrower under this Agreement shall have been repaid or paid in full and all other Obligations (other than contingent indemnity obligations) of such Subsidiary Borrower under this Agreement shall have been fully performed, the Company may, by not less than five (5) Business Days' prior notice to the Administrative Agent (which shall promptly notify the Lenders thereof), terminate such Subsidiary Borrower's status as a "Subsidiary Borrower" or "Borrower," and such Subsidiary Borrower shall be released from any future liability (other than contingent indemnity obligations) as a "Subsidiary Borrower" or "Borrower" hereunder or under the other Loan Documents. The Administrative Agent shall give the Lenders written of the addition of any Subsidiary Borrowers to this Agreement.

2.23. Extension of Revolving Loan Termination Date. The Company, on behalf of all of the Borrowers, may request extensions of the Revolving Loan Termination Date by submitting a request for an extension to the Administrative Agent (each, an "**Extension Request**") no more than sixty (60) and no less than forty-five (45) days prior to the then effective Revolving Loan Termination Date, which Extension Request shall specify (i) the new Revolving Loan Termination Date requested by the Borrowers, which new Revolving Loan Termination Date shall be a date not later than 364 days after the then current Revolving Loan Termination Date and (ii) the date (which must be not more than thirty (30) days nor less than fifteen (15) days prior to the then effective Revolving Loan Termination Date) as of which the Lenders must respond to the Extension Request (the "**Response Date**"). Promptly upon receipt of an Extension Request, the Administrative Agent shall notify each Lender thereof and shall request each Lender to approve the Extension Request. Each Lender approving the Extension Request shall deliver its written consent no later than the Response Date (and the failure to provide such written consent by such date shall be deemed to be a decision not to extend). The Commitment of each Lender that declines to extend with respect to the Aggregate Commitment may, at the option of the Company, be replaced in accordance with Section 13.3 (but only to the extent a replacement Lender is then available) or the Aggregate Commitment reduced. All Obligations due to each Lender that declines to extend its Commitment under this Section 2.23 shall be paid in full by the Borrowers to the Administrative Agent for the account of each such Lender on the then effective Revolving Loan Termination Date (without giving effect to any such requested extension thereto). The Required Lenders and the Borrowers must agree to any extension with respect to the Revolving Loan Termination Date for any such extension to become effective, and the Administrative Agent shall promptly notify the Borrowers and each Lender of any new Revolving Loan Termination Date.

2.24. Increase of Commitments.

(i) At any time prior to the Commitment Termination Date, the Company may request that the Aggregate Commitment be increased; *provided* that, without the prior written consent of all of the Lenders, (a) the Aggregate Commitment shall at no time exceed \$145,000,000 minus the aggregate amount of all reductions in the Aggregate Commitment previously made pursuant to Section 2.6.3; (b) the Combined Commitment shall at no time exceed \$250,000,000; and (c) each such request shall be in a minimum amount of at least \$25,000,000 and increments of \$5,000,000 in excess thereof. Such request shall be made in a written notice given to the Administrative Agent and the Lenders by the Company not less than twenty (20) Business Days prior to the proposed effective date of such increase, which notice (a **“Commitment Increase Notice”**) shall specify the amount of the proposed increase in the Aggregate Commitment and the proposed effective date of such increase. In the event of such a Commitment Increase Notice, each of the Lenders shall be given the opportunity to participate in the requested increase ratably in proportions that their respective Commitments bear to the Aggregate Commitment. No Lender shall have any obligation to increase its Commitment pursuant to a Commitment Increase Notice. On or prior to the date that is fifteen (15) Business Days after receipt of the Commitment Increase Notice, each Lender shall submit to the Administrative Agent a notice indicating the maximum amount by which it is willing to increase its Commitment in connection with such Commitment Increase Notice (any such notice to the Administrative Agent being herein a **“Lender Increase Notice”**). Any Lender which does not submit a Lender Increase Notice to the Administrative Agent prior to the expiration of such fifteen (15) Business Day period shall be deemed to have denied any increase in its Commitment. In the event that the increases of Commitments set forth in the Lender Increase Notices exceed the amount requested by the Company in the Commitment Increase Notice, the Administrative Agent and the Arranger shall have the right, in consultation with the Company, to allocate the amount of increases necessary to meet the Company’s Commitment Increase Notice. In the event that the Lender Increase Notices are less than the amount requested by the Company, not later than three (3) Business Days prior to the proposed effective date the Company may notify the Administrative Agent of any financial institution that shall have agreed to become a “Lender” party hereto (a **“Proposed New Lender”**) in connection with the Commitment Increase Notice. Any Proposed New Lender shall be consented to by the Administrative Agent (which consent shall not be unreasonably withheld). If the Company shall not have arranged any Proposed New Lender(s) to commit to the shortfall from the Lender Increase Notices, then the Company shall be deemed to have reduced the amount of its Commitment Increase Notice to the aggregate amount set forth in the Lender Increase Notices. Based upon the Lender Increase Notices, any allocations made in connection therewith and any notice regarding any Proposed New Lender, if applicable, the Administrative Agent shall notify the Company and the Lenders on or before the Business Day immediately prior to the proposed effective date of the amount of each Lender’s and Proposed New Lenders’ Commitment (the **“Effective Commitment Amount”**) and the amount of the Aggregate Commitment, which amounts shall be effective on the following Business Day. Any increase in the Aggregate Commitment shall be subject to the following conditions precedent: (A) the Company shall have obtained the consent thereto of each Guarantor and its reaffirmation of the Loan Document(s) executed by it, which consent and reaffirmation shall be in writing and in form and substance reasonably satisfactory to the Administrative Agent, (B) as of the date of the Commitment Increase Notice and as of the proposed effective date of the increase in the Aggregate

Commitment all representations and warranties shall be true and correct in all material respects as though made on such date and no event shall have occurred and then be continuing which constitutes a Default or Unmatured Default, (C) the Borrowers, the Administrative Agent and each Proposed New Lender or Lender that shall have agreed to provide a "Commitment" in support of such increase in the Aggregate Commitment shall have executed and delivered a "Commitment and Acceptance" substantially in the form of Exhibit J hereto, (D) counsel for the Borrowers and for the Guarantors shall have provided to the Administrative Agent supplemental opinions in form and substance reasonably satisfactory to the Administrative Agent and (E) the Borrowers and the Proposed New Lender shall otherwise have executed and delivered such other instruments and documents as may be required under Article IV or that the Administrative Agent shall have reasonably requested in connection with such increase. If any fee shall be charged by the Lenders in connection with any such increase, such fee shall be in accordance with then prevailing market conditions, which market conditions shall have been reasonably documented by the Administrative Agent to the Company. Upon satisfaction of the conditions precedent to any increase in the Aggregate Commitment, the Administrative Agent shall promptly advise the Company and each Lender of the effective date of such increase. Upon the effective date of any increase in the Aggregate Commitment that is supported by a Proposed New Lender, such Proposed New Lender shall be a party to this Agreement as a Lender and shall have the rights and obligations of a Lender hereunder and thereunder. Nothing contained herein shall constitute, or otherwise be deemed to be, a commitment on the part of any Lender to increase its Commitment hereunder at any time.

(ii) For purposes of this clause (ii), (A) the term "Buying Lender(s)" shall mean (1) each Lender the Effective Commitment Amount of which is greater than its Commitment prior to the effective date of any increase in the Aggregate Commitment, and (2) each Proposed New Lender that is allocated an Effective Commitment Amount in connection with any Commitment Increase Notice and (b) the term "Selling Lender(s)" shall mean each Lender whose Commitment is not being increased from that in effect prior to such increase in the Aggregate Commitment. Effective on the effective date of any increase in the Aggregate Commitment pursuant to clause (i) above, each Selling Lender hereby sells, grants, assigns and conveys to each Buying Lender, without recourse, warranty, or representation of any kind, except as specifically provided herein, an undivided percentage in such Selling Lender's right, title and interest in and to its outstanding Revolving Loans in the respective dollar amounts and percentages necessary so that, from and after such sale, each such Selling Lender's outstanding Revolving Loans shall equal such Selling Lender's Pro Rata Share (calculated based upon the Effective Commitment Amounts) of the outstanding Revolving Loans. Effective on the effective date of the increase in the Aggregate Commitment pursuant to clause (i) above, each Buying Lender hereby purchases and accepts such grant, assignment and conveyance from the Selling Lenders. Each Buying Lender hereby agrees that its respective purchase price for the portion of the outstanding Revolving Loans purchased hereby shall equal the respective dollar amount necessary so that, from and after such payments, each Buying Lender's outstanding Revolving Loans shall equal such Buying Lender's Pro Rata Share (calculated based upon the Effective Commitment Amounts) of the outstanding Revolving Loans. Such amount shall be payable on the effective date of the increase in the Aggregate Commitment by wire transfer of immediately available funds to the Administrative Agent. The Administrative Agent, in turn, shall wire transfer any such funds received to the Selling Lenders, in same day funds, for the sole account of the Selling Lenders. Each Selling Lender hereby represents and warrants to each Buying

Lender that such Selling Lender owns the Revolving Loans being sold and assigned hereby for its own account and has not sold, transferred or encumbered any or all of its interest in such Revolving Loans, except for participations which will be extinguished upon payment to Selling Lender of an amount equal to the portion of the outstanding Revolving Loans being sold by such Selling Lender. Each Buying Lender hereby acknowledges and agrees that, except for each Selling Lender's representations and warranties contained in the foregoing sentence, each such Buying Lender has entered into its Commitment and Acceptance with respect to such increase on the basis of its own independent investigation and has not relied upon, and will not rely upon, any explicit or implicit written or oral representation, warranty or other statement of the Lenders or the Administrative Agent concerning the authorization, execution, legality, validity, effectiveness, genuineness, enforceability or sufficiency of this Agreement or the other Revolving Loan Documents. The Borrowers hereby agree to compensate each Selling Lender for all losses, expenses and liabilities incurred by each Lender in connection with the sale and assignment of any Revolving Loan hereunder on the terms and in the manner as set forth in Section 3.4.

2.25. Interest. In no event shall the amount of interest, and all charges, amounts or fees contracted for, charged or collected pursuant to this Agreement, the Notes or the other Loan Documents and deemed to be interest under applicable law (collectively, "Interest") exceed the highest rate of interest allowed by applicable law (the "Maximum Rate"), and in the event any such payment is inadvertently received by the Administrative Agent or any Lender then the excess sum (the "Excess") shall be credited as a payment of principal, unless the relevant Borrower shall notify the Administrative Agent in writing that it elects to have the Excess returned forthwith. It is the express intent hereof that no Borrower pay, and the Administrative Agent and the Lenders not receive, directly or indirectly in any manner whatsoever, interest in excess of that which may legally be paid by such Borrower under applicable law. The right to accelerate maturity of any of the Obligations does not include the right to accelerate any interest that has not otherwise accrued on the date of such acceleration, and the Administrative Agent and the Lenders do not intend to collect any unearned interest in the event of any such acceleration. All monies paid to the Administrative Agent or the Lenders hereunder or under any of the Notes or the other Loan Documents, whether at maturity or by prepayment, shall be subject to rebate of unearned interest as and to the extent required by applicable law. By the execution of this Agreement, each Borrower covenants, to the fullest extent permitted by law that (i) the credit or return of any Excess shall constitute the acceptance by such Borrower of such Excess, and (ii) such Borrower shall not seek or pursue any other remedy, legal or equitable, against the Administrative Agent or any Lender, based in whole or in part upon contracting for charging or receiving any Interest in excess of the Maximum Rate. For the purpose of determining whether or not any Excess has been contracted for, charged or received by the Administrative Agent or any Lender, all interest at any time contracted for, charged or received from such Borrower in connection with this Agreement, the Notes or any of the other Loan Documents shall, to the extent permitted by applicable law, be amortized, prorated, allocated and spread in equal parts throughout the full term of the Commitments. Each Borrower, the Administrative Agent and each Lender shall, to the maximum extent permitted under applicable law, (i) characterize any non-principal payment as an expense, fee or premium rather than as Interest and (ii) exclude voluntary prepayments and the effects thereof. The provisions of this Section shall be deemed to be incorporated into each Note and each of the other Loan Documents (whether or not any provision of this Section is referred to therein). All such Loan

Documents and communications relating to any Interest owed by any Borrower and all figures set forth therein shall, for the sole purpose of computing the extent of obligations hereunder and under the Notes and the other Loan Documents be automatically recomputed by such Borrower, and by any court considering the same, to give effect to the adjustments or credits required by this Section.

ARTICLE III

YIELD PROTECTION; TAXES

3.1. Yield Protection. If, on or after the Closing Date, the adoption of any law or any governmental or quasi-governmental rule, regulation, policy, guideline or directive (whether or not having the force of law), or any change in any such law, rule, regulation, policy, guideline or directive or in the interpretation or administration thereof by any governmental or quasi-governmental authority, central bank or comparable agency charged with the interpretation or administration thereof, or compliance by any Lender or applicable Lending Installation with any request or directive (whether or not having the force of law) of any such authority, central bank or comparable agency:

- (i) subjects any Lender or any applicable Lending Installation to any Taxes, or changes the basis of taxation of payments (other than with respect to Excluded Taxes) to any Lender in respect of its Eurodollar Loans, or
- (ii) imposes or increases or deems applicable any reserve, assessment, insurance charge, special deposit or similar requirement against assets of, deposits with or for the account of, or credit extended by, any Lender or any applicable Lending Installation (other than reserves and assessments taken into account in determining the interest rate applicable to Eurodollar Advances), or
- (iii) imposes any other condition the result of which is to increase the cost to any Lender or any applicable Lending Installation of making, funding or maintaining its Eurodollar Loans or Commitment, or reduces any amount receivable by any Lender or any applicable Lending Installation in connection with its Eurodollar Loans or Commitment, or requires any Lender or any applicable Lending Installation to make any payment calculated by reference to the amount of Eurodollar Loans or Commitment held or interest received by it, by an amount deemed material by such Lender as the case may be,

and the result of any of the foregoing is to increase the cost to such Lender or applicable Lending Installation, as the case may be, of making or maintaining its Eurodollar Loans or Commitment or to reduce the return received by such Lender or applicable Lending Installation, as the case may be, in connection with such Eurodollar Loans or Commitment, then, within fifteen (15) days of demand by such Lender, the Borrowers shall pay such Lender such additional amount or amounts as will compensate such Lender for such increased cost or reduction in amount received; *provided*, that the Borrowers shall not be required to compensate a Lender under this Section for any increased costs or reductions incurred more than 90 days prior to the date that such Lender notifies the Company in writing of such increased costs or reductions and of such

Lender's intention to claim compensation therefor; *provided, further*, that if such adoption or such change giving rise to such increased costs or reduction is retroactive such 90-day period shall be extended to include the period of retroactive effect.

3.2. **Changes in Capital Adequacy Regulations.** If a Lender determines the amount of capital required or expected to be maintained by such Lender, any Lending Installation of such Lender, or any corporation controlling such Lender, is increased as a result of a Change, then, within fifteen (15) days of demand by such Lender, the Borrowers shall pay such Lender the amount necessary to compensate for any shortfall in the rate of return on the portion of such increased capital which such Lender determines is attributable to this Agreement, its Outstanding Credit Exposure or its Commitment to make Revolving Loans hereunder (after taking into account such Lender's policies as to capital adequacy); *provided*, that the Borrowers shall not be required to pay to such Lender such additional amounts under this Section for any amount incurred as a result of such Change more than 90 days prior to the date that such Lender notifies the Company in writing of such Change and of such Lender's intention to claim compensation therefor; *provided, further*, that if such Change giving rise to such amounts is retroactive such 90-day period shall be extended to include the period of retroactive effect. **"Change"** means (i) any change after the Closing Date in the Risk-Based Capital Guidelines or (ii) any adoption of, change in, or change in the interpretation or administration of any other law, governmental or quasi-governmental rule, regulation, policy, guideline, interpretation, or directive (whether or not having the force of law) after the Closing Date which affects the amount of capital required or expected to be maintained by any Lender or any Lending Installation or any corporation controlling any Lender. **"Risk-Based Capital Guidelines"** means (i) the risk-based capital guidelines in effect in the United States on the Closing Date, including transition rules, and (ii) the corresponding capital regulations promulgated by regulatory authorities outside the United States implementing the July 1988 report of the Basle Committee on Banking Regulation and Supervisory Practices Entitled "International Convergence of Capital Measurements and Capital Standards," including transition rules, and any amendments to such regulations adopted prior to the Closing Date.

3.3. **Availability of Types of Advances.** If (x) any Lender determines that maintenance of its Eurodollar Loans at a suitable Lending Installation would violate any applicable law, rule, regulation or directive, whether or not having the force of law, or (y) the Required Lenders determine that (i) deposits of a type and maturity appropriate to match fund Eurodollar Advances are not available or (ii) the interest rate applicable to Eurodollar Advances does not accurately reflect the cost of making or maintaining Eurodollar Advances, or (iii) no reasonable basis exists for determining the Eurodollar Base Rate, then the Administrative Agent shall suspend the availability of Eurodollar Advances and require any affected Eurodollar Advances to be immediately repaid or converted to Floating Rate Advances, subject to the payment of any funding indemnification amounts required by [Section 3.4](#).

3.4. **Funding Indemnification.** If any payment of a Eurodollar Advance occurs on a date which is not the last day of the applicable Interest Period, whether because of acceleration, prepayment or otherwise, or a Eurodollar Advance is not made or continued, or a Floating Rate Advance is not converted into a Eurodollar Advance, on the date specified by any Borrower for any reason other than default by the Lenders, or a Eurodollar Advance is not prepaid on the date specified by the applicable Borrower for any reason, the Borrowers will indemnify each Lender

for any loss or cost incurred by it resulting therefrom, including, without limitation, any loss or cost in liquidating or employing deposits acquired to fund or maintain such Eurodollar Advance.

3.5. Taxes.

(i) All payments by the Borrowers to or for the account of any Lender or Agent hereunder or under any Note shall be made free and clear of and without deduction for any and all Taxes. If any Borrower shall be required by law to deduct any Taxes from or in respect of any sum payable hereunder to any Lender or Agent, (a) the sum payable shall be increased as necessary so that after making all required deductions (including deductions applicable to additional sums payable under this Section 3.5) such Lender or Agent (as the case may be) receives an amount equal to the sum it would have received had no such deductions been made, (b) such Borrower shall make such deductions, (c) such Borrower shall pay the full amount deducted to the relevant authority in accordance with applicable law and (d) such Borrower shall furnish to the Administrative Agent the original copy of a receipt evidencing payment thereof within thirty (30) days after such payment is made.

(ii) In addition, the Borrowers hereby agree to pay any present or future stamp or documentary taxes and any other excise or property taxes, charges or similar levies which arise from any payment made hereunder or under any Note or from the execution or delivery of, or otherwise with respect to, this Agreement or any Note ("**Other Taxes**").

(iii) The Borrowers hereby agree to indemnify the Agents and each Lender for the full amount of Taxes or Other Taxes (including, without limitation, any Taxes or Other Taxes imposed on amounts payable under this Section 3.5) paid by the Agents or such Lender and any liability (including penalties, interest and expenses) arising therefrom or with respect thereto. Payments due under this indemnification shall be made within thirty (30) days of the date the Agents or such Lender makes demand therefor pursuant to Section 3.6.

(iv) Each Lender that is not incorporated under the laws of the United States of America or a state thereof (each a "**Non-U.S. Lender**") agrees that it will, not more than ten (10) Business Days after the date on which it becomes a party to this Agreement, (i) deliver to each of the Company and the Administrative Agent two (2) duly completed copies of United States Internal Revenue Service Form W-8BEN or W-8ECI, certifying in either case that such Lender is entitled to receive payments under this Agreement without deduction or withholding of any United States federal income taxes, and (ii) deliver to each of the Company and the Administrative Agent a United States Internal Revenue Form W-8 or W-9, as the case may be, and certify that it is entitled to an exemption from United States backup withholding tax. Each Non-U.S. Lender further undertakes to deliver to each of the Company and the Administrative Agent (x) renewals or additional copies of such form (or any successor form) on or before the date that such form expires or becomes obsolete, and (y) after the occurrence of any event requiring a change in the most recent forms so delivered by it, such additional forms or amendments thereto as may be reasonably requested by the Company or the Administrative Agent. All forms or amendments described in the preceding sentence shall certify that such Lender is entitled to receive payments under this Agreement without deduction or withholding of any United States federal income taxes, *unless* an event (including without limitation any change in treaty, law or regulation) has occurred prior to the date on which any such delivery would

otherwise be required which renders all such forms inapplicable or which would prevent such Lender from duly completing and delivering any such form or amendment with respect to it and such Lender advises the Company and the Administrative Agent in writing that it is not capable of receiving payments without any deduction or withholding of United States federal income tax.

(v) For any period during which a Non-U.S. Lender has failed to provide the Company with an appropriate form pursuant to clause (iv), above (unless such failure is due to a change in treaty, law or regulation, or any change in the interpretation or administration thereof by any governmental authority, occurring subsequent to the date on which a form originally was required to be provided), such Non-U.S. Lender shall not be entitled to indemnification under this Section 3.5 with respect to Taxes imposed by the United States, and each Borrower, if required by law to do so, shall be permitted to withhold such Taxes and pay the same to the appropriate United States taxing authority; *provided* that, should a Non-U.S. Lender which is otherwise exempt from or subject to a reduced rate of withholding tax become subject to Taxes because of its failure to deliver a form required under clause (iv), above, the Borrowers shall take such steps as such Non-U.S. Lender shall reasonably request to assist such Non-U.S. Lender to recover such Taxes.

(vi) Any Lender that is entitled to an exemption from or reduction of withholding tax with respect to payments under this Agreement or any Note pursuant to the law of any relevant jurisdiction or any treaty shall deliver to the Company (with a copy to the Administrative Agent), at the time or times prescribed by applicable law, 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.

(vii) If the IRS or any other governmental authority of the United States or any other country or any political subdivision thereof asserts a claim that the Administrative Agent did not properly withhold tax from amounts paid to or for the account of any Lender (because the appropriate form was not delivered or properly completed, because such Lender failed to notify the Administrative Agent of a change in circumstances which rendered its exemption from withholding ineffective, or for any other reason), such Lender shall indemnify the Administrative Agent fully for all amounts paid, directly or indirectly, by the Administrative Agent as tax, withholding therefor, or otherwise, including penalties and interest, and including taxes imposed by any jurisdiction on amounts payable to the Administrative Agent under this subsection, together with all costs and expenses related thereto (including attorneys' fees and time charges of attorneys for the Administrative Agent, which attorneys may be employees of the Administrative Agent). The obligations of the Lenders under this Section 3.5(vii) shall survive the payment of the Obligations and termination of this Agreement.

(viii) Within 60 days after receipt of the written request of the Company, each Lender and Agent shall execute and deliver such certificates, forms or other documents, which in each such case can be reasonably furnished by such Lender or Agent consistent with the facts and which are reasonably necessary to assist any Borrower in applying for refunds of Taxes remitted by such Borrower hereunder.

(ix) Each Lender and Agent shall also use commercially reasonable efforts to avoid and minimize any amounts which might otherwise be payable by any Borrower pursuant to this

Section 3.5, except to the extent that such Lender or Agent, determines that such efforts would be disadvantageous to such Lender or Agent, as determined by such Lender or Agent and which determination, if made in good faith, shall be binding and conclusive on all parties hereto.

(x) To the extent that the payment of any Lender's or Agent's Taxes by any Borrower hereunder gives rise from time to time to a Tax Benefit to such Lender or Agent in any jurisdiction other than the jurisdiction which imposed such Taxes, such Lender or Agent shall pay to such Borrower the amount of each such Tax Benefit so recognized or received. The amount of each Tax Benefit and, therefore, payment to such Borrower will be determined from time to time by the relevant Lender or Agent in its sole discretion, which determination shall be binding and conclusive on all parties hereto. Each such payment will be due and payable by such Lender or Agent to such Borrower within a reasonable time after the filing of the tax return in which such Tax Benefit is recognized or, in the case of any tax refund, after the refund is received; *provided, however*, if at any time thereafter such Lender or Agent, is required to rescind such Tax Benefit or such Tax Benefit is otherwise disallowed or nullified, the relevant Borrower shall promptly, after notice thereof from such Lender or Agent, repay to such Lender or Agent the amount of such Tax Benefit previously paid to such Lender or Agent and which has been rescinded, disallowed or nullified. For purposes hereof, the term "**Tax Benefit**" shall mean the amount by which any Lender's or Agent's income tax liability for the taxable period in question is reduced below what would have been payable had the relevant Borrower not been required to pay such Lender's or Agent's Taxes hereunder.

3.6. Lender Statements; Survival of Indemnity. To the extent reasonably possible, each Lender shall designate an alternate Lending Installation with respect to its Eurodollar Loans to reduce any liability of the Borrowers to such Lender under Sections 3.1, 3.2 and 3.5 or to avoid the unavailability of Eurodollar Advances under Section 3.3, so long as such designation is not, in the judgment of such Lender, disadvantageous to such Lender. Each Lender shall deliver a written statement of such Lender to the Company (with a copy to the Administrative Agent) as to the amount due, if any, under Section 3.1, 3.2, 3.4 or 3.5. Such written statement shall set forth in reasonable detail the calculations upon which such Lender determined such amount and shall be final, conclusive and binding on the Borrowers in the absence of manifest error. Determination of amounts payable under such Sections in connection with a Eurodollar Loan shall be calculated as though each Lender funded its Eurodollar Loan through the purchase of a deposit of the type, currency and maturity corresponding to the deposit used as a reference in determining the Eurodollar Rate applicable to such Revolving Loan, whether in fact that is the case or not. Unless otherwise provided herein, the amount specified in the written statement of any Lender shall be payable on demand after receipt by the Company of such written statement. The obligations of the Borrowers under Sections 3.1, 3.2, 3.4 and 3.5 shall survive payment of the Obligations and termination of this Agreement.

3.7. Mitigation of Obligations. If any Lender requests compensation under Section 3.2 or if any Borrower is required to pay any additional amount to any Lender or any governmental authority for the account of any Lender pursuant to Section 3.1, then such Lender shall use commercially reasonable efforts to designate a different Lending Installation for funding or booking its Revolving Loans hereunder or to assign its rights and obligations hereunder to another of its offices, branches or affiliates, if, in the sole discretion of such Lender, such designation or assignment (i) would eliminate or reduce amounts payable under Section 3.1

or Section 3.2, as the case may be, in the future and (ii) would not subject such Lender to any unreimbursed cost or expense and would not otherwise be disadvantageous to such Lender. The Borrowers hereby agree to pay all costs and expenses incurred by any Lender in connection with such designation or assignment.

ARTICLE IV

CONDITIONS PRECEDENT

4.1. Initial Closing. The Borrowers hereby confirm that, on or prior to the Closing Date, the Company furnished to the Agents with sufficient copies for the Lenders:

- (i) Copies of the articles or certificates of incorporation (or similar Constitutive Documents) of the Company and each Guarantor (each a “Loan Party”), together with all amendments thereto, and a certificate of good standing, each certified by the appropriate governmental officer in its jurisdiction of incorporation.
- (ii) Copies, certified by the Secretary or Assistant Secretary of each Loan Party of its by-laws (or similar Constitutive Documents) and of its Board of Directors’ resolutions and of resolutions or actions of any other body authorizing the execution of the Loan Documents to which it is a party.
- (iii) An incumbency certificate, executed by the Secretary or Assistant Secretary of each Loan Party, which shall identify by name and title and bear the signatures of the Authorized Officers and any other officers of such Loan Party authorized to sign the Loan Documents to which it is a party and, in the case of the Borrowers, to request Revolving Loans hereunder, upon which certificate the Agents and the Lenders shall be entitled to rely until informed of any change in writing by the applicable Loan Party.
- (iv) An opening compliance certificate in substantially the form of Exhibit B, signed by the chief financial officer or treasurer of the Company, showing the calculations necessary to determine compliance with this Agreement on the initial Credit Extension Date and stating that on the initial Credit Extension Date (a) no Default or Unmatured Default has occurred and is continuing, (b) all of the representations and warranties in Article V shall be true and correct in all material respects as of such date and (c) no material adverse change in the business, financial condition or operations of the Company or any of its Subsidiaries has occurred since November 30, 2001.
- (v) A certificate in form and substance satisfactory to the Administrative Agent stating that there exists no injunction or temporary restraining order which would prohibit the making of the initial Credit Extensions or any litigation seeking such an injunction or restraining order.
- (vi) A certificate of value, solvency and other appropriate factual information in form and substance reasonably satisfactory to the Administrative Agent and Arranger from the chief financial officer of the Company (on behalf of the Company and

the Borrowers) in his or her representative capacity supporting the conclusions that as of the initial funding date the Company and its Subsidiaries on a consolidated basis are Solvent and will be Solvent subsequent to incurring the Indebtedness contemplated under the Transaction Documents, will be able to pay its debts and liabilities as they become due and will not be left with unreasonably small working capital for general corporate purposes.

- (vii) Written opinions of Kenyon W. Murphy, General Counsel of the Borrowers and each Guarantor, and Kilpatrick Stockton LLP, special counsel to the Borrowers and each Guarantor, in form and substance satisfactory to the Agents and addressed to the Lenders in substantially the form of Exhibit A-1 and Exhibit A-2 respectively.
- (viii) Any Notes requested by a Lender pursuant to Section 2.14 payable to the order of each such requesting Lender.
- (ix) Written money transfer instructions, in substantially the form of Exhibit D, addressed to the Administrative Agent and signed by an Authorized Officer, together with such other related money transfer authorizations as the Administrative Agent may have reasonably requested.
- (x) Evidence satisfactory to the Agents that the “Existing Credit Agreement” (as defined in the Existing Credit Agreement) shall have been or shall simultaneously on the Closing Date be terminated (except for those provisions that expressly survive the termination thereof) and all loans outstanding and other amounts owed to the lenders or agents thereunder shall have been, or shall simultaneously with the initial Advance under the Existing Credit Agreement or the initial “Advance” under (and as defined in) the 3-Year Credit Agreement be, paid in full.
- (xi) Evidence satisfactory to the Agents that the 3-Year Credit Agreement shall have been duly executed by all parties thereto.
- (xii) Such other documents as any Lender or its counsel may have reasonably requested including, without limitation, each document identified on the List of Closing Documents attached hereto as Exhibit F.

4.2. Each Credit Extension. The Lenders shall not be required to make any Credit Extension unless on the applicable Credit Extension Date:

- (i) There exists no Default or Unmatured Default.
- (ii) The representations and warranties contained in Article V are true and correct in all material respects as of such Credit Extension Date except to the extent any such representation or warranty is stated to relate solely to an earlier date, in which case such representation or warranty shall have been true and correct in all material respects on and as of such earlier date.

Each Borrowing Notice with respect to each such Credit Extension shall constitute a representation and warranty by the Borrowers that the conditions contained in Section 4.2(i) and (ii) have been satisfied. Any lender may require a duly completed compliance certificate in substantially the form of Exhibit B as a condition to making a Credit Extension.

4.3. Initial Advance to Each New Subsidiary Borrower. The Lenders shall not be required to make a Credit Extension hereunder to a new Subsidiary Borrower added after the Effective Date unless the Company has furnished or caused to be furnished to the Administrative Agent with sufficient copies for the Lenders:

- (i) The Assumption Letter executed and delivered by such Subsidiary Borrower and containing the written consent of the Borrowers, as contemplated by Section 2.22;
- (ii) Copies, certified by the Secretary, Assistant Secretary, Director or Authorized Officer of the Subsidiary Borrower, of its Board of Directors' resolutions (and/or resolutions of other bodies, if any are deemed necessary by the Administrative Agent) approving the Assumption Letter;
- (iii) An incumbency certificate, executed by the Secretary, Assistant Secretary, Director or Authorized Officer of the Subsidiary Borrower, which shall identify by name and title and bear the signature of the officers of such Subsidiary Borrower authorized to sign the Assumption Letter and the other documents to be executed and delivered by such Subsidiary Borrower hereunder, upon which certificate the Administrative Agent and the Lenders shall be entitled to rely until informed of any change in writing by the Company;
- (iv) An opinion of counsel to such Subsidiary Borrower, substantially in the form of Exhibit E hereto;
- (v) Guaranty documentation from such Subsidiary Borrower in form and substance acceptable to the Administrative Agent as required pursuant to Section 6.10;

4.4. Effectiveness of this Agreement. The Lenders shall not be required to make any Credit Extensions hereunder and this Agreement shall not become effective, unless the Administrative Agent shall have received each of the following (with sufficient copies for the Lenders):

- (i) Duly executed signature pages to this Agreement from the Borrowers, the Lenders and the Administrative Agent.
- (ii) A duly executed consent and reaffirmation from each Guarantor of its obligations under the Guaranty.
- (iii) A written opinion of Kenyon W. Murphy, General Counsel of the Borrowers and each Guarantor and Kilpatrick Stockton LLP, special counsel to the Borrowers and each Guarantor, in form and substance reasonably satisfactory to the Agents and addressed to the Lenders.

ARTICLE V

REPRESENTATIONS AND WARRANTIES

The Company represents and warrants as follows to each Lender and the Agents as of each of (i) the Effective Date, giving effect to the consummation of the transactions contemplated by the Transaction Documents on the Effective Date, (ii) the date of the initial Credit Extension hereunder (if different from the Effective Date) and (iii) each date as required by Section 4.2:

5.1. Existence and Standing. The Company and each of its Subsidiaries is a corporation, partnership or limited liability company duly and properly incorporated or organized, as the case may be, validly existing and (to the extent such concept applies to such entity) in good standing under the laws of its jurisdiction of incorporation or organization and has all requisite authority to conduct its business in each jurisdiction in which its business is conducted, except to the extent that the failure to have such standing or authority could not reasonably be expected to have a Material Adverse Effect.

5.2. Authorization and Validity. The Company and each of its Subsidiaries (to the extent applicable) has the power and authority and legal right to execute and deliver the Transaction Documents to which it is a party and to perform its obligations thereunder, and to file the Transaction Documents which have been filed by it as required by this Agreement. The execution and delivery by the Company and any such Subsidiary of the Transaction Documents to which it is a party and the performance of its obligations thereunder have been duly authorized by proper proceedings, and the Transaction Documents to which such entity is a party constitute legal, valid and binding obligations of such entity enforceable against such entity in accordance with their terms, except as enforceability may be limited by bankruptcy, insolvency or similar laws affecting the enforcement of creditors' rights generally or by general equitable principles.

5.3. No Conflict; Government Consent. Neither the execution and delivery by the Company or any of its Subsidiaries of the Transaction Documents, nor compliance with the provisions thereof will violate (i) any law, rule, regulation, order, writ, judgment, injunction, decree or award binding on the Company or any of its Subsidiaries or (ii) the Company's or any Subsidiary's articles or certificate of incorporation, partnership agreement, certificate of partnership, articles or certificate of organization, by-laws, or operating agreement or other management agreement, as the case may be, or (iii) the provisions of any indenture, instrument or agreement to which the Company or any of its Subsidiaries is a party or is subject, or by which it, or its Property, is bound, or conflict with, or constitute a default under, or result in, or require, the creation or imposition of any Lien in, of or on the Property of the Company or a Subsidiary pursuant to the terms of, any such indenture, instrument or agreement. No order, consent, adjudication, approval, license, authorization, or validation of, or filing, recording or registration with, or exemption by, or other action in respect of any governmental or public body or authority, or any subdivision thereof, which has not been obtained by the Company or any of its Subsidiaries, is required to be obtained by the Company or any of its Subsidiaries in connection with the execution and delivery of the Transaction Documents, the borrowings under this Agreement, the payment and performance by any Borrower of the Obligations or the legality, validity, binding effect or enforceability of any of the Transaction Documents.

5.4. Financial Statements. The November 30, 2002 unaudited combined financial statements of the Company and its Subsidiaries heretofore delivered to the Arranger and the Lenders were prepared in accordance with generally accepted accounting principles in effect on the date such statements were prepared (except for the absence of footnotes and subject to year-end audit adjustments) and fairly present in all material respects, the combined financial condition and operations of the Company and its Subsidiaries at such date and the combined results of their operations and cash flows for the three-month period then ended.

5.5. Material Adverse Change. Since November 30, 2002, and except as disclosed on Schedule 5.5, there has been no change in the business, property, financial condition or operations of the Company and its Subsidiaries taken as a whole, which could reasonably be expected to have a Material Adverse Effect.

5.6. Taxes. The Company and its Subsidiaries have filed all United States federal tax returns and all other tax returns which are required to be filed and have paid all taxes due pursuant to said returns or pursuant to any assessment received by the Company or any of its Subsidiaries, except (i) such taxes, if any, as are being contested in good faith and as to which adequate reserves have been provided in accordance with Agreement Accounting Principles or (ii) where the failure to file such return or pay such taxes could not reasonably be expected to have a Material Adverse Effect. No tax liens have been filed and no claims are being asserted with respect to any such taxes. The charges, accruals and reserves on the books of the Company and its Subsidiaries in respect of any taxes or other governmental charges are adequate.

5.7. Litigation and Contingent Obligations. There is no litigation, arbitration, governmental investigation, proceeding or inquiry pending or, to the knowledge of any of their officers, threatened against or affecting the Company or any of its Subsidiaries which could reasonably be expected to have a Material Adverse Effect or which seeks to prevent, enjoin or delay the making of any Credit Extensions or otherwise question the validity of any Transaction Document. Other than any liability which could not reasonably be expected to have a Material Adverse Effect, neither the Company nor any of its Subsidiaries have any contingent obligations not provided for or disclosed in the financial statements referred to in Section 5.4.

5.8. Subsidiaries. Schedule 5.8 (as supplemented from time to time by the Company promptly after the formation or acquisition of any new Subsidiary as permitted under this Agreement) contains an accurate list of all Subsidiaries of the Company as of the Effective Date, setting forth their respective jurisdictions of organization and the percentage of their respective capital stock or other ownership interests owned by the Company or other Subsidiaries. All of the issued and outstanding shares of capital stock or other ownership interests of such Subsidiaries have been (to the extent such concepts are relevant with respect to such ownership interests) duly authorized and issued and are fully paid and non-assessable.

5.9. Accuracy of Information. No information, schedule, exhibit or report furnished by the Company or any of its Subsidiaries to the Arranger, any Agent or Lender (including, without limitation, the Company's Confidential Information Memorandum dated March 2002) in connection with the negotiation of, or compliance with, the Loan Documents contained any material misstatement of fact or omitted to state a material fact or any fact necessary to make the statements contained therein not misleading.

5.10. Regulation U. Neither the Company nor any of its Subsidiaries is engaged principally, or as one of its important activities, in the business of extending credit for the purpose, whether immediate, incidental or ultimate of buying or carrying margin stock (within the meaning of Regulations U or X); and after applying the proceeds of each Advance, margin stock (as defined in Regulation U) constitutes less than twenty-five (25%) of the value of those assets of the Company and its Subsidiaries which are subject to any limitation on sale or pledge, or any other restriction hereunder.

5.11. Material Agreements. Neither the Company nor any Subsidiary is a party to any agreement or instrument or subject to any charter or other corporate restriction which could reasonably be expected to have a Material Adverse Effect. Neither the Company nor any Subsidiary is in default in the performance, observance or fulfillment of any of the obligations, covenants or conditions contained in any agreement or instrument to which it is a party, which default could reasonably be expected to have a Material Adverse Effect.

5.12. Compliance With Laws. The Company and its Subsidiaries have complied in all material respects with all applicable statutes, rules, regulations, orders and restrictions of any domestic or foreign government or any instrumentality or agency thereof having jurisdiction over the conduct of their respective businesses or the ownership of their respective Property.

5.13. Ownership of Properties. On the Effective Date, the Company and its Subsidiaries will have good title, free of all Liens other than Permitted Liens, to all of the Property and assets reflected in the Company's most recent consolidated financial statements provided to the Arranger and the Lenders as owned by the Company and its Subsidiaries, other than Property and assets disposed of in the ordinary course of business.

5.14. ERISA; Foreign Pension Matters. The sum of (a) the Unfunded Liabilities of all Plans and (b) the present value of the aggregate unfunded liabilities to provide the accrued benefits under all Foreign Pension Plans do not in the aggregate exceed an amount equal to ten percent (10%) of the Company's Consolidated Net Worth as reported on the most recent audited financial statements delivered to the Lenders pursuant to Section 6.1(i) (or, prior to the delivery of the first such audited financial statements under Section 6.1(i), as reported on the Combined Balance Sheets). Each Plan and each Foreign Pension Plan complies in all material respects with all applicable requirements of law and regulations, no Reportable Event has occurred with respect to any Plan, neither the Company nor any other member of its Controlled Group has withdrawn from any Multiemployer Plan or initiated steps to do so, and no steps have been taken to terminate any Plan, except to the extent that such non-compliance, Reportable Event, withdrawal or termination could not reasonably be expected to result in liability of the Company or any of its Subsidiaries individually or in the aggregate in an amount greater than ten percent (10%) of the Company's Consolidated Net Worth as reported on the most recent audited financial statements delivered to the Lenders pursuant to Section 6.1(i) (or, prior to the delivery of the first such audited financial statements under Section 6.1(i), as reported on the Combined Balance Sheets).

5.15. Plan Assets; Prohibited Transactions. No Borrower is an entity deemed to hold "plan assets" within the meaning of 29 C.F.R. § 2510.3-101 of an employee benefit plan (as defined in Section 3(3) of ERISA) which is subject to Title I of ERISA or any plan (within the

meaning of Section 4975 of the Code), and neither the execution of this Agreement nor the making of Revolving Loans hereunder gives rise to a prohibited transaction within the meaning of Section 406 of ERISA or Section 4975 of the Code, except to the extent that such event or prohibited transaction could not reasonably be expected to result in liability of the Company or any of its Subsidiaries individually or in the aggregate in an amount greater than ten percent (10%) of the Company's Consolidated Net Worth as reported on the most recent audited financial statements delivered to the Lenders pursuant to Section 6.1(i) (or, prior to the delivery of the first such audited financial statements under Section 6.1(i), as reported on the Combined Balance Sheets).

5.16. Environmental Matters.

(a) In the ordinary course of its business, the officers of the Company consider the effect of Environmental Laws on the business of the Company and its Subsidiaries, in the course of which they identify and evaluate potential risks and liabilities accruing to the Company and its Subsidiaries due to Environmental Laws. On the basis of this consideration, the Company has concluded that Environmental Laws cannot reasonably be expected to have a Material Adverse Effect. Except as set forth on Schedule 5.16, neither the Company nor any Subsidiary has received any notice to the effect that its operations are not in compliance with any of the requirements of applicable Environmental Laws or are the subject of any federal or state investigation evaluating whether any remedial action is needed to respond to a release of any toxic or hazardous waste or substance into the environment, which non-compliance or remedial action could reasonably be expected to have a Material Adverse Effect.

(b) The Company and each of its Subsidiaries have obtained all necessary governmental permits, licenses and approvals which are material to the operations conducted on their respective properties, including without limitation, all required permits, licenses and approvals for (i) the emission of air pollutants or contaminants, (ii) the treatment or pretreatment and discharge of waste water or storm water, (iii) the treatment, storage, disposal or generation of hazardous wastes, (iv) the withdrawal and usage of ground water or surface water, and (v) the disposal of solid wastes, except where a failure to obtain such permits, licenses and approvals would not result in a Material Adverse Effect.

5.17. Investment Company Act. Neither the Company nor any Subsidiary is an "investment company" or a company "controlled" by an "investment company", within the meaning of the Investment Company Act of 1940, as amended.

5.18. Public Utility Holding Company Act. Neither the Company nor any Subsidiary is a "holding company" or a "subsidiary company" of a "holding company", or an "affiliate" of a "holding company" or of a "subsidiary company" of a "holding company", within the meaning of the Public Utility Holding Company Act of 1935, as amended.

5.19. Insurance. The Property of the Company and its Subsidiaries is insured with financially sound and reputable insurance companies, in such amounts, with such deductibles and covering such properties and risks as is required under Section 6.6.

5.20. Solvency. After giving effect to (i) the Credit Extensions to be made on the Effective Date or such other date as Credit Extensions requested hereunder are made, (ii) the other transactions contemplated by this Agreement and the other Transaction Documents, and (iii) the payment and accrual of all transaction costs with respect to the foregoing, the Company and its Subsidiaries taken as a whole are Solvent.

ARTICLE VI

COVENANTS

During the term of this Agreement, unless the Required Lenders shall otherwise consent in writing:

6.1. Reporting. The Company will maintain, for itself and each Subsidiary, a system of accounting established and administered in accordance with generally accepted accounting principles, and furnish to the Lenders:

- (i) Within ninety (90) days (or such later date as may be permitted by the Securities and Exchange Commission) after the close of each of its fiscal years, an audit report certified by independent certified public accountants acceptable to the Required lenders and with such certifications to be free of exceptions and qualifications not acceptable to the Required Lenders, prepared in accordance with Agreement Accounting Principles on a consolidated basis for itself and its Subsidiaries, including a balance sheet as of the end of such period, related statements of income, shareholders' equity and cash flows.
- (ii) Within forty-five (45) days (or such later date as may be permitted by the Securities and Exchange Commission) after the close of the first three (3) quarterly periods of each of its fiscal years, for itself and its Subsidiaries, a consolidated unaudited balance sheet as at the close of each such period and consolidated statements of income and cash flows for the period from the beginning of such fiscal year to the end of such quarter, all certified as to fairness of presentation, compliance with Agreement Accounting Principles and consistency by its chief financial officer, chief accounting officer or treasurer.
- (iii) Together with the financial statements required under Sections 6.1(i) and (ii), a compliance certificate in substantially the form of Exhibit B signed by its chief financial officer, chief accounting officer or treasurer showing the calculations necessary to determine compliance with this Agreement and stating that no Default or Unmatured Default exists, or if any Default or Unmatured Default exists, stating the nature and status thereof.
- (iv) As soon as possible and in any event within ten (10) days after the Company knows that any Reportable Event has occurred with respect to any Plan, or any material unfunded liability has arisen with respect to any Foreign Pension Plan, a statement, signed by the chief financial officer or treasurer of the Company, describing said Reportable Event or material unfunded liability and the action

which the Company proposes to take with respect thereto, which, in any case, could reasonably be expected to give rise to liability of more than \$1,000,000 on the part of the Company or any of its Subsidiaries.

- (v) As soon as possible and in any event within ten (10) days after receipt by the Company, a copy of (a) any notice or claim to the effect that the Company or any of its Subsidiaries is or may be liable to any Person as a result of the release by the Company, any of its Subsidiaries, or any other Person of any toxic or hazardous waste or substance into the environment, and (b) any notice alleging any violation of any federal, state or local environmental, health or safety law or regulation by the Company or any of its Subsidiaries, which, in either case, could reasonably be expected to have a Material Adverse Effect.
- (vi) Promptly upon the furnishing thereof to the shareholders of the Company, copies of all financial statements, reports and proxy statements so furnished.
- (vii) Promptly upon the filing thereof, copies of all registration statements (other than exhibits thereto and any registration statements on Form S-8 or its equivalent) or other regular reports not otherwise provided pursuant to this Section 6.1 which the Company or any of its Subsidiaries files with the Securities and Exchange Commission.
- (viii) Upon the request of any Agent, prior to the execution thereof, draft copies of the Receivables Purchase Documents and, promptly after execution thereof, copies of such Receivables Purchase Documents and all material amendments thereto.
- (ix) Promptly upon any officer of the Company obtaining knowledge of the institution of, or written threat of, any action, suit, proceeding, governmental investigation or arbitration against or affecting the Company or any of its Subsidiaries or any property of the Company or any of its Subsidiaries, which action, suit, proceeding, investigation or arbitration exposes, or in the case of multiple actions, suits, proceedings, investigations or arbitrations arising out of the same general allegations or circumstances which expose, in the Company's reasonable judgment, the Company or any of its Subsidiaries to liability in an amount aggregating \$25,000,000 or more, give written notice thereof to the Administrative Agent and the Lenders and provide such other information as may be reasonably available to the Company (without jeopardizing any attorney-client privilege by disclosure thereof) to enable each Lender and the Administrative Agent and its counsel to evaluate such matters.
- (x) Such other information (including non-financial information) as any Agent or Lender may from time to time reasonably request (except such plans and forecasts which have not been made available by the Company to its creditors).

6.2. Use of Proceeds. The Company will, and will cause each Subsidiary to, use the proceeds of the Credit Extensions for general corporate purposes, including for working capital, refinancing the Indebtedness under the Existing Credit Agreement, commercial paper liquidity

support and Permitted Acquisitions, and to pay fees and expenses incurred in connection with this Agreement. The Borrowers shall use the proceeds of Credit Extensions in compliance with all applicable legal and regulatory requirements and any such use shall not result in a violation of any such requirements, including, without limitation, Regulations T, U and X, the Securities Act of 1933 and the Securities Exchange Act of 1934 and the regulations promulgated thereunder.

6.3. Notice of Default. Within five (5) Business Days after an Authorized Officer becomes aware thereof, the Company will, and will cause each Subsidiary to, give notice in writing to the Lenders of the occurrence of any Default or Unmatured Default and of any other development, financial or otherwise, which could reasonably be expected to have a Material Adverse Effect.

6.4. Conduct of Business. The Company will, and will cause each Subsidiary to, carry on and conduct its business in substantially the same manner and in substantially the same fields of enterprise as conducted by the Company or its Subsidiaries as of the Closing Date, and, except as otherwise permitted by Section 6.12, do all things necessary to remain duly incorporated or organized, validly existing and (to the extent such concept applies to such entity) in good standing as a corporation, partnership or limited liability company in its jurisdiction of incorporation or organization, as the case may be, and maintain all requisite authority to conduct its business in each jurisdiction in which its business is conducted, except where the failure to maintain such good standing or authority could not reasonably be expected to have a Material Adverse Effect; *provided* that nothing in this Section shall prevent the Company and its Subsidiaries from discontinuing any line of business or liquidating, dissolving or disposing of any Subsidiary if (i) no Default or Unmatured Default is in existence or would be caused thereby and (ii) the Board of Directors of the Company determines in good faith that such termination, liquidation, dissolution or disposition is in the best interest of the Company and its Subsidiaries taken as a whole.

6.5. Taxes. The Company will, and will cause each Subsidiary to, file on a timely basis complete and correct United States federal and material foreign, state and local tax returns required by law and pay when due all material taxes, assessments and governmental charges and levies upon it or its income, profits or Property, except those which are being contested in good faith by appropriate proceedings and with respect to which adequate reserves have been set aside in accordance with Agreement Accounting Principles.

6.6. Insurance. The Company will, and will cause each Subsidiary to, maintain with financially sound and reputable insurance companies insurance on their Property in such amounts and covering such risks as is consistent with sound business practice, and the Company will furnish to any Lender upon request full information as to the insurance carried.

6.7. Compliance with Laws; Maintenance of Plans. The Company will, and will cause each Subsidiary to, (i) comply with all laws, rules, regulations, orders, writs, judgments, injunctions, decrees or awards to which it may be subject including, without limitation, all Environmental Laws, and (ii) establish, maintain and operate all Plans to comply in all material respects with the provisions of ERISA and the Code, and the regulations and interpretations thereunder, where in the case of either (i) or (ii) above the failure to so comply could reasonably be expected to have a Material Adverse Effect.

6.8. Maintenance of Properties. The Company will, and will cause each Subsidiary to, do all things necessary to maintain, preserve, protect and keep its Property material to the conduct of its business in good repair, working order and condition, and make all necessary and proper repairs, renewals and replacements so that its business carried on in connection therewith may be properly conducted at all times.

6.9. Inspection; Keeping of Books and Records.

(i) The Company will, and will cause each Subsidiary to, permit the Agents and the Lenders, by their respective representatives and agents, to inspect any of the Property, books and financial records of the Company and each Subsidiary, to examine and make copies of the books of accounts and other financial records of the Company and each Subsidiary, and to discuss the affairs, finances and accounts of the Company and each Subsidiary with, and to be advised as to the same by, their respective officers at such reasonable times and intervals as any Agent or Lender may designate. If a Default has occurred and is continuing, the Company, upon the Administrative Agent's request, shall turn over copies of any such records to the Administrative Agent or its representatives. Unless a Default has occurred and is then continuing, each Lender shall give the Company not less than three (3) Business Days' prior written notice of its intent to conduct such visit or inspection. To the extent that any Lender, in the course of such visit or inspection, obtains possession of any proprietary information pertaining to the Company or any Subsidiary, such Lender shall handle such information in accordance with the requirements of Section 10.11.

(ii) The Company shall keep and maintain, and cause each of its Subsidiaries to keep and maintain, in all material respects, proper books of record and account in which entries in conformity with Agreement Accounting Principles shall be made of all dealings and transactions in relation to their respective businesses and activities (except that any Foreign Subsidiary may comply with local accounting principles).

6.10. Addition of Guarantors. As promptly as possible but in any event within thirty (30) days after any Domestic Subsidiary (other than any SPV) becomes a Material Subsidiary of the Company, the Company shall cause each such Material Subsidiary to deliver to the Administrative Agent a duly executed supplement to the Guaranty pursuant to which such Material Subsidiary agrees to be bound by the terms and provisions of the Guaranty; *provided*, that if at any time (i) the aggregate amount of the book value of assets of all Domestic Subsidiaries that are not Guarantors exceeds ten percent (10%) of the aggregate book value of the Consolidated Total Assets of the Company and its Subsidiaries, or (ii) the Consolidated Net Worth of all of all Domestic Subsidiaries that are not Guarantors exceeds ten percent (10%) of the Consolidated Net Worth of the Company and its Subsidiaries, or (iii) the assets of all Domestic Subsidiaries that are not Guarantors contributed more than ten percent (10%) of the Company's Consolidated Net Income, in each case as reported in the most recent annual audited financial statements delivered to the Lenders pursuant to Section 6.1(i) (or, prior to the delivery of the first of such annual audited financial statements, as reported in the Combined Balance Sheets), the Company shall cause additional Domestic Subsidiaries (other than any SPV) to become parties to the Guaranty as Guarantors thereunder to eliminate such excess.

6.11. Subsidiary Indebtedness. The Company will not permit any Subsidiary to create, incur or suffer to exist any Indebtedness, except:

- (i) The obligation arising under the Transaction Documents.
- (ii) Indebtedness existing on the Effective Date and described on Schedule 6.11, and Permitted Refinancing Indebtedness in respect thereof.
- (iii) Indebtedness owed (a) to the Company or any Guarantor by any Guarantor, (b) to any Subsidiary that is not a Guarantor by any other Subsidiary that is not a Guarantor, and (c) to the Company or any Guarantor by any Subsidiary that is not a Guarantor in an aggregate amount under this clause (c) not to exceed ten percent (10%) of the Company's Consolidated Net Worth as reported on the most recent audited financial statements delivered to the Lenders pursuant to Section 6.1(i) (or, prior to the delivery of the first such audited financial statements under Section 6.1(i), as reported on the Combined Balance Sheets).
- (iv) Receivables Facility Attributed Indebtedness in an aggregate amount not to exceed \$200,000,000.
- (v) Indebtedness in an aggregate amount not to exceed \$50,000,000 incurred or assumed for the purpose of financing or refinancing all or any part of the cost of acquiring or constructing any specific fixed asset of such Subsidiary (including without limitation Capital Leases); *provided*, that such Indebtedness (a) is incurred (1) at a time when no Default or Unmatured Default has occurred and is continuing or would result from such incurrence and (2) within eighteen (18) months after the acquisition or construction of such fixed asset, and (b) does not exceed 100% of the total cost of such acquisition or construction (plus interest, fees and closing costs related thereto).
- (vi) Indebtedness consisting of "Obligations" and guarantee obligations with respect to the "Obligations" under (and as defined in) the 3-Year Credit Agreement.
- (vii) Additional Indebtedness (including, without limitation, Indebtedness secured by Liens permitted under Section 6.13(xv)) in an aggregate amount not to exceed twenty-five percent (25%) of Stockholders' Equity as of the end of the Company's fiscal quarter most recently ended.

6.12. Consolidations and Mergers; Permitted Acquisitions.

6.12.1. Consolidations and Mergers. Each Borrower agrees that it will not, nor will the Company permit any Subsidiary to, consolidate or merge with or into any other Person, *provided* that if, after giving effect to any of the following, no Default will be in existence: (i) any Subsidiary may merge or consolidate with the Company if the Company is the corporation surviving such merger, (ii) any Borrower may merge or consolidate with any other Borrower, (iii) any Subsidiary which is a Guarantor may merge or consolidate with any other Subsidiary which is a Guarantor, (iv) any Subsidiary which is not a Borrower or Guarantor may merge or consolidate with any other Subsidiary which is not a Borrower or Guarantor, (v) any Subsidiary

which is not a Borrower or a Guarantor may merge or consolidate with any other Subsidiary which is a Borrower or a Guarantor, if the Borrower or Guarantor, as the case may be, is the corporation surviving such merger, and (vi) any Borrower or Subsidiary may merge or consolidate with any other Person if (a) such Person was organized under the laws of the United States of America or one of its States, (b) either (1) such Borrower or Subsidiary is the corporation surviving such merger or (2) such Person becomes a Subsidiary as a result of such merger or consolidation and expressly assumes in writing (in form and substance reasonably acceptable to the Administrative Agent) all obligations of such Borrower or Subsidiary, as the case may be, under the Loan Documents executed by such Borrower or Subsidiary, *provided*, in any merger or consolidation involving a Domestic Subsidiary, the survivor shall be a Domestic Subsidiary, and in any merger or consolidation involving a Foreign Subsidiary, the survivor shall be a Foreign Subsidiary, and (c) immediately after giving effect to such merger, no Default shall have occurred and be continuing.

6.12.2. Permitted Acquisitions. Each Borrower agrees that it will not, nor will the Company permit any Subsidiary to, make any Acquisitions other than Acquisitions meeting the following requirements or otherwise approved by the Required Lenders (which approval shall not be unreasonably withheld or delayed) (each such Acquisition constituting a "**Permitted Acquisition**"):

- (i) as of the date of the consummation of such Acquisition, no Default or Unmatured Default shall have occurred and be continuing or would result from such Acquisition, and the representation and warranty contained in Section 5.10 shall be true both before and after giving effect to such Acquisition;
- (ii) such Acquisition is consummated on a non-hostile basis pursuant to a negotiated acquisition agreement approved by the board of directors or other applicable governing body of the seller or entity to be acquired, and no material challenge to such Acquisition (excluding the exercise of appraisal rights) shall be pending or threatened by any shareholder or director of the seller or entity to be acquired;
- (iii) the business to be acquired in such Acquisition is similar or related to one or more of the lines of business in which the Company and its Subsidiaries are engaged on the Effective Date;
- (iv) as of the date of the consummation of such Acquisition, (x) all material governmental and corporate approvals required in connection therewith shall have been obtained and (y) the Company shall be in compliance with Section 6.10;
- (v) the Purchase Price for each such Acquisition (other than any Acquisition otherwise approved by the Required Lenders) together with the Purchase Price of all other Permitted Acquisitions (other than any Permitted Acquisition otherwise approved by the Required Lenders) shall not exceed an amount equal to \$50,000,000 during any period of twelve consecutive months; and
- (vi) with respect to each Permitted Acquisition with respect to which the Purchase Price shall be greater than \$25,000,000, not less than ten (10) days prior to the

consummation of such Permitted Acquisition, the Company shall have delivered to the Administrative Agent a pro forma consolidated balance sheet, income statement and cash flow statement of the Company and its Subsidiaries (the “**Acquisition Pro Forma**”), based on the Company’s most recent financial statements delivered pursuant to Section 6.1(i) and using historical financial statements for the acquired entity provided by the seller(s) or which shall be complete and shall fairly present, in all material respects, the financial condition and results of operations and cash flows of the Company and its Subsidiaries in accordance with Agreement Accounting Principles, but taking into account such Permitted Acquisition and the funding of all Credit Extensions in connection therewith, and such Acquisition Pro Forma shall reflect that, on a pro forma basis, the Company would have been in compliance with the financial covenants set forth in Section 6.18 for the four fiscal quarter period reflected in the compliance certificate most recently delivered to the Administrative Agent pursuant to Section 6.1(iii) prior to the consummation of such Permitted Acquisition (giving effect to such Permitted Acquisition and all Credit Extensions funded in connection therewith as if made on the first day of such period).

6.13. Liens. The Company will not, nor will it permit any Subsidiary to, create, incur, or suffer to exist any Lien in, of or on the Property of the Company or any of its Subsidiaries, except:

- (i) Liens for taxes, assessments or governmental charges or levies on its Property if the same shall not at the time be delinquent or thereafter can be paid without penalty, or are being contested in good faith and by appropriate proceedings and for which adequate reserves in accordance with Agreement Accounting Principles shall have been set aside on its books.
- (ii) Liens imposed by law, such as landlords’, wage earners’, carriers’, warehousemen’s and mechanics’ liens and other similar liens, arising in the ordinary course of business which secure payment of obligations not more than sixty (60) days past due or which are being contested in good faith by appropriate proceedings and for which adequate reserves in accordance with Agreement Accounting Principles shall have been set aside on its books.
- (iii) Liens arising out of pledges or deposits under worker’s compensation laws, unemployment insurance, old age pensions, or other social security or retirement benefits, or similar legislation or to secure the performance of tenders, statutory obligations, surety or appeal bonds, bids, leases, government contracts and other similar obligations (provided that such Liens do not secure any Indebtedness).
- (iv) Utility easements, building restrictions, zoning ordinances and such other encumbrances or charges against real property as are of a nature generally existing with respect to properties of a similar character and which do not in any material way affect the marketability of the same or interfere with the use thereof in the business of the Company or its Subsidiaries.

- (v) Liens existing on the Effective Date and described on Schedule 6.13.
- (vi) Liens, if any, securing (a) the Revolving Loans and other Obligations hereunder and/or (b) the “Loans” and other “Obligations” under (and as defined in) the 3-Year Credit Agreement.
- (vii) Liens arising under the Receivables Purchase Documents.
- (viii) Liens existing on any specific fixed asset of any Subsidiary of the Company at the time such Subsidiary becomes a Subsidiary and not created in contemplation of such event.
- (ix) Liens on any specific fixed asset securing Indebtedness incurred or assumed for the purpose of financing or refinancing all or any part of the cost of acquiring or constructing such asset; *provided* that such Lien attaches to such asset concurrently with or within eighteen (18) months after the acquisition or completion or construction thereof.
- (x) Liens existing on any specific fixed asset of any Subsidiary of the Company at the time such Subsidiary is merged or consolidated with or into the Company or any Subsidiary and not created in contemplation of such event.
- (xi) Liens existing on any specific fixed asset prior to the acquisition thereof by the Company or any Subsidiary and not created in contemplation thereof.
- (xii) Liens arising out of the refinancing, extension, renewal or refunding of any Indebtedness secured by any Lien permitted by any of the foregoing clause (v) or clauses (vii) through (xi); *provided* that (a) such Indebtedness is not secured by any additional assets, and (b) the amount of such Indebtedness secured by any such Lien is not increased.
- (xiii) Inchoate Liens arising under ERISA to secure current service pension liabilities as they are incurred under the provisions of Plans from time to time in effect.
- (xiv) Liens securing intercompany Indebtedness owing by (a) any Guarantor to the Company or any other Guarantor and (b) any Subsidiary that is not a Guarantor to the Company or any Wholly-Owned Subsidiary of the Company.
- (xv) Liens not otherwise permitted under this Section 6.13 securing Indebtedness in an aggregate principal amount at any time outstanding, together with the amount of Indebtedness permitted under Section 6.11(vi) (but without duplication), does not exceed twenty-five percent (25%) of Stockholders’ Equity as of the end of the Company’s fiscal quarter most recently ended.

6.14. Transactions with Affiliates. The Company will not, and will not permit any Subsidiary to, enter into any transaction (including, without limitation, the purchase or sale of any Property or service) with, or make any payment or transfer to, any Affiliate (other than the Company or any Subsidiary of the Company) except in the ordinary course of business and

pursuant to the reasonable requirements of the Company's or such Subsidiary's business and upon fair and reasonable terms no less favorable to the Company or such Subsidiary than the Company or such Subsidiary would obtain in a comparable arm's-length transaction, other than Permitted Receivables Transfers.

6.15. Financial Contracts. The Company shall not and shall not permit any of its consolidated Subsidiaries to enter into any Financial Contract, other than Financial Contracts pursuant to which the Company or such Subsidiary hedged its actual or anticipated interest rate, foreign currency or commodity exposure existing or anticipated at the time thereof.

6.16. ERISA. Except to the extent that such act, or failure to act would not result singly, or in the aggregate, after taking into account all other such acts or failures to act, in a liability of the Company or any of its Subsidiaries which could reasonably be expected to exceed ten percent (10%) of the Company's Consolidated Net Worth as reported on the most recent audited financial statements delivered to the Lenders pursuant to Section 6.1(i) (or, prior to the delivery of the first such audited financial statements under Section 6.1(i), as reported on the Combined Balance Sheets), the Company shall not (i) engage, or permit any Controlled Group member to engage, in any prohibited transaction described in Sections 406 of ERISA or 4975 of the Code for which a statutory or class exemption is not available or a private exemption has not been previously obtained from the DOL; (ii) permit to exist any accumulated funding deficiency (as defined in Sections 302 of ERISA and 412 of the Code); (iii) fail, or permit any member of its Controlled Group to fail, to pay timely required contributions or annual installments due with respect to any waived funding deficiency of any Plan; (iv) terminate, or permit any member of its Controlled Group to terminate, any Plan which would result in any liability of the Company or any member of its Controlled Group under Title IV of ERISA; (v) fail to make any contribution or payment to any Multiemployer Plan which the Company or any member of its Controlled Group may be required to make under any agreement relating to such Multiemployer Plan, or any law pertaining thereto; (vi) fail, or permit any member of its Controlled Group to fail, to pay any required installment or any other payment required under Section 412 of the Code on or before the due date for such installment or other payment; (vii) amend, or permit any member of its Controlled Group to amend, a Plan resulting in an increase in current liability for the plan year such that the Company or any member of its Controlled Group is required to provide security to such Plan under Section 401(a)(29) of the Code.

6.17. Environmental Compliance. The Company will not become, or permit any Subsidiary to become, subject to any liabilities or costs which could reasonably be expected to have a Material Adverse Effect arising out of or related to (i) the release or threatened release at any location of any contaminant into the environment, or any remedial action in response thereto, or (ii) any violation of any environmental, health or safety requirements of law (including, without limitation, any Environmental Laws).

6.18. Financial Covenants.

6.18.1. Maximum Leverage Ratio. The Company shall not permit the ratio (the "Leverage Ratio") of (i) Indebtedness For Borrowed Money of the Company and its consolidated Subsidiaries to (ii) EBITDA to be greater than (a) 3.50 to 1.00 as of February 28, 2003, (b) 3.50 to 1.00 as of each of May 31, 2003 and August 31, 2003, (c) 3.25 to 1.00 as of

each of November 30, 2003 and February 29, 2004 and (d) 3.00 to 1.00 as of the end of each fiscal quarter thereafter. The Leverage Ratio shall be calculated as of the last day of each fiscal quarter based upon (1) for Indebtedness For Borrowed Money, as of the last day of each such fiscal quarter; and (2) for EBITDA, the actual amount for the four-quarter period ending on such day, and shall be calculated, with respect to Permitted Acquisitions, on a pro forma basis using historical audited and reviewed unaudited financial statements obtained from the seller(s) in such Permitted Acquisition, broken down by fiscal quarter in the Company's reasonable judgement and satisfactory to the Administrative Agent and as reported to the Administrative Agent.

6.18.2. Minimum Interest Expense Coverage Ratio. The Company shall maintain a ratio (the "**Interest Expense Coverage Ratio**") of (i) EBIT to (ii) Interest Expense for the applicable period of at least 2.50 to 1.00 as of the end of each fiscal quarter ending on or after February 28, 2003. The Interest Expense Coverage Ratio shall be calculated as of the last day of each fiscal quarter for the actual amount of EBIT and Interest Expense for the four-quarter period ending on such day, and shall be calculated, with respect to Permitted Acquisitions, on a pro forma basis using historical audited and reviewed unaudited financial statements obtained from the seller(s) in such Permitted Acquisition, broken down by fiscal quarter in the Company's reasonable judgement and satisfactory to the Administrative Agent.

ARTICLE VII

DEFAULTS

The occurrence of any one or more of the following events shall constitute a Default:

7.1. Breach of Representations or Warranties. Any representation or warranty made or deemed made by or on behalf of the Company or any of its Subsidiaries to the Lenders or the Agents under or in connection with this Agreement, any Credit Extension, or any certificate or information delivered in connection with this Agreement or any other Loan Document shall be false in any material respect on the date as of which made.

7.2. Failure to Make Payments When Due. Nonpayment of (i) principal of any Revolving Loan when due, or (ii) interest upon any Revolving Loan or any Facility Fee, Utilization Fee or other Obligations under any of the Loan Documents within five (5) Business Days after such interest, fee or other Obligation becomes due.

7.3. Breach of Covenants. The breach by any Borrower of any of the terms or provisions of Section 6.1(iii), Sections 6.2 through 6.4, (with respect to the Company's or any of its Subsidiaries' existence), Section 6.9(i), Sections 6.11 through 6.13 or Section 6.18.

7.4. Other Breaches. The breach by any Borrower (other than a breach which constitutes a Default under another Section of this Article VII) of any of the terms or provisions of this Agreement or any other Loan Document which is not remedied within thirty (30) days after the earlier to occur of (i) written notice thereof has been given to the Company by the Administrative Agent at the request of any Lender or (ii) an Authorized Officer otherwise becomes aware of any such breach; *provided, however*, that such cure period for such breach (other than a breach of the terms or provisions of Section 6.10) shall be extended for a period of

time, not to exceed an additional thirty (30) days, reasonably sufficient to permit such Borrower to cure such failure if such failure cannot be cured within the initial 30-day period but reasonably could be expected to be capable of cure within such additional thirty (30) days, such Borrower has commenced efforts to cure such failure during the initial 30-day period and such Borrower is diligently pursuing such cure.

7.5. Default as to Other Indebtedness.

(i) Failure of the Company or any of its Subsidiaries to pay when due (whether at stated maturity, by acceleration or otherwise) (a) any Indebtedness under the 3-Year Credit Agreement (after giving effect to any applicable grace periods) or (b) any other Indebtedness which, individually or in the aggregate exceeds \$25,000,000 (or the equivalent in currencies other than Dollars) (such Indebtedness under the 3-Year Credit Agreement and such other Indebtedness being referred to as "**Material Indebtedness**"); or

(ii) Any Material Indebtedness of the Company or any of its Subsidiaries shall be declared to be due and payable or required to be prepaid or repurchased (other than by a regularly scheduled payment) prior to the stated maturity thereof; or

(iii) The Company or any of its Material Subsidiaries shall fail to pay, or shall admit in writing its inability to pay, its debts generally as they become due; or

(iv) The default by the Company or any of its Subsidiaries in the performance (beyond the applicable grace period with respect thereto, if any) of any term, provision or condition contained in any agreement under which any such Material Indebtedness was created or is governed, or any other event shall occur or condition exist, the effect of which default or event is to cause, or to permit the holder or holders of such Material Indebtedness to cause such Material Indebtedness to become due prior to its stated maturity.

7.6. Voluntary Bankruptcy; Appointment of Receiver; Etc. The Company or any of its Material Subsidiaries shall (i) have an order for relief entered with respect to it under the Federal bankruptcy laws as now or hereafter in effect, (ii) make an assignment for the benefit of creditors, (iii) apply for, seek, consent to, or acquiesce in, the appointment of a receiver, custodian, trustee, examiner, liquidator or similar official for it or any Substantial Portion of its Property, (iv) institute any proceeding seeking an order for relief with respect to it under the Federal bankruptcy laws as now or hereafter in effect or seeking to adjudicate it a bankrupt or insolvent, or seeking dissolution, winding up, liquidation, reorganization, arrangement, adjustment or composition of it or its debts under any law relating to bankruptcy, insolvency or reorganization or relief of debtors or fail to file an answer or other pleading denying the material allegations of any such proceeding filed against it, (v) take any corporate or partnership action to authorize or effect any of the foregoing actions set forth in this Section 7.6, or (vi) fail to contest in good faith any appointment or proceeding described in Section 7.7.

7.7. Involuntary Bankruptcy; Appointment of Receiver; Etc. Without the application, approval or consent of the Company or any of its Material Subsidiaries, a receiver, trustee, examiner, liquidator or similar official shall be appointed for the Company or any of its Subsidiaries or any Substantial Portion of its Property, or a proceeding described in Section

7.6(iv) shall be instituted against the Company or any of its Material Subsidiaries and such appointment continues undischarged or such proceeding continues undismissed or unstayed for a period of sixty (60) consecutive days.

7.8. Judgments. The Company or any of its Subsidiaries shall fail within thirty (30) days after the final entry thereof to pay, bond or otherwise discharge one or more (i) judgments or orders for the payment of money (except to the extent covered by independent third-party insurance as to which the insurer has not disclaimed coverage) in the aggregate in excess of ten percent (10%) of the Company's Consolidated Net Worth as reported in the most recent annual audited financial statements delivered to the Lenders pursuant to Section 6.1(i), or (ii) nonmonetary judgments or orders which, individually or in the aggregate, could reasonably be expected to have a Material Adverse Effect, which judgment(s), in any such case, is/are not stayed on appeal or otherwise being appropriately contested in good faith.

7.9. Unfunded Liabilities. The sum of (a) the Unfunded Liabilities of all Plans and (b) the present value of the aggregate unfunded liabilities to provide the accrued benefits under all Foreign Pension Plans exceeds in the aggregate an amount equal to ten percent (10%) of the Company's Consolidated Net Worth as reported on the most recent audited financial statements delivered to the Lenders pursuant to Section 6.1(i) (or, prior to the delivery of the first such audited financial statements under Section 6.1(i), as reported on the Combined Balance Sheets), or any Reportable Event shall occur in connection with any Plan if the liability of the Company or any of its Subsidiaries resulting from such Reportable Event exceeds in the aggregate an amount equal to ten percent (10%) of the Company's Consolidated Net Worth as reported on the most recent audited financial statements delivered to the Lenders pursuant to Section 6.1(i) (or, prior to the delivery of the first such audited financial statements under Section 6.1(i), as reported on the Combined Balance Sheets).

7.10. Other ERISA Liabilities. The Company or any other member of its Controlled Group has incurred withdrawal liability or become obligated to make contributions to a Multiemployer Plan in an amount which, when aggregated with all other amounts required to be paid to Multiemployer Plans by the Company or any other member of its Controlled Group as withdrawal liability (determined as of the date of such notification), exceeds ten percent (10%) of the Company's Consolidated Net Worth as reported in the most recent annual audited financial statements delivered to the Lenders pursuant to Section 6.1(i) or requires payments per annum exceeding ten percent (10%) of the Company's Consolidated Net Worth as reported in the most recent annual audited financial statements delivered to the Lenders pursuant to Section 6.1(i) (or, prior to the delivery to the Lenders of the first such financial statements, as reported on the Combined Balance Sheets).

7.11. Environmental Matters. The Company or any of its Subsidiaries shall (i) be the subject of any proceeding or investigation pertaining to the release by the Company, any of its Subsidiaries or any other Person of any toxic or hazardous waste or substance into the environment, or (ii) violate any Environmental Law, which, in the case of an event described in clause (i) or clause (ii), could reasonably be expected to have a Material Adverse Effect.

7.12. Change in Control. Any Change in Control shall occur.

7.13. Receivables Purchase Document Events. Other than at the request of an Affiliate of the Company party thereto (as permitted thereunder), an event shall occur which (i) permits the investors in a Receivables Purchase Facility to require amortization or liquidation of the facility or (ii) results in the termination of reinvestment or re-advancing of collections or proceeds of Receivables and Related Security shall occur under the Receivables Purchase Documents, and, in the case of an event described in clause (i) or clause (ii), the Company or any Subsidiary thereof (other than any SPV) has liability in excess of ten percent (10%) of the Company's Consolidated Net Worth as reported on the most recent audited financial statements delivered to the Lenders pursuant to Section 6.1(i) (or, prior to the delivery of the first such audited financial statements under Section 6.1(i), as reported on the Combined Balance Sheets).

7.14. Guarantor Revocation. Any guarantor of the Obligations shall deny, disaffirm, terminate or revoke any of its obligations under the applicable Guaranty (except in accordance with Section 11.15 hereof) or breach any of the material terms of such Guaranty.

ARTICLE VIII

ACCELERATION, WAIVERS, AMENDMENTS AND REMEDIES

8.1. Acceleration.

(i) If any Default described in Section 7.6 or 7.7 occurs with respect to any Borrower, the obligations of the Lenders to make Revolving Loans hereunder shall automatically terminate and the Obligations shall immediately become due and payable without any election or action on the part of the Administrative Agent or any Lender. If any other Default occurs, the Required Lenders (or the Administrative Agent with the consent of the Required Lenders) may terminate or suspend the obligations of the Lenders to make Revolving Loans hereunder, or declare the Obligations to be due and payable, or both, whereupon the Obligations shall become immediately due and payable, without presentment, demand, protest or notice of any kind, all of which the Borrowers hereby expressly waive.

(ii) If, within thirty (30) days after acceleration of the maturity of the Obligations or termination of the obligations of the Lenders to make Revolving Loans hereunder as a result of any Default (other than any Default as described in Section 7.6 or 7.7 with respect to any Borrower) and before any judgment or decree for the payment of the Obligations due shall have been obtained or entered, the Required Lenders (in their sole discretion) shall so direct, the Administrative Agent shall, by notice to the Borrowers, rescind and annul such acceleration and/or termination.

8.2. Amendments. Subject to the provisions of this Article VIII, the Required Lenders (or the Administrative Agent with the consent in writing of the Required Lenders) and the Borrowers may enter into agreements supplemental hereto for the purpose of adding or modifying any provisions to the Loan Documents or changing in any manner the rights of the Lenders or the Borrowers hereunder or thereunder or waiving any Default hereunder or thereunder; *provided, however*, that no such supplemental agreement shall, without the consent of each Lender affected thereby:

- (i) Extend the final maturity of any Revolving Loan to a date after the Revolving Loan Termination Date or forgive all or any portion of the principal amount thereof, or reduce the rate or extend the time of payment of interest or fees thereon (other than (i) a waiver of the application of the default rate of interest pursuant to Section 2.12 hereof and (ii) extensions of the Revolving Loan Termination Date pursuant to Section 2.23).
- (ii) Change the percentage specified in the definition of Required Lenders or any other percentage of Lenders specified to be the applicable percentage in this Agreement to act on specified matters or otherwise amend the definitions of “Required Lenders” or “Pro Rata Share”.
- (iii) Extend the Revolving Loan Termination Date or the Commitment Termination Date, or increase the amount or otherwise extend the term of the Commitment of any Lender hereunder (other than as expressly permitted by the terms of Section 2.23).
- (iv) Permit any Borrower to assign its rights or obligations under this Agreement.
- (v) Other than pursuant to a transaction permitted by the terms of this Agreement, release any guarantor of the Obligations or any substantial portion of the collateral, if any, securing the Obligations.
- (vi) Amend this Section 8.2.
- (vii) No amendment of any provision of this Agreement relating to any Agent shall be effective without the written consent of such Agent. The Administrative Agent may waive payment of the fee required under Section 13.3.2 without obtaining the consent of any other party to this Agreement.

8.3. Preservation of Rights. No delay or omission of the Lenders or Agents to exercise any right under the Loan Documents shall impair such right or be construed to be a waiver of any Default or an acquiescence therein, and the making of a Credit Extension notwithstanding the existence of a Default or Unmatured Default or the inability of the Borrowers to satisfy the conditions precedent to such Credit Extension shall not constitute any waiver or acquiescence. Any single or partial exercise of any such right shall not preclude other or further exercise thereof or the exercise of any other right, and no waiver, amendment or other variation of the terms, conditions or provisions of the Loan Documents whatsoever shall be valid unless in writing signed by, or by the Administrative Agent with the consent of, the requisite number of Lenders required pursuant to Section 8.2, and then only to the extent in such writing specifically set forth. All remedies contained in the Loan Documents or by law afforded shall be cumulative and all shall be available to the Agents and the Lenders until all of the Obligations have been paid in full.

ARTICLE IX
JOINT AND SEVERAL OBLIGATIONS

9.1. Joint and Several Liability. Each Borrower agrees that it is jointly and severally, directly and primarily liable to the Administrative Agent and the Lenders for payment, performance and satisfaction in full of the Obligations and that such liability is independent of the duties, obligations, and liabilities of the other Borrowers. The Administrative Agent and the Lenders may jointly bring a separate action or actions on each, any, or all of the Obligations against any Borrower, whether action is brought against the other Borrowers or whether the other Borrowers are joined in such action. In the event that any Borrower fails to make any payment of any Obligations on or before the due date thereof, the other Borrowers immediately shall cause such payment to be made or each of such Obligations to be performed, kept, observed, or fulfilled.

9.2. Primary Obligation; Waiver of Marshalling. This Agreement and the Loan Documents to which Borrowers are a party are a primary and original obligation of each Borrower, are not the creation of a surety relationship, and are an absolute, unconditional, and continuing promise of payment and performance which shall remain in full force and effect without respect to future changes in conditions, including any change of law or any invalidity or irregularity with respect to this Agreement or the Loan Documents to which Borrowers are a party. Each Borrower agrees that its liability under this Agreement and the Loan Documents to which it is a party shall be immediate and shall not be contingent upon the exercise or enforcement by the Administrative Agent and the Lenders of whatever remedies they may have against the other Borrowers. Each Borrower consents and agrees that the Administrative Agent and the Lenders shall be under no obligation to marshal any assets of any Borrower against or in payment of any or all of the Obligations.

9.3. Financial Condition of Borrowers. Each Borrower acknowledges that it is presently informed as to the financial condition of the other Borrowers and of all other circumstances which a diligent inquiry would reveal and which bear upon the risk of nonpayment of the Obligations. Each Borrower hereby covenants that it will continue to keep informed as to the financial condition of the other Borrowers, the status of the other Borrowers and of all circumstances which bear upon the risk of nonpayment. Absent a written request from any Borrower to the Administrative Agent and the Lenders for information, each Borrower hereby waives any and all rights it may have to require the Administrative Agent and the Lenders to disclose to such Borrower any information which the Administrative Agent and the Lenders may now or hereafter acquire concerning the condition or circumstances of the other Borrowers.

9.4. Continuing Liability. Subject to the provisions of Section 2.22, the liability of each Borrower under this Agreement and the Loan Documents to which such Borrower is a party includes Obligations arising under successive transactions continuing, compromising, extending, increasing, modifying, releasing, or renewing the Obligations, changing the interest rate, payment terms, or other terms and conditions thereof, or creating new or additional Obligations after prior Obligations have been satisfied in whole or in part. To the maximum extent permitted by law, each Borrower hereby waives any right to revoke its liability under this Agreement and Loan Documents as to future indebtedness.

9.5. Additional Waivers. Each Borrower absolutely, unconditionally, knowingly, and expressly waives (a) notice of acceptance hereof; (b) notice of any Revolving Loans or other financial accommodations made or extended under this Agreement and the Loan Documents to which Borrowers are a party or the creation or existence of any Obligations; (c) notice of the amount of the Obligations, subject, however, to each Borrower's right to make inquiry of the Administrative Agent and the Lenders to ascertain the amount of the Obligations at any reasonable time; (d) notice of any adverse change in the financial condition of the other Borrowers or of any other fact that might increase such Borrower's risk hereunder; (e) notice of presentment for payment, demand, protest, and notice thereof as to any instruments among the Loan Documents to which Borrowers are a party; (f) notice of any Default or Unmatured Default; (g) all other notices (except, in each case, if such notice is specifically required to be given to any Borrower hereunder or under the Loan Documents to which Borrowers are a party and demands to which such Borrower might otherwise be entitled); (h) any right of subrogation such Borrower has or may have as against the other Borrowers with respect to the Obligations; (i) any right to proceed against the other Borrowers or any other Person, now or hereafter, for contribution, indemnity, reimbursement, or any other suretyship rights and claims, whether direct or indirect, liquidated or contingent, whether arising under express or implied contract or by operation of law, which such Borrower may now have or hereafter have as against the other Borrowers with respect to the Obligations; and (j) any right to proceed or seek recourse against or with respect to any property or asset of the other Borrowers.

9.6. Settlements or Releases. Each Borrower consents and agrees that, without notice to or by such Borrower, and without affecting or impairing the liability of such Borrower hereunder, the Administrative Agent and the Lenders may, by action or inaction (i) compromise, settle, extend the duration or the time for the payment of, or discharge the performance of, or may refuse to or otherwise not enforce this Agreement and the Loan Documents, or any part thereof, with respect to the other Borrowers or any Guarantor; (ii) release the other Borrowers or any Guarantor or grant other indulgences to the other Borrowers or any Guarantor in respect thereof; or (iii) release or substitute any Guarantor, if any, of the Obligations, or enforce, exchange, release, or waive any security, if any, for the Obligations or any other guaranty of the Obligations, or any portion thereof.

9.7. No Election. The Administrative Agent and the Lenders shall have the right to seek recourse against each Borrower to the fullest extent provided for herein, and no election by the Administrative Agent and the Lenders to proceed in one form of action or proceeding, or against any party, or on any obligation, shall constitute a waiver of the Administrative Agent's or any Lenders' right to proceed in any other form of action or proceeding or against other parties unless the Administrative Agent and the Lenders have expressly waived such right in writing.

9.8. Joint Loan Account. At the request of Borrowers to facilitate and expedite the administration and accounting processes and procedures of the Revolving Loans, the Administrative Agent and the Lenders have agreed, in lieu of maintaining separate loan accounts on the Administrative Agent's and the Lenders' books in the name of each of the Borrowers, that the Administrative Agent and the Lenders may maintain a single loan account under the name of all of the Borrowers (the "Joint Loan Account"). All Revolving Loans shall be charged to the Joint Loan Account, together with all interest and other charges as permitted under and pursuant to this Agreement. The Joint Loan Account shall be credited with all repayments of Obligations

received by the Administrative Agent and the Lenders, on behalf of Borrowers, from any Borrower pursuant to the terms of this Agreement.

9.9. Apportionment of Proceeds of Loans. Each Borrower expressly agrees and acknowledges that the Administrative Agent and the Lenders shall have no responsibility to inquire into the correctness of the apportionment or allocation of or any disposition by any of Borrowers of (a) the Revolving Loans or any other Obligation, or (b) any of the expenses and other items charged to the Joint Loan Account pursuant to this Agreement. The Revolving Loans and the other Obligations and such expenses and other items shall be made for the collective, joint, and several account of Borrowers and shall be charged to the Joint Loan Account.

9.10. The Administrative Agent and Lenders Held Harmless. Each Borrower agrees and acknowledges that the administration of this Agreement on a combined basis, as set forth herein, is being done as an accommodation to the Borrowers and at their request, and that the Administrative Agent and the Lenders shall incur no liability to any Borrower as a result thereof. To induce the Administrative Agent and the Lenders to do so, and in consideration thereof, each Borrower hereby agrees to indemnify and hold the Administrative Agent and the Lenders harmless from and against any and all liability, expense, loss, damage, claim of damage, or injury, made against the Administrative Agent and the Lenders by Borrowers or by any other Person, arising from or incurred by reason of such administration of the Agreement on a combined basis, except to the extent such liability, expense, loss, damage, claim of damage, or injury solely arises from the gross negligence or willful misconduct or breach of the obligations under the Loan Documents of the Administrative Agent and the Lenders, as applicable.

9.11. Borrowers' Integrated Operations. Each Borrower represents and warrants to the Administrative Agent and the Lenders that the collective administration of the Revolving Loans is being undertaken by the Administrative Agent and the Lenders pursuant to this Agreement because Borrowers are integrated in their operation and administration and require financing on a basis permitting the availability of credit from time to time to the Borrowers. Each Borrower will derive benefit, directly and indirectly, from such collective administration and credit availability because the successful operation of each Borrower is enhanced by the continued successful performance of the integrated group.

ARTICLE X

GENERAL PROVISIONS

10.1. Survival of Representations. All representations and warranties of the Borrowers contained in this Agreement shall survive the making of the Credit Extensions herein contemplated.

10.2. Governmental Regulation. Anything contained in this Agreement to the contrary notwithstanding, no Lender shall be obligated to extend credit to the Borrowers in violation of any limitation or prohibition provided by any applicable statute or regulation.

10.3. Headings. Section headings in the Loan Documents are for convenience of reference only, and shall not govern the interpretation of any of the provisions of the Loan Documents.

10.4. Entire Agreement. The Loan Documents embody the entire agreement and understanding among the Borrowers, the Agents and the Lenders and supersede all prior agreements and understandings among the Borrowers, the Agents and the Lenders relating to the subject matter thereof other than the fee letter described in Section 11.13.

10.5. Several Obligations; Benefits of this Agreement. The respective obligations of the Lenders hereunder are several and not joint and no Lender shall be the partner or agent of any other (except to the extent to which the Agents are authorized to act as such). The failure of any Lender to perform any of its obligations hereunder shall not relieve any other Lender from any of its obligations hereunder. This Agreement shall not be construed so as to confer any right or benefit upon any Person other than the parties to this Agreement and their respective successors and assigns, *provided, however*, that the parties hereto expressly agree that the Arranger shall enjoy the benefits of the provisions of Sections 9.6, 9.10, 10.11, and 10.13 to the extent specifically set forth therein and shall have the right to enforce such provisions on its own behalf and in its own name to the same extent as if it were a party to this Agreement.

10.6. Expenses; Indemnification.

(i) The Borrowers shall reimburse the Administrative Agent and the Arranger for any costs, internal charges and out-of-pocket expenses (including reasonable attorneys' and paralegals' fees, time charges and expenses of attorneys and paralegals for the Administrative Agent and Arranger, which attorneys and paralegals may or may not be employees of the Administrative Agent or the Arranger, and expenses of and fees for other advisors and professionals engaged by the Administrative Agent or the Arranger) paid or incurred by the Administrative Agent or the Arranger in connection with the investigation, preparation, negotiation, documentation, execution, delivery, syndication, distribution (including, without limitation, via the internet), review, amendment, modification, administration and collection of the Loan Documents. The Borrowers also agree to reimburse the Agents, the Arranger and the Lenders for any reasonable costs, internal charges and out-of-pocket expenses (including reasonable attorneys' and paralegals' fees, time charges and expenses of attorneys and paralegals for the Agents, the Arranger and the Lenders, which attorneys and paralegals may be employees of the Agents, the Arranger or the Lenders) paid or incurred by the Agents, the Arranger or any Lender in connection with the collection and enforcement of the Loan Documents. Notwithstanding anything herein or in any other Loan Document to the contrary, any and all provisions in this Agreement or in any other Loan Document that obligates the Company or any of its Subsidiaries to pay the attorney's fees or expenses of another Person shall be deemed to obligate the Company or such Subsidiary (as the case may be) to pay the actual and reasonable attorney's fees and expenses of such Person and such fees and expenses shall be calculated without giving effect to any statutory presumptions as to the reasonableness or the amount thereof that may apply under applicable law.

(ii) The Borrowers hereby further agree to indemnify the Agents, the Arranger, each Lender, their respective affiliates, and each of their directors, officers and employees against all

losses, claims, damages, penalties, judgments, liabilities and expenses (including, without limitation, all reasonable expenses of litigation or preparation therefor whether or not the Agents, the Arranger, any Lender or any affiliate is a party thereto, and all reasonable attorneys' and paralegals' fees, time charges and expenses of attorneys and paralegals of the party seeking indemnification, which attorneys and paralegals may or may not be employees of such party seeking indemnification) which any of them may pay or incur arising out of or relating to this Agreement, the other Transaction Documents, the Spin-Off Transactions or any other transactions contemplated hereby or the direct or indirect application or proposed application of the proceeds of any Credit Extension hereunder, except to the extent that they are determined in a final, non-appealable judgment by a court of competent jurisdiction to have resulted from the gross negligence or willful misconduct of the party seeking indemnification or by reason of such indemnified party's breach of its obligations under the Loan Documents, or are the result of claims of any Lender against other Lenders or against the Administrative Agent not attributable to the Company's or any of its Subsidiary's actions and for which the Company and its Subsidiaries otherwise have no liability. The obligations of the Borrowers under this Section 10.6 shall survive the termination of this Agreement.

10.7. Numbers of Documents. All statements, notices, closing documents, and requests hereunder shall be furnished to the Administrative Agent with sufficient counterparts so that the Administrative Agent may furnish one to each of the Lenders, to the extent that the Administrative Agent deems necessary.

10.8. Accounting. Except as provided to the contrary herein, all accounting terms used herein shall be interpreted and all accounting determinations hereunder shall be made in accordance with Agreement Accounting Principles. If any changes in generally accepted accounting principles are hereafter required or permitted and are adopted by the Company or any of its Subsidiaries with the agreement of its independent certified public accountants and such changes result in a change in the method of calculation of any of the financial covenants, tests, restrictions or standards herein or in the related definitions or terms used therein ("Accounting Changes"), the parties hereto agree, at the Company's request, to enter into negotiations, in good faith, in order to amend such provisions in a credit neutral manner so as to reflect equitably such changes with the desired result that the criteria for evaluating the Company's and its Subsidiaries' financial condition shall be the same after such changes as if such changes had not been made; *provided, however*, until such provisions are amended in a manner reasonably mutually satisfactory to the Company, the Administrative Agent and the Required Lenders, no Accounting Change shall be given effect in such calculations and all financial statements and reports required to be delivered hereunder shall be prepared in accordance with Agreement Accounting Principles without taking into account such Accounting Changes. In the event such amendment is entered into, all references in this Agreement to Agreement Accounting Principles shall mean generally accepted accounting principles as of the date of such amendment.

10.9. Severability of Provisions. Any provision in any Loan Document that is held to be inoperative, unenforceable, or invalid in any jurisdiction shall, as to that jurisdiction, be inoperative, unenforceable, or invalid without affecting the remaining provisions in that jurisdiction or the operation, enforceability, or validity of that provision in any other jurisdiction, and to this end the provisions of all Loan Documents are declared to be severable.

10.10. Nonliability of Lenders. The relationship between the Borrowers on the one hand and the Lenders and the Agents on the other hand shall be solely that of borrower and lender. None of the Agents, the Arranger or any Lender shall have any fiduciary responsibilities to the Borrowers. None of the Agents, the Arranger or any Lender undertakes any responsibility to the Borrowers to review or inform the Borrowers of any matter in connection with any phase of any Borrower's business or operations. The Borrowers agree that none of the Agents, the Arranger or any Lender shall have liability to the Borrowers (whether sounding in tort, contract or otherwise) for losses suffered by the Borrowers in connection with, arising out of, or in any way related to, the transactions contemplated and the relationship established by the Loan Documents, or any act, omission or event occurring in connection therewith, unless it is determined in a final, non-appealable judgment by a court of competent jurisdiction that such losses resulted from the gross negligence or willful misconduct or breach of the obligations under the Loan Documents of the party from which recovery is sought. None of the Agents, the Arranger or any Lender shall have any liability with respect to, and the Borrowers hereby waive, releases and agrees not to sue for, any special, indirect, consequential or punitive damages suffered by the Borrowers in connection with, arising out of, or in any way related to the Loan Documents or the transactions contemplated thereby.

10.11. Confidentiality. Each Lender agrees to hold any confidential information which it may receive from any Borrower pursuant to this Agreement in confidence, except for disclosure to the following Persons for the following purposes (and under the terms of confidence that are substantially the same as this Section in the case of any disclosure covered by clause (i), (ii), (vi) or (vii) below): (i) to other Lenders and their respective Affiliates in connection with the transactions contemplated by this Agreement, (ii) to legal counsel, accountants, and other professional advisors to such Lender in connection with the transactions contemplated by this Agreement or to a Transferee or prospective Transferee in connection with the transactions contemplated by this Agreement, (iii) to regulatory officials as required by applicable law as determined by such Lender (which determination shall be conclusive and binding on all parties hereto), (iv) to any Person as required by law, regulation, or legal process as determined by such Lender (which determination shall be conclusive and binding on all parties hereto), (v) to any Person to the extent required in any legal proceeding to which such Lender is a party as determined by such Lender (which determination shall be conclusive and binding on all parties hereto), (vi) to such Lender's direct or indirect contractual counterparties in swap agreements relating to the Revolving Loans or to legal counsel, accountants and other professional advisors to such counterparties, and (vii) permitted by Section 13.4. Notwithstanding anything herein to the contrary, confidential information shall not include, and each Lender (and each employee, representative or other agent of any Lender) may disclose to any and all Persons, without limitation of any kind, the "tax treatment" and "tax structure" (in each case, within the meaning of Treasury Regulation Section 1.6011-4) of the transactions contemplated hereby and all materials of any kind (including opinions or other tax analyses) that are or have been provided to such Lender relating to such tax treatment or tax structure; *provided* that with respect to any document or similar item that in either case contains information concerning such tax treatment or tax structure of the transactions contemplated hereby as well as other information, this sentence shall only apply to such portions of the document or similar item that relate to such tax treatment or tax structure.

10.12. Lenders Not Utilizing Plan Assets. None of the consideration used by any of the Lenders or Designated Lenders to make its Credit Extensions constitutes for any purpose of ERISA or Section 4975 of the Code assets of any “plan” as defined in Section 3(3) of ERISA or Section 4975 of the Code and the rights and interests of each of the Lenders and Designated Lenders in and under the Loan Documents shall not constitute such “plan assets” under ERISA.

10.13. Nonreliance. Each Lender hereby represents that it is not relying on or looking to any margin stock (as defined in Regulation U) as collateral in the extension or maintenance of the credit provided for herein.

10.14. Disclosure. The Borrowers and each Lender hereby acknowledge and agree that Bank One and/or its respective Affiliates and certain of the other Lenders and/or their respective Affiliates from time to time may hold investments in, make other loans to or have other relationships with the Borrowers and its Affiliates.

10.15. Subordination of Intercompany Indebtedness. The Borrowers agree that any and all claims of any Borrower against any Guarantor with respect to any “Intercompany Indebtedness” (as hereinafter defined), any endorser, obligor or any other guarantor of all or any part of the Obligations, or against any of its properties shall be subordinate and subject in right of payment to the prior payment, in full and in cash, of all Obligations; *provided* that, and not in contravention of the foregoing, so long as no Default is continuing the Borrowers may make loans to and receive payments in the ordinary course with respect to such Intercompany Indebtedness to the extent otherwise permitted under this Agreement. Notwithstanding any right of any Borrower to ask, demand, sue for, take or receive any payment from any Guarantor, all rights, liens and security interests of the Borrowers, whether now or hereafter arising and howsoever existing, in any assets of any Guarantor (whether constituting part of any collateral given to any Agent or any Lender to secure payment of all or any part of the Obligations or otherwise) shall be and are subordinated to the rights of the Agents and the Lenders in those assets. No Borrower shall have any right to possession of any such asset or to foreclose upon any such asset, whether by judicial action or otherwise, unless and until all of the Obligations (other than contingent indemnity obligations) shall have been fully paid and satisfied (in cash) and all financing arrangements pursuant to all of the Loan Documents have been terminated. If all or any part of the assets of any Guarantor, or the proceeds thereof, are subject to any distribution, division or application to the creditors of any Guarantor, whether partial or complete, voluntary or involuntary, and whether by reason of liquidation, bankruptcy, arrangement, receivership, assignment for the benefit of creditors or any other action or proceeding, or if the business of any Guarantor is dissolved or if substantially all of the assets of any Guarantor are sold (other than in a transaction permitted under this Agreement), then, and in any such event (such events being herein referred to as an “**Insolvency Event**”), any payment or distribution of any kind or character, either in cash, securities or other property, which shall be payable or deliverable upon or with respect to any indebtedness of any Guarantor to any Borrower (“**Intercompany Indebtedness**”) shall be paid or delivered directly to the Administrative Agent for application on any of the Obligations, due or to become due, until such Obligations (other than contingent indemnity obligations) shall have first been fully paid and satisfied (in cash). Should any payment, distribution, security or instrument or proceeds thereof be received by any Borrower upon or with respect to the Intercompany Indebtedness after any Insolvency Event and prior to the satisfaction of all of the Obligations (other than contingent

indemnity obligations) and the termination of all financing arrangements pursuant to all of the Loan Documents, such Borrower shall receive and hold the same in trust, as trustee, for the benefit of the Agents and the Lenders and shall forthwith deliver the same to the Administrative Agent, for the benefit of the Agents and the Lenders, in precisely the form received (except for the endorsement or assignment of such Borrower where necessary), for application to any of the Obligations, due or not due, and, until so delivered, the same shall be held in trust by such Borrower as the property of the Agents and the Lenders. If any Borrower fails to make any such endorsement or assignment to the Administrative Agent, the Administrative Agent or any of its officers or employees is irrevocably authorized to make the same. Each Borrower agrees that until the Obligations (other than the contingent indemnity obligations) have been paid in full (in cash) and satisfied and all financing arrangements pursuant to any Loan Document among the Borrowers and the Agents and the Lenders have been terminated, no Borrower will assign or transfer to any Person (other than the Administrative Agent or any other transferee that agrees to be bound by the terms of this Agreement in writing (in form and substance acceptable to the Administrative Agent)) any claim any Borrower has or may have against any Guarantor.

10.16. No Novation. It is the intent of the parties hereto that this Agreement (i) shall re-evidence, in part, the Borrowers' indebtedness under the Existing Credit Agreement, (ii) is entered into in substitution for, and not in payment of, the obligations of the Borrowers under the Existing Credit Agreement, and (iii) is in no way intended to constitute a novation of any of the Borrowers' indebtedness which was evidenced by the Existing Credit Agreement or any of the other Loan Documents.

ARTICLE XI

THE AGENTS

11.1. Appointment; Nature of Relationship. Bank One, NA is hereby appointed by each of the Lenders as the Administrative Agent hereunder and under each other Loan Document, and each of the Lenders irrevocably authorizes the Administrative Agent to act as the contractual representative of such Lender with the rights and duties expressly set forth herein and in the other Loan Documents. Wachovia Bank, National Association is hereby appointed by each of the Lenders as the Syndication Agent hereunder and under each other Loan Document, and each of the Lenders irrevocably authorizes the Syndication Agent to act as the contractual representative of such Lender with the rights and duties expressly set forth herein and in the other Loan Documents. Each Agent agrees to act as such contractual representative upon the express conditions contained in this Article XI. Notwithstanding the use of the defined term "**Administrative Agent**" or "**Syndication Agent**", it is expressly understood and agreed that no Agent shall have any fiduciary responsibilities to any Lender by reason of this Agreement or any other Loan Document and that each Agent is merely acting as the contractual representative of the Lenders with only those duties as are expressly set forth in this Agreement and the other Loan Documents. In their capacities as the Lenders' contractual representative, the Agents (i) do not hereby assume any fiduciary duties to any of the Lenders, (ii) are "representatives" of the Lenders within the meaning of Section 9-102 of the Uniform Commercial Code and (iii) are acting as independent contractors, the rights and duties of which are limited to those expressly set forth in this Agreement and the other Loan Documents. Each of the Lenders hereby agrees to

assert no claim against any Agent on any agency theory or any other theory of liability for breach of fiduciary duty, all of which claims each Lender hereby waives.

11.2. Powers. Each Agent shall have and may exercise such powers under the Loan Documents as are specifically delegated to such Agent by the terms of each thereof, together with such powers as are reasonably incidental thereto. The Agents shall have no implied duties or fiduciary duties to the Lenders 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 applicable Agents.

11.3. General Immunity. No Agent or any of its respective directors, officers, agents or employees shall be liable to the Borrowers, the Lenders or any Lender for any action taken or omitted to be taken by it or them hereunder or under any other Loan Document or in connection herewith or therewith except to the extent such action or inaction is determined in a final, non-appealable judgment by a court of competent jurisdiction to have arisen from the gross negligence or willful misconduct of such Person.

11.4. No Responsibility for Loans, Recitals, etc. No Agent or any of its respective directors, officers, agents or employees shall be responsible for or have any duty to ascertain, inquire into, or verify (a) any statement, warranty or representation made in connection with any Loan Document or any borrowing hereunder; (b) the performance or observance of any of the covenants or agreements of any obligor under any Loan Document, including, without limitation, any agreement by an obligor to furnish information directly to each Lender; (c) the satisfaction of any condition specified in Article IV, except receipt of items required to be delivered solely to the Agents or any of them; (d) the existence or possible existence of any Default or Unmatured Default; (e) the validity, enforceability, effectiveness, sufficiency or genuineness of any Loan Document or any other instrument or writing furnished in connection therewith; (f) the value, sufficiency, creation, perfection or priority of any Lien in any collateral security; or (g) the financial condition of the Borrowers or any guarantor of any of the Obligations or of any of the Company's or any such guarantor's respective Subsidiaries. The Agents shall have no duty to disclose to the Lenders information that is not required to be furnished by any Borrower to any Agent at such time, but is voluntarily furnished by any Borrower to such Agent (either in its capacity as an Agent or in its individual capacity).

11.5. Action on Instructions of Lenders. Each Agent shall in all cases be fully protected in acting, or in refraining from acting, hereunder and under any other Loan Document in accordance with written instructions signed by the Required Lenders (or all of the Lenders in the event that and to the extent that this Agreement expressly requires such), and such instructions and any action taken or failure to act pursuant thereto shall be binding on all of the Lenders. The Lenders hereby acknowledge that the Agents shall be under no duty to take any discretionary action permitted to be taken by any of them pursuant to the provisions of this Agreement or any other Loan Document unless they shall be requested in writing to do so by the Required Lenders (or all of the Lenders in the event that and to the extent that this Agreement expressly requires such). Each Agent shall be fully justified in failing or refusing to take any action hereunder and under any other Loan Document unless it shall first be indemnified to its satisfaction by the Lenders pro rata against any and all liability, cost and expense that it may incur by reason of taking or continuing to take any such action.

11.6. Employment of Agents and Counsel. Any Agent may execute any of its respective duties as an Agent hereunder and under any other Loan Document by or through employees, agents, and attorneys-in-fact and shall not be answerable to the Lenders, except as to money or securities received by it or its authorized agents, for the default or misconduct of any such agents or attorneys-in-fact selected by it with reasonable care. Each Agent shall be entitled to advice of counsel concerning the contractual arrangement between such Agent and the Lenders and all matters pertaining to such Agent's duties hereunder and under any other Loan Document.

11.7. Reliance on Documents; Counsel. Each Agent shall be entitled to rely upon any Note, notice, consent, certificate, affidavit, letter, telegram, statement, paper or document believed by it to be genuine and correct and to have been signed or sent by the proper person or persons, and, in respect to legal matters, upon the opinion of counsel selected by such Agent, which counsel may be employees of such Agent.

11.8. Agents' Reimbursement and Indemnification. The Lenders agree to reimburse and indemnify each Agent ratably in proportion to the Lenders' Pro Rata Shares of Aggregate Commitment (or, after the Commitment Termination Date, of the Aggregate Outstanding Credit Exposure) (i) for any amounts not reimbursed by the Borrowers for which such Agent is entitled to reimbursement by the Borrowers under the Loan Documents, (ii) for any other expenses incurred by such Agent on behalf of the Lenders, in connection with the preparation, execution, delivery, administration and enforcement of the Loan Documents (including, but not limited to, for any expenses incurred by such Agent in connection with any dispute between such Agent and any Lender or between two or more of the Lenders) and (iii) for any liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements of any kind and nature whatsoever which may be imposed on, incurred by or asserted against such Agent in any way relating to or arising out of the Loan Documents or any other document delivered in connection therewith or the transactions contemplated thereby (including, without limitation, for any such amounts incurred by or asserted against such Agent in connection with any dispute between such Agent and any Lender or between two or more of the Lenders), or the enforcement of any of the terms of the Loan Documents or of any such other documents, *provided* that (i) no Lender shall be liable for any of the foregoing to the extent any of the foregoing is found in a final, non-appealable judgment in a court of competent jurisdiction to have resulted from the gross negligence or willful misconduct of such Agent and (ii) any indemnification required pursuant to Section 3.5(vii) shall, notwithstanding the provisions of this Section 11.8, be paid by the relevant Lender in accordance with the provisions thereof. The obligations of the Lenders under this Section 11.8 shall survive payment of the Obligations and termination of this Agreement.

11.9. Notice of Default. No Agent shall be deemed to have knowledge or notice of the occurrence of any Default or Unmatured Default hereunder unless such Agent has received written notice from a Lender or the Borrowers referring to this Agreement describing such Default or Unmatured Default and stating that such notice is a "notice of default". In the event that any Agent receives such a notice, such Agent shall give prompt notice thereof to the Lenders.

11.10. Rights as a Lender. In the event any Agent is a Lender, such Agent shall have the same rights and powers hereunder and under any other Loan Document with respect to its Commitment and its Credit Extensions as any Lender and may exercise the same as though it were not an Agent, and the term “Lender” or “Lenders” shall, at any time when any Agent is a Lender, unless the context otherwise indicates, include such Agent in its individual capacity. Each Agent and its Affiliates may accept deposits from, lend money to, and generally engage in any kind of trust, debt, equity or other transaction, in addition to those contemplated by this Agreement or any other Loan Document, with the Company or any of its Subsidiaries in which the Company or such Subsidiary is not restricted hereby from engaging with any other Person.

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

11.12. Successor Agents. Any Agent may resign at any time by giving written notice thereof to the Lenders and the Company, such resignation to be effective upon the appointment of a successor Agent or, if no successor Agent has been appointed, forty-five (45) days after the retiring Agent gives notice of its intention to resign. Any Agent may be removed at any time with or without cause by written notice received by such Agent from the Required Lenders, such removal to be effective on the date specified by the Required Lenders. Upon any such resignation or removal, the Required Lenders shall have the right to appoint, on behalf of the Borrowers and the Lenders, a successor Agent. If no successor Agent shall have been so appointed by the Required Lenders within thirty (30) days after the resigning Agent’s giving notice of its intention to resign, then the resigning Agent may appoint, on behalf of the Borrowers and the Lenders, a successor Agent. Notwithstanding the previous sentence, any Agent may at any time, without the consent of any Borrower or any Lender, appoint any of its Affiliates which is a commercial bank as its successor Agent hereunder. If an Agent has resigned or been removed and no successor Agent has been appointed, the Lenders may perform all the duties of such Agent hereunder and the Borrowers shall make all payments in respect of the Obligations to the applicable Lender if there is no Administrative Agent and for all other purposes shall deal directly with the Lenders. No successor Agent shall be deemed to be appointed hereunder until such successor Agent has accepted the appointment. Any such successor Agent shall be a commercial bank having capital and retained earnings of at least \$100,000,000. Upon the acceptance of any appointment as an Agent hereunder by a successor Agent, such successor Agent shall thereupon succeed to and become vested with all the rights, powers, privileges and duties of the resigning or removed Agent. Upon the effectiveness of the resignation or removal of an Agent, the resigning or removed Agent shall be discharged from its duties and obligations hereunder and under the Loan Documents. After the effectiveness of the resignation or removal of an Agent, the provisions of this Article XI shall continue in effect for the benefit of such Agent in respect of any actions taken or omitted to be taken by it while it was acting as an Agent hereunder and under the other Loan Documents. In the event that there is a successor to the Administrative Agent by merger, or the Administrative Agent assigns its duties

and obligations to an Affiliate pursuant to this Section 11.12, then (a) the term “Prime Rate” as used in this Agreement shall mean the prime rate, base rate or other analogous rate of the new Administrative Agent and (b) the references to “Bank One” in the definitions of “Eurodollar Base Rate” and “Prime Rate” and in the last sentence of Section 2.13 shall be deemed to be a reference to such successor Administrative Agent in its individual capacity.

11.13. Agent and Arranger Fees. The Company agrees to pay to the Administrative Agent and the Arranger, for their respective accounts, the fees agreed to by the Company, the Administrative Agent and the Arranger pursuant to that certain letter agreement dated on or about March 17, 2003 or as otherwise agreed from time to time.

11.14. Delegation to Affiliates. The Borrowers and the Lenders agree that any Agent may delegate any of its duties under this Agreement to any of its Affiliates. Any such Affiliate (and such Affiliate’s directors, officers, agents and employees) which performs duties in connection with this Agreement shall be entitled to the same benefits of the indemnification, waiver and other protective provisions to which the applicable Agent is entitled under Articles IX and X.

11.15. Release of Guarantors. Upon the liquidation or dissolution of any Guarantor, or the sale of all of the Capital Stock of any Guarantor owned by the Company and its Subsidiaries, in each case which does not violate the terms of any Loan Document or is consented to in writing by the Required Lenders or all of the Lenders, as applicable, such Guarantor shall be automatically released from all obligations under the Guaranty and any other Loan Documents to which it is a party (other than contingent indemnity obligations), and upon at least five (5) Business Days’ prior written request by the Company, the Administrative Agent shall (and is hereby irrevocably authorized by the Lenders to) execute such documents as may be necessary to evidence the release of the applicable Guarantor from its obligations under the Guaranty and such other Loan Documents; *provided, however*, that (i) the Administrative Agent shall not be required to execute any such document on terms which, in the Administrative Agent’s reasonable opinion, would expose the Administrative Agent to liability or create any obligation or entail any consequence other than the release of such Guarantor without recourse or warranty, and (ii) such release shall not in any manner discharge, affect or impair the Obligations of the Borrowers, any other Guarantor’s obligations under the Guaranty, or, if applicable, any obligations of the Company or any Subsidiary in respect of the proceeds of any such sale retained by the Company or any Subsidiary.

ARTICLE XII

SETOFF; RATABLE PAYMENTS

12.1. Setoff. In addition to, and without limitation of, any rights of the Lenders under applicable law, if any Default occurs, any and all deposits (including all account balances, whether provisional or final and whether or not collected or available) and any other Indebtedness at any time held or owing by any Lender or (to the extent permitted by applicable law) any Affiliate of any Lender to or for the credit or account of any Borrower may be offset and applied toward the payment of the Obligations owing to such Lender, whether or not the Obligations, or any part thereof, shall then be due.

12.2. Ratable Payments. If any Lender, whether by setoff or otherwise, has payment made to it upon its Outstanding Credit Exposure (other than payments received pursuant to Section 3.1, 3.2, 3.4 or 3.5) in a greater proportion than that received by any other Lender, such Lender agrees, promptly upon demand, to purchase a participation in the Aggregate Outstanding Credit Exposure held by the other Lenders so that after such purchase each Lender will hold its Pro Rata Share of the Aggregate Outstanding Credit Exposure. If any Lender, whether in connection with setoff or amounts which might be subject to setoff or otherwise, receives collateral or other protection for its Obligations or such amounts which may be subject to setoff, such Lender agrees, promptly upon demand, to take such action necessary such that all Lenders share in the benefits of such collateral ratably in proportion to their respective Pro Rata Shares of the Aggregate Outstanding Credit Exposure. In case any such payment is disturbed by legal process, or otherwise, appropriate further adjustments shall be made.

ARTICLE XIII

BENEFIT OF AGREEMENT; ASSIGNMENTS; PARTICIPATIONS

13.1. Successors and Assigns; Designated Lenders.

13.1.1. Successors and Assigns. The terms and provisions of the Loan Documents shall be binding upon and inure to the benefit of the Borrowers, the Agents and the Lenders and their respective successors and assigns, except that (i) no Borrower shall have the right to assign its rights or obligations under the Loan Documents without the consent of all of the Lenders, and any such assignment in violation of this Section 13.1.1 shall be null and void, and (ii) any assignment by any Lender must be made in compliance with Section 13.3. The parties to this Agreement acknowledge that clause (ii) of this Section 13.1.1 relates only to absolute assignments and does not prohibit assignments creating security interests, including, without limitation, (x) any pledge or assignment by any Lender of all or any portion of its rights under this Agreement and any Note to a Federal Reserve Bank or (y) in the case of a Lender which is a fund, any pledge or assignment of all or any portion of its rights under this Agreement and any Note to its trustee in support of its obligations to its trustee; *provided, however*, that no such pledge or assignment creating a security interest shall release the transferor Lender from its obligations hereunder unless and until the parties thereto have complied with the provisions of Section 13.3. The Administrative Agent may treat the Person which made any Revolving Loan or which holds any Note as the owner thereof for all purposes hereof unless and until such Person complies with Section 13.3; *provided, however*, that the Administrative Agent may in its discretion (but shall not be required to) follow instructions from the Person which made any Revolving Loan or which holds any Note to direct payments relating to such Revolving Loan or Note to another Person. Any assignee of the rights to any Revolving Loan or any Note agrees by acceptance of such assignment to be bound by all the terms and provisions of the Loan Documents. Any request, authority or consent of any Person, who at the time of making such request or giving such authority or consent is the owner of the rights to any Revolving Loan (whether or not a Note has been issued in evidence thereof), shall be conclusive and binding on any subsequent holder or assignee of the rights to such Revolving Loan.

13.1.2. Designated Lenders.

(i) Subject to the terms and conditions set forth in this Section 13.1.2, any Lender may from time to time elect to designate an Eligible Designee to provide all or any part of the Revolving Loans to be made by such Lender pursuant to this Agreement; *provided* that the designation of an Eligible Designee by any Lender for purposes of this Section 13.1.2 shall be subject to the approval of the Administrative Agent (which consent shall not be unreasonably withheld or delayed). Upon the execution by the parties to each such designation of an agreement in the form of Exhibit G hereto (a “**Designation Agreement**”) and the acceptance thereof by the Administrative Agent, the Eligible Designee shall become a Designated Lender for purposes of this Agreement. The Designating Lender shall thereafter have the right to permit the Designated Lender to provide all or a portion of the Revolving Loans to be made by the Designating Lender pursuant to the terms of this Agreement and the making of the Revolving Loans or portion thereof shall satisfy the obligations of the Designating Lender to the same extent, and as if, such Revolving Loan was made by the Designating Lender. As to any Revolving Loan made by it, each Designated Lender shall have all the rights a Lender making such Revolving Loan would have under this Agreement and otherwise; *provided*, (x) that all voting rights under this Agreement shall be exercised solely by the Designating Lender, (y) each Designating Lender shall remain solely responsible to the other parties hereto for its obligations under this Agreement, including the obligations of a Lender in respect of Revolving Loans made by its Designated Lender and (z) no Designated Lender shall be entitled to reimbursement under *Article III* hereof for any amount which would exceed the amount that would have been payable by any Borrower to the Lender from which the Designated Lender obtained any interests hereunder. No additional Notes shall be required with respect to Revolving Loans provided by a Designated Lender; *provided, however*, to the extent any Designated Lender shall advance funds, the Designating Lender shall be deemed to hold the Notes in its possession as an agent for such Designated Lender to the extent of the Revolving Loan funded by such Designated Lender. Such Designating Lender shall act as administrative agent for its Designated Lender and give and receive notices and communications hereunder. Any payments for the account of any Designated Lender shall be paid to its Designating Lender as administrative agent for such Designated Lender and neither the Borrowers nor the Administrative Agent shall be responsible for any Designating Lender’s application of such payments. In addition, any Designated Lender may (1) with notice to, but without the consent of the Borrowers or the Administrative Agent, assign all or portions of its interests in any Revolving Loans to its Designating Lender or to any financial institution consented to by the Administrative Agent providing liquidity and/or credit facilities to or for the account of such Designated Lender and (2) subject to advising any such Person that such information is to be treated as confidential in accordance with such Person’s customary practices for dealing with confidential, non-public information, disclose on a confidential basis any non-public information relating to its Revolving Loans to any rating agency, commercial paper dealer or provider of any guarantee, surety or credit or liquidity enhancement to such Designated Lender.

(ii) Each party to this Agreement hereby agrees that it shall not institute against, or join any other Person in instituting against, any Designated Lender any bankruptcy, reorganization, arrangement, insolvency or liquidation proceeding or other proceedings under any federal or state bankruptcy or similar law for one year and a day after the payment in full of all outstanding senior indebtedness of any Designated Lender; *provided* that the Designating Lender for each Designated Lender hereby agrees to indemnify, save and hold harmless each other party hereto for any loss, cost, damage and expense arising out of its inability to institute

any such proceeding against such Designated Lender. This Section 13.1.2 shall survive the termination of this Agreement.

13.2. Participations.

13.2.1. Permitted Participants; Effect. Any Lender may, in the ordinary course of its business and in accordance with applicable law, at any time sell to one or more banks or other entities (“**Participants**”) participating interests in any Outstanding Credit Exposure of such Lender, any Note held by such Lender, any Commitment of such Lender or any other interest of such Lender under the Loan Documents. In the event of any such sale by a Lender of participating interests to a Participant, such Lender’s obligations under the Loan Documents shall remain unchanged, such Lender shall remain solely responsible to the other parties hereto for the performance of such obligations, such Lender shall remain the owner of its Outstanding Credit Exposure and the holder of any Note issued to it in evidence thereof for all purposes under the Loan Documents, all amounts payable by the Borrowers under this Agreement shall be determined as if such Lender had not sold such participating interests, and the Borrowers and the Administrative Agent shall continue to deal solely and directly with such Lender in connection with such Lender’s rights and obligations under the Loan Documents.

13.2.2. Voting Rights. Each Lender shall retain the sole right to approve, without the consent of any Participant, any amendment, modification or waiver of any provision of the Loan Documents other than any amendment, modification or waiver with respect to any Credit Extension or Commitment in which such Participant has an interest if such amendment, modification or waiver would otherwise require the consent of all the Lenders under Section 8.2.

13.2.3. Benefit of Setoff. The Borrowers agree that, to the maximum extent permitted by applicable law, each Participant shall be deemed to have the right of setoff provided in Section 12.1 in respect of its participating interest in amounts owing under the Loan Documents to the same extent as if the amount of its participating interest were owing directly to it as a Lender under the Loan Documents, *provided* that each Lender shall retain the right of setoff provided in Section 12.1 with respect to the amount of participating interests sold to each Participant. The Lenders agree to share with each Participant, and each Participant, by exercising the right of setoff provided in Section 12.1, agrees to share with each Lender, any amount received pursuant to the exercise of its right of setoff, such amounts to be shared in accordance with Section 12.2 as if each Participant were a Lender.

13.3. Assignments.

13.3.1. Permitted Assignments. Any Lender may, in the ordinary course of its business and in accordance with applicable law, at any time assign to one or more banks or other entities (“**Purchasers**”) all or any part of its rights and obligations under the Loan Documents. Such assignment shall be evidenced by an agreement substantially in the form of Exhibit C or in such other form as may be agreed to by the parties thereto (each such agreement, an “**Assignment Agreement**”). The consent of the Company and the Administrative Agent shall be required prior to an Assignment Agreement becoming effective with respect to a Purchaser which is not a Lender, an Affiliate thereof or a Designated Lender, *provided, however*, that if a Default has occurred and is continuing, the consent of the Company shall not be required. Such consent shall

not be unreasonably withheld or delayed. Each such assignment with respect to a Purchaser which is not a Lender, an Affiliate thereof or a Designated Lender shall (unless each of the Company and the Administrative Agent otherwise consents) be in an amount not less than the lesser of (i) \$5,000,000 and integral multiples of \$1,000,000 in excess thereof or (ii) the remaining amount of the assigning Lender's Commitment (calculated as at the date of such assignment), or, if the Commitment Termination Date has occurred, the remaining amount of the assigning Lender's Outstanding Credit Exposure.

13.3.2. Effect; Effective Date. Upon (i) delivery to the Administrative Agent of an Assignment Agreement, together with any consents required by Section 13.3.1, and (ii) payment of a \$3,500 fee to the Administrative Agent for processing such assignment (unless such fee is waived by the Administrative Agent or unless such assignment is made to such assigning Lender's Affiliate), such assignment shall become effective on the effective date specified in such assignment. The Assignment Agreement shall contain a representation by the Purchaser to the effect that none of the consideration used to make the purchase of the Commitment and Outstanding Credit Exposure under the applicable Assignment Agreement constitutes "plan assets" as defined under ERISA and that the rights and interests of the Purchaser in and under the Loan Documents will not be "plan assets" under ERISA. On and after the effective date of such assignment, such Purchaser shall for all purposes be a Lender party to this Agreement and any other Loan Document executed by or on behalf of the Lenders and shall have all the rights and obligations of a Lender under the Loan Documents, to the same extent as if it were an original party hereto, and no further consent or action by any Borrower, the Lenders or the Administrative Agent shall be required to release the transferor Lender with respect to the percentage of the Aggregate Commitment and Outstanding Credit Exposure assigned to such Purchaser. Upon the consummation of any assignment to a Purchaser pursuant to this Section 13.3.2, the transferor Lender, the Administrative Agent and the Borrowers shall, if the transferor Lender or the Purchaser desires that its Revolving Loans be evidenced by Notes, make appropriate arrangements so that new Notes or, as appropriate, replacement Notes are issued to such transferor Lender and new Notes or, as appropriate, replacement Notes, are issued to such Purchaser, in each case in principal amounts reflecting their respective Commitments (or, if the Commitment Termination Date has occurred, their respective Outstanding Credit Exposure), as adjusted pursuant to such assignment.

13.3.3. The Register. Notwithstanding anything to the contrary in this Agreement, the Borrowers hereby designate the Administrative Agent, and the Administrative Agent, hereby accepts such designation, to serve as the Borrowers' contractual representative solely for purposes of this Section 13.3.3. In this connection, the Administrative Agent shall maintain at its address referred to in Section 14.1 a copy of each Assignment Agreement delivered to and accepted by it pursuant to this Section 13.3.3 and a register (the "Register") for the recordation of the names and addresses of the Lenders and the Commitment of, principal amount of and interest on the Revolving Loans owing to, each Lender from time to time and whether such Lender is an original Lender or the assignee of another Lender pursuant to an assignment under this Section 13.3. The entries in the Register shall be conclusive and binding for all purposes, absent manifest error, and the Company and each of its Subsidiaries, the Administrative Agent and the Lenders may treat each Person whose name is recorded in the Register as a Lender hereunder for all purposes of this Agreement. The Register shall be available for inspection by the Borrowers or any Lender at any reasonable time and from time to time upon reasonable prior notice.

13.4. Dissemination of Information. The Borrowers authorize each Lender to disclose to any Participant or Purchaser or any other Person acquiring an interest in the Loan Documents by operation of law (each a “**Transferee**”) and any prospective Transferee any and all information in such Lender’s possession concerning the creditworthiness of the Company and its Subsidiaries, including without limitation any information contained in any reports or other information delivered by any Borrower pursuant to Section 6.1; *provided* that each Transferee and prospective Transferee agrees to be bound by Section 10.11 of this Agreement.

13.5. Tax Treatment. If any interest in any Loan Document is transferred to any Transferee which is organized under the laws of any jurisdiction other than the United States or any State thereof, the transferor Lender shall cause such Transferee, concurrently with the effectiveness of such transfer, to comply with the provisions of Section 3.5(iv).

ARTICLE XIV

NOTICES

14.1. Notices. Except as otherwise permitted by Section 2.14 with respect to borrowing notices, all notices, requests and other communications to any party hereunder shall be in writing (including electronic transmission, facsimile transmission or similar writing) and shall be given to such party: (x) in the case of the initial Borrowers, the Agents or any Lender party hereto as of the Effective Date, at its respective address or facsimile number set forth on the signature pages hereof, (y) in the case of any Lender that becomes a party hereto pursuant to Section 13.3, at its address or facsimile number set forth in the applicable Assignment Agreement or, if none is provided therein, in its administrative questionnaire or (z) in the case of any party, at such other address or facsimile number as such party may hereafter specify for the purpose by notice to the Administrative Agent and the Company in accordance with the provisions of this Section 14.1. Each such notice, request or other communication shall be effective (i) if given by facsimile transmission, when transmitted to the facsimile number specified in this Section and confirmation of receipt is received, (ii) if given by United States mail, 72 hours after such communication is deposited in such mails with first class postage prepaid, addressed as aforesaid, or (iii) if given by any other means, when delivered (or, in the case of electronic transmission, received) at the address specified in this Section; *provided* that notices to the Administrative Agent under Article II shall not be effective until received. For all purposes under this Agreement and the other Loan Documents, (A) notice to the Administrative Agent from any Borrower shall not be deemed to be effective until actually received by the Administrative Agent, and (B) delivery of any notice to the Company shall be deemed to have been delivered to the Borrowers.

14.2. Change of Address. The Borrowers, the Agents and any Lender may each change the address for service of notice upon it by a notice in writing to the other parties hereto.

ARTICLE XV
COUNTERPARTS

This Agreement may be executed in any number of counterparts, all of which taken together shall constitute one agreement, and any of the parties hereto may execute this Agreement by signing any such counterpart. This Agreement shall be effective when it has been executed by the initial Borrowers, the Agents and the Lenders and each party has notified the Agents by facsimile transmission or telephone that it has taken such action.

ARTICLE XVI
CHOICE OF LAW; CONSENT TO JURISDICTION; WAIVER OF JURY TRIAL

16.1. **CHOICE OF LAW**. THE LOAN DOCUMENTS (OTHER THAN THOSE CONTAINING A CONTRARY EXPRESS CHOICE OF LAW PROVISION) SHALL BE GOVERNED AND CONSTRUED IN ACCORDANCE WITH THE INTERNAL LAWS (INCLUDING, WITHOUT LIMITATION, 735 ILCS 105/5-1 ET SEQ., BUT OTHERWISE WITHOUT REGARD TO THE CONFLICT OF LAWS PROVISIONS) OF THE STATE OF ILLINOIS, BUT GIVING EFFECT TO FEDERAL LAWS APPLICABLE TO NATIONAL BANKS.

16.2. **CONSENT TO JURISDICTION**. EACH BORROWER HEREBY IRREVOCABLY SUBMITS TO THE NON-EXCLUSIVE JURISDICTION OF ANY UNITED STATES FEDERAL OR ILLINOIS STATE COURT SITTING IN CHICAGO, ILLINOIS IN ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO ANY LOAN DOCUMENTS AND EACH BORROWER HEREBY IRREVOCABLY AGREES THAT ALL CLAIMS IN RESPECT OF SUCH ACTION OR PROCEEDING MAY BE HEARD AND DETERMINED IN ANY SUCH COURT AND IRREVOCABLY WAIVES ANY OBJECTION IT MAY NOW OR HEREAFTER HAVE AS TO THE VENUE OF ANY SUCH SUIT, ACTION OR PROCEEDING BROUGHT IN SUCH A COURT OR THAT SUCH COURT IS AN INCONVENIENT FORUM. NOTHING HEREIN SHALL LIMIT THE RIGHT OF THE AGENTS OR ANY LENDER TO BRING PROCEEDINGS AGAINST ANY BORROWER IN THE COURTS OF ANY OTHER JURISDICTION. ANY JUDICIAL PROCEEDING BY ANY BORROWER AGAINST THE AGENTS OR ANY LENDER OR ANY AFFILIATE OF THE AGENTS OR ANY LENDER INVOLVING, DIRECTLY OR INDIRECTLY, ANY MATTER IN ANY WAY ARISING OUT OF, RELATED TO, OR CONNECTED WITH ANY LOAN DOCUMENT SHALL BE BROUGHT ONLY IN A COURT IN CHICAGO, ILLINOIS OR THE CITY IN WHICH THE PRINCIPAL OFFICE OF SUCH AGENT, LENDER OR AFFILIATE, AS THE CASE MAY BE, IS LOCATED.

16.3. **WAIVER OF JURY TRIAL**. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, THE BORROWERS, THE AGENTS AND EACH LENDER HEREBY WAIVE TRIAL BY JURY IN ANY JUDICIAL PROCEEDING INVOLVING, DIRECTLY OR INDIRECTLY, ANY MATTER (WHETHER SOUNDING IN TORT, CONTRACT OR OTHERWISE) IN ANY WAY ARISING OUT OF, RELATED TO, OR CONNECTED WITH ANY LOAN DOCUMENT OR THE RELATIONSHIP ESTABLISHED THEREUNDER.

ACUITY LIGHTING GROUP, INC., as a
Borrower

By: /s/ VERNON J. NAGEL

Name: **Vernon J. Nagel**
Title: **Executive Vice President and CFO**

Acuity Lighting Group, Inc.
1170 Peachtree Street NE, Suite 2400
Atlanta, Georgia 30309
Attention: Mr. Dan Smith
Phone: 404-853-1423
Fax: 404-853-1430
E-mail: dan.smith@acuitybrands.com

with a copy to:

Acuity Brands, Inc.
1170 Peachtree Street NE, Suite 2400
Atlanta, Georgia 30309
Attention: Mr. Ken Murphy
Phone: 404-853-1440
Fax: 404-853-1415
E-mail: ken.murphy@acuitybrands.com

SIGNATURE PAGE TO AMENDED AND RESTATED 364-DAY REVOLVING CREDIT AGREEMENT

SIDLEY AUSTIN BROWN & WOOD

ACUITY SPECIALTY PRODUCTS GROUP, INC., as a
Borrower

By: /s/ VERNON J. NAGEL

Name: **Vernon J. Nagel**
Title: **Executive Vice President and CFO**

Acuity Specialty Products Group, Inc.
1170 Peachtree Street NE, Suite 2400
Atlanta, Georgia 30309
Attention: Mr. Dan Smith
Phone: 404-853-1423
Fax: 404-853-1430
E-mail: dan.smith@acuitybrands.com

with a copy to:

Acuity Brands, Inc.
1170 Peachtree Street NE, Suite 2400
Atlanta, Georgia 30309
Attention: Mr. Ken Murphy
Phone: 404-853-1440
Fax: 404-853-1415
E-mail: ken.murphy@acuitybrands.com

SIGNATURE PAGE TO AMENDED AND RESTATED 364-DAY REVOLVING CREDIT AGREEMENT

SIDLEY AUSTIN BROWN & WOOD

BANK ONE, NA (Main Office Chicago), as the Administrative Agent and as a Lender

By: /s/ JOSEPH R. PERDENZA

Name: **Joseph R. Perdenza**
Title: **Director**

1 Bank One Plaza
Chicago, IL 60670

Attention: Tim J. King
Phone: (312) 732-4973
Fax: (312) 732-6894
E-mail: tim_j_king@bankone.com

SIGNATURE PAGE TO AMENDED AND RESTATED 364-DAY REVOLVING CREDIT AGREEMENT

SIDLEY AUSTIN BROWN & WOOD

THE BANK OF NEW YORK, as a Lender

By: /s/ DAVID C. SIEGEL

Name: **David C. Siegel**
Title: **Vice President**

Address: One Wall Street
22nd Floor
New York, NY 10286

Attention: David Siegel, VP
Phone: (212) 635-6899
Fax: (212) 635-6434
E-mail: dsiegel@bankofny.com

SIGNATURE PAGE TO AMENDED AND RESTATED 364-DAY REVOLVING CREDIT AGREEMENT

SIDLEY AUSTIN BROWN & WOOD

BANK OF AMERICA, N.A., as a Lender

By: /s/ RICHARD C. HARDISON

Name: **Richard C. Hardison**
Title: **Vice President**

Bank of America Corporate Center
100 N. Tryon St., 17th Floor
NCI-007-17-12
Charlotte, NC 28255

Attention: Richard C. Hardison
Phone: (704) 386-1185
Fax: (704) 388-8268
E-mail: richard.c.hardison@bankofamerica.com

SIGNATURE PAGE TO AMENDED AND RESTATED 364-DAY REVOLVING CREDIT AGREEMENT

SIDLEY AUSTIN BROWN & WOOD

**DRESDNER BANK AG NEW YORK AND GRAND
CAYMAN BRANCHES, as a Lender**

By: /s/ DEBORAH CARLSON

Name: **Deborah Carlson**
Title: **Director**

By: /s/ JASMINE GEFFNER

Name: **Jasmine Geffner**
Title: **Vice President**

1301 Avenue of the Americas
New York, New York 10019

Attention: Deborah Carlson
Phone: 212-895-1763
Fax: 212-895-1766
E-mail: deborah.carlson@drkw.com

SIGNATURE PAGE TO AMENDED AND RESTATED 364-DAY REVOLVING CREDIT AGREEMENT

SIDLEY AUSTIN BROWN & WOOD

PRICING SCHEDULE

	Level I Status	Level II Status	Level III Status	Level IV Status	Level V Status
<i>Applicable Margin (Eurodollar Rate)</i>	0.400%	0.500%	0.725%	0.950%	1.150%
<i>Applicable Margin (Floating Rate)</i>	0.0%	0.0%	0.0%	0.0%	0.0%
<i>Applicable Facility Fee Rate</i>	0.100%	0.125%	0.150%	0.175%	0.225%
<i>Applicable Utilization Fee Rate</i>	0.125%	0.125%	0.125%	0.125%	0.125%

On any date that the Leverage Ratio shall equal or exceed the amount set forth in the table below, the Applicable Margin and the Applicable Facility Fee Rate set forth above shall be increased by an amount set forth opposite such Leverage Ratio:

Leverage Ratio	Applicable Facility Fee Increase	Applicable Margin Increase
<i>Greater than or equal to 3.00 to 1.00 and less than 3.25 to 1.00</i>	<i>0.05%</i>	<i>0.20%</i>
<i>Greater than or equal to 3.25 to 1.00</i>	<i>0.10%</i>	<i>0.40%</i>

The above described adjustments to the Applicable Margin and Applicable Facility Fee Rate shall be determined in accordance with the foregoing table based on the Company's Leverage Ratio as reflected in the then most recent Financials. Adjustments, if any, to the Applicable Margin or Applicable Facility Fee Rate shall be effective as of the fifth (5th) Business Day following the date the Administrative Agent has received the applicable Financials. If the Company fails to deliver the Financials to the Administrative Agent at the time required pursuant to Section 6.1(i) or 6.1(ii), as applicable, then the adjustment to the Applicable Margin and Applicable Facility Fee Rate shall be the highest adjustment to the Applicable Margin and Applicable Facility Fee Rate set forth in the foregoing table until the fifth (5th) Business Day following the date such Financials are so delivered.

For the purposes of this Schedule, the following terms have the following meanings, subject to the final paragraph of this Schedule:

“**Financials**” means the annual or quarterly financial statements of the Company delivered pursuant to Section 6.1(i) or 6.1(ii), respectively.

SIDLEY AUSTIN BROWN & WOOD

“**Level I Status**” exists at any date if, on such date, the Company’s Moody’s Rating is A3 or better or the Company’s S&P Rating is A- or better.

“**Level II Status**” exists at any date if, on such date, (i) the Company has not qualified for Level I Status and (ii) the Company’s Moody’s Rating is Baa1 or better or the Company’s S&P Rating is BBB+ or better.

“**Level III Status**” exists at any date if, on such date, (i) the Company has not qualified for Level I Status or Level II Status and (ii) the Company’s Moody’s Rating is Baa2 or better or Company’s S&P rating is BBB or better.

“**Level IV Status**” exists at any date if, on such date, (i) the Company has not qualified for Level I Status, Level II Status or Level III Status and (ii) the Company’s Moody’s Rating is Baa3 or better and the Company’s S&P Rating is BBB- or better.

“**Level V Status**” exists at any date if, on such date, the Company has not qualified for Level I Status, Level II Status, Level III Status or Level IV Status.

“**Moody’s Rating**” means, at any time, the rating issued by Moody’s and then in effect with respect to the Company’s senior unsecured long-term debt securities without third-party credit enhancement.

“**S&P Rating**” means, at any time, the rating issued by S&P and then in effect with respect to the Company’s senior unsecured long-term debt securities without third-party credit enhancement.

“**Status**” means Level I Status, Level II Status, Level III Status, Level IV Status or Level V Status.

The Applicable Margin, Applicable Facility Fee Rate and the Applicable Utilization Fee Rate shall be determined in accordance with the foregoing table based on the Company’s Status as determined from its then-current Moody’s Rating and S&P Rating. The credit rating in effect on any date for the purposes of this Schedule is that in effect at the close of business on such date. If at any time the Company has no Moody’s Rating and no S&P Rating, Level V Status shall exist.

In the event that a split occurs between the two ratings, then the rating corresponding to the higher of the two ratings shall apply. However, if the split is greater than one level, then the pricing shall be based upon the rating one level below the higher of the two ratings.

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COMMITMENT SCHEDULE

<u>LENDER</u>	<u>COMMITMENT</u>
Bank One, NA	\$ 25,000,000
Wachovia Bank, National Association	\$ 22,500,000
Bank of America, N.A.	\$ 12,500,000
The Bank of New York	\$ 12,500,000
Dresdner Bank AG New York and Grand Cayman Branches	\$ 12,500,000
Regions Bank	\$ 7,500,000
AGGREGATE COMMITMENT	\$ 92,500,000

SIDLEY AUSTIN BROWN & WOOD

AMENDMENT NO. 1

TO

3-YEAR REVOLVING CREDIT AGREEMENT

This AMENDMENT NO. 1 to 3-YEAR REVOLVING CREDIT AGREEMENT (the "Credit Agreement") dated as of April 8, 2002, by and among Acuity Brands, Inc. (the "Company"), the Subsidiary Borrowers party thereto, the financial institutions party thereto (the "Lenders"), Bank One, NA, as administrative agent (the "Administrative Agent") and Banc One Capital Markets, Inc., as lead arranger and sole book runner, is entered into by each of the Borrowers, the Lenders party hereto and the Administrative Agent as of April 4, 2003 (this Amendment No. 1, the "Amendment"). Capitalized terms used herein and not otherwise defined herein shall have the meanings given to them in the Credit Agreement.

WITNESSETH

WHEREAS, the Borrowers have requested certain amendments to the Credit Agreement;

WHEREAS, the Lenders party hereto and the Administrative Agent are willing to amend the Credit Agreement on the terms and conditions set forth herein to accommodate the Borrowers' request;

NOW, THEREFORE, in consideration of the premises set forth above, the terms and conditions contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Borrowers, the Administrative Agent and the Lenders party hereto hereby agree as follows:

1. Amendments. Effective as of April 4, 2003 and subject to the satisfaction of the conditions set forth in Section 2 below, the Credit Agreement shall be and hereby is amended as follows:

(a) The definition of "EBIT" appearing in Section 1.1 of the Credit Agreement is amended and restated in its entirety to read as follows:

"EBIT" means, for any period for the Company and its consolidated Subsidiaries, the sum of the amounts for such period, without duplication, calculated in each case in accordance with Agreement Accounting Principles, of (i) Net Income, plus (ii) Interest Expense to the extent deducted in computing Net Income, plus (iii) charges against income for foreign, federal, state and local taxes to the extent deducted in computing Net Income, plus (iv) any other non-recurring non-cash charges to the extent deducted in computing Net Income, plus (v) non-cash

expenses associated with the Company's restricted stock program, minus (vi) any non-recurring non-cash credits to the extent added in computing Net Income.

(b) Section 2.23 of the Credit Agreement is amended by (i) deleting the reference to "\$152,500,000" appearing therein and inserting "\$160,000,000" in lieu thereof and (ii) deleting the reference to "\$255,000,000" appearing therein and inserting "\$250,000,000" in lieu thereof.

(c) Section 6.18.1 of the Credit Agreement is amended and restated in its entirety to read as follows:

6.18.1. Maximum Leverage Ratio. The Company shall not permit the ratio (the "**Leverage Ratio**") of (i) Indebtedness For Borrowed Money of the Company and its consolidated Subsidiaries to (ii) EBITDA to be greater than (a) 3.50 to 1.00 as of February 28, 2003, (b) 3.50 to 1.00 as of each of May 31, 2003 and August 31, 2003, (c) 3.25 to 1.00 as of each of November 30, 2003 and February 29, 2004 and (d) 3.00 to 1.00 as of the end of each fiscal quarter thereafter. The Leverage Ratio shall be calculated as of the last day of each fiscal quarter based upon (1) for Indebtedness For Borrowed Money, as of the last day of each such fiscal quarter; and (2) for EBITDA, the actual amount for the four-quarter period ending on such day, and shall be calculated, with respect to Permitted Acquisitions, on a pro forma basis using historical audited and reviewed unaudited financial statements obtained from the seller(s) in such Permitted Acquisition, broken down by fiscal quarter in the Company's reasonable judgement and satisfactory to the Administrative Agent and as reported to the Administrative Agent.

(d) Section 6.18.2 of the Credit Agreement is amended by deleting the last sentence thereof.

2. Condition of Effectiveness. This Amendment shall become effective and be deemed effective as of April 4, 2003, if, and only if, the Administrative Agent shall have received duly executed originals of (a) this Amendment from each Borrower and the Required Lenders and (b) a consent and reaffirmation from each of the Guarantors as attached hereto.

3. Representations and Warranties of the Borrowers. Each Borrower hereby represents and warrants as follows:

(a) The Credit Agreement as previously executed constitutes the legal, valid and binding obligation of each Borrower and is enforceable against such Borrower in accordance with its terms.

(b) Upon the effectiveness of this Amendment, each Borrower hereby (i) represents that no Default or Unmatured Default exists under the terms of the Credit Agreement and (ii) affirms and agrees that all covenants contained in the Credit Agreement and all representations and warranties contained in Article V of the Credit Agreement are true and correct in all material respects on the effective date hereof (unless any such representation and warranty is made as of a specific date, in which case, such representation and warranty shall be

true in all material respects as of such date). The execution, delivery and effectiveness of this Amendment shall not, except as expressly provided herein, operate as a waiver of any right, power, or remedy of the Lenders or the Administrative Agent under the Credit Agreement or any related document, instrument or agreement. The Administrative Agent and the Lenders expressly reserve all of their rights and remedies, including the right to institute enforcement actions in consequence of any existing Default or Unmatured Default not waived hereunder at any time without further notice, under the Credit Agreement, all other documents, instruments and agreement executed in connection therewith, and applicable law.

4. Effect on the Credit Agreements.

(a) Upon the effectiveness of this Amendment, on and after the date hereof, each reference in the Credit Agreement to “this Agreement,” “hereunder,” “hereof,” “herein” or words of like import shall mean and be a reference to the Credit Agreement, as amended hereby.

(b) Except as specifically amended above, the Credit Agreement and all other documents, instruments and agreements executed and/or delivered in connection therewith shall remain in full force and effect, and are hereby ratified and confirmed.

(c) The execution, delivery and effectiveness of this Amendment shall neither, except as expressly provided herein, operate as a waiver of any right, power or remedy of the Lenders or the Administrative Agent, nor constitute a waiver of any provision of the Credit Agreement or any other documents, instruments and agreements executed and/or delivered in connection therewith.

5. Costs and Expenses. The Borrowers agree to pay all reasonable costs, fees and out-of-pocket expenses (including attorneys’ fees and expenses charged to the Administrative Agent) incurred by the Administrative Agent in connection with the preparation, arrangement, execution and enforcement of this Amendment.

6. Governing Law. **This Amendment shall be governed by and construed in accordance with the laws (including, without limitation, Section 735 ILCS 105/5-1 et seq. but otherwise without regard to the conflict of law provisions) of the State of Illinois.**

7. Headings. Section headings in this Amendment are included herein for convenience of reference only and shall not constitute a part of this Amendment for any other purpose.

8. Counterparts. This Amendment may be executed by one or more of the parties to the Amendment on any number of separate counterparts and all of said counterparts taken together shall be deemed to constitute one and the same instrument.

9. No Strict Construction. The parties hereto have participated jointly in the negotiation and drafting of this Amendment. In the event an ambiguity or question of intent or interpretation arises, this Amendment shall be construed as if drafted jointly by the parties hereto and no presumption or burden of proof shall arise favoring or disfavoring any party by virtue of the authorship of any provisions of this Amendment.

IN WITNESS WHEREOF, this Amendment No. 1 has been duly executed as of the day and year first above written.

ACUITY BRANDS, INC., as a Borrower

By: /s/ VERNON J. NAGEL

Name: Vernon J. Nagel
Title: Executive Vice President and CFO

ACUITY LIGHTING GROUP, INC., as a Borrower

By: /s/ VERNON J. NAGEL

Name: Vernon J. Nagel
Title: Executive Vice President and CFO

ACUITY SPECIALTY PRODUCTS GROUP, INC., as a
Borrower

By: /s/ VERNON J. NAGEL

Name: Vernon J. Nagel
Title: Executive Vice President and CFO

BANK ONE, NA, individually and as Administrative Agent

By: /s/ JOSEPH R. PERDENZA

Name: Joseph R. Perdenza
Title: Director

WACHOVIA BANK, National Association,
individually and as Syndication Agent

By: /s/ JORGE A. GONZALEZ

Name: Jorge A. Gonzalez
Title: Managing Director

BANK OF AMERICA, N.A.

By: /s/ RICHARD C. HARDISON

Name: Richard C. Hardison
Title: Vice President

THE BANK OF NEW YORK

By: /s/ DAVID C. SIEGEL

Name: David C. Siegel
Title: Vice President

ING CAPITAL LLC

By:

Name:
Title:

REGIONS BANK

By: /s/ W. BRAD DAVIS

Name: W. Brad Davis
Title: Vice President

DRESDNER BANK AG NEW YORK AND ` GRAND
CAYMAN BRANCHES

By: /s/ DEBORAH CARLSON

Name: Deborah Carlson
Title: Director

By: /s/ JASMINE GEFFNER

Name: Jasmine Geffner
Title: Vice President

AMENDMENT NO. 1
TO
ACUITY BRANDS, INC.
SUPPLEMENTAL RETIREMENT PLAN FOR EXECUTIVES

THIS AMENDMENT made as of the _____ day of _____, 2002, by Acuity Brands, Inc. (the "Company").

W I T N E S S E T H:

WHEREAS, the Company maintains the Acuity Brands, Inc. Supplemental Retirement Plan for Executives (the "Plan"); and

WHEREAS, in connection with the establishment of the Acuity Brands, Inc. 2002 Supplemental Executive Retirement Plan ("New SERP"), the Company desires to permit certain Plan Participants who may become eligible to participate in the New SERP to waive their accrued benefits under the Plan and to cease to participate in the Plan; and

WHEREAS, the Company now desires to amend the Plan to permit such election and to provide that no additional Executives will become eligible to participate on or after January 1, 2003;

NOW, THEREFORE, in consideration of the premises and other good and valuable consideration, the Plan is hereby amended as follows:

1.

Section 2.1 is hereby amended by adding a new subsection (c) as follows:

"(c) Cessation of New Participants and Waiver of Accrued Pension

Notwithstanding anything contained in the Plan to the contrary, no new Participants shall be admitted to the Plan after December 31, 2002, and, with the exception of James Balloun, who shall continue to participate in the Plan in accordance with its terms, a Participant shall not be credited with any Compensation, Credited Service or Eligible Service after December 31, 2002. With the exception of James Balloun, a Participant who is an actively employed Executive on December 31, 2002, may elect on such form and in such manner as provided by the Company, to waive his right to his Accrued Pension under the Plan and to cease to be a Participant in the Plan."

2.

The within and foregoing amendments to the Plan shall be effective as of December 31, 2002. Except as hereby modified, the Plan shall remain in full force and effect.

IN WITNESS WHEREOF, the Company has caused this Amendment No. 1 to be executed as of the date first written above.

ACUITY BRANDS, INC.

By: _____

Title: _____

ACUITY BRANDS, INC.
2002 SUPPLEMENTAL EXECUTIVE RETIREMENT PLAN

(Effective As of January 1, 2003)

ACUITY BRANDS, INC.
2002 SUPPLEMENTAL EXECUTIVE RETIREMENT PLAN

PREAMBLE

The Acuity Brands, Inc. 2002 Supplemental Executive Retirement Plan ("Plan") is designed to be a supplemental retirement plan covering a select group of management and highly compensated employees of Acuity Brands, Inc. (the "Company") and its Subsidiaries. The benefits under the Plan are unfunded and all amounts payable under the Plan shall be paid from the general assets of the Employer which employs the Participant. The effective date of the Plan as set forth herein is January 1, 2003 ("Effective Date").

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ARTICLE I
DEFINITIONS AND CONSTRUCTION

1.1 Definitions: Where the following words and phrases appear in this Plan, they shall have the meanings set forth below, unless the context clearly indicates to the contrary:

(a) Accrued Benefit: With respect to any Participant at any time a monthly benefit payable for 180 months only, commencing on the Participant's Normal Retirement Date in an amount equal to the product of 1.6% of the Participant's Average Annual Compensation multiplied by the Participant's Years of Credited Service up to a maximum of ten (10) years, divided by twelve (12). The maximum number of Years of Credited Service a Participant can accrue under the Plan is ten (10) years, provided that Compensation earned after a Participant has completed ten (10) Years of Credited Service shall be counted for purposes of determining the Participant's Accrued Benefit if counting such Compensation would increase the Participant's Accrued Benefit.

Notwithstanding the foregoing, if a Participant who received a distribution or distributions following his Termination Date or Retirement is re-employed and again becomes an active Participant, such Participant's Accrued Benefit, as computed pursuant to this Section, shall be reduced by the monthly Accrued Benefit amount that is the Actuarial Equivalent of the distribution(s) made to the Participant.

(b) Act: Public Law No. 93-406, the Employee Retirement Income Security Act of 1974, as amended from time to time.

(c) Actuarial (or Actuarially) Equivalent: A benefit of equivalent value determined using an interest rate equal to 7% per annum and the mortality table prescribed by the Commissioner of Internal Revenue pursuant to Rev.Rul. 95-6 (as hereafter amended or modified).

(d) Administrator: The Company and any person or committee designated by the Company to perform all or a portion of the duties and responsibilities of the Administrator under the Plan.

(e) Authorized Leave of Absence: Any absence authorized by the Company under the Company's standard personnel practices, provided that the Participant returns within the period specified in the Authorized Leave of Absence.

(f) Annual Bonus: The amount awarded an Executive under the Company's annual bonus program, subject to the provisions and limitations contained in Section 1.1(l) of the Plan.

(g) Average Annual Compensation: The applicable annual amount shall be the average of the Participant's Compensation for the three highest, consecutive calendar years

during the ten years immediately preceding the Participant's date of Retirement, death or other termination of employment. Compensation earned after a Participant has completed ten (10) Years of Credited Service shall be counted for purposes of determining the Participant's Average Annual Compensation and Accrued Benefit if counting such Compensation would increase the Participant's Accrued Benefit.

(h) Beneficiary: The person or persons last designated in writing by the Participant on a form provided by the Administrator to receive benefits under Section 3.7 or Article IV of the Plan in the event of the Participant's death. If no designation of Beneficiary shall be in effect at the time of a Participant's death or if all designated Beneficiaries shall have predeceased the Participant, then the Beneficiary shall be the Participant's Surviving Spouse or if there is no such Surviving Spouse, the Participant's estate or legal representative.

(i) Board: The Board of Directors of Acuity Brands, Inc. or its Executive Committee.

(j) Break in Service: An event which results in the cancellation of a Participant's previous Credited Service as provided in Section 2.2.

(k) Company: Company shall mean Acuity Brands, Inc. (or its successor or successors). Affiliated or related employers are permitted to adopt the Plan with the consent of the Company and shall be known as "Adopting Employers." To the extent required by certain provisions (e.g., determining Average Annual Compensation and Credited Service), references to the Company shall include the Adopting Employer of the Participant. Adopting Employers are listed on Schedule 1.

(l) Compensation: Subject to adjustment as provided in the next sentence, "Compensation" shall be the Participant's salary and wages for each calendar year during which he is employed as an Executive Officer of the Company, and any Annual Bonuses awarded during such year. In either case, Compensation and Annual Bonuses shall include any amounts which shall be voluntarily deferred by the Participant under any salary or bonus deferral or reduction program (whether qualified or non-qualified) which may be instituted by the Company, but shall not include any earnings or Company match on these deferred amounts, or payments from such programs or payments from any similar salary deferral or bonus deferral programs, or any income from stock options, restricted stock or similar grants. A Participant's Compensation and Annual Bonuses for calendar years prior to the Effective Date during which he was employed as an Executive Officer shall be credited under this Plan.

(m) Credited Service: A Participant shall accrue one (1) Year of Credited Service for each Plan Year during which he is actively employed as an Executive Officer of the Company for the full Plan Year. During the Participant's initial and final Plan Year as an Executive Officer, the Participant will be credited with a decimal equivalent expressed to two

places of a fraction having a numerator equal to the number of full months the Participant worked as an Executive Officer during such Plan Year and a denominator of twelve (12). A Participant's Credited Service as an Executive Officer prior to the Effective Date shall be credited under this Plan. The maximum number of Years of Credited Service a Participant can accrue under the Plan is ten (10).

(n) Disability Retirement Date: The Date of Retirement due to Disability as specified in Section 3.4.

(o) Early Retirement Date: The first day of the month following the Participant's attainment of age 55 and completion of three (3) Years of Credited Service.

(p) Effective Date: This Plan is effective January 1, 2003.

(q) Executive Officer: Any person who, on or after the Effective Date, is classified by the Company as an executive officer of the Company and who is receiving remuneration for personal services rendered to the Company (or would be receiving such remuneration except for an Authorized Leave of Absence), and any other officer of the Company (or an Adopting Employer) designated by the Board as eligible to participate in the Plan and who is listed on an Appendix attached hereto.

(r) Fiduciaries: The Company and the Administrator, but only with respect to the specific responsibilities of each for Plan administration, all as described in Article VI.

(s) Late Retirement Date: The date of Retirement subsequent to a Participant's Normal Retirement Date as specified in Section 3.2.

(t) Normal Retirement Date: The first day of the month following the Participant's attainment of age 60.

(u) NSI: National Service Industries, Inc., a Delaware corporation, and the corporation from which the Company was spun-off on November 30, 2001.

(v) Participant: An Executive Officer participating in the Plan in accordance with the provisions of Section 2.1.

(w) Plan: The Acuity Brands, Inc. 2002 Supplemental Executive Retirement Plan, the Plan set forth herein, as amended from time to time.

(x) Plan Year: A twelve (12) month period beginning on January 1 and ending on December 31.

(y) Prior Plan: The Acuity Brands, Inc. Supplemental Retirement Plan for Executives in which certain participants in this Plan previously participated.

(z) Retirement: Termination of employment for reason other than death after a Participant has fulfilled all requirements for Normal Retirement, Late Retirement, Early Retirement, or Disability Retirement. Retirement shall be considered as commencing on the day immediately following a Participant's last day of employment (or Authorized Leave of Absence, if later).

(aa) Surviving Spouse. The individual to whom a Participant is legally married on the date of death.

(bb) Termination Date: The date of termination of an Executive's employment with the Company for reasons other than death or Retirement.

(cc) Total and Permanent Disability: A physical or mental incapacity which impairs the Participant's ability to substantially perform his usual duties and services for the Company for a period of six (6) months. The determination of Total and Permanent Disability shall be made by the Administrator in its discretion based upon the information provided to it.

(dd) Vested Terminee: A Participant whose Termination Date occurs after the completion of at least three (3) Years of Credited Service, but prior to achieving eligibility for Retirement.

1.2 Construction: The masculine gender, where appearing in the Plan, shall be deemed to include the feminine gender, and the singular may include the plural, unless the context clearly indicates to the contrary. The words "hereof," "herein," "hereunder" and other similar compounds of the word "here" shall mean and refer to the entire Plan, not to any particular provision or Section.

ARTICLE II
PARTICIPATION, CREDITED SERVICE,
AND BREAK IN SERVICE

2.1 Eligibility for Participation:

(a) In General-An Executive Officer shall become a Participant in this Plan on the later of the Effective Date or the date he became an Executive Officer, subject to the conditions and limitations provided for herein, provided that James Balloun shall not be eligible to participate in this Plan. Unless otherwise approved by the Board or unless the Executive Officer has waived all benefits under such plan, an Executive Officer who is a participant in the Acuity Brands, Inc. Supplemental Retirement Plan for Executives shall not be eligible to become a Participant in this Plan.

A former Participant who is rehired may again become a Participant upon again fulfilling the above requirements.

(b) Special Eligibility-Any Executive Officer designated on an Appendix attached hereto shall be eligible to participate in Plan on the date specified in the Appendix and in accordance with the conditions and limitations provided in such Appendix.

2.2 Break in Service: A Participant shall incur a Break in Service as the result of the occurrence of a Termination Date or Retirement. Upon incurring a Break in Service, a Participant's rights and benefits under the Plan shall be determined in accordance with his Credited Service and Average Annual Compensation, and other applicable Plan provisions at the time of the Break in Service. If a Participant who has incurred a Break in Service is later rehired by the Company and becomes eligible to participate in the Plan, his prior Years of Credited Service shall only be counted for purposes of determining his Accrued Benefit subsequent to rehire, if (i) at the time of his Break in Service he had at least three (3) Years of Credited Service or was at least age 60, or (ii) the period of his Break in Service is less than his prior Years of Credited Service. If the Participant received payments from the Plan during his Break in Service period, his Accrued Benefit shall be adjusted in the manner provided in Section 1.1(a).

2.3 Participants Bound: Each Executive Officer becoming a Participant hereunder shall be conclusively presumed for all purposes to have consented to this Plan and any amendments, modifications or revisions hereto, and to all the terms and conditions thereof, and shall be bound thereby with the same force and effect as if he had entered into a contract to such effect and any amendments, modifications or revisions hereto.

2.4 Transfers: The following rules shall apply when an Executive Officer transfers to or from an Executive Officer position in the Company:

(a) When Employee Becomes Executive Officer: An employee of the Company who becomes an Executive Officer of the Company, will become a Participant under this Plan in accordance with Section 2.1. The Executive Officer's Compensation for periods prior to the date he becomes a Participant in the Plan shall count for purposes of this Plan, but his service with the Company or any affiliated employer shall not be credited as Years of Credited Service unless otherwise provided in an Appendix applicable to such Participant.

(b) Accrued Benefit Upon Transfer To A Non-Eligible Status: If a Participant is transferred to a non-eligible status of employment within the Company, his Accrued Benefit under this Plan will be determined as though his transfer were a termination of employment, and the date of such termination of employment will be deemed to be the date of his transfer. A Participant shall not be eligible to receive benefits from this Plan until the Participant terminates employment with the Company and all affiliated employers. A former Participant's Compensation and service after the date of transfer shall not be counted for any purposes under this Plan unless otherwise provided in an Appendix applicable to such former Participant.

ARTICLE III

RETIREMENT AND TERMINATION DATES

3.1 Normal Retirement Benefit: A Participant may retire on his Normal Retirement Date, on which date he shall be fully vested, and his Accrued Benefit shall commence as of his Normal Retirement Date. The Participant's monthly benefit shall be his Accrued Benefit and shall be payable in the normal form described in Section 3.7.

3.2 Late Retirement Benefit: When permitted by Company policy, a Participant may continue his employment beyond his Normal Retirement Date and in such event his Late Retirement Benefit shall commence as of the first day of the calendar month coinciding with or next following the date of his actual Retirement, which shall be his Late Retirement Date. The Participant's Late Retirement Benefit shall be payable in the normal form described in Section 3.7.

3.3 Early Retirement Benefit: A Participant may retire after his 55th birthday and the date of completion of at least three (3) Years of Credited Service and be entitled to an Early Retirement Benefit. If he retires, the Participant's benefit shall be equal to his Accrued Benefit, payable in the normal form described in Section 3.7 and payment shall commence as of the first day of the calendar month coinciding with or next following the Participant's 60th birthday. A Participant may elect to commence his Early Retirement Benefit as of the first day of the calendar month coinciding with or next following his Retirement, or as of the first day of any subsequent calendar month which precedes his Normal Retirement Date. In such event, the Participant's benefit, payable in the normal form, shall be reduced five-twelfths of one percent (5/12ths of 1%) for each full month or portion thereof by which the commencement of the Early Retirement Benefit precedes the Participant's Normal Retirement Date.

3.4 Disability Retirement Benefit: A Participant who has completed at least three (3) Years of Credited Service shall be eligible for a Disability Retirement Benefit if he retires by reason of Disability and his Disability Retirement Date shall be the day next following the day on which the Participant is deemed to have a Total and Permanent Disability as defined in Section 1.1(cc). The amount of the Participant's Disability Retirement Benefit shall be equal to his Accrued Benefit as of his Disability Retirement Date, without adjustment for commencement prior to his Normal Retirement Date. A Disability Retirement Pension shall commence as of the first day of the calendar month coinciding with or next following his Retirement, and shall be payable in the normal form described in Section 3.7 .

3.5 Vested Terminee Benefit: A Vested Terminee as defined in Section 1.1(dd) shall be entitled to a benefit equal to his Accrued Benefit, payable in the normal form described in

Section 3.7. Payment of such benefit shall commence on the first day of the calendar month coinciding with or next following the Vested Terminee's 60th birthday.

3.6 Termination Prior to Completion of Three (3) Years of Credited Service: Subject to Article XIII, and except in the event of a Participant's death, Disability or attainment of his Normal Retirement Date, a Participant whose Termination Date occurs prior to the completion of three (3) Years of Credited Service shall be entitled to no benefits under this Plan.

3.7 Normal Form of Payment of Accrued Benefit: The normal form of benefit payment shall be a monthly benefit payable for 180 months. If a Participant receiving benefit payments dies before 180 monthly benefit payments have been made, benefit payments shall be continued to the Participant's Beneficiary until the sum of monthly payments to both the Participant and his Beneficiary is 180. If the Participant's Beneficiary dies before a total of 180 payments have been made, the remaining payments shall be made to the Participant's estate or the Beneficiary's estate, as indicated by the Participant on the designation of beneficiary form provided by the Administrator. Notwithstanding any provision in the Plan to the contrary, the Administrator may, in its sole discretion, elect to offer additional payment options for benefits under the Plan or the Administrator may elect to accelerate the time and manner of payment of any benefits (including payment of a lump sum), including any death benefits, payable under the Plan, provided that any such alternative form of benefit payment shall be substantially equivalent (using the Actuarial Equivalent factors in Section 1.1(c)) to the normal form of benefit payment provided for in this Section 3.7.

ARTICLE IV
PRE-RETIREMENT DEATH BENEFITS

The Pre-Retirement Death Benefits payable following the death of a Participant shall be determined as follows:

(a) Death Prior to Eligibility for a Vested Terminee Benefit: No death benefit is provided under this Plan for Participants who die prior to completing the eligibility requirements for a Vested Terminee benefit.

(b) Death After Attaining Eligibility for Vested Terminee Benefit: If a Participant dies while employed by the Company after completing the requirements for a Vested Terminee benefit, the Participant's Beneficiary shall be paid the amount which would have been payable to the Participant had the Participant terminated employment immediately prior to the date of his death, with such payments commencing on the first day of the calendar month coinciding with or next following the date which would have been the deceased Participant's 60th birthday. The Participant's Beneficiary shall receive the 180 monthly payments under the normal form of payment (as described in Section 3.7, including any optional forms) and the payments shall cease after such 180 monthly payments have been made. If the Participant's Beneficiary dies before receiving the 180 monthly payments, the remaining payments shall be made to the Participant's estate or the Beneficiary's estate, as indicated by the Participant on the designation of beneficiary form provided by the Administrator. If the Participant terminates employment after satisfying the requirements for a Vested Terminee benefit but dies prior to the date his benefit commences, he shall be covered by the death benefit provisions of this subsection (b).

(c) Death After Attaining Eligibility for Early or Normal Retirement: If a Participant dies while employed by the Company after completing the eligibility requirements for Early Retirement or Normal Retirement, the Participant's Beneficiary shall be paid the amount (including the reduction for Early Retirement) which would have been payable to the Participant under this Plan had the Participant retired immediately prior to the moment of his death, with such payments commencing on the first day of the month following the date of death of the Participant. The Participant's Beneficiary shall receive the 180 monthly payments under the normal form of payment (as described in Section 3.7, including any optional forms) and the payments shall cease after such 180 monthly payments have been made. If the Participant's Beneficiary dies before receiving the 180 monthly payments, the remaining payments shall be made to the Participant's estate or the Beneficiary's estate, as indicated by the Participant on the designation of beneficiary form provided by the Administrator. If the Participant terminates employment after satisfying the requirements for Early Retirement but delays commencement of his benefits, he shall be covered by the death benefit provisions of this subsection (c) until his benefit payments commence.

ARTICLE V
PLAN FINANCING

5.1 Payment of Costs and Expenses: All costs of providing the benefits under the Plan and the expenses thereof, including the cost of the Administrator and any actuary, shall be paid from the general assets of the Company (or with respect to Participants employed by an Adopting Employer, from the general assets of such Adopting Employer).

ARTICLE VI
FIDUCIARY RESPONSIBILITIES

6.1 Allocation of Responsibility Among Fiduciaries: The Fiduciaries shall have only those specific powers, duties, responsibilities and obligations as are specifically given them under this Plan. In general, the Company shall have the responsibility for providing the benefits payable under this Plan; to appoint an Administrator if it so desires; and to amend or terminate, in whole or in part, this Plan. The Administrator shall have the responsibility for the duties set forth in Article VII. Each Fiduciary warrants that any directions given, information furnished, or action taken by it shall be in accordance with the provisions of the Plan authorizing or providing for such direction, information or action. Furthermore, each Fiduciary may rely upon any such direction, information or action of another Fiduciary as being proper under this Plan, and is not required under this Plan to inquire into the propriety of any such direction, information or action. It is intended under this Plan that each Fiduciary shall be responsible for the proper exercise of its own powers, duties, responsibilities and obligations under this Plan and shall not be responsible for any act or failure to act of another Fiduciary. No Fiduciary guarantees the payment of benefits under this Plan in any manner.

6.2 Fiduciary Duties: All Fiduciaries hereunder shall discharge their duties with respect to the Plan solely in the interest of the Participants and Beneficiaries, and

(a) for the exclusive purpose of providing benefits to Participants and their Beneficiaries and defraying reasonable expenses of administering the Plan;

(b) with the care, skill, prudence and diligence under the circumstances then prevailing that a prudent man acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims; and

(c) in accordance with the documents and instruments governing the Plan insofar as such documents and instruments are consistent with the provisions of Title I of the Act.

6.3 Company Filing Responsibility: To the extent not otherwise specifically provided in the Plan, the Company shall be responsible for filing with the Internal Revenue Service and Department of Labor any returns, reports and other documentation required under the Act.

ARTICLE VII
ADMINISTRATION

7.1 General Duties: The Administrator shall enforce the Plan, and shall have all powers necessary to accomplish that purpose, including, but not by way of limitation, the following:

- (a) to construe and interpret the Plan, decide all questions of eligibility and determine the amount, manner and time of payment of any benefits hereunder and to notify the Participant and the Company, where appropriate;
- (b) to adopt By-Laws and rules as it deems necessary, desirable or appropriate;
- (c) to prescribe procedures to be followed by Participants or Beneficiaries filing applications for benefits;
- (d) to prepare and distribute, in such manner as the Committee determines to be appropriate, information explaining the Plan;
- (e) to receive from the Company and from Participants such information as shall be necessary for the Administrator to perform its duties hereunder;
- (f) to furnish the Company, upon request, such annual reports as are reasonable and appropriate with respect to the Administrator's duties hereunder;
- (g) to receive, review and keep on file (as it deems convenient or proper) reports of the receipts and disbursements of the Plan;
- (h) to appoint or employ individuals to assist in the administration of its duties under the Plan and any other agents as it deems advisable, including legal or actuarial counsel.

The Administrator shall have no power to add to, subtract from, or modify any of the terms of the Plan, or to change or add to any benefits provided by the Plan, or to waive or fail to apply any requirements of eligibility for any benefits under the Plan. The Administrator shall have the exclusive discretionary authority to construe and to interpret the Plan, to decide all questions of eligibility for benefits and to determine the amount of such benefits, and its decisions on such matters are final and conclusive.

7.2 Application and Forms For Benefit: The Administrator may require a Participant to complete and file with the Administrator an application for benefits and all other forms approved by the Administrator, and to furnish all pertinent information requested by the Administrator. The Administrator may rely upon all such information so furnished it, including the Participant's current mailing address.

7.3 Facility of Payment: Whenever, in the Administrator's opinion a person entitled to receive any payment of a benefit or installment thereof hereunder is under a legal disability or is incapacitated in any way so as to be unable to manage his financial affairs, the Administrator may direct the Company to make payments to such person or to his legal representative or to a relative or friend of such person for his benefit, or the Administrator may direct the Company to apply the payment for the benefit of such person in such manner as the Administrator considers advisable. Any payment of a benefit or installment thereof in accordance with the provisions of this Section shall be a complete discharge of the Administrator of any liability for the selection of such payee or the making of such payment under the provisions of the Plan.

7.4 Rules and Decisions: When making any determination, the Administrator shall be entitled to rely upon information furnished by the Company, legal counsel for the Company, or the actuary.

7.5 Company to Furnish Information: To enable the Administrator to perform its functions, the Company shall supply full and timely information to the Administrator of all matters relating to the pay of all Participants, their Retirement, death or other cause for termination of employment, and such other pertinent facts as the Administrator may require.

7.6 Administrator to Furnish Other Information: To the extent not otherwise provided in the Plan, the Administrator shall be responsible for providing all notices and information required under the Act to all Participants.

ARTICLE VIII
SUCCESSOR COMPANY

8.1 Successor Company: In the event of the dissolution, merger, consolidation or reorganization of the Company, provision may be made by which the Plan will be continued by the successor; and, in that event, such successor shall be substituted for the Company under the Plan. The substitution of the successor shall constitute an assumption of Plan liabilities by the successor and the successor shall have all of the powers, duties and responsibilities of the Company under the Plan.

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ARTICLE IX
PLAN TERMINATION

9.1 Right to Terminate: The Company may terminate the Plan at any time by resolution of the Board. In the event of the termination or partial termination of the Plan, the rights of all affected Participants to their Accrued Benefits as of the date of such termination or partial termination shall be fully vested and nonforfeitable. Notwithstanding anything contained herein to the contrary, for a period of two (2) years following a Change in Control, this Plan shall not be terminated.

ARTICLE X

TRUST

The benefits provided by this Plan shall be unfunded. All amounts payable under this Plan to a Participant shall be paid from the general assets of the employer which principally employs the Participant (the "Obligated Employer"), and nothing contained in this Plan shall require the Obligated Employer to set aside or hold in trust any amounts or assets for the purpose of paying benefits to Participants. This Plan shall create only a contractual obligation on the part of the Obligated Employer and Participants shall have the status of general unsecured creditors of the Obligated Employer under the Plan with respect to any obligation of the Obligated Employer to pay benefits pursuant hereto. Any funds of the Obligated Employer available to pay benefits pursuant to the Plan shall be subject to the claims of general creditors of the Obligated Employer, and may be used for any purpose by the Obligated Employer.

Notwithstanding the preceding paragraph, the Obligated Employer may at any time transfer assets to a trust for purposes of paying all or any part of its obligations under this Plan. However, to the extent provided in the trust only, such transferred amounts shall remain subject to the claims of general creditors of the Obligated Employer. To the extent that assets are held in a trust when a Participant's benefits under the Plan become payable, the Administrator shall direct the trustee to pay such benefits to the Participant from the assets of the trust.

ARTICLE XI

AMENDMENTS AND ACTION BY COMPANY

The Company reserves the right to make from time to time any amendment or amendments to this Plan. Notwithstanding anything contained in this Plan to the contrary, no amendment shall have the effect of reducing the Accrued Benefit of any Participant and for a period of two (2) years following a Change in Control, this Plan shall not be amended in any way to directly or indirectly reduce the benefit levels provided under this Plan or the benefit of any Participant or his designated Beneficiary.

ARTICLE XII
MISCELLANEOUS

12.1 Nonguarantee of Employment: Nothing contained in this Plan shall be construed as a contract of employment between the Company and any Participant, or as a right of any Participant to be continued in the employment of the Company, or as a limitation of the right of the Company or an Adopting Employer to discharge any Participant or Executive Officer, with or without cause.

12.2 Rights Under Plan: No Participant shall have any right to or interest in, the Plan upon termination of his employment or otherwise, except as provided from time to time under this Plan, and then only to the extent of the benefits payable under the Plan to such Participant.

12.3 Nonalienation of Benefits: Benefits payable under this Plan shall not be subject in any manner to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance, charge, garnishment, execution or levy of any kind, either voluntary or involuntary, including any such liability which is for alimony or other payments for the support of a spouse or former spouse, or for any other relative of the Participant, prior to actually being received by the person entitled to the benefit under the terms of the Plan; and any attempt to anticipate, alienate, sell, transfer, assign, pledge, encumber, charge or otherwise dispose of any right to benefits payable hereunder, shall be void. The Plan shall not in any manner be liable for, or subject to, the debts, contracts, liabilities, engagements or torts of any person entitled to benefits hereunder.

12.4 Headings for Convenience Only: The headings and subheadings in this Plan are inserted for convenience of reference only and are not to be considered in construction of the provisions hereof.

12.5 Multiple Copies: This Plan may be executed in any number of counterparts, each of which shall be deemed an original, and the counterparts shall constitute one and the same instrument, which shall be sufficiently evidenced by any one thereof.

12.6 Governing Law: This Plan shall be construed and enforced in accordance with the provisions of the Act. In the event the Act is not applicable or does not preempt state law, the laws of the State of Georgia shall govern.

12.7 Guarantee of Performance: In consideration of each Participant's performance of valuable services that inure to the financial benefit of the Company, the Company does hereby agree to perform all of the obligations and responsibilities and pay any benefits due and owing to a Participant under the Plan if the Obligated Employer (as defined in Article X) designated to perform such obligations and responsibilities or pay such benefits fails or is unable to do so.

ARTICLE XIII
CHANGE IN CONTROL

13.1 Cause: For purposes of this Plan, a termination for ‘Cause’ is a termination evidenced by a resolution adopted in good faith by two-thirds of the Board that the Participant (i) intentionally and continually failed to substantially perform his duties with the Company (other than a failure resulting from the Participant’s incapacity due to physical or mental illness) which failure continued for a period of at least thirty (30) days after a written notice of demand for substantial performance has been delivered to the Participant specifying the manner in which the Participant has failed to substantially perform, or (ii) intentionally engaged in conduct which is demonstrably and materially injurious to the Company, monetarily or otherwise; provided, however, that no termination of the Participant’s employment shall be for Cause as set forth in clause (ii) above until (x) there shall have been delivered to the Participant a copy of a written notice setting forth that the Participant was guilty of the conduct set forth in clause (ii) and specifying the particulars thereof in detail, and (y) the Participant shall have been provided an opportunity to be heard by the Board (with the assistance of the Participant’s counsel if the Participant so desires). No act, or failure to act, on the Participant’s part, shall be considered “intentional” unless he has acted or failed to act, with an absence of good faith and without a reasonable belief that his action or failure to act was in the best interest of the Company. Notwithstanding anything contained in this Plan to the contrary, in the case of any Participant who is a party to a Severance Protection Agreement, no failure to perform by the Participant after a Notice of Termination (as defined in the Participant’s Severance Protection Agreement) is given by the Participant shall constitute Cause for purposes of this Plan.

13.2 Change in Control: For purposes of this Plan, a Change in Control shall mean any of the following events:

(a) The acquisition (other than from the Company by any “Person” (as the term person is used for purposes of Sections 13(d) or 14(d) of the Securities Exchange Act of 1934, as amended (the “1934 Act”)) of beneficial ownership (within the meaning of Rule 13d-3 promulgated under the 1934 Act) of twenty percent (20%) or more of the combined voting power of the Company’s then outstanding voting securities; or

(b) The individuals who, as of the Effective Date, are members of the Board (the “Incumbent Board”), cease for any reason to constitute at least two-thirds of the Board; provided, however, that if the election, or nomination for election by the Company’s stockholders, of any new director was approved by a vote of at least two-thirds of the Incumbent Board, such new director shall, for purposes of this Plan, be considered as a member of the Incumbent Board; or

(c) A merger or consolidation involving the Company if the stockholders of the Company, immediately before such merger or consolidation do not, as a result of such

merger or consolidation, own, directly or indirectly, more than seventy percent (70%) of the combined voting securities of the corporation resulting from such merger or consolidation in substantially the same proportion as their ownership of the combined voting power of the voting securities of the Company outstanding immediately before such merger or consolidation; or

(d) A complete liquidation or dissolution of the Company or an agreement for the sale or other disposition of all or substantially all of the assets of the Company.

Notwithstanding the foregoing, a Change in Control shall not be deemed to occur pursuant to Section (a), solely because twenty percent (20%) or more of the combined voting power of the Company's then outstanding securities is acquired by (i) a trustee or other fiduciary holding securities under one or more employee benefit plans maintained by the Company or any of its subsidiaries or (ii) any corporation which, immediately prior to such acquisition, is owned directly or indirectly by the stockholders of the Company in the same proportion as their ownership of stock in the Company immediately prior to such acquisition.

13.3 Termination of Employment: If a Participant's employment is terminated by the Company (other than for Cause) or by the Participant for any reason within two (2) years following a Change in Control, the Company shall, within five (5) days, pay to the Participant a lump sum cash payment equal to the lump sum Actuarial Equivalent of his Accrued Benefit as of the date of his termination of employment whether or not the Participant is otherwise vested in his Accrued Benefit.

13.4 Amendment or Termination: Any amendment or termination of this Plan which a Participant reasonably demonstrates (i) was at the request of a third party who has indicated an intention or taken steps reasonably calculated to effect a Change in Control or (ii) otherwise arose in connection with or in anticipation of a Change in Control, and which was not consented to in writing by the Participant shall be null and void, and shall have no effect whatsoever, with respect to the Participant.

IN WITNESS WHEREOF, the Plan has been executed by the Company to be effective on the Effective Date.

ACUITY BRANDS, INC.

By: _____

SCHEDULE 1
ADOPTING EMPLOYERS

Acuity Lighting Group, Inc.
Acuity Specialty Products Group, Inc.

**CERTIFICATION PURSUANT TO 18 U.S.C. SECTION 1350,
AS ADOPTED PURSUANT TO SECTION 906 OF THE
SARBANES-OXLEY ACT OF 2002**

Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 and in connection with the Quarterly Report on Form 10-Q of Acuity Brands, Inc. (the "Corporation") for the quarter ended February 28, 2003, as filed with the Securities and Exchange Commission on the date hereof (the "Report"), the undersigned, the Chairman, President, and Chief Executive Officer of the Corporation, certifies that:

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

/s/ James S. Balloun

James S. Balloun
Chairman, President, and Chief Executive Officer
April 14, 2003

[A signed original of this written statement required by Section 906 has been provided to Acuity Brands, Inc. and will be retained by Acuity Brands, Inc. and furnished to the Securities and Exchange Commission or its staff upon request.]

**CERTIFICATION PURSUANT TO 18 U.S.C. SECTION 1350,
AS ADOPTED PURSUANT TO SECTION 906 OF THE
SARBANES-OXLEY ACT OF 2002**

Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 and in connection with the Quarterly Report on Form 10-Q of Acuity Brands, Inc. (the "Corporation") for the quarter ended February 28, 2003, as filed with the Securities and Exchange Commission on the date hereof (the "Report"), the undersigned, the Executive Vice President and Chief Financial Officer of the Corporation, certifies that:

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

/s/ Vernon J. Nagel

Vernon J. Nagel
Executive Vice President and
Chief Financial Officer
April 14, 2003

[A signed original of this written statement required by Section 906 has been provided to Acuity Brands, Inc. and will be retained by Acuity Brands, Inc. and furnished to the Securities and Exchange Commission or its staff upon request.]