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 June 30, 2011

OR

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

For the Transition Period From ______ to _______

Commission File Number 1-9516

ICAHN ENTERPRISES L.P.

(Exact Name of Registrant as Specified in Its Charter)

Delaware	**13-3398766**
(State or Other Jurisdiction of Incorporation or Organization)	(IRS Employer Identification No.)

767 Fifth Avenue, Suite 4700
New York, NY 10153
(Address of Principal Executive Offices) (Zip Code)

(212) 702-4300
(Registrant's Telephone Number, Including Area Code)

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

Yes ☒ No £

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

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

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

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act).

Yes £ No ☒

As of August 8, 2011, there were 85,571,714 depositary units outstanding.

ICAHN ENTERPRISES L.P.

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PART I. FINANCIAL INFORMATION

Item 1. Financial Statements.

ICAHN ENTERPRISES L.P. AND SUBSIDIARIES

CONSOLIDATED BALANCE SHEETS
(In millions, except unit amounts)

	June 30, 2011	December 31, 2010
ASSETS	(Unaudited)	
Cash and cash equivalents	$ 2,607	$ 2,963
Cash held at consolidated affiliated partnerships and restricted cash	3,760	2,174
Investments	7,817	7,470
Accounts receivable, net	1,481	1,285
Due from brokers	354	50
Inventories, net	1,375	1,163
Property, plant and equipment, net	3,578	3,455
Goodwill	1,129	1,129
Intangible assets, net	973	999
Other assets	651	650
Total Assets	$ 23,725	$ 21,338
LIABILITIES AND EQUITY		
Accounts payable	$ 987	$ 844
Accrued expenses and other liabilities	2,030	2,277
Securities sold, not yet purchased, at fair value	3,333	1,219
Due to brokers	1,485	1,323
Post-employment benefit liability	1,280	1,272
Debt	6,877	6,509
Total liabilities	15,992	13,444
Commitments and contingencies (Note 18)		
Equity:		
Limited partners: Depositary units: 92,400,000 authorized; issued 86,708,914 at June 30, 2011 and 85,865,619 at December 31, 2010; outstanding 85,571,714 at June 30, 2011 (including 843,295 units issued as a unit distribution on May 31, 2011) and 84,728,419 at December 31, 2010	4,083	3,477
General partner	(269)	(282)
Treasury units at cost: 1,137,200 depositary units	(12)	(12)
Equity attributable to Icahn Enterprises	3,802	3,183
Equity attributable to non-controlling interests	3,931	4,711
Total Equity	7,733	7,894
Total Liabilities and Equity	$ 23,725	$ 21,338

See notes to consolidated financial statements.

ICAHN ENTERPRISES L.P. AND SUBSIDIARIES

CONSOLIDATED STATEMENTS OF OPERATIONS
(In millions, except per unit amounts)

	Three Months Ended June 30,		Six Months Ended June 30,	
	2011	2010	2011	2010
	(Unaudited)			
Revenues:				
Net sales	$ 2,365	$ 2,047	$ 4,622	$ 3,917
Other revenues from operations	175	32	361	60
Net gain (loss) from investment activities	590	(252)	1,207	(253)
Interest and dividend income	28	54	63	122
Other income (loss), net	3	10	12	(40)
	3,161	1,891	6,265	3,806
Expenses:				
Cost of goods sold	2,010	1,723	3,935	3,298
Other expenses from operations	93	19	191	39
Selling, general and administrative	333	245	688	519
Restructuring	1	7	4	11
Impairment	3	5	3	9
Interest expense	113	95	222	190
	2,553	2,094	5,043	4,066
Income (loss) before income tax expense	608	(203)	1,222	(260)
Income tax expense	(24)	(19)	(42)	(12)
Net income (loss)	584	(222)	1,180	(272)
Less: net (income) loss attributable to non-controlling interests	(295)	106	(651)	91
Net income (loss) attributable to Icahn Enterprises	$ 289	$ (116)	$ 529	$ (181)
Net income (loss) attributable to Icahn Enterprises allocable to:				
Limited partners	$ 283	$ (113)	$ 518	$ (177)
General partner	6	(3)	11	(4)
	$ 289	$ (116)	$ 529	$ (181)
Basic income (loss) per LP unit	$ 3.29	$ (1.33)	$ 6.02	$ (2.13)
Basic weighted average LP units outstanding	86	85	86	83
Diluted income (loss) per LP unit	$ 3.19	$ (1.33)	$ 5.84	$ (2.13)
Diluted weighted average LP units outstanding	91	85	91	83
Cash distributions declared per LP unit	$ 0.10	$ 0.25	$ 0.35	$ 0.50

See notes to consolidated financial statements.

ICAHN ENTERPRISES L.P. AND SUBSIDIARIES

CONSOLIDATED STATEMENT OF CHANGES IN EQUITY AND COMPREHENSIVE INCOME (In millions, except units)

	Equity Attributable to Icahn Enterprises						
			Held in Treasury				
	General Partner's Equity (Deficit)	Limited Partners' Equity	Amount	Units	Total Partners' Equity	Non-controlling Interests	Total Equity
				(Unaudited)			
Balance, December 31, 2010	$ (282)	$ 3,477	$ (12)	1,137,200	$ 3,183	$ 4,711	$ 7,894
Comprehensive income:							
Net income	11	518	—	—	529	651	1,180
Post-employment benefits, net of tax	—	4	—	—	4	1	5
Hedge instruments, net of tax	—	(2)	—	—	(2)	(1)	(3)
Translation adjustments and other, net of tax	2	86	—	—	88	30	118
Comprehensive income	13	606	—	—	619	681	1,300
Partnership distributions	(1)	(30)	—	—	(31)	—	(31)
Investment Management distributions	—	—	—	—	—	(1,818)	(1,818)
Investment Management contributions	—	—	—	—	—	250	250
Change in subsidiary equity and other	1	30	—	—	31	107	138
Balance, June 30, 2011	$ (269)	$ 4,083	$ (12)	1,137,200	$ 3,802	$ 3,931	$ 7,733

Accumulated other comprehensive loss was $477 and $597 at June 30, 2011 and December 31, 2010, respectively.

See notes to consolidated financial statements.

ICAHN ENTERPRISES L.P. AND SUBSIDIARIES

CONSOLIDATED STATEMENTS OF CASH FLOWS
(In millions)

	Six Months Ended June 30,	
	2011	2010
	(Unaudited)	
Cash flows from operating activities:		
Net income (loss)	$ 1,180	$ (272)
Adjustments to reconcile net income (loss) to net cash provided by (used in) operating activities:		
Net (gain) loss from investment activities	(1,207)	253
Purchases of securities	(2,606)	(2,919)
Proceeds from sales of securities	3,639	1,627
Purchases to cover securities sold, not yet purchased	(1,150)	(1,910)
Proceeds from securities sold, not yet purchased	3,243	176
Net premiums (paid) received on derivative contracts	(22)	2
Changes in receivables and payables relating to securities transactions	(90)	376
Depreciation and amortization	220	223
Other, net	(37)	(23)
Changes in cash held at consolidated affiliated partnerships and restricted cash	(1,585)	2,111
Changes in other operating assets and liabilities	(205)	(81)
Net cash provided by (used in) operating activities	1,380	(437)
Cash flows from investing activities:		
Capital expenditures	(218)	(229)
Acquisitions of businesses, net of cash acquired	(35)	—
Other, net	7	(41)
Net cash used in investing activities	(246)	(270)
Cash flows from financing activities:		
Investment management equity:		
Capital distributions to non-controlling interests	(2,073)	(109)
Capital contributions by non-controlling interests	250	418
Partnership contributions	—	6
Partnership distributions	(31)	(42)
Distribution to non-controlling interests in subsidiary	(20)	—
Proceeds from issuance of senior unsecured notes	—	1,987
Proceeds from other borrowings	604	106
Repayments of borrowings	(253)	(1,364)
Other, net	6	(27)
Net cash (used in) provided by financing activities	(1,517)	975
Effect of exchange rate changes on cash and cash equivalents	25	(33)
Net (decrease) increase in cash and cash equivalents	(358)	235
Net change in cash of assets held for sale	2	—
Cash and cash equivalents, beginning of period	2,963	2,256
Cash and cash equivalents, end of period	$ 2,607	$ 2,491
Supplemental information:		
Cash payments for interest, net of amounts capitalized	$ 205	$ 95
Net cash payments (refunds) for income taxes	$ 40	$ (1)
Net unrealized gains on available-for-sale securities	$ 1	$ 2
Redemptions payable to non-controlling interests	$ 91	$ 477
Investments in precious metals	$ 150	$ —
LP unit issuance to purchase majority interests in ARI and Viskase	$ —	$ 273
LP unit issuance to settle preferred LP unit redemptions	$ —	$ 138

See notes to consolidated financial statements.

ICAHN ENTERPRISES L.P. AND SUBSIDIARIES
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (UNAUDITED)
JUNE 30, 2011

1. Description of Business and Basis of Presentation.

General

Icahn Enterprises L.P. ("Icahn Enterprises" or the "Company") is a master limited partnership formed in Delaware on February 17, 1987. We own a 99% limited partner interest in Icahn Enterprises Holdings L.P. ("Icahn Enterprises Holdings"). Icahn Enterprises Holdings and its subsidiaries own substantially all of our assets and liabilities and conduct substantially all of our operations. Icahn Enterprises G.P. Inc. ("Icahn Enterprises GP"), our sole general partner, which is owned and controlled by Mr. Carl C. Icahn, owns a 1% general partner interest in both us and Icahn Enterprises Holdings, representing an aggregate 1.99% general partner interest in us and Icahn Enterprises Holdings. As of June 30, 2011, affiliates of Mr. Icahn owned 79,238,262 of our depositary units which represented approximately 92.6% of our outstanding depositary units.

We are a diversified holding company owning subsidiaries currently engaged in the following continuing operating businesses: Investment Management, Automotive, Gaming, Railcar, Food Packaging, Metals, Real Estate and Home Fashion. We also report the results of our Holding Company, which includes the unconsolidated results of Icahn Enterprises and Icahn Enterprises Holdings, and investment activity and expenses associated with the Holding Company. Further information regarding our continuing reportable segments is contained in Note 2, "Operating Units," and Note 14, "Segment Reporting."

The accompanying consolidated financial statements and related notes should be read in conjunction with our consolidated financial statements and related notes contained in our Annual Report on Form 10-K for the fiscal year ended December 31, 2010 ("fiscal 2010"). The consolidated financial statements have been prepared in accordance with the rules and regulations of the Securities and Exchange Commission ("SEC") related to interim financial statements. Certain information and footnote disclosures normally included in financial statements prepared in accordance with accounting principles generally accepted in the United States ("U.S. GAAP") have been condensed or omitted pursuant to such rules and regulations. The financial information contained herein is unaudited; however, management believes all adjustments have been made that are necessary to present fairly the results for the interim periods. All such adjustments are of a normal and recurring nature. Certain reclassifications from the prior year presentation have been made to conform to the current year presentation.

Our consolidated financial statements include the accounts of (i) Icahn Enterprises and (ii) the wholly and majority owned subsidiaries of Icahn Enterprises, in addition to those entities in which we have a controlling interest as a general partner interest or in which we are the primary beneficiary of a variable interest entity ("VIE"). In evaluating whether we have a controlling financial interest in entities in which we would consolidate, we consider the following: (1) for voting interest entities, we consolidate these entities in which we own a majority of the voting interests; (2) for VIEs of which we are considered the primary beneficiary of such entities (see section below entitled, "Adoption of New Accounting Standards," and Note 4, "Investments and Related Matters-Investment Management," for further discussion regarding the accounting and reporting of our VIEs); and (3) for limited partnership entities that are not considered VIEs, we consolidate these entities if we are the general partner of such entities and for which no substantive kick-out rights (the rights underlying the limited partners' ability to dissolve the limited partnership or otherwise remove the general partners are collectively referred to as "kick-out" rights) or participating rights exist. All material intercompany accounts and transactions have been eliminated in consolidation.

We conduct and plan to continue to conduct our activities in such a manner as not to be deemed an investment company under the Investment Company Act of 1940, as amended (the "'40 Act"). Therefore, no more than 40% of our total assets can be invested in investment securities, as such term is defined in the '40 Act. In addition, we do not invest or intend to invest in securities as our primary business. We intend to structure our investments to continue to be taxed as a partnership rather than as a corporation under the applicable publicly traded partnership rules of the Internal Revenue Code, as amended (the "Code").

Because of the nature of our businesses, the results of operations for quarterly and other interim periods are not indicative of the results to be expected for the full year. Variations in the amount and timing of gains and losses on our investments can be significant.

Fair Value of Financial Instruments

The carrying values of cash and cash equivalents, cash held at consolidated affiliated partnerships and restricted cash, accounts receivable, due from brokers, accounts payable, accrued expenses and other liabilities and due to brokers are deemed to be reasonable estimates of their fair values because of their short-term nature.

See Note 4, "Investments and Related Matters," and Note 5, "Fair Value Measurements," for a detailed discussion of our

investments.

The fair value of our long-term debt is based on the quoted market prices for the same or similar issues or on the current rates offered to us for debt of the same remaining maturities. The carrying value and estimated fair value of our long-term debt as of June 30, 2011 are each approximately $6.9 billion. The carrying value and estimated fair value of our long-term debt as of December 31, 2010 was approximately $6.5 billion and $6.1 billion, respectively.

Restricted Cash

Our restricted cash balance was approximately $3.6 billion and $1.6 billion as of June 30, 2011 and December 31, 2010, respectively.

Adoption of New Accounting Standards

In December 2009, the Financial Accounting Standards Board ("FASB") issued amended standards for determining whether to consolidate a VIE. This standard affects all entities currently within the scope of the Consolidation Topic of the FASB Accounting Standards Codification ("FASB ASC"), as well as qualifying special-purpose entities that are currently excluded from the scope of the Consolidation Topic of the FASB ASC. This standard amends the evaluation criteria to identify the primary beneficiary of the VIE and requires ongoing reassessment of whether an enterprise is the primary beneficiary of such VIEs. In addition, this amendment deferred the application of this standard for a reporting entity's interest in an entity if the reporting entity met certain attributes of an investment company. This standard is effective as of the beginning of the first fiscal year beginning after November 15, 2009.

We determined that certain entities within our Investment Management segment previously met the deferral criteria and, accordingly, we applied the consolidation guidance before the issuance of this standard. Effective March 31, 2011, we applied this guidance for certain entities within our Investment Management segment in determining whether we are considered the primary beneficiary of such entities. The adoption of this standard did not have an impact on our financial condition, results of operations and cash flows. See Note 2, "Operating Units-Investment Management," for further discussion.

Recently Issued Accounting Standards

In May 2011, the FASB issued Accounting Standard Update ("ASU") No. 2011-04, which amends ASC Topic 820, “Fair Value Measurements and Disclosures.” This ASU clarifies among other things, the intent about the application of existing fair value requirements, including those related to highest and best use concepts, and also expands the disclosure requirements for fair value measurements categorized within Level 3 of the fair value hierarchy. This ASU clarifies that a reporting entity should disclose quantitative information about significant unobservable inputs used in a fair value measurement that is categorized within Level 3 of the fair value hierarchy. Additionally, this ASU expands the disclosures for fair value measurements categorized within Level 3 where a reporting entity will be required to include a description of the valuation processes used and the sensitivity of the fair value measurement to changes in unobservable inputs and the interrelationships between those unobservable inputs, if any. Additional disclosure will also be required for any transfers between Level 1 and Level 2 of the fair value hierarchy of fair value measurements on a gross basis as well as additional disclosure of the level in the fair value hierarchy of assets and liabilities that are not recorded at fair value. For many of the requirements, the FASB does not intend for this ASU to result in a change in the application of the requirements in ASC Topic 820. The guidance in this ASU is to be applied prospectively and is effective during interim and annual periods beginning after December 15, 2011. Early adoption is not permitted. The adoption of this ASU will not have a material impact on our financial condition, results of operations or cash flows.

In June 2011, the FASB issued ASU No. 2011-05, which amends ASC Topic 220, “Comprehensive Income.” The guidance in this ASU is intended to increase the prominence of items reported in other comprehensive income in the financial statements by presenting the total of comprehensive income, the components of net income and the components of other comprehensive income either in a single continuous statement of comprehensive income or in two separate but consecutive statements. This ASU eliminates the option to present the components of other comprehensive income as part of the statement of changes in stockholders' equity. The guidance in this ASU does not change the items that must be reported in other comprehensive income or when an item of other comprehensive income must be reclassified to net income. Upon adoption, this update is to be applied retrospectively and is effective during interim and annual periods beginning after December 15, 2011. Early adoption is permitted. The adoption of this ASU will not have a material impact on our financial condition, results of operations or cash flows.

Filing Status of Subsidiaries

Federal-Mogul Corporation (“Federal-Mogul”), American Railcar Industries, Inc. (“ARI”) and Tropicana Entertainment Inc. (“Tropicana”) are each a reporting entity under the Securities Exchange Act of 1934, as amended (the “Exchange Act”) and file annual, quarterly and current reports and proxy and information statements. Each of these reports is publicly available at *www.sec.gov*.

2. Operating Units.

Investment Management

Icahn Onshore LP (the “Onshore GP”) and Icahn Offshore LP (the “Offshore GP” and, together with the Onshore GP, the “General Partners”) act as general partner of Icahn Partners LP (the “Onshore Fund”) and the Offshore Master Funds (as defined herein), respectively. The General Partners do not provide such services to any other entities, individuals or accounts. Interests in the Private Funds (as defined below) are not offered to outside investors. Interests in the Private Funds had been previously offered only to certain sophisticated and qualified investors on the basis of exemptions from the registration requirements of the federal securities laws and were not (and still are not) publicly available. The “Offshore Master Funds” consist of (i) Icahn Partners Master Fund LP ("Master Fund I"), (ii) Icahn Partners Master Fund II LP ("Master Fund II") and (iii) Icahn Partners Master Fund III LP ("Master Fund III"). The Onshore Fund and the Offshore Master Funds are collectively referred to herein as the “Investment Funds.” In addition, as discussed elsewhere in this Quarterly Report on Form 10-Q, the “Offshore Funds” consist of (i) Icahn Fund Ltd., (ii) Icahn Fund II Ltd. and (iii) Icahn Fund III Ltd. The Offshore GP also acts as general partner of a fund formed as a Cayman Islands exempted limited partnership that invests in the Offshore Master Funds. This fund, together with other funds that also invest in the Offshore Master Funds, constitute the “Feeder Funds” and, together with the Investment Funds, are referred to herein as the “Private Funds.”

Prior to March 31, 2011, our Investment Management segment's revenues were affected by the combination of fee-paying assets under management (“AUM”) and the investment performance of the Private Funds. The General Partners were entitled to receive an incentive allocation and special profits interest allocation from the Investment Funds which were accrued on a quarterly basis and were allocated to the General Partners at the end of the Investment Funds' fiscal year (or sooner on redemptions) assuming there were sufficient net profits to cover such amounts. As a result of the return of fee-paying capital as described below, no further incentive allocations or special profits interest allocations will accrue for periods subsequent to March 31, 2011.

As more fully disclosed in a letter to investors in the Private Funds filed with the SEC on Form 8-K on March 7, 2011, the Private Funds returned all fee-paying capital to its investors during fiscal 2011. Payments were funded through cash on hand and borrowings under existing credit lines.

As a result of returning fee-paying capital to its investors on March 31, 2011, each of the Private Funds no longer meets the criteria of an investment company as set forth in FASB ASC Section 946-10-15-2, *Financial Services-Investment Companies-Scope and Scope Exceptions* and, therefore, the application of FASB ASC Section 946-810-45, *Financial Services-Investment Companies-Consolidation-Other Presentation Matters,* is no longer applicable effective March 31, 2011. This change has no material effect on our consolidated financial statements as the Private Funds would account for its investments as trading securities pursuant to FASB ASC Topic 320, *Investments-Debt and Equity Securities* effective March 31, 2011. For those investments that fall outside the scope of FASB ASC Topic 320, or for those investments in which the Private Funds would otherwise have been required to account for under the equity method, the Private Funds apply the fair value option to such investments. See Note 4, "Investments and Related Matters-Investment Management," for further discussion regarding this reconsideration event and its consolidation impact.

As a result of the return of fee-paying capital as described above, a special profits interest allocation of $9 million was allocated to the General Partners at March 31, 2011. No further special profits interest allocation accrued in periods subsequent to March 31, 2011. No special profits interest allocation accrual was made for the three and six months ended June 30, 2010.

As a result of the return of fee-paying capital as described above, an incentive allocation of $7 million was allocated to the General Partners at March 31, 2011. No further incentive allocation will accrue in periods subsequent to March 31, 2011. Incentive allocations for the three and six months ended June 30, 2010 were not material as a result of "high watermarks" that were established for fee-paying investors during fiscal 2008.

Our interest in the Investment Funds was approximately $2.9 billion and $2.6 billion as of June 30, 2011 and December 31, 2010, respectively.

Automotive

We conduct our Automotive segment through our majority ownership in Federal-Mogul. Federal-Mogul is a leading global supplier of technology and innovation in vehicle and industrial products for fuel economy, emissions reduction, alternative energies, environment and safety systems. Federal-Mogul serves the world's foremost original equipment manufacturers ("OEM") of automotive, light commercial, heavy-duty, industrial, agricultural, aerospace, marine, rail and off-road vehicles, as well as the worldwide aftermarket. As of June 30, 2011, Federal-Mogul is organized into four product groups: Powertrain Energy, Powertrain Sealing and Bearings, Vehicle Safety and Protection, and Global Aftermarket.

Federal-Mogul believes that its sales are well-balanced between OEM and aftermarket, as well as domestic and international markets. Federal-Mogul's customers include the world's largest light and commercial vehicle OEMs and major distributors and retailers in the independent aftermarket. Federal-Mogul has operations in established markets including Canada, France, Germany, Italy, Japan, Spain, Sweden, the United Kingdom and the United States, and emerging markets including Argentina, Brazil, China, Czech Republic, Hungary, India, Korea, Mexico, Poland, Russia, South Africa, Thailand, Turkey and Venezuela. The attendant risks of Federal-Mogul's international operations are primarily related to currency fluctuations, changes in local economic and political conditions and changes in laws and regulations.

Accounts Receivable, net

Federal-Mogul's subsidiaries in Brazil, France, Germany, Italy, Japan, Spain and the United States are party to accounts receivable factoring and securitization facilities. Gross accounts receivable transferred under these facilities were $336 million and $211 million as of June 30, 2011 and December 31, 2010, respectively. Of those gross amounts, $334 million and $210 million, respectively, qualify as sales as defined in FASB ASC Topic 860, *Transfers and Servicing*. The remaining transferred receivables were pledged as collateral and accounted for as secured borrowings and recorded in the consolidated balance sheets within "Accounts receivable, net" and "Debt." Under the terms of these facilities, Federal-Mogul is not obligated to draw cash immediately upon the transfer of accounts receivable. Thus, as of each of June 30, 2011 and December 31, 2010, Federal-Mogul had outstanding transferred receivables for which cash of $1 million had not yet been drawn. Proceeds from the transfers of accounts receivable qualifying as sales were $923 million and $629 million for the six months ended June 30, 2011 and 2010, respectively.

For the six months ended June 30, 2011 and 2010, expenses associated with transfers of receivables of $5 million and $2 million, respectively, were recorded in the consolidated statements of operations within other income (loss), net. Where Federal-Mogul receives a fee to service and monitor these transferred receivables, such fees are sufficient to offset the costs and as such, a servicing asset or liability is not incurred as a result of such activities. Certain of the facilities contain terms that require Federal-Mogul to share in the credit risk of the sold receivables. The maximum exposures to Federal-Mogul associated with certain of these facilities' terms were $34 million and $32 million as of June 30, 2011 and December 31, 2010, respectively. Based on Federal-Mogul's analysis of the creditworthiness of its customers on which such receivables were sold and outstanding as of June 30, 2011 and December 31, 2010, Federal-Mogul estimated the loss to be immaterial.

Restructuring

Federal-Mogul's restructuring activities are undertaken as necessary to execute its strategy and streamline operations, consolidate and take advantage of available capacity and resources, and ultimately achieve net cost reductions. Restructuring activities include efforts to integrate and rationalize Federal-Mogul's businesses and to relocate manufacturing operations to best cost markets.

Federal-Mogul's restructuring charges are comprised of two types: employee costs (principally termination benefits) and facility closure costs. Termination benefits are accounted for in accordance with FASB ASC Topic 712, *Compensation - Nonretirement Post-employment Benefits*, and are recorded when it is probable that employees will be entitled to benefits and the amounts can be reasonably estimated. Estimates of termination benefits are based on the frequency of past termination benefits, the similarity of benefits under the current plan and prior plans, and the existence of statutory required minimum benefits. Facility closure and other costs are accounted for in accordance with FASB ASC Topic 420, *Exit or Disposal Cost Obligation*, and are recorded when the liability is incurred.

Estimates of restructuring charges are based on information available at the time such charges are recorded. In certain countries where Federal-Mogul operates, statutory requirements include involuntary termination benefits that extend several

years into the future. Accordingly, severance payments continue well past the date of termination at many international locations. Thus, these programs appear to be ongoing when, in fact, terminations and other activities under these programs have been substantially completed.

Federal-Mogul expects to finance its restructuring programs through cash generated from its ongoing operations or through cash available under its existing credit facility, subject to the terms of applicable covenants. Federal-Mogul does not expect that the execution of these programs will have an adverse impact on its liquidity position.

An unprecedented downturn in the global automotive industry and global financial markets led Federal-Mogul to announce, in September and December 2008, certain restructuring actions, herein referred to as "Restructuring 2009," designed to improve operating performance and respond to increasingly challenging conditions in the global automotive market. Federal-Mogul recorded a net reversal of $1 million related to Restructuring 2009 for the six months ended June 30, 2011. Federal-Mogul expects to incur additional restructuring charges of up to $2 million through the fiscal year ending December 31, 2011 ("fiscal 2011") all of which are expected to be facility closure costs. Total cumulative restructuring charges related to Restructuring 2009 through June 30, 2011 were $156 million, of which $148 million were employee costs and $8 million were facility closure costs.

As of December 31, 2010, the accrued liability balance relating to all restructuring programs was $24 million. For the six months ended June 30, 2011, Federal-Mogul incurred $1 million of net restructuring charges. For the three months ended June 30, 2011, Federal-Mogul did not incur any net restructuring charges. During the six months ended June 30, 2011, Federal-Mogul paid $14 million of restructuring charges. As of June 30, 2011, the accrued liability balance was $11 million, and is included in accrued expenses and other liabilities in our consolidated balance sheets.

Due to the inherent uncertainty involved in estimating restructuring expenses, actual amounts paid for such activities may differ from amounts initially estimated. Accordingly, previously recorded liabilities of $3 million and $4 million were reversed for the three and six months ended June 30, 2011, respectively. Such reversals result from: changes in estimated amounts to accomplish previously planned activities; changes in expected (based on historical practice) outcome of negotiations with labor unions, which reduced the level of originally committed actions; newly implemented government employment programs, which lowered the expected cost; and changes in approach to accomplish restructuring activities.

Currency Matters

Federal-Mogul has operated an aftermarket distribution center in Venezuela for several years, supplying imported replacement automotive parts to the local independent aftermarket. Since 2005, two exchange rates have existed in Venezuela: the official rate, which had been frozen since 2005 at 2.15 bolivars per U.S. dollar; and the parallel rate, which floats at a rate much higher than the official rate. Given the existence of the two rates in Venezuela, Federal-Mogul deemed the official rate was appropriate for the purpose of conversion into U.S. dollars at December 31, 2009 based on no positive intent to repatriate cash at the parallel rate and demonstrated ability to repatriate cash at the official rate.

Near the end of 2009, the three-year cumulative inflation rate for Venezuela was above 100%, which requires the Venezuelan operation to report its results as though the U.S. dollar is its functional currency in accordance with FASB ASC Topic 830, *Foreign Currency Matters*, commencing January 1, 2010 ("inflationary accounting"). The impact of this transition to a U.S. dollar functional currency requires that any change in the U.S. dollar value of bolivar denominated monetary assets and liabilities be recognized directly in earnings.

On January 8, 2010, the Venezuelan government devalued its currency. During the six months ended June 30, 2010, Federal-Mogul recorded $20 million in foreign currency exchange expense due to this currency devaluation.

The remaining Venezuelan cash balance of $13 million as of June 30, 2011 is expected to be used to pay intercompany balances for the purchase of product and to pay dividends, subject to local government restrictions.

Impairment

Federal-Mogul recorded $3 million of impairment charges for each of the three and six months ended June 30, 2011 and $4 million and $8 million for the three and six months ended June 30, 2010, respectively.

The $3 million in impairment charges for each of the three and six months ended June 30, 2011 includes a $2 million impairment charge related to an asset retirement obligation for a facility that is closed. As the fair value of the facility did not support the capitalization of this asset retirement obligation, it was impaired. The remaining $1 million in impairment charges recorded during the second quarter of fiscal 2011 was made up of immaterial fixed asset impairments at several facilities.

The impairment charges of $4 million and $8 million for the three and six months ended June 30, 2010, respectively, relate to certain equipment where the assessment of future undiscounted cash flows of such equipment, when compared to the current carrying value of the equipment, indicated the assets were not recoverable. Federal-Mogul determined the fair value of the assets by applying a probability weighted, expected present value technique to the estimated future cash flows using assumptions a market participant would utilize. The discount rate used is consistent with other long-lived asset fair value measurements.

Gaming

We conduct our Gaming segment through our majority ownership in Tropicana. Tropicana currently owns and operates a diversified, multi-jurisdictional collection of casino gaming properties. The eight casino facilities it operates feature approximately 411,000 square feet of gaming space with approximately 7,500 slot machines, 220 table games and 6,000 hotel rooms with three casino facilities located in Nevada, two in Mississippi and one in each of Indiana, Louisiana and New Jersey. In addition, in August 2010 Tropicana acquired a resort under development in Aruba.

On March 8, 2010, (the "Effective Date"), Tropicana completed the acquisition of certain assets of its predecessor, Tropicana Entertainment, LLC, and certain subsidiaries and affiliates thereof (together, the "Predecessors") and Tropicana Resort and Casino-Atlantic City ("Tropicana AC"). Such transactions, referred to as the "Restructuring Transactions," were effected pursuant to the Joint Plan of Reorganization of Tropicana Entertainment, LLC ("Tropicana LLC") and Certain of Its Debtor Affiliates Under Chapter 11 of the Bankruptcy Code, filed with the United States Bankruptcy Court for the District of Delaware on January 8, 2009, as amended (the "Plan"). As a result of the Restructuring Transactions pursuant to the Plan, the Investment Funds received shares of Tropicana common stock.

On November 15, 2010, the Investment Funds acquired 668,000 additional shares of Tropicana common stock. As a result of this purchase, the Investment Funds held, in the aggregate, 13,538,446 shares of Tropicana common stock, representing approximately 51.5% of the outstanding shares of Tropicana common stock. The additional purchase of shares of Tropicana common stock gave us a controlling interest and required us to consolidate Tropicana's financial results effective November 15, 2010, which now comprises our Gaming segment. On April 29, 2011, the Investment Funds made a distribution-in-kind of 13,538,446 shares of Tropicana common stock with a value of $216 million to us in redemption of $216 million of our limited and general partner interests in the Investment Funds. The distribution transferred the ownership of the Tropicana common stock held by the Investment Funds directly to us. As a result of this transaction, we directly own 51.5% of Tropicana's outstanding common stock. This distribution increased equity attributable to Icahn Enterprises by $27 million and decreased equity attributable to non-controlling interests by $27 million, representing the basis difference between the redemption value determined as of April 29, 2011 and the application to the controlling interest in Tropicana of purchase accounting pursuant to ASC Topic 805, *Business Combination* on November 15, 2010.

In connection with Tropicana's completion of the Restructuring Transactions, Tropicana entered into a credit agreement, dated as of December 29, 2009 (the "Exit Facility"). Each of the Investment Funds was a lender under the Exit Facility and, in the aggregate, collectively held over 50% of the loans thereunder. On June 30, 2011, the Investment Funds made a distribution-in-kind of the loans under the Exit Facility with a value of approximately $71 million to us in redemption of approximately $71 million of our general partner interests in the Investment Funds. The distribution transferred the ownership of the loans under the Exit Facility held by the Investment Funds directly to us. As a result of this transaction, we directly own over 50% of the loans under the Exit Facility.

Railcar

We conduct our Railcar segment through our majority ownership in ARI. ARI manufactures railcars, which are offered for sale or lease, custom designed railcar parts and other industrial products, primarily aluminum and special alloy steel castings. These products are sold to various types of companies including leasing companies, railroads, industrial companies and other non-rail companies. ARI provides railcar repair and maintenance services for railcar fleets. In addition, ARI provides fleet management and maintenance services for railcars owned by certain customers. Such services include inspecting and supervising the maintenance and repair of such railcars.

Food Packaging

We conduct our Food Packaging segment through our majority ownership in Viskase Companies, Inc. ("Viskase"). Viskase is a worldwide leader in the production and sale of cellulosic, fibrous and plastic casings for the processed meat and poultry

industry. Viskase currently operates seven manufacturing facilities and nine distribution centers throughout North America, Europe and South America and derives approximately 70% of its total net sales from customers located outside the United States. Viskase believes it is one of the two largest manufacturers of non-edible cellulosic casings for processed meats and one of the three largest manufacturers of non-edible fibrous casings. In fiscal 2011, Viskase is constructing a manufacturing and distribution facility in Asia.

Metals

We conduct our Metals segment through our indirect wholly owned subsidiary, PSC Metals, Inc. (“PSC Metals”). PSC Metals collects industrial and obsolete scrap metal, processes it into reusable forms and supplies the recycled metals to its customers including electric-arc furnace mills, integrated steel mills, foundries, secondary smelters and metals brokers. PSC Metals' ferrous products include shredded, sheared and bundled scrap metal and other purchased scrap metal such as turnings (steel machining fragments), cast furnace iron and broken furnace iron. PSC Metals also processes non-ferrous metals including aluminum, copper, brass, stainless steel and nickel-bearing metals. Non-ferrous products are a significant raw material in the production of aluminum and copper alloys used in manufacturing. PSC Metals also operates a secondary products business that includes the supply of secondary plate and structural grade pipe that is sold into niche markets for counterweights, piling and foundations, construction materials and infrastructure end-markets.

Real Estate

Our Real Estate segment consists of rental real estate, property development and resort activities.

As of June 30, 2011 and December 31, 2010, we owned 30 rental real estate properties. Our property development operations are run primarily through Bayswater, a real estate investment, management and development subsidiary that focuses primarily on the construction and sale of single-family and multi-family homes, lots in subdivisions and planned communities and raw land for residential development. Our New Seabury development property in Cape Cod, Massachusetts and our Grand Harbor and Oak Harbor development property in Vero Beach, Florida each include land for future residential development of approximately 327 and 870 units of residential housing, respectively. Both developments operate golf and resort operations as well.

In February 2010, our Real Estate operations acquired from Fontainebleau Las Vegas, LLC (“Fontainebleau”), and certain affiliated entities, certain assets associated with property and improvements (the “Former Fontainebleau Property”) located in Las Vegas, Nevada for an aggregate purchase price of $148 million. The Former Fontainebleau Property includes (i) an unfinished building situated on approximately 25 acres of land and (ii) inventory.

As of June 30, 2011 and December 31, 2010, $79 million and $106 million, respectively, of the net investment in financing leases, net real estate leased to others and resort properties, which is included in property, plant and equipment, net, were pledged to collateralize the payment of nonrecourse mortgages payable.

Home Fashion

We conduct our Home Fashion segment through our majority ownership in WestPoint International, Inc. (“WPI”), a manufacturer and distributor of home fashion consumer products. WPI is engaged in the business of manufacturing, sourcing, designing, marketing, distributing and selling home fashion consumer products. WPI markets a broad range of manufactured and sourced bed, bath, basic bedding and kitchen textile products, including, sheets, pillowcases, comforters, flocked blankets, woven blankets and throws, heated blankets, quilts, bedspreads, duvet covers, bed skirts, bed pillows, feather beds, mattress pads, drapes, bath and beach towels, bath rugs, kitchen towels and kitchen accessories. WPI recognizes revenue primarily through the sale of home fashion products to a variety of retail and institutional customers. In addition, WPI receives a small portion of its revenues through the licensing of its trademarks.

WPI has transitioned the majority of its manufacturing to low-cost countries and continues to maintain its corporate offices and certain distribution operations in the United States.

A relatively small number of customers have historically accounted for a significant portion of WPI's net sales. WPI had seven customers who accounted for approximately 63% and 68% of WPI's net sales for the six months ended June 30, 2011 and 2010, respectively.

Restructuring

To improve WPI's competitive position, WPI's management intends to continue its restructuring efforts. On January 31, 2011, WPI announced the closure of its Greenville, Alabama manufacturing and distribution facility. The vast majority of the products manufactured or fabricated are sourced from plants located outside of the United States.

WPI incurred restructuring costs of $1 million and $3 million for the three and six months ended June 30, 2011, respectively, compared to $2 million and $5 million in restructuring costs for the three and six months ended June 30, 2010, respectively. Included in restructuring expenses are cash charges associated with the ongoing costs of closed plants, transition expenses and employee severance, benefits and related costs. During the six months ended June 30, 2011, WPI paid $3 million in restructuring costs. As of June 30, 2011, the accrued liability balance was less than $1 million, which is included in accrued expenses and other liabilities in our consolidated balance sheet.

Total cumulative restructuring charges from August 8, 2005 (acquisition date) through June 30, 2011 are $88 million.

WPI anticipates incurring approximately $2 million of additional restructuring costs in fiscal 2011, particularly with respect to the carrying costs of closed facilities until such time as these locations are sold. Restructuring costs could be affected by, among other things, WPI's decision to accelerate or delay its restructuring efforts. As a result, actual costs incurred could vary materially from these anticipated amounts.

3. Related Party Transactions.

Our amended and restated agreement of limited partnership expressly permits us to enter into transactions with our general partner or any of its affiliates, including, without limitation, buying or selling properties from or to our general partner and any of its affiliates and borrowing and lending money from or to our general partner and any of its affiliates, subject to limitations contained in our partnership agreement and the Delaware Revised Uniform Limited Partnership Act. The indentures governing our indebtedness contain certain covenants applicable to transactions with affiliates.

Investment Management

Until August 8, 2007, Icahn Management LP (“Icahn Management”) elected to defer most of the management fees from the Offshore Funds and such amounts remain invested in the Offshore Funds. At December 31, 2010, the balance of the deferred management fees payable (included in accrued expenses and other liabilities) by Icahn Fund Ltd. to Icahn Management was $143 million. As further discussed in Note 4, "Investments and Related Matters-Investment Management-Investment in Variable Interest," because we are no longer considered the primary beneficiary of Icahn Fund Ltd. as of March 31, 2011, we deconsolidated the results and financial position of Icahn Fund Ltd. as of such date. As a result of deconsolidating Icahn Fund Ltd., our consolidated financial statements will no longer contain this deferred management fee payable effective March 31, 2011.

Effective January 1, 2008, Icahn Capital LP (“Icahn Capital”) paid for salaries and benefits of certain employees who may also perform various functions on behalf of certain other entities beneficially owned by Mr. Icahn (collectively, “Icahn Affiliates”), including administrative and investment services. Prior to January 1, 2008, Icahn & Co. LLC paid for such services. Under a separate expense-sharing agreement, Icahn Capital charged Icahn Affiliates $0.2 million and $0.4 million for the three and six months ended June 30, 2011, respectively, and $0.2 million and $0.5 million for the three and six months ended June 30, 2010. As of June 30, 2011 and December 31, 2010, accrued expenses and other liabilities in our consolidated balance sheets included $1 million and $2 million, respectively, to be applied to Icahn Capital's charges to Icahn Affiliates for services to be provided to them.

In addition, effective January 1, 2008, certain expenses borne by Icahn Capital are reimbursed by Icahn Affiliates, as appropriate, when such expenses are incurred. The expenses include investment-specific expenses for investments acquired by both the Private Funds and Icahn Affiliates that are allocated based on the amounts invested by each party, as well as investment management-related expenses that are allocated based on estimated usage agreed upon by Icahn Capital and Icahn Affiliates. For the six months ended June 30, 2011 and 2010, these reimbursement amounts were $1 million and $0.5 million, respectively.

Mr. Icahn, along with his affiliates, makes investments in the Investment Funds. These investments are not subject to special profits interest allocations or incentive allocations. On April 1, 2011, affiliates of Mr. Icahn made aggregate contributions of $250 million in the Investment Funds. As of June 30, 2011 and December 31, 2010, the total fair market value

of these investments was approximately $2.9 billion and $2.1 billion, respectively. In addition, an affiliate of Mr. Icahn has a deferred management fee arrangement with the Feeder Funds with balances of $169 million and $148 million as of June 30, 2011 and December 31, 2010, respectively. Such amounts are invested in and receive applicable returns thereon from the Investment Funds.

Effective April 1, 2011, based on a new expense-sharing arrangement, certain expenses borne by Icahn Capital are reimbursed by the Investment Funds, when such expenses are incurred. Such expenses relate to the operation, administration and investment activities of Icahn Capital for the benefit of the Investment Funds (including salaries, benefits and rent) and shall be allocated *pro rata* in accordance with each investor's capital accounts in the Investment Funds. For the three months ended June 30, 2011, $4 million was allocated to the Investment Funds based on this expense-sharing arrangement.

Railcar

Agreements with American Railcar Leasing LLC

Effective as of January 1, 2008, ARI entered into a fleet services agreement with American Railcar Leasing LLC ("ARL"), a company controlled by Mr. Icahn. Under the agreement, ARI provided ARL fleet management services for a fixed monthly fee and railcar repair and maintenance services for a charge of labor, components and materials. This agreement was replaced by a new agreement (referred to as the "Railcar Services Agreement"), which became effective April 16, 2011 for a term of three years that will automatically renew for additional one-year periods unless either party provides at least 60 days' written prior notice of termination. As stipulated in the Railcar Services Agreement, ARI will provide railcar repair, engineering, administrative and other services, on an as needed basis, for ARL's lease fleet at mutually agreed-upon prices. Railcar services revenues, included in other revenues from operations on our consolidated statements of operations, recorded by ARI were $6 million and $3 million under these agreements for the three months ended June 30, 2011 and 2010, respectively. For the six months ended June 30, 2011 and 2010, revenues of $12 million and $6 million, respectively, were recorded under these agreements. The terms and pricing on services to related parties are not less favorable to ARI than the terms and pricing on services provided to unaffiliated third parties.

ARI from time to time manufactures and sells railcars to ARL under long-term agreements as well as on a purchase order basis. ARI did not sell any railcars to ARL during the three months ended June 30, 2011. Revenues from railcars sold to ARL were $33 million for the three months ended June 30, 2010. For the six months ended June 30, 2011 and 2010, revenues from railcars sold to ARL were $1 million and $46 million, respectively. Revenues from railcars sold to ARL are included in net sales in our consolidated statements of operations. The terms and pricing on services to related parties are not less favorable to ARI than the terms and pricing on services provided to unaffiliated third parties. ARL also has acted as an agent for ARI to source railcar leasing customers. In connection therewith, ARL has assigned orders to ARI for railcars to be manufactured and leased by ARI. ARI is currently negotiating the terms of its agency relationship with ARL. Any such agreement, including payments that ARI may agree to make to ARL for these services, will be on an arm's length basis and subject to the approval of ARI's and Icahn Enterprises' audit committee.

As of June 30, 2011 and December 31, 2010, ARI had accounts receivable of $2 million and $5 million, respectively, due from ACF Industries LLC ("ACF") and ARL. These amounts are included in other assets in our consolidated balance sheets.

4. Investments and Related Matters.

Investment Management

Investments, and securities sold, not yet purchased consist of equities, bonds, bank debt and other corporate obligations, and derivatives, all of which are reported at fair value in our consolidated balance sheets. The following table summarizes the Private Funds' investments, securities sold, not yet purchased and unrealized gains and losses on derivatives:

	June 30, 2011		December 31, 2010	
	Amortized Cost	Fair Value	Amortized Cost	Fair Value
	(in millions)			
Assets				
Investments:				
Equity securities:				
Communications	$ 2,169	$ 2,001	$ 2,169	$ 1,945
Consumer, non-cyclical	2,177	2,699	1,833	2,234
Consumer, cyclical[1]	714	642	595	614
Energy	246	295	757	858
Financial	134	123	100	137
Index	—	—	9	—
Industrial	120	137	94	115
Technology	376	517	313	405
Utilities	171	210	157	143
	6,107	6,624	6,027	6,451
Corporate debt:				
Consumer, cyclical	528	451	544	485
Utilities	40	39	—	—
Financial	4	5	48	5
	572	495	592	490
Mortgage-backed securities:				
Financial	186	195	144	206
	6,865	7,314	6,763	7,147
Derivative contracts, at fair value[2]	—	1	15	6
	$ 6,865	$ 7,315	$ 6,778	$ 7,153
Liabilities				
Securities sold, not yet purchased, at fair value:				
Equity securities:				
Communications	$ 15	$ 19	$ —	$ —
Consumer, non-cyclical	11	11	—	—
Consumer, cyclical	300	363	305	356
Financial	46	54	51	58
Index	—	—	9	5
Funds	2,783	2,886	638	800
	3,155	3,333	1,003	1,219
Derivative contracts, at fair value[3]	6	10	24	60
	$ 3,161	$ 3,343	$ 1,027	$ 1,279

[1] We consolidated the financial results of Tropicana effective November 15, 2010. As a result, we eliminated our investment in Tropicana at December 31, 2010. As of April 29, 2011, our Investment Management segment no longer held an investment in Tropicana common stock. See Note 2, "Operating Units-Gaming," for further discussion regarding the history of the Investment Funds' investment in Tropicana.

[2] Included in other assets in our consolidated balance sheets.

[3] Included in accrued expenses and other liabilities in our consolidated balance sheets.

The General Partners adopted FASB ASC Section 946-810-45, *Financial Services-Investment Companies-Consolidation-Other Presentation Matters*, as of January 1, 2007. FASB ASC Section 946-810-45 provides guidance on whether investment company accounting should be retained in the financial statements of a parent entity. Upon the adoption of FASB ASC Section 946-810-45, the General Partners lost their ability to retain specialized accounting. Prior to March 31, 2011, for those investments that (i) were deemed to be available-for-sale securities, (ii) fell outside the scope of FASB ASC Topic 320, *Investments-Debt and Equity Securities* or (iii) the General Partners would otherwise have accounted for under the equity method, the General Partners applied the fair value option. The application of the fair value option is irrevocable.

As further discussed in Note 2, "Operating Units-Investment Management," as a result of returning fee-paying capital to its investors on March 31, 2011, each of the Private Funds no longer meets the criteria of an investment company as set forth in FASB ASC Section 946-10-15-2, *Financial Services-Investment Companies-Scope and Scope Exceptions* and, therefore, the application of FASB ASC Section 946-810-45, *Financial Services-Investment Companies-Consolidation-Other Presentation Matters,* is no longer applicable effective March 31, 2011. This change has no material effect on our consolidated financial statements.

Our Investment Management segment assesses the applicability of equity method accounting with respect to their investments based on a combination of qualitative and quantitative factors, including overall stock ownership of the Private Funds combined with those of our affiliates along with board of directors representation.

Our Investment Management segment applied the fair value option to certain of its investments that would have otherwise been subject to the equity method of accounting. As of June 30, 2011, the fair value of these investments was $427 million. During the three and six months ended June 30, 2011, our Investment Management segment recorded gains of $20 million and $40 million, respectively, with respect to these investments, compared to a gain of $29 million and a loss of $25 million for the three and six months ended June 30, 2010, respectively. Such amounts are included in net gain (loss) from investment activities in our consolidated statements of operations. These gains and losses include the unrealized gains and losses for our Investment Management segment's investment in Tropicana for periods prior to November 15, 2010 when Tropicana was accounted for at fair value with changes in fair value reflected in earnings. See Note 2, "Operating Units-Gaming" for further discussion regarding the history of the Investment Funds' investment in Tropicana. Also included in these investments is the Investment Funds' investment in Lions Gate Entertainment Corp ("Lions Gate") and The Hain Celestial Group, Inc. ("Hain"). As of June 30, 2011, the Investment Funds, together with their affiliates held, in the aggregate, 7,130,563 shares of Hain, representing approximately 16% of the outstanding shares of Hain. As of June 30, 2011, the Investment Funds together with their affiliates held, in the aggregate, 44,642,069 shares of Lions Gate, representing approximately 33% of the outstanding shares of Lions Gate. During the third quarter of fiscal 2010, Lions Gate issued 16,236,305 of its shares to one of its directors; the validity of such issuance is in dispute. Should we prevail in our dispute, our ownership of the outstanding shares of Lions Gate would increase to 37% based on the outstanding shares of Lions Gate at June 30, 2011. The General Partners have applied the fair value option to their investment in Lions Gate and Hain.

We believe that these investments to which we applied the fair value option are not material, individually or in the aggregate, to our consolidated financial statements. Lions Gate and Hain are registered SEC reporting companies whose financial statements are available at *www.sec.gov*.

Investments in Variable Interest Entities

As discussed in Note 1, "Description of Business and Basis of Presentation," in February 2010, the FASB issued guidance which amends the consolidation requirement of VIEs for certain entities meeting certain criteria. We determined that certain entities within our Investment Management segment previously met the criteria for the deferral of this new consolidation guidance. Accordingly, our Investment Management segment applied the overall guidance on the consolidation of VIEs with respect to applicable entities prior to the issuance of the standard as described in Note 1, "Description of Business and Basis of Presentation-Adoption of New Accounting Standards." Effective March 31, 2011, we applied the consolidation guidance to certain entities within our Investment Management segment to determine whether such entities are considered VIEs, including the determination of who is deemed the primary beneficiary of such VIEs. The application of this consolidation guidance did not have an impact on our financial condition, results of operations and cash flows.

We consolidate certain VIEs when we are determined to be their primary beneficiary, either directly or indirectly through other consolidated subsidiaries. The assets of our consolidated VIEs are primarily classified within cash and cash equivalents and investments in our consolidated balance sheets. The liabilities of our consolidated VIEs are primarily classified within securities sold, not yet purchased, at fair value, and accrued expenses and other liabilities in our consolidated balance sheets

and are non-recourse to the General Partners' general credit. Any creditors of VIEs do not have recourse against the general credit of the General Partners solely as a result of our including these VIEs in our consolidated financial statements.

As discussed in Note 2, "Operating Units-Investment Management," on March 7, 2011, the Private Funds determined to return fee-paying capital to its investors. We evaluated the impact of this reconsideration event (referred to as the "2011 Reconsideration Event") with respect to the VIE and primary beneficiary status of each of the Investment Funds and the Offshore Funds. We determined that the 2011 Reconsideration Event only impacted the primary beneficiary status of Icahn Fund Ltd. Previously Icahn Fund Ltd. was considered a VIE and we consolidated it because the Offshore GP was its primary beneficiary. As a result of the 2011 Reconsideration Event, we determined that, although Icahn Fund Ltd. is still considered a VIE, the Offshore GP is no longer the primary beneficiary. We deconsolidated Icahn Fund Ltd. as of March 31, 2011, the result of which decreased consolidated total liabilities by $146 million and increased equity attributable to non-controlling interests by the same amount.

As of June 30, 2011, our consolidated VIEs consist of the Master Fund II and Master Fund III. The Offshore GP sponsored the formation of and manages each of these VIEs and has an investment therein. In evaluating whether the Offshore GP is the primary beneficiary of such VIEs, the Offshore GP has considered the nature and extent of its involvement with such VIEs. In both cases, as of June 30, 2011, the Offshore GP was deemed to be the primary beneficiary of Master Fund II and Master Fund III because it (i) has the power to direct the activities of the VIE that most significantly impact the VIE's economic performance and (ii) in a related party tie-breaker among a group of related parties and their de facto agents in determining which party is the primary beneficiary, the Offshore GP is considered the variable interest holder most closely associated with Master Fund II and Master Fund III. In evaluating which entity among the related party group and their de facto agents is most closely related to the VIE, we evaluated the following considerations: (1) the principal-agency relationship between parties; (2) relationship and significance of the VIE's activities to variable interest holders; (3) variable interest holder's exposure to VIE's expected losses and (4) the design of the VIE.

The following table presents information regarding interests in VIEs for which the Offshore GP holds a variable interest as of June 30, 2011:

	Offshore GP is the Primary Beneficiary			Offshore GP is not the Primary Beneficiary	
	Net Assets	Offshore GP Interests[(1)]	Pledged Collateral[(2)]	Net Assets	Offshore GP Interests[(1)]
	(in millions)				
Offshore Funds, Master Fund II and Master Fund III	$ 1,202	$ 5	$ 967	$ —	$ —

[(1)] Amount principally represents the Offshore GP's reinvested incentive allocations and special profits interest allocations and therefore its maximum exposure to loss. Such amounts are subject to the financial performance of the Offshore Funds, Master Fund II and Master Fund III and are included in the Offshore GP's net assets.
[(2)] Includes collateral pledged in connection with securities sold, not yet purchased, derivative contracts and collateral held for securities loaned. Pledged amounts may be in excess of margin requirements.

Other Segments

Investments held by our Automotive, Gaming, Railcar segments and Holding Company consist of the following:

	June 30, 2011		December 31, 2010	
	Amortized Cost	Carrying Value	Amortized Cost	Carrying Value
	(in millions)			
Marketable equity and debt securities - available for sale	$ 18	$ 18	$ 24	$ 19
Investments in precious metals	150	150	—	—
Equity method investments and other	335	335	304	304
	$ 503	$ 503	$ 328	$ 323

With the exception of certain operating segments, it is our general policy to apply the fair value option to all of our

investments that would be subject to the equity method of accounting. We record unrealized gains and losses for the change in fair value of such investments as a component of net gain (loss) from investment activities in the consolidated statements of operations. We believe that these investments, individually or in the aggregate, are not material to our consolidated financial statements.

Investments in Non-Consolidated Affiliates

Automotive

Federal-Mogul maintains investments in several non-consolidated affiliates, which are located in China, France, Germany, India, Italy, Korea, Turkey and the United States. Federal-Mogul's direct ownership in such affiliates ranges from approximately 2% to 50%. The aggregate investments in these affiliates were $243 million and $210 million at June 30, 2011 and December 31, 2010, respectively.

Equity earnings from non-consolidated affiliates were $10 million and $20 million for the three and six months ended June 30, 2011, respectively, which are included in other income (loss), net in our consolidated statements of operations, compared to $10 million and $17 million for the three and six months ended June 30, 2010, respectively. For the six months ended June 30, 2011 and 2010, these entities generated sales of $375 million and $304 million, respectively, and net income of $49 million and $41 million, respectively. As of June 30, 2011, these entities had total net assets of $532 million. Distributed dividends to Federal-Mogul from non-consolidated affiliates were not material for the six months ended June 30, 2011 as compared to $24 million for the six months ended June 30, 2010.

Federal-Mogul does not consolidate any entity for which it has a variable interest based solely on power to direct the activities and significant participation in the entity's expected results that would not otherwise be consolidated based on control through voting interests. Further, Federal-Mogul's joint ventures are businesses established and maintained in connection with its operating strategy and are not special purpose entities.

Federal-Mogul holds a 50% non-controlling interest in a joint venture located in Turkey. This joint venture was established in 1995 for the purpose of manufacturing and marketing automotive parts, including pistons, piston rings, piston pins, and cylinder liners to OE and aftermarket customers. Pursuant to the joint venture agreement, Federal-Mogul's partner holds an option to put its shares to a subsidiary of Federal-Mogul's at the higher of the current fair value or at a guaranteed minimum amount. The term of the contingent guarantee is indefinite, consistent with the terms of the joint venture agreement. However, the contingent guarantee would not survive termination of the joint venture agreement. The guaranteed minimum amount represents a contingent guarantee of the initial investment of the joint venture partner and can be exercised at the discretion of the partner. The total amount of the contingent guarantee, should all triggering events have occurred, approximated $65 million as of June 30, 2011. Federal-Mogul believes that this contingent guarantee is less than the estimated current fair value of the partners' interest in the affiliate. As such, the contingent guarantee does not give rise to a contingent liability and, as a result, no amount is recorded for this guarantee. If this put option were exercised, the consideration paid and net assets acquired would be accounted for in accordance with business combination accounting. Any value in excess of the guaranteed minimum amount of the put option would be the subject of negotiation between Federal-Mogul and its joint venture partner.

Railcar

As of June 30, 2011, ARI was party to three joint ventures which are all accounted for using the equity method. ARI determined that, although these joint ventures are considered VIEs, it is not the primary beneficiary of such VIEs, does not have a controlling financial interest and does not have the ability to individually direct the activities of the VIEs that most significantly impact their economic performance. A significant factor in this determination was that ARI does not have the rights to a majority of returns, losses or votes.

The risk of loss to ARI is limited to its investment in these joint ventures, certain loans and related interest and fees due from these joint ventures to ARI and ARI's guarantee of a loan. As of June 30, 2011, the carrying amount of these investments was $45 million and the maximum exposure to loss was $51 million. Maximum exposure to loss was determined based on ARI's carrying amounts in such investments, loans, accrued interest thereon and accrued unused line fee due from applicable joint ventures and loan guarantees made to the applicable joint ventures.

5. Fair Value Measurements.

U.S. GAAP requires enhanced disclosures about investments and non-recurring non-financial assets and non-financial liabilities that are measured and reported at fair value and has established a hierarchal disclosure framework that prioritizes and

ranks the level of market price observability used in measuring investments or non-financial assets and liabilities at fair value. Market price observability is impacted by a number of factors, including the type of investment and the characteristics specific to the investment. Investments with readily available active quoted prices or for which fair value can be measured from actively quoted prices generally will have a higher degree of market price observability and a lesser degree of judgment used in measuring fair value.

Investments and non-financial assets and/or liabilities measured and reported at fair value are classified and disclosed in one of the following categories:

Level 1 - Quoted prices are available in active markets for identical investments as of the reporting date. The types of investments included in Level 1 include listed equities and listed derivatives. We do not adjust the quoted price for these investments, even in situations where we hold a large position.

Level 2 - Pricing inputs are other than quoted prices in active markets, which are either directly or indirectly observable as of the reporting date, and fair value is determined through the use of models or other valuation methodologies. Investments that are generally included in this category include corporate bonds and loans, less liquid and restricted equity securities and certain over-the-counter derivatives. The inputs and assumptions of our Level 2 investments are derived from market observable sources including: reported trades, broker/dealer quotes and other pertinent data.

Level 3 - Pricing inputs are unobservable for the investment and non-financial asset and/or liability and include situations where there is little, if any, market activity for the investment or non-financial asset and/or liability. The inputs into the determination of fair value require significant management judgment or estimation. Fair value is determined using comparable market transactions and other valuation methodologies, adjusted as appropriate for liquidity, credit, market and/or other risk factors.

In certain cases, the inputs used to measure fair value may fall into different levels of the fair value hierarchy. In such cases, an investment's level within the fair value hierarchy is based on the lowest level of input that is significant to the fair value measurement. Our assessment of the significance of a particular input to the fair value measurement in its entirety requires judgment and considers factors specific to the investment. Significant transfers, if any, between the levels within the fair value hierarchy are recognized at the beginning of the reporting period.

Investment Management

The following table summarizes the valuation of the Investment Funds' investments by the above fair value hierarchy levels as of June 30, 2011 and December 31, 2010:

	June 30, 2011				December 31, 2010			
	Level 1	Level 2	Level 3	Total	Level 1	Level 2	Level 3	Total
Assets	(in millions)							
Investments:								
Equity securities:								
Communications	$ 2,001	$ —	$ —	$ 2,001	$ 1,945	$ —	$ —	$ 1,945
Consumer, non-cyclical	2,688	11	—	2,699	2,227	7	—	2,234
Consumer, cyclical[1]	319	323	—	642	295	318	1	614
Energy	59	236	—	295	541	317	—	858
Financial	123	—	—	123	137	—	—	137
Industrial	56	81	—	137	114	1	—	115
Technology	470	47	—	517	405	—	—	405
Utilities	147	63	—	210	100	43	—	143
	5,863	761	—	6,624	5,764	686	1	6,451
Corporate debt:								
Consumer, cyclical	—	162	289	451	—	157	328	485
Utilities	—	39	—	39	—	—	—	—
Financial	—	5	—	5	—	5	—	5
	—	206	289	495	—	162	328	490
Mortgage-backed securities:								
Financial	—	195	—	195	—	206	—	206
	5,863	1,162	289	7,314	5,764	1,054	329	7,147
Derivative contracts, at fair value[2]:	—	1	—	1	—	6	—	6
	$ 5,863	$ 1,163	$ 289	$ 7,315	$ 5,764	$ 1,060	$ 329	$ 7,153
Liabilities								
Securities sold, not yet purchased, at fair value:								
Equity securities:								
Communications	$ 19	$ —	$ —	$ 19	$ —	$ —	$ —	$ —
Consumer, non-cyclical	11	—	—	11	—	—	—	—
Consumer, cyclical	363	—	—	363	356	—	—	356
Financial	54	—	—	54	58	—	—	58
Index	—	—	—	—	—	5	—	5
Funds	2,886	—	—	2,886	800	—	—	800
	3,333	—	—	3,333	1,214	5	—	1,219
Derivative contracts, at fair value[3]:	—	10	—	10	—	60	—	60
	$ 3,333	$ 10	$ —	$ 3,343	$ 1,214	$ 65	$ —	$ 1,279

[1] We consolidated the financial results of Tropicana effective November 15, 2010. As a result, we eliminated our investment in Tropicana at December 31, 2010. As of April 29, 2011, our Investment Management segment no longer held an investment in Tropicana common stock. See Note 2, "Operating Units-Gaming," for further discussion regarding the history of the Investment Funds' investment in Tropicana.

[2] Included in other assets in our consolidated balance sheets.

[3] Included in accrued expenses and other liabilities in our consolidated balance sheets.

The changes in investments measured at fair value for which the Investment Management segment has used Level 3 input to determine fair value are as follows:

	Six Months Ended June 30,	
	2011	2010
	(in millions)	
Balance at January 1	$ 329	$ 228
Gross realized and unrealized gains	2	—
Gross proceeds	(42)	(2)
Gross purchases	—	219
Balance at June 30	$ 289	$ 445

Unrealized gains of $2 million are included in earnings related to Level 3 investments still held at June 30, 2011. Total realized and unrealized gains and losses recorded for Level 3 investments, if any, are reported in net gain (loss) from investment activities in our consolidated statements of operations.

Other Segments

The following table summarizes the valuation of our Automotive and Metals segments and Holding Company investments by the above fair value hierarchy levels as of June 30, 2011 and December 31, 2010:

	June 30, 2011			December 31, 2010		
	Level 1	Level 2	Total	Level 1	Level 2	Total
	(in millions)					
Marketable equity and debt securities	$ 18	$ —	$ 18	$ 19	$ —	$ 19
Investments in precious metals	150	—	150	—	—	—
Derivative contracts, at fair value[1]	—	—	—	—	12	12
	$ 168	$ —	$ 168	$ 19	$ 12	$ 31
Derivative contracts, at fair value[2]	$ —	$ 72	$ 72	$ —	$ 94	$ 94

(1) Amounts are classified within other assets in our consolidated balance sheets.
(2) Amounts are classified within accrued expenses and other liabilities in our consolidated balance sheets.

Assets and liabilities measured at fair value on a nonrecurring basis at June 30, 2011 are set forth in the table below:

Category	Level 3 Asset (Liability)	Recognized Loss
	(in millions)	
Property, plant and equipment	$ 6	$ (3)
Asset retirement obligation	(2)	—

Property, plant and equipment with a carrying value of $9 million were written down to their fair value of $6 million, resulting in an impairment charge of $3 million, which was recorded within other income (loss), net for the three and six months ended June 30, 2011. We determined the fair value of these assets by applying probability weighted, expected present value techniques to the estimated future cash flows using assumptions a market participant would utilize. The discount rate

used is consistent with our reporting units' goodwill fair value measurements.

An asset retirement obligation of $2 million was recorded as of June 30, 2011. The fair value of this liability was determined with the assistance of an outside third-party specialist.

6. Financial Instruments.

Certain derivative contracts executed by the Private Funds with a single counterparty or by our Automotive segment with a single counterparty or by our Holding Company with a single counterparty are reported on a net-by-counterparty basis where a legal right of offset exists under an enforceable netting agreement. Values for the derivative financial instruments, principally swaps, forwards, over-the-counter options and other conditional and exchange contracts are reported on a net-by-counterparty basis. As a result, the net exposure to counterparties is reported in either other assets or accrued expenses and other liabilities in our consolidated balance sheets.

Investment Management and Holding Company

The Investment Funds currently maintain cash deposits and cash equivalents with major financial institutions. Certain account balances may not be covered by the Federal Deposit Insurance Corporation, while other accounts may exceed federally insured limits. The Investment Funds have prime broker arrangements in place with multiple prime brokers as well as a custodian bank. These financial institutions are members of major securities exchanges. The Investment Funds also have relationships with several financial institutions with which they trade derivative and other financial instruments.

In the normal course of business, the Investment Funds and the Holding Company may trade various financial instruments and enter into certain investment activities, which may give rise to off-balance-sheet risk. The Investment Funds and the Holding Company's investments may include options, credit default swaps and securities sold, not yet purchased. These financial instruments represent future commitments to purchase or sell other financial instruments or to exchange an amount of cash based on the change in an underlying instrument at specific terms at specified future dates. Risks arise with these financial instruments from potential counterparty non-performance and from changes in the market values of underlying instruments.

Securities sold, not yet purchased, at fair value represent obligations to deliver the specified security, thereby creating a liability to repurchase the security in the market at prevailing prices. Accordingly, these transactions result in off-balance-sheet risk, as the satisfaction of the obligations may exceed the amount recognized in our consolidated balance sheets. Our investments in securities and amounts due from brokers are partially restricted until we satisfy the obligation to deliver the securities sold, not yet purchased.

The Investment Funds and the Holding Company may enter into derivative contracts, including swap contracts, futures contracts and option contracts with the objective of capital appreciation or as economic hedges against other securities or the market as a whole. The Investment Funds may also enter into foreign currency derivative contracts to economically hedge against foreign currency exchange rate risks on all or a portion of their non-U.S. dollar denominated investments.

The Investment Funds and the Holding Company have entered into various types of swap contracts with other counterparties. These agreements provide that they are entitled to receive or are obligated to pay in cash an amount equal to the increase or decrease, respectively, in the value of the underlying shares, debt and other instruments that are the subject of the contracts, during the period from inception of the applicable agreement to its expiration. In addition, pursuant to the terms of such agreements, they are entitled to receive other payments, including interest, dividends and other distributions made in respect of the underlying shares, debt and other instruments during the specified time frame. They are also required to pay to the counterparty a floating interest rate equal to the product of the notional amount multiplied by an agreed-upon rate, and they receive interest on any cash collateral that they post to the counterparty at the federal funds or LIBOR rate in effect for such period.

The Investment Funds and the Holding Company may trade futures contracts. A futures contract is a firm commitment to buy or sell a specified quantity of a standardized amount of a deliverable grade commodity, security, currency or cash at a specified price and specified future date unless the contract is closed before the delivery date. Payments (or variation margin) are made or received by the Investment Funds and the Holding Company each day, depending on the daily fluctuations in the value of the contract, and the whole value change is recorded as an unrealized gain or loss by the Investment Funds and the Holding Company. When the contract is closed, the Investment Funds and the Holding Company record a realized gain or loss equal to the difference between the value of the contract at the time it was opened and the value at the time it was closed.

The Investment Funds and the Holding Company may utilize forward contracts to seek to protect their assets denominated

in foreign currencies and precious metals holdings from losses due to fluctuations in foreign exchange rates and spot rates. The Investment Funds and the Holding Company's exposure to credit risk associated with non-performance of forward contracts is limited to the unrealized gains or losses inherent in such contracts, which are recognized in unrealized gains or losses on derivative, futures and foreign currency contracts, at fair value in our consolidated balance sheets.

The Investment Funds may also purchase and write option contracts. As a writer of option contracts, the Investment Funds receive a premium at the outset and then bear the market risk of unfavorable changes in the price of the underlying financial instrument. As a result of writing option contracts, the Investment Funds are obligated to purchase or sell, at the holder's option, the underlying financial instrument. Accordingly, these transactions result in off-balance-sheet risk, as the Investment Funds' satisfaction of the obligations may exceed the amount recognized in our consolidated balance sheets. At June 30, 2011 and December 31, 2010, the maximum payout amounts relating to certain put options written by the Investment Funds were $744 million and $195 million, respectively. As of June 30, 2011 and December 31, 2010, there were unrealized gains of $0.5 million and $0.2 million, respectively.

During the third quarter of fiscal 2010, the Holding Company purchased and wrote option contracts on a certain stock index futures. At June 30, 2011, the maximum payout was $50 million, assuming the value of a certain stock index futures falls below certain limits on our put spreads, and $30 million assuming the value of a certain stock index futures increases in value above certain limits on our call spreads. As of June 30, 2011, the unrealized gain from the S&P stock index futures was $1 million and was included in the net gain (loss) from investment activities in our consolidated statements of operations. As of June 30, 2011, the Holding Company had $8 million in liability derivatives related to a certain stock index futures which are not designated as hedging instruments.

Certain terms of the Investment Funds' contracts with derivative counterparties, which are standard and customary to such contracts, contain certain triggering events that would give the counterparties the right to terminate the derivative instruments. In such events, the counterparties to the derivative instruments could request immediate payment on derivative instruments in net liability positions. The aggregate fair value of all derivative instruments with credit-risk-related contingent features that are in a liability position on June 30, 2011 and December 31, 2010 was $10 million and $60 million, respectively.

At June 30, 2011 and December 31, 2010, the Investment Funds had $188 million and $248 million, respectively, posted as collateral for derivative positions, including those derivative instruments with credit-risk-related contingent features; these amounts are included in cash held at consolidated affiliated partnerships and restricted cash within our consolidated balance sheet.

U.S. GAAP requires the disclosure of information about obligations under certain guarantee arrangements. Such guarantee arrangements requiring disclosure include contracts that contingently require the guarantor to make payments to the guaranteed party based on another entity's failure to perform under an agreement as well as indirect guarantees of the indebtedness of others.

The Investment Funds have entered into certain derivative contracts, in the form of credit default swaps, which meet the accounting definition of a guarantee, whereby the occurrence of a credit event with respect to the issuer of the underlying financial instrument may obligate the Investment Funds to make a payment to the swap counterparties. As of June 30, 2011 and December 31, 2010, the Investment Funds have entered into such credit default swaps with a maximum notional amount of $8 million and $32 million with terms of approximately one year as of June 30, 2011. We estimate that our maximum exposure related to these credit default swaps approximates 48.3% and 39.4% of such notional amounts as of June 30, 2011 and December 31, 2010, respectively.

The following table presents the notional amount, fair value, underlying referenced credit obligation type and credit ratings for derivative contracts in which the Investment Funds are assuming risk:

	June 30, 2011		December 31, 2010		
Credit Derivative Type Risk Exposure	**Notional Amount**	**Fair Value**	**Notional Amount**	**Fair Value**	**Underlying Reference Obligation**
	(in millions)				
Single name credit default swaps:					
Below investment grade risk exposure	$ 8	$ 1	$ 32	$ 1	Corporate credit

The Investment Funds have entered into derivative contracts that meet the accounting definition of a guarantee. As further described in Note 10, "Debt - Investment Management," the SPV (as such term is defined in Note 10) entered into swap transactions with a global financial services institution that reference a portfolio of loans that are expected (but not required) to match certain collateral assets of the SPV. Pursuant to the swap transactions, the financial institution will pay to the SPV the amount by which the total payments made on, or the sale price of, loans in the reference portfolio are less than the amount of the interest and principal due on the SPV Notes (as such term is defined in Note 10) and amounts senior to the SPV Notes in right of payment. Pursuant to certain offsetting swap agreements, the equity holders of the SPV may be required to pay to the global financial institution the amounts by which the total payments made on, or the sale price of, loans in the reference portfolio are less than the amount of the interest and principal due on the SPV Notes and amounts senior to the SPV Notes in right of payment. The maximum potential payout under these swap agreements approximate the amortized cost and accrued interest of the SPV Notes. As of June 30, 2011, the amortized cost and accrued interest of the SPV notes was $392 million. The maximum payout amount may be reduced by certain collateral posted by the relevant parties in the swap agreements and available collateral assets held by the SPV. The approximate term of the swap agreements corresponds to the maturity dates of the SPV Notes. As of June 30, 2011, no amounts are due from any parties under these swap agreements.

The following table presents the fair values of the Investment Funds and the Holding Company's derivatives:

Derivatives Not Designated as Hedging Instruments	Asset Derivatives[1] June 30, 2011	Asset Derivatives[1] December 31, 2010	Liability Derivatives[2] June 30, 2011	Liability Derivatives[2] December 31, 2010
	(in millions)			
Equity contracts	$ —	$ 1	$ 3	$ 2
Foreign exchange contracts	—	—	2	2
Credit contracts	1	24	7	77
Futures index spread	—	—	8	22
Sub-total	1	25	20	103
Netting across contract types[3]	—	(19)	—	(19)
Total[4]	$ 1	$ 6	$ 20	$ 84

[1] Net asset derivatives are located within other assets in our consolidated balance sheets.
[2] Net liability derivatives are located within accrued expenses and other liabilities in our consolidated balance sheets.
[3] Represents the netting of receivables balances with payable balances for the same counterparty across contract types pursuant to netting agreements.
[4] Excludes netting of cash collateral received and posted. The total collateral posted at June 30, 2011 and December 31, 2010 was $188 million and $248 million, respectively, across all counterparties.

The following table presents the effects of the Investment Funds and the Holding Company's derivative instruments on the statements of operations for the three months ended June 30, 2011 and 2010:

	Gain (Loss) Recognized in Income[1]			
	Three Months Ended June 30,		Six Months Ended June 30,	
Derivatives Not Designated as Hedging Instruments	2011	2010	2011	2010
	(in millions)			
Equity contracts	$ 1	$ (8)	$ 10	$ —
Foreign exchange contracts	(2)	4	(13)	4
Credit contracts	(6)	21	19	50
Futures index spread	14	—	23	—
	$ 7	$ 17	$ 39	$ 54

[1] Gains (losses) recognized on the Investment Funds' derivatives are classified in net gain (loss) from investment activities within our consolidated statements of operations.

At June 30, 2011, the volume of the Investment Funds' and the Holding Company's derivative activities based on their notional exposure, categorized by primary underlying risk, are as follows:

	Long Notional Exposure	Short Notional Exposure
Primary underlying risk:	(in millions)	
Credit default swaps	$ 9	$ (287)
Commodity swaps	—	(150)
Equity swaps	28	—
Foreign currency forwards	123	—
Futures index spread	24	(14)

Each Investment Fund's assets may be held in one or more accounts maintained for the Investment Fund by its prime broker or at other brokers or custodian banks, which may be located in various jurisdictions. The prime broker and custodian banks are subject to various laws and regulations in the relevant jurisdictions in the event of their insolvency. Accordingly, the practical effect of these laws and their application to the Investment Fund's assets may be subject to substantial variations, limitations and uncertainties. The insolvency of any of the prime brokers, custodian banks or clearing corporations may result in the loss of all or a substantial portion of the Investment Fund's assets or in a significant delay in the Investment Fund's having access to those assets.

Credit concentrations may arise from investment activities and may be impacted by changes in economic, industry or political factors. The Investment Funds and the Holding Company routinely execute transactions with counterparties in the financial services industry, resulting in credit concentration with respect to this industry. In the ordinary course of business, the Investment Funds and the Holding Company may also be subject to a concentration of credit risk to a particular counterparty.

The Investment Funds and the Holding Company seek to mitigate these risks by actively monitoring exposures, collateral requirements and the creditworthiness of our counterparties.

Automotive

During fiscal 2008, Federal-Mogul entered into a series of five-year interest rate swap agreements with a total notional value of $1,190 million to hedge the variability of interest payments associated with its variable-rate term loans. Through these swap agreements, Federal-Mogul has fixed its base interest and premium rate at a combined average interest rate of approximately 5.37% on the hedged principal amount of $1,190 million. As of June 30, 2011 and December 31, 2010, unrealized net losses of $61 million and $70 million, respectively, were recorded in accumulated other comprehensive loss as a result of these hedges. As of June 30, 2011, losses of $37 million are expected to be reclassified from accumulated other comprehensive loss to the consolidated statement of operations within the next 12 months.

These interest rate swaps reduce Federal-Mogul's overall interest rate risk. However, due to the remaining outstanding borrowings on Federal-Mogul's debt facilities and other borrowing facilities that continue to have variable interest rates, management believes that interest rate risk to Federal-Mogul could be material if there are significant adverse changes in interest rates.

Federal-Mogul's production processes are dependent upon the supply of certain raw materials that are exposed to price fluctuations on the open market. The primary purpose of Federal-Mogul's commodity price forward contract activity is to manage the volatility associated with forecasted purchases. Federal-Mogul monitors its commodity price risk exposures regularly to maximize the overall effectiveness of its commodity forward contracts. Principal raw materials hedged include high-grade aluminum, copper, natural gas, nickel, tin and zinc. Forward contracts are used to mitigate commodity price risk associated with raw materials, generally related to purchases forecast for up to fifteen months in the future.

Federal-Mogul had commodity price hedge contracts outstanding with combined notional values of $98 million and $50 million at June 30, 2011 and December 31, 2010, respectively, of which substantially all mature within one year and substantially all were designated as hedging instruments for accounting purposes. Unrealized net gains of $12 million were recorded in accumulated other comprehensive loss as of December 31, 2010. Immaterial unrealized net gains were recorded in accumulated other comprehensive loss as of June 30, 2011.

Federal-Mogul manufactures and sells its products in North America, South America, Asia, Europe and Africa. As a result, Federal-Mogul's financial results could be significantly affected by factors such as changes in foreign currency exchange rates or weak economic conditions in foreign markets in which Federal-Mogul manufactures and sells its products. Federal-Mogul's operating results are primarily exposed to changes in exchange rates between the U.S. dollar and European currencies.

Federal-Mogul generally tries to use natural hedges within its foreign currency activities, including the matching of revenues and costs, to minimize foreign currency risk. Where natural hedges are not in place, Federal-Mogul considers managing certain aspects of its foreign currency activities and larger transactions through the use of foreign currency options or forward contracts. Principal currencies hedged have historically included the euro, British pound, and Polish zloty. Federal-Mogul had notional values of $27 million and $20 million of foreign currency hedge contracts outstanding at June 30, 2011 and December 31, 2010, respectively, of which substantially all mature in less than one year and substantially all were designated as hedging instruments for accounting purposes. Unrealized net losses of $1 million were recorded in accumulated other comprehensive loss as of June 30, 2011. Immaterial unrealized net losses were recorded in accumulated other comprehensive loss as of December 31, 2010.

Financial instruments, which potentially subject Federal-Mogul to concentrations of credit risk, consist primarily of accounts receivable and cash investments. Federal-Mogul's customer base includes virtually every significant global light and commercial vehicle manufacturer and a large number of distributors, installers and retailers of automotive aftermarket parts. Federal-Mogul's credit evaluation process and the geographical dispersion of sales transactions help to mitigate credit risk concentration. No individual customer accounted for more than 5% of Federal-Mogul's direct sales during the six months ended June 30, 2011. Federal-Mogul requires placement of cash in financial institutions evaluated as highly creditworthy.

The following table presents the fair values of Federal-Mogul's derivative instruments:

Derivatives Designated as Cash Flow Hedging Instruments	Asset Derivatives[1]		Liability Derivatives[2]	
	June 30, 2011	December 31, 2010	June 30, 2011	December 31, 2010
	(in millions)			
Interest rate swap contracts	$ —	$ —	$ 61	$ 70
Commodity contracts	4	13	4	1
Foreign currency contracts	—	—	1	—
Sub-total	4	13	66	71
Netting across contract types	(4)	(1)	(4)	(1)
Total	$ —	$ 12	$ 62	$ 70

[1] Located within other assets in our consolidated balance sheets.
[2] Located within accrued expenses and other liabilities in our consolidated balance sheets.

The following tables present the effect of Federal-Mogul's derivative instruments in our consolidated financial statements for the three and six months ended June 30, 2011 and 2010:

Three Months Ended June 30, 2011

Derivatives Designated as Hedging Instruments	Amount of Gain (Loss) Recognized in OCI on Derivatives (Effective Portion)	Amount of Gain (Loss) Reclassified from AOCI into Income (Effective Portion)	Location of Gain (Loss) Reclassified from AOCI into Income (Effective Portion)	Amount of Loss Recognized in Income on Derivatives (Ineffective Portion and Amount Excluded from Effectiveness Testing)	Location of Loss Recognized in Income on Derivatives (Ineffective Portion and Amount Excluded from Effectiveness Testing)
	(in millions)	(in millions)		(in millions)	
Interest rate swap contracts	$ (9)	$ (9)	Interest expense	$ —	
Commodity contracts	(6)	2	Cost of goods sold	(1)	Other income, net
Foreign currency contracts	(1)	(1)	Cost of goods sold	—	
	$ (16)	$ (8)		$ (1)	

Three Months Ended June 30, 2010

Derivatives Designated as Hedging Instruments	Amount of Loss Recognized in OCI on Derivatives (Effective Portion)	Amount of (Loss) Gain Reclassified from AOCI into Income (Effective Portion)	Location of (Loss) Gain Reclassified from AOCI into Income (Effective Portion)	Amount of Loss Recognized in Income on Derivatives (Ineffective Portion and Amount Excluded from Effectiveness Testing)	Location of Loss Recognized in Income on Derivatives (Ineffective Portion and Amount Excluded from Effectiveness Testing)
	(in millions)	(in millions)		(in millions)	
Interest rate swap contracts	$ (21)	$ (9)	Interest expense	$ —	
Commodity contracts	(5)	1	Cost of goods sold	(1)	Other income, net
Foreign currency contracts	2	—		—	
	$ (24)	$ (8)		$ (1)	

Six Months Ended June 30, 2011

Derivatives Designated as Hedging Instruments	Amount of Loss Recognized in OCI on Derivatives (Effective Portion)	Amount of (Loss) Gain Reclassified from AOCI into Income (Effective Portion)	Location of (Loss) Gain Reclassified from AOCI into Income (Effective Portion)	Amount of Loss Recognized in Income on Derivatives (Ineffective Portion and Amount Excluded from Effectiveness Testing)	Location of Loss Recognized in Income on Derivatives (Ineffective Portion and Amount Excluded from Effectiveness Testing)
	(in millions)	(in millions)		(in millions)	
Interest rate swap contracts	$ (10)	$ (19)	Interest expense	$ —	
Commodity contracts	(5)	6	Cost of goods sold	(1)	Other income, net
Foreign currency contracts	(2)	(1)	Cost of goods sold	—	
	$ (17)	$ (14)		$ (1)	

Six Months Ended June 30, 2010					
Derivatives Designated as Hedging Instruments	**Amount of (Loss) Gain Recognized in OCI on Derivatives (Effective Portion)**	**Amount of (Loss) Gain Reclassified from AOCI into Income (Effective Portion)**	**Location of (Loss) Gain Reclassified from AOCI into Income (Effective Portion)**	**Amount of Gain Recognized in Income on Derivatives (Ineffective Portion and Amount Excluded from Effectiveness Testing)**	**Location of Gain Recognized in Income on Derivatives (Ineffective Portion and Amount Excluded from Effectiveness Testing)**
	(in millions)	(in millions)		(in millions)	
Interest rate swap contracts	$ (43)	$ (19)	Interest expense	$ —	
Commodity contracts	(2)	3	Cost of goods sold	—	
Foreign currency contracts	3	1	Cost of goods sold	—	
	$ (42)	$ (15)		$ —	

Derivatives Not Designated as Hedging Instruments	**Location of Gain (Loss) Recognized on Derivatives**	**Gain (Loss) Recognized on Derivatives**			
		Three Months Ended June 30,		**Six Months Ended June 30,**	
		2011	**2010**	**2011**	**2010**
		(in millions)			
Commodity contracts	Cost of goods sold	$ —	$ —	$ —	$ 1
Commodity contracts	Other income (loss), net	—	(1)	—	(1)
		$ —	$ (1)	$ —	$ —

7. Inventories, Net.

Inventories, net consists of the following:

	June 30, 2011	**December 31, 2010**
	(in millions)	
Raw materials	$ 241	$ 211
Work in process	225	195
Finished goods	795	670
	1,261	1,076
Other:		
Ferrous metals	64	43
Non-ferrous metals	26	21
Secondary metals	24	23
	114	87
Total inventories, net	$ 1,375	$ 1,163

8. Goodwill and Intangible Assets, Net.

Goodwill consists of the following:

	June 30, 2011			December 31, 2010		
	Gross Carrying Amount	Accumulated Impairment	Net Carrying Value	Gross Carrying Amount	Accumulated Impairment	Net Carrying Value
	(in millions)					
Automotive	$ 1,338	$ (226)	$ 1,112	$ 1,343	$ (226)	$ 1,117
Railcar	7	—	7	7	—	7
Food Packaging	3	—	3	3	—	3
Metals	7	—	7	2	—	2
	$ 1,355	$ (226)	$ 1,129	$ 1,355	$ (226)	$ 1,129

Intangible assets, net consists of the following:

		June 30, 2011			December 31, 2010		
	Useful lives (years)	Gross Carrying Amount	Accumulated Amortization	Net Carrying Value	Gross Carrying Amount	Accumulated Amortization	Net Carrying Value
		(in millions)					
Definite-lived intangible assets:							
Automotive	1 - 22	$ 658	$ (198)	$ 460	$ 658	$ (174)	$ 484
Gaming	3 - 42	25	(1)	24	25	—	25
Food Packaging	6 - 13.5	23	(12)	11	23	(11)	12
Metals	5 - 15	16	(5)	11	11	(5)	6
Real Estate	12 - 12.5	121	(29)	92	121	(24)	97
		$ 843	$ (245)	598	$ 838	$ (214)	624
Indefinite-lived intangible assets:							
Automotive				314			314
Gaming				54			54
Food Packaging				2			2
Home Fashion				5			5
				375			375
Intangible assets, net				$ 973			$ 999

For each of the three months ended June 30, 2011 and 2010, we recorded amortization expense of $16 million associated with definite-lived intangible assets. For each of the six months ended June 30, 2011 and 2010, we recorded amortization expense of $31 million associated with definite-lived intangible assets. We utilize the straight line method of amortization, recognized over the estimated useful lives of the assets.

Automotive

During the six months ended June 30, 2011, Federal-Mogul corrected $6 million of tax adjustments that were improperly recorded to goodwill.

Gaming

Upon the acquisition of the controlling interest in Tropicana on November 15, 2010, we recognized $25 million in definite-lived intangible assets and $54 million in indefinite-lived intangible assets. The definite-lived intangible assets relate primarily to favorable lease arrangements which are being amortized on a straight-line basis over their respective useful lives. Approximately $29 million of the indefinite-lived intangible assets relates to gaming licenses related to entities that are located in gaming jurisdictions where competition is limited to a specified number of licensed gaming operators. The remainder of the indefinite-lived intangible assets relates to the "Tropicana" trade name.

Intangible assets related to the acquisition of Tropicana were valued using the income and cost based methods as appropriate. The "Tropicana" trade name was valued based on the relief-from-royalty method which is a function of projected revenue, the royalty rate that would hypothetically be charged by a licensor of an asset to an unrelated licensee and a discount rate. Gaming licenses were valued based on the Greenfield method, which is the function of the cost to build a new casino operation, the build out period, projected cash flows attributed to the casino once operational and a discount rate.

Food Packaging

As a result of our acquisition of a controlling interest in Viskase on January 15, 2010, certain long-term assets have been adjusted as a result of our required utilization of common control parties' underlying basis in such assets. As of June 30, 2011, the net balances of such assets included adjustments as follows: $3 million for goodwill and $12 million for intangible assets.

We perform an annual goodwill impairment test for our Food Packaging reporting unit as of June 15 of each fiscal year utilizing both the market and income approaches. The market approach produces indications of value by applying multiples of enterprise value to revenue as well as enterprise value to earnings before depreciation, amortization, interest and taxes. For the income approach, a discounted net cash flow was used to determine fair value. Significant estimates and assumptions used in the discounted cash flow method include forecasted revenues and profits, appropriate weighted average cost of capital and tax rates.

The June 15, 2011 evaluation equally weighted the values derived from both the market and income approaches to arrive at fair value. Our Viskase reporting unit with a goodwill balance passed "Step 1" of the June 15, 2011 goodwill impairment analysis. All "Step 1" results had fair values in excess of carrying values by at least 90%, resulting in no impairment of goodwill.

Railcar

We perform an annual goodwill impairment test for our Railcar reporting unit as of March 1 of each fiscal year utilizing both the market and income approaches. The market approach produces indications of value by applying multiples of enterprise value to revenue as well as enterprise value to earnings before depreciation, amortization, interest and taxes. For the income approach, a discounted net cash flow was used to determine fair value. Significant estimates and assumptions used in the discounted cash flow method include forecasted revenues and profits, appropriate weighted average cost of capital and tax rates.

The March 1, 2011 evaluation equally weighted the values derived from both the market and income approaches to arrive at fair value. Our ARI reporting unit with a goodwill balance passed "Step 1" of the March 1, 2011 goodwill impairment analysis. All "Step 1" results had fair values in excess of carrying values by at least 60%, resulting in no impairment of goodwill.

Metals

On January 5, 2011, PSC Metals acquired substantially all the assets and certain liabilities of Cash's Scrap Metal and Iron Corp. ("CSMI") for $32 million. CSMI is a scrap recycler and operates in five different locations in Missouri. On May 2, 2011, PSC Metals acquired substantially all the assets of Wedel Iron and Metal, LLC ("Wedel") for $3 million. Wedel is a scrap metals recycler operating in Crossville, Tennessee.

As a result of these acquisitions, PSC Metals recognized $5 million in each of goodwill and definite-lived intangible assets. In allocating the purchase price to the fair value of assets acquired and liabilities assumed, PSC Metals utilized third-party appraisers to assist it in assessing the fair values of certain components of the assets acquired and liabilities assumed.

9. Property, Plant and Equipment, Net.

Property, plant and equipment, net consists of the following:

	Useful Life	June 30, 2011	December 31, 2010
	(in years)	(in millions)	
Land		$ 472	$ 456
Buildings and improvements	4 - 40	1,061	1,028
Machinery, equipment and furniture	1 - 30	2,558	2,371
Assets leased to others	15 - 39	480	482
Construction in progress		418	346
		4,989	4,683
Less: Accumulated depreciation and amortization		(1,411)	(1,228)
Property, plant and equipment, net		$ 3,578	$ 3,455

Depreciation and amortization expense from continuing operations related to property, plant and equipment for the three months ended June 30, 2011 and 2010 was $86 million and $88 million, respectively. For the six months ended June 30, 2011 and 2010, depreciation and amortization expense from continuing operations was $172 million and $176 million, respectively.

10. Debt.

Debt consists of the following:

	June 30, 2011	December 31, 2010
	(in millions)	
8% senior unsecured notes due 2018 - Icahn Enterprises	$ 1,450	$ 1,450
7.75% senior unsecured notes due 2016 - Icahn Enterprises	1,050	1,050
Senior unsecured variable rate convertible notes due 2013 - Icahn Enterprises	556	556
Senior notes - Investment Management	392	—
Debt facilities - Automotive	2,737	2,737
Debt facilities - Gaming	61	62
Senior unsecured notes - Railcar	275	275
Senior secured notes and revolving credit facility - Food Packaging	214	214
Mortgages payable	77	108
Other	65	57
Total debt	$ 6,877	$ 6,509

Senior Unsecured Notes - Icahn Enterprises

8% Senior Unsecured Notes Due 2018 and 7.75% Senior Unsecured Notes Due 2016

On January 15, 2010, we and Icahn Enterprises Finance Corp. (“Icahn Enterprises Finance”) (collectively, the “Issuers”), issued $850 million aggregate principal amount of 7.75% Senior Unsecured Notes due 2016 (the “2016 Notes”) and $1,150 million aggregate principal amount of 8% Senior Unsecured Notes due 2018 (the “2018 Notes” and, together with the 2016 Notes, referred to as the “Initial New Notes”) pursuant to the purchase agreement, dated January 12, 2010 (the “Purchase Agreement”), by and among the Issuers, Icahn Enterprises Holdings, as guarantor (the “Guarantor”), and Jefferies & Company, Inc., as initial purchaser (the “Initial Purchaser”). The gross proceeds from the sale of the Initial New Notes were $1,987 million, a portion of which was used to purchase the approximate $1.28 billion in aggregate principal amount (or approximately 97%) of the 7.125% Senior Unsecured Notes due 2013 and the 8.125% Senior Unsecured Notes due 2012 that

were tendered pursuant to cash tender offers and consent solicitations. Interest on the New Notes are payable on January 15 and July 15 of each year, commencing July 15, 2010. The 7.125% Senior Unsecured Notes due 2013 and the 8.125% Senior Unsecured Notes due 2012 were satisfied and discharged pursuant to their respective indentures on January 15, 2010.

On November 12, 2010, the Issuers issued an additional $200 million aggregate principal amount of the 2016 Notes and $300 million aggregate principal amount of the 2018 Notes (such notes are collectively referred to as the “Additional New Notes”), pursuant to the purchase agreement, dated November 8, 2010 (the “Additional New Notes Purchase Agreement”), by and among the Issuers, Icahn Enterprises Holdings, as guarantor and Jefferies & Company, Inc., as initial purchaser. The Additional New Notes constitute the same series of securities as the Initial New Notes for purposes of the indenture governing the notes and vote together on all matters with such series. The Additional New Notes have substantially identical terms as the Initial New Notes.

The gross proceeds from the sale of the Additional New Notes were $512 million and will be used for general corporate purposes.

The Initial New Notes and Additional New Notes (referred to collectively as the notes) were issued under and are governed by an indenture, dated January 15, 2010 (the “Indenture”), among the Issuers, the Guarantor and Wilmington Trust Company, as trustee. The Indenture contains customary events of defaults and covenants relating to, among other things, the incurrence of debt, affiliate transactions, liens and restricted payments. On or after January 15, 2013, the Issuers may redeem all of the 2016 Notes at a price equal to 103.875% of the principal amount of the 2016 Notes, plus accrued and unpaid interest, with such optional redemption prices decreasing to 101.938% on and after January 15, 2014 and 100% on and after January 15, 2015. On or after January 15, 2014, the Issuers may redeem all of the 2018 Notes at a price equal to 104.000% of the principal amount of the 2018 Notes, plus accrued and unpaid interest, with such option redemption prices decreasing to 102.000% on and after January 15, 2015 and 100% on and after January 15, 2016. Before January 15, 2013, the Issuers may redeem up to 35% of the aggregate principal amount of each of the 2016 Notes and 2018 Notes with the net proceeds of certain equity offerings at a price equal to 107.750% and 108.000%, respectively, of the aggregate principal amount thereof, plus accrued and unpaid interest to the date of redemption, provided that at least 65% of the aggregate principal amount of the 2016 Notes or 2018 Notes, as the case may be, originally issued remains outstanding immediately after such redemption. If the Issuers experience a change of control, the Issuers must offer to purchase for cash all or any part of each holder's notes at a purchase price equal to 101% of the principal amount of the notes, plus accrued and unpaid interest.

The notes and the related guarantee are the senior unsecured obligations of the Issuers and rank equally with all of the Issuers' and the Guarantor's existing and future senior unsecured indebtedness and rank senior to all of the Issuers' and the Guarantor's existing and future subordinated indebtedness. The notes and the related guarantee are effectively subordinated to the Issuers' and the Guarantor's existing and future secured indebtedness to the extent of the collateral securing such indebtedness. The notes and the related guarantee are also effectively subordinated to all indebtedness and other liabilities of the Issuers' subsidiaries other than the Guarantor.

Senior Unsecured Variable Rate Convertible Notes Due 2013 - Icahn Enterprises

In April 2007, we issued an aggregate of $600 million of variable rate senior convertible notes due 2013 (the “variable rate notes”). The variable rate notes were sold in a private placement pursuant to Section 4(2) of the Securities Act, and issued pursuant to an indenture dated as of April 5, 2007, by and among us, as issuer, Icahn Enterprises Finance, as co-issuer, and Wilmington Trust Company, as trustee. Other than Icahn Enterprises Holdings, no other subsidiaries guarantee payment on the variable rate notes. The variable rate notes bear interest at a rate of three-month LIBOR minus 125 basis points, but the all-in-rate can be no less than 4.0% nor more than 5.5%, and are convertible into our depositary units at a conversion price of $132.595 per depositary unit per $1,000 principal amount, subject to adjustments in certain circumstances. Pursuant to the indenture governing the variable rate notes, on October 5, 2008, the conversion price was adjusted downward to $105.00 per depositary unit per $1,000 principal amount. As of June 30, 2011, the interest rate was 4.0%. The interest on the variable rate notes is payable quarterly on each January 15, April 15, July 15 and October 15. The variable rate notes mature on August 15, 2013, assuming they have not been converted to depositary units before their maturity date.

In the event that we declare a cash dividend or similar cash distribution in any calendar quarter with respect to our depositary units in an amount in excess of $0.10 per depositary unit (as adjusted for splits, reverse splits and/or stock dividends), the indenture governing the variable rate notes requires that we simultaneously make such distribution to holders of the variable rate notes in accordance with a formula set forth in the indenture. We paid aggregate cash distributions of $1 million and $2 million for the six months ended June 30, 2011 and 2010, respectively, to holders of our variable rate notes in

respect to our distribution payments to our depositary unitholders. Such amounts have been classified as interest expense.

Senior Unsecured Notes Restrictions and Covenants

The indenture governing the variable rate notes, and the indenture governing both the 2016 Notes and the 2018 Notes, restrict the payment of cash distributions, the purchase of equity interests or the purchase, redemption, defeasance or acquisition of debt subordinated to the senior unsecured notes. The indentures also restrict the incurrence of debt or the issuance of disqualified stock, as defined in the applicable indenture, with certain exceptions. In addition, the indentures require that on each quarterly determination date we and the guarantor of the notes (currently only Icahn Enterprises Holdings) maintain certain minimum financial ratios, as defined therein. The indentures also restrict the creation of liens, mergers, consolidations and sales of substantially all of our assets, and transactions with affiliates.

As of June 30, 2011 and December 31, 2010, we were in compliance with all covenants, including maintaining certain minimum financial ratios, as defined in the applicable indentures. Additionally, as of June 30, 2011, based on covenants in the indenture governing our senior unsecured notes, we are permitted to incur approximately $1.3 billion in additional indebtedness.

Senior Notes - Investment Management

During the first quarter of fiscal 2011, the Investment Funds formed a special purpose investment vehicle (the "SPV"), an exempted company incorporated with limited liability under the laws of the Cayman Islands, for the purpose of effecting certain transactions described herein. On March 10, 2011, the SPV issued at par an aggregate principal amount of $595 million of senior notes (the “SPV Notes”). The SPV was formed for the sole purpose of issuing the SPV Notes, acquiring certain Collateral Assets, as defined in the SPV Indenture (as defined below), and engaging in certain related transactions, including certain swap transactions as described below. The SPV will not have any substantial assets other than Collateral Assets. The SPV Notes were sold in a private placement pursuant to Rule 144A of the Securities Act, and issued pursuant to an indenture dated as of March 10, 2011 (the “SPV Indenture”), by and between the SPV, as issuer, and U.S. Bank National Association, as trustee.

We control the SPV through our interests in the Investment Funds and, accordingly, we consolidated the results and financial position of the SPV.

The SPV Notes accrue interest in arrears at LIBOR plus 0.60%. Interest on the SPV Notes will be paid on the 10th of March, June, September and December of each year subject to priority of payments pursuant to the SPV Indenture. The initial maturity date of the SPV Notes is September 10, 2011, which date could have been extended in three-month increments provided that the SPV obtained consent from holders of the SPV Notes. If such extensions had been granted, the maximum date through which the SPV Notes could have been extended would have been March 10, 2014, the final note maturity date. Subject to the satisfaction of certain redemption conditions as set forth in the SPV Indenture, the SPV may, in its discretion, cause a redemption of the SPV Notes. The SPV may redeem all or a portion of the SPV Notes in an amount equal to the sum of (a) the aggregate outstanding amount of the SPV Notes being redeemed, (b) accrued and unpaid interest thereon and (c) if applicable, a make-whole payment. During the three months ended June 30, 2011, the Investment Funds redeemed $203 million of the SPV Notes. We have determined not to extend the SPV Notes beyond the initial maturity date of September 10, 2011 and, accordingly, outstanding principal amounts, including related accrued interest, in respect of the SPV Notes will be redeemed in full by September 10, 2011.

The net proceeds from the sale of the SPV Notes were used to purchase Collateral Assets, which principally consisted of leverage loans and participations or other interests therein. The SPV Notes are secured by and payable solely from Collateral Assets, pursuant to the SPV Indenture. Payment priorities with respect to the Collateral Assets will be determined in accordance with the priority of payments pursuant to the SPV Indenture. To the extent that these amounts are insufficient to meet payments due in respect of the SPV Notes and fees and expenses following realization of all of the Collateral Assets, the obligation of the SPV to pay such deficiency with respect to the SPV Notes will be extinguished.

The SPV entered into swap transactions with a global financial services institution (referred to as the “Swap Counterparty”), whose market capitalization exceeds $40 billion, that reference a portfolio of loans that are expected (but not required) to match the Collateral Assets of the SPV. Pursuant to the swap transactions, the Swap Counterparty will pay to the SPV the amount by which the total payments made on, or the sale price of, loans in the reference portfolio are less than the amount of the interest and principal due on the SPV Notes and amounts senior to the SPV Notes in right of payment. Pursuant to certain offsetting swap agreements, the equity holders of the SPV may be required to pay to the Swap Counterparty the

amounts by which the total payments made, or the sale price of, loans in the reference portfolio are less than the amount of the interest and principal due on the SPV Notes and amounts senior to the SPV Notes in right of payment.

Debt Facilities - Automotive

On December 27, 2007, Federal-Mogul entered into a Term Loan and Revolving Credit Agreement (the "Debt Facilities") with Citicorp U.S.A. Inc. as Administrative Agent, JPMorgan Chase Bank, N.A. as Syndication Agent and certain lenders. The Debt Facilities include a $540 million revolving credit facility (which is subject to a borrowing base and can be increased under certain circumstances and subject to certain conditions) and a $2,960 million term loan credit facility divided into a $1,960 million tranche B loan and a $1,000 million tranche C loan.

The obligations under the revolving credit facility mature December 27, 2013 and bear interest in accordance with a pricing grid based on availability under the revolving credit facility. Interest rates on the pricing grid range from LIBOR plus 1.50% to LIBOR plus 2.00% and ABR plus 0.50% to ABR plus 1.00%. The tranche B term loans mature December 27, 2014 and the tranche C term loans mature December 27, 2015. The tranche C term loans are subject to a pre-payment premium, should Federal-Mogul choose to prepay the loans prior to December 27, 2011. All Debt Facilities term loans bear interest at LIBOR plus 1.9375% or at ABR plus 0.9375% at Federal-Mogul's election.

During fiscal 2008, Federal-Mogul entered into a series of five-year interest rate swap agreements with a total notional value of $1,190 million to hedge the variability of interest payments associated with its variable rate term loans under the Debt Facilities. Through use of these swap agreements, Federal-Mogul has fixed its base interest and premium rate at a combined average interest rate of approximately 5.37% on the hedged principal amount of $1,190 million. Since the interest rate swaps hedge the variability of interest payments on variable rate debt with the same terms, they qualify for cash flow hedge accounting treatment.

As of June 30, 2011 and December 31, 2010, the borrowing availability under the revolving credit facility was $540 million and $528 million, respectively. Federal-Mogul had $41 million and $43 million of letters of credit outstanding as of June 30, 2011 and December 31, 2010, pertaining to the term loan credit facility.

The obligations of Federal-Mogul under the Debt Facilities are guaranteed by substantially all of its domestic subsidiaries and certain foreign subsidiaries, and are secured by substantially all personal property and certain real property of Federal-Mogul and such guarantors, subject to certain limitations. The liens granted to secure these obligations and certain cash management and hedging obligations have first priority.

The Debt Facilities contain certain affirmative and negative covenants and events of default, including, subject to certain exceptions, restrictions on incurring additional indebtedness, mandatory prepayment provisions associated with specified asset sales and dispositions, and limitations on (i) investments; (ii) certain acquisitions, mergers or consolidations; (iii) sale and leaseback transactions; (iv) certain transactions with affiliates and (v) dividends and other payments in respect of capital stock. At June 30, 2011 and December 31, 2010, Federal-Mogul was in compliance with all debt covenants under the Debt Facilities.

Debt Facilities - Gaming

In connection with Tropicana's completion of the Restructuring Transactions (see Note 2, "Operating Units-Gaming"), Tropicana entered into a credit facility (the "Exit Facility") which consists of a (i) $130 million senior secured term loan credit facility issued at a discount of 7%, which was funded on March 8, 2010, the Effective Date, and (ii) a $20 million senior secured revolving credit facility. Each of the Investment Funds was a lender under the Exit Facility and, in the aggregate, held over 50% of the loans under the Term Loan Facility and was obligated to provide 100% of any amounts borrowed by Tropicana under the Revolving Facility. The Exit Facility matures on March 8, 2013. On June 30, 2011, the Investment Funds made a dividend-in-kind distribution of their investment in the loans under the Exit Facility to us and as a result we are now the direct lenders under Exit Facility. (See Note 2, "Operating Unit-Gaming," for additional discussion regarding this distribution-in-kind.) All amounts outstanding under the Exit Facility bear interest at a rate per annum of 15% so long as no default or event of default has occurred and is continuing, or at a rate per annum of 17% in the event that a default or event of default has occurred and is continuing. In addition, Tropicana is required to pay an annual administrative fee of $100,000 and an unused line fee equal to 0.75% of the daily average undrawn portion of the Revolving Facility. The Exit Facility is guaranteed by substantially all the existing and future subsidiaries of Tropicana.

The Exit Facility, as amended in February 2011, contains mandatory prepayment provisions from proceeds received by Tropicana as a result of asset sales and the incurrence of indebtedness (subject in each case to certain exceptions). Key

covenants binding Tropicana and its subsidiaries include (i) $50 million limitation per annum on capital expenditures, (ii) compliance with certain fixed charge coverage and leverage ratios. Financial covenants will be tested at the end of each fiscal quarter on a last twelve months basis. Key defaults (termination provisions) include (i) failure to repay principal, interest, fees and other amounts owing under the Exit Facility, (ii) cross default to other material indebtedness, (iii) the rendering of a material judgment against Tropicana or any of its subsidiaries, (iv) failure of security documents to create valid liens on property securing the facility and to perfect such liens, (v) revocation of casino, gambling or gaming licenses and (vi) the bankruptcy or insolvency of Tropicana or any of its subsidiaries. Many defaults are also subject to cure periods prior to such default giving rise to the right of the lenders to accelerate the loans and to exercise remedies. Tropicana was in compliance with all financial covenants as of both June 30, 2011 and December 31, 2010.

Senior Unsecured Notes - Railcar

In February 2007, ARI issued $275 million senior unsecured fixed rate notes that were subsequently exchanged for registered notes in March 2007 (the "ARI Notes").

The ARI Notes bear a fixed interest rate of 7.5% and are due in 2014. Interest on the ARI Notes is payable semi-annually in arrears on March 1 and September 1. The indenture governing the ARI Notes (the "ARI Notes Indenture") contains restrictive covenants that limit ARI's ability to, among other things, incur additional debt, make certain restricted payments and enter into certain significant transactions with stockholders and affiliates. As of June 30, 2011 based on certain financial ratios, certain of these covenants, including ARI's ability to incur additional debt, have become further restricted. ARI was in compliance with all of its covenants under the ARI Notes Indenture as of June 30, 2011.

Since March 1, 2011, ARI has been able to redeem the ARI Notes in whole or in part at a redemption price equal to 103.75% of the principal amount of the ARI Notes plus accrued and unpaid interest. The redemption price declines annually until it is reduced to 100.0% of the principal amount of the ARI Notes plus accrued and unpaid interest beginning on March 1, 2013. The ARI Notes are due in full plus accrued unpaid interest on March 1, 2014.

Senior Secured Notes and Revolving Credit Facility - Food Packaging

In December 2009, Viskase issued $175 million of 9.875% Senior Secured Notes due 2018 (the "Viskase 9.875% Notes"). The Viskase 9.875% Notes bear interest at a rate of 9.875% per annum, payable semi-annually in cash on January 15 and July 15, commencing on July 15, 2010. The Viskase 9.875% Notes have a maturity date of January 15, 2018.

On May 2010, Viskase issued an additional $40 million aggregate principal amount of Viskase 9.875% Notes under the indenture governing the Viskase 9.875% Notes Indenture (the "Viskase 9.875% Notes Indenture"). The additional notes constitute the same series of securities as the initial Viskase 9.875% Notes. Holders of the initial and additional Viskase 9.875% Notes will vote together on all matters and the initial and additional Viskase 9.875% Notes will be equally and ratably secured by all collateral.

The notes and related guarantees by any of Viskase's future domestic restricted subsidiaries are secured by substantially all of Viskase's and such domestic restricted subsidiaries' current and future tangible and intangible assets. The Viskase 9.875% Notes Indenture permits Viskase to incur other senior secured indebtedness and to grant liens on its assets under certain circumstances.

Prior to January 15, 2014, Viskase may redeem, at its option, up to 35% of the aggregate principal amount of the Viskase 9.875% Notes issued under the Viskase 9.875% Notes Indenture with the net proceeds of any equity offering at 109.875% of their principal amount, plus accrued and unpaid interest to the date of redemption, provided that at least 65% of the aggregate principal amount of the Viskase 9.875% Notes issued under the Viskase 9.875% Notes Indenture dated December 21, 2009 remains outstanding immediately following the redemption.

In November 2007, Viskase entered into a $25 million secured revolving credit facility (the "Viskase Revolving Credit Facility") with Arnos Corporation, an affiliate of Mr. Icahn. In connection with our majority acquisition of Viskase on January 15, 2010, we assumed the Viskase Revolving Credit Facility from Arnos Corporation. On April 28, 2011, we entered into an agreement with Viskase, extending the maturity date of the Viskase Revolving Credit Facility from January 31, 2012 to January 31, 2013. Borrowings under the loan and security agreement governing the Viskase Revolving Credit Facility are subject to a borrowing base formula based on percentages of eligible domestic receivables and eligible domestic inventory. Under the Viskase Revolving Credit Facility, the interest rate is LIBOR plus a margin of 2.00% currently (which margin will be subject to performance based increases up to 2.50%); provided that the minimum interest rate shall be at least equal to 3.00%. The

Viskase Revolving Credit facility also provides for an unused line fee of 0.375% per annum. There were no borrowings under the Viskase Revolving Credit Facility at each of June 30, 2011 and December 31, 2010.

Indebtedness under the Viskase Revolving Credit Facility is secured by liens on substantially all of Viskase's domestic and Mexican assets, with liens on certain assets that are contractually senior to the Viskase 9.875% Notes and the related guarantees pursuant to an intercreditor agreement and the Viskase 9.875% Notes.

The Viskase Revolving Credit Facility contains various covenants which restrict Viskase's ability to, among other things, incur indebtedness, enter into mergers or consolidation transactions, dispose of assets (other than in the ordinary course of business), acquire assets, make certain restricted payments, create liens on our assets, make investments, create guarantee obligations and enter into sale and leaseback transactions and transactions with affiliates, in each case subject to permitted exceptions. The Viskase Revolving Credit Facility also requires that Viskase complies with various financial covenants. Viskase is in compliance with these requirements as of June 30, 2011 and December 31, 2010.

In its foreign operations, Viskase has unsecured lines of credit with various banks providing approximately $8 million of availability. There were no borrowings under the lines of credit at each of June 30, 2011 and December 31, 2010.

Letters of credit in the amount of $2 million were outstanding under facilities with a commercial bank, and were cash collateralized at each of June 30, 2011 and December 31, 2010.

Mortgages Payable - Real Estate

Mortgages payable, all of which are non-recourse to us, bear interest at rates between 4.97% and 7.99% and have maturities between May 31, 2013 and October 31, 2028.

Other

Secured Revolving Credit Agreement - Home Fashion

On June 16, 2006, WestPoint Home, Inc. ("WPH"), an indirect wholly owned subsidiary of WPI, entered into a $250 million loan and security agreement with Bank of America, N.A., as administrative agent. On September 18, 2006, The CIT Group/Commercial Services, Inc., General Electric Capital Corporation and Wells Fargo Foothill, LLC were added as lenders under this credit agreement. Under the five-year agreement, which matured on June 15, 2011, borrowings were subject to a monthly borrowing base calculation and included a $75 million sub-limit that may be used for letters of credit. Borrowings under the agreement bore interest, at the election of WestPoint Home, either at the prime rate adjusted by an applicable margin ranging from minus 0.25% to plus 0.50% or LIBOR adjusted by an applicable margin ranging from plus 1.25% to 2.00%. WPH paid an unused line fee of 0.25% to 0.275%. Obligations under the agreement were secured by WPH's receivables, inventory and certain machinery and equipment.

On June 15, 2011, WPH executed an amended and restated $50 million loan and security agreement with Bank of America ("BOA"), as administrative agent and lender, with maximum borrowing availability of $45 million, subject to monthly borrowing base calculations. This one-year agreement matures on June 15, 2012 and includes a $40 million sub-limit that may be used for letters of credit. Borrowings under this agreement bear interest at the election of WPH at either (a) for LIBOR rate advances at LIBOR or (b) for base rate advances, at a base rate, which is the highest of (i) BOA's announced prime rate or (ii) the federal funds rate plus 0.50% or (iii) adjusted LIBOR for a 30-day interest period plus 1.00%. The applicable LIBOR or base rate is then adjusted by an applicable margin ranging from plus 2.00 % to plus 3.50% depending upon the current borrowing capacity of WPH. WPH pays an unused line fee of 0.50% to 0.625%. Obligations under this agreement are secured by WPH's receivables, inventory and certain machinery and equipment.

The amended and restated loan agreement contains covenants including, among others, restrictions on the incurrence of indebtedness, investments, redemption payments, distributions, acquisition of stock, securities or assets of any other entity and capital expenditures. However, WPH may effectuate any of these transactions only subject to specified limits and exceptions.

As of June 30, 2011, there were no borrowings under the agreement, but there were outstanding letters of credit of $9 million. Based upon the eligibility and reserve calculations within the agreement, WPH had unused borrowing availability of $36 million at June 30, 2011.

Sale of Previously Purchased Subsidiary Debt

During the six months ended June 30, 2010, we received proceeds of $65 million from the sale of previously purchased

debt of entities included in our consolidated financial statements in the principal amount of $77 million.

11. Compensation Arrangements.

Compensation arrangements of our Investment Management and Automotive segments that are included in our consolidated financial statements are discussed below.

Investment Management

Effective January 1, 2008, the General Partners amended employment agreements with certain of their employees whereby such employees have been granted rights to participate in a portion of the special profits interest allocations (in certain cases, whether or not such special profits interest is earned by the General Partners) and incentive allocations earned by the General Partners, typically net of certain expenses and generally subject to various vesting provisions. The vesting period of these rights is generally between two and seven years, and such rights expire at the end of the contractual term of each respective employment agreement. The unvested amounts and vested amounts that have not been withdrawn by the employee generally remain invested in the Investment Funds and earn the rate of return of these funds, before the effects of any special profits interest allocations or incentive allocations, which are waived on such amounts. Accordingly, these rights are accounted for as liabilities and are remeasured at fair value each reporting period until settlement.

Pursuant to certain compensation agreements entered into during fiscal 2010, certain employees may earn compensation (such amounts referred to as "profit-sharing amounts") that reference a portfolio of securities that is funded by the Investment Funds. The vesting period of these profit-sharing amounts is three years. The profit-sharing amounts are determined by the performance of the portfolio of securities. Accordingly, these profit-sharing amounts are accounted for as liabilities and are remeasured at fair value each reporting period until settlement.

The General Partners recorded compensation expense of $1 million and no compensation expense for the three months ended June 30, 2011 and 2010, respectively. The General Partners recorded compensation expense of $7 million and $0.3 million for the six months ended June 30, 2011 and 2010, respectively. Compensation expense is included in selling, general and administrative in our consolidated statements of operations. Compensation expense arising from grants in special profits interest allocations and incentive allocations and profit-sharing amounts in respect of the portfolio of securities funded by the Investment Funds are recognized in our consolidated financial statements over the vesting period. Grants in respect of special profits interest allocations and incentive allocations will no longer be made after March 31, 2011. Unvested balances of special profits interest allocations, incentive allocations and profit-sharing amounts in respect of the portfolio of securities funded by the Investment Funds are not reflected in our consolidated financial statements. Unvested amounts not yet recognized as compensation expense were $14 million and $8 million as of June 30, 2011 and December 31, 2010, respectively. Unvested amounts are expected to be recognized over a weighted average of 2.0 years as of June 30, 2011. Cash paid to settle amounts that had been withdrawn for the three months ended June 30, 2011 and 2010 was $1 million and $5 million, respectively.

Automotive

On March 23, 2010, Federal-Mogul entered into the Second Amended and Restated Employment Agreement, which extended Mr. Alapont's employment with Federal-Mogul for three years. Also on March 23, 2010, Federal-Mogul amended and restated the Stock Option Agreement by and between Federal-Mogul and Mr. Alapont dated as of February 15, 2008 (the "Restated Stock Option Agreement"). The Restated Stock Option Agreement removed Mr. Alapont's put option to sell stock received from a stock option exercise to Federal-Mogul for cash. The Restated Stock Option Agreement provides for payout of any exercise of Mr. Alapont's stock options in stock or, at the election of Federal-Mogul, in cash. The awards were previously accounted for as liability awards based on the optional cash exercise feature; however, the accounting impact associated with this modification is that the stock options are now considered an equity award as of March 23, 2010.

Federal-Mogul revalued the four million stock options granted to Mr. Alapont at March 23, 2010, resulting in a revised fair value of $27 million. This amount was reclassified from accounts payable, accrued expenses and other liabilities to partners' equity due to their equity award status. As these stock options were fully vested as of March 23, 2010, no further expense related to these stock options will be recognized. These options had intrinsic values of $13 million and $5 million as of June 30, 2011 and December 31, 2010, respectively. These options expire on December 27, 2014.

Federal-Mogul revalued the deferred compensation agreement, which was also amended and restated on March 23, 2010, at March 31, 2011, resulting in a revised fair value of $6 million at June 30, 2011. The amended and restated agreement did not

include any provisions that impacted the accounting for this agreement. Since the amended and restated agreement continues to provide for net cash settlement at the option of Mr. Alapont, it continues to be treated as a liability award as of June 30, 2011 and through its eventual payout. The amount of the payout shall be equal to the fair value of 500,000 shares of Federal-Mogul's common stock, subject to certain adjustments and offsets. During each of the three months ended June 30, 2011 and 2010, Federal-Mogul recognized $1 million in expense associated with Mr. Alapont's deferred compensation agreement. During the six months ended June 30, 2011, Federal-Mogul recognized immaterial income associated with Mr. Alapont's deferred compensation agreement. During the six months ended 2010, Federal-Mogul recognized $7 million in expense associated with Mr. Alapont's stock options and deferred compensation agreement.

The June 30, 2011 deferred compensation fair value was estimated using the Monte Carlo valuation model with the following assumptions:

Exercise price	N/A
Expected volatility	55%
Expected dividend yield	—%
Risk-free rate over the estimated expected option life	0.29%
Expected life (in years)	1.75

Expected volatility is based on the average of five-year historical volatility and implied volatility for a group of comparable auto industry companies as of the measurement date. Risk-free rate is determined based upon U.S. Treasury rates over the estimated expected lives. Expected dividend yield is zero as Federal-Mogul has not paid dividends to holders of its common stock in the recent past nor does it expect to do so in the future. Expected lives are equal to one-half of the time to the end of the term.

12. Pensions, Other Post-employment Benefits and Employee Benefit Plans.

Federal-Mogul, ARI and Viskase each sponsor several defined benefit pension plans ("Pension Benefits") (and, in the case of Viskase, its pension plans include defined contribution plans). Additionally, Federal-Mogul, ARI and Viskase each sponsors health care and life insurance benefits ("Other Post-Employment Benefits") for certain employees and retirees around the world. The Pension Benefits are funded based on the funding requirements of federal and international laws and regulations, as applicable, in advance of benefit payments and the Other Benefits as benefits are provided to participating employees. As prescribed by applicable U.S. GAAP, Federal-Mogul, ARI and Viskase each uses, as applicable, appropriate actuarial methods and assumptions in accounting for its defined benefit pension plans, non-pension post-employment benefits, and disability, early retirement and other post-employment benefits. The measurement date for all defined benefit plans is December 31 of each fiscal year.

Components of net periodic benefit cost (credit) for Federal-Mogul, ARI and Viskase for the three and six months ended June 30, 2011 and 2010 are as follows:

	Pension Benefits		Other Post-Employment Benefits	
	Three Months Ended June 30,			
	2011	2010	2011	2010
	(in millions)			
Service cost	$ 7	$ 7	$ —	$ —
Interest cost	20	21	5	5
Expected return on plan assets	(17)	(15)	—	—
Amortization of actuarial losses	7	6	—	—
Amortization of prior service credit	—	—	(4)	(3)
Curtailment gain	—	—	—	(4)
	$ 17	$ 19	$ 1	$ (2)

	Pension Benefits		Other Post-Employment Benefits	
	Six Months Ended June 30,			
	2011	2010	2011	2010
	(in millions)			
Service cost	$ 14	$ 15	$ —	$ —
Interest cost	42	42	10	12
Expected return on plan assets	(34)	(30)	—	—
Amortization of actuarial losses	13	13	—	—
Amortization of prior service credit	—	—	(8)	(3)
Curtailment gain	—	—	—	(4)
	$ 35	$ 40	$ 2	$ 5

13. Net Income Per LP Unit.

Basic income (loss) per LP unit is based on net income or loss attributable to Icahn Enterprises allocable to limited partners after deducting preferred pay-in-kind distributions to preferred unitholders. Net income or loss allocable to limited partners is divided by the weighted-average number of LP units outstanding. Diluted income (loss) per LP unit is based on basic income (loss) adjusted for interest charges applicable to the variable rate notes and earnings before the preferred pay-in-kind distributions as well as the weighted-average number of units and equivalent units outstanding. Prior to their redemption on March 31, 2010, the preferred units were considered to be equivalent units for the purpose of calculating income or loss per LP unit.

On April 29, 2011, the board of directors declared a quarterly distribution of $0.50 per depositary unit, comprised of a combination of $0.10 payable in cash and $0.40 payable in depositary units. The distribution was paid on May 31, 2011 to depositary unitholders of record at the close of business on May 16, 2011. We calculated the depositary units to be distributed based on the 20-trading day volume weighted average price of our depositary units ending on May 3, 2011, resulting in .009985 of a unit being distributed per depositary unit. To the extent that the aggregate units distributed to any holder included a fraction of a unit, that fractional unit was settled in cash. As a result, we distributed 843,295 depositary units on May 31, 2011 in connection with this distribution. We have retroactively adjusted our prior period net income per LP unit to reflect the revised LP units outstanding in accordance with U.S. GAAP.

The following table sets forth the allocation of net income (loss) attributable to Icahn Enterprises allocable to limited partners and the computation of basic and diluted income (loss) per LP unit for the periods indicated:

	Three Months Ended June 30,		Six Months Ended June 30,	
	2011	2010	2011	2010
	(in millions, except per unit data)			
Net income (loss) attributable to Icahn Enterprises	$ 289	$ (116)	$ 529	$ (181)
Basic income (loss) attributable to Icahn Enterprises allocable to limited partners (98.01% share of net income or loss)	$ 283	$ (113)	$ 518	$ (177)
Basic income (loss) per LP unit	$ 3.29	$ (1.33)	$ 6.02	$ (2.13)
Basic weighted average LP units outstanding	86	85	86	83
Diluted income (loss) per LP unit	$ 3.19	$ (1.33)	$ 5.84	$ (2.13)
Diluted weighted average LP units outstanding	91	85	91	83

The effect of dilutive securities in computing diluted income (loss) per LP unit for the three and six months ended June 30, 2011 is presented below. There were no dilutive securities for the three and six months ended June 30, 2010.

	Three Months Ended June 30, 2011		Six Months Ended June 30, 2011	
	Income	Units	Income	Units
	(in millions)			
Variable rate convertible notes	$ 7	5	$ 13	5

As their effect would have been anti-dilutive, the following equivalent units have been excluded from the diluted weighted average LP units outstanding for the periods indicated:

	Three Months Ended June 30,		Six Months Ended June 30,	
	2011	2010	2011	2010
	(in millions)			
Redemption of preferred LP units	—	—	—	2
Variable rate convertible notes	—	5	—	5

14. Segment Reporting.

As of June 30, 2011, our eight reportable segments are: (1) Investment Management; (2) Automotive; (3) Gaming; (4) Railcar; (5) Food Packaging; (6) Metals; (7) Real Estate and (8) Home Fashion. Our Investment Management segment provides investment advisory and certain administrative and back office services to the Private Funds, but does not provide such services to any other entities, individuals or accounts. Our Automotive segment consists of Federal-Mogul. Our Gaming segment consists of Tropicana. Our Railcar segment consists of ARI. Our Food Packaging segment consists of Viskase. Our Metals segment consists of PSC Metals. Our Real Estate segment consists of rental real estate, property development and the operation of resort properties. Our Home Fashion segment consists of WPI. In addition to our eight reportable segments, we present the results of the Holding Company which includes the unconsolidated results of Icahn Enterprises and Icahn Enterprises Holdings, and investment activity and expenses associated with the activities of the Holding Company. See Note 2, “Operating Units,” for a detailed description of each of our operating businesses.

We assess and measure segment operating results based on net income attributable to Icahn Enterprises as disclosed below. Certain terms of financings for certain of our segments impose restrictions on the segments' ability to transfer funds to us, including restrictions on dividends, distributions, loans and other transactions.

As described in Note 2, “Operating Units-Gaming,” we consolidated the results of Tropicana effective November 15, 2010. Our management evaluates the aggregate performance of the Investment Management segment with all of its investments stated on a fair value basis, including its investment in Tropicana. Accordingly, although we are required to consolidate the results of Tropicana effective November 15, 2010 and separately report their results as part of our Gaming segment, the column representing our Investment Management segment's results include the investment in Tropicana on a fair value basis with changes in fair value reflected in earnings for the three and six months ended June 30, 2011. We eliminate the fair value effects of Tropicana in the column labeled “Eliminations.”

As further described in Note 2, "Operating Units-Gaming," through distribution-in-kind transactions from our Investment Management segment directly to us, we currently directly own the investment in Tropicana's common stock, including its Exit Facility as of June 30, 2011.

	Three Months Ended June 30, 2011										
	Investment Management	Automotive	Gaming	Railcar	Food Packaging	Metals	Real Estate	Home Fashion	Holding Company	Eliminations	Consolidated
	(in millions)										
Revenues:											
Net sales	$ —	$ 1,800	$ —	$ 94	$ 89	$ 288	$ 12	$ 82	$ —	$ —	$ 2,365
Other revenues from operations	—	—	145	18	—	—	12	—	—	—	175
Net gain from investment activities	575	—	—	—	—	—	—	—	15	—	590
Interest and dividend income	26	2	—	1	—	—	1	—	—	(2)	28
Other (loss) income, net	—	3	—	(3)	—	—	—	2	1	—	3
	601	1,805	145	110	89	288	25	84	16	(2)	3,161
Expenses:											
Cost of goods sold	—	1,501	—	86	66	278	4	75	—	—	2,010
Other expenses from operations	—	—	75	13	—	—	5	—	—	—	93
Selling, general and administrative	28	185	65	5	11	7	10	15	7	—	333
Restructuring	—	—	—	—	—	—	—	1	—	—	1
Impairment	—	3	—	—	—	—	—	—	—	—	3
Interest expense	6	35	3	6	5	—	2	1	55	—	113
	34	1,724	143	110	82	285	21	92	62	—	2,553
Income (loss) before income tax (expense) benefit	567	81	2	—	7	3	4	(8)	(46)	(2)	608
Income tax (expense) benefit	—	(17)	1	—	(2)	—	—	—	(6)	—	(24)
Net income (loss)	567	64	3	—	5	3	4	(8)	(52)	(2)	584
Less: net (income) loss attributable to non-controlling interests	(278)	(18)	(2)	—	(1)	—	—	3	—	1	(295)
Net income (loss) attributable to Icahn Enterprises	$ 289	$ 46	$ 1	$ —	$ 4	$ 3	$ 4	$ (5)	$ (52)	$ (1)	$ 289

	Three Months Ended June 30, 2010								
	Investment Management	Automotive	Railcar	Food Packaging	Metals	Real Estate	Home Fashion	Holding Company	Consolidated
	(in millions)								
Revenues:									
Net sales	$ —	$ 1,598	$ 43	$ 81	$ 207	$ 11	$ 107	$ —	$ 2,047
Other revenues from operations	—	—	19	—	—	13	—	—	32
Net loss from investment activities	(243)	—	—	—	—	—	—	(9)	(252)
Interest and dividend income	49	2	1	—	—	1	—	1	54
Other income (loss), net	—	12	(2)	(1)	—	—	2	(1)	10
	(194)	1,612	61	80	207	25	109	(9)	1,891
Expenses:									
Cost of goods sold	—	1,324	45	58	198	3	95	—	1,723
Other expenses from operations	—	—	14	—	—	5	—	—	19
Selling, general and administrative	12	177	6	11	5	11	19	4	245
Restructuring	—	5	—	—	—	—	2	—	7
Impairment	—	4	—	—	—	—	1	—	5
Interest expense	1	34	6	5	—	2	1	46	95
	13	1,544	71	74	203	21	118	50	2,094
(Loss) income before income tax (expense) benefit	(207)	68	(10)	6	4	4	(9)	(59)	(203)
Income tax benefit (expense)	1	(18)	4	(1)	(2)	—	—	(3)	(19)
Net (loss) income	(206)	50	(6)	5	2	4	(9)	(62)	(222)
Less: net loss (income) attributable to non-controlling interests	116	(14)	3	(2)	—	—	3	—	106
Net (loss) income attributable to Icahn Enterprises	$ (90)	$ 36	$ (3)	$ 3	$ 2	$ 4	$ (6)	$ (62)	$ (116)

	Six Months Ended June 30, 2011										
	Investment Management	Automotive	Gaming	Railcar	Food Packaging	Metals	Real Estate	Home Fashion	Holding Company	Eliminations	Consolidated
	(in millions)										
Revenues:											
Net sales	$ —	$ 3,524	$ —	$ 163	$ 169	$ 567	$ 19	$ 180	$ —	$ —	$ 4,622
Other revenues from operations	—	—	302	34	—	—	25	—	—	—	361
Net gain from investment activities	1,191	—	—	—	—	—	—	—	25	(9)	1,207
Interest and dividend income	60	3	—	2	—	—	2	—	1	(5)	63
Other (loss) income, net	(3)	12	—	(5)	—	—	—	3	5	—	12
	1,248	3,539	302	194	169	567	46	183	31	(14)	6,265
Expenses:											
Cost of goods sold	—	2,946	—	153	127	539	5	165	—	—	3,935
Other expenses from operations	—	—	154	26	—	—	11	—	—	—	191
Selling, general and administrative	67	374	138	12	22	13	19	31	12	—	688
Restructuring	—	1	—	—	—	—	—	3	—	—	4
Impairment	—	3	—	—	—	—	—	—	—	—	3
Interest expense	9	70	5	11	10	—	4	1	112	—	222
	76	3,394	297	202	159	552	39	200	124	—	5,043
Income (loss) before income tax (expense) benefit	1,172	145	5	(8)	10	15	7	(17)	(93)	(14)	1,222
Income tax (expense) benefit	—	(31)	3	3	(3)	(4)	—	—	(10)	—	(42)
Net income (loss)	1,172	114	8	(5)	7	11	7	(17)	(103)	(14)	1,180
Less: net (income) loss attributable to non-controlling interests	(630)	(31)	(5)	2	(2)	—	—	6	—	9	(651)
Net income (loss) attributable to Icahn Enterprises	$ 542	$ 83	$ 3	$ (3)	$ 5	$ 11	$ 7	$ (11)	$ (103)	$ (5)	$ 529

	Six Months Ended June 30, 2010								
	Investment Management	Automotive	Railcar	Food Packaging	Metals	Real Estate	Home Fashion	Holding Company	Consolidated
	(in millions)								
Revenues:									
Net sales	$ —	$ 3,087	$ 79	$ 161	$ 381	$ 19	$ 190	$ —	$ 3,917
Other revenues from operations	—	—	35	—	—	25	—	—	60
Net (loss) gain from investment activities	(253)	—	—	—	—	—	—	—	(253)
Interest and dividend income	113	3	2	—	—	2	—	2	122
Other income (loss), net	—	2	(4)	(1)	—	—	3	(40)	(40)
	(140)	3,092	112	160	381	46	193	(38)	3,806
Expenses:									
Cost of goods sold	—	2,559	82	118	363	4	172	—	3,298
Other expenses from operations	—	—	28	—	—	11	—	—	39
Selling, general and administrative	34	373	12	22	10	22	36	10	519
Restructuring	—	6	—	—	—	—	5	—	11
Impairment	—	8	—	—	—	—	1	—	9
Interest expense	1	71	11	10	—	4	1	92	190
	35	3,017	133	150	373	41	215	102	4,066
(Loss) income before income tax (expense) benefit	(175)	75	(21)	10	8	5	(22)	(140)	(260)
Income tax (expense) benefit	—	(11)	8	(1)	(3)	—	—	(5)	(12)
Net (loss) income	(175)	64	(13)	9	5	5	(22)	(145)	(272)
Less: net loss (income) attributable to non-controlling interests	100	(19)	6	(3)	—	—	7	—	91
Net (loss) income attributable to Icahn Enterprises	$ (75)	$ 45	$ (7)	$ 6	$ 5	$ 5	$ (15)	$ (145)	$ (181)

Condensed balance sheets by reportable segment as of June 30, 2011 and December 31, 2010 are presented below:

	June 30, 2011									
	Investment Management	Automotive	Gaming	Railcar	Food Packaging	Metals	Real Estate	Home Fashion	Holding Company	Consolidated
	(in millions)									
ASSETS										
Cash and cash equivalents	$ 8	$ 1,042	$ 152	$ 301	$ 78	$ 20	$ 45	$ 32	$ 929	$ 2,607
Cash held at consolidated affiliated partnerships and restricted cash	3,680	—	16	—	2	3	2	—	57	3,760
Investments	7,314	243	33	45	—	—	—	14	168	7,817
Accounts receivable, net	—	1,189	18	41	60	107	5	61	—	1,481
Inventories, net	—	1,022	—	70	58	114	—	111	—	1,375
Property, plant and equipment, net	—	1,933	417	171	119	129	688	118	3	3,578
Goodwill and intangible assets, net	—	1,886	78	7	16	18	92	5	—	2,102
Other assets	287	381	67	27	32	29	15	33	134	1,005
Total assets	$ 11,289	$ 7,696	$ 781	$ 662	$ 365	$ 420	$ 847	$ 374	$ 1,291	$ 23,725
LIABILITIES AND EQUITY										
Accounts payable, accrued expenses and other liabilities	$ 192	$ 2,031	$ 142	$ 77	$ 77	$ 71	$ 26	$ 41	$ 360	$ 3,017
Securities sold, not yet purchased, at fair value	3,333	—	—	—	—	—	—	—	—	3,333
Due to brokers	1,485	—	—	—	—	—	—	—	—	1,485
Post-employment benefit liability	—	1,230	—	6	42	2	—	—	—	1,280
Debt	392	2,797	61	275	216	2	78	—	3,056	6,877
Total liabilities	5,402	6,058	203	358	335	75	104	41	3,416	15,992
Equity attributable to Icahn Enterprises	2,841	1,176	335	165	19	345	743	303	(2,125)	3,802
Equity attributable to non-controlling interests	3,046	462	243	139	11	—	—	30	—	3,931
Total equity	5,887	1,638	578	304	30	345	743	333	(2,125)	7,733
Total liabilities and equity	$ 11,289	$ 7,696	$ 781	$ 662	$ 365	$ 420	$ 847	$ 374	$ 1,291	$ 23,725

	December 31, 2010										
	Investment Management	Automotive	Gaming	Railcar	Food Packaging	Metals	Real Estate	Home Fashion	Holding Company	Eliminations	Consolidated
	(in millions)										
ASSETS											
Cash and cash equivalents	$ 8	$ 1,105	$ 154	$ 319	$ 88	$ 17	$ 86	$ 32	$ 1,154	$ —	$ 2,963
Cash held at consolidated affiliated partnerships and restricted cash	2,029	—	18	—	2	4	4	—	117	—	2,174
Investments	7,426	210	33	48	—	3	—	13	16	(279)	7,470
Accounts receivable, net	—	1,053	18	21	48	61	6	78	—	—	1,285
Inventories, net	—	847	—	50	55	87	—	124	—	—	1,163
Property, plant and equipment, net	—	1,802	421	181	109	115	700	124	3	—	3,455
Goodwill and intangible assets, net	—	1915	79	7	17	8	97	5	—	—	2,128
Other assets	66	364	70	28	30	31	14	32	65	—	700
Total assets	$ 9,529	$ 7,296	$ 793	$ 654	$ 349	$ 326	$ 907	$ 408	$ 1,355	$ (279)	$ 21,338
LIABILITIES AND EQUITY											
Accounts payable, accrued expenses and other liabilities	$ 574	$ 1,887	$ 154	$ 64	$ 72	$ 58	$ 27	$ 58	$ 227	$ —	$ 3,121
Securities sold, not yet purchased, at fair value	1,219	—	—	—	—	—	—	—	—	—	1,219
Due to brokers	1,323	—	—	—	—	—	—	—	—	—	1,323
Post-employment benefit liability	—	1,219	—	7	44	2	—	—	—	—	1,272
Debt	—	2,787	62	275	216	2	111	—	3,056	—	6,509
Total liabilities	3,116	5,893	216	346	332	62	138	58	3,283	—	13,444
Equity attributable to Icahn Enterprises	2,576	1,010	122	167	10	264	769	313	(1,948)	(100)	3,183
Equity attributable to non-controlling interests	3,837	393	455	141	7	—	—	37	20	(179)	4,711

Total equity	6,413	1,403	577	308	17	264	769	350	(1,928)	(279)	7,894
Total liabilities and equity	$ 9,529	$ 7,296	$ 793	$ 654	$ 349	$ 326	$ 907	$ 408	$ 1,355	$ (279)	$ 21,338

15. Income Taxes.

For the three months ended June 30, 2011, we recorded an income tax provision of $24 million on pre-tax income of $608 million compared to an income tax provision of $19 million on pre-tax loss of $203 million for the three months ended June 30, 2010. Our effective income tax rate was 4.0% and (9.4)% for the three months ended June 30, 2011 and 2010, respectively.

For the six months ended June 30, 2011, we recorded an income tax provision of $42 million on pre-tax income of $1,222 million compared to an income tax provision of $12 million on pre-tax loss of $260 million for the six months ended June 30, 2010. Our effective income tax rate was 3.4% and (4.6)% for the six months ended June 30, 2011 and 2010, respectively.

The difference between the effective tax rate and statutory federal rate of 35% is principally due to changes in the valuation allowance and partnership income not subject to taxation, as such taxes are the responsibility of the partners.

Federal-Mogul believes that it is reasonably possible that its unrecognized tax benefits in multiple jurisdictions, which primarily relates to transfer pricing, corporate reorganization and various other matters, may decrease by approximately $321 million within the next 12 months due to audit settlements or statute expirations, of which approximately $46 million, if recognized, could impact the effective tax rate.

In conjunction with Federal-Mogul's ongoing review of its actual results and anticipated future earnings, Federal-Mogul reassesses the possibility of releasing valuation allowances. Based upon this assessment, Federal-Mogul has concluded that there is more than a remote possibility that existing valuation allowances in certain jurisdictions of up to $250 million as of June 30, 2011 could be released within the next 12 months. If releases of such valuation allowances occur, it may have a significant impact on net income in the quarter in which it is deemed appropriate to release the reserve.

16. Accumulated Other Comprehensive Loss.

Accumulated other comprehensive loss consists of the following:

	June 30, 2011	December 31, 2010
	(in millions)	
Post-employment benefits, net of tax	$ (278)	$ (283)
Hedge instruments, net of tax	(84)	(81)
Translation adjustments and other, net of tax	(115)	(233)
	$ (477)	$ (597)

17. Other Income (Loss), Net.

Other income (loss), net consists of the following:

	Three Months Ended June 30,		Six Months Ended June 30,	
	2011	2010	2011	2010
	(in millions)			
Loss on extinguishment of debt	$ —	$ —	$ —	$ (40)
Gain on disposition of assets	2	1	—	—
Equity earnings from non-consolidated affiliates	8	9	16	15
Foreign currency translation (losses) gains	(5)	1	(6)	(23)
Other	(2)	(1)	2	8
	$ 3	$ 10	$ 12	$ (40)

Debt Extinguishment

In connection with the debt extinguishment related to our 7.125% Senior Unsecured Notes due 2013 and our 8.125% Senior Unsecured Notes due 2012, we recorded a $40 million loss for the six months ended June 30, 2010.

18. Commitments and Contingencies.

Investment Management

Exit Facility

In connection with Tropicana's completion of the Restructuring Transactions (see Note 2, "Operating Units-Gaming"), Tropicana entered into the Exit Facility, as amended, which consists of a (i) $130 million Term Loan Facility issued at a discount of 7%, which was funded on March 8, 2010, the Effective Date and (ii) $20 million Revolving Facility. Each of the Investment Funds was a lender under the Exit Facility and, in the aggregate, held over 50% of the loans under the Term Loan Facility and was obligated to provide 100% of any amounts borrowed by Tropicana under the Revolving Facility. As described in Note 2, "Operating Units-Gaming," on June 30, 2011, the Investment Funds made a distribution-in-kind of their investment in the Exit Facility to us and as a result we are now the lenders under the Exit Facility. As of June 30, 2011 and December 31, 2010, Tropicana has not borrowed any amounts under the Revolving Facility.

Litigation

On October 28, 2010, Lions Gate filed a lawsuit in the United States District Court for the Southern District of New York against Carl Icahn, Brett Icahn, Icahn Enterprises L.P., Icahn Enterprises Holdings L.P., Icahn Enterprises G.P, certain of our Investment Management entities (collectively, the "Icahn Group") and others alleging violations of the Exchange Act and state tort law in connection with certain disclosures made during tender offers by the Icahn Group to acquire Lions Gate stock relating to the Icahn Group's acquisition of the debt of Metro-Goldwyn-Meyer, Inc., and alleging that the Icahn Group violated the tender offer Best Price Rule (promulgated under the rules and regulations of the SEC) by providing additional consideration to Mark Cuban in exchange for the tender of his Lions Gate shares that was not provided to other tendering shareholders. The complaint sought injunctive relief compelling the Icahn Group to make corrective disclosures and to offer the same consideration it offered to Mark Cuban to Lions Gate's other shareholders, and money damages. Lions Gate amended its complaint on December 3, 2010 to add certain supplemental factual allegations. The Icahn Group moved to dismiss the amended complaint on December 17, 2010. On March 23, 2011, the court granted the Icahn Group's motion in part and denied it in part, dismissing all of Lions Gate's claims except its Best Price Rule claim. Discovery is now pending. Management believes that Lions Gate's lawsuit is without merit and will vigorously defend against the sole remaining claim. At this time an estimate cannot reasonably be made regarding the possible loss or range of loss in connection with this matter.

Automotive

Environmental Matters

Federal-Mogul is a defendant in lawsuits filed, or the recipient of administrative orders issued or demand letters received, in various jurisdictions pursuant to the Federal Comprehensive Environmental Response Compensation and Liability Act of 1980 ("CERCLA") or other similar national, provincial or state environmental remedial laws. These laws provide that responsible parties may be liable to pay for remediating contamination resulting from hazardous substances that were discharged into the environment by them, by prior owners or occupants of property they currently own or operate, or by others to whom they sent such substances for treatment or other disposition at third party locations. Federal-Mogul has been notified by the United States Environmental Protection Agency, other national environmental agencies, and various provincial and state agencies that it may be a potentially responsible party ("PRP") under such laws for the cost of remediating hazardous substances pursuant to CERCLA and other national and state or provincial environmental laws. PRP designation often results in the funding of site investigations and subsequent remedial activities.

Many of the sites that are likely to be the costliest to remediate are often current or former commercial waste disposal facilities to which numerous companies sent wastes. Despite the potential joint and several liability which might be imposed on Federal-Mogul under CERCLA and some of the other laws pertaining to these sites, its share of the total waste sent to these sites has generally been small. Federal-Mogul believes its exposure for liability at these sites is limited.

Federal-Mogul has also identified certain other present and former properties at which it may be responsible for cleaning up or addressing environmental contamination, in some cases as a result of contractual commitments and/or federal or state environmental laws. Federal-Mogul is actively seeking to resolve these actual and potential statutory, regulatory and contractual obligations. Although difficult to quantify based on the complexity of the issues, Federal-Mogul has accrued amounts corresponding to its best estimate of the costs associated with such regulatory and contractual obligations on the basis of available information from site investigations and best professional judgment of consultants.

Total environmental liabilities, determined on an undiscounted basis, were $18 million and $19 million at June 30, 2011 and December 31, 2010, respectively, and are included in accrued expenses and other liabilities in our consolidated balance sheets.

Federal-Mogul believes that recorded environmental liabilities will be adequate to cover its estimated liability for its exposure in respect to such matters. In the event that such liabilities were to significantly exceed the amounts recorded by Federal-Mogul, our Automotive segment's results of operations could be materially affected. At June 30, 2011, Federal-Mogul estimates reasonably possible material additional losses, above and beyond its best estimate of required remediation costs as recorded, to approximate $45 million.

Asset Retirement Obligations

Federal-Mogul has identified sites with contractual obligations and several sites that are closed or expected to be closed and sold. In connection with these sites, Federal-Mogul has accrued $27 million and $25 million as of June 30, 2011 and December 31, 2010, respectively, for ARO, primarily related to anticipated costs of removing hazardous building materials, and has considered impairment issues that may result from capitalization of these ARO amounts.

Federal-Mogul has conditional asset retirement obligations ("CARO"), primarily related to removal costs of hazardous materials in buildings, for which it believes reasonable cost estimates cannot be made at this time because it does not believe it has a reasonable basis to assign probabilities to a range of potential settlement dates for these retirement obligations. Accordingly, Federal-Mogul is currently unable to determine amounts to accrue for CARO at such sites.

Gaming

Trademark Litigation

Certain parties (the “Plaintiffs”), affiliated with the new owners of Tropicana Hotel & Casino, or Tropicana LV, filed a declaratory judgment action in the District Court, Clark County, Nevada, on July 20, 2009, against Aztar Corporation and Tropicana LLC originally seeking only a declaratory judgment that Tropicana LV had the right to operate a hotel and casino under the name “Tropicana” without any interference by or payment to Aztar Corporation or Tropicana LLC (together, the “Defendants”). The Plaintiffs' complaint sought no damages or injunctive relief. On August 10, 2009, Defendants removed the action to the District of Nevada and filed an answer and counterclaim asserting Plaintiffs' use of “Tropicana” infringes upon Defendants' rights in three federally registered trademarks. The Plaintiffs filed a motion to remand the action to Nevada State Court, which was granted on January 21, 2010. The parties are currently engaged in discovery.

During the course of proceedings, the Plaintiffs and Defendants each filed a motion for summary judgment claiming ownership of the “Tropicana” trademark. Both motions were denied, although the Nevada State Court preliminarily found that the Plaintiffs might have an unexercised reversionary ownership interest in the trademark as a result of an agreement that is 30 years old. Nonetheless, because any exercise of this purported reversionary interest by Tropicana LV could potentially deprive Tropicana, as successor to Tropicana LLC, of its asserted ownership of the Tropicana trademark, the Defendants filed a motion in the Chapter 11 Cases for an order rejecting the 1980 trade name agreement. In addition, Tropicana, together with its subsidiary, New Tropicana Holdings, Inc., or New Tropicana, and certain affiliates of Icahn Capital, as secured lenders to Tropicana, filed a complaint in the Chapter 11 Cases against the Plaintiffs, seeking a declaration that, consistent with prior, uncontested orders of the Bankruptcy Court, New Tropicana is the owner of the “Tropicana” trademark, the Exit Facility lenders have a perfected security interest in that property, and the Nevada State Court action, to the extent it seeks to assert ownership over the trademark or question the validity of the security interest, violates the automatic stay. The complaint also demands an injunction against any further efforts by the Plaintiffs to re-litigate the ownership issue, and seeks other remedies on behalf of the Exit Facility lenders. A motion by the Plaintiffs to dismiss the complaint is pending.

If the Plaintiffs are successful in the Nevada State Court action, they would have rights to continued use of the “Tropicana” trademark in perpetuity in connection with the Las Vegas hotel and associated operations without control by Tropicana or payment of any royalty or license fee to Tropicana. Their continued use of the trademark without restriction could dilute the “Tropicana” brand and be detrimental to Tropicana's future properties that utilize that brand. Furthermore, if the Plaintiffs are successful in the Nevada state court action and the defendants and Tropicana are not successful in the Bankruptcy Court proceeding, the Plaintiffs may establish ownership rights and Tropicana's right to continued use of the “Tropicana” name, in a particular geographic area, on an exclusive basis, or at all, could be adversely affected. At this time an estimate cannot reasonably be made regarding the possible loss or range of loss in connection with this matter.

The parties have agreed to stay activities in the Nevada State Court action and the Bankruptcy Court proceedings for a

period of time as they negotiate towards achieving a settlement of these matters.

Aztar v. Marsh

Aztar filed a broker malpractice and breach of contract action in the Superior Court of New Jersey, Atlantic County, on August 12, 2010, against Marsh & McLennan Companies, Marsh, Inc., Marsh USA, Inc. and various fictitious Marsh entities (together, the “Marsh Defendants”). The claim seeks $100 million or more in compensatory damages against the Marsh Defendants, Aztar's risk management and insurance brokers at the time of a 2002 expansion of Tropicana AC by Aztar, including, but not limited to, lost profits, expenses arising from the interruption of operations, attorneys' fees, loss of the use of the insurance proceeds at issue, and litigation expenses resulting from the Marsh Defendants' failure to secure for Aztar business interruption and property damage coverage covering losses sustained by Aztar from the collapse of a parking garage that occurred at Tropicana AC on October 30, 2003. The Marsh Defendants filed an answer on October 20, 2010 denying the material allegations of the complaint. Any recovery obtained by Aztar in this action will be recoverable by Tropicana as the current owner of Tropicana AC. Discovery is proceeding, and trial is not expected to take place until fiscal 2012, at earliest.

Railcar

Environmental Matters

ARI is subject to comprehensive federal, state, local and international environmental laws and regulations relating to the release or discharge of materials into the environment, the management, use, processing, handling, storage, transport or disposal of hazardous materials and wastes, or otherwise relating to the protection of human health and the environment. These laws and regulations not only expose ARI to liability for the environmental condition of its current or formerly owned or operated facilities, and its own negligent acts, but also may expose ARI to liability for the conduct of others or for ARI's actions that were in compliance with all applicable laws at the time these actions were taken. In addition, these laws may require significant expenditures to achieve compliance, and are frequently modified or revised to impose new obligations. Civil and criminal fines and penalties and other sanctions may be imposed for non-compliance with these environmental laws and regulations. ARI's operations that involve hazardous materials also raise potential risks of liability under common law. Management believes that there are no current environmental issues identified that would have a material adverse effect on ARI. Certain real property ARI acquired from ACF in 1994 has been involved in investigation and remediation activities to address contamination. Substantially all of the issues identified relate to the use of this property prior to its transfer to ARI by ACF and for which ACF has retained liability for environmental contamination that may have existed at the time of transfer to ARI. ACF has also agreed to indemnify ARI for any cost that might be incurred with those existing issues. As of the date of this Quarterly Report on Form 10-Q, ARI does not believe it will incur material costs in connection with any investigation or remediation activities relating to these properties, but it cannot assure that this will be the case. If ACF fails to honor its obligations to ARI, ARI could be responsible for the cost of such remediation. ARI believes that its operations and facilities are in substantial compliance with applicable laws and regulations and that any noncompliance is not likely to have a material adverse effect on its operations or financial condition.

Other Matters

One of ARI's joint ventures entered into a credit agreement in December 2007. Effective August 5, 2009, ARI and the other initial joint venture partner acquired this loan from the lenders party thereto, with each party acquiring a 50% interest in the loan. The total commitment under the term loan is $60 million with an additional $10 million commitment under the revolving loan. ARI is responsible to fund 50% of the loan commitments. The balance outstanding on these loans, due to ARI, was $37 million of principal and accrued interest as of June 30, 2011. ARI's share of the remaining commitment on these loans was $3 million as of June 30, 2011.

In March 2011, ARI entered into an agreement to purchase certain railcar parts during fiscal 2011 for current railcar orders with a remaining commitment of $41 million as of June 30, 2011.

Metals

Environmental Matters

PSC Metals has been designated as a PRP under U.S. federal and state superfund laws with respect to certain sites with which PSC Metals may have had a direct or indirect involvement. It is alleged that PSC Metals and its subsidiaries or their predecessors transported waste to the sites, disposed of waste at the sites or operated the sites in question. Most recently, PSC

Metals has been named as a defendant in an environmental civil action brought by the USEPA, alleging that PSC Metals and one of its subsidiaries, along with several other unrelated defendants, are liable for the recovery of response costs incurred by the USEPA at a superfund site in New York. Management believes that PSC Metals and its subsidiary have valid defenses to all claims.

PSC Metals has reviewed the nature and extent of the allegations, the number, connection and financial ability of other named and unnamed PRPs and the nature and estimated cost of the likely remedy in all pending cases. Based on reviewing the nature and extent of the allegations, PSC Metals has estimated its liability to remediate these sites to be immaterial at each of June 30, 2011 and December 31, 2010. If it is determined that PSC Metals has liability to remediate those sites and that more expensive remediation approaches are required in the future, PSC Metals could incur additional obligations, which could be material.

Certain of PSC Metals' facilities are environmentally impaired in part as a result of operating practices at the sites prior to their acquisition by PSC Metals and as a result of PSC Metals' operations. PSC Metals has established procedures to periodically evaluate these sites, giving consideration to the nature and extent of the contamination. PSC Metals has provided for the remediation of these sites based upon management's judgment and prior experience. PSC Metals has estimated the liability to remediate these sites to be $28 million as of each of June 30, 2011 and December 31, 2010. Management believes, based on past experience, that the vast majority of these environmental liabilities and costs will be assessed and paid over an extended period of time. PSC Metals believes that it will be able to fund such costs in the ordinary course of business.

Estimates of PSC Metals' liability for remediation of a particular site and the method and ultimate cost of remediation require a number of assumptions that are inherently difficult to make, and the ultimate outcome may be materially different from current estimates. Moreover, because PSC Metals has disposed of waste materials at numerous third-party disposal facilities, it is possible that PSC Metals will be identified as a PRP at additional sites. The impact of such future events cannot be estimated at the current time.

The Environmental Protection Agency ("EPA") has alleged that PSC Metals' scrap processing facility located in Cleveland, Ohio has violated the requirements of Section 608 of the Clean Air Act, 42 USC Section 761, which requires scrap processors to either recover refrigerants from appliances in accordance with the procedures described in the applicable federal regulations or verify through certifications that refrigerants have previously been evacuated. PSC Metals is in the process of negotiating a consent decree with the EPA that would resolve all claims against it. The consent decree would require PSC Metals to pay a civil penalty of $199,000 and would include injunctive relief that would require it to offer refrigerant extraction services at 11 of its scrap processing facilities for the next four years. PSC Metals anticipates the settlement to be final sometime in October 2011. PSC Metals estimates that the cost associated with the required injunctive relief will range from $0.8 million to $1.7 million, exclusive of the civil penalty referenced above.

Home Fashion

Litigation

We were defendants in two lawsuits, one in the federal courts in New York and one in the Delaware state courts, challenging, among other matters, the status of our ownership interests in the common and preferred stock of WPI. We (through Aretex LLC) had acquired ownership of a majority of the WPI common stock through a July 2005 Sale Order entered by the United States Bankruptcy Court for the Southern District of New York. Under that Sale Order, WPI acquired substantially all of the assets of WestPoint Stevens, Inc. The losing bidders at the Bankruptcy Court auction that led to the Sale Order challenged the Sale Order. In November 2005, the United States District Court for the Southern District of New York modified portions of the Sale Order in a manner that could have reduced our ownership of WPI stock below 50%. In its March 26, 2010 decision, the United States Court of Appeals for the Second Circuit held that we are entitled to own a majority of WPI's common stock, and thus have control of WPI. The Second Circuit ordered the Bankruptcy Court's Sale Order reinstated, to ensure that our percentage ownership of the common stock will be at least 50.5%. The Second Circuit ordered the District Court to remand the matter back to the Bankruptcy Court for further proceedings consistent with its ruling. On remand, the Bankruptcy Court entered an Order on December 6, 2010 implementing the Second Circuit's decision. As a result, after exercise of all subscription rights issued pursuant to the asset purchase agreement and the completion of the subscription rights offering, we (including our affiliates) will beneficially own between 15,150,001 and 23,698,806 shares of WPI common stock, which we expect will represent between 50.5% and 79% of WPI's outstanding common stock, depending upon the extent to which the other holders of subscription rights exercise their subscription rights. The WestPoint Stevens, Inc. bankruptcy case remains open and the Bankruptcy Court retains jurisdiction over the parties.

There was also a proceeding in Delaware Chancery Court, brought by the same "losing bidders" who are parties to the case decided by the Second Circuit. After the ruling by the Second Circuit, the plaintiffs filed a modified third amended complaint in the Delaware case. In that complaint, the plaintiffs pled claims for breach of fiduciary duty (and aiding and abetting such alleged breach) against us, and against Icahn Enterprises Holdings, Carl C. Icahn and others, based on WPI's not having proceeded with a registration statement. Plaintiffs also asserted a contractual claim against WPI relating to the registration statement alleging that, because WPI did not proceed with the registration statement, plaintiffs were unable to sell their securities in WPI, and sought to recover the diminution in the value of those securities. Plaintiffs also asserted a claim for unjust enrichment against all defendants, including us, WPI, Icahn Enterprises Holdings, Carl C. Icahn and others, based on claims that defendants were beneficiaries of a stay order allegedly improperly entered by the Bankruptcy Court. On November 3, 2010, the Chancery Court dismissed the modified third amended complaint in its entirety. Plaintiffs appealed to the Delaware Supreme Court. On August 3, 2011, the Delaware Supreme Court affirmed the judgment of the Chancery Court dismissing the modified third amended complaint, and thus dismissing the case, in its entirety.

Environmental Matters

WPI is subject to various federal, state and local environmental laws and regulations governing, among other things, the discharge, storage, handling and disposal of a variety of hazardous and nonhazardous substances and wastes used in or resulting from its operations and potential remediation obligations. WPI's operations are also governed by U.S. federal, state, local and foreign laws, rules and regulations relating to employee safety and health which, among other things, establish exposure limitation for cotton dust, formaldehyde, asbestos and noise, and which regulate chemical, physical and ergonomic hazards in the workplace. WPI estimated its environmental accruals to be $1 million at both June 30, 2011 and December 31, 2010.

Other Matters

Mr. Icahn, through certain affiliates, owns 100% of Icahn Enterprises GP and approximately 92.6% of our outstanding depositary units as of each of June 30, 2011 and December 31, 2010. Applicable pension and tax laws make each member of a "controlled group" of entities, generally defined as entities in which there is at least an 80% common ownership interest, jointly and severally liable for certain pension plan obligations of any member of the controlled group. These pension obligations include ongoing contributions to fund the plan, as well as liability for any unfunded liabilities that may exist at the time the plan is terminated. In addition, the failure to pay these pension obligations when due may result in the creation of liens in favor of the pension plan or the Pension Benefit Guaranty Corporation ("PBGC") against the assets of each member of the controlled group.

As a result of the more than 80% ownership interest in us by Mr. Icahn's affiliates, we and our subsidiaries are subject to the pension liabilities of all entities in which Mr. Icahn has a direct or indirect ownership interest of at least 80%. One such entity, ACF, is the sponsor of several pension plans. All the minimum funding requirements of the Code and the Employee Retirement Income Security Act of 1974, as amended by the Pension Protection Act of 2006, for these plans have been met as of June 30, 2011 and December 31, 2010. If the plans were voluntarily terminated, they would be underfunded by approximately $107 million and $103 million as of June 30, 2011 and December 31, 2010, respectively. These results are based on the most recent information provided by the plans' actuaries. These liabilities could increase or decrease, depending on a number of factors, including future changes in benefits, investment returns, and the assumptions used to calculate the liability. As members of the controlled group, we would be liable for any failure of ACF to make ongoing pension contributions or to pay the unfunded liabilities upon a termination of the ACF pension plans. In addition, other entities now or in the future within the controlled group in which we are included may have pension plan obligations that are, or may become, underfunded and we would be liable for any failure of such entities to make ongoing pension contributions or to pay the unfunded liabilities upon termination of such plans.

The current underfunded status of the ACF pension plans requires ACF to notify the PBGC of certain "reportable events," such as if we cease to be a member of the ACF controlled group, or if we make certain extraordinary dividends or stock redemptions. The obligation to report could cause us to seek to delay or reconsider the occurrence of such reportable events.

Starfire Holding Corporation ("Starfire") which is 100% owned by Mr. Icahn, has undertaken to indemnify us and our subsidiaries from losses resulting from any imposition of certain pension funding or termination liabilities that may be imposed on us and our subsidiaries or our assets as a result of being a member of the Icahn controlled group. The Starfire indemnity (which does not extend to pension liabilities of our subsidiaries that would be imposed on us as a result of our interest in these subsidiaries and not as a result of Mr. Icahn and his affiliates holding more than an 80% ownership interest in us) provides, among other things, that so long as such contingent liabilities exist and could be imposed on us, Starfire will not make any distributions to its stockholders that would reduce its net worth to below $250 million. Nonetheless, Starfire may not be able to

fund its indemnification obligations to us.

19. Subsequent Events.

Acquisition

On July 30, 2011, PSC Metals executed an asset purchase agreement to acquire substantially all of the assets of Shapiro Brothers, Inc. (“Shapiro”) for a total purchase price of approximately $22 million, with closing expected to occur in the third quarter of fiscal 2011. Shapiro operates four scrap yards located in Missouri, Arkansas and Illinois. Shapiro buys, sells and processes ferrous and non-ferrous scrap, including industrial and obsolete grades of scrap. This acquisition is complimentary to PSC Metal's acquisition of CSMI in the first quarter of fiscal 2011 and strengthens PSC Metals' presence in its mid-west region of the United States.

Declaration of Distribution on Depositary Units

On August 8, 2011, the board of directors declared a quarterly cash distribution of $0.10 per unit on our depositary units. The distribution will be paid on September 1, 2011 to depositary unitholders of record at the close of business on August 19, 2011.

REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

To the Partners of

Icahn Enterprises L.P.

We have reviewed the accompanying consolidated balance sheet of Icahn Enterprises L.P and Subsidiaries (the "Partnership") (a Delaware limited partnership) as of June 30, 2011, and the related consolidated statements of operations for the three-month and six-month periods ended June 30, 2011 and 2010, the consolidated cash flows for the six-month periods ended June 30, 2011 and 2010, and the consolidated statement of changes in equity and comprehensive income for the six-month period ended June 30, 2011. These consolidated interim financial statements are the responsibility of the Partnership's management.

We were furnished with the report of other accountants on their reviews of the consolidated interim financial statements of Federal-Mogul Corporation, a subsidiary, whose total assets as of June 30, 2011 were $7,696 million, and whose revenues for the three-month and six-month periods ended June 30, 2011 constituted $1,805 million and $3,539 million, respectively, and revenues for the three-month and six-month periods ended June 30, 2010 constituted $1,612 million and $3,092 million, respectively of the related consolidated totals.

We conducted our reviews in accordance with the standards of the Public Company Accounting Oversight Board (United States). A review of interim financial information consists principally of applying analytical procedures and making inquiries of persons responsible for financial and accounting matters. It is substantially less in scope than an audit conducted in accordance with the standards of the Public Company Accounting Oversight Board (United States), the objective of which is the expression of an opinion regarding the financial statements taken as a whole. Accordingly, we do not express such an opinion.

Based on our reviews and the report of other accountants, we are not aware of any material modifications that should be made to the accompanying consolidated interim financial statements for them to be in conformity with accounting principles generally accepted in the United States of America.

We have previously audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States), the consolidated balance sheet of the Partnership as of December 31, 2010, and the related consolidated statements of operations, changes in equity and comprehensive income, and cash flows for the year then ended (not presented herein); and in our report dated March 7, 2011, we expressed an unqualified opinion on those consolidated financial statements. Our report made reference to the report of other auditors as it relates to amounts included for Federal-Mogul Corporation. In our opinion, the information set forth in the accompanying consolidated balance sheet as of December 31, 2010, is fairly stated, in all material respects, in relation to the consolidated balance sheet from which it has been derived.

/s/ Grant Thornton, LLP

New York, New York
August 9, 2011

REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

To the Board of Directors and Shareholders of
Federal-Mogul Corporation

We have reviewed the consolidated balance sheet of Federal-Mogul Corporation as of June 30, 2011, and the related consolidated statements of operations for the three-month and six-month periods ended June 30, 2011 and 2010, and the consolidated statements of cash flows for the six-month periods ended June 30, 2011 and 2010 (not presented herein). These financial statements are the responsibility of the Company's management.

We conducted our review in accordance with the standards of the Public Company Accounting Oversight Board (United States). A review of interim financial information consists principally of applying analytical procedures and making inquiries of persons responsible for financial and accounting matters. It is substantially less in scope than an audit conducted in accordance with the standards of the Public Company Accounting Oversight Board, the objective of which is the expression of an opinion regarding the financial statements taken as a whole. Accordingly, we do not express such an opinion.

Based on our review, we are not aware of any material modifications that should be made to the consolidated financial statements referred to above for them to be in conformity with U.S. generally accepted accounting principles.

We have previously audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States), the consolidated balance sheet of Federal-Mogul Corporation as of December 31, 2010, and the related consolidated statements of operations, shareholders' equity, and cash flows for the year ended December 31, 2010 (not presented herein) and in our report dated February 23, 2011, we expressed an unqualified opinion on those consolidated financial statements.

/s/ Ernst & Young LLP

Detroit, Michigan
July 28, 2011

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

The following discussion is intended to assist you in understanding our present business and the results of operations together with our present financial condition. This section should be read in conjunction with our Consolidated Financial Statements and the accompanying notes contained in this Quarterly Report on Form 10-Q, or Report, along with our Annual Report on Form 10-K for the fiscal year ended December 31, 2010, or our 2010 Form 10-K.

Overview

Introduction

Icahn Enterprises L.P., or Icahn Enterprises, is a master limited partnership formed in Delaware on February 17, 1987. We own a 99% limited partner interest in Icahn Enterprises Holdings L.P., or Icahn Enterprises Holdings. Icahn Enterprises Holdings and its subsidiaries own substantially all of our assets and liabilities and conduct substantially all of our operations. Icahn Enterprises G.P. Inc., or Icahn Enterprises GP, our sole general partner, which is owned and controlled by Mr. Icahn, owns a 1% general partner interest in both us and Icahn Enterprises Holdings, representing an aggregate 1.99% general partner interest in us and Icahn Enterprises Holdings. As of June 30, 2011, affiliates of Mr. Icahn owned 78,238,262 of our depositary units which represented approximately 92.6% of our outstanding depositary units.

We are a diversified holding company owning subsidiaries engaged in the following operating businesses: Investment Management, Automotive, Gaming, Railcar, Food Packaging, Metals, Real Estate and Home Fashion. In addition to our operating businesses, we discuss the Holding Company, which includes the unconsolidated results of Icahn Enterprises and Icahn Enterprises Holdings, and investment activity and expenses associated with the activities of the Holding Company.

Significant Events

Senior Notes - Investment Management

During the first quarter of the fiscal year ending December 31, 2011, or fiscal 2011, the Investment Funds (as defined herein) formed a special purpose investment vehicle, or the SPV, an exempted company incorporated with limited liability under the laws of the Cayman Islands, for the purpose of effecting certain transactions described herein. On March 10, 2011, the SPV issued at par an aggregate principal amount of $595 million of senior notes, or the SPV Notes. The SPV was formed for the sole purpose of issuing the SPV Notes, acquiring certain Collateral Assets, as defined in the SPV Indenture (as defined below), and engaging in certain related transactions, including certain swap transactions as described below. The SPV will not have any substantial assets other than Collateral Assets. The SPV Notes were sold in a private placement pursuant to Rule 144A of the Securities Act, and issued pursuant to an indenture dated as of March 10, 2011, or the SPV Indenture, by and between the SPV, as issuer, and U.S. Bank National Association, as trustee.

We control the SPV through our interests in the Investment Funds and, accordingly, we consolidated the results and financial position of the SPV.

The SPV Notes accrue interest in arrears at LIBOR plus 0.60%. Interest on the SPV Notes will be paid on the 10th of March, June, September and December of each year subject to priority of payments pursuant to the SPV Indenture. The initial maturity date of the SPV Notes is September 10, 2011, which date could have been extended in three-month-increments provided that the SPV obtained consent from holders of the SPV Notes. If such extensions had been granted, the maximum date through which the SPV Notes could have been extended would have been March 10, 2014, the final note maturity date. Subject to the satisfaction of certain redemption conditions as set forth in the SPV Indenture, the SPV may, in its discretion, cause a redemption of the SPV Notes. The SPV may redeem all or a portion of the SPV Notes in an amount equal to the sum of (a) the aggregate outstanding amount of the SPV Notes being redeemed, (b) accrued and unpaid interest thereon and (c) if applicable, a make-whole payment. During the three months ended June 30, 2011, the Investment Funds redeemed $203 million of the SPV Notes. We determined not to extend the SPV Notes beyond the initial maturity date of September 10, 2011 and, accordingly, outstanding principal amounts, including related accrued interest, in respect of the SPV Notes will be redeemed in full by September 10, 2011.

The net proceeds from the sale of the SPV Notes were used to purchase Collateral Assets, which principally consisted of leverage loans and participations or other interests therein. The SPV Notes are secured by and payable solely from Collateral Assets pursuant to the SPV Indenture. Payment priorities with respect to the Collateral Assets will be determined in accordance with the priority of payments pursuant to the SPV Indenture. To the extent that these amounts are insufficient to meet payments due in respect of the SPV Notes and fees and expenses following realization of all of the Collateral Assets, the

obligation of the SPV to pay such deficiency with respect to the SPV Notes will be extinguished.

The SPV entered into swap transactions with a global financial services institution, or the Swap Counterparty, whose market capitalization exceeds $45 billion, that reference a portfolio of loans that are expected (but not required) to match the Collateral Assets of the SPV. Pursuant to the swap transactions, the Swap Counterparty will pay to the SPV the amount by which the total payments made on, or the sale price of, loans in the reference portfolio are less than the amount of the interest and principal due on the SPV Notes and amounts senior to the SPV Notes in right of payment. Pursuant to certain offsetting swap agreements, the equity holders of the SPV may be required to pay to the Swap Counterparty the amounts by which the total payments made on, or the sale price of, loans in the reference portfolio are less than the amount of the interest and principal due on the SPV Notes and amounts senior to the SPV Notes in right of payment.

Distributions-In-Kind

On April 29, 2011, the Investment Funds made a distribution-in-kind of 13,538,446 shares of Tropicana common stock with a value of $216 million to us in redemption of $216 million of our limited and general partner interests in the Investment Funds. The distribution transferred the ownership of the Tropicana common stock held by the Investment Funds to us. As a result of this transaction, we directly own 51.5% of Tropicana's outstanding common stock. This distribution increased equity attributable to Icahn Enterprises by $27 million and decreased equity attributable to non-controlling interests by $27 million, representing the basis difference between the redemption value determined as of April 29, 2011 and the application of purchase accounting to the controlling interest in Tropicana pursuant to ASC Topic 805, *Business Combination* on November 15, 2010.

In addition, on June 30, 2011, the Investment Funds made a distribution-in-kind of the loans under the Exit Facility with a value of approximately $71 million to us in redemption of approximately $71 million of our limited and general partner interests in the Investment Funds. The distribution transferred the ownership of the loans under the Exit Facility held by the Investment Funds directly to us. As a result of this transaction, we currently directly own over 50% of the loans under the Exit Facility.

Results of Operations

Consolidated Financial Results

The following table summarizes total revenues, net income (loss) and net income (loss) attributable to Icahn Enterprises for each of our reportable segments and our Holding Company:

	Revenues(1)		Net Income (Loss)		Net Income (Loss) Attributable to Icahn Enterprises	
	Three Months Ended June 30,					
	2011	2010	2011	2010	2011	2010
	(in millions)					
Investment Management	$ 601	$ (194)	$ 567	$ (206)	$ 289	$ (90)
Automotive	1,805	1,612	64	50	46	36
Gaming(2)	145	—	3	—	1	—
Railcar	110	61	—	(6)	—	(3)
Food Packaging	89	80	5	5	4	3
Metals	288	207	3	2	3	2
Real Estate	25	25	4	4	4	4
Home Fashion	84	109	(8)	(9)	(5)	(6)
Holding Company	16	(9)	(52)	(62)	(52)	(62)
Eliminations(3)	(2)	—	(2)	—	(1)	—
	$ 3,161	$ 1,891	$ 584	$ (222)	$ 289	$ (116)

	Revenues[1]		Net Income (Loss)		Net Income (Loss) Attributable to Icahn Enterprises	
	Six Months Ended June 30,					
	2011	2010	2011	2010	2011	2010
	(in millions)					
Investment Management	$ 1,248	$ (140)	$ 1,172	$ (175)	$ 542	$ (75)
Automotive	3,539	3,092	114	64	83	45
Gaming[2]	302	—	8	—	3	—
Railcar	194	112	(5)	(13)	(3)	(7)
Food Packaging	169	160	7	9	5	6
Metals	567	381	11	5	11	5
Real Estate	46	46	7	5	7	5
Home Fashion	183	193	(17)	(22)	(11)	(15)
Holding Company	31	(38)	(103)	(145)	(103)	(145)
Eliminations[3]	(14)	—	(14)	—	(5)	—
	$ 6,265	$ 3,806	$ 1,180	$ (272)	$ 529	$ (181)

[1] Revenues include net sales, other revenues from operations, interest and dividend income, and other income (loss), net.
[2] We consolidated the results of our Gaming segment effective as of November 15, 2010.
[3] Eliminations relate to the unrealized gains recorded by our Investment Management segment for its investment in Tropicana for the three and six months ended June 30, 2011.

Please refer to Note 2, "Operating Units," to the consolidated financial statements contained in this Report for a description of each of our reportable segments.

Discussion of Financial Results

Incentive Allocations and Special Profits Interest Allocations

Historically, our Investment Management segment's revenues were affected by the combination of fee-paying assets under management, or AUM, and the investment performance of the Private Funds. The General Partners' incentive allocations and special profits interest allocations earned from the Investment Funds were accrued on a quarterly basis and were allocated to the General Partners at the end of the Investment Funds' fiscal year (or sooner on redemptions) assuming there were sufficient net profits to cover such amounts. As more fully disclosed in a letter to investors in the Private Funds filed with the SEC on Form 8-K on March 7, 2011, the Private Funds returned all fee-paying capital to its investors during fiscal 2011. Payments were funded through cash on hand and borrowings under existing credit lines. As a result, no further incentive allocations or special profits interest allocations will accrue for periods subsequent to March 31, 2011.

The General Partners waived the special profits interest allocations and incentive allocations for our interests in the Investment Funds and Mr. Icahn's direct and indirect holdings. On April 1, 2011, affiliates of Mr. Icahn made aggregate contributions of $250 million in the Investment Funds.

All of the special profits interest allocations and incentive allocations are eliminated in consolidation; however, our share of the net income from the Private Funds includes the amount of these allocations.

We consolidate certain entities of the Private Funds. Accordingly, in accordance with U.S. GAAP, any special profits interest allocations, incentive allocations and earnings on investments in the Investment Funds are eliminated in consolidation. These eliminations have no impact on our net income; however, as our allocated share of the net income from the Private Funds includes the amount of these allocations and earnings.

As a result of the return of fee-paying capital as described above, a special profits interest allocation of $9 million was allocated to the General Partners at March 31, 2011. No further special profits interest allocation accrued in periods subsequent to March 31, 2011. No special profits interest allocation accrual was made for the three and six months ended June 30, 2010.

As a result of the return of fee-paying capital as described above, an incentive allocation of $7 million was allocated to the General Partners at March 31, 2011. No further incentive allocation will accrue in periods subsequent to March 31, 2011. Incentive allocations for the three and six months ended June 30, 2010 were not material as a result of "high watermarks" that were established for fee-paying investors during fiscal 2008.

Our Interests in the Investment Funds

Our share of the Investment Funds' net profits and losses through our interests in the Investment Funds, excluding incentive allocations and special profits interest allocations earned for the three and six months June 30, 2011, was $289 million and $533 million for the three and six months ended June 30, 2011, respectively, and losses of $71 million and $60 million for the three and six months ended June 30, 2010, respectively.

As of June 30, 2011, we had investments with a fair market value of $2.9 billion in the Investment Funds.

Net Sales, Cost of Goods Sold and Gross Margin

	Net Sales		Cost of Goods Sold		Gross Margin	
	Three Months Ended June 30,					
	2011	2010	2011	2010	2011	2010
	(in millions)					
Automotive	$ 1,800	$ 1,598	$ 1,501	$ 1,324	$ 299	$ 274
Railcar	94	43	86	45	8	(2)
Food Packaging	89	81	66	58	23	23
Metals	288	207	278	198	10	9
Real Estate	12	11	4	3	8	8
Home Fashion	82	107	75	95	7	12
	$ 2,365	$ 2,047	$ 2,010	$ 1,723	$ 355	$ 324

	Net Sales		Cost of Goods Sold		Gross Margin	
	Six Months Ended June 30,					
	2011	2010	2011	2010	2011	2010
	(in millions)					
Automotive	$ 3,524	$ 3,087	$ 2,946	$ 2,559	$ 578	$ 528
Railcar	163	79	153	82	10	(3)
Food Packaging	169	161	127	118	42	43
Metals	567	381	539	363	28	18
Real Estate	19	19	5	4	14	15
Home Fashion	180	190	165	172	15	18
	$ 4,622	$ 3,917	$ 3,935	$ 3,298	$ 687	$ 619

Other Revenues From Operations and Other Expenses From Operations

	Other Revenues From Operations		Other Expenses From Operations		Gross Margin	
	Three Months Ended June 30,					
	2011	2010	2011	2010	2011	2010
	(in millions)					
Gaming[1]	$ 145	$ —	$ 75	$ —	$ 70	$ —
Railcar	18	19	13	14	5	5
Real Estate	12	13	5	5	7	8
	$ 175	$ 32	$ 93	$ 19	$ 82	$ 13

	Other Revenues From Operations		Other Expenses From Operations		Gross Margin	
	Six Months Ended June 30,					
	2011	2010	2011	2010	2011	2010
	(in millions)					
Gaming[1]	$ 302	$ —	$ 154	$ —	$ 148	$ —
Railcar	34	35	26	28	8	7
Real Estate	25	25	11	11	14	14
	$ 361	$ 60	$ 191	$ 39	$ 170	$ 21

[1] We consolidate the results of our Gaming segment effective as of November 15, 2010.

Automotive

Federal-Mogul's Annual Report on Form 10-K for fiscal 2010 filed with the SEC on February 23, 2011 contains a detailed description of its business, products, industry, operating strategy and associated risks. Federal-Mogul's most recent Quarterly Report on Form 10-Q for the quarterly period ended June 30, 2011 was filed with the SEC on July 28, 2011.

During the six months ended June 30, 2011, Federal-Mogul derived 66% of its net sales from the original equipment manufacturer and servicers, or OE, market and 34% from the aftermarket. Federal-Mogul's customers include the world's largest automotive OEs and major distributors and retailers in the independent aftermarket. During the six months ended June 30, 2011 Federal-Mogul derived 36% of its sales in the United States and 64% internationally. Federal-Mogul has operations in established markets including Canada, France, Germany, Italy, Japan, Spain, Sweden, the United Kingdom and the United States, and emerging markets including Argentina, Brazil, China, Czech Republic, Hungary, India, Korea, Mexico, Poland, Russia, South Africa, Thailand, Turkey and Venezuela. The attendant risks of Federal-Mogul's international operations are primarily related to currency fluctuations, changes in local economic and political conditions, and changes in laws and regulations.

Federal-Mogul operates one manufacturing facility and one technical center in Japan. Federal-Mogul did not experience any loss of property or other assets nor were any of its employees injured as a result of the natural disasters in Japan during the three and six months ended June 30, 2011. Federal-Mogul does not anticipate any significant impacts to its consolidated financial position, results of operations or cash flows, either direct or indirect, as a result of this crisis, and will continue to carefully monitor the situation over the coming months.

Federal-Mogul operates in an extremely competitive industry, driven by global vehicle production volumes and part replacement trends. Business is typically awarded to the supplier offering the most favorable combination of cost, quality, technology and service. Customers continue to require periodic cost reductions that require Federal-Mogul to continually assess, redefine and improve its operations, products, and manufacturing capabilities to maintain and improve profitability. Management continues to develop and execute initiatives to meet the challenges of the industry and to achieve its strategy for sustainable global profitable growth.

Net sales increased by $202 million (13%) and $437 million (14%) for the three and six months ended June 30, 2011 as

compared to the three and six months ended June 30, 2010, respectively. The impact of the U.S. dollar weakening, primarily against the euro, increased reported sales by $98 million and $106 million for the three and six months ended June 30, 2011 as compared to the three and six months ended June 30, 2010, respectively.

In general, light and commercial vehicle OE production increased in most regions and, when combined with market share gains in all regions across all three manufacturing business units, resulted in increased OE sales of $129 million and $301 million for the three and six months ended June 30, 2011 as compared to the three and six months ended June 30, 2010, respectively. Aftermarket sales decreased by $42 million and $15 million for the three and six months ended June 30, 2011, respectively, as compared to the three and six months ended June 30, 2010 due to sales decreases in North America, partially offset by sales increases in all other regions. The acquisition of the Daros Group increased sales volume by $8 million and $16 million for the three and six months ended June 30, 2011, respectively, as compared to the three and six months ended June 30, 2010. Net changes in customer pricing increased sales by $9 million and decreased sales by $2 million for the three and six months ended June 30, 2011 as compared to the three and six months ended June 30, 2010, respectively.

Cost of goods sold increased by $177 million (13%) and $387 million (15%) for the three and six months ended June 30, 2011, respectively, as compared to the three and six months ended June 30, 2010. The impact of the relative weakness of the U.S. dollar increased cost of products sold by $89 million and $100 million for the three and six months ended June 30, 2011, respectively, as compared to the three and six months ended June 30, 2010. Manufacturing, labor and variable overhead costs increased by $95 million and $289 million as a direct consequence of the higher production volumes, inclusive of $6 million and $12 million of such costs associated with the Daros Group for the three and six months ended June 30, 2011, respectively, as compared to the three and six months of fiscal 2010. Additional increases were unfavorable productivity, net of labor and benefits inflation, of $4 million and $15 million and increased materials and services sourcing costs of $2 million and $10 million for the three and six months ended June 30, 2011, respectively, as compared to the three and six months ended June 30, 2010. These increases were partially offset by decreased depreciation of $13 million and $26 million for the three and six months ended June 30, 2011, respectively, as compared to the three and six months ended June 30, 2010.

Gross margin increased by $25 million to $299 million, or 17% of net sales, for the three months ended June 30, 2011 compared to $274 million, or 17% of net sales, for the three months ended June 30, 2010. This increase was due to decreased depreciation of $13 million, customer price increases of $9 million, currency movements of $9 million and $2 million directly related to the acquisition of the Daros Group, partially offset by unfavorable productivity, net of benefits and labor inflation, of $4 million, increased materials and services sourcing costs of $2 million and unfavorable sales mix of $2 million for the three months ended June 30, 2011 as compared to the three months ended June 30, 2010. Gross margin increased by $50 million to $578 million, or 16% of net sales, for the six months ended June 30, 2011 compared to $528 million, or 17% of net sales, for the six months ended June 30, 2010. This increase was due to sales volume increases which increased gross margin by $39 million, decreased depreciation of $26 million, currency movements of $6 million, $4 million directly related to the acquisition of the Daros Group and decreased pension expense of $1 million, partially offset by unfavorable productivity, net of benefits and labor inflation, of $15 million, increased materials and services sourcing costs of $10 million and customer price decreases of $1 million for the six months ended June 30, 2011 as compared to the six months ended June 30, 2010.

Gaming

Tropicana's Annual Report on Form 10-K for fiscal 2010 filed with the SEC on March 14, 2011 contains a detailed description of its business, products, industry, operating strategy and associated risks. Tropicana's filings with the SEC are available on the SEC's website at *www.sec.gov*.

As a result of our acquisition of additional shares of Tropicana common stock on November 15, 2010, we are required to consolidate the results of Tropicana as of such date. Tropicana contributed $145 million and $302 million to other revenues from operations for the three and six months ended June 30, 2011 for which no such revenue was present in the comparable prior year period.

Revenues are one of Tropicana's main performance indicators with more than 85% of net revenues generated from casino operations. Casino revenues represent the difference between wins and losses from gaming activities such as slot machines and table games. Key volume indicators include table game volumes and slot volumes, which refer to amounts wagered by Tropicana's customers. Win or hold percentage represents the percentage of the amounts wagered that is won by the casino, which is not fully controllable by Tropicana, and recorded as casino revenue. Most of Tropicana's revenues are cash-based, through customers wagering with cash or chips or paying for non-gaming services with cash or credit cards, and therefore are not subject to any significant or complex estimation. As a result, fluctuations in net revenues have a direct impact on cash flows from operating activities. Other performance indicators include hotel occupancy, which is a volume indicator for hotels, and the average daily rate, which is a price indicator for the amount customers paid for hotel rooms.

Other revenues from operations and other expenses from operations for our Gaming segment for the three and six months ended June 30, 2011 is summarized as follows:

	Three Months Ended June 30, 2011		Six Months Ended June 30, 2011	
	Other Revenues From Operations	Other Expenses From Operations	Other Revenues From Operations	Other Expenses From Operations
	(in millions)			
Casino	$ 127	$ 56	$ 270	$ 116
Room	28	8	53	15
Food and Beverage	22	9	44	19
Other	6	2	12	4
	183	$ 75	379	$ 154
Less promotional allowances	(38)		(77)	
Net revenues	$ 145		$ 302	

Casino revenues were $127 million and $270 million for the three and six months ended June 30, 2011, respectively. Casino revenues are comprised primarily of slot machine and table game revenues. Slot machine revenue was $107 million and $215 million and table game revenue was $18 million and $50 million for the three and six months end June 30, 2011, respectively. Slot machine hold percentages were 9.0% and 8.9% and table games hold percentages were 9.7% and 13.5%, respectively, for the three and six months ended June 30, 2011.

Room, food and beverage revenues were $50 million and $97 million for the three and six months ended June 30, 2011, respectively. Hotel room occupancy percentage for the three and six months ended June 30, 2011 was 67% and 68%, respectively. Average daily room rates were $74 and $71 for the three and six months ended June 30, 2011, respectively. Rooms, food and beverages are offered to high-value guests on a complimentary basis. The retail value of rooms, food and beverage provided to guests on a complimentary basis is included in gross revenues and then deducted as promotional allowances to arrive at net revenues.

Weak economic conditions continue to adversely impact the gaming industry and Tropicana. We believe Tropicana's guests have reduced their discretionary spending as a result of uncertainty and instability relating to the employment and housing markets. We cannot predict whether, or how long, current market conditions will continue to persist. In addition, Tropicana AC's revenues have been negatively impacted by the introduction of table games in Pennsylvania in mid 2010 as well as increased marketing and promotional activity from competitors within the Atlantic City market. The Atlantic City market experienced year-over-year declines in casino revenue of 6.7% and 7.0% for the three and six months ended June 30, 2011.

Tropicana's financial results are highly dependent upon the number of customers that it attracts to its facilities and the amounts those customers spend per visit. Additionally, Tropicana's operating results may be affected by, among other things, overall economic conditions affecting the discretionary income of its customers, competitive factors, gaming tax increases and other regulatory changes, the opening of new gaming operations, the negative impact of certain predecessors' bankruptcy filings had on its facilities, Tropicana's ability to reinvest in its properties, potential future exposure for liabilities of its certain predecessors that it assumed, its limited operating history and general public sentiment regarding travel and gaming. Historically, Tropicana's operating results are the strongest in the third quarter and the weakest in the fourth quarter. In addition, weather and long-weekend holidays affect its operating results.

Railcar

ARI's Annual Report on Form 10-K for fiscal 2010 filed with the SEC on March 1, 2011 contains a detailed description of its business, products, industry, operating strategy and associated risks. ARI's most recent Quarterly Report on Form 10-Q for the quarterly period ended June 30, 2011 was filed with the SEC on August 2, 2011.

The North American railcar market has been, and ARI expects it to continue to be, highly cyclical. The recent economic downturn had a negative effect on the railcar manufacturing market in which ARI competes, resulting in increased competition and significant pricing pressures in the past couple of years.

ARI has seen improvement in the railcar manufacturing market with an increase in its backlog from approximately 1,050

railcars at December 31, 2010 to approximately 5,290 railcars at June 30, 2011, including 640 railcars that ARI will lease. Subsequent to June 30, 2011, ARI has received additional orders for over 2,200 railcars, including 435 railcars for lease. In response to increased customer demand, ARI has and intends to continue to increase production rates at its railcar manufacturing facilities. ARI defines backlog as the number of railcars that its customers have committed in writing to purchase or lease that have not been shipped.

Additionally, railcar loadings have continued to increase and the number of railcars in storage has continued to decrease, as reported by an independent third party industry analyst. ARI believes that these improvements, which may or may not continue, indicate that the railcar market has begun to and may continue to improve. During the first half of fiscal 2011, ARI's railcar shipments and manufacturing revenues increased compared to the corresponding prior year period and the gross margin from both manufacturing and railcar services operations also improved. Based in part on these factors, ARI currently expects its railcar shipments to increase in fiscal 2011 as compared to fiscal 2010. ARI cannot assure you that the railcar market will continue to improve or that its railcar orders and shipments will increase.

A portion of ARI's manufacturing and services revenue are derived from companies affiliated with Mr. Icahn. Such revenues from companies affiliated with Mr. Icahn accounted for approximately 6% and 7% of total manufacturing and service revenues for the three and six months ended June 30, 2011, respectively. Total revenues from companies affiliated with Mr. Icahn accounted for approximately 60% and 46% of total manufacturing and service revenues for the three and six months ended June 30, 2010, respectively. See Note 3, "Related Party Transactions-Railcar," to our consolidated financial statements for further discussion.

Total railcar manufacturing revenues for the three and six months ended June 30, 2011 increased by $51 million (119%) and $84 million (106%) as compared to the three and six months ended June 30, 2010, respectively. (Manufacturing revenues are included in net sales in our consolidated statements of operations.) The primary reason for the increase in revenues from manufacturing operations was an increase in railcar shipments. Railcar shipments for the three months ended June 30, 2011 were approximately 1,040 railcars as compared to approximately 370 railcars for the three months ended June 30, 2010. Railcar shipments for the six months ended June 30, 2011 were approximately 1,720 railcars as compared to approximately 710 railcars for the six months ended June 30, 2010.

Gross margin from manufacturing operations for the three and six months ended June 30, 2011 was $8 million and $10 million, respectively, as compared to a loss of $2 million and $3 million for the three and six months ended June 30, 2010, respectively. The improvement over the respective periods was primarily due to an increase in railcar shipments, improved pricing and efficiencies created by larger volumes. Gross margin for manufacturing operations as a percentage of manufacturing operations revenues was 9% for the three months ended June 30, 2011 as compared to loss of 5% for the three months ended June 30, 2010. Gross margin for manufacturing operations as a percentage of manufacturing operations revenues was 6% for the six months ended June 30, 2011 as compared to a loss of 4% for the six months ended June 30, 2010.

Gross margin for railcar services operations for each of the three months ended June 30, 2011 and 2010 was $5 million. Gross margin for railcar services operations for the six months ended June 30, 2011 and 2010 was $8 million and $7 million, respectively. Gross margin for railcar services operations as a percentage of railcar services operations revenues was 28% for the three months ended June 30, 2011 as compared to 26% for the three months ended June 30, 2010. Gross margin for railcar services operations as a percentage of railcar services operations revenues was 24% for the six months ended June 30, 2011 as compared to 20% for the six months ended June 30, 2010. The improvement over the respective periods is primarily attributable to an increase in volumes and efficiencies at railcar repair facilities and a decrease in repair projects performed at railcar manufacturing facilities.

Food Packaging

Viskase currently operates seven manufacturing facilities and nine distribution centers throughout North America, Europe and South America and derives approximately 70% of total net sales from customers located outside the United States. Viskase is starting to build a shirring plant in the Philippines to serve the Asian market. The plant is expected to open in the first quarter of the fiscal year ended December 31, 2012 and will be scaled up over several years as demand in the Asian market continues to grow. The first year capital investment, including machinery, will be approximately $14 million and it is anticipated that an additional $11 million of equipment will be added over the subsequent five years.

Our Food Packaging segment is affected by changes in foreign exchange rates. In addition to those markets in which Viskase prices its products in U.S. dollars, it prices its products in certain of its foreign operations in euros and Brazilian reals. As a result, a decline in the value of the U.S. dollar relative to local currencies of profitable foreign subsidiaries can have a favorable effect on Viskase's profitability. Conversely, an increase in the value of the U.S. dollar relative to the local currencies

of profitable foreign subsidiaries can have a negative effect on Viskase's profitability.

Net sales for each of the three and six months ended June 30, 2011 increased by $8 million (10% and 5%, respectively) compared to the corresponding prior year periods. The increases for the three and six months ended June 30, 2011 as compared to the three and six months ended June 30, 2010 were primarily due to an increase in sales volume of $7 million and $9 million, foreign currency translation of $4 million and $3 million, offset by a decrease of $3 million and $4 million due to product mix, respectively. Cost of sales for the three and six months ended June 30, 2011 increased by $8 million (14%) and $9 million (8%), respectively, for the three and six months ended June 30, 2011 as compared to the three and six months ended June 30, 2010. The increases were primarily due to growth in sales volume, higher raw material costs, rising energy prices and foreign currency translation, partially offset by improved manufacturing efficiencies. Gross margin as a percent of net sales was 26% and 28% for the three months ended June 30, 2011 and 2010, respectively, and 25% and 27% for the six months ended June 30, 2011 and 2010, respectively.

Metals

The scrap metals business is highly cyclical and is substantially dependent upon the overall economic conditions in the U.S. and other global markets. Ferrous and non-ferrous scrap has been historically vulnerable to significant declines in consumption and product pricing during prolonged periods of economic downturn. While the economic climate improved in the first half of fiscal 2011 relative to fiscal 2010 and fiscal 2009, we cannot predict whether, or how long, current market conditions will continue to persist.

On January 5, 2011, PSC Metals acquired substantially all the assets and certain liabilities of Cash's Scrap Metal and Iron Corp., or CSMI, for $32 million. CSMI is a scrap recycler and operates in five different locations in Missouri. On May 2, 2011, PSC Metals acquired substantially all the assets of Wedel Iron and Metal, LLC, or Wedel, for $3 million. Wedel is a scrap metals recycler operating in Crossville, Tennessee.

On July 30, 2011, PSC Metals executed an asset purchase agreement to acquire substantially all of the assets of Shapiro Brothers, Inc., or Shapiro, for a total purchase price of approximately $22 million, with closing expected to occur in the third quarter of fiscal 2011. Shapiro operates four scrap yards located in Missouri, Arkansas and Illinois. Shapiro buys, sells and processes ferrous and non-ferrous scrap, including industrial and obsolete grades of scrap. This acquisition is complimentary to PSC Metal's acquisition of CSMI in the first quarter of fiscal 2011 and strengthens PSC Metals' presence in its mid-west region of the United States.

Summarized ferrous tons and non-ferrous pounds sold for the three and six months ended June 30, 2011 and 2010 are as follows:

	Three Months Ended June 30,		**Six Months Ended June 30,**	
	2011	**2010**	**2011**	**2010**
	(in 000s)			
Ferrous tons sold	419	362	826	689
Non-ferrous pounds sold	44,349	30,617	83,566	57,100

Net sales for the three and six months ended June 30, 2011 increased by $81 million (39%) and $186 million (49%), respectively, as compared to the three and six months ended June 30, 2010. The increases were primarily due to increases in ferrous revenues attributed to higher prices and stronger volumes driven by continued improvement in steel mill operating rates. Acquisitions made since June 2010 also contributed to shipment volume and revenue growth. Increased ferrous demand and higher market pricing resulted in ferrous average pricing of approximately $63 per gross ton higher (17%) and ferrous shipments of 57,000 gross tons higher (16%) in the three months ended June 30, 2011 as compared to the three months ended June 30, 2010. Increased ferrous demand and higher market pricing resulted in ferrous average pricing of approximately $78 per gross ton higher (22%) and ferrous shipments of 137,000 gross tons higher (20%) for the six months ended June 30, 2011 as compared to the six months ended June 30, 2010. Increased non-ferrous demand and higher market pricing resulted in non-ferrous average price of $0.20 per pound higher (21%) and non-ferrous shipments of 13,732,000 pounds higher (45%) for the three months ended June 30, 2011 as compared to the three months ended June 30, 2010. Increased non-ferrous demand and higher market pricing resulted in non-ferrous average price of $0.22 per pound higher (23%) and non-ferrous shipments of 26,466,000 pounds higher (46%)for the six months ended June 30, 2011 as compared to the six months ended June 30, 2010. Revenues from substantially all product lines increased for the six months ended June 30, 2011 as compared to the six months ended June 30, 2010 and were primarily attributable to increased volumes and higher average selling prices.

Cost of sales for the three and six months ended June 30, 2011 increased by $80 million (40%) and $176 million (48%), respectively, as compared to the three and six months ended June 30, 2010. The increases were primarily due to higher sales volume and material purchase prices as compared to the corresponding prior year period. Contributing to the higher cost of sales were newly opened and acquired recycling yards and the start-up of a new shredder in addition to increased processing volumes at existing facilities. Material prices increased due to higher market prices and continued constraints on material flows. Gross margin for the three months ended June 30, 2011 increased by $1 million (11%) compared to the three months ended June 30, 2010. Gross margin for the six months ended June 30, 2011 increased by $10 million (56%) compared to the six months ended June 30, 2010. Gross margin as a percentage of net sales was 3% for the three months ended June 30, 2011 compared to 4% for the three months ended June 30, 2010. Gross margin as a percentage of net sales was 5% for each of the six months ended June 30, 2011 and 2010.

Real Estate

Included in net sales in our consolidated statements of operations for our Real Estate segment is revenue from resort operations and the sale of residential units in our property development operations. For the three months ended June 30, 2011, net sales increased $1 million compared to the three months ended June 30, 2010 primarily due to an increase in revenues from the sale of residential units. We sold four residential units for approximately $5 million during the three months ended June 30, 2011 as compared to seven residential units for $4 million for the three months ended June 30, 2010. Net sales remained flat for the six months ended June 30, 2011 as compared to the six months ended June 30, 2010.

Home Fashion

WPI's business is significantly influenced by the overall economic environment, including consumer spending, at the retail level, for home textile products. Many of the larger retailers are customers of WPI. WPI has been negatively impacted by higher raw material and transportation costs as well as by continued weakness in the housing market. At the end of fiscal 2010, WPI announced price increases to be implemented during the first quarter of fiscal 2011 to offset the increased raw material and transportation costs. In early fiscal 2011, WPI announced additional price increases to be implemented during the second quarter of fiscal 2011. WPI will continue to realign its manufacturing operations to optimize its cost structure, pursuing offshore sourcing arrangements that employ a combination of owned and operated facilities, joint ventures and third-party supply contracts. While current economic indicators project continued volatility with commodity and fuel costs, we cannot predict whether, or how long, current market conditions will continue to persist.

Net sales for the three and six months ended June 30, 2011 decreased by $25 million (23%) and $10 million (5%), respectively, as compared to the three and six months ended June 30, 2010. Cost of sales for the three and six months ended June 30, 2011 decreased by $20 million (21%) and $7 million (4%), respectively, as compared to the three and six months ended June 30, 2010. Gross margin for the three and six months ended June 30, 2011 decreased by $5 million (42%) and $3 million (17%), respectively, as compared to the three and six months ended June 30, 2010. Gross margin as a percent of net sales was 9% and 8% for the three and six months ended June 30, 2011, respectively, and was 11% and 9% for the three and six months ended June 30, 2010, respectively. The decrease in net sales during the three and six months ended June 30, 2011 as compared to the three and six months ended June 30, 2010 primarily reflects the continued weak economy and housing market and the impact of exiting certain unprofitable programs, partially offset by price increases as discussed above. The decrease in cost of goods sold for the three and six months ended June 30, 2011 as compared to the three and six months ended June 30, 2010 is primarily due to lower sales volume, offset in part by higher raw material costs.

Net Gain (Loss) From Investment Activities

	Three Months Ended June 30,		Six Months Ended June 30,	
	2011	**2010**	**2011**	**2010**
	(in millions)			
Investment Management	$ 575	$ (243)	$ 1,191	$ (253)
Holding Company	15	(9)	25	—
Tropicana Eliminations	—	—	(9)	—
	$ 590	$ (252)	$ 1,207	$ (253)

Investment Management

The following table sets forth performance information for the Investment Funds for the comparative periods presented. These gross returns represent a weighted-average composite of the average gross returns, net of expenses for the Private Funds.

	Gross Return			
	Three Months Ended June 30,		Six Months Ended June 30,	
	2011	2010	2011	2010
Investment Funds	10.2%	-3.1 %	20.8%	-2.4 %

The Investment Funds' aggregate gross return was 10.2% and 20.8% for the three and six months ended June 30, 2011, respectively. During the three and six months ended June 30, 2011, gains were primarily due to the Investment Funds' long exposure to the equity markets which were primarily driven by certain core holdings.

The Investment Funds' aggregate gross return was -3.1% and -2.4% for the three and six months ended June 30, 2010, respectively. During the three and six months ended June 30, 2010, losses were primarily due to the Investments Funds' long exposure to certain core equity positions. The Investment Funds' long and short exposure to credit markets, including fixed income, bank debt and derivative instruments, produced gains for the first six months of fiscal 2010. The Investment Funds continued to be generally defensively positioned and short exposure was a positive contributor to performance in the second quarter of fiscal 2010 but contributed to losses over the first six months of fiscal 2010.

Since inception in November 2004, the Investment Funds' gross return is 129.9%, representing an annualized rate of return of 13.3% through June 30, 2011.

Net realized and unrealized gains of the Investment Funds on investment activities were $575 million and $1,191 million for the three and six months ended June 30, 2011, respectively. This compares with a net realized and unrealized loss of $243 million and $253 million for the three and six months ended June 30, 2010, respectively. The improvement over the respective periods was primarily due to the positive performance in the Investment Funds during fiscal 2011.

Interest and Dividend Income

Interest and dividend income decreased by $26 million (48%) and $59 million (48%) for the three and six months ended June 30, 2011 and 2010, respectively. The decreases over the respective periods were primarily due to decreases in interest income resulting from a reduction in fixed-income investments from our Investment Management segment.

Selling, General and Administrative

	Three Months Ended June 30,		Six Months Ended June 30,	
	2011	2010	2011	2010
	(in millions)			
Investment Management	$ 28	$ 12	$ 67	$ 34
Automotive	185	177	374	373
Gaming	65	—	138	—
Railcar	5	6	12	12
Food Packaging	11	11	22	22
Metals	7	5	13	10
Real Estate	10	11	19	22
Home Fashion	15	19	31	36
Holding Company	7	4	12	10
	$ 333	$ 245	$ 688	$ 519

Investment Management

SG&A for the three and six months ended June 30, 2011 increased by $16 million (133%) and $33 million (97%),

respectively, as compared to the three and six months ended June 30, 2010. This increase over the respective periods was primarily attributable to an increase in dividends expense due to securities sold, not yet purchased and an increase in compensation expense associated with profit-sharing that references a portfolio of securities that are funded by the Investment Funds.

Automotive

SG&A for the three and six months ended June 30, 2011 increased by $8 million (5%) and $1 million, respectively, as compared to the three and six months ended June 30, 2010. The increase for the three months ended June 30, 2011 of $8 million was due to currency movements of $9 million, partially offset by lower pension and other post-employment benefits expense of $3 million, materials and services sourcing savings of $1 million, reduced depreciation expense of $1 million and $4 million of other post-employment benefit curtailment gain as discussed below. The increase for the six months ended June 30, 2011 as compared to the six months ended June 30, 2010 of $1 million was due to lower pension and other post-employment benefits expense of $7 million, lower stock-based compensation expense of $6 million, materials and services sourcing savings of $2 million, reduced depreciation expense of $2 million and other reductions of $5 million, $4 million of other post-employment benefit curtailment gain as discussed below, partially offset by unfavorable overhead costs of $10 million and currency movements of $9 million.

Included in SG&A for each of the three and six months ended June 30, 2010 was $4 million of other post-employment benefit curtailment gain which did not recur during the three and six months ended June 30, 2011.

Federal-Mogul maintains technical centers throughout the world designed to integrate its leading technologies into advanced products and processes, to provide engineering support for all of its manufacturing sites and to provide technological expertise in engineering and design development providing solutions for customers and bringing new, innovative products to market. Included in SG&A were research and development, or R&D, costs, including product and validation costs, of $43 million and $38 million for the three months ended June 30, 2011 and 2010, respectively, $87 million and $77 million for the six months ended June 30, 2011 and 2010, respectively. As a percentage of OE sales, R&D was 4% for each of the three and six months ended June 30, 2011 and 2010.

Gaming

As a result of our acquisition of additional shares of Tropicana common stock on November 15, 2010, we are required to consolidate the results of Tropicana as of such date. Tropicana recognized $65 million and $138 million of SG&A during the three and six months ended June 30, 2011 for which no such SG&A was present in the comparable prior year period. SG&A for our Gaming segment is summarized as follows:

	Three Months Ended June 30, 2011	Six Months Ended June 30, 2011
	(in millions)	
Marketing, advertising and promotions	$ 13	$ 28
General and administrative	30	63
Maintenance and utilities	15	30
Depreciation and amortization	7	17
	$ 65	$ 138

Tropicana continues to monitor and reduce its SG&A expenses to maintain profitability in response to declining revenues due to the current weak economic conditions.

Railcar

SG&A for the three months ended June 30, 2011 decreased by $1 million (17%) as compared to the three months ended June 30, 2010 and was primarily due to a decrease in stock-based compensation expense. SG&A for the six months ended June 30, 2011 was flat as compared to the six months ended June 30, 2010.

Food Packaging

SG&A for the three and six months ended June 30, 2011 remained flat as compared to the three and six months ended June 30, 2010.

Metals

SG&A for the three and six months ended June 30, 2011 increased by $2 million (40%) and $3 million (30%), respectively, as compared to the three and six months ended June 30, 2010. The increase was primarily due to an increase in compensation-related costs and business development activities.

Real Estate

SG&A for the three months ended June 30, 2011 decreased by $1 million (9%) as compared to the three months ended June 30, 2010. SG&A for the six months ended June 30, 2011 decreased by $3 million (14%) as compared to the six months ended June 30, 2010. The decreases were primarily due to lower operating expenses associated with our Fontainebleau property during the six months ended June 30, 2011 as compared to the six months ended June 30, 2010.

Home Fashion

SG&A decreased by $4 million (21%) and $5 million (14%) for the three and six months ended June 30, 2011, respectively, as compared to the three and six months ended June 30, 2010, primarily due to lower selling expenses and fulfillment costs related to cost-cutting initiatives and decreased sales volume.

Impairment and Restructuring

	Impairment		Restructuring	
	Three Months Ended June 30,			
	2011	2010	2011	2010
	(in millions)			
Automotive	$ 3	$ 4	$ —	$ 5
Home Fashion	—	1	1	2
	$ 3	$ 5	$ 1	$ 7

	Impairment		Restructuring	
	Six Months Ended June 30,			
	2011	2010	2011	2010
	(in millions)			
Automotive	$ 3	$ 8	$ 1	$ 6
Home Fashion	—	1	3	5
	$ 3	$ 9	$ 4	$ 11

Automotive

Federal-Mogul recorded $3 million of impairment charges for each of the three and six months ended June 30, 2011 and $4 million and $8 million for the three and six months ended June 30, 2010, respectively.

The $3 million in impairment charges for the three and six months ended June 30, 2011 include a $2 million impairment charge related to an asset retirement obligation for a facility that is closed. As the fair value of the facility did not support the capitalization of this asset retirement obligation, it was impaired. The remaining $1 million in impairment charges recorded during the second quarter of 2011 was comprised of immaterial fixed assets impairments at several facilities.

The impairment charges of $4 million and $8 million for the three and six months ended June 30, 2010, respectively, relate to certain equipment where the assessment of future undiscounted cash flows of such equipment, when compared to the current carrying value of the equipment, indicated the assets were not recoverable. Federal-Mogul determined the fair value of the assets by applying a probability weighted, expected present value technique to the estimated future cash flows using assumptions a market participant would utilize. The discount rate used is consistent with other long-lived asset fair value measurements.

Restructuring charges for the six months ended June 30, 2011 was $1 million. Federal-Mogul did not record any net restructuring charges for the three months ended June 30, 2011. Restructuring charges for the three and six months ended June 30, 2010 were $5 million and $6 million, respectively. Restructuring charges were related to facility closure costs and

employee costs.

Home Fashion

Restructuring and impairment for the three and six months ended June 30, 2011 decreased by $2 million (67%) and $3 million (50%) as compared to the three and six months ended June 30, 2010. In recording the impairment charges related to its plants, WPI compared estimated net realizable values of property, plant and equipment to their current carrying values. Restructuring and impairment charges include severance, benefits and related costs, non-cash impairment charges related to plants that have been or will be closed and continuing costs of closed plants and transition expenses.

WPI anticipates incurring approximately $2 million of additional restructuring costs in fiscal 2011, particularly with respect to the carrying costs of closed facilities until such time as these locations are sold. Restructuring costs could be affected by, among other things, WPI's decision to accelerate or delay its restructuring efforts. As a result, actual costs incurred could vary materially from these anticipated amounts. If WPI's restructuring efforts are unsuccessful or its existing strategic manufacturing plans are amended, it may be required to record additional impairment charges related to the carrying value of long-lived assets.

Interest Expense

Interest expense for the three months ended June 30, 2011 increased by $18 million (19%) as compared to the three months ended June 30, 2010. The increase over the comparable period was primarily due to higher interest expense incurred on certain debt issued on November 12, 2010 and interest on the SPV Notes.

Interest expense for the six months ended June 30, 2011 increased by $32 million (17%) as compared to the six months ended June 30, 2010. The increase over the comparable period was primarily due to higher interest expense incurred on certain debt issued on November 12, 2010 and January 15, 2010 and interest on the SPV Notes.

Income Tax Expense

For the three months ended June 30, 2011, we recorded an income tax provision of $24 million on pre-tax income of $608 million compared to an income tax provision of $19 million on pre-tax loss of $203 million for the three months ended June 30, 2010. Our effective income tax rate was 4.0% and (9.4)% for the three months ended June 30, 2011 and 2010, respectively.

For the six months ended June 30, 2011, we recorded an income tax provision of $42 million on pre-tax income of $1,222 million compared to an income tax provision of $12 million on pre-tax loss of $260 million for the six months ended June 30, 2010. Our effective income tax rate was 3.4% and (4.6)% for the six months ended June 30, 2011 and 2010, respectively.

The difference between the effective tax rate and statutory federal rate of 35% is principally due to changes in the valuation allowance and partnership income not subject to taxation, as such taxes are the responsibility of the partners.

Federal-Mogul believes that it is reasonably possible that its unrecognized tax benefits in multiple jurisdictions, which primarily relates to transfer pricing, corporate reorganization and various other matters, may decrease by approximately $321 million within the next 12 months due to audit settlements or statute expirations, of which approximately $46 million, if recognized, could impact the effective tax rate.

In conjunction with Federal-Mogul's ongoing review of its actual results and anticipated future earnings, Federal-Mogul reassesses the possibility of releasing valuation allowances. Based upon this assessment, Federal-Mogul has concluded that there is more than a remote possibility that existing valuation allowances in certain jurisdictions of up to $250 million as of June 30, 2011 could be released within the next 12 months. If releases of such valuation allowances occur, it may have a significant impact on net income in the quarter in which it is deemed appropriate to release the reserve.

Liquidity and Capital Resources

Holding Company

As of June 30, 2011, we had cash and cash equivalents of $929 million and total debt of approximately $3.1 billion. We have made investments in Investment Funds and the total value of these investments was approximately $2.9 billion as of June 30, 2011.

As of June 30, 2011 based on covenants in the indenture governing our senior notes, we may incur approximately $1.3 billion in additional indebtedness. See Note 10, “Debt,” to our consolidated financial statements for additional information

concerning credit facilities for us and our subsidiaries.

We are a holding company. Our cash flow and our ability to meet our debt service obligations and make distributions with respect to depositary units likely will depend on the cash flow resulting from divestitures, equity and debt financings, interest income and the payment of funds to us by our subsidiaries in the form of loans, dividends and distributions. We may pursue various means to raise cash from our subsidiaries. To date, such means include receipt of dividends from subsidiaries, obtaining loans or other financings based on the asset values of subsidiaries or selling debt or equity securities of subsidiaries through capital market transactions. To the degree any distributions and transfers are impaired or prohibited, our ability to make payments on our debt or distributions on our depositary units could be limited. The operating results of our subsidiaries may not be sufficient for them to make distributions to us. In addition, our subsidiaries are not obligated to make funds available to us, and distributions and intercompany transfers from our subsidiaries to us may be restricted by applicable law or covenants contained in debt agreements and other agreements.

Distributions on Depositary Units

On March 2, 2011, the Board of Directors approved a payment of a quarterly cash distribution of $0.25 per unit on our depositary units. The distribution was paid on March 30, 2011 to depositary unitholders of record at the close of business on March 15, 2011. Under the terms of the indenture dated April 5, 2007 governing our variable rate notes due 2013, we also made a $0.15 distribution to holders of these notes in accordance with the formula set forth in the indenture.

On April 29, 2011, the board of directors declared a quarterly distribution of $0.50 per depositary unit, comprised of a combination of $0.10 payable in cash and $0.40 payable in depositary units. The distribution was paid on May 31, 2011 to depositary unitholders of record at the close of business on May 16, 2011. We calculated the depositary units to be distributed based on the 20-trading-day volume weighted average price of our depositary units ending on May 3, 2011, resulting in .009985 of a unit being distributed per depositary unit. To the extent that the aggregate units to be distributed to any holder would include a fraction of a unit, that fractional unit will be settled in cash. As a result, we distributed 843,295 depositary units on May 31, 2011 in connection with this distribution.

On August 8, 2011, the board of directors declared a quarterly cash distribution of $0.10 per unit on our depositary units. The distribution will be paid on September 1, 2011 to depositary unitholders of record at the close of business on August 19, 2011.

Borrowings

Debt consists of the following:

	June 30, 2011	December 31, 2010
	(in millions)	
8% senior unsecured notes due 2018 - Icahn Enterprises	$ 1,450	$ 1,450
7.75% senior unsecured notes due 2016 - Icahn Enterprises	1,050	1,050
Senior unsecured variable rate convertible notes due 2013 - Icahn Enterprises	556	556
Senior notes - Investment Management	392	—
Debt facilities - Automotive	2,737	2,737
Debt facilities - Gaming	61	62
Senior unsecured notes - Railcar	275	275
Senior secured notes and revolving credit facility - Food Packaging	214	214
Mortgages payable	77	108
Other	65	57
Total debt	$ 6,877	$ 6,509

See Note 10, “Debt,” to our consolidated financial statements of this Report for additional information concerning terms, restrictions and covenants of our debt. As of June 30, 2011 we are in compliance with all debt covenants.

Contractual Commitments and Contingencies

As described elsewhere in this Report, on March 10, 2011, the SPV sold an aggregate principal amount of $595 million of SPV Notes. Pursuant to the SPV Indenture, the SPV Notes will accrue interest in arrears at LIBOR plus 0.60%. Interest on the SPV Notes will be paid the 10th of March, June, September and December of each year subject to certain terms. The initial maturity date of the SPV Notes is September 10, 2011, which date may have been extended in three-month increments provided that the SPV obtained consent from holders of the SPV Notes and, if such extensions had been granted, the maximum date through which the SPV Notes could have been extended would have been March 10, 2014, the final note maturity date. Subject to the satisfaction of certain redemption conditions as set forth in the SPV Indenture, the SPV may, in its discretion, cause a redemption of the SPV Notes. During the three months ended June 30, 2011, the Investment Funds redeemed $203 million of the SPV Notes. We determined not to extend the SPV Notes beyond the initial maturity date of September 10, 2011, and accordingly, outstanding principal amounts, including related accrued interest, in respect of the SPV Notes will be redeemed in full by September 10, 2011.

Except for the SPV Notes, there were no other material changes in our contractual obligations or any other liabilities reflected on our consolidated balance sheet during the six months ended June 30, 2011 as compared to those reported in our 2010 Form-10K.

Off-Balance Sheet Arrangements

We have off-balance sheet risk related to investment activities associated with certain financial instruments, including futures, options, credit default swaps and securities sold, not yet purchased. For additional information regarding these arrangements, refer to Note 6, “Financial Instruments,” to the consolidated financial statements contained in this Report.

Consolidated Cash Flows

The following table summarizes cash flow information for the three months ended June 30, 2011 and cash and cash equivalents as of June 30, 2011 for each of our operating segments and our Holding Company:

	Six Months Ended June 30, 2011			June 30, 2011
	Cash (Used In) Provided By			
	Operating Activities	Investing Activities	Financing Activities	Cash and Cash Equivalents
	(in millions)			
Investment Management	$ 1,421	$ —	$ (1,431)	$ 8
Automotive	90	(177)	(1)	1,042
Gaming	6	(9)	(1)	152
Railcar	(15)	(4)	1	301
Food Packaging	5	(14)	(1)	78
Metals	(28)	(42)	—	20
Real Estate	25	—	(33)	45
Home Fashion	—	—	—	32
Holding Company	(124)	—	(51)	929
	$ 1,380	$ (246)	$ (1,517)	$ 2,607

Operating Activities

Net cash provided by operating activities for the six months ended June 30, 2011 was primarily attributable to our Investment Management segment which had net cash provided from investing transactions of approximately $3.1 billion offset by a change in cash held at consolidated affiliated partnerships and restricted cash of approximately $1.7 billion. Our Automotive segment had net cash provided by operating activities of $90 million which included $234 million of net income before charges for non-cash items, offset in part by changes in operating assets and liabilities of $144 million.

Our Holding Company had net cash used in operating activities of $124 million primarily due to payment of interest expense during the six months ended June 30, 2011.

Investing Activities

Net cash used in investing activities for the six months ended June 30, 2011 was primarily attributable to capital expenditures of $218 million, which includes $177 million attributable to our Automotive segment. Additionally, our Metals segment had acquisitions of $35 million, net of cash acquired, during the six months ended June 30, 2011.

Financing Activities

Net cash used in financing activities during the six months ended June 30, 2011 was primarily attributable to our Investment Management segment which had net distributions to non-controlling interests of approximately $1.8 billion offset in part by net proceeds from its SPV Notes of $392 million. Our remaining segments had net repayments of debt of $41 million. Additionally, we paid an aggregate of $31 million in distributions during the six months ended June 30, 2011 to holders of our depositary units.

Discussion of Segment Liquidity and Capital Resources

The following contains certain information regarding our segment liquidity and capital resources:

Investment Management

The investment strategy utilized by the Investment Management segment is generally not heavily reliant on leverage. As of June 30, 2011, the ratio of the notional exposure of the Investment Funds' invested capital to net asset value of the Investment Funds was approximately 1.35 to 1.00 on the long side and 0.56 to 1.00 on the short side. The notional principal amount of an investment instrument is the reference amount that is used to calculate profit or loss on that instrument. The Private Funds historically have had access to significant amounts of cash from prime brokers, subject to customary terms and market conditions.

As more fully disclosed in a letter to investors in the Private Funds filed with the SEC on Form 8-K on March 7, 2011, the Private Funds returned all fee-paying capital to its investors during fiscal 2011. Payments were funded through cash on hand and borrowings under existing credit lines.

Automotive

As of June 30, 2011 and December 31, 2010, the borrowing availability under the revolving credit facility was $540 million and $528 million, respectively. Federal-Mogul had $41 million and $43 million of letters of credit outstanding as of June 30, 2011 and December 31, 2010, pertaining to the term loan credit facility.

Federal-Mogul maintains investments in several non-consolidated affiliates, which are located in China, France, Germany, India, Italy, Korea, Turkey and the United States. Federal-Mogul's direct ownership in such affiliates ranges from approximately 2% to 50%. The aggregate investments in these affiliates were $243 million and $210 million at June 30, 2011 and December 31, 2010, respectively. Dividends received from non-consolidated affiliates by Federal-Mogul during the six months ended June 30, 2011 and 2010 were less than $1 million and $24 million, respectively.

Federal-Mogul's joint ventures are businesses established and maintained in connection with its operating strategy and are not special purpose entities. In general, Federal-Mogul does not extend guarantees, loans or other instruments of a variable nature that may result in incremental risk to Federal-Mogul's liquidity position. Furthermore, Federal-Mogul does not rely on dividend payments or other cash flows from its non-consolidated affiliates to fund its operations and, accordingly, does not believe that they have a material effect on Federal-Mogul's liquidity.

Federal-Mogul holds a 50% non-controlling interest in a joint venture located in Turkey. This joint venture was established in 1995 for the purpose of manufacturing and marketing automotive parts, including pistons, piston rings, piston pins, and cylinder liners to OE and aftermarket customers. Pursuant to the joint venture agreement, Federal-Mogul's partner holds an option to put its shares to a subsidiary of Federal-Mogul at the higher of the current fair value or at a guaranteed minimum amount. The term of the contingent guarantee is indefinite, consistent with the terms of the joint venture agreement. However, the contingent guarantee would not survive termination of the joint venture agreement. The guaranteed minimum amount represents a contingent guarantee of the initial investment of the joint venture partner and can be exercised at the discretion of the partner. As of June 30, 2011, the total amount of the contingent guarantee, were all triggering events to occur, approximated $65 million. Federal-Mogul believes that this contingent guarantee is substantially less than the estimated current fair value of the guarantees' interest in the affiliate. As such, the contingent guarantee does not give rise to a contingent liability and, as a result, no amount is recorded for this guarantee. If this put option were exercised, the consideration paid and net assets acquired

would be accounted for in accordance with business combination accounting guidance. Any value in excess of the guaranteed minimum amount of the put option would be the subject of negotiation between Federal-Mogul and its joint venture partner.

Federal-Mogul's subsidiaries in Brazil, France, Germany, Italy, Japan, Spain and the United States are party to accounts receivable factoring and securitization facilities. Gross accounts receivable transferred under these facilities were $336 million and $211 million as of June 30, 2011 and December 31, 2010, respectively. Of those gross amounts, $334 million and $210 million, respectively, qualify as sales as defined in FASB ASC Topic 860, *Transfers and Servicing*. The remaining transferred receivables were pledged as collateral and accounted for as secured borrowings and recorded in the consolidated balance sheets within “Accounts receivable, net” and “Debt.” Under the terms of these facilities, Federal-Mogul is not obligated to draw cash immediately upon the transfer of accounts receivable. Thus, as of each of June 30, 2011 and December 31, 2010, Federal-Mogul had outstanding transferred receivables for which cash of $1 million had not yet been drawn. Proceeds from the transfers of accounts receivable qualifying as sales were $923 million and $629 million for the six months ended June 30, 2011 and 2010, respectively.

For the six months ended June 30, 2011 and 2010, expenses associated with transfers of receivables of $5 million and $2 million, respectively, were recorded in the consolidated statements of operations within other income (loss), net. Where Federal-Mogul receives a fee to service and monitor these transferred receivables, such fees are sufficient to offset the costs and as such, a servicing asset or liability is not incurred as a result of such activities. Certain of the facilities contain terms that require Federal-Mogul to share in the credit risk of the sold receivables. The maximum exposures to Federal-Mogul associated with certain of these facilities' terms were $34 million and $32 million as of June 30, 2011 and December 31, 2010, respectively. Based on Federal-Mogul's analysis of the creditworthiness of its customers on which such receivables were sold and outstanding as of June 30, 2011 and December 31, 2010, Federal-Mogul estimated the loss to be immaterial.

Home Fashion

On June 15, 2011, WPI through WestPoint Home, Inc., or WPH, executed an amended and restated senior secured revolving credit facility, or WPI Revolving Credit Facility, with Bank of America, NA. This new one-year senior credit facility is for $50 million with a maximum borrowing availability of $45 million, subject to monthly borrowing base calculations. See Note 10, “Debt-Home Fashion,” in our consolidated financial statements for further discussion regarding this new senior credit facility.

At June 30, 2011, WPI had $32 million of unrestricted cash and cash equivalents. There were no borrowings under the WPH Revolving Credit Facility agreement as of June 30, 2011, but there were outstanding letters of credit of $9 million. Based upon the eligibility and reserve calculations within the agreement, WPH had unused borrowing availability of $36 million at June 30, 2011.

Through a combination of its existing cash on hand and its borrowing availability under the WPI Revolving Credit Facility (together, an aggregate of $68 million), WPI believes that it has adequate capital resources and liquidity to meet its anticipated requirements to continue its operational restructuring initiatives and for working capital and capital spending for the foreseeable future. In its analysis with respect to the sufficiency of adequate capital resources and liquidity, WPI has considered that its retail customers may continue to face either negative or flat comparable store sales for home textile products during fiscal 2011. However, depending upon the levels of additional acquisitions and joint venture investment activity, if any, additional financing, if needed, may not be available to WPI or, if available, may not be on terms favorable to WPI.

Critical Accounting Policies and Estimates

Except for the changes discussed below, there have been no other material changes to our critical accounting policies and estimates during the six months ended June 30, 2011 compared to those reported in our 2010 Form 10-K.

As a result of returning fee-paying capital to its investors on March 31, 2011 as discussed elsewhere in this Report, each of the Private Funds no longer meets the criteria of an investment company as set forth in FASB ASC Section 946-10-15-2, *Financial Services-Investment Companies-Scope and Scope Exceptions* and, therefore, the application of FASB ASC Section 946-810-45, *Financial Services-Investment Companies-Consolidation-Other Presentation Matters,* is no longer applicable effective March 31, 2011. This change has no material effect on our consolidated financial statements as the Private Funds would account for its investments as trading securities pursuant to FASB ASC Topic 320, *Investments-Debt and Equity Securities* effective March 31, 2011. For those investments that fall outside the scope of FASB ASC Topic 320 or would otherwise have required the Private Funds account for under the equity method, the Private Funds apply the fair value option to such investments. See Note 4, "Investments and Related Matters-Investment Management," to the consolidated financial statements for further discussion regarding this reconsideration event and its consolidation impact.

Forward-Looking Statements

Statements included in “Management's Discussion and Analysis of Financial Condition and Results of Operations” which are not historical in nature are intended to be, and are hereby identified as, “forward-looking statements” for purposes of the safe harbor provided by Section 27A of the Securities Act and Section 21E of the Exchange Act of 1934, or by Public Law 104-67.

Forward-looking statements regarding management's present plans or expectations involve risks and uncertainties and changing economic or competitive conditions, as well as the negotiation of agreements with third parties, which could cause actual results to differ from present plans or expectations, and such differences could be material.

Factors that could cause or contribute to such differences include, but are not limited to, those discussed in this document. These statements are subject to risks and uncertainties that could cause actual results to differ materially from those predicted. Also, please see Item 1A “Risk Factors” in our 2010 Form 10-K.

Item 3. Quantitative and Qualitative Disclosures About Market Risk.

Market risk is the risk of loss arising from adverse changes in market rates and prices, such as interest rates, foreign currency exchange rates and commodity prices. Our significant market risks are primarily associated with interest rates and security prices. Reference is made to Part II, Item 7A of our 2010 Form 10-K for disclosures relating to interest rates and our equity prices. Except for the items discussed below, there have been no other material changes to our market risk during the six

months ended June 30, 2011.

Investment Management

The Investment Funds hold investments that are reported at fair value as of the reporting date, which include securities owned, securities sold, not yet purchased and derivatives as reported on our consolidated balance sheets. Based on their respective balances as of June 30, 2011, we estimate that, in the event of a 10% adverse change in the fair value of these investments, the fair values of securities owned, securities sold, not yet purchased, and derivatives would decrease by $731 million, $333 million and $13 million, respectively. However, as of June 30, 2011 we estimate that the impact to our share of the net gain or loss from investment activities reported in our consolidated statement of operations would be significantly less than the change in fair value since we have an investment of approximately 48.3% in the Investment Funds, and the non-controlling interests in income would correspondingly offset approximately 51.7% of the change in fair value.

Automotive

The translated values of revenue and expense from the Federal-Mogul's international operations are subject to fluctuations due to changes in currency exchange rates. During the six months ended June 30, 2011, Federal-Mogul derived 36% of its sales in the United States and 64% internationally. Of these international sales, 38% are denominated in the euro, with no other single currency representing more than 5%. To minimize foreign currency risk, Federal-Mogul generally maintains natural hedges within its non-U.S. activities, including the matching of operational revenues and costs. Where natural hedges are not in place, Federal-Mogul manages certain aspects of its foreign currency activities and larger transactions through the use of foreign currency options or forward contracts. We estimate that a hypothetical 10% adverse movement of all foreign currencies in the same direction against the U.S. dollar over the six months ended June 30, 2011 would have decreased net income attributable to Icahn Enterprises for our Automotive segment by approximately $14 million.

Federal-Mogul operates one manufacturing facility and one technical center in Japan. Federal-Mogul did not experience any loss of property or other assets nor were any of its employees injured as a result of the natural disasters in Japan during the six months ended June 30, 2011. Federal-Mogul does not anticipate any significant impacts to its consolidated financial position, results of operations or cash flows, either directly or indirectly, as a result of this crisis, and will continue to carefully monitor the situation over the coming months.

Item 4. Controls and Procedures.

As of June 30, 2011, our management, including our Principal Executive Officer and Chief Financial Officer, evaluated the effectiveness of the design and operation of Icahn Enterprises' and our subsidiaries' disclosure controls and procedures pursuant to the Rule 13a-15(e) and 15d-15(e) promulgated under the Exchange Act. Based upon that evaluation, our Principal Executive Officer and Chief Financial Officer concluded that our disclosure controls and procedures are currently effective to ensure that information required to be disclosed by us in reports that we file or submit under the Exchange Act is recorded, processed, summarized and reported within the time periods specified in SEC rules and forms, and include controls and procedures designed to ensure that information required to be disclosed by us in such reports is accumulated and communicated to our management, including our Principal Executive Officer and Principal Financial Officer, as appropriate to allow timely decisions regarding required disclosure.

Changes in Internal Control Over Financial Reporting

There have been no changes in our internal control over financial reporting during the first six months of fiscal 2011 that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

PART II. OTHER INFORMATION

Item 1. Legal Proceedings.

Icahn Enterprises and its subsidiaries are parties in a variety of legal actions arising out of the normal course of business. For further information regarding our legal proceedings, see our Legal Proceedings set forth in Part I, Item 3 of our 2010 Form 10-K and Note 18, "Commitments and Contingencies," to our consolidated financial statements included in Part I of this Report. Other than the legal proceedings described below, the legal proceedings as disclosed in our 2010 Form 10-K did not materially change during the period covered by this Report.

Metals

The Environmental Protection Agency, or EPA, has alleged that PSC Metals' scrap processing facility located in Cleveland, Ohio has violated the requirements of Section 608 of the Clean Air Act, 42 USC Section 761, which requires scrap processors to either recover refrigerants from appliances in accordance with the procedures described in the applicable federal regulations or verify through certifications that refrigerants have previously been evacuated. PSC Metals is in the process of negotiating a consent decree with the EPA that would resolve all claims against it. The consent decree would require PSC Metals to pay a civil penalty of $199,000 and would include injunctive relief that would require it to offer refrigerant extraction services at 11 of its scrap processing facilities for the next four years. PSC Metals anticipates the settlement to be final sometime in October 2011. PSC Metals estimates that the cost associated with the required injunctive relief will range from $0.8 million to $1.7 million, exclusive of the civil penalty referenced above.

Home Fashion

We were defendants in two lawsuits, one in the federal courts in New York and one in the Delaware state courts, challenging, among other matters, the status of our ownership interests in the common and preferred stock of WPI. We (through Aretex LLC) had acquired ownership of a majority of the WPI common stock through a July 2005 Sale Order entered by the United States Bankruptcy Court for the Southern District of New York. Under that Sale Order, WPI acquired substantially all of the assets of WestPoint Stevens, Inc. The losing bidders at the Bankruptcy Court auction that led to the Sale Order challenged the Sale Order. In November 2005, the United States District Court for the Southern District of New York modified portions of the Sale Order in a manner that could have reduced our ownership of WPI stock below 50%. In its March 26, 2010 decision, the United States Court of Appeals for the Second Circuit held that we are entitled to own a majority of WPI's common stock, and thus have control of WPI. The Second Circuit ordered the Bankruptcy Court's Sale Order reinstated, to ensure that our percentage ownership of the common stock will be at least 50.5%. The Second Circuit ordered the District Court to remand the matter back to the Bankruptcy Court for further proceedings consistent with its ruling. On remand, the Bankruptcy Court entered an Order on December 6, 2010 implementing the Second Circuit's decision. As a result, after exercise of all subscription rights issued pursuant to the asset purchase agreement and the completion of the subscription rights offering, we (including our affiliates) will beneficially own between 15,150,001 and 23,698,806 shares of WPI common stock, which we expect will represent between 50.5% and 79% of WPI's outstanding common stock, depending upon the extent to which the other holders of subscription rights exercise their subscription rights. The WestPoint Stevens, Inc. bankruptcy case remains open and the Bankruptcy Court retains jurisdiction over the parties.

There was also a proceeding in Delaware Chancery Court, brought by the same "losing bidders" who are parties to the case decided by the Second Circuit. After the ruling by the Second Circuit, the plaintiffs filed a modified third amended complaint in the Delaware case. In that complaint, the plaintiffs pled claims for breach of fiduciary duty (and aiding and abetting such alleged breach) against us, and against Icahn Enterprises Holdings, Carl C. Icahn and others, based on WPI's not having proceeded with a registration statement. Plaintiffs also asserted a contractual claim against WPI relating to the registration statement alleging that, because WPI did not proceed with the registration statement, plaintiffs were unable to sell their securities in WPI, and sought to recover the diminution in the value of those securities. Plaintiffs also asserted a claim for unjust enrichment against all defendants, including us, WPI, Icahn Enterprises Holdings, Carl C. Icahn and others, based on claims that defendants were beneficiaries of a stay order allegedly improperly entered by the Bankruptcy Court. On November 3, 2010, the Chancery Court dismissed the modified third amended complaint in its entirety. Plaintiffs appealed to the Delaware Supreme Court. On August 3, 2011, the Delaware Supreme Court affirmed the judgment of the Chancery Court dismissing the modified third amended complaint, and thus dismissing the case, in its entirety.

Item 1A. Risk Factors.

The risk factors in our 2010 Form 10-K did not materially change during the period covered by this Report other than

those noted below for our Home Fashion segment:

Home Fashion

In light of the recent operating performance and challenging industry conditions, our Home Fashion segment is considering various strategic alternatives which may include, without limitation, joint ventures, other forms of strategic alliances and/or a sale or divestiture of all or a significant portion of its assets.

In light of WPI's recent operating performance and challenging industry conditions, we are considering various strategic alternatives which may include, without limitation, joint ventures, other forms of strategic alliances, and/or a sale or divestiture of all or a significant portion of WPI's assets. We cannot determine whether any of these transactions will be consummated or, if so, upon what terms. Any sale of WPI may result in consideration that is materially less than the carrying value of our investment in WPI.

Item 6. Exhibits.

Exhibit No.	Description
Exhibit 10.1	Loan and Security Agreement, dated as of June 15, 2011, among WestPoint Home, Inc., as the Borrower, the Lenders from time to time party thereto, and Bank of America, N.A., as the Administrative Agent.
Exhibit 10.2	Agreement dated as of March 31, 2011 among Icahn Enterprises L.P., Icahn Enterprises Holdings LP and Icahn Enterprises G.P. Inc., Icahn Onshore LP, Icahn Offshore LP and Icahn Capital LP, Icahn Partners LP, Icahn Partners Master Fund LP, Icahn Partners Master Fund II LP, Icahn Partners Master Fund III LP, Carl C. Icahn, Brett Icahn, Samuel Merksamer, David Schechter, Vincent Intrieri and David Yim.
Exhibit 15.1	Letter of Grant Thornton LLP regarding unaudited interim financial information.
Exhibit 15.2	Letter of Ernst & Young LLP regarding unaudited interim financial information.
Exhibit 31.1	Certification of Principal Executive Officer pursuant to Section 302(a) of the Sarbanes-Oxley Act of 2002 and Rule 13a-14(a) of the Securities Exchange Act of 1934.
Exhibit 31.2	Certification of Chief Financial Officer pursuant to Section 302(a) of the Sarbanes-Oxley Act of 2002 and Rule 13a-14(a) of the Securities Exchange Act of 1934.
Exhibit 32.1	Certification of Principal Executive Officer pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 (18 U.S.C. 1350 and Rule 13a-14(b) of the Securities Exchange Act of 1934.
Exhibit 32.2	Certification of Chief Financial Officer pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 (18 U.S.C. 1350) and Rule 13a-14(b) of the Securities Exchange Act of 1934.
Exhibit 101[1]	The following financial information from Icahn Enterprises' Quarterly Report on Form 10-Q for the quarter ended June 30, 2011, formatted in XBRL (Extensible Business Reporting Language) includes: (i) the Consolidated Balance Sheets as of June 30, 2011 and December 31, 2010, (ii) the Consolidated Statements of Operations for each of the three and six months ended June 30, 2011 and 2010, (iii) the Consolidated Statement of Changes in Equity and Comprehensive Income for the six months ended June 30, 2011, (iv) the Consolidated Statements of Cash Flows for each of the six months ended June 30, 2011 and 2010, and (v) the Notes to the Consolidated Financial Statements.

[1] Pursuant to Rule 406T of Regulation S-T, the Interactive Data Files on Exhibit 101 hereto are deemed not filed or part of a registration statement or prospectus for purposes of Sections 11 or 12 of the Securities Act of 1933, as amended, or deemed not filed for purposes of Section 18 of the Securities and Exchange Act of 1934, as amended, and otherwise are not subject to liability under those sections.

SIGNATURE

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 hereunto duly authorized.

ICAHN ENTERPRISES, L.P.
(Registrant)

By: Icahn Enterprises G.P. Inc., its general partner

By: /s/ Dominick Ragone
Dominick Ragone
Chief Financial Officer

Date: August 9, 2011

EXHIBIT 10.1

AMENDED AND RESTATED LOAN AND SECURITY AGREEMENT

among

WESTPOINT HOME, INC.,

as the Borrower,

the Lenders from time to time party thereto,

and

BANK OF AMERICA, N.A.,

as the Administrative Agent

Dated as of June 15, 2011

MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED,

as the Sole Lead Arranger and Book Manager

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AMENDED AND RESTATED LOAN AND SECURITY AGREEMENT

AMENDED AND RESTATED LOAN AND SECURITY AGREEMENT, dated as of June 15, 2011, among **WESTPOINT HOME, INC**., a Delaware corporation (the "Borrower"), each of the financial institutions identified as a Lender on Schedule 1 (together with each of their respective successors and permitted assigns, each, a "Lender," and collectively, the "Lenders"), and **BANK OF AMERICA, N.A**., a national banking association, in its capacity as a Lender, as the collateral and as the Administrative Agent for the Lenders (together with its successors in such capacity, the "Administrative Agent"), and as the Issuing Bank.

WITNESSETH:

WHEREAS, the Borrower, the Administrative Agent, and certain financial institutions (the "Existing Lenders"), are parties to a certain Loan and Security Agreement dated as of June 16, 2006 (as amended and as in effect on the date hereof, the "Existing Loan Agreement") pursuant to which the Existing Lenders made certain revolving credit loans and letter of credit accommodations to the Borrower.

The Borrower has requested that the Existing Loan Agreement be amended and restated in its entirety to become effective and binding on the Borrower pursuant to the terms hereof. The Administrative Agent and the Lenders (including Bank of America, N.A., as the Existing Lender that is a party hereto) have agreed, subject to the terms of this Agreement, to amend and restate the Existing Loan Agreement in its entirety to read as set forth herein. The parties hereto agree that (a) the commitments that Bank of America, N.A. extended to the Borrower under the Existing Loan Agreement and the commitments of the new Lenders that become parties hereto shall be extended or advanced upon the amended and restated terms and conditions contained in this Agreement, (b) the Loans and other Obligations outstanding under (and as defined in) the Existing Loan Agreement shall be governed by and deemed to be outstanding under the amended and restated terms and conditions contained herein, and (c) all existing Obligations are and shall continue to be (and all Obligations incurred pursuant hereto shall be) secured by the Loan Documents, which for purposes of this Agreement shall include the Loan Documents under (and as defined in) the Existing Loan Agreement, as such Loan Documents may be now or hereafter amended, modified, supplemented or restated in connection with the credit facility under this Agreement.

NOW, THEREFORE, the Borrower, the Lenders and the Administrative Agent hereby agree that the Existing Loan Agreement is hereby amended and restated in its entirety by this Agreement as follows:

ARTICLE I
DEFINITIONS

SECTION 1.1 General Definitions. As used herein, the following terms shall have the meanings herein specified (to be equally applicable to both the singular and plural forms of the terms defined):

"Account Debtor" means a Person who is or becomes obligated under or on account of a Receivable, chattel paper or general intangible.

"Accounts Related Collateral" means and includes (i) all rights to payment for goods sold or leased or for services rendered, whether such rights to payment constitute under Applicable Law accounts, general intangibles, contract rights, documents, chattel paper, instruments or any other classification of property; (ii) all supporting obligations; (iii) all intercompany loans made by the Borrower to any Affiliate or Subsidiary of the Borrower, other than extensions of credit to an Affiliate that is a customer of the Borrower made in the Ordinary Course of Business upon fair and reasonable terms that are no less favorable to the Borrower than would be obtained in a comparable arm's-length transaction with an unaffiliated Person (the "Intercompany Loan Collateral"); (iv) all letter-of-credit rights relating to any such right to payment described in clause (i); (v) all contracts from which any such right to payment has arisen; (vi) all deposit accounts maintained at BofA and all other Pledged Deposit Accounts; (vii) all cash and non-cash proceeds (including insurance proceeds) of any of the foregoing; and (viii) all books and records relating to any of the foregoing, including all invoices, purchase orders, delivery receipts, waybills and payment records, whether or not in written or electronic format or in any other medium.

"Adjusted LIBOR" means for any Interest Period, with respect to LIBOR Rate Advances, the per annum rate of interest (rounded upward, if necessary, to the nearest 1/8th of 1%) determined by the Administrative Agent at approximately 11:00 a.m. (London time) two Business Days prior to commencement of such Interest Period, for a term comparable to such Interest Period, equal to (i) the British Bankers Association LIBOR Rate ("BBA LIBOR"), as published by Reuters (or other commercially available source designated by Agent); or (ii) if BBA LIBOR is not available for any reason, the interest rate at which Dollar deposits in the approximate amount of the LIBOR Rate Advance would be offered by BofA's London branch to major banks in the London interbank Eurodollar market. If the Board of Governors imposes a Reserve Percentage with respect to LIBOR deposits, then Adjusted LIBOR shall be the foregoing rate, divided by 1 minus the Reserve Percentage.

"Administrative Agent" has the meaning specified in the introductory paragraph.

"Advance" means a Base Rate Advance or a LIBOR Rate Advance.

"Affiliate" means, as to any Person, any other Person who directly or indirectly controls, is under common control with, is controlled by or is a director, officer, manager or general partner of such Person. As used in this definition, "control" (including its correlative meanings, "controlled by" and "under common control with") means possession, directly or indirectly, of the power to direct or cause the direction of management or policies (whether through ownership of voting securities or partnership or other ownership interests, by contract or otherwise), provided that any public company that does not conduct business in any material respect in or with the home fashion textile industry shall not be an Affiliate hereunder except for purposes of **Section 6.1(j)**. Notwithstanding the foregoing, (i) unless the Borrower owns more than 25% of the equity interests of such Person, such Person shall not be deemed to be an Affiliate of the Borrower for purposes of the definitions of "Eligible Receivables" and "Eligible Vendor" and (ii)

no Person controlled by Carl C. Icahn, other than Icahn Enterprises and any Subsidiary thereof (including WPI), shall be deemed an Affiliate for such purposes of this Agreement.

"Agent Indemnitees" means the Administrative Agent and Merrill Lynch and all of their respective present and future officers, directors, employees, agents and attorneys.

"Agent Professionals" means attorneys, accountants, appraisers, business valuation experts, environmental engineers or consultants, turnaround consultants and other professionals or experts retained by the Administrative Agent or Merrill Lynch.

"Agreement" means this Amended and Restated Loan and Security Agreement, as amended, supplemented or otherwise modified from time to time.

"Applicable Law" means all laws, rules and regulations applicable to the Person, conduct, transaction, covenant, Loan Document or Material Contract in question, including (i) all applicable common law and equitable principles; (ii) all provisions of all applicable state, federal and foreign constitutions, statutes, rules, regulations and final, non-appealable orders of Governmental Authorities; and (iii) all orders, judgments and decrees of all courts and arbitrators, in each case which are final and non-appealable.

"Applicable Margin" means a percentage equal to 2.00% with respect to Revolving Credit Loans that are Base Rate Advances, and 3.00% with respect to Revolving Credit Loans that are LIBOR Rate Advances; provided that the Applicable Margin shall be increased or (if no Default or Event of Default exists) decreased, on a quarterly basis commencing on October 1, 2011, according to the performance of the Borrower as measured by the Average Excess Availability for the immediately preceding Fiscal Quarter of the Borrower, as follows:

Level	Average Excess Availability	Applicable Margin for Base Rate Advances	Applicable Margin for LIBOR Rate Advances
I	< 33.3% of the Maximum Amount of the Facility	2.5%	**3.5%**
II	≥ 33.3% and ≤ 66.7% of the Maximum Amount of the Facility	2.25%	**3.25%**
III	**> 66.7% of the Maximum Amount of the Facility**	**2%**	**3%**

and provided further that, commencing with the third Business Day after the last day of the first Test Period for which the Fixed Charge Coverage Ratio is greater than 1.00 to 1.00, (i) the Applicable Margin for LIBOR Rate Advances for Level II shall be reduced to 3.00% and for Level III shall be reduced to 2.75%, and (ii) the Applicable Margin for Base Rate Advances for Level II shall be reduced to 2.00% and for Level III shall be reduced to 1.75%.

"Assignment and Acceptance" means an assignment and acceptance entered into by a Lender and its assignee, and accepted by the Administrative Agent, and substantially in the form of **Exhibit B**.

"Auditors" means Grant Thornton LLP or another nationally recognized firm of independent public accountants selected by the Borrower and reasonably satisfactory to the Administrative Agent.

"Availability Block" means, on any date of determination, an amount equal to (i) the greater of (a) 20% of the Maximum Amount of the Facility or (b) $7,500,000, minus (in either case under clause (i)(a) or (i)(b)), (ii) the lesser of (a) 50% of the amount of Suppressed Availability or (b) $5,000,000.

"Availability Reserve" means, on any date of determination, the sum of the reserves that the Administrative Agent may establish from time to time in its Permitted Discretion, including each of the following (without duplication): (i) the aggregate amount equal to three months rent and other charges on each of the Borrower's leased locations at which Collateral is located for which the Administrative has not received a duly executed Collateral Access Agreement (a "Rent Reserve"), (ii) the Bank Products Reserve, (iii) the Dilution Reserve, (iv) the Royalty Reserve, (v) the aggregate amount of liabilities secured by Liens upon Accounts Related Collateral or Inventory Related Collateral that are senior to the Administrative Agent's Liens if such Liens are not Permitted Liens (provided that the imposition of a reserve hereunder on account of such Liens shall not be deemed a waiver of the Event of Default that arises from the existence of such Liens) or are Permitted Liens for property taxes, (vi) accrued and unpaid sales taxes on Inventory sold, (vii) any other Tax Liens if superior to the Administrative Agent's Liens, (viii) the Freight and Duty Reserve, including the aggregate amount of Custom Broker Fees then due and payable by the Borrower (except to the extent that the Administrative Agent has received a duly executed Imported Inventory Agreement from the Person to which such Custom Broker Fees are payable agreeing that any Lien of such Person is subordinate to the Administrative Agent's Lien hereunder), and (ix) any other reserves that the Administrative Agent has determined in is Permitted Discretion are appropriate with respect to the value of the Collateral or the enforceability or priority of the Administrative Agent's Lien thereon; provided, however, that any reserves established with respect to any diminution in value of the Accounts Related Collateral or the Inventory Related Collateral will be limited to the amount believed to reflect such diminution; and provided further, that if the Administrative Agent has established a LC Reserve for LC Obligations with respect to any matter, the Administrative Agent will not also establish an Availability Reserve with respect to the same matter.

"Average Excess Availability" means, for any period, an amount equal to the sum of the amount of Excess Availability on each day during such period, as determined by the Administrative Agent, divided by the number of days in such period.

"Bahrain Subsidiary" means WestPoint Home (Bahrain) WLL, a company organized under the laws of the Kingdom of Bahrain.

"Bank Product Obligations" means obligations of the Borrower in respect of Bank Products.

"Bank Products" means any one or more of the following types of services or facilities extended to the Borrower by BofA, any Affiliate of BofA, any Lender or any Affiliate of a Lender: (i) credit cards; (ii) Cash Management Transactions; and (iii) Hedging Agreements.

"Bank Products Reserve" means, on any date, a reserve established by the Administrative Agent with the consent of the Borrower (which consent the Borrower may withhold in its sole discretion) from time to time with respect to Bank Product Obligations of the Borrower.

"Bankruptcy Code" means Title 11 of the United States Code entitled "Bankruptcy."

"Base Rate" means, for any day, the rate of interest equal to the greatest of (i) the interest rate announced by BofA from time to time as its prime rate on such day, (ii) the Federal Funds Rate for such day plus 0.50%, or (iii) Adjusted LIBOR for a 30 day interest period as determined on such day, plus 1.00%. Such rate is a reference rate only and BofA may make loans or other extensions of credit at, above or below it. Any change in the prime rate announced by BofA shall take effect at the opening of business on the effective date specified in the public announcement of the change.

"Base Rate Advance" means an Advance that bears interest at the Base Rate.

"Beneficial Owner" has the meaning specified in the definition of "Change of Control".

"Blocked Account Bank" means a bank at which a Dominion Account or a Concentration Account is established as provided in **Section 2.7**.

"Blocked Person" has the meaning specified in **Section 6.1(s)**.

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

"BofA" means Bank of America, N.A., a national banking association, and its successors and assigns.

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

"Borrower's Account" means the account maintained by the Borrower at BofA in Dallas, Texas or such other account as the Borrower may from time to time designate in writing to the Administrative Agent.

"Borrowing" has the meaning specified in **Section 2.3(a)**.

"Borrowing Base" means on any date of determination thereof, an amount equal to (i) the lesser of (a) the Maximum Amount of the Facility and (b) the sum of (1) 85% of the Value of Eligible Receivables on such date plus (2) the Inventory Advance Rate multiplied by the Value of Eligible Inventory on such date minus (3) the Availability Reserve on such date, minus (ii) the Availability Block on such date minus (iii) the LC Reserve on such date.

"Borrowing Base Certificate" has the meaning specified in **Section 7.1(k)(iv)**.

"Borrowing Date" means the date on which a Borrowing is obtained.

"Business Day" means any day other than a Saturday, a Sunday or any other day on which commercial banks in New York, New York or Atlanta, Georgia are required or permitted by law to close. When used in connection with any LIBOR Rate Advance, a Business Day shall also exclude any day on which commercial banks are not open for dealings in Dollar deposits in the London interbank market.

"Business Plan" means a business plan of the Borrower and its Subsidiaries, consisting of consolidated and consolidating projected balance sheets, related cash flow statements and related profit and loss statements which covers a one-year period and which is prepared on a quarterly basis.

"Capital Expenditures" means expenditures for any fixed assets or improvements, replacements, substitutions or additions thereto or therefor which have a useful life of more than one year, and shall include all commitments, payments in respect of Capitalized Lease Obligations and leasehold improvements.

"Capitalized Lease Obligations" means any rental obligation which, under GAAP, is or will be required to be capitalized on the books of the lessee, taken at the amount thereof accounted for as Indebtedness (net of Interest Expense) in accordance with GAAP.

"Cash Collateral" means cash, and any interest or other income earned thereon, that is deposited with the Administrative Agent in accordance with this Agreement to Cash Collateralize any LC Obligations or other Obligations.

"Cash Collateral Account" means a demand deposit, money market or other account established by the Administrative Agent at BofA or such other financial institution as the Administrative Agent may select in its discretion, which account shall be in the Administrative Agent's name and subject to the Administrative Agent's Liens.

"Cash Collateralize" means, with respect to LC Obligations arising from Letters of Credit outstanding on any date or Obligations arising under Hedging Agreements on such date, the deposit with the Administrative Agent of immediately available funds into the Cash Collateral Account in an amount equal to 105% of the sum of the aggregate undrawn amounts of such Letters of Credit and other LC Obligations, all Obligations existing under such Hedging Agreements, and all related fees and other amounts due or to become due in connection with such LC Obligations and Hedging Agreements.

"Cash Dominion Notice" means a written notice from the Administrative Agent to a bank at which a Dominion Account is maintained that a Cash Dominion Period is in effect.

"Cash Dominion Period" means each period of time that (i) commences upon the occurrence of a Default or an Event of Default and ends on the date that such Default or Event of Default ceases to exist or is waived in writing by the Administrative Agent, or (ii) commences on any date that Excess Availability is less than 10% of the Maximum Amount of the Facility, and ends on the date that Excess Availability is greater than 10% of the Maximum Amount of the Facility for 30 consecutive days; provided, however, that a Cash Dominion Period will not

commence pursuant to clause (ii) hereof at any time there are no Loans outstanding and Excess Availability is greater than $5,000,000.

"Cash Dominion Termination Notice" means a written notice from the Administrative Agent to a bank at which a Dominion Account is maintained that a Cash Dominion Period as to which a Cash Dominion Notice was previously given is no longer in effect.

"Cash Equivalents" means (i) securities issued, guaranteed or insured by the United States or any of its agencies with maturities of not more than one year from the date acquired; (ii) securities issued, guaranteed or insured by any state of the United States or any public instrumentality thereof with maturities of not more than one year from the date acquired and, at the time of acquisition, having one of the three highest ratings obtainable from either Standard & Poor's Ratings Services or Moody's Investors Service, Inc.; (iii) time deposits, term deposits and certificates of deposit with maturities of not more than one year from the date acquired, issued by (A) the Administrative Agent or any Lender or any of their respective Affiliates, (B) any U.S. federal or state chartered commercial bank of recognized standing which has capital and unimpaired surplus in excess of $500,000,000 or (C) any bank or its holding company that has a short-term commercial paper rating of at least A-1 or the equivalent by Standard & Poor's Ratings Services or at least P-1 or the equivalent by Moody's Investors Service, Inc.; (iv) repurchase agreements and reverse repurchase agreements with terms of not more than 30 days from the date acquired, for securities of the type described in clause (i) or (ii) above and entered into only with commercial banks having the qualifications described in clause (iii) above or such other financial institutions with a short-term commercial paper rating of at least A-1 or the equivalent by Standard & Poor's Ratings Services or at least P-1 or the equivalent by Moody's Investors Service, Inc.; (v) commercial paper issued by any Person incorporated under the laws of the United States or any state thereof and rated at least A-1 or the equivalent thereof by Standard & Poor's Ratings Services or at least P-1 or the equivalent thereof by Moody's Investors Service, Inc., in each case with maturities of not more than one year from the date acquired; and (vi) investments in money market funds registered under the Investment Company Act of 1940, which have net assets of at least $500,000,000 and at least 85% of whose assets consist of securities and other obligations of the type described in clauses (i) through (v) above.

"Cash Management Transactions" means any cash management, disbursement or related services, including overdrafts and the automatic clearing house transfer of funds provided by BofA or any Lender or by any Affiliate of BofA or of any Lender for the account of the Borrower.

"Change of Control" means, with respect to the Borrower, the consummation of any transaction (including any merger or consolidation), the result of which is that any of Carl C. Icahn and the Related Parties are no longer the Beneficial Owners, directly or indirectly, of at least a majority of the Voting Stock of the Borrower. For purposes of the definition of Change in Control, the following capitalized terms shall have the following meanings: "Beneficial Owner" has the meaning ascribed to such term in Rule 13d-3 and Rule 13d-5 under the Exchange Act. The terms "Beneficially Owns" and "Beneficially Owned" have a corresponding meaning. "Exchange Act" means the Securities Exchange Act of 1934, as amended, and any successor thereto. "Related Parties" means: (1) Carl C. Icahn, any spouse and any child, stepchild, sibling or descendant of Carl C. Icahn; (2) any estate of Carl C. Icahn or of any person under clause (1);

(3) any person who receives a beneficial interest in any estate under clause (2) to the extent of such interest; (4) any executor, personal administrator or trustee who holds such beneficial interest in the estate for the benefit of, or as fiduciary for, any person under clauses (1), (2) or (3) to the extent of such interest; (5) any corporation, partnership, limited liability company, trust, or similar entity, directly or indirectly owned or controlled by Carl C. Icahn or any other person or persons identified in clauses (1), (2), (3) or (4); or (6) any not-for-profit entity not subject to taxation pursuant to Section 501(c)(3) of the Internal Revenue Code or any successor provision to which Carl C. Icahn or any person identified in clauses (1), (2), or (3) above contributes his beneficial interest in the Borrower or to which such beneficial interest passes pursuant to such person's will. "Voting Stock" means, with respect to a corporation, any class or series of capital stock of such corporation that is ordinarily entitled to vote in the election of directors thereof at a meeting of stockholders called for such purpose.

"Chipley Facility" means the Borrower's manufacturing facility located in Chipley, Washington County, Florida.

"Claims" has the meaning specified in **Section 10.4**.

"Closing Date" means the date of execution and delivery of this Agreement by the Borrower, BofA and the Administrative Agent.

"Collateral" means all of the following Property of the Borrower:

(i) All Accounts Related Collateral;

(ii) All Inventory Related Collateral;

(iii) All Equipment Related Collateral; and

(iv) All proceeds and products of the property and assets described in the foregoing clauses.

"Collateral Access Agreements" means a landlord waiver, mortgagee waiver, bailee letter or similar acknowledgment of any lessor, warehouseman or processor in possession of any Collateral or on whose property any Collateral is located, in form and substance reasonably satisfactory to the Administrative Agent.

"Collections" means all cash, funds, checks, notes, instruments, any other form of remittance tendered by Account Debtors in respect of payment of Receivables of the Borrower and any other payments received by the Borrower with respect to any Collateral.

"Commitment" means at any date for any Lender, the obligation of such Lender to make Revolving Credit Loans and to purchase participations in LC Obligations pursuant to the terms and conditions of this Agreement, which shall not exceed the principal amount set forth opposite such Lender's name on Schedule 1 to this Agreement or the principal amount set forth in the Assignment and Acceptance by which it became a Lender, as modified from time to time pursuant to the terms of this Agreement or to give effect to any applicable Assignment and Acceptance; and "Commitments" means the aggregate principal amount of the Commitments of

all Lenders, the maximum amount of which on any date shall be $50,000,000, as reduced from time to time pursuant to **Section 2.1(c)**.

"Compliance Certificate" has the meaning specified in **Section 7.1(k)(iii)**.

"Concentration Account" means an account maintained by the Borrower at BofA, to which all monies from time to time deposited to a Dominion Account shall be transferred.

"Confidentiality Agreement" means an agreement substantially in the form of **Exhibit H**.

"Continuation" has the meaning specified in **Section 2.3(b)**.

"Convert," "Conversion" and "Converted" each refers to conversion of Advances of one Type into Advances of another Type pursuant to **Section 2.3(c)**.

"Covered Information" has the meaning specified in **Section 10.14(a).**

"Customer Accommodation" has the meaning specified in the definition of "Eligible Receivables".

"Customs Broker" means a Person serving as a customs broker for the Borrower in connection with the Borrower's importation of Inventory.

"Customs Broker Fees" means with respect to any Customs Broker, all fees, expense reimbursement and other amounts owing by Borrower to such Customs Broker.

"Default" means any of the events specified in **Section 8.1**, whether or not any of the requirements for the giving of notice, the lapse of time, or both, or any other condition, has been satisfied.

"Defaulting Lender" has the meaning specified in **Section 2.10**.

"Default Rate" has the meaning specified in **Section 4.2**.

"Deposit Account Control Agreement" means each Deposit Account control agreement to be executed by each institution maintaining a Pledged Deposit Account, including each Dominion Account and each Concentration Account, in each case in favor of the Administrative Agent, for the benefit of the Secured Parties, as security of the Obligations.

"Dilution Percent" means the percent equal to (i) the sum of the aggregate amount of bad debt write downs or write offs, discounts, returns, promotions, credits, credit memos and other dilutive items with respect to the Borrower's Receivables, divided by (ii) the Borrower's gross sales.

"Dilution Reserve" means, without duplication with respect to any other reserve on any date of determination, a reserve established and revised from time to time by the Administrative Agent equal to, if positive, (i) the amount (in percentage points) by which the Dilution Percent for the immediately preceding 12 Fiscal Month period, as determined by the Administrative

Agent's most recent field audit, exceeds 5%, multiplied by (ii) the gross amount of Eligible Receivables on such date before deduction of the Borrower's Customer Accommodation reserves, minus (iii) the Borrower's Customer Accommodation reserves on such date.

"Distribution" means any declaration or payment of a distribution, interest or dividend on any Equity Interest (other than payment-in-kind); any distribution, advance or repayment of Indebtedness to a holder of Equity Interests (other than payments of interest accruing on or after the Closing Date in respect of Indebtedness owing by the Borrower to WPI); any purchase, redemption, or other acquisition or retirement for value of any Equity Interest; or any prepayment of any Indebtedness other than the Obligations.

"Document" has the meaning specified in the UCC.

"Dollars" and the sign "$" means freely transferable lawful currency of the United States.

"Domestic In-Transit Inventory" means Inventory that has been purchased by the Borrower and that is in-transit from a Vendor from a location within the continental United States to the Borrower or a location designated by the Borrower that is in the continental United States.

"Dominion Account" means a special account of the Administrative Agent established by the Borrower at BofA or another bank selected by the Borrower, but acceptable to the Administrative Agent in its reasonable discretion, and over which the Administrative Agent shall have exclusive access and control for withdrawal purposes to the extent specified in **Section 2.7**.

"EBITDA" means net income after taxes, calculated in accordance with GAAP, excluding interest expense or interest income, provision for income taxes or credits, depreciation and amortization expense, gains or losses arising from the sale of capital assets, gains arising from the write-up of assets, losses from the write-off or impairment of assets (other than Receivables or Inventory), and any extraordinary gains or losses (in each case, to the extent included in determining net income after taxes).

"Eligible Assignee" means a Person that is (i) a Lender, a U.S. based Affiliate of a Lender or an Approved Fund (as defined below); (ii) a commercial bank, finance company, or other financial institution, in each case that is organized under the laws of the United States or any state, has total assets in excess of $25 billion, extends asset-based lending facilities of the type contemplated herein in the Ordinary Course of Business and whose becoming an assignee would not constitute a prohibited transaction under Section 4975 of ERISA or any other Applicable Law, is acceptable to the Administrative Agent and, unless an Event of Default exists, the Borrower (such approval by the Borrower, when required, not to be unreasonably withheld or delayed and to be deemed given by the Borrower if no objection is received by the assigning Lender and the Administrative Agent from the Borrower within two Business Days after notice of such proposed assignment has been provided by the assigning Lender as set forth in **Section 11.3**); and, at any time that an Event of Default exists, any other Person acceptable to the Administrative Agent in its discretion. The term "Approved Fund" means any Person (other than a natural person) that is engaged in making, purchasing, holding or investing in bank loans and similar extensions of credit in the Ordinary Course of Business of such Person and that is

administered or managed by (a) a Lender, (b) an Affiliate of a Lender or (c) an entity or an Affiliate of an entity that administers or manages a Lender.

"Eligible Customs Broker" means a Customs Broker which is reasonably acceptable to the Administrative Agent and with which the Administrative Agent and the Borrower have entered into an Imported Inventory Agreement.

"Eligible In-Transit Inventory" means on any date, In-Transit Inventory that meets all of the criteria for Eligible Inventory on such date, provided that (i) such Inventory has been identified to the contract between the Vendor and the Borrower and, under the terms of sale of such Inventory, title has passed with respect to such Inventory from the Vendor to the Borrower on or before such date; (ii) such Inventory is insured by the Borrower in accordance with the requirements of **Section 7.1(f)** hereof, (iii) the Vendor has no right on such date, under Applicable Law or pursuant to any document relating to the sale of such Inventory, to reclaim, divert the shipment of, reroute, repossess, stop delivery of or otherwise assert any Lien rights or title retention with respect to such Inventory; (iv) such Inventory is in the possession of a common carrier, which is not an Affiliate of the Vendor and which has issued a tangible negotiable bill of lading to the order of the Borrower (or, if otherwise required by the Administrative Agent in its discretion, to the order of the Administrative Agent (if necessary to obtain a first priority Lien in the related Inventory)); (v) such bill of lading (or an original counterpart thereof in the case of Foreign In-Transit Inventory) is in the possession, in the United States, of the Borrower, Lender or an Eligible Customs Broker; (vi) the Vendor of such Inventory is an Eligible Vendor (or, in the case of Foreign In-Transit Inventory, the purchase price is to be paid pursuant to a documentary Letter of Credit issued by Lender); and (vii) in the case of Foreign In-Transit Inventory, the Inventory is to be received by an Eligible Customs Broker and the terms of the applicable Imported Inventory Agreement with respect to such Foreign In-Transit Inventory are adhered to by the parties thereto.

"Eligible Inventory" means Inventory of the Borrower consisting of raw materials, work-in-process consisting of yarn or finished goods, which is free from any Lien in favor of any Person (other than Liens in favor of the Administrative Agent or Permitted Liens). The value of Eligible Inventory shall be computed at the lower of cost (computed on a "first in, first out" basis) or market. No Inventory of the Borrower shall be Eligible Inventory unless the Administrative Agent has a perfected first priority Lien thereon. Unless it is Eligible In-Transit Inventory, Inventory shall not be Eligible Inventory if it is not located (i) in the United States, and (ii) in a facility owned or leased by the Borrower, unless it is in a contract warehouse, and the Inventory is separately identifiable from any other goods (if any), and, unless a Rent Reserve has been established with respect thereto, the warehouseman has delivered to the Administrative Agent, if requested, a subordination agreement in form and substance reasonably satisfactory to the Administrative Agent. In addition, the Administrative Agent may treat any Inventory as not being Eligible Inventory to the extent of the Value of such Inventory that the Administrative Agent determines is: (a) slow moving, obsolete and defective inventory, (b) packing and shipping materials, (c) samples, display items, bags, replacement parts or manufacturing supplies, or is (d) unmerchantable, (e) Inventory that does not meet all material standards imposed by any Governmental Authority, or constitutes Hazardous Materials under any Environmental Law, (f) waste or scrap material, (g) subject to any license or other arrangement (except any agreement or arrangement relating to or providing for Royalties) that restricts the

Borrower's or the Administrative Agent's right to dispose of such Inventory, and (h) reflected in reserves for inventory shrinkage, shortages for physical inventory counts, and (without duplication) other reserves.

"Eligible Receivables" means and includes only those unpaid Receivables of the Borrower, without duplication, which (i) arise out of a bona fide sale of goods or rendition of services of the kind ordinarily sold or rendered by the Borrower in the Ordinary Course of Business, (ii) are owed by a Person competent to contract for such goods or services that is not an Affiliate or an employee of the Borrower (provided that Receivables that have a value of up to $5,000,000 in aggregate amount owed by Affiliates in which the Borrower owns 50% or less of the Equity Interests and that are otherwise Eligible Receivables shall not be excluded by this clause (ii)), (iii) are not subject to renegotiation or redating, and (iv) are free and clear of any Lien in favor of any Person other than Permitted Liens. Without duplication, no Receivable shall be an Eligible Receivable (a) unless the Administrative Agent has a perfected first priority Lien thereon, (b) if it is more than 120 days past the date of the original invoice therefor or more than 60 days past its due date, (c) if 50% or more of the Receivables owing by the Account Debtor are not Eligible Receivables under the foregoing clause, (d) if the goods or services giving rise to it have not been delivered to and accepted by the Account Debtor, or it otherwise does not represent a final sale, (e) if, when aggregated with other Receivables owing by the Account Debtor, it exceeds 15% of the aggregate Eligible Receivables (provided, however, that the limitation for each of Ralph Lauren, Target and Wal-Mart shall be 25%, and any other Account Debtor with an unsecured debt rating of BBB or better from Standard & Poor's shall be 20%), (f) if it is owing by a creditor or supplier, (g) if it is subject to a potential offset, counterclaim, dispute, deduction, discount, recoupment, reserve, defense, chargeback, rebate, credit, or allowance (but ineligibility shall be limited to the amount thereof), (h) without duplication, that are Receivables for which the Borrower has established reserves (but only to the extent of the amount of such reserves) for anticipated credits, discounts, and allowances ("Customer Accommodations") (i) if an Insolvency Proceeding has been commenced by or against the Account Debtor, or the Account Debtor has failed, has suspended or ceased doing business, is liquidating, dissolving or winding up its affairs, or is not Solvent (provided that, with the consent of the Administrative Agent (not to be unreasonably withheld or delayed), Receivables owing by any Account Debtor which arose after the filing by any such Account Debtor of a petition under Chapter 11 of the Bankruptcy Code may be deemed not to be ineligible pursuant to this clause (i)), (j) if the Account Debtor is organized or has its principal offices outside the United States or Canada (provided that otherwise Eligible Receivables owed by such foreign Account Debtors will be Eligible Receivables in an aggregate amount on any date of determination equal to 5% of the total amount of Eligible Receivables on such date, or such greater amount as may be approved by the Administrative Agent in its sole discretion), (k) if it is evidenced by chattel paper or an instrument of any kind, or has been reduced to judgment, (l) if the amount remaining of an invoice that the Account Debtor has made a partial payment against, if the Borrower has placed such balance into its deduction management system, (m) if it arises from a sale on a cash on delivery basis, (n) if it is a sale on a bill-and-hold, guaranteed sale, sale-or-return, sale-on-approval, consignment, or other repurchase or return basis, (o) if it represents a progress billing or retainage, (p) if it includes a billing for interest, fees or late charges, but ineligibility shall be limited to the extent thereof, (q) if it arises from a retail sale to a Person who is purchasing for personal, family or household purposes, and (r) if the Receivable evidences any amount that the Borrower has no legal right to collect.

"Eligible Vendor" means on any date, a Vendor that (i) is the seller of Domestic In-Transit Inventory and the Borrower is not in breach of any of its material obligations to such Vendor, (ii) is a seller of Foreign In-Transit Inventory to the Borrower and the purchase price for such Inventory is paid or to be paid pursuant to a documentary Letter of Credit issued by Issuing Bank and the Borrower is not in breach of any of its material obligations to such Vendor, or (iii) is a seller of Foreign In-Transit Inventory to the Borrower, such Vendor is not an Affiliate of the Borrower, and the Borrower is not in breach of any of its material obligations to such Vendor.

"Enforcement Action" means any action to enforce any Obligations or Loan Documents or to realize upon any Collateral (whether by judicial action, self-help, notification of Account Debtors, exercise of setoff or recoupment, or otherwise).

"Environmental Laws" means all federal, state and local statutes, laws (including common or case law), regulations or orders applicable to the business or property of a Person relating to pollution or protection of human health or the environment (including ambient air, surface water, ground water, land surface or subsurface strata) including laws and regulations relating to emissions, discharges, releases or threatened releases of Hazardous Materials, or otherwise relating to the manufacture, processing, distribution, use, treatment, storage, disposal, transport or handling of any Hazardous Materials.

"Equipment Related Collateral" means and includes all of the following personal property of the Borrower that is now or at any time hereafter located at the Chipley Facility: (i) all machinery, vehicles, furniture, fixtures, equipment, parts, tools, supplies, and all other goods constituting "equipment" under the UCC, together with all accessions thereto; (ii) all general intangibles relating in any way to any goods described in clause (i), including any warranties of title and intellectual property that are used in connection with such goods; (iii) all commercial tort claims relating in any way to any goods described in clause (i); (iv) all documents relating to any equipment, including any documents of title (such as bills of lading or warehouse receipts) evidencing the ownership of or right to receive or possess any Inventory; (v) all cash and non-cash proceeds (including insurance proceeds) of any of the foregoing, and (vi) all books and records relating to any of the foregoing, whether or not in written or electronic format or in any other medium.

"Equity Interest" means the interest of any (i) shareholder in a corporation; (ii) partner in a partnership (whether general, limited, limited liability or joint venture); (iii) member in a limited liability company; or (iv) other Person having any other form of equity security or ownership interest.

"ERISA" means the Employee Retirement Income Security Act of 1974.

"ERISA Affiliate" means any entity required to be aggregated with the Borrower under Section 414(b), (c), (m) or (o) of the Internal Revenue Code.

"ERISA Event" means any of the following events, which, when taken together with all other ERISA Events that have occurred, could reasonably be expected to result in Material Adverse Effect: (i) the failure of any Title IV Plan to meet, or the filing of an application for a waiver of, the minimum funding standard (whether or not waived) under Section 412 of the

Internal Revenue Code or Section 302 of ERISA; (ii) the termination of, or receipt by the Borrower or any of its Subsidiaries of a notice from the PBGC or a plan administrator of an intention to terminate or to appoint a trustee to administer, any Title IV Plan under Section 4041(c) or 4042 of ERISA; (iii) the imposition of a lien, charge or encumbrance on the assets of the Borrower or any of its Subsidiaries in favor of the PBGC or any other entity, with respect to the funding of any Title IV Plan (other than a Permitted Lien); (iv) any person shall engage in any non-exempt "prohibited transaction" (within the meaning of Section 406 of ERISA or Section 4975 of the Internal Revenue Code) involving any employee benefit plan; (v) any "reportable event", as defined in Section 4043 of ERISA or the regulations issued thereunder with respect to a Title IV Plan (other than an event for which the 30-day notice period is waived by the PBGC), or (vi) (A) the incurrence by the Borrower or any of its ERISA Affiliates of any withdrawal liability, or (B) the receipt by Borrower or any of its ERISA Affiliates of any notice of a determination that a Multiemployer Plan is, or is expected to be, insolvent or in reorganization within the meaning of Title IV of ERISA.

"Event of Default" means the occurrence of any of the events specified in **Section 8.1**.

"Excess Availability" means, as of any date of determination thereof, the excess as of such date of (i) the Borrowing Base minus (ii) the aggregate principal amount of the Loans outstanding.

"Exchange Act" has the meaning specified in the definition of "Change of Control".

"Existing Letters of Credit" means those letters of credit outstanding as of the date of this Agreement previously issued by BofA for the account of the Borrower, all of which letters of credit are listed on **Exhibit J** hereto.

"Expiration Date" means the date that is the soonest to occur of (i) the last day of the Term; (ii) the date on which either the Borrower or the Administrative Agent terminates the Commitments pursuant to **Section 2.8**; or (iii) the date on which the Commitments are automatically terminated pursuant to **Section 8.2(b)**.

"Extraordinary Expenses" means all reasonable out-of-pocket costs, expenses or advances that the Administrative Agent may incur during the continuation of an Event of Default, or during the pendency of an Insolvency Proceeding of the Borrower, including those relating to (i) any audit, inspection, repossession, storage, repair, appraisal, insurance, manufacture, preparation or advertising for sale, sale, collection, or other preservation of or realization upon any Collateral; (ii) any action, arbitration or other proceeding (whether instituted by or against the Administrative Agent, any Lender, the Borrower, any representative of creditors of the Borrower or any other Person) in any way relating to any Collateral (including the validity, perfection, priority or avoidability of the Administrative Agent's Liens with respect to any Collateral), any Loan Documents or any Obligations; (iii) the exercise, protection or enforcement of any rights or remedies of the Administrative Agent in, or the monitoring of, any Insolvency Proceeding; (iv) settlement or satisfaction of any Taxes, charges or Liens with respect to any Collateral; (v) any Enforcement Action; or (vi) negotiation and documentation of any modification, waiver, workout, restructuring or forbearance with respect to any Loan Documents or Obligations; and any such costs, expenses of advances that the Administrative Agent, to the

extent permitted by this Agreement, may incur during the continuation of a Default relating to any audit, inspection, or appraisal of any Collateral. Such costs, expenses and advances include transfer fees, taxes, storage fees, insurance costs, permit fees, utility reservation and standby fees, legal fees, appraisal fees, brokers' fees and commissions, auctioneers' fees and commissions, accountants' fees, environmental study fees, wages and salaries paid to employees of the Borrower or independent contractors in liquidating any Collateral, and travel expenses.

"Fee Letter" means the letter agreement as to the payment by the Borrower of certain fees to the Administrative Agent, for its own account.

"Federal Funds Rate" means, for any period, a fluctuating interest rate per annum equal for each date during such period to the weighted average of the rates on overnight federal funds transactions with members of the Federal Reserve System arranged by federal funds brokers, as published for such day (or, if such day is not a Business Day, for the next preceding Business Day) in Atlanta, Georgia by the Federal Reserve Bank of Atlanta, or if such rate is not so published for any day which is a Business Day, the average of the quotations for such day on such transactions received by Agent from three federal funds brokers of recognized standing selected by Agent.

"Financial Statements" means, with respect to the Borrower and its Subsidiaries, or with respect to the annual audited consolidated financial statements of WPI and its consolidated Subsidiaries, as the case may be, the balance sheets, profit and loss statements, and statements of cash flow for the period specified, prepared in accordance with GAAP consistently applied.

"Fiscal Month" means each of the 12 consecutive four- or five- week periods beginning on the first day of the Fiscal Year, in the pattern 5,4,4 within a Fiscal Quarter.

"Fiscal Quarter" means each of the four consecutive periods of 13 weeks, beginning on the first day of the Fiscal Year.

"Fiscal Year" means the Borrower's Fiscal Year for financial accounting purposes beginning on January 1 of each calendar year and ending on December 31 of the same calendar year and when followed or preceded by the designation of a calendar year, means such period ending on December 31 of such designated calendar year.

"Fixed Charge Coverage Ratio" means EBITDA divided by Fixed Charges.

"Fixed Charges" means the sum of cash payments of interest, principal payments made on Indebtedness other than Revolving Credit Loans, payments permitted pursuant to **Section 7.2(f)**, and Capital Expenditures (except those financed with Indebtedness other than Revolving Credit Loans, and cash proceeds received from the sale of Equipment and Real Property).

"Foreign In-Transit Inventory" means Inventory of the Borrower that is in-transit from a Vendor of the Borrower from a location outside the continental United States to the Borrower or a location designated by Borrower that is in the continental United States.

"Foreign Lender" means any Lender that is organized under the laws of a jurisdiction other than the laws of the United States, any state thereof or the District of Columbia.

"Freight and Duty Reserve" means, on any date, a reserve equal to the Administrative Agent's estimate of the costs and expenses associated with the importation of In-Transit Inventory as of such date, including an estimate for all Customs Broker Fees then due or to become due with respect to In-Transit Inventory.

"Full Payment" means, on any date of determination, with respect to any Obligations, (i) the full and indefeasible cash payment thereof, including any interest, fees and other charges accruing during an Insolvency Proceeding (whether or not allowed in the proceeding); (ii) if such Obligations are LC Obligations, Cash Collateralization thereof (or delivery of a standby letter of credit acceptable to the Administrative Agent in its discretion, in the amount of required Cash Collateral); (iii) if the Borrower has provided an indemnity in any of the Loan Documents with respect to such Obligations, and such Obligations are not due and payable on such date but can reasonably be expected to arise out of a claim that on such date is pending or has been overtly asserted against the Administrative Agent or a Lender (the "Unmatured Indemnification Obligations"), cash collateralization thereof (or delivery of a standby letter of credit acceptable to the Administrative Agent in its discretion) in an amount that is equal to the amount of the Unmatured Indemnification Obligations or, if such claim is unliquidated in amount, the Administrative Agent's good faith estimate of the amount of the Unmatured Indemnification Obligations; and (iv) a release of any Claims of the Borrower against the Administrative Agent, Lenders and Issuing Bank arising on or before the payment date, except for Claims against any Indemnified Party that the Borrower asserts have directly resulted from such Indemnified Party's gross negligence or willful misconduct and that the Borrower discloses in writing to the Administrative Agent and the Indemnified Party on the payment date, in the form attached hereto as **Exhibit K**. No Loans shall be deemed to have been paid in full until all Commitments related to such Loans have expired or been terminated.

"GAAP" means generally accepted accounting principles set forth in the opinions and pronouncements of the Accounting Principles Board of the American Institute of Certified Public Accountants and statements and pronouncements of the Financial Accounting Standards Board that are applicable to the circumstances as of the date of determination.

"Governing Documents" means, with respect to any Person, the certificate of incorporation and bylaws or similar organizational documents of such Person.

"Governmental Authority" means any nation or government, any state or other political subdivision thereof or any entity exercising executive, legislative, judicial, regulatory or administrative functions thereof or pertaining thereto.

"Hazardous Materials" means any and all pollutants, contaminants and toxic, caustic, radioactive and hazardous materials, substances and wastes including petroleum or petroleum distillates, asbestos or urea formaldehyde foam insulation or asbestos-containing materials, whether or not friable, polychlorinated biphenyls, radon gas, infectious or medical wastes and all other substances or wastes of any nature, that are regulated under any Environmental Laws.

"Hedging Agreement" means any interest rate protection agreement, foreign currency exchange agreement, commodity price protection agreement or other interest or currency exchange rate or commodity price hedging agreement.

"Icahn Enterprises" means Icahn Enterprises L.P., a Delaware limited partnership, formerly known as American Real Estate Partners, L.P.

"Imported Inventory Agreement" means an Imported Inventory Agreement in the form annexed hereto as **Exhibit I** or in any other form reasonably satisfactory to the Administrative Agent (it being agreed that the failure of such other form not to have a provision relating to a subordination of Liens by the Customs Broker party thereto shall not, in and of itself, be deemed to make such other form not reasonably satisfactory).

"Indebtedness" means, with respect to the Borrower or any other Person, as of the date of determination thereof (without duplication), (i) all obligations of such Person for borrowed money of any kind or nature, including funded and unfunded debt, regardless of whether the same is evidenced by any note, debenture, bond or other instrument, (ii) all obligations of such Person to pay the deferred purchase price of property or services (other than current trade accounts payable under normal trade terms and which arise in the Ordinary Course of Business), (iii) all obligations of such Person to acquire or for the acquisition or use of any fixed asset, including Capitalized Lease Obligations (other than, in any such case, any portion thereof representing interest or deemed interest or payments in respect of taxes, insurance, maintenance or service), or improvements which are payable over a period longer than one year, regardless of the term thereof or the Person or Persons to whom the same are payable, (iv) the then outstanding amount of withdrawal or termination liability incurred by or imposed on the Borrower or its Subsidiaries under ERISA, (v) all Indebtedness of others secured by (or for which the holder of such Indebtedness has an existing right to be secured) a Lien on any asset of such Person whether or not the Indebtedness is assumed by such Person, provided that, for the purpose of determining the amount of Indebtedness of the type described in this clause (v), if recourse with respect to such Indebtedness is limited to the assets of such Person, then the amount of Indebtedness shall be limited to the fair market value of such assets, (vi) all Indebtedness of others to the extent guaranteed by such Person and (vii) all obligations of such Person in respect of letters of credit, bankers acceptances or similar instruments issued or accepted by banks or other financial institutions for the account of such Person. For the avoidance of doubt, (A) Indebtedness as defined herein shall include all Indebtedness of a Person owing to an Affiliate of such Person and (B) obligations of a Person under an Operating Lease shall not constitute Indebtedness.

"Indemnified Party" has the meaning specified in **Section 10.4(a)**.

"Indemnitees" means the Agent Indemnitees, the Lender Indemnitees and the Issuing Bank Indemnitees.

"Insolvency Event" means, with respect to any Person, the occurrence of any of the following: (i) such Person shall be adjudicated insolvent or bankrupt or institutes proceedings to be adjudicated insolvent or bankrupt, or shall generally fail to pay or admit in writing its inability to pay its debts as they become due, (ii) such Person shall seek dissolution or reorganization or

the appointment of a receiver, trustee, custodian or liquidator for it or a substantial portion of its Property or business or to effect a plan or other arrangement with its creditors, (iii) such Person shall make a general assignment for the benefit of its creditors, or consent to or acquiesce in the appointment of a receiver, trustee, custodian or liquidator for a substantial portion of its Property or business, (iv) such Person shall file a voluntary petition under any bankruptcy, insolvency or similar law, (v) such Person shall take any corporate or similar act in furtherance of any of the foregoing, or (vi) such Person, or a substantial portion of its Property or business, shall become the subject of an involuntary proceeding or petition for (A) its dissolution or reorganization or (B) the appointment of a receiver, trustee, custodian or liquidator, and (I) such proceeding shall not be dismissed or stayed within 90 days or (II) such receiver, trustee, custodian or liquidator shall be appointed; provided, however, that the Administrative Agent, the Lenders and Issuing Bank shall have no obligation to make any Advance or procure or issue any Letter of Credit during the pendency of any 90-day period described in clauses (A) and (B).

"Insolvency Proceeding" means any action, case or proceeding commenced by or against a Person under any state, federal or foreign law, or any agreement of such Person, for (i) the entry of an order for relief under any chapter of the Bankruptcy Code or other insolvency or debt adjustment law (whether state, federal or foreign), (ii) the appointment of a receiver (or administrative receiver), trustee, liquidator, administrator, conservator or other custodian for such Person or any of the Collateral having a value of $10,000,000 or more or any material part of its Property, (iii) an assignment or trust mortgage for the benefit of creditors of such Person, or (iv) the liquidation, dissolution or winding up of the affairs of such Person.

"Intercompany Loan Collateral" has the meaning specified in the definition of "Accounts Related Collateral".

"Interest Expense" means, for any period, all interest with respect to Indebtedness (including the interest component of Capitalized Lease Obligations) accrued or capitalized during such period (whether or not actually paid during such period) determined in accordance with GAAP.

"Interest Period" means the period commencing on the date of a LIBOR Rate Advance and ending one, two, three or six months thereafter; provided, however, that (i) the Borrower may not select any Interest Period that ends after the Expiration Date; (ii) whenever the last day of an Interest Period would otherwise occur on a day other than a Business Day, the last day of such Interest Period shall be extended to occur on the next succeeding Business Day, except that, if such extension would cause the last day of such Interest Period to occur in the next following calendar month, then the last day of such Interest Period shall occur on the next preceding Business Day; and (iii) if there is no corresponding date of the month that is one, two, three or sixth months, as the case may be, after the first day of an Interest Period, such Interest Period shall end on the last Business Day of such first, second, third or sixth month, as the case may be.

"Internal Revenue Code" means the Internal Revenue Code of 1986, any amendments thereto, any successor statute and any regulations and guidelines promulgated thereunder.

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

"In-Transit Inventory" means Inventory of the Borrower that is either Domestic In-Transit Inventory or Foreign In-Transit Inventory.

"Inventory" means all present and future goods of which the Borrower has title intended for sale, lease or other disposition including all raw materials, work in process, finished goods and other retail inventory, goods in the possession of outside processors or other third parties, consigned goods (to the extent of the consignee's interest therein), materials and supplies of any kind, nature or description which are or might be used in connection with the manufacture, packing, shipping, advertising, selling or finishing of any such goods, all documents of title or documents representing the same and all records, files and writings with respect thereto.

"Inventory Advance Rate" means, on any date of determination, the lesser of (i) 65% and (ii) a fraction, the numerator of which is equal to 85% of the Net Orderly Liquidation Value of the Borrower's Inventory, and the denominator of which is the Value of the Borrower's Eligible Inventory as of the date of the determination of the Net Orderly Liquidation Value of the Borrower's Eligible Inventory, in each case as determined and reported on the most recent Inventory Appraisal received by the Administrative Agent which is determined by the Administrative Agent to have been conducted in accordance with its instructions related to the procedures for conducting such appraisal. As used herein, "Eligible Inventory" means, at any time in which the Inventory Advance Rate is based on an Inventory Appraisal, the Value of Eligible Inventory as established by the Inventory Appraisal, after consultation with the Administrative Agent.

"Inventory Appraisal" means an appraisal of the Borrower's Inventory which shall specify, both the Value and the Net Orderly Liquidation Value of the various categories of such Inventory and which is performed by (i) the Administrative Agent or (ii) at the Administrative Agent's election or (provided no Event of Default exists) at the request of the Borrower, by an independent appraiser selected from a list provided by the Administrative Agent of approved independent appraisers for appraisals of such type which list has been delivered by the Administrative Agent to the Borrower (the Administrative Agent may amend such list from time to time by notice given to the Borrower, but in no event shall the total number of appraisers appearing on such list be less five); and if the Administrative Agent has performed or caused to be performed more than one such appraisal of the Borrower's Inventory, then the Net Orderly Liquidation Value on any date for Borrower's Inventory (or any category thereof) shall be the value determined from the most recent appraisal of the Borrower's Inventory that is conducted pursuant to this Agreement and the report of which is satisfactory to the Administrative Agent. If the Borrower does not agree with the Net Orderly Liquidation Value of the Inventory as determined by the independent appraiser, then the Borrower (at the Borrower's own expense) may select from the list provided by the Administrative Agent of approved independent appraisers for appraisals of such type another independent appraiser to conduct an appraisal of the Borrower's Inventory and, upon the Administrative Agent's receipt and approval of such second appraisal, the Net Orderly Liquidation Value then shall be the average of the Net Orderly Liquidation Value determined from the two appraisals.

"Inventory Related Collateral" means and includes all of the following property of the Borrower: (i) all goods held for sale or lease, raw materials, work in process and finished goods, and all other goods constituting "inventory" under the UCC, including packaging or shipping

materials, labels, samples or supplies and returned or rejected goods (whether or not any of the foregoing constitute Eligible Inventory); (ii) all general intangibles relating in any way to any goods described in clause (i), including any warranties of title and intellectual property (such as trademarks, patents, brand names or trade names, including the registered patents and trademarks and applications therefor listed on Schedule 3) owned by the Borrower that are used in the manufacture, marketing, distribution or sale of any Inventory; (iii) all commercial tort claims relating in any way to any goods described in clause (i); (iv) all documents relating to any Inventory, including any documents of title (such as bills of lading or warehouse receipts) evidencing the ownership of or right to receive or possess any Inventory; (v) all cash and non-cash proceeds (including insurance proceeds) of any of the foregoing, and (vi) all books and records relating to any of the foregoing whether or not in written or electronic format or in any other medium.

"Investment" in any Person means, as of the date of determination thereof, (i) any payment or contribution, or commitment to make a payment or contribution, by a Person including property contributed or committed to be contributed by such Person for or in connection with its acquisition of any Equity Interests of the Person in whom such Investment is made, (ii) any acquisition of any assets of a Person, or (iii) any loan, advance or other extension of credit or guaranty of or other surety obligation for any Indebtedness of such Person in whom the Investment is made. In determining the aggregate amount of Investments outstanding at any particular time, (A) a guaranty (or other surety obligation) shall be valued at the principal outstanding amount of the primary obligation; (B) returns of capital (but only by repurchase, redemption, retirement, repayment, liquidating dividend or liquidating distribution) shall be deducted; (C) earnings, whether as dividends, interest or otherwise, shall not be deducted; and (D) decreases in the market value shall not be deducted unless such decreases are computed in accordance with GAAP.

"Issuing Bank" means BofA, in its capacity as issuer of Letters of Credit hereunder, or any successor issuer of Letters of Credit hereunder.

"Issuing Bank Indemnitees" means Issuing Bank and its officers, directors, employees, Affiliates, agents, advisors and attorneys.

"Joint Venture" means any partnership or other entity in which the Borrower owns at least 50% of the equity interests, and which is not a Subsidiary.

"LC Application" means an application by the Borrower to Issuing Bank for issuance of a Letter of Credit, in form and substance satisfactory to Issuing Bank.

"LC Conditions" means the following conditions necessary for issuance of a Letter of Credit: (a) each of the conditions set forth in **Article V** is satisfied; (b) after giving effect to such issuance, of the requested Letter of Credit and all other unissued Letters of Credit for which an LC Application has been signed by the Borrower and approved by the Administrative Agent and Issuing Bank, the LC Obligations would not exceed $40,000,000 and no Overadvance would exist, and, if no Revolving Credit Loans are outstanding, the LC Obligations do not, and would not upon the issuance of the requested Letter of Credit, exceed the Borrowing Base; (iii) such Letter of Credit has an expiration date that is no more than 365 days from the date of issuance in

the case of standby Letters of Credit and no more than 180 days from the date of issuance in the case of documentary Letters of Credit and, in either event, such expiration date is at least 30 days prior to the last Business Day of the Term unless otherwise agreed by the Administrative Agent in its reasonable discretion; (iv) the currency in which payment is to be made under the Letter of Credit is Dollars; and (v) the form of the proposed Letter of Credit is satisfactory to the Administrative Agent and Issuing Bank in their reasonable discretion, provides for sight drafts only and does not contain any language that automatically increases the amount available to be drawn under the Letter of Credit.

"LC Documents" means all documents, instruments and agreements (including LC Requests and LC Applications) delivered by the Borrower or any other Person to Issuing Bank in connection with issuance, amendment or renewal of, or payment under, any Letter of Credit.

"LC Facility" means the subfacility for Letters of Credit established as part of the Commitments pursuant to **Section 2.2**.

"LC Obligations" means the sum (without duplication) of (i) all amounts owing by the Borrower for any drawings under Letters of Credit; and (ii) the aggregate undrawn amount of all outstanding Letters of Credit.

"LC Request" means a request for issuance of a Letter of Credit, to be provided by the Borrower to Issuing Bank.

"LC Reserve" means, at any date, the aggregate of all LC Obligations on such date, other than LC Obligations that the Borrower shall Cash Collateralize on or prior to such date.

"Lender" or "Lenders" has the meaning specified in the introductory paragraph.

"Lender Indemnitees" means Lenders and all of their respective present and future officers, directors, employees, agents and attorneys.

"Letter of Credit" means each Existing Letter of Credit and any standby or documentary letter of credit issued by Issuing Bank for the account of the Borrower, or any indemnity, guarantee, exposure transmittal memorandum or similar form of credit support issued by Issuing Bank for the benefit of the Borrower.

"Liabilities" of a Person as of the date of determination thereof means the liabilities of such Person on such date as determined in accordance with GAAP. Liabilities to Affiliates of such Person shall be treated in accordance with GAAP or as otherwise provided herein.

"LIBOR Rate Advance" means an Advance that bears interest based on Adjusted LIBOR.

"Licensor Agreement" means that certain Licensor Agreement dated June 16, 2006, among the Borrower, WP IP LLC and the Administrative Agent pursuant to which WP IP LLC grants an irrevocable license to the Administrative Agent to use the trademarks and patents owned by WP IP LLC on the terms set forth therein, as amended by a certain letter agreement among the parties thereto dated on or about the Closing Date, and as at any time further amended, restated supplemented or otherwise modified.

"Lien" any interest in Property securing an obligation owed to, or a claim by, a Person other than the owner of the Property, whether such interest is based on common law, statute or contract. The term "Lien" shall also include, with respect to any Real Property, reservations, exceptions, encroachments, easements, rights of way, covenants, conditions, restrictions, leases and other title exceptions and encumbrances affecting such real estate. For the purpose of this Agreement, the Borrower shall be deemed to be the owner of any Property which it has acquired or holds subject to a conditional sale agreement or other arrangement pursuant to which title to the Property has been retained by or vested in some other Person for security purposes.

"Loan Account" has the meaning specified in **Section 2.6**.

"Loan Documents" means this Agreement, the Security Documents, and all documents and instruments executed and delivered by the Borrower under or in connection with this Agreement, as each of the same may be amended, restated, supplemented or otherwise modified from time to time, including the Notes and the Security Documents.

"Loans" means the Revolving Credit Loans and the Swingline Loans.

"Material Adverse Effect" means (i) the effect of any event or circumstance that, taken alone or in conjunction with other events or circumstances, has or could be reasonably expected to have a material adverse effect on the business, operations, results of operations, Properties, liabilities or condition (financial or otherwise) of the Borrower, on the enforceability of any Loan Documents, the validity or priority of the Administrative Agent's Liens on any material portion of the Collateral, or (ii) the impairment of (A) the Borrower's ability to perform its obligations under the Loan Documents to which it is a party, including repayment of any of the Obligations when due, or (B) the ability of the Administrative Agent or the Lenders to enforce or collect any Obligations or realize upon any material portion of the Collateral; provided, however, that (A) a material adverse change in (I) the global, United States or regional economy generally, (II) home fashion textile manufacturing, distribution or marketing conditions generally or (III) global or United States securities markets, (B) a change in Applicable Law, or (C) a change caused by any announcement of the transactions contemplated by this Agreement shall not, in and of itself, be deemed to have a Material Adverse Effect.

"Material Contract" means an agreement to which the Borrower is a party (other than the Loan Documents) for which breach, termination, cancellation, nonperformance or failure to renew could reasonably be expected to have a Material Adverse Effect.

"Material Indebtedness" means Indebtedness (other than the Loans) of the Borrower in an aggregate principal amount exceeding $10,000,000. For purposes of this definition, the "principal amount" of the obligations of the Borrower in respect of any Hedging Agreement at any time shall be the maximum aggregate amount (giving effect to any netting agreements) that the Borrower would be required to pay if such Hedging Agreement were terminated at such time.

"Maximum Amount of the Facility" means $50,000,000, as such amount may be reduced from time to time in accordance with **Sections 2.1(c)** and **8.2**.

"Merrill Lynch" means Merrill Lynch, Pierce, Fenner & Smith Incorporated, a Delaware corporation.

"Multiemployer Plan" means a multiemployer plan, as defined in Section 4001(a)(3) of ERISA, to which the Borrower or any ERISA Affiliate has contributed within the past six years.

"Net Orderly Liquidation Value," with respect to any Inventory of the Borrower on any date, means the orderly liquidation value of such Inventory expected to be realized at an orderly, negotiated sale held within a reasonable period of time, net of all reasonable liquidation expenses, as determined from the most recent Inventory Appraisal obtained by the Administrative Agent on or before the date of determination of such Net Orderly Liquidation Value.

"Non-Consenting Lender" has the meaning specified in **Section 9.17**.

"Notes" means the Revolving Credit Notes.

"Notice of Borrowing" has the meaning specified in **Section 2.3(a)**.

"Notice of Continuation/Conversion" has the meaning specified in **Section 2.3(b)**.

"Obligations" means and includes all loans (including the Loans), advances (including the Advances), debts, liabilities, obligations, covenants and duties owing by the Borrower to the Administrative Agent or the Lenders of any kind or nature, present or future, whether or not evidenced by any note, guaranty or other instrument, which may arise under, out of, or in connection with, this Agreement, the Notes, the other Loan Documents, or any other agreement executed in connection herewith or therewith, or Secured Bank Product Obligations, whether or not for the payment of money, whether arising by reason of an extension of credit, opening, guaranteeing or confirming of a letter of credit, loan, guaranty, indemnification or in any other manner, whether direct or indirect (including those acquired by assignment, purchase, discount or otherwise), whether absolute or contingent, due or to become due, and however acquired. The term includes all Loans made in excess of the limitations specified in **Section 2.5(a)** and all interest (including interest accruing on or after an Insolvency Event, whether or not such interest constitutes an allowed claim), charges, expenses, commitment, facility, closing and collateral management fees, attorneys' fees, and any other sum properly chargeable to the Borrower under this Agreement, the Notes, the other Loan Documents or any other agreement executed in connection herewith or therewith, including Extraordinary Expenses.

"Operating Lease" means a lease treated as an operating lease in accordance with GAAP.

"Ordinary Course of Business" means, with respect to any transaction involving any Person, the ordinary course of such Person's business, as conducted by such Person in accordance with past practices, and undertaken by such Person in good faith and not for the purpose of evading any covenant or restriction in any Loan Document. Notwithstanding the foregoing, the Borrower's past practices prior to any date of determination shall not be relevant to a determination of the Ordinary Course of Business of the Borrower, and any change made in the conduct or operation of the Borrower's business arising from matters approved by the Borrower's Board of Directors shall be deemed to be in the Ordinary Course of Business of the Borrower.

"Overadvance" has the meaning specified in **Section 2.1(d)**.

"Overadvance Loan" means a Revolving Credit Loan made or outstanding when an Overadvance exists or the amount of any Revolving Credit Loan which, when funded, results in an Overadvance.

"Participant" has the meaning specified in **Section 11.2(a)**.

"Patent Security Agreement" means each patent security agreement pursuant to which the Borrower grants to the Administrative Agent and not previously withdrawn by the Borrower, for the benefit of Secured Parties, a Lien on the Borrower's interests in its patents, as security for the Obligations.

"PATRIOT Act" has the meaning specified in **Section 6.1(s)**.

"Payment Item" means each check, draft, or other item of payment payable to the Borrower, including those evidencing or constituting proceeds of any of the Collateral.

"PBGC" means the Pension Benefit Guaranty Corporation and any Person succeeding to the functions thereof.

"Pending Revolving Credit Loans" means, at any date, the aggregate principal amount of all Revolving Credit Loans which have been requested in any Notice of Borrowing received by the Administrative Agent but which have not theretofore been advanced by the Administrative Agent or the Lenders.

"Permitted Discretion" means the commercially reasonable exercise of the Administrative Agent's good faith credit judgment in accordance with customary business practices for comparable asset-based lending transactions in the Borrower's industry in consideration of any factor which is reasonably likely to (i) materially and adversely affect the value of any Accounts Related Collateral or Inventory Related Collateral, the enforceability or priority of the Liens thereon or the amount that the Administrative Agent and the Lenders would be likely to receive (after giving consideration to delays in payment and costs of enforcement) in the liquidation thereof, or (ii) establish that any Collateral report or Collateral-related information delivered to the Administrative Agent or the Lenders by any Person on behalf of the Borrower is incomplete, inaccurate or misleading in any material respect. In exercising such commercially reasonable credit judgment, the Administrative Agent may consider, without duplication, such factors already included in or tested by the definition of Eligible Accounts or Eligible Inventory, as well as any of the following: (i) changes after the Closing Date in any material respect in collection history and dilution or collectability with respect to the Receivables; (ii) changes after the Closing Date in any material respect in demand for, pricing of, or product mix of Inventory; (iii) changes after the Closing Date in any material respect in any concentration of risk with respect to the respective the Borrower's Receivables or Inventory; and (iv) any other factors arising after the Closing Date that change in any material respect the credit risk of lending to the Borrower on the security of the Borrower's Receivables or Inventory.

"Permitted Liens" means: (i) Liens for Taxes, assessments and other governmental charges or levies (excluding any Lien imposed pursuant to any of the provisions of ERISA) not yet due and payable, (ii) Liens the claims or demands of landlords, carriers, warehousemen, mechanics, laborers, materialmen and other like Persons arising by operation of law or in the

Ordinary Course of Business, but only if and for so long as (x) payment in respect of any such Lien is not at the time required or the Indebtedness secured by any such Liens is being Properly Contested and (y) such Liens do not materially detract from the value of the property of the Borrower and do not materially impair the use thereof in the operation of the Borrower's business, (iii) deposits or pledges (other than Liens on Collateral) to secure the payment of worker's compensation, unemployment insurance or other social security benefits or obligations, public or statutory obligations, surety or appeal bonds, bid or performance bonds, or other obligations of a like nature incurred in the Ordinary Course of Business, (iv) zoning restrictions, easements, encroachments, licenses, restrictions or covenants on the use of any Real Property which do not materially impair either the use of such Real Property in the operation of the business of the Borrower or the value of such Real Property, (v) inchoate Liens arising under ERISA to secure current service pension liabilities as they are incurred under the provisions of employee benefit plans from time to time in effect, (vi) rights of general application reserved to or vested in any Governmental Authority to control or regulate any Property, or to use any Property in a manner which does not materially impair the use of such Property for the purposes for which it is held by the Borrower, (vii) Liens securing purchase money Indebtedness and Capitalized Lease Obligations permitted by the provisions of **Section 7.2(d)** hereof (provided such Liens only relate to the assets acquired with the proceeds of such Indebtedness and Capitalized Lease Obligations, and the proceeds thereof), (viii) existing Liens set forth on Schedule 6.1(t) hereto, and (ix) state Tax liens securing liabilities aggregating less than $1,000,000 at any one time outstanding, and (ix) Liens at any time granted in favor of the Administrative Agent.

"Person" means any individual, sole proprietorship, partnership, limited liability company, joint venture, trust, unincorporated organization, joint stock company, association, corporation, institution, entity, party or government (including any division, agency or department thereof) or any other legal entity, whether acting in an individual, fiduciary or other capacity, and, as applicable, the successors, heirs and assigns of each. For the avoidance of doubt, a Subsidiary or other Affiliate of the Borrower shall constitute a separate Person.

"Plan" means any employee benefit plan, as defined in Section 3(3) of ERISA, maintained or contributed to by the Borrower (other than a Multiemployer Plan) or with respect to which any of them may incur liability even if such plan is not covered by ERISA pursuant to Section 4(b)(4) thereof.

"Pledged Deposit Accounts" means the deposit accounts specified in Schedule 2 and any other deposit account of the Borrower in which any proceeds of any Collateral are on deposit from time to time.

"Properly Contested" means in the case of any Indebtedness of the Borrower (including any Taxes) that is not paid as and when due or payable by reason of the Borrower's bona fide dispute concerning its liability to pay same or concerning the amount thereof, (i) such Indebtedness is being contested in good faith by appropriate proceedings promptly instituted and diligently conducted; (ii) the Borrower has established appropriate reserves as shall be required in conformity with GAAP; (iii) the non-payment of such Indebtedness will not have a Material Adverse Effect; (iv) no Lien is imposed upon any of the Collateral with respect to such Indebtedness unless such Lien is at all times junior and subordinate in priority to the Liens in

favor of the Administrative Agent (except only with respect to Taxes that have priority as a matter of Applicable Law) and enforcement of such Lien is stayed during the period prior to the final resolution or disposition of such dispute; (v) if the Indebtedness results from, or is determined by the entry, rendition or issuance against the Borrower or any of the Collateral of a judgment, writ, order or decree, enforcement of such judgment, writ, order or decree is stayed pending a timely appeal or other judicial review; and (vi) if such contest is abandoned, settled or determined adversely (in whole or in part) to the Borrower, the Borrower forthwith pays such Indebtedness and all penalties, interest and other amounts due in connection therewith.

"Property" means any interest in any kind of property or asset, whether real, personal or mixed and whether tangible or intangible.

"Proposed Tax Law Change" means (i) any proposal of any legislation, regulation, rule or treaty, which when passed, enacted or ratified, would constitute a Tax Law Change by any Governmental Authority which sets forth an effective date for such Tax Law Change, or (ii) with respect to any treaty in effect on the Closing Date, the failure of such treaty to be renewed or extended or replaced by any other treaty by the date that is 60 days prior to any scheduled expiration or earlier termination of such treaty.

"Proprietary Rights" means all of a Person's now owned and hereafter arising or acquired: licenses, franchises, permits, patents, patent rights, copyrights, works which are the subject matter of copyrights, trademarks, service marks, trade names, trade styles, patent, trademark and service mark applications, and all licenses and rights related to any of the foregoing, and all other rights under any of the foregoing, all extensions, renewals, reissues, divisions, continuations, and continuations-in-part of any of the foregoing, and all rights to sue for past, present and future infringement of any of the foregoing.

"Pro Rata" means, with respect to any Lender, a fraction (expressed as a percentage) (i) at any time before the Expiration Date, the numerator of which is the Commitment of such Lender and the denominator of which is the aggregate amount of the Commitments of all the Lenders, and (ii) at any time on and after the Expiration Date, the numerator of which is the aggregate unpaid principal amount of the Loans made by such Lender and the denominator of which is the aggregate unpaid principal amount of all Loans, at such time.

"Protective Advances" has the meaning specified in **Section 2.1(e)**.

"Qualification" means, with respect to any report of independent public accountants covering Financial Statements, a material qualification to such report (i) resulting from a limitation on the scope of examination of such Financial Statements or the underlying data, (ii) as to the capability of the Borrower to continue operations as a going concern or (iii) which could be eliminated by changes in Financial Statements or notes thereto covered by such report (such as by the creation of or increase in a reserve or a decrease in the carrying value of assets) and which if so eliminated by the making of any such change and after giving effect thereto would result in a Default or an Event of Default.

"Real Property" means all right, title and interest (whether as owner, lessor or lessee) in any real Property or any buildings, structures, parking areas or other improvements thereon.

"Receivables" means all present and future accounts, leases, instruments and chattel paper and all claims against third parties, drafts, acceptances, letters of credit, rights to receive payments under letters of credit, letter-of-credit rights, book accounts, credits, reserves, computer tapes, programs, discs, software, books, ledgers, files and records relating to such accounts, leases, instruments and chattel paper, together with all supporting obligations and all right, title, security and guaranties with respect to any of the foregoing, including any right of stoppage in transit.

"Refinancing Debt" means Indebtedness that is permitted by **Section 7.2(d)** and that is the subject of an extension, renewal or refinancing.

"Reimbursement Date" has the meaning specified in **Section 2.2(b)(i)**.

"Related Parties" has the meaning specified in the definition of "Change of Control".

"Report" has the meaning specified in **Section 9.1(e)**.

"Reportable Event" means any of the events described in Section 4043 of ERISA and the regulations thereunder, other than a reportable event for which the 30-day notice requirement to the PBGC has been waived.

"Required Lenders" means the Lenders holding more than 50% of the aggregate amount of Loans and Commitments.

"Requirement of Law" means (i) the Governing Documents, (ii) any law, treaty, rule, regulation, order or determination of an arbitrator, court or other Governmental Authority or (iii) any franchise, license, lease, permit, certificate, authorization, qualification, easement, right of way, or other right or approval binding on the Borrower or any of its property.

"Reserve Percentage" means the reserve percentage (expressed as a decimal, rounded upward to the nearest 1/8th of 1%) applicable to member banks under regulations issued from time to time by the Board of Governors for determining the maximum reserve requirement (including any emergency, supplemental or other marginal reserve requirement) with respect to Eurocurrency funding (currently referred to as "Eurocurrency liabilities").

"Responsible Officer" means the Chief Executive Officer, the Chief Financial Officer, the Chief Operating Officer (if any), the Controller, or the Treasurer of the Borrower, as each such term is defined or otherwise used in the bylaws of the Borrower or in any resolution of the Borrower's board of directors, or any other individual designated in writing by the Chief Executive Officer or the Chief Financial Officer of the Borrower as a "Responsible Officer" for purposes hereof.

"Revolving Credit Loans" means a loan made pursuant to **Section 2.1**, and any Swingline Loan or Overadvance Loan.

"Revolving Credit Note" has the meaning specified in **Section 2.1(b)**.

"Royalties" means royalties that are payable by the Borrower in respect of Proprietary Rights licensed to it in connection with the manufacture, sale or distribution by the Borrower of any Inventory.

"Royalty Reserve" means, on any date, an amount equal to the sum of: (i) all Royalties that are more than 60 days past due and payable by the Borrower on such date, and (ii) all Royalties that would be payable upon the sale or other disposition of Eligible Inventory, assuming (for purposes of calculating the amount of such reserve) that such Eligible Inventory would be sold at its Value.

"Secured Bank Product Obligations" means Bank Product Obligations (including indebtedness arising under Hedging Agreements) in respect of any Bank Product that either (i) the Borrower agrees in writing with the Administrative Agent and provider of such Bank Product at the time such Bank Product is extended to the Borrower are Obligations under this Agreement that are to be secured by the Collateral, or (B) constitute Cash Management Transactions with BofA or any Affiliate of BofA.

"Secured Parties" means the Administrative Agent, Issuing Bank, Lenders (including BofA as provider of the Swingline Loans) and any Lender (and any Affiliate of any Lender) as the provider of any Bank Products.

"Security Documents" means any Patent Security Agreement, any Trademark Security Agreement, each Deposit Account Control Agreement, and all other instruments and agreements now or at any time hereafter securing the whole or any part of the Obligations.

"Settlement" has the meaning specified in **Section 2.3(h)(i)**.

"Settlement Date" has the meaning specified in **Section 2.3(h)(i)**.

"Solvent" means, when used with respect to any Person, that as of the date as to which such Person's solvency is to be measured:

(i) the fair saleable value of its assets is in excess of (A) the total amount of its liabilities (including contingent, subordinated, absolute, fixed, matured, unmatured, liquidated and unliquidated liabilities) and (B) the amount that will be required to pay the probable liability of such Person on its debts as such debts become absolute and matured;

(ii) it has sufficient capital to conduct its business; and

(iii) it is able to meet its debts as they mature.

"Subsidiary" means a corporation or other entity in which the Borrower directly or indirectly owns or controls the shares of stock or other ownership interests having ordinary voting power to elect a majority of the board of directors or other governing body, or to appoint the majority of the managers of, such corporation or other entity.

"Suppressed Availability" means, on any date of determination, an amount equal to (i) the sum of (a) 85% of the Value of Eligible Receivables on such date plus (b) the Inventory

Advance Rate multiplied by the Value of Eligible Inventory on such date, minus (ii) the Maximum Amount of the Facility on such date.

"Swingline Lender" means BofA.

"Swingline Loans" has the meaning specified in **Section 2.2(g)**.

"Tax Law Change" means any amendment or change to any legislation, rule, regulation, court interpretation or decision, or treaty or any other Applicable Law (including any expiration or termination of any bilateral or multilateral treaty) which regulates, imposes or exempts any Lender from Taxes applicable to such Lender.

"Taxes" means any taxes, levies, imposts, duties, fees, assessments, deductions, withholdings or other charges of whatever nature, including income, receipts, excise, property, sales, use, transfer, license, payroll, withholding, social security, franchise, intangibles, stamp or recording taxes imposed by any Governmental Authority, and all interest, penalties and similar liabilities relating thereto.

"Term" has the meaning specified in **Section 2.8(a)**.

"Test Period" means the most recent 12 Fiscal Months for which financial statements have been provided in accordance with **Section 7.1(k)(iii)**.

"Trademark Security Agreement" means each trademark security agreement pursuant to which the Borrower grants to the Administrative Agent, for the benefit of Secured Parties, a Lien on the Borrower's interests in trademarks, as security for the Obligations.

"Transferee" has the meaning specified in **Section 11.3**.

"Type" means a Base Rate Advance or a LIBOR Rate Advance.

"UCC" means the Uniform Commercial Code as in effect from time to time in the State of New York.

"Unused Line Fee" has the meaning specified in **Section 4.4**.

"Value" means (i) for Inventory, its value determined on the basis of the lower of cost or market, calculated on a first-in, first out basis in accordance with GAAP; and (ii) for a Receivable, its face amount, net of any returns, rebates, discounts (calculated on the shortest terms), credits, allowances or Taxes (including sales, excise or other Taxes) that have been or could be claimed by the Account Debtor or any other Person.

"Vendor" means a Person that sells Inventory to the Borrower.

"Voting Stock" has the meaning specified in the definition of "Change of Control".

"WP IP LLC" means the Borrower's wholly owned subsidiary, WP IP LLC, a Nevada limited liability company.

"WPI" means WestPoint International, Inc., a Delaware corporation.

SECTION 1.2 Accounting Terms and Determination. Unless otherwise defined or specified herein, all accounting terms used in this Agreement shall be construed in accordance with GAAP, applied on a basis consistent in all material respects with the Financial Statements delivered to the Administrative Agent on or before the Closing Date. The Financial Statements required to be delivered hereunder from and after the Closing Date, and all financial records, shall be maintained in accordance with GAAP.

SECTION 1.3 Other Terms; Headings. Unless otherwise defined herein, terms used herein that are defined in the UCC, shall have the meanings given in the UCC. A Default or an Event of Default be deemed to "continue" or be "continuing" or shall be deemed to exist at all times during the period commencing on the date that such Default or Event of Default occurs to the date on which such Default or Event of Default is waived in writing by the Administrative Agent (acting with the consent or at the direction of the Lenders or the Required Lenders, as applicable) pursuant to this Agreement or is cured. The headings and the Table of Contents are for convenience only and shall not affect the meaning or construction of any provision of this Agreement. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. The words "include", "includes" and "including" shall be deemed to be followed by the phrase "without limitation". The word "will" shall be construed to have the same meaning and effect as the word "shall". Unless the context requires otherwise (i) any definition of or reference to any agreement, instrument or other document herein or in any other Loan Document shall be construed as referring to such agreement, instrument or other document as from time to time amended, restated, supplemented or otherwise modified (subject to any restrictions on such amendments, supplements or modifications set forth herein or in any other Loan Document), (ii) any reference herein to any Person shall be construed to include such Person's successors and permitted assigns, (iii) the words "herein", "hereof" and "hereunder", and words of similar import, shall be construed to refer to this Agreement in its entirety and not to any particular provision hereof, (iv) all references herein to Articles, Sections, Exhibits and Schedules shall be construed to refer to Articles and Sections of, and Exhibits and Schedules to, this Agreement, and (v) all references to statutes shall include all related rules and implementing regulations and any amendments of same and any successor statutes, rules and regulations. All calculations of Value shall be in Dollars, all Loans shall be funded in Dollars and all Obligations shall be repaid in Dollars. Whenever the phrase "to the best of the Borrower's knowledge" or words of similar import relating to the knowledge or the awareness of the Borrower are used in this Agreement or other Loan Documents, such phrase shall mean and refer to the actual knowledge of the Chief Executive Officer or Chief Financial Officer of the Borrower.

ARTICLE II
THE CREDIT FACILITIES

SECTION 2.1 The Revolving Credit Loans.

(a) Each Lender agrees, severally to the extent of its Commitment and not jointly with the other Lenders, upon the terms and subject to the conditions set forth herein, to make Revolving Credit Loans to the Borrower on any Business Day during the period from the Closing Date through the Business Day before the last day of the Term, not to exceed in

aggregate principal amount outstanding at any time such Lender's Commitment at such time, which Revolving Credit Loans may be repaid and reborrowed in accordance with the provisions of this Agreement; provided, however, that Lenders shall have no obligation to the Borrower whatsoever to honor any request for a Revolving Credit Loan on or after the Expiration Date or if at the time of the proposed funding thereof the aggregate principal amount of all of the Revolving Credit Loans then outstanding (including Swingline Loans) and Pending Revolving Credit Loans exceeds, or would exceed after the funding of such Revolving Credit Loan, the Borrowing Base. Each Borrowing of Revolving Credit Loans shall be funded by Lenders on a Pro Rata basis in accordance with their respective Commitments (except for BofA with respect to Swingline Loans). The Revolving Credit Loans shall bear interest as set forth in **Sections 4.1** and **4.2**. Each Revolving Credit Loan shall, at the option of the Borrower, be made or continued as, or converted into, part of one or more Borrowings that, unless specifically provided herein, shall consist entirely of Base Rate Advances or LIBOR Rate Advances.

(b) The Revolving Credit Loans made by each Lender shall (at the request of the respective Lender made on not less than five Business Days' notice to the Administrative Agent and the Borrower) be evidenced by a promissory note payable to the order of such Lender, substantially in the form of **Exhibit A** (as amended, restated, supplemented or otherwise modified from time to time, a "Revolving Credit Note"), executed by the Borrower and delivered to the Administrative Agent. The Revolving Credit Note payable to the order of a Lender shall be in a stated maximum principal amount equal to such Lender's Pro Rata share of the Maximum Amount of the Facility. In the absence of a Revolving Credit Note payable to the order of a Lender, the Revolving Credit Loans made by such Lender shall be evidenced by this Agreement.

(c) The Borrower may permanently reduce the Commitments, on a Pro Rata basis for each Lender, with a corresponding reduction in the Maximum Amount of the Facility, upon at least five days prior written notice to the Administrative Agent. The Administrative Agent shall promptly transmit such notice to each Lender. Any such notice of reduction shall specify the amount of the reduction, shall be irrevocable once given and shall be effective, subject to the Administrative Agent's actual receipt thereof, as of the first day of the next month. Each reduction shall be in a minimum amount of $1,000,000, or an increment of $100,000 in excess thereof. If on the effective date of any such reduction in the Commitments and after giving effect thereto an Overadvance exists, then the provisions of **Section 2.1(d)** shall apply, except that such repayment shall be due immediately upon such effective date without further notice to or demand upon Borrower. If the Commitments are reduced to zero, then such reduction shall be deemed a termination of the Commitments by Borrower pursuant to **Section 2.8(c)**. The Commitments, once reduced, may not be reinstated without the written consent of all Lenders.

(d) If the aggregate Revolving Credit Loans outstanding exceed the Borrowing Base (such that Excess Availability would be less than $0) ("Overadvance") at any time, the excess amount shall be payable by the Borrower **on demand** by the Administrative Agent, but all such Revolving Credit Loans shall nevertheless constitute Obligations secured by the Collateral and entitled to all benefits of the Loan Documents. Unless its authority has been revoked in writing by Required Lenders, the Administrative Agent may require Lenders to honor requests for Overadvance Loans and to forbear from requiring Borrower to cure an Overadvance, (a) when no other Event of Default is known to the Administrative Agent, as long as (i) the

Overadvance does not continue for more than 30 consecutive days (and no Overadvance may exist for at least five consecutive days thereafter before further Overadvance Loans are required), and (ii) the Overadvance is not known by the Administrative Agent to exceed the lesser of $5,000,000 or 5% of the Borrowing Base; and (b) regardless of whether an Event of Default exists, if the Administrative Agent discovers an Overadvance not previously known by it to exist, as long as from the date of such discovery the Overadvance (i) is not increased by more than $2,500,000, and (ii) does not continue for more than 30 consecutive days. In no event shall Overadvance Loans be required that would cause the outstanding Revolving Credit Loans and LC Obligations to exceed the Maximum Amount of the Facility. Any funding of an Overadvance Loan or sufferance of an Overadvance shall not constitute a waiver by the Administrative Agent or the Lenders of the Event of Default caused thereby. In no event shall the Borrower be deemed a beneficiary of this Section nor authorized to enforce any of its terms.

(e) The Administrative Agent shall be authorized, in its discretion, at any time that a Default or Event of Default exists or any conditions in **Article V** are not satisfied, and without regard to the Maximum Amount of the Facility, to make Base Rate Advances ("Protective Advances") (i) up to an aggregate amount equal to the lesser of (A) 5% of the Borrowing Base and (B) $5,000,000 outstanding at any time, if the Administrative Agent deems such Loans necessary or desirable to preserve or protect any Collateral, or to enhance the collectibility or repayment of Obligations; or (ii) to pay any other amounts chargeable to Obligors under any Loan Documents, including costs, fees and expenses. All Protective Advances shall be Obligations, secured by the Collateral, and shall be treated for all purposes as Extraordinary Expenses. Each Lender shall participate in each Protective Advance on a Pro Rata basis. Required Lenders may at any time revoke the Administrative Agent's authorization to make further Protective Advances by written notice to the Administrative Agent. Absent such revocation, the Administrative Agent's determination that funding of a Protective Advance is appropriate shall be conclusive.

SECTION 2.2 LC Facility.

(a) Issuance of Letters of Credit. Issuing Bank agrees to issue Letters of Credit from time to time until 30 days prior to the Expiration Date on the terms set forth herein, including the following:

(i) The Borrower acknowledges that Issuing Bank's willingness to issue any Letter of Credit is conditioned upon Issuing Bank's receipt of a LC Application with respect to the requested Letter of Credit, as well as such other instruments and agreements as Issuing Bank may customarily require for issuance of a letter of credit of similar type and amount. Issuing Bank shall have no obligation to issue any Letter of Credit unless (A) Issuing Bank receives a LC Request and LC Application at least three Business Days prior to the requested date of issuance; and (B) each LC Condition is satisfied. If Issuing Bank receives written notice from a Lender at least one Business Day before issuance of a Letter of Credit that any LC Condition has not been satisfied, Issuing Bank shall have no obligation to issue the requested Letter of Credit (or any other) until such notice is withdrawn in writing by that Lender or until Required Lenders have waived such condition in accordance with this Agreement or until the Borrower has provided evidence satisfactory to the Administrative Agent and Issuing

Bank that all of the LC Conditions have been satisfied. Prior to receipt of any such notice, Issuing Bank shall not be deemed to have knowledge of any failure of LC Conditions.

(ii) Letters of Credit may be requested by the Borrower only (A) to support obligations of the Borrower incurred in the Ordinary Course of Business; or (B) for other purposes as the Administrative Agent and Required Lenders may approve from time to time in writing. The renewal or extension of any Letter of Credit shall be treated as the issuance of a new Letter of Credit, except that delivery of a new LC Application shall be required at the discretion of Issuing Bank.

(iii) The Borrower assumes all risks of the acts, omissions or misuses of any Letter of Credit by the beneficiary. In connection with issuance of any Letter of Credit, none of the Administrative Agent, Issuing Bank or any Lender shall be responsible for the existence, character, quality, quantity, condition, packing, value or delivery of any goods purported to be represented by any Documents; any differences or variation in the character, quality, quantity, condition, packing, value or delivery of any goods from that expressed in any Documents; the form, validity, sufficiency, accuracy, genuineness or legal effect of any Documents or of any endorsements thereon; the time, place, manner or order in which shipment of goods is made; partial or incomplete shipment of, or failure to ship, any goods referred to in a Letter of Credit or Documents; any deviation from instructions, delay, default or fraud by any shipper or other Person in connection with any goods, shipment or delivery; any breach of contract between a shipper or vendor and the Borrower; errors, omissions, interruptions or delays in transmission or delivery of any messages, by mail, cable, telegraph, telex, telecopy, e-mail, telephone or otherwise; errors in interpretation of technical terms; the misapplication by a beneficiary of any Letter of Credit or the proceeds thereof; or any consequences arising from causes beyond the control of Issuing Bank, the Administrative Agent or any Lender, including any act or omission of a Governmental Authority. The rights and remedies of Issuing Bank under the Loan Documents shall be cumulative. Issuing Bank shall be fully subrogated to the rights and remedies of each beneficiary whose claims against the Borrower are discharged with proceeds of any Letter of Credit.

(iv) In connection with its administration of and enforcement of rights or remedies under any Letters of Credit or LC Documents, Issuing Bank shall be entitled to act, and shall be fully protected in acting, upon any certification, notice or other communication in whatever form believed by Issuing Bank, in good faith, to be genuine and correct and to have been signed, sent or made by a proper Person. Issuing Bank may consult with and employ legal counsel, accountants and other experts to advise it concerning its obligations, rights and remedies, and shall be entitled to act upon, and shall be fully protected in any action taken in good faith reliance upon, any advice given by such experts. Issuing Bank may employ agents and attorneys-in-fact in connection with any matter relating to Letters of Credit or LC Documents, and shall not be liable for the negligence or misconduct of any such agents or attorneys-in-fact selected with reasonable care.

(b) Reimbursement; Participations.

(i) If Issuing Bank honors any request for payment under a Letter of Credit, the Borrower shall pay to Issuing Bank, on the same day ("Reimbursement Date"), the

amount paid by Issuing Bank under such Letter of Credit, together with interest at the interest rate for Base Rate Advances from the Reimbursement Date until payment by the Borrower. The obligation of the Borrower to reimburse Issuing Bank for any payment made under a Letter of Credit shall (in the absence of an improper payment of the Letter of Credit which constitutes gross negligence or willful misconduct on the part of Issuing Bank) be absolute, unconditional and irrevocable, and shall be paid without regard to any lack of validity or enforceability of any Letter of Credit or the existence of any claim, setoff, defense or other right that the Borrower may have at any time against the beneficiary. Whether or not the Administrative Agent submits a Notice of Borrowing, the Borrower shall be deemed to have requested a Borrowing of a Loan as a Base Rate Advance in an amount necessary to pay all amounts due Issuing Bank on any Reimbursement Date and each Lender agrees to fund its Pro Rata share of such Borrowing whether or not the Commitments have terminated, an Overadvance exists or is created thereby, or the conditions in **Article V** are satisfied (provided, however, that if such Loan is not made, the Borrower shall pay such LC Obligations on the first Business Day after the Borrower's receipt of notice of the amount thereof). Nothing herein shall be deemed to release Issuing Bank from any liability or obligation that it may have in respect to any Letter of Credit to the extent arising out of and directly resulting from its own gross negligence or willful misconduct.

(ii) Upon issuance of a Letter of Credit, each Lender shall be deemed to have irrevocably and unconditionally purchased from Issuing Bank, without recourse or warranty, an undivided Pro Rata interest and participation in all LC Obligations relating to the Letter of Credit. If Issuing Bank makes any payment under a Letter of Credit and the Borrower does not reimburse such payment on the Reimbursement Date, the Administrative Agent shall promptly notify Lenders and each Lender shall promptly (within one Business Day) and unconditionally pay to the Administrative Agent, for the benefit of Issuing Bank, the Lender's Pro Rata share of such payment. Upon request by a Lender, Issuing Bank shall furnish copies of any Letters of Credit and LC Documents in its possession at such time.

(iii) The obligation of each Lender to make payments to the Administrative Agent for the account of Issuing Bank in connection with Issuing Bank's payment under a Letter of Credit shall be absolute, unconditional and irrevocable, not subject to any counterclaim, setoff, qualification or exception whatsoever, and shall be made in accordance with this Agreement under all circumstances, irrespective of any lack of validity or unenforceability of any Loan Documents; any draft, certificate or other document presented under a Letter of Credit having been determined to be forged, fraudulent, invalid or insufficient in any respect or any statement therein being untrue or inaccurate in any respect; or the existence of any setoff or defense that the Borrower may have with respect to any Obligations. Issuing Bank does not assume any responsibility for any failure or delay in performance or any breach by the Borrower or other Person of any obligations under any LC Documents. Issuing Bank does not make to Lenders any express or implied warranty, representation or guaranty with respect to the Collateral, LC Documents or the Borrower. Issuing Bank shall not be responsible to any Lender for any recitals, statements, information, representations or warranties contained in, or for the execution, validity, genuineness, effectiveness or enforceability of any LC Documents; the validity, genuineness, enforceability, collectibility, value or sufficiency of any Collateral or the perfection of any Lien therein; or the assets, liabilities, financial condition, results of operations, business, creditworthiness or legal status of the Borrower.

(iv) No Issuing Bank Indemnitee shall be liable to any Lender or other Person for any action taken or omitted to be taken in connection with any LC Documents except as a result of its actual gross negligence or willful misconduct. Issuing Bank shall not have any liability to any Lender if Issuing Bank refrains from any action under any Letter of Credit or LC Documents until it receives written instructions from Required Lenders.

(c) Cash Collateral. If any LC Obligations, whether or not then due or payable, shall for any reason be outstanding at any time (i) that an Event of Default exists, (ii) that Excess Availability is less than zero, (iii) after the Commitment Termination Date, or (iv) within 20 Business Days prior to the Expiration Date, then the Borrower shall, at Issuing Bank's or the Administrative Agent's request, pay to Issuing Bank the amount of all outstanding LC Obligations and Cash Collateralize all outstanding Letters of Credit. If the Borrower fails to Cash Collateralize outstanding Letters of Credit as required herein, Lenders may (and shall upon direction of the Administrative Agent) advance, as Revolving Credit Loans, the amount of the Cash Collateral required (whether or not the Commitments have terminated, an Overadvance exists, or the conditions in **Article V** are satisfied).

(d) Existing Letters of Credit. Each Existing Letter of Credit outstanding on the Closing Date shall constitute a "Letter of Credit" for all purposes of this Agreement, issued, for purposes of this **Section 2.2**, on the Closing Date.

SECTION 2.3 Procedure for Borrowing; Notices of Borrowing; Notices of Continuation; Notices of Conversion; Settlement.

(a) Each borrowing of Revolving Credit Loans (each, a "Borrowing") shall be made on notice, given not later than 12:00 Noon (New York time) on the second Business Day prior to the date of the proposed Borrowing in the case of a LIBOR Rate Advance, and not later than 12:00 Noon (New York time) on the date of the proposed Borrowing in the case of a Base Rate Advance, by the Borrower to the Administrative Agent. Each such notice of a Borrowing shall be by telecopier or e-mail, substantially in the form of **Exhibit E** (a "Notice of Borrowing"), specifying therein the requested (i) date of such Borrowing, (ii) Type of Advance comprising such Borrowing, (iii) aggregate principal amount of such Borrowing, and (iv) Interest Period, in the case of a LIBOR Rate Advance.

(b) With respect to any Borrowing consisting of a LIBOR Rate Advance, the Borrower may, subject to the provisions of **Section 2.3(d)** and so long as all the conditions set forth in **Article V** have been fulfilled, elect to maintain such Borrowing or any portion thereof as a LIBOR Rate Advance by selecting a new Interest Period for such Borrowing, which new Interest Period shall commence on the last day of the Interest Period then ending. Each selection of a new Interest Period (a "Continuation") shall be made by notice given not later than 12:00 Noon (New York time) on the second Business Day prior to the date of any such Continuation by the Borrower to the Administrative Agent. Each such notice of a Continuation shall be by telecopier or e-mail, substantially in the form of **Exhibit F** (a "Notice of Continuation/Conversion") and the requested (i) date of such Continuation, (ii) Interest Period and (iii) aggregate amount of the Advance subject to such Continuation, which shall comply with all limitations on Loans hereunder. Upon the Administrative Agent's receipt of a Notice of Continuation/Conversion, the Administrative Agent shall promptly notify each Lender thereof.

Unless, on or before 12:00 Noon (New York time) of the second Business Day prior to the expiration of an Interest Period, the Administrative Agent shall have received a Notice of Continuation/Conversion from the Borrower for the entire Borrowing consisting of the LIBOR Rate Advance outstanding during such Interest Period, any amount of such Advance comprising such Borrowing remaining outstanding at the end of such Interest Period (or any unpaid portion of such Advance not covered by a timely Notice of Continuation/Conversion) shall, upon the expiration of such Interest Period, be Converted to a Base Rate Advance.

(c) The Borrower may on any Business Day by a Notice of Continuation/Conversion given by the Borrower to the Administrative Agent, and subject to the provisions of **Section 2.3(d)**, Convert the entire amount of or a portion of an Advance of one Type into an Advance of another Type; provided, however, that any Conversion of a LIBOR Rate Advance into a Base Rate Advance shall be made on, and only on, the last day of an Interest Period for such LIBOR Rate Advance. Each such Notice of Continuation/Conversion shall be given not later than 12:00 Noon (New York time) on the Business Day prior to the date of any proposed Conversion into a Base Rate Advance and on the third Business Day prior to the date of any proposed Conversion into a LIBOR Rate Advance. Subject to the restrictions specified above, each Notice of Continuation/Conversion shall be substantially in the form of **Exhibit F**, specifying (i) the requested date of such Conversion, (ii) the Type of Advance to be Converted, (iii) the requested Interest Period, in the case of a Conversion into a LIBOR Rate Advance, and (iv) the amount of such Advance to be Converted and whether such amount comprises part (or all) of the Revolving Credit Loans. Upon the Administrative Agent's receipt of a Notice of Continuation/Conversion, the Administrative Agent shall promptly notify each Lender thereof. Each Conversion shall be in an aggregate amount not less than $1,000,000 or an integral multiple of $100,000 in excess thereof.

(d) Anything in subsection (b) or (c) above to the contrary notwithstanding,

(i) if, at least one Business Day before the date of any requested LIBOR Rate Advance, the introduction of or any change in or in the interpretation of any law or regulation (in each case made after the date hereof) makes it unlawful, or any central bank or other Governmental Authority asserts that it is unlawful, for any Lender to perform its obligations hereunder to make a LIBOR Rate Advance or to fund or maintain a LIBOR Rate Advance hereunder (including in the case of a Continuation or a Conversion), such Lender shall promptly deliver written notice of such circumstance to the Administrative Agent, and the Administrative Agent shall promptly deliver such notice to the Borrower, and the right of the Borrower to select a LIBOR Rate Advance for such Borrowing or any subsequent Borrowing (including a Continuation or a Conversion) shall be suspended until the circumstances causing such suspension no longer exist, and any Advance comprising such requested Borrowing shall be a Base Rate Advance;

(ii) if, at least one Business Day before the first day of any Interest Period, the Administrative Agent is unable to determine the LIBOR Rate for LIBOR Rate Advances comprising any requested Borrowing, Continuation or Conversion, the Administrative Agent shall promptly give written notice of such circumstance to the Borrower, and the right of the Borrower to select or maintain LIBOR Rate Advances for such Borrowing or any subsequent Borrowing shall be suspended until the Administrative Agent shall notify the Borrower that the

circumstances causing such suspension no longer exist, and any Advance comprising such Borrowing shall be a Base Rate Advance;

(iii) if any Lender shall, at least one Business Day before the date of any requested Borrowing or Continuation of, or Conversion into, a LIBOR Rate Advance, notify the Administrative Agent, which notice the Administrative Agent shall promptly deliver to the Borrower, that the LIBOR Rate for Advances comprising such Borrowing, Continuation or Conversion will not adequately reflect the cost to such Lender of making or funding Advances for such Borrowing, the right of the Borrower to select LIBOR Rate Advances shall be suspended until such Lender shall notify the Borrower that the circumstances causing such suspension no longer exist, and any Advance comprising such Borrowing shall be a Base Rate Advance;

(iv) there shall not be outstanding at any time more than 8 Borrowings which consist of LIBOR Rate Advances;

(v) each Borrowing which consists of LIBOR Rate Advances shall be in an amount equal to $1,000,000 or a whole multiple of $100,000 in excess thereof; and

(vi) if a Default or Event of Default has occurred and is continuing, no LIBOR Rate Advances may be borrowed or continued as such and no Base Rate Advance may be Converted into a LIBOR Rate Advance.

(e) Each Notice of Borrowing and Notice of Continuation/Conversion shall be irrevocable and binding on the Borrower.

(f) (i) If the Administrative Agent shall elect to have the terms of this **Section 2.3(f)** apply to a requested Borrowing, then, promptly after its receipt of a Notice of Borrowing under **Section 2.3(a)**, the Administrative Agent shall notify the Lenders in writing (by telecopier or otherwise as permitted hereunder) of the requested Borrowing. Each Lender shall make the amount of such Lender's Pro Rata share of the requested Borrowing available to the Administrative Agent in same day funds, for the account of the Borrower, prior to 2:00 P.M. (New York time), on the Borrowing Date requested by the Borrower. The proceeds of such Borrowing will then be made available to the Borrower by the Administrative Agent wire transferring to the Borrower's Account the aggregate of the amounts made available to the Administrative Agent by the Lenders, and in like funds as received by the Administrative Agent by 2:00 P.M. (New York time), on the requested Borrowing Date.

(ii) Unless the Administrative Agent receives contrary written notice prior to the date of any proposed Borrowing, the Administrative Agent is entitled to assume that each Lender will make available its Pro Rata share of such Borrowing and, in reliance upon that assumption, but without any obligation to do so, may advance such Pro Rata share on behalf of such Lender. If and to the extent that such Lender shall not have made such amount available to the Administrative Agent, but the Administrative Agent has made such amount available to the Borrower, such Lender and the Borrower jointly and severally agree to pay and repay the Administrative Agent forthwith on demand such corresponding amount and to pay interest thereon, for each day from the date such amount is transferred by the Administrative Agent to

the Borrower's Account until the date such amount is paid or repaid to the Administrative Agent, at (A) in the case of the Borrower, the interest rate applicable at such time to such Loan and (B) in the case of each Lender, for the period from the date such amount was wire transferred to the Borrower's Account to (and including) three days after demand therefor by the Administrative Agent to such Lender, at the Federal Funds Rate and, following such third day, at the interest rate applicable at such time to such Loan together with all costs and expenses incurred by the Administrative Agent in connection therewith. If a Lender shall pay to the Administrative Agent any or all of such amount, such amount so paid shall constitute a Revolving Credit Loan by such Lender to the Borrower for purposes of this Agreement.

(g) If the Administrative Agent shall elect, in its sole and absolute discretion, to have the terms of this **Section 2.3(g)** apply to a requested Borrowing of Revolving Credit Loans, the Administrative Agent shall make a Loan in the amount of such requested Borrowing (any such Loan made solely by the Administrative Agent under this **Section 2.3(g)** being referred to as an "Swingline Loan") available to the Borrower in same day funds by wire transferring such amount to the Borrower's Account by 2:00 P.M. (New York time) on the requested Borrowing Date. Each Swingline Loan shall be subject to all the terms and conditions applicable hereunder to the Revolving Credit Loans except that all payments thereon shall be payable to the Administrative Agent solely for its own account (and for the account of the holder of any participation interest with respect to such Swingline Loan, including any Lender purchasing such participation interest pursuant to the provisions of this paragraph). In no event shall the aggregate principal amount of Swingline Loans outstanding at any one time exceed $10,000,000. The Administrative Agent shall not make any Swingline Loan if (i) any one or more of the conditions precedent specified in **Section 5.2** will not be satisfied on the requested Borrowing Date for the applicable Borrowing. The Swingline Loans shall be secured by the Collateral, shall constitute Loans and Obligations hereunder and shall bear interest at the rate in effect from time to time applicable to the Revolving Credit Loans comprised of Base Rate Advances, including any increase in such rate that is applicable under **Section 4.2**. The Administrative Agent shall notify each Lender in writing of each Swingline Loan as soon as reasonably practicable. Upon written demand by the Swingline Lender, each other Lender shall purchase from the Swingline Lender a participation interest in any outstanding Swingline Loan in an amount equal to such other Lender's Pro Rate Share as of the date of such purchase. Each Lender agrees to purchase its Pro Rata share of each Swingline Loan within one Business Day after such demand therefor is made by the Swingline Lender, and on such date of purchase an amount equal to such Lender's Pro Rata Share of the outstanding principal amount of the Swingline Loan to be purchased by such Lender shall be advanced to the Administrative Agent and upon receipt of such funds the Administrative Agent shall transfer such funds to the Swingline Lender. Upon any sale by the Swingline Lender to any other Lender of a participating interest in any Swingline Loan pursuant to this paragraph, the Swingline Lender represents and warrants to such other Lender that the Swingline Lender is the legal and beneficial owner of the interest being sold by it, free and clear of any liens, but makes no other representation or warranty. Except for such representation and warranty, the Swingline Lender shall have no responsibility or liability to any other Lender with respect to the Swingline Loans or the participation therein so sold, and no Lender shall have any recourse against the Swingline Lender with respect to such Swingline Loans or participation therein, except that the Swingline Lender shall pay to each Lender that purchases a participation interest in Swingline Loans pursuant to this paragraph such Lender's Pro Rata share of the payments, if any, actually received by the

Swingline Lender on account of such Swingline Loans. If and to the extent that any Lender does not so advance the purchase price for such participation interest as required by this paragraph, such Lender agrees to pay to the Administrative Agent, for the account of Swingline Lender, on demand, an amount computed in the same manner as the amount due to the Administrative Agent from a Lender which has made available funds for loans after the Borrowing Date thereof pursuant to the next to last sentence of **Section 2.3(f) (ii)**.

(h) Each Lender's funded portion of any Loan is intended to be equal at all times to such Lender's Pro Rata share of all outstanding Loans. Notwithstanding such agreement, the Administrative Agent and the other Lenders agree (which agreement shall not be for the benefit of or enforceable by the Borrower) that, to facilitate the administration of this Agreement and the other Loan Documents, settlement among them as to the Loans and the Swingline Loans shall take place on a periodic basis in accordance with the following provisions:

(i) The Administrative Agent shall request settlement ("Settlement") with the Lenders on a weekly basis, or on a more frequent basis if so determined by the Administrative Agent, with respect to (A) each outstanding Swingline Loan and (B) all payments made by the Borrower on account of the Loans, in each case by notifying the Lenders of such requested Settlement by telephone, confirmed immediately in writing (by telecopier or otherwise as permitted hereunder), prior to 12:00 Noon (New York time) on the date of such requested Settlement (any such date being a "Settlement Date").

(ii) Each Lender shall make the amount of such Lender's Pro Rata share of the outstanding principal amount of the Swingline Loan with respect to which Settlement is requested available to the Administrative Agent in same day funds, for itself or for the account of BofA, prior to 2:00 P.M. (New York time), on the Settlement Date applicable thereto, regardless of whether the conditions precedent specified in **Section 5.2** have then been satisfied. Such amounts made available to the Administrative Agent shall be applied against the amounts of the applicable Swingline Loan and, together with the portion of such Swingline Loan representing BofA's Pro Rata share thereof, shall constitute Revolving Credit Loans of such Lenders. If any such amount is not made available to the Administrative Agent by any Lender on the Settlement Date applicable thereto, the Administrative Agent shall be entitled to recover such amount on demand from such Lender together with interest thereon at the Federal Funds Rate for the first three days from and after such Settlement Date and thereafter at the interest rate then applicable to Base Rate Advances.

(iii) Notwithstanding the foregoing, not more than one Business Day after demand is made by the Administrative Agent (whether before or after the occurrence of a Default or an Event of Default), each Lender (other than BofA) shall irrevocably and unconditionally purchase and receive from the Administrative Agent, without recourse or warranty, an undivided interest and participation in such Swingline Loan to the extent of such Lender's Pro Rata share thereof, by paying to the Administrative Agent, in same day funds, an amount equal to such Lender's Pro Rata share of such Swingline Loan, regardless of whether the conditions precedent specified in **Section 5.2** have then been satisfied. If such amount is not made available to the Administrative Agent by any Lender, the Administrative Agent shall be entitled to recover such amount on demand from such Lender together with interest thereon at the Federal Funds Rate for the first three days from and after such demand and thereafter at the

interest rate then applicable to the Revolving Credit Loans for Base Rate Advances, including any increase in such rate that is applicable under **Section 4.2**.

(iv) From and after the date, if any, on which any Lender purchases an undivided interest and participation in a Swingline Loan under clause (iii) above, the Administrative Agent shall promptly distribute to such Lender such Lender's Pro Rata share of all payments of principal and interest received by the Administrative Agent in respect of such Swingline Loan.

SECTION 2.4 Use of Proceeds. The proceeds of the Revolving Credit Loans shall be used by the Borrower for (i) working capital, capital expenditures, and other lawful corporate purposes, (ii) to issue standby or commercial letters of credit, and (iii) to pay certain transaction fees, costs and expenses in connection with the transactions contemplated hereby.

SECTION 2.5 Maximum Amount of the Facility; Mandatory Prepayments; Optional Prepayments.

(a) In no event shall the sum of the aggregate outstanding principal balances of the Revolving Credit Loans exceed the Borrowing Base.

(b) The outstanding principal amounts with respect to the Revolving Credit Loans shall be repaid as follows:

(i) Any portion of the Revolving Credit Loans consisting of the principal amount of Base Rate Advances shall be paid by the Borrower to the Administrative Agent, for the Pro Rata benefit of Lenders (or, in the case of Swingline Loans, for the sole benefit of BofA) unless timely converted to a LIBOR Rate Advance in accordance with this Agreement, immediately upon (a) each receipt by the Administrative Agent, any Lender or Borrower of any proceeds of any of the Receivables or Inventory, to the extent of such proceeds, (b) the Expiration Date, and (c) in the case of Swingline Loans, the earlier of BofA's demand for payment or on each Settlement Date with respect to all Swingline Loans outstanding on such date.

(ii) Any portion of the Revolving Credit Loans consisting of the principal amount of LIBOR Rate Advances shall be paid by the Borrower to the Administrative Agent, for the Pro Rata benefit of Lenders, unless continued as a LIBOR Rate Advance in accordance with the terms of this Agreement, immediately upon (a) the last day of the Interest Period applicable thereto and (b) the Expiration Date. The Borrower may from time to time make a voluntary prepayment with respect to any Revolving Credit Loan outstanding as a LIBOR Rate Advance prior to the last day of the Interest Period applicable thereto if (x) agreed in writing by the Administrative Agent, (y) the Borrower is otherwise expressly authorized or required by any other provision of this Agreement to pay any LIBOR Rate Advance outstanding on the date other than the last day of the Interest Period applicable thereto, or (z) the Borrower pays to the Administrative Agent, for the Pro Rata benefit of Lenders, any amounts due the Administrative Agent and the Lenders under **Section 2.5(b)(iii)** as a consequence of such prepayment, with such payment to be made by the Borrower within three Business Days after the Administrative Agent furnishes to the Borrower evidence of such amounts in reasonable detail.

The Borrower shall be required to make the payment referred to in clause (z) of the preceding sentence in connection with any prepayment made pursuant to either clause (x) or (y) of the preceding sentence. Notwithstanding the foregoing provisions of this **Section 2.5(b)**, if, on any date that the Administrative Agent receives proceeds of any of the Receivables or Inventory, there are no Revolving Credit Loans outstanding as Base Rate Advances, the Administrative Agent may either hold such proceeds as cash security for the timely payment of the Obligations or apply such proceeds to any outstanding Revolving Credit Loans bearing interest as LIBOR Rate Advances as the same become due and payable (whether at the end of the applicable Interest Periods or on the Expiration Date).

(iii) If for any reason (other than default by a Lender) (a) any Borrowing of, or conversion to or continuation of, a LIBOR Rate Advance does not occur on the date specified therefor in a Notice of Borrowing or Notice of Continuation/Conversion (whether or not withdrawn), (b) any repayment or conversion of a LIBOR Rate Advance occurs on a day other than the end of its Interest Period, or (c) the Borrower fails to repay a LIBOR Rate Advance when required hereunder, then the Borrower shall pay to the Administrative Agent to each Lender all reasonable out-of-pocket losses and expenses that it sustains in each case with respect to such Interest Period as a consequence thereof, including any loss or expense arising from liquidation or redeployment of funds or from fees payable to terminate deposits of matching funds. Lenders shall not be required to purchase Dollar deposits in the London interbank market or any other offshore Dollar market to fund any LIBOR Rate Advance, but the provisions hereof shall be deemed to apply as if each Lender had purchased such deposits to fund its LIBOR Rate Advances.

(iv) Notwithstanding anything to the contrary contained elsewhere in this Agreement, if an Overadvance shall exist, the Borrower shall, on the sooner to occur of the first Business Day after the Borrower has obtained knowledge thereof or the Administrative Agent's demand, repay the outstanding Revolving Credit Loans that are Base Rate Advances in an amount sufficient to reduce the aggregate unpaid principal amount of all Revolving Credit Loans by an amount equal to such excess; and, if such payment of Base Rate Advances is not sufficient to eliminate the Overadvance, then the Borrower shall immediately deposit with the Administrative Agent, for the Pro Rata benefit of Lenders, for application to any outstanding Revolving Credit Loans bearing interest as LIBOR Rate Advances as the same become due and payable (whether at the end of the applicable Interest Periods or on the Expiration Date) cash in an amount sufficient to eliminate such Overadvance, and the Administrative Agent may (a) hold such deposit as cash security pending disbursement of same to Lenders for application to the Obligations, which disbursement shall be made, or (b) if an Event of Default exists, immediately apply such proceeds to the payment of the Obligations, including the Revolving Credit Loans outstanding as LIBOR Rate Advances (in which event the Borrower shall also pay to the Administrative Agent for the Pro Rata benefit of Lenders any amounts required by **Section 2.5(b)(iii)** to be paid by reason of the prepayment of a LIBOR Rate Advance prior to the last day of the Interest Period applicable thereto).

(c) The entire outstanding principal amount of the Loans, together with all accrued and unpaid interest thereon and all fees, costs and expenses payable by the Borrower hereunder, shall become due and payable on the Expiration Date.

(d) The Borrower may prepay any or all of the Loans, without penalty or premium, except as expressly provided in this **Section 2.5**.

SECTION 2.6 Maintenance of Loan Account; Statements of Account. The Administrative Agent shall maintain an account on its books in the name of the Borrower (the "Loan Account") in which the Borrower will be charged with all Loans and Advances made by each Lender to the Borrower or for the Borrower's account, including the Revolving Credit Loans, the Swingline Loans, interest, fees, expenses and any other Obligations. The Loan Account will be credited with all amounts received by the Administrative Agent from the Borrower or for the Borrower's account, including, as set forth below, all amounts received from the Blocked Account Banks. The Administrative Agent shall send the Borrower a monthly statement reflecting the activity in the Loan Account. Each such statement shall be an account stated and shall be final, conclusive and binding on the Borrower, absent error.

SECTION 2.7 Maintenance of Dominion Account and Concentration Account; Collection of Receivables.

(a) (i) The Borrower shall establish and maintain a Dominion Account pursuant to a lockbox or other arrangement reasonably acceptable to the Administrative Agent with BofA or such other bank as may be selected by the Borrower and be reasonably acceptable to the Administrative Agent. Such Dominion Accounts and lockbox arrangements shall provide for full dominion and control of the Borrower's cash deposited into all Dominion Accounts, except as otherwise provided in **Section 2.7(a) (iii)**. The Borrower shall issue to each such lockbox bank an irrevocable letter of instruction directing such bank to deposit all payments or other remittances received in the lockbox to the Dominion Account.

(ii) The Borrower shall enter into agreements, in form reasonably satisfactory to the Administrative Agent, with each bank at which a Dominion Account is maintained by which such bank shall transfer to the Concentration Account each Payment Item and monies deposited to the Dominion Account not later than the next Business Day following the Business Day on which such Payment Item becomes good funds.

(iii) The Borrower shall enter into agreements, in form reasonably satisfactory to the Administrative Agent (it being agreed that any agreement substantially in the form of any agreement with any bank at which a Dominion Account is delivered to the Administrative Agent on or about the Closing Date hereunder is reasonably satisfactory) with each bank at which a Dominion Account or a Concentration Account is maintained pursuant to which (a) prior to such bank's receipt of a Cash Dominion Notice, such bank shall remit all funds deposited into such Dominion Account or Concentration Account pursuant to the instructions of the Borrower, (b) after such bank's receipt of a Cash Dominion Notice prior to its subsequent receipt of a Cash Dominion Termination Notice, such bank shall immediately, and without further consent of or notice to the Borrower, transfer to the Concentration Account all monies deposited to such Dominion Account or Concentration Account until delivery of further notice by the Administrative Agent, and (c) upon its receipt of a Cash Dominion Termination Notice issued by the Administrative Agent after the Administrative Agent's issuance of a Cash Dominion Notice, such bank shall resume remittance of all funds deposited into such Dominion Account or Concentration Account pursuant to the instructions of the Borrower until such time

(if ever) as such bank shall receive from the Administrative Agent a subsequent Cash Dominion Notice. The Administrative Agent agrees promptly to give to such bank a Cash Dominion Termination Notice as soon as practicable after the cessation of a Cash Dominion Period and agrees not to issue a Cash Dominion Notice except during a Cash Dominion Period.

(iv) All balances in each Dominion Account and Concentration Account shall be subject to the Administrative Agent's Lien. The Borrower shall obtain the agreement (in favor of and in form and content satisfactory to the Administrative Agent and the Lenders) by each bank at which a Dominion Account or Concentration Account is maintained to waive any offset rights against the funds deposited into such Dominion Account or Concentration Account, except offset rights in respect of charges incurred in the administration of such Dominion Account or Concentration Account. Neither the Administrative Agent nor Lenders assume any responsibility to the Borrower for such lockbox arrangement or Dominion Account or Concentration Account, including any claim of accord and satisfaction or release with respect to deposits accepted by any bank thereunder.

(b) To expedite collection of Receivables, the Borrower shall use commercially reasonable efforts to keep in full force and effect any supporting obligation or collateral security relating to each such Receivables. The Borrower shall (i) request in writing and otherwise take such reasonable steps to ensure that all Account Debtors forward payment directly to such Dominion Account (or lockboxes related to the Dominion Account), and (ii) during a Cash Dominion Period deposit or cause to be deposited promptly, and in any event no later than the first Business Day after the date of receipt thereof, all cash, checks, drafts or other similar items of payment relating to or constituting payments made in respect of any and all Collateral (whether or not otherwise delivered to a lockbox) into the Dominion Account. All Payment Items received by the Borrower in respect of its Receivables, together with the proceeds of any other Collateral, shall be held by the Borrower as trustee of an express trust for the Administrative Agent's and Lenders' benefit; the Borrower shall promptly deposit same in kind in the Dominion Account; and the Administrative Agent may remit such proceeds to Lenders for application to the Obligations in the manner authorized by this Agreement. The Administrative Agent retains the right at all times that an Event of Default exists to notify Account Debtors of the Borrower that Receivables have been assigned to the Administrative Agent, to collect Receivables directly in its own name (and, in connection therewith, and to charge to the Borrower the collection costs and expenses incurred by the Administrative Agent, including reasonable attorneys' fees). At any time an Event of Default exists, the Administrative Agent shall have the right to settle or adjust all disputes and claims directly with the Account Debtor and to compromise the amount or extend the time for payment of any Receivables upon such terms and conditions as the Administrative Agent may deem advisable, and to charge the deficiencies, costs and expenses thereof, including attorneys' fees, to the Borrower.

SECTION 2.8 Term.

(a) Term. Subject to each Lender's right to cease making Loans and other extensions of credit to the Borrower when any Default or Event of Default exists or upon termination of the Commitments as provided in **Section 2.8(b)**, the Commitments shall be in effect for a period (the "Term") commencing on the date hereof and continuing until the close of business on June 15, 2012, unless sooner terminated as provided in **Section 2.8(b)**.

(b) Termination by the Administrative Agent. The Administrative Agent may (and upon the direction of the Required Lenders, shall) terminate the Commitments without notice at any time that an Event of Default exists; provided, however, that the Commitments shall automatically terminate as provided in **Section 8.2(b)**.

(c) Termination by Borrower. Upon at least 10 days prior written notice to the Administrative Agent, the Borrower may, at its option, terminate the Commitments; provided, however, no such termination by the Borrower shall be effective until Full Payment of the Obligations. Any notice of termination given by the Borrower shall be irrevocable unless the Administrative Agent otherwise agrees in writing. Within three Business Days after such notice is given, the Administrative Agent shall furnish to the Borrower a pay-off statement with respect to the Obligations detailing the amounts of each category of the Obligations, interest and fees, in each case as of the effective date of the termination of Commitments, subject to adjustment on the effective date of termination of the Commitments to reflect changes in the Obligations to such date. The Borrower may elect to terminate the Commitments in their entirety only, provided that nothing contained herein shall affect the Borrower's right to voluntarily reduce the Commitments as provided in **Section 2.1(c)**. No section of this Agreement or Type of Loan available hereunder may be terminated by the Borrower singly.

(d) Effect of Termination. On the effective date of termination of the Commitments by the Administrative Agent or by Borrower, all of the Obligations shall be immediately due and payable, Lenders shall have no obligation to make any Loans, Issuing Bank shall have no obligation to issue any Letters of Credit, and none of the undertakings, agreements, covenants, warranties and representations of the Borrower contained in the Loan Documents (other than as set forth in the next-to-last sentence of this Section) shall survive any such termination, provided that the Administrative Agent shall retain its Liens in the Collateral and all of its rights and remedies under the Loan Documents notwithstanding such termination until Full Payment of the Obligations. Notwithstanding Full Payment of the Obligations, if Full Payment occurs during a Cash Dominion Period, then the Administrative Agent shall not be required to terminate its Liens in any Collateral unless, with respect to any damages the Administrative Agent may incur as a result of the dishonor or return of Payment Items applied to Obligations, the Administrative Agent receives (i) a written agreement satisfactory to the Administrative Agent, executed by the Borrower and any Person whose advances are used in whole or in part to satisfy the Obligations, indemnifying the Administrative Agent and the Lenders from such damages, or (ii) such Cash Collateral as the Administrative Agent, in its discretion, deems appropriate against such damages. In addition, all confidentiality obligations of the parties hereto and all participants shall survive any such termination. Notwithstanding the foregoing, all obligations of the Borrower to indemnify the Administrative Agent or any Lender pursuant to this Agreement or any of the other Loan Documents, shall in all events survive any termination of the Commitments and Full Payment of the Obligations. Concurrently with the Full Payment of the Obligations, the Administrative Agent shall deliver to the Borrower all UCC-3 termination statements and any Collateral physically held by the Administrative Agent, together with such other documents as shall reasonably be requested by the Borrower to reflect and evidence the termination and release of all of the Liens securing the Obligations and the Full Payment of the Obligations.

SECTION 2.9 Payment Procedures.

(a) The Borrower hereby authorizes the Administrative Agent to charge the Loan Account with the amount of all principal, interest, fees, expenses and other payments to be made hereunder and under the other Loan Documents. The Administrative Agent may, but shall not be obligated to, discharge the Borrower's payment obligations hereunder by so charging the Loan Account.

(b) Each payment by the Borrower on account of principal, interest, fees or expenses hereunder shall be made to the Administrative Agent for the benefit of the Administrative Agent and the Lenders according to the their respective rights thereto. All payments to be made by the Borrower hereunder and under the Notes, whether on account of principal, interest, fees or otherwise, shall be made without setoff, deduction or counterclaim and shall be made prior to 2:00 P.M. (New York time) on the due date thereof to the Administrative Agent, for the account of the Lenders according to their Pro Rata shares (except as expressly otherwise provided), in immediately available funds. Any payment after such time shall be deemed made on the next Business Day. Borrower may, at the time of payment, specify to the Administrative Agent the Obligations to which such payment is to be applied, but the Administrative Agent shall in all events retain the right to apply such payment in such manner as the Administrative Agent is permitted to direct pursuant to the provisions of this Agreement. Except for payments which are expressly provided to be made (i) for the account of the Administrative Agent only or (ii) under the settlement provisions of **Section 2.3(h)**, the Administrative Agent shall distribute all payments to the Lenders on the Business Day following receipt in like funds as received. Notwithstanding anything to the contrary contained in this Agreement, if a Lender exercises its right of setoff under **Section 10.3** or otherwise, any amounts so recovered shall promptly be shared by such Lender with the other Lenders according to their respective Pro Rata shares.

(c) Whenever any payment to be made hereunder shall be stated to be due on a day that is not a Business Day, the payment may be made on the next succeeding Business Day (except as specified in clause (ii) of the definition of Interest Period) and such extension of time shall be included in the computation of the amount of interest due hereunder.

(d) At any time that an Event of Default exists or the Administrative Agent receives a payment or Collateral proceeds in an amount that is insufficient to pay all amounts then due and payable to the Administrative Agent and the Lenders, all monies to be applied to the Obligations, whether such monies represent voluntary or mandatory payments or prepayments by one or more the Borrower or are received pursuant to demand for payment or realized from any disposition of Collateral and irrespective of any designation by Borrower of the Obligations that are intended to be satisfied, shall be allocated among the Administrative Agent and such of the Lenders as are entitled thereto (and, with respect to monies allocated to Lenders, on a Pro Rata basis unless otherwise provided herein): (i) first, to the Administrative Agent to pay the amount of Extraordinary Expenses that have not been reimbursed to the Administrative Agent by Borrower or Lenders, together with interest accrued thereon at the rate applicable to Revolving Credit Loans that are Base Rate Advances, until Full Payment of all such Obligations; (ii) second, to the Administrative Agent to pay principal and accrued interest on any portion of the Revolving Credit Loans which the Administrative Agent may have

advanced on behalf of any Lender and for which the Administrative Agent has not been reimbursed by such Lender or Borrower, until Full Payment of all such Obligations; (iii) third, to BofA to pay the principal and accrued interest on any portion of the Swingline Loans outstanding, to be shared with Lenders that have acquired and paid for a participating interest in such Swingline Loans, until Full Payment of all such Obligations; (iv) fourth, to the extent that Issuing Bank has not received from any Lender a payment as required by **Section 2.2**, to Issuing Bank to pay all such required payments from each Lender, until Full Payment of all such Obligations; (v) fifth, to the Administrative Agent to pay any Claims that have not been paid pursuant to any indemnity of the Agent Indemnitees by the Borrower, or to pay amounts owing by Lenders to the Agent Indemnitees pursuant to **Section 9.6**, in each case together with interest accrued thereon at the rate applicable to Revolving Credit Loans that are Base Rate Advances, until Full Payment of all such Obligations; (vi) sixth, to the Administrative Agent to pay any fees due and payable to the Administrative Agent, until Full Payment of all such Obligations; (vii) seventh, to each Lender, ratably, for any Claims that such Lender has paid to the Agent Indemnitees pursuant to its indemnity of the Agent Indemnitees and any Extraordinary Expenses that such Lender has reimbursed to the Administrative Agent or such Lender has incurred, to the extent that such Lender has not been reimbursed by the Borrower therefor, until Full Payment of all such Obligations; (viii) eighth, to Issuing Bank to pay principal and interest with respect to LC Obligations (or to the extent any of the LC Obligations are contingent and an Event of Default then exists, deposited in the Cash Collateral Account to Cash Collateralize the LC Obligations), which payment shall be shared with the Lenders in accordance with **Section 2.2**, until Full Payment of all such Obligations; (ix) ninth, to Lenders in payment of the unpaid principal and accrued interest in respect of the Loans and other Obligations (excluding Secured Bank Product Obligations) then outstanding, in such order of application as shall be designated by the Administrative Agent (acting at the direction or with the consent of the Required Lenders), until Full Payment of all such Obligations; and (x) tenth, to BofA or any Lender or any Affiliate of BofA or of any Lender in payment of any Secured Bank Product Obligations owed to such Person and secured by the Collateral hereunder, until Full Payment of all such Obligations. The allocations set forth in this **Section 2.9(d)** are solely to determine the rights and priorities of the Administrative Agent and the Lenders as among themselves and may be changed by the Administrative Agent and the Lenders without notice to or the consent or approval of the Borrower or any other Person.

(e) The Administrative Agent shall not be liable for any allocation or distribution of payments made by it in good faith and, if any such allocation or distribution is subsequently determined to have been made in error, the sole recourse of any Lender to which payment was due but not made shall be to recover from the other Lenders any payment in excess of the amount to which such other Lenders are determined to be entitled (and such other Lenders hereby agree to return to such Lender any such erroneous payments received by them).

(f) The Borrower irrevocably waives the right to direct the application of any payments or Collateral proceeds, and agrees that the Administrative Agent shall have the continuing, exclusive right to apply and reapply same against the Obligations, in such manner as the Administrative Agent deems advisable, notwithstanding any entry by the Administrative Agent in its records; provided, however, that any payments or proceeds of Collateral received by the Administrative Agent on any date that an Event of Default does not exist shall be applied in accordance with any provisions of this Agreement that govern the application of such payment or

proceeds. If, as a result of the Administrative Agent's receipt of Payment Items or proceeds of Collateral, a credit balance exists, the balance shall not accrue interest in favor of the Borrower and shall be made available to the Borrower as long as no Default or Event of Default exists.

SECTION 2.10 Defaulting Lenders. If a Lender (a "Defaulting Lender") fails to make any payment to the Administrative Agent that is required hereunder, the Administrative Agent may (but shall not be required to), in its discretion, retain payments that would otherwise be made to such Defaulting Lender hereunder, apply the payments to such Lender's defaulted obligations or readvance the funds to the Borrower in accordance with this Agreement. The failure of any Lender to fund a Loan or to make a payment in respect of a LC Obligation shall not relieve any other Lender of its obligations hereunder, and no Lender shall be responsible for default by another Lender. Lenders and the Administrative Agent agree (which agreement is solely among them, and not for the benefit of or enforceable by the Borrower) that, solely for purposes of determining a Defaulting Lender's right to vote on matters relating to the Loan Documents and to share in payments, fees and Collateral proceeds thereunder, a Defaulting Lender shall not be deemed to be a "Lender" until all its defaulted obligations have been cured.

SECTION 2.11 Notices. The Borrower authorizes the Administrative Agent and the Lenders to extend, convert or continue Loans, effect selections of interest rates, and transfer funds to or on behalf of the Borrower based on telephonic or e-mailed instructions. The Borrower shall confirm each such request by prompt delivery to the Administrative Agent of a Notice of Borrowing or Notice of Continuation/Conversion, if applicable, but if it differs in any material respect from the action taken by the Administrative Agent or the Lenders, the records of the Administrative Agent and the Lenders shall govern. Neither the Administrative Agent nor any Lender shall have any liability for any loss suffered by the Borrower as a result of the Administrative Agent or any Lender acting upon its understanding of telephonic or e-mailed instructions from a person believed in good faith by the Administrative Agent or any Lender to be a person authorized to give such instructions on the Borrower's behalf.

ARTICLE III
SECURITY

SECTION 3.1 General. To secure the prompt and complete payment and performance when due (whether at stated maturity, by acceleration or otherwise) of all of the Obligations, the Borrower hereby confirms the grant pursuant to the Existing Loan Agreement, and hereby grants and re-grants, to the Administrative Agent for the Pro Rata benefit of the Lenders a Lien on all of its right, title and interest in and to the Collateral, wherever located, whether now owned or hereafter acquired, and all additions and accessions thereto and substitutions and replacements therefor and improvements thereon, and all proceeds (whether in the form of cash or other property) and products thereof, including all proceeds of insurance covering the same and all tort claims in connection therewith. The Borrower hereby authorizes the Administrative Agent to take any and all such action as the Administrative Agent deems appropriate, at the Borrower's expense, to cause any and all Secured Bank Product Obligations to be secured by the Collateral and to advise the Lenders that such Secured Bank Product Obligations are Obligations hereunder. Notwithstanding anything to the contrary contained herein, none of the restrictions or limitations imposed upon the Borrower's use or disposition of the Collateral or any proceeds thereof contained in this Agreement shall apply to the

Intercompany Loan Collateral or any proceeds thereof, other than at any time that an Event of Default exists; provided that no Liens other than Permitted Liens shall be permitted to be granted by the Borrower with respect to the Intercompany Loan Collateral but any transferee of Borrower's interest in the Intercompany Loan Collateral may grant Liens thereon at any time.

SECTION 3.2 Recourse to Security. Recourse to security shall not be required for any Obligation hereunder and the Borrower hereby waives any requirement that the Administrative Agent or the Lenders exhaust any right or take any action against any of the Collateral before proceeding to enforce the Obligations against the Borrower.

SECTION 3.3 Special Provisions Relating to Inventory.

(a) All Inventory. The Lien in the Inventory granted to the Administrative Agent hereunder shall continue through all steps of manufacture and sale and attach without further act to raw materials, work in process, finished goods, returned goods, documents of title and warehouse receipts, and to proceeds resulting from the sale or other disposition of such Inventory. Until all of the Obligations have been satisfied and the Commitments have been terminated, the Administrative Agent's Lien in such Inventory and in all proceeds thereof shall continue in full force and effect and, if an Event of Default is continuing, the Administrative Agent shall have the right to take physical possession of such Inventory and to maintain it on the premises of the Borrower, in a public warehouse, or at such other place as the Administrative Agent may deem appropriate. If the Administrative Agent exercises such right to take possession of such Inventory, the Borrower will, upon demand, and at the Borrower's cost and expense, assemble such Inventory and make it available to the Administrative Agent at a place or places convenient to the Administrative Agent.

(b) Further Assurances. The Borrower will, upon the Administrative Agent's request, perform any and all steps that are necessary to perfect the Administrative Agent's Liens in the Collateral including placing and maintaining signs, executing and filing financing or continuation statements in form and substance satisfactory to the Administrative Agent, maintaining stock records and conducting lien searches. In each case, the Borrower shall take such action as promptly as possible after requested by the Administrative Agent but in any event within five Business Days after any such request is made except that the Borrower shall take such action immediately upon the Administrative Agent's request following the occurrence of an Event of Default. If the Borrower's Inventory is in the possession or control of any Person other than a purchaser in the Ordinary Course of Business or a public warehouseman where the warehouse receipt is in the name of or held by the Administrative Agent, the Borrower shall notify such Person of the Administrative Agent's Lien therein and, upon request, instruct such Person to acknowledge in writing its agreement to hold all such Inventory for the benefit of the Administrative Agent and subject to the Administrative Agent's instructions. If so requested by the Administrative Agent, the Borrower (as promptly as possible after requested by the Administrative Agent but in any event within five Business Days after any such request is made) will deliver (i) to the Administrative Agent warehouse receipts covering any of the Borrower's Inventory located in warehouses showing the Administrative Agent as the beneficiary thereof and (ii) to the warehouseman such agreements relating to the release of warehouse Inventory as the Administrative Agent may request. If so requested by the Administrative Agent, the Borrower shall execute and deliver to the Administrative Agent a confirmatory written

instrument, in form and substance satisfactory to the Administrative Agent, listing all its Inventory, but any failure to execute or deliver the same shall not limit or otherwise affect the Administrative Agent's Lien in and to such Inventory.

(c) Inventory Records. The Borrower shall maintain full, accurate and complete records of its Inventory describing the kind, type and quantity of such Inventory and the Borrower's cost therefor, withdrawals therefrom and additions thereto.

SECTION 3.4 Special Provisions Relating to Receivables.

(a) Invoices, Etc. If an Event of Default is continuing, on the Administrative Agent's request therefor, the Borrower shall furnish to the Administrative Agent (i) the originals of all promissory notes and other instruments in favor of the Borrower, (ii) copies of invoices to customers and shipping and delivery receipts or warehouse receipts thereof, (iii) the originals of all letters of credit in its favor, (iv) such endorsements or assignments related to such letters of credit, notes, and instruments as the Administrative Agent may reasonably request and (v) the written consent of the issuer of any letter of credit to the assignment of the proceeds of such letter of credit by the Borrower to the Administrative Agent.

(b) Records, Collections, Etc. The Borrower shall notify the Administrative Agent of all returns and of all claims asserted with respect to merchandise, in each case with a value in excess of $5,000,000. The Borrower shall promptly report to the Administrative Agent each such return, providing the Administrative Agent with a description of the returned item. If an Event of Default is continuing, the Borrower shall not, without the Administrative Agent's prior written consent, settle or adjust any dispute or claim, or grant any discount (except ordinary trade discounts), credit or allowance or accept any return of merchandise, except in the Ordinary Course of Business. The Administrative Agent may (i) settle or adjust disputes or claims directly with Account Debtors for amounts and upon terms which it considers advisable and (ii) notify Account Debtors on the Borrower's Receivables that such Receivables have been assigned to the Administrative Agent, and that payments in respect thereof shall be made directly to the Administrative Agent.

(c) Receivables. The Administrative Agent may rely, in determining which Receivables are Eligible Receivables, on all statements and representations made by the Borrower with respect to any Receivable and that all Eligible Receivables meet the criteria therefor set forth in the definition of "Eligible Receivables" except to the extent that any such criteria is determined by the discretion of the Administrative Agent.

SECTION 3.5 Continuation of Liens, Etc. The Borrower shall defend the Collateral against all claims and demands of all Persons at any time claiming any interest therein, other than claims relating to Permitted Liens. The Borrower agrees to comply with the requirements of all state and federal laws to grant to the Administrative Agent valid and perfected first priority Liens in the Collateral, subject only to Permitted Liens. The Administrative Agent is hereby authorized by the Borrower, during the continuance of an Event of Default, to sign the Borrower's name on any document or instrument as may be necessary or desirable to establish and maintain the Liens covering the Collateral and the priority and continued perfection thereof or file any financing or continuation statements or similar documents or instruments covering the

Collateral whether or not the Borrower's signature appears thereon. The Borrower agrees, from time to time, at the Administrative Agent's request, to file notices of Liens, financing statements, similar documents or instruments, and amendments, renewals and continuations thereof, and cooperate with the Administrative Agent's representatives, in connection with the continued perfection (and the priority status thereof) and protection of the Collateral and the Administrative Agent's Liens thereon. The Borrower shall promptly notify the Administrative Agent in writing if, after the Closing Date, the Borrower obtains any interest in any Collateral consisting of chattel paper, documents, instruments, intellectual property, investment property or letter of credit rights, in each case having a value in excess of $5,000,000, and, upon the Administrative Agent's request, shall promptly execute such documents and take such actions as the Administrative Agent deems appropriate to effect the Administrative Agent's duly perfected, first priority Lien upon such Collateral, including obtaining any appropriate possession, control agreement or Collateral Access Agreement.

SECTION 3.6 Power of Attorney. In addition to all of the powers granted to the Administrative Agent in this **Article III**, the Borrower hereby appoints and constitutes the Administrative Agent as the Borrower's attorney-in-fact to sign the Borrower's name on any of the documents, instruments and other items described in **Section 3.5**, to make any filings under the UCC covering any of the Collateral, and to request at any time from customers indebted on its Receivables verification of information concerning such Receivables and the amount owing thereon (provided that any verification prior to an Event of Default shall not contain the Administrative Agent's name), and, during the continuance of an Event of Default, (i) to convey any item of Collateral to any purchaser thereof and (ii) to make any payment or take any act necessary or desirable to protect or preserve any Collateral. The Administrative Agent's authority hereunder shall include the authority to execute and give receipt for any certificate of ownership or any document, to transfer title to any item of Collateral and to take any other actions arising from or incident to the powers granted to the Administrative Agent under this Agreement. This power of attorney is coupled with an interest and is irrevocable, provided that it shall terminate upon the payment and satisfaction of all Obligations in full and the termination of the Commitments.

SECTION 3.7 Release of Collateral. So long as no Default or Event of Default has occurred and is continuing hereunder, the Administrative Agent shall, at the Borrower's sole cost and expense, take such actions as may be reasonably requested by the Borrower in order to release the Administrative Agent's Lien on (a) any Collateral that has been sold or otherwise disposed of, such sale or other disposition of which is permitted under **Section 7.2(i)**, provided that the Administrative Agent's Lien shall continue in the proceeds of any such Collateral (other than cash proceeds of such Collateral that are received by the Borrower at any time except during a Cash Dominion Period), and (b) all Collateral upon Full Payment of the Obligations, except as otherwise provided in **Section 2.8(d)**.

ARTICLE IV
INTEREST, FEES AND EXPENSES

SECTION 4.1 Interest. The Obligations shall bear interest (i) if a Base Rate Advance, at the Base Rate in effect from time to time, plus the Applicable Margin, (ii) if a LIBOR Rate Advance, at Adjusted LIBOR for the applicable Interest Period, plus the Applicable

Margin; and (iii) if any other Obligation (including, to the extent permitted by Applicable Law, interest not paid when due), at the Base Rate in effect from time to time, plus the Applicable Margin for Base Rate Advances. Interest shall accrue from the date the Advance is advanced or the Obligation is incurred or payable, until paid by the Borrower. If an Advance is repaid on the same day made, one day's interest shall accrue. The Borrower shall pay to the Administrative Agent, for the Pro Rata benefit of the Lenders, interest on the Advances, payable monthly in arrears: (a) on the first day of each month, commencing with the month immediately following the Closing Date, (b) on any date of prepayment, with respect to the principal amount of Advances being prepaid, and (c) on the Expiration Date.

SECTION 4.2 Interest After Event of Default. From the date of occurrence of any Event of Default until the earlier of the date upon which (i) all Obligations shall have been paid and satisfied in full or (ii) such Event of Default shall have been cured or waived, interest on the Obligations shall be payable on demand at a rate per annum (the "Default Rate") equal to the rate that would be otherwise applicable thereto under **Section 4.1** plus an additional 2.00%.

SECTION 4.3 The Administrative Agent's and Closing Fees. The Borrower shall pay to the Administrative Agent, for its own account, the fees specified in the Fee Letter.

SECTION 4.4 Unused Line Fee and LC Facility Fees.

(a) The Borrower shall pay to the Administrative Agent for the Pro Rata benefit of the Lenders on the first day of each quarter, commencing with the quarter immediately following the Closing Date, and on the Expiration Date, in arrears, an unused line fee (the "Unused Line Fee") equal to (i) (a) for the period beginning on the Closing Date and ending on September 30, 2011, 0.625%, and (b) for the quarter beginning on October 1, 2011, and for each quarter thereafter, (1) if the aggregate unused portion of the Maximum Amount of the Facility during such quarter is less than 50% of the Maximum Amount of the Facility, 0.625%, and (2) for each other quarter, 0.50%, in each case multiplied by (ii) the amount that equals the difference if positive, between (a) the Maximum Amount of the Facility and (b) the average daily aggregate outstanding amount of the Loans and the LC Obligations.

(b) The Borrower shall pay (i) to the Administrative Agent, for the Pro Rata benefit of Lenders, a fee equal to the Applicable Margin in effect for LIBOR Rate Advances multiplied by the average daily stated amount of Letters of Credit, which fee shall be payable monthly in arrears, on the first day of each month; and (ii) to Issuing Bank, for its own account, all customary charges associated with the issuance, amending, negotiating, payment, processing, transfer and administration of Letters of Credit, which charges shall be paid as and when incurred.

SECTION 4.5 Calculations. All interest, as well as fees and other charges calculated on a per annum basis, shall be computed for the actual days elapsed, based on a year of 360 days. Each determination by the Administrative Agent of any interest, fees or interest rate hereunder shall be final, conclusive and binding for all purposes, absent error. All fees shall be fully earned when due and shall not be subject to rebate or refund, nor subject to proration except as specifically provided herein. All fees payable under **Sections 4.3** and **4.4** are compensation for services and are not, and shall not be deemed to be, interest or any other charge for the use,

forbearance or detention of money. A certificate as to amounts payable by the Borrower under **Section 4.6** or **4.7**, submitted to the Borrower by the Administrative Agent or the affected Lender, as applicable, shall be final, conclusive and binding for all purposes, absent error.

SECTION 4.6 Indemnification in Certain Events. If, after the Closing Date, (i) any change in or in the interpretation of any law or regulation is made including with respect to reserve requirements, applicable to any Lender, (ii) any Lender is required to comply with, and complies, with any future guideline from any central bank or other Governmental Authority or (iii) there is enacted or adopted any Applicable Law, rule or regulation regarding capital adequacy, or there is any change therein after the Closing Date, or there is any change after the Closing Date in the interpretation or administration thereof by any Governmental Authority, central bank or comparable agency charged with the interpretation or administration thereof has or would have the effect described below, or any Lender complies with any request or directive made after the Closing Date regarding capital adequacy (whether or not having the force of law) of any such authority, central bank or comparable agency, and in the case of any event set forth in this clause (iii), such adoption, change or compliance has or would have the direct or indirect effect of reducing the rate of return on such Lender's capital as a consequence of its obligations hereunder to a level below that which such Lender could have achieved but for such adoption, change or compliance (taking into consideration such Lender's policies as the case may be with respect to capital adequacy) by an amount deemed by such Lender to be material, and any of the foregoing events described in clauses (i), (ii) and (iii) increases the cost to such Lender of funding or maintaining the Loans, or reduces the amount receivable in respect thereof by such Lender, then the Borrower shall, upon demand by the Administrative Agent, pay to the Administrative Agent for the benefit of such Lender additional amounts sufficient to indemnify such Lender against such increase in cost or reduction in amount receivable. Each Lender agrees that, if it becomes aware of the occurrence of any such event or condition that would cause it to incur any material increased cost to fund or maintain the Loans or that would reduce the amount receivable in respect thereof in any material respect, it will notify the Administrative Agent (and the Administrative Agent will notify the Borrower) as promptly as practicable of such event or condition and will use its reasonable efforts to make, fund or maintain the affected Loans of such Lender in a manner such that the additional amounts which would otherwise be required to be paid hereunder would be materially reduced, in each case so long as, in such Lender's reasonable discretion, the making, funding or maintaining of such Loans in such other manner would not otherwise materially adversely affect such Loans or such Lender. If the Borrower shall receive notice from the Administrative Agent that amounts are due to a Lender hereunder, the Borrower may, upon at least five Business Days' prior written notice to such Lender and the Administrative Agent, but not more than 60 days after receipt of notice from the Administrative Agent, identify to the Administrative Agent an Eligible Assignee acceptable to the Borrower and the Administrative Agent, which will purchase from such Lender the Commitment, the amount of outstanding Loans, and the Notes held by such Lender and such Lender shall thereupon assign its Commitment, any Loans owing to such Lender, and the Notes held by such Lender to such Eligible Assignee in accordance with **Section 11.3** upon receipt of such purchase price. Notwithstanding anything herein to the contrary, the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, rules, guidelines, requirements and directions thereunder issued in connection therewith or in implementation thereof, shall in each case be deemed a change in law covered by this Section regardless of the date enacted, adopted, issued or implemented.

SECTION 4.7 Taxes.

(a) Subject to the provisions of this **Section 4.7**, any and all payments by the Borrower hereunder or under any of the other Loan Documents shall be made free and clear of and without deduction for any and all Taxes, excluding any Taxes imposed on the net income or gross receipts of the recipient of such payment (including any Taxes imposed on branch profits) and franchise or capital stock Taxes imposed on such recipient by any applicable jurisdiction. If the Borrower shall be required by Applicable Law to deduct any Taxes from or in respect of any sum payable hereunder or under any Loan to or for the benefit of the Administrative Agent or any Lender, (i) the sum payable shall be increased as may be necessary so that after making all required deductions of Taxes (including deductions of Taxes applicable to additional sums payable under this **Section 4.7**) the Administrative Agent or such Lender receives an amount equal to the sum it would have received had no such deductions been made, (ii) the Borrower shall make such deductions and (iii) the Borrower shall pay the full amount so deducted to the relevant taxation authority or other authority in accordance with Applicable Law.

(b) In addition, the Borrower agrees to pay any present or future stamp, documentary, excise, privilege, intangible or similar Taxes or levies that arise at any time or from time to time (i) from any payment made under any and all Loan Documents, or (ii) from the execution or delivery by the Borrower of, or from the filing or recording or maintenance of, or otherwise with respect to the exercise by the Administrative Agent of its rights under, any and all Loan Documents (hereinafter referred to as "Other Taxes").

(c) Within 30 days after the date of any payment of Taxes or Other Taxes, the Borrower will, upon request, furnish to the Administrative Agent the original or a certified copy of a receipt evidencing payment thereof.

(d) Without prejudice to the survival of any other agreement of the Borrower hereunder, the agreements and obligations of the Borrower contained in this **Section 4.7** shall survive the Full Payment of the Obligations.

(e) Each Person that is not a Foreign Lender which acquires (including as a result of the entering into of this Agreement or the making of a Loan) an interest in this Agreement or any Loan, on or prior to the effective date of such acquisition, will deliver to the Borrower and the Administrative Agent two valid, duly completed copies of such documentation (including IRS Form W-9 or any applicable successor form), as is required to establish that such Person is entitled to receive payments under this Agreement and the Notes payable to it without deduction or withholding of United States federal income tax and to establish an exception for United States withholding tax unless such Person is otherwise not required under Applicable Law to deliver such documentation to establish its exemption from such deduction or withholding (it being acknowledged that BofA is a Person not required to deliver such documentation). Each Person that delivers to the Borrower and the Administrative Agent a Form W-9, or any other required form, pursuant to the preceding sentence, further undertakes to deliver two further copies of such Form, or applicable successor forms, or other manner of required certification, as the case may be, on or before the date that any such form expires or becomes obsolete or otherwise is required to be resubmitted as a condition to obtaining an exemption from a required withholding of United States federal income tax or after the

occurrence of any event requiring a change in the most recent form previously delivered by it to the Borrower and the Administrative Agent, and such extensions or renewals thereof as may reasonably be required by the Borrower and the Administrative Agent, certifying that such Person is entitled to receive payments under this Agreement without deduction or withholding of any United States federal income taxes.

(f) Each Person that is a Foreign Lender which acquires (including as a result of the entering into of this Agreement or the making of a Loan) an interest in this Agreement or any Loan, on or prior to the effective date of such acquisition, will deliver to the Borrower and the Administrative Agent two valid, duly completed copies of such documentation (including IRS Form W-8BEN or W-8ECI or any applicable successor form), as is required to establish that such Person is entitled to receive payments under this Agreement and the Notes payable to it without deduction or withholding of United States federal income tax and to establish an exemption from United States backup withholding tax. Each Person that delivers to the Borrower and the Administrative Agent a Form W-8BEN or W-8ECI, or any other required form, pursuant to the preceding sentence, further undertakes to deliver two further copies of such Form, or applicable successor forms, or other manner of required certification, as the case may be, on or before the date that any such form expires or becomes obsolete or otherwise is required to be resubmitted as a condition to obtaining an exemption from a required withholding of United States federal income tax or after the occurrence of any event requiring a change in the most recent form previously delivered by it to the Borrower and the Administrative Agent, and such extensions or renewals thereof as may reasonably be requested by the Borrower and the Administrative Agent, certifying that such Foreign Lender is entitled to receive payments under this Agreement without deduction or withholding of any United States federal income taxes.

(g) The Borrower shall not be required to pay any additional amounts under **Section 4.7(a)** to an affected Lender in respect of any amounts that the Borrower is required under Applicable Law to withhold from payments under the Loan Documents if the Borrower is required to so withhold due to (i) a failure by such Lender to comply with the applicable provisions of **Sections 4.7(e)** and **(f)** above, or (ii) an action of such Lender that eliminates such Lender's qualification for exemption from United States withholding tax with respect to payments under the Loan Documents (including designation by such Lender of a new lending office or principal place of business having such effect).

(h) In the event that at any time any Foreign Lender shall determine that, due to a Tax Law Change or Proposed Tax Law Change, any amount payable by the Borrower to such Foreign Lender under the Loan Documents becomes or will become subject to any withholding tax, then such Foreign Lender shall give notice thereof to the Administrative Agent and the Borrower; provided, that if such Foreign Lender shall fail to give notice thereof to the Administrative Agent and the Borrower, then the Borrower shall not be required to pay any additional amounts under **Section 4.7(a)** to such Foreign Lender in respect of any amounts that the Borrower is required under Applicable Law to withhold from payments under the Loan Documents.

ARTICLE V
CONDITIONS OF LENDING

SECTION 5.1 Conditions to Credit Extensions. Lenders, Issuing Bank and the Administrative Agent shall not be required to fund any initial Loans hereunder, include the Existing Letters of Credit as Letters of Credit hereunder, or grant any other accommodation to or for the benefit of the Borrower, until the date on which each of the following conditions has been satisfied:

(a) The Administrative Agent shall have received the following, each dated the date of the initial Loan or as of an earlier date acceptable to the Administrative Agent, in form and substance satisfactory to the Administrative Agent and its counsel:

(i) a Note in favor of each Lender (if requested by such Lender), each duly executed by the Borrower;

(ii) each agreement establishing each lockbox and Dominion Account required by this Agreement and each Deposit Account Control Agreement for each Dominion Account and each Concentration Account that is maintained as of the Closing Date, duly executed by the Borrower and BofA or a financial institution acceptable to the Administrative Agent;

(iii) an initial Borrowing Base Certificate, duly executed on behalf of the Borrower by a Responsible Officer;

(iv) an opinion of counsel for the Borrower covering such matters incident to the transactions contemplated by this Agreement as the Administrative Agent may reasonably require, which such counsel is hereby requested by the Borrower to provide;

(v) certified copies of all policies of insurance required by this Agreement and the other Loan Documents, together with loss payee endorsements for all such policies naming the Administrative Agent as lender's loss payee with respect to casualty policies;

(vi) copies of the Governing Documents of the Borrower and a copy of the resolutions of the Board of Directors of the Borrower authorizing the execution, delivery and performance of this Agreement, the other Loan Documents to which the Borrower is or is to be a party, and the transactions contemplated hereby and thereby, attached to which is a certificate of the Secretary or an Assistant Secretary of the Borrower certifying (A) that such copies of the Governing Documents and resolutions (or similar evidence of authorization) relating to the Borrower are true, complete and accurate copies thereof, have not been amended or modified as of the date of such certificate and are in full force and effect and (B) the incumbency, names and true signatures of the officers of the Borrower authorized to sign the Loan Documents to which it is a party;

(vii) a certified copy of a certificate of the Secretary of State of the state of incorporation of the Borrower, dated within 15 days of the Closing Date, listing the certificate of incorporation of the Borrower and each amendment thereto on file in such official's office and certifying that (A) such amendments are the only amendments to such certificate of

incorporation on file in that office, (B) the Borrower has paid all franchise taxes to the date of such certificate and (C) the Borrower is in good standing in that jurisdiction;

(viii) good standing certificates from the Secretary of States of Delaware, Florida, New York and North Carolina;

(ix) the Fee Letter, duly executed by the Borrower;

(x) an amendment to and reaffirmation of the Licensor Agreement, duly executed by WP IP LLC and the Borrower, to include trademarks licensed to the Borrower by WP IP LLC since the closing date of the Existing Loan Agreement; and

(xi) such other agreements, instruments, documents and evidence as the Administrative Agent deems necessary in its reasonable discretion in connection with the transactions contemplated hereby.

(b) Except for the matters referred to on Schedule 6.1(q), there shall be no pending or, to the knowledge of the Borrower, threatened, litigation, proceeding, action, suit, investigation, inquiry or other action before any arbitrator or Governmental Authority that in Administrative Agent's judgment (i) could reasonably be expected to (A) have a Material Adverse Effect on the Borrower's business, assets, properties, liabilities, operations, condition or prospects (other than any such effect on the Bahrain Subsidiary, to the extent not constituting a Material Adverse Effect on the Borrower), or (B) materially and adversely affect the ability of the Borrower to perform its obligations under the Loan Documents or (ii) could reasonably be expected to materially and adversely affect the transactions contemplated hereunder.

(c) The Borrower shall have paid (i) all reasonable legal fees of the Administrative Agent in connection with the negotiation, preparation, execution and delivery of the Loan Documents, and (ii) the fees payable under the Fee Letter and the expenses payable by the Borrower as provided in the commitment letter dated April 8, 2011, by the Borrower to BofA, and all other fees referred to in this Agreement that are required to be paid on the Closing Date.

(d) No consent or authorization of, filing with or other act by or in respect of any Governmental Authority or any other Person is required to be made by the Borrower in connection with the execution, delivery, performance, validity or enforceability of this Agreement, the Notes or the other Loan Documents or the consummation of the transactions contemplated hereby or thereby or the continuing operations of the Borrower following the consummation of such transactions.

(e) The Borrower shall be in compliance with all Requirements of Law other than such noncompliance that could not reasonably be expected to have a Material Adverse Effect.

(f) The Liens in favor of the Administrative Agent relating to the Collateral shall have been duly perfected and shall constitute first priority Liens, and the Collateral shall be free and clear of all Liens other than Liens in favor of the Administrative Agent and Permitted Liens.

(g) After giving effect to all Loans to be made and Letters of Credit to be issued on the Closing Date, the Excess Availability plus the Borrower's cash and Cash Equivalents shall exceed $30,000,000 on the Closing Date.

(h) The Administrative Agent shall have received satisfactory evidence that, as of the Closing Date, the Borrower's total stockholders' equity is not less than $85,000,000 and the total amount of Revolving Credit Loans is not more than $5,000,000.

(i) No Change of Control shall have occurred with respect to the Borrower.

Contemporaneously with the delivery of the executed signature pages to this Agreement by BofA to the Borrower, the conditions set forth in this **Section 5.1** shall be and be deemed to be either satisfied or waived.

SECTION 5.2 Conditions Precedent to Each Loan. The Administrative Agent, Issuing Bank and Lenders shall not be required to fund any Loans, arrange for issuance of any Letters of Credit or grant any other accommodation to or for the benefit of the Borrower, unless the following conditions are satisfied:

(a) all representations and warranties contained in this Agreement (other than any representations and warranties that relate solely to another date, as specified in any of the subparagraphs of **Section 6.1** containing such representations, in which case such representations and warranties shall have been true and correct in all material respects as of such other date) shall be true and correct in all material respects on and as of the date of such Loan as if then made;

(b) no Default or Event of Default shall have occurred and be continuing or would result from the making of the requested Loan as of the date of such request; and

(c) with respect to issuance of a Letter of Credit, the LC Conditions shall be satisfied.

Each request (or deemed request) by the Borrower for funding of a Loan, issuance of a Letter of Credit or grant of an accommodation shall constitute a representation by the Borrower that the foregoing conditions are satisfied on the date of such request. During the period from the date of such request to the date of such funding, issuance or grant, the Borrower shall promptly notify the Administrative Agent if any of the foregoing conditions is no longer satisfied.

SECTION 5.3 Limited Waiver of Conditions Precedent. If the Administrative Agent, Issuing Bank or Lenders fund any Loans, arrange for issuance of any Letters of Credit or grant any other accommodation when any conditions precedent are not satisfied (regardless of whether the lack of satisfaction was known or unknown to the Administrative Agent at the time), it shall not operate as a waiver of the right of the Administrative Agent, Issuing Bank and Lenders to insist upon satisfaction of all conditions precedent with respect to any subsequent funding, issuance or grant; provided, however, to the extent the lack of satisfaction was known to the Administrative Agent at the time of such funding, issuance or grant, such failure of conditions, at the time shall not, in and of itself, constitute a Default or Event of Default.

ARTICL VI
REPRESENTATIONS AND WARRANTIES

SECTION 6.1 Representations and Warranties of the Borrower. The Borrower represents and warrants as of the date hereof as follows:

(a) Organization, Good Standing and Qualification. The Borrower (i) is a corporation duly organized, validly existing and in good standing under the laws of Delaware, (ii) has the corporate power and authority to own its Properties and to transact the businesses in which it presently is engaged and (iii) is duly qualified, authorized to do business and in good standing in each jurisdiction where it presently is engaged in business, except to the extent that the failure to so qualify or be in good standing could not reasonably be expected to have a Material Adverse Effect. Schedule 6.1(a) specifies all jurisdictions in which the Borrower is qualified to do business as a foreign corporation as of the Closing Date.

(b) Locations of Offices, Records and Collateral. As of the date hereof: the address of the principal place of business and chief executive office of the Borrower is, and the books and records of the Borrower and all of its chattel paper and records of Receivables are maintained exclusively in the possession of the Borrower at, the addresses specified in Schedule 6.1(b), and there is no location at which the Borrower maintains any Collateral other than the locations specified for it in Schedule 6.1(b).

(c) Authority. It has the requisite corporate power and authority to execute, deliver and perform its obligations under each of the Loan Documents to which it is a party. All corporate action necessary for the execution, delivery and performance by it of the Loan Documents to which it is a party (including the consent of shareholders where required) has been taken.

(d) Enforceability. This Agreement is, and when executed and delivered, each other Loan Document to which it is a party, will be, the legal, valid and binding obligation of the Borrower, enforceable against the Borrower in accordance with its terms, except as enforceability may be limited by (i) bankruptcy, insolvency or similar laws affecting creditors' rights generally and (ii) general principles of equity.

(e) No Conflict. The execution, delivery and performance by it of each Loan Document to which it is a party do not and will not contravene (i) any of the Governing Documents of the Borrower, (ii) any Applicable Law the breach of which could reasonably be expected to have a Material Adverse Effect, or (iii) any Material Contract and will not result in the imposition of any Liens upon any of its Properties, except in favor of the Administrative Agent.

(f) Consents and Filings. No consent, authorization or approval of, or filing with or other act by, any shareholders of the Borrower, any Governmental Authority or any other Person is required to be made by the Borrower in connection with the execution, delivery, performance, validity or enforceability of this Agreement or any other Loan Document, the consummation of the transactions contemplated hereby or thereby or the continuing operations of

the Borrower following such consummation, except for the filing of financing statements under the UCC.

(g) Subsidiaries. As of the date hereof, the Equity Interests of the Borrower's Subsidiaries are owned by the Persons and in the amounts specified in Schedule 6.1(g).

(h) Solvency. It is Solvent and will be Solvent upon the completion of all transactions contemplated to occur on or before the Closing Date (including the Loans to be made on the Closing Date).

(i) Financial Data. It has provided to the Administrative Agent complete and accurate copies of its annual audited consolidated Financial Statements for the Fiscal Year ended December 31, 2010, and unaudited consolidated Financial Statements for the four Fiscal Month period ended April 30, 2011. Such Financial Statements have been prepared in accordance with GAAP, consistently applied throughout the periods involved, and fairly present the financial position, results of operations and cash flows of the Borrower and its Subsidiaries for each of the periods covered (except, in the case of the unaudited Financial Statements, (i) for normal year-end adjustments and (ii) the absence of footnotes). During the period from April 30, 2011 to and including the date hereof, there has been no sale, transfer or other disposition by the Borrower of any material part of its business or property and no purchase or other acquisition of any business or property (including any Equity Interests of any other Person) material in relation to the financial condition of the Borrower at April 30, 2011. Since December 31, 2010 through the date of this Agreement, (i) there has been no change, occurrence, development or event which has had or could reasonably be expected to have a Material Adverse Effect not previously disclosed by the Borrower to the Administrative Agent and (ii) none of the Equity Interests of the Borrower have been redeemed, retired, purchased or otherwise acquired for value by the Borrower.

(j) Affiliate Transactions. The Borrower is not a party to or bound by any agreement or arrangement (whether oral or written) relating to any of the Collateral to which any Affiliate of the Borrower is a party except to the extent permitted under **Section 7.2(j)**.

(k) No Joint Ventures or Partnerships. Except as set forth in Schedule 6.1(k), as of the date hereof, it is not engaged in any Joint Venture or partnership with any other Person.

(l) Corporate Names. Except as set forth in Schedule 6.1(l), during the five years prior to the date of this Agreement, the Borrower has not been known by or used any other corporate name except for its name as set forth in the introductory paragraph and on the signature page of this Agreement, which is the exact correct legal name of the Borrower.

(m) No Actual or Pending Material Modification of Business. As of the date of this Agreement, there exists no actual or, to the best of the Borrower's knowledge after due inquiry, threatened termination, cancellation or limitation of, or any modification or change in, the business relationship of the Borrower with any customer or group of customers which individually or in the aggregate could reasonably be expected to have a Material Adverse Effect.

(n) Investment Company. It is not an "investment company," or a "promoter" or "principal underwriter" for, an "investment company," as such terms are defined in the

Investment Company Act of 1940, as amended. Neither the making of any Loans or the application of the proceeds or repayment thereof by the Borrower, nor the consummation of the other transactions contemplated by this Agreement or the other Loan Documents, will violate any provision of such Act or any rule, regulation or order of the Securities and Exchange Commission thereunder.

(o) Margin Stock. It does not own any "margin stock" as that term is defined in Regulation U of the Federal Reserve Board.

(p) Taxes and Tax Returns. Except as specified in Schedule 6.1(p),

(i) it has properly completed and timely filed all material income tax returns it is required to file. The information filed is complete and accurate in all material respects;

(ii) all Taxes, assessments, fees and other governmental charges for periods beginning prior to the date hereof, which involve an amount in excess of $1,000,000 in the aggregate, have been timely paid (or, if not yet due, adequate reserves therefore have been established) by it and the Borrower has no material liability for taxes in excess of the amounts so paid or reserves so established;

(iii) no deficiencies for Taxes have been claimed, proposed or assessed by any taxing or other Governmental Authority against the Borrower and no Tax Liens have been filed with respect thereto against any of the Collateral that involve an amount in excess of $1,000,000 in the aggregate. There are no pending or threatened audits, investigations or claims for or relating to any liability of the Borrower for Taxes and there are no matters under discussion with any Governmental Authority which could result in an additional liability for Taxes, which involve Taxes in excess of $1,000,000 in the aggregate. The federal income tax returns of the Borrower have never been audited by the Internal Revenue Service. No extension of a statute of limitations relating to Taxes, assessments, fees or other governmental charges is in effect with respect to the Borrower; and

(iv) it is not a party to, and has no obligations under, any written tax sharing agreement or agreement regarding payments in lieu of taxes.

(q) No Judgments or Litigation. Except for the matters referred to in Schedule 6.1(q), no judgments, orders, writs or decrees are outstanding against it, nor is there now pending or, to its knowledge, threatened litigation, contested claim, investigation, arbitration, or governmental proceeding by or against the Borrower that (i) individually or in the aggregate could reasonably be expected to have a Material Adverse Effect or (ii) purports to affect the legality, validity or enforceability of this Agreement, the Notes, any other Loan Document or the consummation of the transactions contemplated hereby or thereby.

(r) No Other Indebtedness. On the Closing Date and after giving effect to the transactions contemplated hereby, it has no Indebtedness other than (i) Indebtedness reflected in the Financial Statements delivered to Agent prior to the Closing Date as provided in **Section 6.1(i)**, to the extent required by GAAP to be included therein or in footnotes thereto, or (ii) as set forth in Schedule 6.1(r).

(s) Compliance with Laws. The Borrower is not in default under any term of any Applicable Law other than any default which, when taken together with all other similar defaults, could not reasonably be expected to have a Material Adverse Effect. No Person who owns a controlling interest in or otherwise controls the Borrower is (i) listed on the Specially Designated Nationals and Blocked Person list maintained by the Office of Foreign Assets Control ("OFAC"), Department of the Treasury, or any other similar list maintained by the OFAC under any authorizing statute, Executive Order or regulation or (ii) a Person designated under Section 1(b), (c) or (d) of Executive Order No. 13224 (September 23, 2001), any related enabling legislation or any similar Executive Order (a Person described in (i) or (ii), a "Blocked Person"). The Borrower is in compliance with all applicable Bank Secrecy Act ("BSA") laws and regulations on BSA compliance and on the prevention and detection of money laundering violations. The Borrower acknowledges that each of the Administrative Agent and the Lenders have notified the Borrower that the Administrative Agent and the Lenders are required, under the USA Patriot Act, 31 U.S.C. Section 5318 (the "PATRIOT Act"), to obtain, verify and record information that identifies the Borrower including the name and address of the Borrower and such other information that will allow the Administrative Agent and the Lenders to identify the Borrower in accordance with the PATRIOT Act.

(t) Rights in Collateral; Priority of Liens. All of the Collateral of the Borrower is owned or leased by it free and clear of any and all Liens in favor of third parties, other than Liens in favor of the Administrative Agent and Permitted Liens. The Liens granted by the Borrower under this Agreement constitute valid, enforceable and perfected first priority Liens on the Collateral.

(u) ERISA. No ERISA Event has occurred or, to the best knowledge of the Borrower, is reasonably expected to occur that, when taken together with all other ERISA Events and ERISA Events that, to the best knowledge of the Borrower, are reasonably expected to occur, could reasonably be expected to result in a Material Adverse Effect.

(v) Labor Matters. There are no existing or, to the Borrower's knowledge, threatened strikes, lockouts or other disputes relating to any collective bargaining or similar agreement to which the Borrower is a party which, individually or in the aggregate, could reasonably be expected to have a Material Adverse Effect.

(w) Compliance with Environmental Laws. (i) It is not the subject of any judicial or administrative proceeding or investigation relating to the violation of any Environmental Law or asserting potential liability arising from the release or disposal by any Person of any Hazardous Materials, (ii) it has not received from any Governmental Authority or other Person any notice, order, stipulation or directive under any Environmental Law, nor is it aware of any pending discussions within any Governmental Authority, concerning the treatment, storage, disposal, spill or release or threatened release of any Hazardous Materials at, on, beneath or adjacent to Property owned or leased by it, or the release or threatened release at any other location of any Hazardous Material generated, used, stored, treated, transported or released by or on behalf of the Borrower, (iii) during the period that Affiliates of Carl C. Icahn have controlled the Borrower, it has disposed of all its waste in accordance with all Applicable Laws and it has not improperly stored or disposed of any waste at, on, beneath or adjacent to any of its Property, (iv) it has no knowledge of any actual or potential liability for any release of any Hazardous

Materials, and there has been no spill or release of any Hazardous Materials at any of its Property in violation of Environmental Laws, (v) all of its Property (including its Equipment) is free, and has at all times been free, of Hazardous Materials, except as such materials may be part of such Equipment, and underground storage tanks and (vi) to the knowledge of the Borrower, none of its Property has ever been used as a waste disposal site, whether registered or unregistered, where any of the foregoing matters referred to in clauses (i) through (vi) above could reasonably be expected to have a Material Adverse Effect.

(x) Licenses and Permits. It has obtained and holds in full force and effect all franchises, licenses, leases, permits, certificates, authorizations, qualifications, easements, rights of way and other rights and approvals which are necessary or advisable for the operation of its business as presently conducted and as proposed to be conducted, except where the failure to possess any of the foregoing (individually or in the aggregate) could not reasonably be expected to have a Material Adverse Effect.

(y) Government Regulation. It is not subject to regulation under the Federal Power Act, the Interstate Commerce Act or any other Requirement of Law that limits its ability to incur Indebtedness or to consummate the transactions contemplated by this Agreement and the other Loan Documents.

(z) Business Plan. Prior to the date hereof, the Borrower delivered to the Administrative Agent the Borrower's Business Plan for Fiscal Years 2011, 2012 and 2013. Such Business Plan was prepared in good faith on the basis of reasonable assumptions which were fair in the context of the conditions existing at the time of delivery thereof, and represented, at the time of delivery, the Borrower's best estimate of its future financial performance.

(aa) Deposit Accounts. As of the Closing Date, Schedule 2 (as the same may be amended or supplemented from time to time) sets forth all of the Pledged Deposit Accounts maintained by the Borrower; the Borrower is the sole account holder of each such deposit account and is not aware of any Person (other than the Administrative Agent) having either a Lien or a dominion or "control" (within the meaning of Section 9-104 of the UCC or any other provision of Applicable Law) over any such deposit account or any Property deposited therein (other than a Lien or control arising by operation of law in favor the depository bank in which such deposit account is maintained); and the Borrower has instructed the depositary bank to comply with instructions received by it from the Administrative Agent, without further consent by the Borrower (other than any deposit accounts specially and exclusively used for payroll, payroll taxes and other employee wage and benefit payments to or for the benefit of the Borrower's employees and other deposit accounts containing from time to time no more than the $500,000 in the aggregate).

(bb) No Defaults or Material Adverse Effect. No event or circumstance exists that constitutes a Default or Event of Default or that could reasonably be expected to have a Material Adverse Effect. The Borrower is not in default, and no event or circumstance exists that with the passage of time or giving of notice would constitute a default in the payment of any Material Indebtedness (other than to WPI) for borrowed money.

ARTICLE VII
COVENANTS OF THE BORROWER

SECTION 7.1 Affirmative Covenants. Until termination of the Commitments and Full Payment of the Obligations:

(a) Maintenance of Existence. The Borrower shall (i) maintain its corporate existence and (ii) maintain in full force and effect all material licenses, bonds, franchises, qualifications and authorizations to do business; provided, however, that the Borrower may convert its organizational form from a Delaware corporation to a Delaware limited liability company, either by converting its legal form in compliance with Delaware law or by merging into and with a Delaware limited liability company formed by the Borrower for such purpose, so long as all of the following conditions are satisfied: (A) the Borrower has given the Administrative Agent at least 30 days advance written notice of such conversion or merger, (B) the Borrower has delivered to the Administrative Agent (1) drafts of all documents to be filed with the Secretary of State of the State of Delaware (including a certificate of conversion and certificate of formation in the case of a conversion by the Borrower, or plan of merger and certificate of merger in the case of a merger) to evidence and give effect to such conversion or merger, as applicable (provided further, that upon the filing thereof, the Borrower shall deliver promptly to the Administrative Agent copies of such documents as certified by the Secretary of State of the State of Delaware), and (y) all other documents reasonably requested by the Administrative Agent to evidence such conversion or merger and to continue the perfection and priority of the Administrative Agent's Liens in the Collateral (including, in the case of a merger, a reaffirmation of the Loan Agreement and other Loan Documents by the surviving limited liability company), and (3) the Borrower has cooperated with the Administrative Agent in taking all steps necessary to continue the perfection and priority of the Administrative Agent's Liens in the Collateral.

(b) Maintenance of Property. The Borrower shall keep all property useful and necessary to its business in good working order and condition (ordinary wear and tear excepted) in accordance with its past operating practices, except to the extent that the failure to do so would not cause a Material Adverse Effect.

(c) Environmental Matters. The Borrower shall, and shall cause each of its Subsidiaries to, conduct its business so as to comply in all material respects with all applicable Environmental Laws including compliance in all material respects with the terms and conditions of all permits and governmental authorizations, provided that the Borrower shall not be deemed in violation hereof if the Borrower's failure to comply with any of the foregoing could not reasonably be expected to have a Material Adverse Effect.

(d) Taxes. The Borrower shall pay, when due, (i) all Taxes, assessments, and other governmental charges and levies imposed against it or any of its Property and (ii) all lawful claims that, if unpaid, might by law become a Lien upon its Property; provided, however, that, unless such tax assessment, charge, levy or claim has become a Lien on any of the Property of the Borrower in excess of $1,000,000 in the aggregate for all such assessments, charges, levies and claims, it need not be paid if it is being Properly Contested.

(e) Requirements of Law. The Borrower shall comply with all Applicable Law, including all applicable federal, state, local or foreign laws and regulations, including those relating to environmental and employee matters (including the collection, payment and deposit of employees' income, unemployment, Social Security and Medicare hospital insurance taxes) and with respect to pension liabilities, provided that the Borrower shall not be deemed in violation hereof if the Borrower's failure to comply with any of the foregoing could not reasonably be expected to have a Material Adverse Effect.

(f) Insurance. The Borrower shall maintain public liability insurance, business interruption insurance, third party property damage insurance and replacement value insurance on its assets (including the Collateral) under such policies of insurance, with such insurance companies, in such amounts and covering such risks as are in effect (and copies of which have been provided to the Administrative Agent) immediately before the Closing Date or as subsequently take effect which contain terms customary in the industry and are issued by insurance companies reasonably satisfactory to the Administrative Agent, all of which policies covering the Collateral shall name the Administrative Agent as an additional insured and the lender's loss payee in case of loss, and contain other provisions as the Administrative Agent may reasonably require to protect fully the Administrative Agent's interest in the Collateral and any payments to be made under such policies.

(g) Books and Records; Inspections. The Borrower shall (i) maintain books and records (including computer records and programs) of account pertaining to the assets, liabilities and financial transactions of the Borrower in such detail, form and scope as is consistent with good business practice and (ii) provide the Administrative Agent and its agents access to the premises of the Borrower at any time and from time to time, during normal business hours and upon reasonable notice under the circumstances, and at any time after the occurrence and during the continuance of a Default or Event of Default, for the purposes of (A) inspecting and verifying the Collateral, (B) inspecting and copying (at the Borrower's expense) any and all records pertaining thereto, and (C) discussing the affairs, finances and business of the Borrower with any officer, employee or director thereof or with the Auditors, all of whom are hereby authorized to disclose to the Administrative Agent and the Lenders all financial statements, work papers, and other information relating to such affairs, finances or business. The Borrower shall reimburse the Administrative Agent for the reasonable travel and related expenses of the Administrative Agent's employees (unless the Administrative Agent has employed outside accountants for the purposes specified in this sentence) or, at the Administrative Agent's option, of such Agent Professionals retained by the Administrative Agent, (I) to conduct field examinations to verify or inspect Collateral and the records or documents related thereto (x) no more than one time in any 12 month period (and more frequently in the Administrative Agent's discretion at any time that (1) an Event of Default has occurred and is continuing or (2) Excess Availability is less than $10,000,000), (y) in connection with the inspection of any Inventory acquired from another Person other than in the Ordinary Course of Business if the value thereof is greater than $5,000,000, and (II) to conduct an Inventory Appraisal at any time that the sum of Excess Availability plus Suppressed Availability is less than $20,000,000, or if requested by the Borrower. If the Administrative Agent's own employees are used, the Borrower shall also pay the Administrative Agent's customary per diem allowance (which is currently $850 per person) plus the Administrative Agent's related costs and expenses, or, if outside accountants are used, the Borrower shall also pay the Administrative Agent such sum as may be required to reimburse

the Administrative Agent for the expense thereof. All such Obligations may be charged to the Loan Account or any other account of the Borrower with the Administrative Agent or any of its Affiliates. The Borrower hereby authorizes the Administrative Agent to communicate directly with the Auditors to disclose to the Administrative Agent any and all financial information regarding the Borrower including matters relating to any audit and copies of any letters, memoranda or other correspondence related to the business, financial condition or other affairs of the Borrower.

(h) Notification Requirements. The Borrower shall timely give the Administrative Agent the following notices in writing and other documents:

(i) Proceedings or Changes. Except with respect to the matters referred to in Schedule 6.1(q), promptly, and in any event within 10 Business Days after an executive officer of the Borrower becomes aware of (A) any proceeding including any proceeding the subject of which is based in whole or in part on a commercial tort claim being instituted or threatened to be instituted by or against the Borrower of which an executive officer of the Borrower has knowledge in any federal, state, local or foreign court or before any commission or other regulatory body (federal, state, local or foreign), which is reasonably likely to have a Material Adverse Effect (B) any order, judgment or decree of which an executive officer of the Borrower has knowledge, being entered against the Borrower or any of its property or assets which is reasonably likely to have a Material Adverse Effect, (C) any written notice or correspondence issued to the Borrower of which an executive officer of the Borrower has knowledge by a Governmental Authority warning, threatening or advising of the commencement of any investigation involving the Borrower or any of its property or assets which is reasonably likely to have a Material Adverse Effect.

(ii) Environmental Matters. Promptly, and in any event within 10 days after an executive officer of the Borrower obtains knowledge of the receipt by the Borrower thereof, copies of each (A) written notice that any violation of any Environmental Law may have been committed or is about to be committed by the Borrower which violation could reasonably be expected to result in liability or involve remediation costs, which liability or remediation costs could reasonably be expected to have a Material Adverse Effect, (B) written notice that any administrative or judicial complaint or order has been filed or is about to be filed against the Borrower alleging violations of any Environmental Law or requiring the Borrower to take any action in connection with the release of toxic or Hazardous Materials into the environment which violation or action could reasonably be expected to result in liability or involve remediation costs, which liability or remediation costs could reasonably be expected to have a Material Adverse Effect, (C) written notice from a Governmental Authority or other Person alleging that the Borrower may be liable or responsible for costs associated with a response to or cleanup of a release of a Hazardous Material into the environment or any damages caused thereby which costs or damages could reasonably be expected to have a Material Adverse Effect, or (D) Environmental Law adopted, enacted or issued after the date hereof of which the Borrower becomes aware which could reasonably be expected to have a Material Adverse Effect.

(iii) ERISA Event. Promptly, and in any event within 10 days after an executive officer of the Borrower becomes aware of, obtains knowledge of the occurrence of any ERISA Event.

(iv) Notice of Default; Material Adverse Effect. Promptly, and in any event within 10 days after an executive officer of the Borrower becomes aware of, the existence of any Default or Event of Default or of any event or circumstance which could reasonably be expected to have a Material Adverse Effect.

(v) Accounting Matters. Promptly, and in any event within 10 days after an executive officer of the Borrower becomes aware of the discharge of or any withdrawal or resignation by the Borrower's Auditor.

(i) Casualty Loss. The Borrower shall (i) provide written notice to the Administrative Agent, within 10 Business Days after an executive officer of the Borrower obtains knowledge of any material damage to, the destruction of or any other material loss to any material amount of the Borrower's Inventory (or Equipment Related Collateral), together with a statement of the amount of the damage, destruction, loss or diminution in value (a "Casualty Loss") and (ii) diligently file and prosecute its claim for any award or payment in connection with a Casualty Loss.

(j) Qualify to Transact Business. The Borrower shall, and shall cause each of its Subsidiaries to, qualify to transact business as a foreign corporation, limited partnership or limited liability company, as the case may be, in each jurisdiction where the nature or extent of its business or the ownership of its property requires it to be so qualified or authorized and where failure to qualify or be authorized could reasonably be expected to have a Material Adverse Effect.

(k) Financial Reporting. The Borrower shall deliver to the Administrative Agent the following:

(i) Annual Financial Statements. Not later than 90 days after the end of each Fiscal Year, beginning with the Fiscal Year ended December 31, 2011, (A) the annual audited consolidated and unaudited consolidating Financial Statements of WPI and its Subsidiaries (including the Borrower); (B) a comparison in reasonable detail to the prior Fiscal Year's audited Financial Statements; and (C) the Auditors' opinion with respect to such audited Financial Statements, without Qualification; provided, however, that in lieu of the annual audited Financial Statements of WPI and its Subsidiaries for any Fiscal Year, the Borrower may deliver annual audited Financial Statements of the Borrower and the Auditors' opinion with respect to such audited Financial Statements, without Qualification.

(ii) Business Plan. Not later than 90 days after the end of each Fiscal Year of the Borrower, the Business Plan of the Borrower for the one-year period commencing with the following Fiscal Year.

(iii) Monthly Financial Statements and Compliance Certificate. Not later than 30 days after the end of each Fiscal Month (or 45 days in the case of a Fiscal Month at the end of a Fiscal Quarter, and 90 days in the case of a Fiscal Month at the end of a Fiscal Year), beginning for this purpose and for the purpose of the other subparagraphs of this **Section 7.1(k)**, with the Fiscal Month of May, 2011, (A) the Borrower's interim consolidated Financial Statements as of the end of such Fiscal Month and for the Fiscal Year to date and (B) a

compliance certificate, substantially in the form of **Exhibit D** (a "Compliance Certificate"), signed on behalf of the Borrower by a Responsible Officer of the Borrower.

(iv) Borrowing Base Certificate. Monthly, not later than 20 days after the end of each Fiscal Month, a borrowing base certificate, substantially in the form of **Exhibit G**, detailing the Eligible Receivables and the Eligible Inventory, containing a calculation of availability, as of the last day of (or for) the preceding Fiscal Month, which shall be prepared by or under the supervision of the Chief Financial Officer of the Borrower and certified by the Borrower pursuant to a certificate signed on its behalf by a Responsible Officer (a "Borrowing Base Certificate"); provided, that, at any time that Excess Availability is less than 15% of the Maximum Amount of the Facility, the Administrative Agent may require Borrowing Base Certificates to be delivered as frequently as it determines is necessary or desirable in its sole discretion (which may be as frequently as weekly, or, in the case of Eligible Inventory, no more frequently than monthly so long as Suppressed Availability is greater than $10,000,000). The calculation of Eligible Inventory by Borrower in the Borrowing Base Certificate as of the end of a Fiscal Year is subject to normal year-end audit adjustments.

(v) Agings. Monthly, not later than 20 days after the end of each Fiscal Month, agings of the Borrower's Receivables and, if requested by the Administrative Agent in its discretion, accounts payable as of the last day of the preceding Fiscal Month.

(vi) PATRIOT Act Information . In compliance with the PATRIOT Act and CFR Part 103.121, when requested by the Administrative Agent, the Borrower shall provide to the Administrative Agent certain information relating to the Borrower that the Administrative Agent or the Lenders may be required to obtain and keep on file, including the Borrower's name, address and copies of various identifying documents.

SECTION 7.2 Negative Covenants. Until termination of the Commitments and Payment in Full of the Obligations:

(a) Deposit Accounts. The Borrower will not establish or maintain any deposit account in which proceeds of Collateral are on deposit unless the Administrative Agent shall have received a Deposit Account Control Agreement, duly executed by the Borrower and the applicable depository bank, covering such deposit account other than deposit accounts containing from time to time no more than $500,000 in the aggregate. The Borrower shall promptly notify the Administrative Agent of any additional deposit account opened and any deposit account that is closed, and will amend Schedule 2 to reflect such addition or deletion. Notwithstanding anything to the contrary contained in this Agreement, if the Borrower shall cause any proceeds of Property not constituting Collateral to be applied to the Obligations owed to a Lender, without the knowledge of such Lender as to the source of such proceeds at the time of such application, then such Lender shall have no obligation to refund or disgorge any of such proceeds. The Borrower shall maintain its primary deposit accounts and cash management deposit accounts, including its Dominion Account and Concentration Account, with BofA.

(b) Use of Proceeds. The Borrower will not (i) use any portion of the proceeds of any Loan in violation of **Section 2.4** or for the purpose of purchasing or carrying any "margin stock" (as defined in Regulation U of the Federal Reserve Board) in any manner which violates the provisions of Regulation T, U or X of the Federal Reserve Board or for any other purpose in violation of any applicable statute or regulation, or of the terms and conditions of this Agreement, (ii) take, or permit any Person acting on its behalf to take, any action which could reasonably be expected to cause this Agreement or any other Loan Document to violate any regulation of the Board of Governors, or (iii) to fund any operations or finance any

investments or activities in, or to make payments to, a Blocked Person.

(c) Investments. The Borrower will not, directly or indirectly, make any Investment in any Person (whether in cash, securities or other property of any kind) other than: (i) Investments in Cash Equivalents; (ii) its existing direct and indirect Investments in Indus Home Limited and the Bahrain Subsidiary; (iii) Investments consisting of acquisitions of (A) fixed assets to be used in the Ordinary Course of Business of the Borrower, and (B) goods held for sale or lease or to be used in the manufacture of goods or provision of services by the Borrower in the Ordinary Course of Business; (iv) Investments consisting of acquisitions of assets or Equity Interests that are made from the Borrower's unrestricted cash on hand; (v) other Investments in an aggregate amount not exceeding $5,000,000 at any one time outstanding, provided that no Event of Default exists at the time the Borrower makes such Investment; and (vi) in addition to the Investments permitted under clauses (i) through (v) of this **Section 7.2(c)**, other Investments so long as, (A) no Event of Default exists at the time the Borrower makes such Investment, and (B) on each day during the 30 consecutive days prior to such Investment and on the date of such Investment after giving pro forma effect thereto, either (1) Excess Availability is not less than 20% of the Maximum Amount of the Facility, or (2) Excess Availability is not less than 10% of the Maximum Amount of the Facility and the sum of Excess Availability plus Suppressed Availability is not less than 25% of the Maximum Amount of the Facility.

(d) Indebtedness. The Borrower shall not, directly or indirectly, at any time create, incur or assume or permit to exist any Indebtedness, other than (i) the Indebtedness incurred hereunder; (ii) purchase money Indebtedness or Capitalized Lease Obligations, in each case with respect to Equipment or Real Property, not exceeding $20,000,000 in aggregate principal amount at any one time outstanding; (iii) unsecured Indebtedness owing to WPI and other unsecured Indebtedness owing to any other Persons in an aggregate principal amount of all Indebtedness permitted under this clause (iii) not exceeding $220,000,000 at any one time outstanding, provided that such Indebtedness (A) matures after the last day of the Term, and (B) the maximum aggregate amount of scheduled principal payments by the Borrower with respect to such unsecured Indebtedness during the 12 month period following any date of determination does not exceed $10,000,000; (iv) existing Indebtedness set forth on Schedule 6.1(r), and (v) Refinancing Debt with respect to such existing Indebtedness; provided, however, that this covenant shall not limit or restrict the creation, incurrence or assumption of any Indebtedness by any Subsidiary.

(e) Liens, Etc. The Borrower shall not incur or assume any Lien on or with respect to any of the Collateral, other than Permitted Liens.

(f) Distributions. The Borrower shall not, directly or indirectly, make any Distributions other than: (i) Distributions consisting of dividends paid to the holders of Equity Interests of the Borrower in an amount not to exceed the Borrower's consolidated taxable income multiplied by the highest federal, state and local tax rate applicable to such holders of Equity

Interests, provided that no Event of Default exists at the time of such Distribution; (ii) Distributions in an amount not to exceed $1,000,000 during any consecutive 12 month period or which are otherwise made from the Borrower's unrestricted cash on hand, provided that, at the time of such Distribution and after giving effect thereto, (A) such Distribution is permitted by Applicable Law and (B) no Event of Default exists; and (iii) Distributions by the Borrower of Equity Interests owned by the Borrower in any Subsidiary that does not own any Collateral, provided that no Event of Default exists at the time of such Distribution.

(g) Reserved.

(h) Conduct of Business. The Borrower shall not engage in any business, other than its business conducted on the Closing Date and any activities incidental thereto.

(i) Disposition of Assets. The Borrower shall not sell, lease, license, consign, transfer or otherwise dispose of any Collateral, other than, so long as no Event of Default exists: (i) a sale of Inventory in the Ordinary Course of Business, (ii) a sale of Receivables or Inventory outside of the Ordinary Course of Business so long as, (A) the aggregate Value of such Receivables and Inventory disposed of does not exceed $5,000,000 for the period beginning on the Closing Date through the Expiration Date, or (B) with respect to any dispositions in excess of the amount in clause (ii)(A) hereof, on each day during the 30 consecutive days prior to such disposition, either (1) Excess Availability is not less than 20% of the Maximum Amount of the Facility or (2) Excess Availability is not less than 10% of the Maximum Amount of the Facility and the sum of Excess Availability plus Suppressed Availability is not less than 25% of the Maximum Amount of the Facility; (iii) a transfer of Equipment to an Affiliate of the Borrower located outside the United States; (iv) a sale of Equipment to any Person, including a disposition of Equipment in connection with a sale-leaseback transaction or synthetic lease; and (v) a disposition approved in writing by the Administrative Agent and the Lenders.

(j) Transactions With Affiliates. The Borrower shall not enter into or be a party to any transaction with an Affiliate, except (i) transactions contemplated by the Loan Documents; (ii) transactions with Affiliates that were consummated prior to the Closing Date; and (iii) transactions with Affiliates in the Ordinary Course of Business, upon fair and reasonable terms that are no less favorable to the Borrower than would be obtained in a comparable arm's-length transaction with an unaffiliated Person.

(k) Fundamental Changes. Except as permitted under **Section 7.1(a)**, the Borrower shall not merge, combine or consolidate with any Person (unless the Borrower is the surviving entity of such merger, combination or consolidation), or liquidate, dissolve, or wind up its affairs, in each case whether in a single transaction or in a series of related transactions; change its name or conduct business under any fictitious name; change its tax, charter or other organizational identification number; or change its form or state of organization.

ARTICLE VIII
EVENTS OF DEFAULT

SECTION 8.1 Events of Default. The occurrence of any of the following events shall constitute an "Event of Default":

(a) the Borrower shall fail to pay (i) any principal of or interest on the Loans or any of the LC Obligations when due, whether at stated maturity, by acceleration, or otherwise, or (ii) any other Obligations within 20 days of demand therefor (or in the case of Unused Line Fees, three Business Days after the due date thereof); or

(b) the Borrower shall (i) default in the performance or observance of any agreement, covenant, condition, provision or term contained in **Sections 2.4**, **7.1(a)(i)**, **7.1(f)**, **7.1(g)(ii)**, **7.1(h)(i)**, or **7.2** (to the extent that such default is not curable) hereof; (ii) default in the performance or observance of any agreement, covenant, condition, provision or term contained in **Section 7.1(k)(i)**, **(ii)** or **(iii)** and such failure continues for a period of 15 days; (iii) default in the performance or observance of any agreement, covenant, condition, provision or term contained in **Section 7.1(k)(iv)** or **(v)** and such failure continues for a period of (A) five days if such default occurs on a date when (1) Excess Availability is greater than 20% of the Maximum Amount of the Facility, or (2) Excess Availability is greater than 10% of the Maximum Amount of the Facility and the sum of Excess Availability plus Suppressed Availability is greater than 25% of the Maximum Amount of the Facility, or (B) two days if such default occurs at any other time; or (iv) default in the performance or observance of any agreement, covenant, condition, provision or term contained in this Agreement or any other Loan Document (other than those referred to in **Sections 8.1(a)** and **(b)(i)**) and such failure continues for a period of 30 days (or in the case of a curable default under **Section 7.2**, 15 days) from the earlier of the date on which (A) the Borrower has received notice of such failure in accordance with **Section 10.1** and (B) a Responsible Officer of the Borrower has knowledge of such failure or, if such default is capable of being cured and the Borrower has undertaken to cure such default within such 30-day period and is diligently prosecuting and pursuing such cure thereafter, such failure continues for a period of 60 days from such date of initial notice or knowledge; or

(c) the Borrower shall dissolve, wind up or otherwise cease to conduct its business; or

(d) the Borrower shall become the subject of an Insolvency Event; or

(e) (i) Except with respect to any Indebtedness owing by the Borrower to WPI, the Borrower shall fail to make any payment (whether of principal, interest or otherwise and regardless of amount) in respect of any Material Indebtedness when due (whether at scheduled maturity or by required prepayment, acceleration, demand or otherwise), or (ii) any event or condition occurs that results in any Material Indebtedness becoming due prior to its scheduled maturity or that enables or permits the holder or holders (or a trustee or agent on behalf of such holder or holders) to declare any Material Indebtedness to be due, or to require the prepayment, repurchase, redemption or defeasance thereof, prior to its scheduled maturity; or

(f) any representation or warranty made by the Borrower under or in connection with any Loan Document or amendment or waiver thereof, or in any Financial Statement, report or certificate delivered in connection therewith, shall prove to have been incorrect in any material respect when made or deemed made; or

(g) any judgment or order for the payment of money which, when taken together with all other judgments and orders rendered against the Borrower, exceeds

$10,000,000 (net of any insurance coverage therefor acknowledged in writing by the insurer), in the aggregate shall be rendered against the Borrower and (i) enforcement proceedings shall have been commenced by a judgment creditor upon such judgment or order, or (ii) there shall be 30 days, whether or not consecutive days, during which a stay of enforcement of any such judgment or order, by reason of a pending appeal or otherwise, shall not be in effect; or

(h) any material covenant, agreement or obligation of the Borrower contained in or evidenced by any of the Loan Documents shall cease to be enforceable in any material respect, or shall be determined to be unenforceable in any material respect, in accordance with its terms; or the Borrower shall deny or disaffirm its obligations under any of the Loan Documents or any Liens granted in connection therewith or shall otherwise challenge any of its obligations under any of the Loan Documents; or

(i) a Change of Control occurs.

SECTION 8.2 Acceleration, Termination and Demand Rights. During the continuance of an Event of Default, the Administrative Agent may, or upon the request of the Required Lenders, the Administrative Agent shall, take any or all of the following actions, without prejudice to the rights of the Administrative Agent to enforce its claims against the Borrower:

(a) Acceleration. To declare all Obligations immediately due and payable (except with respect to any Event of Default with respect to the Borrower specified in **Section 8.1(d)**, in which case all Obligations shall automatically become immediately due and payable) without presentment, demand, protest or any other action or obligation of the Administrative Agent or any Lender.

(b) Termination of Commitments. To declare the Commitments immediately terminated (except with respect to any Event of Default with respect to the Borrower set forth in **Section 8.1(d)**, in which case the Commitments shall automatically terminate) and, at all times thereafter, any Loan made by a Lender or the Administrative Agent shall be in such Lender's or the Administrative Agent's sole and absolute discretion and none of the other Lenders shall have any obligation with respect thereto. Notwithstanding any such termination, until all Obligations shall have been fully and indefeasibly paid and satisfied, the Administrative Agent shall retain all security in existing and future Receivables included in the Collateral and existing and future Inventory of the Borrower and all other Collateral held by it hereunder.

SECTION 8.3 Other Remedies.

(a) During the continuance of an Event of Default, the Administrative Agent shall have all rights and remedies with respect to the Obligations and the Collateral under Applicable Law and the Loan Documents, and the Administrative Agent may do any or all of the following:

(i) remove for copying all documents, instruments, files and records (including the copying of any computer records) relating to the Borrower's Receivables or use (at the expense of the Borrower) such supplies or space of the Borrower at the Borrower's places of

business necessary to administer, enforce and collect such Receivables including any supporting obligations;

(ii) accelerate or extend the time of payment, compromise, issue credits, or bring suit on the Borrower's Receivables (in the name of the Borrower or the Administrative Agent) and otherwise administer and collect such Receivables;

(iii) sell, assign and deliver the Borrower's Receivables with or without advertisement, at public or private sale, for cash, on credit or otherwise, subject to Applicable Law; and

(iv) foreclose the Liens created pursuant to the Loan Documents by any available procedure, or take possession of any or all of the Collateral, without judicial process and enter any premises where any Collateral may be located for the purpose of taking possession of or removing the same.

(b) The Administrative Agent may bid or become a purchaser at any sale, free from any right of redemption, which right is expressly waived by the Borrower. If notice of intended disposition of any Collateral is required by law, it is agreed that 10 days' notice shall constitute reasonable notification. The Borrower will assemble the Collateral in its possession and make it available at such locations as the Administrative Agent may specify, whether at the premises of the Borrower or elsewhere, and will make available to the Administrative Agent the premises and facilities of the Borrower for the purpose of the Administrative Agent's taking possession of or removing the Collateral or putting the Collateral in saleable form. The Administrative Agent may sell the Collateral or any part thereof in one or more parcels at public or private sale, at any exchange, broker's board or at any of the Administrative Agent's offices or elsewhere, for cash, on credit or for future delivery, and upon such other terms as the Administrative Agent may deem commercially reasonable. The Administrative Agent shall not be obligated to make any sale of Collateral regardless of notice of sale having been given. The Administrative Agent may adjourn any public or private sale from time to time by announcement at the time and place fixed therefor, and such sale may, without further notice, be made at the time and place to which it was so adjourned. The Borrower hereby grants the Administrative Agent a license, during the continuation of an Event of Default, to enter and occupy any of the Borrower's leased or owned premises and facilities, without charge, to exercise any of the Administrative Agent's rights or remedies.

SECTION 8.4 License for Use of Software and Other Intellectual Property. The Borrower hereby grants to the Administrative Agent a license or other right to use, during the continuation of an Event of Default, without charge, all computer software programs, data bases, processes, trademarks, tradenames, copyrights, labels, trade secrets, service marks, advertising materials and other rights, assets and materials used by the Borrower in connection with its businesses or in connection with the Collateral, but only to the extent such rights are assignable by the Borrower and the Borrower is not prohibited by any agreement or Applicable Law from making such assignment.

SECTION 8.5 No Marshalling; Deficiencies; Remedies Cumulative. The Administrative Agent shall have no obligation to marshal any Collateral or to seek recourse

against or satisfaction of any of the Obligations from one source of Collateral or from the Borrower before seeking recourse against or satisfaction from another source of Collateral or from the Borrower. The net cash proceeds resulting from the Administrative Agent's exercise of any of the foregoing rights to liquidate all or substantially all of the Collateral, including any and all Collections (after deducting all of the Administrative Agent's expenses related thereto), shall be applied by the Administrative Agent to such of the Obligations and in such order as the Administrative Agent shall elect in its sole and absolute discretion, whether due or to become due. The Borrower shall remain liable to the Administrative Agent and the Lenders for any deficiencies, and the Administrative Agent and the Lenders in turn agree to remit to the Borrower or its successor or assign any surplus resulting therefrom. All of the Administrative Agent's and the Lenders' remedies under the Loan Documents shall be cumulative, may be exercised simultaneously against any Collateral and the Borrower or in such order and with respect to such Collateral or the Borrower as the Administrative Agent may deem desirable, and are not intended to be exhaustive.

SECTION 8.6 Waivers. Except as may be otherwise specifically provided herein or in any other Loan Document, the Borrower hereby waives, to the extent permitted by law, any right to a judicial or other hearing with respect to any action or prejudgment remedy or proceeding by the Administrative Agent to take possession, exercise control over, or dispose of any item of Collateral in any instance (regardless of where the same may be located) where such action is permitted under the terms of this Agreement or any other Loan Document or by Applicable Law or of the time, place or terms of sale in connection with the exercise of the Administrative Agent's rights hereunder and also waives any bonds, security or sureties required by any statute, rule or other law as an incident to any taking of possession by the Administrative Agent of any Collateral. The Borrower also consents that the Administrative Agent may, during the continuation of an Event of Default, enter upon any premises owned by or leased to it without obligations to pay rent or for use and occupancy, through self-help, without judicial process and without having first obtained an order of any court. These waivers and all other waivers provided for in this Agreement and the other Loan Documents have been negotiated by the parties, and the Borrower acknowledges that it has been represented by counsel of its own choice, has consulted such counsel with respect to its rights hereunder and has freely and voluntarily entered into this Agreement and the other Loan Documents as the result of arm's-length negotiations.

SECTION 8.7 Further Rights of the Administrative Agent.

(a) Further Assurances. The Borrower shall do all things and shall execute and deliver all documents and instruments reasonably requested by the Administrative Agent to protect or perfect any Lien (and the priority thereof other than with respect to Permitted Liens) of the Administrative Agent on the Collateral.

(b) Insurance; Etc. If the Borrower shall fail to purchase or maintain insurance (where applicable), or to pay any tax, assessment, governmental charge or levy, except as the same may be otherwise permitted hereunder or which is being contested in good faith by appropriate proceedings and for which adequate reserves have been established in accordance with GAAP, or if any Lien prohibited hereby shall not be paid in full and discharged or if the Borrower shall fail to perform or comply with any other covenant, promise or obligation to the Administrative Agent or the Lenders hereunder or under any other Loan Document, the

Administrative Agent may (but shall not be required to), if the Borrower has not done so within 10 days after the Administrative Agent's written request (except at any time that an Event of Default exists, in which case such written request is not required with respect to any items referred to in this paragraph which constitute Extraordinary Expenses), perform, pay, satisfy, discharge or bond the same for the account of the Borrower, and all amounts so paid by the Administrative Agent or the Lenders shall be treated as a Revolving Credit Loan, comprised of Base Rate Advances hereunder and shall constitute part of the Obligations.

ARTICLE IX
THE AGENT

SECTION 9.1 Appointment, Authority and Duties of the Administrative Agent.

(a) Each Lender hereby irrevocably appoints and designates BofA as the Administrative Agent to act as herein specified. The Administrative Agent may, and each Lender by its acceptance of a Note and becoming a party to this Agreement shall be deemed irrevocably to have authorized the Administrative Agent to, enter into all Loan Documents to which the Administrative Agent is or is intended to be a party and all amendments hereto and all Security Documents at any time executed by the Borrower, for its benefit and the Pro Rata benefit of Lenders and, except as otherwise provided in this **Article IX**, to exercise such rights and powers under this Agreement and the other Loan Documents as are specifically delegated to the Administrative Agent by the terms hereof and thereof, together with such other rights and powers as are reasonably incidental thereto. Each Lender agrees that any action taken by the Administrative Agent or the Required Lenders in accordance with the provisions of this Agreement or the other Loan Documents, and the exercise by the Administrative Agent or the Required Lenders of any of the powers set forth herein or therein, together with such other powers as are reasonably incidental thereto, shall be authorized and binding upon all Lenders. Without limiting the generality of the foregoing, the Administrative Agent shall have the sole and exclusive right and authority to (i) act as the disbursing and collecting agent for Lenders with respect to all payments and collections arising in connection with this Agreement and the other Loan Documents; (ii) execute and deliver as the Administrative Agent each Loan Document (including each Imported Inventory Agreement) and accept delivery of each such agreement by the Borrower or any other Person; (iii) act as collateral agent for Secured Parties for purposes of the perfection of all Liens and Liens created by this Agreement or the Security Documents and, subject to the direction of the Required Lenders, for all other purposes stated therein, provided that the Administrative Agent hereby appoints, authorizes and directs each Lender to act as a collateral sub-agent for the Administrative Agent and the other Lenders for purposes of the perfection of all Liens and Liens with respect to the Borrower's deposit accounts maintained with, and all cash and Cash Equivalents held by, such Lender; (iv) subject to the direction of the Required Lenders, manage, supervise or otherwise deal with the Collateral; and (v) except as may be otherwise specifically restricted by the terms of this Agreement and subject to the direction of the Required Lenders, exercise all remedies given to the Administrative Agent with respect to the Borrower or any of the Collateral under the Loan Documents relating thereto, Applicable Law or otherwise. The duties of the Administrative Agent shall be ministerial and administrative in nature, and the Administrative Agent shall not have by reason of this Agreement or any other Loan Document a fiduciary relationship with any Lender (or any

Lender's participants). Unless and until its authority to do so is revoked in writing by Required Lenders, the Administrative Agent alone shall be authorized to determine whether any Receivables or Inventory constitute Eligible Receivables or Eligible Inventory (basing such determination in each case upon the meanings given to such terms in **Article I**), or whether to impose or release any reserve, and to exercise its own judgment in connection therewith, which determinations and judgments, if exercised in good faith, shall exonerate the Administrative Agent from any liability to Lenders or any other Person for any errors in judgment.

(b) The Administrative Agent (which term, as used in this sentence, shall include reference to the Administrative Agent's officers, directors, employees, attorneys, agents and Affiliates and to the officers, directors, employees, attorneys and agents of the Administrative Agent's Affiliates) shall not: (i) have any duties or responsibilities except those expressly set forth in this Agreement and the other Loan Documents or (ii) be required to take, initiate or conduct any Enforcement Action (including any litigation, foreclosure or collection proceedings hereunder or under any of the other Loan Documents) except to the extent directed to do so in writing by the Required Lenders during the continuance of any Event of Default. The conferral upon the Administrative Agent of any right hereunder shall not imply a duty on the Administrative Agent's part to exercise any such right unless instructed to do so by the Required Lenders in accordance with this Agreement.

(c) The Administrative Agent may perform any of its duties by or through its agents and employees and may employ one or more the Agent Professionals and shall not be responsible for the negligence or misconduct of any such the Agent Professionals selected by it with reasonable care. Borrower shall promptly (and in any event, **on demand**) reimburse the Administrative Agent for all reasonable expenses (including all Extraordinary Expenses) incurred by the Administrative Agent pursuant to any of the provisions hereof or of any of the other Loan Documents or in the execution of any of the Administrative Agent's duties hereby or thereby created or in the exercise of any right or power herein or therein imposed or conferred upon it or Lenders (excluding, however, general overhead expenses), and each Lender agrees promptly to pay to the Administrative Agent, **on demand**, such Lender's Pro Rata share of any such reimbursement for expenses (including Extraordinary Expenses) that is not timely made by the Borrower to the Administrative Agent.

(d) The rights, remedies, powers and privileges conferred upon the Administrative Agent hereunder and under the other Loan Documents may be exercised by the Administrative Agent without the necessity of the joinder of any other parties unless otherwise required by Applicable Law. If the Administrative Agent shall request instructions from the Required Lenders with respect to any act or action (including the failure to act) in connection with this Agreement or any of the other Loan Documents, the Administrative Agent shall be entitled to refrain from such act or taking such action unless and until the Administrative Agent shall have received instructions from the Required Lenders; and the Administrative Agent shall not incur liability to any Person by reason of so refraining. Without limiting the foregoing, no Lender shall have any right of action whatsoever against the Administrative Agent as a result of the Administrative Agent acting or refraining from acting hereunder or under any of the Loan Documents pursuant to or in accordance with the instructions of the Required Lenders except for the Administrative Agent's own gross negligence or willful misconduct in connection with any action taken by it. Notwithstanding anything to the contrary contained in this Agreement, the

Administrative Agent shall not be required to take any action that is in its opinion contrary to Applicable Law or the terms of any of the Loan Documents or that would in its reasonable opinion subject it or any of its officers, employees or directors to personal liability.

(e) The Administrative Agent shall promptly, upon receipt thereof, forward to each Lender (i) copies of any significant written notices, reports, certificates and other information received by the Administrative Agent from the Borrower (but only if and to the extent the Borrower is not required by the terms of the Loan Documents to supply such information directly to Lenders) and (ii) copies of the results of any field audits or other examinations made or prepared by or on behalf of the Administrative Agent with respect to the Borrower or the Collateral (each, a "Report" and collectively, "Reports").

SECTION 9.2 Agreements Regarding Collateral and Examination Reports.

(a) Lenders hereby irrevocably authorize the Administrative Agent to release any Lien with respect to any Collateral (i) upon the termination of the Commitments and Full Payment of the Obligations, (ii) in accordance with the provisions of **Section 3.7**, or (iii) with the written consent of all Lenders. The Administrative Agent shall have no obligation whatsoever to any of the Lenders to assure that any of the Collateral exists or is owned by the Borrower or is cared for, protected or insured or has been encumbered, or that the Administrative Agent's Liens have been properly, sufficiently or lawfully created, perfected, protected or enforced or are entitled to any particular priority or to exercise any duty of care with respect to any of the Collateral.

(b) The Administrative Agent and the Lenders each hereby appoints each other Lender as agent for the purpose of perfecting Liens (for the benefit of Secured Parties) in any Collateral that, in accordance with the UCC or any other Applicable Law, can be perfected only by possession. Should any Lender obtain possession of any such Collateral, such Lender shall notify the Administrative Agent thereof, and, promptly upon the Administrative Agent's request therefor, shall deliver such Collateral to the Administrative Agent or otherwise deal with such Collateral in accordance with the Administrative Agent's instructions.

(c) Each Lender agrees that neither BofA nor the Administrative Agent makes any representation or warranty as to the accuracy or completeness of any Report and shall not be liable for any information contained in or omitted from any such Report; agrees that the Reports are not intended to be comprehensive audits or examinations and that BofA or the Administrative Agent or any other Person performing any audit or examination will inspect only specific information regarding Obligations or the Collateral and will rely significantly upon Borrower's books and records as well as upon representations of Borrower' officers and employees; agrees to keep all Reports confidential and strictly for its internal use and not to distribute the Reports (or the contents thereof) to any Person (except to its Participants, attorneys, accountants and other Persons with whom such Lender has a confidential relationship) or use any Report in any other manner; and, without limiting the generality of any other indemnification contained herein, agrees to hold the Administrative Agent and any other Person preparing a Report harmless from any action that the indemnifying Lender may take or conclusion the indemnifying Lender may reach or draw from any Report in connection with any Loans or other credit accommodations that the indemnifying Lender has made or may make to the Borrower, or the indemnifying

Lender's participation in, or its purchase of, a loan or loans of the Borrower, and to pay and protect, and indemnify, defend and hold the Administrative Agent and each other such Person preparing a Report harmless from and against all claims, actions, proceedings, damages, costs, expenses and other amounts (including attorneys' fees) incurred by the Administrative Agent and any such other Person preparing a Report as the direct or indirect result of any third parties who might obtain all or any part of any Report through the indemnifying Lender.

SECTION 9.3 Reliance By The Administrative Agent. The Lenders agree the Administrative Agent shall be entitled to rely, and shall be fully protected in so relying, upon any certification, notice or other communication (including any thereof by telephone, telex, telegram, telecopier message or cable) believed by it to be genuine and correct and to have been signed, sent or made by or on behalf of the proper Person or Persons, and upon advice and statements of the Agent Professionals selected by the Administrative Agent. Without limiting the generality of the foregoing, the Administrative Agent may rely upon any Notice of Borrowing, LC Request, Notice of Continuation/Conversion or any similar notice or request believed by the Administrative Agent to be genuine. As to any matters not expressly provided for by this Agreement or any of the other Loan Documents, the Administrative Agent shall in all cases be fully protected in acting or refraining from acting hereunder and thereunder in accordance with the instructions of the Required Lenders, and such instructions of the Required Lenders and any action taken or failure to act pursuant thereto shall be binding upon Lenders.

SECTION 9.4 Action Upon Default. The Administrative Agent shall not be deemed to have knowledge of the occurrence of a Default or an Event of Default unless it has received written notice from a Lender or the Borrower specifying the occurrence and nature of such Default or Event of Default. If the Administrative Agent shall receive such a notice of a Default or an Event of Default or shall otherwise acquire actual knowledge of any Default or Event of Default, the Administrative Agent shall promptly notify Lenders and the Administrative Agent may (and shall upon written direction of the Required Lenders) take such action and assert such rights and remedies under this Agreement and the other Loan Documents as the Administrative Agent shall deem necessary or appropriate, or shall refrain from taking such action and asserting such rights, as the Required Lenders shall direct in writing from time to time. If any Lender shall receive a notice of a Default or an Event of Default or shall otherwise acquire actual knowledge of any Default or Event of Default, such Lender shall promptly notify the Administrative Agent and the other Lenders in writing. As provided in **Section 9.3**, the Administrative Agent shall not be subject to any liability by reason of acting or refraining to act pursuant to any request of the Required Lenders except for its own willful misconduct or gross negligence in connection with any action taken by it. In no event shall the Required Lenders, without the prior written consent of each Lender, direct the Administrative Agent to accelerate and demand payment of the Loans held by one Lender without accelerating and demanding payment of all other Loans or to terminate the Commitments of one or more Lenders without terminating the Commitments of all Lenders. Each Lender agrees that, except as otherwise provided in any of the Loan Documents or with the written consent of the Administrative Agent and the Required Lenders, it will not take any legal action or institute any action or proceeding against the Borrower with respect to any of the Obligations or Collateral or accelerate or otherwise enforce its portion of the Obligations. Without limiting the generality of the foregoing, none of Lenders may exercise any right that it might otherwise have under Applicable Law to credit bid at foreclosure sales, UCC sales or other similar sales or dispositions of any of the Collateral except as authorized by the

Administrative Agent and the Required Lenders. Notwithstanding anything to the contrary set forth in this **Section 9.4** or elsewhere in this Agreement, each Lender shall be authorized to take such action to preserve or enforce its rights against the Borrower where a deadline or limitation period is otherwise applicable and would, absent the taking of specified action, bar the enforcement of Obligations held by such Lender against the Borrower, including the filing of proofs of claim in any Insolvency Proceeding.

SECTION 9.5 Ratable Sharing. If any Lender shall obtain any payment or reduction (including any amounts received as adequate protection of a bank account deposit treated as cash collateral under the Bankruptcy Code) of any Obligations of the Borrower (whether voluntary, involuntary, through the exercise of any right of set off or otherwise) in excess of its Pro Rata share of payments or reductions on account of such Obligations obtained by all of the Lenders, such Lender shall forthwith (i) notify the other Lenders and the Administrative Agent of such receipt and (ii) purchase from the other Lenders such participations in the affected Obligations as shall be necessary to cause such purchasing Lender to share the excess payment or reduction, net of costs incurred in connection therewith, on a Pro Rata basis, provided that if all or any portion of such excess payment or reduction is thereafter recovered from such purchasing Lender or additional costs are incurred, the purchase shall be rescinded and the purchase price restored to the extent of such recovery or such additional costs, but without interest. The Borrower agrees that any Lender so purchasing a participation from another Lender pursuant to this **Section 9.5** may, to the fullest extent permitted by Applicable Law, exercise all of its rights of payment (including the right of set off) with respect to such participation as fully as if such Lender were the direct creditor of the Borrower in the amount of such participation.

SECTION 9.6 Indemnification of the Agent Indemnitees.

(a) Each Lender agrees to indemnify and defend Agent Indemnitees (to the extent not reimbursed by the Borrower, but without limiting the indemnification obligations of the Borrower under any of the Loan Documents), on a Pro Rata basis, and to hold each of Agent Indemnitees harmless from and against, any and all Claims which may be imposed on, incurred by or asserted against any of Agent Indemnitees in any way related to or arising out of any of the Loan Documents or referred to herein or therein or the transactions contemplated thereby (including the costs and expenses which the Borrower is obligated to pay under **Section 10.4** or amounts the Administrative Agent may be called upon to pay in connection with any lockbox or Dominion Account arrangement contemplated hereby or the enforcement of any of the terms of any Loan Documents).

(b) Without limiting the generality of the foregoing provisions of this **Section 9.6**, if the Administrative Agent should be sued by any receiver, trustee in bankruptcy, debtor-in-possession or other Person on account of any alleged preference or fraudulent transfer received or alleged to have been received from the Borrower as the result of any transaction under the Loan Documents, then in such event any monies paid by the Administrative Agent in settlement or satisfaction of such suit, together with all Extraordinary Expenses incurred by the Administrative Agent in the defense of same, shall be promptly reimbursed to the Administrative Agent by Lenders to the extent of each Lender's Pro Rata share.

(c) Without limiting the generality of the foregoing provisions of this **Section 9.6**, if at any time (whether prior to or after the Expiration Date) any action or proceeding shall be brought against any of Agent Indemnitees by the Borrower or by any other Person claiming by, through or under the Borrower, to recover damages for any act taken or omitted by the Administrative Agent under any of the Loan Documents or in the performance of any rights, powers or remedies of the Administrative Agent against the Borrower, any Account Debtor, the Collateral or with respect to any Loans, or to obtain any other relief of any kind on account of any transaction involving any Agent Indemnitees under or in relation to any of the Loan Documents, each Lender agrees to indemnify, defend and hold Agent Indemnitees harmless with respect thereto and to pay to Agent Indemnitees such Lender's Pro Rata share of such amount as any of Agent Indemnitees shall be required to pay by reason of a judgment, decree, or other order entered in such action or proceeding or by reason of any compromise or settlement agreed to by Agent Indemnitees, including all interest and costs assessed against any of Agent Indemnitees in defending or compromising such action, together with attorneys' fees and other legal expenses paid or incurred by Agent Indemnitees in connection therewith; provided, however, that no Lender shall be liable to any Agent Indemnitee for any of the foregoing to the extent that they arise solely from the willful misconduct or gross negligence of such Agent Indemnitee. In the Administrative Agent's discretion, the Administrative Agent may also reserve for or satisfy any such judgment, decree or order from proceeds of Collateral prior to any distributions therefrom to or for the account of Lenders.

SECTION 9.7 Limitation on Responsibilities of the Administrative Agent. The Administrative Agent shall in all cases be fully justified in failing or refusing to act hereunder unless it shall have received further assurances to its satisfaction from Lenders of their indemnification obligations under **Section 9.6** against any and all indemnified Claims which may be incurred by the Administrative Agent by reason of taking or continuing to take any such action. The Administrative Agent shall not be liable to Lenders for any action taken or omitted to be taken under or in connection with this Agreement or the other Loan Documents except as a result and to the extent of losses caused by the Administrative Agent's actual gross negligence or willful misconduct. The Administrative Agent does not assume any responsibility for any failure or delay in performance or breach by the Borrower or any Lender of its obligations under this Agreement or any of the other Loan Documents. The Administrative Agent does not make to Lenders, and no Lender makes to the Administrative Agent or the other Lenders, any express or implied warranty, representation or guarantee with respect to the Obligations, the Collateral, the Loan Documents or the Borrower. Neither the Administrative Agent nor any of its officers, directors, employees, attorneys or agents shall be responsible to Lenders, and no Lender nor any of its agents, attorneys or employees shall be responsible to the Administrative Agent or the other Lenders, for: (i) any recitals, statements, information, representations or warranties contained in any of the Loan Documents or in any certificate or other document furnished pursuant to the terms hereof; (ii) the execution, validity, genuineness, effectiveness or enforceability of any of the Loan Documents; (iii) the genuineness, enforceability, collectibility, value, sufficiency, location or existence of any Collateral, or the validity, extent, perfection or priority of any Lien therein; (iv) the validity, enforceability or collectibility of any the Obligations; or (v) the assets, liabilities, financial condition, results of operations, business, creditworthiness or legal status of the Borrower or any Account Debtor. Neither the Administrative Agent nor any of its officers, directors, employees, attorneys or agents shall have any obligation to any Lender to ascertain or inquire into the existence of any Default or Event of

Default, the observance or performance by the Borrower of any of the duties or agreements of the Borrower under any of the Loan Documents or the satisfaction of any conditions precedent contained in any of the Loan Documents. The Administrative Agent may consult with and employ legal counsel, accountants and other experts and shall be entitled to act upon, and shall be fully protected in any action taken in good faith reliance upon, any advice given by such experts.

SECTION 9.8 Successor Administrative Agent and Co-Agents.

(a) Subject to the appointment and acceptance of a successor to the Administrative Agent as provided below, the Administrative Agent may resign at any time by giving at least 30 days written notice thereof to each Lender and the Borrower. Upon receipt of any notice of such resignation, the Required Lenders, after prior consultation with (but without having to obtain consent of) each Lender, shall have the right to appoint a successor to the Administrative Agent which shall be (i) a Lender, (ii) a United States based affiliate of a Lender, or (iii) a commercial bank that is organized under the laws of the United States or of any State thereof and has a combined capital surplus of at least $500,000,000 and, provided no Default or Event of Default then exists, is reasonably acceptable to Borrower (and for purposes hereof, any Person referred to in the last sentence of this **Section 9.8(a)** as a successor to BofA shall be deemed acceptable to the Borrower). If no successor agent is appointed prior to the effective date of the resignation of the Administrative Agent, then the Administrative Agent may appoint, after consultation with Lenders and the Borrower, a successor agent from among Lenders. Upon the acceptance by a successor the Administrative Agent of an appointment to serve as the Administrative Agent hereunder, such successor the Administrative Agent shall thereupon succeed to and become vested with all the rights, powers, privileges and duties of the retiring the Administrative Agent without further act, deed or conveyance, and the retiring Administrative Agent shall be discharged from its duties and obligations hereunder but shall continue to enjoy the benefits of the indemnification set forth in **Sections 9.6**. After any retiring or the Administrative Agent's resignation hereunder as the Administrative Agent, the provisions of this **Article IX** (including the provisions of **Section 9.6**) shall continue in effect for its benefit in respect of any actions taken or omitted to be taken by it while it was acting as the Administrative Agent. Notwithstanding anything to the contrary contained in this Agreement, any successor by merger or acquisition of the stock or assets of BofA shall continue to be the Administrative Agent hereunder without further act on the part of the parties hereto unless such successor shall resign in accordance with the provisions hereof.

(b) It is the intent of the parties that there shall be no violation of any Applicable Law denying or restricting the right of financial institutions to transact business as agent or otherwise in any jurisdiction. In case of litigation under any of the Loan Documents, or in case the Administrative Agent deems that by reason of present or future laws of any jurisdiction the Administrative Agent might be prohibited from exercising any of the powers, rights or remedies granted to the Administrative Agent or the Lenders hereunder or under any of the Loan Documents or from holding title to or a Lien upon any Collateral or from taking any other action which may be necessary hereunder or under any of the Loan Documents, the Administrative Agent may appoint an additional Person as a separate collateral agent or co-collateral agent which is not so prohibited from taking any of such actions or exercising any of such powers, rights or remedies. If the Administrative Agent shall appoint an additional Person

as a separate collateral agent or co-collateral agent as provided above, each and every remedy, power, right, claim, demand or cause of action intended by any of the Loan Documents to be exercised by or vested in or conveyed to the Administrative Agent with respect thereto shall be exercisable by and vested in such separate collateral agent or co-collateral agent, but only to the extent necessary to enable such separate collateral agent or co-collateral agent to exercise such powers, rights and remedies, and every covenant and obligation necessary to the exercise thereof by such separate collateral agent or co-collateral agent shall run to and be enforceable by either of them. Should any instrument from Lenders be required by the separate collateral agent or co-collateral agent so appointed by the Administrative Agent in order more fully and certainly to vest in and confirm to him or it such rights, powers, duties and obligations, any and all of such instruments shall, on request, be executed, acknowledged and delivered by Lenders whether or not a Default or Event of Default then exists. In case any separate collateral agent or co-collateral agent, or a successor to either, shall die, become incapable of acting, resign or be removed, all the estates, properties, rights, powers, duties and obligations of such separate collateral agent or co-collateral agent, so far as permitted by Applicable Law, shall vest in and be exercised by the Administrative Agent until the appointment of a new collateral agent or successor to such separate collateral agent or co-collateral agent.

SECTION 9.9 Consents, Amendments and Waivers.

(a) No amendment or modification of any provision of this Agreement or any of the other Loan Documents, nor any waiver of any Default or Event of Default, shall be effective without the prior written agreement or consent of the Required Lenders; provided, however, that

(i) without the prior written consent of the Administrative Agent, no amendment or waiver shall be effective with respect to any provision in any of the Loan Documents (including **Section 10.4** and this **Section 9.9**) to the extent such provision relates to the rights, duties, immunities, exculpation, indemnification or discretion of the Administrative Agent;

(ii) without the prior written consent of Issuing Bank, no amendment or waiver with respect to any of the LC Obligations or the provisions of **Sections 2.2** or **5.2(c)** shall be effective;

(iii) without the prior written consent of each affected Lender, except as otherwise expressly provided in this Agreement, no amendment or waiver shall be effective that would (A) increase or otherwise modify any Commitment of such Lender (other than to reduce such Lender's Commitment on a proportionate basis with the same Commitments of other Lenders); (B) alter (other than to increase) the rate of interest payable in respect of any Obligations owed to such Lender; (C) waive any interest or fee payable to such Lender pursuant to **Article III**; or (D) subordinate the payment of any Obligations owed to such Lender to the payment of any Indebtedness; and

(iv) without the prior written consent of all Lenders, no amendment or waiver shall be effective that would (A) waive any Default or Event of Default if the Default or Event of Default relates to the Borrower's failure to observe or perform any covenant that may

not be amended without the unanimous written consent of Lenders (and, where so provided hereinafter, the written consent of the Administrative Agent) as hereinafter set forth; (B) change the number of Lenders that shall be required for the Lenders or any of them to take any action hereunder; (C) amend the definition of "Required Lenders"; (D) amend this **Section 9.9**; (E) reduce the amount of principal of, or interest on, or the interest rate applicable to, the Loans or any fees payable hereunder; (F) postpone any date on which any payment of principal of, or interest on, the Loans or any fees or other amounts payable hereunder is required to be made; (G) except as authorized in **Section 9.2(a)**, release all or substantially all the Collateral; or (H) amend the definition of "Borrowing Base" if the effect thereof would be to increase the amount of Revolving Credit Loans available to the Borrower or amend the definitions of "Availability Block" or "Excess Availability".

Notwithstanding the foregoing, the consent or agreement of the Borrower shall not be necessary to the effectiveness of any amendment or waiver of any provision of this Agreement that deals solely with the rights and duties of Lenders and the Administrative Agent as among themselves, including **Section 2.9(d)** and **Article IX**. The making of any Loans hereunder by any Lender during the existence of a Default or Event of Default shall not be deemed to constitute a waiver of such Default or Event of Default. Any waiver or consent granted by Lenders hereunder shall be effective only if in writing and then only in the specific instance and for the specific purpose for which it was given.

(b) Borrower will not, directly or indirectly, pay or cause to be paid any remuneration or other thing of value, whether by way of supplemental or additional interest, fee or otherwise, to any Lender (in its capacity as a Lender hereunder) as consideration for or as an inducement to the consent to or agreement by such Lender with any waiver or amendment of any of the terms and provisions of this Agreement or any of the other Loan Documents, unless such remuneration or thing of value is concurrently paid, on the same terms, on a Pro Rata or other mutually agreed upon basis to all Lenders; provided, however, that the Borrower may contract to pay a fee only to those Lenders who actually vote in writing to approve any waiver or amendment of the terms and provisions of this Agreement or any of the other Loan Documents to the extent that such waiver or amendment may be implemented by vote of the Required Lenders and such waiver or amendment is in fact approved.

(c) Any request, authority or consent of any Person who, at the time of making such request or giving such a authority or consent, is a Lender, shall be conclusive and binding upon any Transferee of such Lender.

SECTION 9.10 Due Diligence and Non-Reliance. Each Lender hereby acknowledges and represents that it has, independently and without reliance upon the Administrative Agent or the other Lenders, and based upon such documents, information and analyses as it has deemed appropriate, made its own credit analysis of the Borrower and its own decision to enter into this Agreement, to fund the Loans to be made by it, issue Letters of Credit and purchase participations in the LC Obligations pursuant to **Section 2.2**, and each Lender has made such inquiries concerning the Loan Documents, the Collateral and the Borrower as such Lender feels necessary and appropriate, and has taken such care on its own behalf as would have been the case had it entered into the other Loan Documents without the intervention or participation of the other Lenders or the Administrative Agent. Each Lender hereby further acknowledges and

represents that the other Lenders and the Administrative Agent have not made any representations or warranties to it concerning the Borrower, any of the Collateral or the legality, validity, sufficiency or enforceability of any of the Loan Documents. Each Lender also hereby acknowledges that it will, independently and without reliance upon the other Lenders or the Administrative Agent, and based upon such financial statements, documents and information as it deems appropriate at the time, continue to make and rely upon its own credit decisions in making Loans and in taking or refraining to take any other action under this Agreement or any of the other Loan Documents. Except for notices, reports and other information expressly required to be furnished to Lenders by the Administrative Agent hereunder, the Administrative Agent shall not have any duty or responsibility to provide any Lender with any notices, reports or certificates furnished to the Administrative Agent by the Borrower or any credit or other information concerning the affairs, financial condition, business or Properties of the Borrower (or any of its Affiliates) which may come into possession of the Administrative Agent or any of the Administrative Agent's Affiliates.

SECTION 9.11 Representations and Warranties of Lenders. Each Lender represents and warrants to the Borrower, the Administrative Agent and the other Lenders that it has the power to enter into and perform its obligations under this Agreement and the other Loan Documents, and that it has taken all necessary and appropriate action to authorize its execution and performance of this Agreement and the other Loan Documents to which it is a party, each of which will be binding upon it and the obligations imposed upon it herein or therein will be enforceable against it in accordance with the respective terms of such documents; and none of the consideration used by it to make or fund its Loans or to participate in any other transactions under this Agreement constitutes for any purpose of ERISA or Section 4975 of the Internal Revenue Code assets of any "plan" as defined in Section 3(3) of ERISA or Section 4975 of the Internal Revenue Code and the rights and interests of such Lender in and under the Loan Documents shall not constitute plan assets under ERISA.

SECTION 9.12 The Required Lenders. As to any provisions of this Agreement or the other Loan Documents under which action may or is required to be taken upon direction or approval of the Required Lenders, the direction or approval of the Required Lenders shall be binding upon each Lender to the same extent and with the same effect as if each Lender joined therein. Notwithstanding anything to the contrary contained in this Agreement, the Borrower shall not be deemed to be a beneficiary of, or be entitled to enforce, sue upon or assert as a defense to any of the Obligations, any provisions of this Agreement that requires the Administrative Agent or any Lender to act, or conditions their authority to act, upon the direction or consent of the Required Lenders; and any action taken by the Administrative Agent or any Lender that requires the consent or direction of the Required Lenders as a condition to taking such action shall, insofar as the Borrower is concerned, be presumed to have been taken with the requisite consent or direction of the Required Lenders.

SECTION 9.13 Several Obligations. The obligations and Commitment of each Lender under this Agreement and the other Loan Documents are several and neither the Administrative Agent nor any Lender shall be responsible for the performance by the other Lenders of its obligations or Commitment hereunder or thereunder. Notwithstanding any liability of the Lenders stated to be joint and several to third Persons under any of the Loan Documents, such liability shall be shared, as among Lenders, Pro Rata.

SECTION 9.14 Administrative Agent in its Individual Capacity. With respect to its obligation to lend under this Agreement, the Loans made by it and each Note issued to it, the Administrative Agent shall have the same rights and powers hereunder and under the other Loan Documents as any other Lender or holder of a Note and may exercise the same as though it were not performing the duties specified herein; and the terms "Lenders," "Required Lenders," or any similar term shall, unless the context clearly otherwise indicates, include the Administrative Agent in its capacity as a Lender. The Administrative Agent and its Affiliates may each accept deposits from, maintain deposits or credit balances for, invest in, lend money to, act as trustee under indentures of, serve as financial advisor to, and generally engage in any kind of business with the Borrower or any Affiliate of the Borrower, as if it were any other bank and without any duty to account therefor (or for any fees or other consideration received in connection therewith) to the other Lenders. BofA or its Affiliates may receive information regarding the Borrower or any of the Borrower's Affiliates and Account Debtors (including information that may be subject to confidentiality obligations in favor of the Borrower or any of their Affiliates) and Lenders acknowledge that neither the Administrative Agent nor BofA shall be under any obligation to provide such information to Lenders to the extent acquired by BofA in its individual capacity and not as the Administrative Agent hereunder.

SECTION 9.15 No Third Party Beneficiaries. This **Article IX** is not intended to confer any rights or benefits upon the Borrower or any other Person except the Administrative Agent and the Lenders, and no Person (including the Borrower) other than the Administrative Agent and the Lenders shall have any right to enforce any of the provisions of this **Article IX** except as expressly provided in **Section 9.1**. As between the Borrower and the Administrative Agent, any action that the Administrative Agent may take or purport to take on behalf of Lenders under any of the Loan Documents shall be conclusively presumed to have been authorized and approved by Lenders as herein provided.

SECTION 9.16 Notice of Transfer. The Administrative Agent may deem and treat a Lender party to this Agreement as the owner of such Lender's portion of the Revolving Credit Loans for all purposes, unless and until a written notice of the assignment or transfer thereof executed by such Lender has been received by the Administrative Agent.

SECTION 9.17 Replacement of Certain Lenders. If a Lender ("Non-Consenting Lender") shall have (i) failed to fund its Pro Rata share of any Loan requested (or deemed requested) by the Borrower which such Lender is obligated to fund under the terms of this Agreement and which such failure has not been cured within two Business Days, (ii) requested compensation from the Borrower under **Section 4.6** to recover increased costs incurred by such Lender (or its parent or holding company) which are not being incurred generally by the other Lenders (or their respective parents or holding companies), (iii) delivered a notice pursuant to **Section 2.3(d)** claiming that such Lender is unable to extend LIBOR Rate Advances to Borrower for reasons not generally applicable to the other Lenders, (iv) delivered a notice pursuant to **Section 4.7(h)** (and such Lender is a Foreign Lender), (v) defaulted in paying or performing any of its obligations to the Administrative Agent, or (vi) failed (within five Business Days after the Administrative Agent's request) or refused to give its consent to any amendment, waiver or action for which consent of all of the Lenders is required and in respect of which the Required Lenders have consented, then, in any such case and in addition to any other rights and remedies that the Administrative Agent, any other Lender or the Borrower may have against such Non-

Consenting Lender, the Borrower or the Administrative Agent may make written demand on such Non-Consenting Lender (with a copy to the Administrative Agent in the case of a demand by the Borrower and a copy to the Borrower in the case of a demand by the Administrative Agent) for the Non-Consenting Lender to assign, and such Non-Consenting Lender shall assign pursuant to one or more duly executed Assignment and Acceptances within five Business Days after the date of such demand, to one or more Lenders willing to accept such assignment or assignments, or to one or more Eligible Assignees designated by the Administrative Agent, all of such Non-Consenting Lender's rights and obligations under this Agreement (including its Commitment and all Loans owing to it) in accordance with **Section 11.3**. The Administrative Agent is hereby irrevocably authorized to execute one or more Assignment and Acceptances as attorney-in-fact for any Non-Consenting Lender which fails or refuses to execute and deliver the same within five Business Days after the date of such demand. The Non-Consenting Lender shall be entitled to receive, in cash and concurrently with execution and delivery of each such Assignment and Acceptance, all amounts then owed to the Non-Consenting Lender by the Borrower hereunder, including the aggregate outstanding principal amount of the Loans owed to such Lender, together with accrued interest thereon through the date of such assignment (but excluding amounts otherwise then due and payable under **Section 4.6**). Upon the replacement of any Non-Consenting Lender pursuant to this **Section 9.17**, such Non-Consenting Lender shall cease to have any participation in, entitlement to, or other right to share in the Liens of the Administrative Agent in any Collateral and such Non-Consenting Lender shall have no further liability to the Administrative Agent, any Lender or any other Person under any of the Loan Documents (except as provided in **Section 9.6** as to events or transactions which occur prior to the replacement of such Non-Consenting Lender), including any commitment to make Loans or purchase participations in LC Obligations. The Administrative Agent shall have the right at any time, but shall not be obligated to, upon written notice to any Lender and with the consent of such Lender (which may be granted or withheld in such Lender's discretion), to purchase for the Administrative Agent's own account all of such Lender's right, title and interest in and to this Agreement, the other Loan Documents and the Obligations (together with such Lender's interest in the Commitments), for the face amount of the Obligations owed to such Lender (or such greater or lesser amount as the Administrative Agent and such Lender may mutually agree upon).

SECTION 9.18 Remittance of Payments and Collections.

(a) All payments by any Lender to the Administrative Agent shall be made not later than the time set forth elsewhere in this Agreement on the Business Day such payment is due; provided, however, that if such payment is due **on demand** by the Administrative Agent and such demand is made on the paying Lender after 11:00 a.m. (New York time) on such Business Day, then payment shall be made by 11:00 a.m. (New York time) on the next Business Day. Payment by the Administrative Agent to any Lender shall be made by wire transfer, promptly following the Administrative Agent's receipt of funds for the account of such Lender and in the type of funds received by the Administrative Agent; provided, however, that if the Administrative Agent receives such funds at or prior to 12:00 noon (New York time), the Administrative Agent shall pay such funds to such Lender by 2:00 p.m. on such Business Day, but if the Administrative Agent receives such funds after 12:00 noon, the Administrative Agent shall pay such funds to such Lender by 2:00 p.m. on the next Business Day.

(b) With respect to the payment of any funds from the Administrative Agent to a Lender or from a Lender to the Administrative Agent, the party failing to make full payment when due pursuant to the terms hereof shall, **on demand** by the other party, pay such amount together with interest thereon at the Federal Funds Rate. In no event shall the Borrower be entitled to receive any credit for any interest paid by the Administrative Agent to any Lender, or by any Lender to the Administrative Agent, at the Federal Funds Rate as provided herein.

(c) If the Administrative Agent pays any amount to a Lender in the belief or expectation that a related payment has been or will be received by the Administrative Agent from the Borrower and such related payment is not received by the Administrative Agent, then the Administrative Agent shall be entitled to recover such amount from each Lender that receives such amount. If the Administrative Agent determines at any time that any amount received by it under this Agreement or any of the other Loan Documents must be returned to the Borrower or paid to any other Person pursuant to any Applicable Law, court order or otherwise, then, notwithstanding any other term or condition of this Agreement or any of the other Loan Documents, the Administrative Agent shall not be required to distribute such amount to any Lender.

ARTICLE X
GENERAL PROVISIONS

SECITON 10.1 Notices and Communications.

(a) Except as otherwise provided in **Section 2.11**, all notices, requests and other communications to or upon a party hereto shall be in writing (including facsimile transmission or similar writing) and shall be given to such party at the address or facsimile number for such party on the signature pages hereof (or, in the case of a Person who becomes a Lender after the date hereof, at the address shown on the applicable Assignment and Acceptance by which such Person became a Lender) or at such other address or facsimile number as such party may hereafter specify for the purpose by notice to the Administrative Agent and Borrower in accordance with the provisions of this **Section 10.1**.

(b) Except as otherwise provided in **Section 2.11**, each such notice, request or other communication shall be effective (i) if given by facsimile transmission, when transmitted to the facsimile number specified herein for the noticed party and confirmation of receipt is received, (ii) if given by a nationally recognized overnight delivery service, two Business Days after such communication is sent by such overnight delivery service addressed to the noticed party at the address specified herein, or (iii) if given by personal delivery, when duly delivered with receipt acknowledged in writing by the noticed party. In no event shall a voicemail message be effective as a notice, communication or confirmation under any of the Loan Documents. Notwithstanding the foregoing, no notice to or upon the Administrative Agent pursuant to **Sections 2.2**, **2.3** or **2.8(c)** shall be effective until after actually received by the individual to whose attention at the Administrative Agent such notice is required to be sent. Any written notice, request or demand that is not sent in conformity with the provisions hereof shall nevertheless be effective on the date that such notice, request or demand is actually received by the individual to whose attention at the noticed party such notice, request or demand is required to be sent.

(c) Electronic mail and (with the permission of the noticed party) intranet websites may be used only to distribute routine communications, such as financial statements, Borrowing Base Certificates and other information required by **Section 7.1(k)**, and to distribute Loan Documents for execution by the parties thereto, and may not be used for any other purpose as effective notice under this Agreement or any of the other Loan Documents.

The Administrative Agent and each Lender shall be authorized to rely and act upon any notices (including telephonic communications) purportedly given by or on behalf of the Borrower even if such notices were made in a manner other than as specified herein, were incomplete or were not preceded or followed by any other form of notice specified or required herein, or the terms thereof, as understood by the recipient, varied from any confirmation thereof. The Borrower agrees to indemnify and defend each Indemnitee from all losses, costs, expenses and liabilities resulting from the reliance by any such Indemnitee on each telephone communication purportedly given by a Responsible Officer, on behalf of the Borrower or, with respect to Letters of Credit, Persons who are identified in writing by Borrower to the Administrative Agent from time to time.

SECTION 10.2 Delays; Partial Exercise of Remedies. No delay or omission of any party hereto to exercise any right or remedy hereunder shall impair any such right or operate as a waiver thereof. No single or partial exercise by any party hereto of any right or remedy shall preclude any other or further exercise thereof, or preclude any other right or remedy.

SECTION 10.3 Right of Setoff. In addition to and not in limitation of all rights of offset that the Administrative Agent, any Lender or any of their respective Affiliates may have under Applicable Law, while an Event of Default is continuing, the Administrative Agent, the Lenders and their respective Affiliates shall have the right to set off and apply any and all deposits (general or special, time or demand, provisional or final, or any other type) at any time held and any other Indebtedness at any time owing by the Administrative Agent, the Lenders or any of their respective Affiliates to or for the credit or the account of the Borrower or the Borrower's Subsidiaries against any and all of the Obligations. In the event that the Administrative Agent or any Lender exercises any of its rights under this **Section 10.3**, the Administrative Agent or such Lender shall provide notice to the Borrower of such exercise, provided that, without prejudice to the Borrower's right to assert a claim for any damages it may incur as a result of any failure by the Administrative Agent or such Lender to give such notice, the failure to give such notice shall not affect the validity of the exercise of such rights.

SECTION 10.4 Indemnification; Reimbursement of Expenses of Collection.

(a) The Borrower hereby agrees that, whether or not any of the transactions contemplated by this Agreement, the other Loan Documents are consummated, the Borrower will indemnify, defend and hold harmless (on an after-tax basis) the Administrative Agent, the Lenders and their respective Affiliates (including Merrill Lynch), successors, assigns, directors, officers, agents, employees, advisors, shareholders and attorneys (each, an "Indemnified Party") from and against any and all losses, claims, damages, liabilities, deficiencies, obligations, fines, penalties, actions (whether threatened or existing), judgments, suits (whether threatened or existing) or expenses (including reasonable fees and disbursements of counsel, experts, consultants and other professionals) incurred by any of them (collectively, "Claims") (except, in

the case of each Indemnified Party, to the extent that any Claim is determined in a final and non-appealable judgment by a court of competent jurisdiction to have directly resulted from such Indemnified Party's gross negligence or willful misconduct) arising out of or by reason of (i) any litigation, investigation, claim or proceeding related to (A) this Agreement, any other Loan Document or the transactions contemplated hereby or thereby, (B) any actual or proposed use by the Borrower of the proceeds of the Loans or (C) the Administrative Agent's, any Lender's or Merrill Lynch's entering into this Agreement, the other Loan Documents or any other agreements and documents relating hereto (other than consequential damages and loss of anticipated profits or earnings), including amounts paid in settlement (provided that any such settlement has been approved by the Borrower), court costs and the fees and disbursements of counsel incurred in connection with any such litigation, investigation, claim or proceeding, (ii) any remedial or other action taken or required to be taken by the Borrower in connection with compliance by the Borrower, or any of its properties, with any federal, state or local Environmental Laws and (iii) any pending, threatened or actual action, claim, proceeding or suit by any shareholder or director of the Borrower or any actual or purported violation of the Borrower's Governing Documents or any other agreement or instrument to which the Borrower is a party or by which any of its properties is bound. Promptly after receipt of any Claim by a third party against an Indemnified Party which may result in an entitlement to indemnification under this paragraph, the Administrative Agent or Indemnified Party shall send a copy thereof to the Borrower, and Borrower shall have the right to defend such claim at its expense with counsel reasonably satisfactory to the Indemnified Party, as long as such defense is being expeditiously conducted. Notwithstanding the foregoing, the failure to promptly give such notice shall not negate or impair the Borrower's indemnification obligations hereunder, but shall give the Borrower the right to offset against any indemnification payment required to be made by it hereunder with respect to such Claim an amount equal to any damages caused to the Borrower by the failure to give such prompt notice. Neither the Borrower nor any Indemnified Party shall settle any third party Claim without the prior written consent of the other party, which consent shall not be unreasonably withheld or delayed. In addition, the Borrower shall, upon demand, pay to the Administrative Agent all costs and expenses incurred by the Administrative Agent (including the reasonable fees and disbursements of counsel and other professionals) in connection with the preparation, execution, delivery, administration, modification and amendment of the Loan Documents, and pay to the Administrative Agent, each Lender and Merrill Lynch, as the case may be, all costs and expenses (including the reasonable fees and disbursements of counsel and other professionals) paid or incurred by the Administrative Agent, such Lender or Merrill Lynch in (A) enforcing or defending its rights under or in respect of this Agreement, the other Loan Documents or any other document or instrument now or hereafter executed and delivered in connection herewith, (B) collecting the Obligations or otherwise administering this Agreement and (C) foreclosing or otherwise realizing upon the Collateral or any part thereof. If and to the extent that the obligations of the Borrower hereunder are unenforceable for any reason, the Borrower hereby agrees to make the maximum contribution to the payment and satisfaction of such obligations that is permissible under Applicable Law.

(b) The Borrower shall reimburse the Administrative Agent for all Extraordinary Expenses. The Borrower shall also reimburse the Administrative Agent for all reasonable out-of-pocket legal, accounting, appraisal, consulting, and other fees, costs and expenses incurred by it in connection with (i) negotiation and preparation of any Loan Documents, including any amendment or other modification thereof; (ii) proper enforcement

actions relating to any Collateral, Loan Documents and transactions contemplated thereby, including any actions taken to perfect or maintain priority of the Administrative Agent's Liens on any Collateral, to maintain any insurance required hereunder or to verify Collateral; and (iii) subject to the limits of **Section 7.1(g)**, each inspection, audit or appraisal with respect to the Borrower or Collateral, whether prepared by the Administrative Agent's personnel or a third party. All amounts reimbursable by the Borrower under this Section shall constitute Obligations secured by the Collateral and shall be payable within 10 days (five days, in the case of reimbursement for appraisal or Collateral inspection costs and expenses) after demand, therefor, accompanied by reasonably detailed descriptions of the fees, costs and expenses for which reimbursement is demanded.

(c) The Borrower's obligations under **Sections 4.6** and **4.7** and this **Section 10.4** shall survive any termination of this Agreement and the other Loan Documents, the termination and Full Payment of the Obligations, and are in addition to, and not in substitution of, any of the other Obligations.

SECTION 10.5 Nonliability of the Administrative Agent and the Lenders. The relationship among the Borrower and each Lender shall be solely that of borrower and lender. Neither the Administrative Agent nor any Lender shall have any fiduciary responsibilities to the Borrower. Neither the Administrative Agent nor any Lender undertakes any responsibility to the Borrower to review or inform the Borrower of any matter in connection with any phase of the Borrower' business or operations.

SECTION 10.6 Counterparts; Telecopied Signatures. This Agreement and any waiver or amendment hereto may be executed in counterparts and by the parties hereto in separate counterparts, each of which when so executed and delivered shall be an original, but all of which shall together constitute one and the same instrument. This Agreement and each of the other Loan Documents may be manually executed and delivered by telecopier or other facsimile or electronic transmission all with the same force and effect as if the same was a fully executed and delivered original manual counterpart.

SECTION 10.7 Severability. In case any provision in or obligation under this Agreement, any Note or any other Loan Document shall be invalid, illegal or unenforceable in any jurisdiction, the validity, legality and enforceability of the remaining provisions or obligations, or of such provision or obligation in any other jurisdiction, shall not in any way be affected or impaired thereby.

SECTION 10.8 Maximum Rate. Notwithstanding anything to the contrary contained elsewhere in this Agreement or in any other Loan Document, the parties hereto hereby agree that all agreements between them under this Agreement and the other Loan Documents, whether now existing or hereafter arising and whether written or oral, are expressly limited so that in no contingency or event whatsoever shall the amount paid, or agreed to be paid, to the Administrative Agent or any Lender for the use, forbearance, or detention of the money loaned to the Borrower and evidenced hereby or thereby or for the performance or payment of any covenant or obligation contained herein or therein, exceed the maximum non-usurious interest rate, if any, that at any time or from time to time may be contracted for, taken, reserved, charged or received on the Obligations, under the laws of the State of New York (or the laws of any other

jurisdiction whose laws may be mandatorily applicable notwithstanding other provisions of this Agreement and the other Loan Documents), or under applicable federal laws which may presently or hereafter be in effect and which allow a higher maximum non-usurious interest rate than under the laws of the State of New York (or such other jurisdiction), in any case after taking into account, to the extent permitted by Applicable Law, any and all relevant payments or charges under this Agreement and the other Loan Documents executed in connection herewith, and any available exemptions, exceptions and exclusions (the "Highest Lawful Rate"). If due to any circumstance whatsoever, fulfillment of any provision of this Agreement or any of the other Loan Documents at the time performance of such provision shall be due shall exceed the Highest Lawful Rate, then, automatically, the obligation to be fulfilled shall be modified or reduced to the extent necessary to limit such interest to the Highest Lawful Rate, and if from any such circumstance any Lender should ever receive anything of value deemed interest by Applicable Law which would exceed the Highest Lawful Rate, such excessive interest shall be applied to the reduction of the principal amount then outstanding hereunder or on account of any other then outstanding Obligations and not to the payment of interest, or if such excessive interest exceeds the principal unpaid balance then outstanding hereunder and such other then outstanding Obligations, such excess shall be refunded to the Borrower. All sums paid or agreed to be paid to the Lenders for the use, forbearance, or detention of the Obligations and other Indebtedness of the Borrower to the Lenders shall, to the extent permitted by Applicable Law, be amortized, prorated, allocated and spread throughout the full term of such Indebtedness, until payment in full thereof, so that the actual rate of interest on account of all such Indebtedness does not exceed the Highest Lawful Rate throughout the entire term of such Indebtedness. The terms and provisions of this Section shall control every other provision of this Agreement, the other Loan Documents and all other agreements among the parties hereto.

SECTION 10.9 Entire Agreement; Interpretation. This Agreement and the other Loan Documents constitute the entire agreement among the parties, supersede any prior written and verbal agreements among them. This Agreement shall be deemed to have been jointly drafted, and no provision of it shall be interpreted or construed for or against a party because such party purportedly prepared or requested such provision, any other provision, or this Agreement as a whole.

SECTION 10.10 LIMITATION OF LIABILITY. NEITHER THE ADMINISTRATIVE AGENT NOR ANY LENDER SHALL HAVE ANY LIABILITY TO THE BORROWER (WHETHER SOUNDING IN CONTRACT, TORT OR EQUITY OR OTHERWISE) FOR LOSSES SUFFERED BY THE BORROWER IN CONNECTION WITH, ARISING OUT OF, OR IN ANY WAY RELATED TO THE TRANSACTIONS OR RELATIONSHIPS CONTEMPLATED BY THIS AGREEMENT, OR ANY ACT, OMISSION OR EVENT OCCURRING IN CONNECTION THEREWITH, UNLESS IT IS DETERMINED BY A FINAL AND NONAPPEALABLE JUDGMENT OR COURT ORDER BINDING ON THE ADMINISTRATIVE AGENT OR SUCH LENDER THAT THE LOSSES WERE THE RESULT OF ACTS OR OMISSIONS CONSTITUTING GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF THE ADMINISTRATIVE AGENT OR SUCH LENDER. THE BORROWER HEREBY WAIVES ALL FUTURE CLAIMS AGAINST THE ADMINISTRATIVE AGENT AND EACH LENDER FOR SPECIAL, INDIRECT, CONSEQUENTIAL OR PUNITIVE DAMAGES.

SECTION 10.11 GOVERNING LAW. THE VALIDITY, INTERPRETATION AND ENFORCEMENT OF THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS AND ANY DISPUTE ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT OR ANY OF THE OTHER LOAN DOCUMENTS, WHETHER SOUNDING IN CONTRACT, TORT OR EQUITY OR OTHERWISE, SHALL BE GOVERNED BY THE INTERNAL LAWS (AS OPPOSED TO THE CONFLICTS OF LAW PROVISIONS OTHER THAN SECTION 5-1401 OF THE NEW YORK GENERAL OBLIGATIONS LAW) AND DECISIONS OF THE STATE OF NEW YORK.

SECTION 10.12 SUBMISSION TO JURISDICTION. ALL DISPUTES BETWEEN OR AMONG THE BORROWER, THE ADMINISTRATIVE AGENT OR ANY LENDER BASED UPON, ARISING OUT OF, OR IN ANY WAY RELATING TO (I) THIS AGREEMENT; (II) ANY OTHER LOAN DOCUMENT OR OTHER PRESENT OR FUTURE INSTRUMENT OR AGREEMENT BETWEEN OR AMONG THE BORROWER, THE ADMINISTRATIVE AGENT AND A LENDER; OR (III) ANY CONDUCT, ACT OR OMISSION OF THE BORROWER, THE ADMINISTRATIVE AGENT, A LENDER OR ANY OF THEIR RESPECTIVE DIRECTORS, OFFICERS, EMPLOYEES, ADMINISTRATIVE AGENTS, ATTORNEYS OR OTHER AFFILIATES, IN EACH CASE WHETHER SOUNDING IN CONTRACT, TORT OR EQUITY OR OTHERWISE, SHALL BE RESOLVED ONLY BY STATE AND FEDERAL COURTS LOCATED IN NEW YORK, NEW YORK AND THE COURTS TO WHICH AN APPEAL THEREFROM MAY BE TAKEN; PROVIDED, HOWEVER, THAT THE ADMINISTRATIVE AGENT SHALL HAVE THE RIGHT, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, TO PROCEED AGAINST THE BORROWER OR ITS PROPERTY IN (A) ANY COURTS OF COMPETENT JURISDICTION AND VENUE AND (B) ANY LOCATION SELECTED BY THE ADMINISTRATIVE AGENT TO ENABLE THE ADMINISTRATIVE AGENT TO REALIZE ON SUCH PROPERTY, OR TO ENFORCE A JUDGMENT OR OTHER COURT ORDER IN FAVOR OF THE ADMINISTRATIVE AGENT. THE BORROWER AGREES THAT IT WILL NOT ASSERT ANY PERMISSIVE COUNTERCLAIMS, SETOFFS OR CROSS-CLAIMS IN ANY PROCEEDING BROUGHT BY THE ADMINISTRATIVE AGENT. THE BORROWER WAIVES ANY OBJECTION THAT IT MAY HAVE TO THE LOCATION OF THE COURT IN WHICH THE ADMINISTRATIVE AGENT HAS COMMENCED A PROCEEDING, INCLUDING ANY OBJECTION TO THE LAYING OF VENUE OR BASED ON FORUM NON CONVENIENS.

SECTION 10.13 JURY TRIAL. EACH OF THE PARTIES HERETO HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT TO A TRIAL BY JURY IN ANY ACTION OR PROCEEDING BASED UPON, ARISING OUT OF, OR IN ANY WAY RELATING TO (I) THIS AGREEMENT; (II) ANY OTHER LOAN DOCUMENT OR OTHER PRESENT OR FUTURE INSTRUMENT OR AGREEMENT BETWEEN OR AMONG THE BORROWER, THE ADMINISTRATIVE AGENT AND A LENDER; OR (III) ANY CONDUCT, ACT OR OMISSION OF THE BORROWER, THE ADMINISTRATIVE AGENT, A LENDER OR ANY OF THEIR RESPECTIVE DIRECTORS, OFFICERS, EMPLOYEES, ADMINISTRATIVE AGENTS, ATTORNEYS OR OTHER AFFILIATES, IN EACH CASE WHETHER SOUNDING IN CONTRACT, TORT OR EQUITY OR OTHERWISE.

SECTION 10.14 Confidentiality.

(a) The Lenders and the Administrative Agent agree to keep confidential, in accordance with their customary procedures for handling confidential information of this nature and in accordance with safe and sound business practices, any information about the Borrower or any other Persons known by the Lender to be Affiliates of the Borrower supplied by the Borrower to, or otherwise learned from the Borrower, by the Lenders or the Administrative Agent pursuant to this Agreement (collectively, "Covered Information"), provided that (x) the term Covered Information shall not include any information that is or becomes generally available to the public other than as a result of a disclosure in breach of this Agreement (unless the Lender has reason to believe that such information became generally available to the public through a source that was not authorized by the Borrower or any Affiliate thereof to make such information available to the public), and (y) nothing herein shall limit the disclosure of any Covered Information (i) to the extent required by statute, rule, regulation or judicial process (subject to **Section 10.14(b)** below), (ii) to counsel for the Lenders, (iii) to bank examiners, auditors or accountants, (iv) in connection with any litigation to which any Lender is a party (subject to **Section 10.14(b)** below), (v) to a subsidiary or affiliate of any Lender as provided in paragraph (a) above or (vi) to any assignee or participant (or prospective assignee or participant) so long as the Borrower shall have consented to such Person becoming an assignee or participant (to the extent that such consent is required in **Section 11.2** or **11.3**) and such Person first executes and delivers to the Lender a Confidentiality Agreement.

(b) In the case of **Sections 10.14(a)(y)(i)** and **(iv)** above only, in the event that any Lender or the Administrative Agent is requested or required (by law, regulation, rule, oral questions, deposition, interrogatories, requests for information or documents in legal proceedings, subpoena, civil investigative demand or other similar process) to disclose any of the Covered Information, each such Person agrees (to the extent not prohibited from doing as a result of such law, regulation or legal process), as soon as practical, to notify the Borrower in writing of the existence, terms and circumstances of any such request or requirement so that the Borrower, at its expense, may seek a protective order or other appropriate remedy and/or waive compliance with the provisions of **Section 10.14(a)** with respect thereto. The Lenders and the Administrative Agent agree to reasonably cooperate with the Borrower, at the Borrower's expense, in seeking such protective order or other appropriate remedy. If, in the absence of a protective order or other remedy or the receipt of a waiver by the Borrower, such person is nonetheless, in the view of counsel, legally required to disclose Covered Information, such Person may, without liability hereunder, disclose that portion of the Covered Information that such counsel advises such Person is legally required to be disclosed provided that such Person shall reasonably cooperate with the Borrower's efforts, at the Borrower's expense, to obtain an appropriate protective order or other reliable assurance that confidential treatment will be accorded the Covered Information so disclosed if such Affiliate, representative or agent has not delivered a Confidentiality Agreement to the Borrower.

Each Lender and the Administrative Agent shall be responsible and liable for any act or conduct of its Affiliates, representatives or agents which shall be a breach of any Confidentiality Agreement or the confidentiality obligations in this Agreement.

ARTICLE XI
BENEFIT OF AGREEMENT; ASSIGNMENTS AND PARTICIPATIONS; AMENDMENT AND RESTATEMENT

SECTION 11.1 Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of Borrower, the Administrative Agent and the Lenders and their respective successors and assigns (which, in the case of the Administrative Agent, shall include any successor Administrative Agent appointed pursuant to **Section 9.8**), except that (i) Borrower shall not have the right to assign its rights or delegate performance of any of its obligations under any of the Loan Documents and (ii) any assignment by any Lender must be made in compliance with **Section 11.3**. The Administrative Agent may treat the Person which made any Loan or holds any Note as the owner thereof for all purposes hereof unless and until such Person complies with **Section 11.3** in the case of an assignment thereof or, in the case of any other transfer, a written notice of the transfer is filed with the Administrative Agent. Any assignee or transferee of any rights with respect to any Note or Loan agrees by acceptance thereof 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 holder of a Note, shall be conclusive and binding on any subsequent holder, transferee or assignee of such Note or of any Note or Notes issued in exchange therefor.

SECTION 11.2 Participations.

(a) 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 financial institutions (each a "Participant") a participating interest in any of the Obligations owing to such Lender, any Commitment of such Lender or any other interest of such Lender under any of 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 holder of its Loans and Commitments for all purposes under the Loan Documents, all amounts payable by the Borrower under this Agreement and any of the Notes shall be determined as if such Lender had not sold such participating interests, and the Borrower 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. If a Lender sells a participation to a Person other than an Affiliate of such Lender, then such Lender shall give prompt written notice thereof to the Borrower and the Administrative Agent. A Participant that would be a Foreign Lender if it were a Lender shall not be entitled to the benefits of this Agreement unless the Borrower is notified of the participation sold to Participant and such Participant agrees in a written instrument reasonably acceptable to the Borrower, for the benefit of Borrower, to comply with **Section 4.7** as though such Participant were a Lender, and such Participant complies with such **Section 4.7**.

(b) 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.

(c) Notices. Each Lender shall be solely responsible for notifying its Participants of any matters relating to the Loan Documents to the extent that any such notice may be required, and neither the Administrative Agent, the Borrower nor any other Lender shall have any obligation, duty or liability to any Participant of any other Lender. Without limiting the generality of the foregoing, neither the Administrative Agent, the Borrower nor any Lender shall have any obligation to give notices or to provide documents or information to a Participant of another Lender.

SECTION 11.3 Assignments.

(a) Permitted Assignments. Subject to its compliance with **Section 11.3(b)**, a Lender may, in accordance with Applicable Law and, as long as no Event of Default is continuing, subject to the consent of the Borrower, which consent shall not unreasonably be withheld, at any time assign to any Eligible Assignee all or any part of its rights and obligations under the Loan Documents, so long as (i) each assignment is of a constant, and not a varying, ratable percentage of all of the transferor Lender's rights and obligations under the Loan Documents with respect to the Loans and the LC Obligations and, in the case of a partial assignment, is in a minimum principal amount of $5,000,000 (unless otherwise agreed by the Administrative Agent and the Borrower in their discretion) and integral multiples of $5,000,000 in excess of that amount; (ii) except in the case of an assignment in whole of a Lender's rights and obligations under the Loan Documents or an assignment by one original signatory to this Agreement to another such signatory, immediately after giving effect to any assignment, the aggregate amount of the Commitments retained by the transferor Lender shall in no event be less than $25,000,000 (unless otherwise agreed by the Administrative Agent and the Borrower in their discretion); and (iii) the parties to each such assignment shall execute and deliver to the Administrative Agent, for its acceptance and recording, an Assignment and Acceptance. Nothing contained herein shall limit in any way the right of a Lender to pledge or assign all or any portion of its rights under this Agreement or with respect to any of the Obligations to any Federal Reserve Bank or the United States Treasury as collateral security pursuant to Regulation A of the Board of Governors and any Operating Circular issued by such Federal Reserve Bank, provided that any payment by the Borrower to the assigning Lender in respect of any assigned Obligations in accordance with the terms of this Agreement shall satisfy the Borrower's obligations hereunder in respect of such assigned Obligations to the extent of such payment, and no such assignment shall release the assigning Lender from its obligations hereunder.

(b) Effect; Effective Date. Upon (i) delivery to the Administrative Agent of a notice of assignment substantially in the form attached as **Exhibit C** hereto, together with any consents required by **Section 11.3(a)**, and (ii) payment of a $3,500 fee to the Administrative Agent for processing any assignment to an Eligible Assignee that is not an Affiliate of the transferor Lender, such assignment shall become effective on the effective date specified in such notice of assignment. The Assignment and Acceptance shall contain a representation and warranty by the Eligible Assignee that the assignment evidenced thereby will not result in a non-exempt "prohibited transaction" under Section 406 of ERISA. On and after the effective date of such assignment, such Eligible Assignee shall for all purposes be a Lender party to this Agreement and the other Loan Documents executed by 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 thereto, and no further consent or action by Borrower, Lenders or the

Administrative Agent shall be required to release the transferor Lender with respect to the Commitment (or portion thereof) of such Lender and Obligations assigned to such Eligible Assignee. Without limiting the generality of the foregoing, such Eligible Assignee shall be subject to and bound by all of the Loan Documents. Upon the consummation of any assignment to an Eligible Assignee pursuant to this **Section 11.3**, the transferor Lender, the Administrative Agent and Borrower shall make appropriate arrangements so that replacement Notes are issued to such transferor Lender and new Notes or, as appropriate, replacement Notes, are issued to such Eligible Assignee, in each case in principal amounts reflecting their respective Commitments, as adjusted pursuant to such assignment. If the transferor Lender shall have assigned all of its interests, rights and obligations under this Agreement pursuant to **Section 11.3(a)**, then (i) such transferor Lender shall no longer have any obligation to indemnify the Administrative Agent with respect to any transactions, events or occurrences that transpire after the effective date of such assignment, (ii) each Eligible Assignee to which such transferor Lender shall make an assignment shall be responsible to the Administrative Agent to indemnify the Administrative Agent in accordance with this Agreement with respect to transactions, events and occurrences transpiring on and after the effective date of such assignment to it, and (iii) the transferor Lender shall continue to be entitled to the benefits of those provisions of the Loan Documents (including indemnities from the Borrower) that survive Full Payment of the Obligations.

(c) Dissemination of Information. The Borrower authorizes each Lender and the Administrative Agent to disclose to any Participant, any Eligible Assignee 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 the Administrative Agent's or such Lender's possession concerning the Borrower, the Subsidiaries of the Borrower or the Collateral, subject to execution, prior to any such disclosure of a Confidentiality Agreement on the part of such Transferee.

SECTION 11.4 Amendment and Restatement. This Agreement amends and restates in its entirety the Existing Loan Agreement. The Borrower confirms that the Existing Loan Agreement, the other Loan Documents and the Collateral for the Obligations thereunder (as all such capitalized terms are defined in the Existing Loan Agreement) have at all times, since the date of the execution and delivery of such documents, remained in full force and effect and, except and to the extent any Collateral was released pursuant to Section 3.7 of the Existing Loan Agreement, continued to secure such obligations that are continued as the Obligations hereunder as amended hereby; and, all such Collateral (as defined in the Existing Loan Agreement) that was not previously released pursuant to Section 3.7 of the Existing Loan Agreement, pursuant to the Loan Documents hereunder shall continue to secure the Obligations hereunder. The Revolving Credit Loans hereunder are a continuation of the Revolving Credit Loans under (and as such term is defined in) the Existing Loan Agreement. The Borrower acknowledges and agrees that the amendment and restatement of the Existing Loan Agreement by this Agreement is not intended to constitute, nor does it constitute, a novation, interruption, suspension of continuity, satisfaction, discharge or termination of the obligations, loans, liabilities, or indebtedness under the Existing Loan Agreement and other Loan Documents thereunder or the collateral security and guaranties therefor and this Agreement and the other Loan Documents are entitled to all rights and benefits originally pertaining to the Existing Loan Agreement and the other Loan Documents (as such term is defined therein). Any reference to the Existing Loan

Agreement and the obligations thereunder in any Loan Document, instrument, or agreement shall hereafter mean and include this Agreement and these Obligations, as amended hereby.

[Signatures begin on next page]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their proper and duly authorized officers as of the date first set forth above.

WESTPOINT HOME, INC.

By: /s/ Nelson Griffith
Name: Nelson Griffith
Title: Chief Financial Officer

Address:
28 East 28th Street, 8th Floor
New York, New York 10016
Attention: Chief Financial Officer
Fax: (212) 679-2989

With courtesy copy to:
Fax: (212) 679-2915

[Signatures continued on following page]

BANK OF AMERICA, N.A., as a Lender, Issuing Bank and the Administrative Agent

By: /s/ John Yankaukas
Name: John Yankaukas
Title: Senior Vice President

Address:
300 Galleria Parkway, N.W.
Suite 800
Atlanta, Georgia 30339
Attention: WestPoint Loan Administration
Telecopier No.: (404) 607-3275

EXHIBIT A

REVOLVING CREDIT NOTE

_______________, 20__

U.S. $_______________.__ **Atlanta, Georgia**

FOR VALUE RECEIVED, the undersigned, WESTPOINT HOME, INC., a Delaware corporation (hereinafter referred to as "Borrower"), hereby unconditionally promises to pay to the order of ______________________________________ (herein, together with any subsequent holder hereof, called the "Holder") the principal sum of $_______________ or such lesser sum as may constitute Holder's Pro Rata share of the outstanding principal amount of all Revolving Credit Loans pursuant to the terms of the Loan Agreement (as defined below) on the date on which such outstanding principal amounts become due and payable pursuant to **Section 2.9** of the Loan Agreement, in strict accordance with the terms thereof. Borrower likewise unconditionally promises to pay to Holder interest from and after the date hereof on Holder's Pro Rata share of the outstanding principal amount of Revolving Credit Loans at such interest rates, payable at such times, and computed in such manner as are specified in **Sections 4.1** and **4.2** of the Loan Agreement, in strict accordance with the terms thereof.

This Revolving Credit Note ("Note") is issued pursuant to, and is one of the "Revolving Credit Notes" referred to in, the Amended and Restated Loan and Security Agreement dated as of June 15, 2011 (as the same may be amended from time to time, the "Loan Agreement"), among Borrower, Bank of America, N.A., as collateral and administrative agent (in such capacity, together with its successors in such capacity, the "Administrative Agent") for itself and the financial institutions from time to time parties thereto as lenders ("Lenders"), and such Lenders, and Holder is and shall be entitled to all benefits thereof and of all Loan Documents executed and delivered in connection therewith. This Note is subject to certain restrictions on transfer or assignment as provided in the Loan Agreement. All capitalized terms used herein, unless otherwise defined herein, shall have the meanings ascribed to such terms in the Loan Agreement.

The repayment of the principal balance of this Note is subject to the provisions of **Section 2.9** of the Loan Agreement. The entire unpaid principal balance and all accrued interest on this Note shall be due and payable immediately upon the termination of the Commitments as set forth in **Section 2.8** of the Loan Agreement.

All payments of principal and interest shall be made in Dollars in immediately available funds to the Administrative Agent for Holder's benefit as specified in the Loan Agreement.

Upon or after the occurrence of an Event of Default and for so long as such Event of Default exists, the principal balance and all accrued interest of this Note may be declared (or shall become) due and payable in the manner and with the effect provided in the Loan Agreement, and the unpaid principal balance hereof shall bear interest at the Default Rate as and when provided in **Section 4.2** of the Loan Agreement. Borrower agrees to pay, and save Holder

harmless against, any liability for the payment of, all costs and expenses, including, but not limited to, reasonable attorneys' fees, if this Note is collected by or through an attorney-at-law.

All principal amounts of Revolving Credit Loans made by Holder to the Borrower pursuant to the Loan Agreement, and all accrued and unpaid interest thereon, shall be deemed outstanding under this Note and shall continue to be owing by Borrower until paid in accordance with the terms of this Note and the Loan Agreement.

In no contingency or event whatsoever, whether by reason of advancement of the proceeds hereof or otherwise, shall the amount paid or agreed to be paid to Holder for the use, forbearance or detention of money advanced hereunder exceed the highest lawful rate permissible under any law which a court of competent jurisdiction may deem applicable hereto; and, in the event of any such payment inadvertently paid by Borrower or inadvertently received by Holder, such excess sum shall be, at Borrower's option, returned to the Borrower forthwith or credited as a payment of principal, but shall not be applied to the payment of interest. It is the intent hereof that Borrower not pay or contract to pay, and that Holder not receive or contract to receive, directly or indirectly in any manner whatsoever, interest in excess of that which may be paid by Borrower under Applicable Law.

Time is of the essence of this Note. To the fullest extent permitted by Applicable Law, Borrower, for itself and its legal representatives, successors and assigns, expressly waives presentment, demand, protest, notice of dishonor, notice of non-payment, notice of maturity, notice of protest, presentment for the purpose of accelerating maturity, diligence in collection, and the benefit of any exemption or insolvency laws.

Wherever possible each provision of this Note shall be interpreted in such a manner as to be effective and valid under Applicable Law, but if any provision of this Note shall be prohibited or invalid under Applicable Law, such provision shall be ineffective to the extent of such prohibition or invalidity without invalidating the remainder of such provision or remaining provisions of this Note. No delay or failure on the part of Holder in the exercise of any right or remedy hereunder shall operate as a waiver thereof, nor as an acquiescence in any default, nor shall any single or partial exercise by Holder of any right or remedy preclude any other right or remedy. The Administrative Agent, at its option, may enforce its rights against any Collateral securing this Note without enforcing its rights against Borrower of the indebtedness evidenced hereby or any other property or indebtedness due or to become due to the Borrower. Borrower agrees that, without releasing or impairing Borrower's liability hereunder, the Administrative Agent may at any time release, surrender, substitute or exchange any Collateral securing this Note and may at any time release any party primarily or secondarily liable for the indebtedness evidenced by this Note.

The rights of Holder and obligations of the Borrower hereunder shall be construed in accordance with and governed by the laws (without giving effect to the conflict of law principles thereof other than Section 5-1401 of the New York General Obligations Law) of the State of New York. This Note is intended to take effect as an instrument under seal.

IN WITNESS WHEREOF, Borrower has caused this Note to be executed under seal and delivered by its duly authorized officers on the date first above written.

BORROWER:

ATTEST:	WESTPOINT HOME, INC.
	By:
Secretary	Title:
[CORPORATE SEAL]	

EXHIBIT B

FORM OF ASSIGNMENT AND ACCEPTANCE

Dated as of ______, 20__

Reference is made to the Amended and Restated Loan and Security Agreement dated as of June 15, 2011 (at any time amended, the "Loan Agreement"), among **WESTPOINT HOME, INC.** ("Borrower"), **BANK OF AMERICA, N.A.**, a national bank, in its capacity as collateral and administrative agent (the "Administrative Agent") for the financial institutions from time to time party to the Loan Agreement ("Lenders"), and such Lenders. Capitalized terms used herein and not otherwise defined shall have the meanings assigned to such terms in the Loan Agreement.

____ (the "Assignor") and ____ (the "Assignee") agree as follows:

1. Assignor hereby assigns to Assignee and Assignee hereby purchases and assumes from Assignor (i) a principal amount of $________ of the outstanding Revolving Credit Loans held by Assignor and $___________ of participations of Assignor in LC Obligations (which amounts, according to the records of the Administrative Agent, represent _______% of the total principal amount of outstanding Revolving Credit Loans and LC Obligations) and (ii) a principal amount of $__________ of Assignor's Commitment (which amount includes Assignor's outstanding Revolving Credit Loans being assigned to Assignee pursuant to clause (i) above and which, according to the records of the Administrative Agent, represents (____%) of the total Commitments of Lenders under the Loan Agreement)(the "Assigned Interest"), together with an interest in the Loan Documents corresponding to the Assigned Interest. This Agreement shall be effective from the date (the "Assignment Effective Date") on which Assignor receives both (x) the principal amount of the Assigned Interest in the Loans on the Assignment Effective Date, if any, and (y) a copy of this Agreement duly executed by Assignee. From and after the Assignment Effective Date, Assignee hereby expressly assumes, and undertakes to perform, all of Assignor's obligations in respect of Assignor's Commitments to the extent, and only to the extent, of Assignee's Assigned Interest, and all principal, interest, fees and other amounts which would otherwise be payable to or for Assignor's account in respect of the Assigned Interest shall be payable to or for Assignee's account, to the extent such amounts have accrued subsequent to the Assignment Effective Date.

2. Assignor (i) represents that as of the date hereof, the aggregate of its Commitments under the Loan Agreement (without giving effect to assignments thereof, which have not yet become effective) is $__________, and the outstanding balance of its Loans and participations in LC Obligations (unreduced by any assignments thereof, which have not yet become effective) is $__________; (ii) makes no representation or warranty and assumes no responsibility with respect to any statements, warranties or representations made in or in

connection with the Loan Agreement or the execution, legality, validity, enforceability, genuineness, sufficiency or value of the Loan Agreement or any other instrument or document furnished pursuant thereto, other than that Assignor is the legal and beneficial owner of the interest being assigned by it hereunder and that such interest is free and clear of any adverse claim; *[and]* (iii) makes no representation or warranty and assumes no responsibility with respect to the financial condition of the Borrower, the performance or observance by Borrower of any of their obligations under the Loan Agreement or any of the Loan Documents***[***; *and (iv) attaches the Notes held by it and requests that the Administrative Agent exchange such Notes for new Notes payable to Assignee and the Assignor in the principal amounts set forth on* Schedule A *hereto****]***.

3. Assignee (i) represents and warrants that it is legally authorized to enter into this Assignment and Acceptance; (ii) confirms that it has received a copy of the Loan Agreement, together with copies of the most recent financial statements delivered pursuant to **Section 7.1(k)(iii)** thereof, and copies of such other Loan Documents and information as it has deemed appropriate to make its own credit analysis and decision to enter into this Assignment and Acceptance; (iii) agrees that it shall, independently and without reliance upon the Assignor and based on such documents and information as it shall deem appropriate at the time, continue to make its own credit decisions in taking or not taking action under the Loan Agreement; (iv) confirms that it is eligible to become an Assignee; (v) appoints and authorizes the Administrative Agent to take such action as agent on its behalf and to exercise such powers under the Loan Agreement as are delegated to the Administrative Agent by the terms thereof, together with such powers as are incidental thereto; (vi) agrees that it will strictly observe and perform all the obligations that are required to be performed by it as a "Lender" under the terms of the Loan Agreement and the other Loan Documents; (vii) agrees that it will keep confidential all information with respect to the Borrower furnished to it by Borrower or the Assignor to the extent provided in the Loan Agreement; and (vii) represents and warrants that the assignment evidenced hereby will not result in a non-exempt "prohibited transaction" under Section 406 of ERISA.

4. Assignee acknowledges and agrees that it will not sell or otherwise dispose of the Assigned Interest or any portion thereof, or grant any participation therein, in a manner which, or take any action in connection therewith which, would violate the terms of any of the Loan Documents.

5. This Agreement and all rights and obligations shall be interpreted in accordance with and governed by the laws of the State of New York. If any provision hereof would be invalid under Applicable Law, then such provision shall be deemed to be modified to the extent necessary to render it valid while most nearly preserving its original intent; no provision hereof shall be affected by another provision's being held invalid.

6. Each notice or other communication hereunder shall be in writing, shall be sent by messenger, by telecopy or facsimile transmission or by first-class mail, shall be deemed given when sent and shall be sent as follows:

(a) If to Assignee, to the following address (or to such other address as Assignee may designate from time to time):

____
____
____

(b) If to Assignor, to the following address (or to such other address as Assignor may designate from time to time):

____
____
____
____

Payments hereunder shall be made by wire transfer of immediately available Dollars as follows:

If to Assignee, to the following account (or to such other account as Assignee may designate from time to time):

____
ABA No. __________________
____
Account No.________________
Reference: _________________

If to Assignor, to the following account (or to such other account as Assignor may designate from time to time):

____
____
____
ABA No. __________________
For Account of: _____________
Reference: _________________

IN WITNESS WHEREOF, the parties hereto have caused this Assignment and Acceptance to be executed and delivered by their respective duly authorized officers, as of the date first above written.

____
("Assignor")

By:___________________________________
Title:_________________________________

____
("Assignee")

By:________________________________
Title:______________________________

In the event this Assignment is being executed and delivered other than after the occurrence and during a continuance of an Event of Default under the Loan Agreement the following consent is required.

The Borrower hereby consents to the foregoing.

WestPoint Home Inc.

By:_________________________________

Title:_____________________________

Dated:________________________________

SCHEDULE A TO ASSIGNMENT AND ACCEPTANCE

EXHIBIT C

FORM OF NOTICE OF ASSIGNMENT AND ACCEPTANCE

Reference is made to (i) the Amended and Restated Loan and Security Agreement dated as of June 15, 2011 (as at any time amended, the "Loan Agreement") among **WESTPOINT HOME, INC.** ("Borrower"), **BANK OF AMERICA, N.A.**, a national bank, in its capacity as collateral and administrative agent (the "Administrative Agent") for the financial institutions from time to time party to the Loan Agreement ("Lenders"), and such Lenders, and (ii) the Assignment and Acceptance dated as of ____________, 20__ (the "Assignment Agreement") between __________________ (the "Assignor") and ____________________ (the "Assignee"). Except as otherwise defined herein, capitalized terms used herein which are defined in the Loan Agreement are used herein with the respective meanings specified therein.

The Assignor hereby notifies Borrower and the Administrative Agent of Assignor's intent to assign to Assignee pursuant to the Assignment Agreement a principal amount of (i) $________ of the outstanding Revolving Credit Loans and participations in LC Obligations held by Assignor, (ii) $___________ of Assignor's Commitment (which amount includes the Assignor's outstanding Revolving Credit Loans being assigned to Assignee pursuant to clause (i) above), together with an interest in the Loan Documents corresponding to the interest in the Loans and Commitment so assigned. Pursuant to the Assignment Agreement, Assignee has expressly assumed all of Assignor's obligations under the Loan Agreement to the extent of the Assigned Interest (as defined in the Assignment Agreement).

For purposes of the Loan Agreement, the Administrative Agent shall deem Assignor's share of the Commitment to be reduced by $_________ and Assignee's share of the Commitment to be increased by $________.

The address of the Assignee to which notices, information and payments are to be sent under the terms of the Loan Agreement is:

____
____
____
____

Assignee's LIBOR Lending Office address is as follows:

____
____
____
____

This Notice is being delivered to the Borrower and the Administrative Agent pursuant to **Section 11.3** of the Loan Agreement. Please acknowledge your receipt of this Notice by executing and returning to Assignee and Assignor a copy of this Notice.

IN WITNESS WHEREOF, the undersigned have caused the execution of this Notice, as of _________________, 20__.

____
("Assignor")

By:___________________________________
Title:__________________________________

____
("Assignee")

By:___________________________________
Title:__________________________________

ACKNOWLEDGED AND AGREED TO
AS OF THE DATE SET FORTH ABOVE:

<u>BORROWER</u>:*

WESTPOINT HOME, INC.

By:___________________________________
Title:__________________________________

*** No signature required by Borrower when an Event of Default exists.**

BANK OF AMERICA, N.A.,
as the Administrative Agent

By:___________________________________
Title:__________________________________

EXHIBIT D

COMPLIANCE CERTIFICATE

[Letterhead of the Borrower]

__________________, 20__

Bank of America, N.A., as the Administrative Agent
300 Galleria Parkway, N.W.
Suite 800
Atlanta, Georgia 30339

The undersigned, gives this certificate to **BANK OF AMERICA, N.A.** ("the Administrative Agent") in accordance with the requirements of **Section 7.1(k)(iii)** of that certain Amended and Restated Loan and Security Agreement dated as of June 15, 2011, among WestPoint Home, Inc. ("Borrower"), the Administrative Agent and the Lenders referenced therein ("Loan Agreement"). Capitalized terms used in this Certificate, unless otherwise defined herein, shall have the meanings ascribed to them in the Loan Agreement.

1. Attached are a copy of the Borrower's interim consolidated Financial Statements for the Fiscal Month ending __________________, 20__.

2. No Default exists on the date hereof, other than: ___________________ ____ **[**if none, so state**]**; and

3. No Event of Default exists on the date hereof, other than __________ ____ **[**if none, so state**]**.

Very truly yours,

West Point Home, Inc.

By:_____________________________
Chief-Financial Officer

title **[must be a Responsible Officer]**

EXHIBIT E

FORM OF NOTICE OF BORROWING

Date ______________, 20__

Bank of America, N.A., as the Administrative Agent
300 Galleria Parkway
Suite 800
Atlanta, Georgia 30339
Attention: WestPoint Loan Administration Officer

Re: Amended and Restated Loan and Security Agreement dated as of June 15, 2011, by and among WestPoint Home, Inc. ("Borrower"), Bank of America, N.A., as collateral and administrative agent for certain Lenders from time to time parties thereto, and such Lenders (as at any time amended, the "Loan Agreement")

Gentlemen:

This Notice of Borrowing is delivered to you pursuant to **Section 2.3(a)** of the Loan Agreement. Unless otherwise defined herein, capitalized terms used herein shall have the meanings attributable thereto in the Loan Agreement. Borrower hereby requests a Revolving Credit Loan in the aggregate principal amount of $______________, to be made on _____________, _____, and to consist of:

Check as applicable: ☐ Base Rate Advances in the aggregate principal amount of $_____________

☐ LIBOR Rate Advances in the aggregate principal amount of $___________, with Interest Periods as follows:

(i) As to $_____________, an Interest Period of ______ month(s);

(ii) As to $_____________, an Interest Period of ______ months;

(iii) As to $_____________, an Interest Period of ______ months.

Borrower hereby ratifies and reaffirms all of its liabilities and obligations under the Loan Documents and hereby certifies that no Default or Event of Default exists on the date hereof.

Borrower has caused this Notice of Borrowing to be executed and delivered by its duly authorized representative, this ______ day of _____________, 20__.

____

____

By:____________________________________

Title:__________________________________

EXHIBIT F

Form of Notice of Continuation/Conversion

Date ______________,______

Bank of America, N.A., as the Administrative Agent
300 Galleria Parkway
Suite 800
Atlanta, Georgia 30339
Attention: WestPoint Loan Administration Officer

Re: Amended and Restated Loan and Security Agreement dated as of June 15, 2011, by and among WestPoint Home, Inc., Bank of America, N.A., as collateral and administrative agent for certain Lenders from time to time parties thereto, and such Lenders (as at any time amended, the "Loan Agreement")

Gentlemen:

This Notice of Continuation/Conversion is delivered to you pursuant to **Section 2.3(b)** of the Loan Agreement. Unless otherwise defined herein, capitalized terms used herein shall have the meanings attributable thereto in the Loan Agreement. Borrower hereby gives notice of its request as follows:

Check as applicable:

☐ A conversion of Loans from one Type to another, as follows:

(i) The requested date of the proposed conversion is ______________, 20__ (the "Conversion Date");

(ii) The Type of Loans to be converted pursuant hereto are presently __________________ ***[****select either LIBOR Rate Advances or Base Rate Advances****]*** in the principal amount of $_____________ outstanding as of the Conversion Date;

(iii) The portion of the aforesaid Loans to be converted on the Conversion Date is $_____________ (the "Conversion Amount");

(iv) The Conversion Amount is to be converted into a ____________ ***[****select either a LIBOR Rate Advance or a Base Rate Advance****]*** (the "Converted Loan") on the Conversion Date.

(v) ***[****In the event Borrower selects a LIBOR Rate Advance*:***]*** Borrower hereby requests that the Interest Period for such Converted Loan be for a duration of _____ ***[****insert length of Interest Period****]***.

☐ A continuation of LIBOR Rate Advances for new Interest Period, as follows:

(i) The requested date of the proposed continuation is _______________, 20__ (the "Continuation Date");

(ii) The aggregate amount of the LIBOR Rate Advances subject to such continuation is $__________________;

(iii) The duration of the selected Interest Period for the LIBOR Rate Advances which are the subject of such continuation is: _____________ ***[****select duration of applicable Interest Period****]***;

Borrower hereby ratifies and reaffirms all of its liabilities and obligations under the Loan Documents and certifies that no Default or Event of Default has occurred and is continuing exists on the date hereof.

Borrower has caused this Notice of Continuation/Conversion to be executed and delivered by its duly authorized representative, this _______ day of ______________, 20__.

____

____

By:____________________________________

Title:_________________________________

EXHIBIT G

BORROWING BASE CERTIFICATE

(see attached)

EXHIBIT H

FORM OF CONFIDENTIALITY AGREEMENT

CONFIDENTIALITY AGREEMENT

Dated as of _______ __, 20__

Ladies and Gentlemen:

In connection with your review of WestPoint Home, Inc. (together with any of its affiliates and representatives, the "Company") related to a potential financing transaction involving extending credit to the Company or otherwise participating in the such credit (the "Potential Transaction"), you (together with any of your affiliates and representatives, "Recipient") requested that the Company and/or Bank of America, N.A. (together with any of its representatives, "BofA") provide Recipient with certain information.

As used herein, "Confidential Information" means (1) the names of the Company or any of its affiliates, including without limitation, Carl C. Icahn, in connection with the Potential Transaction, (2) the existence of this or any other agreements between BofA and the Company or drafts thereof or the term sheets describing any such agreement or transaction, and the terms of any of the foregoing, and (3) all data, reports, interpretations, forecasts and records containing or otherwise reflecting information concerning the Company, that the Company, BofA or their representatives provide to Recipient in the course of Recipient's consideration of the Potential Transaction and thereafter during the term of this agreement, together with analyses, compilations, studies or other documents, whether prepared by BofA, the Company or Recipient or its agents or attorneys, which contain or otherwise reflect such information.

In consideration of BofA and/or the Company providing Recipient with Confidential Information, Recipient agrees that the Confidential Information will not, except as hereinafter provided, without the prior written consent of the Company, be used other than in connection with Recipient's review of and participation in the Potential Transaction or disclosed by Recipient or by its agents, attorneys, advisors, employees or other representatives to whom the Company or BofA provides Confidential Information on behalf of Recipient, or who receive Confidential Information from or on behalf of Recipient (collectively, the "Representatives"), in any manner whatsoever, in whole or in part; provided, however, that Recipient and its Representatives may disclose Confidential Information to one another for the purpose of evaluating, conducting, structuring, negotiating or otherwise discussing or participating in the Potential Transaction. Recipient shall be responsible for any breach of this agreement by its Representatives, except for third party Representatives who have executed a confidentiality agreement in favor of the Company on substantially the terms of this agreement.

This agreement shall be inoperative as to particular portions of the Confidential Information if such information (i) is or becomes generally available to the public other than as a result of a disclosure by the Recipient or its Representatives in breach of this agreement, (ii) was available to the Recipient or its Representatives on a non-confidential basis prior to its disclosure

to the Recipient by the Company, (iii) becomes available to the Recipient on a non-confidential basis from a source other than the Company provided such source, to the Recipient's knowledge, has not violated any obligation of confidentiality by the providing of such information or (iv) was independently developed by the Recipient without use of or reliance on such Confidential Information.

Furthermore, nothing herein shall limit the disclosure of Confidential Information (i) to the extent required by statute, rule, regulation or judicial, administrative or other legal process (subject to and in compliance with the second paragraph below), (ii) to bank examiners, auditors or accountants, or (iii) in connection with any litigation to which Recipient or any Representative is a party (subject to and in compliance with the second paragraph below).

The written Confidential Information, except for that portion of the Confidential Information (the "Recipient Studies") that may be found in analyses, compilations, studies or other documents prepared by Recipient, or its agents, attorneys, advisors or employees, shall be returned to the Company or destroyed promptly upon the Company's written request to the Recipient. Recipient Studies and other documents prepared by Recipient, or its agents, attorneys, or employees shall, at Recipient's option, be kept subject to the terms of this agreement or destroyed. Notwithstanding anything herein to the contrary, Recipient may retain such Confidential Information as necessary to enable it to comply with any applicable law, regulation or requirement of a regulatory body governing document retention, in each case subject to this agreement. The foregoing sentence shall survive the termination of this agreement.

In the event that Recipient is requested (by interrogatory, subpoena, deposition, civil investigation demand, regulatory request or other similar legal process) to disclose any Confidential Information, Recipient shall (to the extent not prohibited from doing as a result of such law, regulation or legal process), as soon as practical, notify the Company of any such request so that the Company may either seek, at its sole expense, an appropriate protective order or waive Recipient's compliance with the provisions of this agreement. If Recipient concludes, upon advice of counsel to such effect, that it is obliged under the applicable law to disclose any portion of the Confidential Information, Recipient may disclose that portion of the Confidential Information without liability hereunder. In any event, Recipient shall reasonably cooperate with the Company and not oppose action by the Company in any such proceeding to obtain an appropriate protective order or other appropriate remedy.

The delivery to Recipient by the Company or BofA of the Confidential Information is not intended to be a commitment or agreement on behalf of the Company or BofA to engage in any transaction or to constitute a representation or warranty with respect to the accuracy or completeness of the Confidential Information.

This agreement shall be governed by and construed in accordance with the laws of the State of New York applicable to contracts made in and to be performed in that state without regard to conflict of law principles thereof. Except as expressly otherwise provided herein, this agreement shall terminate three years from the date hereof. This agreement is for the sole and exclusive benefit of the Company and the Company is intended third-party beneficiary of this

agreement. If the foregoing reflects our agreement, kindly sign and return the duplicate copy of this letter to the Company and BofA.

Very truly yours,

Bank of America, N.A.

By:____

Name: ___________________________________

Title: ___________________________________

AGREED AND ACCEPTED TO FOR ITSELF

AND ANY OF ITS AFFILIATES OR REPRESENTATIVES

____

By:____

Name: ___________________________________

Title: ___________________________________

EXHIBIT I

FORM OF IMPORTED INVENTORY AGREEMENT

This IMPORTED INVENTORY AGREEMENT (this "Agreement") is made as of _______________, 20__, by and among ______________________ ("Customs Broker"), ____, a ____________________ corporation ("_______________"), ____, a ____________________ corporation ("_______________"; together with _______________, the "Borrower"), and **BANK OF AMERICA, N.A.** ("BofA"), a national banking association, in its capacity as collateral and administrative agent for itself and various lenders (the "Lenders") from time to time party to the Loan Agreement, as hereinafter defined (in such capacity, together with its successors and assigns in such capacity, the "Administrative Agent").

Recitals:

The Borrower, the Administrative Agent and the Lenders are parties to a certain Amended and Restated Loan and Security Agreement dated as of June 15, 2011 (as such agreement may be amended, modified, supplemented or restated from time to time, the "Loan Agreement"). Pursuant to the Loan Agreement, the Administrative Agent and the Lenders will extend loans and other financial accommodations to or for the benefit of the Borrower.

As security for the prompt payment and performance of the Obligations (as defined in the Loan Agreement), the Borrower has granted to the Administrative Agent, for the benefit of the Administrative Agent and the Lenders, a Lien in certain personal property of the Borrower, including without limitation the Imported Goods (as hereinafter defined).

Customs Broker has been engaged by the Borrower to facilitate the importation of goods (the "Imported Goods") purchased by the Borrower from vendors located outside the United States (each a "Foreign Vendor").

Customs Broker, the Borrower and the Administrative Agent wish to agree upon certain procedures for the shipping and disposition of Imported Goods and the handling of the Documents (as hereinafter defined) relating thereto.

Agreement:

In consideration of the premises and the mutual covenants contained herein, and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereto, intending to be legally bound hereby, agree as follows:

1. Definitions; Rules of Construction.

   (a) As used in this Agreement, the following terms shall have the following meanings:

   "Bill of Lading" shall have the meaning given to the term "bill of lading" in Section 1-201(6) of the UCC.

"Business Day" means a day other than a Saturday, Sunday or a day on which banks are authorized or required to be closed in the State of New York.

"Carrier" means, with respect to any Imported Goods, the Person engaged to transport the Imported Goods, including a non-vessel operating common carrier.

"Collecting Bank" means BofA, any affiliate of BofA or any other financial institution which is acceptable to the Administrative Agent and to which Documents are sent by a Foreign Vendor in connection with such Foreign Vendor's sale of Imported Goods to the Borrower and to which the Borrower makes payment with respect to such Imported Goods.

"Compliance Letter" means a Negotiable Bill of Lading Compliance Letter addressed to the Administrative Agent by a Foreign Vendor, in the form annexed to the Loan Agreement.

"Consignee" means, with respect to any Imported Goods, the Person who is named in the Bill of Lading with respect to such goods and to whom or to whose order the Bill of Lading promises delivery.

"Documentary Collection" means an arrangement whereby the Borrower settles for the Imported Goods to a Collecting Bank, either by payment against a sight draft drawn on the Borrower or by acceptance of a time draft drawn on the Borrower.

"Documents" means, with respect to any Imported Goods in the possession of a Carrier, all documents of title, including Bills of Lading, that are related to the shipment of such Imported Goods by such Carrier.

"Foreign Vendor" has the meaning set forth in the Recitals to this Agreement.

"Imported Goods" has the meaning set forth in the Recitals to this Agreement.

"LC Issuer" means the Issuing Bank under (and as defined in) the Loan Agreement.

"Letter of Credit" means a documentary letter of credit issued by LC Issuer for the account of the Borrower and for the benefit of a Foreign Vendor.

"Loan Agreement" has the meaning set forth in the Recitals to this Agreement.

"Negotiable Bill of Lading" means a Bill of Lading that is "negotiable" within the meaning of Article 7 of the UCC.

"Person" means an individual, partnership, corporation, limited liability company, limited liability partnership, joint stock company, land trust, business trust, or unincorporated organization, or any federal, state, municipal, national, foreign or other governmental department, commission, board, bureau, court, agency or instrumentality or political subdivision thereof.

"UCC" means the Uniform Commercial Code (or any successor statute) as adopted and in force in the State of New York or, when the laws of any other state govern the method or manner of the perfection or enforcement of any Lien in any of the Documents or the Imported Goods, the Uniform Commercial Code (or any successor statute) of such other state.

(b) All references to "herein" shall mean this Agreement as a whole and not to any particular section or paragraph; to the word "including" shall mean "including without limitation"; to a Person shall include such Person's successors and permitted assigns; to a statute shall include all amendments thereto and rules and regulations promulgated pursuant thereto; and to any agreement shall mean and include all amendments, modifications, renewals and restatements thereof.

2. Form of Bills of Lading; Customs Broker Acknowledgements. From and after the date hereof, unless otherwise directed to do so by the Administrative Agent in writing, the Borrower shall cause each Foreign Vendor to require (i) all Carriers engaged by such Foreign Vendor with respect to the shipment of Imported Goods to issue only Negotiable Bills of Lading to the order of the Borrower as Consignee, or, at the direction of the Administrative Agent, to the order of "Bank of America, N.A., as agent for certain lenders," as Consignee; and (ii) all Negotiable Bills of Lading issued by each Carrier to contain a clause stating that one original of the Negotiable Bill of Lading, duly endorsed, must be surrendered to the Carrier in exchange for the Imported Goods. Customs Broker acknowledges that the Administrative Agent has a Lien in all Documents and the Imported Goods covered thereby; agrees that it holds as agent and bailee, for the benefit of the Administrative Agent and the Lenders, all Documents that at any time may be in its possession or under its control, whether the Administrative Agent or the Borrower is named as Consignee therein; and agrees that it will at all times carry out the Administrative Agent's instructions with respect to such Documents and Imported Goods, including the handling procedures set forth in **Section 4**.

3. Handling Procedures.

(a) The Borrower shall cause each Foreign Vendor to deliver, through the use of a Compliance Letter, all Documents to the Administrative Agent, at the address for the Administrative Agent shown on the signature page hereof, provided that, if so instructed by the Administrative Agent in writing, the Borrower shall cause each Foreign Vendor to deliver all Documents to Customs Broker as agent and bailee of the Administrative Agent. Provided no Default or Event of Default under (and as those terms are defined in) the Loan Agreement exists, the Administrative Agent shall endeavor, in good faith, to cause all Documents received by it from a Foreign Vendor to be forwarded, by overnight mail, not later than one Business Day after the Business Day on which a representative of the Administrative Agent shall have received such Documents, to Customs Broker for processing and handling by Customs Broker in accordance with the terms of this Agreement.

(b) Notwithstanding the provisions of paragraph (a) of this **Section 3**, with respect to any Imported Goods for which payment is to be made under a Letter of Credit or a Documentary Collection, all Documents shall be delivered to the LC Issuer or the Collecting Bank, as applicable, provided that (i) each such Document shall name the Borrower or the Administrative Agent (or the LC Issuer or Collecting Bank, as applicable) as Consignee, in each

case as required by this **Section 3**; and (ii) the Borrower shall cause the LC Issuer (promptly following such LC Issuer's receipt and acceptance of Documents presented under a Letter of Credit) and the Collecting Bank (promptly following its receipt of the Borrower's payment or acceptance, as applicable, pursuant to a Documentary Collection) to deliver all Documents to the Administrative Agent or Customs Broker.

(c) Unless and until Customs Broker receives written notice from the Administrative Agent to the contrary, Customs Broker may deliver (i) the Documents to the Carrier or to the Carrier's agent (who shall act on the Customs Broker's behalf as the Customs Broker's sub-agent hereunder) for the purpose of enabling Customs Broker to clear the Imported Goods through customs and thereafter permitting the Borrower, as importer of record, to obtain possession or control of the Imported Goods subject to such Documents; and (ii) the Imported Goods as directed by the Borrower.

(d) Customs Broker shall not deliver any Documents to any Person other than the Administrative Agent, the Borrower, a Carrier pursuant to **Section 3(b)** above, or such other Person as may be specified in writing by the Administrative Agent. For so long as any Documents are in the Borrower's possession, the same shall be held by it as trustee of an express trust for the Administrative Agent and the Lenders. Upon Customs Broker's receipt of written notification from the Administrative Agent, Customs Broker shall follow solely the instructions of the Administrative Agent concerning the disposition of the Documents and the Imported Goods and will not follow any instructions of the Borrower or any other Person concerning the same.

(e) Promptly after the Administrative Agent's written request therefor, Customs Broker shall provide to the Administrative Agent a copy (and, if so specified by the Administrative Agent, all originals) of all Documents then in Customs Broker's possession or control.

(f) Customs Broker shall have no liability to the Borrower if Customs Broker complies with the Administrative Agent's written instructions as described in this Agreement. The Borrower shall continue to pay all fees, charges and other expenses relating to the handling of the Imported Goods and shall reimburse Customs Broker for all reasonable costs and expenses incurred as a direct result of Customs Broker's compliance with the terms and provisions of this Agreement.

(g) Customs Broker's sole authority from the Administrative Agent is to receive and maintain possession of the Documents on behalf of the Administrative Agent and to follow the instructions of the Administrative Agent, as provided herein, with respect to the Documents and the Imported Goods. Except as may be specifically authorized by the Administrative Agent in writing, Customs Broker shall have no authority to undertake any other action or to enter into any other commitments or agreements on behalf of the Administrative Agent.

4. Power of Attorney.

(a) The Administrative Agent hereby makes, constitutes and appoints Customs Broker as the Administrative Agent's true and lawful attorney-in-fact, with full power (exercisable through employees authorized to act for Customs Broker and in the customs ports located in the United States of America) to make endorsements of the Administrative Agent's name as Consignee on any Documents issued to the order of the Administrative Agent, as Consignee, for the purpose of discharging Custom Broker's duties pursuant to **Section 3** and to take such other action as shall be necessary to clear the Imported Goods covered by such Documents through customs, and to cause such Imported Goods to be delivered to the Borrower or as otherwise directed in writing by the Administrative Agent. The Administrative Agent grants to Customs Broker full power and authority to do all things necessary to be done to effect such endorsement and other action, subject to the aforementioned terms and conditions, as fully as the Administrative Agent could do if present and acting, the Administrative Agent hereby ratifying and confirming all that Customs Broker shall lawfully do by virtue of this Power of Attorney. This Power of Attorney does not authorize Customs Broker to appoint sub-agents. This Power of Attorney shall remain in full force and effect until the earlier of (i) the date on which written notice or revocation from the Administrative Agent is received by Customs Broker and (ii) full and final payment of all Obligations under (and as defined in) the Loan Agreement and the Lenders' termination of all of their respective commitments under the Loan Agreement.

(b) The Borrower hereby makes, constitutes and appoints Customs Broker as the Borrower's true and lawful attorney-in-fact, with full power (exercisable through employees authorized to act for Customs Broker and in the customs ports located in the United States of America) to make endorsements of Borrower's name as Consignee on any Documents issued to the order of Borrower, as Consignee, for the purpose of discharging Custom Broker's duties pursuant to **Section 3** and to take such other action as shall be necessary to clear the Imported Goods relating to such Documents through customs and to cause such Imported Goods to be delivered to the Borrower or as otherwise directed in writing by the Administrative Agent. The Borrower grants to Customs Broker full power and authority to do all things necessary to be done to effect such endorsement and other action, subject to the aforementioned terms and conditions, as fully as the Borrower could do if present and acting, Borrower hereby ratifying and confirming all that Customs Broker shall lawfully do by virtue of this Power of Attorney. Without limiting the generality of the foregoing, Customs Broker shall be irrevocably authorized to endorse any Document to the order of the Administrative Agent and to hold such Documents (and the Imported Goods covered thereby) for the account of the Administrative Agent or deliver the same to the Administrative Agent, in each case as instructed by the Administrative Agent. This Power of Attorney does not authorize Customs Broker to appoint sub-agents. This Power of Attorney shall remain in full force and effect until the earlier of (i) the date on which written notice of revocation from the Administrative Agent is received by Customs Broker pursuant to **Section 4(a)** and (ii) full and final payment of all Obligations under (and as defined in) the Loan Agreement and the Lenders' termination of all of their respective commitments under the Loan Agreement.

(c) Customs Broker and the Borrower agree that Customs Broker shall not be deemed to be under the control of the Borrower by virtue of any customs power of attorney delivered by the Borrower to Customs Broker so as to preclude Customs Broker from acting as

the Administrative Agent's agent and bailee hereunder, including for the purposes of perfecting the Administrative Agent's Lien in and to all Documents and Imported Goods in Custom Broker's possession. In the event of any conflict between any such customs power of attorney, Customs Broker agrees that it will act only in accordance with the terms of this Agreement or as otherwise directed by the Administrative Agent in writing. Notwithstanding anything to the contrary that may be contained in any power of attorney delivered by the Borrower to Customs Broker or any instructions given by the Borrower to Customs Broker with respect to any Documents or Imported Goods, Customs Broker shall be bound by this Agreement and shall follow the instructions received from the Administrative Agent.

5. Segregation of Imported Goods. Customs Broker agrees that it will at all times keep the Imported Goods separate and apart from all of the property owned by Customs Broker or held by it as a bailee or warehouseman.

6. Fees and Expenses; Subordination. Neither the Administrative Agent nor Lenders shall be obligated to compensate Customs Broker for serving as agent hereunder, nor shall the Administrative Agent or the Lenders be responsible for any fees, expenses, duties, taxes, customs, freight, demurrage or other charges related to the Imported Goods or the Documents. Customs Broker acknowledges that the Borrower is solely responsible for payment of any compensation and charges owed to Customs Broker. The Borrower is further responsible for paying any fees, expenses, duties, taxes, customs, freight, demurrage or other charges that may at any time accrue or be payable in respect of the Imported Goods or the Documents and the Borrower agrees to protect, indemnify, pay (or promptly reimburse the Administrative Agent or the Lenders for the payment of), and hold the Administrative Agent and the Lenders harmless from and against all liability in connection with, any and all fees, expenses, duties, taxes, customs, freight, demurrage or other charges in respect of the Imported Goods or the Documents. Liens at any time held by Customs Broker with respect to any Imported Goods or Documents shall be junior and subordinate to the liens of the Administrative Agent in such property.

7. Specific Waivers and Disclaimers. The Borrower acknowledges that neither the Administrative Agent nor Lenders shall be responsible in any way for the quality, quantity, description, condition, or nature of any of the Imported Goods or any delay in shipment of the Imported Goods or clearance of the Imported Goods at the port of entry, and that any claims with respect to any of the Imported Goods shall be settled directly by the Borrower with the Foreign Vendor. Without limiting the generality of the foregoing, **the Administrative Agent and the Lenders do not make any warranties regarding the Imported Goods, including warranties of merchantability, fitness for any particular purpose or title, all of which warranties are hereby disclaimed**.

8. Parties Intended to be Benefited. All of the understandings, covenants, and agreements contained herein are solely for the benefit of Customs Broker, the Administrative Agent, Lenders and Borrower, and their respective successors and assigns, and there are no other Persons that are intended to be benefited in any way by this Agreement.

9. No Limitation Intended. Nothing in this Agreement is intended to or shall affect or limit, in any way, any rights that Customs Broker, the Administrative Agent, Lenders, or Borrower have with respect to any third parties.

10. Notice of Termination or Enforcement Action; the Administrative Agent's Cure Right. Customs Broker agrees to notify the Administrative Agent of Customs Broker's intent to terminate any contractual arrangement in effect between Customs Broker and the Borrower relating to the handling of the Documents or the Imported Goods or to take any Enforcement Action against all or any part of the Documents or the Imported Goods. Prior to terminating such contractual arrangement or taking such Enforcement Action, Customs Broker will permit the Administrative Agent at least 10 Business Days after the Administrative Agent's receipt of such notice to cure the default the existence of which gave rise to Customs Broker's intent to terminate such contractual arrangement or to take such Enforcement Action; but the Administrative Agent shall not be obligated to cure any such default.

11. Notice. Whenever it is provided herein that any notice or other communication shall or may be given to or served upon any party hereto, or whenever any party desires to give or serve upon any of the other parties communication with respect to this Agreement, each such notice or other communication shall be in writing and shall be delivered personally or sent by certified or registered mail, postage prepaid, or by overnight courier, telex or facsimile transmission, addressed to the noticed party at the address shown on the signature page hereof, or at such other address as may be substituted by notice given as herein provided. Each notice or other communication hereunder shall be deemed to have been duly given or served, in the case of personal delivery, when personally delivered, in the case of mailing, when receipted for, in the case of overnight delivery, on the next Business Day after delivery to the courier, and, in the case of telex and facsimile transmission, when actually received by the noticed party.

12. Miscellaneous. This Agreement shall be a continuing agreement until the earlier to occur of (i) payment in full of the indebtedness and obligations outstanding under the Loan Agreement and Lenders' termination of all of their respective commitments under the Loan Agreement and (ii) termination of this Agreement by either Customs Broker or the Administrative Agent. Customs Broker or the Administrative Agent may terminate this Agreement by giving written notice to the other parties at least 30 days prior to the effective date of such termination, provided that such termination shall in no event affect any of the rights or obligations of the parties that accrued with respect to any Documents or Imported Goods prior to the effective date of such termination. This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of New York, except for its rules relating to conflicts of law; and may be executed in any number of counterparts, and by Customs Broker, the Administrative Agent and Borrower in separate counterparts, each of which shall be an original, but all of which shall together constitute one and the same agreement. Any waiver or amendment hereunder must be evidenced by a signed writing of the party to be bound thereby, and shall only be effective in the specific instance. The headings in this Agreement are for convenience of reference only, and shall not alter or otherwise affect the meaning hereof. The provisions of this Agreement are severable and if any provision of this Agreement shall be adjudged invalid or unenforceable by a court of competent jurisdiction, the remaining provisions shall nevertheless be binding upon the parties. Any signature delivered by facsimile or electronic transmission shall be deemed to be an original signature hereto.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the date first hereinabove set forth.

BANK OF AMERICA, N.A., as Agent (the "Administrative Agent")

By:___________________________________
Name:_________________________________
Title:__________________________________

Addresses for Notices:

300 Galleria Parkway
Suite 800
Atlanta, Georgia 30339
Attention: WestPoint Loan Administration
Telecopier: (404) 607-3275

WESTPOINT HOME, INC.
("Borrower")

By:___________________________________
Name:_________________________________
Title:__________________________________

Address for Notices:

____

Telecopier:_____________________________________

("Custom Broker")

By:__________________________________
Name:_________________________________
Title:__________________________________

Address for Notices:

____
Telecopier:______________________________________

EXHIBIT J

OUTSTANDING LETTERS OF CREDIT

Bank Reference	Beneficiary Name	Expiration Date	Outstanding Liability
Standby LC's Outstanding			
00000003043769	Safeco Insurance Company of America	9/2/2011	$2,100,000
00000003043778	The Travelers Indemnity Company	12/1/2011	$850,000
00000003043780	Safeco Insurance Company of America	12/31/2011	$82,000
00000003043785	Insurance Company of North America	5/31/2011	$1,200,000
00000003043786	BMG Columbia House, Inc.	9/1/2011	$1,769,040
00000003043787	CBS Interactive Inc.	8/31/2011	$387,008
00000003068034	The Bank of New York	10/31/2011	$85,372
00000003068035	Squire Creek Construction Co. LLC	7/31/2011	$200,000
00000068020453	Hartford Fire Insurance Company	8/30/2011	$1,875,000
00000068036929	Liberty Mutual Insurance Company	5/24/2012	$100,000
Total Standby LC's			**$8,648,420**
Commercial LC's Outstanding	**None**		**$0**

EXHIBIT K

FORM OF RELEASE OF CLAIMS

The Borrower, on behalf of itself and on behalf of all those entities claiming by, through, or under it, together with their successors and assigns (collectively, the "Releasors"), for good and valuable consideration, including, without limitation, the execution of this letter agreement by the Administrative Agent and the Administrative Agent's release of its liens and security interests in the assets of the Borrower as set forth herein, do hereby unconditionally remise, release, acquit and forever discharge the Administrative Agent and the Lenders, and each of the Administrative Agent's and the Lenders' past and present officers, directors, shareholders, employees, agents, attorneys, parent corporations, subsidiaries, affiliates, successors and assigns, and the heirs, executors, trustees, administrators, successors, and assigns of any such persons and entities (collectively referred to as the "Releasees"), of and from any and all Claims (as defined in the Loan Agreement), which any of the Releasors ever had, now has, or hereafter can, shall, or may claim to have against any of the Releasees for or by reason of any cause, matter, or thing whatsoever, arising at any time prior to the execution of this letter agreement, that are related to (A) this Agreement, any other Loan Document or the transactions contemplated hereby or thereby, (B) any actual or proposed use by the Borrower of the proceeds of the Loans or (C) the Administrative Agent's, any Lender's or Merrill Lynch's entering into this Agreement, the other Loan Documents or any other agreements and documents relating hereto, except solely for the following Claims against the following identified Releasee, that the Borrower asserts has directly results from such Releasee's gross negligence or willful misconduct:

____

____

____

____

____

No execution or acceptance of this letter agreement by the Administrative Agent or any Lender or receipt or acceptance of any amount in payment of all or any of the Obligations shall constitute an agreement of any Releasee that any Claim asserted by the Borrower and reserved herein is valid.

EXHIBIT 10.2

AGREEMENT

Agreement dated as of March 31, 2011 (this "Agreement") among Icahn Enterprises L.P., Icahn Enterprises Holdings LP and Icahn Enterprises G.P. Inc. (collectively, "Icahn Enterprises"), Icahn Onshore LP, Icahn Offshore LP and Icahn Capital LP (collectively, the "General Partner"), Icahn Partners LP, Icahn Partners Master Fund LP, Icahn Partners Master Fund II LP, Icahn Partners Master Fund III LP (collectively, the "Funds"), Carl C. Icahn, and (solely for purposes of paragraph 4 below) the Employees whose signatures appear below.

Icahn Enterprises, the General Partner, the Funds and Carl C. Icahn hereby agree as follows (and such agreements shall be deemed to modify any conflicting provisions contained in the Shared Services Agreement dated as of August 8, 2007, the Covered Affiliate and Shared Expenses Agreement dated as of August 8, 2007 and the Amended and Restated License Agreement dated as of August 8, 2007):

1. Except through their participation in the Funds and as noted below, as contemplated in the existing documents governing the Funds, Mr. Icahn and his Covered Affiliates (as such term is defined in the Covered Affiliate and Shared Expenses Agreement dated as of August 8, 2007) will not, for so long as they have capital invested in the Funds, invest in any assets that the General Partner of the Funds deems suitable for the Funds (other than government and agency bonds and cash equivalents), unless otherwise approved by the Audit Committee of Icahn Enterprises (the "Committee"). Mr. Icahn and the Covered Affiliates will continue to be entitled to acquire, outside of the Funds, up to 20% of the amount of any security acquired by the Funds (the "Co-Investment Right"), but only if such transaction (and subsequent disposition) is at the same time and price as applies to the Funds, unless otherwise approved by the Committee. The Co-Investment Right will otherwise remain subject to the terms and provisions of the Covered Affiliate and Shared Expenses Agreement dated as of August 8, 2007. Icahn Enterprises acknowledges that credit default swaps and related derivative instruments are no longer a suitable investment for it through the Funds and may therefore be purchased and sold by Mr. Icahn's affiliates, other than the Funds or Icahn Enterprises or its subsidiaries ("Specified Icahn Affiliates"), without participation or co-investment by the Funds or Icahn Enterprises or its subsidiaries.

2. All expenses relating to the operation, administration and investment activities of the Funds (including salaries and benefits payable to the Employees listed on the signature pages hereto) shall be borne by Icahn Enterprises and one or more Specified Icahn Affiliates, pro rata in accordance with their respective capital accounts in the Funds (and taking into account any exercise of the Co-Investment Right as if it were additional capital invested by Mr. Icahn into the Funds). The estimated portion of all such expenses allocable to Mr. Icahn shall be advanced quarterly by the Specified Icahn Affiliates to Icahn Enterprises, and any excess funds shall be retained by Icahn Enterprises to be applied in subsequent quarters or returned upon termination of this Agreement.

3. Each of Icahn Enterprises and the Specified Icahn Affiliates will continue to be permitted to invest additional capital into the Funds at any time and from time to time, without the consent of the other. Any such additional investments shall be taken into account in the allocation of expenses contemplated by paragraph 2 above. Employees of Icahn Enterprises and the Specified Affiliates shall not be permitted to invest additional capital into the Funds without the consent of the Audit Committee of Icahn Enterprises.

4. Each Employee listed on the signature pages hereto hereby acknowledges and agrees, for the benefit of Icahn Enterprises and Mr. Icahn, that, from and after the date hereof: (i) such Employee shall be, and shall be deemed to be, dually employed by Icahn Enterprises and the Specified Icahn Affiliates; (ii) such Employee's compensation shall be paid by Icahn Enterprises and the Specified Icahn Affiliates (with the allocation among them being determined in accordance with paragraph 2 above); and (iii) such Employee will be controlled by, and subject to the supervision of, both Icahn Enterprises and the Specified Icahn Affiliates.

5. From and after the date hereof, the Base Salary (as such term is defined in the Employment Agreement dated as of August 8, 2007, as amended (the “Employment Agreement”), among Mr. Icahn, Icahn Enterprises and Icahn Capital Management LP) payable to Mr. Icahn under the Employment Agreement shall be reduced to $1.00 per annum and Mr. Icahn shall not be eligible to receive any “Bonus” or “Annual Bonus Incentive” under the Employment Agreement. All other terms and provisions of the Employment Agreement shall remain unchanged and in full force and effect.

6. Notwithstanding any provisions to the contrary contained in the limited partnership agreements of the Funds, as amended through the date hereof and as may be amended in the future, neither Mr. Icahn nor any of his affiliates (whether in their capacity as limited partners of the Funds or otherwise) shall take any action to remove the General Partner without the consent of Icahn Enterprises.

7. Miscellaneous. This Agreement may be executed in more than one counterpart and if so executed, each of such counterparts shall be deemed to be an original and, when executed by both parties hereto, all such counterparts shall be read together as one agreement. This Agreement shall be enforced, governed and construed by and interpreted under the laws of the State of New York applicable to contracts made and to be performed wholly within such State without giving effect to the principles of conflict of laws thereof. Each party hereto shall cooperate, shall take such further action and shall execute and deliver such further documents as may be reasonably requested by any other party in order to fulfill the purposes of this Agreement.

IN WITNESS WHEREOF this Agreement has been executed by the parties hereto as of the date first above written.

ICAHN ENTERPRISES L.P.
By: Icahn Enterprises G.P. Inc.
Its: General Partner

By: _______________________________________
Name: Dominick Ragone
Title: Chief Financial Officer

ICAHN ENTERPRISES HOLDINGS LP
By: Icahn Enterprises G.P. Inc.
Its: General Partner

By: _______________________________________
Name: Dominick Ragone
Title: Chief Financial Officer

ICAHN ENTERPRISES G.P. INC.

By: _______________________________________
Name: Dominick Ragone
Title: Chief Financial Officer

ICAHN ONSHORE LP

By: _______________________________________
Name: Edward Mattner
Title: Authorized Signatory

ICAHN OFFSHORE LP

By: _______________________________________
Name: Edward Mattner
Title: Authorized Signatory

ICAHN CAPITAL LP

By: _______________________________________
Name: Edward Mattner
Title: Authorized Signatory

ICAHN PARTNERS LP

By: ______________________________________
Name: Edward Mattner
Title: Authorized Signatory

ICAHN PARTNERS MASTER FUND LP

By: ______________________________________
Name: Edward Mattner
Title: Authorized Signatory

ICAHN PARTNERS MASTER FUND II LP

By: ______________________________________
Name: Edward Mattner
Title: Authorized Signatory

ICAHN PARTNERS MASTER FUND III LP

By: ______________________________________
Name: Edward Mattner
Title: Authorized Signatory

____
CARL C. ICAHN

EMPLOYEES (solely for purposes of paragraph 4 above):

______________________________	______________________________
BRETT ICAHN	SAMUEL MERKSAMER
______________________________	______________________________
DAVID SCHECHTER	VINCENT INTRIERI
______________________________	
DAVID YIM	

[Agreement dated as of March 31, 2011 between Icahn Enterprises and the General Partners of the Icahn Funds regarding allocation of investments and sharing of expenses]

EXHIBIT 15.1

To the Partners of
Icahn Enterprises L.P.

We have reviewed, in accordance with the standards of Public Company Accounting Oversight Board (United States), the unaudited consolidated interim financial statements of Icahn Enterprises L.P. and Subsidiaries as of June 30, 2011, and for the three-month and six-month periods ended June 30, 2011 and 2010, as indicated in our report dated August 9, 2011; because we did not perform an audit, we expressed no opinion on that information.

We are aware that our report referred to above, which is included in your Quarterly Report on Form 10-Q for the quarter ended June 30, 2011 is incorporated by reference in Registration Statements on Forms S-3 (File No. 333-158705, effective May 17, 2010).

We also are aware that the aforementioned report, pursuant to Rule 436(c) under the Securities Act of 1933, is not considered a part of the Registration Statement prepared or certified by an accountant within the meaning of Sections 7 and 11 of that Act.

/s/ Grant Thornton, LLP

New York, New York
August 9, 2011

EXHIBIT 15.2

To the Partners of Icahn Enterprises L.P.

We are aware of the inclusion in Icahn Enterprises L.P.'s Form 10-Q for the quarter ended June 30, 2011 and the incorporation by reference in the Registration Statement (Form S-3 No. 333-158705) of Icahn Enterprises L.P. of our report dated July 28, 2011 relating to the unaudited consolidated interim financial statements of Federal-Mogul Corporation that are included in Federal-Mogul Corporation's Form 10-Q for the quarter ended June 30, 2011.

/s/ Ernst & Young LLP

Detroit, Michigan
August 9, 2011

EXHIBIT 31.1

CERTIFICATION OF PRINCIPAL EXECUTIVE OFFICER

Pursuant to Section 302(a) of the Sarbanes Oxley Act of 2002 and
Rule 13a-14(a) of the Securities Exchange Act of 1934

I, Daniel A. Ninivaggi, certify that:

1. I have reviewed this quarterly report on Form 10-Q of Icahn Enterprises L.P. for the period ended June 30, 2011;

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting as defined in Exchange Act Rules 13a-15(f) and 15d-15(f) for the registrant and we have:

a) designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

b) designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

c) evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in the report our conclusions about the effectiveness of the disclosure controls and procedures as of the end of the period covered by this report based on such evaluation; and

d) disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting.

5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

a) all significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the Registrant's ability to record, process, summarize and report financial information; and

b) any fraud, whether or not material, that involves management or other employees who have a significant role in the Registrant's internal control over financial reporting.

/s/ Daniel A. Ninivaggi

Daniel A. Ninivaggi
President of Icahn Enterprises G.P. Inc., the general
partner of Icahn Enterprises L.P.

Date: August 9, 2011

EXHIBIT 31.2

CERTIFICATION OF CHIEF FINANCIAL OFFICER

**Pursuant to Section 302(a) of the Sarbanes Oxley Act of 2002 and
Rule 13a-14(a) of the Securities Exchange Act of 1934**

I, Dominick Ragone, certify that:

1. I have reviewed this quarterly report on Form 10-Q of Icahn Enterprises L.P. for the period ended June 30, 2011;

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting as defined in Exchange Act Rules 13a-15(f) and 15d-15(f) for the registrant and we have:

a) designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

b) designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

c) evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in the report our conclusions about the effectiveness of the disclosure controls and procedures as of the end of the period covered by this report based on such evaluation; and

d) disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting.

5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

a) all significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the Registrant's ability to record, process, summarize and report financial information; and

b) any fraud, whether or not material, that involves management or other employees who have a significant role in the Registrant's internal control over financial reporting.

/s/ Dominick Ragone

Dominick Ragone
Chief Financial Officer of Icahn Enterprises G.P. Inc., the general partner of Icahn Enterprises L.P.

Date: August 9, 2011

EXHIBIT 32.1

CERTIFICATION OF PRINCIPAL EXECUTIVE OFFICER

Pursuant to Section 906 of the Sarbanes Oxley Act of 2002 (18 U.S.C. 1350) and Rules 13a-14(b) of the Securities Exchange Act of 1934

I, Daniel A. Ninivaggi, President of Icahn Enterprises G.P. Inc., the general partner of Icahn Enterprises L.P., certify that, to the best of my knowledge, based upon a review of the Icahn Enterprises L.P. quarterly report on Form 10-Q for the period ended June 30, 2011 of the registrant:

(1) The report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934, as amended; and

(2) The information contained in the report fairly presents, in all material respects, the financial condition and results of operations of the registrant.

/s/ Daniel A. Ninivaggi

Daniel A. Ninivaggi
President of Icahn Enterprises G.P. Inc., the general partner of Icahn Enterprises L.P.

Date: August 9, 2011

EXHIBIT 32.2

CERTIFICATION OF CHIEF FINANCIAL OFFICER

Pursuant to Section 906 of the Sarbanes Oxley Act of 2002 (18 U.S.C. 1350) and Rules 13a-14(b) of the Securities Exchange Act of 1934

I, Dominick Ragone, Chief Financial Officer of Icahn Enterprises G.P. Inc., the general partner of Icahn Enterprises L.P., certify that, to the best of my knowledge, based upon a review of the Icahn Enterprises L.P. quarterly report on Form 10-Q for the period ended June 30, 2011 of the registrant:

(1) The report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934, as amended; and

(2) The information contained in the report fairly presents, in all material respects, the financial condition and results of operations of the registrant.

/s/ Dominick Ragone

Dominick Ragone
Chief Financial Officer of Icahn Enterprises G.P. Inc., the general partner of Icahn Enterprises L.P.

Date: August 9, 2011