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

## FORM 8-K

**CURRENT REPORT**

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

Date of Report (Date of earliest event reported) June 28, 2012

## CONSTELLATION BRANDS, INC.
(Exact name of registrant as specified in its charter)

| **Delaware** | **001-08495** | **16-0716709** |
|---|---|---|
| (State or other jurisdiction of incorporation) | (Commission File Number) | (IRS Employer Identification No.) |

**207 High Point Drive, Building 100, Victor, NY 14564**
(Address of Principal Executive Offices) (Zip Code)

Registrant's telephone number, including area code **(585) 678-7100**

**Not Applicable**
(Former name or former address, if changed since last report)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions (see General Instruction A.2. below):

☐ Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)

☐ Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)

☐ Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))

☐ Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

**Item 1.01. Entry into a Material Definitive Agreement.**

Membership Interest Purchase Agreement

Constellation Beers Ltd., a Maryland corporation ("Constellation Beers"), an indirect wholly-owned subsidiary of Constellation Brands, Inc., a Delaware corporation ("Constellation"), currently owns a 50% interest in Crown Imports LLC ("Crown Imports"). Crown Imports is a joint venture with GModelo Corporation, a Delaware corporation ("Seller"), a wholly-owned subsidiary of Grupo Modelo, S.A.B. de C.V. ("Modelo"), through which Modelo's Mexican beer portfolio (the "Modelo Brands") have been imported, marketed and sold in the U.S. since January 2007. Seller owns the other 50% interest in Crown Imports, which has the exclusive right to import, market and sell primarily the Modelo Brands, which include Corona Extra, Corona Light, Modelo Especial, Pacifico, Negra Modelo and Victoria, in all 50 states of the U.S., the District of Columbia and Guam pursuant to the terms of an Importer Agreement, dated as of January 2, 2007, by and between Extrade II, S.A. de C.V. ("Extrade") and Crown Imports (as amended, the "Existing Importer Agreement").

On June 28, 2012, Constellation Beers, Constellation Brands Beach Holdings, Inc., a Delaware corporation and indirect wholly-owned subsidiary of Constellation ("CBBH"), Constellation and Anheuser-Busch InBev SA/NV, a Belgian corporation ("ABI"), entered into a Membership Interest Purchase Agreement (the "Purchase Agreement"). Pursuant to the Purchase Agreement, ABI will cause the Seller to sell, and Constellation Beers and CBBH will purchase, Seller's membership interest in Crown Imports (the "Purchased Interest"). Constellation Beers will purchase 98% of the Purchased Interest, and CBBH will purchase 2% of the Purchased Interest. As a result of the purchase of the Purchased Interest by Constellation Beers and CBBH (the "Transaction"), Constellation Beers will own a 99% interest in Crown Imports, CBBH will own a 1% interest in Crown Imports and Crown Imports will become an indirect wholly-owned subsidiary of Constellation. The purchase price for the Purchased Interest is $1,845 million, to be paid on the date of the closing of the Transaction (the "Closing Date").

The Purchase Agreement contemplates that Crown Imports and Extrade will amend and restate the Existing Importer Agreement on the Closing Date (as amended and restated, the "Restated Importer Agreement") pursuant to which Crown Imports will continue to have the exclusive right to sell in the U.S. (including the District of Columbia and Guam), including for resale, the Modelo Brands as well as any new products introduced by Modelo in the U.S. The term of the Restated Importer Agreement will continue in perpetuity; provided, Extrade has the right to terminate the Restated Importer Agreement once every ten years and upon a Change of Control (as defined in the Importer Agreement) of Constellation where control is acquired by a Prohibited Owner (as defined in the Importer Agreement), in each of which cases Extrade will be required to pay Crown Imports a "Restored Profits Fee" equal to thirteen (13) multiplied by the EBIT of the Import Business of Crown Imports (as EBIT and Import Business are defined in the Restated Importer Agreement). Extrade will also have the right to terminate the Restated Importer Agreement without paying the Restored Profits Fee upon a breach by Crown Imports, after a notice and cure period, of a material payment obligation or upon the occurrence of certain insolvency or receivership events affecting Crown Imports.

The Purchase Agreement contemplates that Crown Imports and Marcas Modelo, S.A. DE C.V. will enter into an Amended and Restated Sub-License Agreement pursuant to which Crown Imports will continue to have the right to use trademarks related to the Import Business (the "Restated Sub-License Agreement").

The closing of the Transaction is subject to certain closing conditions including the receipt of necessary regulatory approvals and the consummation of certain transactions between ABI and Modelo and certain of its affiliates (the "GM Transaction"). The Purchase Agreement may be terminated by either Constellation or ABI if the Transaction has not been consummated within 18 months or if the GM Transaction is terminated. If the Purchase Agreement is terminated because the GM Transaction is

terminated, ABI must pay Constellation a termination fee of $75 million. The Transaction is projected to be consummated during the first calendar quarter of 2013.

Constellation plans to finance the purchase price for the Purchased Interest and other costs related to the Transaction with available cash and proceeds from a combination of debt financings including incremental term loans as contemplated by its existing Credit Agreement, dated as of May 3, 2012, among Constellation, Bank of America, N.A., as administrative agent, and the lenders and other parties party thereto (the "2012 Credit Agreement"), revolver borrowings under the 2012 Credit Agreement and the issuance of certain notes or debt securities. Pursuant to the Interim Loan Agreement (as defined below), the Banks (as defined below) have committed to make loans sufficient to finance the Transaction and related costs. If, notwithstanding the Interim Loan Agreement, Constellation is unable to obtain financing sufficient to enable Constellation Beers and CBBH to pay the purchase price for the entire Purchased Interest, Constellation Beers and CBBH must purchase at least one-half of the Purchased Interest for a pro-rated purchase price plus a fee of $150 million. In that event, the Seller may sell the portion of the Purchased Interest not purchased by Constellation Beers or CBBH to any other person except a Prohibited Owner. In such event, Constellation Beers, CBBH and ABI or any such purchaser will enter into an amended and restated limited liability company agreement for Crown Imports (the "Restated LLC Agreement"). The Restated LLC Agreement requires minimum distributions to the minority holder(s) and gives Constellation Beers a right of first refusal in the event of a transfer of membership interests in Crown Imports by a minority holder after ten years following the Closing Date.

The above descriptions of the Purchase Agreement, and the agreements attached thereto as exhibits, including the form of the Restated Importer Agreement, the form of the Restated Sub-License Agreement and the form of the Restated LLC Agreement, are qualified in their entirety by the terms of the Purchase Agreement (and such forms of agreements attached thereto as exhibits) which is attached hereto as Exhibit 2.1 and incorporated herein by reference.

Interim Loan Agreement

To provide certainty of financing to fund the purchase price for the Purchased Interest and the other costs of the Transaction, on June 28, 2012, Constellation, Bank of America, N.A., as administrative agent (the "Administrative Agent") and a lender, and JPMorgan Chase Bank, N.A., as a lender (each of Bank of America, N.A. and JPMorgan Chase Bank, N.A., as lenders, the "Banks"), entered into an Interim Loan Agreement (the "Interim Loan Agreement").

The Interim Loan Agreement provides for aggregate credit facilities of $1,875 million, consisting of a $650 million term loan (the "Bridge A Loan") and a $1,225 million term loan (the "Bridge B Loan" and, together with the Bridge A Loan, the "Bridge Loans"). The Bridge Loans must be borrowed, if at all, in connection with the closing of the Transaction. The amount of the Bridge A Loan will be reduced by the amount of the first $650,000,000 of proceeds from any debt securities issued by Constellation after the date of the Interim Loan Agreement that are actually applied to pay a portion of the consideration payable under the Purchase Agreement on the Closing Date, and the Bridge B Loan will be reduced by the amount of any other cash that is actually utilized on the Closing Date to fund a portion of the consideration payable under the Purchase Agreement. The commitments to make each Bridge Loan expire on the earliest of (i) 5:00 p. m., New York City time, on December 30, 2013 unless the Closing Date occurs on or prior to such date, (ii) the date of consummation of the Transaction without any borrowing under such Bridge Loan and (iii) the termination of the Purchase Agreement prior to the closing of the Transaction.

The obligation to make the Bridge Loans is subject to limited conditions, including: (i) the delivery of certain customary documentation, (ii) the delivery of a certificate attesting to the solvency of Constellation and its subsidiaries, taken as a whole, (iii) Constellation having paid all fees and expenses

due to the Banks and the arrangers in connection with financing activities relating to the Transaction, (iv) the Transaction having closed without a material adverse change in its terms, and (v) certain limited representations and warranties made by Constellation being true and correct in all material respects on the Closing Date. Constellation intends to use the proceeds of the Bridge Loans, if any, to finance the Transaction and related expenses.

The Bridge Loans will bear interest at a rate per annum equal to the lesser of (i) LIBOR plus a margin, and (ii) an agreed cap (the "Total Cap"), until the earlier of the first anniversary of the Closing Date (the "Rollover Date") or the breach by Constellation of certain commitments, subject to a notice and cure period, relating to the offering of debt securities and the issuance of other debt to finance the Transaction or refinance the Bridge Loans (a "Demand Failure Event"), after which Rollover Date or Demand Failure Event the Bridge Loans will bear interest at a rate per annum equal to the Total Cap. The margin for periods prior to the earlier of the Rollover Date or a Demand Failure Event is 4.75% for the first three months following the Closing Date and increases by 0.50% every 3 months thereafter.

Subject to the satisfaction of certain conditions and requirements, from and after the Rollover Date the lenders under the Interim Loan Agreement from time to time (the "Lenders") will have the right to exchange Bridge Loans for exchange notes to be issued under an indenture to be entered into by Constellation and having terms as summarized in an exhibit to the Interim Loan Agreement ("Exchange Notes"). In the event of an issuance of Exchange Notes, Constellation would be required to enter into a registration rights agreement pursuant to which the holders of Exchange Notes would be entitled to require Constellation to register the resale of the Exchange Notes under the Securities Act of 1933, as amended.

The Bridge Loans will mature on the eighth anniversary of the Closing Date. Subject to certain limitations and until the Rollover Date, Constellation must offer to prepay the Bridge Loans with the proceeds of certain dispositions of assets unless such proceeds have been reinvested in assets useful to its business. In addition, Constellation must offer to prepay the Bridge Loans in the event of a Change in Control (as defined in the Interim Loan Agreement) and pay a 1% premium if a prepayment is made after the occurrence of a Demand Failure Event as a result of such an offer. Constellation may prepay the Bridge Loans at any time without premium or penalty, except Constellation must pay a make-whole amount in connection with any prepayment after the occurrence of a Demand Failure Event.

The obligations under the Interim Loan Agreement are guaranteed by certain subsidiaries of Constellation (the "Guarantors") pursuant to a Guarantee Agreement, dated as of June 28, 2012 (the "Guarantee Agreement"). Each of the Guarantors unconditionally and irrevocably guaranteed to the Administrative Agent, for the ratable benefit of the Lenders, the prompt and complete payment and performance of the indebtedness and other monetary obligations of Constellation under the Interim Loan Agreement.

The Interim Loan Agreement sets forth certain representations and warranties of Constellation to the Administrative Agent and the Lenders. Constellation and its subsidiaries are also subject to covenants that are contained in the Interim Loan Agreement, including those restricting the incurrence of additional indebtedness (including guarantees of indebtedness), additional liens, mergers and consolidations, the payment of dividends, the making of certain investments, prepayments of certain debt, transactions with affiliates, agreements that restrict Constellation's non-guarantor subsidiaries from paying dividends, sale and leasebacks, and dispositions of property, in each case subject to numerous conditions, exceptions and thresholds, however certain affirmative and negative covenants are effective only from and after the Closing Date, and in some cases run only through the Rollover Date, and in other cases are effective only from and after the Rollover Date.

The Interim Loan Agreement provides for specified events of default, some of which provide for grace periods, including failure to pay any principal or interest when due, any representation or warranty made by Constellation proving to be incorrect in any material respect, failure to comply with covenants or conditions, defaults relating to other material indebtedness, certain insolvency or receivership events affecting Constellation or its subsidiaries, Constellation or its subsidiaries becoming subject to certain judgments prior to the Rollover Date, and the Guarantee Agreement ceasing to be in full force and effect or an assertion to such effect being made by Constellation or any Guarantor. In the event of a default, the Administrative Agent may, and at the request of the requisite number of Lenders must, declare all obligations under the Interim Loan Agreement immediately due and payable. For certain events of default related to insolvency and receivership, all outstanding obligations of Constellation will become immediately due and payable. An event of default will not provide a basis for the Lenders to cancel their commitments to make the Bridge Loans or to fund the Bridge Loans if the closing conditions are satisfied.

Constellation has the right to consent to any assignment by either Bank if after giving effect to the assignment, such Bank would hold less than 20% of the aggregate commitments to make Bridge Loans. Constellation has also agreed in the Purchase Agreement that it will not consent to any such reduction below this threshold.

The Banks are lenders under the 2012 Credit Agreement, and the Administrative Agent is the administrative agent under the 2012 Credit Agreement. The Banks and their respective affiliates have performed, and may in the future perform, various commercial banking, investment banking, brokerage, and advisory services for Constellation and its subsidiaries for which they have received, and will receive, customary fees and expenses. Without limiting the generality of the foregoing, in connection with anticipated financing activities relating to the Transaction the Banks, certain of their affiliates and Constellation have entered into an engagement letter with respect to the syndication of certain loan facilities and a fee letter, the Administrative Agent, one of its affiliates and Constellation have entered into an administrative agency letter, and certain affiliates of the Banks and Constellation have entered into an engagement letter with respect to the offering of certain notes and debt securities. In addition, the Banks are lenders under certain credit facilities to members of the Sands family and other affiliates of Constellation and the Sands family, certain of which credit facilities are secured by pledges of shares of class A common stock and class B common stock of Constellation.

The above descriptions of the Interim Loan Agreement and the Guarantee Agreement are qualified in their entirety by the terms of the Interim Loan Agreement and the Guarantee Agreement, as applicable, which are respectively attached hereto as Exhibit 4.1 and Exhibit 10.1 and incorporated herein by reference.

**Item 2.03. Creation of a Direct Financial Obligation or an Obligation under an Off-Balance Sheet Arrangement of a Registrant.**

See the information under the caption “Interim Loan Agreement” in Item 1.01 which is incorporated herein by reference.

**Item 7.01. Regulation FD Disclosure.**

On June 29, 2012, Constellation issued a news release, a copy of which is furnished herewith as Exhibit 99.1 and is incorporated herein by reference, announcing Constellation’s entry into the Purchase Agreement with respect to the Transaction.

References to Constellation's website in the news release do not incorporate by reference the information on such website into this Current Report on Form 8-K, and Constellation disclaims any such incorporation by reference. The information in the news release attached as Exhibit 99.1 is incorporated by reference into this Item 7.01 in satisfaction of the public disclosure requirements of Regulation FD. This information is "furnished" and not "filed" for purposes of Section 18 of the Securities Exchange Act of 1934, and is not otherwise subject to the liabilities of that section. It may be incorporated by reference in another filing under the Securities Exchange Act of 1934 or the Securities Act of 1933 only if and to the extent such subsequent filing specifically references the information incorporated by reference herein.

**Item 9.01. Financial Statements and Exhibits.**

(a) Financial statements of businesses acquired.

Not applicable.

(b) Pro forma financial information.

Not applicable.

(c) Shell company transactions.

Not applicable.

(d) Exhibits.

The following exhibits are filed as part of this Current Report on Form 8-K:

| Exhibit No. | Description |
|---|---|
| 2.1 | Membership Interest Purchase Agreement, dated as of June 28, 2012, among Constellation Beers Ltd., Constellation Brands Beach Holdings, Inc., Constellation Brands, Inc. and Anheuser-Busch InBev SA/NV. |
| 4.1 | Interim Loan Agreement, dated as of June 28, 2012, among Constellation Brands, Inc., Bank of America, N.A., as Administrative Agent and a lender, and JPMorgan Chase Bank, N.A., as a lender. |
| 10.1 | Guarantee Agreement, dated as of June 28, 2012, made by the subsidiaries of Constellation Brands, Inc. from time to time party thereto in favor of Bank of America, N.A., as Administrative Agent, for the ratable benefit of the Lenders under the Interim Loan Agreement dated as of June 28, 2012. |
| 99.1 | News Release of Constellation Brands, Inc. dated June 29, 2012. |

**SIGNATURES**

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

Date: July 2, 2012

CONSTELLATION BRANDS, INC.

By: /s/ Robert Ryder
Robert Ryder
Executive Vice President and
Chief Financial Officer

**INDEX TO EXHIBITS**

| Exhibit No. | Description |
|---|---|
| (1) | UNDERWRITING AGREEMENT |
| | Not Applicable. |
| (2) | PLAN OF ACQUISITION, REORGANIZATION, ARRANGEMENT, LIQUIDATION OR SUCCESSION |
| (2.1) | Membership Interest Purchase Agreement, dated as of June 28, 2012, among Constellation Beers Ltd., Constellation Brands Beach Holdings, Inc., Constellation Brands, Inc. and Anheuser-Busch InBev SA/NV.* |
| (3) | ARTICLES OF INCORPORATION AND BYLAWS |
| | Not Applicable. |
| (4) | INSTRUMENTS DEFINING THE RIGHTS OF SECURITY HOLDERS, INCLUDING INDENTURES |
| (4.1) | Interim Loan Agreement, dated as of June 28, 2012, among Constellation Brands, Inc., Bank of America, N.A., as Administrative Agent and a lender, and JPMorgan Chase Bank, N.A., as a lender. |
| (7) | CORRESPONDENCE FROM AN INDEPENDENT ACCOUNTANT REGARDING NON-RELIANCE ON A PREVIOUSLY ISSUED AUDIT REPORT OR COMPLETED INTERIM REVIEW |
| | Not Applicable. |
| (10) | MATERIAL CONTRACTS |
| (10.1) | Guarantee Agreement, dated as of June 28, 2012, made by the subsidiaries of Constellation Brands, Inc. from time to time party thereto in favor of Bank of America, N.A., as Administrative Agent, for the ratable benefit of the Lenders under the Interim Loan Agreement dated as of June 28, 2012. |
| (14) | CODE OF ETHICS |
| | Not Applicable. |
| (16) | LETTER RE CHANGE IN CERTIFYING ACCOUNTANT |
| | Not Applicable. |
| (17) | CORRESPONDENCE ON DEPARTURE OF DIRECTOR |
| | Not Applicable. |

(20) OTHER DOCUMENTS OR STATEMENTS TO SECURITY HOLDERS

Not Applicable.

(23) CONSENTS OF EXPERTS AND COUNSEL

Not Applicable.

(24) POWER OF ATTORNEY

Not Applicable.

(99) ADDITIONAL EXHIBITS

(99.1) News Release of Constellation Brands, Inc. dated June 29, 2012.

(100) XBRL-RELATED DOCUMENTS

Not Applicable.

(101) INTERACTIVE DATA FILE

Not Applicable.

* This Exhibit has been filed separately with the Securities and Exchange Commission pursuant to an application for confidential treatment. The confidential portions of this Exhibit have been omitted and are marked by an asterisk.

**Exhibit 2.1**

EXECUTION COPY

# MEMBERSHIP INTEREST PURCHASE AGREEMENT

**among**

**CONSTELLATION BEERS LTD.,**

**CONSTELLATION BRANDS BEACH HOLDINGS, INC.,**

**CONSTELLATION BRANDS, INC.,**

**and**

**ANHEUSER-BUSCH INBEV SA/NV**

**JUNE 28, 2012**

**TABLE OF CONTENTS**

[****] Confidential treatment has been requested for portions of this exhibit. The copy filed herewith omits information subject to the confidentiality request. Omissions are designated with brackets containing asterisks. As part of our confidential treatment request, a complete version of this exhibit has been filed separately with the Securities and Exchange Commission.

**EXHIBITS**



**SCHEDULES**

**MEMBERSHIP INTEREST PURCHASE AGREEMENT**

**THIS MEMBERSHIP INTEREST PURCHASE AGREEMENT** (this "**Agreement**") is made and entered into as of June 28, 2012 by and among **Constellation Beers Ltd.**, a Maryland corporation ("**Constellation Beers**"), **Constellation Brands Beach Holdings, Inc.,** a Delaware corporation ("**CBBH**"), **Constellation Brands, Inc.,** a Delaware corporation ("**CBI**") and **Anheuser-Busch InBev SA/NV**, a Belgian corporation ("**ABI**").

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

**WHEREAS,** on July 17, 2006, Diblo, S.A. de C.V., a Mexican variable stock corporation ("**Diblo**"), and Constellation Beers (then known as Barton Beers, Ltd.) agreed to establish and engage in a joint venture, Crown Imports LLC, a Delaware limited liability company (the "**Importer**"), for the principal purpose of importing, marketing and selling beer packaged in containers bearing one or more of the trademarks belonging to Grupo Modelo, S.A. de C. V. ("**Grupo Modelo**") or one of its Affiliates;

**WHEREAS,** GModelo Corporation, a Delaware corporation and a Subsidiary of Grupo Modelo ("**Seller**"), and Constellation Beers are parties to that certain Amended and Restated Limited Liability Company Agreement of Crown Imports LLC, dated as of January 2, 2007 (as amended through the date hereof, the "**LLC Agreement**");

**WHEREAS**, on the date hereof, ABI and certain of its affiliated entities, Grupo Modelo, Diblo and Dirección de Fabricas, S.A. de C.V., a Mexican variable stock corporation and wholly owned Subsidiary of Diblo ("**Dijon**"), as applicable, have entered into certain transaction agreements pursuant to which (i) Diblo will be merged with and into Grupo Modelo, and simultaneously therewith, Dijon will be merged with and into Grupo Modelo, with Grupo Modelo continuing as the surviving company of these mergers, and (ii) a Subsidiary of ABI will commence a public tender offer in Mexico to purchase all of the outstanding shares of capital stock of Grupo Modelo not owned directly or indirectly by ABI (the "**Mandatory Tender Offer**"), in each case on the terms and subject to the conditions set forth therein (collectively, the "**GM Transaction**");

**WHEREAS**, Seller holds fifty percent (50%) of the limited liability company membership interests (the "**LLC Interests**") of the Importer (the limited liability company membership interests owned by Seller, the "**Importer Interest**") and, in connection with and contingent on the consummation of the GM Transaction Closing, ABI desires to cause Seller to divest the Importer Interest simultaneously with the GM Transaction Closing; and

**WHEREAS**, CBI desires to cause Constellation Beers and CBBH to purchase the Importer Interest from Seller, and ABI desires to cause Seller to sell the Importer Interest to Constellation Beers and CBBH, all upon the terms and conditions set forth in this Agreement.

**NOW, THEREFORE**, in consideration of the premises, mutual covenants, agreements, representations and warranties contained in this Agreement, and other good and valuable consideration, the receipt and legal sufficiency of which are hereby acknowledged, the parties hereto, intending to be legally bound, hereby agree as follows:

## ARTICLE 1
## DEFINITIONS AND RULES OF CONSTRUCTION

**1.1 Definitions.** As used in this Agreement, the following terms have the meanings set forth below:

"**ABI**" has the meaning set forth in the Preamble to this Agreement.

"**ABI Guaranteed Obligations**" has the meaning set forth in **Section 6.1**.

"**ABI Objection**" has the meaning set forth in **Section 2.3(b)**.

"**Affiliate**" of any Person means any other Person which, directly or indirectly, controls or is controlled by that Person, or is under common control with that Person. For purposes of this definition, "control" (including, with correlative meaning, the terms "controlled by" and "under common control with"), as used with respect to any Person, shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such Person, whether through the ownership of voting securities, by contract or otherwise; **provided**, **however**, that unless and until the GM Transaction Closing has occurred, none of Grupo Modelo, Seller or any of their respective controlled Affiliates shall be considered Affiliates of ABI or any of its Subsidiaries (excluding Grupo Modelo, Seller or any of their controlled Affiliates) and none of ABI or any of its Subsidiaries (excluding Grupo Modelo, Seller or any of their controlled Affiliates) shall be considered Affiliates of Grupo Modelo, Seller or any of their Affiliates.

"**Agreement**" has the meaning set forth in the Preamble to this Agreement.

"**Alcoholic Beverage Authorities**" means the United States Alcohol and Tobacco Tax and Trade Bureau, as well as the applicable state, local, municipal, provincial, foreign, and other Governmental Authorities that regulate the production and sale of alcoholic beverage products.

"**Alternate Purchase Price**" means an amount equal to the sum of (i) the product of (a) $1,845,000,000 and (b) the quotient of (1) the percentage of LLC Interests actually purchased by the Buyer Parties, collectively, at the Closing pursuant to **Section 2.1** (it being agreed and understood that this percentage shall be equal to or greater than twenty-five percent (25%)) and (2) the percentage of LLC Interests that collectively constitute the Importer Interest and (ii) the Buyer Fee.

"**Alternate Importer Interest**" means the total percentage of LLC Interests to be purchased by the Buyer Parties pursuant to, and in accordance with, **Section 9.7(e)** and **Section 9.7(f)** (it being agreed and understood that this number shall be equal to or greater than twenty-five percent (25%)).

"**Bank of America**" has the meaning set forth in **Section 5.10**.

"**Breach**" means any inaccuracy in, or breach or violation of, or default under, or failure to perform or comply with, any representation, warranty, covenant, obligation or other provision of this Agreement or any of the other Transaction Documents.

"**Business Day**" means any day, other than Saturday, Sunday or a day on which banking institutions in New York, New York, Chicago, Illinois, Mexico City, Mexico or Brussels, Belgium are authorized or obligated by Law to close.

"**Buyer**" means individually, and "**Buyers**" means collectively, each of Constellation Beers and CBBH.

"**Buyer Fee**" means $150,000,000.

"**Buyer Party**" means individually, and "**Buyer Parties**" means collectively, each of Constellation Beers, CBBH, and CBI.

"**CBBH**" has the meaning set forth in the Preamble to this Agreement.

"**CBI**" has the meaning set forth in the Preamble to this Agreement.

"**CBI Guaranteed Obligations**" has the meaning set forth in **Section 7.1**.

"**Closing**" has the meaning set forth in **Section 3.1**.

"**Closing Date**" has the meaning set forth in **Section 3.1**.

"**Closing Statement**" means the statement that sets forth the Distribution Amount, prepared, or caused to be prepared, by CBI in accordance with **Section 2.3(a)**.

"**Code**" means the Internal Revenue Code of 1986, and rules and regulations promulgated pursuant thereto, each as amended and in effect from time to time.

"**Confidentiality Agreement**" has the meaning set forth in **Section 14.4**.

"**Consent**" means any consent, order, approval, ratification, waiver or other authorization issued or granted by any Governmental Authority or any other Person, or any notice, registration or filing delivered to or filed with any Governmental Authority or any other Person, including any Permit.

"**Constellation Beers**" has the meaning set forth in the Preamble to this Agreement.

"**Contract**" means any agreement, contract, instrument, commitment, covenant, promissory note, bond, indenture, insurance policy, deed, lease, sublease, license, purchase order, sales order or other obligation or arrangement (whether written or oral) that is legally binding.

"**CPA Firm**" has the meaning set forth in **Section 2.3(c)**.

"**Damages**" means any and all losses, charges, damages, Liabilities, obligations, judgments, settlements, Taxes, fines, penalties, awards, costs and expenses including but not limited to reasonable attorneys' fees, whether or not resulting from third party claims.

"**Diblo**" has the meaning set forth in the Recitals to this Agreement.

"**Dijon**" has the meaning set forth in the Recitals to this Agreement.

"**Distribution Amount**" means an amount equal to the product of (i) the amount of Available Cash (as defined in, and calculated in accordance with, Section 10.1 of the LLC Agreement (as in effect as of the date hereof)) required pursuant to Section 10.2(a) of the LLC Agreement (as in effect as of the date hereof) to be distributed to Seller and Constellation Beers in accordance with their respective Percentage Interests (as defined in the LLC Agreement as in effect as of the date hereof and which for each such member shall be equal to 50% for purposes of this definition) at the end of the calendar month in which the Closing occurs (assuming, for purposes of this definition, that Seller is a Member of the Importer at the time of such distribution) and (ii) the quotient of (A) the number of days elapsed from the beginning of the calendar month in which the Closing occurs until (and including) the Closing Date and (B) the number of days in the calendar month in which the Closing occurs. For the avoidance of doubt, in no event will the Distribution Amount be less than zero.

"**Extrade**" means Extrade II, S.A. de C.V., a sociedad anónima de capital variable organized under the Laws of Mexico.

"**Final Closing Statement**" has the meaning set forth in **Section 2.3(c)**.

"**Final Distribution Amount**" has the meaning set forth in **Section 2.3(c)**.

"**Financing**" has the meaning set forth in **Section 5.10**.

"**Financing Commitment**" has the meaning set forth in **Section 5.10**.

"**GM Transaction**" has the meaning set forth in the Recitals to this Agreement.

"**GM Transaction Agreement**" means that certain transaction agreement, dated as of the date hereof and as it may be amended from time to time, by and among Grupo Modelo, Diblo, ABI and certain affiliated entities of ABI.

"**GM Transaction Closing**" means the Settlement Date (as defined in the GM Transaction Agreement).

"**GM Transaction Closing Notice**" has the meaning set forth in **Section 3.1**.

"**Governmental Authority**" means any federal, national, state, provincial, municipal or local government, administrative or legislative body, governmental or regulatory agency or authority, bureau, office, commission, court, department or other instrumentality or other governmental entity of any country.

"**Grupo Modelo**" has the meaning set forth in the Recitals to this Agreement.

"**Importer**" has the meaning set forth in the Recitals to this Agreement.

"**Importer Agreement**" means that certain Amended and Restated Importer Agreement, by and between Extrade and the Importer and to be executed at the Closing, substantially in the form attached hereto as **Exhibit A**.

"**Importer Interest**" has the meaning set forth in the Recitals to this Agreement.

"**Indemnified Party**" has the meaning set forth in **Section 12.3**.

"**Indemnifying Party**" has the meaning set forth in **Section 12.3**.

"**JPMorgan**" has the meaning set forth in **Section 5.10**.

"**Knowledge**" means, with respect to the Buyer Parties, Robert Sands, Richard Sands, Paul Hetterich, Robert Ryder, Susan Gardner, David Klein and Thomas Mullin, in each case, after reasonably prudent inquiry.

"**Law**" means (a) any constitution, statute, law, code, ordinance, regulation, treaty, rule, common law, policy or interpretation enacted, published or promulgated by any Governmental Authority, including, but not limited to, laws and regulations applicable to the production and sale of alcoholic beverage products, "dram shop" laws, safety laws or other similar regulations; and (b) with respect to a particular Person, the terms of any Order or Permit binding upon such Person or its assets or properties.

"**Liability**" means any liability, indebtedness, commitment or other obligation of any kind (whether known or unknown, asserted or unasserted, absolute or contingent, accrued or unaccrued, liquidated or unliquidated, due or to become due, or otherwise).

"**Lien**" means any charge, claim, mortgage, lease, sublease, occupancy agreement or similar Contract, tenancy, right-of-way, easement, collateral assignment, restrictive covenant, encroachment, Order, community property interest, equitable interest, security interest, lien (statutory or otherwise), pledge, hypothecation, option, right of first refusal or other similar restriction, limitation, exception or encumbrance, including any restriction on use, voting, transfer, receipt of income or exercise of any other attribute of ownership.

"**LLC Agreement**" has the meaning set forth in the Recitals.

"**LLC Interests**" has the meaning set forth in the Recitals.

"**Mandatory Tender Offer**" has the meaning set forth in the Recitals.

"**Marcas Modelo**" means Marcas Modelo, S.A. de C.V., a sociedad anónima de capital variable organized under the Laws of Mexico.

"**Members**" has the meaning set forth in the LLC Agreement as in effect on the date hereof.

"**Membership Interest Assignment**" means the assignment of membership interest to be executed at the Closing, substantially in the form attached hereto as **Exhibit C**, transferring the Importer Interest or the Alternate Importer Interest to Constellation Beers, CBBH or CBI, as applicable.

"**Order**" means any order, injunction (whether temporary, preliminary or permanent), ruling, decree (including any consent decree), writ, subpoena, verdict, charge, judgment, assessment or other decision entered, issued, made or rendered by any Governmental Authority or by any arbitrator.

"**Organizational Documents**" means, with respect to a particular Person, (a) if such Person is a corporation, its certificate or articles of incorporation, organization or formation and its by-laws; (b) if such Person is a general partnership, its partnership agreement and any statement of partnership; (c) if such Person is a limited partnership, its certificate of limited partnership and its limited partnership agreement; (d) if such Person is a limited liability company, its certificate or articles of formation or organization and limited liability company or operating agreement; (e) any other charter or similar document adopted or filed in connection with the creation, formation or organization of such Person; and (f) any amendment to any of the foregoing.

[****]

"**Permit**" means any permit, license, exemption, variance, registration, security clearance or other authorization issued or granted by any Governmental Authority.

"**Permitted Liens**" means (i) Liens for Taxes, assessments and other governmental charges not yet due and payable or due but not delinquent or being contested in good faith by appropriate proceedings; (ii) Liens arising under the LLC Agreement; (iii) restrictions on transfer imposed by applicable securities laws or state corporation, limited liability company or partnership laws; (iv) Liens arising under this Agreement or the other Transaction Documents; and(v) Liens created by the Buyer Parties or any of their Affiliates.

"**Person**" means any individual, firm, company, general partnership, limited partnership, limited liability partnership, joint venture, association, corporation, limited liability company, trust, business trust, estate, Governmental Authority or other entity.

[****]

"**Proceeding**" means any action, claim, complaint, charge, arbitration, audit, hearing, investigation, inquiry, suit, litigation or other proceeding (whether civil, criminal, administrative, investigative or informal) commenced, brought, conducted or heard by or before, or otherwise involving, any Governmental Authority or arbitrator.

"**Prohibited Acquisition**" has the meaning set forth in **Section 8.2(a)**.

"**Prohibited Owner**" has the meaning given to such term in the form of Importer Agreement attached hereto as **Exhibit A**.

"**Purchase Price**" has the meaning set forth in **Section 2.2(a)**.

"**Remedial Action**" has the meaning set forth in **Section 9.1**.

"**Restated LLC Agreement**" means that certain Second Amended and Restated Limited Liability Company Agreement of Crown Imports LLC, to be executed at the Closing Date and in substantially the form attached hereto as **Exhibit D**.

"**Securities Act**" means the Securities Act of 1933 and the rules and regulations promulgated thereunder, in each case, as amended.

"**Seller**" has the meaning set forth in the Recitals to this Agreement.

"**Seller Party**" means individually, and "**Seller Parties**" means collectively, each of Seller and ABI.

[****]

"**Sub-license Agreement**" means that certain Amended and Restated Sub-license Agreement, by and between Marcas Modelo and the Importer and to be executed at the Closing, substantially in the form attached hereto as **Exhibit B**.

"**Subsidiary**" means, with respect to any Person, a corporation, partnership, joint venture, limited liability company, trust, estate or other Person of which (or in which), directly or indirectly, more than fifty percent (50%) of (a) the issued and outstanding capital stock having ordinary voting power to elect a majority of the board of directors, managers or others performing similar functions of such entity (irrespective of whether at the time capital stock of any other class or classes of such entity shall or might have voting power upon the occurrence of any contingency); (b) the interest in the capital or profits of such partnership, joint venture or limited liability company or other Person; or (c) the beneficial interest in such trust or estate, is at the time owned by such first Person, or by such first Person and one (1) or more of its other Subsidiaries or by one (1) or more of such Person's other Subsidiaries.

"**Tax**" or "**Taxes**" means, however denominated, all federal, state, local, foreign and other taxes, levies, fees, imposts, assessments, impositions or other government charges, including all net income, gross income, estimated income, gross receipts, business, occupation, franchise, real property, payroll, personal property, sales, transfer, stamp, use, employment, social security, unemployment, worker's compensation, commercial rent, withholding, occupancy, premium, gross receipts, profits, windfall profits, deemed profits, recapture, license, lease, severance, capital, production, corporation, ad valorem, excise, custom, duty, escheat, built in gain pursuant to Code Section 1374 or similar tax, including any interest, fines, penalties and additions (to the extent applicable) thereon or thereto, whether disputed or not, and any obligations with respect to such amounts arising as a result of being a member of an affiliated,

consolidated, combined or unitary group for any period or under any Contract with any other Person, and including any Liability for taxes of a predecessor.

"**Terminated Agreements**" means the agreements listed on **Schedule 13.1**.

"**Termination Fee**" has the meaning set forth in **Section 11.2(c)**.

"**Third Party Claim**" has the meaning set forth in **Section 12.3**.

"**Transaction Documents**" means this Agreement, the Importer Agreement, [****] the Sub-license Agreement, the Membership Interest Assignment, the Restated LLC Agreement (solely to the extent Constellation Beers and CBBH do not acquire all of the Importer Interest at the Closing and Seller continues to own any portion of the Importer Interest immediately following the Closing) and all other agreements, certificates, instruments and other documents being delivered pursuant to this Agreement or pursuant to such other agreements, certificates, instruments and other documents.

**1.2 Certain Interpretive Matters.**

(a) **General Rules of Construction**. In this Agreement, unless the context otherwise requires:

(i) words of the masculine or neuter gender shall include the masculine and/or feminine gender, and words in the singular number or in the plural number shall each include the singular number or the plural number;

(ii) reference to any Person includes such Person's successors and assigns but, if applicable, only if such successors and assigns are permitted by this Agreement, and reference to a Person in a particular capacity excludes such Person in any other capacity;

(iii) reference to any agreement (including this Agreement) or other Contract or any document means such agreement, Contract or document as amended or modified and in effect from time to time in accordance with the terms thereof and, if applicable, the terms hereof;

(iv) all amounts in this Agreement and the other Transaction Documents are stated and shall be paid in United States dollars unless specifically otherwise provided;

(v) "including" (and with correlative meaning "include") means including without limiting the generality of any description preceding or succeeding such term;

(vi) relative to the determination of any period of time, “from” means “from and including”, “to” means “to but excluding” and “through” means “through and including;”

(vii) “hereto”, “herein”, “hereof”, “hereinafter” and similar expressions refer to this Agreement in its entirety, and not to any particular Article, Section, paragraph or other part of this Agreement;

(viii) reference to any “Article” or “Section” means the corresponding Article(s) or Section(s) of this Agreement;

(ix) the descriptive headings of Articles, Sections, paragraphs and other parts of this Agreement are included for convenience of reference only and shall not affect in any way the meaning or interpretation of this Agreement or any of the terms or provisions hereof;

(x) reference to any Law or Order, means (A) such Law or Order as amended, modified, codified, supplemented or reenacted, in whole or in part, and in effect from time to time; and (B) any comparable successor Laws or Orders; and

(xi) any Contract, instrument, insurance policy, certificate or other document defined or referred to in this Agreement or in any other Transaction Document means such Contract, instrument, insurance policy, certificate or other document as from time to time amended, modified or supplemented, including (in the case of Contracts or instruments) by waiver or Consent and all attachments thereto and instruments and other documents incorporated therein.

(b) **Acknowledgment Regarding Negotiation and Preparation of Agreement.** The parties hereto further acknowledge and agree that (i) this Agreement is the result of negotiations between the parties hereto and shall not be deemed or construed as having been drafted by any one party; (ii) each of the parties hereto has been represented by its own legal counsel in connection with the negotiations and preparation of this Agreement, each of the parties hereto has been independently advised as to Tax consequences of the contemplated transactions, and each of the parties hereto and its counsel and advisors have reviewed and negotiated the terms and provisions of this Agreement (including any exhibits and schedules attached hereto) and have contributed to its preparation; and (iii) the rule of construction to the effect that any ambiguities are resolved against the drafting party shall not be employed in the interpretation of this Agreement.

## ARTICLE 2
## PURCHASE AND SALE OF THE CROWN INTEREST

**2.1 Purchase and Sale of the Importer Interest.** Upon the terms and subject to the conditions of this Agreement, at the Closing, Constellation Beers shall purchase and accept delivery of **98%** of the Importer Interest from Seller, CBBH shall purchase and accept delivery of **2%** of the Importer Interest from Seller, and ABI shall cause Seller to sell, assign, transfer and deliver the Importer Interest to Constellation Beers and CBBH in accordance with the percentages provided in this **Section 2.1**, free and clear of all Liens (other than Permitted Liens).

If, pursuant to and in accordance with **Section 9.7(e) and Section 9.7(f)**, Constellation Beers and CBBH are unable to acquire all the Importer Interest, then, upon the terms and subject to the conditions of this Agreement, at the Closing, CBI shall, or shall cause one or more of the Buyer Parties to, purchase and accept delivery of the Alternate Importer Interest from Seller, and ABI shall cause Seller to sell, assign, transfer and deliver the Alternate Importer Interest to CBI or one or more of the Buyer Parties, free and clear of all Liens (other than Permitted Liens).

**2.2 Purchase Price and Payment.**

(a) Unless Constellation Beers and CBBH are unable to acquire all the Importer Interest pursuant to and in accordance with **Section 9.7(e) and Section 9.7(f)**, the total purchase price for the Importer Interest will be an aggregate amount in cash equal to **$1,845,000,000 Dollars** (the "**Purchase Price**"). If Constellation Beers and CBBH are unable to acquire all the Importer Interest pursuant to and in accordance with **Section 9.7(e) and Section 9.7(f)**, the total purchase price for the Alternate Importer Interest will be an aggregate amount of cash equal to the Alternate Purchase Price.

(b) At the Closing, CBI shall pay to Seller an aggregate amount in cash equal to the Purchase Price or, if Constellation Beers and CBBH are unable to acquire all the Importer Interest in accordance with **Section 9.7(e) and Section 9.7(f)**, the Alternate Purchase Price, by wire transfer of immediately available funds to the account of Seller or its designee at a bank that is designated by ABI in writing at least two Business Days prior to the Closing.

**2.3 Final Distribution of Available Cash.**

(a) As soon as practicable but in no event more than 30 days following the Closing, CBI shall prepare, or cause to be prepared, and deliver to ABI the Closing Statement. The calculation of Available Cash set forth in the Closing Statement shall be prepared in accordance with the Importer's accounting methods, policies, practices and procedures as of the date hereof, in the same manner, with consistent classification and estimation methodology, as the audited balance sheet of the Importer for the fiscal year ended December 31, 2011 delivered by CBI to ABI prior to the date hereof and in the same manner as Available Cash was calculated for the most recent distribution made to the Members prior to the date hereof pursuant to Section 10.2 of the LLC Agreement as in effect on the date hereof.

(b) In the event that ABI disagrees with CBI's proposed calculation of the Distribution Amount as set forth in the Closing Statement, ABI shall, within 30 days after receipt of the Closing Statement, so inform CBI in writing (the "**ABI Objection**"), setting forth a description of the basis of ABI's disagreement and its calculation of the Distribution Amount. During the 30-day period after ABI's receipt of the Closing Statement, subject to applicable Law, ABI and its representatives shall be provided with such access to the financial books and records of the Importer as well as any relevant work papers used by each of CBI and Importer and its respective employees, advisors or representatives to prepare the Closing Statement, as well as access to individuals and representatives responsible for and knowledgeable about the information used in the preparation of the Closing Statement and the calculation of the Distribution Amount as it may reasonably request to enable it to evaluate CBI's calculation of the Distribution Amount; **provided**, **that**, if ABI and its employees are not permitted by reason

of applicable Law direct access to such books, records or individuals, the parties shall cooperate and work in good faith to agree on appropriate clean room procedures to permit ABI's representatives to have such access and to share the maximum amount of such information with ABI and its representatives as legally permissible and, if necessary, such 30-day period shall be extended to allow such access. CBI shall, following the Closing through the date the Closing Statement and the Distribution Amount are finally determined in accordance with the penultimate sentence of **Section 2.3(c)**, take all action reasonably necessary or desirable to maintain and preserve all books and records, policies and procedures on which the Closing Statement and the calculation of the Distribution Amount contained therein are based so as not to impede or delay the determination of the Distribution Amount, the Closing Statement, the ABI Objection, the Final Closing Statement and the Final Distribution Amount. If no ABI Objection is received by CBI on or before the last day of such 30-day period (as such period may be extended), then the Distribution Amount set forth on the Closing Statement delivered by CBI shall be final and binding upon ABI in accordance with the penultimate sentence of **Section 2.3(c)**. During the 30 days immediately following the delivery of the ABI Objection, ABI and CBI shall seek to resolve any disagreement that they may have with respect to the matters specified in the ABI Objection.

(c) If CBI and ABI are unable to resolve all their disagreements with respect to the matters set forth in the ABI Objection during the 30 days following CBI's receipt of the ABI Objection, they shall refer any remaining disagreements to Ernst & Young LLP, or if Ernst & Young LLP is unable to serve in such a capacity, such other reputable internationally-recognized firm of independent certified public accountants mutually acceptable to CBI and ABI (Ernst & Young LLP or such other firm, the "**CPA Firm**") which, acting as experts and not as arbitrators, shall determine, on the basis set forth in and in accordance with **Section 2.3(a)** and the definition of Closing Statement and Distribution Amount, whether and to what extent, if any, the Distribution Amount set forth in the Closing Statement requires adjustment. The parties shall instruct the CPA Firm to deliver its written determination to CBI and ABI no later than 30 days after the remaining differences underlying the ABI Objection are referred to the CPA Firm. The CPA Firm's determination shall be final and binding upon CBI and ABI and their respective Affiliates. If the CPA Firm determines the Distribution Amount set forth in the Closing Statement requires adjustment, its calculation of the Distribution Amount shall not be higher than the amounts advocated by ABI in the ABI Objection nor lower than the amounts advocated by CBI in the Closing Statement. The fees and disbursements of the CPA Firm shall be borne equally by CBI and ABI. The parties shall make readily available to the CPA Firm all relevant books and records and any work papers (including those of the parties' respective accountants) relating to the Closing Statement and the ABI Objection and all other items reasonably requested by the CPA Firm in connection therewith. The Closing Statement and Distribution Amount that are final and binding on CBI, ABI and their respective Affiliates, as determined either through agreement of CBI and ABI or through the determination of the CPA Firm pursuant to this **Section 2.3(c)**, are referred to herein as the "**Final Closing Statement**" and the "**Final Distribution Amount**". The Final Distribution Amount shall bear interest from the date that the Distribution Amount would have been paid pursuant to the LLC Agreement (in effect as of the date hereof) at the rate of 2% per annum.

(d) CBI shall pay, or cause to be paid, the Final Distribution Amount to ABI and Constellation Beers in cash by wire transfer of immediately available funds to an account

designated in advance by ABI and Constellation Beers no later than the third Business Day after the date that the Final Distribution Amount is finally determined pursuant to **Section 2.3(b)** or **Section 2.3(c)**.

## ARTICLE 3
## THE CLOSING

**3.1** **Closing and Closing Date.** Unless this Agreement shall have been terminated and the transactions herein contemplated shall have been abandoned in accordance with the terms and provisions of **Article 11** and except as agreed to in writing by ABI and CBI, the purchase and sale of the Importer Interest or the Alternate Importer Interest, as applicable (the "**Closing**"), shall take place on the later to occur of (a) the GM Transaction Closing and (b) the eighteenth (18th) day following the delivery by ABI to CBI of a written notice specifying the anticipated date of the GM Transaction Closing (the "**GM Transaction Closing Notice**"); **provided**, **however**, that if the conditions to Closing set forth in **Section 10.1(a)** and **Section 10.2(a)** have not been satisfied, or, to the extent permitted by applicable Law, waived as of the later of (i) the GM Transaction Closing and (ii) the eighteenth (18th) day following the delivery by ABI to CBI of the GM Transaction Closing Notice, then the purchase and sale of the Importer Interest or the Alternate Importer Interest, as applicable, shall take place as promptly after such later date as permitted by applicable Law after the conditions set forth in **Section 10.1(a)** and **Section 10.2(a)** have been satisfied or, to the extent permitted by applicable Law, waived (such date and time on and at which the Closing actually occurs being referred to herein as the "**Closing Date**"). The Closing shall take place at the offices of ABI's counsel, Sullivan & Cromwell LLP, 125 Broad Street, New York, New York. The GM Transaction Closing Notice shall be delivered no earlier than the date a Subsidiary of ABI commences the Mandatory Tender Offer.

**3.2** **Documents and Items to be Delivered to the Buyer Parties.** At the Closing, ABI shall deliver, or cause to be delivered, to CBI:

(a) The Membership Interest Assignments;

(b) A certificate in form and substance reasonably acceptable to CBI, dated the Closing Date, executed by a duly authorized officer of ABI, certifying: (i) that attached thereto is a true and complete copy of the resolutions duly adopted by the Board of Directors of ABI on or prior to the date hereof authorizing the execution and delivery of this Agreement and each of the other Transaction Documents to which ABI is a party, and that such resolutions have not been modified, rescinded or amended and are in full force and effect as of the Closing Date; and (ii) as to the incumbency of the ABI officers executing this Agreement or a Transaction Document and their signatures;

(c) A certificate in form and substance reasonably acceptable to CBI, dated the Closing Date, executed by a duly authorized officer of the Seller, certifying: (i) that attached thereto is a true and complete copy of the resolutions duly adopted by the Board of Directors of the Seller as of the Closing Date authorizing the execution and delivery of the Membership Interest Assignments, and that such resolutions have not been modified, rescinded or amended

and are in full force and effect as of the Closing Date; and (ii) as to the incumbency of the Seller's officers executing the Membership Interest Assignments and their signatures;

(d) Executed signature pages to the written consent of the Importer's Board of Directors from the members of the Importer's Board of Directors that are appointed or elected by the Seller, which consent shall approve an election under Code Section 754 and shall be in a form reasonably acceptable to the parties;

(e) The Importer Agreement duly executed by Extrade;

(f) The Sub-license Agreement duly executed by Marcas Modelo; and

(g) If Constellation Beers and CBBH do not acquire all the Importer Interest at the Closing, the Restated LLC Agreement duly executed by the Seller or, if Seller sells or transfers a portion of the Importer Interest to a third party pursuant to **Section 9.7(e)**, duly executed by such third party purchaser and Seller, or if Seller sells or transfers all of the Importer Interest not acquired by Constellation Beers and CBBH to a third party pursuant to **Section 9.7(e)**, duly executed by such third-party purchaser.

**3.3 Documents and Items to be Delivered to ABI by the Buyer Parties.** At the Closing, the Buyer Parties will deliver, or cause to be delivered, to ABI:

(a) The payment required to be made by CBI to ABI pursuant to **Section 2.2(b)**;

(b) A certificate, in form and substance reasonably acceptable to ABI, executed by an authorized officer of Constellation Beers, dated the Closing Date, certifying (i) that attached thereto are the resolutions duly adopted by the Board of Directors of Constellation Beers on or prior to the date hereof authorizing the execution, delivery and performance of this Agreement and each of the other Transaction Documents to which it is a party, and that such resolutions have not been modified, rescinded or amended and are in full force and effect as of the Closing Date and (ii) as to the incumbency of Constellation Beers' officers executing this Agreement or a Transaction Document and their signatures;

(c) A certificate, in form and substance reasonably acceptable to ABI, executed by an authorized officer of CBBH, dated the Closing Date, certifying (i) that attached thereto are the resolutions duly adopted by the Board of Directors of CBBH on or prior to the date hereof authorizing the execution, delivery and performance of this Agreement and each of the other Transaction Documents to which it is a party, and that such resolutions have not been modified, rescinded or amended and are in full force and effect as of the Closing Date and (ii) as to the incumbency of CBBH's officers executing this Agreement or a Transaction Document and their signatures;

(d) A certificate, in form and substance reasonably acceptable to ABI, executed by an authorized officer of CBI, dated the Closing Date, certifying (i) that attached thereto are the resolutions duly adopted by the Board of Directors of CBI on or prior to the date hereof authorizing the execution, delivery and performance of this Agreement and each of the other Transaction Documents to which it is a party, and that such resolutions have not been

modified, rescinded or amended and are in full force and effect as of the Closing Date and (ii) as to the incumbency of the CBI officers executing this Agreement or a Transaction Document and their signatures;

(e) The Importer Agreement duly executed by the Importer;

(f) The Sub-license Agreement duly executed by the Importer; and

(g) If Constellation Beers and CBBH do not acquire all the Importer Interest at the Closing, the Restated LLC Agreement duly executed by Constellation Beers and, if applicable, CBBH.

## ARTICLE 4
## REPRESENTATIONS AND WARRANTIES OF ABI

ABI hereby represents and warrants to the Buyer Parties, unless otherwise specified, as of the date hereof and as of the Closing as follows:

**4.1 Organization and Qualification of Seller.** Seller is a corporation duly organized, validly existing and in good standing under the Laws of Delaware with all corporate power and authority to own or lease all of its properties and assets and to conduct its business as currently conducted, and is duly qualified and in good standing as a foreign entity authorized to do business in each of the jurisdictions where the ownership, leasing or operation of its assets or properties or conduct of its business requires such qualification, except for such failures to be so qualified or in good standing as would not materially and adversely affect its ability to execute or deliver at the Closing, or perform its obligations at the Closing under, the Membership Interest Assignments and, if required to be delivered pursuant to **Section 3.2(g)**, the Restated LLC Agreement.

**4.2 Authority of Seller.** As of the Closing Date, Seller shall have all requisite power and authority to execute and deliver the Membership Interest Assignments and, if required to be delivered pursuant to **Section 3.2(g)**, the Restated LLC Agreement, to perform its obligations thereunder and to consummate the transactions contemplated thereby. As of the Closing Date, the execution and delivery of the Membership Interest Assignments and, if required to be delivered pursuant to **Section 3.2(g)**, the Restated LLC Agreement, the performance of its obligations thereunder and the consummation of the transactions contemplated thereby shall have been duly and validly authorized by all necessary corporate action and no other proceedings on the part of Seller shall be necessary to authorize the Membership Interest Assignments and, if required to be delivered pursuant to **Section 3.2(g)**, the Restated LLC Agreement, the performance of such obligations or the consummation of such transactions.

**4.3 Organization and Qualification of ABI.** ABI is a corporation duly organized, validly existing and in good standing under the Laws of its jurisdiction of organization with all corporate power and authority to own or lease all of its properties and assets and to conduct its business as currently conducted, and is duly qualified and in good standing as a foreign entity authorized to do business in each of the jurisdictions where the ownership, leasing or operation of its assets or properties or conduct of its business requires such qualification, except for such failures to be so qualified or in good standing as would not materially and adversely affect its

ability to execute or deliver, or perform its obligations under this Agreement and the other Transaction Documents to which it is or will be a party.

**4.4 Authority of ABI.** ABI has all requisite power and authority to execute and deliver this Agreement and each of the other Transaction Documents to which it is or will be a party, to perform its obligations hereunder and thereunder and to consummate the transactions contemplated hereby and thereby. The execution and delivery by ABI of this Agreement and each of the other Transaction Documents to which it is or will be a party, the performance of its obligations hereunder and thereunder and the consummation of the transactions contemplated hereby and thereby have been duly and validly authorized by all necessary corporate action and no other proceedings on the part of ABI are necessary to authorize this Agreement and each of the other Transaction Documents to which ABI is a party, the performance of such obligations or the consummation of such transactions.

**4.5 Title.** Seller is the record and beneficial owner of the Importer Interest and has good and marketable legal title to the Importer Interest, free and clear of all Liens (other than Permitted Liens). Except for the transactions contemplated under this Agreement or as provided under the LLC Agreement, no Person has any right (whether by Law, preemptive or contractual) to purchase or acquire the Importer Interest or any portion thereof.

**4.6 No Violation or Conflict; Consents.** Neither the execution and delivery by Seller, Extrade, Marcas Modelo or ABI of this Agreement or any of the other Transaction Documents to which Seller, Extrade, Marcas Modelo or ABI is or will be a party as of the Closing, as applicable, nor the performance by Seller, Extrade, Marcas Modelo or ABI of their respective obligations hereunder and thereunder, as applicable, nor the consummation of the transactions contemplated hereby and thereby will, directly or indirectly (with or without notice or lapse of time, or both):

(a) violate, contravene, conflict with or breach any term or provision of the Organizational Documents of Seller, Extrade, Marcas Modelo or ABI;

(b) except as may be provided in the Organizational Documents of Importer, violate, contravene, conflict with, breach, constitute a default under, require any notice under, or give any Person the right to cancel, modify or terminate, or accelerate the maturity or performance of, any Contract to which Seller, Extrade, Marcas Modelo or ABI is a party or by which any of their respective assets is bound; or

(c) violate, contravene or conflict with any of the terms, conditions or requirements of, or, except as may be required by the Alcoholic Beverage Authorities, require any notice to or filing with any Governmental Authority under, any Permit, Law or Order applicable to Seller, Extrade, Marcas Modelo or ABI or any of their respective assets;

other than, in the case of clauses (b) and (c), such violations, contraventions, conflicts, breaches, defaults, notices, cancellations, modifications, terminations, accelerations or rights that would not materially and adversely affect ABI's ability to execute and deliver, or perform its obligations under, this Agreement and the other Transaction Documents to which it is

a party or will be a party or give rise to a Lien on the Importer Interest or the Alternate Importer Interest, as applicable (other than Permitted Liens).

**4.7 Litigation.** As of the date hereof, there is no Order or Proceeding pending against the Seller, Extrade, Marcas Modelo or ABI, by any Governmental Authority or other Person that is reasonably likely to prevent, enjoin or materially delay the transactions contemplated by this Agreement.

**4.8 Disclaimer.** Except for the representations and warranties contained in this Agreement, none of ABI, the Seller nor any of their respective Affiliates, nor any of their respective stockholders, trustees, directors, officers, employees, Affiliates, advisors, members, fiduciaries, agents or representatives, nor any other Person has made or is making any other representation or warranty of any kind or nature whatsoever, oral or written, express or implied, with respect to ABI, the Seller, their respective Affiliates, this Agreement, any Transaction Document or the transactions contemplated hereby or thereby. Except for the representations and warranties contained in this Agreement, ABI disclaims, on behalf of itself and its Affiliates, all Liability and responsibility for any other representation, warranty, opinion, projection, forecast, advice, statement or information made, communicated or furnished.

**4.9 Brokers.** No investment banker, broker, agent, finder, advisor, firm or other Person acting on behalf of Seller, ABI or any of their respective Affiliates is, or will be, entitled to any commission or broker's or finder's fees from the Buyers, CBI or their respective Affiliates.

## ARTICLE 5
## REPRESENTATIONS AND WARRANTIES OF BUYERS AND CBI

The Buyers and CBI, jointly and severally, hereby represent and warrant to ABI, unless otherwise specified, as of the date hereof and as of the Closing Date as follows:

**5.1 Organization and Qualification of Constellation Beers.** Constellation Beers is a corporation duly organized, validly existing and in good standing under the Laws of Maryland with all corporate power and authority to own or lease all of its properties and assets and to conduct its business as currently conducted, and is duly qualified and in good standing as a foreign entity authorized to do business in each of the jurisdictions where the ownership, leasing or operation of its assets or properties or conduct of its business requires such qualification, except for such failures to be so qualified or in good standing as would not materially and adversely affect its ability to execute or deliver, or perform its obligations under this Agreement and the other Transaction Documents to which it is or will be a party.

**5.2 Authority of Constellation Beers.** Constellation Beers has all requisite corporate power and authority to execute and deliver this Agreement and each of the other Transaction Documents to which it is or will be a party, to perform its obligations hereunder and thereunder and to consummate the transactions contemplated hereby and thereby. The execution and delivery by Constellation Beers of this Agreement and each of the other Transaction Documents to which it is or will be a party, the performance by Constellation Beers of its obligations hereunder and thereunder and the consummation of the transactions contemplated

hereby and thereby have been duly and validly authorized by the Board of Directors of Constellation Beers and no other corporate proceedings on the part of Constellation Beers, and no vote, consent or approval of its stockholders, are necessary to authorize this Agreement and each of the Transaction Documents to which Constellation Beers is a party, the performance of such obligations or the consummation of such transactions.

**5.3 Organization and Qualification of CBBH.** CBBH is a corporation duly organized, validly existing and in good standing under the Laws of Delaware with all corporate power and authority to own or lease all of its properties and assets and to conduct its business as currently conducted, and is duly qualified and in good standing as a foreign entity authorized to do business in each of the jurisdictions where the ownership, leasing or operation of its assets or properties or conduct of its business requires such qualification, except for such failures to be so qualified or in good standing as would not materially and adversely affect its ability to execute or deliver, or perform its obligations under this Agreement and the other Transaction Documents to which it is or will be a party.

**5.4 Authority of CBBH.** CBBH has all requisite corporate power and authority to execute and deliver this Agreement and each of the other Transaction Documents to which it is or will be a party, to perform its obligations hereunder and thereunder and to consummate the transactions contemplated hereby and thereby. The execution and delivery by CBBH of this Agreement and each of the other Transaction Documents to which it is or will be a party, the performance by CBBH of its obligations hereunder and thereunder and the consummation of the transactions contemplated hereby and thereby have been duly and validly authorized by the Board of Directors of CBBH and no other corporate proceedings on the part of CBBH, and no vote, consent or approval of its stockholders, are necessary to authorize this Agreement and each of the Transaction Documents to which CBBH is a party, the performance of such obligations or the consummation of such transactions.

**5.5 Organization and Qualification of CBI.** CBI is a corporation duly organized, validly existing and in good standing under the Laws of the State of Delaware with all corporate power and authority to own or lease all of its properties and assets and to conduct its business as currently conducted, and is duly qualified and in good standing as a foreign entity authorized to do business in each of the jurisdictions where the ownership, leasing or operation of its assets or properties or conduct of its business requires such qualification, except for such failures to be so qualified or in good standing as would not materially and adversely affect its ability to execute or deliver, or perform its obligations under this Agreement and the other Transaction Documents to which it is or will be a party.

**5.6 Authority of CBI.** CBI has all requisite corporate power and authority to execute and deliver this Agreement and each of the other Transaction Documents to which it is or will be a party, to perform its obligations hereunder and thereunder and to consummate the transactions contemplated hereby and thereby. The execution and delivery by CBI of this Agreement and each of the other Transaction Documents to which it is or will be a party, the performance by CBI of its obligations hereunder and thereunder and the consummation of the transactions contemplated hereby and thereby have been duly and validly authorized by the Board of Directors of CBI and no other corporate proceedings on the part of CBI, and no vote, consent or approval of its stockholders, are necessary to authorize this Agreement and each of the

Transaction Documents to which CBI is a party, the performance of such obligations or the consummation of such transactions.

**5.7 No Violation or Conflict; Consents.** Neither the execution and delivery by the Buyers or CBI of this Agreement or any of the other Transaction Documents to which the Buyers or CBI is a party, as applicable, nor the performance by the Buyers or CBI of its obligations hereunder and thereunder, as applicable, nor the consummation of the transactions contemplated hereby and thereby will, directly or indirectly (with or without notice or lapse of time or both):

(a) violate, contravene, conflict with or breach any term or provision of the Organizational Documents of the Buyers or CBI;

(b) violate, contravene, conflict with, breach, constitute a default under, require any notice under, or give any Person the right to cancel, modify or terminate, or accelerate the maturity or performance of, any Contract to which the Buyers or CBI is a party or by which any of its assets is bound; or

(c) violate, contravene or conflict with any of the terms, conditions or requirements of, or require any notice to or filing with any Governmental Authority or other Person under, any Permit, Law or Order applicable to the Buyers or CBI or any of their respective assets;

other than, in the case of clauses (b) and (c), such violations, contraventions, conflicts, breaches or rights that would not materially and adversely affect the Buyers' or CBI's ability to execute and deliver or perform its obligations under this Agreement and the other Transaction Documents to which it is a party or will be a party.

**5.8 Litigation.** As of the date hereof, there is no Order or Proceeding pending against the Buyers or CBI, by any Governmental Authority or other Person that is reasonably likely to prevent, enjoin or materially delay the transactions contemplated by this Agreement.

**5.9 Investment Intent; Restricted Securities; LLC Interest.** Each of the Buyer Parties is acquiring the Importer Interest or the Alternate Importer Interest solely for their own account, for investment purposes only, and not with a view to, or with any present intention of, reselling or otherwise distributing the Importer Interest or the Alternate Importer Interest or dividing its respective participation herein with others. Each of the Buyer Parties understands and acknowledges that (a) neither the Importer Interest or the Alternate Importer Interest has been registered or qualified under the Securities Act, or under any securities laws of any state of the United States or other jurisdiction, in reliance upon specific exemptions thereunder for transactions not involving any public offering; (b) the Importer Interest and the Alternate Importer Interest constitute "restricted securities" as defined in Rule 144 under the Securities Act; (c) neither the Importer Interest or the Alternate Importer Interest is traded or tradable on any securities exchange or over the counter; and (d) neither the Importer Interest or the Alternate Importer Interest may be sold, transferred or otherwise disposed of unless a registration statement under the Securities Act with respect to such Importer Interest or the Alternate Importer Interest and qualification in accordance with any applicable state securities laws becomes effective or unless such registration and qualification is inapplicable, or an exemption

therefrom is available. Each of the Buyer Parties will not transfer or otherwise dispose any of the Importer Interest or Alternate Importer Interest acquired hereunder or any interest therein in any manner that may cause a violation of the Securities Act or any applicable state securities laws. Each of the Buyer Parties is an "accredited investor" as defined in Rule 501(a) of the Securities Act. Constellation Beers is the record and beneficial owner of 50% of the outstanding LLC Interests.

**5.10 Financial Ability.** Each of the Buyer Parties acknowledges that its obligation to consummate the transactions contemplated by this Agreement is not and will not be subject to the receipt by any Buyer Party of any financing or the consummation of any other transaction other than the occurrence of the GM Transaction Closing. The Buyer Parties have delivered to ABI a true, complete and correct copy of the executed definitive Interim Loan Agreement, dated as of June 28, 2012, among Bank of America, N.A. ("**Bank of America**"), JPMorgan Chase Bank N.A. ("**JPMorgan**") and CBI (collectively, the "**Financing Commitment**"), pursuant to which, upon the terms and subject to the conditions set forth therein, the lenders party thereto have committed to lend the amounts set forth therein (the "**Financing**") for the purpose of funding the transactions contemplated by this Agreement. The Buyer Parties have delivered to ABI true, complete and correct copies of the fee letter and engagement letters relating to the Financing Commitment (redacted only as to the matters indicated therein), The Financing Commitment has not been amended or modified prior to the date of this Agreement, and, as of the date hereof, the respective commitments contained in the Financing Commitment have not been withdrawn, terminated or rescinded in any respect. There are no agreements, side letters or arrangements to which CBI or any of its Affiliates is a party relating to the Financing Commitment that could affect the availability of the Financing. The Financing Commitment constitutes the legally valid and binding obligation of CBI and, to the Knowledge of CBI, the other parties thereto, enforceable in accordance with its terms (except as such enforceability may be limited by bankruptcy, insolvency, fraudulent conveyance, reorganization, moratorium and other similar Laws of general applicability relating to or affecting creditors' rights, and by general equitable principles). The Financing Commitment is in full force and effect and has not been withdrawn, rescinded or terminated or otherwise amended or modified in any respect, and no such amendment or modification is contemplated. Neither CBI nor any of its Affiliates is in breach of any of the terms or conditions set forth in the Financing Commitment, and assuming the accuracy of the representations and warranties set forth in **Article 4** and performance by ABI of its obligations under this Agreement, as of the date hereof, no event has occurred which, with or without notice, lapse of time or both, would reasonably be expected to constitute a breach, default or failure to satisfy any condition precedent set forth therein. As of the date hereof, no lender has notified CBI of its intention to terminate the Financing Commitment or not to provide the Financing. There are no conditions precedent or other contingencies related to the funding of the full amount of the Financing, other than as expressly set forth in the Financing Commitment. The aggregate proceeds available to be disbursed pursuant to the Financing Commitment will be sufficient for the Buyer Parties to pay the Purchase Price and all related fees and expenses on the terms contemplated hereby in accordance with the terms of this Agreement. As of the date hereof, CBI has paid in full any and all commitment or other fees required by the Financing Commitment that are due as of the date hereof. As of the date hereof, the Buyer Parties have no reason to believe that CBI and any of its applicable Affiliates will be unable to satisfy on a timely basis any conditions to the funding of the full amount of the Financing, or that the Financing will not be available to CBI on the Closing Date. As of the date hereof, the Buyer

Parties have cash on hand and available amounts under CBI's existing credit facilities available for the Buyer Parties to pay at least 50% of the Purchase Price and all related fees and expenses on the terms contemplated hereby in accordance with the terms of this Agreement and to purchase at least 50% of the Importer Interest and have no reason to believe that they would not have available cash on hand and availability under CBI's existing credit facility to purchase at least 50% of the Importer Interest at Closing.

**5.11 Brokers.** No investment banker, broker, agent, finder, advisor, firm or other Person acting on behalf of the Buyers, CBI or any of their respective Affiliates is, or will be, entitled to any commission or broker's or finder's fees from ABI, Seller or any of their respective Affiliates.

## ARTICLE 6
## ABI GUARANTEE

**6.1 Guarantee.** (a) To induce CBI to enter into this Agreement, ABI, intending to be legally bound, hereby absolutely, unconditionally and irrevocably guarantees to CBI, the Buyers and the Importer, as a primary obligor and not merely as a surety, (i) the due and punctual performance and observance of, and compliance with, all covenants, agreements, obligations, Liabilities, representations and warranties (A) of Seller Parties hereunder and under or pursuant to the Membership Interest Assignments from and after the date hereof until released pursuant to **Section 6.2** and (B) of Extrade under or pursuant to the Importer Agreement, and of Marcas Modelo under or pursuant to the Sub-license Agreement, in each case from and after the Closing until released pursuant to **Section 6.2**, and (ii) the payment of any Damages incurred by CBI, the Buyers or the Importer as a consequence of ABI breaching its obligations hereunder pursuant to the terms hereof, Seller not executing the Membership Interest Assignments at Closing, Extrade not executing the Importer Agreement at Closing or Extrade breaching its obligations thereunder pursuant to the terms thereof, or Marcas Modelo not executing the Sub-license Agreement at Closing or Marcas Modelo breaching its obligations thereunder pursuant to the terms thereof (all such obligations and any such Damages being collectively referred to as the "**ABI Guaranteed Obligations**"). ABI further agrees that the ABI Guaranteed Obligations may be amended, modified, extended or renewed, in whole or in part, without notice to or further assent from it, and that it will remain bound upon its guarantee notwithstanding any amendment, modification, extension or renewal of any of the ABI Guaranteed Obligations, whether or not any of the foregoing would in any way increase ABI's obligations hereunder. ABI irrevocably and unconditionally waives, and agrees that its Liability under its guarantee shall be unaffected by, any act, omission, delay or other circumstance or any election of remedies by CBI, the Buyers or the Importer that might otherwise constitute a legal or equitable discharge or defense of a guarantor or surety. ABI further agrees that its guarantee is a continuing guarantee of payment and performance of the ABI Guaranteed Obligations when due (whether or not any bankruptcy, insolvency or similar Proceeding under applicable Law shall have stayed the accrual or collection of any of the ABI Guaranteed Obligations or operated as a discharge thereof) and not of collection, and waives any right to require that resort be had by CBI, the Buyers or the Importer to ABI, Seller, Extrade or Marcas Modelo, as applicable, for the collection and performance of the ABI Guaranteed Obligations.

(b) The exercise or failure to exercise any right or remedy under this Agreement or the Importer Agreement or Sub-license Agreement shall not affect, impair or discharge, in whole or in part, the Liability of ABI under this **Article 6**. Subject to **Section 6.2**, the obligations of ABI shall not be released, limited or impaired or subject to any defense or setoff, other than a defense that payment or performance has been made by ABI, Seller, Extrade or Marcas Modelo, as applicable, and except for defenses based on a final judicial determination by a court of competent jurisdiction that ABI, Seller, Extrade or Marcas Modelo has a defense to performance based on CBI's Breach of this Agreement, or the Importer's Breach of the Importer Agreement or Sub-license Agreement, as applicable. ABI's obligations under this **Article 6** shall not be affected by any claim by ABI, Seller, Extrade or Marcas Modelo that this Agreement, the Membership Interest Assignment, the Importer Agreement or the Sub-license Agreement, as applicable, is invalid or unenforceable and any payments required to be made by it hereunder shall be made free and clear of any deduction, set-off, defense, claim or counterclaim of any kind. The rights and obligations under this **Article 6** shall survive any assignment made in accordance with **Section 14.2**.

**6.2 Release of Guarantee.** ABI agrees that its obligations under this **Article 6** shall remain in full force and effect until (i) in the case of **Section 6.1(a)(i)(A)** and **Section 6.1(a)(ii)** (to the extent relating to the obligations of the Seller Parties), (A) with respect to the obligations that do not by their terms survive the Closing, the Closing and (B) with respect to the obligations that by their terms survive the Closing, for so long as such obligations survive hereunder in accordance with their terms, and (ii) in the case of **Section 6.1(a)(i)(B)** and **Section 6.1(a)(ii)** (other than to the extent relating to the obligations of the Seller Parties hereunder), the termination of the Importer Agreement and the Sub-license Agreement; **provided**, **that** ABI shall be released from its obligations under this **Article 6** concurrently with the termination of this Agreement in accordance with **Article 11**; **provided**, **however**, that ABI shall not be released from its obligations under this **Article 6** so long as any bona fide claim of CBI, the Buyers or the Importer against ABI, Seller, Extrade or Marcas Modelo, as applicable, which arises out of, or relates to, directly or indirectly, this Agreement, the Membership Interest Assignments, the Importer Agreement, the Sub-license Agreement or any other document related herewith or therewith, as applicable, (a) is not settled to the reasonable satisfaction of CBI, the Buyers, or the Importer, as applicable, or discharged in full or (b) has not been finally resolved (as such term is defined in **Section 12.1**). In addition, if at any time, any payment, or part thereof, by ABI, Seller, Marcas Modelo, or Extrade is rescinded or must otherwise be returned upon the bankruptcy, insolvency, dissolution, liquidation or reorganization of ABI, Seller, Marcas Modelo or Extrade or otherwise, the obligations of ABI under this **Article 6** shall continue to be effective or shall be automatically reinstated, all as though such payment had not been made.

## ARTICLE 7
## CBI GUARANTEE

**7.1 Guarantee.** (a) To induce ABI to enter into this Agreement, CBI, intending to be legally bound, hereby absolutely, unconditionally and irrevocably guarantees to ABI, Seller, Extrade, and Marcas Modelo, as a primary obligor and not merely as a surety, (i) the due and punctual performance and observance of, and compliance with, all covenants, agreements, obligations, Liabilities, representations and warranties (A) of the Buyers hereunder from and

after the date hereof until released pursuant to **Section 7.2** and (B) the Importer under or pursuant to the Importer Agreement and the Sub-license Agreement from and after the Closing until released pursuant to **Section 7.2**, and (ii) the payment of any Damages incurred by ABI, Seller, Extrade, or Marcas Modelo as a consequence of a Buyer breaching its obligations hereunder pursuant to the terms hereof, or the Importer not executing the Importer Agreement or the Sub-license Agreement at Closing or the Importer breaching its obligations thereunder pursuant to the terms thereof (all such obligations and any such Damages being collectively referred to as the "**CBI Guaranteed Obligations**"). CBI further agrees that the CBI Guaranteed Obligations may be amended, modified, extended or renewed, in whole or in part, without notice to or further assent from it, and that it will remain bound upon its guarantee notwithstanding any amendment, modification, extension or renewal of any of the CBI Guaranteed Obligations, whether or not any of the foregoing would in any way increase CBI's obligations hereunder. CBI irrevocably and unconditionally waives, and agrees that its Liability under its guarantee shall be unaffected by, any act, omission, delay or other circumstance or any election of remedies by ABI, Seller, Extrade or Marcas Modelo that might otherwise constitute a legal or equitable discharge or defense of a guarantor or surety. CBI further agrees that its guarantee is a continuing guarantee of payment and performance of the CBI Guaranteed Obligations when due (whether or not any bankruptcy, insolvency or similar Proceeding under applicable Law shall have stayed the accrual or collection of any of the CBI Guaranteed Obligations or operated as a discharge thereof) and not of collection, and waives any right to require that resort be had by ABI, Seller, Extrade or Marcas Modelo to the Importer for the collection and performance of the CBI Guaranteed Obligations.

(b) The exercise or failure to exercise any right or remedy under this Agreement or the Importer Agreement or Sub-license Agreement shall not affect, impair or discharge, in whole or in part, the Liability of CBI under this **Article 7**. Subject to **Section 7.2**, the obligations of CBI shall not be released, limited or impaired or subject to any defense or setoff, other than a defense that payment or performance has been made by CBI or the Importer, as applicable, and except for defenses based on a final judicial determination by a court of competent jurisdiction that a Buyer has a defense to performance based on ABI's Breach of this Agreement, Extrade's Breach of the Importer Agreement or Marcas Modelo's Breach of the Sub-license Agreement, as applicable. CBI's obligations under this **Article 7** shall not be affected by any claim by CBI or the Importer that this Agreement, the Importer Agreement or Sub-license Agreement, as applicable, is invalid or unenforceable and any payments required to be made by it hereunder shall be made free and clear of any deduction, set-off, defense, claim or counterclaim of any kind. The rights and obligations of CBI under this **Article 7** shall survive any assignment by any Buyer Party made in accordance with **Section 14.2**.

**7.2** **Release of Guarantee.** CBI agrees that its obligations under this **Article 7** shall remain in full force and effect until (i) in the case of **Section 7.1(a)(i)(A)** and **Section 7.1(a)(ii)**, (A) with respect to the obligations that do not by their terms survive the Closing, the Closing and (B) with respect to the obligations that by their terms survive the Closing, for so long as such obligations survive hereunder in accordance with their terms, and (ii) in the case of **Section 7.1(a)(i)(B)**, the termination of the Importer Agreement and the Sub-license Agreement; **provided**, **that** CBI shall be released from its obligations under this **Article 7** concurrently with the termination of this Agreement in accordance with **Article 11**; **provided**, **however**, that CBI shall not be released from its obligations under this **Article 7** so long as any bona fide claim of

ABI, the Seller, Extrade or Marcas Modelo against a Buyer or the Importer, as applicable, which arises out of, or relates to, directly or indirectly, this Agreement or the Importer Agreement, the Sub-license Agreement or any other document related herewith or therewith, as applicable, (a) is not settled to the reasonable satisfaction of ABI, Seller, Extrade or Marcas Modelo, as applicable, or discharged in full or (b) has not been finally resolved (as such term is defined in **Section 12.1**). In addition, if at any time, any payment, or part thereof, by CBI or the Importer is rescinded or must otherwise be returned upon the bankruptcy, insolvency, dissolution, liquidation or reorganization of CBI or the Importer or otherwise, the obligations of CBI under this **Article 7** shall continue to be effective or shall be automatically reinstated, all as though such payment had not been made.

## ARTICLE 8
## COVENANTS OF SELLER PARTIES

**8.1** **Consents.** Buyer Parties shall obtain all Consents required to effect the transactions contemplated by this Agreement and the Transaction Documents.

**8.2** **Exclusive Dealing; Acquisition Proposals.** (a) Subject to **Section 8.2(b)**, after the date hereof until the earlier of (i) the Closing and (ii) termination of this Agreement in accordance with its terms, ABI, its Subsidiaries and their respective directors and officers shall not (and they shall use reasonable best efforts to instruct and cause any of their respective employees, consultants, advisors or representatives not to), directly or indirectly, except as contemplated by this Agreement or the GM Transaction Agreement, solicit, encourage or initiate any negotiations or discussions with respect to any offer or proposal to acquire the Importer Interest or any portion thereof (a "**Prohibited Acquisition**"). ABI will cause Seller not to, except as contemplated by this Agreement or the GM Transaction Agreement, transfer the Importer Interest or any portion thereof to any other Person, or solicit, encourage or initiate any negotiations or discussions with respect to any offer or proposal therefor.

(b) Notwithstanding anything to the contrary in **Section 8.2(a)**, the restrictions set forth in **Section 8.2(a)** shall not apply in the event that the lenders party to the Financing Commitment notify any Buyer Party of their intention not to provide, or otherwise refuse or fail to provide, the Financing at the Closing, or if any notice is delivered pursuant to **Section 9.7(d)** hereof. The parties hereby acknowledge and agree that upon the occurrence of any such event described in the foregoing sentence, the Seller Parties shall be entitled to solicit, encourage or initiate negotiations and discussions with any Person (other than a Prohibited Owner) with respect to the sale or transfer of the Importer Interest or any portion thereof to such Person and shall further be entitled to enter into any agreement to sell, or to sell, to any Person all or any portion of the Importer Interest not purchased by the Buyers at the Closing pursuant to **Section 9.7(e)** and **Section 9.7(f),** in any such case without any limitation and without requiring the approval of or notice to any Buyer Party; including any approval of any Buyer Party or its Affiliates that may be required pursuant to the LLC Agreement, which approval, if any, is hereby granted by the Buyer Parties.

**8.3** **Non-Solicitation of Employees.** For the period commencing on the Closing Date and ending on the second anniversary thereof, ABI shall not and shall not permit its Subsidiaries to, directly or indirectly, hire, solicit or encourage to leave the employment of the Importer, any

employee of the Importer with whom Seller or its representatives directly communicated in connection with the negotiation and performance of this Agreement or the Importer Agreement; **provided**, **however**, that the foregoing provision shall not apply to employees terminated by Importer or general advertisements or solicitations that are not specifically targeted at such persons.

## ARTICLE 9
## OTHER COVENANTS OF THE PARTIES

**9.1** **Antitrust Approval.** The Buyer Parties shall use their reasonable best efforts to take, or cause to be taken, all actions, and to do, or cause to be done, and assist and cooperate with ABI and Grupo Modelo in doing, all things necessary, proper or advisable (subject to applicable Law) to consummate and make effective the transactions contemplated by this Agreement and the GM Transaction. In furtherance and not in limitation of the foregoing, the Buyer Parties shall use their reasonable best efforts to (i) comply promptly with any request of any Governmental Authority for additional information, documents or other materials, including, without limitation, participating in meetings with officials of such Governmental Authority during the course of its review of the GM Transaction and/or the transactions contemplated hereby; (ii) support ABI and Grupo Modelo in their response to requests for information from any Governmental Authority in connection with its investigation of the GM Transaction and/or the transactions contemplated hereby; and (iii) otherwise assist in facilitating antitrust approval of the transactions contemplated by this Agreement and the GM Transaction. To the extent permitted by the relevant Governmental Authority, the Buyer Parties and the Seller Parties shall (a) allow the Buyer Parties (including their outside counsel) and the Seller Parties (including their outside counsel) to attend and participate in all meetings, discussions and other communications with all Governmental Authorities in connection with the review of the transactions contemplated by this Agreement, (b) promptly and fully inform CBI, ABI and Grupo Modelo of any written or material oral communication received from or given to any Governmental Authority relating to the GM Transaction or the transactions contemplated herein, and provide them with copies of any such written communication, (c) permit CBI, ABI and Grupo Modelo to review in advance, to the extent practicable with reasonable time and opportunity to comment and consider in good faith the views of the others with respect thereto, any proposed submission, correspondence or other communication by the Buyer Party to any Governmental Authority relating to the GM Transaction or the transactions contemplated herein, and (d) provide reasonable prior notice to and, to the extent practicable, consult with CBI, ABI and Grupo Modelo in advance of any meeting, material conference or material discussion with any Governmental Authority relating to the GM Transaction or the transactions contemplated herein (and allow the Seller Parties to attend and participate in such meeting, conference or discussion). If reasonably requested by ABI or Grupo Modelo, and if permitted to do so by the relevant Governmental Authority, the Buyer Parties and the Seller Parties shall, upon reasonable notice, cause an informed representative to attend any one or more meetings, either by phone or in person, before a Governmental Authority in support of approval of the transactions contemplated by this Agreement and the GM Transaction. Without limiting in any respect the parties' obligations contained in this **Section 9.1**, in the event that the parties do not agree with respect to strategy or tactics in connection with a Governmental Authority's review of the GM Transaction and/or the transactions contemplated hereby, ABI's decision will control. Each of the parties agrees to use its reasonable best efforts to propose, negotiate, commit to and effect

any consent decree, settlement, remedy, undertaking, commitment, action or agreement, including any amendment or other revision to one or more of the Transaction Documents (each, a "**Remedial Action**"), as may be required in connection with a Governmental Authority's review of the GM Transaction and/or the transactions contemplated hereby; **provided that** any such Remedial Action (1) is conditioned on the consummation of the transactions contemplated by this Agreement and (2) does not, individually or in the aggregate, have a material adverse effect on such party as measured against the business of the Importer or the Buyer Parties (it being agreed and understood that, the parties shall cooperate in good faith in connection with any Remedial Action to attempt to preserve the economic benefits reasonably expected to be achieved by each of the parties hereto, but shall in any event effect any such Remedial Action required pursuant to this sentence notwithstanding anything in this parenthetical). Notwithstanding anything to the contrary contained in this **Section 9.1** or elsewhere in this Agreement, a party shall not have any obligation under this Agreement to take any of the following actions or commit to take any of the following actions, or to cause Importer to take any of the following actions, if such party, in good faith, reasonably expects such action to have more than a *de minimis* adverse effect on the business or interests of such party or Importer: (x) to sell, dispose of or transfer or cause any of its Subsidiaries to sell, dispose of or transfer any assets; (y) to discontinue or cause any of its Subsidiaries to discontinue offering any product or service; or (z) to hold separate or cause any of its Subsidiaries to hold separate any assets or operations (either before or after the Closing Date).

**9.2 Other Regulatory Matters.** Except as otherwise provided in **Section 9.1**, the parties will proceed diligently and in good faith and will use their reasonable best efforts to do, or cause to be done, all things necessary, proper or advisable to, as promptly as practicable, (a) obtain all Permits from, make all filings with and give all notices to Governmental Authorities, including, without limitation, the Alcoholic Beverage Authorities or any other Person required to consummate the transactions contemplated by this Agreement, and (b) provide such other information and communications to such Governmental Authorities or other Person as the other party or such Governmental Authorities or other Person may reasonably request.

**9.3 Notification of Certain Matters.** Subject to compliance with applicable Law or as required by any Governmental Authority, the Buyer Parties and ABI will notify the other promptly in writing of, and contemporaneously will provide the other with true and complete copies of any and all material information or documents relating to, and will use reasonable best efforts to cure before the Closing, any event, transaction or circumstance occurring after the date of this Agreement that causes or is reasonably expected to cause a failure of any condition to the other party's obligations to consummate the transactions contemplated hereby. No notice given pursuant to this **Section 9.3** shall have any effect on the representations, warranties, covenants or agreements contained in this Agreement for purposes of determining satisfaction of any condition contained herein or the rights of the parties hereunder.

**9.4 Fulfillment of Conditions.** Subject to the terms and conditions of this Agreement, the Buyer Parties and ABI will cooperate with each other and use their respective reasonable best efforts to take or cause to be taken all actions, and do or cause to be done all things reasonably necessary or desirable on its part, and proceed diligently and in good faith to satisfy each condition to the other party's obligations contained in this Agreement in order to consummate and make effective the transactions contemplated by this Agreement as soon as

practicable, and neither Seller Parties nor Buyer Parties will take any action, or fail to take any action required to be taken by it hereunder, that could be reasonably expected to result in the non-fulfillment of any such condition. In furtherance and not in limitation of the foregoing, the Buyer Parties and the Seller Parties shall use their reasonable best efforts to (a) comply promptly with any request of any Governmental Authority for additional information, documents or other materials, including, without limitation, participating in meetings with officials of such Governmental Authority during the course of its review of the transactions contemplated hereby and (b) support the other parties hereto in their response to requests for information from any Governmental Authority in connection with its investigation of the transactions contemplated hereby. Notwithstanding anything to the contrary in this Agreement, the parties hereby acknowledge and agree that none of the Seller Parties has any obligation to the Buyer Parties under this Agreement or otherwise to consummate, or seek to receive any consent required to consummate, the transactions contemplated by the GM Transaction Agreement and the Buyer Parties shall not have, and are not intended third party beneficiaries of, the GM Transaction Agreement.

**9.5 Importer, Sub-license and Restated LLC Agreements.**

(a) At Closing, ABI shall cause Seller to execute the Membership Interest Agreements, and if required pursuant to **Section 3.2(g)**, shall cause Seller and any third party purchaser, as applicable, to execute the Restated LLC Agreement and shall cause Extrade to execute the Importer Agreement and shall cause Marcas Modelo to execute the Sub-license Agreement, and ABI shall deliver executed copies of such agreements to CBI in accordance with **Section 3.2**.

(b) At Closing, the Buyer Parties shall cause the Importer to execute the Importer Agreement and the Sub-license Agreement and, if required pursuant to **Section 3.3(g)**, shall execute the Restated LLC Agreement, and the Buyer Parties shall deliver executed copies of such agreements and the Restated LLC Agreement to ABI in accordance with **Section 3.3**.

**9.6 Conduct of Business of the Importer.**

(a) During the period from the date of this Agreement to the Closing, the parties shall, and shall cause the Importer to, (i) conduct the Importer's business and operations in the ordinary course of business, consistent with past practice, and in accordance with the LLC Agreement, including with respect to making distributions of Available Cash (as such term is defined in the LLC Agreement) in accordance with the terms thereof; (ii) use their commercially reasonable efforts to preserve intact the business organization and operations of the Importer and keep available the services of the Importer's current directors, managers, officers, employees, consultants and agents; and (iii) use their commercially reasonable efforts to preserve the goodwill of the Importer and maintain the Importer's relationships with Governmental Authorities and those Persons having business relationships with the Importer.

(b) Without limiting the generality of, and in furtherance of, **Section 9.6(a)**, from the date of this Agreement to the Closing, the parties shall not cause or permit the Importer to:

(i) make any material change in any method of accounting, keeping of books of account or accounting practices;

(ii) prepay or accelerate payment of any expenses or the incurrence of capital expenditures or increase the amount of reserves, in each case except in the ordinary course of business consistent with past practices;

(iii) increase working capital except for increases in accordance with the Business Plan (as defined in the LLC Agreement); or

(iv) delay collection of accounts receivable.

**9.7 Financing Support.**

(a) Each of the Buyer Parties shall use its reasonable best efforts to arrange the Financing on the terms and conditions described in the Financing Commitment as promptly as reasonably practicable, including using its reasonable best efforts to (i) maintain in effect the Financing Commitment on the terms and conditions contained therein until the transactions contemplated by this Agreement are consummated; (ii) satisfy on a timely basis all conditions and covenants applicable to the Buyer Parties or any of their respective Affiliates in the Financing Commitment and otherwise comply with (or obtain the waiver thereof) its obligations under the Financing Commitment; (iii) consummate the Financing at the Closing to the extent necessary to permit the Buyer Parties to pay the Purchase Price; (iv) enforce its rights under the Financing Commitment; and (v) cause the lenders and other Persons providing the Financing to fund at the Closing the Financing to the extent necessary to permit the Buyer Parties to pay the Purchase Price. Each of the Buyer Parties shall (x) use its reasonable best efforts to maintain availability under CBI's existing credit facilities, or to put replacement credit facilities in place, if CBI's existing credit facilities are terminated for whatever reason, that, when combined with cash on hand, will be sufficient to discharge the obligations of the Buyer Parties under **Section 9.7(e)** and **Section 9.7(f)** and (y) provide prompt notice to ABI if it becomes aware of any circumstance or event that would be reasonably likely to result in the availability under CBI's existing credit facilities or replacement credit facilities, combined with cash on hand, being insufficient to discharge the obligations of the Buyer Parties under **Section 9.7(e)** and **Section 9.7(f)**. Within one Business Day of receiving the GM Transaction Closing Notice, the Buyer Parties shall deliver the certificate referred to in Section 4.01(l) of the Financing Commitment to the Administrative Agent (as defined in the Financing Commitment) and the Arrangers (as defined in the Financing Commitment) in accordance with the Financing Commitment.

(b) If any portion of the Financing becomes unavailable on the terms and conditions contemplated in the Financing Commitment, the Buyer Parties shall use their reasonable best efforts to obtain any such portion from alternative sources as promptly as practicable following the occurrence of such event on terms that are not less favorable, taken as a whole, to the Buyer Parties. Nothwithstanding the foregoing, nothing herein shall require that CBI or any of its Subsidiaries sell any stock or assets.

(c) Buyer Parties shall not permit any amendment or modification to be made to the Financing Commitment or waive any term thereof without obtaining ABI's prior written consent (such consent not to be unreasonably withheld, conditioned or delayed unless ABI has determined such amendment or modification is, or is reasonably likely to, prevent, delay or impair the availability of the Financing or the consummation of the transactions contemplated by this Agreement) (provided that Buyer Parties may, without obtaining such prior written consent, replace or amend the Financing Commitment to add lenders, lead arrangers, bookrunners, syndication agents or similar entities that have not executed the Financing Commitments as of the date of this Agreement (but not to make any other changes), so long as (i) any such additional lender is a "Qualified Replacement Lender" (as defined in the Financing Commitment), and (ii) each of JPMorgan and Bank of America continue to be committed under the Financing Commitment to fund at least twenty percent (20%) of the aggregate principal amount contemplated by the Financing Commitment.

(d) Buyer Parties shall keep ABI informed on a reasonably current basis in reasonable detail of the status of the Financing. Without limiting the generality of the foregoing, Buyer Parties shall give ABI prompt notice (which shall in no event be more than two Business Days from occurrence): (i) if Buyer Parties become aware of any breach or default (or any event or circumstance that, with or without notice, lapse of time or both, would reasonably be expected to give rise to any breach or default) by any party to any Financing Commitment; (ii) of the receipt by it or any notice or other written communication from any Person with respect to any (A) actual, potential or alleged breach, default, termination or repudiation by any party to the Financing Commitment or any provisions of the Financing Commitment or (B) dispute or disagreement between or among any parties to any Financing Commitment relating to the Financing; (iii) if for any reason Buyer Parties believe in good faith that (A) there is (or there is likely to be) a dispute or disagreement between or among any parties to any Financing Commitment relating to the Financing or (B) there is a material possibility that it will not be able to obtain all or any portion of the Financing on the terms, in the manner or from the sources contemplated by the Financing Commitment; and (iv) upon receiving the Financing. As soon as reasonably practicable, but in any event within two Business Days after the date ABI delivers to Buyer Parties a written request, Buyer Parties shall provide any information reasonably requested by ABI relating to any circumstance referred to in clause (i), (ii) or (iii) of the immediately preceding sentence.

(e) If, after the Buyer Parties' compliance with **Sections 9.7(a)** and **(b)**, a lender or other Person providing the Financing under the Financing Commitment refuses or otherwise fails to provide such Financing at a time when all conditions precedent set forth in the Financing Commitment to such lender's or other Person's obligation to fund under the Financing Commitment have been satisfied or waived, then (i) Constellation Beers shall purchase 50% of the Importer Interest at the Closing, (ii) CBI shall use reasonable best efforts to purchase all or any portion of the remaining 50% of the Importer Interest at the Closing that is not acquired pursuant to the preceding clause (i) and (iii) ABI will have the right to sell any portion of the Importer Interest not to be purchased by Constellation Beers and CBBH at the Closing to any Person (other than a Prohibited Owner) without any limitation and without the need for approval of, or notice to, the Buyer Parties, with any such approval or notice being deemed to have been granted or delivered, respectively. Any Person that acquires a portion of the Importer Interest pursuant to the immediately preceding sentence shall be required to execute a joinder (customary

in form and substance) to the Restated LLC Agreement in order to become a member of Importer and will have all the rights, benefits and obligations of a member thereunder.

(f) If, after the Buyer Parties' compliance with **Sections 9.7(a)** and **9.7(b)**, a lender or other Person providing the Financing under the Financing Commitment refuses or is unable to provide such Financing at a time when all conditions precedent set forth in the Financing Commitment to such lender's or other Person's obligation to fund under the Financing Commitment have been satisfied or waived, then CBI shall pay the Alternate Purchase Price to ABI at the Closing. To the extent a lender or other Person providing the Financing under the Financing Commitment refuses or is unable to provide such Financing at a time when all conditions precedent set forth in the Financing Commitment to such lender's or other Person's obligation to fund under the Financing Commitment have been satisfied or waived , ABI agrees that its receipt of the Alternate Purchase Price pursuant to **Section 9.7(f)**, and ABI's right to specific performance of this Agreement by the parties hereto pursuant to **Section 14.13**, shall be the sole and exclusive remedies of the Seller Parties against the Buyer Parties and the financing sources under the Financing Commitment for any loss suffered with respect to the failure of the Buyer Parties to acquire the entire Importer Interest as a result of such refusal or inability and breaches of any representations, warranties, covenants and agreements of the Buyer Parties hereunder regarding the Financing, the Financing Commitment (except for losses suffered as a result of representations and warranties of the Buyer Parties with regard to the Financing and Financing Commitment set forth in **Section 5.10** not being true and correct in all material respects as of the date hereof and as of the date of Closing (except for such representations and warranties made as of a specified date, which need be true and correct in all material respects only as of the specified date)), and availability of cash on-hand and funds under existing credit facilities, and the Buyer Parties shall have no further liability or obligation to the Seller Parties with respect to the failure of the Buyer Parties to acquire the entire Importer Interest as a result of such refusal or inability, in addition to ABI's right to specific performance pursuant to **Section 14.13**, after ABI's receipt of the Alternate Purchase Price pursuant to **Section 9.7(f)**. For the avoidance of doubt, except as provided in the preceding two sentences and subject to **Section 12.5** and **12.7**, the Seller Parties shall have any and all remedies existing at law or in equity, and this Agreement shall not impose any limit on ABI's ability to recover monetary Damages pursuant to such remedies, if the Buyer Parties breach any provision of this Agreement, including the obligation to acquire the Importer Interest following the satisfaction of all conditions to the obligations of the Buyer Parties to effect the Closing set forth in **Section 10.2**.

**9.8 Guarantees.** CBI shall cause any guarantees of Seller or any of its Affiliates with respect to payment or performance of Importer under any Contract to be terminated effective as of the Closing without any further Liability to the Seller Parties or any of their respective Affiliates, equity holders, officers, directors or representatives thereunder or under any replacement guarantee. In connection with the termination of such guarantees, at or prior to the Closing, CBI shall arrange for the issuance of replacement guarantees. Neither CBI nor the Importer shall be required to incur any costs or expenses in connection with the termination or replacement of such guarantees.

**9.9 Release**.

(a) Each of CBI, Constellation Beers, CBBH, and Importer, for and on behalf of itself and its Affiliates, shall execute at the Closing a release acquitting, releasing and discharging each of ABI, Seller and their respective officers, directors, equity holders and Affiliates from any and all Liabilities or obligations to CBI, Constellation Beers, CBBH or Importer or any of their Affiliates arising under or in connection with any of the Terminated Agreements or, unless Seller will continue to hold a portion of the Importer Interest after the Closing, the LLC Agreement.

(b) Each of ABI and Seller, for and on behalf of itself and its Affiliates, shall execute at the Closing a release acquitting, releasing and discharging each of CBI, Constellation Beers, CBBH, Importer and their respective officers, directors, equity holders and Affiliates from any and all Liabilities or obligations to ABI and Seller or any of their Affiliates arising under or in connection with any of the Terminated Agreements or, unless Seller will continue to hold a portion of the Importer Interest after the Closing, the LLC Agreement.

**9.10 Post-Closing Cooperation.** Subject to compliance with applicable Law, from and after the Closing Date, the Buyer Parties and the Seller Parties agree to (a) cooperate with each other, share information and supporting materials and documents relating to ownership of the Importer Interest or the Alternate Importer Interest prior to or after the Closing; **provided**, **however**, that access to any such information, supporting materials or documents shall be determined by taking into account, among other considerations, the competitive positions of the parties; **provided**, **further**, that any such access shall (i) be under the supervision of such party's designated personnel or representatives and (ii) be in such a manner as not to unreasonably interfere with any of the businesses or operations of such party or their respective Affiliates; **provided**, **further**, that all requests for any such access made pursuant to this **Section 9.10** shall be directed to such party and its designated representatives; and (b) provide the other parties with such assistance as may reasonably be requested, at the requesting party's expense, in connection with the preparation of any Tax return, any income Tax audit or other administrative or judicial Proceeding relating to Importer or the ownership of the Importer Interest prior to or after the Closing, requests for information from Governmental Authorities relating to the transactions contemplated by this Agreement, and matters relating to unclaimed property; **provided**, **however**, that a party shall not be obligated to make any work papers available to the requesting party unless and until such requesting party has signed a customary confidentiality and hold harmless agreement relating to such access to work papers in form and substance reasonably acceptable to such party to whom such request is being made.

**9.11 [****]**

## ARTICLE 10
## CONDITIONS TO CLOSING

**10.1 Conditions to Obligations of ABI.** The obligations of ABI to close the transactions contemplated by this Agreement shall be subject to the satisfaction or waiver by ABI at or prior to the Closing of the following conditions:

(a) No preliminary, temporary or permanent injunction or other order, decree or ruling issued by a court of competent jurisdiction or Governmental Authority, nor any statute, rule, regulation or executive order promulgated or enacted by any Governmental Authority after the date hereof, shall be in effect that would make the consummation of the transactions contemplated hereby illegal or otherwise prevent the consummation of such transactions; and

(b) The GM Transaction Closing shall have occurred.

**10.2 Conditions to Obligations of Buyer Parties.** The obligations of the Buyer Parties to close the transaction contemplated hereby shall be subject to the satisfaction or waiver by the Buyer Parties at or prior to the Closing of the following conditions:

(a) No preliminary, temporary or permanent injunction or other order, decree or ruling issued by a court of competent jurisdiction or Governmental Authority, nor any statute, rule, regulation or executive order promulgated or enacted by any Governmental Authority after the date hereof, shall be in effect that would make the consummation of the transactions contemplated hereby illegal or otherwise prevent the consummation of such transactions; and

(b) The GM Transaction Closing shall have occurred.

## ARTICLE 11
## TERMINATION

**11.1 Termination.** This Agreement may be terminated and the transactions contemplated hereby may be abandoned at any time prior to the Closing, as follows:

(a) By mutual written consent of CBI and ABI;

(b) By CBI or by ABI, if the Closing shall not have occurred on or before December 30, 2013 (provided that the right to terminate this Agreement under this **Section 11.1(b)** shall not be available to any party hereto whose failure to perform or comply with any covenant or agreement under this Agreement applicable to it has proximately contributed to, or resulted in, the failure of the Closing to occur on or before such date); and

(c) By ABI or by CBI, if the GM Transaction Agreement is terminated.

**11.2 Effect of Termination.** If this Agreement is terminated in accordance with **Section 11.1**, this Agreement shall become null and void and of no further force or effect with no Liability to any Person on the part of any party hereto (or any of its representatives or Affiliates), except that:

(a) The terms and provisions of this **Section 11.2** and **Article 14** shall survive and remain in full force and effect and the terms and provisions of **Article 6** and **Article 7** shall survive and remain in full force and effect until terminated in accordance with their respective terms.

(b) No termination of this Agreement shall relieve any party hereto from any Liability for any Breach of this Agreement that arose prior to such termination or resulting from fraud of such party.

(c) In the event of termination of this Agreement (i) by ABI pursuant to **Section 11.1(b)** if CBI would have been entitled to terminate the Agreement pursuant to **Section 11.1(b)** at the time of such termination, or (ii) by either ABI or CBI pursuant to **Section 11.1(c)**, then in either case ABI shall promptly (but in no event later than two (2) Business Days after the date of such termination) pay, or cause to be paid, to CBI (or its designee) an amount equal to $75,000,000 (the "**Termination Fee**") by wire transfer of same day funds to any account designated by CBI (or its designee). For the avoidance of doubt, in no event shall ABI be required to pay the Termination Fee on more than one occasion.

## ARTICLE 12
## INDEMNIFICATION

**12.1 Survival**.

(a) **Representations and Warranties**. All of the representations and warranties of the parties contained in this Agreement, including the schedules hereto, shall survive the Closing; **provided**, **however**, that the representations and warranties set forth in **Sections 4.6**, **4.7**, **5.7** and **5.8** hereof shall survive only for one year after the Closing (it being understood that in the event notice of any claim for indemnification under **Section 4.6**, **4.7**, **5.7** or **5.8** hereof has been given (within the meaning of **Section 14.3** hereof) within the applicable survival period, the representations and warranties that are the subject of such indemnification claim shall survive with respect to such claim until such time as such claim is finally resolved).

A claim shall be "finally resolved" when: (i) the parties to the dispute have reached an agreement in writing; (ii) a court of competent jurisdiction shall have entered a final and non-appealable Order or judgment; or (iii) an arbitration or like panel shall have rendered a final non-appealable determination with respect to disputes the parties have agreed to submit thereto.

(b) **Covenants and Agreements**. All of the covenants and agreements of the parties, including the guarantees in **Articles 6** and **7**, shall survive the Closing and continue in full force and effect forever, or otherwise in accordance with their respective terms.

**12.2 Terms of Indemnification.** Subject to the terms and provisions of this **Article 12**:

(a) From and after the Closing, ABI shall indemnify Buyer Parties against, and shall protect, defend and hold harmless Buyer Parties from, all Damages imposed on, sustained, incurred or suffered by the Buyer Parties to the extent arising out of, relating to or

resulting from (i) any Breach of any of the representations or warranties of ABI contained in this Agreement, and (ii) any Breach of ABI's covenants or agreements contained in this Agreement.

(b) From and after the Closing, Buyer Parties shall, jointly and severally, indemnify ABI against, and shall protect, defend and hold harmless ABI from, all Damages imposed on, sustained, incurred or suffered by the Seller Parties to the extent arising out of or resulting from (i) any Breach of any representations or warranties of any Buyer Party contained in this Agreement and (ii) any Breach of any Buyer Party's covenants or agreements contained in this Agreement or in any of the other Transaction Documents.

**12.3 Procedures with Respect to Third Party Claims.** Promptly after the commencement of any action or Proceeding by a third party against any party hereto (a "**Third Party Claim**") that is reasonably expected to give rise to a claim for indemnification under this **Article 12**, the party seeking indemnification (the "**Indemnified Party**") shall give notice in writing to the party (the "**Indemnifying Party**") from whom indemnification is sought of such Third Party Claim. No failure to provide such notice shall affect indemnification hereunder unless such failure materially prejudices the Indemnifying Party. The Indemnifying Party shall then be entitled to participate in such action or Proceeding and, to the extent that it shall wish, to assume the defense thereof, and shall have the sole power to direct and control such defense, with counsel reasonably satisfactory to such Indemnified Party. After notice from the Indemnifying Party to the Indemnified Party of its election to assume the defense of a claim, the Indemnifying Party shall not be liable to such Indemnified Party under **Section 12.2** for any fees of other counsel or any other expenses, in each case subsequently incurred by such Indemnified Party in connection with the defense thereof, other than reasonable costs of investigation. If an Indemnifying Party assumes the defense of such an action (a) no compromise or settlement thereof may be effected by the Indemnifying Party without the Indemnified Party's consent (which shall not be unreasonably withheld) unless (i) there is no finding or admission of any violation of Law, or any violation of the rights of any Person, by the Indemnified Party and no adverse effect on any other claims that may be made against the Indemnified Party and (ii) the sole relief provided is monetary Damages that are paid in full by the Indemnifying Party and (b) the Indemnifying Party shall have no Liability with respect to any compromise or settlement thereof effected by the Indemnified Party without its consent (which shall not be unreasonably withheld). Notwithstanding the foregoing, if an Indemnified Party determines in good faith that there is a reasonable probability that any action may materially and adversely affect it or its Affiliates other than as a result of monetary Damages, such Indemnified Party may, by notice to the Indemnifying Party, assume the exclusive right to defend, compromise or settle such action, but the Indemnified Party shall not compromise or settle any such action without the Indemnifying Party's prior written consent and the Indemnifying Party shall have no Liability with respect to any judgment entered in any action so defended, or a compromise or settlement thereof entered into, without its consent (which shall not be unreasonably withheld). The Indemnified Party shall cooperate with the Indemnifying Party and its counsel in order to ensure the proper and adequate defense of a Third Party Claim, including by providing access to its relevant business records and other documents, and employees.

**12.4 Representation.** It is understood and agreed that Nixon Peabody LLP shall not be precluded from representing the Importer after the date hereof as a result of any legal services

or advice it may render to the Buyer Parties in connection with this Agreement, the Transaction Documents, or the transactions contemplated hereby or thereby.

**12.5 Sole Remedy.** Following the Closing, the indemnification provided in this **Article 12** shall be the exclusive remedy and in lieu of any and all other rights and remedies which the Indemnified Parties may have under this Agreement or otherwise against each other with respect to the transactions contemplated hereby for monetary relief with respect to any Breach of any representation or warranty or any failure to perform any covenant or agreement set forth in this Agreement, and each party hereto each expressly waives any and all other rights or causes of action it or its Affiliates may have against the other party or its Affiliates now or in the future under any Law with respect to the subject matter hereof, except in either case for fraud of the other party, the parties' rights to seek specific performance in accordance with **Section 14.13**, or enforcement of the guarantees in **Articles 6** and **7** or in the event the Buyer Parties acquire less than all of the Importer Interest unless such failure to acquire all of the Importer Interest occurs solely as a result of a lender or other Person providing the Financing under the Financing Commitment refusing or being unable to provide such Financing at a time when all conditions precedent set forth in the Financing Commitment to such lender's or other Person's obligation to fund under the Financing Commitment have been satisfied or waived.

**12.6 Adjustments to Losses**.

(a) In calculating the amount of any loss, the proceeds actually received by the Indemnified Party or any of its Affiliates under any insurance policy or pursuant to any claim, recovery, settlement or payment by or against any other Person, in each case relating to any claim for indemnification pursuant to **Section 12.2**, net of any actual costs or expenses incurred in connection with securing or obtaining such proceeds, shall be deducted, except to the extent that the adjustment itself would excuse, exclude or limit the coverage of all or part of such loss. In the event that an Indemnified Party has any rights against a third party with respect to any occurrence, claim or loss that results in a payment by an Indemnifying Party under this **Article 12**, such Indemnifying Party shall be subrogated to such rights to the extent of such payment; provided that until the Indemnified Party recovers full payment of the loss related to any such claim, any and all claims of the Indemnifying Party against any such third party on account of said indemnity payment is hereby expressly made subordinate and subject in right of payment to the Indemnified Party's rights against such third party. Without limiting the generality or effect of any other provision hereof, each Indemnified Party and Indemnifying Party shall duly execute upon request all instruments reasonably necessary to evidence and perfect the subrogation and subordination rights detailed herein, and otherwise cooperate in the prosecution of such claims.

(b) If an Indemnified Party recovers an amount from a third party in respect of a loss that is the subject of indemnification hereunder after all or a portion of such loss has been paid by an Indemnifying Party pursuant to this **Article 12**, the Indemnified Party shall promptly remit to the Indemnifying Party the excess (if any) of (i) the amount paid by the Indemnifying Party in respect of such loss, plus the amount received from the third party in respect thereof, less (ii) the full amount of loss.

(c) Indemnified losses to any Indemnified Party hereunder shall be determined net of the amount of any Tax benefit actually recognized in cash by the Indemnified Party in connection with such indemnified loss or any of the circumstances giving rise thereto.

**12.7 Consequential Damages.** Subject to the next sentence of this **Section 12.7**, no Person shall be liable under this **Article 12** for any consequential, punitive, special, incidental or indirect Damages, including lost profits and diminution in value, except to the extent awarded by a court of competent jurisdiction in connection with a Third Party Claim. Notwithstanding anything to the contrary in this Agreement, including the second sentence of **Section 2.1**, **Section 9.7(e)** or **Section 9.7(f)**, the restriction in the preceding sentence on the right of a party hereunder to recover consequential, punitive, special, incidental and indirect Damages, including lost profits and diminution in value, shall not apply where (a) the Seller Parties fail to sell all of the Importer Interest to the Buyers after all conditions precedent set forth in this Agreement to the Seller Parties' obligations to sell the Importer Interest to the Buyers hereunder have been satisfied or waived unless the Buyer Parties acquire less than all of the Importer Interest pursuant to **Section 9.7(e)** and **Section 9.7(f)** or (b) in the event the Buyer Parties acquire less than all of the Importer Interest unless such failure to acquire all of the Importer Interest occurs to the extent arising as a result of a lender or other Person providing the Financing under the Financing Commitment refusing or being unable to provide such Financing at a time when all conditions precedent set forth in the Financing Commitment to such lender's or other Person's obligation to fund under the Financing Commitment have been satisfied or waived.

**12.8 Accuracy and Compliance.** The right to indemnification or other remedy based on any representations, warranties, obligations, covenants and agreements set forth in this Agreement, including the disclosure schedules hereto, or in any of the other Transaction Documents, will not be affected by any investigation conducted with respect to, or any notice or knowledge acquired (or capable of being acquired) at any time, whether before or after the date hereof or the Closing Date, with respect to the accuracy or inaccuracy of or compliance with, any such representation, warranty, covenant or agreement. The waiver of any condition based on the accuracy of any representation or warranty, or on the performance of or compliance with any covenant or agreement, will not affect the right to indemnification or other remedy based on such representations, warranties, covenants and agreements.

## ARTICLE 13
## TERMINATION OF JOINT VENTURE AGREEMENTS

Effective as of the Closing, the parties hereto agree, on behalf of themselves and each of their Affiliates, that each of the agreements included on **Schedule 13.1** (the "**Terminated Agreements**") shall terminate in its entirety and have no further force and effect without any further action by any party hereto or thereto or any other Person and no party to any such agreement or other Person shall have any further rights or obligations thereunder whatsoever, all effective upon the Closing; **provided**, **that** to the extent that any such terminated agreement had already terminated on or prior to the Closing by its own terms such termination shall continue to be effective pursuant to such terms.

## ARTICLE 14
## GENERAL PROVISIONS

**14.1** **Parties in Interest; Successors and Assigns; No Third Party Rights.** This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns, and, nothing in this Agreement, express or implied, is intended to or shall confer upon any other Person (other than the released parties pursuant to **Section 9.9**, the person to who the guarantees in **Article 6** and **Article 7** are made, and the Indemnified Parties pursuant to **Article 12**) any legal or equitable right, title, privilege, benefit, interest, remedy or claim of any nature whatsoever under or by reason of this Agreement, or any term or provision hereof except that the financing sources under the Financing Commitment shall be considered third party beneficiaries with respect to **Section 9.7(f)** and **Section 14.12**.

**14.2** **Assignment.** This Agreement and the rights, title, privileges, benefits, interests, remedies and obligations hereunder may not be assigned by any party hereto, by operation of Law or otherwise; **provided**, **however**, that a Buyer may (a) assign any or all of its rights, title, privileges, benefits, interests and remedies hereunder to any one or more wholly owned, direct or indirect Subsidiaries of CBI; (b) designate any one or more of wholly owned, direct or indirect Subsidiaries of CBI to perform its obligations hereunder; and (c) assign any or all of its rights, title, privileges, benefits, interests and remedies hereunder to and for the benefit of any lender to CBI for the purpose of providing collateral security; provided further that any such designation or assignment shall not impede or delay the consummation of the transactions contemplated by this Agreement or otherwise impede the rights of ABI under this Agreement and no such assignment or delegation shall relieve the Buyer Parties of any of their obligations hereunder. Any purported assignment of this Agreement in violation of this **Section 14.2** shall be null and void.

**14.3** **Notices.** (a) All notices, demands, requests, or other communications that may be or are required to be given, served, or sent by any party to any other party pursuant to this Agreement shall be in writing and shall be delivered in person, mailed by registered or certified mail, return receipt requested, delivered by a commercial courier guaranteeing overnight delivery, or sent by facsimile (transmission confirmed), addressed as follows:

If to the Buyers or CBI:

Constellation Brands, Inc.
207 High Point Drive
Building 100
Victor, New York 14564
Attn: General Counsel
Telephone: +1 (585) 678-7266
Fax: +1 (585) 678-7103

with a required copy (which copy shall not constitute notice hereunder) to:

Nixon Peabody LLP
1300 Clinton Square

Rochester, New York 14604
Attn: James O. Bourdeau
Telephone: +1 (585) 263-1000
Fax: +1 (585) 346-1600

If to Seller or ABI:

Anheuser-Busch InBev SA/NV
Brouwerijplein 1
Leuven 3000
Belgium
Attn: Chief Legal Officer & Company Secretary
Telephone: +32 16 276942
Fax: +32 16 506699

with a copy (which copy shall not constitute notice hereunder) to:

Sullivan & Cromwell LLP
125 Broad Street
New York, New York 10004
Attn: Frank J. Aquila
George J. Sampas
Krishna Veeraraghavan
Telephone: +1 (212) 558-4000
Fax: +1 (212) 558-3588

Delivery shall be effective upon delivery or refusal of delivery, with the receipt or affidavit of the United States Postal Service or overnight delivery service or facsimile confirmation deemed conclusive evidence of such delivery or refusal. Each party may designate by notice in writing a new address to which any notice, demand, request, or communication may thereafter be so given, served, or sent.

(b) Subject to **Section 9.1**, the parties hereby agree that any and all communications of the Buyer Parties with respect to this Agreement and the transactions contemplated hereby shall be made exclusively with ABI and its designated representatives, and the Buyer Parties shall not, directly or indirectly, contact Grupo Modelo, Seller or any of their controlled Affiliates or any of their respective officers, directors, employees, advisors or other representatives regarding any such matters; **provided**, **however**, that nothing in this **Section 14.3(b)** shall prohibit the Buyer Parties from communicating with Grupo Modelo, Seller or any of their controlled Affiliates or any of their respective officers, directors, employees, advisors or other representatives regarding: (i) the operation of Importer during the period from the date hereof through the Closing; (ii) any communications or notices required pursuant to the LLC Agreement; (iii) the Importer's transition planning regarding the transactions contemplated by this Agreement; and (iv) any public statements or press releases by the Buyer Parties, Seller or the Importer regarding the transactions contemplated by this Agreement to the extent the Buyer Parties have provided a copy of any such public statement or press release to ABI in advance of any communication with Grupo Modelo, Seller or any of their controlled Affiliates.

**14.4 Entire Agreement.** This Agreement (including the schedules and exhibits hereto, which are incorporated into this Agreement by this reference and made a part hereof), the Confidentiality Agreement, dated as of May 26, 2012, by and between CBI, ABI and solely with respect to Section 2 thereof, Grupo Modelo (the "**Confidentiality Agreement**"), and each of the other Transaction Documents, constitute the entire agreement among the parties with respect to the subject matter hereof and thereof, and supersede all prior or contemporaneous agreements and understandings, whether written or oral, among the parties hereto, or any of them, with respect to the subject matter hereof and thereof.

**14.5 Counterparts and Facsimile Signature.** This Agreement may be executed in any number of counterparts, and by the different parties hereto in separate counterparts, each of which when executed shall be deemed to be an original, and all of which, taken together, shall be deemed to constitute one and the same instrument. This Agreement may be executed by facsimile signature.

**14.6 Severability.** If any term or other provision of this Agreement is invalid, illegal or incapable of being enforced under any Law, Order or public policy, all other terms, conditions and provisions of this Agreement shall nevertheless remain in full force and effect. Upon such determination that any term or other provision is invalid, illegal or incapable of being enforced, the parties hereto shall negotiate in good faith to modify this Agreement so as to effect the original intent of the parties as closely as possible in an acceptable manner to the end that the transactions contemplated hereby are fulfilled to the fullest extent possible.

**14.7 Amendment.** Subject to **Section 14.15**, this Agreement may not be amended or modified except by a written instrument, specifically referring to this Agreement and signed by each of the parties hereto.

**14.8 Waiver.** Neither the failure nor any delay of any party to this Agreement to assert or exercise any right, power, privilege or remedy under this Agreement, any of the other Transaction Documents or otherwise, or to enforce any term or provision hereof or thereof, shall constitute a waiver of such right, power, privilege or remedy, and no single or partial exercise of any such right, power, privilege or remedy shall preclude any other or further exercise of such right, power, privilege or remedy or the exercise of any other right, power, privilege or remedy. The rights, powers, privileges and remedies of the parties to this Agreement are cumulative and not alternative. Any waiver of any right, power, privilege or remedy hereunder or under any of the Transaction Documents shall be valid and binding only if set forth in a written instrument specifically referring to this Agreement and signed by the party or parties giving such waiver, and shall be effective only in the specific instance and for the specific purpose for which it is given.

**14.9 Further Assurances.** Each party shall do and perform or cause to be done and performed all further acts and things and shall execute and deliver all further agreements, certificates, instruments and documents as any other party may reasonably request in order to carry out the intent and accomplish the purposes of this Agreement or any of the Transaction Documents and the consummation of the transactions contemplated hereby and thereby. For the avoidance of doubt, Buyer Parties agree that they shall not assert any consent or approval is required by the Buyer Parties or their respective Affiliates in connection with the GM

Transaction or the acquisition of the capital stock of Extrade by ABI or one of its Affiliates in connection with the GM Transaction.

**14.10 Expenses.** The Buyer Parties and Seller Parties shall bear their own respective fees, costs and expenses incurred in connection with this Agreement and the Transaction Documents (including the preparation, negotiation and performance hereof and thereof) and the transactions contemplated hereby and thereby (including fees and disbursements of attorneys, accountants, agents, representatives and financial and other advisors).

**14.11 Governing Law.** This Agreement shall be governed by, and construed in accordance with, the Laws of the State of Delaware without regard to its conflict of laws principles.

**14.12 Submission to Jurisdiction; Service of Process; Waiver of Jury Trial.** THIS AGREEMENT SHALL BE DEEMED TO BE MADE IN AND IN ALL RESPECTS SHALL BE INTERPRETED, CONSTRUED AND GOVERNED BY AND IN ACCORDANCE WITH THE LAW OF THE STATE OF DELAWARE WITHOUT REGARD TO THE CONFLICTS OF LAW PRINCIPLES THEREOF TO THE EXTENT THAT SUCH PRINCIPLES WOULD DIRECT A MATTER TO ANOTHER JURISDICTION. The parties hereby irrevocably submit to the personal jurisdiction of the courts of the State of Delaware and the Federal courts of the United States of America located in the State of Delaware solely in respect of the interpretation and enforcement of the provisions of this Agreement, and in respect of the transactions contemplated hereby, and hereby waive, and agree not to assert, as a defense in any action, suit or Proceeding for the interpretation or enforcement hereof, that it is not subject thereto or that such action, suit or Proceeding may not be brought or is not maintainable in said courts or that the venue thereof may not be appropriate or that this Agreement may not be enforced in or by such courts, and the parties hereto irrevocably agree that all claims relating to such action, Proceeding or transactions shall be heard and determined in such a Delaware State or Federal court. The parties hereby consent to and grant any such court jurisdiction over the person of such parties and, to the extent permitted by Law, over the subject matter of such dispute and agree that mailing of process or other papers in connection with any such action or Proceeding in the manner provided in **Section 14.3** or in such other manner as may be permitted by Law shall be valid and sufficient service thereof. The parties further agree that New York state or United States Federal courts sitting in the Borough of Manhattan, City of New York shall have exclusive jurisdiction over any action brought against any financing source under the Financing Commitment in connection with the transactions contemplated under this Agreement.

**EACH PARTY ACKNOWLEDGES AND AGREES THAT ANY CONTROVERSY WHICH MAY ARISE UNDER THIS AGREEMENT IS LIKELY TO INVOLVE COMPLICATED AND DIFFICULT ISSUES, AND THEREFORE EACH SUCH PARTY HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES ANY RIGHT SUCH PARTY MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT, OR THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT, INCLUDING ANY SUCH CLAIM AGAINST THE FINANCING SOURCES UNDER THE FINANCING COMMITMENT. EACH PARTY CERTIFIES AND ACKNOWLEDGES THAT (i) NO REPRESENTATIVE, AGENT OR ATTORNEY**

**OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER, (ii) EACH PARTY UNDERSTANDS AND HAS CONSIDERED THE IMPLICATIONS OF THIS WAIVER, (iii) EACH PARTY MAKES THIS WAIVER VOLUNTARILY AND (iv) EACH PARTY HAS BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION 14.12.**

**14.13 Specific Performance**.

(a) Each of the parties hereto hereby agree that (i) the Importer Interest is a unique property, and (ii) irreparable damage would occur in the event that any provision of this Agreement was not performed in accordance with its specific terms or was otherwise breached, and that monetary Damages or other legal remedies would not be an adequate remedy for any failure to purchase or sell the Importer Interest or for any such Damages. Accordingly, except as otherwise provided in **Section 12.5 and Section 12.7**, the parties hereto acknowledge and hereby agree that in the event of any Breach or threatened Breach by ABI, on the one hand, or the Buyer Parties, on the other hand, of any of their respective covenants or obligations set forth in this Agreement, ABI, on the one hand, and the Buyer Parties, on the other hand, shall be entitled, in addition to all other remedies available under Law or equity, to an injunction or injunctions to prevent or restrain Breaches or threatened Breaches of this Agreement by the other (as applicable), and to specifically enforce the terms and provisions of this Agreement to prevent Breaches or threatened Breaches of, or to enforce compliance with, the covenants and obligations of the other (as applicable) under this Agreement, and this right shall include the right of ABI to cause CBI to fully enforce the terms of the Financing Commitment, including by requiring CBI to file one or more lawsuits against the lenders party to the Financing Commitment to fully enforce the obligations of such lenders under the Financing Commitment, as well as the right of CBI to cause ABI to cause the Importer Interest to be transferred to Constellation Beers and CBBH upon satisfaction or waiver of all conditions to Seller Parties' obligation to transfer such Importer Interest to Constellation Beers and CBBH.

(b) Each of ABI, on the one hand, and the Buyer Parties, on the other hand, hereby agrees not to raise any objections to the availability of the equitable remedy of specific performance to prevent or restrain Breaches or threatened Breaches of this Agreement by ABI or the Buyer Parties, as applicable, and to specifically enforce the terms and provisions of this Agreement to prevent Breaches or threatened Breaches of, or to enforce compliance with, the covenants and obligations of ABI or the Buyer Parties, as applicable, under this Agreement. Any party seeking an injunction or injunctions to prevent Breaches or threatened Breaches of, or to enforce compliance with, the terms and provisions of this Agreement shall not be required to provide any bond or other security in connection with such Order or injunction. Subject to **Section 12.5 and Section 12.7**, the parties hereto further agree that (x) by seeking the remedies provided for in this **Section 14.13**, a party shall not in any respect waive its right to seek any other form of relief that may be available to a party under this Agreement (including monetary Damages) and (y) nothing set forth in this **Section 14.13** shall require any party hereto to institute any Proceeding for (or limit any party's right to institute any Proceeding for) specific performance under this **Section 14.13** prior or as a condition to exercising any termination right under **Article 11** (and pursuing Damages after such termination), nor shall the commencement of

any legal Proceeding pursuant to this **Section 14.13** or anything set forth in this **Section 14.13** restrict or limit any party's right to terminate this Agreement in accordance with the terms of **Article 11** or pursue any other remedies under this Agreement that may be available then or thereafter.

**14.14 Obligations of ABI and Seller.** Whenever this Agreement requires Seller to take any action, such requirement shall be deemed to include an undertaking on the part of ABI to use reasonable best efforts to cause Seller to take such action (it being understood that ABI shall have no obligation to actually cause Seller to take any action or refrain from taking any action hereunder unless and until the GM Transaction Closing has occurred).

**14.15 Adjustments to Transactions.** The parties hereto acknowledge that it may become necessary or advisable after the date of this Agreement to adjust or modify the structure of the various transactions described in this Agreement and, subject to **Section 9.1**, agree to cooperate in good faith in order to preserve the economic benefits reasonably expected to be achieved by each of the parties hereto and to consider and, to the extent mutually agreed, effectuate the adjustments or modifications reasonably requested by any other party by amending the terms of this Agreement and/or the other Transaction Documents; **provided that**, subject to **Section 9.1**, no such adjustment or modification shall, in any material respect, adversely affect the rights and obligations of any party under this Agreement or disadvantage any party, or reasonably be expected to prevent or materially delay the consummation of the transactions contemplated by this Agreement, and **further provided that**, subject to **Section 9.1**, ABI shall have the right to amend any term or provision of this Agreement or any other Transaction Document with the consent of the Buyer Parties, which consent shall not be unreasonably withheld or delayed (it being agreed and understood that: (a) it would be unreasonable for the Buyer Parties to withhold, delay or condition their consent if any such amendment is beneficial, or not adverse in any respect, to the rights and obligations of the Buyer Parties hereunder or thereunder; (b) if any of the Seller Parties, Extrade or Marcas Modelo relinquishes any right it may have against the Buyer Parties or the Importer hereunder or under the other Transaction Documents, as applicable, or if the economics of this Agreement or any of the other Transaction Documents, as applicable, are modified or supplemented to the benefit of the Buyer Parties or the Importer, as applicable, such changes to this Agreement or such other Transaction Document shall be considered as beneficial, and not adverse, to the rights and obligations of the Buyer Parties or the Importer, as applicable, hereunder or under such other Transaction Document; and (c) it would be reasonable for the Buyer Parties to withhold, delay or condition their consent if any such amendment would be materially adverse to the lenders and other Persons providing the Financing). For the avoidance of doubt, if there is any conflict between the terms of this **Section 14.15** and the terms of **Section 9.1**, the terms of **Section 9.1** shall govern.

**14.16 Confidentiality.** Subject to **Section 14.3(b)**, the terms of the Confidentiality Agreement are incorporated into this Agreement by reference and shall continue in full force and effect until the Closing, at which time the Confidentiality Agreement shall terminate. If, for any reason, the transactions contemplated by this Agreement are not consummated, the Confidentiality Agreement shall nonetheless continue in full force and effect in accordance with its terms.

*[The remainder of this page is intentionally left blank.]*

**IN WITNESS WHEREOF**, the parties hereto have duly caused this Agreement to be executed, as an instrument under seal, as of the date first above written.

**CONSTELLATION BEERS LTD.**

By: /s/ Robert Sands
Name: Robert Sands
Title: President

**CONSTELLATION BRANDS BEACH HOLDINGS, INC.**

By: /s/ F. Paul Hetterich
Name: F. Paul Hetterich
Title: President

**CONSTELLATION BRANDS, INC.**

By: /s/ Robert Sands
Name: Robert Sands
Title: President and CEO

**ANHEUSER-BUSCH INBEV SA/NV**

By: /s/ Thomas Larson /s/ John Blood
Name: Thomas Larson John Blood
Title: Authorized Representative

**Schedule 13.1**

**Terminated Agreements**

1. Agreement to Establish Joint Venture, dated as of the 17th day of July, 2006 and as amended, by and between Barton Beers, Ltd., a corporation incorporated under the laws of the State of Maryland, and Diblo, S.A. de C.V., a sociedad anónima de capital variable organized under the laws of Mexico.

2. Barton Contribution Agreement, dated as of the 17th day of July, 2006 and as amended, by and among Barton Beers, Ltd., Diblo, S.A. de C.V. and Crown Imports LLC.

3. Guarantee of Constellation Brands, Inc., dated July 17, 2006.

4. Letter Agreement dated as of the 17th day of July, 2006, by and between Barton Beers, Ltd., and Diblo, S.A. de C.V.

5. Agreement Regarding Products, dated the 28th day of October, 2010, by and among, Extrade II, S.A. de C.V., Marcas Modelo, S.A. de C.V. and Crown Imports LLC.

6. Administrative Services Agreement, dated the 2nd day of January, 2007, by and between Barton Incorporated and Crown Imports LLC.

7. Interim Management Agreement, dated the 2nd day of January, 2007, by and between Barton Beers, Ltd., and Crown Imports LLC.

8. Employee Services Agreement, dated the 2nd day of January, 2007, by and between Barton Beers, Ltd., and Crown Imports LLC.

**EXHIBIT A**
**TO EXECUTION COPY OF MEMBERSHIP**
**INTEREST PURCHASE AGREEMENT**

# AMENDED AND RESTATED IMPORTER AGREEMENT

**between**

**EXTRADE II, S.A. DE C.V.**

**and**

**CROWN IMPORTS LLC**

**Dated: _____, 20[ ]**

**AMENDED AND RESTATED IMPORTER AGREEMENT**

This Amended and Restated Importer Agreement ("**Agreement**"), dated this ____ day of _____, 20[__], is by and between Extrade II, S.A. de C.V., a sociedad anónima de capital variable organized under the laws of Mexico ("**Extrade II**"), and Crown Imports LLC, a Delaware limited liability company ("**Importer**"), and amends and replaces, in its entirety, that certain Importer Agreement dated the 2nd day of January, 2007, as subsequently amended (the "**Original Agreement**").

**WITNESSETH:**

**WHEREAS,** on July 17, 2006, Diblo, S.A. de C.V., a Mexican variable stock corporation ("**Diblo**"), and Barton Beers, Ltd., a Maryland corporation ("**Barton"**), agreed to establish and engage in a joint venture for the principal purpose of importing, marketing and selling Product (as defined below), and, in connection therewith, on January 2, 2007, they caused to be formed the Importer and caused the Importer and Extrade II to enter into the Original Agreement;

**WHEREAS**, on February 4, 2009, Barton changed its name to Constellation Beers, Ltd.;

**WHEREAS**, on June __, 2012, Anheuser-Busch InBev SA/NV ("**ABI**"), Constellation Brands, Inc. ("**Constellation**"), Constellation Beers, Ltd., and Constellation Brands Beach Holdings, Inc. entered into that certain Membership Interest Purchase Agreement (the "**Membership Interest Purchase Agreement**"), pursuant to which ABI and Constellation agreed, *inter alia*, to amend and restate the Original Agreement as set forth herein.

**NOW, THEREFORE**, in consideration of the promises contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

**ARTICLE I**
**DEFINITIONS**

1.1 For purposes of this Agreement, the following terms have the meanings set forth below:

"**Affiliate**" of any Person means any other Person which, directly or indirectly, controls or is controlled by that Person, or is under common control with that Person. For purposes of this definition, "control" (including, with correlative meaning, the terms "controlled by" and "under common control with"), as used with respect to any Person, shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such Person, whether through the ownership of voting securities, by contract or otherwise. No member of the Modelo Group shall be considered to be an Affiliate of Importer or any of its Affiliates (excluding the Modelo Group), and the Importer and its Affiliates (excluding the Modelo Group) shall not be considered to be Affiliates of any member of the Modelo Group, notwithstanding the ownership by the Modelo Group of any equity interest in Importer.

[****]

"**Barton**" has the meaning assigned to that term in the Recitals.

"**Beer**" means beer, ale, porter, stout, malt beverages, and any other versions or combinations of the foregoing, including, without limitation, non-alcoholic versions of any of the foregoing.

"**Business Day**" means any day, other than Saturday, Sunday or a day on which banking institutions in New York, New York, Chicago, Illinois, or Mexico City, Mexico are authorized or obligated by law to close.

"**CAM**" for any period means gross sales for such period minus wholesaler volume discounts, promotional and other allowances, excise taxes, cost of goods sold, advertising, marketing and non-price promotional expense for such period, in each case calculated in accordance with GAAP and consistent with the illustrative calculation set forth on **Exhibit A** attached hereto. For the avoidance of doubt, if any reduction in gross sales or increase in cost or expense is applicable to the Products, such respective reduction or increase shall reduce CAM, even if not set forth on **Exhibit A**. Such exhibit is included only for purposes of providing an example and if in conflict with the terms of this Agreement, the terms of this Agreement shall govern.

"**Case**" means (1) units aggregating approximately 288 ounces (except with respect to CORONITA in which instance such units shall aggregate approximately 168 ounces) plus (2) their Containers.

"**Change of Control**" means (i) any "person" or "group" (as such terms are used in Section 13(d) and 14(d) of the Exchange Act) that includes a Prohibited Owner becomes the "beneficial owner" (as defined in Rules 13d-3 and 13d-5 under the Exchange Act, except that such person or group shall be deemed to have beneficial ownership of all shares that such person or group has the right to acquire, whether such right is exercisable immediately or only after the passage of time) of all or any portion of any class of capital stock or equity interests (including partnership interests) then outstanding of Importer; provided, that, no person or group that includes a Prohibited Owner shall be considered to be a beneficial owner of any class of capital stock or equity interests (including partnership interests) of Importer solely as a result of being a beneficial owner of Voting Stock of Constellation, (ii) any "person" or "group" (as such terms are used in Section 13(d) and 14(d) of the Exchange Act) that is a Prohibited Owner becomes the beneficial owner, directly or indirectly, of more than fifty percent (50%) of the voting power of the total outstanding Voting Stock of Constellation or (iii) any "person" or "group" (as such terms are used in Section 13(d) and 14(d) of the Exchange Act) that includes a Prohibited Owner becomes a member of Importer.

"**Confidential Information**" means all information and materials regarding the business of either party that are identified in writing as being confidential, including (whether or not



[****] Confidential treatment has been requested for portions of this exhibit. The copy filed herewith omits information subject to the confidentiality request. Omissions are designated with brackets containing asterisks. As part of our confidential treatment request, a complete version of this exhibit has been filed separately with the Securities and Exchange Commission.

identified in writing as being confidential for any of the following) business plans, financial information, historical financial statements, financial projections and budgets, historical and projected sales, pricing strategies and other pricing information, marketing plans, research and consumer insights, capital spending budgets and plans, the names and backgrounds of key personnel, personnel policies, plans, training techniques and materials, organizational strategies and plans, employment or consulting agreement information, customer agreements and information (including for distributors or retailers), names and terms of arrangements with vendors or suppliers, or other similar information. "**Confidential Information**" does not include, however, information which (i) is or becomes generally available to the public other than as a result of a breach by the receiving party of its obligations of confidentiality and non-use set forth herein, (ii) was available to the receiving party or its Affiliates on a non-confidential basis prior to its disclosure by the disclosing party, or (iii) becomes available to the receiving party on a non-confidential basis from a person other than the Importer or any of its Affiliates.

"**Container**" means the bottle, can, keg, or similar receptacle in which Product is directly placed, and the box, carton or similar item in which such receptacle is packaged.

"**Constellation**" has the meaning assigned to that term in the Recitals and shall include any successor thereto.

"**CPA Firm**" has the meaning assigned to that term in **Section 3.4(d)**.

[****]

[****]

[****]

"**Designated Brewery**" means, with respect to any Product, the brewery at which Grupo Modelo produces such Product for sale to Importer.

"**Diblo**" has the meaning assigned to that term in the Recitals.

"**Distributor A&P Fund**" has the meaning assigned to that term in **Section 6.1**.

"**EBIT**" means, for any period,

1. if Importer is operated as a stand-alone business unit of Constellation and engages only in the sale of Beer and directly related activities in the Territory during such period, the CAM for the Import Business for such period minus the product of (i) total SG&A for the Importer for such period, and (ii) the quotient (A) of total aggregate Cases of Product sold by Importer in the Territory during such period and (B) the total aggregate Cases of Beer sold by the Importer in the Territory during such period, or

2. if Importer is operated as a stand-alone business unit of Constellation and engages only in the sale of Beer and other beverages and directly related activities in the Territory during such period, the CAM of the Import Business for such period

minus (a) the product of (i) SG&A (Beer Direct) for such period and (ii) the quotient of (A) total aggregate Cases of Product sold in the Territory during the period and (B) total aggregate Cases of Beer sold in the Territory during the period, minus (b) the product of (ii) the SG&A (Indirect) of Importer during such period and (ii) the quotient of (A) the net revenue of the Import Business during such period and (B) the net revenue of Importer during such period, or

3. if the Import Business is not operated as a stand-alone business unit of Constellation or its other Subsidiaries (as a result of a merger, sale of assets or otherwise), but, rather is combined with other operations of Constellation (such combination the "**Combined Business Unit**"), the CAM of the Import Business for such period minus (a) the product of (i) SG&A (Beer Direct) for such period and (ii) the quotient of (A) total aggregate Cases of Product sold in the Territory during the period and (B) total aggregate Cases of Beer sold in the Territory by the Combined Business Unit during the period, minus (b) the product of (i) the SG&A (Indirect) during such period and (ii) the quotient of (A) the net revenue of the Import Business and (B) the net revenue arising from its sale of beverages in the Territory.

Additionally, EBIT shall be calculated without regard to any material change in Importer's accounting, keeping of books of account or accounting practices from the date hereof and increases in the inventories of Beer held by the wholesalers of Beer in excess of Importer's historic practices, in each case that would otherwise increase EBIT. Services provided by Affiliates of Importer shall be reflected at the fair market value cost thereof in the determination of EBIT. Determination of whether and to what extent a cost and expense is SG&A (Beer Direct) or SG&A (Indirect) shall be fairly determined based on an allocation of whether and to what extent such cost and expense benefits the sale of Beer or other beverages in the Territory. Any depreciation expense related to the Import Business shall be reflected in and reduce EBIT.

An illustrative example of the the EBIT calculation is attached hereto as **Exhibit A-1**. Such exhibit is included only for purposes of providing an example and if in conflict with the terms of this Agreement, the terms of this Agreement shall govern.

"**Exchange Act**" means the Securities Exchange Act of 1934 and the rules of the Securities and Exchange Commission thereunder, in each case, as amended.

"**Extended Storage**" has the meaning assigned to that term in **Section 7.2(b)**.

"**Extrade**" means Extrade, S.A. de C.V., a sociedad anónima de capital variable organized under the laws of Mexico.

"**Extrade II**" has the meaning assigned to that term in the Preamble.

"**Fiscal Year** " means the twelve-month period commencing on March 1 and ending on the last day of February of the next calendar year.

"**FOB**" means "free on board" the Designated Brewery; meaning for purposes of this Agreement that (i) Extrade II shall bear the expense and risk of loss of transporting Product to the Designated Brewery and (ii) that title to Product shall pass from Extrade II to Importer at the Designated Brewery.

"**Force Majeure**" means the inability, after giving effect to the allocation requirements of **Section 4.1**, of Extrade II to supply Product pursuant to **Article IV** as a direct result of: acts of God; strikes or other labor unrest; civil disorder; fire; explosion; perils of the sea; flood; drought; war; riots; sabotage; terrorism; accident; embargo; priority, requisition or allocation mandated by governmental action; changes in laws or regulations, or the enforcement or interpretation thereof, that impair the Production or export of Beer into the Territory; shortage or failure of supply of ingredients or raw materials necessary to produce Product; or other cause beyond control of Extrade II or the Modelo Group. The duration of any Force Majeure occurrence is limited to the period during which Extrade II is unable to supply Product, or make reasonable alternative arrangements to supply Product, due to the event or condition giving rise to such Force Majeure occurrence.

"**GAAP**" means generally accepted accounting principles in the United States of America, consistently applied.

"**Grupo Modelo**" means Grupo Modelo, S.A.B. de C.V., a sociedad anónima de capital variable organized under the laws of Mexico.

"**herein**" and "**hereunder**" refer to this entire Agreement.

"**Import Business**" means importing, marketing and selling the Products and directly related activities in the Territory hereunder.

[****]

"**Importer**" has the meaning assigned to that term in the Preamble.

"**Initial Period**" means the period commencing on the date hereof and ending on [_____].[1]

"**law**", unless otherwise expressly stated in this Agreement, includes statutes, regulations, decrees, ordinances and other governmental requirements, whether federal, state, local or of other authority.

**"Marcas Modelo**" means Marcas Modelo, S.A. de C.V., a sociedad anónima de capital variable organized under the laws of Mexico.

"**Membership Interest Purchase Agreement**" has the meaning assigned to that term in the Recitals.

"**Mexican-style Beer**" means any Beer bearing any trademarks, tradenames or trade dress implying Mexican origin, including, a Mexican name or place. For the avoidance of doubt, merely because a Beer has lime, tequila, mezcal or other flavorings or is a chelada-style Beer does not make that Beer a Mexican-style Beer. For purposes of this Agreement, no Beer sold in the Territory on the date hereof by ABI, Anheuser-Busch Companies, LLC, Anheuser-Busch

[1] **Note to Draft**: Insert the date that is ten years after the date of the execution of this Agreement.

International, Inc., Anheuser-Busch International Holdings, Inc., and any of their respective Affiliates (other than Grupo Modelo and its Subsidiaries) shall be considered to be a Mexican-style Beer even if such Beer satisfies the criteria set forth in the first sentence of this definition.

"**Modelo Group**" means Grupo Modelo and all Persons that, now or in the future, are related to Grupo Modelo by virtue of Grupo Modelo's direct or indirect share ownership, and any Affiliates thereof, and ABI, Anheuser-Busch Companies, LLC, Anheuser-Busch International, Inc., Anheuser-Busch International Holdings, Inc., and any of their respective Affiliates.

"**New Product**" shall mean, as of any date, any Beer (for avoidance of doubt, excluding the Container) which has a formula, recipe, or other physical and sensory aspects that differs from that of each other Product sold prior to such date. For the avoidance of doubt, a New Product may mean either a Beer previously sold in Mexico but not sold hereunder in the Territory or a Beer introduced into the Territory and not previously sold in Mexico and a Beer may be considered to be a New Product even if such Beer is part of the same brand family as an existing Product.

"**New SKU**" shall mean, with respect to any Product for any calendar year, an SKU not used for such Product in the preceding calendar year. If such Product was not sold hereunder in a preceding calendar year, all SKUs applicable to such Product in the succeeding calendar year shall be considered to be New SKUs.

"**Original Agreement**" has the meaning assigned to that term in the Preamble.

"**Permitted Holders**" means (a) Marilyn Sands, her descendants (whether by blood or adoption), her descendants' spouses, her siblings, the descendants of her siblings (whether by blood or adoption), Hudson Ansley, Lindsay Caleo, William Caleo, Courtney Winslow, or Andrew Stern, or the estate of any of the foregoing Persons, or The Sands Family Foundation, Inc., (b) trusts which are for the benefit of any combination of the Persons described in clause (a), or any trust for the benefit of any such trust, or (c) partnerships, limited liability companies or any other entities which are controlled by any combination of the Persons described in clause (a), the estate of any such Persons, a trust referred to in the foregoing clause (b), or an entity that satisfies the conditions of this clause (c).

"**Person**" means any individual, corporation, partnership, limited partnership, limited liability company, joint venture, syndicate, sole proprietorship, a company with or without share capital, unincorporated association, trust, trustee, executor, administrator or other legal representative, regulatory body or agency, government or governmental agency, authority or entity, however designated or constituted.

"**Physical Unit**" means the shipping unit of a Product as set forth or, with respect to New Products, to be set forth on the [****]. For example, the Physical Unit for (a) Corona Extra six pack in cans is four such six-packs of 12 oz. cans, (b) Corona Extra twelve pack bottles is two such twelve packs of 12 oz. bottles, (c) Coronita six pack bottles is four such six-packs of 7 oz. bottles, and (d) Corona Light Quarter-barrel Slim is one such Quarter-barrel Slim.

"**Price**" has the meaning assigned to that term in **Section 5.1**.

[****]

"**Product**" means Beer packaged in Containers bearing one or more of the Trademarks and sold to Importer pursuant to this Agreement.

"**Production**" means the manufacturing, bottling and packaging of Beer.

"**Prohibited Owner**" means Carlsberg Breweries A/S, Heineken Holding NV, SABMiller plc, Molson Coors Brewing Company, Miller Coors LLC, any of their respective controlled Affiliates and any successor of any of the foregoing, or any Person (other than a Subsidiary of Constellation or a Permitted Holder) owning, distributing or brewing Beer brands of which 275 million Cases or more were sold in the Territory during the calendar year ended immediately prior to the determination of whether such Person is a Prohibited Owner.

"**Renewal Period**" means a ten-year period commencing on the first day following the end of either the Initial Period, in the case of the first such Renewal Period, or following the end of any prior Renewal Period, in the case of each Renewal Period thereafter.

"**Requisite Licenses**" has the meaning assigned to that term in **Section 9.1**.

"**Restored Profits Fee**" means an amount equal to thirteen (13) multiplied by EBIT for the twelve (12) month period ending on the last day of the calendar month preceding the date of termination.

"**saleable**" has the meaning assigned to that term in **Section 7.2(b)**.

"**SG&A**" for any period means selling, general and administrative expenses incurred in the Territory during that period determined in accordance with GAAP (including corporate or overhead costs).

"**SG&A (Beer Direct)**" means, with regard to any Person for any period, SG&A directly incurred as a result of or allocable to such Person's business of importing, marketing or selling Beer and directly related activities in the Territory, during such period.

"**SG&A (Indirect)**" means, with regard to any Person for any period, the SG&A directly incurred as a result of or allocable to such Person's business of importing, marketing or selling beverages and directly related activities in the Territory during such period minus SG&A (Beer Direct) for such period minus (to the extent included in SG&A) SG&A (Other Direct) for such period.

"**SG&A (Other Direct)**" means, with regard to any Person for any period, SG&A incurred solely for such Person's businesses other than the business of importing, marketing or selling Beer in the Territory and directly related activities during such period.

"**SKU**" for any Product shall mean the Physical Unit in which it is sold by Extrade II to Importer. Any difference in the Containers for a Product (whether in size, shape or materials), secondary packaging for the Containers, quantities of Containers contained in the secondary packaging, configurations of Containers contained in the secondary packaging or other distinct attributes in a configuration shall be considered to be a separate SKU.

"**Sub-license Agreement**" means the Amended and Restated Sub-license Agreement dated as of the date hereof by and between Importer and Marcas Modelo.

"**Subsidiary**" means, with respect to any Person, a corporation, partnership, joint venture, limited liability company, trust, estate or other Person of which (or in which), directly or indirectly, more than fifty percent (50%) of (a) the issued and outstanding capital stock having ordinary voting power to elect a majority of the board of directors, managers or others performing similar functions of such entity (irrespective of whether at the time capital stock of any other class or classes of such entity shall or might have voting power upon the occurrence of any contingency), (b) the interest in the capital or profits of such partnership, joint venture or limited liability company or other Person or (c) the beneficial interest in such trust or estate is at the time owned by such first Person, or by such first Person and one (1) or more of its other Subsidiaries or by one (1) or more of such Person's other Subsidiaries.

"**Territory**" means the fifty states of the United States of America, the District of Columbia and Guam.

"**Trademarks**" means the trademarks described in **Exhibit B** to this Agreement, as such Exhibit may be amended or supplemented from time to time pursuant to **Section 3.4 or Section 4.10(a)**, together with the trademark rights related thereto referred to in **Section 2.6** of the Sub-license Agreement.

"**unsaleable**" has the meaning assigned to that term in **Section 7.2(b)**.

"**Voting Stock**" means (i) with respect to a corporation, the stock of the class or classes pursuant to which the holders thereof have the general voting power under ordinary circumstances to elect or appoint at least a majority of the board of directors or trustees of such corporation (irrespective of whether or not at the time stock of any other class or classes shall have or might have voting power by reason of the happening of any contingency) and (ii) with respect to a partnership, limited liability company or business entity other than a corporation, the equity interests thereof.

1.2 Construction

(a) Unless the context of this Agreement otherwise requires, (i) words of any gender include each other gender; (ii) words using the singular or plural number also include the plural or singular number, respectively; (iii) the terms "hereof," "herein," "hereby" and derivative or similar words refer to this entire Agreement; (iv) the terms "Article", "Section", "Schedule" or "Exhibit" refer to the specified Article, Section, Schedule or Exhibit of this Agreement, unless otherwise specifically stated; (v) the words "include" or "including" shall mean "include, without limitation" or "including, without limitation;" and (vi) the word "or" shall be disjunctive but not exclusive.

(b) Unless the context otherwise requires, references to agreements and other documents shall be deemed to include all subsequent amendments and other modifications thereto.

(c) Unless the context otherwise requires, references to statutes shall include all regulations promulgated thereunder and, except to the extent specifically provided below, references to statutes or regulations shall be construed as including all statutory and regulatory provisions consolidating, amending or replacing the statute or regulation.

(d) The language used in this Agreement shall be deemed to be the language chosen by the parties to express their mutual intent, and no rule of strict construction shall be applied against any party. This Agreement is the joint drafting product of the parties hereto and each provision has been subject to negotiation and agreement and shall not be construed for or against any party as drafter thereof.

(e) All accounting terms used herein and not expressly defined herein shall have the meanings given to them under GAAP.

(f) All amounts in this Agreement are stated and shall be paid in United States dollars.

## ARTICLE II
## CERTAIN UNDERTAKINGS OF EXTRADE II

Extrade II represents and warrants that (a) Extrade II has and will maintain throughout the term of this Agreement the exclusive right to sell Product for export to the Territory; (b) there is not in effect any agreement between Extrade II and any other person or entity giving any right to any such other person or entity to sell Product in the Territory; (c) Extrade II has the full contractual and corporate power and authority to perform its obligations under this Agreement; and (d) as of the date hereof, Extrade II is a Subsidiary of ABI.

## ARTICLE III
## EXCLUSIVITY

3.1 Subject to the terms of this Agreement, Extrade II hereby grants to Importer the exclusive right within the Territory to sell, including for resale (i) any Beer bearing one or more Trademarks, (ii) any Beer produced in Mexico by Grupo Modelo or any member of the Modelo Group under a brand family that originated in Mexico, whether or not bearing one or more Trademarks, and (iii) any Beer produced, immediately prior to the date hereof, in Mexico by Grupo Modelo and its Subsidiaries (with Subsidiary being determined as of June __, 2012 and not including ABI, Anheuser-Busch Companies, LLC, Anheuser-Busch International, Inc., Anheuser-Busch International Holdings, Inc., or any of their respective Affiliates other than Grupo Modelo and its Subsidiaries), including those Beer brands set forth on **Schedule 3.1**.

3.2 Importer agrees not to sell Product outside the Territory except with the prior written permission of Extrade II. Importer shall use its commercially reasonable efforts to prevent parties purchasing Product directly or indirectly from Importer from reselling such Product outside the Territory or in any manner not authorized by this Agreement.

3.3 Importer agrees that, during the term of this Agreement, neither Importer nor any of its Affiliates shall, without Extrade II's prior written permission, purchase or sell in the Territory any Beer (other than the Product) which is a Mexican-style Beer, whether or not produced in Mexico. Extrade II agrees that neither it nor any member of the Modelo Group will sell in the Territory (other than to Importer) any Beer which is a Mexican-style Beer, whether or not produced in Mexico.

3.4 (a) In the event, during the term of this Agreement, Extrade II or any member of the Modelo Group proposes to initiate a program for the marketing or sale into the Territory, of any Beer produced in Mexico under a brand family that originated in Mexico, or packages or Containers therefor, for which pricing is not set forth on the [****], Extrade II shall give Importer written notice of such proposal not less than [****] before such program is initiated. At the written election of Importer delivered to Extrade II at any time thereafter, provided that such Beer, package or Container has not been discontinued by Extrade II or the applicable member of the Modelo Group prior to Importer's delivery of such written election to Extrade II, the parties shall amend this Agreement to make such Beer, package or Container a Product hereunder by (i) adding pricing for such Product to the [****], which pricing shall equal the [****] for such Product, (ii) adding the identifying mark or marks to **Exhibit B** and to the Sub-license Agreement, (iii) modifying the definition of "**Case**" in **Article I** if necessary, and (iv) if necessary, adding a new definition to **Article I** that describes the unit packaging of such Product if it is not a Case, such as keg or mini-keg, and also modifying the definition of "**Container**" in **Article I** accordingly. Extrade II represents and warrants that it has and will maintain throughout the term of this Agreement the exclusive right to sell such Product for export to the Territory.

(b) In the event, during the term of this Agreement, Extrade II or any member of the Modelo Group plans to use a new trademark on any Product, Extrade II shall give Importer written notice of such plan not less than [****] before implementation thereof and, except where the consent of Importer is otherwise required pursuant to **Section 4.9(b)**, upon the expiration of such [****] period, such Product shall bear such new trademark and the parties shall amend this Agreement to add such new trademark to **Exhibit B** and to the Sub-license Agreement. Where the consent of Importer is required pursuant to **Section 4.9(b)**, then if Importer provides such consent such Product shall bear such new trademark and the parties shall amend this Agreement to add such new trademark to **Exhibit B** and to the Sub-license Agreement.

(c) Subject to the limitations set forth in **Section 4.10(b)**, in the event, during the term of this Agreement, Importer desires to import, market and sell any Beer produced in Mexico under a brand family that originated in Mexico, or packages or Containers therefor, that is marketed or sold by Grupo Modelo or any member of the Modelo Group, for which pricing is not set forth on the [****], then upon written election of Importer delivered to Extrade II, provided that such Beer, package or Container has not been discontinued by Grupo Modelo or the applicable member of the Modelo Group prior to Importer's delivery of such written election to Extrade II, the parties shall amend this Agreement to make such Beer, package or Container a Product hereunder by (i) adding pricing for such Product to the [****], which pricing shall equal

the [****] for such product, (ii) adding the identifying mark or marks to **Exhibit B** and to the Sub-license Agreement, (iii) modifying the definition of "**Case**" in **Article I** if necessary, and (iv) adding a new definition to **Article I** that describes the unit packaging of such Product if it is not a Case, such as keg or mini-keg, and also modifying the definition of "**Container**" in **Article I** accordingly. Extrade II shall label and mark Containers for such Product in English and in conformity with federal, state and local law as advised by Importer pursuant to **Section 9.3**. Extrade II represents and warrants that it has and will maintain throughout the term of this Agreement the exclusive right to sell such Product for export to the Territory.

(d) At the request and sole expense of Importer, upon reasonable advance notice to Importer, Extrade II shall provide Ernst & Young LLP or if Ernst & Young LLP is unable to serve in such a capacity, such other nationally recognized accounting firm reasonably acceptable to Extrade II and Importer (the "**CPA Firm**") with reasonable access to its cost data reasonably necessary to confirm the [****] of any new Product being added to the [****] pursuant to **Section 3.4(a)** or **3.4(c)**. Any such data shall be provided solely to such accounting firm on a clean room basis and such accounting firm shall provide the results of such analysis to Importer and Extrade II, but shall not provide any competitively sensitive data, or any summaries thereof, to Importer or any of its Affiliates.

(e) For the avoidance of doubt, the obligations of Extrade II and the Modelo Group under (i) **Sections 3.1** (except with regard to Beer brands set forth on **Schedule 3.1**), **3.4(a)** and **3.4(c)** shall not apply to a Beer, if such Beer or its brand family was originated outside of Mexico and continues to be brewed, distributed and marketed in its country of origin and (ii) this **Section 3.4** shall not apply to any Beer brand for which any member of the Modelo Group licenses the use of such Beer brand from a Person that is not a member of the Modelo Group and such member of the Modelo Group does not have the right under the license agreement relating to such Beer brand to grant a sublicense or license for such Beer brand in the Territory to any Person that is not a member of the Modelo Group.

## ARTICLE IV
## SUPPLY OF PRODUCT LINE

4.1 Importer shall purchase from Extrade II, and Extrade II shall supply to Importer, such volumes of Product as are required by Importer for importation and sale within the Territory pursuant to this Agreement. In the event members of the Modelo Group from which Extrade II purchases Product do not have sufficient quantities of Beer of the brands subject to this Agreement to supply all their domestic and export customers (including, without limitation, for adequate inventory purposes), allocation of Beer of such brands shall be made no less favorably to Importer (through Extrade II) for importation and sale within the Territory than such brands are made to any other customers of such members of the Modelo Group or markets, including the domestic market of Mexico. In producing and packaging the Products, Extrade II shall comply with its customary and established quality standards.

4.2 All orders for Product under this Agreement shall be made by Importer specifying the type of Product ordered and the quantities thereof. Subject to **Section 4.1** and Force Majeure, each such order shall constitute a binding obligation between Importer and Extrade II

in accordance with the terms of this Agreement five (5) days after receipt thereof by Extrade II on the terms of the order, subject to modifications that the parties agree to within such five-day period.

4.3 EXCEPT AS STATED IN THIS AGREEMENT, EXTRADE II MAKES NO WARRANTY, EXPRESS OR IMPLIED, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, CONCERNING PRODUCT.

4.4 Extrade II will supply Product to Importer FOB the Designated Brewery (whether rail or other transportation as requested by Importer). Subject to Force Majeure, all Product to be supplied to Importer by Extrade II pursuant to an order under **Section 4.2** shall be delivered within thirty (30) days of final Production, and in no event more than thirty (30) days after the end of the calendar month in which such order is to be filled under **Section 4.5**. Importer guarantees to Extrade II the payment of all freight, customs, handling and other charges incurred with respect to Product after delivery to Importer. Extrade II will not charge for packing, boxing or crating a shipment of Product.

4.5 Importer shall use its commercially reasonable efforts to deliver to Extrade II not later than the fifth (5th) working day of each calendar month requests covering, in the aggregate, all Product that Importer wishes to purchase from Extrade II during the succeeding calendar month or, in the case of Negra Modelo and Corona Light, the second succeeding calendar month. To the extent compatible with Importer's resale prospects and each party's obligations under this Agreement, the parties respectively shall use their commercially reasonable efforts to the end that the deliveries contemplated in corresponding orders occur at reasonably uniform volumes and intervals during any Fiscal Year and within each calendar month. Importer shall use its commercially reasonable efforts to maintain adequate inventories and distribution channels to meet its sales responsibilities hereunder without undue pressure on production schedules of the Modelo Group.

4.6 All terms and conditions set forth on any order shall be of no force and effect, other than the type of Product ordered, the quantities ordered and the mode of transportation if other than rail.

4.7 Anything in **Section 4.2** to the contrary notwithstanding, in the event of any conflict between the provisions of any order and the provisions of this Agreement (including without limitation terms of payment and warranties concerning Product), the provisions of this Agreement shall govern.

4.8 In connection with the transportation of Product from the Designated Brewery, Importer shall be responsible for:

(a) Providing Extrade II with such information as may be reasonably required by Grupo Modelo to establish the daily and monthly shipping schedules of Designated Breweries;

(b) Monitoring the performance of the daily and monthly shipment schedules established and furnished to Importer by Extrade II;

(c) Communicating to carriers the volume of Importer's orders theretofore accepted by Extrade II;

(d) Monitoring carriers' adherence to the shipping schedules established by Grupo Modelo;

(e) Assisting Extrade II in complying with requirements established by U.S. federal, state and local government agencies;

(f) In coordination with Extrade II's Export Department, organizing transportation, designating the transport vehicles and equipment required for the Product to be shipped from the Designated Brewery and ordering such vehicles (Importer to be responsible for ordering the transportation and equipment vehicles from the transporter; however, Extrade II to be responsible for (1) scheduling with the transporter times when the transporter will make transportation vehicles and equipment available as ordered by Importer at the Designated Brewery for loading, (2) making Product available for loading at scheduled times and (3) loading Product on the transportation vehicles so ordered by Importer at scheduled times; and Extrade II shall hold Importer harmless with respect to any demurrage or other claims of the transporter against Importer that result from Extrade II not performing any of the actions described in clauses 1, 2 and 3 of this **Section 4.8(f)**);

(g) Processing (with the cooperation of Extrade II, but without cost to, or liability of, Extrade II) insurance and other claims for damage to Product arising after delivery FOB the Designated Brewery (including during any such transportation of such Product after such delivery) and taking the responsibility for destruction of damaged Product in accordance with **Section 7.3**;

(h) Cooperating with Extrade II by providing such other assistance as may be reasonably required to effect the shipment of Product as provided in this Agreement;

(i) Not purporting to act in the name of Extrade II when arranging for transportation of Product; and

(j) Making certain that no employee or other representative of Importer enters a brewery or other facility of a Designated Brewery or Extrade II without use of visitor identification cards issued by such brewery or facility.

4.9 (a) Extrade II shall notify Importer in advance of any changes to the country of origin or, other than de minimis changes, to the appearance, color, alcohol content, carbonation level or taste profile of a Product (which for avoidance of doubt shall include the Container thereof). No such changes shall be permitted if any such change would be reasonably likely to be adversely perceptible, without the prior written consent of Importer, which consent shall not be unreasonably withheld or delayed. If such consent is provided, then Importer shall have the right to use up any inventory of Product having the former appearance, color, alcohol content, carbonation level or taste profile or country of origin. If any such change effected pursuant to this subsection without the prior written consent of Importer is adversely perceptible, Extrade II shall promptly halt such change and resume production of the Product in its prior state. For purposes of **Sections 4.9(a)** and **(b)**, a change shall be considered to be adversely

perceptible if the ordinary average consumer of the Product perceives such change as having a negative effect on the Product.

(b) Extrade II shall notify Importer in advance of any changes to the quality or structural integrity of a Container, other than de minimis changes. No such changes shall be permitted if any such change would be reasonably likely to be adversely perceptible or to adversely affect the quality and condition of the Product upon delivery to Importer or to the ultimate consumer, without the prior written consent of Importer, which consent shall not be unreasonably withheld or delayed. If such consent is provided, then Importer shall have the right to use up any inventory of Product packaged in the former Container. If any such change effected pursuant to this subsection without the prior written consent of Importer is adversely perceptible or adversely affects the quality and condition of the Product upon delivery to Importer or to the ultimate consumer, Extrade II shall promptly halt such change and resume use of the former Containers.

(c) Extrade II shall maintain throughout the term of this Agreement the exclusive right to sell to Importer all Products and shall not discontinue any Product without the prior written consent of Importer, which consent shall not be unreasonably withheld or delayed. Notwithstanding anything to the contrary in the foregoing, Extrade II may discontinue a Product upon at least [****] written notice, without consent of Importer, if the Product is not sold in Mexico and the Product had [****] sales of less than [****] Cases (or if such Product is intended to be sold only in limited regions of the Territory because of regulatory restrictions in such region, for example restrictions relating to the alcohol content of Beer or special deposit requirements, had [****] sales of less than [****] Cases) in the Territory for [****] immediately prior to such discontinuance. If a Product is properly discontinued pursuant to this Section 4.9(c) by Extrade II, then Importer shall have the right to use up any inventory of such discontinued Product.

4.10 (a) On not more than one occasion in each calendar year (but not later than August of the calendar year prior to the calendar year in which Importer proposes to introduce a new or modified Beer product, Container or line extension), Importer may request from Extrade II the development of new or modification of existing Beer products, Containers and line extensions (including, without limitation, [****]). Extrade II will consider in good faith Importer's requests and will use commercially reasonable efforts to accomplish such development and modification, provided such development or modification fits within the then-current production capabilities of Extrade II and the members of the Modelo Group in Mexico. If such development or modification relates to immaterial variations or extensions of the existing Products, the parties acknowledge that the [****] thereof shall reasonably compensate Extrade II for such development or modification. Otherwise, Extrade II's obligations shall require reasonable assurances that the volume of such Products, Containers and line extensions and the aggregate [****] to be received by Extrade II therefrom will provide sufficient margin to reasonably compensate Extrade II for the additional costs and investments to be incurred as a result of such development or modification (with the sufficiency of the margin to be assessed in a manner consistent with which Extrade II evaluates similar opportunities in the ordinary course).

(b) [****]

(c) Nothing in Section 4.10(b) shall limit the obligations of Extrade II to change Containers or the labeling thereof to the extent required to comply with applicable law, including the law of any State in the Territory in which the Products are sold, and any such changes shall not be considered New SKUs for purposes of the limitations in **Section 4.10(b)**.

(d) If Extrade II and Importer mutually agree that any Product shall be reformulated, without changing in material respects its name, label or trade dress, such reformulated Product shall not be considered to be a New Product or New SKU for purposes of **Section 4.10(b)**.

(e) No New SKU or New Product sold in the Territory and initiated by Extrade II pursuant to **Section 3.4(a)** shall reduce the obligations of Extrade II described in **Section 4.10(b)**.

4.11 Extrade II and Importer will cooperate and use commercially reasonable efforts to reduce their mutual costs of production, shipping and handling of the Products, improve timeliness of delivery and freshness of Products delivered to Importer and reduce damage to Products caused during transit from the breweries to Importer.

## ARTICLE V
## PRICING AND PAYMENT PROCEDURES

5.1 As to each Product, the price to be charged by Extrade II (the "**Price**") commencing on the date of this Agreement shall be stated as the "Price" in the [****] for each Physical Unit, which Prices are subject to change as provided in this **Section 5.1**.

Commencing on [****], the Price for each Product (including any Product added herein pursuant to **Section 3.4**) shall be increased or decreased from the Price previously in effect by the [****].

5.2 Except as provided in **Section 5.1**, it is understood that the Price of Products charged by Extrade II shall not otherwise be changed unless mutually agreed by the parties.

5.3 (a) Promptly after effecting a shipment of Product to Importer, Extrade II shall so notify Importer and provide to Importer an invoice for such shipment. Importer having received such invoice from Extrade II shall pay such invoiced price in United States Dollars within forty-five (45) days of receipt of such invoice. Importer shall be entitled to a discount of one percent of the Price for Product if (i) payment for such Product is made by Wednesday following the week in which such Product was shipped and (ii) Extrade II receives the corresponding payment by wire transfer of immediately available funds to a bank account designated by Extrade II. If the Price is not paid on its due date, the unpaid amount shall bear interest from the due date until paid at the rate of 1-1/2% per month or the maximum rate allowed by applicable law, whichever is lower.

(b) [****]

## ARTICLE VI
## PROMOTION AND ADVERTISING

6.1 Importer shall pay all costs of promotion, marketing and advertising activities conducted by Importer in the Territory with respect to the Products. [****]

6.2 Importer shall cause the promotion, marketing and advertising for each Product to be consistent with the requirements set forth in the Sub-license Agreement.

6.3 [****]

## ARTICLE VII
## IMPORTER'S SALES EFFORTS

7.1 With commercially reasonable effort in order to realize the greatest potential in the market, Importer shall (a) cause itself to be fully organized, staffed and structured for efficient sales, accounting and other functions required for Importer's performance of this Agreement, including by contracting with third parties to provide all or some of such functions, in the Importer's sole discretion, (b) establish and maintain an adequate distribution system to sell all Products in the Territory by engaging with wholesalers for such distribution and (c) in determining quantities of Product to be purchased under this Agreement, give due consideration to the need to keep a reasonable stock of Product on hand at all times in order to assure continuous supply to customers, taking into account the geographical location of Importer's and customers' storage facilities and transportation arrangements. Notwithstanding anything to the contrary in this Agreement, Extrade II shall have no right to approve the selection, termination or change of the wholesalers for the Products in the Territory.

7.2 The following provisions shall apply to Product after Production:

(a) Extrade II warrants Product under normal conditions and circumstances to remain suitable for resale and consumption for a period of up to one hundred eighty (180) days from the date of final Production.

(b) As used herein, "**Extended Storage**" means the elapsing of more than thirty (30) days between the date any Product sold under this Agreement reaches its first storage in the United States of America and the date such Product is received by a retailer or other direct purchaser from Importer. Importer acknowledges that it is Extrade II's policy to avoid Extended Storage. To the extent permitted by law Importer shall use commercially reasonable efforts to support said policy. Either party may, at its option and sole expense, at any time, cause J.E. Siebel Sons' Company, Inc. (or any other third-party investigator approved in writing by Extrade II and Importer) to examine samples of any quantity of Product (and the corresponding Containers) sold under this Agreement and in the possession of Importer or any retailer or other purchaser for resale, and to advise Importer and Extrade II in writing whether the Product so examined is suitable for resale and consumption (hereinafter called "**saleable**"). In the event such Product is so determined not to be saleable (hereinafter called "**unsaleable**"):

1. Importer shall, upon written request from Extrade II, and Importer may, upon written notice to Extrade II, arrange for the destruction of such unsaleable Product and replace the same with saleable Product.

2. Extrade II shall bear the cost of any such destruction and cost of replacement of such Product at laid-in cost to Importer, to the extent such Product is unsaleable due to a breach of Extrade II's warranty in **Section 7.2(a)**.

3. In the event Extrade II requests such destruction and the Product is not unsaleable due to a breach of Extrade II's warranty in **Section 7.2(a)**, then Importer shall bear the cost of such destruction and replacement.

7.3 In the event Product or a Container is damaged in transit after same is delivered FOB the Designated Brewery for a period up to one hundred eighty (180) days from the date of final Production, whether prior to or after the time same leaves Mexico, Importer shall so inform Extrade II and shall cooperate with Extrade II as to (1) whether the corresponding Product or Container should be destroyed because the damage has rendered the Product or Container unsaleable, and, if so, (2) the time, place and manner of such destruction, provided that Extrade II shall indemnify Importer for any losses, costs or expenses incurred by Importer relating to any such destruction not covered by insurance.

7.4 If Importer destroys any Product pursuant to **Section 7.2** or **7.3**, an authorized officer of Importer shall execute and deliver to Extrade II a certificate in the form of **Exhibit C** certifying as to such destruction, and Extrade II shall cooperate with Importer to accomplish any such destruction but, except as otherwise provided in **Section 7.2(b)**, Importer shall be responsible for all costs of such destruction. In addition, any insurance policy of Importer covering Product shall require the insurer issuing such policy not to take any action inconsistent with the terms of **Sections 7.2** and **7.3**. Upon obtaining any such insurance policy, Importer shall promptly furnish Extrade II with a copy of the same.

## ARTICLE VIII
## REPORTS

8.1 Importer shall deliver to Extrade II the following:

(a) Not later than sixty (60) days prior to the beginning of each Fiscal Year, a Forecast Report in the electronic form customarily provided by Importer to Extrade II indicating by calendar months the purchases of Product Importer expects to make during such year under this Agreement by brand, label, package and any other distinguishing presentation required by governmental authorities.

(b) Not later than thirty (30) days prior to the beginning of each calendar month, a Forecast Report Update in the electronic form customarily provided by Importer to Extrade II updating, for the calendar months remaining in such year, the Forecast Report originally delivered for the corresponding Fiscal Year.

8.2 Importer shall deliver each report required by **Section 8.1** by such means of electronic transmission or delivery as Extrade II may reasonably request from time to time.

8.3 No such Forecast Report or Forecast Report Update shall constitute an offer or obligation of Importer to purchase Product. No receipt of a Forecast Report or Forecast Report Update shall constitute an acceptance or obligation of Extrade II to sell Product.

8.4 Extrade II may at its own expense, upon reasonable advance notice to Importer, through accountants or other representatives designated by Extrade II for such purposes, enter during normal business hours any storage facility or business office owned or controlled by Importer and examine such facilities, inventories and that portion of the books and records of Importer needed to determine the accuracy of any report delivered under, or compliance by Importer with, this Agreement or in connection with the calculation of the Restored Profits Fee. In addition to the rights set forth in **Section 3.4(d)**, Importer may at its own expense, upon reasonable advance notice to Extrade II, through accountants or other representatives designated by Importer for such purposes, enter during normal business hours any storage or production facility or business office owned or controlled by Extrade II and examine such facilities, inventories and that portion of the books and records of Extrade II needed to determine compliance by Extrade II with this Agreement; provided that any such access on behalf of Extrade II or Importer to confidential information, data and work papers shall be provided solely to such accounting firm on a clean room basis and such accounting firm shall not have the right to provide any such confidential information, or any summaries thereof, to Importer or Extrade II, as the case may be, or any of its Affiliates.

8.5 (a) Unless otherwise agreed to in writing by the Importer, Extrade II agrees (and Extrade II agrees to cause its Affiliates) (a) to keep confidential all Confidential Information of the Importer and not to disclose or reveal any of such Confidential Information to any person other than (i) those directors, officers, employees, stockholders, legal counsel, accountants, and other agents of Extrade II or its Affiliates who are actively and directly participating in the performance of the obligations and exercise of the rights of Extrade II under this Agreement, and (b) not to use Confidential Information of the Importer for any purpose other than in connection with the performance of the obligations and exercise and enforcement of the rights of Extrade II hereunder. The obligation to maintain confidentiality of and restrictions on the use of Confidential Information hereunder, shall include with respect to any Confidential Information obtained by Extrade II and its Affiliates prior to the date hereof.

(b) If Extrade II is required by law, court order or government order or regulation to disclose Confidential Information, Extrade II shall provide notice thereof to Importer and, after consultation with Importer and, at the sole cost and expense of Importer, reasonably cooperating with Importer to object to or limit such disclosure, shall be permitted to disclose only that Confidential Information so required to be disclosed.

8.6 Unless otherwise agreed to in writing by the Extrade, Importer agrees (and Importer agrees to cause its Affiliates) (a) to keep confidential all Confidential Information of Extrade II and the Modelo Group and not to disclose or reveal any of such Confidential Information to any person other than (i) those directors, officers, employees, stockholders, legal counsel, accountants, and other agents of Importer or its Affiliates who are actively and directly participating in the performance of the obligations and exercise of the rights of Importer under this Agreement, and (b) not to use Confidential Information of Extrade II and the Modelo Group for any purpose other than in connection with the performance of the obligations and exercise

and enforcement of the rights of Importer hereunder. The obligation to maintain confidentiality of and restrictions on the use of Confidential Information hereunder, shall include with respect to any Confidential Information obtained by Importer prior to the date hereof.

(b) If Importer is required by law, court order or government order or regulation to disclose Confidential Information, Importer shall provide notice thereof to Extrade II and, after consultation with Extrade II and, at the sole cost and expense of Extrade II, reasonably cooperating with Extrade II to object to or limit such disclosure, shall be permitted to disclose only that Confidential Information so required to be disclosed.

## ARTICLE IX
## COMPLIANCE WITH LAWS

9.1 During the term of this Agreement, Importer shall obtain and maintain in good standing, or otherwise have valid access to, all U.S. (federal and state) licenses required for the performance of this Agreement by Importer, including without limitation all licenses required for the importation or sale of Product in the Territory ("**Requisite Licenses**"). Within thirty (30) days after the amendment, loss or new issuance of any Requisite License (other than ordinary course annual or other renewals or amendments), Importer shall deliver to Extrade II written notice thereof.

9.2 Importer agrees (a) to comply with all laws applicable to the selling of Product, including, without limitation, those relating to labels and identifying marks on Containers, and to comply with the Foreign Corrupt Practices Act and similar laws applicable to Importer or the Import Business and (b) not to commit any act that will subject Extrade II to any civil, criminal, or other liability. Importer agrees to indemnify and hold Extrade II harmless with respect to any breach by Importer of the preceding sentence.

9.3 As regards laws relating to labels or other identifying marks on Containers supplied by Extrade II, Importer shall be deemed to have fully satisfied Importer's obligations if, within a reasonable period prior to Extrade II's shipment of Product identified by any new form of label or mark, Importer obtains approval of the labels or marks to be used on such Container and advises Extrade II fully and correctly in writing of all requirements of corresponding law. After receipt from Importer of such written advice, Extrade II shall be responsible for the labeling and marking of Containers in conformity with such advice.

9.4 As and when requested by Importer, Extrade II shall use its commercially reasonable efforts to sign and deliver to Importer such documents as Importer requires for filing with governmental authorities to comply with laws applicable to the importation or sale of Product.

9.5 Extrade II and Importer agree that the federal and state laws governing the rights and obligations of brewers or suppliers of Beer and their wholesalers shall not apply as between themselves in connection with the transactions described herein.

## ARTICLE X
## INDEMNIFICATION AND INSURANCE

10.1 Importer agrees to indemnify and hold harmless Extrade II from and against any and all claims, losses, liabilities, costs and expenses (including reasonable fees and disbursements of attorneys) arising out of (a) any act or omission of Importer in connection with the marketing, importation or sale of Product, including but not limited to those based on or resulting from damages or injury actually or allegedly caused to the persons or property of third parties by reason of any actual or alleged defect in Product, or in the labeling or packaging thereof, occurring after delivery of Product to Importer pursuant to this Agreement and (b) any resale of any damaged or unsaleable Product by Importer. Extrade II agrees to indemnify and hold harmless Importer from and against, any and all claims, losses, liabilities costs and expenses (including reasonable fees and disbursements of attorneys) arising (a) out of any failure to label and mark Containers supplied by Extrade II in conformity with law, (b) out of any actual or alleged defect in the manufacture of Product or Containers supplied by Extrade II, including but not limited to those based on or resulting from damages actually or allegedly caused to persons or the property of third parties by reason of any such failure or defect, (c) out of the marketing, importation or sale of the Product after any termination of this Agreement and (d) out of any claim by any wholesaler or distributor of the Products due to the decision of Extrade II or any succeeding importer not to renew the rights of such wholesaler or distributor to distribute Products after the effective date of any termination of this Agreement. The provisions of this **Section 10.1** shall survive the expiration or other termination of this Agreement with respect to any claim, loss, liability, cost or expense, whenever incurred or asserted, arising out of any act, omission or condition that preceded such expiration or termination.

10.2 Importer represents to Extrade II that (a) Importer shall maintain at all times during the term of this Agreement with a reputable insurance company domiciled in the United States of America a multiperil policy covering (subject to customary deductibles) liability to third parties for personal injury in such amounts (both aggregate and per occurrence) as may be customary in the Beer industry in the United States of America, but not less than $10,000,000.00, and for property damage in such amounts (both aggregate and per occurrence) as may be customary in the Beer industry in the United States of America, but not less than $10,000,000.00, arising from the importation and sale of Product under this Agreement, together with excess liability insurance, in umbrella form, with limits of at least $5,000,000 for each occurrence with no aggregate limit, and (b) Importer will maintain such policy naming Extrade II as an additionally insured party (or a replacement insurance policy providing no less coverage which is obtained from a reputable insurance company domiciled in the United States of America) in effect so long as this Agreement remains in force.

10.3 Extrade II represents to Importer (a) that Extrade II shall maintain at all times during the term of this Agreement with a reputable insurance company similar insurance covering (subject to customary deductibles) liability to third parties for personal injury in such amounts (both aggregate and per occurrence) as may be customary in the Beer industry in Mexico, but not less than $10,000,000.00, and for property damage in such amounts (both aggregate and per occurrence) as may be customary in the Beer industry in Mexico, but not less

than $10,000,000.00, arising from the importation and sale of Product under this Agreement, together with excess liability insurance, in umbrella form, with limits of at least $5,000,000 for each occurrence with no aggregate limit, and (b) that Extrade II will maintain such policy naming Importer as an additionally insured party (or a replacement insurance policy providing no lesser coverage which is obtained from a reputable insurance company) in effect so long as this Agreement remains in force.

10.4 With respect to the insurance described in **Sections 10.2** and **10.3**, (a) each party shall pay all costs and expenses of the insurance it carries, and (b) each party shall promptly deliver to the other, at the request of the other, a copy of the insurance policies and other documentation evidencing compliance with such party's obligations to maintain such insurance.

## ARTICLE XI
## TERM; TERMINATION

11.1 The term of this Agreement shall commence on the date hereof and shall continue in perpetuity until terminated pursuant to **Sections 11.3** or **11.4**. For avoidance of doubt, except for the right to terminate this agreement pursuant to **Sections 11.3** and **11.4**, the parties intend that the term of this Agreement be perpetual, terminable only upon strict compliance with the provisions hereof, and, notwithstanding Section 2-309 of the New York Uniform Commercial Code, not intended to be valid merely for a reasonable time.

11.2 The parties acknowledge and agree that, except as otherwise set forth in **Sections 11.3** and **11.4**, Extrade II shall have no right to terminate this Agreement notwithstanding any breach of this Agreement by Importer.

11.3 (a) In the event that Importer fails to make a material payment under **Section 5.3**, Extrade II may terminate this Agreement by written notice to Importer, provided Extrade II gives Importer prior written notice of such failure and such failure continues for more than sixty (60) days after giving such notice to Importer.

(b) In the event (i) Importer makes a general assignment for the benefit of creditors (as such term is specifically understood in the context of an alternative to a proceeding in bankruptcy, and not in the general sense with relation to assignments of assets to creditors as collateral or securitization for financing or the like) or commences a voluntary case or proceeding or consents to or acquiesces in the entry of an order for relief against itself in an involuntary case or proceeding under any bankruptcy, reorganization, insolvency or similar law; (ii) a trustee or receiver or similar officer of any court is appointed for Importer or for a substantial part of the property of Importer; or (iii) if bankruptcy, reorganization, insolvency or liquidation proceedings are instituted against Importer without such proceedings being dismissed within 60 days from the date of the institution thereof, then in each such case this Agreement shall immediately terminate without requirement of notice to Importer.

11.4 (a) At any time during the thirteenth (13th) calendar month prior to the end of (i) the Initial Period or (ii) any Renewal Period, Extrade II shall have the right at its option to deliver to Importer a termination notice to terminate this Agreement. Any such termination shall be effective on the last day of the Initial Period or Renewal Period, as the case may be.

(b) Within ninety (90) days after a Change of Control, Extrade shall have the right at its option to deliver a termination notice to terminate this Agreement and specifying the date of termination of this Agreement, which date shall be not less than thirty (30) nor more than sixty (60) days from the date of such notice and upon which date such termination shall be effective.

(c) If Importer has not cured the material failure within the sixty (60) day period described in **Section 11.3(a)**, and if Extrade II determines to terminate this Agreement pursuant to **Section 11.3(a)**, it shall do so by means of a notice of termination delivered in writing to Importer, which notice shall set forth a Business Day for the effective date of such termination, which date shall be not less than thirty (30) nor more than sixty (60) days from the date such notice of termination is delivered to Importer.

(d) Upon termination of this Agreement pursuant to **Section 11.4(a)** or **(b)**, Extrade II shall pay Importer a termination fee equal to the Restored Profits Fee. The entire Restored Profits Fee shall be delivered without set-off to Importer, or its designee, in cash, by wire transfer of immediately available funds, in United States dollars, to an account designated by Importer or its designee.

11.5 Subject to Importer's rights under Section 2.7 of the Sub-license Agreement, which shall be given precedence, if this Agreement is terminated for any reason, Importer agrees (provided such use is legal) that Extrade II may use Containers and labels theretofore manufactured showing Importer as the importer, either "as is" or with such changes as are necessary to make such use legal, until Extrade II's inventories of such Containers and labels are used up; and Importer agrees to sign all documents that may be necessary for such purpose.

## ARTICLE XII
## GOVERNING LAW

This Agreement shall be governed by and construed in accordance with the laws of the State of New York, without reference to its principles of conflicts of laws that would require application of the substantive laws of any other jurisdiction. Importer and Extrade II agree that the International Convention on the Sale of Goods shall not apply to this Agreement. Importer and Extrade II irrevocably consent to the exclusive personal jurisdiction and venue of the courts of the State of New York or the federal courts of the United States, in each case sitting in New York County, in connection with any action or proceeding arising out of or relating to this Agreement. Importer and Extrade II hereby irrevocably waive, to the fullest extent permitted by law, any objection that it may now or hereafter have to the laying of the venue of such action or proceeding brought in such a court and any claim that any such action or proceeding brought in such court has been brought in an inconvenient forum. Importer and Extrade II irrevocably consent to the service of process with respect to any such action or proceeding in the manner provided for the giving of notices under **Section 13.4**, provided, the foregoing shall not affect the right of either Importer or Extrade II to serve process in any other manner permitted by law. Importer and Extrade II hereby agree that a final judgment in any suit, action or proceeding shall be conclusive and may be enforced in any jurisdiction by suit on the judgment or in any manner provided by applicable law.

## ARTICLE XIII
## MISCELLANEOUS

13.1 Neither party may assign any right under this Agreement without the prior written consent of the other party, provided, that (i) Importer may assign this Agreement and its rights and obligations hereunder to any Subsidiary of Constellation who agrees in writing to be bound by all terms and conditions of this Agreement and in that event such assignee shall be deemed to be Importer for all purposes of this Agreement and (ii) Extrade II may assign this Agreement and its rights and obligations hereunder to any Subsidiary of Anheuser-Busch InBev SA/NV and in that event such assignee shall be deemed to be Extrade II for all purposes of this Agreement. Any purported assignment not in strict compliance with the preceding sentence shall be null and void and of no force and effect. Subject to the foregoing, this Agreement shall be binding upon and shall inure to the benefit of the parties and their respective successors and assigns.

13.2 The captions used in this Agreement are for convenience of reference only and shall not affect any obligation under this Agreement.

13.3 This Agreement may be executed in counterparts, each of which when so executed and delivered shall be deemed an original, and such counterparts, taken together, shall constitute one and the same instrument. Signatures sent by facsimile shall constitute and be binding to the same extent as originals. This Agreement may not be amended except by an instrument in writing signed by both parties.

13.4 Any notice, claims, requests, demands, or other communications required or permitted to be given hereunder shall be in writing and will be duly given if: (a) personally delivered, (b) sent by facsimile or (c) sent by Federal Express or other reputable overnight courier (for next Business Day delivery), shipping prepaid as follows:

| | |
|---|---|
| If to Importer: | Crown Imports LLC<br>One South Dearborn St, Suite 1700<br>Chicago, IL 60603<br>Attention: President<br>Telephone: +1 (312) 873-9600<br>Facsimile: +1 (312) 346-7488 |
| With a copy to (which copy shall not serve as notice hereunder): | Constellation Brands, Inc.<br>207 High Point Drive, Building 100<br>Victor, New York 14564<br>Attention: General Counsel<br>Telephone: +1 (585) 678-7266<br>Facsimile: +1 (585) 678-7103 |
| With a second copy to (which copy shall not serve as notice | Nixon Peabody LLP<br>1300 Clinton Square<br>Rochester, NY<br>Attention: James O. Bourdeau |

| | |
|---|---|
| hereunder): | Telephone: +1 (585) 263-1000<br>Facsimile: +1 (585) 346-1600 |
| If to Extrade II: | Extrade II, S.A. de C.V.<br>Av. Javier Barnos Sierra<br>555-3 Piso<br>Col. Santa Fe<br>01210 Mexico, D.F.<br>Attention: General Counsel<br>Telephone: + (5255) 2266-0000<br>Facsimile: + (5255) 2266-0000 |
| With a copy to (which copy shall not serve as notice hereunder): | Anheuser-Busch InBev<br>Brouwerijplein 1<br>Leuven 3000<br>Belgium<br>Attention: Chief Legal Officer and Company Secretary<br>Telephone: + 32 16 27 69 42<br>Facsimile: + 32 16 50 66 99 |
| With a second copy to (which copy shall not serve as notice hereunder): | Sullivan & Cromwell LLP<br>125 Broad Street<br>New York, New York 10004<br>Attention: Frank J. Aquila<br>George J. Sampas<br>Krishna Veeraraghavan<br>Telephone: +1 (212) 558-4000<br>Facsimile: +1 (212) 558-3588 |

or such other address or addresses or facsimile numbers as the person to whom notice is to be given may have previously furnished to the others in writing in the manner set forth above. Notices will be deemed given at the time of personal delivery, if sent by facsimile, when sent with electronic notification of delivery or other confirmation of delivery or receipt, or, if sent by Federal Express or other reputable overnight courier, on the day of delivery.

13.5 This Agreement and the various Schedules and Exhibits thereto, and the Membership Interest Purchase Agreement, the Sub-license Agreement and the Restated LLC Agreement (as defined in the Membership Interest Purchase Agreement and solely to the extent Constellation Beers, Ltd. and Constellation Brands Beach Holdings, Inc. do not acquire all of the Importer Interest (as defined in the Membership Interest Purchase Agreement) as of the date hereof and a member of the Modelo Group owns a portion of the Importer Interest as of the date hereof), embody all of the understandings and agreements of every kind and nature existing between the parties hereto with respect to the transactions contemplated hereby, and supersede all prior discussions, negotiations and agreements between the parties concerning the subject matter thereof.

13.6 To the extent that any provision of this Agreement is invalid or unenforceable in the Territory or any state or other area of the Territory, this Agreement is hereby deemed modified to the extent necessary to make it valid and enforceable within such state or area, and the parties shall promptly agree in writing on the text of such modification.

13.7 The parties acknowledge that a breach or threatened breach by them of any provision of this Agreement will result in the other entity suffering irreparable harm which cannot be calculated or fully or adequately compensated by recovery of damages alone. Accordingly, the parties agree that any party may, in its discretion (and without limiting any other available remedies), apply to any court of law or equity of competent jurisdiction for specific performance and injunctive relief (without necessity of posting a bond or undertaking in connection therewith) in order to enforce or prevent any violations of this Agreement, and any party against whom such proceeding is brought hereby waives the claim or defense that such party has an adequate remedy at law and agrees not to raise the defense that the other party has an adequate remedy at law. The failure of either party at any time to require performance of any provision of this Agreement shall in no manner affect such party's right to enforce such provision at any later time. No waiver by any party of any provision, or the breach of any provision, contained in this Agreement shall be deemed to be a further or continuing waiver of such or any similar provision or breach.

13.8 This Agreement is binding upon and shall inure to the benefit of the parties hereto and their successors and permitted assigns. Nothing in this Agreement shall give any other Person any legal or equitable right, remedy or claim under or with respect to this Agreement or the transactions contemplated hereby.

13.9 The Original Agreement shall be deemed amended and restated in its entirety as of the date hereof by this Agreement and the Original Agreement shall thereafter be of no further force and effect except to evidence any rights and obligations of the parties or action or omission performed or required to be performed pursuant to such Original Agreement prior to the date hereof.

[Signature page follows]

**IN WITNESS WHEREOF**, the parties have executed this Agreement on the date first written above.

**EXTRADE II, S.A. DE C.V.**

By: _____
Name:
Title:

**CROWN IMPORTS LLC**

By: _____
Name:
Title:

**[Signature Page to Importer Agreement]**

## SCHEDULE 3.1

[****]

[****] Confidential treatment has been requested for portions of this exhibit. The copy filed herewith omits information subject to the confidentiality request. Omissions are designated with brackets containing asterisks. As part of our confidential treatment request, a complete version of this exhibit has been filed separately with the Securities and Exchange Commission.

## EXHIBIT A

## Sample CAM Calculation

[****]

[****] Confidential treatment has been requested for portions of this exhibit. The copy filed herewith omits information subject to the confidentiality request. Omissions are designated with brackets containing asterisks. As part of our confidential treatment request, a complete version of this exhibit has been filed separately with the Securities and Exchange Commission.

**EXHIBIT A-1**

**EXAMPLE OF EBIT CALCULATION**

A1-1

# Exhibit A-1

| | All Beer<br>Scenario 1 | Beer & Other Bev<br>Scenario 2 | Consol into CBI<br>Scenario 3 |
|---|---|---|---|
| Beer Cases | 100,000 A | 100,000 A | 100,000 A |
| Product Cases | 90,000 B | 90,000 B | 90,000 B |
| Products Revenue | 1,350,000 | 1,350,000 C | 1,350,000 C |
| Beer Revenue | 1,800,000 | 1,800,000 | 1,800,000 |
| Non-Beer Beverage Revenue | - | 2,000,000 | 3,750,000 |
| Non-Beverage Revenue | - | - | 250,000 D |
| Total Revenue | 1,800,000 | 3,800,000 D | 5,800,000 E |
| **SG&A** | **100,000 C** | **125,000** | **250,000** |
| Beer Direct | 15,000 | 15,000 **E** | 15,000 **F** |
| Other Direct | - | 20,000 | 10,000 |
| Indirect | 85,000 | 90,000 F | 225,000 H |
| **Products EBIT Calculation** | | | |
| CAM | 607,500 | 607,500 | 607,500 |
| SG&A | (90,000) | | |
| Direct SG&A | - | (13,500) | (13,500) |
| Indirect SG&A | - | (31,974) | (54,730) |
| **EBIT Calculation** | **517,500** | **562,026** | **539,270** |
| SG&A | C/A*B | n/a | n/a |
| Direct SG&A | n/a | E/A*B | F/A*B |
| Indirect SG&A | n/a | F*(C/D) | H*(C/(E-D)) |

**EXHIBIT B**

**TRADEMARKS**

| Mark | Registration No. | Date Registered |
|---|---|---|
| Crown & Griffins Design | 1,462,155 | Oct. 20, 1987 |
| Crown Design | 3,048,028 | Jan. 24, 2006 |
| La Cerveza Mas Fina Design | 1,495,289 | July 5, 1988 |
| CORONA | 3,388,558 | Feb. 26, 2008 |
| CORONA & Design | 1,689,218 | May 26, 1992 |
| CORONA (Stylized) | 1,681,366 | March 31, 1992 |
| CORONA EXTRA | 3,388,566 | Feb. 26, 2008 |
| CORONA EXTRA & Design | 1,729,694 | Nov. 3, 1992 |
| CORONA EXTRA (Stylized) | 1,681,365 | March 31, 1992 |
| CORONA LIGHT | 3,605,139 | Apr. 14, 2009 |
| CORONA LIGHT & Design | 1,727,969 | Oct. 27, 1992 |
| CORONA LIGHT & Design | 2,406,232 | Nov. 21, 2000 |
| CORONITA EXTRA | 1,729,701 | Nov. 3, 1992 |
| CORONITA EXTRA & Design | 1,761,605 | March 30, 1993 |
| CROWN IMPORTS | 3,584,879 | March 3, 2009 |
| CROWN IMPORTS & Design | 3,581,601 | Feb. 24, 2009 |
| MODELO | 1,022,817 | Oct. 14, 1975 |
| MODELO LIGHT | 3,183,378 | Dec. 12, 2006 |
| MODELO LIGHT & Design | 3,210,796 | Feb. 20, 2007 |
| MODELO ESPECIAL | 1,055,321 | Dec. 28, 1976 |

| | | |
|---|---|---|
| MODELO ESPECIAL & Design | 3,576,774 | Feb. 17, 2009 |
| MODELO ESPECIAL & Design | 4,060,986 | Nov. 22, 2011 |
| MODELO ESPECIAL & Design | 4,115,677 | March 20, 2012 |
| NEGRA MODELO | 1,217,760 | Nov. 23, 1982 |
| NEGRA MODELO & Design | 3,567,209 | Jan. 27, 2009 |
| PACIFICO | 1,726,063 | Oct. 20, 1992 |
| PACIFICO & Design | 3,589,696 | March 17, 2009 |
| PACIFICO CLARA | 2,866,272 | July 27, 2004 |
| King Design (for Victoria product) | 4,146,769 | May 22, 2012 |
| Miscellaneous Design (for the Victoria product) | 4,146,767 | May 22, 2012 |
| Miscellaneous Design (for the Victoria product) | 4,416,768 | May 22, 2012 |
| **Mark** | **Application Number** | **Application Date** |
| VICTORIA & Design | 85/469396 | Nov. 10, 2011 |

**EXHIBIT C**

CERTIFICATE OF OFFICER

All capitalized terms herein are used as defined in the Importer Agreement between Extrade II, S.A. de C.V. and Crown Imports LLC, dated [_____], 20[_] ( the "Agreement"). The undersigned, _____, does hereby certify that he is the duly elected and presently incumbent _____ of Crown Imports LLC, and that as such he is familiar with the facts herein certified and is duly authorized to execute the certificate on behalf of Crown Imports LLC, and does hereby further certify that:

1. Pursuant to Section 7.2 and Section 7.3 of the Agreement, Shipment No. _____ of Product, which was determined to be unsaleable on _____ by _____, was destroyed on _____.

IN WITNESS WHEREOF, the undersigned has executed this certificate this _____ day of _____, _____.

_____

Name:
Title:

# EXHIBIT D

[****]

[****] Confidential treatment has been requested for portions of this exhibit. The copy filed herewith omits information subject to the confidentiality request. Omissions are designated with brackets containing asterisks. As part of our confidential treatment request, a complete version of this exhibit has been filed separately with the Securities and Exchange Commission.

## EXHIBIT D-1

## EXAMPLE OF QUARTERLY FREIGHT ADJUSTMENT

[****]

[****] Confidential treatment has been requested for portions of this exhibit. The copy filed herewith omits information subject to the confidentiality request. Omissions are designated with brackets containing asterisks. As part of our confidential treatment request, a complete version of this exhibit has been filed separately with the Securities and Exchange Commission.

**EXHIBIT B**
**TO EXECUTION COPY OF MEMBERSHIP**
**INTEREST PURCHASE AGREEMENT**

# AMENDED AND RESTATED SUB-LICENSE AGREEMENT

**between**

**MARCAS MODELO, S.A. DE C.V.**

**and**

**CROWN IMPORTS LLC**

**Dated: _____, 201[—]**

**AMENDED AND RESTATED SUB-LICENSE AGREEMENT**

This Amended and Restated Sub-license Agreement ("**Agreement**"), dated this _____ day of _____, 201**[•]**, is by and between Marcas Modelo, S.A. de C.V., a sociedad anónima de capital variable organized under the laws of Mexico ("**Marcas Modelo**"), and Crown Imports LLC, a Delaware limited liability company ("**Importer**"), and amends and replaces, in its entirety, that certain Sublicense Agreement dated the 2nd day of January, 2007, as subsequently amended (the "**Original Agreement**").

**WITNESSETH:**

**WHEREAS,** on July 17, 2006, Diblo, S.A. de C.V., a Mexican variable stock corporation, and Barton Beers, Ltd., a Maryland corporation ("**Barton"**), agreed to establish and engage in a joint venture for the principal purpose of importing, marketing and selling Product (as defined below), and, in connection therewith, on January 2, 2007, they caused to be formed the Importer and caused the Importer and Extrade II, S.A. de C.V., a sociedad anónima de capital variable organized under the laws of Mexico ("**Extrade II**") to enter into the Original Agreement;

**WHEREAS**, on February 4, 2009, Barton changed its name to Constellation Beers Ltd.;

**WHEREAS**, on June 28, 2012, Anheuser-Busch InBev SA/NV ("**ABI**") Constellation Brands, Inc. ("**Constellation**"), Constellation Beers Ltd. and Constellation Brands Beach Holdings, Inc. entered into that certain Membership Interest Purchase Agreement (the "**Membership Interest Purchase Agreement**"), pursuant to which ABI and Constellation agreed, *inter alia*, to amend and restate the Original Agreement as set forth herein.

**NOW, THEREFORE**, in consideration of the promises contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

**ARTICLE I**
**DEFINITIONS**

1.1. For purposes of this Agreement, the following terms have the meanings set forth below:

"**ABI**" has the meaning assigned to that term in the Recitals.

"**Affiliate**" of any Person means any other Person which, directly or indirectly, controls or is controlled by that Person, or is under common control with that Person. For purposes of this definition, "control" (including, with correlative meaning, the terms "controlled by" and "under common control with"), as used with respect to any Person, shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such Person, whether through the ownership of voting securities, by contract or

otherwise. No member of the Modelo Group shall be considered to be an Affiliate of Importer or any of its Affiliates (excluding the Modelo Group), and the Importer and its Affiliates (excluding the Modelo Group) shall not be considered to be Affiliates of any member of the Modelo Group, notwithstanding the ownership by the Modelo Group of any equity interest in Importer.

"**Agreement**" has the meaning assigned to that term in the Preamble.

"**Barton**" has the meaning assigned to that term in the Recitals.

"**Beer**" means beer, ale, porter, stout, malt beverages, and any other versions or combinations of the foregoing, including, without limitation, non-alcoholic versions of any of the foregoing.

"**Brand Manuals**" has the meaning assigned to that term in **Section 2.3**.

"**Business Day**" means any day, other than Saturday, Sunday or a day on which banking institutions in New York, New York, Chicago, Illinois, or Mexico City, Mexico are authorized or obligated by law to close.

"**Constellation**" has the meaning assigned to that term in the Recitals.

"**Container**" means the bottle, can, keg or similar receptacle in which Product is directly placed, and the box, carton or similar item in which such receptacle is packaged.

"**Extrade II**" has the meaning assigned to that term in the Recitals.

"**Form**" has the meaning assigned to that term in **Section 2.3**.

"**Grupo Modelo**" means Grupo Modelo, S.A.B. de C.V., a sociedad anónima de capital variable organized under the laws of Mexico.

"**herein**" and "**hereunder**" refer to this entire Agreement.

"**Importer**" has the meaning assigned to that term in the Preamble.

"**Importer Agreement**" means the Amended and Restated Importer Agreement, dated as of the date hereof, by and between Importer and Extrade II.

"**law**", unless otherwise expressly stated in this Agreement, includes statutes, regulations, decrees, ordinances and other governmental requirements, whether federal, state, local or of other authority.

"**Marcas Modelo**" has the meaning assigned to that term in the Preamble.

"**Membership Interest Purchase Agreement**" has the meaning assigned to that term in the Recitals.

"**Modelo Group**" means Grupo Modelo and all Persons that, now or in the future, are related to Grupo Modelo by virtue of Grupo Modelo's direct or indirect share ownership, and

any Affiliates thereof, and ABI, Anheuser-Busch Companies, LLC, Anheuser-Busch International, Inc., Anheuser-Busch International Holdings, Inc., and any of their respective Affiliates.

"**Original Agreement**" has the meaning assigned to that term in the Preamble.

"**Person**" means any individual, corporation, partnership, limited partnership, limited liability company, joint venture, syndicate, sole proprietorship, a company with or without share capital, unincorporated association, trust, trustee, executor, administrator or other legal representative, regulatory body or agency, government or governmental agency, authority or entity, however designated or constituted.

"**Product**" means Beer packaged in Containers bearing one or more of the Trademarks.

"**Subsidiary**" means, with respect to any Person, a corporation, partnership, joint venture, limited liability company, trust, estate or other Person of which (or in which), directly or indirectly, more than fifty percent (50%) of (a) the issued and outstanding capital stock having ordinary voting power to elect a majority of the board of directors, managers or others performing similar functions of such entity (irrespective of whether at the time capital stock of any other class or classes of such entity shall or might have voting power upon the occurrence of any contingency), (b) the interest in the capital or profits of such partnership, joint venture or limited liability company or other Person or (c) the beneficial interest in such trust or estate is at the time owned by such first Person, or by such first Person and one (1) or more of its other Subsidiaries or by one (1) or more of such Person's other Subsidiaries.

"**Territory**" means the fifty states of the United States of America, the District of Columbia and Guam.

"**Trademarks**" means the trademarks described in **Exhibit A** to this Agreement as belonging to a member of the Modelo Group, as such Exhibit may be amended or supplemented from time to time pursuant to **Section 2.2**, together with the trademark rights related thereto referred to in **Section 2.6**.

"**West Coast Importer Agreement**" means the importer agreement, dated as of November 22, 1996, by and between Barton and Extrade, S.A. de C.V., as amended.

1.2. Construction

(a) Unless the context of this Agreement otherwise requires, (i) words of any gender include each other gender; (ii) words using the singular or plural number also include the plural or singular number, respectively; (iii) the terms "hereof," "herein," "hereby" and derivative or similar words refer to this entire Agreement; (iv) the terms "Article", "Section", "Schedule" or "Exhibit" refer to the specified Article, Section, Schedule or Exhibit of this Agreement, unless otherwise specifically stated; (v) the words "include" or "including" shall mean "include, without limitation" or "including, without limitation;" and (vi) the word "or" shall be disjunctive but not exclusive.

(b) Unless the context otherwise requires, references to agreements and other documents shall be deemed to include all subsequent amendments and other modifications thereto.

(c) Unless the context otherwise requires, references to statutes shall include all regulations promulgated thereunder and, except to the extent specifically provided below, references to statutes or regulations shall be construed as including all statutory and regulatory provisions consolidating, amending or replacing the statute or regulation.

(d) The language used in this Agreement shall be deemed to be the language chosen by the parties to express their mutual intent, and no rule of strict construction shall be applied against any party. This Agreement is the joint drafting product of the parties hereto and each provision has been subject to negotiation and agreement and shall not be construed for or against any party as drafter thereof.

(f) All amounts in this Agreement are stated and shall be paid in United States dollars.

## ARTICLE II
## EXCLUSIVITY

2.1. Subject to the terms and conditions of this Agreement, Marcas Modelo hereby grants to Importer during the term of this Agreement an exclusive, royalty-free, sub-license to use the Trademarks within the Territory, solely in connection with the activities contemplated by the Importer Agreement; that being the importation and sale of the Product (including sales for resale) as well as for the purposes of advertising, promoting and marketing the Product, creating and distributing collateral sales and promotional materials for the Product and in connection with other items to be provided without charge to consumers in conjunction with the advertising, promotion and marketing of the Product; provided, however, that with respect to promotional materials provided with charge or merchandise the foregoing sub-license shall be non-exclusive. Any such use shall be subject to the provisions of **Section 2.3** of this Agreement. Marcas Modelo represents to Importer that Marcas Modelo has full authority and right to grant the foregoing sub-license to Importer. For purposes and uses of providing promotional materials with charge or merchandise, Marcas Modelo retains the rights to sub-license the Trademarks in the Territory. For the purposes of this Agreement it is understood that the use by Importer of the Trademarks in connection with advertising and promotional material that may be accessible to Persons residing outside the Territory, such as the use on an internet site or in a periodical that may have some distribution outside the Territory, shall not be a violation of this Agreement provided that: (a) the media chosen is not primarily directed to Persons residing outside the Territory or chosen with the intent of communicating with Persons residing outside the Territory as in the case of a website with an address indicating a source in a foreign country (e.g. .ca) or a periodical that is primarily distributed to Persons outside the Territory; and (b) subject to Section 3.2 of the Importer Agreement, the Products and other services and items offered in connection with the advertising and promotion of the Products are not provided by Importer to Persons that are not physically within the Territory at the time in question.

2.2. **Exhibit A** shall be amended by the parties to reflect any (a) Trademarks added to the Importer Agreement pursuant to Section 3.4(b) thereof, and (b) Products added to the Importer Agreement pursuant to Section 3.4(a) or Section 3.4(c) thereof.

2.3. (a) **Form of Trademarks.** Importer may not use or allow the use of any of the Trademarks, including but not limited to use on labels, packaging, promotional materials, displays and in advertising and promotion, except in a form, color, style and appearance (the Trademarks, as so used shall be hereinafter referred to as the "**Form**") reasonably consistent with brand manuals of Grupo Modelo furnished to Importer ("**Brand Manuals**"). The Form shall include the color and shape of any wall displayed directly behind any Trademark.

(b) **Prior Use**. Subject to **Section 2.3(c)**, for purposes of this Agreement, (i) any materials supplied by or on behalf of Marcas Modelo to Importer bearing any of the Trademarks for use in connection with the performance of this Agreement and the Importer Agreement or the Original Agreement, (ii) any materials previously approved for use by Barton, including pursuant to the West Coast Importer Agreement, the Modelo Sub-license Agreement, and/or the Pacifico Sub-license Agreement by and between Procermex, Inc. and Barton dated November 22, 1996, and (iii) any materials previously approved for use by Importer pursuant to the Original Agreement and the Importer Agreement, shall be deemed to comply with the terms and conditions of this Agreement for ordinary use in the performance of this Agreement and the Importer Agreement.

(c) **Changes to Form**. Marcas Modelo may from time to time, except where the consent of the Importer is otherwise required pursuant to Section 4.9(b) of the Importer Agreement, prescribe reasonable changes in the approved Form or use of the Trademarks and Importer shall use commercially reasonable efforts to comply with such changes provided that it is either permitted a reasonable period to exhaust the existing inventory of material that would no longer be deemed to constitute an approved use or is otherwise compensated for any costs that it may incur if it is not permitted to exhaust such inventory.

(d) **Quality Standards**. To protect the reputation and strength of the Trademarks and the goodwill associated with each mark, Importer shall: (i) always sell the Products, and otherwise conduct its activities with respect to the Trademarks, in a manner consistent with the Brand Manuals (but with such reasonable changes as may be necessary to reflect the unique considerations of the Territory), and the marketing position and image of the Products in the Territory; (ii) refrain from modifying or otherwise altering the Form without Marcas Modelo's prior consent; and (iii) use and/or reproduce the Trademarks in accordance with all applicable laws, rules, and regulations. Further, Importer shall not do any willful or intentional act which would violate such image, and shall refrain from taking any act which disparages, discredits, dishonors, reflects adversely upon, or in any other manner harms the Trademarks, or the goodwill associated therewith. The appearance and content of any advertising or promotional materials shall be of such a nature that they will not harm the public image of the Products, the Trademarks, or the consumer goodwill related thereto. Additionally, with respect to the Products Importer shall comply with the Advertising and Marketing Code of the Beer Institute, as it may be amended from time to time.

(e) **Sub-Licensees of Marcas Modelo**. With respect to the rights in the Territory retained by Marcas Modelo under **Section 2.1**, Marcas Modelo shall, and it shall cause any sub-licensees of the Trademarks to, comply with the Form and other quality control standards required of the Importer hereunder.

(f) **Wholesalers and Distributors**. With respect to the rights in the Territory granted by Marcas Modelo to Importer under **Section 2.1**, and subject to the terms and conditions of this Agreement, Importer may grant to its wholesalers, distributors and promotional agents limited sub-licenses of the Trademarks as reasonably necessary for each such sub-licensee to engage in their respective activities contemplated by the Importer Agreement; provided, however, that the foregoing right to sub-license is subject to and conditioned upon Importer using commercially reasonable efforts to (which may under appropriate circumstances include litigation or other assertion of claims against such wholesalers, distributors and promotional agents) (i) cause each such sub-licensee of the Trademarks to comply with the terms and conditions of this Agreement applicable to the rights sub-licensed to such sub-licensee; (ii) monitor compliance by sub-licensees with such terms and conditions; (iii) promptly notify Marcas Modelo in writing of any material breach by a sub-licensee of such terms or conditions of which Importer becomes aware, and cooperate to ensure cure within timeframes required hereunder; and (iv) cause any such sub-license to expressly exclude the right to grant any further sub-licenses. Additionally, the agreement Importer routinely uses to provide distribution rights to the Products to its wholesalers or distributors shall provide reasonable provisions for the use, protections and maintenance of the Trademarks consistent with this Agreement, and shall prohibit any further sublicenses of the Trademarks.

(g) **Limitations on Marcas Modelo**. Marcas Modelo agrees that its exercise of its rights hereunder or otherwise obtained shall provide it with no right to approve the marketing, promotion, or advertising used by the Importer for the Products.

2.4. **Maintenance of Trademarks**. The parties will cooperate and consult in good faith to determine, on a case by case basis, whether to register and maintain registrations for the Trademarks or to take such other administrative action as may be appropriate to attempt to record or register Marcas Modelo's rights in the Trademarks in the Territory. Importer shall from time to time, as soon as reasonably possible after learning of the facts or law relating thereto, notify Marcas Modelo of any Federal, state, local or other filing (included but not limited to any applications for, or renewals of, any trademarks or similar registrations) that Importer considers to be necessary, appropriate or advisable to protect the Trademarks or other ownership rights with respect to the Products in the Territory. Marcas Modelo agrees to use commercially reasonable efforts to maintain any existing registrations for the specific marks included in the Trademarks and such other marks as it may deem to be appropriate. Marcas Modelo reserves the right to make all final determinations of this nature. In the event that Marcas Modelo makes a determination that registration or maintenance of registration is not appropriate, Importer may request that Marcas Modelo proceed with the registration or maintenance with all costs resulting therefrom to be borne by Importer and such request shall not be unreasonably denied provided that Marcas Modelo retains control of the application process and all decisions pertaining thereto. All ownership rights in any such registrations shall belong to Marcas Modelo or Modelo Group and not Importer. Importer has no right to seek to

register or otherwise claim ownership in any of the Trademarks or variations thereon or any derivative works based thereon.

2.5. **Defending Trademarks**. The parties will cooperate and consult in good faith to determine, on a case by case basis, the best means by which to address any infringement or suspected infringement of the Trademarks in the Territory. Marcas Modelo reserves the right to make all final determinations of this nature. In the event that Marcas Modelo decides not to pursue any act that Importer deems to constitute infringement or suspected infringement of the Trademarks in the Territory, Importer may request the right from Marcas Modelo to pursue such infringement or suspected infringement, at Importer's own expense, and such requests shall not be unreasonably denied and in the event that any such request is granted, Marcas Modelo shall provide reasonable cooperation to Importer in connection therewith.

2.6. **Ownership**. (a) Ownership of the Trademarks and of the goodwill associated therewith shall at all times remain in Modelo Group, and any rights which may accrue as a result of advertising or sales of the Product or any other use of the Trademarks by Importer shall be the sole and exclusive property of Modelo Group. Trademark rights (i) shall include any additions or modifications to the Trademarks, as well as any slogan, musical composition, name, emblem, symbol, trade dress or other device used to identify or refer to the Product or any Trademark sub-licensed hereunder, whether developed, created or used by Importer or a distributor in the Territory of Modelo Group or Importer, and (ii) may be used by Modelo Group, by Marcas Modelo or their importers, or their distributors or sub-licensees, as Modelo Group and Marcas Modelo may desire, in other territories, in addition to the use thereof made in the Territory under this Agreement. If any such addition, modification or device is to be separately registered under the laws protecting trademarks, copyrights or other property rights, it shall be registered only in the name of Modelo Group, and Importer shall execute such documents as may be necessary to accomplish such registration.

(b) Marcas Modelo or Modelo Group shall be deemed to be the exclusive owner of all intellectual property used or developed in connection with this Agreement by Importer or any other party that (i) incorporates the Trademarks or any variations thereof or derivative works based upon any of the Trademarks; (ii) in the absence of this Agreement, would infringe upon or otherwise violate the rights of Marcas Modelo or Modelo Group in the Trademarks under the laws of the Territory, or (iii) is based upon confidential or proprietary information or such other names, marks, ideas, concepts or material created by or belonging to Marcas Modelo or Modelo Group. As between the parties and unless contrary to applicable law, Importer shall be the owner of any intellectual property independently developed by Importer that does not pertain to the areas set forth above. For the avoidance of doubt, nothing herein shall give or be deemed to give Marcas Modelo or any member of the Modelo Group any rights in or to the trademarks or brand names that are owned by Constellation.

(c) If, for any reason or circumstances, Importer is deemed under any law or regulation to have acquired any right or interest with respect to the Trademarks, Importer shall, at the request of Marcas Modelo or Modelo Group, promptly execute any document reasonably needed in order for Importer to transfer to Marcas Modelo or Modelo Group any and all such rights, titles and interests in and to the Trademarks, including the goodwill which these represent.

Such obligation shall continue after termination or expiration of this Agreement and any extensions thereof.

2.7. **Derivative Works; Termination**. Importer shall acquire no ownership rights in the Trademarks or variations thereon or derivative works based thereon or any intellectual property deemed to be owned by Marcas Modelo or Modelo Group as a result of this Agreement. Importer shall, at any time requested by Marcas Modelo or Modelo Group, whether during or subsequent to the term hereof, disclaim in writing any such property interest or ownership in the Trademarks. Upon the termination of the Importer Agreement, all rights of Importer to use the Trademarks as provided herein and any other intellectual property belonging to Marcas Modelo or Modelo Group shall be terminated, including the right to continue to do business under any name that incorporates the name "Crown", and revert to Marcas Modelo. Notwithstanding the above, Importer shall be permitted, unless otherwise agreed, a reasonable time in which to exhaust any inventory of Product bearing or incorporating the Trademarks and Importer shall not be liable for any advertising and promotional activities that were scheduled in good faith prior to the termination and cannot be cancelled.

2.8. Importer shall not, either directly or indirectly:

(a) establish, form, be an owner of, operate, administer, authorize or control any company, division, corporation, association or business entity under any name which includes any of the Trademarks, either in whole or part, or under any name which is similar to the Trademarks (other than with respect to the Importer, "Crown");

(b) use (except as expressly authorized by this Agreement to use the Trademarks), register, or in any other manner claim the ownership of a trademark, trade name, commercial name, firm name or service mark which includes any of the Trademarks either wholly or partially, or which is similar to any of the Trademarks; or

(c) use any Trademark on or in connection with any beer or other object other than a Product, except as expressly permitted by this Agreement.

2.9. During the term of this Agreement and after termination or expiration thereof Importer shall not use any confusingly similar symbol, name, trademark or device for any goods or services.

2.10. As reasonably requested by Marcas Modelo, Importer will provide reasonable samples of any item that bears any Trademark as necessary for Marcas Modelo to monitor and confirm compliance with the terms of this Agreement.

2.11. Importer shall, consistently with the provisions of this Agreement, use its commercially reasonable efforts to protect the Trademarks or any other trademarks which may be sub-licensed or licensed to it by Marcas Modelo in the future.

2.12. In the event that Importer has failed to meet the terms and conditions hereof in relation to the use, protection and maintenance of the Trademarks or the products or materials with which the Trademarks are used, then Marcas Modelo may furnish Importer written notice specifying such conduct. Upon receipt of notification thereof, Importer's right to use the

Trademarks in such manner shall immediately terminate, it shall immediately cease such conduct and it shall immediately commence and thereafter diligently pursue cure of any such conduct and shall achieve the cure as soon as commercially practicable (but shall not thereby be required to remove or retrieve any promotional materials held by retailers of the Products).

## ARTICLE III
## ROYALTY

The exclusive sub-license granted to Importer during the term of this Agreement by Marcas Modelo to use the Trademarks within the Territory, solely in connection with the activities contemplated by the Importer Agreement and as provided in this Agreement, shall be royalty-free.

## ARTICLE IV
## TERM

4.1. The term of this Agreement shall commence on the date hereof and shall continue until termination of the Importer Agreement pursuant to its terms.

4.2. The parties acknowledge and agree that, except as set forth in **Section 4.1**, Marcas Modelo shall have no right to terminate this Agreement notwithstanding any breach of this Agreement by Importer.

4.3. Immediately upon termination of the Importer Agreement, Importer shall cease the use of the Trademarks.

## ARTICLE V
## GOVERNING LAW

This Agreement shall be governed by and construed in accordance with the laws of the State of New York, without reference to its principles of conflicts of laws that would require application of the substantive laws of any other jurisdiction. Importer and Marcas Modelo agree that the International Convention on the Sale of Goods shall not apply to this Agreement. Importer and Marcas Modelo irrevocably consent to the exclusive personal jurisdiction and venue of the courts of the State of New York or the federal courts of the United States, in each case sitting in New York County, in connection with any action or proceeding arising out of or relating to this Agreement. Importer and Marcas Modelo hereby irrevocably waive, to the fullest extent permitted by law, any objection that it may now or hereafter have to the laying of the venue of such action or proceeding brought in such a court and any claim that any such action or proceeding brought in such court has been brought in an inconvenient forum. Importer and Marcas Modelo irrevocably consent to the service of process with respect to any such action or proceeding in the manner provided for the giving of notices under **Section 6.4**, provided, the foregoing shall not affect the right of either Importer or Marcas Modelo to serve process in any other manner permitted by law. Importer and Marcas Modelo hereby agree that a final judgment in any suit, action or proceeding shall be conclusive and may be enforced in any jurisdiction by suit on the judgment or in any manner provided by applicable law.

## ARTICLE VI
## MISCELLANEOUS

6.1. Neither party may assign any right under this Agreement without the prior written consent of the other party, provided, that (i) Importer may assign this Agreement and its rights and obligations hereunder to any Subsidiary of Constellation who agrees in writing to be bound by all terms and conditions of this Agreement and in that event such assignee shall be deemed to be Importer for all purposes of this Agreement, and (ii) Marcas Modelo may assign this Agreement and its rights and obligations hereunder to any Subsidiary of ABI and in that event such assignee shall be deemed to be Marcas Modelo for all purposes of this Agreement. Any purported assignment not in strict compliance with the preceding sentence shall be null and void and of no force and effect. Subject to the foregoing, this Agreement shall be binding upon and shall inure to the benefit of the parties and their respective successors and assigns.

6.2. The captions used in this Agreement are for convenience of reference only and shall not affect any obligation under this Agreement.

6.3. This Agreement may be executed in counterparts, each of which when so executed and delivered shall be deemed an original, and such counterparts, taken together, shall constitute one and the same instrument. Signatures sent by facsimile shall constitute and be binding to the same extent as originals. This Agreement may not be amended except by an instrument in writing signed by both parties.

6.4. Any notice, claims, requests, (except for requests made under **Section 2.3** hereof) demands, or other communications required or permitted to be given hereunder shall be in writing and will be duly given if: (a) personally delivered, (b) sent by facsimile or (c) sent by Federal Express or other reputable overnight courier (for next Business Day delivery), shipping prepaid as follows:

| | |
|---|---|
| If to Importer: | Crown Imports LLC<br>One South Dearborn St., Suite 1700<br>Chicago, IL 60603<br>Attention: President<br>Telephone: +1 (312) 873-9600<br>Facsimile: +1(312) 346-7488 |
| With a copy to (which copy shall not serve as notice hereunder): | Constellation Brands, Inc.<br>207 High Point Drive, Building 100<br>Victor, New York 14564<br>Attention: General Counsel<br>Telephone: +1 (585) 678-7266 |

| | |
|---|---|
| | Facsimile: +1 (585) 678-7103 |
| With a second copy to (which copy shall not serve as notice hereunder): | Nixon Peabody LLP<br>1300 Clinton Square<br>Rochester, NY<br>Attention: James O. Bourdeau<br>Telephone: +1 (585) 263-1000<br>Facsimile: +1 (585) 346-1600 |
| If to Marcas Modelo: | Marcas Modelo, S.A. de C.V.<br>Av. Javier Barros Sierra 555-3 Piso<br>Col. Santa Fe, 01210,<br>Mexico, D.F.<br>Attention: General Counsel<br>Telephone: + (52.55) 2266-0000<br>Facsimile: + (52.55) 2266-0000 |
| With a copy to (which copy shall not serve as notice hereunder): | Anheuser-Busch InBev<br>Brouwerijplein 1<br>Leuven 3000<br>Belgium<br>Attention: Chief Legal Officer & Company Secretary<br>Telephone: +32 16 27 69 42<br>Facsimile: +32 16 50 66 99 |
| With a second copy to (which copy shall not serve as notice hereunder): | Sullivan & Cromwell LLP<br>125 Broad Street<br>New York, New York 10004<br>Attention: Frank J. Aquila<br>George J. Sampas<br>Krishna Veeraraghavan<br>Telephone: +1 (212) 558-4000<br>Facsimile: +1 (212) 558-3588 |

or such other address or addresses or facsimile numbers as the person to whom notice is to be given may have previously furnished to the others in writing in the manner set forth above. Notices will be deemed given at the time of personal delivery, if sent by facsimile, when sent with electronic notification of delivery or other confirmation of delivery or receipt, or, if sent by Federal Express or other reputable overnight courier, on the day of delivery.

6.5. This Agreement and the various schedules and exhibits thereto, and the Membership Interest Purchase Agreement, the Importer Agreement, and the Restated LLC Agreement (as defined in the Membership Interest Purchase Agreement and solely to the extent Constellation Beers Ltd. and Constellation Brands Beach Holdings, Inc. do not acquire all of the Importer Interest (as defined in the Membership Interest Purchase Agreement)), embody all

of the understandings and agreements of every kind and nature existing between the parties hereto with respect to the transactions contemplated hereby, and supersede all prior discussions, negotiations and agreements between the parties concerning the subject matter thereof.

6.6. To the extent that any provision of this Agreement is invalid or unenforceable in the Territory or any state or other area of the Territory, this Agreement is hereby deemed modified to the extent necessary to make it valid and enforceable within such state or area, and the parties shall promptly agree in writing on the text of such modification.

6.7. The parties acknowledge that a breach or threatened breach by them of any provision of this Agreement will result in the other entity suffering irreparable harm which cannot be calculated or fully or adequately compensated by recovery of damages alone. Accordingly, the parties agree that any party may, in its discretion (and without limiting any other available remedies), apply to any court of law or equity of competent jurisdiction for specific performance and injunctive relief (without necessity of posting a bond or undertaking in connection therewith) in order to enforce or prevent any violations of this Agreement, and any party against whom such proceeding is brought hereby waives the claim or defense that such party has an adequate remedy at law and agrees not to raise the defense that the other party has an adequate remedy at law. The failure of either party at any time to require performance of any provision of this Agreement shall in no manner affect such party's right to enforce such provision at any later time. No waiver by any party of any provision, or the breach of any provision, contained in this Agreement shall be deemed to be a further or continuing waiver of such or any similar provision or breach.

6.8. This Agreement is binding upon and shall inure to the benefit of the parties hereto and their successors and permitted assigns. Nothing in this Agreement shall give any other Person any legal or equitable right, remedy or claim under or with respect to this Agreement or the transactions contemplated hereby.

6.9. The Original Agreement shall be deemed amended and restated in its entirety as of the date hereof by this Agreement and the Original Agreement shall thereafter be of no further force and effect except to evidence any rights and obligations of the parties or action or omission performed or required to be performed pursuant to such Original Agreement prior to the date hereof.

[Signature page follows]

IN WITNESS WHEREOF, the parties have executed this Agreement on the date first written above.

MARCAS MODELO, S.A. DE C.V.

By: _____
Name:
Title:

CROWN IMPORTS LLC

By: _____
Name:
Title:

**[Signature Page to Sub-license Agreement]**

**EXHIBIT A**

**TRADEMARKS**

| Mark | Registration No. | Date Registered |
|---|---|---|
| Crown & Griffins Design | 1,462,155 | Oct. 20, 1987 |
| Crown Design | 3,048,028 | Jan. 24, 2006 |
| La Cerveza Mas Fina Design | 1,495,289 | July 5, 1988 |
| CORONA | 3,388,558 | Feb. 26, 2008 |
| CORONA & Design | 1,689,218 | May 26, 1992 |
| CORONA (Stylized) | 1,681,366 | March 31, 1992 |
| CORONA EXTRA | 3,388,566 | Feb. 26, 2008 |
| CORONA EXTRA & Design | 1,729,694 | Nov. 3, 1992 |
| CORONA EXTRA (Stylized) | 1,681,365 | March 31, 1992 |
| CORONA LIGHT | 3,605,139 | Apr. 14, 2009 |
| CORONA LIGHT & Design | 1,727,969 | Oct. 27, 1992 |
| CORONA LIGHT & Design | 2,406,232 | Nov. 21, 2000 |
| CORONITA EXTRA | 1,729,701 | Nov. 3, 1992 |
| CORONITA EXTRA & Design | 1,761,605 | March 30, 1993 |
| CROWN IMPORTS | 3,584,879 | March 3, 2009 |
| CROWN IMPORTS & Design | 3,581,601 | Feb. 24, 2009 |
| MODELO | 1,022,817 | Oct. 14, 1975 |
| MODELO LIGHT | 3,183,378 | Dec. 12, 2006 |
| MODELO LIGHT & Design | 3,210,796 | Feb. 20, 2007 |
| MODELO ESPECIAL | 1,055,321 | Dec. 28, 1976 |
| MODELO ESPECIAL & Design | 3,576,774 | Feb. 17, 2009 |

| | | |
|---|---|---|
| MODELO ESPECIAL & Design | 4,060,986 | Nov. 22, 2011 |
| MODELO ESPECIAL & Design | 4,115,677 | March 20, 2012 |
| NEGRA MODELO | 1,217,760 | Nov. 23, 1982 |
| NEGRA MODELO & Design | 3,567,209 | Jan. 27, 2009 |
| PACIFICO | 1,726,063 | Oct. 20, 1992 |
| PACIFICO & Design | 3,589,696 | March 17, 2009 |
| PACIFICO CLARA | 2,866,272 | July 27, 2004 |
| King Design (for Victoria product) | 4,146,769 | May 22, 2012 |
| Miscellaneous Design (for the Victoria product) | 4,146,767 | May 22, 2012 |
| Miscellaneous Design (for the Victoria product) | 4,416,768 | May 22, 2012 |
| **Mark** | **Application Number** | **Application Date** |
| VICTORIA & Design | 85/469396 | Nov. 10, 2011 |

**EXHIBIT D**
**TO EXECUTION COPY OF MEMBERSHIP**
**INTEREST PURCHASE AGREEMENT**

# SECOND AMENDED AND RESTATED

# LIMITED LIABILITY COMPANY AGREEMENT

# OF

# CROWN IMPORTS LLC

**Dated as of _____, 201[•]**

**Table of Contents**

**SECOND AMENDED AND RESTATED**

**LIMITED LIABILITY COMPANY AGREEMENT**

**OF**

**CROWN IMPORTS LLC**

This **Second Amended and Restated Limited Liability Company Agreement** of Crown Imports LLC, a Delaware limited liability company (the "**Company**"), dated this ____ day of _____, 201**[•]**, is by and among the Persons listed on **Schedule A** hereto, as amended from time to time (individually, a "**Member**" and, collectively, together with any additional members hereafter admitted to the Company in accordance with this Limited Liability Company Agreement, the "**Members**"), and amends and replaces, in its entirety, that certain Amended and Restated Limited Liability Company Agreement of Crown Imports LLC dated the 2nd day of January, 2007, as subsequently amended (the "**Restated Agreement**").

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

**WHEREAS**, Barton (as defined below) and Diblo (as defined below) entered into the Joint Venture Agreement (as defined below), pursuant to which they agreed to form a limited liability company to carry out the joint venture so established;

**WHEREAS**, on July 28, 2006, pursuant to the Joint Venture Agreement, the Company was formed by Barton by filing a Certificate of Formation with the Delaware Secretary of State, and the Original Agreement was executed by Barton as the sole member;

**WHEREAS**, on January 2, 2007, pursuant to the terms of the Joint Venture Agreement, the Modelo Party was admitted as a Member of the Company, and Barton and the Modelo Party amended and restated the Original Agreement with the Restated Agreement;

**WHEREAS**, on February 4, 2009, Barton changed its name to Constellation Beers Ltd.;

**WHEREAS**, on January 18, 2012, the parties to the Restated Agreement amended the Restated Agreement;

**WHEREAS**, on June 28, 2012, ABI and certain of its affiliated entities, Grupo Modelo, Diblo and Dirección de Fabricas, S.A. de C.V., a Mexican variable stock corporation and wholly owned Subsidiary of Diblo ("**Dijon**"), as applicable, entered into certain transaction agreements pursuant to which (i) Diblo merged with and into Grupo Modelo, and simultaneously therewith, Dijon merged with and into Grupo Modelo, with Grupo Modelo continuing as the surviving company of these mergers, and (ii) a Subsidiary of ABI launched a public tender offer in Mexico to purchase all of the outstanding shares of capital stock of Grupo Modelo not owned directly or indirectly by ABI, in each case on the terms and subject to the conditions set forth therein;

**WHEREAS**, concurrently with the execution of this Agreement by the parties hereto, Constellation Beers and Constellation Brands Beach Holdings, Inc. ("**CBBH**"), collectively,

acquired [__] Membership Units representing [__]% of the Membership Interests from Grupo Modelo;

**WHEREAS**, prior to the date hereof, Constellation Beers and Modelo Party made a Section 754 election under the Code as Members of the Company.

**NOW**, **THEREFORE**, in consideration of the promises contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Members agree as follows:

## ARTICLE I
## DEFINITIONS

**1.1 Definitions**. As used in this Agreement, the following terms shall have the meanings specified (terms in the singular to have the correlative meaning in the plural and vice versa):

"**AB Entity**" means ABI, Anheuser-Busch Companies, LLC, Anheuser-Busch International, Inc., Anheuser-Busch International Holdings, Inc., Grupo Modelo, Diblo, Extrade II, Marcas Modelo, Modelo Party, or any of their respective Affiliates.

"**ABI**" means Anheuser-Busch InBev SA/NV.

"**Act**" means the Delaware Limited Liability Company Act set forth in Title 6 of the Delaware Code (6 Del. C. § 18-101, et seq.), as amended from time to time.

"**Adjusted Capital Account Deficit**" means, with respect to any Member, the deficit balance, if any, in such Member's Capital Account as of the end of the relevant Allocation Year, after giving effect to the following adjustments:

(i) Credit to such Capital Account any amounts that such Member is deemed to be obligated to restore pursuant to the penultimate sentences in Regulations Sections 1.704-2(g)(1) and 1.704-2(i)(5), and

(ii) Debit to such Capital Account the items described in Regulations Sections 1.704-1(b)(2)(ii)(*d*)(*4*), 1.704-1(b)(2)(ii)(*d*)(*5*), and 1.704-1(b)(2)(ii)(*d*)(*6*).

The foregoing definition of Adjusted Capital Account Deficit is intended to comply with the provisions of Regulations Section 1.704-1(b)(2)(ii)(*d*) and shall be interpreted consistently therewith.

"**Affiliate**" of any Person means any other Person which, directly or indirectly, controls or is controlled by that Person, or is under common control with that Person. For purposes of this definition, "control" (including, with correlative meaning, the terms "controlled by" and "under common control with"), as used with respect to any Person, shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such Person, whether through the ownership of voting securities, by contract or otherwise. Notwithstanding the foregoing, for purposes of this Agreement and solely in the

event that ABI or any of its Subsidiaries owns any Membership Interest, (a) none of CBI, the Company or any of their respective Affiliates (excluding ABI and its Affiliates) shall be deemed to be "Affiliates" of ABI or any of its Affiliates (excluding CBI, the Company or any of their respective Affiliates) and (b) none of ABI or any of its Affiliates (excluding CBI, the Company and any of their respective Affiliates) shall be deemed to be "Affiliates" of CBI, the Company or any of their respective Affiliates (excluding ABI and its Affiliates).

"**Agreement**" means this Limited Liability Company Agreement and the exhibits and schedules hereto, as the same may be amended in accordance with its terms.

"**Allocation Year**" means (i) the period commencing on the Effective Date and ending on December 31, 20[__], (ii) any subsequent twelve (12) month period commencing on January 1 and ending on December 31, or (iii) any portion of the period described in clauses (i) or (ii) for which the Company is required to allocate Profits, Losses, and other items of Company income, gain, loss, or deduction pursuant to **Article III** hereof.

"**Authorization**" means any license, membership, approval, variance or permit, consent, order, decree, notification, declaration, registration, filing, certificate or other authorization, domestic or foreign.

"**Barton**" or "**Constellation Beers**" means Constellation Beers Ltd., a Maryland corporation, formerly known as Barton Beers, Ltd.

"**Beer**" means beer, ale, porter, stout, malt beverages, and any other versions or combinations of the foregoing, including, without limitation, non-alcoholic versions of any of the foregoing.

"**Board**" or "**Board of Directors**" means the Directors of the Company collectively exercising their authority as managers under the Act in the manner set forth in this Agreement.

"**Business Day**" means any day, other than Saturday, Sunday or a day on which banking institutions in New York, New York, and Chicago, Illinois, are authorized or obligated by law to close.

"**Capital Account**" means, with respect to any Member, the Capital Account maintained for such Member in accordance with the following provisions:

(i) To each Member's Capital Account there shall be credited (A) such Member's Capital Contributions, (B) such Member's distributive share of Profits and any items in the nature of income or gain that are specially allocated pursuant to **Section 10.2**, and (C) the amount of any Company liabilities assumed by such Member or that are secured by any property distributed to such Member. The principal amount of a promissory note that is not readily traded on an established securities market and that is contributed to the Company by the maker of the note (or a Member related to the maker of the note within the meaning of Regulations Section 1.704-1(b)(2)(ii)(c)) shall not be included in the Capital Account of any Member until the Company makes a taxable disposition of the note or until (and to the extent) principal payments are made on the note, all in accordance with Regulations Section 1.704-1(b)(2)(iv)(d)(2),

(ii) To each Member's Capital Account there shall be debited (A) the amount of money and the Gross Asset Value of any property distributed to such Member pursuant to any provision of this Agreement, (B) such Member's distributive share of Losses and any items in the nature of expenses or losses that are specially allocated pursuant to **Section 10.2**, and (C) the amount of any liabilities of such Member assumed by the Company or that are secured by any property contributed by such Member to the Company,

(iii) In the event Membership Units are transferred in accordance with the terms of this Agreement, the transferee shall succeed to the Capital Account of the transferor to the extent it relates to the transferred Membership Units, and

(iv) In determining the amount of any liability for purposes of subparagraphs (i) and (ii) above there shall be taken into account Code Section 752(c) and any other applicable provisions of the Code and Regulations.

The foregoing provisions and the other provisions of this Agreement relating to the maintenance of Capital Accounts are intended to comply with Regulations Section 1.704-1(b), and shall be interpreted and applied in a manner consistent with such Regulations. In the event the Board shall determine that it is prudent to modify the manner in which the Capital Accounts, or any debits or credits thereto (including, without limitation, debits or credits relating to liabilities that are secured by contributed or distributed property or that are assumed by the Company or any Members), the Board may make such modification, provided that it is not likely to have a material effect on the amounts distributed to any Person pursuant to **Article XIII** hereof upon the dissolution of the Company. The Board also shall (i) make any adjustments that are necessary or appropriate to maintain equality between the Capital Accounts of the Members and the amount of capital reflected on the Company's balance sheet, as computed for book purposes, in accordance with Regulations Section 1.704-1(b)(2)(iv)(q) and (ii) make any appropriate modifications in the event unanticipated events might otherwise cause this Agreement not to comply with Regulations Section 1.704-1(b).

"**Capital Contribution**" for each Member means the aggregate of any cash, cash equivalents and the fair market value of property that a Member contributes or has contributed to the Company pursuant to **Article VIII**.

"**Case**" means units aggregating approximately 288 ounces.

"**CBBH**" has the meaning set forth in the Recitals.

"**CBI**" means Constellation Brands, Inc., a Delaware corporation.

"**Certificate of Cancellation**" means the Certificate of Cancellation of the Company that may be filed before with the Delaware Secretary of State pursuant to **Section 13.3(a)**.

"**Certificate of Formation**" means the Certificate of Formation of the Company filed with the Delaware Secretary of State on July 28, 2006.

"**Claim**" means any action, suit, investigation, proceeding, demand, assessment, arbitration, audit by or before a Governmental Authority, judgment or claim.

"**Code**" means the Internal Revenue Code of 1986, as amended.

"**Company**" has the meaning set forth in the preamble to this Agreement.

"**Company Minimum Gain**" has the same meaning as the term "partnership minimum gain" in Regulations Sections 1.704-2(b)(2) and 1.704-2(d).

"**Company Sale Consideration**" has the meaning assigned to that term in **Section 11.4(c)**.

"**Covered Person**" has the meaning assigned to that term in **Section 6.1(a)**.

"**Damages**" means any damage, loss, obligation, liability, settlement payment, award, judgment, fine, penalty, interest charge, expense, damage or deficiency or other charge, other than a Litigation Expense.

"**Diblo**" means Diblo, S.A. de C.V., a sociedad anónima de capital variable organized under the laws of the Country of Mexico.

"**Dijon**" has the meaning assigned to that term in the Recitals.

"**Director**" means a manager (as defined in Section 18-101(10) of the Act) of the Company who is a member of the Board of Directors.

"**Drag-Along Notice**" has the meaning assigned to that term in **Section 11.4(a)**.

"**Eligible Membership Units**" has the meaning set forth in **Section 9.1(b)(i)**.

"**Eligible Non-CBI Members**" has the meaning set forth in **Section 9.1(b)(i)**.

"**Extrade II"** means Extrade II, S.A. de C.V., a sociedad anónima de capital variable organized under the laws of Mexico.

"**Fiscal Year**" has the meaning assigned to that term in **Section 7.1**.

"**GAAP**" means generally accepted accounting principles in the United States of America, consistently applied.

"**Governmental Authority**" means any domestic or foreign federal, national, state, provincial, municipal or local government, administrative or legislative body, governmental or regulatory agency or authority, bureau, commission, court, department or other instrumentality or other governmental entity of any country.

"**Gross Asset Value**" means, with respect to any asset, the asset's adjusted basis for federal income tax purposes, except as follows:

(i) The initial Gross Asset Value of any asset contributed by a Member to the Company shall be the gross fair market value of such asset, as determined by the Board;

(ii) The Gross Asset Values of all Company assets shall be adjusted to equal their respective gross fair market values as of the following times: (A) the admission of an additional Member pursuant to **Article XI**; (B) the liquidation of the Company within the meaning of Regulations Section 1.704-1(b)(2)(ii)(g) (other than pursuant to Code Section 708(b)(1)(B)); and (C) in connection with the grant of an interest in the Company (other than a de minimis interest) as consideration for the provision of services to or for the benefit of the Company by an existing Member acting in a member capacity, or by a new Member acting in a member capacity in anticipation of being a Member;

(iii) The Gross Asset Value of any Company asset distributed to any Member shall be adjusted to equal the gross fair market value of such asset on the date of distribution as determined by the Board; and

(iv) The Gross Asset Values of Company assets shall be increased (or decreased) to reflect any adjustments to the adjusted basis of such assets pursuant to Code Section 734(b), but only to the extent that such adjustments are taken into account in determining Capital Accounts pursuant to (A) Regulations Section 1.704-1(b)(2)(iv)(m) and (B) subparagraph (vi) of the definition of "Profits" and "Losses"; provided, however, that Gross Asset Values shall not be adjusted pursuant to this subparagraph (iv) to the extent the Board determines that an adjustment pursuant to subparagraph (ii) is necessary or appropriate in connection with a transaction that would otherwise result in an adjustment pursuant to this subparagraph (iv).

If the Gross Asset Value of an asset has been determined or adjusted pursuant to subparagraphs (i), (ii), or (iv), such Gross Asset Value shall thereafter be adjusted by the depreciation taken into account with respect to such asset for purposes of computing Profits and Losses.

"**Grupo Modelo**" means Grupo Modelo, S.A. de C.V., a sociedad anónima de capital variable organized under the laws of Mexico.

"**Initiating Member**" has the meaning assigned to that term in **Section 11.2(a)**.

"**Law**" means (a) any constitution, statute, law, code, ordinance, regulation, treaty, rule, common law, policy or interpretation enacted, published or promulgated by any Governmental Authority, including, but not limited to, laws and regulations applicable to the production and sale of alcoholic beverage products, "dram shop" laws, safety laws or other similar regulations and (b) with respect to a particular Person, the terms of any Order or Permit binding upon such Person or its assets or properties.

"**Litigation Expense**" means any expense incurred in connection with investigating, defending or asserting any Claim indemnified against under this Agreement, including, without limitation, court filing fees, court costs, arbitration fees or costs, witness fees, and reasonable fees and disbursements of legal counsel, investigators, expert witnesses, accountants and other professionals, whether incurred in any action or proceeding between the parties to this Agreement or between any party to this Agreement and a third party.

"**Marcas Modelo**" means Marcas Modelo, S.A. de C.V., a sociedad anónima de capital variable organized under the laws of Mexico.

"**Member**" has the meaning set forth in the Preamble to this Agreement.

"**Membership Certificate**" has the meaning assigned to that term in **Section 3.1(a)**.

"**Membership Interest**" means all of the rights and obligations attendant to a Member's ownership interest in the Company, including, but not limited to, the right to receive distributions (liquidating or otherwise) and allocations of the profits, losses, gains, deductions and credits of the Company, and any and all other rights and obligations a Member is entitled to as a holder of an ownership interest in the Company, including voting rights, as and to the extent provided in this Agreement.

"**Member Nonrecourse Debt"** has the same meaning as the term "partner nonrecourse debt" in Regulations Section 1.704-2(b)(4).

"**Member Nonrecourse Debt Minimum Gain**" means an amount, with respect to each Member Nonrecourse Debt, equal to the Company Minimum Gain that would result if such Member Nonrecourse Debt were treated as a Nonrecourse Liability, determined in accordance with Regulations Section 1.704-2(i)(3).

"**Member Nonrecourse Deductions**" has the same meaning as the term "partner nonrecourse deductions" in Regulations Sections 1.704-2(i)(1) and 1.704-2(i)(2).

"**Membership Units**" means, as to any Member, the number of units representing the Membership Interests held by such Member at any time which shall be set forth opposite such Member's name on **Schedule A** hereto.

"**Modelo**" or "**Modelo Party**" means GModelo Corporation.

"**Non-CBI Member**" has the meaning assigned to that term in **Section 4.1**.

"**Notice of Transfer**" has the meaning assigned to that term in **Section 11.2(a)**.

"**Offered Units**" has the meaning assigned to that term in **Section 11.2(a)**.

"**Offer Price**" has the meaning assigned to that term in **Section 11.3(a)**.

"**Order**" means any order, injunction (whether temporary, preliminary or permanent), ruling, decree (including any consent decree), writ, subpoena, verdict, charge, judgment, assessment or other decision entered, issued, made or rendered by any Governmental Authority or by any arbitrator.

"**Original Agreement**" means that certain Limited Liability Company Agreement of Crown Imports LLC dated the 28th day of July, 2006.

"**Participatory Transaction**" has the meaning assigned to that term in **Section 11.4(b)**.

"**Percentage Interest**" of each Member at any given time is equal to a fraction, the numerator of which is the number of Membership Units held by that Member at such time as reflected on **Schedule A**, and the denominator of which is the total number of Membership Units held by all Members.

"**Permit**" means any permit, license, exemption, variance, registration, security clearance or other authorization issued or granted by any Governmental Authority.

"**Permitted Holders**" means (a) Marilyn Sands, her descendants (whether by blood or adoption), her descendants' spouses, her siblings, the descendants of her siblings (whether by blood or adoption), Hudson Ansley, Lindsay Caleo, William Caleo, Courtney Winslow, or Andrew Stern, or the estate of any of the foregoing Persons, or The Sands Family Foundation, Inc., (b) trusts which are for the benefit of any combination of the Persons described in clause (a), or any trust for the benefit of any such trust, or (c) partnerships, limited liability companies or any other entities which are controlled by any combination of the Persons described in clause (a), the estate of any such Persons, a trust referred to in the foregoing clause (b), or an entity that satisfies the conditions of this clause (c).

"**Person**" means any individual, corporation, partnership, limited partnership, limited liability company, joint venture, syndicate, sole proprietorship, a company with or without share capital, unincorporated association, trust, trustee, executor, administrator or other legal representative, regulatory body or agency, government or governmental agency, authority or entity, however designated or constituted.

"**Profits**" and "**Losses**" mean, for each Allocation Year, an amount equal to the Company's taxable income or loss for such Allocation Year, determined in accordance with Code Section 703(a) (for this purpose, all items of income, gain, loss, or deduction required to be stated separately pursuant to Code Section 703(a)(1) shall be included in taxable income or loss), with the following adjustments (without duplication):

(i) Any income of the Company that is exempt from federal income tax and not otherwise taken into account in computing Profits or Losses pursuant to this definition of "Profits" and "Losses" shall be added to such taxable income or loss;

(ii) Any expenditures of the Company described in Code Section 705(a)(2)(B) or treated as Code Section 705(a)(2)(B) expenditures pursuant to Regulations Section 1.704-1(b)(2)(iv)(i), and not otherwise taken into account in computing Profits or Losses pursuant to this definition of "Profits" and "Losses," shall be subtracted from such taxable income or loss;

(iii) In the event the Gross Asset Value of any Company asset is adjusted pursuant to subparagraphs (ii) or (iii) of the definition of "Gross Asset Value," the amount of such adjustment shall be treated as an item of gain (if the adjustment increases the Gross Asset Value of the asset) or an item of loss (if the adjustment decreases the Gross Asset Value of the asset) from the disposition of such asset and shall be taken into account for purposes of computing Profits or Losses;

(iv) Gain or loss resulting from any disposition of property with respect to which gain or loss is recognized for federal income tax purposes shall be computed by reference to the Gross Asset Value of the property disposed of, notwithstanding that the adjusted tax basis of such property differs from its Gross Asset Value;

(v) In lieu of the depreciation, amortization, and other cost recovery deductions taken into account in computing such taxable income or loss, there shall be taken into account depreciation for such Allocation Year, computed in accordance with the definition of depreciation;

(vi) To the extent an adjustment to the adjusted tax basis of any Company asset pursuant to Code Section 734(b) is required, pursuant to Regulations Section 1.704-1(b)(2)(iv)(m)(4), to be taken into account in determining Capital Accounts as a result of a distribution other than in liquidation of a Member's interest in the Company, the amount of such adjustment shall be treated as an item of gain (if the adjustment increases the basis of the asset) or loss (if the adjustment decreases such basis) from the disposition of such asset and shall be taken into account for purposes of computing Profits or Losses; and

(vii) Notwithstanding any other provision of this definition, any items that are specially allocated pursuant to **Section 10.2** shall not be taken into account in computing Profits or Losses.

The amounts of the items of Company income, gain, loss, or deduction available to be specially allocated pursuant to **Section 10.2** shall be determined by applying rules analogous to those set forth in subparagraphs (i) through (vi) above.

"**Prohibited Owner**" means Carlsberg Breweries A/S, Heineken Holding NV, SABMiller plc, Molson Coors Brewing Company, Miller Coors LLC, any of their respective controlled Affiliates and any successor of any of the foregoing, or any Person (other than a Subsidiary of CBI or a Permitted Holder) owning, distributing or brewing Beer brands of which 275 million Cases or more were sold in the Territory during the calendar year ended immediately prior to the determination of whether such Person is a Prohibited Owner.

"**Regulations**" means Treasury Regulations promulgated under the Code.

"**Regulatory Allocations**" has the meaning assigned to that term in **Section 10.3**.

"**Related Party Transaction**" has the meaning assigned to that term in **Section 4.4(c)(vi)**.

"**Required Distribution Amount**" has the meaning assigned to that term in **Section 9.1(b)(i)**.

"**Restated Agreement**" has the meaning set forth in the Preamble to this Agreement.

"**Restrictive Terms**" has the meaning assigned to that term in **Section 11.4(b)**.

"**Selling Party**" has the meaning assigned to that term in **Section 11.3(a)**.

"**Subsidiary**" means, with respect to any Person, a corporation, partnership, joint venture, limited liability company, trust, estate or other Person of which (or in which), directly or indirectly, more than fifty percent (50%) of (a) the issued and outstanding capital stock having ordinary voting power to elect a majority of the board of directors, managers or others performing similar functions of such entity (irrespective of whether at the time capital stock of any other class or classes of such entity shall or might have voting power upon the occurrence of any contingency), (b) the interest in the capital or profits of such partnership, joint venture or limited liability company or other Person or (c) the beneficial interest in such trust or estate, is at the time owned by such first Person, or by such first Person and one (1) or more of its other Subsidiaries or by one (1) or more of such Person's other Subsidiaries.

"**Tag-Along Notice**" has the meaning assigned to that term in **Section 11.3(a)**.

"**Tag-Along Units**" has the meaning assigned to that term in **Section 11.3(a)**.

"**Tax**" (and, with correlative meaning, "**Taxes**" and "**Taxable**") means any and all taxes, fees, levies, duties, tariffs, imposts, and other charges in the nature thereof (together with any and all interest, penalties, additions to tax and additional amounts imposed with respect thereto) imposed by any government or taxing authority, including: taxes or other charges on or with respect to income, franchises, windfall or other profits, gross receipts, property, sales, use, capital stock, payroll, employment, social security, workers' compensation, unemployment compensation, or net worth; taxes or other charges in the nature of excise, withholding, ad *valorem*, stamp, transfer, value added, or gains taxes; license, registration and documentation fees; and customs duties, tariffs, and similar charges, but excluding any excise, transfer, sales, use, documentary, filing, recording and other similar taxes imposed by any taxing authority applicable to, imposed upon or arising out of the transactions contemplated by this Agreement.

"**Tax Matters Partner**" has the meaning assigned to that term in **Section 7.5**.

"**Taxable Income**" or "**Taxable Loss**", respectively, mean for each Fiscal Year or other applicable period the taxable income or loss (including items required to be separately stated) of the Company in accordance with the method of accounting followed by the Company for federal income tax purposes and determined in accordance with Code Section 703(a).

"**Territory**" means the fifty states of the United States of America, the District of Columbia and Guam.

"**transfer**" means any sale, assignment, transfer, pledge, hypothecation, gift, encumbrance or other disposition of a Membership Interest or any portion thereof, and includes any such transaction between Members.

"**Unanimous Decisions**" has the meaning assigned to that term in **Section 4.4(c)**.

**1.2 Construction**.

(a) Unless the context of this Agreement otherwise requires, (i) words of any gender include each other gender; (ii) words using the singular or plural number also include the plural or singular number, respectively; (iii) the terms "hereof," "herein," "hereby" and

derivative or similar words refer to this entire Agreement; (iv) the terms “Article”, “Section”, “Schedule” or “Exhibit” refer to the specified Article, Section, Schedule or Exhibit of this Agreement, unless otherwise specifically stated; (v) the words “include” or “including” shall mean “include, without limitation” or “including, without limitation;” and (vi) the word “or” shall be disjunctive but not exclusive.

(b) Unless the context of this Agreement otherwise requires, references to agreements and other documents shall be deemed to include all subsequent amendments and other modifications thereto.

(c) Unless the context of this Agreement otherwise requires, references to statutes shall include all regulations promulgated thereunder and, except to the extent specifically provided below, references to statutes or regulations shall be construed as including all statutory and regulatory provisions consolidating, amending or replacing the statute or regulation.

(d) The language used in this Agreement shall be deemed to be the language chosen by the parties to express their mutual intent, and no rule of strict construction shall be applied against any party. This Agreement is the joint drafting product of the parties hereto and each provision has been subject to negotiation and agreement and shall not be construed for or against any party as drafter thereof.

(e) All accounting terms used herein and not expressly defined herein shall have the meanings given to them under GAAP.

(f) All amounts in this Agreement are stated and shall be paid in United States dollars.

## ARTICLE II
## ORGANIZATION OF THE COMPANY

**2.1 Formation; Qualification**. The Company was formed under the laws of the State of Delaware on July 28, 2006, upon the filing of the Certificate of Formation with the Delaware Secretary of State. Dawn Traficanti was and is hereby designated as an “authorized person” within the meaning of the Act, and has executed, delivered and filed the Certificate of Formation of the Company with the Secretary of State of the State of Delaware (such filing being hereby ratified and confirmed in all respects). Upon the filing of the Certificate of Formation with the Secretary of State of the State of Delaware, her powers as an “authorized person” ceased. The President of the Company, or any other officer or Director authorized by the Board of Directors, shall (a) file such other documents and instruments with such appropriate authorities as may be necessary or appropriate from time to time to comply with all requirements for the formation and operation of a limited liability company in Delaware, including as an authorized person within the meaning of the Act, and (b) execute and file all requisite documents and instruments to enable the Company to qualify to do business as a foreign limited liability company in the State of Illinois and in each other jurisdiction in which, in the reasonable judgment of the Board, such qualification may be necessary or appropriate for the conduct of the business of the Company. The Members hereby agree to operate the Company as a limited liability company under and pursuant to the provisions of this Agreement and the Act, and agree

that the rights, duties and liabilities of the Members shall be as provided in the Act, except as otherwise provided herein.

**2.2 Name**. The business of the Company shall be conducted under the name "Crown Imports LLC". The name of the Company may, subject to **Section 4.4(c)**, be changed at any time by the Board of Directors by amending the Certificate of Formation in accordance with the Act.

**2.3 Purposes**. The principal purposes for which the Company is formed are (a) importing, marketing and selling Beer in the Territory and to engage in activities incidental thereto, and (b) to engage in any other lawful business, purpose or other activity (whether similar or dissimilar to the enumerated activities) approved by the Board of Directors subject to the provisions of Section 18-106 of the Act.

**2.4 Powers**. The Company shall possess and may exercise all powers necessary, convenient or incidental to the conduct, promotion or attainment of its business, purposes or activities to the fullest extent provided in the Act.

**2.5 Principal Place of Business: Registered Office and Agent**. The Company's registered office shall be at the office of its registered agent located at 2711 Centerville Road, Suite 400, Wilmington, Delaware, 19808, in the County of New Castle, State of Delaware, and the registered agent at such address shall be Corporation Services Company. The registered office and agent may, subject to **Section 4.4(c)**, be changed from time to time by the Board by amending the Certificate of Formation in accordance with the provisions of this Agreement and the Act. The principal offices of the Company shall be in Chicago, Illinois, or another place approved by the Board.

**2.6 Term**. The term of the Company shall be perpetual, unless the Company is earlier dissolved in accordance with the provisions of this Agreement or the Act. The existence of the Company as a separate legal entity shall continue until the cancellation of the Certificate of Formation in the manner required by the Act.

## ARTICLE III
## MEMBERS AND MEMBERS' INTERESTS

**3.1 Membership Interests; Membership Certificates**.

(a) There shall be one class of Membership Interest in the Company. The Membership Units of a Member shall be represented by one or more membership certificates (each a "**Membership Certificate**") in the form attached hereto as **Exhibit A**. Upon the execution of this Agreement, the Board of Directors shall cause the Company to issue one or more Membership Certificates in the name of each Member certifying that such Member is the record holder of the number of Membership Units set forth therein. The Membership Units represented by a Membership Certificate shall be deemed a security governed by Article 8 of the Uniform Commercial Code as in effect in the States of Delaware and New York and any other applicable jurisdiction.

(b) An interest in the Company, including a Membership Interest, which is transferred in compliance with the terms of this Agreement and the Act shall be transferable on the books of the Company by the record holder thereof in person or by such record holder's duly authorized attorney, but no transfer of an interest in the Company shall be entered until the previously issued Membership Certificate representing such interest shall have been surrendered to the Company and canceled, and a replacement Membership Certificate issued to the assignee of such interest and the transferor of such interest if all the interests represented by such Membership Certificate are not being transferred, in which event the Company shall issue a new Membership Certificate to such assignee or transferee or transferor. Except as otherwise required by law, the Company shall be entitled to treat the record holder of a Membership Certificate on its books as the owner thereof for all purposes regardless of any notice or knowledge to the contrary.

(c) The Company shall issue a new Membership Certificate in place of any Membership Certificate previously issued that is lost, stolen or destroyed if the record holder of the Membership Certificate:

i. makes proof by affidavit, in form and substance satisfactory to the Board of Directors, that the previously issued Membership Certificate has been lost, destroyed or stolen;

ii. requests the issuance of a new Membership Certificate before the Company has notice that the Membership Certificate has been acquired by a purchaser for value in good faith and without notice of an adverse claim;

iii. if requested by the Board of Directors, delivers to the Company a bond, in form and substance reasonably satisfactory to the Board of Directors, with such surety or sureties and with fixed or open penalty as the Board of Directors may direct, in its reasonable discretion, to indemnify the Company against any claim that may be made on account of the alleged loss, destruction or theft of the Membership Certificate; and

iv. satisfies any other reasonable requirements imposed by the Board of Directors.

(d) Each Membership Certificate now or hereafter held by a Member shall display a legend in substantially the following form:

"THE MEMBERSHIP INTEREST REPRESENTED BY THIS CERTIFICATE HAS NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933 OR THE SECURITIES LAWS OF ANY STATE. SUCH MEMBERSHIP INTEREST MAY NOT BE SOLD OR TRANSFERRED IN THE ABSENCE OF SUCH REGISTRATION OR AN OPINION OF COUNSEL SATISFACTORY TO THE COMPANY THAT SUCH REGISTRATION IS NOT REQUIRED BY SAID ACT OR STATE LAWS."

"THE MEMBERSHIP INTEREST REPRESENTED BY THIS CERTIFICATE IS SUBJECT TO RESTRICTIONS AS SET FORTH IN THE SECOND AMENDED AND

RESTATED LIMITED LIABILITY COMPANY AGREEMENT OF CROWN IMPORTS LLC, MADE EFFECTIVE AS OF _____."

(e) Except as otherwise provided in this Agreement, Membership Interests shall be entitled to the same benefits, rights, duties and obligations and shall vote together on all matters as a single class. Notwithstanding the foregoing, except for the appointment and removal of Directors, or as otherwise provided in this Agreement or by nonwaivable provisions of applicable law, the Members will not have any right to vote on matters with respect to the Company.

(f) The names of the Members and the number of their respective Membership Units are set forth on **Schedule A** hereto.

**3.2 Limitation on Liability**. No Member shall be liable for any debt, obligation or liability of the Company, except as provided by law or as otherwise specifically provided herein.

**3.3 Management by Members**. Except as authorized by the Board in accordance with this Agreement, no Member (in his, her or its capacity as such) or representative of a Member shall take part in the day-to-day management, or the operation or control, of the business and affairs of the Company. Except and only to the extent expressly delegated by the Board in accordance with this Agreement or specified in this Agreement, no Member shall be an agent of the Company or have any right, power or authority to transact any business in the name of the Company or to act for or on behalf of or to bind the Company. Nothing in this Section 3.3, however, is intended to restrict a Director or officer of the Company who is also a Member in the exercise of his or her power or authority as a Director or officer of the Company.

**3.4 Title to Company Property**. All property and assets owned by the Company, whether real or personal, tangible or intangible, shall be deemed to be owned by the Company as an entity and no Member, individually, shall have any ownership of such property and assets.

**3.5 Other Business Ventures**. The Members recognize that each of the Members and their respective Affiliates are currently engaged in the production, sale and distribution of alcoholic beverages, that they will continue in such businesses following the date hereof, or enter into new businesses, and that certain of their continuing or new businesses will be or in the future may be in competition with the business of the Company. Accordingly, a Member and any of its respective Affiliates, agents or representatives and any officer, director, employee or shareholder of, or other Person holding a legal or beneficial interest in a Member or any Affiliate of a Member, may engage in, or possess an interest in, other business ventures of every nature and description, independently or with others, whether or not such other enterprises shall be in competition with or operating the same or similar businesses as the Company, and such Member shall not have any obligation or duty to bring business opportunities to the attention of the Company or any other Member.

## ARTICLE IV
## MANAGEMENT OF THE COMPANY

**4.1 Board of Directors**. The business and affairs of the Company shall be managed by or under the direction of its Board of Directors. The number of Directors shall be fixed from time-to-time by unanimous approval of the Members. The initial number of Directors shall be three (3); provided, however, that if one or more of the Members is not a Subsidiary of CBI (any such Member, a "**Non-CBI Member**"), then the initial number of Directors shall be four (4) and three (3) of the Directors shall be appointed by Constellation Beers and one (1) of the Directors shall be appointed by the Non-CBI Member(s) (it being agreed and understood if an AB Entity is a Member, the AB Entity may elect not to appoint a Director). The initial Directors shall be as follows: (a) the Chief Executive Officer of CBI, (b) two other Directors appointed by CBI, and (c) if one or more of the Members is a Non-CBI Member, then one Director appointed by the Non-CBI Member(s). Any vacancy on the Board shall be filled using the procedures set forth in **Section 4.6**. In no event shall an officer or employee of an AB Entity be a Director of the Company. To the extent permitted by applicable law, any action that could be taken by the Members, may be taken by the Board of Directors, except where approval of the Members is expressly required by nonwaivable provisions of applicable law or as otherwise specifically provided in this Agreement. Each Director on the Board shall continue to serve as a Director until such time as his or her death, resignation, incapacity or removal in accordance with **Section 4.6**.

**4.2 Powers and Authority of the Board**. Except where approval of the Members is expressly required by nonwaivable provisions of applicable law or as otherwise specifically provided in this Agreement, the Board shall have full, exclusive and complete discretion to direct and control the business and affairs of the Company, to make all decisions affecting the business and affairs of the Company and to authorize management of the Company or such other Persons as it may designate to take all such actions as it deems necessary or appropriate to accomplish the foregoing and the purposes of the Company as set forth herein. Without limiting the generality of the foregoing, but subject to the other provisions of this **Article IV** and as otherwise provided in this Agreement, the Board shall have the power and authority to cause the Company to:

(a) expend funds in furtherance of the purposes of the Company;

(b) invest and reinvest in securities or other property of any character, real or personal, including, but not limited to, common and preferred stocks, bonds, notes, debentures, mortgages, leases and partnership interests (general or limited);

(c) sell, exchange or otherwise dispose of any such securities or other property at public or private sale and to grant options for the purchase, exchange or other disposition thereof, and to exercise or sell any options and any conversion, subscription, voting and other rights, discretionary or otherwise, in respect thereof;

(d) manage and keep in force such insurance as may be required to reasonably protect the Company and its assets;

(e) borrow money and/or guarantee obligations, on such terms and at such rates of interest as the Board may deem advisable and proper;

(f) pledge the credit of the Company and grant security interests in Company assets for Company purposes;

(g) appoint and remove officers and employees of the Company;

(h) employ such agents, independent contractors, attorneys and accountants as the Board deems reasonably necessary;

(i) commence, defend, compromise or settle any Claims for and on behalf of the Company;

(j) execute, deliver and file any amendment, restatement or revocation of the Certificate of Formation as may be necessary or appropriate to reflect actions properly taken by the Board and/or the Members under this Agreement;

(k) execute, deliver, file and/or record any and all instruments, documents or agreements of any kind which the Board may deem appropriate or as may be necessary or desirable to carry out the purposes of the Company; and

(l) take such other actions as the Board of Directors may reasonably believe to be necessary or desirable to carry out the purposes of the Company.

Only the Board, acting as provided in this Agreement, shall have the power to bind the Company, except and to the extent otherwise set forth in **Article V** or as expressly delegated to any other Person by the Board in accordance with this Agreement, but such delegation shall not cause the Board to cease to be responsible for the management of the Company. The expression of any power or authority of the Board in this Agreement shall not in any way limit or exclude any other power or authority which is not specifically or expressly set forth in this Agreement (subject to any limitations thereon included in this Agreement).

**4.3 Meetings; Quorum**.

(a) An annual meeting of the Board of Directors may be held in such month of each year, as determined by the Board of Directors, if called by any Member, for the purpose of reviewing the business of the Company with the Members and for the transaction of such other business as may come before the meeting. If no annual meetings are called, the Board of Directors need not hold annual meetings. Special meetings of the Board of Directors, for any purpose or purposes, may be called from time to time by any Director, by any Member, or by the President or Chief Executive Officer of the Company, if any.

(b) The Officer, Member or Director calling a meeting, shall cause a written or printed notice of such meeting to be given to the President or Chief Executive Officer of the Company, if any, each Director and the Members not less than two (2) Business Days nor more than thirty (30) days before the date of the meeting. Such notice shall state (i) the place, date and hour of the meeting, (ii) that it is being issued by or at the direction of the person calling the

meeting and, (iii) in the case of a special meeting, the purpose or purposes for which the meeting is called.

(c) When assembled at an annual meeting, the Directors may vote or act upon any matter with respect to which they are entitled to vote or act under the terms of this Agreement or under the Act to the extent consistent with this Agreement. When assembled at a special meeting, the Directors may vote or act upon any matter described in the immediately preceding sentence which was set forth in the notice calling the meeting or notice of which was or is thereafter waived in accordance with this Agreement.

(d) A majority of the Directors shall constitute a quorum at a meeting of the Board of Directors for the transaction of any business. If less than such number of Directors is present at a meeting, the Directors present may adjourn the meeting despite the absence of a quorum.

**4.4 Vote**.

(a) Whenever any vote or action is required to be taken by the Board of Directors under this Agreement, such vote or action shall be taken (i) at a meeting of the Board of Directors called and held in accordance with this **Article IV**, or (ii) by the Board of Directors in accordance with the procedures set forth in **Section 4.5** hereof.

(b) Unless otherwise specifically set forth in this Agreement or required by applicable law, approval of any vote or action of the Board of Directors shall require the affirmative vote of a majority of the Directors present at the meeting.

(c) Notwithstanding anything in this Agreement to the contrary, the Board shall not, without the unanimous prior written approval of all of the Members (collectively, "**Unanimous Decisions**"): (i) sell, exchange, lease, license, sublicense, mortgage, pledge or otherwise transfer all or substantially all of the assets of the Company (including any interests in any Subsidiaries); (ii) merge or consolidate the Company with or into another limited liability company, partnership, corporation or other business entity; (iii) make or revoke the "Entity Classification Election" under the Code, or any similar provision enacted in lieu thereof, or any corresponding provision of state tax laws or take any action that will cause the Entity Classification Election of the Company to be changed; (iv) initiate or commence any voluntary proceedings under any provision of any federal or state act relating to bankruptcy or insolvency with respect to the Company; (v) issue additional Membership Interests or other equity interests in the Company or rights therein; (vi) enter into, amend or waive contracts or other arrangements with any Member, Director, or officer, or any Affiliate of any Member, Director, or officer, involving the payment or provision of services to such Person by the Company of more than $35,000,000 per year in the aggregate, or (y) lend funds to, or borrow funds from, any Member, Director, or officer or any Affiliate of any of the foregoing (a "**Related Party Transaction**"); provided that the terms of any Related Party Transaction that is not subject to approval of the Members pursuant to the foregoing shall be (1) on commercially reasonable terms, (2) on terms no less advantageous, taking into account all relevant facts and circumstances, to the Company than would be available from an unrelated third party, and (3) consistent with then current market terms and standards for arms-length transactions; provided that, in the case of clause (vi),

the consent of the Members to a Related Party Transaction shall not be unreasonably withheld; or (vii) dissolve or wind-up the Company.

**4.5 Action Without Meeting; Telephone Meetings**.

(a) Unless otherwise restricted by the Certificate of Formation or this Agreement, any action required or permitted to be taken at any meeting of the Board may be taken without a meeting if consented to in writing by Directors having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting at which all Directors entitled to vote thereon were present and voted. Prompt notice of the taking of the action without a meeting by less than unanimous written consent shall be given to those Directors who have not consented in writing but who would have been entitled to vote thereon had such action been taken at a meeting.

(b) Any one or more Directors, and the President or Chief Executive Officer of the Company, if any, shall be entitled to participate in a meeting of the Board by means of a conference telephone or similar communications equipment allowing all persons participating in the meeting to hear each other at the same time. Participation by such means shall constitute presence in person at a meeting.

**4.6 Vacancies and Removal**.

(a) If none of the Members are Non-CBI Members, then the following provisions shall apply: Any Director may be removed at any time, with or without cause, by the affirmative vote of those Members holding at least a majority of the outstanding Membership Units. Any vacancy occurring in the Board due to the death, resignation, incapacity, or removal, with or without cause, of a Director shall be filled by the affirmative vote of those Members holding at least a majority of the outstanding Membership Units. Until otherwise agreed by the Members, the Director that is the then-serving Chief Executive Officer of CBI, shall automatically, without further action of the Members, be replaced with the person serving in such office from time-to-time.

(b) If one or more of the Members is a Non- CBI Member, then the following provisions shall apply: Any Director may be removed at any time, with or without cause, by the Member or Members that appointed such Director. Any vacancy occurring in the Board due to the death, resignation, incapacity, or removal, with or without cause, of a Director shall be filled by the Member or Members that appointed such Director.

**4.7 Committees**. The Board of Directors may designate committees consisting exclusively of one or more Directors, which shall serve at the Board's pleasure and have such powers and duties as the Board determines and as provided by this Agreement. If one or more Members is a Non-CBI Member, then each committee of the Board of Directors shall include the Director appointed by the Non-CBI Member(s).

**4.8 Compensation of Directors**. No Director shall receive from the Company a salary or other compensation for services as a Director nor be entitled to reimbursement by the Company for expenses incurred in connection with the business of the Company.

**4.9 Status and Duties of Directors; Transactions with the Company**.

(a) Each Director on the Board of Directors shall be a "manager" for purposes of the Act, entitled to all rights, privileges and protections of a "manager" thereunder, as such rights, privileges and protections are modified or supplemented hereunder, **provided** that no Director shall, absent specific delegation or authorization by the Board, have the right or responsibility, acting individually, to manage the business or affairs of the Company or otherwise to act for or bind the Company as an agent, but may only act collectively through actions or determinations of the Board taken in accordance with the provisions of this Agreement. Notwithstanding the foregoing, for regulatory licensing and filings only in the ordinary course of the Company's business in which execution by a "manager" of the Company is required, any individual Director may execute such filings on behalf of the Company.

(b) The Directors, in the performance of their duties as such, shall owe to the Company and the Members the fiduciary duties (including the duties of loyalty and due care) of the types owed under Law by directors of a business corporation incorporated under the Delaware General Corporation Law of the State of Delaware; provided that the doctrines of corporate opportunity or any analogous doctrine shall not apply; provided, further that no Director shall be required to offer any investment opportunities to the Company and each Director may make investments or undertake activities that compete or conflict with the Company and each Director may perform its duty as an officer or employee of a Member, if applicable, without violating this **Section 4.9**. In performing his duties, a Director shall be entitled to rely on information, opinions, reports or statements, including financial statements and other financial data, in each case prepared or presented by (i) one or more agents or employees of the Company, or (ii) counsel, public accountants or other persons as to matters that such Director believes to be within such person's professional or expert competence.

(c) Each Director shall devote such of his time as he deems reasonably necessary to the affairs of the Company. No Director shall be required to devote any specified amount of time or efforts to the business and affairs of the Company. Nothing herein shall be deemed to modify, limit or affect obligations of any Director who is an officer or employee of the Company in such Person's capacity as an officer or employee of the Company.

**4.10 Limitations on Liability**.

(a) No Director shall be liable for any debt, obligation or liability of the Company, except as provided by law or as specifically provided otherwise herein. No Director shall be required to lend money to the Company or make any Capital Contribution to the Company in his capacity as a Director.

(b) If a Director performs the duties of such Director in accordance with **Section 4.9** of this Agreement, such Director shall not have any liability to the Company or any Member by reason of being or having been a Director of the Company, including, without limitation, for any mistakes in judgment or for any failure to perform any of his obligations hereunder, or for any loss due to such mistake or failure to perform, or due to the negligence, dishonesty, fraud or bad faith of any other Person, including any other Director, Member,

employee, agent or independent contractor of the Company or any other Person with which the Company transacts business.

**4.11 Directors and Officers Liability Insurance**. The Company shall obtain and continue in effect directors and officers liability insurance coverage for Directors, officers and employees of the Company, in such amounts and under such terms and conditions as the Board shall deem prudent. The Company may also purchase and maintain insurance for the benefit of any other Covered Person who is entitled to indemnification under **Section 6.2**, against any liability asserted against or incurred by such Covered Person in any capacity or arising out of such Covered Person's service with the Company.

## ARTICLE V
## OFFICERS

**5.1 General**.

(a) Subject to the provisions of **Section 5.1(b)**, the Board shall elect a President and may elect such other officers of the Company, including a Chief Operating Officer, Chief Financial Officer, Secretary and Treasurer and such other or additional officers (including one or more Vice-Presidents (of such special rank and designation as the Board may specify), Assistant Secretaries and Assistant Treasurers) as the Board deems necessary or appropriate.

(b) The initial President shall be William Hackett.

**5.2 Term of Office; Removal and Vacancy**. Each officer shall hold office until his or her resignation or removal. Any officer or agent shall be subject to removal with or without cause at any time by the Board. Vacancies in any office, whether occurring by death, resignation, removal or otherwise, may be filled by the Board.

**5.3 Powers and Duties**.

(a) The President shall be the principal executive officer of the Company and shall in general supervise and have active management of all of the day-to-day business and affairs of the Company, unless otherwise directed by the Board of Directors or provided by this Agreement. The President shall report directly to the Board and shall see that all orders and resolutions of the Board of Directors are carried into effect. The President shall be the final arbiter of all differences among officers of the Company and his or her decision as to any matter affecting the Company shall be final and binding as between or among officers of the Company, subject only to the authority of the Board of Directors. The President shall have such other powers and duties as may be conferred upon him or her by the Board of Directors.

(b) Each other officer of the Company shall, unless otherwise ordered by the Board, have such powers and duties as generally pertain to their respective offices as well as such powers and duties as from time to time may be conferred upon him or her by the Board.

**5.4 Power to Vote**. The President, subject to the Board's authorization and the rights of the Members provided hereunder, shall have full power and authority on behalf of the Company to attend and to vote at any meeting of the equity holders of any entity in which the

Company may hold an interest, may exercise on behalf of the Company any and all of the rights and powers incident to the ownership of such interest at any such meeting and shall have power and authority to execute and deliver proxies, waivers and consents on behalf of the Company in connection with the exercise by the Company of the rights and powers incident to the ownership of such interest. The Board, from time to time, may confer like powers upon any other Person or Persons.

## ARTICLE VI
## EXCULPATION; INDEMNIFICATION

**6.1 Exculpation**.

(a) No Member, Director, or Affiliate, partner, representative or agent of such Member or Director (each, a "**Covered Person**") shall be liable to the Company or any other Covered Person for any monetary damages for any loss, damage or Claim incurred by reason of any act or omission performed or omitted by such Covered Person on behalf of the Company and in a manner reasonably believed to be consistent with the duties prescribed to such Person hereunder and within the scope of authority conferred on such Covered Person by this Agreement, except that a Covered Person shall be liable for any such loss, damage or Claim incurred by reason of such Covered Person's gross negligence, willful misconduct, fraud or breach of duty of loyalty (as such duty is modified by the terms hereunder).

(b) A Covered Person shall be fully protected in, and shall have no liability to the Company or any Member resulting from its, relying in good faith upon the records of the Company and upon such information, opinions, reports or statements presented to the Company by any Person as to matters the Covered Person reasonably believes are within such other Person's professional or expert competence and who has been selected with reasonable care by or on behalf of the Company, including information, opinions, reports or statements as to the value and amount of the assets, liabilities, profits, losses or net cash flow or any other facts pertinent to the existence and amount of assets from which distributions to Members might properly be paid.

**6.2 Indemnification**.

(a) To the greatest extent not inconsistent with the laws and public policies of Delaware, the Company shall indemnify any Covered Person, as a matter of right, against any Damages incurred by such Person in connection with any Claim, whether pending or threatened, against such Covered Person because such Person is or was a Member or Director, or an Affiliate, partner, representative or agent of a Member or Director; **provided** that the Covered Person has met the standard of conduct for indemnification set forth in **Section 6.2(c)**. To the maximum extent permitted by the law, the Company shall pay for or reimburse the reasonable Litigation Expenses incurred by a Covered Person in connection with any such Claim in advance of final disposition thereof if (i) the Covered Person furnishes the Company a written affirmation of the Covered Person's good faith belief that it has met the standard of conduct for indemnification described in **Section 6.2(c)** and (ii) the Covered Person furnishes the Company a written undertaking, executed personally or on such Covered Person's behalf, to repay the advance if it is ultimately determined that such Covered Person did not meet such standard of

conduct. The undertaking described in **Section 6.2(a)(ii)** above must be a general obligation of the Covered Person, subject to such reasonable limitations as the Company may permit, but need not be secured and may be accepted without reference to financial ability to make repayment. The Company shall indemnify a Covered Person who is wholly successful, on the merits or otherwise, in the defense of any such proceeding, as a matter of right, against reasonable Litigation Expenses incurred by the Covered Person in connection with any such Claim without the requirement of a determination as set forth in **Section 6.2(c)**. Upon demand by a Covered Person for indemnification or advancement of Litigation Expenses, as the case may be, the Company shall expeditiously determine whether the Covered Person is entitled thereto in accordance with this **Section 6.2**.

(b) The Company shall have the power, but not the obligation, to indemnify any Person who is or was an officer, employee or agent of the Company or was serving as such at the request of the Company to the same extent as if such Person was a Covered Person designated in **Section 6.1**.

(c) Indemnification of a Covered Person is permissible under this **Section 6.2** only if (i) such Covered Person reasonably believed that such Covered Person's conduct was in the Company's best interest and was within the authority delegated to such Covered Person by this Agreement or by the Board of Directors; (ii) in the case of any criminal proceeding, such Covered Person reasonably believed that such Covered Person's conduct was lawful; and (iii) the actions of such Covered Person giving rise to such liability are not adjudged in any such proceeding by judgment, order, settlement, conviction or upon a plea of *nolo contendere*, or its equivalent, to have been gross negligence, willful misconduct or fraud.

(d) A Covered Person who is a party to a Claim may apply for indemnification from the Company to the court, if any, conducting the proceeding or to another court of competent jurisdiction. On receipt of an application, the court, after giving notice the court considers necessary, may order indemnification if it determines:

(i) in a Claim in which the Covered Person is wholly successful, on the merits or otherwise, the Covered Person is entitled to indemnification under this **Section 6.2**, in which case the court shall order the Company to pay the Covered Person its reasonable Litigation Expenses incurred to obtain such court ordered indemnification; or

(ii) the Covered Person is fairly and reasonably entitled to indemnification in view of all the relevant circumstances, whether or not the Covered Person met the standard of conduct set forth in this **Section 6.2(c)**.

(e) Nothing contained in this **Section 6.2** shall limit or preclude the exercise or be deemed exclusive of any right under the law, by contract or otherwise, relating to indemnification of or advancement of Litigation Expenses to any Person who is or was a Member or Director of the Company or is or was serving at the Company's request as a director, officer, partner, manager, trustee, employee, or agent of another foreign or domestic company, partnership, association, limited liability company, corporation, joint venture, trust, employee benefit plan, or other enterprise, whether for-profit or not. Nothing contained in this **Section 6.2** shall limit the ability of the Company to otherwise indemnify or advance Litigation Expenses to

any Person. It is the intent of this **Section 6.2** to provide indemnification to Covered Persons to the fullest extent now or hereafter permitted by the law consistent with the terms or conditions of this **Section 6.2**. Indemnification shall be provided in accordance with this **Section 6.2** irrespective of the nature of the legal or equitable theory upon which a Claim is made, including negligence, breach of duty, mismanagement, waste, breach of contract, breach of warranty, strict liability, violation of federal or state securities law, violation of the Employee Retirement Income Security Act of 1974, as amended, or violation of any other state or federal law or violation of any law of any other jurisdiction.

## ARTICLE VII
## ACCOUNTING AND RECORDS

**7.1 Records and Accounting**. The books and records of the Company shall be kept, and the financial position and the results of its operations recorded, at the expense of the Company in accordance with GAAP and, to the extent necessary to comply with the provisions of this Agreement and applicable tax law, in accordance with federal income tax rules. The books and records of the Company shall reflect all Company transactions and shall be appropriate and adequate for the Company's business. The Company shall maintain and preserve, during the term of the Company, and for seven years thereafter, all such books and records. The fiscal year of the Company for financial reporting and for federal income tax purposes shall be determined in accordance with Code Section 706 (the "**Fiscal Year**").

**7.2 Access to Accounting Records**. All books and records of the Company shall be maintained at the Company's principal place of business or at such other location as may be designated by the Board, and each Member, and the Member's duly authorized representative, shall have access to them at such location and the right to inspect and copy them at reasonable times for any purpose reasonably related to the Member's interest in the Company. All confidential financial and business information in such books and records shall be kept confidential by the Members and their authorized representatives.

**7.3 Information**.

(a) The Board shall furnish or cause to be furnished to each Member any information as any such Member may request from time to time, including monthly financial statements in accordance with GAAP and all financial information as may be required by a Member to satisfy its quarterly reporting requirements under applicable United States of America or foreign securities laws. Monthly financial statements will be provided to the Members, and the Members' duly authorized representatives, in accordance with the earliest reporting deadline of the Members.

(b) The Board shall use its best efforts to cause the Company to deliver to each Member, within ninety (90) days after the end of each Fiscal Year of the Company, all information necessary for the preparation of such Member's federal income tax return; **provided** that the Board may authorize the Company to seek a single extension each year for the filing of its information returns and, if such extension is obtained, the deadline for delivery of tax information to the Members shall be extended accordingly.

(c) Members shall file their tax returns consistent with the positions taken by the Company.

**7.4 Accounting Decisions**. All decisions as to accounting matters shall be made by the Board.

**7.5 Tax Matters Partner; Federal Income Tax Elections**. To the extent permitted by Regulations or the Code, the Company shall elect to be treated as a partnership for both state and federal income tax purposes, and will not take any action that would cause it to be treated as a corporation for such purposes. The Board shall designate a "**Tax Matters Partner**" for purposes of the Code. The Tax Matters Partner shall promptly notify the Members of any audit or other matters of which he is notified or becomes aware. All decisions as to tax elections, filing of tax returns, allocations of tax items and accounting matters shall be made by the Board (or by the Tax Matters Partner pursuant to an authorized delegation by the Board). The initial Tax Matters Partner shall be Constellation Beers. The Tax Matters Partner shall keep the Board apprised of all material developments in any audit, litigation or other adversarial proceeding pertaining to the Company. The Tax Matters Partner shall not enter into any agreement with any Federal, state, local or foreign taxing authority to extend the limitation period for assessment of any tax or settle any tax issue raised by any taxing authority without the consent of the Board.

**7.6 Other Records**. The Company shall maintain records at the principal place of business of the Company or such other place as the Directors may determine, which shall include the following:

(a) financial reports of the Company, if any, for the most recent Fiscal Year;

(b) a current list of the name and last known business, residence or mailing address of each Member;

(c) copies of the Company's federal, state and local income tax returns and reports, if any, for the three most recent years;

(d) a copy of the Certificate of Formation and all amendments thereto;

(e) a copy of this Limited Liability Company Agreement and all amendments hereto;

(f) copies of any written information with respect to the amount of cash and a description of the agreed value of any property or services contributed by each Member and which each Member has agreed to contribute in the future and the date such Member became a Member;

(g) minutes of meetings of the Board of Directors and the Members;

(h) any written consents obtained from Directors or Members for actions taken by the Board or by Members without a meeting; and

(i) a copy of the Company's most recent annual report delivered to the Delaware Secretary of State and delivered to the Secretary of State in such other states where the Company is required to file an annual report from time to time.

## ARTICLE VIII
## CAPITAL CONTRIBUTIONS

**8.1 Initial Capital Contributions**. The Members have made those Capital Contributions reflected in the books and records of the Company.

**8.2 Additional Capital Contributions.** Except as otherwise required by applicable law, no Member shall be required to lend any funds to the Company or to make any additional Capital Contributions to the Company in excess of those made pursuant to, or referred to in, **Section 8.1** without the unanimous approval of the Members. No Member shall have any personal liability for the repayment of any Capital Contribution of any other Member. No Member shall be required to make up, or to make any payment to any Person on account of, any deficit in its Capital Account.

**8.3 Status of Capital Contributions**.

(a) No Member shall be entitled to withdraw or demand a refund or return of any Capital Contributions or any interest therein. No return of a Member's Capital Contributions shall be made hereunder if such distribution would violate applicable state law. Under circumstances requiring a return of any Capital Contribution, no Member shall have the right to demand or receive property other than cash, except as may be specifically provided in this Agreement or agreed to by the Board.

(b) No Member shall receive any interest with respect to its Capital Contributions.

## ARTICLE IX
## DISTRIBUTIONS

**9.1 Distribution**.

(a) Any distributions that the Board of Directors may, in its sole discretion, determine to make shall be made to the Members pro rata in accordance with their Percentage Interests subject to, and in compliance with, the terms of **Section 9.1(b)**. The Members shall not be entitled to any distributions, whether payable in cash, securities or other property, except in accordance with this **Section 9.1** (subject to **Section 9.1(b)**). To the fullest extent permitted by the Act, no Member shall be obligated to pay any amounts previously distributed to it to or for the account of the Company or any creditor of the Company, unless so ordered by a Governmental Authority.

(b) (i) The Non-CBI Members holding Membership Units as of the date of this Agreement (together with any Person to whom such Eligible Membership Units are transferred in accordance with this Agreement, collectively, "**Eligible Non-CBI Members**" and the Membership Units held by them or their permitted transferees as of the date of this

Agreement, collectively "**Eligible Membership Units**") shall be entitled to receive on each Eligible Membership Unit cumulative cash distributions in an amount equal to at least $2,000,000 in the aggregate for each Fiscal Year (the "**Required Distribution Amount**"). If the date of this Agreement is a day other than the first day of a Fiscal Year, the amount of cumulative cash distributions that the Eligible Non-CBI Members will be entitled to receive on each Eligible Membership Unit in such partial Fiscal Year will be equal to the product of (x) the Required Distribution Amount and (y) the quotient of (1) the number of days in such partial Fiscal Year (taking into account the date of this Agreement through the last day of such Fiscal Year) and (2) 360), and such amount shall constitute the Required Distribution Amount for each Eligible Membership Unit for such Fiscal Year. The Required Distribution Amount shall begin to accrue on, and shall be cumulative from and after, the date of this Agreement.

(ii) No distribution shall be declared or paid on the Membership Units or any other equity interests of the Company, and no Membership Units shall be, directly or indirectly, purchased, redeemed or otherwise acquired for consideration by the Company or any of its Subsidiaries, unless and until all accrued and unpaid distributions required to be paid to any Member pursuant to this **Section 9.1(b)** for any prior Fiscal Year or portion thereof have been or are contemporaneously declared and paid in full.

(c) For purposes of this **Article IX**, "Members" shall be limited to Members who at the time of the applicable distribution are entitled to receive distributions hereunder.

(d) Any amounts withheld pursuant to the Code or any provision of any state or local tax law with respect to any payment, distribution or allocation to the Company or the Members shall be treated as amounts distributed to the Members pursuant to this **Article IX** for all purposes of this Agreement. The Board is authorized to withhold from distributions and to pay over to any federal, state or local government any amounts required to be so withheld pursuant to the Code or any provision of any other federal, state or local law and shall allocate such amounts to those Members with respect to which such amounts were withheld.

(e) In the event that the Company or any Member thereof becomes liable as a result of a failure to withhold and remit taxes in respect of payments or allocations made to any other Member or any affiliate thereof under this Agreement then, in addition to, and without limiting, any other indemnities for which such other Member may be liable in respect of this Agreement, such other Member shall indemnify and hold harmless the Company or the other Members, as the case may be, in respect of all such taxes, including interest and penalties, and any expenses incurred in connection with such liability. The provisions contained in this **Section 9.1(e)** shall survive the termination of the Company and the withdrawal of any Member.

**9.2 Restriction on Distributions**. Notwithstanding any other provision in this Agreement, payment of distributions under **Section 9.1** may be made by the Company only to the extent that such payment would not violate applicable financing agreements or credit agreements of the Company, and no distribution may be made by the Company to any Member in violation of the Act (including Section 18-607 thereof) or any applicable law.

## ARTICLE X
## ALLOCATIONS

**10.1 Tax Items**.

(a) Generally, all items of income, gain, loss and other tax items shall be allocated to the Members in accordance with **Section 10.1(b)**, except as otherwise required to pursuant to Section 704(c) of the Code and related Code and Regulations provisions. All tax allocations shall be made in accordance with the traditional method described in Regulations Section 1.704-3(b).

(b) After giving effect to the special allocations in **Sections 10.2, 10.3, 10.4, and 10.5**, Profits, including items of gross income, for any year shall be allocated as follows:

(i) First, to the Non-CBI Members to the extent of any amount distributed pursuant to **Section 9.1(b)**,

(ii) Thereafter, to the Members pro rata in accordance with their Percentage Interests.

(c) Losses for any year shall be allocated as follows:

(i) To the Members in pro rata accordance with their Percentage Interests.

**10.2 Special Allocations.** The following special allocations shall be made in the following order:

(a) **Minimum Gain Chargeback.** Except as otherwise provided in Regulations Section 1.704-2(f), notwithstanding any other provision of this **Article X**, if there is a net decrease in Company Minimum Gain during any Allocation Year, each Member shall be specially allocated items of Company income and gain for such Allocation Year (and, if necessary, subsequent Allocation Years) in an amount equal to such Member's share of the net decrease in Company Minimum Gain, determined in accordance with Regulations Section 1.704-2(g). Allocations pursuant to the previous sentence shall be made in proportion to the respective amounts required to be allocated to each Member pursuant thereto. The items to be so allocated shall be determined in accordance with Regulations Sections 1.704-2(f)(6) and 1.704-2(j)(2). This **Section 10.2(a)** is intended to comply with the minimum gain chargeback requirement in Regulations Section 1.704-2(f) and shall be interpreted consistently therewith.

(b) **Member Minimum Gain Chargeback.** Except as otherwise provided in Regulations Section 1.704-2(i)(4), notwithstanding any other provision of this **Article X**, if there is a net decrease in Member Nonrecourse Debt Minimum Gain attributable to a Member Nonrecourse Debt during any Allocation Year, each Member who has a share of the Member Nonrecourse Debt Minimum Gain attributable to such Member Nonrecourse Debt, determined in accordance with Regulations Section 1.704-2(i)(5), shall be specially allocated items of Company income and gain for such Allocation Year (and, if necessary, subsequent Allocation Years) in an amount equal to such Member's share of the net decrease in Member Nonrecourse

Debt, determined in accordance with Regulations Section 1.704-2(i)(4). Allocations pursuant to the previous sentence shall be made in proportion to the respective amounts required to be allocated to each Member pursuant thereto. The items to be so allocated shall be determined in accordance with Regulations Sections 1.704-2(i)(4) and 1.704-2(j)(2). This **Section 10.2(b)** is intended to comply with the minimum gain chargeback requirement in Regulations Section 1.704-2(i)(4) and shall be interpreted consistently therewith.

(c) **Qualified Income Offset.** In the event any Member unexpectedly receives any adjustments, allocations, or distributions described in Regulations Section 1.704-1(b)(2)(ii)(*d*)(*4*), Section 1.704-1(b)(2)(ii)(*d*)(*5*), or Section 1.704-1(b)(2)(ii)(*d*)(*6*), items of Company income and gain shall be specially allocated to such Member in an amount and manner sufficient to eliminate, to the extent required by the Regulations, the Adjusted Capital Account Deficit of the Member as quickly as possible, provided that an allocation pursuant to this **Section 10.2(c)** shall be made only if and to the extent that the Member would have an Adjusted Capital Account Deficit after all other allocations provided for in this **Article X** have been tentatively made as if this **Section 10.2(c)** were not in the Agreement.

(d) **Gross Income Allocation.** In the event any Member has a deficit Capital Account at the end of any Allocation Year that is in excess of the sum of (i) the amount such Member is obligated to restore pursuant to the penultimate sentences of Regulations Sections 1.704-2(g)(1) and 1.704 2(i)(5), each such Member shall be specially allocated items of Company income and gain in the amount of such excess as quickly as possible; provided that an allocation pursuant to this **Section 10.2(d)** shall be made only if and to the extent that such Member would have a deficit Capital Account in excess of such sum after all other allocations provided for in this **Article X** have been made as if **Section 10.2(c)** and this **Section 10.2(d)** were not in the Agreement.

(e) **Nonrecourse Deductions.** Nonrecourse Deductions for any Allocation Year shall be specially allocated to the Members in proportion to their respective Percentage Interests.

(f) **Member Nonrecourse Deductions.** Any Member Nonrecourse Deductions for any Allocation Year shall be specially allocated to the Member who bears the economic risk of loss with respect to the Member Nonrecourse Debt to which such Member Nonrecourse Deductions are attributable in accordance with Regulations Section 1.704-2(i)(1).

(g) **Section 754 Adjustments.** To the extent an adjustment to the adjusted tax basis of any Company asset, pursuant to Code Section 734(b) or Section 743(b) is required, pursuant to Regulations Section 1.704-1(b)(2)(iv)(*m*)(*2*) or Section 1.704-1(b)(2)(iv)(*m*)(*4*), to be taken into account in determining Capital Accounts as the result of a distribution to a Member in complete liquidation of such Member's interest in the Company, the amount of such adjustment to Capital Accounts shall be treated as an item of gain (if the adjustment increases the basis of the asset) or loss (if the adjustment decreases such basis) and such gain or loss shall be specially allocated to the Members in accordance with their interests in the Company in the event Regulations Section 1.704-1(b)(2)(iv)(*m*)(*2*) applies, or to the Member to whom such distribution was made in the event Regulations Section 1.704-1(b)(2)(iv)(*m*)(*4*) applies.

**10.3 Curative Allocations.** The allocations set forth in **Sections 10.2** and **10.4** (the "**Regulatory Allocations**") are intended to comply with certain requirements of the Regulations. It is the intent of the Members that, to the extent possible, all Regulatory Allocations shall be offset either with other Regulatory Allocations or with special allocations of other items of Company income, gain, loss, or deduction pursuant to this **Section 10.3**. Therefore, notwithstanding any other provision of this **Article X** (other than the Regulatory Allocations), the Board shall make such offsetting special allocations of Company income, gain, loss, or deduction in whatever manner it determines appropriate so that, after such offsetting allocations are made, each Member's Capital Account balance is, to the extent possible, equal to the Capital Account balance such Member would have had if the Regulatory Allocations were not part of the Agreement and all Company items were allocated pursuant to **Section 10.1**. In exercising its discretion under this **Section 10.3**, the Board shall take into account future Regulatory Allocations under **Sections 10.2(a)** and **10.2(b)** that, although not yet made, are likely to offset other Regulatory Allocations previously made under **Sections 10.2(e)** and **10.2(f)**.

**10.4 Loss Limitation.** Losses allocated pursuant to **Section 10.1** hereof shall not exceed the maximum amount of Losses that can be allocated without causing any Member to have an Adjusted Capital Account Deficit at the end of any Allocation Year. In the event some but not all of the Members would have Adjusted Capital Account Deficits as a consequence of an allocation of Losses pursuant to **Section 10.1** hereof, the limitation set forth in this **Section 10.4** shall be applied on a Member by Member basis and Losses not allocable to any Member as a result of such limitation shall be allocated to the other Members in accordance with the positive balances in such Member's Capital Accounts so as to allocate the maximum permissible Losses to each Member under Regulations Section 1.704-1(b)(2)(ii)(*d*).

**10.5 Other Allocation Rules**

(a) For purposes of determining the Profits, Losses, or any other items allocable to any period, Profits, Losses, and any such other items shall be determined on a daily, monthly, or other basis, as determined by the Board using any permissible method under Code Section 706 and the current and proposed Regulations thereunder.

(b) The Members are aware of the income tax consequences of the allocations made by this **Article X** and hereby agree to be bound by the provisions of this **Article X** in reporting their shares of Company income and loss for income tax purposes.

(c) Any "excess nonrecourse liability" of the Company, within the meaning of Regulations Section 1.752-3(a)(3), shall be allocated first among the Members in proportion to and to the extent of the amount of built-in gain that is allocable to each Member on Code Section 704(c) property or property for which reverse Code Section 704(c) allocations are applicable where such property is subject to the nonrecourse liability to the extent that such built-in gain exceeds the gain described in Regulations Section 1.752-3(a)(2) with respect to such property. The amount of any excess nonrecourse liabilities not allocated pursuant to the preceding sentence shall be allocated in accordance with the Members' interests in Company profits. Solely for purposes of this **Section 10.5(c)**, the Members' interests in Company profits are in proportion to their Percentage Interests.

(d) To the extent permitted by Regulations Section 1.704-2(h)(3), the Manager shall endeavor to treat distributions of Net Cash Flow as having been made from the proceeds of a Nonrecourse Liability or a Member Nonrecourse Debt only to the extent that such distributions would cause or increase and Adjusted Capital Account Deficit for any Member.

To the extent permitted by Regulations Section 1.704-2(h)(3), the Manager shall endeavor to treat distributions of Net Cash Flow as having been made from the proceeds of a Nonrecourse Liability or a Member Nonrecourse Debt only to the extent that such distributions would cause or increase an Adjusted Capital Account Deficit for any Member.

**10.6 Successor Members**.

(a) For purposes of this **Article X**, "**Members**" shall be limited to Members who at the time of the applicable allocation are entitled to receive allocations hereunder.

(b) For purposes of this **Article X**, a transferee of an interest in the Company shall be deemed to have been allocated the items of Company income, gain, loss, deduction and credit that previously have been allocated to the transferor Member pursuant to this Agreement.

## ARTICLE XI
## ADDITIONAL MEMBERS

**11.1 Transfer of Member Interest; Withdrawal**. If one or more Members is a Non-CBI Member, no Member shall, directly or indirectly, transfer all or any portion of its Membership Interest, or grant or assign any participation in its right to receive distributions or allocations of profits or losses in respect thereof, whether voluntarily or by operation of law, to any Prohibited Owner. Except as set forth in this **Section 11.1**, and subject to **Sections 11.2**, **11.3** and **11.4**, if applicable, a Member shall be free to transfer its Membership Interest to any Person. No Member shall have the right or power to withdraw prior to the dissolution or winding up of the Company, except with the approval of a majority of the Board of Directors, which consent may be granted or withheld by any Director in his or her sole discretion, or in connection with a transfer of its Membership Interest in accordance with this Agreement. Any person to whom a Membership Interest is transferred in accordance with this **Section 11.1** and the terms of this Agreement shall be admitted as a Member in accordance with **Section 11.5**. Any attempt to transfer a Member's Membership Interest in the Company, or to withdraw from the Company, in violation of this **Section 11.1** shall be void, the Company shall refuse to recognize any such transfer and shall not reflect on its records any change in record ownership of a Membership Interest pursuant to any such transfer, and the Member attempting to effect such transfer or withdrawal shall indemnify the Company for any costs or expenses it may incur in connection with the attempted transfer or withdrawal.

**11.2 Right of First Refusal**.

(a) If at any time after the 10th anniversary of the date of this Agreement any Member that is a Non-CBI Member (the "**Initiating Member**") receives a bona fide offer to purchase all or any portion of its Membership Units from any Person (other than a Prohibited Owner or Affiliates of such Member) which such Member intends to accept, then such Initiating

Member shall give written notice of such proposed transfer (the "**Notice of Transfer**") to Constellation Beers stating the number of Membership Units it proposes to sell (the "**Offered Units**"), the name and address of the proposed transferee, the purchase price, type of consideration and, in reasonable detail, any other material terms of the offer. Such Notice of Transfer shall constitute a binding offer by the Initiating Member to sell to Constellation Beers the Offered Units at the price, and on the same terms and conditions, set forth in the Notice of Transfer (with any non-cash consideration to be valued at its fair market value by the good faith determination of an accountant mutually agreed upon by Constellation Beers and the Initiating Member). Upon receipt of the Notice of Transfer by Constellation Beers, it shall have the option to accept such offer in whole but not in part, exercisable by giving written notice of acceptance to the Initiating Member, within thirty (30) days after its receipt of the Notice of Transfer. Such acceptance notice shall be irrevocable, shall constitute a binding commitment of Constellation Beers and shall propose a time and date for the closing of the transfer of the Offered Units which shall not be less than thirty (30) nor more than ninety (90) days after the giving of the acceptance notice. The place for such closing shall be at the principal place of business of the Company or such other location as may be agreed to by Constellation Beers and the Initiating Member.

(b) If Constellation Beers does not notify the Initiating Member of its intention to purchase the Offered Units within such 30-day period, then, subject to **Section 11.5**, the Initiating Member shall be free to transfer the Offered Units, but only to the same transferee and upon the same terms and conditions set forth in the Notice of Transfer; provided, however, that if such transfer is not completed within ninety (90) days following the expiration of the option period, the Offered Units shall again be restricted by, and may not be transferred by the Initiating Member without full compliance with, this Agreement.

(c) The provisions of this **Section 11.2** shall cease to be effective if at any time Constellation Beers ceases to own any Membership Interest.

**11.3 Tag-Along Right.**

(a) If Constellation Beers (which includes, for purposes of this **Section 11.3**, any of its Affiliates) receives a bona fide offer to purchase all or any portion of its Membership Units (other than from a Prohibited Owner) which Constellation Beers intends to accept, then Constellation Beers shall give written notice of such proposed transfer (the "**Tag-Along Notice**") to the other Members stating, in reasonable detail, the terms and conditions of such offer, including the name of the prospective purchaser, the proposed purchase price per Membership Unit (the "**Offer Price**") and payment terms, the type of consideration, the type of disposition and the number of such Membership Units to be transferred ("**Tag-Along Units**"). Each Member may elect to participate in the contemplated transaction by delivering written notice to Constellation Beers within sixty (60) days after its receipt of such Tag-Along Notice. Each Member so electing (each a "**Selling Party**") will be entitled to sell in the contemplated transaction, at the same price and on the same terms and conditions as specified in the Tag-Along Notice, a number of Membership Units of the Company equal to the product obtained by multiplying (A) the quotient of (1) the number of Membership Units held by such Selling Party by (2) the aggregate number of Membership Units held by all of the Selling Parties and Constellation Beers and (B) the number of Tag-Along Units. Constellation Beers will be entitled to sell in the contemplated transaction the balance of the Tag-Along Units proposed to be sold

and for which no Selling Party has elected to exercise its tag-along rights hereunder. Constellation Beers shall not sell any Membership Units to such prospective transferee unless such prospective transferee allows the participation of each Selling Party on the terms specified herein.

(b) If none of the other Members notify Constellation Beers of their intention to participate in the contemplated transaction within such 60-day period, then, subject to **Section 11.5**, Constellation Beers shall be free to transfer the Tag-Along Units, but only to the same transferee and upon the same terms and conditions set forth in the Tag-Along Notice; provided, however, that if such transfer is not completed within ninety (90) days following the expiration of such 60-day period, the Tag-Along Units shall again be restricted by, and may not be transferred by Constellation Beers without full compliance with, this Agreement.

**11.4 Drag Along Right.**

(a) If Constellation Beers determines to sell or exchange (in a business combination or otherwise) all of its Membership Units to a third party (other than a Prohibited Owner) who is not an Affiliate of Constellation Beers, then upon thirty (30) days' written notice from Constellation Beers (the "**Drag-Along Notice**"), which notice shall include, in reasonable detail, the terms and conditions of the proposed sale or exchange, including the proposed time and place of closing, the proposed purchase price per Membership Unit and the type of consideration, each other Member shall be obligated to, and shall, at the same price and on the same terms and conditions specified in the Drag-Along Notice, (i) sell, transfer and deliver, or cause to be sold, transferred and delivered, to such third party, all its Membership Units in the same transaction at the closing thereof (and will deliver certificates for all of its Membership Units at such closing, free and clear of all claims, liens and encumbrances subject to customary exceptions for liens for taxes and liens created by this Agreement or the purchaser of the interests), and (ii) if Member approval of the transaction is required, vote its Membership Units in favor thereof; provided that, each other Member shall only be required to make representations and warranties relating to non contravention, title and ownership of, and authority to sell its respective Membership Interests and shall only be required to provide indemnification to the purchaser (which shall be capped at the net cash proceeds received by it in the transaction and shall be on a pro rata basis with Constellation Beers's indemnification obligations and subject to any limitations on Constellation Beers's obligations to indemnify such purchaser (including any caps on indemnification obligations)) for breaches of such representations and warranties and any covenants that both it and Constellation Beers are required to make. Notwithstanding the foregoing, no Member shall be required to sell or exchange any of its Membership Units if there are any Required Distribution Amounts or other distribution payments required to be paid pursuant to **Article IX** that are accrued but unpaid on such Membership Units unless the Company distributes an amount equal to such Required Distribution Amounts and other distribution payments or the third party purchaser agrees to pay such amounts (in addition to any amounts required to pay to purchase the Membership Units of such Members pursuant to the first sentence of this **Section 11.4(a)**, in each case, at or prior to the closing of the transaction that is the subject of the Drag-Along Notice) (it being agreed and understood for any portion of a Fiscal Year that is not completed the Required Distribution Amount and other distributions amount shall include the pro rata amount of distribution for such

Fiscal Year (i.e., $2,000,000 per Membership Unit) based on the number of days completed in such Fiscal Year and a 360 day year).

(b) In determining the terms and conditions of any sale or other transaction for purposes of this **Section 11.4** (such sale or transaction, a "**Participatory Transaction**"), Constellation Beers shall act in good faith in determining such terms and conditions and will not include terms that the Non-CBI Members could not lawfully accept, or include any noncompete (or similar restriction on the ability of any such Non-CBI Member to operate or compete) or requirement on the part of any Non-CBI Member to accept any conditions, other than those relating to its Membership Units, or restrictions or conditions on the business of any such Non-CBI Member in order to obtain consents of Governmental Authorities (the "**Restrictive Terms**"). Notwithstanding the provisions of this **Section 11.4(b)**, if Constellation Beers determines to consummate a Participatory Transaction with Restrictive Terms, it shall purchase from the Non-CBI Members, and the Non-CBI Members shall sell to Constellation Beers, the Membership Units that such Non-CBI Members otherwise would have transferred in such Participatory Transaction had such Participatory Transaction not included the Restrictive Terms. Constellation Beers shall pay to the Non-CBI Members the proceeds in exchange for the purchase of such Non-CBI Members Membership Units representing its pro rata share of the total proceeds of the Participatory Transaction in cash (or the equivalent fair market value of such other consideration) that the Non-CBI Member would have received had it taken part in the Participatory Transaction. Such payment and purchase shall be made (x) immediately prior to the execution of (subject to repayment and return of such Membership Units if the Participatory Transaction does not close), or (y) immediately prior to the closing of, the Participatory Transaction, at the option of Constellation Beers.

(c) In any transaction contemplated by this **Section 11.4**, each Member shall receive in exchange for the Membership Units held by such Member the same form of consideration as each other Member holding the same class and series of Membership Units, and the aggregate consideration payable upon consummation of such transaction to all Members in respect of their Membership Units (subject to adjustment for Company expenses, purchase price adjustments, escrow amounts, purchase price holdbacks and other similar items, the "**Company Sale Consideration**") shall be apportioned and distributed among the Members pro rata in accordance with their Percentage Interests; *provided*, that if there is more than one form of consideration, each form of consideration shall be so apportioned and distributed; *provided*, *further*, that if any Member is given an option as to the form and amount of consideration to be received, each Member shall be given the same option.

**11.5 Substitute or Additional Members**.

(a) Any Person wishing to be admitted to the Company as an additional Member may be admitted only after compliance with **Sections 11.1, 11.2** (if applicable), or **11.3** (if applicable).

(b) Upon the admission of a substitute or an additional Member, **Schedule A** annexed hereto shall be amended to reflect the revised Membership Units of the Members. No Person shall become a Member until such Person shall have become a party to, and adopted, in a writing reasonably acceptable to the Board, all of the terms and conditions of this Agreement.

**11.6 Financial Adjustments**. No new Members shall be entitled to any retroactive allocation of losses, income, or expense deductions incurred by the Company. The Directors may, at their option, at the time a Member is admitted, close the Company books (as though the Company's tax year had ended) or make *pro rata* allocations of income, loss and expense deductions to a new Member for that portion of the Company's tax year in which a Member was admitted in accordance with the provisions of Code Section 706(d) and the Regulations promulgated thereunder.

## ARTICLE XII
## MEETINGS OF MEMBERS AND VOTING

**12.1 Voting By Members**.

(a) Whenever any vote or action is required to be taken by the Members under this Agreement, such vote or action shall be taken (i) at a meeting of the Members entitled to vote or act thereon called and held in accordance with this **Article XII**, or (ii) by the Members entitled to vote or act thereon in accordance with the procedures set forth in **Section 12.7**.

(b) The Members shall vote in proportion to each Member's Membership Interest in the Company, as determined by their Percentage Interests.

**12.2 Meetings of Members**.

(a) An annual meeting of the Members may be held in [October] of each Fiscal Year if called by any Member for the purpose of reviewing the business of the Company with the Members and for the transaction of such other business as may come before the meeting. If no annual meetings are called, the Members need not hold annual meetings. Special meetings of the Members, for any purpose or purposes, may be called from time to time by any Member.

(b) When assembled at an annual meeting, the Members may vote or act upon any matter with respect to which they are entitled to vote or act under the terms of this Agreement or under the Act to the extent consistent with this Agreement. When assembled at a special meeting, the Members may vote or act upon any matter described in the immediately preceding sentence which was set forth in the notice calling the meeting or notice of which was or is thereafter waived in accordance with this Agreement.

(c) Members may participate in any meeting by means of conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other. Such participation shall constitute presence in person at the meeting.

**12.3 Place of Meeting**. The Members may designate any place, either within or without the State of Illinois, as the place of the meeting for any annual or special meeting of Members; provided, however, that if any Member objects to such location, the meeting shall be held at the principal offices of the Company.

**12.4 Notice of Meeting**.

(a) The Member calling a meeting, shall cause a written or printed notice of such meeting to be given to each Member of record entitled to vote at such meeting not less than ten (10) nor more than sixty (60) days before the date of the meeting. Such notice shall state (i) the place, date and hour of the meeting, (ii) that it is being issued by or at the direction of the person calling the meeting and, (iii) in the case of a special meeting, the purpose or purposes for which the meeting is called.

(b) Notwithstanding paragraph (a) hereof, notice of meeting need not be given to any Member who submits a signed waiver of notice, in person or by proxy. The attendance of a Member at a meeting, in person or by proxy, without protesting the lack of notice of such meeting, shall constitute a waiver of notice of such meeting by such Member.

**12.5 Quorum**. Presence in person or by proxy of Members entitled to vote holding more than fifty percent (50%) of the outstanding Membership Units shall constitute a quorum at a meeting of Members for the transaction of any business; **provided**, **however**, that the presence in person or by proxy of Members entitled to vote holding 100% of the outstanding Membership Units shall be required to constitute a quorum at a meeting of Members held to vote on any Unanimous Decision. If less than such number of Members is present at a meeting, the Members present may adjourn the meeting despite the absence of a quorum.

**12.6 Proxies**. At all meetings of Members, a Member may vote by proxy executed in writing by the Member or by his duly authorized attorney-in-fact. In order to be effective, such proxy shall (i) be signed in the exact name of the Member on record with the Company, and (ii) be filed with the records of the Company before or at the time of the meeting. No proxy shall be valid after eleven (11) months from the date of its execution, unless otherwise provided in the proxy.

**12.7 Action by Members without a Meeting**.

(a) Any action required or permitted to be taken by vote at a meeting of the Members may be taken without a meeting, without prior notice and without a vote, if a consent or consents in writing setting forth the action so taken shall be signed by the Members who hold the voting interests having not less than the minimum number of votes that would be necessary pursuant to this Agreement to authorize or take such action at a meeting at which all of the Members entitled to vote therein were present and voted and shall be delivered to the principal office of the Company.

(b) Prompt notice of the taking of the action without a meeting by less than unanimous written consent shall be given to those Members who have not consented in writing but who would have been entitled to vote thereon had such action been taken at a meeting.

## ARTICLE XIII
## DISSOLUTION OF THE COMPANY

**13.1 Dissolution of the Company**. The Company shall be dissolved, its assets disposed of and its affairs wound up upon the first to occur of the following:

(a) Approval by the Members holding one hundred percent (100%) of the outstanding Membership Units that the Company should be dissolved; and

(b) the sale of all or substantially all of the assets of the Company.

**13.2 Distribution of Assets**.

(a) If the Company is dissolved and its affairs are to be wound up, the Board shall (1) sell or otherwise liquidate all of the Company's assets as promptly as practicable (except to the extent the Board may determine to distribute any assets to the Members in kind), (2) discharge all liabilities of the Company (including liabilities to Members), whether by payment or the making of reasonable provision for payment thereof, (3) discharge all liabilities relating to the dissolution, winding up, and liquidation and distribution of assets, (4) establish such reserves as may be reasonably necessary to provide for contingent, conditional and unmatured liabilities of the Company, and (5) distribute the remaining assets to the Members first to the extent of any Required Distribution Amount and second in accordance with their positive capital account balances. If any assets of the Company are to be distributed in kind, the carrying value of such assets as of the date of dissolution shall be determined by the Board (or, if there is then no Board, by any remaining Directors or, if none, by agreement of Members holding a majority of the Membership Units in the Company).

(b) Upon completion of the winding up, liquidation and distribution of the assets, the Company shall terminate. Upon termination of the Company, except as expressly provided otherwise herein, this Agreement shall terminate.

(c) The Board shall comply with any applicable requirements of applicable law pertaining to the winding up of the Company and the final distribution of its assets.

**13.3 Filing of Certificate of Cancellation**.

(a) Upon the dissolution and complete winding up of the Company, a Certificate of Cancellation of the Certificate of Formation shall be executed by an officer of the Company as an authorized person of the Company and filed in the office of the Delaware Secretary of State.

(b) Upon the issuance of the Certificate of Cancellation, the existence of the Company shall cease, except for the purpose of suits, other proceedings and appropriate action as provided in the Act. The Board (or, in the absence of a Board, the remaining Directors) shall have authority to distribute any Company property discovered after dissolution, convey real estate and take such other action as may be necessary on behalf of and in the name of the Company.

**13.4 Return of Contribution Non-Recourse to Other Members**. Except as provided by law, upon dissolution, each Member shall look solely to the assets of the Company for the return of its Capital Contribution. If the Company property remaining after the payment or discharge of the debts and liabilities of the Company is insufficient to return the cash or other property contribution of one or more Members, such Member or Members shall have no recourse against any other Member.

**13.5 Cooperation by the Members upon Dissolution**. From and after the dissolution of the Company, each Member agrees to execute, deliver and file all documents and instruments, and take all actions, reasonably requested by the other Member in order to obtain all Authorizations necessary to allow such Member to continue with the operation of its business.

## ARTICLE XIV
## GOVERNING LAW; FORUM

This Agreement shall be governed by and construed in accordance with the laws of the State of Delaware, without reference to its principles of conflicts of law that would require application of the substantive laws of any other jurisdiction. The Members irrevocably consent to the exclusive personal jurisdiction and venue of the courts of the State of New York or the federal courts of the United States of America, in each case sitting in New York, New York, in connection with any action or proceeding arising out of or relating to this Agreement. Each Member hereby irrevocably waives, to the fullest extent permitted by law, any objection that it may now or hereafter have to the laying of the venue of such action or proceeding brought in such a court and any claim that any such action or proceeding brought in such court has been brought in an inconvenient forum. The Members agree that mailing of process or other papers in connection with any such action or proceeding in the manner provided in **Section 15.3** shall be valid and sufficient service thereof.

## ARTICLE XV
## MISCELLANEOUS

**15.1 Counterparts and Facsimile Signatures**. This Agreement may be executed in counterparts, each of which when so executed and delivered shall be deemed an original, and such counterparts, taken together, shall constitute one and the same instrument. Signatures sent by facsimile shall constitute and be binding to the same extent as originals.

**15.2 Assignment**. Except as otherwise provided herein, this Agreement shall not be assignable (by operation of law or otherwise) by any Member without (a) if any Non-CBI Members are Members, the unanimous approval of all Members and (b) if no Non-CBI Members are Members, the prior written consent of the Board.

**15.3 Notices**. All notices, demands, requests, or other communications that may be or are required to be given, served, or sent to a Member pursuant to this Agreement shall be in writing and shall be delivered in person, mailed by registered or certified mail, return receipt requested, delivered by a commercial courier guaranteeing overnight delivery, or sent by facsimile (transmission confirmed), addressed to such party at the address for such party set forth on **Schedule A**. Delivery shall be effective upon delivery or refusal of delivery, with the receipt or affidavit of the United States Postal Service or overnight delivery service or facsimile confirmation deemed conclusive evidence of such delivery or refusal. Each Member may designate by notice in writing a new address to which any notice, demand, request, or communication may thereafter be so given, served, or sent.

**15.4 Entire Agreement**. This Agreement and the various schedules and exhibits hereto embodies all of the understandings and agreements of every kind and nature existing

between the parties hereto with respect to the transactions contemplated hereby and supersedes any and all other prior arrangements or understandings with respect thereto.

**15.5 Severability**. The provisions of this Agreement shall be deemed severable and the invalidity or unenforceability of any provision shall not affect the validity or enforceability of the other provisions of this Agreement. If any provision of this Agreement, or the application thereof to any Person or in any circumstance, is invalid or unenforceable, (a) a suitable and equitable provision shall be substituted therefore in order to carry out, as far as may be valid and enforceable, the intent and purpose of such invalid or unenforceable provision, and (b) the remainder of this Agreement and the application of all its provisions to other Persons or circumstances shall not be affected by such invalidity or unenforceability.

**15.6 Waiver; Amendment**. Except as expressly provided in this Agreement, no amendment to or waiver of any provision of this Agreement shall be binding unless executed in writing by all of the Members, including, but not limited to, an amendment to or waiver of **Section 9.1(a)**. No waiver of any provision of this Agreement shall constitute a waiver of any other provision nor shall any waiver of any provision of this Agreement constitute a continuing waiver unless expressly so provided. The failure by any Person to exercise any right under, or to object to any breach by the other party of, any term, provision or condition of this Agreement shall not constitute a waiver thereof and shall not preclude such party from thereafter exercising that or any other right, or from thereafter objecting to that or any prior or subsequent breach of the same or any other term, provision or condition of this Agreement. Any waiver or consent granted under this Agreement shall be a consent only to the transaction, act or agreement specifically referred to in the consent and not to other similar transactions, acts or agreements.

**15.7 Parties in Interest; No Third Party Rights**. Subject to **Section 6.2**, nothing in this Agreement shall give any other Person any legal or equitable right, remedy or claim under or with respect to this Agreement or the transactions contemplated hereby.

**15.8 Binding Effect**. The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns.

**15.9 Effect of Amendment and Restatement**. The Restated Agreement shall be deemed amended and restated in its entirety as of the date hereof by this Agreement and the Restated Agreement shall thereafter be of no further force and effect except to evidence any rights and obligations of the Members or action or mission performed or required to be performed pursuant to such Restated Agreement prior to the date hereof.

**15.10 Subsidiary Organizational Documents**. For so long as any Non-CBI Members are Members, the Company shall cause the charter, by-laws, limited liability company agreements, partnership agreements and other similar organizational documents of any Subsidiaries to contain provisions consistent with, and not in contravention with, the terms of this Agreement.

**IN WITNESS WHEREOF**, this Second Amended and Restated Limited Liability Company Agreement has been executed as of the date first above written.

**CONSTELLATION BRANDS BEACH HOLDINGS, INC.**

By: _____

Name: _____

Title: _____

**CONSTELLATION BEERS LTD.**

By: _____

Name: _____

Title: _____

**[Signature Page to Second Amended and Restated Company LLC Agreement]**

The Registrant has omitted from this filing the Exhibits and Schedules listed below. The Registrant will furnish supplementally to the Securities and Exchange Commission, upon request, a copy of such Exhibits and Schedules.

Exhibits omitted from the Membership Interest Purchase Agreement:

| | | |
|---|---|---|
| Exhibit C | – | Membership Interest Assignment |

Exhibits and Schedules omitted from the Restated LLC Agreement (Exhibit D to the Membership Interest Purchase Agreement):

| | | |
|---|---|---|
| Schedule A | – | Members and Number of Membership Units |
| Exhibit A | – | Form of Membership Certificate |

**Exhibit 4.1**

INTERIM LOAN AGREEMENT

dated as of

June 28, 2012

among

CONSTELLATION BRANDS, INC.,
as the Borrower,

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

The Lenders Party Hereto

and

JPMORGAN CHASE BANK, N.A.,
as Syndication Agent

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MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED
and
J.P. MORGAN SECURITIES LLC,
as Joint Lead Arrangers and Joint Bookrunning Managers

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INTERIM LOAN AGREEMENT (this "Agreement") dated as of June 28, 2012 among CONSTELLATION BRANDS, INC., a Delaware corporation, the LENDERS party hereto, BANK OF AMERICA, N.A., as Administrative Agent and the other parties hereto.

The parties hereto agree to the following:

ARTICLE I

Definitions

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

"Acquisition" means the acquisition by Constellation Beers Ltd. and Constellation Brands Beach Holdings, Inc., each a wholly owned subsidiary of the Borrower, of all of the outstanding equity interests of Crown Imports LLC that are not currently owned by Constellation Beers Ltd. in accordance with the terms of the Acquisition Agreement.

"Acquisition Agreement" means the Membership Interest Purchase Agreement, dated as of June 28, 2012, by and among Constellation Beers Ltd., Constellation Brands Beach Holdings, Inc., the Borrower and Anheuser-Busch InBev SA/NV.

"Act" has the meaning assigned in Section 9.13.

"Administrative Agent" means Bank of America, in its capacity as administrative agent for the Lenders hereunder, or any successor administrative agent.

"Administrative Agent's Office" means the Administrative Agent's address and, as appropriate, account as set forth on Schedule 9.01 or such other address or account as the Administrative Agent may from time to time notify to the Borrower and the Lenders.

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

"Affiliate" means, with respect to a specified Person, another Person that directly, or indirectly through one or more intermediaries, Controls or is Controlled by or is under common Control with the Person specified.

"Agency Fee Letter" means the administrative agency fee letter, dated as of June 28, 2012, between the Borrower and the Administrative Agent.

"Agent Parties" has the meaning assigned in Section 9.01(c).

"Agreement" has the meaning assigned in the preamble hereto.

"Applicable Rate" means, for any Loan for any period, 4.75% per annum (the "Initial Eurodollar Spread"); provided that the Initial Eurodollar Spread shall be increased by 0.50% per annum on the date that is three calendar months following the Closing Date and by an additional 0.50% per annum on each successive date falling three calendar months thereafter.

"Approved Fund" means any Fund 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.

"Arrangers" means Merrill Lynch, Pierce, Fenner & Smith Incorporated and J.P. Morgan Securities LLC in their capacities as joint lead arrangers and joint bookrunners under this Agreement.

"Asset Sale" means any Disposition of Property or series of related Dispositions of Property pursuant to clause (e)(iii), (j) or (k) of Section 6.10 which yields Net Cash Proceeds to the Borrower or any of its Subsidiaries in excess of $25,000,000 in the aggregate for any such Disposition or series of related Dispositions.

"Assignee Group" means two or more Eligible Assignees that are Affiliates of one another or two or more Approved Funds managed by the same investment advisor.

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

"Attributable Receivables Indebtedness" at any time shall mean the principal amount of Indebtedness which (i) if a Permitted Receivables Facility is structured as a secured lending agreement, would constitute the principal amount of such Indebtedness or (ii) if a Permitted Receivables Facility is structured as a purchase agreement, would be outstanding at such time under the Permitted Receivables Facility if the same were structured as a secured lending agreement rather than a purchase agreement.

"Bank Engagement Letter" means the Credit Facilities Engagement Letter, dated as of June 28, 2012, by and among the Borrower, the Initial Lenders and the Arrangers.

"Bank of America" means Bank of America, N.A. and its successors.

"Base Rate" means for any day a fluctuating rate per annum equal to the highest of (a) the Federal Funds Effective Rate plus 1/2 of 1%, (b) the rate of interest in effect for such day as publicly announced from time to time by Bank of America as its "prime rate," and (c) the LIBO Rate plus 1.00%. The "prime rate" is a rate set by Bank of America based upon various factors including Bank of America's costs and desired return, general economic conditions and other factors, and is used as a reference point for pricing some loans, which may be priced at, above, or below such announced rate. Any change in such prime rate announced by Bank of America shall take effect at the opening of business on the day specified in the public announcement of such change. "Base Rate," when used in reference to any Loan, refers to whether such Loan is bearing interest at a rate determined by reference to the Base Rate.

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

"Borrower" means Constellation Brands, Inc., a Delaware corporation.

"Borrower Materials" has the meaning assigned in Section 5.01.

"Borrowing Request" means a request by the Borrower for a borrowing in accordance with Section 2.03.

"Bridge A Commitment" means, with respect to each Lender, the commitment, if any, of such Lender to make a Bridge A Loan to the Borrower on the Closing Date, as such commitment may be (a) reduced pursuant to Section 2.08 and (b) reduced or increased from time to time pursuant to assignments by or to such Lender pursuant to Section 9.04. The initial amount of each Lender's Bridge A Commitment is set forth on Schedule 2.01 or in the Assignment and Assumption pursuant to which such Lender shall have assumed its Commitment, as applicable. The initial aggregate amount of the Bridge A Commitments is $650,000,000.

"Bridge A Loans" means the loans made by the Lenders to the Borrower pursuant to Section 2.01(a).

"Bridge B Commitment" means, with respect to each Lender, the commitment, if any, of such Lender to make a Bridge B Loan to the Borrower on the Closing Date, as such commitment may be (a) reduced from time to time pursuant to Section 2.08 and (b) reduced or increased from time to time pursuant to assignments by or to such Lender pursuant to Section 9.04. The initial amount of each Lender's Bridge B Commitment is set forth on Sche-

dule 2.01 or in the Assignment and Assumption pursuant to which such Lender shall have assumed its Commitment, as applicable. The initial aggregate amount of the Bridge B Commitments is $1,225,000,000.

"Bridge B Loans" means the loans made by the Lenders to the Borrower pursuant to Section 2.01(b).

"Business Day" means any day other than a Saturday, Sunday or other day on which commercial banks are authorized to close under the Laws of, or are in fact closed in, the state where the Administrative Agent's Office is located and, if such day relates to any Eurodollar Loan, means any such day that is also a London Banking Day.

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

"Capital Markets Debt" means any debt securities or debt financing issued pursuant to an indenture, notes purchase agreement or similar financing arrangement (but excluding any credit agreement) whether offered pursuant to a registration statement under the Securities Act or under an exemption from the registration requirements of the Securities Act.

"Capital Stock" means, with respect to any Person, any and all shares, interests, participations or other equivalents (however designated, whether voting or non-voting) in the equity of such Person, including, without limitation, all common stock and preferred stock.

"Cash Equivalents" means:

(a) direct obligations of, or obligations the principal of and interest on which are unconditionally guaranteed by, the United States of America (or by any agency or instrumentality thereof to the extent such obligations are backed by the full faith and credit of the United States of America), in each case maturing within one year from the date of acquisition thereof;

(b) investments in commercial paper maturing within one year from the date of acquisition thereof and having, at such date of acquisition, a credit rating of at least "A-1" from S&P or "P-1" from Moody's;

(c) marketable short-term money market and similar securities having a rating of at least "A-2" from S&P or "P-2" from Moody's (or, if at the time neither S&P or Moody's shall be rating such obligations, an equivalent rating from another rating agency) and in each case maturing within one year from the date of acquisition thereof;

(d) investments in certificates of deposit, bankers' acceptances, time deposits and eurodollar time deposits maturing within one year from the date of acquisition thereof issued or guaranteed by or placed with, and money market deposit accounts issued or offered by, any office of (x) any commercial bank organized under the laws of the United States of America or any State thereof which has a combined capital and surplus and undivided profits of not less than U.S. $500,000,000 or (y) any Lender hereunder;

(e) fully collateralized repurchase agreements with a term of not more than 30 days for securities described in clause (a) of this definition and entered into with a financial institution satisfying the criteria described in clause (d) of this definition;

(f) money market funds that (i) (x) comply with the criteria set forth in the SEC's Rule 2a-7 under the Investment Company Act of 1940, as amended, and (y) substantially all of whose assets are invested in the types of assets described in clauses (a) through (e) of this definition or (ii) are issued or offered by any of the Lenders hereunder;

(g) foreign investments substantially comparable to any of the foregoing in connection with managing the cash of any Foreign Subsidiary;

(h) readily marketable direct obligations issued by any state, commonwealth or territory of the United States or any political subdivision or taxing authority thereof having an "A" rating from either S&P or Moody's with maturities of one year or less from the date of acquisition; and

(i) Investments with weighted average life to maturities of one year or less from the date of acquisition in money market funds rated "A" (or the equivalent thereof) or better by S&P or "A" (or the equivalent thereof) or better by Moody's and in each case in U.S. dollars.

"Cash Management Obligations" means obligations owed by the Borrower or any Subsidiary to any lender or any Affiliate of a lender under the Senior Secured Credit Agreement in respect of (1) any overdraft and related liabilities arising from treasury, depository and cash management services or any automated clearing house transfers of funds and (2) the Borrower's or any Subsidiary's participation in commercial (or purchasing) card programs at any such lender or Affiliate.

"Change in Control" means (a) the acquisition of beneficial ownership, directly or indirectly, by any Person or group (within the meaning of the Securities Exchange Act of 1934 and the rules of the Securities and Exchange Commission thereunder as in effect on the date of this Agreement) (other than the Permitted Holders), of Equity Interests representing more than 35% of the aggregate ordinary voting power represented by the issued and outstanding Equity Interests of the Borrower (provided that the Permitted Holders in the aggregate "beneficially own" (as so defined) Equity Interests having a lesser percentage of the aggregate ordinary voting power represented by the issued and outstanding Equity Interests of the Borrower than such other Person or group and do not have the right or ability by voting power, contract or otherwise to elect or designate for election a majority of the Board of Directors of the Borrower) or (b) during any period of two consecutive years, individuals who at the beginning of such period constituted the Board of Directors of the Borrower (together with any new directors whose election to such Board or whose nomination for election by the shareholders of the Borrower was approved by a vote of 66 2/3% of the directors then still in office who were either directors at the beginning of such period or whose election or nomination for election was previously so approved) cease for any reason to constitute a majority of such Board of Directors then in office.

"Change in Law" means (a) the adoption of any law, treaty, rule or regulation after the date of this Agreement, (b) any change in any law, treaty, rule or regulation or in the interpretation or application thereof by any Governmental Authority after the date of this Agreement or (c) compliance by any Lender (or, for purposes of Section 2.14(b), by any lending office of such Lender or by such Lender's holding company, if any) with any request, guideline or directive (whether or not having the force of law) of any Governmental Authority made or issued after the date of this Agreement; provided that notwithstanding anything herein to the contrary, (x) the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, rules, guidelines or directives thereunder or issued in connection therewith and (y) all requests, rules, guidelines or directives promulgated by the Bank for International Settlements, the Basel Committee on Banking Supervision (or any successor or similar authority) or the United States or foreign regulatory authorities, in each case pursuant to Basel III, shall in each case be deemed to be a "Change in Law," regardless of the date enacted, adopted or issued.

"Charges" has the meaning assigned to such term in Section 9.14.

"Class" when used in reference to any Loan, refers to whether such Loan is a Bridge A Loan or Bridge B Loan.

"Closing Date" means the date on which the conditions specified in Section 4.01 of this Agreement are satisfied.

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

"Commitments" means the Bridge A Commitments and the Bridge B Commitments.

"Comparable Treasury Issue" means the United States Treasury security selected by the Administrative Agent as having a maturity nearest the Final Maturity Date.

"Consolidated Fixed Charge Coverage Ratio" of the Borrower means, for any period, the ratio of (a) the sum of Consolidated Net Income (Loss), Consolidated Interest Expense, Consolidated Income Tax Expense and Consolidated Non-cash Charges deducted in computing Consolidated Net Income (Loss) in each case, for such period, of the Borrower and its Subsidiaries on a Consolidated basis, all determined in accordance with GAAP and on a pro forma basis for any acquisition or disposition of a Subsidiary or line of business following the first day of such period and on or prior to the date of determination as if all such acquisitions and dispositions had occurred on the first day of such period to (b) the sum of Consolidated Interest Expense for such period and cash dividends paid on any of the Borrower's preferred stock and that of its Subsidiaries during such period; *provided* that (i) in making such computation, the Consolidated Interest Expense attributable to interest on any Funded Debt shall be computed on a pro forma basis for any incurrence or repayment of Funded Debt (other than Funded Debt under a revolving credit facility) following the first day of the applicable period and on or prior to the date of determination as if such incurrence or repayment had occurred on the first day of such period and Funded Debt, (A) bearing a floating interest rate, shall be computed as if the rate in effect on the date of computation had been the applicable rate for the entire period and (B) which was not outstanding during the period for which the computation is being made but which bears, at the option of the Borrower, a fixed or floating rate of interest, shall be computed by applying at the Borrower's option, either the fixed or floating rate and (ii) in making such computation, the Consolidated Interest Expense of the Borrower attributable to interest on any Funded Debt under a revolving credit facility computed on a pro forma basis shall be computed based upon the average daily balance of such Funded Debt during the applicable period.

"Consolidated Income Tax Expense" means for any period, as applied to the Borrower, the provision for federal, state, local and foreign income taxes of the Borrower and its Subsidiaries for such period as determined in accordance with GAAP on a Consolidated basis.

"Consolidated Interest Expense" of the Borrower means, without duplication, for any period, the sum of (a) the interest expense of the Borrower and its Subsidiaries for such period, on a Consolidated basis, including, without limitation, (i) amortization of debt discount, (ii) the net cost under interest rate contracts (including amortization of discounts), (iii) the interest portion of any deferred payment obligation and (iv) accrued interest, plus (b) (i) the interest component of the Capital Lease Obligations paid, accrued and/or scheduled to be paid or accrued by the Borrower and its Subsidiaries during such period and (ii) all capitalized interest of the Borrower and its Subsidiaries, in each case as determined in accordance with GAAP on a Consolidated basis. Whenever pro forma effect is to be given to an acquisition or disposition of assets for the purpose of calculating the Consolidated Fixed Charge Coverage Ratio, the amount of Consolidated Interest Expense associated with any Funded Debt incurred in connection with such acquisition or disposition of assets shall be calculated on a pro forma basis in accordance with Regulation S-X, as in effect on the date of such calculation.

"Consolidated Net Income (Loss)" of the Borrower means, for any period, the Consolidated net income (or loss) of the Borrower and its Subsidiaries for such period as determined in accordance with GAAP on a Consolidated basis, adjusted, to the extent included in calculating such net income (loss), by excluding, without duplication: (i) all extraordinary gains or losses (less all fees and expenses relating thereto); (ii) the portion of net income (or loss) of the Borrower and its Subsidiaries allocable to minority interests in unconsolidated Persons to the extent that cash dividends or distributions have not actually been received by the Borrower or one of its Subsidiaries; (iii) any gain or loss, net of taxes, realized upon the termination of any employee pension benefit plan; (iv) net gains (but not losses) (less all fees and expenses relating thereto) in respect of dispositions of assets other than in the ordinary course of business; or (v) the net income of any Subsidiary to the extent that the declaration of dividends or similar distributions by that Subsidiary of that income is not at the time permitted, directly or indirectly, by operation of the terms of its charter or any agreement, instrument, judgment, decree, order, statute, rule or governmental regulations applicable to that Subsidiary or its stockholders. Whenever pro forma effect is to be given to an acquisition or disposition of assets for the purpose of calculating the Consolidated Fixed Charge Coverage Ratio, the amount of income or earnings related to such assets shall be calculated on a pro forma basis in accordance with Regulation S-X, as in effect on the date of such calculation.

"Consolidated Non-cash Charges" of the Borrower means, for any period, the aggregate depreciation, amortization and other non-cash charges of the Borrower and its Subsidiaries for such period, as determined in accordance with GAAP on a Consolidated basis (excluding any non-cash charge which requires an accrual or reserve for cash charges for any future period).

"Consolidated Subsidiaries" means Subsidiaries that would be consolidated with the Borrower in accordance with GAAP.

"Consolidated Tangible Assets" means, as at any date, the total assets of the Borrower and its Consolidated Subsidiaries (determined on a consolidated basis without duplication in accordance with GAAP) that would be shown as tangible assets on a consolidated balance sheet of the Borrower and its Consolidated Subsidiaries after eliminating all amounts properly attributable to minority interests, if any, in the stock and surplus of Subsidiaries. For purposes hereof, "tangible assets" means all assets of the Borrower and its Consolidated Subsidiaries other than assets that should be classified as intangibles including goodwill, minority interests, research and development costs, trademarks, trade names, copyrights, patents and franchises, unamortized debt discount and expense, all reserves and any write-up in the book value of assets.

"Consolidation" means, with respect to any Person, the consolidation of the accounts of such Person and each of its Subsidiaries if and to the extent the accounts of such Person and each of its Subsidiaries would normally be consolidated with those of such Person, all in accordance with GAAP. The term "Consolidated" shall have a similar meaning.

"Control" means, with respect to any Person, the power, directly or indirectly, to direct or cause the direction of the management and policies of such Person, whether by contract or otherwise.

"Debtor Relief Laws" means the Bankruptcy Code of the United States, and all other liquidation, conservatorship, bankruptcy, assignment for the benefit of creditors, moratorium, rearrangement, receivership, insolvency, reorganization, or similar debtor relief Laws of the United States or other applicable jurisdictions from time to time in effect and affecting the rights of creditors generally.

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

"Default Rate" has the meaning set forth in Section 2.12(c).

"Demand Failure Event" means that the Arrangers have provided the Administrative Agent with a signed notice stating that a "Demand Failure Event" (as defined in the Fee Letter) has occurred.

"Disclosed Matters" means the matters disclosed in Schedule 3.06.

"Disposition" means, with respect to any Property, any sale, lease, sale and leaseback, assignment, conveyance, transfer or other disposition thereof, and the terms "Dispose" and "Disposed of" shall have correlative meanings, but excluding, licenses and leases entered into in the ordinary course of business or that are customarily entered into by companies in the same or similar lines of business.

"Disqualified Equity Interests" means any Equity Interest which, by its terms (or by the terms of any security or other Equity Interests into which it is convertible or for which it is exchangeable), or upon the happening of any event or condition (a) matures or is mandatorily redeemable (other than solely for Qualified Equity Interests), pursuant to a sinking fund obligation or otherwise (except as a result of a change of control, public equity offering or asset sale so long as any rights of the holders thereof upon the occurrence of a change of control, public equity offering or asset sale event shall be subject to the prior repayment in full of the Loans and all other Obligations that are accrued and payable and the termination of the Commitments), (b) is redeemable at the option of the holder thereof (other than solely for Qualified Equity Interests and except as permitted in clause (a) above), in whole or in part, (c) requires the scheduled payments of dividends in cash (for this purpose, dividends shall not be considered required if the issuer has the option to permit them to accrue, cumulate, accrete or increase in liquidation preference or

if the Borrower has the option to pay such dividends solely in Qualified Equity Interests), or (d) is or becomes convertible into or exchangeable for Indebtedness or any other Equity Interests that would constitute Disqualified Equity Interests, in each case, prior to the date that is 91 days after the Final Maturity Date.

"Dollars" or "$" refers to lawful money of the United States of America.

"Domestic Subsidiary" means any Subsidiary organized under the laws of the United States, any state thereof or the District of Columbia.

"Eligible Assignee" means any Person that meets the requirements to be an assignee under Section 9.04(b)(iii), (v) and (vi) (subject to such consents, if any, as may be required under Section 9.04(b)(iii)).

"Environmental Laws" means all laws, rules, regulations, codes, ordinances, orders, decrees, judgments, injunctions, notices or binding agreements issued, promulgated or entered into by any Governmental Authority, imposing liability or standards of conduct concerning protection of the environment, preservation or reclamation of natural resources, the management, Release or threatened Release of any Hazardous Material or the effect of Hazardous Materials on the environment or on health and safety.

"Environmental Liability" means any liability, contingent or otherwise (including any liability for damages, costs of environmental remediation, fines, penalties or indemnities), of the Borrower or any Subsidiary directly or indirectly resulting from or based upon (a) violation of any Environmental Law, (b) the generation, use, handling, transportation, storage, treatment or disposal of any Hazardous Materials, (c) exposure to any Hazardous Materials, (d) the release or threatened release of any Hazardous Materials into the environment or (e) any contract, agreement or other consensual arrangement pursuant to which liability is assumed or imposed with respect to any of the foregoing.

"Equity Interests" means shares of capital stock, partnership interests, membership interests in a limited liability company, beneficial interests in a trust or other equity ownership interests in a Person, and any warrants, options or other rights entitling the holder thereof to purchase or acquire any such equity interest.

"ERISA" means the Employee Retirement Income Security Act of 1974, as amended from time to time.

"ERISA Affiliate" means any trade or business (whether or not incorporated) that, together with the Borrower, is treated as a single employer under Section 414(b) or (c) of the Code or, solely for purposes of Section 302 of ERISA and Section 412 of the Code, is treated as a single employer under Section 414 of the Code.

"ERISA Event" means (a) any "reportable event," as defined in Section 4043 of ERISA or the regulations issued thereunder with respect to a Plan (other than an event for which the 30-day notice period is waived); (b) with respect to any Plan, a failure to satisfy the minimum funding standard within the meaning of Section 412 of the Code or Section 302 of ERISA), whether or not waived; (c) the filing pursuant to Section 412(c) of the Code or Section 302(c) of ERISA of an application for a waiver of the minimum funding standard with respect to any Plan; (d) a determination that any Plan is in "at-risk" status (as defined in Section 303(i)(4) of ERISA or Section 430(i)(4) of the Code); (e) the incurrence by the Borrower or any of its ERISA Affiliates of any liability under Title IV of ERISA with respect to the termination of any Plan; (f) the receipt by the Borrower or any ERISA Affiliate from the PBGC or a plan administrator of any notice relating to an intention to terminate any Plan or Plans or to appoint a trustee to administer any Plan; (g) the incurrence by the Borrower or any of its ERISA Affiliates of any liability with respect to the withdrawal or partial withdrawal of the Borrower or any of its ERISA Affiliates from any Plan or Multiemployer Plan or a cessation of operations that is treated as such a withdrawal under Section 4062(e) of ERISA; or (h) the receipt by the Borrower or any ERISA Affiliate of any notice, or the receipt by any Multiemployer Plan from the Borrower or any ERISA Affiliate of any notice, concerning the imposition upon the Borrower or any of its ERISA Affiliates of Withdrawal Liability or a determination that a Multiemployer Plan is, or is expected to be, insolvent or in reorganization, within the meaning of Title IV of ERISA.

"Eurodollar," when used in reference to any Loan, refers to whether such Loan is bearing interest at a rate determined by reference to the LIBO Rate.

"Event of Default" has the meaning assigned to such term in Article VII.

"Exchange Note Trustee" means the trustee under the Exchange Notes Indenture which shall be Manufacturers and Traders Trust Company or another trust company selected by the Borrower and reasonably satisfactory to the Arrangers.

"Exchange Notes" has the meaning assigned to such term in Section 2.19(b).

"Exchange Notes Indenture" means the indenture to be entered into relating to the Exchange Notes, with terms and conditions consistent with those set forth on Exhibit D and otherwise in form reasonably satisfactory to the Borrower and the Arrangers.

"Exchange Notes Registration Rights Agreement" means the registration rights agreement to be entered into relating to the Exchange Notes, with terms and conditions consistent with Exhibit D and otherwise in form reasonably satisfactory to the Borrower and the Arrangers.

"Exchange Notice" has the meaning assigned to such term in Section 2.19(a).

"Exchange Trigger Event" shall be deemed to have occurred on the first day after the Closing Date that the Administrative Agent shall have received Exchange Notices in accordance with Section 2.19(a) with respect to at least an aggregate of $50,000,000 principal amount of Loans.

"Excluded Taxes" means, with respect to the Administrative Agent, any Lender or any other recipient of any payment to be made by or on account of any obligation of any Loan Party under any Loan Document, (a) any Tax imposed on such recipient's net income or profits (or any franchise Tax imposed in lieu of a Tax on net income or profits) by any jurisdiction as a result of such recipient being organized in or having its principal office or applicable lending office located in such jurisdiction or as a result of any other present or former connection with such jurisdiction (including as a result of such recipient carrying on a trade or business, having a permanent establishment or being a resident for tax purposes in such jurisdiction) other than any connection arising solely from such recipient having executed, delivered, enforced, become a party to, performed its obligations under, received payments under, received or perfected a security interest under, engaged in any other transaction pursuant to, and/or enforced, any Loan Documents, (b) any branch profits Taxes within the meaning of Section 884(a) of the Code, or any similar Tax, imposed by any jurisdiction described in clause (a) above, (c) in the case of a Foreign Lender (other than an assignee pursuant to a request by the Borrower under Section 2.18), any U.S. federal withholding Tax that is imposed on amounts payable to such Foreign Lender pursuant to a Law in effect at the time such Foreign Lender becomes a party to this Agreement (or designates a new lending office), except to the extent that such Foreign Lender (or its assignor, if any) was entitled, immediately prior to the time of designation of a new lending office (or assignment), to receive additional amounts from a Loan Party with respect to such withholding Tax pursuant to Section 2.16, (d) any withholding Tax that is attributable to a Lender's failure to comply with Section 2.16(d) and (e) any U.S. federal withholding Taxes imposed pursuant to FATCA.

"Existing Senior Notes" means the Borrower's (a) $500,000,000 aggregate principal amount of 8.375% senior unsecured notes due 2014, (b) $700,000,000 aggregate principal amount of 7.250% senior unsecured notes due 2016, (c) $700,000,000 aggregate principal amount of 7.250% senior unsecured notes due 2017 and (d) $600,000,000 aggregate principal amount of 6.000% senior unsecured notes due 2022.

"FATCA" means Sections 1471 through 1474 of the Code, as of the date of this Agreement (and any amended or successor version thereof that is substantively comparable and not materially more onerous to comply with), and any current or future Treasury regulations or official interpretations thereof.

"Federal Funds Effective Rate" means, for any day, the rate per annum equal to the weighted average of the rates on overnight federal funds transactions with members of the Federal Reserve System arranged by federal funds brokers on such day, as published by the Federal Reserve Bank of New York on the Business Day next succeeding such day; provided that (a) if such day is not a Business Day, the Federal Funds Effective Rate for such day shall be such rate on such transactions on the next preceding Business Day as so published on the next succeeding Business

Day, and (b) if no such rate is so published on such next succeeding Business Day, the Federal Funds Rate for such day shall be the average rate (rounded upward, if necessary, to a whole multiple of 1/100 of 1%) charged to Bank of America on such day on such transactions as determined by the Administrative Agent.

"Fee Letter" means the Fee Letter, dated as of June 28, 2012, by and among the Borrower, the Arrangers and the Initial Lenders.

"Final Maturity Date" means the date that is eight calendar years after the Closing Date.

"Financial Officer" means the chief financial officer, principal accounting officer, treasurer, assistant treasurer or controller of the Borrower.

"Foreign Disposition" has the meaning assigned to such term in Section 2.10(b)(iv).

"Foreign Lender" means any Lender that is not a "United States" person within the meaning of Section 7701(a)(30) of the Code.

"Foreign Subsidiary" means any direct or indirect Subsidiary of the Borrower that is not a Domestic Subsidiary.

"Fund" means any Person (other than a natural person) that is (or will be) engaged in making, purchasing, holding or otherwise investing in commercial loans and similar extensions of credit in the ordinary course of its activities.

"Funded Debt" means all Indebtedness for the repayment of money borrowed, whether or not evidenced by a bond, debenture, note or similar instrument or agreement, having a final maturity of more than 12 months after the date of its creation or having a final maturity of less than 12 months after the date of its creation but by its terms being renewable or extendible beyond 12 months after such date at the option of the Borrower. When determining "Funded Debt," Indebtedness will not be included if, on or prior to the final maturity of that Indebtedness, the Borrower has deposited the necessary funds for the payment, redemption or satisfaction of that Indebtedness in trust with the proper depositary.

"GAAP" means generally accepted accounting principles in the United States of America; provided that, the Borrower may, by written notice from a Financial Officer to the Administrative Agent and the Lenders, elect to change its financial accounting to IFRS and, in such case, unless the context otherwise requires (including pursuant to Section 1.03), all references to GAAP herein shall refer to IFRS.

"Governmental Authority" means the government of the United States of America, any other nation or any political subdivision thereof, whether state or local, and any agency, authority, instrumentality, regulatory body, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government (including any supra-national bodies such as the European Union or the European Central Bank).

"Guarantee" of or by any Person (the "guarantor") means any obligation, contingent or otherwise, of the guarantor guaranteeing or having the economic effect of guaranteeing any Indebtedness or other monetary obligation of any other Person (the "primary obligor") in any manner, whether directly or indirectly, and including any obligation of the guarantor, direct or indirect, (a) to purchase or pay (or advance or supply funds for the purchase or payment of) such Indebtedness or other monetary obligation or to purchase (or to advance or supply funds for the purchase of) any security for the payment thereof, (b) to purchase or lease property, securities or services for the purpose of assuring the owner of such Indebtedness or other monetary obligation of the payment thereof, (c) to maintain working capital, equity capital or any other financial statement condition or liquidity of the primary obligor so as to enable the primary obligor to pay such Indebtedness or other monetary obligation or (d) as an account party in respect of any letter of credit or letter of guaranty issued to support such Indebtedness or monetary obligation; provided that the term Guarantee shall not include endorsements for collection or deposit in the ordinary course of business. The amount of any Guarantee of any guaranteeing person shall be deemed to be the lower of (a) an

amount equal to the stated or determinable amount of the primary obligation, or portion thereof, in respect of which such Guarantee is made and (b) the maximum amount for which such guaranteeing person may be liable pursuant to the terms of the instrument embodying such Guarantee, unless such primary obligation or the maximum amount for which such guaranteeing person may be liable are not stated or determinable, in which case the amount of such Guarantee shall be such guaranteeing person's maximum reasonably anticipated liability in respect thereof as determined by the Borrower in good faith.

"Guarantee Agreement" means, collectively, the Guarantee Agreement, dated as of June 28, 2012, executed by the Guarantors party thereto and the Administrative Agent, together with each other supplement executed and delivered pursuant to Section 4.01 and/or Section 5.09.

"Guarantor" means (a) each Subsidiary that is a party to the Guarantee Agreement on the date of this Agreement and (b) each Subsidiary that becomes a party to the Guarantee Agreement after the date of this Agreement pursuant to Section 4.01, Section 5.09 or otherwise.

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

"IFRS" means International Financial Reporting Standards and applicable accounting requirements set by the International Accounting Standards Board or any successor thereto (or the Financial Accounting Standards Board, the Accounting Principles Board of the American Institute of Certified Public Accountants, or any successor to either such Board, or the SEC, as the case may be), as in effect from time to time.

"Immaterial Subsidiary" means, on any date, any Subsidiary (other than an Inactive Subsidiary) that did not account for more than (x) 1.0% of Consolidated Tangible Assets as of the date of the most recent financial statements delivered pursuant to Section 5.01(a) or (b) or (y) 1.0% of the Borrower's and its Consolidated Subsidiaries' consolidated sales for the most recently ended Test Period; provided that for purposes of Article III, if a specified condition exists or events occur with respect to Immaterial Subsidiaries (as determined above) that in the aggregate account for more than (x) 3.0% of Consolidated Tangible Assets as of the date of the most recent financial statements delivered pursuant to Section 5.01(a) or (b) or (y) 3.0% of the Borrower and its Consolidated Subsidiaries' consolidated sales for the most recently ended Test Period for which financial statements have been delivered pursuant to Section 5.01(a) or (b), then such condition or event shall be deemed to exist or have occurred with respect to a Subsidiary that is not an Immaterial Subsidiary. Notwithstanding the foregoing, no Subsidiary that owns Equity Interests of a Subsidiary that is not an Immaterial Subsidiary shall itself be an Immaterial Subsidiary.

"Inactive Subsidiary" means, on any date, any Subsidiary that did not account for more than (x) $5,000,000 of Consolidated Tangible Assets as of the date of the most recent financial statements delivered pursuant to Section 5.01(a) or (b) or (y) $5,000,000 of the Borrower's and its Consolidated Subsidiaries' consolidated sales for the most recently ended Test Period for which financial statements have been delivered pursuant to Section 5.01(a) or (b). Notwithstanding the foregoing, no Subsidiary that owns Equity Interests of a Subsidiary that is not an Inactive Subsidiary shall itself be an Inactive Subsidiary.

"Indebtedness" of any Person means, without duplication, (a) all obligations of such Person for borrowed money, (b) all obligations of such Person evidenced by bonds, debentures, notes or similar instruments, (c) all obligations of such Person under conditional sale or other title retention agreements relating to property acquired by such Person, (d) all obligations of such Person in respect of the deferred purchase price of property or services (excluding accounts payable incurred in the ordinary course of business, milestone payments incurred in connection with any investment or series of related investments, any earn-out obligation except to the extent such obligation is a liability on the balance sheet of such Person in accordance with GAAP at the time initially incurred and deferred or equity compensation arrangements payable to directors, officers or employees), (e) all Indebtedness of others secured by (or for which the holder of such Indebtedness has an existing right, contingent or otherwise, to be secured by) any Lien on Property owned or acquired by such Person, whether or not the Indebtedness secured thereby has been assumed, but limited to the fair market value of such Property (except to the extent otherwise provided in this definition), (f) all Guarantees by such Person of Indebtedness of others of a type described in any of clauses (a)

through (e) above or (g) through (k) below, (g) all Capital Lease Obligations of such Person, (h) all obligations, contingent or otherwise, of such Person as an account party in respect of letters of credit and letters of guaranty, (i) all obligations, contingent or otherwise, of such Person in respect of bankers' acceptances, (j) all obligations of such Person under any Swap Agreement (with the "principal" amount of any Swap Agreement on any date being equal to the early termination value thereof on such date) and (k) all Attributable Receivables Indebtedness. The Indebtedness of any Person shall (i) include the Indebtedness of any other entity (including any partnership in which such Person is a general partner) to the extent such Person is expressly liable therefor as a result of such Person's ownership interest in or other relationship with such entity and pursuant to contractual arrangements, except to the extent the terms of such Indebtedness provide that such Person is not liable therefor and (ii) exclude (A) customer deposits and advances and interest payable thereon in the ordinary course of business in accordance with customary trade terms and other obligations incurred in the ordinary course of business through credit on an open account basis customarily extended to such Person and (B) bona fide indemnification, purchase price adjustment, earn-outs, holdback and contingency payment obligations to which the seller may become entitled to the extent such payment is determined by a final closing balance sheet or such payment depends on the performance of such business after the closing; provided, however, that, at the time of closing, the amount of any such payment is not determinable and, to the extent such payment thereafter becomes fixed and determined, the amount is paid within 60 days thereafter and included as Indebtedness of the Borrower.

"Indemnified Taxes" means all Taxes other than Excluded Taxes and Other Taxes.

"Indemnitee" has the meaning set forth in Section 9.03(b).

"Information" has the meaning specified in Section 9.12.

"Information Memorandum" means each Confidential Information Memorandum of the Borrower relating to the Loans.

"Initial Lenders" means Bank of America, N.A. and JPMorgan Chase Bank, N.A.

"Interest Payment Date" means, with respect to a Loan, (i) the last day of the Interest Period applicable to any Eurodollar Loan, (ii) a Demand Failure Event, (iii) following the Rollover Date or a Demand Failure Event, each date that is an integral multiple of six calendar months after the Rollover Date or such Demand Failure Event and (iv) the Final Maturity Date.

"Interest Period" means (i) initially, the period commencing on the Closing Date and ending on the numerically corresponding day in the calendar month that is three months thereafter and (ii) thereafter, each period commencing on the last day of the immediately preceding Interest Period and ending on the numerically corresponding day in the calendar month that is three months thereafter; provided that (i) if any Interest Period would end on a day other than a Business Day, such Interest Period shall be extended to the next succeeding Business Day unless such next succeeding Business Day would fall in the next calendar month, in which case such Interest Period shall end on the next preceding Business Day, (ii) any Interest Period that commences on the last Business Day of a calendar month (or on a day for which there is no numerically corresponding day in the last calendar month of such Interest Period) shall end on the last Business Day of the last calendar month of such Interest Period and (iii) any Interest Period that would end after the Rollover Date shall instead end on the Rollover Date.

"Investment" means, as to any Person, any direct or indirect acquisition or investment by such Person, whether by means of (a) the purchase or other acquisition of Equity Interests or debt or other securities of another Person or (b) a loan, advance or capital contribution to, Guarantee of Indebtedness of, assumption of Indebtedness of, or purchase or other acquisition of any other debt or equity participation or interest in, another Person, including any partnership or joint venture interest in such other Person or (c) the purchase or other acquisition (in one transaction or a series of transactions) of all or substantially all of the property and assets or business of another Person or assets constituting a business unit, line of business or division of such Person. For purposes of Section 6.05, the amount of any Investment shall be the amount actually invested, without adjustment for subsequent increases or decreases in the value of such Investment.

"joint venture" means any Person (other than a wholly-owned Subsidiary) in which the Borrower or any Subsidiary owns Equity Interests representing at least a 9.99% economic interest in such Person and which Person is engaged in a business that is the same as or substantially similar to, related to, ancillary to or complimentary to, a line of business conducted by the Borrower or any of its Subsidiaries.

"Laws" means, collectively, all international, foreign, Federal, state and local statutes, treaties, rules, guidelines, regulations, ordinances, codes and administrative or judicial precedents or authorities.

"Lenders" means the Persons listed on Schedule 2.01 and any other Person that shall have become a Lender pursuant to an Assignment and Assumption, other than any such Person that ceases to be a party hereto pursuant to an Assignment and Assumption.

"LIBO Rate" means, for any Interest Period with respect to a Eurodollar Borrowing, the greater of (i) the rate per annum equal to the British Bankers Association LIBOR Rate ("BBA LIBOR"), as published by Reuters (or other commercially available source providing quotations of BBA LIBOR as designated by the Administrative Agent from time to time) at approximately 11:00 a.m., London time, two Business Days prior to the commencement of such Interest Period, for deposits in Dollars (for delivery on the first day of such Interest Period) with a term equivalent to such Interest Period and (ii) 1.25% per annum. If the rate determined pursuant to clause (i) of the previous sentence is not available at such time for any reason, then the rate for purposes of clause (i) for such Interest Period shall be the rate per annum determined by the Administrative Agent to be the rate at which deposits in Dollars for delivery on the first day of such Interest Period in same day funds in the approximate amount of the Loan being made, continued or converted by Bank of America and with a term equivalent to such Interest Period would be offered by Bank of America's London Branch (or other Bank of America branch or Affiliate) to major banks in the London or other offshore interbank market for such currency at their request at approximately 11:00 a.m. (London time) two Business Days prior to the commencement of such Interest Period; provided that if, prior to the commencement of an Interest Period, the Administrative Agent determines (which determination shall be conclusive absent manifest error) that adequate and reasonable means for determining the LIBO Rate for such Interest Period do not exist, then for purposes of clause (i) of this definition the LIBO Rate for such Interest Period shall be equal to the Base Rate at approximately 11:00 a.m., London time, two Business Days prior to the commencement of such Interest Period minus 1.00% *per annum.*

"Lien" means, with respect to any asset, any mortgage, deed of trust, lien, pledge, hypothecation, encumbrance, charge or security interest in, on or of such asset (or any capital lease having substantially the same economic effect as any of the foregoing).

"Loan Documents" means this Agreement, the Guarantee Agreement, any promissory notes executed and delivered pursuant to Section 2.09(f) and any amendments, waivers, supplements or other modifications to any of the foregoing.

"Loan Parties" means the Borrower and the Guarantors.

"Loans" means the Bridge A Loans and Bridge B Loans.

"London Banking Day" means any day on which dealings in Dollar deposits are conducted by and between banks in the London interbank eurodollar market.

"Make-Whole Amount" means, at any time, the present value as determined by the Administrative Agent of all then remaining scheduled payments of interest on the Loans through the Final Maturity Date (excluding accrued and unpaid interest on the Loans on the date of repayment) discounted at the Treasury Rate plus 50 basis points.

"Material Adverse Effect" means a material adverse effect on (a) the business, assets, property or financial condition of the Borrower and the Subsidiaries taken as a whole or (b) the validity or enforceability of this Agreement or any and all other Loan Documents, or the rights and remedies of the Administrative Agent and the Lenders thereunder.

"Maximum Rate" has the meaning assigned to such term in Section 9.14.

"Moody's" means Moody's Investors Service, Inc. and any successor thereto.

"Multiemployer Plan" means a multiemployer plan as defined in Section 4001(a)(3) of ERISA.

"Net Cash Proceeds" means, with respect to any Asset Sale, an amount equal to (i) the sum of cash and Cash Equivalents received in connection with such Asset Sale (including any cash or Cash Equivalents received by way of deferred payment pursuant to, or by monetization of, a note receivable or otherwise, but only as and when so received) less (ii) the sum of (A) the principal amount, premium or penalty, if any, interest and other amounts on any Indebtedness that is secured by the Property subject to such Asset Sale and that is repaid in connection with such Asset Sale and the amount of Indebtedness that is repaid under the Senior Secured Credit Agreement (but in the case of the revolving Indebtedness, only to the extent there is a corresponding reduction in commitments), (B) the out-of-pocket expenses (including attorneys' fees, investment banking fees, accounting fees and other professional and transactional fees, survey costs, title insurance premiums, and related search and recording charges, transfer taxes, deed or mortgage recording taxes, other expenses and brokerage, consultant and other commissions and fees) actually incurred by the Borrower or such Subsidiary in connection with such Asset Sale, (C) taxes paid or reasonably estimated to be actually payable in connection therewith, (D) any reserve for adjustment in accordance with GAAP in respect of (x) the sale price of such Property and (y) any liabilities associated with such Property and retained by the Borrower or any Subsidiary after such Disposition, including pension and other post-employment benefit liabilities and liabilities related to environmental matters or against any indemnification obligations associated with such transaction and (E) the Borrower's reasonable estimate of payments required to be made with respect to unassumed liabilities relating to the Property involved within one year of such Asset Sale; provided that (x) in the case of Net Cash Proceeds of a Permitted Receivables Facility, to the extent the Borrower or any of its Subsidiaries receives proceeds of Attributable Receivables Indebtedness, the Net Cash Proceeds shall only include any principal amount of such Attributable Receivables Indebtedness in excess of the previously highest outstanding balance following the Closing Date, (y) "Net Cash Proceeds" shall include (i) any cash or Cash Equivalents received upon the Disposition of any non-cash consideration received by the Borrower or any Subsidiary in any such Asset Sale, (ii) an amount equal to any reversal (without the satisfaction of any applicable liabilities in cash in a corresponding amount) of any reserve described in clause (C) or (D) above at the time of such reversal and (iii) an amount equal to any estimated liabilities described in clause (E) above that have not been satisfied in cash within three hundred sixty-five (365) days after such Asset Sale and (z) in the case of any Asset Sale involving a joint venture, Net Cash Proceeds shall include such cash payments only to the extent distributed or otherwise transferred to the Borrower or any of its wholly-owned Subsidiaries.

"Note" means a promissory note made by the Borrower in favor of a Lender evidencing Loans made by such Lender to the Borrower, substantially in the form of Exhibit B.

"Obligations" means all Indebtedness (including interest accruing during the pendency of any bankruptcy, insolvency, receivership or other similar proceeding, regardless of whether allowed or allowable in such proceeding) and other monetary obligations of any of the Loan Parties to any of the Lenders, their Affiliates, the Arrangers, the Syndication Agent or the Administrative Agent, individually or collectively, existing on the date of this Agreement or arising thereafter (direct or indirect, joint or several, absolute or contingent, matured or unmatured, liquidated or unliquidated, secured or unsecured) arising or incurred under this Agreement or any of the other Loan Documents (including under any of the Loans made or reimbursement or other monetary obligations incurred or other instruments at any time evidencing any thereof), in each case whether now existing or hereafter arising, whether all such obligations arise or accrue before or after the commencement of any bankruptcy, insolvency or receivership proceedings (and whether or not such claims, interest, costs, expenses or fees are allowed or allowable in any such proceeding (including interest and fees which, but for the filing of a petition in bankruptcy with respect to any Loan Party, would have accrued on any Obligations, whether or not a claim is allowed against such Loan Party for such interest or fees in the related bankruptcy proceeding)).

"Other Taxes" means any and all present or future stamp or documentary Taxes or any other excise or property Taxes, charges or similar levies arising from any payment made under this Agreement or any other Loan Document or from the execution, delivery or enforcement of, or otherwise with respect to, this Agreement or any other Loan Document, except any such Taxes imposed as a result of an assignment by a Lender other than an as-

signment made pursuant to Section 2.18 (an "Assignment Tax"), if such Assignment Tax is imposed as a result of any present or former connection of the assignor or assignee with the jurisdiction imposing such Assignment Tax (including as a result of such recipient carrying on a trade or business, having a permanent establishment or being a resident for tax purposes in such jurisdiction) other than any connection arising solely from such recipient having executed, delivered, enforced, become a party to, performed its obligations under, received payments under, received or perfected a security interest under, engaged in any other transaction pursuant to, and/or enforced, any Loan Documents.

"Overnight Rate" means, for any day, the greater of (i) the Federal Funds Effective Rate and (ii) an overnight rate determined by the Administrative Agent, in accordance with banking industry rules on interbank compensation.

"Participant" has the meaning set forth in Section 9.04(d).

"Participant Register" has the meaning set forth in Section 9.04(d).

"PBGC" means the Pension Benefit Guaranty Corporation referred to and defined in ERISA and any successor entity performing similar functions.

"Permitted Encumbrances" means:

(a) Liens imposed by law for Taxes, assessments or other governmental charges that are not overdue for a period of more than thirty (30) days or are being contested in compliance with Section 5.04;

(b) carriers', warehousemen's, mechanics', materialmen's, repairmen's, landlords', workmen's, suppliers' and other like Liens imposed by law, arising in the ordinary course of business and securing obligations that are not overdue by more than ninety (90) days or are being contested in compliance with Section 5.04;

(c) (i) Liens, pledges and deposits made in the ordinary course of business in compliance with workers' compensation, unemployment insurance and other social security laws or regulations or employment laws or to secure other public, statutory or regulatory obligations (including to support letters of credit or bank guarantees) and (ii) Liens, pledges or deposits in the ordinary course of business securing liability for premiums or reimbursement or indemnification obligations of (including obligations in respect of letters of credit or bank guarantees for the benefit of) insurance carriers providing insurance to the Borrower or any Subsidiary;

(d) Liens or deposits to secure the performance of bids, trade contracts, governmental contracts, tenders, statutory bonds, leases, statutory obligations, surety, stay, appeal and replevin bonds, performance bonds, indemnity bonds, bonds to secure the payment of excise taxes or customs duties in connection with the sale or importation of goods and other obligations of a like nature (including those to secure health, safety and environmental obligations), in each case in the ordinary course of business;

(e) Liens in respect of judgments, decrees, attachments or awards that do not constitute an Event of Default under clause (k) of Article VII;

(f) easements, restrictions (including zoning restrictions), rights-of-way, covenants, licenses, encroachments, protrusions and similar encumbrances and minor title defects affecting real property imposed by law or arising in the ordinary course of business that do not secure any monetary obligations and do not materially interfere with the ordinary conduct of business of the Borrower or any Subsidiary;

(g) any interest or title of a lessor, sublessor, licensor or sublicensor under any lease, sublease, license or sublicense entered into by the Borrower or any other Subsidiary as a part of its business and covering only the assets so leased; and

(h) performance and return-of-money bonds, or in connection with the payment of the exercise price or withholding taxes in respect of the exercise, payment or vesting of stock appreciation rights, stock options, restricted stock, restricted stock units, performance share units or other stock-based awards, and other similar obligations;

provided that the term "Permitted Encumbrances" shall not include any Lien securing Indebtedness.

"Permitted Holders" means (a) Marilyn Sands, her descendants (whether by blood or adoption), her descendants' spouses, her siblings, the descendants of her siblings (whether by blood or adoption), Hudson Ansley, Lindsay Caleo, William Caleo, Courtney Winslow, or Andrew Stern, or the estate of any of the foregoing Persons, or The Sands Family Foundation, Inc., (b) trusts which are for the benefit of any combination of the Persons described in clause (a), or any trust for the benefit of any such trust, or (c) partnerships, limited liability companies or any other entities which are controlled by any combination of the Persons described in clause (a), the estate of any such Persons, a trust referred to in the foregoing clause (b), or an entity that satisfies the conditions of this clause (c).

"Permitted Receivables Facility" means the receivables facility or facilities created under the Permitted Receivables Facility Documents, providing for the sale or pledge by the Borrower and/or one or more other Receivables Sellers of Permitted Receivables Facility Assets (thereby providing financing to the Borrower and the Receivables Sellers) to the Receivables Entity (either directly or through another Receivables Seller), which in turn shall sell or pledge interests in the respective Permitted Receivables Facility Assets to third-party lenders or investors pursuant to the Permitted Receivables Facility Documents (with the Receivables Entity permitted to issue notes or other evidences of Indebtedness secured by Permitted Receivables Facility Assets or investor certificates, purchased interest certificates or other similar documentation evidencing interests in the Permitted Receivables Facility Assets) in return for the cash used by the Receivables Entity to purchase the Permitted Receivables Facility Assets from the Borrower and/or the respective Receivables Sellers, in each case as more fully set forth in the Permitted Receivables Facility Documents.

"Permitted Receivables Facility Assets" means (i) Receivables (whether now existing or arising in the future) of the Borrower and its Subsidiaries which are transferred or pledged to the Receivables Entity pursuant to the Permitted Receivables Facility and any related Permitted Receivables Related Assets which are also so transferred or pledged to the Receivables Entity and all proceeds thereof and (ii) loans to the Borrower and its Subsidiaries secured by Receivables (whether now existing or arising in the future) and any Permitted Receivables Related Assets of the Borrower and its Subsidiaries which are made pursuant to the Permitted Receivables Facility.

"Permitted Receivables Facility Documents" means each of the documents and agreements entered into in connection with the Permitted Receivables Facility, including all documents and agreements relating to the issuance, funding and/or purchase of certificates and purchased interests, or the issuance of notes or other evidence of Indebtedness secured by such notes, all of which documents and agreements shall be in form and substance reasonably customary for transactions of this type, in each case as such documents and agreements may be amended, modified, supplemented, refinanced or replaced from time to time so long as (in the good faith determination of the Borrower) either (i) the terms as so amended, modified, supplemented, refinanced or replaced are reasonably customary for transactions of this type or (ii)(x) any such amendments, modifications, supplements, refinancings or replacements do not impose any conditions or requirements on the Borrower or any of its Subsidiaries that, taken as a whole, are more restrictive in any material respect than those in existence immediately prior to any such amendment, modification, supplement, refinancing or replacement as determined by the Borrower in good faith and (y) any such amendments, modifications, supplements, refinancings or replacements are not adverse in any material respect to the interests of the Lenders as determined by the Borrower in good faith.

"Permitted Receivables Related Assets" means any other assets that are customarily transferred or in respect of which security interests are customarily granted in connection with asset securitization transactions involving receivables similar to Receivables and any collections or proceeds of any of the foregoing.

"Permitted Refinancing Indebtedness" means, with respect to any Person, any amendment, modification, refinancing, refunding, renewal, replacement or extension of any Indebtedness of such Person; provided that (a) the principal amount (or accreted value, if applicable) thereof does not exceed the principal amount (or accreted value, if applicable) of the Indebtedness so modified, refinanced, refunded, renewed, replaced or extended except by an

amount equal to unpaid accrued interest and premium thereon plus other reasonable amounts paid, and fees and expenses reasonably incurred, in connection with such modification, refinancing, refunding, renewal, replacement or extension, (b) other than with respect to Permitted Refinancing Indebtedness in respect of Indebtedness permitted pursuant to Section 6.01(e), such modification, refinancing, refunding, renewal, replacement or extension has a final maturity date equal to or later than the earlier of (x) the final maturity date of the Indebtedness so modified, refinanced, refunded, renewed, replaced or extended and (y) the date which is 91 days after the Final Maturity Date, (c) other than with respect to Permitted Refinancing Indebtedness in respect of Indebtedness permitted pursuant to Section 6.01(e), such modification, refinancing, refunding, renewal, replacement or extension has a Weighted Average Life to Maturity equal to or greater than the remaining Weighted Average Life to Maturity of, the Indebtedness being modified, refinanced, refunded, renewed, replaced or extended and (d) to the extent such Indebtedness being modified, refinanced, refunded, renewed, replaced or extended is subordinated in right of payment to the Obligations, such modification, refinancing, refunding, renewal, replacement or extension is subordinated in right of payment to the Obligations on terms, taken as a whole, at least as favorable to the Lenders (in the good faith determination of the Borrower) as those contained in the documentation governing the Indebtedness being modified, refinanced, refunded, renewed, replaced or extended.

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

"Plan" means any employee pension benefit plan (other than a Multiemployer Plan) subject to the provisions of Title IV of ERISA or Section 412 of the Code or Section 302 of ERISA, and in respect of which the Borrower or any ERISA Affiliate is (or, if such plan were terminated, would under Section 4069 of ERISA be deemed to be) an "employer" as defined in Section 3(5) of ERISA.

"Platform" has the meaning assigned in Section 5.01.

"Principal Property" means, as of any date, any building, structure or other facility, together with the land upon which it is erected and any fixtures which are a part of the building, structure or other facility, used primarily for manufacturing, processing or production, in each case located in the United States of America, and owned or leased or to be owned or leased by the Borrower or any of its Subsidiaries, and in each case the net book value of which as of that date exceeds 2% of the Borrower's Consolidated Tangible Assets as shown on the consolidated balance sheet contained in the Borrower's latest filing with the SEC, other than any such land, building, structure or other facility or portion thereof which is a pollution control facility, or which, in the opinion of the Board of Directors of the Borrower, is not of material importance to the total business conducted by the Borrower and its Subsidiaries, considered as one enterprise.

"Property" means any right or interest in or to property of any kind whatsoever, whether real, personal or mixed and whether tangible or intangible, including, without limitation, Equity Interests.

"Public Lender" has the meaning assigned in Section 5.01.

"Qualified Equity Interests" means Equity Interests of the Borrower other than Disqualified Equity Interests.

"Qualified Replacement Lender" means each of Barclays Bank PLC, BMO Harris Financing, Inc., The Bank of Tokyo-Mitsubishi UFJ, LTD., Citibank, N.A., CoBank, ACB, Credit Suisse AG, Cayman Islands Branch, Goldman Sachs Bank USA, HSBC Bank USA, National Association, Coöperatieve Centrale Raiffeisen-Boerenleenbank B.A. "Rabobank Nederland", New York Branch, Morgan Stanley Senior Funding, Inc., Royal Bank of Scottland plc, Sumitomo Mitsui Banking Corp., TD Bank, N.A. and Wells Fargo Bank, N.A. and any Affiliate of any of the foregoing.

"Receivables" means all accounts receivable and property relating thereto (including, without limitation, all rights to payment created by or arising from sales of goods, leases of goods or the rendition of services rendered no matter how evidenced whether or not earned by performance).

"Receivables Entity" means a wholly-owned Subsidiary of the Borrower which engages in no activities other than in connection with the financing of Receivables of the Receivables Sellers and which is designated (as provided below) as the "Receivables Entity" (a) no portion of the Indebtedness or any other obligations (contingent or otherwise) of which (i) is guaranteed by the Borrower or any other Subsidiary of the Borrower (excluding guarantees of obligations (other than the principal of, and interest on, Indebtedness)) pursuant to Standard Securitization Undertakings, (ii) is recourse to or obligates the Borrower or any other Subsidiary of the Borrower in any way (other than pursuant to Standard Securitization Undertakings) or (iii) subjects any property or asset of the Borrower or any other Subsidiary of the Borrower, directly or indirectly, contingently or otherwise, to the satisfaction thereof, other than pursuant to Standard Securitization Undertakings, (b) with which neither the Borrower nor any of its Subsidiaries has any contract, agreement, arrangement or understanding (other than pursuant to the Permitted Receivables Facility Documents (including with respect to fees payable in the ordinary course of business in connection with the servicing of accounts receivable and related assets)) on terms less favorable to the Borrower or such Subsidiary than those that might be obtained at the time from persons that are not Affiliates of the Borrower (as determined by the Borrower in good faith), and (c) to which neither the Borrower nor any other Subsidiary of the Borrower has any obligation to maintain or preserve such entity's financial condition or cause such entity to achieve certain levels of operating results. Any such designation shall be evidenced to the Administrative Agent by filing with the Administrative Agent an officer's certificate of the Borrower certifying that, to the best of such officer's knowledge and belief after consultation with counsel, such designation complied with the foregoing conditions.

"Receivables Sellers" means the Borrower and those Subsidiaries (other than Receivables Entities) that are from time to time party to the Permitted Receivables Facility Documents.

"Register" has the meaning set forth in Section 9.04(c).

"Regulation S-X" means Regulation S-X under the Securities Act.

"Related Parties" means, with respect to any Person, such Person's Affiliates and the partners, directors, officers, employees, agents, trustees and advisors of such Person and of such Person's Affiliates.

"Release" means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping or disposing of a Hazardous Material into the environment, including the abandonment, discarding, burying or disposal of barrels, containers or other receptacles containing any Hazardous Material.

"Required Lenders" means, at any time, Lenders holding Commitments and Loans representing more than 50% of the aggregate principal amount of Commitments and Loans outstanding at such time.

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

"Restricted Payments" means any dividend or other distribution, whether in cash, securities or other property (other than any such dividend or other distribution payable solely with Qualified Equity Interests), with respect to any Equity Interests in the Borrower or any Subsidiary, or any payment, whether in cash, securities or other property (other than any such payment solely with Qualified Equity Interests), including any sinking fund or similar deposit, on account of the purchase, redemption, retirement, acquisition, cancellation or termination of any such Equity Interests in the Borrower or any Subsidiary.

"Rollover Date" means the date that is one calendar year after the Closing Date (or, if such day is not a Business Day, the preceding Business Day).

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

"Sale and Leaseback Transaction" means any transaction or series of related transactions pursuant to which the Borrower or a Subsidiary sells or transfers any property or asset in connection with the leasing, or the resale against installment payments, of such property or asset to the seller or transferor.

"SEC" means the Securities and Exchange Commission, any successor thereto and any analogous Governmental Authority succeeding to any of its principal functions.

"Securities Act" means the Securities Act of 1933, as amended, and the rules and regulations promulgated thereunder.

"Senior Secured Credit Agreement" means that certain credit agreement, dated as of May 3, 2012, among the Borrower, the lenders party thereto, Bank of America, N.A., as administrative agent, and the other parties thereto as amended, restated, modified, supplemented, substituted, replaced, renewed or refinanced from time to time, including any agreement or agreements extending the maturity of, or refinancing all or any portion of the Indebtedness under such agreement, and any successor or replacement agreement or agreements with the same or any other borrowers, agents, creditors, lenders or group of creditors or lenders.

"Significant Subsidiary" means any Subsidiary (or group of Subsidiaries that a specified condition relates to) that is (or would be on a combined basis) (i) whose revenues exceed 10% of the total Consolidated revenues of the Company or (ii) whose net worth exceeds 10% of the total stockholders' equity of the Company, in each case as of the end of the most recent fiscal year.

"Solvent" and "Solvency" mean, with respect to any Person on any date of determination, that on such date (a) the fair value of the property of such Person is greater than the total amount of liabilities, including contingent liabilities, of such Person, (b) the present fair salable value of the assets of such Person is not less than the amount that will be required to pay the probable liability of such Person on its debts as they become absolute and matured, (c) such Person does not intend to, and does not believe that it will, incur debts or liabilities beyond such Person's ability to pay such debts and liabilities as they become absolute and matured and (d) such Person is not engaged in any business, as conducted on such date and as proposed to be conducted following such date, for which such Person's property would constitute an unreasonably small capital. The amount of contingent liabilities at any time shall be computed as the amount that, in the light of all the facts and circumstances existing at such time, represents the amount that can reasonably be expected to become an actual or matured liability.

"Specified Indebtedness" means (i) the Existing Senior Notes, (ii) any Indebtedness incurred in reliance on Section 6.01(p) and (iii) any Indebtedness that is expressly subordinated in right of payment to the Obligations.

"Standard Securitization Undertakings" means representations, warranties, covenants and indemnities entered into by the Borrower or any Subsidiary thereof in connection with the Permitted Receivables Facility which are reasonably customary in an accounts receivable financing transaction.

"subsidiary" means, with respect to any Person (the "parent") at any date, any corporation, limited liability company, partnership, association or other entity of which securities or other ownership interests representing more than 50% of the ordinary voting power for the election of directors or other governing body are at the time beneficially owned, directly or indirectly, by the parent or one or more subsidiaries of the parent or by the parent and one or more subsidiaries of the parent.

"Subsidiary" means any subsidiary of the Borrower.

"Swap Agreement" means any agreement with respect to any swap, forward, future or derivative transaction or option or similar agreement involving, or settled by reference to, one or more rates, currencies, commodities, equity or debt instruments or securities, or economic, financial or pricing indices or measures of economic, financial or pricing risk or value or any similar transaction or any combination of these transactions; provided that no phantom stock or similar plan providing for payments only on account of services provided by current or former directors, officers, employees or consultants of the Borrower or the Subsidiaries shall be a Swap Agreement.

"Syndication Agent" means JPMorgan Chase Bank, N.A., in its capacity as syndication agent for the Loans.

"Taxes" means any and all present or future taxes, levies, imposts, duties, assessments, deductions, charges or withholdings of any nature and whatever called, imposed by any Governmental Authority, including any interest, additions to tax or penalties applicable thereto.

"Test Period" means the period of four fiscal quarters of the Borrower ending on a specified date.

"Total Cap" shall have the meaning given such term by the Fee Letter.

"Transactions" means the execution, delivery and performance by the Loan Parties of this Agreement and the other Loan Documents, the borrowing of Loans on the Closing Date (and any other Indebtedness incurred by the Borrower to fund the Acquisition) and the consummation of the Acquisition and the other transactions contemplated by the Acquisition Agreement to occur on the date of the Acquisition.

"Treasury Rate" means, with respect to any prepayment date, (1) the yield, under the heading which represents the average for the immediately preceding week, appearing in the most recently published statistical release designated "H.15(519)" or any successor publication which is published weekly by the Board and which establishes yields on actively traded United States Treasury securities adjusted to constant maturity under the caption "Treasury Constant Maturities," for the maturity corresponding to the Comparable Treasury Issue (if no maturity is within three months before or after the remaining life, yields for the two published maturities most closely corresponding to the Comparable Treasury Issue will be determined and the Treasury Rate will be interpolated or extrapolated from such yields on a straight line basis, rounding to the nearest month) or (2) if such release (or any successor release) is not published during the week preceding the calculation date or does not contain such yields, the rate per year equal to the semi-annual equivalent yield-to-maturity of the Comparable Treasury Issue, calculated using a price for the Comparable Treasury Issue (expressed as a percentage of its principal amount) equal to the average, as determined by the Administrative Agent, of the bid and asked prices for the Comparable Treasury Issue quoted by the Arrangers or one or more other primary treasury dealers (expressed in each case as a percentage of its principal amount) at 5:00 p.m., New York City time, on the third Business Day preceding such prepayment date. The Treasury Rate will be calculated on the third Business Day preceding the prepayment date.

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

"U.S. Lender" means any Lender that is a "United States person" as defined in Section 7701(a)(30) of the Code.

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

"Withdrawal Liability" means liability to a Multiemployer Plan as a result of a complete or partial withdrawal from such Multiemployer Plan, as such terms are defined in Part I of Subtitle E of Title IV of ERISA.

"wholly-owned" means, with respect to a Subsidiary of a Person, a Subsidiary of such Person all of the outstanding Equity Interests of which (other than (x) director's qualifying shares and (y) shares issued to foreign nationals to the extent required by applicable Law) are owned by such Person and/or by one or more wholly-owned Subsidiaries of such Person.

SECTION 1.02. Terms Generally. The definitions of terms herein shall apply equally to the singular and plural forms of the terms defined. Whenever the context may require, any pronoun shall include the corres-

ponding masculine, feminine and neuter forms. The words "include," "includes" and "including" shall be deemed to be followed by the phrase "without limitation." The word "will" shall be construed to have the same meaning and effect as the word "shall." Unless the context requires otherwise (a) any definition of or reference to any agreement, instrument or other document herein shall be construed as referring to such agreement, instrument or other document as from time to time amended, supplemented, refinanced, restated, replaced or otherwise modified (subject to any restrictions on such amendments, supplements or modifications set forth herein), (b) any reference herein to any Person shall be construed to include such Person's successors and assigns, (c) the words "herein," "hereof" and "hereunder," and words of similar import, shall be construed to refer to this Agreement in its entirety and not to any particular provision hereof, (d) all references herein to Articles, Sections, Exhibits and Schedules shall be construed to refer to Articles and Sections of, and Exhibits and Schedules to, this Agreement and (e) the words "asset" and "property" shall be construed to have the same meaning and effect and to refer to any and all tangible and intangible assets and properties, including cash, securities, accounts and contract rights.

SECTION 1.03. Accounting Terms; GAAP.

(a) Except as otherwise expressly provided herein, all terms of an accounting or financial nature shall be construed in accordance with GAAP, as in effect from time to time; provided that, (i) if the Borrower notifies the Administrative Agent that the Borrower requests an amendment to any provision hereof to eliminate the effect of any change occurring after the date of this Agreement in GAAP (including as a result of the adoption of IFRS) or in the application thereof on the operation of such provision (or if the Administrative Agent notifies the Borrower that the Required Lenders request an amendment to any provision hereof for such purpose), regardless of whether any such notice is given before or after such change in GAAP (including as a result of the adoption of IFRS) or in the application thereof, then such provision shall be interpreted on the basis of GAAP as in effect and applied immediately before such change shall have become effective until such notice shall have been withdrawn or such provision amended in accordance herewith and (ii) notwithstanding anything in GAAP to the contrary, for purposes of all financial calculations hereunder, the amount of any Indebtedness outstanding at any time shall be the stated principal amount thereof (except to the extent such Indebtedness provides by its terms for the accretion of principal, in which case the amount of such Indebtedness at any time shall be its accreted amount at such time).

SECTION 1.04. Payments on Business Days. When the payment of any Obligation or the performance of any covenant, duty or obligation is stated to be due or performance required on a day which is not a Business Day, the date of such payment or performance shall extend to the immediately succeeding Business Day and such extension of time shall be reflected in computing interest or fees, as the case may be; provided that, with respect to any payment of interest on or principal of Eurodollar Loans, if such extension would cause any such payment to be made in the next succeeding calendar month, such payment shall be made on the immediately preceding Business Day.

SECTION 1.05. Rounding. Any financial ratios required to be maintained by the Borrower pursuant to this Agreement shall be calculated by dividing the appropriate component by the other component, carrying the result to one place more than the number of places by which such ratio is expressed herein and rounding the result up or down to the nearest number (with a rounding-up if there is no nearest number).

SECTION 1.06. Times of Day. Unless otherwise specified, all references herein to times of day shall be references to Eastern time (daylight or standard, as applicable).

SECTION 1.07. Rules of Construction. For purposes of determining compliance with any U.S. dollar-denominated restriction on the incurrence of Indebtedness, the U.S. dollar-equivalent principal amount of Indebtedness denominated in a foreign currency shall be calculated based on the relevant currency exchange rate in effect on the date such Indebtedness was incurred, in the case of term debt, or first committed, in the case of revolving credit debt; provided that if such Indebtedness is incurred to refinance other Indebtedness denominated in a foreign currency, and such refinancing would cause the applicable U.S. dollar-denominated restriction to be exceeded if calculated at the relevant currency exchange rate in effect on the date of such refinancing, such U.S. dollar-denominated restriction shall be deemed not to have been exceeded so long as the principal amount of such refinancing Indebtedness does not exceed the principal amount of such Indebtedness being refinanced.

The principal amount of any Indebtedness incurred to refinance other Indebtedness, if incurred in a different currency from the Indebtedness being refinanced, shall be calculated based on the currency exchange rate applicable to the currencies in which such respective Indebtedness is denominated that is in effect on the date of such refinancing.

ARTICLE II

The Loans

SECTION 2.01. Commitments.

(a) Subject to the terms and conditions set forth herein, each Lender with a Bridge A Commitment severally agrees to make a loan (a "Bridge A Loan") on the Closing Date to the Borrower in Dollars by making immediately available funds to the Administrative Agent's account not later than the time specified by the Administrative Agent, in an amount of up to the Bridge A Commitment of such Lender. Amounts repaid in respect of Bridge A Loans may not be reborrowed.

(b) Subject to the terms and conditions set forth herein, each Lender with a Bridge B Commitment severally agrees to make a loan (a "Bridge B Loan") on the Closing Date to the Borrower in Dollars by making immediately available funds to the Administrative Agent's account not later than the time specified by the Administrative Agent, in an amount of up to the Bridge B Commitment of such Lender. Amounts repaid in respect of Bridge B Loans may not be reborrowed.

SECTION 2.02. Loans and Borrowings. The Loans shall be made by the Lenders ratably in accordance with their respective Commitments. The failure of any Lender to make any Loan required to be made by it shall not relieve any other Lender of its obligations hereunder; provided that the Commitments of the Lenders are several and no Lender shall be responsible for any other Lender's failure to make Loans as required.

SECTION 2.03. Requests for Borrowings. To request a borrowing of Loans on the Closing Date, the Borrower shall notify the Administrative Agent of such request, which may be given by telephone, not later than 11:00 a.m. three Business Days prior to the Closing Date. Each Borrowing Request shall be irrevocable and, in the case of a telephonic Borrowing Request, shall be confirmed promptly by hand delivery or telecopy or transmission by electronic communication in accordance with Section 9.01(b) to the Administrative Agent of a written Borrowing Request in a form attached hereto as Exhibit E and signed by the Borrower. Each such telephonic and written Borrowing Request shall specify the following information in compliance with Section 2.02:

(i) the Class or Classes of Loans to which such Borrowing Request relates;

(ii) the aggregate amount of requested Loans of each Class;

(iii) the Closing Date, which shall be a Business Day; and

(iv) the location and number of the Borrower's account to which funds are to be disbursed, which shall be an account reasonably satisfactory to the Administrative Agent.

Promptly following receipt of a Borrowing Request in accordance with this Section, the Administrative Agent shall advise each Lender of the details thereof and of the amount of such Lender's Loan to be made as part of the requested borrowing.

SECTION 2.04. [Reserved].

SECTION 2.05. [Reserved].

SECTION 2.06. Funding of Loans.

(a) Each Lender shall make each Loan to be made by it hereunder on the proposed date thereof by wire transfer of immediately available funds by 2:00 p.m., New York City time, to the account of the Administrative Agent most recently designated by it for such purpose by notice to the Lenders in an amount equal to such Lender's pro rata share of the Loan requested pursuant to Section 2.03 (based on the amount of such Lender's Commitment as a percentage of the aggregate Commitments of the applicable Class).

(b) Unless the Administrative Agent shall have received notice from a Lender prior to the Closing Date that such Lender will not make available to the Administrative Agent such Lender's share of such borrowing, the Administrative Agent may assume that such Lender has made such share available on such date in accordance with clause (a) of this Section and may, in reliance upon such assumption in its sole discretion, make available to the Borrower a corresponding amount. In such event, if a Lender has not in fact made its Loan available to the Administrative Agent, then the applicable Lender and the Borrower severally agree to pay to the Administrative Agent forthwith on demand such corresponding amount with interest thereon, for each day from and including the date such amount is made available to the Borrower to but excluding the date of payment to the Administrative Agent, at (i) in the case of such Lender, the Overnight Rate or (ii) in the case of the Borrower, the interest rate applicable to Base Rate Loans. If such Lender pays such amount to the Administrative Agent, then such amount shall constitute such Lender's Loan.

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

SECTION 2.07. [Reserved].

SECTION 2.08. Termination and Reduction of Commitments. Each Commitment shall automatically terminate upon the making of the Loan on the Closing Date pursuant to such Commitment pursuant to Section 2.01. In addition, all Commitments shall expire on the earliest of (a) 5:00 p. m., New York City time, on December 30, 2013 unless the Closing Date occurs on or prior to such date, (b) the date of consummation of the Acquisition without any borrowing under such Commitment and (c) the termination of the Acquisition Agreement prior to the closing of the Acquisition. The Bridge A Commitments shall be automatically reduced on the Closing Date by the amount of the first $650,000,000 of proceeds from any debt securities issued by the Borrower after the date of this Agreement that are actually applied to pay a portion of the consideration payable under the Acquisition Agreement on the Closing Date and the Bridge B Commitments shall be reduced by the amount of any other cash that is actually utilized on the Closing Date to fund a portion of the consideration payable under the Acquisition Agreement (with any such reduction being applied on a pro rata basis to the Commitment of each Lender of the applicable Class).

SECTION 2.09. Repayment of Loans; Evidence of Debt

(a) The Borrower hereby unconditionally promises to pay to the Administrative Agent for the account of each Lender the then unpaid principal amount of each Loan on the Final Maturity Date.

(b) Each Lender shall maintain in accordance with its usual practice an account or accounts evidencing the Indebtedness of the Borrower to such Lender resulting from each Loan made by such Lender, including the amounts of principal and interest payable and paid to such Lender from time to time hereunder.

(c) The Administrative Agent shall maintain accounts in which it shall record (i) the amount of each Loan made hereunder, (ii) the amount of any principal or interest due and payable or to become due and payable from the Borrower to each Lender hereunder, (iii) the amount of any Loan exchanged for Exchange Notes pursuant

to Section 2.19 of this Agreement and (iv) the amount of any sum received by the Administrative Agent hereunder for the account of the Lenders and each Lender's share thereof.

(d) The entries made in the accounts maintained pursuant to clause (b) of this Section shall be prima facie evidence of the existence and amounts of the obligations recorded therein absent manifest error; provided that the failure of any Lender or the Administrative Agent to maintain such accounts or any error therein shall not in any manner affect the obligation of the Borrower to repay the Loans in accordance with the terms of this Agreement.

(e) Any Lender may request that Loans made by it be evidenced by promissory notes. In such event, the Borrower shall prepare, execute and deliver to such Lender promissory notes payable to such Lender and its registered assigns and in a form approved by the Administrative Agent. Thereafter, the Loans evidenced by such promissory notes and interest thereon shall at all times (including after assignment pursuant to Section 9.04 of this Agreement) be represented by one or more promissory notes in such form payable to the payee named therein and its registered assigns.

SECTION 2.10. Prepayment of Loans.

(a) Optional Prepayments. (i) The Borrower shall have the right at any time and from time to time to prepay the Loans in whole or in part, without premium or penalty, subject to prior notice in accordance with clause (a)(ii) of this Section; provided that if a Demand Failure Event has occurred such prepayment shall be accompanied by a premium equal to the Make-Whole Amount.

(ii) The Borrower shall notify the Administrative Agent by telephone (confirmed by telecopy or transmission by electronic communication in accordance with Section 9.01(b)) of any prepayment hereunder not later than 2:00 p.m., New York City time, three (3) Business Days before the date of prepayment. Each such notice shall be irrevocable and shall specify the prepayment date and the principal amount of each Loan or portion thereof to be prepaid; provided that any notice of prepayment in connection with a refinancing of the Loans may be conditioned upon consummation of any proposed financing transaction in connection therewith. Each prepayment of Loans pursuant to this Section 2.10(a) shall be applied ratably to the Loans; provided that, at the Arrangers' option (notified in writing to the Administrative Agent prior to the date of such prepayment), (i) any prepayment of Loans pursuant to this Section 2.10(a) with the proceeds of borrowings under the Senior Secured Credit Agreement shall be applied (x) first, to repayment of the Bridge B Loans until all outstanding Bridge B Loans have been paid in full and (y) thereafter, to repayment of the Bridge A Loans and (ii) to the extent any prepayment of Loans is to occur from the proceeds of debt securities or other Indebtedness of the Borrower or any of its Subsidiaries and a Lender or Participant has purchased such debt securities or other Indebtedness, an amount of up to the amount of such proceeds attributable to the amount of debt securities or other Indebtedness purchased by such Lender or Participant may first be directed solely to the Loans of such Lender or the Loans that are subject to a participation by such Participant prior to being applied to any other Loans. Prepayments pursuant to this Section 2.10(a) shall be accompanied by (i) accrued interest to the extent required by Section 2.12 and (ii) break funding payments pursuant to Section 2.15.

(b) Mandatory Prepayments.

(i) (a) Until the Rollover Date, if the Borrower or any Subsidiary receives any Net Cash Proceeds from any Asset Sale, the Borrower shall offer to prepay Loans in an amount equal to 100% of such Net Cash Proceeds (in the case of an Asset Sale by a Foreign Subsidiary, net of additional taxes payable (or that would be payable if the Net Cash Proceeds were repatriated to the United States) or reserved against as a result thereof) in accordance with Section 2.10(b)(v) on or prior to the date which is ten (10) Business Days after the date of the realization or receipt of such Net Cash Proceeds; provided that no such offer to make a prepayment shall be required pursuant to this Section 2.10(b)(i)(A) with respect to such Net Cash Proceeds that the Borrower shall reinvest in accordance with Section 2.10(b)(i)(B).

(b) With respect to any Net Cash Proceeds realized or received with respect to any Asset Sale, at the option of the Borrower the Borrower may reinvest all or any portion of such Net Cash Proceeds in assets useful for the Borrower's or a Subsidiary's business within twelve (12) months following receipt of such Net Cash Proceeds; provided that any such Net Cash Proceeds that are not so reinvested within the applicable time period set forth above

shall be applied as set forth in Section 2.10(b)(i)(A) within five (5) Business Days after the end of the applicable time period set forth above.

(ii) If a Change in Control occurs, the Borrower shall offer to prepay all Loans within 30 days following the date of such Change in Control.

(iii) The Borrower shall notify the Administrative Agent in writing of any mandatory prepayment of Loans required to be made pursuant to clause (i) of this Section 2.10(b) at least three (3) Business Days prior to the date of such prepayment and or any prepayment pursuant to clause (iii) of this Section 2.10(c) at least ten (10) Business Days prior to the date of such prepayment. Each such notice shall specify the date of such prepayment and provide a reasonably detailed calculation of the amount of such prepayment. The Administrative Agent will promptly notify each Lender of the contents of the Borrower's prepayment notice and of such Lender's pro rata share of the prepayment.

(iv) Notwithstanding any other provisions of this Section 2.10(b) to the contrary, to the extent that any or all the Net Cash Proceeds of any Asset Sale by a Foreign Subsidiary giving rise to a prepayment event pursuant to Section 2.10(b)(i) (a "Foreign Disposition") are prohibited or delayed by applicable local Law from being repatriated to the United States, the portion of such Net Cash Proceeds so affected will not be required to be applied to offer to repay Loans at the times provided in this Section 2.10(b) but may be retained by the applicable Foreign Subsidiary so long, but only so long, as applicable Law will not permit or delays repatriation to the United States (the Borrower hereby agreeing to cause the applicable Foreign Subsidiary to promptly take all actions reasonably required by the applicable Law to permit such repatriation), and once such repatriation of any of such affected Net Cash Proceeds is permitted under the applicable Law, such repatriation will be promptly effected and such repatriated Net Cash Proceeds will be promptly (and in any event not later than five (5) Business Days after such repatriation) applied (net of additional taxes payable or reserved against as a result thereof) to the repayment of the Loans pursuant to this Section 2.10(b) to the extent provided herein; provided, however, that to the extent that the Borrower has determined in good faith that repatriation of any of or all the Net Cash Proceeds of any Foreign Disposition would have material adverse tax consequences, the Net Cash Proceeds so affected may be retained by the applicable Foreign Subsidiary, provided that, in the case of this clause (ii), on or before the date 12 months following the date of receipt of such Net Cash Proceeds, (x) the Borrower shall apply an amount equal to such Net Cash Proceeds to such reinvestments or prepayments as if such Net Cash Proceeds had been received by the Borrower rather than such Foreign Subsidiary, less the amount of additional taxes that would have been payable (or that would be payable if the Net Cash Proceeds were repatriated to the United States) or reserved against if such Net Cash Proceeds had been repatriated or (y) such Net Cash Proceeds shall be applied to the repayment of Indebtedness of a Foreign Subsidiary.

(v) Each prepayment of Loans pursuant to this Section 2.10(b) shall be offered to the Lenders on a pro rata basis pursuant to procedures satisfactory to the Administrative Agent (it being understood that any Lender may decline to participate in any such prepayment).

(vi) Any prepayment of Loans pursuant to this Section 2.10(b) shall be accompanied by (i) accrued interest to the extent required by Section 2.12, (ii) break funding payments to the extent required by Section 2.15 and (iii) in the case of a prepayment pursuant to Section 2.10(b)(ii) following the occurrence of a Demand Failure Event, a premium equal to 1% of the principal amount of the Loans prepaid.

SECTION 2.11. Fees.

The Borrower agrees to pay all fees required to be paid by it in connection with this Agreement as separately agreed in writing by the Borrower, any Arranger and/or the Administrative Agent and/or any Initial Lender at the times set forth therein.

SECTION 2.12. Interest.

(a) Until the earlier to occur of the Rollover Date and a Demand Failure Event, the Loans shall bear interest at a rate *per annum* equal to the lesser of (i) the LIBO Rate for the Interest Period in effect plus the Applicable Rate at such time and (ii) the Total Cap.

(b) From and after the earliest to occur of the Rollover Date and a Demand Failure Event, the Loans shall bear interest at a rate *per annum* equal to the Total Cap at such time.

(c) Notwithstanding the foregoing, if any principal of or interest on any Loan or any fee or other amount payable by the Borrower hereunder is not paid when due, whether at stated maturity, upon acceleration or otherwise, such overdue amount shall bear interest, after as well as before judgment, at a rate per annum equal to (i) in the case of overdue principal of any Loan, 2% plus the rate otherwise applicable to such Loan as provided in the preceding clauses of this Section or (ii) in the case of any other amount, 2% plus the rate applicable to Loans (the "Default Rate").

(d) Accrued interest on each Loan shall be payable in arrears on each Interest Payment Date for such Loan; provided that (i) interest accrued pursuant to clause (c) of this Section shall be payable on demand, (ii) in the event of any repayment or prepayment of any Loan, accrued interest on the principal amount repaid or prepaid shall be payable on the date of such repayment or prepayment and (iii) in the case of any Loan exchanged for an Exchange Note other than on an Interest Payment Date, on such date of exchange.

(e) All interest hereunder shall be computed on the basis of a year of 360 days and the actual number of days elapsed (or, from and after the occurrence of the Rollover Date or a Demand Failure Event, on the basis of a year of 360 days consisting of 12 months of 30 days). The applicable LIBO Rate shall be determined by the Administrative Agent in accordance with the provisions of this Agreement, and such determination shall be conclusive absent manifest error.

SECTION 2.13. [Reserved].

SECTION 2.14. Increased Costs.

(a) If any Change in Law shall:

(i) impose, modify or deem applicable any reserve, special deposit or similar requirement against assets of, deposits with or for the account of, or credit extended by, any Lender;

(ii) subject a Lender (or its applicable lending office) to any additional Tax (other than any Excluded Taxes, or any Other Taxes or Indemnified Taxes indemnified under Section 2.16) with respect to any Loan Document; or

(iii) impose on any Lender or the London interbank market any other condition affecting this Agreement or Loans made by such Lender or any participation therein;

and the result of any of the foregoing shall be to increase the cost to such Lender of making or maintaining any Loan or of maintaining its obligation to make any such Loan or to increase the cost to such Lender or to reduce the amount of any sum received or receivable by such Lender hereunder, whether of principal, interest or otherwise, in each case by an amount deemed by such Lender to be material in the context of its making of, and participation in, extensions of credit under this Agreement, then, upon the request of such Lender, the Borrower will pay to such Lender such additional amount or amounts as will compensate such Lender for such additional costs incurred or reduction suffered.

(b) If any Lender determines in good faith that any Change in Law regarding capital requirements has or would have the effect of reducing the rate of return on such Lender's capital or on the capital of such Lender's holding company, if any, as a consequence of this Agreement or the Loans made by such Lender to a level below

that which such Lender or such Lender's holding company could have achieved but for such Change in Law (taking into consideration such Lender's policies and the policies of such Lender's holding company with respect to capital adequacy), then from time to time, upon the request of such Lender, the Borrower will pay to such Lender such additional amount or amounts as will compensate such Lender or such Lender's holding company for any such reduction suffered.

(c) A certificate of a Lender setting forth in reasonable detail the amount or amounts necessary to compensate such Lender or its holding company, as the case may be, as specified in clause (a) or (b) of this Section shall be delivered to the Borrower and shall be conclusive absent manifest error. The Borrower shall pay such Lender the amount shown as due on any such certificate within ten (10) days (or such later date as may be agreed by the applicable Lender) after receipt thereof.

(d) Failure or delay on the part of any Lender to demand compensation pursuant to this Section shall not constitute a waiver of such Lender's right to demand such compensation; provided that the Borrower shall not be required to compensate a Lender pursuant to this Section for any increased costs or reductions incurred more than 135 days prior to the date that such Lender notifies the Borrower of the Change in Law giving rise to such increased costs or reductions and of such Lender's intention to claim compensation therefor; provided further that, if the Change in Law giving rise to such increased costs or reductions is retroactive, then the 135-day period referred to above shall be extended to include the period of retroactive effect thereof.

SECTION 2.15. Break Funding Payments. In the event of (a) the payment of any principal of any Eurodollar Loan other than on the last day of an Interest Period applicable thereto (including as a result of an Event of Default or as a result of any prepayment pursuant to Section 2.10), (b) the failure to prepay any Eurodollar Loan on the date specified in any notice delivered pursuant hereto (regardless of whether such notice may be revoked) or (c) the assignment of any Loan other than on the last day of the Interest Period applicable thereto as a result of a request by the Borrower pursuant to Section 2.18, then, in any such event, the Borrowers shall compensate each Lender for the loss, cost and expense (excluding loss of anticipated profit) attributable to such event. Such loss, cost or expense to any Lender may be deemed to include an amount determined by such Lender to be the excess, if any, of (i) the amount of interest which would have accrued on the principal amount of such Loan had such event not occurred, at the LIBO Rate that would have been applicable to such Loan (and excluding any Applicable Rate), for the period from the date of such event to the last day of the then current Interest Period therefor, over (ii) the amount of interest which would accrue on such principal amount for such period at the interest rate which such Lender would bid were it to bid, at the commencement of such period, for deposits in the relevant currency of a comparable amount and period from other banks in the eurocurrency market. A certificate of any Lender setting forth in reasonable detail any amount or amounts that such Lender is entitled to receive pursuant to this Section shall be delivered to the Borrower and shall be conclusive absent manifest error. The Borrower shall pay such Lender the amount shown as due on any such certificate within ten (10) days (or such later date as may be agreed by the applicable Lender) after receipt thereof.

SECTION 2.16. Taxes.

(a) All sums payable by any Loan Party under any Loan Document to the Administrative Agent or any Lender shall be made free and clear of and without deduction for any Taxes, unless required by applicable Laws.

(b) If any Loan Party or any other applicable withholding agent shall be required by Law to deduct any Taxes from or in respect of any sum payable under any Loan Document, then (i) the applicable Loan Party or other applicable withholding agent shall make such deductions and pay to the relevant Governmental Authority any such Tax before the date on which penalties attach thereto in accordance with applicable Law, (ii) if the Tax in question is an Indemnified Tax or an Other Tax, the sum payable by the applicable Loan Party to such Lender or Administrative Agent (as applicable) shall be increased by such Loan Party as necessary so that after all required deductions have been made (including deductions applicable to additional sums payable under this Section 2.16) the Lender or Administrative Agent receives an amount equal to the sum it would have received had no such deductions been made, (iii) within thirty days after paying any sum from which it is required by Law to make any deduction, and within thirty days after the due date of payment of any Tax which it is required by clause (i) above to pay, the Loan Party making such payments shall deliver to the Administrative Agent the original or a certified copy of a re-

ceipt issued by such Governmental Authority evidencing such payment, a copy of the return reporting such payment or other evidence of such payment reasonably satisfactory to the Administrative Agent.

(c) In addition, the Borrower shall pay any Other Taxes to the relevant Governmental Authority in accordance with applicable Law.

(d) Each Lender shall, at such times as are reasonably requested by the Borrower or the Administrative Agent, provide the Borrower and the Administrative Agent with any documentation prescribed by Laws or reasonably requested by the Borrower or the Administrative Agent certifying as to any entitlement of such Lender to an exemption from, or reduction in, any applicable withholding Tax with respect to any payments to be made to such Lender under any Loan Document. Each such Lender shall, whenever a lapse in time or change in circumstances renders any such documentation (including any specific documentation required below in this Section 2.16(d)) obsolete, expired or inaccurate in any material respect, deliver promptly to the Borrower and the Administrative Agent updated or other appropriate documentation (including any new documentation reasonably requested by the Borrower or the Administrative Agent) or promptly notify the Borrower and the Administrative Agent in writing of its inability to do so.

Without limiting the foregoing:

(1) Each U.S. Lender shall deliver to the Borrower and the Administrative Agent on or before the date on which it becomes a party to this Agreement two properly completed and duly signed original copies of IRS Form W-9 certifying that such Lender is exempt from U.S. federal backup withholding.

(2) Each Foreign Lender shall deliver to the Borrower and the Administrative Agent on or before the date on which it becomes a party to this Agreement whichever of the following is applicable:

(A) two properly completed and duly signed original copies of IRS Form W-8BEN (or any successor forms) claiming eligibility for the applicable benefits of an income tax treaty to which the United States is a party, and such other documentation as required under the Code,

(B) two properly completed and duly signed original copies of IRS Form W-8ECI (or any successor forms),

(C) in the case of a Foreign Lender claiming the benefits of the exemption for portfolio interest under Section 871(h) or Section 881(c) of the Code, (A) two properly completed and duly signed certificates substantially in the form of Exhibit F-1, F-2, F-3 or F-4, as applicable (any such certificate, a "United States Tax Compliance Certificate") and (B) two properly completed and duly signed original copies of IRS Form W-8BEN (or any successor forms),

(D) to the extent a Foreign Lender is not the beneficial owner (for example, where the Foreign Lender is a partnership or a participating Lender), IRS Form W-8IMY (or any successor forms) of the Foreign Lender, accompanied by a Form W-8ECI, W-8BEN, United States Tax Compliance Certificate, Form W-9, Form W-8IMY or any other required information (or any successor forms) from each beneficial owner that would be required under this Section 2.16(d) if such beneficial owner were a Lender, as applicable (provided that if the Foreign Lender is a partnership (and not a participating Lender) and one or more beneficial owners are claiming the portfolio interest exemption, the United States Tax Compliance Certificate may be provided by such Foreign Lender on behalf of such beneficial owners), or

(E) two properly completed and duly signed original copies of any other form prescribed by applicable U.S. federal income tax laws (including the Treasury Regulations) as a basis for claiming a complete exemption from, or a reduction in, United States federal withholding Tax on any payments to such Lender under the Loan Documents.

(3) If a payment made to a Lender under any Loan Document would be subject to U.S. federal withholding Tax imposed by FATCA if such Lender were to fail to comply with the applicable reporting requirements of FATCA (including those contained in Sections 1471(b) or 1472(b) of the Code, as applicable), such Lender shall deliver to the Borrower and the Administrative Agent at the time or times prescribed by law and at such time or times reasonably requested by the Borrower or the Administrative Agent such documentation prescribed by applicable Law (including as prescribed by Section 1471(b)(3)(C)(i) of the Code) and such additional documentation reasonably requested by the Borrower or the Administrative Agent as may be necessary for the Borrower and the Administrative Agent to comply with their FATCA obligations, to determine whether such Lender has or has not complied with such Lender's FATCA obligations and, if necessary, to determine the amount to deduct and withhold from such payment. Solely for purposes of this clause (3), "FATCA" shall include any amendments made to FATCA after the date of this Agreement.

Notwithstanding any other provision of this Section 2.16(d), a Lender shall not be required to deliver any documentation that such Lender is not legally eligible to deliver.

(e) The Loan Parties shall, jointly and severally, indemnify the Administrative Agent or a Lender (each a "Tax Indemnitee"), within ten (10) days after written demand therefor, for the full amount of any Indemnified Taxes paid or payable by the Tax Indemnitee on or with respect to any payment by or on account of any obligation of any Loan Party under any Loan Document, and any Other Taxes paid or payable by the Tax Indemnitee (including any Indemnified Taxes or Other Taxes imposed or asserted on or attributable to amounts payable under this Section 2.16), whether or not such Indemnified Taxes or Other Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability prepared in good faith and delivered to the Tax Indemnitee, or by the Administrative Agent on its own behalf or on behalf of another Tax Indemnitee, shall be conclusive absent manifest error.

(f) If and to the extent a Tax Indemnitee determines, in its sole good faith discretion, that it has received a refund of any Indemnified Taxes or Other Taxes as to which it has been indemnified by a Loan Party or with respect to which a Loan Party has paid additional amounts pursuant to this Section 2.16, then such Tax Indemnitee shall promptly pay over such refund to the relevant Loan Party (but only to the extent of indemnity payments made, or additional amounts paid, by such Loan Party under this Section 2.16 with respect to the Indemnified Taxes or Other Taxes giving rise to such refund), net of all out-of-pocket expenses (including any Taxes) of the Tax Indemnitee and without interest (other than any interest paid by the relevant Governmental Authority with respect to such refund); provided that such Loan Party, upon the request of the Tax Indemnitee, agrees to repay the amount paid over to such Loan Party (plus any penalties, interest or other charges imposed by the relevant Governmental Authority) to the Tax Indemnitee in the event the Tax Indemnitee is required to repay such refund to such Governmental Authority. This Section 2.16(f) shall not be construed to require a Tax Indemnitee to make available its tax returns (or any other information relating to its Taxes which it deems confidential) to any Loan Party or any other Person.

SECTION 2.17. Payments Generally; Pro Rata Treatment; Sharing of Setoffs.

(a) The Borrower shall make each payment required to be made by it hereunder (whether of principal, interest or fees, or of amounts payable under Section 2.14, 2.15 or 2.16, or otherwise) without condition or deduction for any counterclaim, defense, recoupment or setoff prior to 2:00 p.m., on the date when due, in immediately available funds. Any amounts received after such time on any date may, in the discretion of the Administrative Agent, be deemed to have been received on the next succeeding Business Day for purposes of calculating interest thereon. All such payments shall be made to the Administrative Agent's Office, except that payments pursuant to Sections 2.14, 2.15, 2.16 and 9.03 shall be made directly to the Persons entitled thereto. The Administrative Agent shall distribute any such payments received by it for the account of any other Person to the appropriate recipient promptly following receipt thereof. If any payment hereunder shall be due on a day that is not a Business Day, the date for payment shall be extended to the next succeeding Business Day, and, in the case of any payment accruing interest, interest thereon shall be payable for the period of such extension.

(b) If at any time prior to an exercise of remedies pursuant to Article VII (or prior to the date of termination of the Commitments in full and acceleration of the Loans pursuant to Article VII), insufficient funds are re-

ceived by and available to the Administrative Agent to pay fully all amounts of principal, interest and fees then due hereunder, such funds shall be applied (i) first, towards payment of interest and fees then due hereunder, ratably among the parties entitled thereto in accordance with the amounts of interest and fees then due to such parties, and (ii) second, towards payment of principal then due hereunder, ratably among the parties entitled thereto in accordance with the amounts of principal then due to such parties.

(c) After the exercise of remedies provided for in Article VII (or after acceleration of the Loans pursuant to Article VII), any amounts received on account of the Obligations shall be applied by the Administrative Agent as follows:

*First*, to payment of that portion of the Obligations constituting fees, indemnities, expenses and other amounts (including fees, charges and disbursements of counsel to the Administrative Agent and amounts payable under Article II) payable to the Administrative Agent, the Arrangers and the Syndication Agent in their capacities as such;

*Second*, to payment of that portion of the Obligations constituting fees, indemnities and other amounts (other than principal, interest and fees payable pursuant to Sections 2.11(a) and (b)) payable to the Lenders (including fees, charges and disbursements of counsel to the respective Lenders arising under the Loan Documents), ratably among them in proportion to the respective amounts described in this clause Second payable to them;

*Third*, to payment of that portion of the Obligations constituting accrued and unpaid fees and interest on the Loans and other Obligations arising under the Loan Documents, ratably among the Lenders in proportion to the respective amounts described in this clause Third payable to them;

Fourth, to payment of that portion of the Obligations constituting unpaid principal of the Loans; and

*Last*, the balance, if any, after all of the Obligations have been indefeasibly paid in full, to the Borrower or as otherwise required by Law.

(d) If any Lender shall, by exercising any right of setoff or counterclaim or otherwise, obtain payment in respect of any principal of or interest on any of its Loans resulting in such Lender receiving payment of a greater proportion of the aggregate amount of its Loans and accrued interest thereon than the proportion received by any other Lender, then the Lender receiving such greater proportion shall purchase (for cash at face value) participations in the Loans of other Lenders to the extent necessary so that the benefit of all such payments shall be shared by the Lenders ratably in accordance with the aggregate amount of principal of and accrued interest on their respective Loans; provided that (i) if any such participations are purchased and all or any portion of the payment giving rise thereto is recovered, such participations shall be rescinded and the purchase price restored to the extent of such recovery, without interest, and (ii) the provisions of this clause shall not be construed to apply to any payment made by the Borrower pursuant to and in accordance with the express terms of this Agreement or any payment obtained by a Lender as consideration for the assignment of or sale of a participation in any of its Loans to any assignee or participant in accordance with Section 9.04. The Borrower consents to the foregoing and agrees, to the extent it may effectively do so under applicable law, that any Lender acquiring a participation pursuant to the foregoing arrangements may exercise against the Borrower rights of setoff and counterclaim with respect to such participation as fully as if such Lender were a direct creditor of the Borrower in the amount of such participation.

(e) Unless the Administrative Agent shall have received notice from the Borrower prior to the date on which any payment is due to the Administrative Agent for the account of the Lenders that the Borrower will not make such payment, the Administrative Agent may assume that the Borrower has made such payment on such date in accordance herewith and may, in reliance upon such assumption, distribute to the Lenders the amount due. In such event, if the Borrower has not in fact made such payment, then each of the Lenders severally agrees to repay to the Administrative Agent forthwith on demand the amount so distributed to such Lender, in Same Day Funds with interest thereon, for each day from and including the date such amount is distributed to it to but excluding the date of payment to the Administrative Agent, at the Overnight Rate. A notice of the Administrative Agent to any Lender or the Borrower with respect to any amount owing under this subsection (c) shall be conclusive, absent manifest error.

(f) If any Lender shall fail to make any payment required to be made by it pursuant to Section 2.04, 2.05, 2.06, 2.17 or 9.03, then the Administrative Agent may, in its discretion (notwithstanding any contrary provision hereof), apply any amounts thereafter received by the Administrative Agent for the account of such Lender to satisfy such Lender's obligations under such Sections until all such unsatisfied obligations are fully paid. The obligations of the Lenders hereunder to make Loans and to make payments are several and not joint. The failure of any Lender to make any Loan, to fund any such participation or to make any payment on any date required hereunder shall not relieve any other Lender of its corresponding obligation to do so on such date, and no Lender shall be responsible for the failure of any other Lender to so make its Loan, to purchase its participation or to make its payments.

SECTION 2.18. Mitigation Obligations; Replacement of Lenders.

(a) If any Lender requests compensation under Section 2.14, or if the Borrower is required to pay any additional amount to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 2.16, then such Lender shall use reasonable efforts to designate a different lending office for funding or booking its Loans hereunder or to assign its rights and obligations hereunder to another of its offices, branches or affiliates, if, in the good faith judgment of such Lender, such designation or assignment (i) would eliminate or reduce amounts payable pursuant to Section 2.14 or 2.16, as the case may be, in the future and (ii) would not subject such Lender to any unreimbursed cost or expense and would not otherwise be disadvantageous to such Lender. The Borrower hereby agrees to pay all reasonable out-of-pocket costs and expenses incurred by any Lender in connection with any such designation or assignment. Any Lender claiming reimbursement of such costs and expenses shall deliver to the Borrower a certificate setting forth such costs and expenses in reasonable detail which shall be conclusive absent manifest error.

(b) If any Lender requests compensation under Section 2.14, or if the Borrower is required to pay any additional amount to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 2.16, if any Lender fails to grant a consent in connection with any proposed change, waiver, discharge or termination of the provisions of this Agreement as contemplated by Section 9.02 for which the consent of each Lender or each affected Lender is required but the consent of the Required Lenders is obtained or if any other circumstance exists hereunder that gives the Borrower the right to replace a Lender as a party hereto, then the Borrower may, at its sole expense and effort, upon notice to such Lender and the Administrative Agent, require such Lender to assign and delegate, without recourse (in accordance with and subject to the restrictions contained in, but excluding the consents required by, Section 9.04), all of its interests, rights and obligations under this Agreement and the related Loan Documents to an assignee that shall assume such obligations (which assignee may be another Lender, if a Lender accepts such assignment), provided that:

(i) the Borrower shall have paid to the Administrative Agent the assignment fee specified in Section 9.04 (unless otherwise agreed by the Administrative Agent);

(ii) such Lender shall have received payment of an amount equal to the outstanding principal of its Loans, accrued interest thereon, accrued fees and all other amounts payable to it hereunder and under the other Loan Documents (including any amounts under Section 2.15) from the assignee (to the extent of such outstanding principal and accrued interest and fees) or the Borrower (in the case of all other amounts);

(iii) in the case of any such assignment resulting from a claim for compensation under Section 2.14 or payments required to be made pursuant to Section 2.16, such assignment will result in a reduction in such compensation or payments thereafter; and

(iv) such assignment does not conflict with applicable Laws.

A Lender shall not be required to make any such assignment or delegation if, prior thereto, as a result of a waiver by such Lender or otherwise, the circumstances entitling the Borrower to require such assignment and delegation cease to apply.

SECTION 2.19. Exchange Notes.

(a) Subject to satisfaction of the provisions of this Section 2.19 and in reliance upon the representations and warranties of the Borrower herein set forth, on and after the 20th Business Day prior to the Rollover Date, each Lender will have the option to notify (an "Exchange Notice") the Administrative Agent in writing of its request for senior unsecured exchange notes (individually, an "Exchange Note" and collectively, the "Exchange Notes") in exchange for a like principal amount of all or a portion of its Loans hereunder. Each Lender's Exchange Notice shall be irrevocable and shall specify the aggregate principal amount of Loans that such Lender desires to exchange for Exchange Notes pursuant to this Section 2.19, which shall be in a minimum amount of $1,000,000 (and integral multiples of $1,000 in excess thereof). Exchange Notes issued following the Rollover Date shall be issued with accrued interest from the most recent interest payment date under the Exchange Notes Indenture and the Lender receiving such Exchange Notes shall pay to the Borrower in Dollars on the date of issuance of any such Exchange Notes an amount equal to all accrued and unpaid interest thereon. Loans subject to an Exchange Notice shall be deemed to have been repaid for all purposes of this Agreement upon issuance of a like principal amount of Exchange Notes to such Lender in accordance with clause (c) below.

(b) Notwithstanding the foregoing, such Lender's Loans shall only be exchanged for Exchange Notes hereunder upon the occurrence of an Exchange Trigger Event, notice of which shall be provided to the Borrower and all such Lenders by the Administrative Agent. Following notice of an Exchange Trigger Event, the Borrower shall from time to time exchange any Loan subject to an Exchange Notice for Exchange Notes on the date (any such date an "Exchange Date") that is no later than the later of (i) the Rollover Date and (ii) the 10th Business Day after the Borrower's receipt from the Administrative Agent of both such Exchange Notice and notice that the Exchange Trigger Event has occurred.

(c) On each Exchange Date, the Borrower shall execute and deliver, and cause the Exchange Note Trustee to authenticate and deliver, to each Lender or as directed by such Lender that has submitted an Exchange Notice for such Exchange Date, an Exchange Note in a principal amount equal to 100% of the aggregate principal amount of such Loan (or portion thereof) which is subject to such Exchange Notice. The Exchange Notes shall be governed by the Exchange Notes Indenture. Upon issuance of any Exchange Note to a Lender in accordance with this Section 2.19, a corresponding amount of the Loan of such Lender shall be deemed to have been repaid.

(d) The Borrower shall, as promptly as practicable after being requested to do so by the Arrangers pursuant to the terms of this Agreement and following the first Exchange Trigger Event, (i) select a bank or trust company reasonably acceptable to the Administrative Agent to act as Exchange Note Trustee, (ii) enter into the Exchange Notes Registration Rights Agreement and the Exchange Notes Indenture, (iii) if requested by the Arrangers, prepare an offering memorandum with respect to the Exchange Notes (including all financial statements and other information that would be required in a registration statement on Form S-3 (or, if the Borrower is not eligible to use Form S-3, on Form S-1) for an offering registered under the Securities Act) and update such offering memorandum from time to time to reflect material changes or developments with respect to the Borrower and its Subsidiaries, (iv) cause counsel to the Borrower to deliver to the Administrative Agent an executed legal opinion in form and substance customary for a transaction of that type to be mutually agreed upon by the Borrower and the Administrative Agent (including, without limitation, with respect to due authorization, execution and delivery; validity; and enforceability of the Exchange Notes Indenture and the Exchange Notes Registration Rights Agreement referred to in clause (ii) above) and a customary 10b-5 letter with respect to any offering memorandum pursuant to clause (iii) above and cause the independent registered public accountants of the Borrower and the Acquired Business to render customary "comfort letters" (including customary "negative assurances") with respect to the financial information in such offering memorandum and (v) use commercially reasonable efforts to obtain public ratings for the Exchange Notes from each of Moody's and S&P. The Exchange Note Trustee shall at all times be a bank or trust company organized and doing business under the laws of the United States or of any State or the District of Columbia and having a combined capital and surplus of not less than $50,000,000 which is authorized under the laws of its jurisdiction of incorporation to exercise corporate trust powers and is subject to supervision or examination by Federal, State or District of Columbia authority and which has an office or agency in New York, New York.

ARTICLE III

Representations and Warranties

The Borrower represents and warrants to the Lenders as of date of this Agreement and as of the Closing Date that:

SECTION 3.01. Organization; Powers; Subsidiaries. Each of the Borrower and its Subsidiaries (other than Immaterial Subsidiaries and Inactive Subsidiaries) is duly organized, validly existing and in good standing (to the extent such concept is applicable in the relevant jurisdiction) under the laws of the jurisdiction of its organization, has all requisite power and authority to carry on its business as now conducted and, except where the failure to do so, individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect, is qualified to do business in, and is in good standing (to the extent such concept is applicable) in, every jurisdiction where such qualification is required. Schedule 3.01 hereto identifies each Subsidiary (other than Inactive Subsidiaries) on the date of this Agreement, if such Subsidiary is an Immaterial Subsidiary, the jurisdiction of its incorporation or organization, as the case may be, the percentage of issued and outstanding shares of each class of its capital stock or other equity interests owned by the Borrower and the other Subsidiaries and, if such percentage is not 100% (excluding directors' qualifying shares as required by law), a description of each class issued and outstanding. All of the outstanding shares of capital stock and other equity interests, to the extent owned by the Borrower or any Subsidiary, of each Subsidiary (other than Immaterial Subsidiaries and Inactive Subsidiaries) are validly issued and outstanding and fully paid and nonassessable and all such shares and other equity interests indicated on Schedule 3.01 as owned by the Borrower or another Subsidiary on the date of this Agreement are owned, beneficially and of record, by the Borrower or a Subsidiary on the date of this Agreement free and clear of all Liens, other than Liens permitted under Section 6.02. As of the date of this Agreement, there are no outstanding commitments or other obligations of the Borrower or any wholly-owned Subsidiary (other than Inactive Subsidiaries) to issue, and no options, warrants or other rights of any Person to acquire, any shares of any class of capital stock or other equity interests of the Borrower or any Subsidiary (other than Inactive Subsidiaries), except as disclosed on Schedule 3.01.

SECTION 3.02. Authorization; Enforceability. The Transactions are within each Loan Party's corporate, limited liability company or partnership powers and have been duly authorized by all necessary corporate or other organizational and, if required, stockholder action. The Loan Documents have been duly executed and delivered by the Loan Parties party thereto and constitute a legal, valid and binding obligation of the Loan Parties party thereto, enforceable against such Loan Parties in accordance with their terms, subject to applicable bankruptcy, insolvency, reorganization, moratorium or other laws affecting creditors' rights generally and subject to general principles of equity, regardless of whether considered in a proceeding in equity or at law.

SECTION 3.03. Governmental Approvals; No Conflicts. The Transactions (a) do not require any consent or approval of, registration or filing with, or any other action by, any Governmental Authority, except for (A) the approvals, consents, registrations, actions and filings which have been duly obtained, taken, given or made and are in full force and effect and (B) those approvals, consents, registrations or other actions or filings, the failure of which to obtain or make could not reasonably be expected to have a Material Adverse Effect, (b) will not violate (i) any applicable law or regulation or order of any Governmental Authority or (ii) the charter, by-laws or other organizational documents of any Loan Party, (c) will not violate or result in a default under any indenture, agreement or other instrument binding upon any Loan Party or its assets, or give rise to a right thereunder to require any payment to be made by any Loan Party and (d) will not result in the creation or imposition of any Lien on any material asset of any Loan Party (other than Liens permitted by Section 6.02); except with respect to any violation or default referred to in clause (b)(i) or (c) above, to the extent that such violation or default could not reasonably be expected to have a Material Adverse Effect.

SECTION 3.04. Financial Statements; Financial Condition; No Material Adverse Change.

(a) The Borrower has heretofore furnished to the Lenders the consolidated balance sheet and statements of earnings, stockholders equity and cash flows of the Borrower for each of the three fiscal years ended February 29, 2012 reported on by KPMG LLP, independent public accountants, which financial statements present fairly, in all material respects, the consolidated financial position and results of operations and cash flows of the Borrower as of such dates and for such periods in accordance with GAAP.

(b) Since February 29, 2012, there has been no material adverse change in the business, assets, operations or financial condition of the Borrower and its Subsidiaries, taken as a whole.

SECTION 3.05. Properties.

(a) Each Loan Party has good and marketable title to, or valid leasehold interests in, all its material real and personal property material to its business, except for minor defects in title that do not interfere with its ability to conduct its business as currently conducted or to utilize such properties for their intended purposes and except where the failure to have such title or interest could not reasonably be expected to have a Material Adverse Effect. There are no Liens on any of the real or personal properties of the Borrower or any Subsidiary except for Liens permitted by Section 6.02.

(b) Each of the Borrower and its Subsidiaries owns, or is licensed or possesses the right to use, all trademarks, tradenames, copyrights, patents and other intellectual property material to the operation of the business of the Borrower and its Subsidiaries, taken as a whole, and, to the knowledge of the Borrower, the use thereof by the Borrower and its Subsidiaries does not infringe upon the rights of any other Person, except for any such infringements that, individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect.

SECTION 3.06. Litigation and Environmental Matters.

(a) There are no actions, suits or proceedings by or before any arbitrator or Governmental Authority pending against or, to the knowledge of the Borrower, threatened against or affecting the Borrower or any of its Subsidiaries as to which there is a reasonable possibility of an adverse determination that could reasonably be expected, individually or in the aggregate, to result in a Material Adverse Effect (other than the Disclosed Matters). There are no labor controversies pending against or, to the knowledge of the Borrower, threatened against or affecting the Borrower or any of its Subsidiaries which could reasonably be expected, individually or in the aggregate, to result in a Material Adverse Effect.

(b) Except for the Disclosed Matters and except with respect to any other matters that, individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect, neither the Borrower nor any of its Subsidiaries (i) has failed to comply with any applicable Environmental Law or to obtain, maintain or comply with any permit, license or other approval required under any Environmental Law, (ii) has become subject to any Environmental Liability, or (iii) has received notice of any claim with respect to any Environmental Liability.

SECTION 3.07. Compliance with Laws and Agreements. Each of the Borrower and its Subsidiaries is in compliance with all laws, regulations and orders of any Governmental Authority applicable to it or its property and all agreements and other instruments (excluding agreements governing Indebtedness) binding upon it or its property, except where the failure to do so, individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect.

SECTION 3.08. Investment Company Status. Neither the Borrower nor any other Loan Party is required to register as an "investment company" as defined in the Investment Company Act of 1940.

SECTION 3.09. Taxes. Each of the Loan Parties and each of its Subsidiaries has filed all Tax returns and reports required to have been filed (taking into account valid extensions) and has paid or caused to be paid all Taxes (including any Taxes payable in the capacity of a withholding agent) required to have been paid by it, except (a) Taxes that are being contested in good faith by appropriate proceedings (if such contest effectively suspends collection and enforcement of the contested obligation) and for which the Loan Parties or Subsidiary, as applicable, has set aside on its books reserves to the extent required by GAAP or (b) to the extent that the failure to do so could not reasonably be expected, individually or in the aggregate, to result in a Material Adverse Effect. There is no current or proposed Tax audit, assessment, deficiency or other claim against any Loan Party or any Subsidiary that would reasonably be expected, individually or in the aggregate to have a Material Adverse Effect.

SECTION 3.10. Solvency. Immediately after the making of the Loans and any other borrowings to be made on the Closing Date and the application of the proceeds therefrom, the Borrower and its Subsidiaries, on a consolidated basis, are (or in the case of the representation made as of the date of this Agreement, will be) Solvent.

SECTION 3.11. Disclosure. Neither the Information Memorandum nor any of the other reports, financial statements, certificates or other written information (excluding any financial projections or pro forma financial information and information of a general economic or general industry nature) furnished by or on behalf of the Borrower to the Administrative Agent or any Lender in connection with the negotiation of this Agreement or delivered hereunder (as modified or supplemented by other information so furnished), when taken as a whole and when taken together with the Borrower's SEC filings at such time, contains as of the date such statement, information, document or certificate was so furnished any material misstatement of fact or omits to state any material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading. The projections and pro forma financial information contained in the materials referenced above have been prepared in good faith based upon assumptions believed by management of the Borrower to be reasonable at the time made, it being recognized by the Lenders that such financial information is not to be viewed as fact and that actual results during the period or periods covered by such financial information may differ from the projected results set forth therein by a material amount.

SECTION 3.12. Federal Reserve Regulations. No part of the proceeds of any Loan have been used or will be used, whether directly or indirectly, for any purpose that entails a violation of any of the Regulations of the Board, including Regulations T, U and X.

SECTION 3.13. PATRIOT Act. Each of the Loan Parties and each of their respective Subsidiaries are in compliance, in all material respects, with the Act.

SECTION 3.14. OFAC. None of the Borrower, any Subsidiary nor, to the knowledge of the Borrower, any director or officer of the Borrower or any Subsidiary is subject to any U.S. sanctions administered by the Office of Foreign Assets Control of the U.S. Treasury Department ("OFAC"); and the Borrower will not directly or indirectly use the proceeds of the Loans or otherwise make available such proceeds to any Person, for the purpose of financing the activities of any Person subject to any U.S. sanctions administered by OFAC.

SECTION 3.15. FCPA. No part of the proceeds of the Loans will be used, directly or indirectly, for any payments to any governmental official or employee, political party, official of a political party, candidate for political office, or anyone else acting in an official capacity, in order to obtain, retain or direct business or obtain any improper advantage, in violation of the United States Foreign Corrupt Practices Act of 1977, as amended.

SECTION 3.16. Employee Benefit Plans. Except as could not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect (i) each employee benefit plan (within the meaning of Section 3(3) of ERISA), established or maintained by the Borrower or any of its Subsidiaries, is in compliance with all applicable Laws and (ii) no ERISA Event has occurred or is reasonably expected to occur.

## ARTICLE IV

## Conditions

SECTION 4.01. Conditions to the Closing Date. The obligations of the Lenders to make its Loans on the Closing Date are subject to each of the following conditions being satisfied on or prior to the Closing Date:

(a) The Administrative Agent (or its counsel) shall have received a supplement to the Guarantee Agreement (in the form attached thereto) from each Subsidiary that has become a Guarantor under the Senior Secured Credit Agreement following the date of this Agreement;

(b) The Administrative Agent shall have received the executed legal opinion of Nixon Peabody LLP, U.S. counsel to the Borrower, dated as of the Closing Date, in the form of Exhibit G with appropriate insertions;

(c) The Administrative Agent shall have received such customary closing documents and certificates as the Administrative Agent or its counsel may reasonably request relating to the organization, existence and good standing in the jurisdiction of organization of the initial Loan Parties and the authorization of the Loan Documents by the Loan Parties and containing a certificate of a corporate secretary of the Borrower with a list of Persons entitled to execute the Loan Documents and provide notices hereunder, in each case, on behalf of the Loan Parties together with specimen signatures of such Persons;

(d) The Administrative Agent shall have received a certificate attesting to the Solvency of the Borrower and its Subsidiaries (taken as a whole) on the Closing Date after giving effect to the Transactions in the form of Exhibit C, dated as of the Closing Date and executed by a Financial Officer of the Borrower;

(e) The Lenders shall have received on or prior to the Closing Date all documentation and other information reasonably requested in writing delivered to the Administrative Agent by them at least five Business Days prior to the Closing Date in order to allow the Lenders to comply with the Act;

(f) The Administrative Agent and the Arrangers shall have received all fees and other amounts due and payable on or prior to the Closing Date pursuant to the Bank Engagement Letter, the Fee Letter and the Agency Fee Letter, including, to the extent invoiced, reimbursement or payment of all reasonable out-of-pocket expenses required to be reimbursed or paid by the Borrower thereunder;

(g) The Administrative Agent shall have received Notes executed by the Borrower in favor of each Lender requesting a Note at least five Business Days prior to the Closing Date;

(h) The Administrative Agent shall have received a certificate signed by a Responsible Officer of the Borrower certifying that the conditions specified in Section 4.01 (j) and (k) have been satisfied;

(i) The Borrower shall have delivered to the Administrative Agent a Borrowing Request in accordance with Section 2.03;

(j) The Acquisition Agreement and such other agreements, instruments and documents relating to the Acquisition shall not have been altered, amended or otherwise changed or supplemented or any provision waived or consented to in any manner that is materially adverse to the Lenders without the prior written consent of the Arrangers (it being understood that any decrease in the consideration paid in connection with the Acquisition shall be deemed to be materially adverse to the Lenders). The Acquisition shall have been, or shall concurrently with the funding of the Loans be, consummated in accordance with the terms of the Acquisition Agreement;

(k) The representations and warranties of the Borrower set forth in the first sentence of Section 3.01, Section 3.02 (solely as it relates to the execution, delivery and performance of the Loan Documents), Section 3.03(a) and (b) (solely as they relate to the execution, delivery and performance of the Loan Documents), 3.08, 3.10, 3.12 and 3.13 of this Agreement shall be true and correct in all material respects (except to the extent that any representation and warranty that is qualified by materiality shall be true and correct in all respects), except where any representation and warranty is expressly made as of a specific earlier date, such representation and warranty shall be true in all material respects as of any such earlier date; and

(l) The Administrative Agent and the Arrangers shall have received a certificate, at least 15 days prior to the Closing Date, from a Responsible Officer of the Borrower setting forth the anticipated Closing Date (which certificate may not be provided prior to the receipt by the Borrower of the notice referred to in Section 3.1 of the Acquisition Agreement of the anticipated closing date of the GM Transaction Closing (as defined in the Acquisition Agreement)).

ARTICLE V
Affirmative Covenants

From and after the Closing Date until the principal of and interest on each Loan and all fees payable hereunder shall have been paid in full, the Borrower covenants and agrees with the Lenders that:

SECTION 5.01. Financial Statements and Other Information. The Borrower will furnish to the Administrative Agent (who shall promptly furnish a copy to each Lender):

(a) as soon as available, but in any event within one hundred (100) days after the end of each fiscal year of the Borrower (or, if earlier, the 10th day after such financial statements are required to be filed with the SEC), the audited consolidated balance sheet of the Borrower and its Consolidated Subsidiaries and related statements of operations, stockholders' equity and cash flows as of the end of and for such year, setting forth in each case in comparative form the figures for the previous fiscal year, all reported on by KPMG LLP or other independent public accountants of recognized national standing (without a "going concern" or like qualification or exception and without any qualification or exception as to the scope of such audit) to the effect that such consolidated financial statements present fairly in all material respects the financial position and results of operations of the Borrower and its Consolidated Subsidiaries on a consolidated basis in accordance with GAAP;

(b) as soon as available, but in any event within fifty-five (55) days after the end of each of the first three fiscal quarters of each fiscal year of the Borrower (or, if earlier, the 10th day after such financial statements are required to be filed with the SEC), the unaudited consolidated balance sheet of the Borrower and its Consolidated Subsidiaries and related statements of operations and cash flows as of the end of and for such fiscal quarter and the then elapsed portion of the fiscal year, setting forth in each case in comparative form the figures for the corresponding period or periods of (or, in the case of the balance sheet, as of the end of) the previous fiscal year, all certified by one of its Financial Officers as presenting fairly in all material respects the financial position and results of operations of the Borrower and its Consolidated Subsidiaries on a consolidated basis in accordance with GAAP, subject to normal year-end audit adjustments and the absence of footnotes;

(c) concurrently with any delivery of financial statements under clause (a) or (b) above, a certificate executed by a Financial Officer of the Borrower certifying as to whether, to the knowledge of such Financial Officer after reasonable inquiry, a Default has occurred and is continuing and, if so, specifying the details thereof and any action taken or proposed to be taken with respect thereto;

(d) concurrently with any delivery of financial statements under clause (a) above, a certificate of the accounting firm that reported on such financial statements stating whether they obtained knowledge during the course of their examination of such financial statements of any failure to comply with Section 6.09 (which certificate may be limited to the extent required by accounting rules or guidelines or by such accounting firm's professional standards and customs of the profession);

(e) promptly after the same become publicly available, copies of all annual, quarterly and current reports and proxy statements filed by the Borrower or any Subsidiary with the Securities and Exchange Commission, or any Governmental Authority succeeding to any or all of the functions of said Commission; and

(f) promptly following any request therefor, such other information regarding the operations, business affairs and financial condition of the Borrower or any Subsidiary, or compliance with the terms of this Agreement, as the Administrative Agent or any Lender (through the Administrative Agent) may reasonably request.

Financial statements and other information required to be delivered pursuant to Sections 5.01(a), 5.01(b) and 5.01(e) shall be deemed to have been delivered if such statements and information shall have been posted by the Borrower

on its website or shall have been posted on IntraLinks, SyndTrak or similar site to which all of the Lenders have been granted access or are publicly available on the SEC's website pursuant to the EDGAR system.

The Borrower hereby acknowledges that (a) the Administrative Agent and/or the Arrangers will make available to the Lenders materials and/or information provided by or on behalf of the Borrower hereunder (collectively, "Borrower Materials") by posting the Borrower Materials on SyndTrak or another similar electronic system (the "Platform") and (b) certain of the Lenders (each, a "Public Lender") may have personnel who do not wish to receive material non-public information with respect to the Borrower or its Affiliates, or the respective securities of any of the foregoing, and who may be engaged in investment and other market-related activities with respect to such Persons' securities. The Borrower hereby agrees that it will use commercially reasonable efforts to identify that portion of the Borrower Materials that may be distributed to the Public Lenders and that (w) all such Borrower Materials shall be clearly and conspicuously marked "PUBLIC" which, at a minimum, shall mean that the word "PUBLIC" shall appear prominently on the first page thereof; (x) by marking Borrower Materials "PUBLIC," the Borrower shall be deemed to have authorized the Administrative Agent, the Arrangers and the Lenders to treat such Borrower Materials as not containing any material non-public information (although it may be sensitive and proprietary) with respect to the Borrower or its securities for purposes of United States Federal and state securities laws (provided, however, that to the extent such Borrower Materials constitute Information, they shall be treated as set forth in Section 9.12); (y) all Borrower Materials marked "PUBLIC" are permitted to be made available through a portion of the Platform designated "Public Side Information"; and (z) the Administrative Agent and the Arrangers shall be entitled to treat any Borrower Materials that are not marked "PUBLIC" as being suitable only for posting on a portion of the Platform not designated "Public Side Information." Notwithstanding the foregoing, the Borrower shall be under no obligation to mark any Borrower Materials "PUBLIC."

SECTION 5.02. Notice of Material Events. The Borrower will furnish to the Administrative Agent (for prompt notification to each Lender) prompt (but in any event within five (5) Business Days) written notice after any Financial Officer of the Borrower obtains knowledge of the following:

(a) the occurrence of any continuing Default;

(b) the filing or commencement of any action, suit or proceeding by or before any arbitrator or Governmental Authority against or affecting the Borrower or any Subsidiary thereof that could reasonably be expected to result in a Material Adverse Effect;

(c) the occurrence of any ERISA Event that, alone or together with any other ERISA Events that have occurred, could reasonably be expected to result in a Material Adverse Effect; and

(d) any other development that results in, or could reasonably be expected to result in, a Material Adverse Effect.

Each notice delivered under this Section shall be accompanied by a statement of a Financial Officer or other executive officer of the Borrower setting forth the details of the event or development requiring such notice and any action taken or proposed to be taken with respect thereto.

SECTION 5.03. Existence; Conduct of Business. The Borrower will, and will cause each of its Subsidiaries (other than Immaterial Subsidiaries and Inactive Subsidiaries) to, do or cause to be done all things necessary to preserve, renew and keep in full force and effect (i) its legal existence, and (ii) the rights, licenses, permits, privileges and franchises material to the conduct of its business, except, in the case of the preceding clause (ii), to the extent that the failure to do so could not reasonably be expected to have a Material Adverse Effect; provided that the foregoing shall not prohibit any transaction permitted under Section 6.03 or 6.10.

SECTION 5.04. Payment of Obligations. The Borrower will, and will cause each of its Subsidiaries (other than Immaterial Subsidiaries and Inactive Subsidiaries) to, pay its obligations (other than Indebtedness), including Taxes (whether or not shown on a Tax return), before the same shall become delinquent or in default, except where (a) (i) the validity or amount thereof is being contested in good faith by appropriate proceedings diligently conducted (if such contest effectively suspends collection and enforcement of the obligation (or Tax) in question)

and (ii) the Loan Party or Subsidiary has set aside on its books reserves with respect thereto to the extent required by GAAP or (b) the failure to make payment could not reasonably be expected to, individually or in the aggregate, result in a Material Adverse Effect.

SECTION 5.05. Maintenance of Properties; Insurance. The Borrower will, and will cause each of its Subsidiaries (other than Immaterial Subsidiaries and Inactive Subsidiaries) to, (a) keep and maintain all Property material to the conduct of its business in good working order and condition, ordinary wear and tear excepted and casualty or condemnation excepted, except if the failure to do so could not reasonably be expected to have a Material Adverse Effect, and (b) maintain, with financially sound and reputable insurance companies or through self-insurance, insurance in such amounts and against such risks as are customarily maintained by companies engaged in the same or similar businesses operating in the same or similar locations.

SECTION 5.06. Inspection Rights. The Borrower will, and will cause each of its Subsidiaries to, permit any representatives designated by the Administrative Agent (at their sole cost and expense except during the occurrence and continuance of an Event of Default) or, during the continuance of an Event of Default, any Lender, upon reasonable prior notice, to visit and inspect its properties, to examine and make extracts from its books and records, and to discuss its affairs, finances and condition with its senior officers and use commercially reasonable efforts to make its independent accountants available to discuss the affairs, finances and condition of the Borrower, all at such reasonable times and as often as reasonably requested and in all cases subject to applicable Law and the terms of applicable confidentiality agreements; provided that (i) the Lenders will conduct such requests for visits and inspections through the Administrative Agent and (ii) unless an Event of Default has occurred and is continuing, such visits and inspections can occur no more frequently than once per year. The Administrative Agent and the Lenders shall give the Borrower the opportunity to participate in any discussions with the Borrower's independent accountants.

SECTION 5.07. Compliance with Laws; Compliance with Agreements. The Borrower will, and will cause each of its Subsidiaries to, (i) comply in all material respects with all laws, rules, regulations and orders of any Governmental Authority applicable to it or its property (including without limitation Environmental Laws) and (ii) perform in all material respects its obligations under material agreements (other than in respect of Indebtedness) to which it is a party, in each case except where the failure to do so, individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect.

SECTION 5.08. Use of Proceeds. The proceeds of the Loans will be used to finance a portion of the Acquisition and to pay related fees, costs, and expenses. No part of the proceeds of any Loan will be used, whether directly or indirectly, for any purpose that entails a violation of any of the Regulations of the Board, including Regulations T, U and X.

SECTION 5.09. Additional Guarantees.

In the event the Borrower (i) organizes or acquires any Subsidiary after the Closing Date that is not a Guarantor and such Subsidiary, directly or indirectly, provides a guarantee under the Senior Secured Credit Agreement or (ii) causes or permits any Subsidiary that is not a Guarantor to, directly or indirectly, guarantee obligations under the Senior Secured Credit Agreement, then, in each case the Borrower shall cause such Subsidiary to simultaneously execute and deliver a supplement to the Guarantee Agreement pursuant to which it will become a Guarantor (in each case, for the avoidance of doubt, only to the extent such Subsidiary is required to become a Guarantor under the Senior Secured Credit Agreement).

SECTION 5.10. Ratings. If requested by the Arrangers, the Borrower will use commercially reasonable efforts to cause Moody's and S&P to each maintain a public rating of the Loans (but not any particular ratings level).

ARTICLE VI

Negative Covenants

From the Closing Date until the principal of and interest on each Loan and all fees payable hereunder have been paid in full, the Borrower covenants and agrees with the Lenders (it being understood that the covenants set forth in Section 6.01, 6.02(I), 6.03 (solely with respect to (x) Subsidiaries and (y) Section 6.03(b)(i)), 6.04, 6.05, 6.06, 6.07, 6.08 and 6.10 shall not apply at any time on or after the Rollover Date) that:

SECTION 6.01. Indebtedness. Until the Rollover Date, the Borrower will not create, incur, assume or permit to exist, and will not permit any Subsidiary to create, incur, assume or permit to exist, any Indebtedness, except:

(a) Indebtedness created under the Loan Documents and the Exchange Notes;

(b) Indebtedness existing on the date of this Agreement (other than Indebtedness under the Senior Secured Credit Agreement) and, to the extent in excess of $10,000,000 individually or $25,000,000 in the aggregate, set forth in Schedule 6.01 and Permitted Refinancing Indebtedness in respect of Indebtedness permitted by this clause (b) and Guarantees of any such Permitted Refinancing Indebtedness;

(c) Indebtedness of (i) any Loan Party to any other Loan Party, (ii) any Subsidiary that is not a Loan Party to the Borrower or any other Subsidiary, (iii) any Loan Party to any Subsidiary that is not a Loan Party; provided that all such Indebtedness permitted under this subclause (iii) shall be subordinated to the Obligations of the issuer of such Indebtedness;

(d) Guarantees of Indebtedness (i) of any Loan Party by any other Loan Party, (ii) of any Foreign Subsidiary by the Borrower or any other Subsidiary and (iii) of any other Person by the Borrower or any Subsidiary, provided that Guarantees shall be permitted to be incurred pursuant to this subclause (iii) only if at the time such Guarantee is incurred the aggregate principal amount of Indebtedness Guaranteed pursuant to this subclause (iii) at such time (including such newly Guaranteed Indebtedness) would not exceed $75,000,000;

(e) Indebtedness incurred to finance the acquisition, lease, construction, repair, maintenance, replacement, installation or improvement of any fixed or capital assets, including Capital Lease Obligations and any Indebtedness assumed in connection with the acquisition of any such assets or secured by a Lien on any such assets prior to the acquisition thereof, and any Permitted Refinancing Indebtedness in respect of Indebtedness permitted by this clause (e); provided that (i) such Indebtedness (other than Permitted Refinancing Indebtedness permitted above in this clause (e)) is incurred prior to or within two hundred seventy (270) days after such acquisition or lease or the completion of such construction, repair, maintenance, replacement, installation or improvement and (ii) the aggregate principal amount of Indebtedness permitted by this clause (e) shall not exceed $200,000,000 at any time outstanding;

(f) Indebtedness in respect of letters of credit (including trade letters of credit), bank guarantees or similar instruments issued or incurred in the ordinary course of business, including in respect of card obligations or any overdraft and related liabilities arising from treasury, depository and cash management services or any automated clearing house transfers, workers compensation claims, health, disability or other employee benefits or property, casualty or liability insurance or self-insurance or other Indebtedness with respect to reimbursement-type obligations regarding workers compensation claims;

(g) Indebtedness incurred pursuant to Permitted Receivables Facilities so long as the aggregate principal amount of Attributable Receivables Indebtedness in respect thereof does not exceed $250,000,000 at any time outstanding;

(h) Indebtedness of Foreign Subsidiaries, provided that Indebtedness shall be permitted to be incurred pursuant to this clause (h) only if at the time such Indebtedness is incurred the aggregate principal

amount of Indebtedness outstanding pursuant to this clause (h) at such time (including such Indebtedness) would not exceed $150,000,000 (or the spot rate equivalent thereof at the time of incurrence of such Indebtedness in such other currency as reasonably determined by the Borrower);

(i) Indebtedness under Swap Agreements entered into in the ordinary course of business and not for speculative purposes;

(j) Indebtedness in respect of bid, performance, surety, stay, customs, appeal or replevin bonds or performance and completion guarantees and similar obligations issued or incurred in the ordinary course of business, including guarantees or obligations of any Subsidiary with respect to letters of credit, bank guarantees or similar instruments supporting such obligation, in each case, not in connection with Indebtedness for money borrowed;

(k) Indebtedness consisting of bona fide purchase price adjustments, earn-outs, indemnification obligations, obligations under deferred compensation or similar arrangements and similar items incurred in connection with acquisitions and asset sales not prohibited by Section 6.05 or 6.10;

(l) Indebtedness consisting of obligations to make payments to current or former officers, directors and employees, their respective estates, spouses or former spouses with respect to the cancellation, purchase or redemption, or to finance the cancellation, purchase or redemption, of Equity Interests of the Borrower permitted by Section 6.04;

(m) Cash Management Obligations and other Indebtedness in respect of card obligations, netting services, overdraft protections, cash management services and similar arrangements in each case in connection with deposit accounts;

(n) Indebtedness consisting of (x) the financing of insurance premiums with the providers of such insurance or their affiliates or (y) take-or-pay obligations contained in supply arrangements, in each case, in the ordinary course of business;

(o) Indebtedness supported by a letter of credit under the Senior Secured Credit Agreement, in a principal amount not to exceed the face amount of such letter of credit;

(p) additional Indebtedness of any of the Loan Parties with no required principal payments prior to the Final Maturity Date (other than pursuant to change of control offers and asset sale proceeds offers that the Borrower determines in good faith to be customary for high yield debt securities) so long as the Borrower applies the proceeds therefrom to repay Loans promptly upon receipt thereof;

(q) other Indebtedness of Borrower and its Subsidiaries; provided that Indebtedness shall be permitted to be incurred pursuant to this clause (q) only if at the time such Indebtedness is incurred the aggregate principal amount of Indebtedness outstanding pursuant to this clause (q) at such time (including such Indebtedness) would not exceed $100,000,000;

(r) Indebtedness in the form of Guarantees of Indebtedness of joint ventures; provided that Indebtedness shall be permitted to be incurred pursuant to this clause (r) only if at the time such Indebtedness is incurred the aggregate principal amount of Indebtedness outstanding pursuant to this clause (r) at such time (including such Indebtedness) would not exceed $50,000,000;

(s) Indebtedness in respect of judgments, decrees, attachments or awards not constituting an Event of Default under clause (k) of Article VII;

(t) Indebtedness under the Senior Secured Credit Agreement in respect of (i) the Term A Loans and Term A-1 Loans, in each case, borrowed on the Closing Date (as defined in the Senior Secured Credit Agreement), (ii) any additional amounts borrowed on or prior to the Closing Date to finance a portion of the Acquisition (so long as the amount of the Bridge B Commitments funded on the Closing Date

was correspondingly reduced as a result thereof) or borrowed following the Closing Date for purposes of repaying the Bridge B Loans and (iii) under the Revolving Commitments established on the Closing Date (as defined in the Senior Secured Credit Agreement); provided that in the case of this clause (iii), if any borrowing is made under the Revolving Commitments following the Closing Date and at such time (x) the aggregate amount of unused Revolving Commitments under the Senior Secured Credit Agreement is less than $650,000,000 and (y) any Bridge B Loans are outstanding at such time, the proceeds of such borrowing are promptly applied to repay Bridge B Loans;

(u) Indebtedness in the form of reimbursements owed to officers, directors, consultants and employees;

(v) Indebtedness incurred under industrial revenue bonds or other qualified tax exempt bond financings and Permitted Refinancing Indebtedness in respect thereof in an aggregate principal amount not to exceed $25,000,000 at any time outstanding pursuant to this clause (v); and

(w) endorsements for collection, deposit or negotiation and warranties of products or services, in each case incurred in the ordinary course of business.

Each category of Indebtedness (other than Indebtedness under the Loan Documents which shall at all times be deemed to be outstanding pursuant to clause (a)) set forth above shall be deemed to be cumulative and for purposes of determining compliance with this Section 6.01, in the event that an item of Indebtedness (or any portion thereof) at any time meets the criteria of more than one of the categories described above, the Borrower, in its sole discretion, may classify or reclassify (or later divide, classify or reclassify) such item of Indebtedness (or any portion thereof) and shall only be required to include the amount and type of such Indebtedness in one of the above clauses.

SECTION 6.02. Liens.

(I) Until the Rollover Date, the Borrower will not, and will not permit any Subsidiary to, create, incur, assume or permit to exist any Lien on any Property now owned or hereafter acquired by it, except:

(a) Permitted Encumbrances;

(b) Liens on Equity Interests of any Subsidiary and Indebtedness of the Borrower and any of its Subsidiaries securing Indebtedness permitted by Section 6.01(i), (m) and (t);

(c) any Lien on any Property of the Borrower or any Subsidiary existing on the date of this Agreement and, to the extent securing obligations in an individual amount in excess of $10,000,000 or an aggregate amount in excess of $25,000,000, set forth in Schedule 6.02 and any modifications, replacements, renewals or extensions thereof; provided that (i) such Lien shall not apply to any other Property of the Borrower or any Subsidiary other than (A) improvements and after-acquired Property that is affixed or incorporated into the Property covered by such Lien or financed by Indebtedness permitted under Section 6.01, and (B) proceeds and products thereof, and (ii) such Lien shall secure only those obligations which it secures on the date of this Agreement and any Permitted Refinancing Indebtedness in respect thereof;

(d) any Lien existing on any Property prior to the acquisition thereof by the Borrower or any Subsidiary or existing on any Property of any Person that becomes a Subsidiary after the date of this Agreement prior to the time such Person becomes a Subsidiary; provided that (i) such Lien is not created in contemplation of or in connection with such acquisition or such Person becoming a Subsidiary, as the case may be, (ii) such Lien shall not apply to any other Property of the Borrower or any other Subsidiary (other than the proceeds or products thereof and other than improvements and after-acquired property that is affixed or incorporated into the Property covered by such Lien) and (iii) such Lien shall secure only those obligations which it secures on the date of such acquisition or the date such Person becomes a Subsidiary, as the case may be and Permitted Refinancing Indebtedness in respect thereof;

(e) Liens on fixed or capital assets acquired, leased, constructed, repaired, maintained, replaced, installed or improved by the Borrower or any Subsidiary; provided that (i) such security interests secure Indebtedness permitted by clause (e) of Section 6.01, (ii) such security interests and the Indebtedness secured thereby (other than Permitted Refinancing Indebtedness permitted by clause (e) of Section 6.01) are incurred prior to or within two hundred seventy (270) days after such acquisition or lease or the completion of such construction, repair, maintenance or replacement or installation or improvement, (iii) the Indebtedness secured thereby does not exceed the cost of acquiring, leasing, constructing, repairing, maintaining, replacing, installing or improving such fixed or capital assets and (iv) such security interests shall not apply to any other Property of the Borrower or any Subsidiary except for accessions to such Property, Property financed by such Indebtedness and the proceeds and products thereof; provided further that individual financings of equipment provided by one lender may be cross-collateralized to other financings of equipment provided by such lender;

(f) rights of setoff and similar arrangements and Liens in respect of Cash Management Obligations and in favor of depository and securities intermediaries to secure obligations owed in respect of card obligations or any overdraft and related liabilities arising from treasury, depository and cash management services or any automated clearing house transfers of funds and fees and similar amounts related to bank accounts or securities accounts (including Liens securing letters of credit, bank guarantees or similar instruments supporting any of the foregoing);

(g) Liens on Receivables and Permitted Receivables Facility Assets securing Indebtedness arising under Permitted Receivables Facilities;

(h) Liens on assets of a Foreign Subsidiary securing Indebtedness of such Subsidiary pursuant to Section 6.01;

(i) Liens (i) on "earnest money" or similar deposits or other cash advances in connection with acquisitions permitted by Section 6.05 or (ii) consisting of an agreement to Dispose of any Property in a Disposition permitted under Section 6.10 including customary rights and restrictions contained in such agreements;

(j) leases, licenses, subleases or sublicenses granted to others in the ordinary course of business which do not (i) interfere in any material respect with the business of the Borrower or any Subsidiary or (ii) secure any Indebtedness;

(k) Liens in favor of customs and revenue authorities arising as a matter of law to secure payment of customs duties in connection with the importation of goods in the ordinary course of business;

(l) Liens (i) of a collection bank arising under Section 4-210 of the Uniform Commercial Code on items in the course of collection and (ii) attaching to commodity trading accounts or other commodities brokerage accounts incurred in the ordinary course of business, including Liens encumbering reasonable customary initial deposits and margin deposits;

(m) Liens arising out of conditional sale, title retention, consignment or similar arrangements for sale of goods entered into by the Borrower or any Subsidiary in the ordinary course of business permitted by this Agreement;

(n) Liens deemed to exist in connection with Investments in repurchase agreements permitted under Section 6.05;

(o) rights of setoff relating to purchase orders and other agreements entered into with customers of the Borrower or any Subsidiary in the ordinary course of business;

(p) ground leases in respect of real property on which facilities owned or leased by the Borrower or any of its Subsidiaries are located and other Liens affecting the interest of any landlord (and any underlying landlord) of any real property leased by the Borrower or any Subsidiary;

(q) Liens on equipment owned by the Borrower or any Subsidiary and located on the premises of any supplier and used in the ordinary course of business and not securing Indebtedness;

(r) any restriction or encumbrance with respect to the pledge or transfer of the Equity Interests of a joint venture;

(s) Liens not otherwise permitted by this Section 6.02, provided that a Lien shall be permitted to be incurred pursuant to this clause (s) only if at the time such Lien is incurred the aggregate principal amount of the obligations secured at such time (including such Lien) by Liens outstanding pursuant to this clause (s) would not exceed $50,000,000;

(t) Liens on any Property of (i) any Loan Party in favor of any other Loan Party and (ii) any Subsidiary that is not a Loan Party in favor of the Borrower or any other Subsidiary; and

(u) Liens on specific items of inventory or other goods and proceeds of any Person securing such Person's obligations in respect of bankers' acceptances issued or created for the account of such Person to facilitate the purchase, shipment or storage of such inventory or other goods;

(v) Liens arising from Uniform Commercial Code financing statement filings regarding operating leases or consignments entered into by the Borrower and its Subsidiaries in the ordinary course of business;

(w) Liens, pledges or deposits made in the ordinary course of business to secure liability to insurance carriers;

(x) Liens securing insurance premiums financing arrangements; provided that such Liens secure only the applicable unpaid insurance premiums and attach only to the proceeds of the applicable insurance policy;

(y) any purchase option or similar right on securities held by the Borrower or any of its Subsidiaries in any joint venture which option or similar right is granted to a third-party who holds securities in such joint venture;

(z) Liens securing obligations owing under and in connection with industrial revenue bonds and other qualified tax exempt financings permitted by Section 6.01(v) and extending only to the properties subject to such financings; and

(aa) CoBank's statutory Lien in the CoBank Equities (as defined in the Senior Secured Credit Agreement).

(II) From and after the Rollover Date, the Borrower will not, and will not permit any Subsidiary to issue, assume or guarantee any Funded Debt that is secured by a mortgage, pledge, security interest or other Lien or encumbrance upon or with respect to any Principal Property or on the Capital Stock of any Subsidiary that owns a Principal Property unless:

(i) the Borrower secures the Obligations equally and ratably with (or prior to) any and all Funded Debt secured by that Lien, or

(ii) in the case of Funded Debt other than Capital Markets Debt, immediately after giving effect to the granting of any such Lien and the incurrence of any Funded Debt in connection therewith, the

Borrower's Consolidated Fixed Charge Coverage Ratio would be greater than 2.0 to 1.0; provided that nothing contained in the foregoing shall prevent, restrict or apply to, the following:

(a) Liens existing as of the date of this Agreement (excluding Liens securing the Senior Secured Credit Agreement) on any Property or assets owned or leased by the Borrower or any Subsidiary;

(b) Liens securing any obligations under the Senior Secured Credit Agreement in an amount not to exceed the maximum amount permitted to be outstanding under the Senior Secured Credit Agreement on the date of this Agreement (including the incremental credit facilities contemplated thereunder);

(c) Liens on Property or assets of, or any shares of stock securing Funded Debt of, any corporation or other Person existing at the time such corporation or other Person becomes a Subsidiary;

(d) Liens on Property, assets or shares of stock securing Funded Debt existing at the time of an acquisition, including an acquisition through merger or consolidation, and Liens to secure Funded Debt incurred prior to, at the time of or within 180 days after the later of the completion of the acquisition, or the completion of the construction and commencement of the operation of any such Property, for the purpose of financing all or any part of the purchase price or construction cost of that Property;

(e) Liens on any Property or assets to secure all or any portion of the cost of development, operation, construction, alteration, repair or improvement of all or any part of such Property or assets, or to secure Funded Debt incurred prior to, at the time of or within 180 days after the completion of such development, operation, construction, alteration, repair or improvement for the purpose of financing all or any part of such costs;

(f) Liens in favor of, or which secure Funded Debt owing to, the Borrower or a Subsidiary;

(g) Liens arising from the assignment of moneys due and to become due under contracts between the Borrower or any Subsidiary and the United States of America, any State, Commonwealth, Territory or possession thereof or any agency, department, instrumentality or political subdivision of any thereof; or Liens in favor of the United States of America, any State, Commonwealth, Territory or possession thereof or any agency, department, instrumentality or political subdivision of any thereof, to secure progress, advance or other payments pursuant to any contract or provision of any statute, or pursuant to the provisions of any contract not directly or indirectly in connection with securing any Funded Debt;

(h) Liens arising by reason of any attachment, judgment, decree or order of any court or other governmental authority, so long as such Lien is adequately bonded and any appropriate legal proceedings which may have been initiated for review of such attachment, judgment, decree or order shall not have been finally terminated or so long as the period within which such proceedings may be initiated shall not have expired;

(i) any deposit or pledge as security for the performance of any bid, tender, contract, lease or undertaking not directly or indirectly in connection with the securing of any Funded Debt; any deposit or pledge with any governmental agency required or permitted to qualify the Borrower or any Subsidiary to conduct business, to maintain self-insurance or to obtain the benefits of any law pertaining to worker's compensation, unemployment insurance, pensions, social security or similar matters, or to obtain any stay or discharge in any legal or administrative proceedings; deposits or pledges to obtain the release of mechanics' worker's, repairmen's, materialmen's or warehousemen's liens on the release of property in the possession of a common carrier; any security interest created in connection with the sale, discount or guarantee of notes, chattel mortgages, leases, accounts receivable, trade acceptances or other paper, or contingent repurchase obligations, arising out of sales of merchandise in the ordinary course of business; liens for taxes not yet due and payable or being contested in good faith; any deposit or pledge in connection with appeal or surety bonds; or other deposits or pledges similar to those referred to in this clause (i);

(j) Liens created after the date of this Agreement on Property leased to or purchased by the Borrower or any Subsidiary after that date and securing, directly or indirectly, obligations issued by a State, a Territory or a possession of the United States of America, or any political subdivision of any of the foregoing, or the District of Columbia, to finance the cost of acquisition or cost of construction of such Property;

(k) Liens arising from surveys exceptions, title defects, encumbrances, easements, reservations of, or rights of others for, rights of way, sewers, electric lines, telegraph or telephone lines and other similar purposes or zoning or other restrictions as to the use of real property not interfering with the ordinary conduct of the business of the Borrower or any of its Subsidiaries;

(l) Liens arising by operation of law in favor of mechanics, materialmen, laborers, employees or suppliers, incurred in the ordinary course of business for sums which are not yet delinquent or are being contested in good faith by negotiations or by appropriate proceedings which suspend the collection thereof;

(m) Liens arising from zoning restrictions, easements, licenses, reservations, provisions, covenants, conditions, waivers, restrictions on the use of property or minor irregularities of title (and with respect to leasehold interests, mortgages, obligations, Liens and other encumbrances incurred, created, assumed or permitted to exist and arising by, through or under a landlord or owner of the leased Property, with or without consent of the lessee), none of which materially impairs the use of any parcel of Property material to the operation of the business of the Borrower or any Subsidiary or the value of such Property for the purpose of such business; or

(n) any extension, renewal, substitution or replacement (or successive extensions, renewals, substitutions or replacements), as a whole or in part, of any Lien referred to in subparagraphs (a) through (m) above or the Funded Debt secured thereby; *provided*, that (1) such extension, renewal, substitution or replacement Lien shall be limited to all or any part of the same Property or assets or shares of stock that secured the Lien extended, renewed, substituted or replaced (plus improvements on such Property and any other Property or assets not then constituting a Principal Property) and (2) the Funded Debt secured by such Lien at such time is not increased.

SECTION 6.03. Fundamental Changes.

The Borrower will not, and, prior to the Rollover Date, will not permit any Subsidiary to, merge into or consolidate with any other Person, or permit any other Person to merge into or consolidate with it, or liquidate or dissolve, except that, if at the time thereof and immediately after giving effect thereto no Event of Default shall have occurred and be continuing:

(a) any Subsidiary may be merged or consolidated with or into any Person (including another Subsidiary) and any Subsidiary may be liquidated or dissolved or change its legal form, in each case in order to consummate any Investment not then prohibited by Section 6.05 or Disposition not then prohibited by Section 6.10;

(b) (i) prior to the Rollover Date, the Borrower may be consolidated with or merged into any newly formed corporation organized under the laws of the United States or any State thereof (solely for changing its jurisdiction of incorporation) and (ii) from and after the Rollover Date, the Borrower may be consolidated with or merged into any corporation organized under the laws of the United States or any State thereof; provided that, in the case of each of subclauses (i) and (ii) simultaneously with such transaction, the Person formed by such consolidation or into which the Borrower is merged shall expressly assume all obligations of the Borrower under this Agreement;

(c) any Inactive Subsidiary or Immaterial Subsidiary may merge into or consolidate with another Immaterial Subsidiary or Inactive Subsidiary; and

(d) any Subsidiary may liquidate or dissolve if the Borrower determines in good faith that such liquidation or dissolution is in its best interests and not materially adverse to the Lenders and, if such Subsidiary is a Loan Party, such Loan Party's assets and property are transferred to another Loan Party.

In connection with clauses (a) and (c) above, the Borrower shall comply with the provisions of Section 5.09 to the extent any surviving entity in any such transaction becomes a guarantor under the Senior Secured Credit Agreement.

SECTION 6.04. Restricted Payments. Until the Rollover Date, the Borrower will not, and will not permit any of its Subsidiaries to, declare or make, or agree to pay or make, directly or indirectly, any Restricted Payment, except:

(a) The Borrower may declare and pay dividends or other distributions with respect to its Equity Interests payable solely in additional shares of Qualified Equity Interests or options to purchase Qualified Equity Interests;

(b) Subsidiaries may declare and make Restricted Payments with respect to their Equity Interests (including PECs);

(c) the Borrower may make Restricted Payments in respect of any stock appreciation rights, stock options, restricted stock, restricted stock units, performance share units or other stock-based awards, under any stock option plan, incentive plan, compensation plan or other benefit plan for present or former officers, directors, consultants or employees of the Borrower, its Subsidiaries and joint ventures so long as no Default shall have occurred and be continuing or would result therefrom;

(d) [Reserved];

(e) to the extent constituting Restricted Payments, the Borrower and its Subsidiaries may enter into and consummate transactions expressly permitted by any provision of Section 6.03 and Section 6.07 (other than Section 6.07(d));

(f) repurchases of Equity Interests in the Borrower or any Subsidiary that occur or are deemed to occur in connection with any stock appreciation rights, stock options, restricted stock, restricted stock units, performance share units or other stock-based awards under any stock option plan, incentive plan, compensation plan or other benefit plan for present or former officers, directors, consultants or employees of the Borrower, its Subsidiaries and joint ventures or repurchases of Equity Interests in the Borrower or any Subsidiary that occur or are deemed to occur upon exercise of stock options or warrants to the extent such Equity Interests represent a portion of the exercise price of such options or warrants;

(g) [Reserved];

(h) [Reserved];

(i) so long as no Default has occurred and is continuing, the Borrower and its Subsidiaries may make other Restricted Payments of up to $50,000,000;

(j) [Reserved]; and

(k) the Borrower may cancel or terminate any warrants, options, stock appreciation rights, restricted stock, restricted stock units, performance share units, other stock-based awards or any other rights to acquire Qualified Equity Interests in exchange for cash or the issuance of any other warrants, options, stock appreciation rights, restricted stock, restricted stock units, performance share units, other stock-based awards or rights to acquire Qualified Equity Interests.

SECTION 6.05. Investments. Until the Rollover Date, the Borrower will not, and will not allow any of its Subsidiaries to make or hold any Investments, except:

(a) Investments by the Borrower or a Subsidiary in cash and Cash Equivalents;

(b) Investments in the Borrower or any Subsidiary and the reclassification or conversion of any such Investments to debt or equity or any combination thereof;

(c) the Acquisition;

(d) Investments by any joint venture;

(e) Investments in Persons that are joint ventures on the date of this Agreement in an aggregate amount not to exceed $50,000,000 outstanding at any time with respect to all such Investments made pursuant to this clause (e) following the date of this Agreement;

(f) (i) Investments consisting of extensions of credit in the nature of accounts receivable or notes receivable arising from the grant of trade credit in the ordinary course of business, and (ii) Investments (including debt obligations and Equity Interests) received in satisfaction or partial satisfaction thereof from financially troubled account debtors and other credits to suppliers in the ordinary course of business or received in connection with the bankruptcy or reorganization of suppliers and customers or in settlement of delinquent obligations of, or other disputes with, customers and suppliers arising in the ordinary course of business or upon the foreclosure with respect to any secured Investment or other transfer of title with respect to any secured Investment;

(g) (i) Investments existing or contemplated on the date of this Agreement and, to the extent in excess of $10,000,000 individually or $25,000,000 in the aggregate, set forth on Schedule 6.05(g) and any modification, replacement, renewal, reinvestment or extension thereof and (ii) Investments existing on the date of this Agreement by the Borrower or any Subsidiary in the Borrower or any other Subsidiary and any modification, renewal or extension thereof; provided that the amount of the original Investment is not increased except by the terms of such Investment or as otherwise permitted by this Section 6.05;

(h) Investments in Swap Agreements permitted under Section 6.01(i);

(i) Investments in the ordinary course of business in prepaid expenses, negotiable instruments held for collection and lease, utility and worker's compensation, performance and other similar deposits provided to third parties;

(j) Investments in the ordinary course of business consisting of endorsements for collection or deposit;

(k) Investments in the ordinary course of business consisting of the licensing or contribution of intellectual property pursuant to development, marketing or manufacturing agreements or arrangements or similar agreements or arrangements with other Persons;

(l) advances of payroll payments, fees or other compensation to officers, directors, consultants or employees, in the ordinary course of business;

(m) Investments to the extent that payment for such Investments is made solely with Qualified Equity Interests of the Borrower;

(n) [Reserved];

(o) [Reserved];

(p) customary Investments in connection with Permitted Receivables Facilities;

(q) other Investments in an aggregate amount not to exceed $50,000,000;

(r) the Borrower and its Subsidiaries may purchase inventory and other Property to be used or sold in the ordinary course of business and make capital expenditures;

(s) loans or advances to officers, directors, consultants and employees of the Borrower and its Subsidiaries for reasonable and customary business-related travel, entertainment, relocation and analogous ordinary business purposes and in connection with such Person's purchase of Equity Interests of the Borrower;

(t) Investments held by a Subsidiary acquired after the date of this Agreement or of a corporation merged into the Borrower or merged or consolidated with any Subsidiary after the date of this Agreement that were not made in contemplation of such acquisition or merger;

(u) Investments in the CoBank Equities (as defined in the Senior Secured Credit Agreement) and any other stock or securities of, or Investments in, CoBank or its investment services or programs; and

(v) the transfer of Equity Interests of Schenley Distilleries Inc. to the Borrower or any Subsidiary of the Borrower.

SECTION 6.06. Prepayments of Specified Indebtedness. Until the Rollover Date, the Borrower will not, and will not permit any of its Subsidiaries to, prepay, redeem, purchase, defease or otherwise satisfy prior to the scheduled maturity thereof in any manner (it being understood that payments of regularly scheduled principal and interest shall be permitted) any Specified Indebtedness or make any payment in violation of any subordination terms of any Specified Indebtedness, except for payments in respect of Specified Indebtedness owed to the Borrower or any Subsidiary.

SECTION 6.07. Transactions with Affiliates. Until the Rollover Date, the Borrower will not, and will not permit any of its Subsidiaries to, sell, lease or otherwise transfer any Property to, or purchase, lease or otherwise acquire any Property from, or otherwise engage in any other transactions with, any of its Affiliates, except:

(a) transactions at prices and on terms and conditions substantially as favorable to the Borrower or such Subsidiary (in the good faith determination of the Borrower) as could reasonably be obtained on an arm's-length basis from unrelated third parties;

(b) transactions between or among the Borrower and its Subsidiaries and any entity that becomes a Subsidiary as a result of such transaction so long as such transaction does not involve any other Affiliate;

(c) the payment of customary compensation and benefits and reimbursements of out-of-pocket costs to, and the provision of indemnity on behalf of, directors, officers, consultants and employees of the Borrower or any Subsidiary and employment, incentive, benefit, consulting and severance arrangements entered into in the ordinary course of business with officers, directors, consultants and employees of the Borrower or its Subsidiaries; provided that during any period that the Borrower is a public company regulated by, and required to file regular periodic reports with, the SEC, any compensation paid to any director or executive officer of the Borrower or any Subsidiary which has been specifically approved by the Board of Directors of the Borrower (or by the Human Resources Committee of the Board of Directors of the Borrower or other committee responsible for such approval) during such period will be deemed to be reasonable for purposes of this clause (c);

(d) Restricted Payments permitted under Section 6.04;

(e) the issuance of Qualified Equity Interests of the Borrower and the granting of registration or other customary rights in connection therewith;

(f) transactions with joint ventures that are Affiliates solely as a result of the Borrower's or a Subsidiary's Control over such joint venture;

(g) transactions with landlords, customers, clients, suppliers, joint venture partners or purchasers or sellers of goods and services, in each case in the ordinary course of business;

(h) split-dollar life insurance agreements with Affiliates, so long as the aggregate amount of premiums payable by the Borrower during any fiscal year pursuant to such agreements shall not exceed $2,000,000 in the aggregate;

(i) loans and advances to officers, directors, consultants and employees in the ordinary course of business; and

(j) transactions effected as part of a Permitted Receivables Facility with a Receivables Entity.

SECTION 6.08. Restrictive Agreements. Until the Rollover Date, the Borrower will not, and will not permit any of its Subsidiaries to, directly or indirectly, enter into, incur or permit to exist any agreement or other arrangement that prohibits, restricts or imposes any condition upon the ability of any Subsidiary that is not a Guarantor to pay dividends or other distributions with respect to holders of its Equity Interests; provided that the foregoing shall not apply to (i) prohibitions, restrictions and conditions imposed by law or by the Senior Secured Credit Agreement, this Agreement, the Exchange Notes Indenture and any Permitted Refinancing Indebtedness in respect thereof, (ii) prohibitions, restrictions and conditions existing on the date of this Agreement (or any extension, refinancing, replacement or renewal thereof or any amendment or modification thereto that is not, taken as a whole, materially more restrictive (in the good faith determination of the Borrower) than any such restriction or condition), including, but not limited to prohibitions, restrictions and conditions imposed by the Existing Senior Notes and any Permitted Refinancing Indebtedness incurred with respect thereto, (iii) prohibitions, restrictions and conditions arising in connection with any Disposition permitted by Section 6.10 with respect to the Property subject to such Disposition, (iv) customary prohibitions, restrictions and conditions contained in agreements relating to a Permitted Receivables Facility, (v) agreements or arrangements binding on a Subsidiary at the time such Subsidiary becomes a Subsidiary of the Borrower or any permitted extension, refinancing, replacement or renewal of, or any amendment or modification to, any such agreement or arrangement so long as any such extension, refinancing, renewal, amendment or modification is not, take as a whole, materially more restrictive (in the good faith determination of the Borrower) than such agreement or arrangement, (vi) prohibitions, restrictions and conditions set forth in Indebtedness of a Subsidiary that is not a Loan Party which is permitted by this Agreement, (vii) restrictions in joint venture agreements and other similar agreements or arrangements applicable to joint ventures, (viii) prohibitions, restrictions or conditions imposed by any agreement relating to secured Indebtedness permitted by this Agreement if such prohibitions, restrictions or conditions apply only to the Subsidiaries incurring or Guaranteeing such Indebtedness, (ix) customary provisions in leases, subleases, licenses, sublicenses or permits so long as such prohibitions, restrictions or conditions relate only to the property subject thereto, (x) customary provisions in leases restricting the assignment or subletting thereof, (xi) customary provisions restricting assignment or transfer of any contract entered into in the ordinary course of business or otherwise permitted hereunder, (xii) prohibitions, restrictions or conditions on cash or other deposits imposed by customers under contracts entered into in the ordinary course of business, (xiii) prohibitions, restrictions or conditions imposed by a Lien permitted by Section 6.02 with respect to the transfer of the Property subject thereto, (xiv) restrictions on cash or other deposits or net worth imposed by customers under contracts entered into in the ordinary course of business, (xv) any limitation or prohibition on the disposition or distribution of assets or property in asset sale agreements, stock sale agreements and other similar agreements, which limitation or prohibition is applicable only to the assets that are the subject of such agreements and (xvi) prohibitions, restrictions or conditions on cash or other deposits imposed by customers under contracts entered into in the ordinary course of business.

SECTION 6.09. Sale and Leasebacks. From and after the Rollover Date, the Borrower will not, and will not permit any Subsidiary to, enter into any arrangement with any Person (other than the Borrower or any Subsidi-

ary) whereby the Borrower or a Subsidiary agrees to lease any Principal Property (except for leases for a term of not more than three years) which has been or is to be sold or transferred more than 120 days after the later of (i) such Principal Property having been acquired by the Company or a Subsidiary and (ii) completion of construction and commencement of full operation thereof, by the Company or a Subsidiary to that Person unless (a) the net proceeds to the Company or a Subsidiary from the sale or transfer equal or exceed the fair value, as determined by the Board of Directors of the Borrower, of the Principal Property so leased, (b) immediately after giving effect to such Sale and Leaseback Transaction, the Company's Consolidated Fixed Charge Coverage Ratio would be greater than 2.0 to 1.0, or (c) the Company, within 120 days after the effective date of the Sale and Leaseback Transaction, applies an amount equal to the fair value as determined by the Borrower's Board of Directors of the Principal Property so leased to (x) the prepayment or retirement of the Company's Funded Debt, which may include the Loans or (y) the acquisition of additional real property for the Borrower or any Subsidiary. A Sale and Leaseback Transaction shall not include any such arrangement for financing air, water or noise pollution control facilities or sewage or solid waste disposal facilities or involving industrial development bonds which are tax-exempt pursuant to Section 103 of the Code (or which receive similar tax treatment under any subsequent amendments thereto or successor laws thereof).

SECTION 6.10. Dispositions. Until the Rollover Date, the Borrower will not, and will not permit any Subsidiary to, make any Disposition, except:

(a) Dispositions of obsolete or worn out Property and Dispositions of property no longer used or useful in the conduct of the business of the Borrower and the Subsidiaries, in each case, in the ordinary course of business;

(b) Dispositions of inventory and immaterial assets, in each case, in the ordinary course of business;

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

(d) Dispositions of Property to the Borrower or to a Subsidiary;

(e) (i) Dispositions permitted by Sections 6.04 and 6.05 and (ii) Liens permitted by Section 6.02 and (iii) Dispositions of Receivables and Permitted Receivables Related Assets in connection with Permitted Receivables Facilities;

(f) Dispositions of cash and Cash Equivalents;

(g) Dispositions of accounts receivable in connection with the collection or compromise thereof;

(h) leases, subleases, licenses or sublicenses, in each case in the ordinary course of business and which do not materially interfere with the business of the Borrower and the Subsidiaries;

(i) transfers of Property to the extent subject to Casualty Events;

(j) Dispositions of other Property by the Borrower and its Subsidiaries with an aggregate fair market value (as determined in good faith by the Borrower) for all such Dispositions in any fiscal year not to exceed $100,000,000;

(k) Dispositions of Investments in, and issuances of any Equity Interests in, joint ventures to the extent required by, or made pursuant to customary buy/sell arrangements between, the joint venture parties set forth in joint venture arrangements and similar binding arrangements;

(l) any Subsidiary may liquidate or dissolve if the Borrower determines in good faith that such liquidation or dissolution is in its best interests and not materially adverse to the Lenders and, if such Subsidiary is a Loan Party, such Loan Party's assets and property are transferred to another Loan Party; and

(m) sale and leasebacks of properties acquired following the date of this Agreement within 180 days of the acquisition thereof;

provided that for the purpose of making all calculations under Section 6.10(j), the Borrower shall use the fair market value of such Property at the time of such Disposition in the good faith determination of the Borrower.

## ARTICLE VII

## Events of Default

If any of the following events (each an "Event of Default") shall occur and be continuing:

(a) the Borrower shall fail to pay any principal of any Loan when and as the same shall become due and payable, whether at the due date thereof or at a date fixed for prepayment thereof or otherwise;

(b) the Borrower shall fail to pay any interest on any Loan or any fee or any other amount (other than an amount referred to in clause (a) of this Article) payable under this Agreement, when and as the same shall become due and payable, and such failure shall continue unremedied for a period of five (5) Business Days (or from and after the Rollover Date, such failure shall continue unremedied for a period of thirty (30) days);

(c) any representation or warranty made or deemed made by or on behalf of the Borrower or any Subsidiary in or in connection with this Agreement or any other Loan Document or any amendment or modification thereof or waiver thereunder, or in any report, certificate, financial statement or other document required to be delivered in connection with this Agreement or any other Loan Document or any amendment or modification thereof or waiver thereunder, shall prove to have been incorrect in any material respect when made or deemed made;

(d) the Borrower shall fail to observe or perform any covenant, condition or agreement contained in Section 2.19, 5.02(a), 5.03(i) or Article VIprovided, in the case of any such failure following the Rollover Date, such failure shall continue unremedied for a period of 90 days (or, in the case of a failure to comply with Section 2.19, five days) after written notice thereof from the Administrative Agent or the Required Lenders to the Borrower;

(e) any Loan Party, as applicable, shall fail to observe or perform any covenant, condition or agreement contained in this Agreement (other than those specified in clause (a), (b) or (d) of this Article) or any other Loan Document, and such failure shall continue unremedied for a period of thirty (30) days (or, in the case of any such failure following the Rollover Date, (i) except in the case of a failure to perform any covenant in Section 5.01, 90 days and (ii) in the case of a failure to perform any covenant in Section 5.01, 180 days) after written notice thereof from the Administrative Agent or the Required Lenders to the Borrower;

(f) the failure by the Borrower or any Significant Subsidiary to make any payment, on or before the end of the applicable grace period, after the maturity of any Indebtedness of the Borrower or any Significant Subsidiary with an aggregate principal amount then outstanding in excess of $100,000,000 or the acceleration of indebtedness of the Borrower with an aggregate principal amount then outstanding in excess of $100,000,000 as a result of a default with respect to such indebtedness, and, in the case of any such failure following the Rollover Date, such indebtedness, in either case, is not discharged or such acceleration shall not have been cured, waived, rescinded or annulled within a period of 30 days after the Borrower has received written notice thereof from the Administrative Agent or the Required Lenders.

(g) [Reserved];

(h) an involuntary proceeding shall be commenced or an involuntary petition shall be filed seeking (i) liquidation, reorganization or other relief in respect of the Borrower or any Significant Subsidiary or its debts, or of a substantial part of its assets, under any Federal, state or foreign bankruptcy, insolvency, receivership or similar law now or hereafter in effect or (ii) the appointment of a receiver, trustee, custodian, sequestrator, conservator or similar official for the Borrower or any Significant Subsidiary or for a substantial part of its assets, and, in any such case, such proceeding or petition shall continue undismissed or unstayed for sixty (60) days or an order or decree approving or ordering any of the foregoing shall be entered;

(i) the Borrower or any Significant Subsidiary shall (i) voluntarily commence any proceeding or file any petition seeking liquidation, reorganization or other relief under any Federal, state or foreign bankruptcy, insolvency, receivership or similar law now or hereafter in effect, (ii) consent to the institution of any proceeding or petition described in clause (h) above, (iii) apply for or consent to the appointment of a receiver, trustee, custodian, sequestrator, conservator or similar official for the Borrower or any Significant Subsidiary or for a substantial part of its assets, (iv) file an answer admitting the material allegations of a petition filed against it in any such proceeding, (v) make a general assignment for the benefit of creditors or (vi) take any corporate action for the purpose of effecting any of the foregoing;

(j) [Reserved];

(k) prior to the Rollover Date, one or more final, non-appealable judgments for the payment of money in an aggregate amount in excess of $100,000,000 (to the extent due and payable and not covered by insurance as to which the relevant insurance company has not denied coverage) shall be rendered against the Borrower, any Significant Subsidiary or any combination thereof and the same shall remain unpaid or undischarged for a period of thirty (30) consecutive days during which execution shall not be paid, bonded or effectively stayed;

(l) [Reserved];

(m) [Reserved];

(n) the Guarantee Agreement shall cease, for any reason, to be in full force and effect with respect to any Significant Subsidiary or any Loan Party or any Affiliate of a Loan Party shall so assert,

then, and in every such event (other than an event with respect to the Borrower described in clause (h) or (i) of this Article), and at any time thereafter during the continuance of such event, the Administrative Agent may, and at the request of the Required Lenders shall, by notice to the Borrower, declare the Loans then outstanding to be due and payable in whole (or in part, in which case any principal not so declared to be due and payable may thereafter be declared to be due and payable), and thereupon the principal of the Loans so declared to be due and payable, together with accrued interest thereon and all fees and other obligations of the Borrower accrued hereunder and under the other Loan Documents, shall become due and payable immediately, without presentment, demand, protest or other notice of any kind, all of which are hereby waived by the Borrower; and in case of any event with respect to the Borrower described in clause (h) or (i) of this Article, the principal of the Loans then outstanding, together with accrued interest thereon and all fees and other Obligations accrued hereunder and under the other Loan Documents, shall automatically become due and payable, without presentment, demand, protest or other notice of any kind, all of which are hereby waived by the Borrower.

Notwithstanding anything in this Article VII to the contrary, the Commitments may not be terminated pursuant to this Article VII prior to the Closing Date and the funding of the Loans to occur on such date.

ARTICLE VIII

The Administrative Agent

(a) Each of the Lenders hereby irrevocably appoints Bank of America as its agent and authorizes Bank of America to take such actions on its behalf and to exercise such powers as are delegated to the Administrative Agent by the terms hereof and the other Loan Documents, together with such actions and powers as are reasonably incidental thereto. The provisions of this Article are solely for the benefit of the Administrative Agent and the Lenders, and the Borrower shall have no rights as a third party beneficiary of any of such provisions, except as expressly set forth in subparagraph (f) below.

(b) The Person serving as the Administrative Agent hereunder shall have the same rights and powers in its capacity as a Lender as any other Lender and may exercise the same as though it were not the Administrative Agent, and the term "Lender" or "Lenders" shall, unless otherwise expressly indicated or unless the context otherwise requires, include the Person serving as the Administrative Agent hereunder in its individual capacity. Such Person and its Affiliates may accept deposits from, lend money to, act as the financial advisor or in any other advisory capacity for and generally engage in any kind of business with the Borrower or any Subsidiary or other Affiliate thereof as if such Person were not the Administrative Agent hereunder and without any duty to account therefor to the Lenders.

(c) The Administrative Agent shall not have any duties or obligations except those expressly set forth herein and in the other Loan Documents. Without limiting the generality of the foregoing, (a) the Administrative Agent shall not be subject to any fiduciary or other implied duties, regardless of whether a Default has occurred and is continuing; (b) the Administrative Agent shall not have any duty to take any discretionary action or exercise any discretionary powers, except discretionary rights and powers expressly contemplated hereby or by the other Loan Documents that the Administrative Agent is required to exercise in writing as directed by the Required Lenders (or such other number or percentage of the Lenders as shall be expressly provided for herein or by the other Loan Documents), provided that the Administrative Agent shall not be required to take any action that, in its opinion or the opinion of its counsel, may expose the Administrative Agent to liability or that is contrary to any Loan Document or applicable law; and (c) except as expressly set forth herein and in the other Loan Documents, the Administrative Agent shall not have any duty to disclose, and shall not be liable for the failure to disclose, any information relating to the Borrower or any of its Subsidiaries that is communicated to or obtained by the Person serving as Administrative Agent or any of its Affiliates in any capacity. The Administrative Agent shall not be liable for any action taken or not taken by it with the consent or at the request of the Required Lenders (or such other number or percentage of the Lenders as shall be necessary, or as the Administrative Agent shall believe in good faith shall be necessary, under the circumstances as provided herein) or in the absence of its own bad faith, gross negligence or willful misconduct. The Administrative Agent shall be deemed not to have knowledge of any Default unless and until written notice describing such Default thereof is given to the Administrative Agent by the Borrower or a Lender, and the Administrative Agent shall not be responsible for or have any duty to ascertain or inquire into (i) any statement, warranty or representation made in or in connection with this Agreement or any other Loan Document, (ii) the contents of any certificate, report or other document delivered hereunder or thereunder or in connection herewith or therewith, (iii) the performance or observance of any of the covenants, agreements or other terms or conditions set forth herein or therein or the occurrence of any Default, (iv) the validity, enforceability, effectiveness or genuineness of this Agreement or any other Loan Document or any other agreement, instrument or document, or (v) the satisfaction of any condition set forth in Article IV or elsewhere herein, other than to confirm receipt of items expressly required to be delivered to the Administrative Agent.

(d) The Administrative Agent shall be entitled to rely upon, and shall not incur any liability for relying upon, any notice, request, certificate, consent, statement, instrument, document or other writing (including any electronic message, Internet or intranet website posting or other distribution) believed by it to be genuine and to have been signed, sent or otherwise authenticated by the proper Person. The Administrative Agent also may rely upon any statement made to it orally or by telephone and believed by it to be made by the proper Person, and shall not incur any liability for relying thereon. In determining compliance with any condition hereunder to the making of a Loan that by its terms must be fulfilled to the satisfaction of a Lender, the Administrative Agent may presume that such condition is satisfactory to such Lender unless the Administrative Agent shall have received notice to the contrary from such Lender prior to the making of such Loan. The Administrative Agent may consult with legal counsel

(who may be counsel for the Borrower), independent accountants and other experts selected by it, and shall not be liable for any action taken or not taken by it in accordance with the advice of any such counsel, accountants or experts.

(e) The Administrative Agent may perform any and all of its duties and exercise its rights and powers hereunder or under any other Loan Document by or through any one or more sub-agents appointed by the Administrative Agent. The Administrative Agent and any such sub-agent may perform any and all of its duties and exercise its rights and powers through their respective Related Parties. The exculpatory provisions of this Article shall apply to any such sub-agent and to the Related Parties of the Administrative Agent and any such sub-agent, and shall apply to their respective activities in connection with the syndication of the credit facilities provided for herein as well as activities as Administrative Agent.

(f) The Administrative Agent may at any time give notice of its resignation to the Lenders and the Borrower. Upon receipt of any such notice of resignation, the Required Lenders shall have the right, in consultation with the Borrower and (unless an Event of Default under clause (a) or (b), (h) or (i) of Article VII shall have occurred and be continuing) with the consent of the Borrower (which consent of the Borrower shall not be unreasonably withheld or delayed), to appoint a successor, which shall be a bank with an office in the United States, or an Affiliate of any such bank with an office in the United States. If no such successor shall have been so appointed by the Required Lenders and shall have accepted such appointment within thirty (30) days after the retiring Administrative Agent gives notice of its resignation, then the retiring Administrative Agent may on behalf of the Lenders, appoint a successor Administrative Agent meeting the qualifications set forth above; provided that if the Administrative Agent shall notify the Borrower and the Lenders that no qualifying Person has accepted such appointment, then such resignation shall nonetheless become effective in accordance with such notice and (1) the retiring Administrative Agent shall be discharged from its duties and obligations hereunder and under the other Loan Documents and (2) all payments, communications and determinations provided to be made by, to or through the Administrative Agent shall instead be made by or to each Lender directly, until such time as the Required Lenders appoint a successor Administrative Agent as provided for above in this Section. Upon the acceptance of a successor's appointment as Administrative Agent hereunder, such successor shall succeed to and become vested with all of the rights, powers, privileges and duties of the retiring (or retired) Administrative Agent, and the retiring Administrative Agent shall be discharged from all of its duties and obligations hereunder or under the other Loan Documents (if not already discharged therefrom as provided above in this Section). The fees payable by the Borrower to a successor Administrative Agent shall be the same as those payable to its predecessor unless otherwise agreed between the Borrower and such successor. After the retiring Administrative Agent's resignation hereunder and under the other Loan Documents, the provisions of this Article and Section 9.03 shall continue in effect for the benefit of such retiring Administrative Agent, its sub-agents and their respective Related Parties in respect of any actions taken or omitted to be taken by any of them while the retiring Administrative Agent was acting as Administrative Agent.

(g) Each Lender acknowledges that it has, independently and without reliance upon the Administrative Agent or any other Lender or any of their Related Parties and based on such documents and information as it has deemed appropriate, made its own credit analysis and decision to enter into this Agreement. Each Lender also acknowledges that it will, independently and without reliance upon the Administrative Agent or any other Lender or any of their Related Parties and based on such documents and information as it shall from time to time deem appropriate, continue to make its own decisions in taking or not taking action under or based upon this Agreement, any other Loan Document or any related agreement or any document furnished hereunder or thereunder.

(h) To the extent required by any applicable Laws, the Administrative Agent may withhold from any payment to any Lender an amount equivalent to any applicable withholding Tax. Without limiting or expanding the provisions of Section 2.16, each Lender shall indemnify and hold harmless the Administrative Agent against, and shall make payable in respect thereof within 30 days after demand therefor, any and all Taxes and any and all related losses, claims, liabilities and expenses (including fees, charges and disbursements of any counsel for the Administrative Agent) incurred by or asserted against the Administrative Agent by the Internal Revenue Service or any other Governmental Authority as a result of the failure of the Administrative Agent to properly withhold Tax from amounts paid to or for the account of such Lender for any reason (including, without limitation, because the appropriate form was not delivered or not properly executed, or because such Lender failed to notify the Administrative Agent of a change in circumstance that rendered the exemption from, or reduction of withholding Tax ineffective). A certificate as to the amount of such payment or liability delivered to any Lender by the Administrative Agent shall

be conclusive absent manifest error. Each Lender hereby authorizes the Administrative Agent to set off and apply any and all amounts at any time owing to such Lender under this Agreement or any other Loan Document against any amount due the Administrative Agent under this clause (h). The agreements in this clause (h) shall survive the resignation and/or replacement of the Administrative Agent, any assignment of rights by, or the replacement of, a Lender, the termination of the Commitments and the repayment, satisfaction or discharge of all other Obligations.

(i) The Lenders irrevocably agree that any Guarantor shall be automatically released from its obligations under the Guarantee Agreement if such Person ceases to be a guarantor of the Senior Secured Credit Agreement.

Upon request by the Administrative Agent at any time, the Required Lenders (or such greater number of Lenders as may be required pursuant to Section 9.02) will confirm in writing the Administrative Agent's authority to release any Guarantor from its obligations under the Guarantee Agreement pursuant to this clause (i). In each case as specified in this clause (i), the Administrative Agent will (and each Lender irrevocably authorizes the Administrative Agent to), at the Borrower's expense, execute and deliver to the applicable Loan Party such documents as such Loan Party may reasonably request to evidence the release of such Guarantor from its obligations under the Guarantee Agreement, in each case in accordance with the terms of the Loan Documents and this clause (i).

Anything herein to the contrary notwithstanding, none of the "arrangers," "bookrunning managers" or "syndication agent" listed on the cover page hereof shall have any duties or responsibilities under this Agreement or any of the other Loan Documents, except in its capacity, as applicable, as the Administrative Agent or a Lender hereunder. Any right given to any Arranger hereunder may be exercised or not exercised in such Arranger's sole discretion and is for the benefit of such Arranger and not any other Person.

## ARTICLE IX

## Miscellaneous

SECTION 9.01. Notices.

(a) Notices Generally. Except in the case of notices and other communications expressly permitted to be given by telephone (and except as provided in subsection (b) below), all notices and other communications provided for herein shall be in writing and shall be delivered by hand or overnight courier service, mailed by certified or registered mail or sent by telecopier as follows, and all notices and other communications expressly permitted hereunder to be given by telephone shall be made to the applicable telephone number, as follows:

(i) if to the Borrower or the Administrative Agent, to the address, telecopier number, electronic mail address or telephone number specified for such Person on Schedule 9.01; and

(ii) if to any other Lender, to the address, telecopier number, electronic mail address or telephone number specified in its Administrative Questionnaire.

Notices and other communications sent by hand or overnight courier service, or mailed by certified or registered mail, shall be deemed to have been given when received; notices and other communications sent by telecopier shall be deemed to have been given when sent (except that, if not given during normal business hours for the recipient, shall be deemed to have been given at the opening of business on the next business day for the recipient). Notices and other communications delivered through electronic communications to the extent provided in subsection (b) below, shall be effective as provided in such subsection (b).

(b) Electronic Communications. Notices and other communications to the Lenders hereunder may be delivered or furnished by electronic communication (including e-mail and Internet or intranet websites) pursuant to procedures approved by the Administrative Agent, provided that the foregoing shall not apply to notices to any Lender pursuant to Article II if such Lender has notified the Administrative Agent that it is incapable of receiving notices under such Article by electronic communication. The Administrative Agent or the Borrower may, in its discretion, agree to accept notices and other communications to it hereunder by electronic communications pursuant to

procedures approved by it, provided that approval of such procedures may be limited to particular notices or communications.

Unless the Administrative Agent otherwise prescribes, (i) notices and other communications sent to an e-mail address shall be deemed received upon the sender's receipt of an acknowledgement from the intended recipient (such as by the "return receipt requested" function, as available, return e-mail or other written acknowledgement), provided that if such notice or other communication is not sent during the normal business hours of the recipient, such notice or communication shall be deemed to have been sent at the opening of business on the next business day for the recipient, and (ii) notices or communications posted to an Internet or intranet website shall be deemed received upon the deemed receipt by the intended recipient at its e-mail address as described in the foregoing clause (i) of notification that such notice or communication is available and identifying the website address therefor.

(c) The Platform. THE PLATFORM IS PROVIDED "AS IS" AND "AS AVAILABLE." THE AGENT PARTIES (AS DEFINED BELOW) DO NOT WARRANT THE ACCURACY OR COMPLETENESS OF THE BORROWER MATERIALS OR THE ADEQUACY OF THE PLATFORM, AND EXPRESSLY DISCLAIM LIABILITY FOR ERRORS IN OR OMISSIONS FROM THE INFORMATION. NO WARRANTY OF ANY KIND, EXPRESS, IMPLIED OR STATUTORY, INCLUDING ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT OF THIRD PARTY RIGHTS OR FREEDOM FROM VIRUSES OR OTHER CODE DEFECTS, IS MADE BY ANY AGENT PARTY IN CONNECTION WITH THE BORROWER MATERIALS OR THE PLATFORM. In no event shall the Administrative Agent, any Arranger or any of its Related Parties (collectively, the "Agent Parties") have any liability to the Borrower, any Lender or any other Person for losses, claims, damages, liabilities or expenses of any kind (whether in tort, contract or otherwise) arising out of the Borrower's, the Administrative Agent's or any Arranger's transmission of Borrower Materials through the Internet, except to the extent that such losses, claims, damages, liabilities or expenses are determined by a court of competent jurisdiction by a final and nonappealable judgment to have resulted from the gross negligence or willful misconduct of such Agent Party; provided, however, that in no event shall any Agent Party have any liability to the Borrower, any Lender or any other Person for indirect, special, incidental, consequential or punitive damages (as opposed to direct or actual damages).

(d) Change of Address, Etc. Each of the Borrower and the Administrative Agent may change its address, telecopier or telephone number for notices and other communications hereunder by notice to the other parties hereto. Each other Lender may change its address, telecopier or telephone number for notices and other communications hereunder by notice to the Borrower and the Administrative Agent. In addition, each Lender agrees to notify the Administrative Agent from time to time to ensure that the Administrative Agent has on record (i) an effective address, contact name, telephone number, telecopier number and electronic mail address to which notices and other communications may be sent and (ii) accurate wire instructions for such Lender.

(e) Reliance by Administrative Agent. The Administrative Agent and the Lenders shall be entitled to rely and act upon any notices purportedly given by or on behalf of the Borrower even if (i) such notices were not made in a manner specified herein, were incomplete or were not preceded or followed by any other form of notice specified herein, or (ii) the terms thereof, as understood by the recipient, varied from any confirmation thereof. The Borrower shall indemnify the Administrative Agent, each Lender and the Related Parties of each of them from all losses, costs, expenses and liabilities resulting from the reliance by such Person on each notice purportedly given by or on behalf of the Borrower unless due to such Person's gross negligence or willful misconduct. All telephonic notices to and other telephonic communications with the Administrative Agent may be recorded by the Administrative Agent, and each of the parties hereto hereby consents to such recording.

SECTION 9.02. Waivers; Amendments.

(a) No failure or delay by the Administrative Agent or any Lender in exercising any right or power hereunder or under any other Loan Document shall operate as a waiver thereof, nor shall any single or partial exercise of any such right or power, or any abandonment or discontinuance of steps to enforce such a right or power, preclude any other or further exercise thereof or the exercise of any other right or power. The rights and remedies of the Administrative Agent and the Lenders hereunder and under the other Loan Documents are cumulative and are not exclusive of any rights or remedies that they would otherwise have. No waiver of any provision of this Agreement or consent to any departure by the Borrower therefrom shall in any event be effective unless the same shall be

permitted by clause (b) of this Section, and then such waiver or consent shall be effective only in the specific instance and for the purpose for which given. Without limiting the generality of the foregoing, the making of a Loan shall not be construed as a waiver of any Default, regardless of whether the Administrative Agent or any Lender may have had notice or knowledge of such Default at the time.

(b) Except as otherwise set forth in this Agreement or any other Loan Document (with respect to such Loan Document), neither this Agreement nor any other Loan Document (nor, prior to the first Exchange Date, the Exchange Notes Indenture) nor any provision hereof or thereof may be waived, amended or modified except pursuant to an agreement or agreements in writing entered into by the Borrower and the Required Lenders or by the Borrower and the Administrative Agent with the consent of the Required Lenders; provided, that no such agreement shall (i) increase the Commitment of any Lender without the written consent of each Lender directly affected thereby, it being understood that the waiver of any Default or mandatory prepayment shall not constitute an increase of any Commitment of any Lender, (ii) reduce the principal amount of any Loan or reduce the rate of interest or premium thereon, or reduce any fees payable hereunder, without the written consent of each Lender directly affected thereby; provided that only the consent of the Required Lenders shall be necessary to amend Section 2.12(c) or to waive any obligation of the Borrower to pay interest at the rate set forth therein, (iii) postpone the scheduled date of payment of the principal amount of any Loan, or any interest thereon, or any fees payable hereunder, or reduce the amount of, waive or excuse any such payment, or postpone the scheduled date of expiration of any Commitment, without the written consent of each Lender directly affected thereby, it being understood that the waiver of (or amendment to the terms of) any mandatory prepayment of the Loans shall not constitute a postponement of any date scheduled for the payment of principal or interest, (iv) change Section 2.17(b), (c) or (d) in a manner that would alter the pro rata sharing of payments required thereby, without the written consent of each Lender directly affected thereby, (v) change any of the provisions of this Section, the definition of "Required Lenders" or any other provision hereof specifying the number or percentage of Lenders required to waive, amend or modify any rights hereunder or make any determination or grant any consent hereunder without the written consent of each Lender or (vi) release all or substantially all of the Guarantors from their obligations under the Guarantee Agreement, without the written consent of each Lender or (vii) amend Section 2.19 in a manner that would materially increase the restrictions on exchanging Loans for Exchange Notes without the consent of each Lender; provided that (1) no such agreement shall amend, modify or otherwise affect the rights or duties of the Administrative Agent hereunder without the prior written consent of the Administrative Agent, (2) no such agreement shall amend, modify or otherwise affect the rights or duties of any Arranger hereunder without the prior written consent of such Arranger and (3) the Administrative Agent and the Borrower may, with the consent of the other but without the consent of any other Person, amend, modify or supplement this Agreement and any other Loan Document to cure any ambiguity, typographical or technical error, defect or inconsistency.

SECTION 9.03. Expenses; Indemnity; Damage Waiver.

(a) The Borrower shall pay (i) all reasonable and documented out-of-pocket expenses incurred by the Administrative Agent, the Arrangers and their Affiliates, including the reasonable and documented fees, charges and disbursements of a single counsel for the Arrangers and the Administrative Agent (and, if necessary, one local counsel in each applicable jurisdiction and regulatory counsel), in connection with the syndication of the credit facilities provided for herein, the preparation and administration of this Agreement and the other Loan Documents or any amendments, modifications or waivers of the provisions hereof or thereof and any issuance or proposed issuance of Exchange Notes (whether or not the transactions contemplated hereby or thereby shall be consummated) and (ii) all reasonable and documented out-of-pocket expenses incurred by the Administrative Agent or any Lender (limited to the reasonable and documented fees, charges and disbursements of a single counsel for the Administrative Agent and the Lenders, which counsel shall be selected by the Administrative Agent (and, if necessary, one local counsel in each applicable jurisdiction, regulatory counsel and one additional counsel for the affected parties in the event of a conflict of interest)), in connection with the enforcement or protection of its rights in connection with this Agreement, including its rights under this Section, or in connection with the Loans made hereunder, including all such reasonable and documented out-of-pocket expenses incurred during any workout, restructuring or negotiations in respect of such Loans.

(b) The Borrower shall indemnify the Administrative Agent, the Arrangers, the Syndication Agent and each Lender, and each Related Party of any of the foregoing Persons (each such Person being called an "Indemnitee") against, and hold each Indemnitee harmless from, any and all losses, claims, damages, liabilities and related

reasonable and documented out-of-pocket expenses, including the reasonable and documented fees, charges and disbursements of a single counsel for the Indemnitees selected by the Administrative Agent (and, if necessary, one local counsel in each applicable jurisdiction and one additional counsel for each affected Indemnitee in the event of a conflict of interest), incurred by or asserted against any Indemnitee arising out of, in connection with, or as a result of (i) the execution or delivery of this Agreement or any agreement or instrument contemplated hereby, the performance by the parties hereto of their respective obligations hereunder or the consummation of the Transactions or any other transactions contemplated hereby, (ii) any Loan or the use of the proceeds therefrom, (iii) to the extent relating to or arising from any of the foregoing, any actual or alleged presence or release of Hazardous Materials on or from any property owned or operated by the Borrower or any of its Subsidiaries, or any Environmental Liability related in any way to the Borrower or any of its Subsidiaries, or (iv) any actual or prospective claim, litigation, investigation or proceeding relating to any of the foregoing, whether based on contract, tort or any other theory and regardless of whether any Indemnitee is a party thereto and whether brought by a Borrower, its equityholders or any third party; provided that such indemnity shall not, as to any Indemnitee, be available to the extent that such losses, claims, damages, liabilities or related expenses are determined by a court of competent jurisdiction by final and nonappealable judgment to have resulted from the gross negligence or willful misconduct of such Indemnitee or any of its officers, directors, employees or Controlling Persons.

(c) To the extent that the Borrower fails to pay any amount required to be paid by it to the Administrative Agent under clause (a) or (b) of this Section, each Lender severally agrees to pay to the Administrative Agent such Lender's pro rata share (determined as of the time that the applicable unreimbursed expense or indemnity payment is sought) of such unpaid amount; provided that the unreimbursed expense or indemnified loss, claim, damage, liability or related expense, as the case may be, was incurred by or asserted against the Administrative Agent in its capacity as such.

(d) To the extent permitted by applicable law, no party hereto shall assert, and each party hereto hereby waives, any claim against any other party hereto and any Indemnitee on any theory of liability, for special, indirect, consequential or punitive damages (as opposed to direct or actual damages) arising out of, in connection with, or as a result of, this Agreement, any other Loan Document or any agreement or instrument contemplated hereby or thereby, the Transactions, any Loan or the use of the proceeds thereof; provided, that this clause (d) shall in no way limit the Borrower's indemnification obligations set forth in clauses (a) and (b) of this Section 9.03.

(e) All amounts due under this Section shall be payable not later than 60 days after written demand therefor;provided, however, that an Indemnitee shall promptly refund any amount received under this Section 9.03 to the extent that there is a final judicial or arbitral determination that such Indemnitee was not entitled to indemnification rights with respect to such payment pursuant to the express terms of this Section 9.03.

SECTION 9.04. Successors and Assigns.

(a) Successors and Assigns Generally. The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns permitted hereby, except that the Borrower may not assign or otherwise transfer any of its rights or obligations hereunder without the prior written consent of the Administrative Agent and each Lender and no Lender may assign or otherwise transfer any of its rights or obligations hereunder except (i) to an assignee in accordance with the provisions of subsection (b) of this Section, (ii) by way of participation in accordance with the provisions of subsection (d) of this Section or (iii) by way of pledge or assignment of a security interest subject to the restrictions of subsection (f) of this Section (and any other attempted assignment or transfer by any party hereto shall be null and void). Nothing in this Agreement, expressed or implied, shall be construed to confer upon any Person (other than the parties hereto, their respective successors and assigns permitted hereby, Participants to the extent provided in subsection (d) of this Section and, to the extent expressly contemplated hereby, the Arrangers and the Related Parties of each of the Administrative Agent and the Lenders) any legal or equitable right, remedy or claim under or by reason of this Agreement.

(b) Assignments by Lenders. Any Lender may at any time assign to one or more assignees all or a portion of its rights and obligations under this Agreement (including all or a portion of its Commitment and the Loans at the time owing to it); provided that any such assignment shall be subject to the following conditions:

(i) Minimum Amounts.

(a) in the case of an assignment of the entire remaining amount of the assigning Lender's Commitments of any Class and the Loans at the time owing to it of any Class or in the case of an assignment to a Lender, an Affiliate of a Lender or an Approved Fund, no minimum amount need be assigned; and

(b) in any case not described in subsection (b)(i)(A) of this Section, the aggregate amount of the Commitment (which for this purpose includes Loans outstanding thereunder) or, if the Commitment is not then in effect, the principal outstanding balance of the Loans of the assigning Lender subject to each such assignment, determined as of the date the Assignment and Assumption with respect to such assignment is delivered to the Administrative Agent or, if "Trade Date" is specified in the Assignment and Assumption, as of the Trade Date, shall not be less than $1,000,000 unless the Administrative Agent otherwise consents (such consent not to be unreasonably withheld or delayed); provided, however, that concurrent assignments to members of an Assignee Group and concurrent assignments from members of an Assignee Group to a single Eligible Assignee (or to an Eligible Assignee and members of its Assignee Group) will be treated as a single assignment for purposes of determining whether such minimum amount has been met.

(ii) Proportionate Amounts. Each partial assignment shall be made as an assignment of a proportionate part of all the assigning Lender's rights and obligations under this Agreement with respect to the Loans or the Commitment assigned, except that this clause (ii) shall not prohibit any Lender from assigning all or a portion of its rights and obligations between separate Classes on a non-pro rata basis;

(iii) Required Consents. The consent of (i) the Administrative Agent (such consent not to be unreasonably withheld or delayed) shall be required for assignments in respect of any Commitment or Loan to a Person that is not a Lender, an Affiliate of a Lender or an Approved Fund and (ii) the Borrower shall be required in the case of an assignment of a Commitment (but not a Loan) (x) to a Person that is not a Qualified Replacement Lender or (y) by an Initial Lender if, immediately after giving effect to such assignment, such Initial Lender and its Affiliates would, in the aggregate, hold less than 20% of the aggregate amount of all Commitments.

(iv) Assignment and Assumption. The parties to each assignment shall execute and deliver to the Administrative Agent an Assignment and Assumption, together with a processing and recordation fee in the amount of $3,500; provided, however, that the Administrative Agent may, in its sole discretion, elect to waive such processing and recordation fee in the case of any assignment. The assignee, if it is not a Lender, shall deliver to the Administrative Agent an Administrative Questionnaire.

(v) No Assignment to Borrower. No such assignment shall be made to the Borrower or any of the Borrower's Affiliates or Subsidiaries.

(vi) No Assignment to Natural Persons. No such assignment shall be made to a natural person.

Subject to acceptance and recording thereof by the Administrative Agent pursuant to subsection (c) of this Section, from and after the effective date specified in each Assignment and Assumption, the assignee thereunder shall be a party to this Agreement and, to the extent of the interest assigned by such Assignment and Assumption, have the rights and obligations of a Lender under this Agreement, and the assigning Lender thereunder shall, to the extent of the interest assigned by such Assignment and Assumption, be released from its obligations under this Agreement (and, in the case of an Assignment and Assumption covering all of the assigning Lender's rights and obligations under this Agreement, such Lender shall cease to be a party hereto) but shall continue to be entitled to the benefits of Sections 2.14, 2.15, 2.16 and 9.03 with respect to facts and circumstances occurring prior to the effective date of such assignment. Upon request, the Borrower (at its expense) shall execute and deliver a Note to the assignee Lender. Any assignment or transfer by a Lender of rights or obligations under this Agreement that does not comply with this subsection shall be treated for purposes of this Agreement as a sale by such Lender of a participation in such rights and obligations in accordance with subsection (d) of this Section.

(c) Register. The Administrative Agent, acting solely for this purpose as an agent of the Borrower, shall maintain at the Administrative Agent's Office a copy of each Assignment and Assumption delivered to it and a register for the recordation of the names and addresses of the Lenders, and the Commitments of, and principal amounts and interest thereon of the Loans owing to each Lender pursuant to the terms hereof from time to time (the "Register"). The entries in the Register shall be conclusive absent manifest error, and the Borrower, the Administrative Agent and the Lenders shall treat each Person whose name is recorded in the Register pursuant to the terms hereof as a Lender hereunder for all purposes of this Agreement, notwithstanding notice to the contrary. The Register shall be available for inspection by the Borrower and any Lender, at any reasonable time and from time to time upon reasonable prior notice.

(d) Participations. Any Lender may at any time, without the consent of, or notice to, the Borrower or the Administrative Agent, sell participations to any Person (other than a natural person or the Borrower or any of the Borrower's Affiliates or Subsidiaries) (each, a "Participant") in all or a portion of such Lender's rights and/or obligations under this Agreement (including all or a portion of its Commitment and/or the Loans owing to it); provided that (i) such Lender's obligations under this Agreement shall remain unchanged, (ii) such Lender shall remain solely responsible to the other parties hereto for the performance of such obligations and (iii) the Borrower, the Administrative Agent and the Lenders shall continue to deal solely and directly with such Lender in connection with such Lender's rights and obligations under this Agreement. Any agreement or instrument pursuant to which a Lender sells such a participation shall provide that such Lender shall retain the sole right to enforce this Agreement and to approve any amendment, modification or waiver of any provision of this Agreement; provided that such agreement or instrument may provide that such Lender will not, without the consent of the Participant, agree to any amendment, waiver or other modification described in clauses (i) through (vii) of the first proviso in Section 9.02(b) that affects such Participant. Subject to subsection (e) of this Section, the Borrower agrees that each Participant shall be entitled to the benefits of Sections 2.14, 2.15 and 2.16 (subject to the requirements and limitations of such Sections and Section 2.18) to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to subsection (b) of this Section. To the extent permitted by law, each Participant also shall be entitled to the benefits of Section 9.08 as though it were a Lender, provided such Participant agrees to be subject to Sections 2.17 and 2.18 as though it were a Lender. Each Lender that sells a participation shall, acting solely for this purpose as a non-fiduciary agent of the Borrower, maintain a register on which it enters the name and address of each Participant and the principal amounts and interest thereon of each participant's interest in the Loans or other obligations under this Agreement (the "Participant Register"); provided that no Lender shall have any obligation to disclose all or any portion of the Participant Register (including the identity of any Participant or any information relating to a Participant's interest in any commitments, loans or its other obligations under any Loan Document) to any Person except to the extent that such disclosure is necessary in connection with a Tax audit or other proceeding to establish that any loans are in registered form for U.S. federal income tax purposes. The entries in the Participant Register shall be conclusive absent manifest error, and such Lender shall treat each person whose name is recorded in the Participant Register as the Participant for all purposes of this Agreement notwithstanding any notice to the contrary. For the avoidance of doubt, the Administrative Agent (in its capacity as Administrative Agent) shall have no responsibility for maintaining a Participant Register.

(e) Limitations upon Participant Rights. A Participant shall not be entitled to receive any greater payment under Section 2.14 or 2.16 than the applicable Lender would have been entitled to receive with respect to the participation sold to such Participant, except to the extent that the Participant's right to a greater payment results from a Change in Law after the Participant becomes a Participant.

(f) Certain Pledges. Any Lender may at any time pledge or assign a security interest in all or any portion of its rights under this Agreement (including under its Note(s), if any) to secure obligations of such Lender, including any pledge or assignment to secure obligations to a Federal Reserve Bank; provided that no such pledge or assignment shall release such Lender from any of its obligations hereunder or substitute any such pledgee or assignee for such Lender as a party hereto.

SECTION 9.05. Survival . All representations and warranties made hereunder and in any other Loan Document or other document delivered pursuant hereto or thereto or in connection herewith or therewith shall survive the execution and delivery hereof and thereof. Such representations and warranties have been or will be relied upon by the Administrative Agent and each Lender, regardless of any investigation made by the Administrative Agent or any Lender or on their behalf and notwithstanding that the Administrative Agent or any Lender may have

had notice or knowledge of any Default and shall continue in full force and effect as long as any Loan or any other Obligation hereunder shall remain unpaid or unsatisfied. The provisions of Sections 2.14, 2.15, 2.16 and 9.03 and Article VIII shall survive and remain in full force and effect regardless of the consummation of the transactions contemplated hereby, the repayment of the Loans and the Commitments or the termination of this Agreement or any other Loan Document or any provision hereof or thereof.

SECTION 9.06. Counterparts; Integration; Effectiveness. This Agreement may be executed in counterparts (and by different parties hereto on different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. This Agreement, the other Loan Documents and any separate letter agreements referred to herein (solely with respect to the parties thereto) constitute the entire contract among the parties relating to the subject matter hereof and supersede any and all previous agreements and understandings, oral or written, relating to the subject matter hereof. The parties agree that nothing in the Bank Engagement Letter, the Fee Letter, the Agency Fee Letter or any other agreement among any of the parties hereto existing on the date of this Agreement contains any provisions that (i) imposes or would impose any additional conditions to the availability of the Loans or (ii) reduce the Commitment of any Lender, in each case, other than the terms specifically set forth in this Agreement. This Agreement shall become effective when it shall have been executed by the Administrative Agent and when the Administrative Agent shall have received counterparts hereof which, when taken together, bear the signatures of each of the other parties hereto, and thereafter shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns. Delivery of an executed counterpart of a signature page of this Agreement by telecopy or pdf shall be effective as delivery of a manually executed counterpart of this Agreement.

SECTION 9.07. Severability. Any provision of this Agreement held to be invalid, illegal or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such invalidity, illegality or unenforceability without affecting the validity, legality and enforceability of the remaining provisions hereof; and the invalidity of a particular provision in a particular jurisdiction shall not invalidate such provision in any other jurisdiction.

SECTION 9.08. Right of Setoff.

(a) If an Event of Default shall have occurred and be continuing, each Lender and each of its Affiliates is hereby authorized at any time and from time to time, to the fullest extent permitted by law, to set off and apply any and all deposits (general or special, time or demand, provisional or final and in whatever currency denominated) at any time held and other obligations at any time owing by such Lender or Affiliate to or for the credit or the account of the Borrower against any of and all the Obligations of the Borrower now or hereafter existing under this Agreement held by such Lender, irrespective of whether or not such Lender shall have made any demand under this Agreement and although such obligations may be unmatured. The rights of each Lender under this Section are in addition to other rights and remedies (including other rights of setoff) which such Lender may have.

(b) To the extent that any payment by or on behalf of the Borrower is made to the Administrative Agent or any Lender, or the Administrative Agent or any Lender exercises its right of setoff, and such payment or the proceeds of such setoff or any part thereof is subsequently invalidated, declared to be fraudulent or preferential, set aside or required (including pursuant to any settlement entered into by the Administrative Agent or such Lender in its discretion) to be repaid to a trustee, receiver or any other party, in connection with any proceeding under any Debtor Relief Law or otherwise, then (a) to the extent of such recovery, the obligation or part thereof originally intended to be satisfied shall be revived and continued in full force and effect as if such payment had not been made or such setoff had not occurred, and (b) each Lender severally agrees to pay to the Administrative Agent upon demand its applicable share (without duplication) of any amount so recovered from or repaid by the Administrative Agent, plus interest thereon from the date of such demand to the date such payment is made at a rate per annum equal to the applicable Overnight Rate from time to time in effect, in the applicable currency of such recovery or payment. The obligations of the Lenders under clause (b) of the preceding sentence shall survive the payment in full of the Obligations and the termination of this Agreement.

SECTION 9.09. Governing Law; Jurisdiction; Consent to Service of Process.

(a) This Agreement shall be construed in accordance with and governed by the law of the State of New York (without regard to the conflict of law principles thereof to the extent that the application of the laws of another jurisdiction would be required thereby); provided that, for purposes of Section 4.01(j), any determination as to whether there has been any amendment or waiver under the Acquisition Agreement of your obligations to close the Acquisition shall be determined in accordance with the laws of Delaware.

(b) Each of the parties hereto hereby irrevocably and unconditionally submits, for itself and its property, to the exclusive jurisdiction of the Supreme Court of the State of New York sitting in New York County and of the United States District Court of the Southern District of New York sitting in New York County, and any appellate court from any thereof, in any action or proceeding arising out of or relating to this Agreement or any other Loan Document, or for recognition or enforcement of any judgment, and each of the parties hereto hereby irrevocably and unconditionally agrees that all claims in respect of any such action or proceeding may be heard and determined in such New York State or, to the extent permitted by law, in such Federal court. Each of the parties hereto agrees that a final judgment in any such action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law. The foregoing shall not affect any right that any party hereto may otherwise have to bring any action or proceeding relating to this Agreement against any other party or its properties in the courts of any jurisdiction.

(c) Each of the parties hereto hereby irrevocably and unconditionally waives, to the fullest extent it may legally and effectively do so, any objection which it may now or hereafter have to the laying of venue of any suit, action or proceeding arising out of or relating to this Agreement or any other Loan Document in any court referred to in clause (b) of this Section. Each of the parties hereto hereby irrevocably waives, to the fullest extent permitted by law, the defense of an inconvenient forum to the maintenance of such action or proceeding in any such court.

(d) Each party to this Agreement irrevocably consents to service of process in the manner provided for notices in Section 9.01. Nothing in this Agreement or any other Loan Document will affect the right of any party to this Agreement to serve process in any other manner permitted by law.

SECTION 9.10. WAIVER OF JURY TRIAL. EACH PARTY HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY). EACH PARTY HERETO (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PERSON HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PERSON WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.

SECTION 9.11. Headings. Article and Section headings and the Table of Contents used herein are for convenience of reference only, are not part of this Agreement and shall not affect the construction of, or be taken into consideration in interpreting, this Agreement.

SECTION 9.12. Confidentiality. Each of the Administrative Agent and the Lenders agrees to maintain the confidentiality of the Information (as defined below), except that Information may be disclosed (a) to its Affiliates and to its and its Affiliates' respective partners, directors, officers, employees, agents, trustees, advisors and representatives (it being understood that the Persons to whom such disclosure is made will be informed of the confidential nature of such Information and shall have agreed to keep such Information confidential or shall be under a professional obligation to keep such Information confidential, in each case, on terms at least as restrictive as those set forth in this Section), (b) to the extent requested or required by any regulatory authority purporting to have jurisdiction over it (including any self-regulatory authority, such as the National Association of Insurance Commissioners), (c) to the extent required by applicable laws or regulations or by any subpoena or similar legal process pro-

vided, that to the extent practicable and permitted by law, the Borrower has been notified prior to such disclosure so that the Borrower may seek, at the Borrower's sole expense, a protective order or other appropriate remedy, (d) to any other party hereto, (e) to the extent reasonably necessary in connection with the exercise of any remedies hereunder or under any other Loan Document or any action or proceeding relating to this Agreement or any other Loan Document or the enforcement of rights hereunder or thereunder, (f) subject to an agreement containing provisions substantially the same as those of this Section, to (i) any assignee of or Participant in, or any prospective assignee of or Participant in, any of its rights or obligations under this Agreement or (ii) any actual or prospective counterparty (or its advisors) to any swap or derivative transaction relating to a Borrower and its obligations, (g) with the consent of the Borrower or (h) to the extent such Information (x) becomes publicly available other than as a result of a breach of this Section or (y) becomes available to the Administrative Agent, any Lender or any of their respective Affiliates on a nonconfidential basis from a source other than the Borrower. For purposes of this Section, "Information" means all information received from the Borrower or any Subsidiary relating to the Borrower or any Subsidiary or any of their respective businesses, other than any such information that is available to the Administrative Agent or any Lender on a nonconfidential basis prior to disclosure by the Borrower or any Subsidiary. Any Person required to maintain the confidentiality of Information as provided in this Section shall be considered to have complied with its obligation to do so if such Person has exercised the same degree of care to maintain the confidentiality of such Information as such Person would accord to its own confidential information.

Each of the Administrative Agent and the Lenders acknowledges that (a) the Information may include material non-public information concerning the Borrower or a Subsidiary, as the case may be, (b) it has developed compliance procedures regarding the use of material non-public information and (c) it will handle such material non-public information in accordance with applicable Law, including United States Federal and state securities Laws.

SECTION 9.13. USA PATRIOT Act. Each Lender that is subject to the Act (as hereinafter defined) and the Administrative Agent (for itself and not on behalf of any Lender) hereby notifies the Borrower that pursuant to the requirements of the USA PATRIOT Act (Title III of Pub. L. 107-56 (signed into law October 26, 2001)) (the "Act"), it is required to obtain, verify and record information that identifies the Borrower and each other Loan Party, which information includes the name and address of the Borrower and each other Loan Party and other information that will allow such Lender or the Administrative Agent, as applicable, to identify the Borrower and each other Loan Party in accordance with the Act. The Borrower shall, promptly following a request by the Administrative Agent or any Lender, provide all documentation and other information that the Administrative Agent or such Lender requests in order to comply with its ongoing obligations under applicable "know your customer" and anti-money laundering rules and regulations, including the Act.

SECTION 9.14. Interest Rate Limitation. Notwithstanding anything to the contrary contained in any Loan Document, if at any time the interest rate applicable to any Loan, together with all fees, charges and other amounts which are treated as interest on such Loan under applicable Law (collectively the "Charges"), shall exceed the maximum lawful rate (the "Maximum Rate") which may be contracted for, charged, taken, received or reserved by the Lender holding such Loan in accordance with applicable Law, the rate of interest payable in respect of such Loan hereunder, together with all Charges payable in respect thereof, shall be limited to the Maximum Rate and, to the extent lawful, the interest and Charges that would have been payable in respect of such Loan but were not payable as a result of the operation of this Section shall be cumulated and the interest and Charges payable to such Lender in respect of other Loans or periods shall be increased (but not above the Maximum Rate therefor) until such cumulated amount, together with interest thereon at the Federal Funds Effective Rate to the date of repayment, shall have been received by such Lender.

SECTION 9.15. No Fiduciary Duty. In connection with all aspects of each transaction contemplated hereby (including in connection with any amendment, waiver or other modification hereof or of any other Loan Document), the Borrower and each other Loan Party acknowledges and agrees, and acknowledges its Affiliates' understanding, that: (i) (A) the arranging and other services regarding this Agreement provided by the Administrative Agent, the Arrangers and the Syndication Agent are arm's-length commercial transactions between the Borrower, each other Loan Party and their respective Affiliates, on the one hand, and the Administrative Agent, the Arrangers and the Syndication Agent, on the other hand, (B) each of the Borrower and the other Loan Parties has consulted its own legal, accounting, regulatory and tax advisors to the extent it has deemed appropriate, and (C) the Borrower and each other Loan Party is capable of evaluating, and understands and accepts, the terms, risks and conditions of the

transactions contemplated hereby and by the other Loan Documents; (ii) (A) the Administrative Agent, each Arranger, each Syndication Agent and each Lender is and has been acting solely as a principal and, except as expressly agreed in writing by the relevant parties, has not been, is not, and will not be acting as an advisor, agent or fiduciary for the Borrower, any other Loan Party or any of their respective Affiliates, or any other Person and (B) neither the Administrative Agent nor any Arranger, Syndication Agent or Lender has any obligation to the Borrower, any other Loan Party or any of their respective Affiliates with respect to the transactions contemplated hereby except those obligations expressly set forth herein and in the other Loan Documents; and (iii) the Administrative Agent, the Arrangers, the Syndication Agent, the Lenders and their respective Affiliates may be engaged in a broad range of transactions that involve interests that differ from those of the Borrower, the other Loan Parties and their respective Affiliates, and neither the Administrative Agent nor any Arranger, Syndication Agent or Lender has any obligation to disclose any of such interests to the Borrower, any other Loan Party or any of their respective Affiliates. To the fullest extent permitted by law, each of the Borrower and the other Loan Parties hereby waives and releases any claims that it may have against the Administrative Agent, the Arrangers, the Syndication Agent and the Lenders with respect to any breach or alleged breach of agency or fiduciary duty in connection with any aspect of any transaction contemplated hereby.

[Signature Pages Follow]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed by their respective authorized officers as of the day and year first above written.

CONSTELLATION BRANDS, INC.

By: /s/ David Klein
Name: David E. Klein
Title: Senior Vice President and Treasurer

BANK OF AMERICA, N.A., individually as a Lender and as Administrative Agent

By: /s/ Matt Holbrook
Name: Matt Holbrook
Title: Director

JPMORGAN CHASE BANK, N.A.,
individually as a Lender

By: /s/ Tony Yung
Name: Tony Yung
Title: Executive Director

Schedule 2.01

Commitments

See attached Schedule 2.01.

Schedule 2.01

Commitments

| Lender | Bridge A Commitment |
|---|---|
| Bank of America, N.A. | $325,000,000 |
| JPMorgan Chase Bank, N.A. | $325,000,000 |
| **Total** | **$650,000,000** |

| Lender | Bridge B Commitment |
|---|---|
| Bank of America, N.A. | $612,500,000 |
| JPMorgan Chase Bank, N.A. | $612,500,000 |
| **Total** | **$1,225,000,000** |

Schedule 3.01

Subsidiaries[1,2,3]

| Name | Jurisdiction of Incorporation or Formation | Percentage of issued and outstanding Equity Interests Owned by Borrower and its Subsidiaries | Nature of Issued and Outstanding Interests | Type of Subsidiary |
|---|---|---|---|---|
| ALCOFI INC. | New York | 100% of all Equity interests | N/A | |
| Constellation Beers Ltd. | Maryland | 100% of all Equity Interests | N/A | |
| Constellation Leasing, LLC | New York | 100% of all Equity Interests | N/A | |
| Constellation Services LLC | Delaware | 100% of all Equity Interests | N/A | |
| Constellation Brands U.S. Operations, Inc. (f/k/a Constellation Wines U.S., Inc.) | New York | 100% of all Equity Interests | N/A | |
| Franciscan Vineyards, Inc. | Delaware | 100% of all Equity Interests | N/A | |
| Robert Mondavi Investments | California | 100% of all Equity Interests | N/A | |

[1] The Borrower has commitments and obligations to issue shares of its capital stock under certain stock option plans, incentive plans, compensation plans, employee stock purchase plans and other stock-based plans, each of which is publicly filed, and options and other rights to acquire shares of capital stock of the Borrower are held by various Persons pursuant to such plans. As set forth in the Borrower's Certificate of Incorporation, as amended, which has been publicly filed, shares of Class B common stock and Class 1 common stock of the Borrower are convertible into shares of Class A common stock of the Borrower.

[2] In certain cases, the registered owner may have preemptive rights in the shares of the Subsidiary.

[3] Constellation Capital LLC and 3112751 Nova Scotia Company are parties to a Subscription Agreement under which Constellation Capital LLC may acquire certain shares of 3112751 Nova Scotia Company.

| Name | Jurisdiction of Incorporation or Formation | Percentage of issued and outstanding Equity Interests Owned by Borrower and its Subsidiaries | Nature of Issued and Outstanding Interests | Type of Subsidiary |
|---|---|---|---|---|
| Constellation Brands SMO, LLC (f/k/a Spirits Marque One LLC) | Delaware | 100% of all Equity Interests | N/A | |
| Constellation International Holdings Limited | New York | 100% of all Equity Interests | N/A | |
| CWI Holdings LLC | New York | 100% of all Equity Interests | N/A | |
| 3112751 Nova Scotia Company | Nova Scotia | 100% of all Equity Interests | N/A | |
| CB International Finance S.a.r.l. | Luxembourg | 100% of all Equity Interests | N/A | |
| CB Nova Scotia ULC | Nova Scotia | 100% of all Equity Interests | N/A | |
| Constellation Canada Limited Partnership | Ontario | 100% of all Equity Interests | N/A | |
| Constellation Brands New Zealand Limited (f/k/a Constellation New Zealand Limited) | New Zealand | 100% of all Equity Interests | N/A | |
| Nobilo Holdings | New Zealand | 100% of all Equity Interests | N/A | |
| Ruffino S.r.l. | Italy | 100% of all Equity Interests | N/A | |
| Constellation Brands Schenley, Inc. (f/k/a Schenley Distilleries Inc. / Les Distilleries Schenley Inc.) | Canada | 100% of all Equity Interests | N/A | |
| Tenimenti Ruffino S.r.l. | Italy | 100% of all Equity Interests | N/A | |

| Name | Jurisdiction of Incorporation or Formation | Percentage of issued and outstanding Equity Interests Owned by Borrower and its Subsidiaries | Nature of Issued and Outstanding Interests | Type of Subsidiary |
|---|---|---|---|---|
| Constellation Brands Canada, Inc. (f/k/a Vincor International Inc.) | Canada | 100% of all Equity Interests | N/A | |
| Constellation Brands Québec, Inc. / Marques Constellation Québec, Inc. (f/k/a Vincor (Québec) Inc.) | Québec | 100% of all Equity Interests | N/A | |
| Constellation Trading Company, Inc. | New York | 100% of all Equity Interests | N/A | Immaterial Subsidiary[4] |
| Inniskillin Wines Inc. | Ontario | 100% of all Equity Interests | N/A | Immaterial Subsidiary |
| Nobilo Vintners Limited | New Zealand | 100% of all Equity Interests | N/A | Immaterial Subsidiary |
| Spagnol's Wine & Beer Making Supplies Ltd. | Canada | 100% of all Equity Interests | N/A | Immaterial Subsidiary |
| The Hogue Cellars, Ltd. | Washington | 100% of all Equity Interests | N/A | Immaterial Subsidiary[4] |
| Constellation Brands International IBC, Inc. (f/k/a Vincor International IBC Inc.) | Barbados | 100% of all Equity Interests | N/A | Immaterial Subsidiary |

[4] The Borrower will cause this Subsidiary to become a Guarantor.

Schedule 3.06

Disclosed Matters

None.

Schedule 6.01[5]

Existing Indebtedness

Loan/Financing Agreements

1. Project Financing Agreement, dated as of July 31, 2009, between IBM Credit LLC and Constellation Brands, Inc., as amended from time to time, providing a credit facility in an amount of up to $20,000,000.
2. Phase Two Project Financing Agreement, dated as of December 17, 2010, between IBM Credit LLC and Constellation Brands, Inc., providing a credit facility in an amount of up to $10,000,000.
3. Phase Three Project Financing Agreement, dated as of February 14, 2012, between IBM Credit LLC and Constellation Brands, Inc., providing a credit facility in an amount of up to $10,000,000.
4. Software/Services Financing Agreement, dated as of June 24, 2011, between IBM Credit LLC and Constellation Brands, Inc. for a loan of $324,155.29.
5. Revolving Credit Facility Letter Agreement, dated June 28, 2006, between Rabobank Nederland, Canadian Branch, and Vincor International Inc., as amended from time to time, providing a revolving credit facility in an amount up to C$86,000,000.
6. Revolving Cash Advance Facility, dated November 30, 2009, between Coöperatieve Centrale Raiffeisen-Boerenleenbank B.A. and Constellation New Zealand Limited, as amended from time to time, providing a revolving credit facility in an amount up to NZ$10,000,000.
7. Revolving Credit Facility Letter Agreement, dated October 5, 2011, between Coöperatieve Centrale Raiffeisen-Boerenleenbank B.A. and Ruffino S.r.l., providing a revolving credit facility in an amount up to €70,000,000.
8. Scotia Connect Online Service Request Wire Payments Addendum dated March 28, 2007 and CAD Overdraft Facility with a maximum available amount of USD 10 million (overdraft line of credit facility).

Indentures

1. Indenture, dated as of August 15, 2006, among the Borrower, as issuer, the guarantors signatory thereto and BNY Midwest Trust Company, as trustee (the "2006 Indenture").

[5] On June 1, 2012: The name of Constellation Wines U.S., Inc. was changed to Constellation Brands U.S. Operations, Inc.; the name of Constellation New Zealand Limited was changed to Constellation Brands New Zealand Limited; and the name of Vincor International Inc. was changed to Constellation Brands Canada, Inc.

2. Supplemental Indenture No. 1 to the 2006 Indenture, dated as of August 15, 2006, with respect to the 7.25% Senior Notes in the amount of $700,000,000, due in 2016, by and among the Borrower, as issuer, the guarantors named therein and BNY Midwest Trust Company, as trustee.
3. Indenture with respect to the 7.25% Senior Notes in the amount of $700,000,000 due in 2017, dated as of May 14, 2007, among the Borrower, as issuer, the guarantors signatory thereto and The Bank of New York Trust Company, N.A., as trustee.
4. Supplemental Indenture No. 4 to the 2006 Indenture, dated as of December 5, 2007, with respect to the 8 3/8% Senior Notes in the amount of $500,000,000 due in 2014, by and among the Borrower, as issuer, the guarantors named therein and The Bank of New York Trust Company, N.A. (as successor to BNY Midwest Trust Company), as trustee.
5. Indenture, dated as of April 17, 2012, among the Borrower, as issuer, the guarantors signatory thereto and Manufacturers and Traders Trust Company, as trustee (the "2012 Indenture").
6. Supplemental Indenture No. 1 to the 2012 Indenture, dated as of April 17, 2012, with respect to the 6% Senior Notes in the amount of $600,000,000, due in 2022, by and among the Borrower, as issuer, the guarantors signatory thereto and Manufacturers and Traders Trust Company, as trustee.

Guarantees

1. Guaranty, dated December 29, 2011, issued by Constellation Brands, Inc., guaranteeing the obligations of Crown Imports LLC under a certain Office Lease (as amended and/or assigned from time to time) between Crown Imports LLC and South Dearborn, LLC.
2. Guarantee, dated October 7, 2008, issued by Robert Mondavi Investments, guaranteeing the obligations of Opus One Winery, LLC under the Bank of America, N.A. Loan Agreement, up to $19,300,000.
3. Guaranty, dated December 9, 2009, issued by Constellation International Holdings Limited, guaranteeing the obligations of Constellation Capital LLC under the 3112751 Nova Scotia Company Subscription Agreement.
4. Constellation Wines U.S., Inc. remains responsible for obligations under the Califland lease, dated on or around April 1, 2007, which Constellation Wines U.S., Inc. assigned to The Wine Group, LLC.
5. Constellation Wines U.S., Inc. remains responsible for obligations under the Can-Am Produce, Inc. lease, dated on or around April 1, 2007, which Constellation Wines U.S., Inc. assigned to The Wine Group, LLC.

6. Guarantee provided by Constellation Brands, Inc. under the Membership Interest Purchase Agreement, dated June 28, 2012, among Constellation Brands, Inc., Constellation Beers, Ltd., Constellation Brands Beach Holdings, Inc. and Anheuser-Busch InBev SA/NV.

Letters of Credit

1. Letter of Credit #99.95 issued by Banco di Brescia for the account of Ruffino and for the benefit of Agenzia delle Dogane – Duty Tax Office.

2. Letter of Credit #393.95 issued by Banco di Brescia for the account of Ruffino and for the benefit of Agenzia delle Dogane – Duty Tax Office.

3. Letter of Credit #1/12670 issued by Banco di Brescia for the account of Ruffino and for the benefit of Agenzia delle Dogane – Duty Tax Office.

4. Letter of Credit #1/37208 issued by Banco di Brescia for the account of Tenimenti Ruffino and for the benefit of ARTEA – Capital Contributions Vineyard Equ.

5. Letter of Credit #1/37209 issued by Banco di Brescia for the account of Tenimenti Ruffino and for the benefit of ARTEA – Capital Contributions Vineyard Equ.

6. Letter of Credit #1/37242 issued by Banco di Brescia for the account of Tenimenti Ruffino and for the benefit of ARTEA – Capital Contributions Vineyard Equ.

7. Letter of Credit #3/37242 issued by Banco di Brescia for the account of Tenimenti Ruffino and for the benefit of ARTEA – Capital Contributions Vineyard Equ.

8. Letter of Credit #2/37242 issued by Banco di Brescia for the account of Tenimenti Ruffino and for the benefit of ARTEA – Capital Contributions Vineyard Equ.

9. Letter of Credit #0029.0745794.09 issued by La Fondiaria – SAI for the account of Tenimenti Ruffino and for the benefit of ARTEA – Capital Contributions Vineyard Equ.

10. Letter of Credit #820-427-3 issued by Banco Popolare di Bergamo for the account of Tenimenti Ruffino and for the benefit of Municipality of Greve in Chianti – Road Works.

Capital Leases[6] (in an aggregate principal amount of $18,616,457.25, as of May 31, 2012)

1. Xerox lease (including Statement of Work, Services and Solutions Agreement and Services & Solutions Order), dated July 15, 2011, between Constellation Brands, Inc. and Xerox Corporation.

[6] Including all schedules entered into on or prior to May 31, 2012.

2. Pitney Bowes Global Financial Services Lease Agreement, dated June 30, 2011, between Constellation Brands, Inc. and Pitney Bowes.

3. RMAP Master Lease Agreement, dated March 11, 2005, between Constellation Brands, Inc. and Ricoh Corporation.

4. Master Equipment Lease Agreement No. 36264, dated as of September 4, 2007, between Constellation Wines U.S., Inc. and Banc of America Leasing & Capital, LLC (successor to Fleet Capital Corporation) (including, without limitation, Lease Schedule No. 41375-11500-004 and Lease Schedule No. 41375-11500-005).

5. Master Equipment Lease, dated October 6, 2010, between Constellation Wines U.S., Inc. (successor-by-assignment to Constellation Brands, Inc.) and Manufacturers and Traders Trust Company.

6. Master Equipment Lease, dated January 11, 2010, between Constellation Wines U.S., Inc. and Watts Equipment Company.

7. Master Equipment Lease, dated August 8, 2011, between Constellation Wines U.S., Inc. and Farm Credit Leasing Services Corporation.

8. Master Equipment Lease, dated August 15, 2011, between Constellation Wines U.S., Inc. and Wells Fargo Equipment Finance, Inc.

9. Lease, dated February 27, 2004, between Ruffino S.r.l. and Centro Leasing Spa.

10. Master Equipment Lease, dated April 25, 2012, between Constellation Wines U.S., Inc. and U.S. Bank Equipment Finance, a division of U.S. Bank National Association.

Miscellaneous

1. Investments listed on Schedule 6.05(g) that also constitute Indebtedness for purposes of Section 6.01 of this Agreement.

2. Global Commercial Services Account Agreement, dated September 22, 2010, among American Express Travel Related Services Company, Inc. and its Global Related Entities, Constellation Brands, Inc., Crown Imports LLC and certain subsidiaries of Constellation Brands, Inc.

Schedule 6.02

Existing Liens[7]

1. Liens arising under the capital leases set forth on Schedule 6.01 under the heading "Capital Leases".

[7] All operating and synthetic leases of the Borrower and its Subsidiaries have been omitted.

Schedule 6.05(g)

Investments

Joint Ventures

1. Crown Imports LLC (50% owned by Constellation Beers Ltd.).
2. Opus One Winery LLC (50% owned by Robert Mondavi Investments).
3. Wicer, LLC (33.46% owned by Constellation Brands U.S. Operations, Inc.).[8]
4. Accolade Wines Holdings Europe Limited (less than 19.9% owned by Constellation International Holdings Limited).[8]
5. Accolade Wines Holdings Australia Pty Ltd ACN 103 359 299 (less than 19.9% owned by CWI Holdings LLC).[8]
6. L.O. Smith AB (9.99% owned by Constellation Brands SMO, LLC).[8]
7. Crew Wine Company LLC (35% owned by CBUS Crew Holdings, Inc.).[8]
8. Valleyfield Vineyard Partnership (60% owned by Nobilo Vintners Limited).[8]
9. Springfield Partnership (24.9% owned by Nobilo Vintners Limited).[8]
10. Kikowhero Partnership (50% owned by Nobilo Vintners Limited).[8]
11. Okanagan Wine Shops Limited (66.7% owned by Constellation Brands Canada, Inc.).[8]
12. Nk'Mip Cellars Inc. (a minority interest is owned by Constellation Brands Canada, Inc.).[8]
13. Okanagan Estate Cellars Ltd. (25% owned by Constellation Brands Canada, Inc.).[8]
14. Brant Oil & Gas Company Limited (57% owned by Constellation Brands Canada, Inc.).[8]
15. Osoyoos Larose Estate Winery Ltd. (50% owned by Constellation Brands Canada, Inc.).[8]
16. Project Compass (as previously disclosed in writing to the Initial Lenders).
17. Project Pioneer (as previously disclosed in writing to the Initial Lenders).

[8] All ownership percentages are approximate.

Miscellaneous

1. Indebtedness listed on Schedule 6.01 that also constitutes an Investment for purposes of Section 6.05 of this Agreement.

Schedule 9.01

Notices

BORROWER:

Constellation Brands, Inc.
207 High Point Drive, Bldg. 100
Victor, NY 14564
Attn: Treasurer
Facsimile: 585-678-7108

with a copy to:

Constellation Brands, Inc.
207 High Point Drive, Bldg. 100
Victor, NY 14564
Attn: General Counsel
Facsimile: 585-678-7119

and

Nixon Peabody LLP
100 Summer Street
Boston, MA 02110
Attn: Craig Mills, Esq.
Phone: 617-345-1219
Facsimile: 866-947-1553
Email: cmills@nixonpeabody.com

ADMINISTRATIVE AGENT:

*Administrative Agent's Office*

*(for payments and Borrowing Requests)*

James Underwood
Bank of America NA
Mail Code NC1-001-04-39
One Independence Center
101 N Tryon St
Charlotte, NC 28255
Phone: 980-683-2812
Facsimile: 704-548-5646
Email: james.a.underwood@baml.com

*Other Notices as Administrative Agent:*

Angelo Martorana
Bank of America, N.A.
Mail Code: TX1-492-14-11
901 Main Street
Dallas, Texas 75202-3714
Phone: 312-828-7933
Facsimile: 877-206-8415
Email: angelo.m.martorana@baml.com

With a copy to:

Cahill Gordon & Reindel LLP
80 Pine Street
New York, New York 10005
Attention: Corey Wright, Esq
Phone: 212-701-3165
Facsimile: 212-701-3165

and

Colleen M. O'Brien
Bank of America N.A.
Mail code NY7-144-10-03
One East Avenue, 10th Floor
Rochester, NY 14638
Phone: 585-546-9362
Facsimile: 312-453-6274
Email: colleen.m.O'brien@baml.com

*EXHIBIT A*

**FORM OF ASSIGNMENT AND ASSUMPTION**

This Assignment and Assumption (this "Assignment and Assumption") is dated as of the Effective Date set forth below and is entered into by and between [the][each] Assignor identified in item 1 below ([the][each, an] "Assignor") and [the][each] Assignee identified in item 2 below ([the][each, an] "Assignee"). [It is understood and agreed that the rights and obligations of [the Assignors][the Assignees] hereunder are several and not joint.] Capitalized terms used but not defined herein shall have the meanings given to them in the Interim Loan Agreement identified below (the "Credit Agreement"), receipt of a copy of which is hereby acknowledged by the Assignee. The Standard Terms and Conditions set forth in Annex 1 attached hereto are hereby agreed to and incorporated herein by reference and made a part of this Assignment and Assumption as if set forth herein in full.

For an agreed consideration, [the][each] Assignor hereby irrevocably sells and assigns to [the Assignee][the respective Assignees], and [the][each] Assignee hereby irrevocably purchases and assumes from [the Assignor][the respective Assignors], subject to and in accordance with the Standard Terms and Conditions and the Credit Agreement, as of the Effective Date inserted by the Administrative Agent as contemplated below (i) all of [the Assignor's][the respective Assignors'] rights and obligations in [its capacity as a Lender][their respective capacities as Lenders] under the Credit Agreement and any other documents or instruments delivered pursuant thereto to the extent related to the amount and percentage interest identified below of all of such outstanding rights and obligations of [the Assignor][the respective Assignors] under the respective facilities identified below and (ii) to the extent permitted to be assigned under applicable law, all claims, suits, causes of action and any other right of [the Assignor (in its capacity as a Lender)][the respective Assignors (in their respective capacities as Lenders)] against any Person, whether known or unknown, arising under or in connection with the Credit Agreement, any other documents or instruments delivered pursuant thereto or the loan transactions governed thereby or in any way based on or related to any of the foregoing, including, but not limited to, contract claims, tort claims, malpractice claims, statutory claims and all other claims at law or in equity related to the rights and obligations sold and assigned pursuant to clause (i) above (the rights and obligations sold and assigned by [the][any] Assignor to [the][any] Assignee pursuant to clauses (i) and (ii) above being referred to herein collectively as [the][an] "Assigned Interest"). Each such sale and assignment is without recourse to [the][any] Assignor and, except as expressly provided in this Assignment and Assumption, without representation or warranty by [the][any] Assignor.

1. Assignor[s]: _____

_____

2. Assignee[s]: _____

[for each Assignee, indicate [Affiliate][Approved Fund] of [*identify Lender*]]

3. Borrower: Constellation Brands, Inc.

4. Administrative Agent: Bank of America, N.A., as the administrative agent under the Credit Agreement

5. Credit Agreement: Interim Loan Agreement, dated as of June 28, 2012, among Constellation Brands, Inc., the Lenders from time to time party thereto, and Bank of America, N.A., as Administrative Agent.

6. Assigned Interest:

| Assignor[s] | Assignee[s] | Facility Assigned | Aggregate Amount of Commitment/Loans for all Lenders | Amount of Commitment/ Loans Assigned | Percentage Assigned of Commitment/ Loans | CUSIP Number |
|---|---|---|---|---|---|---|
| | | | $_____ | $_____ | _____% | |
| | | | $_____ | $_____ | _____% | |
| | | | $_____ | $_____ | _____% | |

[7. Trade Date: _____]

Effective Date: _____, 20__ [TO BE INSERTED BY ADMINISTRATIVE AGENT AND WHICH SHALL BE THE EFFECTIVE DATE OF RECORDATION OF TRANSFER IN THE REGISTER THEREFOR.]

The terms set forth in this Assignment and Assumption are hereby agreed to:

ASSIGNOR
[NAME OF ASSIGNOR]

By: _____
Title:

ASSIGNEE
[NAME OF ASSIGNEE]

By: _____
Title:

[Consented to and] Accepted:

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

By: _____
Title:

[Consented to:]

By: _____
Title:

[Consented to:

CONSTELLATION BRANDS, INC.

By: _____
Name:
Title:][1]

[1] To be included only if Borrower's consent is required by Section 9.04 of the Credit Agreement.

**STANDARD TERMS AND CONDITIONS FOR ASSIGNMENT AND ASSUMPTION**

1. Representations and Warranties.

1.1. Assignor. [The][Each] Assignor (a) represents and warrants that (i) it is the legal and beneficial owner of [the][[the relevant] Assigned Interest, (ii) [the][such] Assigned Interest is free and clear of any lien, encumbrance or other adverse claim and (iii) it has full power and authority, and has taken all action necessary, to execute and deliver this Assignment and Assumption and to consummate the transactions contemplated hereby; and (b) assumes no responsibility with respect to (i) any statements, warranties or representations made in or in connection with the Credit Agreement or any other Loan Document, (ii) the execution, legality, validity, enforceability, genuineness, sufficiency or value of the Loan Documents or any collateral thereunder, (iii) the financial condition of the Borrower, any of its Subsidiaries or Affiliates or any other Person obligated in respect of any Loan Document or (iv) the performance or observance by the Borrower, any of its Subsidiaries or Affiliates or any other Person of any of their respective obligations under any Loan Document.

1.2. Assignee. [The][Each] Assignee (a) represents and warrants that (i) it has full power and authority, and has taken all action necessary, to execute and deliver this Assignment and Assumption and to consummate the transactions contemplated hereby and to become a Lender under the Credit Agreement, (ii) it meets all the requirements to be an assignee under Section 9.04(b)(iii), (v) and (vi) of the Credit Agreement (subject to such consents, if any, as may be required under Section 9.04(b)(iii) of the Credit Agreement), (iii) from and after the Effective Date, it shall be bound by the provisions of the Credit Agreement as a Lender thereunder and, to the extent of [the][the relevant] Assigned Interest, shall have the obligations of a Lender thereunder, (iv) it is sophisticated with respect to decisions to acquire assets of the type represented by [the][such] Assigned Interest and either it, or the Person exercising discretion in making its decision to acquire [the][such] Assigned Interest, is experienced in acquiring assets of such type, (v) it has received a copy of the Credit Agreement, and has received or has been accorded the opportunity to receive copies of the most recent financial statements delivered pursuant to Section 5.01(a) and (b) thereof, as applicable, and such other documents and information as it deems appropriate to make its own credit analysis and decision to enter into this Assignment and Assumption and to purchase [the][such] Assigned Interest, (vi) it has, independently and without reliance upon the Administrative Agent or any other Lender and based on such documents and information as it has deemed appropriate, made its own credit analysis and decision to enter into this Assignment and Assumption and to purchase [the][such] Assigned Interest, and (vii) if it is a Foreign Lender, attached hereto is any documentation required to be delivered by it pursuant to the terms of the Credit Agreement, duly completed and executed by [the][such] Assignee; and (b) agrees that (i) it will, independently and without reliance upon the Administrative Agent, [the][any] Assignor or any other Lender, and based on such documents and information as it shall deem appropriate at the time, continue to make its own credit decisions in taking or not taking action under the Loan Documents, and

(ii) it will perform in accordance with their terms all of the obligations which by the terms of the Loan Documents are required to be performed by it as a Lender.

2. Payments. From and after the Effective Date, the Administrative Agent shall make all payments in respect of [the][each] Assigned Interest (including payments of principal, interest, fees and other amounts) to [the][the relevant] Assignor for amounts which have accrued to but excluding the Effective Date and to [the][the relevant] Assignee for amounts which have accrued from and after the Effective Date.

3. General Provisions. This Assignment and Assumption shall be binding upon, and inure to the benefit of, the parties hereto and their respective successors and assigns. This Assignment and Assumption may be executed in any number of counterparts, which together shall constitute one instrument. Delivery of an executed counterpart of a signature page of this Assignment and Assumption by telecopy shall be effective as delivery of a manually executed counterpart of this Assignment and Assumption. This Assignment and Assumption shall be governed by, and construed in accordance with, the law of the State of New York without regard to the conflict of law principles thereof to the extent that the application of the laws of another jurisdiction would be required thereby.

***EXHIBIT B***

**FORM OF NOTE**

_____, ____

FOR VALUE RECEIVED, the undersigned (the "Borrower"), hereby promises to pay to _____ or registered assigns (the "Lender"), in accordance with the provisions of the Agreement (as hereinafter defined), the principal amount of the [Bridge A Loan/Bridge B Loan] from time to time made by the Lender to the Borrower under that certain Interim Loan Agreement, dated as of June 28, 2012 (as amended, restated, extended, supplemented or otherwise modified in writing from time to time, the "Agreement;" the terms defined therein being used herein as therein defined), among the Borrower, the Lenders from time to time party thereto, and Bank of America, N.A., as Administrative Agent.

The Borrower promises to pay interest on the unpaid principal amount of the [Bridge A Loan/Bridge B Loan] made by the Lender from the date of such Loan until such principal amount is paid in full, at such interest rates and at such times as provided in the Agreement. All payments of principal and interest shall be made to the Administrative Agent for the account of the Lender in Dollars in immediately available funds at the Administrative Agent's Office. If any amount is not paid in full when due hereunder, such unpaid amount shall bear interest, to be paid upon demand, from the due date thereof until the date of actual payment (and before as well as after judgment) computed at the per annum rate set forth in the Agreement.

This Note is one of the Notes referred to in the Agreement, is entitled to the benefits thereof and may be prepaid in whole or in part subject to the terms and conditions provided therein. This Note is also entitled to the benefits of the Guarantee Agreement. Upon the occurrence and continuation of one or more of the Events of Default specified in the Agreement, all amounts then remaining unpaid on this Note shall become, or may be declared to be, immediately due and payable all as provided in the Agreement. The [Bridge A Loan/Bridge B Loan] made by the Lender shall be evidenced by one or more loan accounts or records maintained by the Lender in the ordinary course of business. The Lender may also attach schedules to this Note and endorse thereon the date, amount and maturity of its [Bridge A Loans/Bridge B Loans] and payments with respect thereto.

The Borrower hereby waives diligence, presentment, protest and demand and notice of protest, demand, dishonor and non-payment of this Note.

THE ASSIGNMENT OF THIS NOTE AND ANY RIGHTS WITH RESPECT THERETO IS SUBJECT TO THE PROVISIONS OF THE AGREEMENT INCLUDING THE PROVISIONS GOVERNING THE REGISTER AND THE PARTICIPANT REGISTER.

THIS NOTE SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK WITHOUT REGARD TO THE CONFLICT OF LAW PRINCIPLES THEREOF TO THE EXTENT THAT THE APPLICATION OF THE LAWS OF ANOTHER JURISDICTION WOULD BE REQUIRED THEREBY.

EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY AND UNCONDITIONALLY SUBMITS, FOR ITSELF AND ITS PROPERTY, TO THE EXCLUSIVE JURISDICTION OF THE SUPREME COURT OF THE STATE OF NEW YORK SITTING IN NEW YORK COUNTY AND OF THE UNITED STATES DISTRICT COURT OF THE SOUTHERN DISTRICT OF NEW YORK, AND ANY APPELLATE COURT FROM ANY THEREOF, IN ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS NOTE, OR FOR RECOGNITION OR ENFORCEMENT OF ANY JUDGMENT, AND EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY AND UNCONDITIONALLY AGREES THAT ALL CLAIMS IN RESPECT OF ANY SUCH ACTION OR PROCEEDING MAY BE HEARD AND DETERMINED IN SUCH NEW YORK STATE OR, TO THE EXTENT PERMITTED BY LAW, IN SUCH FEDERAL COURT.

CONSTELLATION BRANDS, INC.

By: _____

Name:
Title:

LOANS AND PAYMENTS WITH RESPECT THERETO

| Date | Class of Loan Made | Amount of Loan Made | End of Interest Period | Amount of Principal or Interest Paid This Date | Outstanding Principal Balance This Date | Notation Made By |
|---|---|---|---|---|---|---|

***EXHIBIT C***

**FORM OF SOLVENCY CERTIFICATE**

SOLVENCY CERTIFICATE

of

CONSTELLATION BRANDS, INC.
AND ITS SUBSIDIARIES

**[ ], 201[ ]**

This certificate is furnished pursuant to Section 4.01(d) of the Credit Agreement, dated as of June 28, 2012 (the "**Credit Agreement**"), among Constellation Brands, Inc., a Delaware corporation (the "**Borrower**"), the Lenders from time to time party thereto, Bank of America, N.A., as Administrative Agent thereunder and the other parties from time to time party thereto. Terms used but not defined herein shall have the meaning ascribed to them in the Credit Agreement.

The undersigned hereby certifies, solely in such undersigned's capacity as [Title] of the Borrower, and not individually, that the Borrower and its Subsidiaries (taken as a whole), on the Closing Date after giving effect to the Transactions, are Solvent. "Solvent" as used herein means, with respect to any Person on any date of determination, that on such date (a) the fair value of the property of such Person is greater than the total amount of liabilities, including contingent liabilities, of such Person, (b) the present fair saleable value of the assets of such Person is not less than the amount that will be required to pay the probable liability of such Person on its debts as they become absolute and matured, (c) such Person does not intend to, and does not believe that it will, incur debts or liabilities beyond such Person's ability to pay such debts and liabilities as they become absolute and matured and (d) such Person is not engaged in any business, as conducted on such date and as proposed to be conducted following such date, for which such Person's property would constitute an unreasonably small capital. The amount of contingent liabilities at any time shall be computed as the amount that, in the light of all the facts and circumstances existing at such time, represents the amount that can reasonably be expected to become an actual or matured liability.

The undersigned is familiar with the business and financial position of the Borrower and its Subsidiaries. In reaching the conclusions set forth in this Solvency Certificate, the undersigned has made such other investigations and inquiries as the undersigned has deemed appropriate.

[*Signature Page Follows*]

IN WITNESS WHEREOF, the undersigned has executed this Certificate in such undersigned's capacity as [Title] of the Borrower, on behalf of the Borrower, and not individually, as of the date first stated above.

CONSTELLATION BRANDS, INC.

By: _____
Name:
Title:

**TERMS OF EXCHANGE NOTES**

[SEE ATTACHED]

**Exhibit D**
**Summary Terms of Exchange Notes**

Set forth below is a summary of the required terms of the Exchange Notes. To the extent not specified below, all terms of the Exchange Notes shall be consistent with the terms of the indenture governing the Borrower's existing 6% senior notes due 2022 (the "2022 Notes Indenture").

| | |
|---|---|
| **Issuer:** | Constellation Brands, Inc. |
| **Guarantors:** | Same as the Senior Secured Credit Agreement. |
| **Final Maturity Date:** | 8 years after the Closing Date |
| **Interest:** | The Exchange Notes will accrue interest at a per annum rate equal to the Total Cap. Interest will be computed on the basis of a year of 360 days consisting of twelve months of 30 days. |
| **Interest Payment Dates:** | A date selected by the Arrangers that is within thirty days of the first date of issuance of Exchange Notes and a date that is 6 calendar months after such initial date. |
| **Record Dates:** | The dates selected by the Arrangers in accordance with industry custom. |
| **First Interest Payment Date:** | The interest payment date that is closest to 6 months after the first date of issuance of Exchange Notes. |
| **Optional Redemption:** | The Company may redeem some or all of the Exchange Notes at any time at a redemption price equal to the greater of<br>• 100% of the principal amount of the Exchange Notes being redeemed; and<br>• the sum of the present values of the remaining scheduled payments of principal and interest on the notes being redeemed (excluding interest accrued to the redemption date) from the redemption date to the maturity date discounted to the date of redemption on a semi-annual basis (assuming a 360-day year consisting of twelve 30-day months) at a discount rate equal to the Treasury Rate (to be defined in a manner consistent with the definition in the 2022 Notes Indenture) plus 50 basis points. |

| | |
|---|---|
| | The Company will also pay accrued and unpaid interest on the notes to the redemption date. |
| **Mandatory Offer to Redeem Upon Change of Control:** | Same as the 2022 Notes Indenture. |
| **Covenants and Events of Default:** | Same as the 2022 Notes Indenture. |
| **Documentation:** | The Borrower will use commercially reasonable efforts to cause the Exchange Notes to have CUSIP numbers and to trade through DTC. Upon issuance, the Exchange Notes will be subject to transfer restrictions customary for debt securities sold in reliance on private placement exemptions from the registration requirements of the Securities Act of 1933 and the Exchange Notes Indenture will contain customary restrictions on transfers to ensure compliance with the Securities Act. |
| **Exchange Notes Registration Rights Agreement:** | The Borrower, the Guarantors and the Arrangers shall enter into a registration rights agreement having the principal terms set forth on Annex I hereto and otherwise reasonably satisfactory to the Borrower and the Arrangers. |

**Annex I**

Pursuant to the Exchange Notes Registration Rights Agreement, the Borrower and the Guarantors will agree, at their expense, to:

- File with the SEC, or otherwise designate an existing registration statement filed with the SEC, prior to or on the 90th day after the earliest date of original issuance of any of the Exchange Notes, a shelf registration statement on an appropriate form covering resales by holders of all Registrable Securities (as defined below) (such 90th day, the "*filing target date*");
- Use reasonable best efforts to cause such shelf registration statement to become effective as promptly as is practicable, but in any event prior to or on the 180th day after the earliest date of original issuance of any of the Exchange Notes (such 180th day, the "*effectiveness target date*"); and
- Use reasonable best efforts to keep the shelf registration statement effective with respect to the Registrable Securities; provided that in no event shall there be any requirement to keep the shelf registration statement effective beyond the second anniversary of the earliest date of original issuance of any of the Exchange Notes.

"*Registrable Securities*" means each Exchange Note and related guarantees until the earlier of (i) the date on which such Exchange Note and related guarantees have been sold or otherwise transferred pursuant to an effective shelf registration statement; and (ii) the date that is two years after the initial issuance of Exchange Notes under the Exchange Notes Indenture (subject to extension for a period of time equal to the aggregate period of time during which the Borrower has suspended the availability of the prospectus as contemplated below).

The Borrower will also agree to provide to each holder or Exchange Notes copies of the prospectus contained in the shelf registration statement, notify each such holder when the shelf registration statement has become effective and take certain other actions as are required to permit unrestricted resales of the Exchange Notes and related guarantees. A holder who sells Exchange Notes pursuant to the shelf registration statement generally will be required to be named a selling security holder in the related prospectus and to deliver a prospectus to purchasers and will be bound by the provisions of the Exchange Notes Registration Rights Agreement which are applicable to that holder (including certain indemnification and contribution provisions). If a shelf registration statement covering those securities is not effective, they may not be sold or otherwise transferred except pursuant to an exemption from registration under the Securities Act and any other applicable securities laws or in a transaction not subject to those laws.

The Borrower may suspend the holders' use of the prospectus for a maximum of 45 days in any 90-day period, and not to exceed an aggregate of 90 days in any 12-month period, if the Borrower, in good faith, determines that because of valid business reasons (not including avoidance of its obligations under the Exchange Notes Registration Rights Agreement), including without

limitation proposed or pending corporate developments and similar events or because of filings with the SEC, it is in the Borrower's best interests to suspend such use. The Borrower need not specify the nature of the event giving rise to a suspension in any notice to holders of the Exchange Notes of the existence of such suspension.

Each of the following is a "*registration default*":

- the shelf registration statement has not been filed (or designated) with the SEC prior to or on the filing target date; or
- the shelf registration statement has not become effective prior to the effectiveness target date; or
- the registration statement shall cease to be effective, become effective and then cease to be effective or fail to be usable (exclusive of any suspension period referenced in the previous paragraph) without being succeeded by a post-effective amendment or a report filed with the SEC that cures the failure of the registration statement to be effective or usable.

If a registration statement default occurs, liquidated damages in the form of additional interest ("*additional interest*") will accrue on the Exchange Notes that are Registrable Securities, from and including the day following the registration default to but excluding the earlier of (1) the day on which the registration default has been cured and (2) the first day on which there are no longer any Registrable Securities. Liquidated damages will be paid semi-annually in arrears, with the first semi-annual payment due on the first interest payment date, as applicable, following the date on which such liquidated damages begin to accrue, and will accrue at a rate equal to 0.25% per annum of the principal amount of an Exchange Note that is a Registrable Security to and including the 90th day following such registration default. Thereafter, interest shall increase by an additional 0.25% at the beginning of each subsequent 90 day period. Such interest shall be payable on the regular interest payment dates for the Exchange Notes. In no event will liquidated damages accrue at a rate per year exceeding 1.00% or on any Exchange Note that is not a Registrable Security. The holder's right to liquidated damages in the form of additional interest shall be its sole remedy in the event of a registration default.

Holders of Exchange Notes will be required to deliver a questionnaire with certain information to be used in connection with the shelf registration statement. In order to sell Exchange Notes and related guarantees pursuant to the shelf registration statement, a holder must complete and deliver the questionnaire to the Borrower. To be named as a selling securityholder in the related prospectus at the time of effectiveness of the shelf registration statement, a holder must complete and deliver the questionnaire to the Borrower on or prior to the tenth business day before the effectiveness of the shelf registration statement.

Upon receipt of a completed questionnaire after effectiveness of the shelf registration statement, together with any other information the Borrower may reasonably request, the Borrower will, within 15 business days of such receipt, or within 15 business days of the end of any period during which the Borrower has suspended use of the prospectus, file any amendments to the shelf registration statement or supplements to the related prospectus as are necessary to permit such

holder to deliver a prospectus to purchasers of Exchange Notes and related guarantees sold pursuant to the shelf registration statement; provided, however, that the Borrower will not be required to file any such amendment or supplement on more than one occasion per calendar quarter.

If a holder does not timely complete and deliver a questionnaire or provide such other information the Borrower may request, the holder will not be named as a selling security holder in the prospectus (and therefore will not be permitted to sell any securities pursuant to the shelf registration statement) and will not be entitled to any of the liquidated damages described above.

Notwithstanding anything in the Indenture or this Annex I to the contrary, if the Borrower determines that any Registrable Securities of any holder issued under the Exchange Notes Indenture are eligible for a registered exchange offer in reliance on the position of the SEC in Exxon Capital Holdings Corporation (pub. avail. May 13, 1988) and Morgan Stanley and Co., Inc. (pub. avail. June 5, 1991) in lieu of registering such Registrable Securities of such holder pursuant to a shelf registration statement, the Borrower may, without the consent of any holder of the Exchange Notes, cause the Indenture to be amended in order to provide for customary provisions allowing the issuance of exchange notes identical in all material respects to the Exchange Notes (except that such new exchange notes shall not provide for registration rights or liquidated damages) in such exchange offer and may perform a registered exchange offer for such Registrable Securities on customary terms pursuant to procedures to be reasonably agreed upon with the Arrangers. The Exchange Offer Registration Rights Agreement will provide that in connection with an exchange offer, the Borrower and the Guarantors will, at their expense, file an exchange offer registration statement prior to or on the 90th day after the earliest date of original issuance of any of the Exchange Notes, use reasonable best efforts to cause such registration statement to become effective prior to or on the 180th day after the earliest date of original issuance of any of the Exchange Notes and use reasonable best efforts to consummate the exchange offer prior to or on the 220th day after the earliest date of original issuance of any of the Exchange Notes. Additional interest for failure to meet any such deadline will accrue as set forth above.

***EXHIBIT E***

**FORM OF BORROWING REQUEST**

Date: _____, _____

To: Bank of America, N.A., as Administrative Agent

Ladies and Gentlemen:

Reference is made to that certain Interim Loan Agreement, dated as of June 28, 2012 (as amended, restated, extended, supplemented or otherwise modified in writing from time to time, the "Agreement;" the terms defined therein being used herein as therein defined), among Constellation Brands, Inc., a Delaware corporation (the "Borrower"), the Lenders from time to time party thereto, and Bank of America, N.A., as Administrative Agent.

The undersigned hereby requests (select one):

☐ A borrowing of [Bridge A][Bridge B] Loans

1. On_____(the Closing Date, which shall be a Business Day).

2. In the amount of_____

3. To_____

[Account Number]

The Borrower hereby represents and warrants that the condition specified in Section 4.01(k) shall be satisfied on and as of the Closing Date.

**CONSTELLATION BRANDS, INC.**

By: _____
Name:
Title:

[FORM OF]

U.S. TAX CERTIFICATE

(For Foreign Lenders That Are Not Partnerships For U.S. Federal Income Tax Purposes)

Reference is made to that certain Interim Loan Agreement, dated as of June 28, 2012 (as amended, restated, extended, supplemented or otherwise modified in writing from time to time (the "Agreement")), among Constellation Brands, Inc., a Delaware corporation (the "Company"), the Lenders from time to time party thereto, and Bank of America, N.A., as Administrative Agent. Unless otherwise defined herein, terms defined in the Agreement and used herein shall have the meanings given to them in the Agreement.

Pursuant to the provisions of Section 2.16(d) of the Agreement, the undersigned hereby certifies that (i) it is the sole record and beneficial owner of the Loan(s) (as well as any note(s) evidencing such Loan(s)) in respect of which it is providing this certificate, (ii) it is not a bank within the meaning of Section 881(c)(3)(A) of the Code, (iii) it is not a ten percent shareholder of the Company within the meaning of Section 871(h)(3)(B) of the Code and (iv) it is not a controlled foreign corporation related to the Company as described in Section 881(c)(3)(C) of the Code.

The undersigned has furnished the Administrative Agent and the Company with a certificate of its non-U.S. person status on IRS Form W-8BEN. By executing this certificate, the undersigned agrees that (1) if the information provided on this certificate changes, the undersigned shall promptly so inform the Company and the Administrative Agent and (2) the undersigned shall have at all times furnished the Company and the Administrative Agent with a properly completed and currently effective certificate in either the calendar year in which each payment is to be made to the undersigned, or in either of the two calendar years preceding such payments.

Unless otherwise defined herein, terms defined in the Agreement and used herein shall have the meanings given to them in the Agreement.

[NAME OF LENDER]

By: _____
Name:
Title:

Date: _____ ____, 20[ ]

[FORM OF]
U.S. TAX CERTIFICATE
(For Foreign Lenders That Are Partnerships For U.S. Federal Income Tax Purposes)

Reference is made to that certain Interim Loan Agreement, dated as of June 28, 2012 (as amended, restated, extended, supplemented or otherwise modified in writing from time to time (the "Agreement")), among Constellation Brands, Inc., a Delaware corporation (the "Company"), the Lenders from time to time party thereto, and Bank of America, N.A., as Administrative Agent. Unless otherwise defined herein, terms defined in the Agreement and used herein shall have the meanings given to them in the Agreement.

Pursuant to the provisions of Section 2.16(d) of the Agreement, the undersigned hereby certifies that (i) it is the sole record owner of the Loan(s) (as well as any note(s) evidencing such Loan(s)) in respect of which it is providing this certificate, (ii) its direct or indirect partners/members are the sole beneficial owners of such Loan(s) (as well as any note(s) evidencing such Loan(s)), (iii) with respect to the extension of credit pursuant to the Agreement, neither the undersigned nor any of its direct or indirect applicable partners/members is a bank within the meaning of Section 881(c)(3)(A) of the Code, (iv) none of its direct or indirect applicable partners/members is a ten percent shareholder of the Company within the meaning of Section 871(h)(3)(B) of the Code and (v) none of its direct or indirect applicable partners/members is a controlled foreign corporation related to the Company as described in Section 881(c)(3)(C) of the Code.

The undersigned has furnished the Administrative Agent and the Company with IRS Form W-8IMY accompanied by one of the following forms from each of its partners/members that is claiming the portfolio interest exemption: (i) an IRS Form W-8BEN or (ii) an IRS Form W-8IMY accompanied by an IRS Form W-8BEN from each such partner's/member's beneficial owner that is claiming the portfolio interest exemption. By executing this certificate, the undersigned agrees that (1) if the information provided on this certificate changes, the undersigned shall promptly so inform the Company and the Administrative Agent and (2) the undersigned shall have at all times furnished the Company and the Administrative Agent with a properly completed and currently effective certificate in either the calendar year in which each payment is to be made to the undersigned, or in either of the two calendar years preceding such payments.

Unless otherwise defined herein, terms defined in the Agreement and used herein shall have the meanings given to them in the Agreement.

[NAME OF LENDER]

By: _____
Name:
Title:
Date: _____ ____, 20[ ]

[FORM OF]

U.S. TAX CERTIFICATE

(For Non-U.S. Participants That Are Not Partnerships For U.S. Federal Income Tax Purposes)

Reference is made to that certain Interim Loan Agreement, dated as of June 28, 2012 (as amended, restated, extended, supplemented or otherwise modified in writing from time to time (the "Agreement")), among Constellation Brands, Inc., a Delaware corporation (the "Company"), the Lenders from time to time party thereto, and Bank of America, N.A., as Administrative Agent. Unless otherwise defined herein, terms defined in the Agreement and used herein shall have the meanings given to them in the Agreement.

Pursuant to the provisions of Section 2.16(d) of the Agreement, the undersigned hereby certifies that (i) it is the sole record and beneficial owner of the participation in respect of which it is providing this certificate, (ii) it is not a bank within the meaning of Section 881(c)(3)(A) of the Code, (iii) it is not a ten percent shareholder of the Company within the meaning of Section 871(h)(3)(B) of the Code and (iv) it is not a controlled foreign corporation related to the Company as described in Section 881(c)(3)(C) of the Code.

The undersigned has furnished its participating Lender with a certificate of its non-U.S. person status on IRS Form W-8BEN. By executing this certificate, the undersigned agrees that (1) if the information provided on this certificate changes, the undersigned shall promptly so inform such Lender in writing and (2) the undersigned shall have at all times furnished such Lender with a properly completed and currently effective certificate in either the calendar year in which each payment is to be made to the undersigned, or in either of the two calendar years preceding such payments.

Unless otherwise defined herein, terms defined in the Agreement and used herein shall have the meanings given to them in the Agreement.

[NAME OF PARTICIPANT]

By: _____
Name:
Title:

Date: _____, ____ 20[ ]

[FORM OF]
U.S. TAX CERTIFICATE
(For Non-U.S. Participants That Are Partnerships For U.S. Federal Income Tax Purposes)

Reference is made to that certain Interim Loan Agreement, dated as of June 28, 2012 (as amended, restated, extended, supplemented or otherwise modified in writing from time to time (the "Agreement")), among Constellation Brands, Inc., a Delaware corporation (the "Company"), the Lenders from time to time party thereto, and Bank of America, N.A., as Administrative Agent. Unless otherwise defined herein, terms defined in the Agreement and used herein shall have the meanings given to them in the Agreement.

Pursuant to the provisions of Section 2.16(d) of the Agreement, the undersigned hereby certifies that (i) it is the sole record owner of the participation in respect of which it is providing this certificate, (ii) its direct or indirect partners/members are the sole beneficial owners of such participation, (iii) with respect such participation, neither the undersigned nor any of its direct or indirect applicable partners/members is a bank within the meaning of Section 881(c)(3)(A) of the Code, (iv) none of its direct or indirect applicable partners/members is a ten percent shareholder of the Company within the meaning of Section 871(h)(3)(B) of the Code and (v) none of its direct or indirect applicable partners/members is a controlled foreign corporation related to the Company as described in Section 881(c)(3)(C) of the Code.

The undersigned has furnished its participating Lender with IRS Form W-8IMY accompanied by one of the following forms from each of its partners/members that is claiming the portfolio interest exemption: (i) an IRS Form W-8BEN or (ii) an IRS Form W-8IMY accompanied by an IRS Form W-8BEN from each such partner's/member's beneficial owner that is claiming the portfolio interest exemption. By executing this certificate, the undersigned agrees that (1) if the information provided on this certificate changes, the undersigned shall promptly so inform such Lender and (2) the undersigned shall have at all times furnished such Lender with a properly completed and currently effective certificate in either the calendar year in which each payment is to be made to the undersigned, or in either of the two calendar years preceding such payments.

Unless otherwise defined herein, terms defined in the Agreement and used herein shall have the meanings given to them in the Agreement.

[NAME OF PARTICIPANT]

By: _____
Name:
Title:

Date: _____, ____ 20[ ]

FORM OF OPINION OF NIXON PEABODY LLP

[SEE ATTCHED]

437 Madison Avenue
New York, New York 10022-7001
(212) 940-3000
Fax: (212) 940-3111

_____ __, 20__

To the Lenders, parties to the
Interim Loan Agreement referred to below, and
Bank of America, N.A.,
as Administrative Agent

Re: Constellation Brands, Inc. and Subsidiaries

Ladies and Gentlemen:

We have acted as counsel to Constellation Brands, Inc., a Delaware corporation (the "Borrower"), and certain of its subsidiaries, in connection with (i) that certain Interim Loan Agreement dated as of June 28, 2012 (the "Interim Loan Agreement"), among the Borrower, the Lenders party thereto, Bank of America, N.A., as administrative agent (the "Administrative Agent"), and the other parties from time to time party thereto, providing for, among other things, extensions of credit to be made by the Lenders to the Borrower in an aggregate principal amount not exceeding $1,875,000,000, and (ii) the various agreements and documents referred to in the next following paragraph. As such counsel, we have been requested to render this opinion pursuant to Section 4.01(b) of the Interim Loan Agreement. Except where indicated, capitalized terms used in this opinion and not otherwise defined herein shall have the meanings given to them in the Interim Loan Agreement.

In rendering the opinions expressed below, we have examined the following agreements, instruments and other documents:

(a) the Interim Loan Agreement;

(b) the Notes delivered on the date hereof;

(c) the Guarantee Agreement; and

(d) such corporate records of the Borrower and the Guarantors (collectively, the "Obligors") and such other documents as we have deemed necessary as a basis for the opinions expressed below.

The Interim Loan Agreement, the Notes, and the Guarantee Agreement are collectively referred to herein as the "Credit Documents".

In rendering this opinion, we have made such examination of laws as we have deemed relevant for the purposes hereof. As to various questions of fact material to this opinion,

we have relied upon representations and/or certificates of officers of the Obligors, certificates and documents issued by public officials and authorities, and information received from searches of public records.

With respect to the opinions set forth in paragraph 1 hereof, such opinions are based solely on certificates of the appropriate state agencies from the states set forth on Annex 1 as of the dates set forth on such certificates and are limited to the meaning ascribed to such certificates by each such applicable state agency.

Whenever in this opinion reference is made to matters of which we have knowledge, such knowledge is based solely upon (i) information obtained from the documents, certificates and other matters referred to above, (ii) responses of the appropriate officers of the Borrower to inquiries with respect to their present recollection as to such matters, and (iii) review of documents in our files to which we have given substantive attention in the course of our representation of the Borrower and the Guarantors. We will not accept any liability whatsoever for any imputed knowledge regarding such matters or any matters about which we should have known except as noted above.

Based upon and in reliance on the foregoing, and subject to the assumptions and qualifications hereinafter set forth, we are of the opinion that:

1. Each Obligor is a corporation or limited liability company duly incorporated or formed, validly existing and in good standing under the laws of its jurisdiction of incorporation or formation as indicated on Annex 1 hereto. Each Obligor is qualified to do business and in good standing as a foreign corporation under the laws of each state set forth on Annex 1 hereto.

2. Each Obligor has the corporate or limited liability company power and authority to own its properties and transact the business in which it is currently engaged, and to execute and deliver, and to perform its obligations under, the Credit Documents to which it is a party.

3. Each Obligor's execution and delivery of, and its performance of its obligations under, the Credit Documents to which it is a party, and the Borrower's borrowings under the Interim Loan Agreement, have been duly authorized by all necessary action on the part of such Obligor.

4. Each Obligor has duly executed and delivered each Credit Document to which it is a party.

5. The Credit Documents to which any Obligor is a party constitute the legal, valid and binding obligation of such Obligor, enforceable against such Obligor in accordance with its terms.

6. No authorization, approval or consent of, and no filing or registration with, any governmental or regulatory authority or agency of the United States of America, the State of New York, the State of Delaware or the State of California (" Filing or Approval") is required on

the part of any Obligor for the execution, delivery or performance by any Obligor of any of the Credit Documents to which it is a party, or for the Borrower's borrowings under the Interim Loan Agreement, except for any Filing or Approval which has previously been made or obtained and is in full force and effect on the date hereof and any Filing or Approval required to be made after the date hereof.

7. Each Obligor's execution and delivery of the Credit Documents to which it is a party, and the performance of its obligations thereunder, do not on this date (i) conflict with or result in a breach of any provision of the certificate of incorporation, articles of organization, by-laws or operating agreement, as applicable, of such Obligor; (ii) result in a breach of any of the provisions of, or constitute a default under, or result in the creation or imposition of any Lien upon any of the assets of such Obligor pursuant to the indentures and other agreements listed on Annex 2 hereto, (iii) to our knowledge, violate any existing judgment, order, writ, injunction or decree applicable to such Obligor or any of its respective properties, or (iv) violate any existing federal, New York, Delaware or California statute, rule, regulation or ordinance which in our experience is normally applicable to transactions of the type contemplated by the Credit Documents.

8. None of the Obligors is required to be registered as an "investment company" under the Investment Company Act of 1940, as amended.

9. Neither the making of the Loans under the Interim Loan Agreement, nor the application of the proceeds thereof on the date hereof as provided in the Interim Loan Agreement, will violate Regulations T, U or X of the Board of Governors of the Federal Reserve System.

The foregoing opinions are subject to the following qualifications and limitations and are based upon the following further assumptions:

(i) We have assumed, without any investigation, with respect to each party thereto other than the Obligors, (a) the full capacity, power and authority of such party to execute, deliver and perform the Credit Documents, (b) the due execution and delivery of the Credit Documents by such party, and (c) the legality, validity and binding effect of the Credit Documents as against such party.

(ii) We have assumed without any investigation the genuineness of all signatures, the legal capacity of natural persons, the authenticity and completeness of all documents submitted to us as originals, the conformity to original documents submitted to us as certified, photostatic or telestatic copies, and the authenticity and completeness of originals of such copies. We have also assumed, without investigation, that the representations and warranties as to factual matters of each of the Obligors in the Credit Documents are true and correct.

(iii) The enforceability of provisions in the Credit Documents to the effect that the terms may not be waived or modified except in writing may be limited in certain circumstances.

(iv) The enforceability of the Guarantee Agreement and Section 9.03 of the Interim Loan Agreement (and any similar provisions in any of the other Credit Documents) may be limited by laws rendering unenforceable (a) indemnification contrary to federal or state securities laws and the public policy underlying such laws, and (b) the release of a party from, or the indemnification of a party against, liability for its own wrongful or negligent acts under certain circumstances.

(v) We express no opinion as to (a) the effect of the laws of any jurisdiction (other than the State of New York) in which any Lender or the Administrative Agent is located that limit the interest, fees or other charges such Lender or Administrative Agent may impose, and (b) Section 9.09(b) of the Interim Loan Agreement (and any similar provisions in any of the other Credit Documents), insofar as such Section relates to the subject matter jurisdiction of the United States District Court for the Southern District of New York to adjudicate any controversy related to the Credit Documents.

(vi) To the extent title to any property is required to be held by any party in order to perform its obligations under any of the Credit Documents, we have assumed without any investigation that such party holds title adequate to perform its obligations.

(vii) The foregoing opinions are subject to the effect of (a) applicable bankruptcy, reorganization, insolvency, moratorium and/or similar laws relating to or affecting the rights of creditors generally, including without limitation fraudulent conveyance provisions under applicable laws, and (b) equitable limitations (regardless of whether considered in a proceeding in equity or at law) and public policy limitations relating to principles of good faith and fair dealing. The foregoing opinions are also subject to the qualification that certain provisions contained in the Credit Documents may not be enforceable, but (subject to the limitations as set forth elsewhere herein) such unenforceability will not render the Credit Documents invalid as a whole or substantially interfere with realization of the principal benefits and/or security provided thereby. Finally, we wish to point out that provisions of the Credit Documents which permit the Administrative Agent or any Lender to take action or make determinations, or to benefit from indemnities and similar undertakings of the Obligors, may be subject to a requirement that such action be taken or such determinations be made, and that any action or inaction by the Administrative Agent or any Lender which may give rise to a request for payment under such an undertaking be taken or not taken, on a reasonable basis and in good faith.

(viii) We express no opinion herein as to (a) whether any borrowing evidenced by the Credit Documents is usurious under the applicable laws of any jurisdiction, (b) the effect of any land use or environmental law, rule, regulation or ordinance, (c) the validity or enforceability of any provision of any of the Credit Documents which might be construed as a waiver of counterclaims, and (d) the Administrative Agent's or the Lenders' right to collect any payment due to the extent that such payment constitutes a penalty or forfeiture.

(ix) We express no opinion as to the applicability to the obligations of the Guarantors (or the enforceability of such obligations) of Section 548 of the Bankruptcy Code or any other provision of law relating to fraudulent conveyances, transfers or obligations.

(x) We express no opinion with respect to any law, regulation or order of any jurisdiction or agency or tribunal thereof with respect to the manufacture, sale, distribution or control of alcoholic beverages.

(xi) We further express no opinion with respect to the effect of any law other than (i) the law of the State of New York, (ii) the General Corporation Law and Limited Liability Company Act of the State of Delaware, (iii) the Federal law of the United States, and (iv), the California General Corporation Law, irrespective of any choice of law provisions which may be contained in any of the Credit Documents. In this regard, we note that some of the Obligors are incorporated or organized in jurisdictions other than New York, Delaware or California. Accordingly, for purposes of the opinions rendered in paragraphs 1, 2 and 3, above, we have assumed, with your permission, that the laws governing corporations or other entities in the jurisdiction where such Obligors are incorporated or organized are the same in all applicable respects as the laws of the State of New York.

(xii) We wish to point out that (a) a New York statute provides that a judgment rendered by a court of the State of New York in respect of an obligation denominated in any currency other than Dollars would be rendered in such other currency and would be converted into Dollars at the rate of exchange prevailing on date of entry of such judgment, and (b) a judgment rendered by a United States Federal court in the State of New York in respect of the obligation dominated in a currency other than Dollars may be expressed in Dollars (provided that we express no opinion as to the rate of exchange such court would apply).

(xiii) We express no opinion with respect to compliance with the Investment Company Act of 1940, as amended, except as expressly set forth in paragraph 8 above or Regulations T, U or X of the Board of Governors of the Federal Reserve System, except as expressly set forth in paragraph 9 above.

This opinion is rendered solely to the addressees and is intended solely for the benefit of the addressees and their assigns and may not be relied upon, referred to or otherwise used by the addressees for any other purposes, or by any other Person other than in connection with the transactions contemplated by the Interim Loan Agreement without, in each instance, our prior written consent. The opinions expressed herein are rendered as of the date hereof, and we disclaim any undertaking to advise you of changes in law or fact which may affect the continued correctness of any of our opinions as of a later date.

Very truly yours,

**ANNEX 1**

[to be inserted at closing]

**ANNEX 2**

1. Indenture dated as of August 15, 2006 among the Borrower, the guarantors signatory thereto and BNY Midwest Trust Company, as trustee, as amended by Supplemental Indenture No. 1 dated as of August 15, 2006 among the Borrower, the guarantors named therein and BNY Midwest Trust Company, as trustee, as further amended by Supplemental Indenture No. 2 dated as of November 30, 2006 among the Borrower, the new guarantors named therein and BNY Midwest Trust Company, as trustee, and as further amended by Supplemental Indenture No. 3 dated as of May 4, 2007 among the Borrower, the new guarantors named therein and BNY Midwest Trust Company as trustee, as further amended by Supplemental Indenture No. 4 dated as of December 5, 2007 among the Borrower, the guarantors named therein and The Bank of New York Trust Company, N.A. (as successor to BNY Midwest Trust Company), as trustee, as further amended by Supplemental Indenture No. 5 dated as of January 22, 2008 among the Borrower, the new guarantors named therein and The Bank of New York Trust Company, N.A. (as successor to BNY Midwest Trust Company), as trustee, and as further amended by Supplemental Indenture No. 6 dated as of February 27, 2009 among the Borrower, the new guarantor named therein and Bank of New York Mellon Trust Company National Association(successor trustee to BNY Midwest Trust Company), as trustee.

2. Indenture dated as of May 14, 2007 among the Borrower, the guarantors signatory thereto and The Bank of New York Trust Company, N.A., as trustee, as amended by Supplemental Indenture No. 1 dated as of January 22, 2008 among the Borrower, the new guarantors named therein and The Bank of New York Trust Company, N.A., as trustee, and as further amended by Supplemental Indenture No. 2 dated as of February 27, 2009 among the Borrower, the new guarantor named therein, and The Bank of New York Mellon Trust Company National Association, as trustee.

3. Indenture dated as of April 17, 2012 among the Borrower, the guarantors signatory thereto and Manufacturers and Traders Trust Company, as trustee, as amended by Supplemental Indenture No. 1 dated as of April 17, 2012 among the Borrower, the guarantors signatory thereto and Manufacturers and Traders Trust Company, as trustee.

4. Credit Agreement dated as of May 3, 2012 among the Borrower, the lenders party thereto, Bank of America, N.A., as administrative agent, and the other parties thereto.

5. [Add reference to any additional notes as applicable.]

# GUARANTEE AGREEMENT

made by

THE SUBSIDIARIES OF CONSTELLATION BRANDS, INC. FROM TIME TO TIME PARTY HERETO

in favor of

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

Dated as of June 28, 2012

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GUARANTEE AGREEMENT

GUARANTEE AGREEMENT, dated as of June 28, 2012, made by each of the signatories identified on the signature pages hereto under the heading "Guarantors" (collectively, and together with any other entity that may become a party hereto as provided herein, the "Guarantors"), in favor of BANK OF AMERICA, N.A., as Administrative Agent (in such capacity, the "Administrative Agent") for the banks and other financial institutions or entities (the "Lenders") from time to time parties to the Interim Loan Agreement, dated as of June 28, 2012 (as amended, amended and restated, supplemented or otherwise modified from time to time, the "Credit Agreement"), among CONSTELLATION BRANDS, INC. (the "Company"), the Lenders and the Administrative Agent.

W I T N E S S E T H:

WHEREAS, pursuant to the Credit Agreement, the Lenders have severally agreed to make extensions of credit to the Borrower upon the terms and subject to the conditions set forth therein;

WHEREAS, the Borrower is a member of an affiliated group of companies that includes each other Guarantor; and

WHEREAS, the Borrower and the other Guarantors are engaged in related businesses, and each Guarantor will derive substantial direct and indirect benefit from the making of the extensions of credit under the Credit Agreement;

NOW, THEREFORE, in consideration of the premises and the agreements hereinafter set forth and to induce the Administrative Agent and the Lenders to enter into the Credit Agreement and to induce the Lenders to make their respective extensions of credit to the Borrower thereunder, each Guarantor hereby agrees with the Administrative Agent:

SECTION 1.
DEFINED TERMS

1.1 Definitions.

(a) Unless otherwise defined herein, terms defined in the Credit Agreement and used herein shall have the meanings given to them in the Credit Agreement.

(b) The following terms shall have the following meanings:

"Agreement": this Guarantee Agreement, as the same may be amended, supplemented or otherwise modified from time to time.

"Guarantors": the collective reference to each Guarantor.

1.2 Other Definitional Provisions.

(a) The words "hereof," "herein", "hereto" and "hereunder" and words of similar import when used in this Agreement shall refer to this Agreement as a whole and not to any particu-

lar provision of this Agreement, and Section and Schedule references are to this Agreement unless otherwise specified.

(b) The meanings given to terms defined herein shall be equally applicable to both the singular and plural forms of such terms.

SECTION 2.
GUARANTEE

2.1 Guarantee

(a) Each of the Guarantors hereby, jointly and severally, unconditionally and irrevocably, guarantees to the Administrative Agent, for the ratable benefit of the Lenders the prompt and complete payment and performance of the Obligations.

(b) Anything herein or in any other Loan Document to the contrary notwithstanding, the maximum liability of each Guarantor hereunder and under the other Loan Documents in respect of the Obligations shall in no event exceed the amount which can be guaranteed by such Guarantor under applicable federal and state laws relating to the insolvency of debtors (after giving effect to the right of contribution established in Section 2.2).

(c) Each Guarantor agrees that the Obligations may at any time and from time to time exceed the amount of the liability of such Guarantor hereunder without impairing the guarantee contained in this Section 2 or affecting the rights and remedies of the Administrative Agent or any Lender hereunder.

(d) The guarantee contained in this Section 2 shall remain in full force and effect until all the Obligations (other than contingent indemnification and contingent expense reimbursement obligations) of each Guarantor under the guarantee contained in this Section 2 shall have been satisfied by payment in full and the Commitments have been terminated.

(e) Except as provided in Section 4.14, no payment made by any of the Guarantors, any other guarantor or any other Person or received or collected by the Administrative Agent or any Lender from any of the Guarantors, any other guarantor or any other Person by virtue of any action or proceeding or any set-off or appropriation or application at any time or from time to time in reduction of or in payment of the Obligations shall be deemed to modify, reduce, release or otherwise affect the liability of any Guarantor hereunder which shall, notwithstanding any such payment (other than any payment made by such Guarantor in respect of the Obligations or any payment received or collected from such Guarantor in respect of the Obligations), remain liable for the Obligations up to the maximum liability of such Guarantor hereunder until the Obligations are paid in full and the Commitments have been terminated.

2.2 Right of Contribution. Each Guarantor hereby agrees that to the extent that a Guarantor shall have paid more than its proportionate share of any payment made hereunder, such Guarantor shall be entitled to seek and receive contribution from and against any other Guarantor hereunder which has not paid its proportionate share of such payment. Each Guarantor's right of contribution shall be subject to the terms and conditions of Section 2.3. The provisions of this Section 2.2 shall in no respect limit the obligations and liabilities of any Guarantor to the Admin-

istrative Agent and the Lenders, and each Guarantor shall remain liable to the Administrative Agent and the Lenders for the full amount guaranteed by such Guarantor hereunder.

2.3 No Subrogation. Notwithstanding any payment made by any Guarantor hereunder or any set-off or application of funds of any Guarantor by the Administrative Agent or any Lender, no Guarantor shall seek to enforce any right of subrogation in respect of any of the rights of the Administrative Agent or any Lender against any Guarantor or any guarantee or right of offset held by the Administrative Agent or any Lender for the payment of the Obligations, nor shall any Guarantor seek any contribution or reimbursement from any other Guarantor in respect of payments made by such Guarantor hereunder, until all amounts owing to the Administrative Agent and the Lenders by the Loan Parties on account of the Obligations are paid in full and the Commitments are terminated. If any amount shall be paid to any Guarantor on account of such subrogation rights at any time when all of the Obligations shall not have been paid in full, such amount shall be held by such Guarantor in trust for the Administrative Agent and the Lenders, segregated from other funds of such Guarantor, and shall, forthwith upon receipt by such Guarantor, be turned over to the Administrative Agent in the exact form received by such Guarantor (duly indorsed by such Guarantor to the Administrative Agent, if required), to be applied against the Obligations, whether matured or unmatured, in such order as the Administrative Agent may determine. For the avoidance of doubt, nothing in the foregoing agreement by the Guarantor shall operate as a waiver of any subrogation rights.

2.4 Amendments, etc., with Respect to the Obligations. To the fullest extent permitted by applicable law, each Guarantor shall remain obligated hereunder notwithstanding that, without any reservation of rights against any Guarantor and without notice to or further assent by any Guarantor, any demand for payment of any of the Obligations made by the Administrative Agent or any Lender may be rescinded by the Administrative Agent or such Lender and any of the Obligations continued, and the Obligations, or the liability of any other Person upon or for any part thereof, or any guarantee therefor or right of offset with respect thereto, may, from time to time, in whole or in part, be renewed, extended, amended, modified, accelerated, compromised, waived, surrendered or released by the Administrative Agent or any Lender, and the Credit Agreement and the other Loan Documents and any other documents executed and delivered in connection therewith may be amended, modified, supplemented or terminated, in whole or in part, as the Administrative Agent (or the Required Lenders or all Lenders, as the case may be) may deem reasonably advisable from time to time, and any guarantee or right of offset at any time held by the Administrative Agent or any Lender for the payment of the Obligations may be sold, exchanged, waived, surrendered or released.

2.5 Guarantee Absolute and Unconditional. To the fullest extent permitted by applicable law, each Guarantor waives any and all notice of the creation, renewal, extension or accrual of any of the Obligations and notice of or proof of reliance by the Administrative Agent or any Lender upon the guarantee contained in this Section 2 or acceptance of the guarantee contained in this Section 2; the Obligations, and any of them, shall conclusively be deemed to have been created, contracted or incurred, or renewed, extended, amended or waived, in reliance upon the guarantee contained in this Section 2; and all dealings between the Borrower and the Guarantors, on the one hand, and the Administrative Agent and the Lenders, on the other hand, likewise shall be conclusively presumed to have been had or consummated in reliance upon the guarantee contained in this Section 2. To the fullest extent permitted by applicable law, each Guarantor

waives diligence, presentment, protest, demand for payment and notice of default or nonpayment to or upon any of the Guarantors with respect to the Obligations. Each Guarantor understands and agrees that the guarantee contained in this Section 2, to the fullest extent permitted by applicable law, shall be construed as a continuing, absolute and unconditional guarantee of payment without regard to (a) the validity or enforceability of the Credit Agreement or any other Loan Document, any of the Obligations or any guarantee or right of offset with respect thereto at any time or from time to time held by the Administrative Agent or any Lender, (b) any defense, set-off or counterclaim (other than a defense of payment or performance) which may at any time be available to or be asserted by the Borrower or any other Person against the Administrative Agent or any Lender, or (c) any other circumstance whatsoever (with or without notice to or knowledge of such Guarantor) which constitutes, or might be construed to constitute, an equitable or legal discharge of such Guarantor under the guarantee contained in this Section 2, in bankruptcy or in any other instance. When making any demand hereunder or otherwise pursuing its rights and remedies hereunder against any Guarantor, the Administrative Agent or any Lender may, but shall be under no obligation to, make a similar demand on or otherwise pursue such rights and remedies as it may have against any Guarantor or any other Person or against any guarantee for the Obligations or any right of offset with respect thereto, and any failure by the Administrative Agent or any Lender to make any such demand, to pursue such other rights or remedies or to collect any payments from any other Guarantor or any other Person or to realize upon any such guarantee or to exercise any such right of offset, or any release of any other Guarantor or any other Person or any such guarantee or right of offset, shall not relieve any Guarantor of any obligation or liability hereunder, and shall not impair or affect the rights and remedies, whether express, implied or available as a matter of law, of the Administrative Agent or any Lender against any Guarantor. For the purposes hereof "demand" shall include the commencement and continuance of any legal proceedings.

2.6 Reinstatement. The guarantee contained in this Section 2 shall continue to be effective, or be reinstated, as the case may be, if at any time payment, or any part thereof, of any of the Obligations is rescinded or must otherwise be restored or returned by the Administrative Agent or any Lender upon the insolvency, bankruptcy, dissolution, liquidation or reorganization of any Guarantor, or upon or as a result of the appointment of a receiver, intervenor or conservator of, or trustee or similar officer for, any Guarantor or any substantial part of its property, or otherwise, all as though such payments had not been made.

2.7 Payments. Each Guarantor hereby guarantees that payments hereunder will be paid in Dollars to the Administrative Agent without set-off or counterclaim at the Administrative Agent's Office.

## SECTION 3.
## REPRESENTATIONS AND WARRANTIES

To induce the Administrative Agent and the Lenders to enter into the Credit Agreement and to make their respective extensions of credit to the Borrower thereunder, each Guarantor hereby represents and warrants to the Administrative Agent and each Lender that:

(a) it is duly organized and in good standing under the laws of the jurisdiction of its organization and has full capacity and right to make and perform its obligations under this Agreement, and all necessary authority has been obtained;

(b) this Agreement constitutes its legal, valid and binding obligation enforceable in accordance with its terms;

(c) the making and performance of this Agreement does not and will not violate the provisions of any applicable law, regulation or order, and does not and will not result in the breach of, or constitute a default or require any consent under, any material agreement, instrument, or document to which it is a party or by which it or any of its property may be bound or affected, except to the extent that such violation or default could not reasonably be expected to have a Material Adverse Effect; and

(d) all consents, approvals, licenses and authorizations of, and filings and registrations with, any governmental authority required under applicable law and regulations for the making and performance of this Agreement have been obtained or made and are in full force and effect, except where the failure of which to obtain or make could not reasonably be expected to have a Material Adverse Effect.

SECTION 4.
MISCELLANEOUS

4.1 Amendments in Writing. None of the terms or provisions of this Agreement may be waived, amended, supplemented or otherwise modified except in accordance with Section 9.02 of the Credit Agreement.

4.2 Notices. All notices, requests and demands to or upon the Administrative Agent or any Guarantor hereunder shall be effected in the manner provided for in Section 9.01 of the Credit Agreement; *provided* that any such notice, request or demand to or upon any Guarantors shall be addressed to such Guarantor c/o Constellation Brands, Inc. at its address provided in Section 9.01 of the Credit Agreement.

4.3 No Waiver by Course of Conduct; Cumulative Remedies; Enforcement.

(a) Neither the Administrative Agent nor any Lender shall by any act (except by a written instrument pursuant to Section 4.1), delay, indulgence, omission or otherwise be deemed to have waived any right or remedy hereunder or to have acquiesced in any Default or Event of Default. No failure to exercise, nor any delay in exercising, on the part of the Administrative Agent or any Lender, any right, power or privilege hereunder shall operate as a waiver thereof. No single or partial exercise of any right, power or privilege hereunder shall preclude any other or further exercise thereof or the exercise of any other right, power or privilege. A waiver by the Administrative Agent or any Lender of any right or remedy hereunder on any one occasion shall not be construed as a bar to any right or remedy which the Administrative Agent or such Lender would otherwise have on any future occasion. The rights and remedies herein provided are cumulative, may be exercised singly or concurrently and are not exclusive of any other rights or remedies provided by law.

(b) By its acceptance of the benefits of this Agreement, each Lender agrees that this Agreement may be enforced only by the Administrative Agent and that no Lender shall have any right individually to enforce or seek to enforce this Agreement.

4.4 Successors and Assigns. This Agreement shall be binding upon the successors and assigns of each Guarantor and shall inure to the benefit of the Administrative Agent and the Lenders and their permitted successors and assigns; provided that no Guarantor may assign, transfer or delegate any of its rights or obligations under this Agreement except as permitted by the Credit Agreement.

4.5 Set-Off. If an Event of Default shall have occurred and be continuing, each Lender and each of its Affiliates is hereby authorized at any time and from time to time, to the fullest extent permitted by law, to set off and apply any and all deposits (general or special, time or demand, provisional or final and in whatever currency denominated) at any time held and other obligations at any time owing by such Lender or Affiliate to or for the credit or the account of any Guarantor against any of and all the Obligations of such Guarantor now or hereafter existing under this Agreement held by such Lender, irrespective of whether or not such Lender shall have made any demand under this Agreement and although such obligations may be unmatured. The rights of each Lender under this Section are in addition to other rights and remedies (including other rights of setoff) which such Lender may have.

4.6 Counterparts. This Agreement may be executed by one or more of the parties to this Agreement on any number of separate counterparts (including by telecopy or other electronic means), and all of said counterparts taken together shall be deemed to constitute one and the same instrument.

4.7 Severability. Any provision of this Agreement which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

4.8 Section Headings. The Section headings used in this Agreement are for convenience of reference only and are not to affect the construction hereof or be taken into consideration in the interpretation hereof.

4.9 Integration. This Agreement and the other Loan Documents represent the agreement of the Guarantors, the Administrative Agent and the Lenders with respect to the subject matter hereof and thereof, and there are no promises, undertakings, representations or warranties by the Administrative Agent or any Lender relative to subject matter hereof and thereof not expressly set forth or referred to herein or in the other Loan Documents.

4.10 **GOVERNING LAW**. THIS AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED AND INTERPRETED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK.

4.11 Submission To Jurisdiction; Waivers. Each Guarantor hereby irrevocably and unconditionally:

(a) submits for itself and its property in any legal action or proceeding relating to this Agreement and the other Loan Documents to which it is a party, or for recognition and enforcement of any judgment in respect thereof, to the exclusive general jurisdiction of the courts of the State of New York located in the County of New York, the courts of the United States of America for the Southern District of New York, and appellate courts from any thereof;

(b) consents that any such action or proceeding may be brought in such courts and waives any objection that it may now or hereafter have to the venue of any such action or proceeding in any such court or that such action or proceeding was brought in an inconvenient court and agrees not to plead or claim the same;

(c) agrees that service of process in any such action or proceeding may be effected by mailing a copy thereof by registered or certified mail (or any substantially similar form of mail), postage prepaid, to such Guarantor at its address referred to in Section 4.2 or at such other address of which the Administrative Agent shall have been notified pursuant thereto;

(d) agrees that nothing herein shall affect the right to effect service of process in any other manner permitted by law or shall limit the right to sue in any other jurisdiction; and

(e) waives, to the maximum extent not prohibited by law, any right it may have to claim or recover in any legal action or proceeding referred to in this Section any special, exemplary, punitive or consequential damages.

4.12 Acknowledgements. Each Guarantor hereby acknowledges that:

(a) it has been advised by counsel in the negotiation, execution and delivery of this Agreement and the other Loan Documents to which it is a party;

(b) neither the Administrative Agent nor any Lender has any fiduciary relationship with or duty to any Guarantor arising out of or in connection with this Agreement or any of the other Loan Documents, and the relationship between the Guarantors, on the one hand, and the Administrative Agent and the Lenders, on the other hand, in connection herewith or therewith is solely that of debtor and creditor; and

(c) no joint venture is created hereby or by the other Loan Documents or otherwise exists by virtue of the transactions contemplated hereby among the Lenders or among the Guarantors and the Lenders.

4.13 Additional Guarantors. Each Subsidiary of the Borrower that is required to become a party to this Agreement pursuant to Section 5.09 of the Credit Agreement shall become a Guarantor for all purposes of this Agreement upon execution and delivery by such Subsidiary of a Joinder Agreement in the form of Annex 1 hereto.

4.14 Releases.

(a) At such time as the Loans and the other Obligations (other than contingent indemnification and contingent expense reimbursement obligations) shall have been paid in full and the Commitments have been terminated, this Agreement and all obligations (other than those expressly stated to survive such termination) of the Administrative Agent and each Guarantor hereunder shall terminate, all without delivery of any instrument or performance of any act by any party.

(b) Upon any Guarantor being released as a guarantor under the Senior Secured Credit Agreement or in the event the Senior Secured Credit Agreement is otherwise terminated or refinanced without a guarantee from such Guarantor, all obligations of such Guarantor hereunder shall terminate, all without delivery of any instrument or performance of any act by any party.

4.15 WAIVER OF JURY TRIAL. EACH GUARANTOR HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES TRIAL BY JURY IN ANY LEGAL ACTION OR PROCEEDING RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT AND FOR ANY COUNTERCLAIM THEREIN.

IN WITNESS WHEREOF, each of the undersigned has caused this Guarantee Agreement to be duly executed and delivered as of the date first above written.

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

By: /s/ Matt Holbrook
Name: Matt Holbrook
Title: Director

GUARANTORS:

ALCOFI INC.
CONSTELLATION BRANDS SMO, LLC
CONSTELLATION BRANDS U.S. OPERATIONS, INC.
CONSTELLATION LEASING, LLC
CONSTELLATION TRADING COMPANY, INC.
FRANCISCAN VINEYARDS, INC.
ROBERT MONDAVI INVESTMENTS
THE HOGUE CELLARS, LTD.

By: /s/ David Klein
Name: David E. Klein
Title: Vice President and Assistant Treasurer

CONSTELLATION BEERS LTD.
CONSTELLATION SERVICES LLC

By: /s/ David Klein
Name: David E. Klein
Title: Vice President and Treasurer

[FORM OF JOINDER AGREEMENT]

Annex 1 to
Guarantee Agreement

JOINDER AGREEMENT, dated as of _____, 201_, made by _____ (the "Additional Guarantor"), in favor of BANK OF AMERICA, N.A., as administrative agent (in such capacity, the "Administrative Agent") and the Lenders (as defined in the Credit Agreement referred to below). All capitalized terms not defined herein shall have the meaning ascribed to them in the Guarantee Agreement (as defined below).

W I T N E S S E T H :

WHEREAS, CONSTELLATION BRANDS, INC. (the "Company"), certain other parties thereto, the Lenders and the Administrative Agent have entered into an Interim Loan Agreement, dated as of June 28, 2012 (as amended, supplemented or otherwise modified from time to time, the "Credit Agreement");

WHEREAS, in connection with the Credit Agreement, the Borrower and the Guarantors (other than the Additional Guarantor), as applicable, have entered into the Guarantee Agreement, dated as of June 28, 2012 (as amended, supplemented or otherwise modified from time to time, the "Guarantee Agreement");

WHEREAS, the Credit Agreement requires the Additional Guarantor to become a party to the Guarantee Agreement; and

WHEREAS, the Additional Guarantor has agreed to execute and deliver this Joinder Agreement in order to become a party to the Guarantee Agreement;

NOW, THEREFORE, IT IS AGREED:

1. Guarantee Agreement. By executing and delivering this Joinder Agreement, the Additional Guarantor, as provided in Section 4.13 of the Guarantee Agreement, hereby becomes a party to the Guarantee Agreement as a Guarantor thereunder with the same force and effect as if originally named therein as a Guarantor and, without limiting the generality of the foregoing, hereby expressly assumes all obligations and liabilities of a Guarantor thereunder. The Additional Guarantor hereby represents and warrants that each of the representations and warranties contained in Section 3 of the Guarantee Agreement is true and correct in all material respects on and as the date hereof (after giving effect to this Joinder Agreement) as if made on and as of such date (unless stated to relate to a specific earlier date, in which case, such representations and warranties shall be true and correct in all material respects as of such earlier date).

2. **Governing Law. THIS JOINDER AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED AND INTERPRETED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK.**

IN WITNESS WHEREOF, the undersigned has caused this Joinder Agreement to be duly executed and delivered as of the date first above written.

[Additional Guarantor]

By: _____
Name:
Title:

**Exhibit 99.1**

**NEWS RELEASE**
09

**CONTACTS**
**Media**
Angela Howland Blackwell – 585-678-7141
Cheryl Gossin – 585-678-7191

**Investor Relations**
Patty Yahn-Urlaub – 585-678-7483
Bob Czudak – 585-678-7170

**Constellation Brands to Acquire Remaining 50 Percent Interest in Crown Imports Joint Venture**

**~Leading U.S. import beer business to become wholly owned~**

**VICTOR, N.Y., June 29, 2012** – Constellation Brands, Inc., (NYSE:STZ), which currently owns 50 percent of Crown Imports LLC (Crown), a 50-50 joint venture with Grupo Modelo S.A.B. de C.V. (Modelo), announced today that it has signed a definitive agreement with Anheuser-Busch InBev SA/NV (AB InBev) to purchase the remaining 50 percent interest in Crown as AB InBev completes its proposed acquisition of Modelo. The purchase price is $1.85 billion and represents 50 percent of a multiple of approximately 8.5 times Crown's EBIT. The transaction, which is subject to regulatory approval, is expected to close during the first quarter of calendar 2013.

"This is a significant milestone in the history of Constellation Brands," said Rob Sands, president and chief executive officer, Constellation Brands. "We have been the importer, marketer and seller of the Modelo brands in the U.S. for almost two decades. During this time, the Crown team has successfully built the Modelo portfolio into an enviable position of leadership and growth. Our full ownership of this significant beer business provides an additional strategic lever for driving overall profitable organic growth. We expect this transaction to dramatically enhance the financial profile of our company and it will solidify

Constellation Brands' position as the largest multi-category supplier of beverage alcohol and the third largest total beverage alcohol company in the U.S."

Crown's portfolio of brands includes Corona Extra, Corona Light, Modelo Especial, Pacifico, Negra Modelo and Victoria. Corona Extra is the best-selling imported beer and the sixth best-selling beer overall in the industry. Corona Light is the leading imported light beer and Modelo Especial is the third largest and one of the fastest growing major imported beer brands.

"Crown is currently experiencing significant marketplace momentum driven by new products as well as innovation in advertising, marketing, promotions and packaging," Sands added.

"This agreement provides certainty and continuity for Crown and its wholesaler partners," said Bill Hackett, president, Crown Imports. "We look forward to continuing to work with our wholesaler network to further grow the Modelo portfolio of brands across the U.S. marketplace."

Under the terms of the transaction, Constellation Brands and Crown will have complete, independent control of distribution, marketing and pricing for all Modelo brands in the U.S., while AB InBev will ensure continuity of supply, quality of products and the ability to introduce innovations. The new importation agreement will be perpetual and provides AB InBev with the right, but not the obligation, to exercise a call option every 10 years, subject to regulatory approval, at a multiple of 13 times Crown's EBIT from the Modelo brands.

**Financial Highlights**

Constellation Brands has fully committed bridge financing in place to complete the acquisition. Permanent financing is expected to consist of a combination of revolver borrowings, a new term loan under the company's current senior credit facility and the issuance of senior notes.

"Upon closing, this transaction is expected to increase Constellation's debt to comparable basis EBITDA leverage to the mid-four times range when factoring in a full-year of the additional Crown EBITDA," said Bob Ryder, chief financial officer, Constellation Brands. "Due to the anticipated strong free cash flow generation of Constellation Brands, this leverage ratio should decrease to our targeted range of three to four times within the first 12 months after the close

of the transaction. We plan to suspend our current share repurchase program. We currently have approximately $700 million remaining under our one billion share repurchase authorization."

During Constellation's fiscal 2012, Crown sold 164 million cases and generated $2.47 billion of net sales and $431 million of operating income. The company currently accounts for its 50 percent interest in Crown under the equity method and recognized $215 million of equity earnings from Crown in fiscal 2012. Upon completion of the transaction, the company will begin consolidating the full financial results of Crown. As a result, this transaction is expected to be significantly accretive to Constellation's on-going diluted EPS and free cash flow results.

Constellation Brands will discuss this transaction on its first quarter fiscal 2013 earnings conference call scheduled for today at 10:30 a.m. (eastern.) The conference call can be accessed by dialing +973-935-8505 beginning 10 minutes prior to the start of the call.

**About Constellation Brands, Inc.**

As the world's leader in premium wine, Constellation Brands, Inc. (NYSE: STZ and STZ.B) is a S&P 500 Index and a Fortune 1000® company with 4,400 employees, sales in 125 countries and operations in 40 facilities worldwide. The company manages a broad portfolio of more than 100 wines, beers and spirits that include: Robert Mondavi, Clos du Bois, Kim Crawford, Inniskillin, Franciscan Estate, Ruffino, Simi, Estancia, Corona Extra, Black Velvet Canadian Whisky and SVEDKA Vodka. Learn more at www.cbrands.com.

**Forward-Looking Statements**

This news release contains forward-looking statements. The words "expect," "anticipate," and similar expressions are intended to identify forward-looking statements, although not all forward-looking statements contain such identifying words. Those statements may relate to Constellation Brands' business strategy, future operations, prospects, plans and objectives of management, as well as information concerning expected actions of third parties. All forward-looking statements involve risks and uncertainties that could cause actual results to differ materially from those set forth in or implied by the forward-looking statements. All forward-looking statements speak only as of the date of this news release. Constellation Brands undertakes no obligation to update or revise any forward-looking statements, whether as a result of new information, future events, or otherwise.

The forward-looking statements are based on management's current expectations and, unless otherwise noted, do not take into account the impact of any future acquisition, merger or any other business combination, divestiture, restructuring or other strategic business realignments, financing or share repurchase that may be completed after the date of this release. The forward-looking statements should not be construed in any manner as a guarantee that such results will in fact occur. There can be no assurance that the transaction between Constellation Brands and Anheuser-Busch InBev SA/NV regarding the purchase by Constellation Brands of the 50% portion of Crown Imports LLC which it does not already own will occur or will occur on the timetable contemplated hereby.

In addition to the risks and uncertainties of ordinary business operations, the forward-looking statements of the company contained in this news release are subject to a number of risks and uncertainties, including:

- completion of the announced transaction regarding the purchase by Constellation Brands of the 50% interest in Crown Imports LLC which it does not already own, and the accuracy of all projections which are expected to impact the company's financial profile;
- the exact elements of permanent financing for the acquisition of the remaining interest in Crown Imports LLC will depend upon market conditions;
- the exact duration of the share repurchase implementation and the amount and timing of any share repurchases;
- ability to achieve expected and target debt leverage ratios due to different financial results from those anticipated and the timeframe in which the target debt leverage ratio will be achieved will depend upon actual financial performance;
- increased competitive activities in the form of pricing, advertising and promotions could adversely impact consumer demand for the company's products and/or result in lower than expected sales or higher than expected expenses;
- general economic, geo-political and regulatory conditions, prolonged downturn in the economic markets in the U.S. and in the company's major markets outside of the U.S., continuing instability in world financial markets, or unanticipated environmental liabilities and costs; and
- other factors and uncertainties disclosed in the company's filings with the Securities and Exchange Commission, including its Annual Report on Form 10-K for the fiscal year ended Feb. 29, 2012, which could cause actual future performance to differ from current expectations.

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