

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
CASE NO. 2:09-CV-445-FtM-99SPC

DANIEL S. NEWMAN, as Receiver for
Founding Partners Capital Management Company;
Founding Partners Stable-Value Fund, L.P.;
Founding Partners Stable-Value Fund II, L.P.;
Founding Partners Global Fund, Ltd., and
Founding Partners Hybrid-Value Fund, L.P.,

Plaintiff,

v.

SUN CAPITAL, INC., a Florida corporation,
SUN CAPITAL HEALTHCARE, INC., a
Florida corporation, and HLP PROPERTIES
OF PORT ARTHUR, LLC, a Texas limited
liability company,

Defendants.

_____ /

RECEIVER' S MOTION FOR LEAVE TO FILE AMENDED COMPLAINT

DANIEL S. NEWMAN, solely in his capacity as duly appointed Receiver (“Receiver”) for Founding Partners Capital Management Company, Founding Partners Stable-Value Fund, L.P., Founding Partners Stable-Value Fund II, L.P., Founding Partners Global Fund, Ltd., and Founding Partners Hybrid-Value Fund, L.P. (collectively, the “Receivership Entities”), by and through undersigned counsel and pursuant to Fed. R. Civ. P. 15, hereby moves for leave to file a proposed First Amended Complaint in this action, a copy of which is attached hereto as Exhibit 1, and in support thereof states as follows:

BROAD AND CASSEL

One Biscayne Tower, 21st Floor, 2 South Biscayne Boulevard, Miami, Florida 33131

INTRODUCTION

The Receiver seeks to amend the Complaint in this action to add claims and add parties. The new claims and parties are the result of the discovery obtained in this case during the expedited discovery period on Defendants' Motion for Preliminary Injunction and of the Receiver's continuing investigation and analysis. The proposed First Amended Complaint asserts new claims against new parties that are the recipients and repositories of diverted Receivership assets.

MEMORANDUM OF LAW

Pursuant to Fed. R.Civ. P. 15(a), leave to amend "shall be freely given when justice so requires." The policy of the federal rules "is to permit liberal amendment to facilitate determination of claims on the merits[.]" *Dussouy v. Gulf Coast Investment Corp.*, 660 F.2d 594, 598 (5th Cir. 1981). Thus, "absent undue delay, bad faith or repeated failure to cure deficiencies...or undue prejudice to the opposing party, the leave sought should be freely given." *Marco's Franchising, LLC v. Marco's Italian Express, Inc.*, 239 F.R.D. 686, 688 (M.D.Fla. 2007); *see also United States v. Palmetto Government Benefits Administrators*, 477 F.Supp. 2d 1187, 1197 (S.D.Fla. 2007) (*citing Foman v. Davis*, 371 U.S. 178, 182 (1962) for the proposition that "leave to amend must be granted absent a specific, significant reason for denial." (emphasis in original)).

The Receiver seeks leave to file the proposed First Amended Complaint attached hereto as Exhibit 1. A summary of the changes in the proposed First Amended Complaint follows:

- The original claims against the Existing Defendants (Sun and HLP Properties of Port Arthur, LLC ("HLP")) have not changed from the original Complaint, except to the extent they have been updated with new information and analysis.

- Based on new allegations of alter ego, the First Amended Complaint includes additional defendants to the breach of contract claims that were pleaded in the initial Complaint.
- The original claims for replevin and foreclosure claims in the initial Complaint are substantially the same as in the proposed First Amended Complaint.
- The proposed First Amended Complaint includes a new claim against Sun Capital Healthcare, Inc. for breach of a note that came due in January 2010.
- The claim against Sun Capital Healthcare, Inc. and Sun Capital, Inc. aiding and abetting breaches of fiduciary duty from the initial Complaint has been updated with new information. In addition, the proposed First Amended Complaint includes new defendants in this claim.
- The fraudulent transfer claims have been updated and revised. New defendants have been added.
- The proposed First Amended Complaint includes new claims for conversion and unjust enrichment against Existing Defendants and new proposed defendants.
- The proposed First Amended Complaint includes new claims of fraudulent inducement and breach of contract based on events that took place on and after July 19, 2009.

A. The Receiver Has Not Unduly Delayed in Seeking to Amend

The Receiver seeks to file an Amended Complaint in accordance with the Court's deadline for adding parties and amending pleadings. *See* Scheduling Order (D.E. 113), at 1; *see also Warfield v. Stewart*, 2009 WL 425996, at *5 (M.D. Fla. Feb. 20, 2009) (ordering that motion for leave to amend filed within the Court's own deadlines should be granted).

The Receiver has not delayed in seeking to amend. In *Warfield*, 2009 WL 425996, at *3-4, this Court permitted the plaintiffs to amend their complaint to reflect additional evidence learned during the course of discovery. Specifically, after the initial complaint was filed,

plaintiffs discovered additional critical misrepresentations and omissions by defendants, and thus sought to amend the complaint to add additional claims based on this newly discovered evidence. *Id.* at *4. The Court agreed with plaintiff's position and permitted amendment to assert new claims and theories. *Id.*; see also *Taylor v. Florida State Fair Authority*, 875 F.Supp. 812, 815 (M.D.Fla. 1995) (permitting amendment of complaint on the basis of newly discovered evidence, where litigation was still in early stages). This Court should reach the same conclusion, and allow the Receiver to file the attached Amended Complaint.

B. No Other Basis Exists for Denial of Leave to Amend

The only other articulated reasons for denial of a motion for leave to amend – repeated failure to cure deficiencies, or undue prejudice to the opposing party – are not present in this case.

First, there has been no “repeated failure” to cure any deficiencies in the initial Complaint. The Receiver has not previously moved to amend. The Existing Defendants have never moved to dismiss the initial Complaint based on any such deficiencies and never suggested any pleading defects in the initial Complaint.

Second, the Existing Defendants would not be prejudiced by any amendment to the Complaint. Some of the new claims that have been added are asserted against the Existing Defendants, but the case is still in its early stages, with trial scheduled roughly 14 months from now. D.E. 113, at 2; see *Taylor*, 875 F.Supp at 815 (where trial was scheduled for 13 months after order granting leave to amend, no prejudice could be said to result from amendment). Moreover, the Existing Defendants cannot possibly be prejudiced by the addition of claims that their own testimony and documentary evidence have unearthed.

Finally, with respect to the claims asserted against new parties, the Existing Defendants are not prejudiced by the addition of these claims. In fact, while these new claims could potentially be asserted in a separate lawsuit, it would defeat the principles of judicial economy because the claims arise out of the same or related transactions and occurrences. *See, e.g., Gropp v. United Airlines, Inc.*, 847 F.Supp. 941, 946 (M.D.Fla. 1994) (“a second case on the Court’s docket involving claims which arise out of the same transactions or occurrences...is a detriment in that it defeats the Court’s ability to manage its docket in a most efficient manner.”). As such, no prejudice to the Existing Defendants would result from the proposed amendment.

CONCLUSION

For the foregoing reasons, Plaintiff respectfully requests this Court to grant this Motion for Leave to File Amended Complaint, to accept the proposed First Amended Complaint attached hereto as Exhibit 1 and deem same to have been filed, and to grant any further relief this Court deems just and proper.

CERTIFICATE OF CONFERRAL

Pursuant to Local Rule 3.01, undersigned counsel certifies that he has conferred with counsel for the Existing Defendants regarding the issues raised in this motion, and counsel for the Existing Defendants has advised of Existing Defendants' opposition to the relief sought herein.

Respectfully submitted,

BROAD AND CASSEL

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Counsel for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that on March 1, 2010, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF. I also certify that the foregoing is being served this day on all counsel of record identified on the attached Service List in the manner specified, either via transmission of Notices of Electronic Filing generated by CM/ECF or in some other authorized manner for those counsel who are not authorized to receive electronically Notices of Electronic Filing.

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EXHIBIT A

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

vs.

Case No. 2:09-cv-229-FtM-29SPC

FOUNDING PARTNERS CAPITAL
MANAGEMENT, and WILLIAM L. GUNLICKS,

Defendants,

SUN CAPITAL, INC., SUN CAPITAL
HEALTHCARE, INC., FOUNDING PARTNERS
STABLE-VALUE FUND, LP, FOUNDING
PARTNERS STABLE-VALUE FUND II, LP,
FOUNDING PARTNERS GLOBAL FUND, LTD.,
and FOUNDING PARTNERS HYBRID-VALUE
FUND, LP,

Relief Defendants.

ORDER APPOINTING REPLACEMENT RECEIVER

_____ This matter comes before the Court on Plaintiff's Motion for Appointment of a Replacement Receiver (Doc. #71) filed on May 13, 2009. In this motion, plaintiff Securities and Exchange Commission (SEC) requests the appointment of a new Receiver over defendant

~~Founding Partners Capital Management, Co. ("Founding Partners") and~~
relief defendants Founding Partners Stable-Value Fund, LP, Founding Partners Stable-Value Fund II LP, Founding Partners Global Fund Ltd., and Founding Partners Hybrid-Value Fund LP ("Founding Partner Relief Defendants"), "with full and exclusive power, duty, and authority to: administer and manage the business affairs, funds, assets, choses in action and any other property of Founding

Partners and the Founding Partners Relief Defendants; marshal and safeguard all of the assets of Founding Partners and the Founding Partners Relief Defendants; and take whatever actions are necessary for the protection of investors." (Doc. #71, pp. 1-2.) The Court finds that the SEC has shown a *prima facie* case of violations of the federal securities laws by Founding Partners.

In an Opinion and Order (Doc. #70) entered on May 13, 2009, the Court removed the previously-appointed Receiver and Receiver's counsel, Leyza F. Blanco and GrayRobinson, PA, respectively, from the case due to conflicts issues. The SEC has submitted the credentials of a candidate to be appointed as the replacement Receiver of all of the assets, properties, books and records, and other items of Founding Partners and the Founding Partners Relief Defendants, including any properties, assets and other items held in the name of Founding Partners and the Founding Partners Relief Defendants, and the SEC has advised the Court that this candidate is prepared to assume this responsibility if so ordered by the Court.

Accordingly, it is now

ORDERED:

1. Plaintiff SEC's Motion for Appointment of a Replacement Receiver (Doc. #71) is **GRANTED**.

2. Daniel S. Newman is appointed as replacement Receiver over Founding Partners and each of the Founding Partners Relief

Defendants, and each of their subsidiaries, successors and assigns, and is hereby authorized, empowered, and directed to do the following:

(a) Take immediate possession of all property, assets and estates of every kind of Founding Partners and each of the Founding Partners Relief Defendants, whatsoever and wheresoever located, including but not limited to all offices maintained by Founding Partners and the Founding Partners Relief Defendants, rights of action, books, papers, data processing records, evidences of debt, bank accounts, savings accounts, certificates of deposit, stocks, bonds, debentures and other securities, mortgages, furniture, fixtures, office supplies and equipment, and all real property of Founding Partners and the Founding Partners Relief Defendants wherever situated, and to administer such assets as is required in order to comply with the directions contained in this Order, and to hold all other assets pending further order of this Court.

(b) Investigate the manner in which the affairs of Founding Partners and the Founding Partners Relief Defendants were ~~conducted and institute such actions and legal proceedings, for the~~ benefit and on behalf of Founding Partners or the Founding Partners Relief Defendants and their investors and other creditors as the Receiver deems necessary against those individuals, corporations, partnerships, associations and/or unincorporated organizations which the Receiver may claim have wrongfully, illegally or

otherwise improperly misappropriated or transferred money or other proceeds directly or indirectly traceable from investors in Founding Partners and the Founding Partners Relief Defendants, including against Founding Partners and the Founding Partners Relief Defendants, their officers, directors, employees, affiliates, subsidiaries, or any persons acting in concert or participation with them, or against any transfers of money or other proceeds directly or indirectly traceable from investors in Founding Partners and the Founding Partners Relief Defendants; provided such actions may include, but not be limited to, seeking imposition of constructive trusts, disgorgement of profits, recovery and/or avoidance of fraudulent transfers under Florida Statute § 726.101, et. seq. or otherwise, rescission and restitution, the collection of debts, and such orders from this Court as may be necessary to enforce this Order.

(c) Present to this Court a report reflecting the existence and value of the assets of Founding Partners and the Founding Partners Relief Defendants and of the extent of liabilities, both those claimed to exist by others and those the

~~Receiver believes to be legal obligations of Founding Partners and~~
the Founding Partners Relief Defendants.

(d) Appoint one or more special agents, employ legal counsel, actuaries, accountants, clerks, consultants and assistants as the Receiver deems necessary and to fix and pay their reasonable compensation and reasonable expenses, as well as all reasonable

expenses of taking possession of the assets and business of Founding Partners and the Founding Partners Relief Defendants, and exercising the power granted by this Order, subject to approval by this Court at the time the Receiver accounts to the Court for such expenditures and compensation.

(e) Engage persons in the Receiver's discretion to assist the Receiver in carrying out the Receiver's duties and responsibilities, including, but not limited to, the United States Marshal's Service or a private security firm.

(f) Defend, compromise or settle legal actions, including the instant proceeding, in which Founding Partners, any of the Founding Partners Relief Defendants, or the Receiver are a party, commenced either prior to or subsequent to this Order, with authorization of this Court; except, however, in actions where Founding Partners or the Founding Partners Relief Defendants are a nominal party, as in certain foreclosure actions where the action does not effect a claim against or adversely affect the assets of Founding Partners or the Founding Partners Relief Defendants, the Receiver may file appropriate pleadings at the Receiver's

~~discretion. The Receiver may waive any attorney-client or other~~

privilege held by Founding Partners or the Founding Partners Relief Defendants.

(g) Assume control of, and be named as authorized signatory for, all accounts at any bank, brokerage firm or financial institution which has possession, custody or control of

any assets or funds, wherever situated, of Founding Partners or the Founding Partners Relief Defendants and, upon, order of this Court, of any of their subsidiaries or affiliates, provided that the Receiver deems it necessary.

(h) Make or authorize such payments and disbursements from the funds and assets taken into control, or thereafter received by the Receiver, and incur, or authorize the incurrence of, such expenses and make, or authorize the making of, such agreements as may be reasonable, necessary, and advisable in discharging the Receiver's duties.

(i) Have access to and review all mail of Founding Partners and the Founding Partners Relief Defendants (except for mail that appears on its face to be purely personal or attorney-client privileged) received at any office or address of Founding Partners or any of the Founding Partners Relief Defendants.

3. In connection with the appointment of the Receiver provided for above:

(a) Founding Partners and each of the Founding Partners Relief Defendants, and all of their directors, officers, agents,

~~employees, attorneys, attorneys-in-fact, shareholders, and other~~
persons who are in custody, possession, or control of any assets, books, records, or other property of Founding Partners or the Founding Partners Relief Defendants shall deliver forthwith upon demand such property, money, books and records to the Receiver, and shall forthwith grant to the Receiver authorization to be a

signatory as to all accounts at banks, brokerage firms or financial institutions which have possession, custody or control of any assets or funds in the name of or for the benefit of Founding Partners or the Founding Partners Relief Defendants.

(b) All banks, brokerage firms, financial institutions, and other business entities which have possession, custody or control of any assets, funds or accounts in the name of, or for the benefit of, Founding Partners or the Founding Partners Relief Defendants shall cooperate expeditiously in the granting of control and authorization as a necessary signatory as to said assets and accounts to the Receiver.

(c) Unless authorized by the Receiver, Founding Partners and the Founding Partners Relief Defendants, and their principals shall take no action, nor purport to take any action, in the name of or on behalf of Founding Partners or any of the Founding Partners Relief Defendants.

(d) Founding Partners, the Founding Partners Relief Defendants, and their principals and respective officers, agents, employees, attorneys, and attorneys-in-fact shall take no action, ~~directly or indirectly, to hinder, obstruct, or otherwise interfere~~ with the Receiver in the conduct of the Receiver's duties or to interfere in any manner, directly or indirectly, with the custody, possession, management, or control by the Receiver of the funds, assets, premises, and choses in action described above.

4. The Receiver, and any counsel whom the Receiver may select, are entitled to reasonable compensation from the assets now held by or in the possession or control of or which may be received by Founding Partners or the Founding Partners Relief Defendants; said amount or amounts of compensation shall be commensurate with their duties and obligations under the circumstances, subject to approval of the Court.

5. During the period of this receivership, all persons, including creditors, banks, investors, or others, with actual notice of this Order, are enjoined from filing a petition for relief under the United States Bankruptcy Code without prior permission from this Court, or from in any way disturbing the assets or proceeds of the receivership or from prosecuting any actions or proceedings which involve the Receiver or which affect the property of Founding Partners or the Founding Partners Relief Defendants.¹

6. Title to all property, real or personal, all contracts, rights of action and all books and records of Founding Partners and the Founding Partners Relief Defendants and their principals,

¹In a prior Opinion and Order (Doc. #70), the Court indicated as follows: "The Court is inclined, however, to amend [this Order Appointing Replacement Receiver] to allow Sun Capital to bring a breach of contract suit against Founding Partners and/or the Receiver, based upon the loan agreements at issue. The Court will not make such an amendment, however, until after the substitute receiver is appointed and has had an opportunity to familiarize himself/herself with the case." (Doc. #70, p. 6.)

wherever located within or without this state, is vested by operation of law in the Receiver.

7. Upon request by the Receiver, any company providing telephone services to Founding Partners and any of the Founding Partners Relief Defendants shall provide a reference of calls from any number presently assigned to Founding Partners or any of the Founding Partners Relief Defendants to any such number designated by the Receiver or perform any other changes necessary to the conduct of the receivership.

8. Any entity furnishing water, electric, telephone, sewage, garbage or trash removal services to Founding Partners or any of the Founding Partners Relief Defendants shall maintain such service and transfer any such accounts to the Receiver unless instructed to the contrary by the Receiver.

9. The United States Postal Service is directed to provide any information requested by the Receiver regarding Founding Partners or any of the Founding Partners Relief Defendants, and to handle future deliveries of the mail of Founding Partners and the Founding Partners Relief Defendants as directed by the Receiver.

~~10. No bank, savings and loan association, other financial~~
institution, or any other person or entity shall exercise any form of set-off, alleged set-off, lien, or any form of self-help whatsoever, or refuse to transfer any funds or assets to the Receiver's control without the permission of this Court.

11. No bond shall be required in connection with the appointment of the Receiver. Except for an act of gross negligence or greater, the Receiver shall not be liable for any loss or damage incurred by Founding Partners and the Founding Partners Relief Defendants, or by the Receiver's officers, agents or employees, or any other person, by reason of any act performed or omitted to be performed by the Receiver in connection with the discharge of the Receiver's duties and responsibilities.

12. Service of this Order shall be sufficient if made upon Founding Partners or the Founding Partners Relief Defendants and their principals by facsimile or overnight courier.

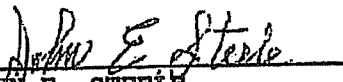
13. In the event that the Receiver discovers that funds of persons who have invested in Founding Partners or the Founding Partners Relief Defendants have been transferred to other persons or entities, the Receiver shall apply to this Court for an Order giving the Receiver possession of such funds and, if the Receiver deems it advisable, extending this receivership over any person or entity holding such investor funds.

14. This Court shall retain jurisdiction of this matter for

~~all purposes.~~

DONE AND ORDERED at Fort Myers, Florida, this 20th day of
May, 2009.

Copies:
Counsel of record
Daniel S. Newman, Esq.

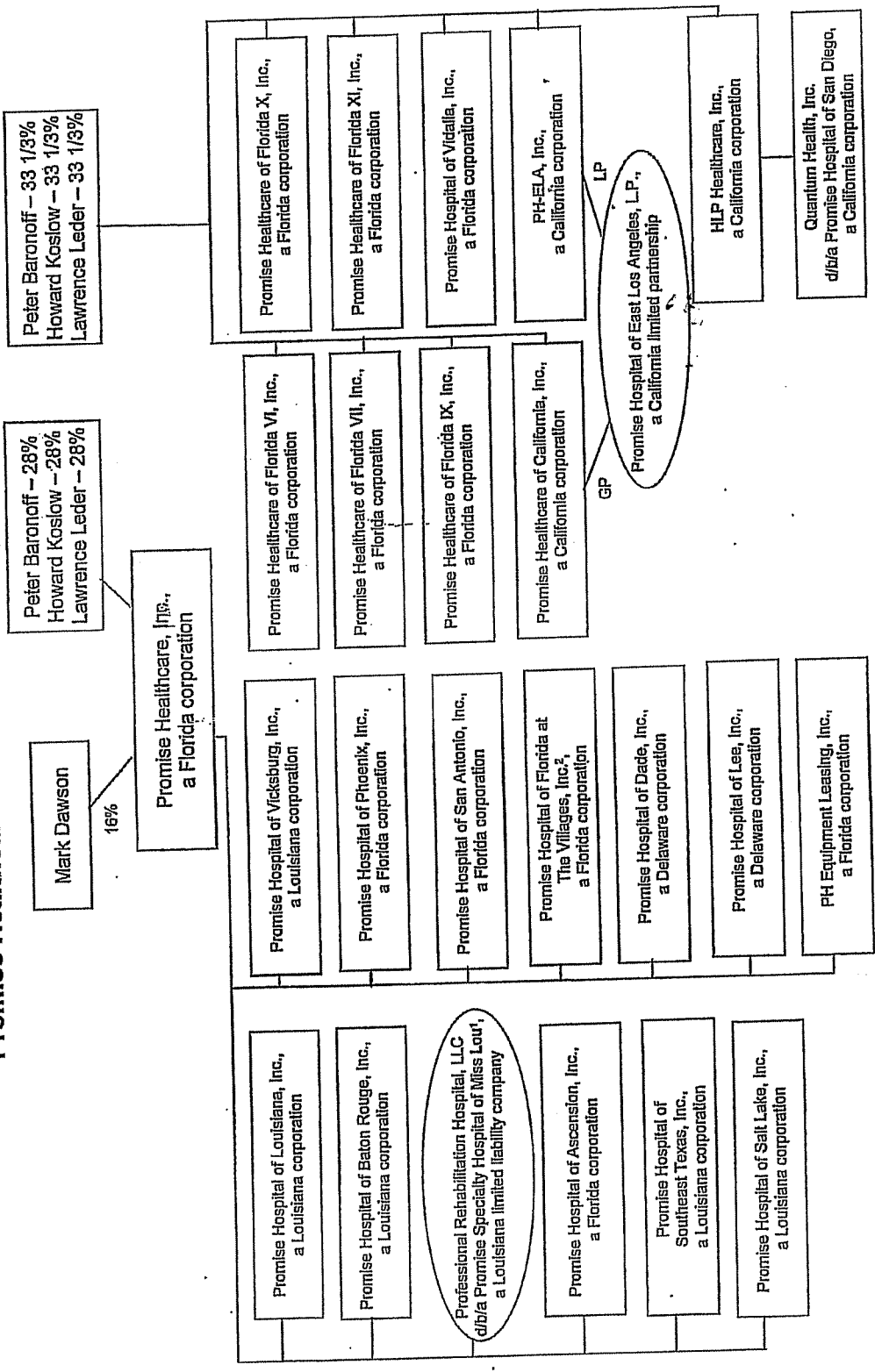


JOHN E. STEELE
United States District Judge

EXHIBIT B

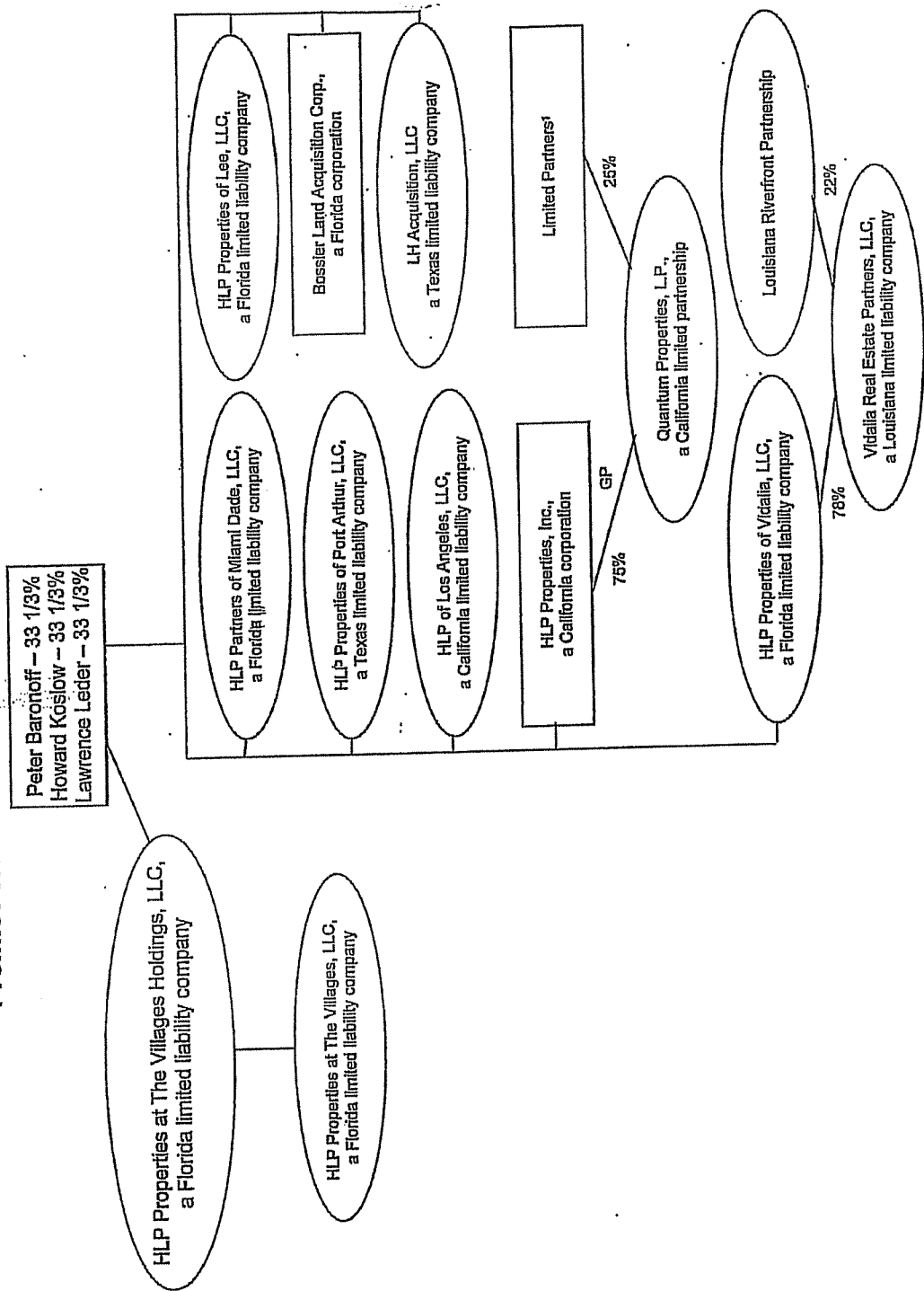
December 19, 2008

Promise Healthcare Structure Chart – Operating Entities



Promise Healthcare Structure Chart – Real Estate

December 19, 2008



1) The Limited Partners include Mohammed Bari Trust, Saleem Ishaque Trust, Roy Rodriguez Trust, Robert Bradley Sanders, Tan Nguyen and Thuy, Dang Family Trust.

December 19, 2008

Success Healthcare, LLC and Subsidiary Entities

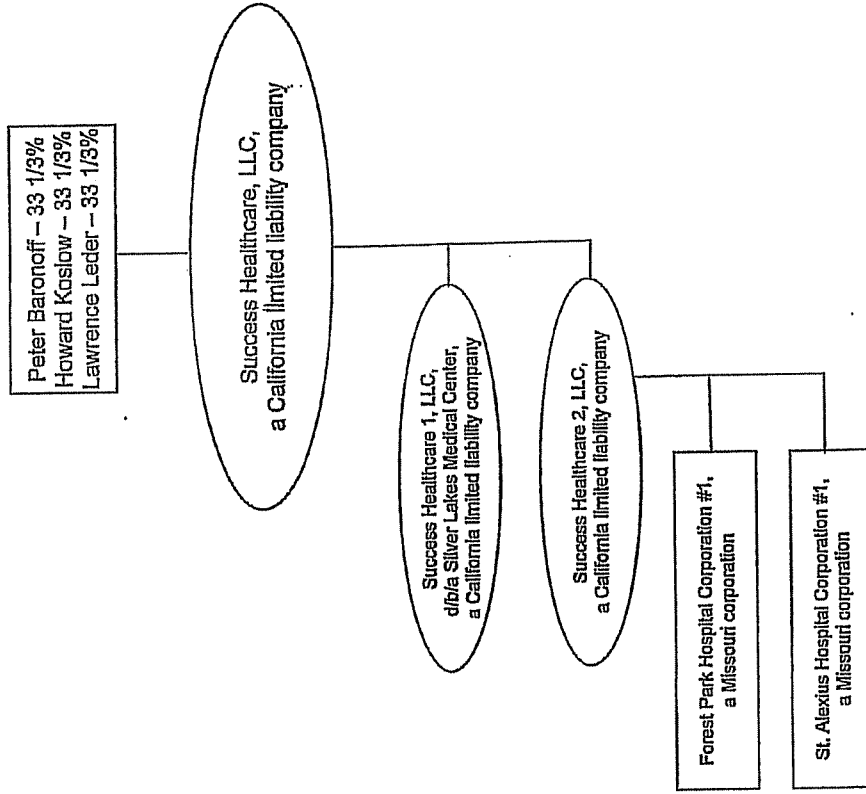


EXHIBIT C

1015025
CREDIT AGREEMENT

CREDIT AND SECURITY AGREEMENT

between

SUN-CAPITAL HEALTHCARE, INC.,
as Borrower,

and

FOUNDING PARTNERS MULTI-STRATEGY FUND, L.P., as Lender

Dated as of June 6, 2000

1015025

FP-SEC-00396

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EXHIBITS

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Exhibit C	Form of Amendment to Definition of Maximum Amount of Credit
Exhibit D	Form of Officer's Certificate (Section 5.21)

CREDIT AND SECURITY AGREEMENT

This CREDIT AND SECURITY AGREEMENT, dated as of June 6, 2000, is between SUN CAPITAL HEALTHCARE, INC., a Florida corporation (the "Borrower"), and FOUNDING PARTNERS MULTI-STRATEGY FUND, L.P. ("Founding Partners"), in its capacity as Lender hereunder.

NOW, THEREFORE, for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereto hereby agree as follows:

1. Definitions. Certain Rules of Construction. Certain capitalized terms are used in this Agreement with the specific meanings defined below in this Section 1. Except as otherwise explicitly specified to the contrary or unless the context clearly requires otherwise, (a) the capitalized term "Section" refers to sections of this Agreement, (b) the capitalized term "Exhibit" or "Schedule" refers to an exhibit or schedule to this Agreement, (c) references to a particular Section include all subsections thereof, (d) the word "including" shall be construed as "including without limitation" (without limiting the foregoing, the parties acknowledge that in some places in this Agreement the complete phrase "including without limitation" is already used), (e) accounting terms not otherwise defined herein have the meaning provided under GAAP, (f) references to a particular statute or regulation include all rules and regulations thereunder and any successor statute, regulation or rules, in each case as from time to time in effect, (g) the meanings of defined terms are equally applicable to the singular and plural forms of such defined terms, (h) the words "hereof," "herein," "hereunder" and similar words refer to this Agreement as a whole and not to any particular provision of this Agreement, (i) the word "or" is not exclusive, and (j) references to a particular Person include such Person's successors and assigns to the extent not prohibited by this Agreement. References to "the date hereof" mean the date first set forth above.

1.1. "Accounts" shall have the meaning set forth in the Form Purchase and Sale Agreement.

1.2. "Affiliate" shall mean, with respect to the Borrower (or any other specified Person); any other Person directly or indirectly controlling, controlled by or under direct or indirect common control with the Borrower (or such specified Person); and shall include (a) any officer or director of the Borrower (or such specified Person) and (b) any Person of which the Borrower (or such specified Person) shall, directly or indirectly, beneficially own either (i) at least five percent (5%) of the outstanding equity securities having the general power to vote or (ii) at least five percent (5%) of all equity interests; provided, however, that "Affiliate," with respect to the Borrower or its Affiliates, shall not include Founding Partners or any partner of Founding Partners.

1.3. "Agreement" shall mean this Credit and Security Agreement as it may be amended, amended and restated or otherwise modified from time to time.

1.4. "A.M. Best" shall mean A.M. Best Company, Inc. and any successor thereto which is a nationally recognized statistical rating organization.

1.5. "Amount Paid to Seller" means, with respect to a particular Account, the actual amount paid by the Borrower to the related Seller for such Account pursuant to the related Purchase and Sale Agreement.

1.6. "Applicable Rate" shall mean one and one-half percent (1.5%) per month.

1.7. "Assignee" is defined in Section 12.1.1.

1.8. "Availability Termination Date" shall mean the date that is the Business Day immediately preceding the Final Maturity Date.

1.9. "Bankruptcy Code" shall mean Title 11 of the United States Code.

1.10. "Bankruptcy Default" shall mean an Event of Default contemplated by Section 8.1.11.

1.11. "Borrower" has the meaning set forth in the first paragraph of this Agreement.

1.12. "Borrowing Base" shall mean, on any date, an amount equal to the lesser of (a) the Outstanding Amounts Paid to Sellers with respect to all Purchased Accounts which are Eligible Accounts as of such date, or (b) ninety-four percent (94%) of the result of (i) the Net Collectible Amounts of the Purchased Accounts which are then Eligible Accounts minus (ii) Collections on such Purchased Accounts, in each case as shown on the most recent Weekly Report furnished (or are required to have been furnished) to the Lender in accordance with Section 6.5; provided, however, that the Borrowing Base shall be reduced to zero dollars (\$0) at any time the Borrower has failed to furnish the computation of the Borrowing Base in the Weekly Report within one day after such Weekly Report was originally due pursuant to Section 6.5 until such time as the Borrower has duly delivered the Borrowing Base computation with respect to such Weekly Report and Borrower has not omitted the Borrowing Base computation with respect to any succeeding Weekly Report.

1.13. "Borrowing Base Deficiency" shall mean that the Loan Availability does not exceed zero dollars (\$0).

1.14. "Business Day" shall mean any day other than (i) Saturday, (ii) Sunday or (iii) a day on which banks in Chicago, Illinois or Naples, Florida are authorized or required by law or other governmental action to close.

1.15. "By-Laws" shall mean all written by-laws, rules, regulations and all other documents relating to the management, governance or internal regulation of any Person other than an individual, all as from time to time in effect.

1.16. "Capital Expenditures" shall mean, for any period, amounts added or required to be added to the property, plant and equipment or other fixed assets account on the balance sheet of the Borrower, prepared in accordance with GAAP, in respect of (a) the acquisition, construction, improvement or replacement of land, buildings, machinery, equipment, leaseholds and any other real or personal property; (b) to the extent not included in clause (a) above, materials, contract labor and direct labor relating thereto (excluding amounts properly expensed as repairs and maintenance in accordance with GAAP) and (c) software development costs to the extent not expensed.

1.17. "Capitalized Lease" shall mean any lease which is required to be capitalized on the balance sheet of the lessee in accordance with GAAP.

1.18. "Capitalized Lease Obligations" shall mean the amount of the liability reflecting the aggregate discounted amount of future payments under all Capitalized Leases calculated in accordance with GAAP.

1.19. "CHAMPUS" shall mean the United States Civilian Health and Medical Program of the Uniformed Services.

1.20. "Change of Ownership Event" shall mean any point in time in which the individuals referred to in Section 7.26 (excluding their respective successors and assigns) shall cease to collectively own directly one hundred percent (100%) of the issued and outstanding shares of voting stock of the Borrower, free and clear of all Liens.

1.21. "Closing Date" shall mean the Initial Lending Date and each other date on which any Loan is made pursuant to Section 2.1.

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

1.23. "Collateral" shall mean all of the Property and interests in Property described in Section 10.1, and all other Property and interests in Property that now or hereafter secure the payment or performance of any of the Credit Obligations.

1.24. "Collection Account" means the "Purchaser Collection Account" referred to in the Form Lockbox Agreement.

1.25. "Collections" shall mean all funds (regardless of whether in the form of cash, checks, money orders, wire transfers, automatic clearinghouse transfers, money-grams or otherwise) paid by any Person in payment of or in respect of any Account or any fee or other amount paid to the Borrower under a Purchase and Sale Agreement.

1.26. "Constituent Documents" shall mean, with respect to any non-individual Person: if such Person is a corporation, its certificate of incorporation and By-Laws; if such Person is a limited partnership, its certificate of limited partnership and its limited partnership agreement; and if such

Person is a limited liability company, its certificate of formation and its limited liability company agreement.

1.27. "Credit Obligations" shall mean the Loans and all present and future liabilities, obligations and Indebtedness of the Borrower owing to the Lender (or any Affiliate of the Lender) under or in connection with this Agreement or any other Program Document, including obligations in respect of principal, interest, amounts provided for in Sections 3.2, 3.3 and 9 and other fees, charges, indemnities and expenses from time to time owing hereunder or under any other Program Document (whether accruing before or after a Bankruptcy Default).

1.28. "Credit Participant" is defined in Section 12.2.

1.29. "Date of Service" shall mean, with respect to medical services rendered or goods provided to an individual, the date on which such services or goods were provided to that individual.

1.30. "Debtor Relief Laws" shall mean the Bankruptcy Code and all other applicable liquidation, conservatorship, bankruptcy, moratorium, rearrangement, receivership, insolvency, reorganization, suspension of payments, readjustment of debt, marshaling of assets or similar debtor relief laws of the (a) United States, (b) any state or (c) any foreign country from time to time in effect.

1.31. "Default" shall mean (a) any Event of Default, or (b) any event, circumstance or condition which with the passage of time or giving of notice, or both, would become an Event of Default.

1.32. "Defaulted Account", on any date of determination, shall mean a Purchased Account (i) as to which (x) at least one hundred twenty (120) days have passed since the Date of Service for such Purchased Account and (y) the Third Party Obligor thereof has not paid to a Lockbox or a Lockbox Account an amount at least equal to the sum of the Amount Paid to Seller for such Purchased Account plus the Discount Fee for such Purchased Account, or (ii) the Third Party Obligor of which is a party to a proceeding provided under any Debtor Relief Law (other than solely as a creditor or a claimant).

1.33. "Discount Fee" shall mean, as of any date of determination, the aggregate "discount fee" accrued with respect to a particular Purchased Account determined in accordance with the related Purchase and Sale Agreement.

1.34. "Distribution" shall mean, with respect to the Borrower (or other specified Person):

(a) the declaration or payment of any dividend or distribution, including dividends payable in shares of capital stock of or other equity interests in the Borrower (or such specified Person), on or in respect of any shares of any class of capital stock of or other equity interests in the Borrower (or such specified Person);

(b) the purchase, redemption or other retirement of any shares of any class of capital stock of or other equity interest in the Borrower (or such specified Person) or of options, warrants or other rights for the purchase of such shares, directly, indirectly, through a Subsidiary or otherwise;

(c) any other distribution on or in respect of any shares of any class of capital stock of or equity or other beneficial interest in the Borrower (or such specified Person);

(d) any payment with respect to, or any purchase, redemption or defeasance of, any Indebtedness of the Borrower (or such specified Person);

(e) any payment, loan or advance by the Borrower (or such specified Person) to, or any other Investment by the Borrower (or such specified Person) in, the holder of any shares of any class of capital stock of or other equity interests in the Borrower (or such specified Person), or any Affiliate of such holder, including the payment of management and transaction fees; and

(f) any other cash payments by the Borrower to any Person (other than to the Lender or as permitted or directed by the Lender).

1.35. "Dollars" or "£" shall mean United States Funds.

1.36. "Effective Date" shall mean the first date upon which each of the conditions precedent set forth in Section 5.1 shall have been satisfied or waived to the satisfaction of the Lender.

1.37. "Eligible Account" shall mean an Account:

(a) that is payable in United States dollars, for health care services rendered or health care goods provided by a health care provider in the United States, by a Third Party Obligor satisfactory to the Lender;

(b) that is not a Defaulted Account;

(c) as to which the Purchase Date is not more than sixty (60) days after the applicable Date of Service;

(d) which was billed to the Third Party Obligor prior to its Purchase Date;

(e) as to which the Borrower has good and marketable title free and clear of all Liens (other than Liens in favor of the Lender);

(f) as to which the Lender has a fully perfected first priority security interest;

(g) as to which an Obligor Notice has been received by the Third Party Obligor thereof;

(h) which is not evidenced by "chattel paper" (as presently or hereafter defined in the UCC) or an "instrument" (as presently or hereafter defined in the UCC);

(i) if the Seller of such Account is not party to a proceeding under any Debtor Relief Law (other than solely as a creditor); and

(j) as to which all of the representations and warranties made by the applicable Seller in the applicable Purchase and Sale Agreement are true and correct.

1.38. "Eligible Investments" shall mean any one or more of the following types of investments (having original maturities or remaining maturities of no more than thirty (30) days):

(a) direct interest-bearing obligations of, and interest-bearing obligations guaranteed as to timely payment of principal and interest by, the United States or any agency or instrumentality of the United States the obligations of which are backed by the full faith and credit of the United States; and direct interest-bearing obligations of, and interest-bearing obligations guaranteed as to timely payment of principal and interest by, the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation;

(b) demand or time deposits in, certificates of deposit of, or bankers' acceptances issued by any depository institution or trust company organized under the laws of the United States or any State and subject to supervision and examination by federal or state banking authorities; provided that the short-term unsecured debt obligations of such depository institution or trust company at the time of such investment, or contractual commitment providing for such investment, are rated in the highest short-term rating category by at least one Rating Agency;

(c) securities bearing interest or sold at a discount issued by any corporation incorporated under the laws of the United States or any State whose long-term unsecured debt obligations are rated in the highest rating category by at least one Rating Agency at the time of such investment or contractual commitment providing for such investment;

(d) commercial paper that is payable in United States dollars and is rated in the highest short-term rating category by at least one Rating Agency;

(e) investments in money market funds having a long term rating in the highest rating category by at least one Rating Agency; and

(f) any other investment approved in writing by the Lender.

1.39. "EOB" shall mean the explanation of benefits, remittance advice or other record that is provided by a Third Party Obligor setting forth the amount it shall or shall not pay with respect to a Receivable on which it is the Third Party Obligor.

1.40. "ERISA" shall mean the Employee Retirement Income Security Act of 1974, as amended from time to time, and the regulations promulgated thereunder.

1.41. "ERISA Affiliate" shall mean with respect to any Person, at any time, each trade or business (whether or not incorporated) that would, at the time, be treated together with such Person as a single employer under Section 4001 of ERISA or Sections 414(b), (c), (m) or (o) of the Code.

1.42. "Event of Default" is defined in Section 8.1.

1.43. "Final Maturity Date" shall mean the first Business Day that is five years after the date hereof or such other date as may be agreed upon in writing by all of the parties hereto from time to time.

1.44. "Form Lockbox Agreement" shall mean the form of Wholesale Lockbox Deposit and Blocked Account Service Agreement with Provider attached as Exhibit A hereto.

1.45. "Form Purchase and Sale Agreement" shall mean the form of Master Purchase and Sale Agreement attached as Exhibit B hereto.

1.46. "Founding Partners" is defined in the preamble to this Agreement.

1.47. "GAAP" shall mean generally accepted accounting principles in the United States of America as from time to time in effect, including the statements and interpretations of the United States Financial Accounting Standards Board.

1.48. "General Intangibles" shall mean: (a) all general intangibles (as presently or hereafter defined in the UCC); (b) all choses in action, causes of action, corporate or other business books and records, deposit accounts, investments made with funds in deposit accounts (including without limitation Eligible Investments), inventions, designs, patents, patent applications, trademarks, trade names, trade secrets, goodwill, copyrights, registrations, licenses, franchises, rights to royalties, blueprints, drawings, confidential information, catalogs, sales literature, video tapes, consulting agreements, employment agreements, customer lists, tax refund claims, tax refund payments, computer programs, insurance policies, deposits with insurers, and all claims under guaranties; (c) all interests in or claims in or under any policy of insurance; (d) all security interests or other security held by any Person; (e) all rights to indemnification; and (f) all other intangible property of every kind and nature.

1.49. "Governmental Accounts" shall have the meaning set forth in the Form Purchase and Sale Agreement.

1.50. "Government Obligor" or "Governmental Obligor" shall mean a Governmental Entity that is obligated to make any payments with respect to Accounts representing amounts owing under Medicaid, Medicare or any other program established by federal or state law which provides for payments for health care goods or services to be made to the providers of such goods or services (including, without limitation, CHAMPUS and the program set forth in Title 38 U.S.C. Section 1713).

1.51. "Governmental Authority" shall mean the United States of America, any State thereof or the District of Columbia, any political subdivision of any of the foregoing, and any entity exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to government.

1.52. "Governmental Entity" shall mean the United States of America, any State thereof or the District of Columbia, any political subdivision of any of the foregoing and any department, agency or instrumentality of any of the foregoing (including, without limitation, HCFA) or any fiscal intermediary thereof.

1.53. "Gross Amount" shall mean, with respect to an Account, the gross amount billed to the applicable Third Party Obligor with respect to such Account.

1.54. "Guarantee" shall mean, with respect to the Borrower (or other specified Person):

(a) any guarantee by the Borrower (or such specified Person) of the payment or performance of, or any contingent obligation by the Borrower (or such specified Person) in respect of, any Indebtedness or other obligation of any primary obligor;

(b) any other arrangement whereby credit is extended to a primary obligor on the basis of any promise or undertaking of the Borrower (or such specified Person), including any "comfort letter" or "keep well agreement" written by the Borrower (or such specified Person), to a creditor or prospective creditor of such primary obligor, (i) to pay the Indebtedness of such primary obligor, (ii) to purchase an obligation owed by such primary obligor, (iii) to pay for the purchase or lease of assets or services regardless of the actual delivery thereof or (iv) to maintain the capital, working capital, solvency or general financial condition of such primary obligor;

(c) any liability of the Borrower (or such specified Person), as a general partner of a partnership in respect of Indebtedness or other obligations of such partnership;

(d) any liability of the Borrower (or such specified Person) as a joint venturer of a joint venture in respect of Indebtedness or other obligations of such joint venture;

(e) any liability of the Borrower (or such specified Person) with respect to the tax liability of others as a member of a group (other than a group consisting solely of the Borrower and its Subsidiaries) that is consolidated for tax purposes; and

(f) reimbursement obligations, whether contingent or matured, of the Borrower (or such specified Person) with respect to letters of credit, bankers acceptances, surety bonds, other financial guarantees and Interest Rate Protection Agreements,

whether or not any of the foregoing are reflected on the balance sheet of the Borrower (or such specified Person) or in a footnote thereto, provided, however, that the term "Guarantee" shall not include endorsements for collection or deposit in the ordinary course of business. The amount of any Guarantee and the amount of Indebtedness resulting from such Guarantee shall be the maximum amount that the guarantor may become obligated to pay in respect of the obligations (whether or not such obligations are outstanding at the time of computation) and, for purposes of covenant calculations, shall be without duplication of guaranteed Indebtedness that is already included in such calculations.

1.55. "HCEA" shall mean the Health Care Financing Administration of the United States Department of Health and Human Services.

1.56. "Holding Account" shall mean account number 0494002031891 in the name of the Borrower and held by SunTrust, or such other account as the Borrower and the Lender may mutually designate in writing from time to time as the "Holding Account".

1.57. "Indebtedness" shall mean all obligations, contingent or otherwise, which in accordance with GAAP are required to be classified upon the face of the balance sheet of the Borrower (or other specified Person) as liabilities, but in any event including (without duplication):

- (a) borrowed money;
- (b) indebtedness evidenced by notes, debentures or similar instruments;
- (c) Capitalized Lease Obligations;
- (d) the deferred purchase price of assets or securities, including related noncompetition, consulting and stock repurchase obligations;
- (e) mandatory redemption or dividend rights on capital stock (or other equity);
- (f) reimbursement obligations, whether contingent or matured, with respect to letters of credit, bankers acceptances, surety bonds, other financial guarantees and Interest Rate Protection Agreements (without duplication of other Indebtedness supported or guaranteed thereby);
- (g) liabilities secured by any Lien existing on property owned or acquired by the Borrower (or such specified Person), whether or not the liability secured thereby shall have been assumed;

- (h) unfunded pension liabilities;
- (i) obligations that are immediately and directly due and payable out of the proceeds of or production from property; and
- (j) all Guarantees in respect of Indebtedness of others.

1.58. "Indemnified Amounts" shall mean any and all claims, damages, expenses, losses, liabilities, penalties, judgments, suits, actions, costs, charges, and disbursements, including without limitation fees and other charges of any law firm or other counsel.

1.59. "Indemnified Parties" shall mean the Lender, the partners of the Lender, and any officer, director, employee, agent, law firm or other counsel for any of the Lender or any partner of the Lender.

1.60. "Initial Lending Date" shall mean the date on which the first Loan is made by Lender to the Borrower pursuant to Section 2.1.

1.61. "Insolvency" shall mean, with respect to any Multiemployer Plan, the condition that such Plan is insolvent within the meaning of Section 4245 of ERISA.

1.62. "Interest Rate Protection Agreement" shall mean any interest rate swap, interest rate cap, interest rate hedge or other contractual arrangement that converts variable interest rates into fixed interest rates, fixed interest rates into variable interest rates or other similar arrangements.

1.63. "Investment" shall mean, with respect to the Borrower (or other specified Person):

- (a) any share of capital stock, partnership or other equity interest, evidence of Indebtedness or other security issued to the Borrower (or other specified Person) by any other Person;
- (b) any loan, advance or extension of credit by the Borrower (or other specified Person) to, or contribution to the capital of, any other Person;
- (c) any Guarantee by the Borrower (or other specified Person) of the Indebtedness of any other Person;
- (d) any acquisition by the Borrower (or other specified Person) of all, or any division or similar operating unit of, the business of any other Person or the assets comprising such business, division or unit; and
- (e) any other similar investment.

The investments described in the foregoing clauses (a) through (e) shall be included in the term "Investment" whether they are made or acquired by purchase, exchange, issuance of stock or other securities, merger, reorganization or any other method.

1.64. "Judgment Measurement Amount" means the result of (a) the Borrowing Base, less (b) the sum of (i) the outstanding principal amount of the Loans plus (ii) accrued and unpaid interest on the Loans.

1.65. "Legal Requirement" shall mean any present or future requirement imposed upon the Lender or the Borrower by any law, statute, rule, regulation, directive, order, decree, guideline (or any interpretation thereof by courts or of administrative bodies) of the United States of America, or any state or political subdivision of any of the foregoing, or by any board, governmental or administrative agency, or any political subdivision of any of the foregoing.

1.66. "Lender" shall mean Founding Partners and its successors and assigns.

1.67. "Lien" shall mean, with respect to the Borrower (or any other specified Person):

(a) any lien, encumbrance, mortgage, pledge, charge or security interest of any kind upon any property or assets of the Borrower (or such specified Person), whether now owned or hereafter acquired, or upon the income or profits therefrom;

(b) the acquisition of, or the agreement to acquire, any property or asset upon conditional sale or subject to any other title retention agreement, device or arrangement (including a Capitalized Lease);

(c) the sale, assignment, pledge or transfer for security of any accounts, general intangibles or chattel paper of the Borrower (or such specified Person), with or without recourse;

(d) the transfer of any tangible property or assets for the purpose of subjecting such items to the payment of previously outstanding Indebtedness in priority to payment to the general creditors of the Borrower (or such specified Person);

(e) any lease in the nature of a security interest; and

(f) the filing of or agreement to file or deliver any financing statement under the UCC or comparable law of any jurisdiction.

1.68. "Loan" is defined in Section 2.1.4.

1.69. "Loan Availability" shall mean, as at any date, an amount equal to the result of:

(a) the lesser of (i) the Maximum Amount of Credit, and (ii) the sum of (x) the Borrowing Base after giving effect to any Eligible Accounts to be acquired on such date with the Loans plus (y) the amount on deposit in the Holding Amount; minus

(b) the sum of (i) the then aggregate outstanding principal amount of all Loans plus (ii) the accrued and unpaid interest on the Loans (provided that this clause (b)(ii) shall apply commencing on the one hundred twentieth (120th) day after the date of this Agreement, provided, further, that from and after such one hundred twentieth (120th) day, this clause (b)(ii) shall include accrued and unpaid interest on the Loans from and after the Initial Lending Date).

During the first one hundred twenty (120) days after the date of this Agreement, the amount of the initial Loan under this Agreement "netted" to pay legal fees of the Lender's counsel in accordance with Section 5.1(g) shall not be subtracted pursuant to clause (b) above for purposes of calculating Loan Availability.

1.70. "Lockbox" shall mean a Purchaser Lockbox or a Provider Lockbox.

1.71. "Lockbox Account" shall mean a Purchaser Lockbox Account or a Provider Lockbox Account.

1.72. "Lockbox Agreement" shall mean an agreement among the Borrower, a Seller and a Lockbox Bank, and such other Person or Persons as may be acceptable to the Lender, as such agreement may be amended, amended and restated or otherwise modified from time to time.

1.73. "Lockbox Bank" shall mean any bank approved in writing by the Lender to maintain a Lockbox and Lockbox Account pursuant to a Lockbox Agreement. As of the date of this Agreement, the only bank approved by the Lender for purposes of the preceding sentence is SunTrust.

1.74. "Material Adverse Effect" shall mean a material adverse effect on: (a) the condition (financial or otherwise), business, performance, operations, properties, profits or prospects of the Borrower; (b) the Purchased Accounts or the legality, validity, transferability or enforceability of the Purchased Accounts; (c) the rights and remedies of the Lender under or in connection with any Program Document; (d) the ability of the Borrower to perform its obligations under any Program Document to which it is a party or enforce its rights under any Program Document to which it is a party; or (e) the overall reliability of the Borrower's reporting and control procedures under any Program Document.

1.75. "Maximum Amount of Credit" shall mean a dollar amount mutually agreed upon in writing by the Borrower and the Lender. Unless and until the Borrower and the Lender otherwise mutually agree in writing upon a different dollar amount pursuant to an agreement substantially in the form of Exhibit C hereto, the Maximum Amount of Credit shall be two million dollars (\$2,000,000).

1.76. "Medicaid" shall mean the government program established by Title XIX of the Social Security Act, 42 U.S.C. §§ 1396 et seq.

1.77. "Medicare" shall mean the government program established by Title XVIII of the Social Security Act, 42 U.S.C. §§ 1395 et seq.

1.78. "Moody's" shall mean Moody's Investors Service, Inc. and any successor thereto which is a nationally recognized statistical rating organization.

1.79. "Multiemployer Plan" shall mean a "multiemployer plan" as defined in Section 4001(a)(3) of ERISA to which contributions are or have been made during the preceding five (5) years by any Person or any ERISA Affiliate of such Person.

1.80. "Net Collectible Amount" shall mean, with respect to any Account, the amount determined as such in accordance with the related Purchase and Sale Agreement.

1.81. "Non-Government Obligor" shall mean a Third Party Obligor which is not a Government Obligor.

1.82. "Non-Government Obligor Reserve Account" shall mean a deposit account held by a bank that is acceptable at all times to the Lender.

1.83. "Obligor Notice" means: (a) with respect to a Third Party Obligor which is a Non-Government Obligor, a notice in the form of Exhibit C to the Form Purchase and Sale Agreement, and (b) with respect to a Third Party Obligor which is a Government Obligor, a notice in the form of Exhibit D to the Form Purchase and Sale Agreement.

1.84. "Officer's Certificate" shall mean a certificate signed by an officer of the Borrower.

1.85. "Operating Account" shall mean account number 0494002031902 in the name of the Borrower and held by SunTrust, or such other account as the Borrower and the Lender may mutually designate in writing from time to time as the "Operating Account".

1.86. "Outstanding Amount Paid to Seller", with respect to a Purchased Account, shall mean the greater of (i) the Amount Paid to Seller for such Purchased Account ~~minus~~ Collections with respect to such Purchased Account and (ii) zero, and "Outstanding Amounts Paid to Sellers" means the sum of the Outstanding Amount Paid to Seller for each Purchased Account.

1.87. "Overdue Reimbursement Rate" shall mean, at any date, a per annum rate equal to the sum of (a) two percent (2%) plus (b) the annualized Applicable Rate then in effect.

1.88. "PBGC" shall mean the Pension Benefit Guaranty Corporation or any successor entity.

1.89. "Person" shall mean any present or future natural person or any corporation, association, partnership, joint venture, limited liability company, joint stock company or other company, business trust, trust, organization, business or government or any governmental agency or political subdivision thereof.

1.90. "Plan" shall mean, with respect to any Person, any employee pension benefit plan that (a) is maintained by such Person or any ERISA Affiliate of such Person, or to which contributions by any such Person are required to be made or under which such Person has or could have any liability, (b) is subject to the provisions of Title IV of ERISA and (c) is not a Multiemployer Plan.

1.91. "Plan Event" shall mean, with respect to any Person, (a) the provision of a notice of intent to terminate any Plan under Section 4041 of ERISA other than in a "standard termination", (b) the receipt of any notice by any Plan to the effect that the PBGC intends to apply for the appointment of a trustee to administer any Plan, (c) the termination of any Plan which results in any material liability of such Person, (d) the withdrawal of such Person or any ERISA Affiliate of such Person from any Plan described in Section 4063 of ERISA which could be reasonably expected to result in a material liability of such Person, (e) the complete or partial withdrawal of such Person or any ERISA Affiliate of such Person from any Multiemployer Plan which can be reasonably anticipated to result in a material liability of such Person, (f) a Reportable Event or an event described in Section 4068(f) of ERISA which may result in a material liability of such Person, and (g) any other event or condition which under ERISA or the Code could be reasonably expected to constitute grounds for the imposition of a lien on the assets of such Person in respect of any Plan or Multiemployer Plan.

1.92. "Proceeding" shall mean any lawsuit, investigation, action, counterclaim, litigation or other judicial or administrative proceeding.

1.93. "Program Documents" shall mean this Agreement, each Purchase and Sale Agreement, each Lockbox Agreement, the SunTrust Master Agreement, any guaranty made by any Person in favor of the Lender with respect to the obligations of the Borrower, and any brokerage agreement, other agreement, certificate, promissory note, UCC financing statement, report, financial statement, instrument, insurance policy, surety bond, application for an insurance policy or surety bond, or other document delivered pursuant to or in connection with any of the foregoing.

1.94. "Property" shall mean any interest in any kind of property or asset, whether real, personal or mixed, or tangible or intangible.

1.95. "Provider Lockbox" shall mean a post-office box or lockbox maintained pursuant to a Lockbox Agreement for the purpose of receiving checks and other forms of Collections and EOBs from Governmental Obligor.

1.96. "Provider Lockbox Account" shall mean an account maintained at a Lockbox Bank for the purpose of depositing checks and other forms of Collections, and receiving wire transfers and other electronic funds transfers, in each case on account of Governmental Accounts.

1.97. "Purchase and Sale Agreement" shall mean a purchase and sale agreement between the Borrower and a Seller, as such Purchase and Sale Agreement may be amended, amended and restated or otherwise modified from time to time. Any reference to the "related" or the "applicable" Purchase and Sale Agreement shall be a reference to the Purchase and Sale Agreement under which a particular Account was purchased by the Borrower.

1.98. "Purchase Date" shall mean, with respect to any Account, the related Weekly Closing Date.

1.99. "Purchased Accounts" shall mean Accounts which are purchased by the Borrower from a Seller pursuant to a Purchase and Sale Agreement.

1.100. "Purchaser Lockbox" shall mean a post office box or lockbox maintained pursuant to a Lockbox Agreement for the purpose of receiving checks and other forms of Collections and EOBs from Third Party Obligors other than Governmental Obligors.

1.101. "Purchaser Lockbox Account" shall mean an account maintained by the Borrower at a Lockbox Bank for the purposes of depositing checks and other forms of Collections from Third Party Obligors; and receiving wire transfers and other electronic funds transfers from Third Party Obligors, in each case with respect to Accounts other than Governmental Accounts.

1.102. "Rating Agency" shall mean Moody's, S&P or A.M. Best.

1.103. "Receivables" shall mean: (a) all accounts (as presently or hereafter defined in the UCC); and (b) without limiting the foregoing, all Accounts (as defined in the Form Purchase and Sale Agreement).

1.104. "Regulations" shall mean the regulations promulgated under the Code.

1.105. "Related Property" shall mean, with respect to any Account, all of the Borrower's right, title and interest in, to and under (a) the related Purchase and Sale Agreement, including, without limitation, all amounts due and to become due to the Borrower under such Purchase and Sale Agreement, and all rights, remedies, powers, privileges and claims of the Borrower under such Purchase and Sale Agreement (whether arising pursuant to the terms of such Purchase and Sale Agreement or otherwise available to the Borrower at law or in equity), and (b) all related EOBs, records and all rights (but not obligations) relating to such Accounts.

1.106. "Reorganization" shall mean, with respect to any Multiemployer Plan, the condition that such Plan is in reorganization within the meaning of Section 4241 of ERISA.

1.107. "Reportable Event" shall mean any of the events set forth in Section 4043(c) of ERISA.

1.108. "Requirements of Law" for any Person shall mean any law, treaty, rule or regulation, or determination of an arbitrator or Governmental Authority, whether Federal, state or local, in each case applicable to or binding upon such Person or to which such Person is subject.

1.109. "Revocation Order" shall mean a request, direction or order by a Seller to a Lockbox Bank which is inconsistent with the terms of the applicable Lockbox Agreement.

1.110. "SCI" means Sun Capital Inc., a Florida corporation.

1.111. "Seller" shall mean a Person which sells or has sold Accounts to the Borrower pursuant to a Purchase and Sale Agreement.

1.112. "Senior Officer" shall mean the chief executive officer, chairman or president of the Borrower, all of whose incumbency and signatures have been certified to the Lender by the secretary or other appropriate attesting officer of the Borrower.

1.113. "Solvent" shall mean, with respect to any Person, that (i) fair value of the property of the Person is, on the date of determination, greater than the total amount of liabilities (including contingent liabilities) of the Person as of that date, (ii) as of that date, the Person is able to pay all liabilities of the Person as those liabilities mature, and (iii) the Person does not have unreasonably small capital for the business in which it is engaged or for any business or transaction in which it is about to engage. In computing the amount of contingent liabilities at any time, it is intended that they be computed at the amount that, in light of all the facts and circumstances existing at the time, represents the amount that can reasonably be expected to become an actual or matured liability.

1.114. "Standard & Poor's" or "S&P" shall mean Standard & Poor's Ratings Services, a division of The McGraw-Hill Companies, Inc., and any successor thereto which is a nationally recognized statistical ratings organization.

1.115. "Subsidiary" shall mean any Person of which the Borrower (or other specified Person) shall at the time, directly or indirectly through one or more of its Subsidiaries, (a) own at least fifty percent (50%) of the outstanding capital stock (or other shares of beneficial interest) entitled to vote generally, (b) hold at least fifty percent (50%) of the partnership, joint venture or similar interests or (c) be a managing general partner or managing joint venturer.

1.116. "Sun Capital Entity" shall mean the Borrower, SCI, and any Affiliate of any of the foregoing.

1.117. "SunTrust" shall mean SunTrust Bank.

1.118. "SunTrust Master Agreement" shall mean the Master Wholesale Lockbox Deposit and Blocked Account Service Agreement among SunTrust, the Borrower and the Lender, as the same may be amended, amended and restated or otherwise modified from time to time.

1.119. "Tax" shall mean any present or future tax, levy, duty, impost, deduction, withholding or other charges of whatever nature at any time required by any Legal Requirement (a) to be paid by the Lender or (b) to be withheld or deducted from any payment otherwise required hereby to be made to the Lender, in each case on or with respect to any obligations hereunder, any Loan, or any payment in respect of the Credit Obligations not included in the foregoing; provided, however, that the term "Tax" shall not include taxes imposed upon or measured by the net income of the Lender (other than withholding) or franchise taxes.

1.120. "Termination Date" shall mean the date upon which all the commitments of the Lender to advance funds to the Borrower hereunder have been terminated, and all fees, expenses and Credit Obligations owing by the Borrower or any other Borrower to the Lender hereunder or under any other Program Document have been indefeasibly paid in full.

1.121. "Third Party Obligor" shall have the meaning specified in the Form Purchase and Sale Agreement.

1.122. "UCC" shall mean the Uniform Commercial Code, as amended from time to time, as in effect in any specified or applicable jurisdiction.

1.123. "United States Funds" shall mean such coin or currency of the United States of America as at the time shall be legal tender therein for the payment of public and private debts.

1.124. "Weekly Closing Date" shall have the meaning set forth in the Form Purchase and Sale Agreement.

1.125. "Weekly Report" shall mean a report prepared by the Borrower in form and substance reasonably satisfactory to the Lender.

1.126. "Written" or "in writing" shall mean any form of written communication, including by means of facsimile transmission.

2. Credit Application of Proceeds

2.1. The Credit

2.1.1. Loans. Subject to all the terms and conditions of this Agreement, including the conditions set forth in Section 5.1 and Section 5.2, and so long as no Default exists, either immediately before or after giving effect to such Loan, from time to time on and after the Effective Date and prior to the earlier of (a) the termination of this Agreement in accordance with the terms hereof and (b) the Availability Termination Date, the Lender shall

make Loans to the Borrower; provided that the aggregate outstanding principal amount of the Loans shall not exceed the Maximum Amount of Credit. Loans shall be made in accordance with the procedures set forth in Section 2.1.3.

2.1.2. Borrowing Requests. The Borrower may from time to time request a Loan under Section 2.1.1 by providing to the Lender a notice in writing. Such notice must be received by the Lender not later than noon (Chicago time) three Business Days prior to the requested Closing Date for such Loan (or, in the case of the first Loan under this Agreement, at least one Business Day prior to the Initial Lending Date). The notice must specify (a) the amount of the requested Loan (which shall be not less than one hundred thousand dollars (\$100,000)) and (b) the requested Closing Date therefor (which shall be a Business Day).

2.1.3. Making of Loans. Subject to Section 2.1.1 and subject to the other terms and conditions of this Agreement, on each Closing Date requested by the Borrower pursuant to Section 2.1.2, the Lender shall deposit the amount of the requested Loan in the Holding Account. The Borrower may withdraw funds (or cause funds to be withdrawn) from the Holding Account without the signature of the Lender, provided, that funds shall be withdrawn from the Holding Account only (a) to purchase Accounts directly from a Seller pursuant to a Purchase and Sale Agreement or to (b) to make payments directly to the Lender for application in accordance with Section 4.5.2; provided, further, that no funds shall be withdrawn from the Holding Account to purchase Accounts from a Seller if any Default exists on the date of such withdrawal or would exist after giving effect to such withdrawal; provided, further, however, that upon the occurrence of an Event of Default, all amounts on deposit in the Holding Account shall be paid to the Lender for application in accordance with Section 4.5.2.

2.1.4. Loans; No Note. The aggregate principal amount of the extensions of credit under this Agreement outstanding from time to time may be referred to herein as the "Loan" or the "Loans". The Borrower's obligations to repay the Loans to the Lender shall not be evidenced by a promissory note of the Borrower unless the Lender consents in writing thereto.

2.2. Application of Proceeds. The Borrower shall apply the proceeds of the Loans to pay the purchase price of Accounts to a Seller pursuant to a Purchase and Sale Agreement. The Borrower shall not borrow any funds from the Lender unless such funds are applied for the foregoing purpose or unless such funds are used to make payments to the Lender in accordance with Section 2.1.3.

3. Interest.

3.1. Interest. The Loans shall accrue and bear interest at the Applicable Rate (or the Overdue Reimbursement Rate, if applicable). Prior to any accelerated maturity of the Loans, the Borrower shall pay accrued and unpaid interest on the Loans to the Lender on the first day of each calendar month and on the Final Maturity Date. Upon any accelerated maturity of any of the Credit

Obligations pursuant to Section 8.2.3, the Borrower shall pay the Lender immediately all accrued and unpaid interest on the Loans. Upon the occurrence and during the continuance of an Event of Default, the Borrower shall pay interest on the Loans and any other amounts payable by the Borrower hereunder (including overdue interest, to the extent permitted by law) at the Overdue Reimbursement Rate for the period commencing on the date of such Event of Default until such Event of Default is cured or waived, as acknowledged in writing by Lender.

3.2. Computations of Interest. For purposes of this Agreement, interest (and any other amount expressed as interest) shall be computed for actual days elapsed on the basis of a year of twelve (12) months having thirty (30) days each, provided that this shall not be construed to limit the per month interest calculation contemplated by the definition of Applicable Rate. If any payment required by this Agreement becomes due on any day that is not a Business Day, such payment shall be made on the next succeeding Business Day. If the due date for any payment of interest or principal is extended as a result of the immediately preceding sentence, interest shall be payable for the time during which payment is extended at the Applicable Rate (or the Overdue Reimbursement Rate, if applicable).

3.3. Taxes, Etc.

3.3.1. Taxes. All payments of the Credit Obligations shall be made without set-off or counterclaim and free and clear of any deductions, including deductions for Taxes, unless the Borrower is required by law to make such deductions. If after the date hereof (a) the Lender shall be subject to any Tax with respect to any payment of the Credit Obligations or its obligations hereunder or (b) the Borrower shall be required to withhold or deduct any Tax on any payment on the Credit Obligations, then the Lender may claim compensation from the Borrower under Section 3.3.2. Whenever Taxes must be withheld by the Borrower with respect to any payments of the Credit Obligations, the Borrower shall promptly pay such Taxes and shall promptly furnish to the Lender the official receipts (to the extent that the relevant governmental authority delivers such receipts) evidencing payment of any such Taxes so withheld or deducted. If the Borrower fails to pay any such Taxes when due or fails to remit to the Lender the required receipts evidencing payment of any such Taxes so withheld or deducted, the Borrower shall indemnify the Lender for any incremental Taxes and interest or penalties that may become payable by the Lender as a result of any such failure.

3.3.2. Compensation Claims. Within ten (10) days after the receipt by the Borrower of a certificate from the Lender setting forth why it is claiming compensation under this Section 3.3 and computations (in reasonable detail) of the amount thereof, the Borrower shall pay to the Lender such additional amounts as the Lender sets forth in such certificate as sufficient fully to compensate it on account of the foregoing provisions of this Section 3.3, together with interest on such amount from the tenth (10th) day after receipt of such certificate until payment in full thereof at the Overdue Reimbursement Rate. The determination by the Lender of the amount to be paid to it and the basis for computation

thereof hereunder shall, in the absence of manifest error, be conclusive. In determining such amount, the Lender may use any reasonable averaging and attribution methods.

4. Payment.

4.1. Debiting of Interest Payments. The Borrower shall cause the bank holding the Operating Account to remit by wire transfer on the first day of each calendar month, from the Operating Account to a bank account designated by the Lender from time to time, all accrued and unpaid interest on the Loans as of such day. This Section 4.1 shall apply from and after the one hundred twentieth (120th) day following the date of this Agreement. Notwithstanding any other term or provision of this Agreement, interest shall accrue on the Loans commencing on the Initial Lending Date.

4.2. Payment Upon Maturity. On the Final Maturity Date, the Borrower shall pay to the Lender an amount equal to the outstanding principal amount of the Loans, together with all accrued and unpaid interest and fees with respect thereto. On the accelerated maturity of the Loans in accordance with Section 8.2.3, the Borrower shall pay to the Lender all Credit Obligations then outstanding.

4.3. Excess Credit Exposure. If at any time a Borrowing Base Deficiency exists for a period of two Business Days, the Borrower shall immediately, without demand or notice, pay the amount of such Borrowing Base Deficiency to the Lender.

4.4. Voluntary Prepayments. The Borrower may from time to time prepay all or any portion of the Loans (in a minimum amount of fifty thousand dollars (\$50,000) and an integral multiple of ten thousand dollars (\$10,000), or such lesser amount as is then outstanding, without premium or penalty of any type. The Borrower shall give the Lender at least one Business Day's prior written notice of its intention to prepay, specifying the date of payment, the total amount and portion of the Loans to be paid on such date and the amount of interest to be paid with such prepayment.

4.5. Application of Payments, etc.

4.5.1. [Reserved.]

4.5.2. Order of Application. All payments to the Lender pursuant to this Agreement shall be applied, without duplication, in the following order.

(i) first, to the Lender for application to overdue interest on the Credit Obligations;

(ii) second, to the Lender for application to accrued and unpaid interest on the Credit Obligations;

(iii) third, to the Lender for application to outstanding principal of the Loans;

(iv) fourth, to the Lender for (x) any and all sums advanced by the Lender in order to preserve the Collateral or the Lender's security interest in the Collateral (if the Borrower shall not have taken such actions as the Lender shall have requested with respect to preserving the Collateral or the Lender's security interest in the Collateral within two Business Days after such request by the Lender), (y) all expenses of (A) taking, holding, preparing for sale or lease, selling or otherwise disposing of or realizing on the Collateral or (B) any exercise by the Lender of its rights under any of the Program Documents, and (z) any attorney fees, other attorney charges and court costs; and

(v) fifth, to the Lender for application to any other Credit Obligations (it being agreed and understood that the Lender may hold payments pursuant to this Section 4.5.2 for application to future Credit Obligations).

4.5.3: Payment with Accrued Interest, etc. Upon all prepayments of the Loans, the Borrower shall pay to the Lender the principal amount to be prepaid, together with unpaid interest in respect thereof accrued to the date of prepayment. Notice of prepayment having been given in accordance with Section 4.4, the amount specified to be prepaid shall become due and payable on the date specified for prepayment.

4.6. Payments in United States Funds. All payments to the Lender (or to an account for the benefit of the Lender) under or in connection with this Agreement shall be made by wire transfer in immediately available United States Funds to an account designated from time to time by the Lender.

4.7. Reborrowing. Subject to Section 2.1.1 and subject to the other terms and conditions of this Agreement, the Borrower may borrow additional Loans after repaying outstanding Loans.

5. Conditions to Loans.

5.1: Conditions of Effective Date. The occurrence of the Effective Date and the Lender's willingness to make the initial Loan pursuant to Section 2 on the Effective Date shall be subject to the receipt by the Lender of the following, each in form and substance (including the date thereof) satisfactory to the Lender:

(a) Counterparts of this Agreement, signed by the Borrower, and counterparts of the SunTrust Master Agreement, signed by the Borrower and SunTrust.

(b) Copies, certified by the Secretary of the Borrower, of (i) resolutions of its board of directors, (ii) its certificate of incorporation, certified by the Secretary of State of Florida, and (iii) its by-laws.

(c) A certificate of the Secretary or Assistant Secretary (or other appropriate office) of the Borrower certifying the names and true signatures of the officers of the Borrower authorized to sign the Program Documents to which it is a party. Until the Lender receives a subsequent incumbency certificate from the Borrower, in form and substance satisfactory to the Lender, the Lender shall be entitled to rely on the last such certificate delivered to it by the Borrower.

(d) Acknowledgment copies, or other evidence of filing acceptable to the Lender, of proper UCC financing statements, duly filed against the Borrower in Florida and any other jurisdictions that the Lender may deem necessary or desirable in order to perfect the interests of the Lender contemplated by this Agreement.

(e) Completed UCC search reports with respect to the Borrower and similar search reports in such jurisdictions as the Lender may request, in each case showing no liens on any of the Collateral.

(f) Favorable opinions of Greenberg Traurig, counsel for the Borrower.

(g) Evidence of payment by the Borrower of all accrued and unpaid fees, costs and expenses to the extent then due and payable, together with fees and other charges of Mayer, Brown & Platt, counsel to the Lender, arising prior to or on such date, plus such additional amounts of fees and charges of counsel to the Lender as shall constitute such counsel's estimate of fees and charges incurred or to be incurred through the closing proceedings (provided that such estimate shall not thereafter preclude final settling of accounts with respect thereto). The Lender shall have the right to "net" such fees, costs, expenses and amounts from the amount payable in respect of the first Loan under this Agreement.

(h) A good standing certificate issued by the Secretary of State of Florida with respect to the Borrower.

(i) Such other approvals, opinions, certificates, reports and documents as the Lender may request.

5.2. Conditions to Each Loan. It shall be a condition precedent to the making of each Loan (including without limitation the first Loan) by this Lender pursuant to this Agreement that all of the conditions set forth in this Section 5.2 shall have been satisfied on or before the Closing Date for such Loan:

5.2.1. General: Officer's Certificate.

(a) The Availability Termination Date shall not have occurred;

(b) the representations and warranties contained in Section 7 shall be true and correct on and as of such Closing Date (except as to any representation or warranty which refers only to a specific earlier date which representation and warranty shall be true and correct as of such earlier date);

(c) no Default shall exist on such Closing Date prior to or immediately after giving effect to the requested Loan;

(d) no Material Adverse Effect shall have occurred since the date of this Agreement;

(e) the funds received from such Loan shall be applied only for the purposes contemplated by Section 2.2;

(f) after giving effect to such Loan, no Borrowing Base Deficiency shall exist; and

(g) the Lender shall have received from the Borrower in connection with the requested Loan an Officer's Certificate to these effects (substantially in the form of Exhibit D hereto) and showing the amount of the Borrowing Base, signed by a Senior Officer.

5.2.2. Legality, Etc. The making of the requested Loan shall not (a) subject the Lender to any penalty or special tax or (b) be prohibited by any Legal Requirement.

5.2.3. Perfection of Security. The Borrower shall have duly authorized, executed, acknowledged, delivered, filed, registered and recorded such security agreements, notices, financing statements and other instruments as the Lender may have requested in order to perfect the Liens of the Lender in the Collateral. The Lender shall have received a copy of any search reports and legal opinions (in form and substance satisfactory to the Lender) with respect to security interests and other matters requested by the Lender.

5.2.4. Purchase and Sale Agreements. Other than as consented to by the Lender in writing:

(a) The Lender shall have received a copy of each applicable Purchase and Sale Agreement, duly executed by each of the parties thereto, pursuant to which the Borrower shall purchase Accounts with the proceeds of the requested Loan, certified as true, correct and complete by a Senior Officer. The provisions of each Purchase and Sale Agreement shall be in full force and effect and shall not have been amended, modified, waived or terminated.

(b) All of the representations and warranties of the Seller set forth in such Purchase and Sale Agreement shall be true, complete and correct in all material respects on

and as of such Closing Date with the same force and effect as though made on and as of such date.

(c) All of the conditions to the obligations of the Borrower and the Seller set forth in such Purchase and Sale Agreement shall have been satisfied.

(d) Such Purchase and Sale Agreement and the transactions contemplated thereby shall have been authorized by all necessary corporate, partnership or other proceedings by the parties thereto. Any consent, authorization, order or approval of any governmental or administrative agency or any other Person required in connection with the transactions contemplated by such Purchase and Sale Agreement shall have been obtained and shall be in full force and effect.

(e) All of the items required to be delivered under such Purchase and Sale Agreement shall have been so delivered, and the Lender shall have received copies thereof, certified as true, correct and complete by a Senior Officer.

(f) The Borrower shall have followed its usual and customary guidelines in evaluating the Seller and in determining whether to enter into a Purchase and Sale Agreement with such Seller.

5.2.5. Weekly Report. The Lender shall have received a copy of the most recent Weekly Report required to be delivered pursuant to Section 6.5(e).

5.2.6. Lockbox Agreements. The Lender shall have received a copy of the applicable Lockbox Agreements, duly executed by each of the parties thereto. The provisions of each Lockbox Agreement shall be in full force and effect and shall not have been amended, modified, waived or terminated without the prior written consent of the Lender.

5.2.7. Holding Account; Non-Government Obligor Reserve Account. The Lender shall have received evidence satisfactory to it with respect to the existence of the Holding Account and the Non-Government Obligor Reserve Account.

5.2.8. General. The Lender shall have received such information, approvals, opinions, resolutions, certificates, reports, and documents as reasonably requested by the Lender and the Borrower shall have satisfied such other conditions as the Lender may reasonably impose.

5.2.9. Effective Date. The Effective Date has occurred in accordance with the terms of this Agreement.

5.2.10. Cross Default, Etc.

(a) No Sun Capital Entity shall have failed to make any payment when due (after giving effect to any applicable grace periods) in respect of any Indebtedness having an aggregate amount of principal (whether or not due) and accrued interest, if applicable, exceeding one hundred thousand dollars (\$100,000).

(b) No Sun Capital Entity shall have failed to perform or observe the terms of any agreement or instrument relating to any Indebtedness having an aggregate amount of principal (whether or not due) and accrued interest, if applicable, exceeding one hundred thousand dollars (\$100,000).

(c) No Indebtedness of any Sun Capital Entity shall have been accelerated or shall have become due or payable prior to its stated maturity (except with respect to voluntary prepayments thereof) for any reason whatsoever.

(d) No Lien on any property of any Sun Capital Entity securing any Indebtedness shall have been enforced by foreclosure or similar action.

(e) No holder of any such Indebtedness shall have exercised any right of rescission with respect to the issuance thereof or any put or repurchase rights against any Sun Capital Entity with respect to such Indebtedness.

(f) No holder of any such Indebtedness shall have terminated any agreement or instrument in respect of such Indebtedness other than as a result of the occurrence of the scheduled termination date thereof.

5.2.11. Agreed Upon Procedures Report. Not later than December 31, 2000, the Lender and the accountants referred to in Section 6.33 shall have mutually agreed as to the "agreed-upon procedures" to be applied pursuant to Section 6.33.

6. General Covenants. The Borrower covenants that, until all of the Credit Obligations shall have been paid in full and until this Agreement and all other Program Documents shall have been irrevocably terminated, the Borrower shall comply with the following provisions:

6.1. Compliance with Laws, Etc. The Borrower shall: (i) duly satisfy all of its obligations in connection with the Accounts and the Related Property, (ii) maintain in effect all qualifications required under Requirements of Law in order to properly purchase and service the Accounts and other Related Property under the Purchase and Sale Agreements and (iii) comply with all Requirements of Law applicable to it in each case to the extent that failure to so maintain or comply, individually or in the aggregate, could reasonably be expected to have a Material Adverse Effect.

6.2. Preservation of Existence. The Borrower (i) shall preserve and maintain its corporate existence, rights, franchises and privileges in the jurisdiction of its incorporation, and (ii) shall

qualify and remain qualified in good standing as a foreign corporation in each jurisdiction where the failure to preserve and maintain such existence, rights, franchises, privileges and qualification could, if not remedied, reasonably be expected to have a Material Adverse Effect.

6.3. Audits. During normal business hours and with at least three Business Days' notice furnished by the Lender to the Borrower (provided that if a Default shall have occurred, only one Business Day's notice need be so furnished), the Borrower shall permit the Lender, or its agents or representatives, (i) to examine and make copies of and abstracts from all books, records and documents (including without limitation computer tapes and disks, provided that if copying of a software program used by the Borrower is prohibited by an enforceable agreement between the Borrower and the third party licensor of such software program (which licensor shall not be an Affiliate of the Borrower), then the Borrower shall print out all information contained in such software program instead of copying it) in the possession or under the control of the Borrower relating to the Accounts and any other Property and (ii) to visit the offices and properties of the Borrower for the purpose of examining such materials and to discuss matters relating to the Accounts and any other Property or the Borrower's performance hereunder or under any other Program Document with any of the officers or employees of the Borrower having knowledge thereof. Any such examination, copying, printing or visit made pursuant to this Section 6.3 shall be at the cost and expense of the Borrower.

6.4. Continuous Perfection. The Borrower shall not change its name, identity or structure in any manner unless the Borrower shall have given the Lender at least ninety (90) days' prior written notice thereof and shall have taken all action sixty (60) days prior to making such change as is necessary or advisable in the judgment of the Lender to cause the security interest of the Lender in the Collateral to continue to be a first priority perfected security interest. The Borrower shall not change its principal place of business or its chief executive office or change the location of its principal records concerning the Collateral from the locations specified in Section 7.10 unless it has given the Lender at least sixty (60) days' prior written notice of its intention to do so and has taken such action as is necessary or advisable in the judgment of the Lender to cause the security interest of the Lender in the Collateral to continue to be a first priority perfected security interest. The Borrower shall at all times maintain its principal place of business and its chief executive office and any other office at which it maintains records relating to the Collateral within the United States of America.

6.5. Reporting Requirements of the Borrower. Unless the Lender consents in writing, the Borrower shall furnish to the Lender:

(a) Defaults. Except as otherwise provided herein, within two Business Days after any officer of the Borrower has knowledge of the occurrence of any Event of Default or other Default, a written statement describing the Event of Default or other Default and the action that the Borrower proposes to take with respect thereto, in each case in reasonable detail.

(b) Material Adverse Effect. Within two Business Days after any officer of the Borrower has knowledge thereof, written notice that describes in reasonable detail any Lien against any Collateral or any other event or occurrence that, individually or in the aggregate for all such Liens, events or occurrences, has had or could reasonably be expected to have a Material Adverse Effect. Without limiting the foregoing, the Borrower shall notify the Lender promptly of all disputes and claims in connection with any material portion of the Accounts.

(c) Proceedings. Within five Business Days after any officer of the Borrower has knowledge thereof, written notice of (i) any Proceeding of the type described in Section 7.7 not previously disclosed to the Lender and (ii) any adverse development that has occurred with respect to any such previously disclosed Proceeding.

(d) Financial Statements. The Borrower shall deliver to the Lender:

(i) As soon as available and in any event within ninety (90) days after the end of each fiscal year of the Borrower, audited statements of income, retained earnings and cash flow of the Borrower for such fiscal year and the related audited balance sheet as of the end of such fiscal year (collectively, the "Audited Financial Statements"); setting forth in comparative form the corresponding figures for the preceding fiscal year, and accompanied by (x) a report of the Borrower's independent certified public accountants (which shall be a "Big 5" firm and which may also render other services to the Borrower or any Affiliate thereof), which report shall state that such Audited Financial Statements fairly present the financial condition and results of operations of the Borrower in accordance with GAAP.

(ii) As soon as available and in any event within forty-five (45) days after the end of each quarterly fiscal period of each fiscal year of the Borrower, statements of income, retained earnings and cash flow of the Borrower for such period and for the period from the beginning of the current fiscal year to the end of such period, and the related balance sheet as of the end of such period, setting forth in each case in comparative form the corresponding figures for the corresponding period in the preceding fiscal year, and accompanied by a certificate of the chief financial officer of the Borrower, which certificate shall state that such financial statements fairly present the financial condition and results of operations of the Borrower in accordance with GAAP (subject to normal year-end adjustments and absence of footnote disclosures).

(iii) As soon as available and in any event within thirty (30) days after the end of each calendar month, statements of income, retained earnings and cash flow of the Borrower for such calendar month and the related balance sheet as of the end of such calendar month, setting forth in each case in comparative form the corresponding figures for the corresponding calendar month in the preceding fiscal year, and accompanied by a certificate of the chief financial officer of the Borrower,

which certificate shall state that such financial statements fairly present the financial condition and results of operations of the Borrower in accordance with GAAP (subject to normal year-end adjustments).

(iv) Promptly after the receipt thereof, copies of all "management letters" received by the Borrower from its independent accountants.

(e) Weekly Reports. On a weekly basis, not later than the third Business Day of each week, a Weekly Report with respect to the immediately preceding week.

(f) Cross-Defaults, Etc. Promptly after any failure or occurrence of the type contemplated by Section 5.2.10, notice as to such failure or occurrence.

(g) Other. Promptly, from time to time, any other information, notices or documents with respect to the Receivables, the Related Property, any other Collateral or any other Property or any Program Document, or any other information to which the Borrower reasonably has access with respect to the condition or operations, financial or otherwise, of the Borrower or any Seller, in each case as the Lender may from time to time request.

6.6. Assessments. The Borrower shall promptly pay and discharge all taxes, assessments, levies and other governmental charges imposed on it and with respect to its Properties.

6.7. Further Action: Non-Interference. The Borrower shall, from time to time, execute and deliver to the Lender any instruments, financing or continuation statements or other writings necessary or desirable in the judgment of the Lender (i) to maintain the perfection and priority of the Lender's interest in the Collateral under the UCC or other applicable Requirements of Law or (ii) to further the purposes or provisions of this Agreement. Without limiting the foregoing, the Borrower shall execute and deliver to the Lender any and all forms (including without limitation, Forms 8821 or 2848) that the Lender may request from time to time in order to enable the Lender to obtain and receive tax information with respect to the Borrower from the U.S. Department of the Treasury, U.S. Internal Revenue Service or any other federal, state or local taxing authority; or in order to obtain and receive tax refund checks or other payments. The Borrower shall not interfere with the Lender's exercise of its rights or remedies under the Lockbox Agreements, under any other Program Document, or under applicable law.

6.8. Additional Indebtedness. The Borrower shall not create, incur, assume or suffer to exist any Indebtedness (including any Guarantee) or expenses (whether or not accounted for as a liability) or cause to be issued for its account any letters of credit or bankers' acceptances, except (i) indebtedness contemplated by this Agreement; (ii) indebtedness or other expenses to its professional advisers and its counsel; and (iii) accounts payable in the ordinary course of business.

6.9. No Transfer. The Borrower agrees that, except as contemplated by this Agreement and any Purchase and Sale Agreement, it (i) shall not sell, assign, pledge, convey or otherwise transfer any of its Property or interest therein, (ii) shall not grant, create, incur, or suffer to exist any

Lien on any of its Property or any interest therein, (iii) shall notify the Lender upon becoming aware of any such Lien, and (iv) shall defend the interest of the Lender in the Collateral against all claims of other Persons claiming through the Borrower.

6.10. No Other Activities. The Borrower shall not engage in any activity other than those contemplated by this Agreement. The Borrower shall not make any Capital Expenditures, except for expenditures on office equipment and office supplies in the ordinary course of business. The Borrower shall not make any Investments other than (x) the purchase of Accounts pursuant to Purchase and Sale Agreements, and (y) Eligible Investments. Neither the Borrower nor any Person on behalf of the Borrower shall maintain any lockboxes, deposit accounts or other similar accounts, except the Lockboxes, the Lockbox Accounts, the Collection Account, the Holding Account, the Non-Government Obligor Reserve Account and bank accounts maintained for the payment of reasonable expenses incurred in the ordinary course of business and the deposit of amounts which are not otherwise required to be paid to the Lender in accordance with this Agreement.

6.11. Enforcement. The Borrower shall take all action necessary and appropriate to enforce its rights and claims under each Purchase and Sale Agreement and each Lockbox Agreement. If, upon notice from the Lender, the Borrower does not take such necessary and appropriate action, then, the Lender may, but shall not be obligated to, take such action, provided that the Lender's taking or refraining from taking such action shall not constitute a waiver of the Borrower's failure to take such action.

6.12. Separateness. The Borrower shall not permit its assets to be commingled with those of any other Sun Capital Entity, the Borrower shall maintain separate corporate records and books of account from those of each other Sun Capital Entity, and the Borrower shall conduct its business from an office separate from that of each other Sun Capital Entity with a telephone number and stationery which are separate from the telephone number and stationery of each other Sun Capital Entity (it being understood that, subject to the foregoing, the office of the Borrower may be at the same location as the office of any other Sun Capital Entity). The Borrower shall conduct its business solely in its own name and shall cause each other Sun Capital Entity to conduct its respective business solely in that respective Sun Capital Entity's own name so as not to mislead others as to the identity of the entity with which those others are concerned. The Borrower shall not incur any direct, indirect or overhead expenses that are material for any items shared between the Borrower and any other Sun Capital Entity, other than shared expenses that shall be allocated on a basis reasonably related to the value of services rendered or property used. The Borrower shall not hold itself out, or permit itself to be held out, as having agreed to pay, or as being liable for, the debts of any other Sun Capital Entity, and the Borrower shall cause each other Sun Capital Entity not to hold itself out, or permit itself to be held out, as having agreed to pay, or as being liable for, the debts of the Borrower. The financial statements of the Borrower shall reflect that it is a corporation which is separate from each other Sun Capital Entity. The Borrower shall observe all formalities of an independent corporation.

6.13. Amendment to Documents, Assignments and Delegations. The Borrower shall not amend, grant any consent under, waive, terminate or otherwise modify any or all provisions of its

Constituent Documents, any Purchase and Sale Agreement, any Lockbox Agreement or any other Program Document without the prior written consent of the Lender. Without limiting the foregoing, the Borrower shall not assign any of its rights or delegate any of its obligations under or in connection with any Program Document without the prior written consent of the Lender.

6.14. ERISA. The Borrower shall promptly give the Lender notice of the following events, as soon as possible and in any event within ten (10) days after the Borrower or any of its ERISA Affiliates knows or has reason to know thereof: (i) the occurrence or expected occurrence of any Reportable Event with respect to any Plan to which the Borrower or any of its ERISA Affiliates contributed, or any withdrawal from, or the termination, reorganization or Insolvency of, any Multiemployer Plan to which the Borrower or any of its ERISA Affiliates contributes or to which contributions have been required to be made by the Borrower or such ERISA Affiliate during the preceding five years or (ii) the institution of proceedings or the taking of any other action by the PBGC or the Borrower or any of its ERISA Affiliates or any such Multiemployer Plan with respect to the withdrawal from, or the termination, Reorganization or Insolvency of, any such Plan or Multiemployer Plan.

6.15. Copies of Notices, Waivers, Etc. Upon the Lender's request, the Borrower shall promptly give the Lender copies of any notices, reports or certificates given or delivered to the Borrower under any Purchase and Sale Agreement or any other Program Document to which the Borrower is a party.

6.16. Subsidiaries, Distributions. The Borrower shall not create any Subsidiary. The Borrower shall not make any Distributions (i) more frequently than once each calendar quarter; (ii) if such payment would be prohibited under applicable law; and (iii) after the occurrence of a Default, without the prior written consent of the Lender.

6.17. Maximum Amount of Purchased Accounts. Except to the extent specifically approved in writing by the Lender, the Borrower shall not purchase under any Purchase and Sale Agreement any single Account having a Net Collectible Amount, or Related Accounts having an aggregate Net Collectible Amount, in excess of one million dollars (\$1,000,000). For purposes of the immediately preceding sentence, "Related Accounts" means two or more Accounts relating to the same patient and payable by the same Third Party Obligor.

6.18. Maximum Amount of Accounts per Seller. Except to the extent specifically approved in writing by the Lender, the Borrower shall not purchase any Accounts from any single Seller to the extent that the portion of the outstanding Loans utilized to fund the purchase of Accounts from such Seller would exceed an amount equal to twenty-five percent (25%) of the Maximum Amount of Credit. This Section 6.18 shall apply commencing one year after the date of this Agreement.

6.19. Limitation on Amount Advanced. (a) The Borrower shall not purchase any Account unless the Amount Paid to Seller for such Account is less than or equal to ninety-four percent (94%) of the Net Collectible Amount of such Account.

(b) The Borrower agrees that (i) the amount payable to any broker with respect to any Accounts purchased pursuant to the applicable Purchase and Sale Agreement shall not exceed eight percent (8%) of the Discount Fees collected by the Borrower pursuant to such Purchase and Sale Agreement, and (ii) such brokerage fees shall be payable and paid only out of such Discount Fees.

6.20. Purchase and Sale Agreements; True Sale. The Borrower shall acquire Accounts solely pursuant to Purchase and Sale Agreements. The Borrower shall not sign a Purchase and Sale Agreement, and shall not cause a Purchase and Sale Agreement to be signed, unless such Purchase and Sale Agreement conforms in all material respects to the Form Purchase and Sale Agreement. The Borrower shall comply with the assumptions and factual descriptions set forth in the "true sale" opinion of Greenberg Traurig delivered pursuant to Section 5.1.

6.21. Lockbox Agreements. The Borrower shall not sign a Lockbox Agreement, and shall not cause a Lockbox Agreement to be signed, unless such Lockbox Agreement conforms in all material respects to the Form Lockbox Agreement.

6.22. Taxes. The Borrower shall file or cause to be filed all Federal, state, and local tax returns that it is required to file under applicable law, and pay or cause to be paid all taxes shown to be due and payable on such returns or on any assessments it receives, except any taxes or assessments the validity of which is being contested in good faith by appropriate proceedings and with respect to which the Borrower has set aside adequate reserves on its books in accordance with GAAP and which proceedings could not reasonably be expected to have a Material Adverse Effect (which reserves and unpaid taxes shall not, on an aggregate basis, exceed five percent (5%) of the Outstanding Amounts Paid to Sellers as of the time any such reserves are set aside).

6.23. Merger or Consolidation, Sales of Assets, Etc. The Borrower shall not consolidate with or merge into any other Person. The Borrower shall not convey or transfer any of its Properties to any Person except for (a) payments made pursuant to this Agreement, the Lockbox Agreements and the Purchase and Sale Agreements and (b) payments made by the Borrower in the ordinary course of its business which do not conflict with the terms of this Agreement.

6.24. Solvency. The Borrower shall continue to be Solvent.

6.25. Derivative Contracts. The Borrower shall not enter into any Interest Rate Protection Agreement, foreign currency exchange contract or other financial or commodity derivative contracts.

6.26. Negative Pledge Clauses; Subordination. The Borrower shall not enter into any agreement (other than this Agreement), instrument, deed or lease which prohibits or limits the ability of the Borrower to create, incur, assume or suffer to exist any Lien upon any of its Property, whether now owned or hereafter acquired; or which requires the grant of any collateral for any obligation if collateral is granted for another obligation. The Borrower shall not (i) enter into any agreement to

subordinate its rights with respect to any Accounts or other Property without the prior written consent of the Lender, or (ii) amend any such agreement without the prior written consent of the Lender.

6.27. Transactions with Affiliates. The Borrower shall not effect any transaction with any Sun Capital Entity or any of the Borrower's or any Sun Capital Entity's Affiliates on a basis less favorable to the Borrower than would be the case if such transaction had been effected with a non-Affiliate.

6.28. Sellers Subject to Debtor Relief Laws. The Borrower shall not purchase any Accounts from a Seller that is a party to a proceeding under any Debtor Relief Law (other than solely as a creditor) without the prior written consent of the Lender.

6.29. Servicing of Accounts. If and to the extent that the Borrower services Accounts, the Borrower shall service and administer the Accounts and shall collect payments due under the Accounts in a prudent and lawful manner and with a standard of care that is not less than the standard of care that is customary in the industry.

6.30. Insurance Policies. The Borrower shall maintain, at its own expense, one or more fidelity bonds and errors and omissions insurance policies, with broad coverage with responsible companies, with respect to officers and employees (in the case of a fidelity bond) and all officers, directors and employees (in the case of an errors and omissions insurance policy) acting on behalf of the Borrower with regard to its responsibilities as Borrower, which bonds and policies shall name the Lender as the loss payee and as an additional insured. Such bonds and policies shall protect and insure the Borrower (and the Lender) against losses, including forgery, larceny, dishonest or fraudulent acts (in the case of a fidelity bond) and errors and omissions (in the case of an errors and omissions insurance policy) of such persons and shall be maintained in a form and amount approved by the Lender. No provision of this Section 6.30 requiring such bonds and policies shall diminish or relieve the Borrower from its duties and obligations as set forth in this Agreement. The proceeds from any such bond or policy shall be delivered to the Lender and deemed to be Collateral. Any such bond and policy shall not be canceled or modified without ten (10) days' prior written notice to the Lender.

6.31. Modification of Terms. The Borrower shall not permit any rescission or cancellation of a Purchased Account except as ordered by a court of competent jurisdiction or other Governmental Authority or as otherwise consented to by the Lender in writing. The Borrower shall not, except with the prior written consent of the Lender, extend, amend or otherwise modify the terms of any Purchased Account.

6.32. Methods of Collection; Obligor Notices; Collection Account. (a) In connection with each Lockbox Agreement, the Borrower shall cause the related Lockbox Bank to establish a Purchaser Lockbox, Purchaser Lockbox Account, Provider Lockbox and Provider Lockbox Account.

(b) The Borrower shall cause Obligor Notices to be mailed to the Third Party Obligor of each Account, by certified mail, return receipt requested, prior to the time that the Borrower purchases such Account. If a Seller or the Borrower shall neglect or refuse to send an Obligor Notice to a Third Party Obligor, then the Lender shall be entitled to send an Obligor Notice to such Third Party Obligor. All Collections on Accounts transmitted by Third Party Obligors to the Borrower (or by a Seller or other Person to the Borrower) rather than directly to a Lockbox or a Lockbox Account shall be held by the Borrower in trust for the benefit of the Lender and shall be delivered by the Borrower to a Lockbox or a Lockbox Account no later than the Business Day following receipt thereof by the Borrower. The Borrower agrees that it shall not commingle any Collections with any of the Borrower's other funds or property, but shall hold them separate and apart therefrom in trust for the Lender until such Collections are deposited into the relevant Lockbox or Lockbox Account.

(c) The Borrower shall not change the foregoing method of collection or the related instructions to Third Party Obligors except with the prior written consent of the Lender.

(d) The Borrower hereby authorizes the Lender, and grants to the Lender an irrevocable power of attorney, with full power of substitution and coupled with an interest, to take in the Borrower's name any and all steps as are necessary or advisable, in the determination of the Lender, in order to change, modify or rescind the direction set forth in any Obligor Notice sent pursuant to a Purchase and Sale Agreement.

(e) The Borrower shall instruct the Lockbox Bank to transfer items on deposit in the Lockboxes only to the Lockbox Accounts. The Borrower shall instruct the Lockbox Bank to transfer amounts on deposit in the Lockbox Accounts only (i) to the Collection Account or (ii) to or at the direction of the Lender. Notwithstanding the foregoing, if one or more Events of Default shall occur and be continuing, (i) the Borrower shall not give any instructions to any Lockbox Bank without the prior written consent of the Lender and (ii) the Borrower shall give instructions to each Lockbox Bank in accordance with the instructions of the Lender.

6.33. Independent Public Accountants' Borrower Report. The Borrower, at the expense of the Borrower, shall cause a firm of nationally recognized independent public accountants (which shall be a "Big 5" firm (or other firm satisfactory to the Lender) and which may also render other services to the Borrower or any Affiliate thereof) to furnish a report to the Lender on or before the 45th day following June 30 and December 31, of each year (each such report shall cover the six month period ending on such June 30 or December 31 (or, in the case of the first such report, the period since the date of the first Loan under this Agreement)), in each case to the effect that such accountants have applied certain agreed-upon procedures that the Lender and such accountants shall have agreed upon prior to December 31, 2000, which procedures may be modified from time to time by such accountants with the prior written consent of the Lender.

6.34. Covenant to Maintain Privileges. The Borrower shall maintain all of its rights, powers and privileges relevant to the collectibility of the Purchased Accounts:

6.35. Protection of the Lender's Rights. The Borrower shall take no action which, nor omit to take any action the omission of which, could impair the rights of the Lender in any Purchased Account, the Related Property or any other Collateral.

6.36. Modification of Systems. The Borrower agrees, promptly after the replacement or any material modification of any computer, automation or other operating systems (in respect of hardware or software) used in the conduct of the Borrower's business, including in connection with making any calculations or reports hereunder, to give notice of any such replacement or modification to the Lender.

6.37. Keeping of Records and Books of Account. The Borrower shall maintain and implement administrative and operating procedures (including the ability to recreate records evidencing the Receivables in the event of the destruction of the originals thereof), and keep and maintain all documents, books, computer records and other information, reasonably necessary or advisable for the collection of all the Purchased Accounts and the Related Property. Such documents, books and computer records shall reflect all facts giving rise to the Purchased Accounts and the Related Property, all payments and credits with respect thereto, and shall indicate the interests of the Lender in the Purchased Accounts, the Related Property and all other Collateral.

6.38. Non-Government Obligor Reserve Account; Holding Account.

(a) The Borrower shall cause the balance of the Non-Government Obligor Reserve Account to equal (a) at all times prior to July 31, 2000, at least ten thousand dollars (\$10,000), (b) at all times during August 2000, at least twenty thousand dollars (\$20,000), (c) at all times during September 2000, at least forty thousand dollars (\$40,000), and (e) at all times after September 30, 2000, at least fifty thousand dollars (\$50,000):

(b) After the end of each calendar quarter, but not later than the tenth (10th) day after the end of each calendar quarter, the Borrower shall deposit in the Non-Government Obligor Reserve Account an amount in dollars equal to the result of (i) seven-tenths of one percent (0.7%), multiplied by (ii) a fraction, the numerator of which is the sum, for each day of such calendar quarter, of the outstanding aggregate Net Collectible Amount of all Accounts on each such day, and the denominator of which equals the number of days in such calendar quarter.

(c) If an order of the type contemplated by Section 8.1.11(d) shall be entered against a Non-Government Obligor of a Purchased Account, or if any other event of the type contemplated by any other clause of Section 8.1.11 shall occur with respect to a Non-Government Obligor of a Purchased Account, the Borrower shall cause to be transferred from the Non-Government Obligor Reserve Account to the Lender, for application in accordance with Section 4.5.2, an amount equal to the aggregate Net Collectible Amount of all Purchased Accounts owed by such Non-Government Obligor.

(d) Upon the occurrence of an Event of Default, the Borrower shall cause all amounts on deposit in the Non-Government Obligor Reserve Account to be transferred to the Lender for application in accordance with Section 4.5.2.

(e) The Borrower shall not terminate the Holding Account or the Non-Government Obligor Reserve Account without the prior written consent of the Lender.

(f) Funds shall be deposited in and withdrawn from the Holding Account in accordance with Section 2.1.3.

(g) Until released from the Holding Account or the Non-Government Obligor Reserve Account, funds on deposit in the Holding Account or the Non-Government Obligor Reserve Account, as applicable, shall be invested only in Eligible Investments. Upon the request of the Lender from time to time, (x) the Borrower shall cease causing such funds to be invested, and (y) the Borrower shall cause all investments of such funds to be sold or otherwise liquidated, in each case in accordance with the instructions of the Lender.

(h) Interest and other investment earnings on amounts in the Non-Government Obligor Reserve Account and the Holding Account shall be retained in the Non-Government Obligor Reserve Account and the Holding Account, as the case may be, and shall be considered to be amounts on deposit therein until withdrawn therefrom in accordance with this Agreement. However, if on the fifteenth day of the first month following any calendar quarter, the balance of the Non-Government Obligor Reserve Account exceeds the amount required to be on deposit therein under clauses (a) and (b) of this Section 6.38, then the lesser of (i) such excess and (ii) such interest and other investment earnings may be withdrawn by the Borrower from the Non-Government Obligor Reserve Account.

7. Representations and Warranties: In order to induce the Lender to extend credit to the Borrower hereunder, the Borrower represents and warrants as follows on the date of this Agreement and on the Closing Date for each Loan:

7.1. Organization and Good Standing. The Borrower is a corporation duly organized and validly existing in good standing under the laws of the State of Florida, and has full corporate power, authority and legal right to execute, deliver and perform its obligations under each Program Document to which it is a party, and to own its properties and conduct its business as such properties are presently owned and as such business is presently conducted.

7.2. Due Qualification. The Borrower is duly qualified to do business and is in good standing as a foreign corporation (or is exempt from such requirements), and has obtained all necessary licenses and approvals with respect to the Borrower, in each jurisdiction in which the failure to be in good standing, to be so qualified or to obtain such licenses and approvals would reasonably be expected to have a Material Adverse Effect.

7.3. Due Authorization The execution, delivery and performance of each Program Document to which the Borrower is a party have been duly authorized by the Borrower by all necessary corporate action on the part of the Borrower and each Program Document to which it is a party has been duly executed and delivered by the Borrower.

7.4. Binding Obligation Each Program Document to which the Borrower is a party constitutes the legal, valid and binding obligation of the Borrower, enforceable against it in accordance with its terms; provided that (x) the enforceability thereof may be subject to bankruptcy, insolvency, reorganization, moratorium or other similar laws now or hereinafter in effect relating to creditors' rights, and (y) the remedy of specific performance and injunctive and other forms of equitable relief may be subject to equitable defenses and to the discretion of the court before which any proceeding therefor may be brought.

7.5. No Conflicts The execution, delivery and performance by the Borrower of each Program Document to which it is a party, including the performance by the Borrower of the transactions contemplated by each Program Document to which it is a party, and the fulfillment of the terms hereof and thereof by the Borrower, do not and shall not (i) contravene its Constituent Documents, (ii) conflict with or violate any provision of any law, rule, regulation, order, writ, judgment, injunction, decree, determination or award having applicability to the Borrower, (iii) result in a breach of or constitute a default or require any consent under any agreement, lease or instrument to which the Borrower is a party or by which it or any of its properties may be bound or affected, or (iv) result in, or require, the creation or imposition of any Lien upon or with respect to any of the Properties owned by the Borrower other than in favor of the Lender pursuant to this Agreement.

7.6. Taxes The Borrower has filed all tax returns (federal, state and local) required to be filed and has paid or made adequate provision for the payment of all taxes, assessments and other governmental charges due from the Borrower or is contesting any such tax, assessment or other governmental charge in good faith through appropriate proceedings and has set aside on its books adequate reserves in accordance with GAAP with respect thereto.

7.7. No Proceedings There are no Proceedings pending or, to the best knowledge of the Borrower, threatened against the Borrower before any Governmental Authority or arbitrator, and no injunction, writ, restraining order or other order of any nature of any Governmental Authority is in effect with respect to the Borrower, (i) asserting the invalidity of any Program Document to which it is a party, (ii) seeking to prevent the consummation of any of the transactions contemplated by any Program Document to which it is a party, (iii) seeking any determination or ruling that could adversely affect the performance by the Borrower of its obligations under any Program Document to which it is a party, (iv) seeking any determination or ruling that could adversely affect the validity or enforceability of any Program Document to which it is a party, (v) seeking to assert any tax liability against the Borrower or with respect to any Collateral under the United States Federal or any state income tax systems, (vi) asserting that the Borrower (or any officer or director of the Borrower) has engaged or is engaging in any fraudulent or illegal actions or activities, or (vii) which,

individually or in the aggregate for all such Proceedings, could reasonably be expected to have a Material Adverse Effect.

7.8. All Filings and Consents Required. All notices to, filings with and approvals, authorizations, consents, orders or other actions of any Person or of any Governmental Authority required to be obtained by the Borrower in connection with the execution, delivery and performance by the Borrower of each Program Document to which it is a party have been obtained or have been completed and are in full force and effect, and the Borrower is in compliance with all applicable laws, rules, regulations and orders with respect to itself, its business, properties and assets and the Borrower maintains all necessary licenses and permits to conduct its business (except where the failure to so comply, or to so maintain licenses and permits, could not reasonably be expected to have a Material Adverse Effect).

7.9. Eligible Accounts. Each Account classified as part of the Borrowing Base (or otherwise classified an "Eligible Account") by the Borrower in any document or report delivered hereunder shall satisfy the requirements of eligibility contained in the definition of Eligible Account, except as otherwise consented to in writing by the Lender.

7.10. Place of Business. The principal place of business of the Borrower and its chief executive office (as that term is used in the UCC) is at 929 Clint Moore Road, Boca Raton, Florida 33487, and the offices where the Borrower keeps its records concerning the Accounts and all of its other Property (and has kept such records during the preceding four months) are at such location. Since the date of its incorporation, there is no other such location at which the Borrower has had such an office.

7.11. Use of Proceeds. All proceeds of the Loan have been used in accordance with Section 2.2.

7.12. Lockboxes; Lockbox Banks. Prior to the purchase of Accounts under the related Purchase and Sale Agreement, Obligor Notices have been mailed to all Third Party Obligors relating to such Accounts by certified mail, return receipt requested, except to the extent otherwise consented to in writing by the Lender. The Lockbox Agreements constitute the legal, valid and binding obligations of the parties thereto, enforceable against such parties in accordance with its terms; except the enforceability thereof may be subject to bankruptcy, insolvency, reorganization, moratorium or other similar laws now or hereinafter in effect relating to creditors' rights. Neither the Borrower nor any other Person on behalf of the Borrower maintains or has maintained any lockbox, deposit account or similar account other than the Lockboxes, the Lockbox Accounts, the Holding Account, the Collection Account, the Non-Government Obligor Reserve Account and bank accounts maintained for the payment of reasonable expenses incurred in the ordinary course of business and the deposit of amounts which are not otherwise required to be paid to the Lender in accordance with this Agreement.

7.13. Default. No Default or Event of Default has occurred or is continuing.

7.14. ERISA. No Plan maintained by the Borrower or any of its ERISA Affiliates has any "accumulated funding deficiency" (within the meaning of Section 302 of ERISA or Section 412 of the Code), whether or not waived. Each of the Borrower and each ERISA Affiliate of the Borrower has timely made all contributions required to be made by it to any Plan and Multiemployer Plan to which contributions are or have been required to be made during the preceding five years by the Borrower or such ERISA Affiliate, and no event requiring notice to the PBGC under Section 302(f) of ERISA has occurred and is continuing or could reasonably be expected to occur with respect to any such Plan, in any case, that could reasonably be expected to result, directly or indirectly, in any Lien being imposed on the property of the Borrower or the payment of any amount to avoid such Lien. No Plan Event with respect to the Borrower or any of its ERISA Affiliates has occurred or could reasonably be expected to occur that could reasonably be expected to result, directly or indirectly, in any Lien being imposed on the property of the Borrower or the payment of any amount to avoid such Lien.

7.15. Legal Name. The legal name of the Borrower is set forth in the preamble to this Agreement, and the Borrower has never used and does not now use any "doing business" names, trade names or other fictitious names.

7.16. Subsidiaries. The Borrower has no Subsidiaries.

7.17. Activities. The Borrower engages in no activities other than those contemplated by this Agreement.

7.18. Sellers. None of the Sellers is (a) an Affiliate of the Borrower, (b) an Affiliate of any of the Borrower's Affiliates, or (c) subject to any proceeding (other than solely as a creditor) under any Debtor Relief Law.

7.19. Solvency. The Borrower is Solvent and shall not become insolvent after giving effect to any incurrence of Loans hereunder and the consummation of the other transactions contemplated herein; the Borrower is paying its debts as they come due; and the Borrower, after giving effect to such transactions, shall not have unreasonably small capital with which to conduct its business.

7.20. Title to Properties, Etc.

(a) The Borrower has good title to and is the legal and beneficial owner of all right, title and interest in and to all of the Purchased Accounts and all other Collateral, in each case at all times, free and clear of any Lien (other than in favor of the Lender). No Third Party Obligor of a Purchased Account has received any notice of any adverse claim against, interest in or lien on all or any part of such Purchased Account and any Related Property (other than (i) interests being acquired by the Borrower, (ii) any such claim, interest or lien that shall no longer exist after such acquisition by the Borrower and (iii) the Lien of the Lender). At the time the Borrower acquires its interest in any Account or Related Property, the Borrower, having reviewed a UCC search report against the applicable Seller in the state where such Seller is located for UCC purposes and in any other applicable

7.24. Government Regulation. Neither the Borrower nor any Person controlling the Borrower or under common control with the Borrower is subject to regulation under the Public Utility Holding Company Act of 1935, as amended, the Federal Power Act, as amended, the Investment Company Act of 1940, as amended, the Interstate Commerce Act, as amended, or any similar statute or regulation which regulates the incurring by the Borrower of indebtedness as contemplated by this Agreement.

7.25. Disclosure. Neither this Agreement nor any other document furnished or to be furnished from time to time to the Lender or any insurance company by or on behalf of the Borrower in connection with the transactions contemplated hereby or the other Program Documents contains or shall contain at the time such document is furnished any untrue statement of material fact or omits to state a material fact necessary in order to make the statements contained herein or therein not misleading in light of the circumstances under which they were made. No fact is known to the Borrower which has resulted, or in the future (so far as the Borrower can reasonably foresee) shall result, or creates a material risk of resulting, in any Material Adverse Effect.

7.26. Issuance of Stock. The Borrower has not issued any shares of stock, whether voting or non-voting, to any Person other than Peter Baronoff, Malinda Baronoff, Howard Koslow, Jane Koslow, Larry Leder or Carole Leder. All of such shares of stock have been duly and validly issued and have been paid for in full.

7.27. Conditions Precedent. On the Closing Date for each Loan, all of the conditions precedent in Section 5.2 have been satisfied with respect thereto.

7.28. Fiscal Year. The Borrower's fiscal year is the calendar year.

7.29. Purchase and Sale Agreements; Lockbox Agreements. Each Purchase and Sale Agreement conforms in all material respects to the Form Purchase and Sale Agreement. The Borrower has entered into a Lockbox Agreement with each Seller, and each Lockbox Agreement conforms in all material respects to the Form Lockbox Agreement. Unless the Lender has consented otherwise in writing, SunTrust Bank is the only Lockbox Bank party to any Lockbox Agreement.

7.30. Tax Identification Number. The federal tax identification number of the Borrower is 65-0941604.

7.31. Insurance Policies. The Borrower has paid all premiums payable under each insurance policy contemplated by Section 6.30, has complied with all of its covenants under each such insurance policy, and has satisfied all conditions required to be satisfied under each such insurance policy. All of the representations of the Borrower in each such insurance policy (and in any application relating thereto) are true and correct.

Upon discovery by the Borrower of a breach of any of the foregoing representations and warranties, the Borrower shall give written notice thereof to the Lender within one Business Day of

such discovery, provided that failure to provide such notice within one Business Day shall neither toll any applicable cure period nor prevent a Default from occurring.

8. Defaults.

8.1. Events of Default. Each of the following shall constitute an "Event of Default":

8.1.1. Payment. (a) The Borrower shall fail to make any payment in respect of (i) interest or any fee on or in respect of any of the Credit Obligations owed by it as the same shall become due and payable, or (ii) principal of any of the Credit Obligations owed by it as the same shall become due, whether at maturity or by acceleration or otherwise (including without limitation pursuant to Section 4.1 or Section 4.2).

(b) Without limiting the foregoing, the Lender shall fail to receive payment in full of all accrued and unpaid interest on the Loans by the second Business Day of each calendar month (provided that this sentence shall apply from and after the one hundred twentieth (120th) day following the date of this Agreement).

8.1.2. Specified Covenants. The Borrower shall fail to perform or observe any of the provisions of Section 4.3 or Sections 6.1 through 6.38.

8.1.3. Other Covenants. The Borrower or any other Borrower shall fail to perform or observe any other covenant, agreement or provision to be performed or observed by it under this Agreement or any other Program Document, and such failure shall not be rectified or cured to the written satisfaction of the Lender within ten (10) days after the earlier of (a) notice thereof by the Lender to the Borrower or (b) any officer of the Borrower having knowledge thereof.

8.1.4. Representations and Warranties. Any representation or warranty of or with respect to the Borrower made to the Lender in, pursuant to or in connection with this Agreement or any other Program Document shall be materially false on the date as of which it was made.

8.1.5. [Reserved].

8.1.6. Ownership. A Change of Ownership Event shall have occurred.

8.1.7. Enforceability, Etc. Any Program Document shall cease for any reason (other than the termination thereof in accordance with its terms) to be enforceable in accordance with its terms or in full force and effect; or any party to any Program Document shall so assert in a judicial or similar proceeding; or the security interests created by this Agreement or any other Program Document shall cease to be enforceable and of the same effect and priority purported to be created hereby or thereby.

8.1.8. Judgments. A judgment (a) which, with other outstanding judgments against the Borrower, exceeds the Judgment Measurement Amount shall be rendered against the Borrower or SCI, or (b) which grants injunctive relief that results, or creates a material risk of resulting, in a Material Adverse Effect and in either case if (i) within thirty (30) days after entry thereof, such judgment shall not have been discharged or execution thereof stayed pending appeal or (ii) within thirty (30) days after the expiration of any such stay, such judgment shall not have been discharged.

8.1.9. ERISA. Any Plan Event shall occur.

8.1.10. Material Adverse Effect. Any event or circumstance since the Initial Lending Date shall occur or fail to occur which has had or could reasonably be expected to have a Material Adverse Effect.

8.1.11. Bankruptcy, Etc. The Borrower or any Sun Capital Entity shall:

(a) commence a voluntary case under the Bankruptcy Code or authorize, by proceedings of its board of directors or other governing body, the commencement of such a voluntary case;

(b) (i) have filed against it a petition commencing an involuntary case under the Bankruptcy Code that shall not have been dismissed within thirty (30) days after the date on which such petition is filed; or (ii) file an answer or other pleading within such thirty (30) day period admitting or failing to deny the material allegations of such a petition, or seeking, consenting to or acquiescing in the relief therein provided, or (iii) have entered against it an order for relief in any involuntary case commenced under the Bankruptcy Code;

(c) seek relief as a debtor under any Debtor Relief Law, other than the Bankruptcy Code, or consent to or acquiesce in such relief;

(d) have entered against it an order by a court of competent jurisdiction (i) finding it to be bankrupt or insolvent, (ii) ordering or approving its liquidation or reorganization as a debtor or any modification or alteration of the rights of its creditors or (iii) assuming custody of, or appointing a receiver or other custodian for, all or a substantial portion of its property; or

(e) make an assignment for the benefit of, or enter into a composition with, its creditors, or appoint, or consent to the appointment of, or suffer to exist a receiver or other custodian for, all or a substantial portion of its property.

8.1.12. Seller Default. The occurrence of a default or event of default (regardless of how such default is described) under a Purchase and Sale Agreement, if (a) the Borrower is aware of such default or event of default and (b) such default or event of default has not been

cured or waived to the written satisfaction of the Lender within five Business Days after the occurrence thereof.

8.1.13. Lockbox Arrangements. (i) Any Lockbox Bank or any other Person shall fail to transfer any Collections in respect of Accounts in the manner contemplated by the related Lockbox Agreement or in a manner otherwise approved in writing by the Lender, (ii) the applicable Seller delivers a Revocation Order to a Lockbox Bank, (iii) the applicable Seller or the Borrower or any Person acting on behalf of any thereof instructs any Third Party Obligor to make payments other than to the applicable Lockbox or Lockbox Account, or (iv) without limiting the foregoing, SunTrust fails to comply with the SunTrust Master Agreement.

8.2. Certain Actions Following an Event of Default. If any one or more Events of Default shall occur and be continuing, then in each and every such case:

8.2.1. Terminate Agreement. The Lender may terminate this Agreement by furnishing notice of such termination to the Borrower.

8.2.2. Specific Performance; Exercise of Rights. The Lender may proceed to protect and enforce the Lender's rights by suit in equity, action at law or other appropriate Proceedings, either for specific performance of any covenant or condition contained in this Agreement or any other Program Document or in any instrument or assignment delivered to the Lender pursuant to this Agreement or any other Program Document, or in aid of the exercise of any power granted in this Agreement or any other Program Document or any such instrument or assignment. Without limiting the foregoing, the Lender may exercise any rights or remedies under applicable law or under any Program Document. None of the foregoing shall limit or be interpreted to limit in any way or by any means the Lender's right to vindicate or prosecute or otherwise protect or sue upon any right of any kind under this Agreement or any other Program Document, whether at law, in equity, or otherwise.

8.2.3. Acceleration. The Lender may by notice in writing to the Borrower declare all or any part of the unpaid balance of the Credit Obligations then outstanding to be immediately due and payable; provided, however, that if a Bankruptcy Default shall have occurred, the unpaid balance of the Credit Obligations shall automatically become immediately due and payable.

8.2.4. Enforcement of Payment; Collateral; Setoff.

(a) The Lender may send one or more notices to SunTrust or one or more Lockbox Banks in order to take control of one or more Lockboxes, one or more Lockbox Accounts, the Holding Account and the Collection Account.

(b) Without limiting the foregoing, the Lender may proceed to enforce payment of the Credit Obligations in such manner as it may elect, and to realize upon any and all rights

in the Collateral (including, without limitation, applying amounts on deposit in any account to the Credit Obligations in such manner as the Lender shall determine in its sole and absolute discretion). The Lender may offset and apply toward the payment of the Credit Obligations (or toward the curing of any Event of Default) any Indebtedness from the Lender to the Borrower, including any Indebtedness represented by deposits in any account maintained with the Lender, regardless of the adequacy of any security for the Credit Obligations. The Lender shall have no duty to determine the adequacy of any such security in connection with any such offset.

8.3. Annulment of Defaults. Once a Default or an Event of Default has occurred, such Default and Event of Default shall be deemed to exist and be continuing until cured by the Borrower to the reasonable satisfaction of the Lender (or until the Lender has waived such Default or Event of Default in writing, has stated in writing that the same has been cured to the Lender's satisfaction or has entered into an amendment to this Agreement which by its express terms cures such Default or Event of Default), at which time such Default or Event of Default shall no longer be deemed to exist or to have continued. The Lender shall not be obligated to make any such waiver, make any such statement or enter into any such amendment. No such action by the Lender shall extend to or affect any subsequent Default or Event of Default or impair any rights of the Lender upon the occurrence thereof. The making of any Loan during the existence of any Default or Event of Default shall not constitute a waiver of such Default or Event of Default.

8.4. Waivers. To the extent that such waiver is not prohibited by the provisions of applicable law that cannot be waived, the Borrower hereby waives:

- (a) all presentments, demands for performance, notices of nonperformance (except to the extent required by this Agreement), protests, notices of protest and notices of dishonor;
- (b) any requirement of diligence or promptness on the part of the Lender in the enforcement of its rights under this Agreement or any other Program Document;
- (c) any and all notices of every kind and description which may be required to be given by any statute or rule of law; and
- (d) any defense (other than payment in full) which it may now or hereafter have with respect to its liability under this Agreement or any other Program Document or with respect to the Credit Obligations.

8.5. No Effect on Security Interest. The occurrence of a Default shall not affect the security interest granted pursuant to this Agreement, including but not limited to the security interest in Property not yet owned by the Borrower (or not yet created) as of the date of the occurrence of such Default.

9. Expenses; Indemnity.

9.1. Expenses. In addition to the rights of indemnification under Section 9.2, and whether or not the transactions contemplated hereby shall be consummated, the Borrower shall pay on demand:

(a) all costs and expenses of the Lender (including, without limitation, the fees and other charges of counsel to the Lender): (i) in connection with the preparation, drafting, negotiation, execution, delivery, filing and administration (including, without limitation, periodic auditing) of (A) this Agreement and each other Program Document, and (B) any potential or actual amendment, amendment and restatement, modification or waiver of or consent in respect of this Agreement or any other Program Document (including without limitation in connection with any "workout" or any foreclosure or bankruptcy or insolvency proceeding or any litigation or other adversary proceeding); (ii) without limiting the foregoing, in connection with the Lender obtaining advice as to the rights and remedies of any Person or Persons under this Agreement and any other Program Document (including without limitation in connection with any "workout" or any foreclosure or bankruptcy or insolvency proceeding or any litigation or other adversary proceeding); and (iii) without limiting the foregoing, in connection with the enforcement of this Agreement or any other Program Document (including without limitation in connection with any "workout" or any foreclosure or bankruptcy or insolvency proceeding or any litigation or other adversary proceeding); and

(b) all recording and filing fees and transfer and documentary stamp and similar taxes at any time payable in respect of this Agreement, any other Program Document, any Collateral or the incurrence of the Credit Obligations.

9.2. General Indemnity.

(a) Indemnification by the Borrower. Whether or not the transactions contemplated hereby shall be consummated, and without limiting any other rights that the Indemnified Parties may have under this Agreement or any other Program Document or under applicable law, the Borrower hereby agrees to indemnify each Indemnified Party from and against any and all Indemnified Amounts of any kind or nature whatsoever, arising out of, relating to or resulting from (whether directly or indirectly) this Agreement, any other Program Document or the transactions contemplated hereby or thereby, or with respect to the use of proceeds of Loans, or in respect of any Receivable or any other Collateral, excluding, however, Indemnified Amounts to the extent resulting from gross negligence or willful misconduct on the part of such Indemnified Party, or any overall net income taxes or franchise taxes imposed on such Indemnified Party by the jurisdiction under the laws of which such Indemnified Party is organized. Without limiting or being limited by the foregoing, but subject to the exclusions set forth in the preceding sentence, the Borrower shall pay on demand to each Indemnified Party any and all amounts necessary to indemnify such Indemnified Party from and against any and all Indemnified Amounts relating to or resulting from any of the following:

(i) the failure of any Account to be an Eligible Account, the failure of any information contained in any report delivered under this Agreement to be true and correct, or the failure of any other information provided to the Lender with respect to any Collateral or pursuant to or in connection with this Agreement or any other Program Document to be true and correct; or

(ii) the failure of any representation or warranty or statement or certification made or deemed made by the Borrower or any Seller or any Lockbox Bank (or any officer of any of the foregoing) under or in connection with this Agreement or any other Program Document to have been true and correct in all material respects when made; or

(iii) the failure by the Borrower or any Seller or any Lockbox Bank to comply with any applicable law, rule or regulation (including without limitation "bulk sales" or analogous laws of any jurisdiction) with respect to any Account or other Collateral or the transactions contemplated by this Agreement or any other Program Document; or the failure of any Account or other Collateral to conform to any such applicable law, rule or regulation; or

(iv) the failure to vest in the Lender, a valid and enforceable first priority perfected security interest in the Collateral; in each case free and clear of any Lien; or

(v) the failure to have filed, or any delay in filing, financing statements or other similar instruments or documents under the UCC of any applicable jurisdiction or other applicable laws with respect to any Accounts or other Collateral; whether at the time of any Loan or at any subsequent time; or

(vi) any dispute, claim, offset, billing adjustment or defense of any Third Party Obligor to the payment of any Account (including, without limitation, a defense based on such Account not being a legal, valid and binding obligation of such Third Party Obligor enforceable against it in accordance with its terms) and any other claim resulting from the sale of the goods or services related to any Account or the furnishing or failure to furnish such goods or services or relating to collection activities with respect to any Account; or

(vii) any failure of the Borrower or any Seller or SunTrust or any Lockbox Bank to perform or comply with its duties or obligations in accordance with the provisions of this Agreement or any other Program Document; or

(viii) the ownership, delivery, non-delivery, possession, design, construction, use, maintenance, transportation, performance (whether or not according to specifications); operation (including without limitation the failure to operate or faulty operation), condition, return, sale, repossession or disposition of any Collateral

(including, without limitation, claims for injury to persons or property, claims under other liability principles, and claims for breach of warranty, whether express or implied); or

(ix) any claim, investigation, litigation or proceeding (including without limitation any foreclosure or bankruptcy or insolvency proceeding or appellate proceeding) arising out of or in connection with the goods, insurance or services relating to any Account or any other Collateral; or

(x) the commingling of any portion of Collections at any time with other funds; or

(xi) any claim, investigation, litigation or proceeding (including without limitation any foreclosure or bankruptcy or insolvency proceeding or appellate proceeding) related to this Agreement or any other Program Document or the use of proceeds of any Loan or in respect of any Account or other Collateral, whether or not any Indemnified Party is a party to such claim, investigation, litigation or proceeding; or

(xii) the failure to notify any Third Party Obligor of the assignment of any Account from a Seller to the Borrower, or of the pledge of any Account to the Lender, or the failure to require that payments (including without limitation under insurance policies) be made directly to the Seller or to the Lender, as permitted by law; or

(xiii) any brokerage, finder's or other similar fee or commission; or

(xiv) any taxes asserted or imposed in respect of (A) the Accounts or other Collateral or (B) purchases and sales or pledges of Accounts or other Collateral or (C) the transactions contemplated by this Agreement or any other Program Document; or

(xv) any action or omission by the Borrower or any Seller or SunTrust or any Lockbox Bank or any Third Party Obligor which reduces or impairs the rights of the Lender with respect to any Account or other Collateral; or

(xvi) any payment made by the Lender to or for the benefit of SunTrust or any Lockbox Bank.

(b) General. For purposes of this Section 9.2, in determining whether any representation or warranty or information was true and correct, or whether any duty or obligation was performed or complied with, any qualification or limitation in such representation and warranty or information or duty or obligation as to materiality, Material Adverse Effect, knowledge, reasonableness, expectations, or limitation on enforcement shall be disregarded. Indemnification pursuant to this Section 9.2 shall not be limited by any due

diligence or other investigation made by or on behalf of the Lender or any other Indemnified Party.

10. Collateral: General Terms

10.1. Security Interest in Collateral: To secure the payment and performance to the Lender (and to all Indemnified Parties) of the Credit Obligations, the Borrower hereby grants to the Lender a continuing security interest of first priority in and Lien upon all of the Borrower's right, title and interest in, to and under the following (in each case, whether now owned or existing or hereafter created, acquired or arising and wherever located):

- (a) all Receivables, including without limitation all Purchased Accounts;
- (b) all Related Property;
- (c) the Lockboxes and the Lockbox Accounts, the Collection Account, and all Items (as defined in the Form Lockbox Agreement) and funds on deposit from time to time in the Lockboxes, the Lockbox Accounts and the Collection Account;
- (d) the Holding Account, the Non-Government Obligor Reserve Account, and all funds on deposit from time to time in the Holding Account and the Non-Government Obligor Reserve Account;
- (e) all inventory (as presently or hereafter defined in the UCC), equipment (as presently or hereafter defined in the UCC) and any other tangible assets or Property;
- (f) all General Intangibles;
- (g) all monies and other Property of any kind, now or at any time or times hereafter owned, in the possession or under the control of the Borrower or a bailee of the Borrower or any Lockbox Bank;
- (h) the Program Documents and all other contracts, contract rights, chattel paper (as presently or hereafter defined in the UCC), instruments (as presently or hereafter defined in the UCC) and documents of the Borrower;
- (i) all other Property of the Borrower;
- (j) all accessions to, substitutions for and all replacements, products and cash and cash proceeds and non-cash proceeds of the items referred to in clauses (a) through (i) above, including, without limitation, (x) all Collections and (y) all proceeds of and unearned premiums with respect to insurance policies insuring any of the Collateral; and

(k) all books and records (including, without limitation, customer lists, credit files, computer programs, print-outs, and other computer materials and records) of the Borrower pertaining to any of the items referred to in clauses (a) through (j) above.

10.2. Lien Perfection. The Borrower agrees to execute UCC financing statements and any and all other instruments, assignments or documents, and shall take such other action, as may be necessary or appropriate in the judgment of the Lender to perfect or to continue the perfection of the Lender's security interest in the Collateral. Unless prohibited by applicable law, the Borrower hereby authorizes the Lender to execute and file any such financing statement on the Borrower's behalf. The Lender hereby agrees to notify the Borrower of any such filing of a financing statement without the Borrower's signature; provided, however, that any failure to give such notice shall not affect in any respect whatsoever the validity or effectiveness of such financing statement or the perfection or continued perfection of the Lender's security interest in the Collateral. The parties agree that a carbon, photographic or other reproduction of this Agreement shall be sufficient as a financing statement and may be filed in any office by the Lender.

10.3. Location of Collateral. All tangible Collateral shall at all times be kept by the Borrower at the business location set forth in Section 7.10 and shall not, without the prior written approval of the Lender, be moved therefrom.

10.4. Protection of Collateral. All insurance expenses and all expenses of protecting, storing, warehousing, insuring, handling, maintaining and shipping the Collateral, any and all excise, property, sales, and use taxes imposed by any Governmental Authority on any of the Collateral or in respect of the sale thereof, shall be borne and paid by the Borrower. If the Borrower fails to promptly pay any portion thereof when due, the Lender may, at its option, but shall not be required to, pay the same and charge the Borrower therefor. The Borrower shall reimburse the Lender promptly therefor with interest accruing thereon daily at the Overdue Reimbursement Rate. All sums so paid or incurred by the Lender for any of the foregoing and all costs and expenses (including attorneys' fees, legal expenses, and court costs) which the Lender may incur in enforcing or protecting its Lien on or rights and interest in the Collateral or any of its rights or remedies under any Program Document or in respect of any of the transactions to be had hereunto, together with interest at the Overdue Reimbursement Rate, shall be considered Credit Obligations hereunder secured by all Collateral. The Lender shall not be liable or responsible in any way for the safekeeping of any of the Collateral or for any loss or damage thereto or for any diminution in the value thereof, or for any act or default of any warehouseman, carrier, forwarding agency, or other Person whomsoever, but the same shall be at the Borrower's sole risk.

10.5. Certain Provisions Relating to Accounts.

10.5.1. Assignments, Records and Reports of Accounts. If so requested by the Lender, the Borrower shall execute and deliver to the Lender formal written assignments of all of its interests in Accounts weekly or, if requested by the Lender, daily, which shall include all Accounts in which the Borrower has acquired an interest since the date of the last assignment, together with copies of invoices or invoice registers related thereto. The

Borrower shall keep accurate and complete records of its interests in the Accounts and all payments and collections thereon and shall submit to the Lender such reports in form and substance satisfactory to the Lender as are required by the terms hereof. The Borrower shall deliver such other reports of its interest in the Accounts in form and substance satisfactory to the Lender, as requested by the Lender from time to time.

10.5.2. Administration of Accounts.

(a) Upon and after the occurrence of an Event of Default that has not been cured or waived in accordance with Section 8.3, the Lender shall have the right to settle or adjust all disputes and claims directly with the Third Party Obligors and to compromise the amount or extend the time for payment of the Accounts upon such terms and conditions as the Lender may deem advisable, and to charge the deficiencies, costs and expenses thereof, including attorney's fees, to the Borrower.

(b) If any Account includes a charge for any tax payable to any Governmental Authority, the Lender is authorized, after the occurrence of an Event of Default, to pay the amount thereof to the proper Governmental Authority for the Account and to charge the Borrower therefor. The Borrower shall notify the Lender if any Account includes any tax payable to any Governmental Authority and, in the absence of such a notice (i) with respect to any Account, the Borrower shall be deemed to have made a representation and warranty to the Lender that no portion of such Account is payable to any Governmental Authority and (ii) the Lender shall have the right to retain the full proceeds of the Account. In no event shall the Lender be liable for any taxes to any Governmental Authority that may be due by the Borrower by reason of the sale and delivery creating an Account.

(c) Upon and following the occurrence of a Default or an Event of Default and while such Default or Event of Default is continuing, any of the Lender's officers, employees or agents shall have the right in the name of the Lender, any designee of the Lender or the Borrower, to verify the validity, amount or any other matter relating to any Accounts by mail, telephone, telegraph or otherwise. The Borrower shall cooperate fully with the Lender in an effort to facilitate and promptly conclude any such verification process.

10.5.3. Costs of Collection. All costs of collection of the Accounts including attorney's fees, out-of-pocket expenses, administrative and record-keeping costs, and all service charges and costs related to the establishment and maintenance of each Lockbox and each Lockbox Account, shall be the responsibility of the Borrower, whether the same are incurred by the Lender or the Borrower, as the case may be, and the Lender, in its sole discretion, may charge the same against the Borrower or any account maintained by the Borrower and the same shall be deemed part of the Credit Obligations.

11. Netting. The Lender shall have the right from time to time without notice to net, recoup, set-off and deduct from any amount to be advanced by the Lender to the Borrower (or from any other amount that may be payable by the Lender to the Borrower) any and all fees, costs,

expenses and other amounts that are payable by the Borrower pursuant to this Agreement, including without limitation, amounts payable pursuant to Section 5.1(g), Section 9.1 and Section 9.2. In each case, the amount so netted, recouped, set-off, or deducted shall be deemed to have been advanced by the Lender as a Loan to the Borrower and shall constitute a Loan for all purposes of this Agreement. The Lender shall use reasonable efforts to give the Borrower notice of any such netting within five (5) Business Days after any such netting; provided that any failure or delay in giving any such notice (i) shall not limit or otherwise affect any rights or remedies of the Lender, and (ii) shall not impose any liability on the Lender.

12. Successors and Assigns; Lender Assignments and Participations. Any reference in this Agreement to any of the parties hereto shall be deemed to include the successors and permitted assigns of such party, and all covenants and agreements by or on behalf of the Borrower or the Lender that are contained in this Agreement shall bind and inure to the benefit of their respective successors and permitted assigns; provided, however, that the Borrower shall not assign or delegate any of its rights or obligations under this Agreement or any other Program Document (whether directly or indirectly, voluntarily or by operation of law) without prior written consent of the Lender.

12.1. Assignments by Lender.

12.1.1. Assignees.

(a) The Lender may without the consent of the Borrower assign to one or more Persons (each, an "Assignee") all or a portion of its interests, rights and obligations under this Agreement and the other Program Documents, including all or a portion of the Loans. From and after the effective date specified for such an assignment:

(i) the Assignee shall be a party hereto and, to the extent of such assignment, have the rights and obligations of the Lender under this Agreement; and

(ii) the assigning Lender shall, to the extent provided in such assignment, be released from its obligations under this Agreement (and, in the case of an assignment covering all or the remaining portion of an assigning Lender's rights and obligations under this Agreement, such Lender shall cease to be a party hereto but shall continue to be entitled to the benefits of Sections 3.3 and 9, as well as to any fees accrued for its account hereunder and not yet paid).

(b) The Lender shall give prompt notice of such an assignment to the Borrower.

12.1.2. Further Assurances. The Borrower shall sign such documents and take such other actions from time to time reasonably requested by an Assignee to enable it to share in the benefits of the rights created by the Program Documents.

12.2. Credit Participants. The Lender may, without the consent of the Borrower, sell to one or more Persons (each a "Credit Participant") participations in all or a portion of its interests, rights and obligations under this Agreement and the other Program Documents (including all or a portion of the Loans); provided, however, that:

- (a) the Lender's obligations under this Agreement shall remain unchanged;
- (b) the Lender shall remain solely responsible to the Borrower for the performance of such obligations; and
- (c) the Credit Participant shall be entitled to the benefit of the provisions contained in Sections 3.3, 9.1 and 9.2, but shall not be entitled to receive any greater payment thereunder than the Lender would have been entitled to receive with respect to the interest so sold if such interest had not been sold.

The Borrower agrees, to the fullest extent permitted by applicable law, that any Credit Participant and any Lender purchasing a participation from another Lender may exercise all rights of payment (including the right of set-off), with respect to its participation as fully as if such Credit Participant or such Lender were the direct creditor of the Borrower and a Lender hereunder in the amount of such participation.

13. Notices. Except as otherwise specified in this Agreement, any notice, consent, approval, demand or other communication in connection with this Agreement shall be given in writing. Any notice, consent, approval, demand or other communication in connection with this Agreement shall be deemed to be given if given in writing (including telecopy) addressed as provided in Schedule 13 hereto (or to the addressee at such other address as the addressee shall have specified by notice actually received by the addressor), and if either (a) actually delivered in fully legible form to such address or (b) in the case of a letter, unless actual receipt of the notice is required by this Agreement, five days shall have elapsed after the same shall have been deposited in the United States mails, with first-class postage prepaid and registered or certified.

14. Course of Dealing; Amendments and Waivers. No course of dealing between the Lender, on one hand, and the Borrower or any other Person, on the other hand, shall operate as a waiver of the Lender's rights under this Agreement or any other Program Document or with respect to the Credit Obligations. The Borrower acknowledges that if the Lender gives any notice or information to, or obtains any consent from any other Person, the Lender shall not by implication have amended, waived or modified any provision of this Agreement or any other Program Document, or created any duty to give any such notice or information or to obtain any such consent on any future occasion. No delay or omission on the part of the Lender in exercising any right under this Agreement or any other Program Document or with respect to the Credit Obligations shall operate as a waiver of such right or any other right hereunder or thereunder. A waiver on any one occasion shall not be construed as a bar to or waiver of any right or remedy on any future occasion. This Agreement may be amended only by a

writing signed by both of the parties hereto. No waiver or consent with respect to this Agreement shall be effective unless it is in writing and is signed by the waiving party or consenting party, as the case may be.

15. Survival. Sections 3.3, 9.1, 9.2, 11, 14-21 and any indemnities set forth herein shall survive the execution and delivery of this Agreement, the making and repayment of the Loans, the satisfaction of all other Credit Obligations and termination of this Agreement.

16. GOVERNING LAW AND JURISDICTION, ETC. THIS AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK. EACH PARTY HERETO HEREBY IRREVOCABLY AND UNCONDITIONALLY SUBMITS, FOR ITSELF AND ITS PROPERTY, TO THE NONEXCLUSIVE JURISDICTION OF THE COURTS OF THE STATE OF NEW YORK AND OF THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK, AND ANY APPELLATE COURT FROM ANY THEREOF, IN ANY LAWSUIT, ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER PROGRAM 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 LAWSUIT, ACTION OR PROCEEDING MAY BE HEARD AND DETERMINED IN SUCH NEW YORK STATE COURT OR, TO THE EXTENT PERMITTED BY LAW, IN SUCH FEDERAL COURT. EACH OF THE PARTIES HERETO AGREES THAT A FINAL JUDGMENT IN ANY SUCH LAWSUIT, ACTION OR PROCEEDING SHALL BE CONCLUSIVE AND MAY BE ENFORCED IN OTHER JURISDICTIONS BY SUIT ON THE JUDGMENT OR IN ANY OTHER MANNER PROVIDED BY LAW. NOTHING IN THIS AGREEMENT OR ANY OTHER PROGRAM DOCUMENT SHALL AFFECT ANY RIGHT THAT THE LENDER MAY OTHERWISE HAVE TO BRING ANY LAWSUIT, ACTION OR PROCEEDING RELATING TO THIS AGREEMENT OR ANY OTHER PROGRAM DOCUMENT AGAINST ANY PERSON OR ITS PROPERTIES IN THE COURTS OF ANY JURISDICTION. EACH PARTY 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 LAWSUIT, ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER PROGRAM DOCUMENT IN ANY COURT REFERRED TO IN THIS SECTION 16. 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 LAWSUIT, ACTION OR PROCEEDING IN ANY SUCH COURT. EACH PARTY TO THIS AGREEMENT IRREVOCABLY CONSENTS TO SERVICE OF PROCESS IN THE MANNER PROVIDED FOR NOTICES IN SECTION 13. NOTHING IN THIS AGREEMENT SHALL AFFECT THE RIGHT OF ANY PARTY TO THIS

AGREEMENT TO SERVE PROCESS IN ANY OTHER MANNER PERMITTED BY LAW. TO THE EXTENT THAT THE BORROWER HAS OR HEREAFTER MAY ACQUIRE ANY IMMUNITY FROM JURISDICTION OF ANY COURT OR FROM ANY LEGAL PROCESS (WHETHER THROUGH SERVICE OR NOTICE, ATTACHMENT PRIOR TO JUDGMENT, ATTACHMENT IN AID OF EXECUTION OR OTHERWISE), WITH RESPECT TO ITSELF OR ITS PROPERTY, THE BORROWER HEREBY IRREVOCABLY WAIVES SUCH IMMUNITY IN RESPECT OF ITS OBLIGATIONS UNDER THIS AGREEMENT AND UNDER ANY OTHER PROGRAM DOCUMENT.

17. WAIVER OF JURY TRIAL. EACH PARTY HERETO HEREBY WAIVES ITS RIGHTS TO A TRIAL BY JURY OF ANY CLAIM OR CAUSE OF ACTION BASED UPON OR ARISING OUT OF OR RELATED TO THIS AGREEMENT OR ANY OTHER PROGRAM DOCUMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY, IN ANY ACTION, PROCEEDING OR OTHER LITIGATION OF ANY TYPE BROUGHT BY ANY OF THE PARTIES HERETO AGAINST ANY OTHER PARTY, WHETHER WITH RESPECT TO CONTRACT CLAIMS, TORT CLAIMS, OR OTHERWISE. EACH PARTY HERETO HEREBY AGREES THAT ANY SUCH CLAIM OR CAUSE OF ACTION SHALL BE TRIED BY A COURT TRIAL WITHOUT A JURY. WITHOUT LIMITING THE FOREGOING, EACH OF THE PARTIES HERETO FURTHER AGREES THAT ITS RESPECTIVE RIGHT TO A TRIAL BY JURY IS WAIVED BY OPERATION OF THIS SECTION AS TO ANY LAWSUIT, ACTION, OR OTHER PROCEEDING WHICH SEEKS, IN WHOLE OR IN PART, TO CHALLENGE THE VALIDITY OR ENFORCEABILITY OF THIS AGREEMENT OR ANY OTHER PROGRAM DOCUMENT OR ANY PROVISION HEREOF OF THEREOF. THIS WAIVER SHALL APPLY TO ANY SUBSEQUENT AMENDMENTS, AMENDMENTS AND RESTATEMENTS, OR MODIFICATIONS TO THIS AGREEMENT OR ANY OTHER PROGRAM DOCUMENT.

18. Headings. The headings and captions of sections and subsections in this Agreement, of the exhibits to this Agreement, and the table of contents of this Agreement, are for purposes of reference only and shall not limit or otherwise affect the meaning or interpretation of any provision of this Agreement.

19. Interest Rates

(a) It is the intention of the parties hereto that the Loans made hereunder shall conform strictly to applicable usury laws. Accordingly, none of the terms and provisions contained in this Agreement or any of the other Program Documents shall ever be construed to create a contract to pay interest to the Lender for the use, forbearance or detention of money at a rate in excess of the highest lawful rate applicable (the "Maximum Lawful Rate"); for purposes of this Section 19, "interest" shall include the aggregate of all charges or other consideration which constitute interest under applicable laws (whether or not denominated

as interest) and are contracted for, taken, reserved, charged or received under any of this Agreement or the other Program Documents or otherwise in connection with the transactions contemplated by this Agreement and the other Program Documents. If as a result of prepayment, acceleration of maturity or otherwise, the effective rate of interest which would otherwise be payable to the Lender under this Agreement or any other Program Document would exceed the Maximum Lawful Rate for the period during which the principal amount of the Loans was outstanding, or if the Lender shall receive moneys or other consideration that are deemed to constitute interest that would increase the effective rate of interest payable by the Borrower to the Lender under this Agreement or any other Program Document to a rate in excess of the Maximum Lawful Rate for the period during which the principal amount of the Loans was outstanding, then (i) the amount of interest that would otherwise be payable by the Borrower to the Lender under this Agreement and the other Program Documents shall be reduced to the Maximum Lawful Rate, and (ii) any interest paid by the Borrower to the Lender in excess of the Maximum Lawful Rate shall be credited by the Lender as an optional prepayment of the Loans (to be applied, to the extent lawful, to interest, principal and other Credit Obligations in the order specified in Section 4.5.2) and, thereafter, shall be returned to the Borrower. All calculations of the rate or amount of interest contracted for, taken, reserved, charged or received by the Lender under any of this Agreement and the other Program Documents that are made for the purpose of determining whether such rate or amount exceeds the Maximum Lawful Rate shall be made, to the extent permitted by applicable law, by amortizing, prorating, allocating and spreading during the full stated term of all of the Loans owed to the Lender.

(b) If at any time and from time to time (i) the amount of interest payable to the Lender on any date would otherwise exceed the Maximum Lawful Rate, the amount of interest payable to the Lender shall be limited to the Maximum Lawful Rate pursuant to paragraph (a) above and (ii) in respect of any subsequent interest computation period, the amount of interest otherwise payable to the Lender would be less than the amount of interest payable to the Lender computed at the Maximum Lawful Rate, then the amount of interest payable in respect of such subsequent computation period shall be computed at the Maximum Lawful Rate until the earlier to occur of (x) the date upon which the total amount of interest payable to the Lender shall equal the total amount of interest that would have been payable to the Lender if the total amount of interest had been computed without giving effect to paragraph (a) above, or (y) payment in full of the Loans.

20. No Strict Construction. The parties have participated jointly in the negotiation and drafting of this Agreement and the other Program Documents with counsel sophisticated in financing transactions. In the event an ambiguity or question of intent or interpretation arises, this Agreement and the other Program Documents shall be construed as if drafted jointly by the parties and no presumption or burden of proof shall arise favoring or disfavoring any party by virtue of the authorship of any provisions of this Agreement and the other Program Documents. Without limiting the generality of the foregoing, this Agreement may use more than one test, calculation, representation and warranty, covenant, Event of Default or measure to cover the same or similar matters, and all of such tests, calculations, representations and

warranties, covenants, Events of Default and measurements are cumulative in nature and each shall be tested, calculated, determined, performed or measured in accordance with its terms.

21. Miscellaneous.

(a) All covenants, agreements, and representations and warranties made in this Agreement or any other Program Document or in certificates delivered pursuant hereto or thereto shall be deemed to have been relied on by the Lender and shall survive the execution and delivery to the Lender hereof and thereof.

(b) The invalidity or unenforceability of any provision hereof shall not affect the validity or enforceability of any other provision hereof.

(c) This Agreement constitutes the entire understanding of the parties with respect to the subject matter hereof and supersedes all prior and contemporaneous understandings and agreements, whether written or oral. In the event of any conflict or inconsistency between this Agreement and any other document or agreement to which the Borrower and the Lender are parties, this Agreement shall control.

(d) This Agreement may be executed in any number of counterparts and by the parties hereto on different and separate counterparts, each of which shall constitute an original and all of which together shall constitute one agreement.

(e) The Borrower acknowledges that there is no, and it shall not seek or attempt to establish any, fiduciary relationship between the Borrower and the Lender. The Borrower waives any right to assert, now or in the future, the existence or creation of any fiduciary relationship between the Borrower and the Lender in any Proceeding (whether by way of claim, counterclaim, crossclaim or otherwise) for damages or other relief.

(f) The Borrower acknowledges that this Agreement is one of financial accommodation and is not assumable by the Borrower (whether as debtor or debtor-in-possession), or by the bankruptcy trustee of the Borrower, in any bankruptcy proceeding without the Lender's express written consent.

(g) The Lender's books and records shall be admissible in evidence without objection as prima facie evidence of the status of the accounts between the Lender and the Borrower. Each statement, report or accounting, if any, provided by the Lender to the Borrower shall be deemed conclusively accurate and binding on the Borrower unless, within fifteen (15) days after the date such statement, report or accounting was given to the Borrower by the Lender, the Borrower notifies the Lender to the contrary by registered or certified mail, setting forth with reasonable specificity the reasons why the Borrower believes such statement, report or accounting is inaccurate, as well as what the Borrower believes to be correct amount(s) therefor. The Borrower's failure to receive any such statement shall not

relieve it of the responsibility to request such statement and the Borrower's failure to do so shall nonetheless bind the Borrower to whatever the Lender's records would have reported.

(h) Each of the Lender's rights and remedies under this Agreement and any other Program Document are cumulative, and such rights and remedies are in addition to and not by way of limitation of any other rights or remedies which the Lender may have under applicable law. The Lender shall have the right, in its sole discretion, to determine which rights and remedies, and in which order any of the same, are to be exercised. No act, failure or delay by the Lender shall constitute a waiver of any of the rights and remedies to which it would otherwise be entitled. In the event the Lender deems it necessary to seek equitable relief, including, but not limited to, injunctive or receivership remedies, as a result of a Default, the Borrower waives any requirement that the Lender post or otherwise obtain or procure any bond. In the event the Lender, in its sole and exclusive discretion, desires to procure and post a bond, the Lender may procure and file with the court a bond in an amount which the Lender selects (which amount may be fifty thousand dollars (\$50,000) or such other amount as the Lender selects) in its sole and exclusive discretion. Upon the Lender's posting such a bond, the Lender shall be entitled to all benefits as if such bond was posted in compliance with applicable law. The Borrower also waives any right it may be entitled to, including an award of attorney's fees or costs, in the event any relief (whether equitable or otherwise) sought by and awarded to the Lender is thereafter, for whatever reason, vacated, dissolved or reversed. Notwithstanding the existence of any law, statute or rule in any jurisdiction which may provide the Borrower with a right to attorney's fees or costs, the Borrower hereby (x) waives any and all rights to hereafter seek attorney's fees or costs from the Lender and (y) agrees that the Lender exclusively shall be entitled to indemnification and recovery of any and all attorney's fees or costs in respect to any Proceeding based hereon, arising out of, or related hereto, whether under, or in connection with, this Agreement or any agreement executed in conjunction herewith, or any course of conduct, course of dealing, statements (whether verbal or written) or actions of either party.

(i) In the event that a court of competent jurisdiction renders a final, non-appealable judgment that the Borrower suffered actual damages as the direct result of the Lender's willful misconduct, then the Lender shall be liable to the Borrower for such amount of actual damages (excluding any attorney's fees or costs which may be included in or which may relate to such actual damages). Notwithstanding the foregoing, and notwithstanding any other term or provision of this Agreement, under no circumstances shall the Lender be liable for any incidental, punitive, special or consequential damages, including, but not limited to, any costs associated therewith, whether the Lender did or did not have any reason to know of a loss that may result from any general or particular requirement of the Borrower.

(j) Notwithstanding any other term or provision of this Agreement, and notwithstanding the date of this Agreement, this Agreement shall become effective at the Designated Effective Time but not prior to the Designated Effective Time. The parties intend that the foregoing shall constitute an explicit agreement within the meaning of Section 9-203(2) of the UCC postponing the time of attachment of the security interest

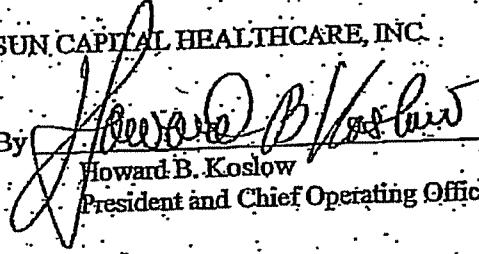
created under this Agreement until the Designated Effective Time. Designated Effective Time shall mean 8:00 a.m. Florida time on the Initial Lending Date.

[SIGNATURES FOLLOW]

IN WITNESS WHEREOF, each of the parties hereto has caused this Agreement to be duly executed and delivered as of the date first above written.

SUN CAPITAL HEALTHCARE, INC.

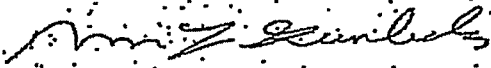
By



Howard B. Koslow
President and Chief Operating Officer

FOUNDING PARTNERS MULTI-STRATEGY
FUND, L.P.

By Founding Partners Capital Management
Company, its general partner

By: 

William L. Gunlicks
President and Chief
Executive Officer

SCHEDULE 13

NOTICE ADDRESSES

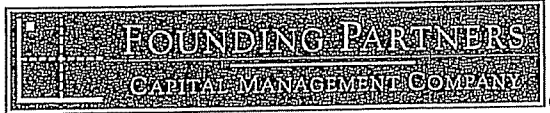
If to the Borrower:

Sun Capital Healthcare, Inc.
929 Clint Moore Road
Boca Raton, Florida 33487
Facsimile: (800) 645-1942

If to the Lender:

Founding Partners Multi-Strategy Fund, L.P.
c/o Founding Partners Capital Management Company
800 Laurel Oak Drive, Suite 200
Naples, Florida 34108
Facsimile: (941) 514-2901

EXHIBIT D



Private Investment Management & Counsel Since 1996
Naples • Chicago • Bermuda

November 10, 2004

Sun Capital Healthcare, Inc.
Attn: Howard Koslow
929 Clint Moore Road
Boca Raton, Florida 33487

William L. Gunlicks
President & CEO
Leonard F. Llewellyn
Managing Director
Judy Aller
Controller
Robert J. Hager
Affiliate President
Chris A. Bowers
Asset Advisor

Re: Credit and Security Agreement

Dear Howard:

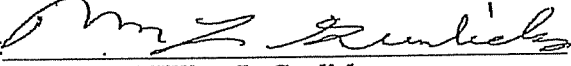
Please refer to the Credit and Security Agreement dated as of June 6, 2000 ("Credit and Security Agreement") between Sun Capital Healthcare, Inc. and Founding Partners Stable-Value Fund, L.P., formerly known as Founding Partners Multi-Strategy Fund, L.P. ("Founding Partners"). Founding Partners hereby agrees to amend the definition of Final Maturity Date in the Credit and Security Agreement to read as follows:

"Final Maturity Date" shall mean February 1, 2010 or such other date as may be Agreed upon in writing from time to time by the Borrower and Founding Partners.

Sincerely,

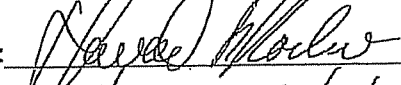
FOUNDING PARTNERS STABLE-VALUE FUND, L.P.

By Founding Partners Capital Management Company, its general partner

By: 
William L. Gunlicks
President and Chief Executive Officer

Agreed as of the date first above written:

SUN CAPITAL HEALTHCARE, INC.

By: 
Name: Howard B. Koslow
Title: President & P.O.O.



5100 N. Tamiami Trail, Suite 119, Newgate Center, Naples, Florida 34103
Telephone: 239-514-2900 Facsimile: 239-514-2901

June 7, 2006

Sun Capital Healthcare, Inc.
Attn: Howard Koslow
929 Clint Moore Road
Boca Raton, Florida 33487

Re: Credit and Security Agreement

Dear Howard:

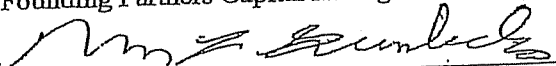
Please refer to the Credit and Security Agreement dated as of June 6, 2000 ("Credit and Security Agreement") between Sun Capital Healthcare, Inc. and Founding Partners Stable-Value Fund, L.P., formerly known as Founding Partners Multi-Strategy Fund, L.P. ("Founding Partners"). Founding Partners hereby agrees to amend the definition of Final Maturity Date in the Credit and Security Agreement to read as follows:

"Final Maturity Date" shall mean February 1, 2011 or such other date as may be agreed upon in writing from time to time by the Borrower and Founding Partners.

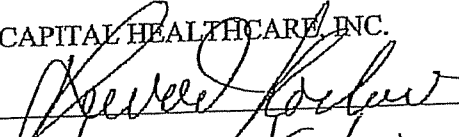
Sincerely,

FOUNDING PARTNERS STABLE-VALUE FUND, L.P.

By Founding Partners Capital Management Company, its general partner

By: 
William L. Gunlicks
President and Chief Executive Officer

Agreed as of the date first above written:

SUN CAPITAL HEALTHCARE, INC.
By: 
Name: Howard Koslow
Title: President



5100 N. Tamiami Trail, Suite 110, Newgate Center, Naples, Florida 34103
Telephone: 239-514-2900 Facsimile: 239-514-2901

June 6, 2008

Sun Capital Healthcare, Inc.
Attn: Howard Koslow
999 Yamato Road, 3rd Floor
Boca Raton, Florida 33431

Re: Credit and Security Agreement

Dear Howard:

Please refer to the Credit and Security Agreement dated as of June 6, 2000 ("Credit and Security Agreement") between Sun Capital Healthcare, Inc. and Founding Partners Stable-Value Fund, L.P., formerly known as Founding Partners Multi-Strategy Fund, L.P. ("Founding Partners"). Founding Partners hereby agrees to amend the definition of Final Maturity Date in the Credit and Security Agreement to read as follows:

'Final Maturity Date' shall mean February 1, 2013 or such other date as may be agreed upon in writing from time to time by the Borrower and Founding Partners.

Sincerely,

FOUNDING PARTNERS STABLE-VALUE FUND, L.P.

By Founding Partners Capital Management Company, its general partner

By:
William L. Gunlicks
President and Chief Executive Officer

Agreed as of the date first above written:

SUN CAPITAL HEALTHCARE, INC.

By:

Name: Howard Koslow

Title: President & Chief Operating Officer

EXHIBIT C

**AMENDMENT TO DEFINITION
OF MAXIMUM AMOUNT OF CREDIT**

This AMENDMENT TO CREDIT AND SECURITY AGREEMENT, dated as of January 5, 2000 (this "Amendment"), is by and between SUN CAPITAL HEALTHCARE, INC., a Florida corporation (the "Borrower"), and FOUNDING PARTNERS MULTI-STRATEGY FUND, L.P. ("Founding Partners").

WITNESSETH

WHEREAS, the parties hereto are the parties to the Credit and Security Agreement dated as of June 6, 2000 (as amended, amended and restated or otherwise modified from time to time, the "Credit and Security Agreement");

WHEREAS, the parties hereto wish to amend the definition of "Maximum Amount of Credit" in the Credit and Security Agreement.

NOW, THEREFORE, for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereto hereby agree as follows:

SECTION 1. Definitions. Capitalized terms defined in the Credit and Security Agreement and used herein without definition shall have the meanings assigned thereto in the Credit and Security Agreement.

SECTION 2. Amendment to credit and Security Agreement.

The definition of Maximum Amount of Credit in the Credit and Security Agreement is hereby amended and restated to read in its entirety as follows:

"Maximum Amount of Credit" shall mean a dollar amount mutually agreed upon in writing by the Borrower and the Lender. Unless and until the Borrower and the Lender otherwise mutually agree in writing upon a different dollar amount pursuant to an agreement substantially in the form of Exhibit C hereto, the Maximum Amount of Credit shall be ten million dollars (\$10,000,000).

SECTION 3 Binding Effect: Ratification

This Amendment shall become effective as of the date on which counterparts hereof executed by the parties hereto have been received by Founding Partners, and thereafter shall be binding on the parties hereto and their respective successors and assigns.

Except as expressly amended hereby, the Credit and Security Agreement shall remain in full force and effect and is hereby ratified and confirmed by the parties hereto.

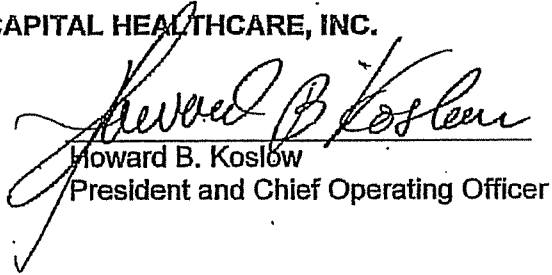
SECTION 4 Miscellaneous

Sections 16, 17, 18 and 21 of the Credit and Security Agreement are hereby incorporated herein by this reference, and for this purpose all references in such Sections to the Credit and Security Agreement shall be deemed to be references to this Amendment and to the Credit and Security Agreement as amended hereby.

IN WITNESS WHEREOF, each of the parties hereto has caused this Amendment to be duly executed and delivered as of the date first above written.

SUN CAPITAL HEALTHCARE, INC.

By:

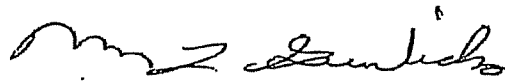


Howard B. Koslow
President and Chief Operating Officer

FOUNDING PARTNERS MULTI-STRATEGY FUND, L.P.

By Founding Partners Capital Management Company, its
general partner

By:



William L. Gunlicks
President and Chief Executive Officer

AMENDMENT TO DEFINITION
OF MAXIMUM AMOUNT OF CREDIT

JULY 6, 2001

This AMENDMENT TO CREDIT AND SECURITY AGREEMENT, dated as of ~~January 5, 2000~~ (this "Amendment"), is by and between SUN CAPITAL HEALTHCARE, INC., a Florida corporation (the "Borrower"), and FOUNDING PARTNERS MULTI-STRATEGY FUND, L.P. ("Founding Partners").

WITNESSETH

WHEREAS, the parties hereto are the parties to the Credit and Security Agreement dated as of June 6, 2000 (as amended, amended and restated or otherwise modified from time to time, the "Credit and Security Agreement");

WHEREAS, the parties hereto wish to amend the definition of "Maximum Amount of Credit" in the Credit and Security Agreement.

NOW, THEREFORE, for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereto hereby agree as follows:

SECTION 1. Definitions. Capitalized terms defined in the Credit and Security Agreement and used herein without definition shall have the meanings assigned thereto in the Credit and Security Agreement.

SECTION 2. Amendment to Credit and Security Agreement.

The definition of Maximum Amount of Credit in the Credit and Security Agreement is hereby amended and restated to read in its entirety as follows:

"Maximum Amount of Credit" shall mean a dollar amount mutually agreed upon in writing by the Borrower and the Lender. Unless and until the Borrower and the Lender otherwise mutually agree in writing upon a different dollar amount pursuant to an agreement substantially in the form of Exhibit C hereto, the Maximum Amount of Credit shall be twenty million dollars (\$20,000,000).

INCREASE
TO \$20 MILLION
7-16-01

SECTION 3 Binding Effect Ratification

This Amendment shall become effective as of the date on which counterparts hereof executed by the parties hereto have been received by Founding Partners, and thereafter shall be binding on the parties hereto and their respective successors and assigns.

Except as expressly amended hereby, the Credit and Security Agreement shall remain in full force and effect and is hereby ratified and confirmed by the parties hereto.

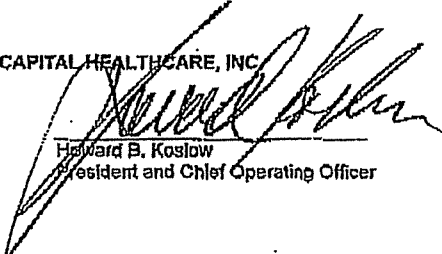
SECTION 4 Miscellaneous

Sections 16, 17, 18 and 21 of the Credit and Security Agreement are hereby incorporated herein by this reference, and for this purpose all references in such Sections to the Credit and Security Agreement shall be deemed to be references to this Amendment and to the Credit and Security Agreement as amended hereby.

IN WITNESS WHEREOF, each of the parties hereto has caused this Amendment to be duly executed and delivered as of the date first above written.

SUN CAPITAL HEALTHCARE, INC

By:


Howard B. Koslow
President and Chief Operating Officer

FOUNDING PARTNERS MULTI-STRATEGY FUND, L.P.

By Founding Partners Capital Management Company, its
general partner

By:


William L. Gunkles
President and Chief Executive Officer

AMENDMENT TO DEFINITION OF MAXIMUM AMOUNT OF CREDIT

This AMENDMENT TO CREDIT AND SECURITY AGREEMENT, dated as of January 5, 2000 (this "Amendment"), is by and between SUN CAPITAL HEALTHCARE, INC., a Florida corporation (the "Borrower"), and FOUNDING PARTNERS STABLE-VALUE FUND, L.P. ("Founding Partners").

WITNESSETH

WHEREAS, the parties hereto are the parties to the Credit and Security Agreement dated as of June 6, 2000 (as amended, amended and restated or otherwise modified from time to time, the "Agreement");

WHEREAS, the parties hereto wish to amend the definition of "Maximum Amount of Credit" in the Credit and Security Agreement.

NOW, THEREFORE, for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereto hereby agree as follows:

SECTION 1. Definitions. Capitalized terms defined in the Credit and Security Agreement and used herein without definition shall have the meanings assigned thereto in the Credit and Security Agreement.

SECTION 2. Amendment to credit and Security Agreement.

The definition of Maximum Amount of Credit in the Credit and Security Agreement is hereby amended and restated to read in its entirety as follows:

"Maximum Amount of Credit" shall mean a dollar amount mutually agreed upon in writing by the Borrower and the Lender. Unless and until the Borrower and the Lender otherwise mutually agree in writing upon a different dollar amount pursuant to an agreement substantially in the form of Exhibit C hereto, the Maximum Amount of Credit shall be twenty million dollars (\$40,000,000).

FOR BY US

SECTION 3 Binding Effect: Ratification

This Amendment shall become effective as of the date on which counterparts hereof executed by the parties hereto have been received by Founding Partners, and thereafter shall be binding on the parties hereto and their respective successors and assigns.

Except as expressly amended hereby, the Credit and Security Agreement shall remain in full force and effect and is hereby ratified and confirmed by the parties hereto.

SECTION 4 Miscellaneous

Sections 16, 17, 18 and 21 of the Credit and Security Agreement are hereby incorporated herein by this reference, and for this purpose all references in such Sections to the Credit and Security Agreement shall be deemed to be references to this Amendment and to the Credit and Security Agreement as amended hereby.

IN WITNESS WHEREOF, each of the parties hereto has caused this Amendment to be duly executed and delivered as of the date first above written.

SUN CAPITAL HEALTHCARE, INC

By:

Howard B. Koslow
Howard B. Koslow
President and Chief Operating Officer

FOUNDING PARTNERS STABLE - VALUE FUND, L.P.

By Founding Partners Capital Management Company, its general partner

By:

William L. Gunicks
William L. Gunicks
President and Chief Executive Officer

*INCREASE
TO \$40 MILLION*

2

Amendment NO. 2

EXHIBIT C

AMENDMENT TO DEFINITION OF MAXIMUM AMOUNT OF CREDIT

This AMENDMENT TO CREDIT AND SECURITY AGREEMENT, dated as of January 5, 2000 (this "Amendment"), is by and between SUN CAPITAL HEALTHCARE, INC., a Florida corporation (the "Borrower"), and FOUNDING PARTNERS STABLE-VALUE FUND, L.P. ("Founding Partners").

WITNESSETH

WHEREAS, the parties hereto are the parties to the Credit and Security Agreement dated as of June 6, 2000 (as amended, amended and restated or otherwise modified from time to time, the "Agreement");

WHEREAS, the parties hereto wish to amend the definition of "Maximum Amount of Credit" in the Credit and Security Agreement.

NOW, THEREFORE, for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereto hereby agree as follows:

SECTION 1. Definitions. Capitalized terms defined in the Credit and Security Agreement and used herein without definition shall have the meanings assigned thereto in the Credit and Security Agreement.

SECTION 2. Amendment to credit and Security Agreement.

The definition of Maximum Amount of Credit in the Credit and Security Agreement is hereby amended and restated to read in its entirety as follows:

"Maximum Amount of Credit" shall mean a dollar amount mutually agreed upon in writing by the Borrower and the Lender. Unless and until the Borrower and the Lender otherwise mutually agree in writing upon a different dollar amount pursuant to an agreement substantially in the form of Exhibit C hereto, the Maximum Amount of Credit shall be sixty million dollars (~~(\$60,000,000)~~).

\$60 million

SECTION 3 Binding Effect: Ratification

This Amendment shall become effective as of the date on which counterparts hereof executed by the parties hereto have been received by Founding Partners, and thereafter shall be binding on the parties hereto and their respective successors and assigns.

Except as expressly amended hereby, the Credit and Security Agreement shall remain in full force and effect and is hereby ratified and confirmed by the parties hereto.

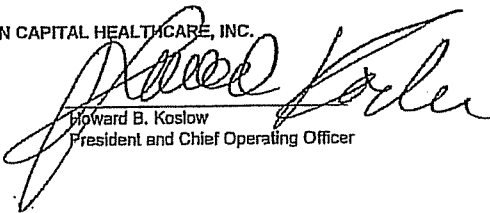
SECTION 4 Miscellaneous

Sections 16, 17, 18 and 21 of the Credit and Security Agreement are hereby incorporated herein by this reference, and for this purpose all references in such Sections to the Credit and Security Agreement shall be deemed to be references to this Amendment and to the Credit and Security Agreement as amended hereby.

IN WITNESS WHEREOF, each of the parties hereto has caused this Amendment to be duly executed and delivered as of the date first above written.

SUN CAPITAL HEALTHCARE, INC.

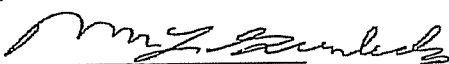
By:


Howard B. Koslow
President and Chief Operating Officer

FOUNDING PARTNERS STABLE - VALUE FUND, L.P.

By Founding Partners Capital Management Company, its general partner

By:


William L. Gunlicks
President and Chief Executive Officer

AMENDMENT TO DEFINITION
OF MAXIMUM AMOUNT OF CREDIT

INCREASE
TO \$70 MILLION

This AMENDMENT TO CREDIT AND SECURITY AGREEMENT, dated as of September 29, 2003 (this "Amendment"), is by and between SUN CAPITAL HEALTHCARE, INC., a Florida corporation (the "Borrower"), and FOUNDING PARTNERS STABLE-VALUE FUND, L.P. ("Founding Partners").

WITNESSETH

WHEREAS, the parties hereto are the parties to the Credit and Security agreement dated as of June 6, 2002 (as amended, amended and restated or otherwise modified from time to time, the "Agreement").

WHEREAS, the parties hereto wish to amend the definition of "Maximum Amount of Credit" in the Credit and Security Agreement.

NOW, THEREFORE, for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereto hereby agree as follows:

SECTION 1. Definitions. Capitalized terms defined in the Credit and Security agreement and used herein without definition shall have the meanings assigned thereto in the Credit and Security Agreement.

SECTION 2. Amendment to credit and Security Agreement.

The definition of Maximum Amount of Credit and Security Agreement is hereby amended and restated to read in its entirety as follows:

"Maximum Amount of Credit" shall mean a dollar amount mutually agreed upon in writing by the Borrower and the Lender. Unless and until the Borrower and the Lender otherwise mutually agree in writing upon a different dollar amount pursuant to an agreement substantially in the form of Exhibit C hereto, the Maximum Amount of Credit shall be seventy million dollars (\$70,000,000).

SECTION 3 Binding effect: Ratification

This Amendment shall become effective as of the date on which counterparts hereof executed by the parties hereto have been received by Founding Partners, and thereafter shall be binding on the parties hereto and their respective successors and assigns.

Except as expressly amended hereby, the Credit and Security Agreement shall remain in full force and effect and is hereby ratified and confirmed by the parties hereto.

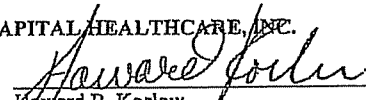
SECTION 4 Miscellaneous

Sections 16, 17, 18 and 21 of the Credit and Security Agreement are hereby incorporated herein by this reference, and for this purpose all references in such Sections to the Credit and Security Agreement shall be deemed to be references to this Amendment and to the Credit and Security Agreement as amended hereby.

IN WITNESS WHEREOF, each of the parties hereto has caused this Amendment to be duly executed and delivered as of the date first above written

SUN CAPITAL HEALTHCARE, INC.

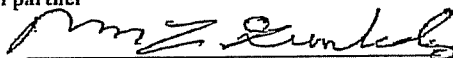
By:


Howard B. Koslow
President and Chief Operating Officer

FOUNDING PARTNERS STABLE-VALUE FUND, L.P.

By Founding Partners Capital Management Company, its
General partner

By:


William L. Gunlicks
President and Chief Executive Officer

Amendment NO.5

Exhibit C

AMENDMENT TO DEFINITION OF MAXIMUM AMOUNT OF CREDIT

INCREASE TO \$80 MILLION

This AMENDMENT TO CREDIT AND SECURITY AGREEMENT, dated as of November 20, 2003 (this "Amendment"), is by and between SUN CAPITAL HEALTHCARE, INC., a Florida corporation (the "Borrower"), and FOUNDING PARTNERS STABLE-VALUE FUND, L.P. ("Founding Partners").

WITNESSETH

WHEREAS, the parties hereto are the parties to the Credit and Security agreement dated as of June 6, 2002 (as amended, amended and restated or otherwise modified from time to time, the "Agreement").

WHEREAS, the parties hereto wish to amend the definition of "Maximum Amount of Credit" in the Credit and Security Agreement.

NOW, THEREFORE, for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereto hereby agree as follows:

SECTION 1. Definitions. Capitalized terms defined in the Credit and Security agreement and used herein without definition shall have the meanings assigned thereto in the Credit and Security Agreement.

SECTION 2. Amendment to credit and Security Agreement.

The definition of Maximum Amount of Credit and Security Agreement is hereby amended and restated to read in its entirety as follows:

"Maximum Amount of Credit" shall mean a dollar amount mutually agreed upon in writing by the Borrower and the Lender. Unless and until the Borrower and the Lender otherwise mutually agree in writing upon a different dollar amount pursuant to an agreement substantially in the form of Exhibit C hereto, the Maximum Amount of Credit shall be eighty million dollars (\$80,000,000).

SECTION 3 Binding effect: Ratification

This Amendment shall become effective as of the date on which counterparts hereof executed by the parties hereto have been received by Founding Partners, and thereafter shall be binding on the parties hereto and their respective successors and assigns.

Except as expressly amended hereby, the Credit and Security Agreement shall remain in full force and effect and is hereby ratified and confirmed by the parties hereto.

SECTION 4 Miscellaneous

Sections 16, 17, 18 and 21 of the Credit and Security Agreement are hereby incorporated herein by this reference, and for this purpose all references in such Sections to the Credit and Security Agreement shall be deemed to be references to this Amendment and to the Credit and Security Agreement as amended hereby.

IN WITNESS WHEREOF, each of the parties hereto has caused this Amendment to be duly executed and delivered as of the date first above written

SUN CAPITAL HEALTHCARE, INC.

By:

Howard B. Koslow
President and Chief Operating Officer

FOUNDING PARTNERS STABLE-VALUE FUND, L.P.

By Founding Partners Capital Management Company, its
General partner

By:

William L. Gunlicks
President and Chief Executive Officer

**AMENDMENT TO DEFINITION
OF MAXIMUM AMOUNT OF CREDIT**

This AMENDMENT TO CREDIT AND SECURITY AGREEMENT, dated as of January 21, 2004 (this "Amendment"), is by and between SUN CAPITAL HEALTHCARE, INC., a Florida corporation (the "Borrower"), and FOUNDING PARTNERS STABLE-VALUE FUND, L.P. ("Founding Partners").

WITNESSETH

WHEREAS, the parties hereto are the parties to the Credit and Security agreement dated as of June 5, 2002 (as amended, amended and restated or otherwise modified from time to time, the "Agreement").

WHEREAS, the parties hereto wish to amend the definition of "Maximum Amount of Credit" in the Credit and Security Agreement.

NOW, THEREFORE, for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereto hereby agree as follows:

SECTION 1. Definitions. Capitalized terms defined in the Credit and Security agreement and used herein without definition shall have the meanings assigned thereto in the Credit and Security Agreement.

SECTION 2. Amendment to credit and Security Agreement.

The definition of Maximum Amount of Credit and Security Agreement is hereby amended and restated to read in its entirety as follows:

"Maximum Amount of Credit" shall mean a dollar amount mutually agreed upon in writing by the Borrower and the Lender. Unless and until the Borrower and the Lender otherwise mutually agree in writing upon a different dollar amount pursuant to an agreement substantially in the form of Exhibit C hereto, the Maximum Amount of Credit shall be ninety million dollars (\$90,000,000).

SECTION 3 Binding effect: Ratification

This Amendment shall become effective as of the date on which counterparts hereof executed by the parties hereto have been received by Founding Partners, and thereafter shall be binding on the parties hereto and their respective successors and assigns.

Except as expressly amended hereby, the Credit and Security Agreement shall remain in full force and effect and is hereby ratified and confirmed by the parties hereto.

SECTION 4 Miscellaneous

Sections 16, 17, 18 and 21 of the Credit and Security Agreement are hereby incorporated herein by this reference, and for this purpose all references in such Sections to the Credit and Security Agreement shall be deemed to be references to this Amendment and to the Credit and Security Agreement as amended hereby.

IN WITNESS WHEREOF, each of the parties hereto has caused this Amendment to be duly executed and delivered as of the date first above written

SUN CAPITAL HEALTHCARE, INC.

By: 

Howard B. Koslow
President and Chief Operating Officer

FOUNDING PARTNERS STABLE-VALUE FUND, L.P.

By Founding Partners Capital Management Company, its
General partner

By: 

William L. Gunlicks
President and Chief Executive Officer

AMENDMENT TO DEFINITION OF MAXIMUM AMOUNT OF CREDIT

This AMENDMENT TO CREDIT AND SECURITY AGREEMENT, dated as of April 21, 2004 (this "Amendment"), is by and between SUN CAPITAL HEALTHCARE, INC., a Florida corporation (the "Borrower"), and FOUNDING PARTNERS STABLE-VALUE FUND, L.P. ("Founding Partners").

WITNESSETH

WHEREAS, the parties hereto are the parties to the Credit and Security agreement dated as of June 6, 2002 (as amended, amended and restated or otherwise modified from time to time, the ("Agreement").

WHEREAS, the parties hereto wish to amend the definition of "Maximum Amount of Credit" in the Credit and Security Agreement.

NOW, THEREFORE, for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereto hereby agree as follows:

SECTION 1. Definitions. Capitalized terms defined in the Credit and Security agreement and used herein without definition shall have the meanings assigned thereto in the Credit and Security Agreement.

SECTION 2. Amendment to credit and Security Agreement.

The definition of Maximum Amount of Credit and Security Agreement is hereby amended and restated to read in its entirety as follows:

"Maximum Amount of Credit" shall mean a dollar amount mutually agreed upon in writing by the Borrower and the Lender. Unless and until the Borrower and the Lender otherwise mutually agree in writing upon a different dollar amount pursuant to an agreement substantially in the form of Exhibit C hereto, the Maximum Amount of Credit shall be ~~ninety~~ ^{one hundred} million dollars (\$100,000,000). WS

SECTION 3 Binding effect: Ratification

This Amendment shall become effective as of the date on which counterparts hereof executed by the parties hereto have been received by Founding Partners, and thereafter shall be binding on the parties hereto and their respective successors and assigns.

Except as expressly amended hereby, the Credit and Security Agreement shall remain in full force and effect and is hereby ratified and confirmed by the parties hereto.

SECTION 4 Miscellaneous

Sections 16, 17, 18 and 21 of the Credit and Security Agreement are hereby incorporated herein by this reference, and for this purpose all references in such Sections to the Credit and Security Agreement shall be deemed to be references to this Amendment and to the Credit and Security Agreement as amended hereby.

IN WITNESS WHEREOF, each of the parties hereto has caused this Amendment to be duly executed and delivered as of the date first above written

SUN CAPITAL HEALTHCARE INC.

By:

Howard B. Koslow
Howard B. Koslow
President and Chief Operating Officer

FOUNDING PARTNERS STABLE-VALUE FUND, L.P.

By Founding Partners Capital Management Company, its General partner

By:

William L. Gunlicks
William L. Gunlicks
President and Chief Executive Officer

AMENDMENT TO DEFINITION
OF MAXIMUM AMOUNT OF CREDIT

This AMENDMENT TO CREDIT AND SECURITY AGREEMENT, dated as of June 3, 2004 (this "Amendment"), is by and between SUN CAPITAL HEALTHCARE, INC., a Florida corporation (the "Borrower"), and FOUNDING PARTNERS STABLE-VALUE FUND, L.P. ("Founding Partners").

WITNESSETH

WHEREAS, the parties hereto are the parties to the Credit and Security agreement dated as of June 6, 2002 (as amended, amended and restated or otherwise modified from time to time, the ("Agreement").

WHEREAS, the parties hereto wish to amend the definition of "Maximum Amount of Credit" in the Credit and Security Agreement.

NOW, THEREFORE, for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereto hereby agree as follows:

SECTION 1. Definitions. Capitalized terms defined in the Credit and Security agreement and used herein without definition shall have the meanings assigned thereto in the Credit and Security Agreement.

SECTION 2. Amendment to credit and Security Agreement.

The definition of Maximum Amount of Credit and Security Agreement is hereby amended and restated to read in its entirety as follows:

"Maximum Amount of Credit" shall mean a dollar amount mutually agreed upon in writing by the Borrower and the Lender. Unless and until the Borrower and the Lender otherwise mutually agree in writing upon a different dollar amount pursuant to an agreement substantially in the form of Exhibit C hereto, the Maximum Amount of Credit shall be one hundred ten million dollars (\$110,000,000).

SECTION 3 Binding effect: Ratification

This Amendment shall become effective as of the date on which counterparts hereof executed by the parties hereto have been received by Founding Partners, and thereafter shall be binding on the parties hereto and their respective successors and assigns.

Except as expressly amended hereby, the Credit and Security Agreement shall remain in full force and effect and is hereby ratified and confirmed by the parties hereto.

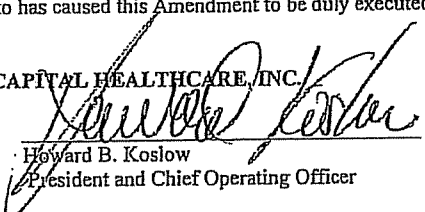
SECTION 4 Miscellaneous

Sections 16, 17, 18 and 21 of the Credit and Security Agreement are hereby incorporated herein by this reference, and for this purpose all references in such Sections to the Credit and Security Agreement shall be deemed to be references to this Amendment and to the Credit and Security Agreement as amended hereby.

IN WITNESS WHEREOF, each of the parties hereto has caused this Amendment to be duly executed and delivered as of the date first above written

SUN CAPITAL HEALTHCARE, INC.

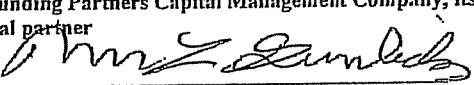
By:


Howard B. Koslow
President and Chief Operating Officer

FOUNDING PARTNERS STABLE-VALUE FUND, L.P.

By Founding Partners Capital Management Company, its
General partner

By:


William L. Gunlicks
President and Chief Executive Officer

AMENDMENT TO DEFINITION
OF MAXIMUM AMOUNT OF CREDIT

This AMENDMENT TO CREDIT AND SECURITY AGREEMENT, dated as of August 20, 2004 (this "Amendment"), is by and between SUN CAPITAL HEALTHCARE, INC., a Florida corporation (the "Borrower"), and FOUNDING PARTNERS STABLE-VALUE FUND, L.P. ("Founding Partners").

WITNESSETH

WHEREAS, the parties hereto are the parties to the Credit and Security agreement dated as of June 6, 2002 (as amended, amended and restated or otherwise modified from time to time, the ("Agreement"))

WHEREAS, the parties hereto wish to amend the definition of "Maximum Amount of Credit" in the Credit and Security Agreement.

NOW, THEREFORE, for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereto hereby agree as follows:

SECTION 1. Definitions. Capitalized terms defined in the Credit and Security agreement and used herein without definition shall have the meanings assigned thereto in the Credit and Security Agreement.

SECTION 2. Amendment to credit and Security Agreement.

The definition of Maximum Amount of Credit and Security Agreement is hereby amended and restated to read in its entirety as follows:

"Maximum Amount of Credit" shall mean a dollar amount mutually agreed upon in writing by the Borrower and the Lender. Unless and until the Borrower and the Lender otherwise mutually agree in writing upon a different dollar amount pursuant to an agreement substantially in the form of Exhibit C hereto, the Maximum Amount of Credit shall be one hundred twenty five million dollars (\$125,000,000).

SECTION 3 Binding effect: Ratification

This Amendment shall become effective as of the date on which counterparts hereof executed by the parties hereto have been received by Founding Partners, and thereafter shall be binding on the parties hereto and their respective successors and assigns.

Except as expressly amended hereby, the Credit and Security Agreement shall remain in full force and effect and is hereby ratified and confirmed by the parties hereto.

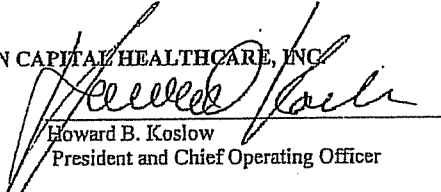
SECTION 4 Miscellaneous

Sections 16, 17, 18 and 21 of the Credit and Security Agreement are hereby incorporated herein by this reference, and for this purpose all references in such Sections to the Credit and Security Agreement shall be deemed to be references to this Amendment and to the Credit and Security Agreement as amended hereby.

IN WITNESS WHEREOF, each of the parties hereto has caused this Amendment to be duly executed and delivered as of the date first above written

SUN CAPITAL HEALTHCARE, INC.

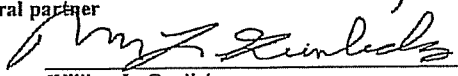
By:


Howard B. Koslow
President and Chief Operating Officer

FOUNDING PARTNERS STABLE-VALUE FUND, L.P.

By Founding Partners Capital Management Company, its
General partner

By:


William L. Gunlicks
President and Chief Executive Officer

AMENDMENT TO DEFINITION
OF MAXIMUM AMOUNT OF CREDIT

This AMENDMENT TO CREDIT AND SECURITY AGREEMENT, dated as of October 28, 2004 (this "Amendment"), is by and between SUN CAPITAL HEALTHCARE, INC., a Florida corporation (the "Borrower"), and FOUNDING PARTNERS STABLE-VALUE FUND, L.P. ("Founding Partners").

WITNESSETH

WHEREAS, the parties hereto are the parties to the Credit and Security agreement dated as of June 6, 2002 (as amended, amended and restated or otherwise modified from time to time, the "Agreement").

WHEREAS, the parties hereto wish to amend the definition of "Maximum Amount of Credit" in the Credit and Security Agreement.

NOW, THEREFORE, for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereto hereby agree as follows:

SECTION 1. Definitions. Capitalized terms defined in the Credit and Security agreement and used herein without definition shall have the meanings assigned thereto in the Credit and Security Agreement.

SECTION 2. Amendment to credit and Security Agreement.

The definition of Maximum Amount of Credit and Security Agreement is hereby amended and restated to read in its entirety as follows:

"Maximum Amount of Credit" shall mean a dollar amount mutually agreed upon in writing by the Borrower and the Lender. Unless and until the Borrower and the Lender otherwise mutually agree in writing upon a different dollar amount pursuant to an agreement substantially in the form of Exhibit C hereto, the Maximum Amount of Credit shall be one hundred fifty million dollars (\$150,000,000.00).

SECTION 3 Binding effect: Ratification

This Amendment shall become effective as of the date on which counterparts hereof executed by the parties hereto have been received by Founding Partners, and thereafter shall be binding on the parties hereto and their respective successors and assigns.

Except as expressly amended hereby, the Credit and Security Agreement shall remain in full force and effect and is hereby ratified and confirmed by the parties hereto.

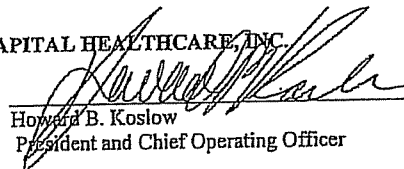
SECTION 4 Miscellaneous

Sections 16, 17, 18 and 21 of the Credit and Security Agreement are hereby incorporated herein by this reference, and for this purpose all references in such Sections to the Credit and Security Agreement shall be deemed to be references to this Amendment and to the Credit and Security Agreement as amended hereby.

IN WITNESS WHEREOF, each of the parties hereto has caused this Amendment to be duly executed and delivered as of the date first above written

SUN CAPITAL HEALTHCARE, INC.

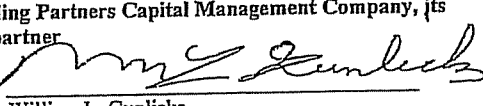
By:


Howard B. Koslow
President and Chief Operating Officer

FOUNDING PARTNERS STABLE-VALUE FUND, L.P.

By Founding Partners Capital Management Company, its
General partner

By:


William L. Gunlicks
President and Chief Executive Officer

AMENDMENT TO DEFINITION OF MAXIMUM AMOUNT OF CREDIT

This AMENDMENT TO CREDIT AND SECURITY AGREEMENT, dated as of March 14, 2005 (this "Amendment"), is by and between SUN CAPITAL HEALTHCARE, INC., a Florida corporation (the "Borrower"), and FOUNDING PARTNERS STABLE-VALUE FUND, L.P. ("Founding Partners").

WITNESSETH

WHEREAS, the parties hereto are the parties to the Credit and Security agreement dated as of June 6, 2002 (as amended, amended and restated or otherwise modified from time to time, the "Agreement").

WHEREAS, the parties hereto wish to amend the definition of "Maximum Amount of Credit" in the Credit and Security Agreement.

NOW, THEREFORE, for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereto hereby agree as follows:

SECTION 1. Definitions. Capitalized terms defined in the Credit and Security agreement and used herein without definition shall have the meanings assigned thereto in the Credit and Security Agreement.

SECTION 2. Amendment to credit and Security Agreement.

The definition of Maximum Amount of Credit and Security Agreement is hereby amended and restated to read in its entirety as follows:

"Maximum Amount of Credit" shall mean a dollar amount mutually agreed upon in writing by the Borrower and the Lender. Unless and until the Borrower and the Lender otherwise mutually agree in writing upon a different dollar amount pursuant to an agreement substantially in the form of Exhibit C hereto, the Maximum Amount of Credit shall be one hundred seventy five million dollars (\$175,000,000.00).

SECTION 3 Binding effect: Ratification

This Amendment shall become effective as of the date on which counterparts hereof executed by the parties hereto have been received by Founding Partners, and thereafter shall be binding on the parties hereto and their respective successors and assigns.

Except as expressly amended hereby, the Credit and Security Agreement shall remain in full force and effect and is hereby ratified and confirmed by the parties hereto.

SECTION 4 Miscellaneous

Sections 16, 17, 18 and 21 of the Credit and Security Agreement are hereby incorporated herein by this reference, and for this purpose all references in such Sections to the Credit and Security Agreement shall be deemed to be references to this Amendment and to the Credit and Security Agreement as amended hereby.

IN WITNESS WHEREOF, each of the parties hereto has caused this Amendment to be duly executed and delivered as of the date first above written.

SUN CAPITAL HEALTHCARE, INC.

By:

Edward B. Koslow
President and Chief Operating Officer

FOUNDING PARTNERS STABLE-VALUE FUND, L.P.

By Founding Partners Capital Management Company, its
General partner

By:

William L. Ounlecks
President and Chief Executive Officer

AMENDMENT #11, INCREASE IN CREDIT AGREEMENT TO \$175 MILLION

AMENDMENT TO DEFINITION
OF MAXIMUM AMOUNT OF CREDIT

This AMENDMENT TO CREDIT AND SECURITY AGREEMENT, dated as of September 7, 2005 (this "Amendment"), is by and between SUN CAPITAL HEALTHCARE, INC., a Florida corporation (the "Borrower"), and FOUNDING PARTNERS STABLE-VALUE FUND, L.P. ("Founding Partners").

WITNESSETH

WHEREAS, the parties hereto are the parties to the Credit and Security agreement dated as of June 6, 2002 (as amended, amended and restated or otherwise modified from time to time, the "Agreement").

WHEREAS, the parties hereto wish to amend the definition of "Maximum Amount of Credit" in the Credit and Security Agreement.

NOW, THEREFORE, for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereto hereby agree as follows:

SECTION 1. Definitions. Capitalized terms defined in the Credit and Security agreement and used herein without definition shall have the meanings assigned thereto in the Credit and Security Agreement.

SECTION 2. Amendment to credit and Security Agreement.

The definition of Maximum Amount of Credit and Security Agreement is hereby amended and restated to read in its entirety as follows:

"Maximum Amount of Credit" shall mean a dollar amount mutually agreed upon in writing by the Borrower and the Lender. Unless and until the Borrower and the Lender otherwise mutually agree in writing upon a different dollar amount pursuant to an agreement substantially in the form of Exhibit C hereto, the Maximum Amount of Credit shall be two hundred million dollars (\$200,000,000.00).

SECTION 3 Binding effect: Ratification

This Amendment shall become effective as of the date on which counterparts hereof executed by the parties hereto have been received by Founding Partners, and thereafter shall be binding on the parties hereto and their respective successors and assigns.

Except as expressly amended hereby, the Credit and Security Agreement shall remain in full force and effect and is hereby ratified and confirmed by the parties hereto.

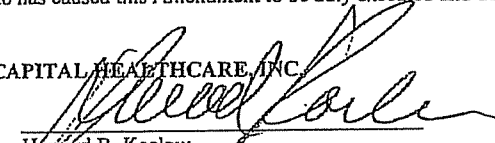
SECTION 4 Miscellaneous

Sections 16, 17, 18 and 21 of the Credit and Security Agreement are hereby incorporated herein by this reference, and for this purpose all references in such Sections to the Credit and Security Agreement shall be deemed to be references to this Amendment and to the Credit and Security Agreement as amended hereby.

IN WITNESS WHEREOF, each of the parties hereto has caused this Amendment to be duly executed and delivered as of the date first above written

SUN CAPITAL HEALTHCARE, INC.

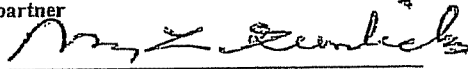
By:


Howard B. Koslow
President and Chief Operating Officer

FOUNDING PARTNERS STABLE-VALUE FUND, L.P.

By Founding Partners Capital Management Company, its
General partner

By:


William L. Gunlicks
President and Chief Executive Officer

**AMENDMENT TO DEFINITION
OF MAXIMUM AMOUNT OF CREDIT**

This AMENDMENT TO CREDIT AND SECURITY AGREEMENT, dated as of March 6, 2006 (this "Amendment"), is by and between SUN CAPITAL HEALTHCARE, INC., a Florida corporation (the "Borrower"), and FOUNDING PARTNERS STABLE-VALUE FUND, L.P. ("Founding Partners").

WITNESSETH

WHEREAS, the parties hereto are the parties to the Credit and Security agreement dated as of June 6, 2002 (as amended, amended and restated or otherwise modified from time to time, the "Agreement").

WHEREAS, the parties hereto wish to amend the definition of "Maximum Amount of Credit" in the Credit and Security Agreement.

NOW, THEREFORE, for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereto hereby agree as follows:

SECTION 1. Definitions. Capitalized terms defined in the Credit and Security agreement and used herein without definition shall have the meanings assigned thereto in the Credit and Security Agreement.

SECTION 2. Amendment to credit and Security Agreement.

The definition of Maximum Amount of Credit and Security Agreement is hereby amended and restated to read in its entirety as follows:

"Maximum Amount of Credit" shall mean a dollar amount mutually agreed upon in writing by the Borrower and the Lender. Unless and until the Borrower and the Lender otherwise mutually agree in writing upon a different dollar amount pursuant to an agreement substantially in the form of Exhibit C hereto, the Maximum Amount of Credit shall be two hundred twenty million dollars (\$220,000,000.00).

SECTION 3 Binding effect: Ratification

This Amendment shall become effective as of the date on which counterparts hereof executed by the parties hereto have been received by Founding Partners, and thereafter shall be binding on the parties hereto and their respective successors and assigns.

Except as expressly amended hereby, the Credit and Security Agreement shall remain in full force and effect and is hereby ratified and confirmed by the parties hereto.

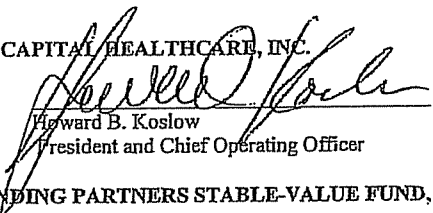
SECTION 4 Miscellaneous

Sections 16, 17, 18 and 21 of the Credit and Security Agreement are hereby incorporated herein by this reference, and for this purpose all references in such Sections to the Credit and Security Agreement shall be deemed to be references to this Amendment and to the Credit and Security Agreement as amended hereby.

IN WITNESS WHEREOF, each of the parties hereto has caused this Amendment to be duly executed and delivered as of the date first above written

SUN CAPITAL HEALTHCARE, INC.

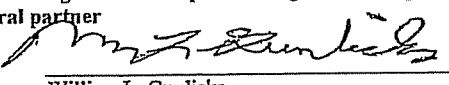
By:


Howard B. Koslow
President and Chief Operating Officer

FOUNDING PARTNERS STABLE-VALUE FUND, L.P.

By Founding Partners Capital Management Company, its
General partner

By:


William L. Gunlicks
President and Chief Executive Officer

AMENDMENT TO DEFINITION
OF MAXIMUM AMOUNT OF CREDIT

This AMENDMENT TO CREDIT AND SECURITY AGREEMENT, dated as of December 20, 2006 (this "Amendment"), is by and between SUN CAPITAL HEALTHCARE, INC., a Florida corporation (the "Borrower"), and FOUNDING PARTNERS STABLE-VALUE FUND, L.P. ("Founding Partners").

WITNESSETH

WHEREAS, the parties hereto are the parties to the Credit and Security agreement dated as of June 6, 2002 (as amended, amended and restated or otherwise modified from time to time, the "Agreement").

WHEREAS, the parties hereto wish to amend the definition of "Maximum Amount of Credit" in the Credit and Security Agreement.

NOW, THEREFORE, for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereto hereby agree as follows:

SECTION 1. Definitions. Capitalized terms defined in the Credit and Security agreement and used herein without definition shall have the meanings assigned thereto in the Credit and Security Agreement.

SECTION 2. Amendment to credit and Security Agreement.

The definition of Maximum Amount of Credit and Security Agreement is hereby amended and restated to read in its entirety as follows:

"Maximum Amount of Credit" shall mean a dollar amount mutually agreed upon in writing by the Borrower and the Lender. Unless and until the Borrower and the Lender otherwise mutually agree in writing upon a different dollar amount pursuant to an agreement substantially in the form of Exhibit C hereto, the Maximum Amount of Credit shall be two hundred fifty five million dollars (\$255,000,000.00).

SECTION 3 Binding effect: Ratification

This Amendment shall become effective as of the date on which counterparts hereof executed by the parties hereto have been received by Founding Partners, and thereafter shall be binding on the parties hereto and their respective successors and assigns.

Except as expressly amended hereby, the Credit and Security Agreement shall remain in full force and effect and is hereby ratified and confirmed by the parties hereto.

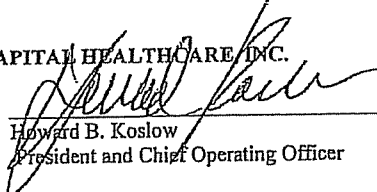
SECTION 4 Miscellaneous

Sections 16, 17, 18 and 21 of the Credit and Security Agreement are hereby incorporated herein by this reference, and for this purpose all references in such Sections to the Credit and Security Agreement shall be deemed to be references to this Amendment and to the Credit and Security Agreement as amended hereby.

IN WITNESS WHEREOF, each of the parties hereto has caused this Amendment to be duly executed and delivered as of the date first above written

SUN CAPITAL HEALTHCARE INC.

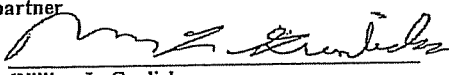
By:


Howard B. Koslow
President and Chief Operating Officer

FOUNDING PARTNERS STABLE-VALUE FUND, L.P.

By Founding Partners Capital Management Company, its
General partner

By:


William L. Gunlicks
President and Chief Executive Officer

AMENDMENT TO DEFINITION OF MAXIMUM AMOUNT OF CREDIT

This AMENDMENT TO CREDIT AND SECURITY AGREEMENT, dated as of August 2, 2006 (this "Amendment"), is by and between SUN CAPITAL HEALTHCARE, INC., a Florida corporation (the "Borrower"), and FOUNDING PARTNERS STABLE-VALUE FUND, L.P. ("Founding Partners").

WITNESSETH

WHEREAS, the parties hereto are the parties to the Credit and Security agreement dated as of June 6, 2002 (as amended, amended and restated or otherwise modified from time to time, the "Agreement").

WHEREAS, the parties hereto wish to amend the definition of "Maximum Amount of Credit" in the Credit and Security Agreement.

NOW, THEREFORE, for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereto hereby agree as follows:

SECTION 1. Definitions. Capitalized terms defined in the Credit and Security agreement and used herein without definition shall have the meanings assigned thereto in the Credit and Security Agreement.

SECTION 2. Amendment to credit and Security Agreement.

The definition of Maximum Amount of Credit and Security Agreement is hereby amended and restated to read in its entirety as follows:

"Maximum Amount of Credit" shall mean a dollar amount mutually agreed upon in writing by the Borrower and the Lender. Unless and until the Borrower and the Lender otherwise mutually agree in writing upon a different dollar amount pursuant to an agreement substantially in the form of Exhibit C hereto, the Maximum Amount of Credit shall be two hundred forty million dollars (\$240,000,000.00).

SECTION 3 Binding effect: Ratification

This Amendment shall become effective as of the date on which counterparts hereof executed by the parties hereto have been received by Founding Partners, and thereafter shall be binding on the parties hereto and their respective successors and assigns.

Except as expressly amended hereby, the Credit and Security Agreement shall remain in full force and effect and is hereby ratified and confirmed by the parties hereto.

SECTION 4 Miscellaneous

Sections 16, 17, 18 and 21 of the Credit and Security Agreement are hereby incorporated herein by this reference, and for this purpose all references in such Sections to the Credit and Security Agreement shall be deemed to be references to this Amendment and to the Credit and Security Agreement as amended hereby.

IN WITNESS WHEREOF, each of the parties hereto has caused this Amendment to be duly executed and delivered as of the date first above written

SUN CAPITAL HEALTHCARE, INC.

By:

[Signature of Howard B. Koslow]

Howard B. Koslow
President and Chief Operating Officer

FOUNDING PARTNERS STABLE-VALUE FUND, L.P.

By Founding Partners Capital Management Company, its General partner

By:

[Signature of William L. Gunlicks]

William L. Gunlicks
President and Chief Executive Officer

AMENDMENT TO DEFINITION
OF MAXIMUM AMOUNT OF CREDIT

This AMENDMENT TO CREDIT AND SECURITY AGREEMENT, dated as of March 19, 2007 (this "Amendment"), is by and between SUN CAPITAL HEALTHCARE, INC., a Florida corporation (the "Borrower"), and FOUNDING PARTNERS STABLE-VALUE FUND, L.P. ("Founding Partners").

WITNESSETH

WHEREAS, the parties hereto are the parties to the Credit and Security agreement dated as of June 6, 2002 (as amended, amended and restated or otherwise modified from time to time, the ("Agreement").

WHEREAS, the parties hereto wish to amend the definition of "Maximum Amount of Credit" in the Credit and Security Agreement.

NOW, THEREFORE, for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereto hereby agree as follows:

SECTION 1. Definitions. Capitalized terms defined in the Credit and Security agreement and used herein without definition shall have the meanings assigned thereto in the Credit and Security Agreement.

SECTION 2. Amendment to credit and Security Agreement.

The definition of Maximum Amount of Credit and Security Agreement is hereby amended and restated to read in its entirety as follows:

"Maximum Amount of Credit" shall mean a dollar amount mutually agreed upon in writing by the Borrower and the Lender. Unless and until the Borrower and the Lender otherwise mutually agree in writing upon a different dollar amount pursuant to an agreement substantially in the form of Exhibit C hereto, the Maximum Amount of Credit shall be two hundred seventy five million dollars (\$275,000,000.00).

SECTION 3 Binding effect: Ratification

This Amendment shall become effective as of the date on which counterparts hereof executed by the parties hereto have been received by Founding Partners, and thereafter shall be binding on the parties hereto and their respective successors and assigns.

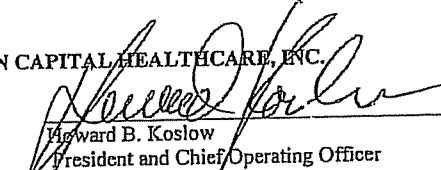
Except as expressly amended hereby, the Credit and Security Agreement shall remain in full force and effect and is hereby ratified and confirmed by the parties hereto.

SECTION 4 Miscellaneous

Sections 16, 17, 18 and 21 of the Credit and Security Agreement are hereby incorporated herein by this reference, and for this purpose all references in such Sections to the Credit and Security Agreement shall be deemed to be references to this Amendment and to the Credit and Security Agreement as amended hereby.

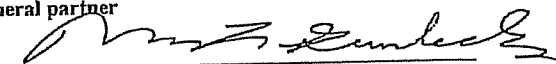
IN WITNESS WHEREOF, each of the parties hereto has caused this Amendment to be duly executed and delivered as of the date first above written

SUN CAPITAL HEALTHCARE, INC.

By: 
Howard B. Koslow
President and Chief Operating Officer

FOUNDING PARTNERS STABLE-VALUE FUND, L.P.

By Founding Partners Capital Management Company, its
General partner

By: 
William L. Gunlicks
President and Chief Executive Officer

Amendment NO.17

Exhibit C

AMENDMENT TO DEFINITION OF MAXIMUM AMOUNT OF CREDIT

This AMENDMENT TO CREDIT AND SECURITY AGREEMENT, dated as of June 4, 2007 (this "Amendment"), is by and between SUN CAPITAL HEALTHCARE, INC., a Florida corporation (the "Borrower"), and FOUNDING PARTNERS STABLE-VALUE FUND, L.P. ("Founding Partners").

WITNESSETH

WHEREAS, the parties hereto are the parties to the Credit and Security agreement dated as of June 6, 2002 (as amended, amended and restated or otherwise modified from time to time, the "Agreement").

WHEREAS, the parties hereto wish to amend the definition of "Maximum Amount of Credit" in the Credit and Security Agreement.

NOW, THEREFORE, for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereto hereby agree as follows:

SECTION 1. Definitions. Capitalized terms defined in the Credit and Security agreement and used herein without definition shall have the meanings assigned thereto in the Credit and Security Agreement.

SECTION 2. Amendment to credit and Security Agreement.

The definition of Maximum Amount of Credit and Security Agreement is hereby amended and restated to read in its entirety as follows:

"Maximum Amount of Credit" shall mean a dollar amount mutually agreed upon in writing by the Borrower and the Lender. Unless and until the Borrower and the Lender otherwise mutually agree in writing upon a different dollar amount pursuant to an agreement substantially in the form of Exhibit C hereto, the Maximum Amount of Credit shall be two hundred ninety five million dollars (\$295,000,000.00).

SECTION 3 Binding effect: Ratification

This Amendment shall become effective as of the date on which counterparts hereof executed by the parties hereto have been received by Founding Partners, and thereafter shall be binding on the parties hereto and their respective successors and assigns.

Except as expressly amended hereby, the Credit and Security Agreement shall remain in full force and effect and is hereby ratified and confirmed by the parties hereto.

SECTION 4 Miscellaneous

Sections 16, 17, 18 and 21 of the Credit and Security Agreement are hereby incorporated herein by this reference, and for this purpose all references in such Sections to the Credit and Security Agreement shall be deemed to be references to this Amendment and to the Credit and Security Agreement as amended hereby.

IN WITNESS WHEREOF, each of the parties hereto has caused this Amendment to be duly executed and delivered as of the date first above written

SUN CAPITAL HEALTHCARE, INC.

By:

Howard E. Koslow
President and Chief Operating Officer

FOUNDING PARTNERS STABLE-VALUE FUND, L.P.

By Founding Partners Capital Management Company, its General partner

By:

William L. Gunlicks
President and Chief Executive Officer

Amendment NO.18

Exhibit C

**AMENDMENT TO DEFINITION
OF MAXIMUM AMOUNT OF CREDIT**

This AMENDMENT TO CREDIT AND SECURITY AGREEMENT, dated as of August 15, 2007 (this "Amendment"), is by and between SUN CAPITAL HEALTHCARE, INC., a Florida corporation (the "Borrower"), and FOUNDING PARTNERS STABLE-VALUE FUND, L.P. ("Founding Partners").

WITNESSETH

WHEREAS, the parties hereto are the parties to the Credit and Security agreement dated as of June 6, 2002 (as amended, amended and restated or otherwise modified from time to time, the "Agreement").

WHEREAS, the parties hereto wish to amend the definition of "Maximum Amount of Credit" in the Credit and Security Agreement.

NOW, THEREFORE, for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereto hereby agree as follows:

SECTION 1. Definitions. Capitalized terms defined in the Credit and Security agreement and used herein without definition shall have the meanings assigned thereto in the Credit and Security Agreement.

SECTION 2. Amendment to credit and Security Agreement.

The definition of Maximum Amount of Credit and Security Agreement is hereby amended and restated to read in its entirety as follows:

"Maximum Amount of Credit" shall mean a dollar amount mutually agreed upon in writing by the Borrower and the Lender. Unless and until the Borrower and the Lender otherwise mutually agree in writing upon a different dollar amount pursuant to an agreement substantially in the form of Exhibit C hereto, the Maximum Amount of Credit shall be three hundred fifteen million dollars (\$315,000,000.00).

SECTION 3 Binding effect: Ratification

This Amendment shall become effective as of the date on which counterparts hereof executed by the parties hereto have been received by Founding Partners, and thereafter shall be binding on the parties hereto and their respective successors and assigns.

Except as expressly amended hereby, the Credit and Security Agreement shall remain in full force and effect and is hereby ratified and confirmed by the parties hereto.

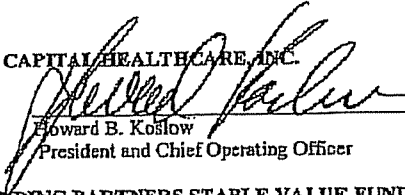
SECTION 4 Miscellaneous

Sections 16, 17, 18 and 21 of the Credit and Security Agreement are hereby incorporated herein by this reference, and for this purpose all references in such Sections to the Credit and Security Agreement shall be deemed to be references to this Amendment and to the Credit and Security Agreement as amended hereby.

IN WITNESS WHEREOF, each of the parties hereto has caused this Amendment to be duly executed and delivered as of the date first above written

SUN CAPITAL HEALTHCARE, INC.

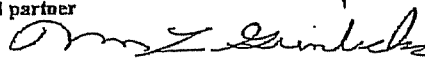
By:


Howard B. Koslow
President and Chief Operating Officer

FOUNDING PARTNERS STABLE-VALUE FUND, L.P.

By Founding Partners Capital Management Company, its
General partner

By:


William L. Gunlicks
President and Chief Executive Officer

AMENDMENT TO DEFINITION
OF MAXIMUM AMOUNT OF CREDIT

This AMENDMENT TO CREDIT AND SECURITY AGREEMENT, dated as of October 3, 2007 (this "Amendment"), is by and between SUN CAPITAL HEALTHCARE, INC., a Florida corporation (the "Borrower"), and FOUNDING PARTNERS STABLE-VALUE FUND, L.P. ("Founding Partners").

WITNESSETH

WHEREAS, the parties hereto are the parties to the Credit and Security agreement dated as of June 6, 2002 (as amended, amended and restated or otherwise modified from time to time, the "Agreement").

WHEREAS, the parties hereto wish to amend the definition of "Maximum Amount of Credit" in the Credit and Security Agreement.

NOW, THEREFORE, for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereto hereby agree as follows:

SECTION 1. Definitions. Capitalized terms defined in the Credit and Security agreement and used herein without definition shall have the meanings assigned thereto in the Credit and Security Agreement.

SECTION 2. Amendment to credit and Security Agreement.

The definition of Maximum Amount of Credit and Security Agreement is hereby amended and restated to read in its entirety as follows:

"Maximum Amount of Credit" shall mean a dollar amount mutually agreed upon in writing by the Borrower and the Lender. Unless and until the Borrower and the Lender otherwise mutually agree in writing upon a different dollar amount pursuant to an agreement substantially in the form of Exhibit C hereto, the Maximum Amount of Credit shall be three hundred twenty five million dollars (\$325,000,000.00).

SECTION 3 Binding effect: Ratification

This Amendment shall become effective as of the date on which counterparts hereof executed by the parties hereto have been received by Founding Partners, and thereafter shall be binding on the parties hereto and their respective successors and assigns.

Except as expressly amended hereby, the Credit and Security Agreement shall remain in full force and effect and is hereby ratified and confirmed by the parties hereto.

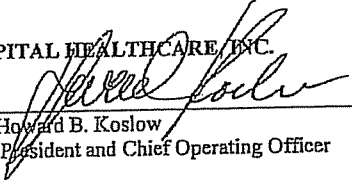
SECTION 4 Miscellaneous

Sections 16, 17, 18 and 21 of the Credit and Security Agreement are hereby incorporated herein by this reference, and for this purpose all references in such Sections to the Credit and Security Agreement shall be deemed to be references to this Amendment and to the Credit and Security Agreement as amended hereby.

IN WITNESS WHEREOF, each of the parties hereto has caused this Amendment to be duly executed and delivered as of the date first above written

SUN CAPITAL HEALTHCARE, INC.

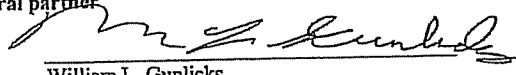
By:


Howard B. Koslow
President and Chief Operating Officer

FOUNDING PARTNERS STABLE-VALUE FUND, L.P.

By Founding Partners Capital Management Company, its
General partner

By:


William L. Gunlicks
President and Chief Executive Officer

AMENDMENT TO DEFINITION
OF MAXIMUM AMOUNT OF CREDIT

This AMENDMENT TO CREDIT AND SECURITY AGREEMENT, dated as of November 20, 2007 (this "Amendment"), is by and between SUN CAPITAL HEALTHCARE, INC., a Florida corporation (the "Borrower"), and FOUNDING PARTNERS STABLE-VALUE FUND, L.P. ("Founding Partners").

WITNESSETH

WHEREAS, the parties hereto are the parties to the Credit and Security agreement dated as of June 6, 2002 (as amended, amended and restated or otherwise modified from time to time, the "Agreement").

WHEREAS, the parties hereto wish to amend the definition of "Maximum Amount of Credit" in the Credit and Security Agreement.

NOW, THEREFORE, for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereto hereby agree as follows:

SECTION 1. Definitions. Capitalized terms defined in the Credit and Security agreement and used herein without definition shall have the meanings assigned thereto in the Credit and Security Agreement.

SECTION 2. Amendment to credit and Security Agreement.

The definition of Maximum Amount of Credit and Security Agreement is hereby amended and restated to read in its entirety as follows:

"Maximum Amount of Credit" shall mean a dollar amount mutually agreed upon in writing by the Borrower and the Lender. Unless and until the Borrower and the Lender otherwise mutually agree in writing upon a different dollar amount pursuant to an agreement substantially in the form of Exhibit C hereto, the Maximum Amount of Credit shall be three hundred fifty million dollars (\$350,000,000.00).

SECTION 3 Binding effect: Ratification

This Amendment shall become effective as of the date on which counterparts hereof executed by the parties hereto have been received by Founding Partners, and thereafter shall be binding on the parties hereto and their respective successors and assigns.

Except as expressly amended hereby, the Credit and Security Agreement shall remain in full force and effect and is hereby ratified and confirmed by the parties hereto.

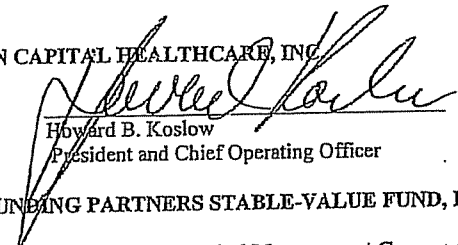
SECTION 4 Miscellaneous

Sections 16, 17, 18 and 21 of the Credit and Security Agreement are hereby incorporated herein by this reference, and for this purpose all references in such Sections to the Credit and Security Agreement shall be deemed to be references to this Amendment and to the Credit and Security Agreement as amended hereby.

IN WITNESS WHEREOF, each of the parties hereto has caused this Amendment to be duly executed and delivered as of the date first above written

SUN CAPITAL HEALTHCARE, INC.

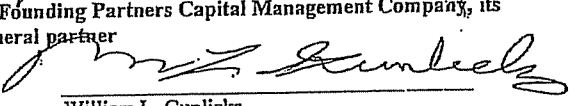
By:


Howard B. Koslow
President and Chief Operating Officer

FOUNDING PARTNERS STABLE-VALUE FUND, L.P.

By Founding Partners Capital Management Company, its
General partner

By:


William L. Gunlicks
President and Chief Executive Officer

AMENDMENT TO DEFINITION
OF MAXIMUM AMOUNT OF CREDIT

This AMENDMENT TO CREDIT AND SECURITY AGREEMENT, dated as of March 5, 2008 (this "Amendment"), is by and between SUN CAPITAL HEALTHCARE, INC., a Florida corporation (the "Borrower"), and FOUNDING PARTNERS STABLE-VALUE FUND, L.P. ("Founding Partners").

WITNESSETH

WHEREAS, the parties hereto are the parties to the Credit and Security agreement dated as of June 6, 2002 (as amended, amended and restated or otherwise modified from time to time, the ("Agreement")).

WHEREAS, the parties hereto wish to amend the definition of "Maximum Amount of Credit" in the Credit and Security Agreement.

NOW, THEREFORE, for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereto hereby agree as follows:

SECTION 1. Definitions. Capitalized terms defined in the Credit and Security agreement and used herein without definition shall have the meanings assigned thereto in the Credit and Security Agreement.

SECTION 2. Amendment to credit and Security Agreement.

The definition of Maximum Amount of Credit and Security Agreement is hereby amended and restated to read in its entirety as follows:

"Maximum Amount of Credit" shall mean a dollar amount mutually agreed upon in writing by the Borrower and the Lender. Unless and until the Borrower and the Lender otherwise mutually agree in writing upon a different dollar amount pursuant to an agreement substantially in the form of Exhibit C hereto, the Maximum Amount of Credit shall be Four Hundred Twenty Five Million Dollars (\$425,000,000.00).

SECTION 3 Binding effect: Ratification

This Amendment shall become effective as of the date on which counterparts hereof executed by the parties hereto have been received by Founding Partners, and thereafter shall be binding on the parties hereto and their respective successors and assigns.

Except as expressly amended hereby, the Credit and Security Agreement shall remain in full force and effect and is hereby ratified and confirmed by the parties hereto.

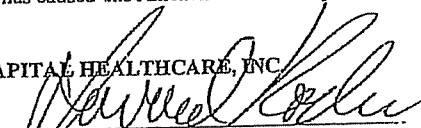
SECTION 4 Miscellaneous

Sections 16, 17, 18 and 21 of the Credit and Security Agreement are hereby incorporated herein by this reference, and for this purpose all references in such Sections to the Credit and Security Agreement shall be deemed to be references to this Amendment and to the Credit and Security Agreement as amended hereby.

IN WITNESS WHEREOF, each of the parties hereto has caused this Amendment to be duly executed and delivered as of the date first above written

SUN CAPITAL HEALTHCARE, INC.


By:


Howard B. Koslow
President and Chief Operating Officer

FOUNDING PARTNERS STABLE-VALUE FUND, L.P.

By Founding Partners Capital Management Company, its
General partner

By:


William L. Gunlicks
President and Chief Executive Officer

AMENDMENT TO DEFINITION
OF MAXIMUM AMOUNT OF CREDIT

This AMENDMENT TO CREDIT AND SECURITY AGREEMENT, dated as of May 22, 2008 (this "Amendment"), is by and between SUN CAPITAL HEALTHCARE, INC., a Florida corporation (the "Borrower"), and FOUNDING PARTNERS STABLE-VALUE FUND, L.P. ("Founding Partners").

WITNESSETH

WHEREAS, the parties hereto are the parties to the Credit and Security agreement dated as of June 6, 2002 (as amended, amended and restated or otherwise modified from time to time, the "Agreement").

WHEREAS, the parties hereto wish to amend the definition of "Maximum Amount of Credit" in the Credit and Security Agreement.

NOW, THEREFORE, for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereto hereby agree as follows:

SECTION 1. Definitions. Capitalized terms defined in the Credit and Security agreement and used herein without definition shall have the meanings assigned thereto in the Credit and Security Agreement.

SECTION 2. Amendment to credit and Security Agreement.

The definition of Maximum Amount of Credit and Security Agreement is hereby amended and restated to read in its entirety as follows:

"Maximum Amount of Credit" shall mean a dollar amount mutually agreed upon in writing by the Borrower and the Lender. Unless and until the Borrower and the Lender otherwise mutually agree in writing upon a different dollar amount pursuant to an agreement substantially in the form of Exhibit C hereto, the Maximum Amount of Credit shall be Four Hundred Fifty Million Dollars (\$450,000,000.00).

SECTION 3 Binding effect: Ratification

This Amendment shall become effective as of the date on which counterparts hereof executed by the parties hereto have been received by Founding Partners, and thereafter shall be binding on the parties hereto and their respective successors and assigns.

Except as expressly amended hereby, the Credit and Security Agreement shall remain in full force and effect and is hereby ratified and confirmed by the parties hereto.

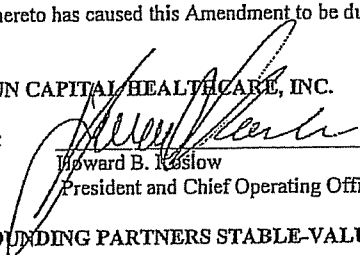
SECTION 4 Miscellaneous

Sections 16, 17, 18 and 21 of the Credit and Security Agreement are hereby incorporated herein by this reference, and for this purpose all references in such Sections to the Credit and Security Agreement shall be deemed to be references to this Amendment and to the Credit and Security Agreement as amended hereby.

IN WITNESS WHEREOF, each of the parties hereto has caused this Amendment to be duly executed and delivered as of the date first above written

SUN CAPITAL HEALTHCARE, INC.

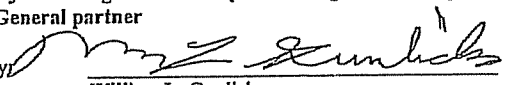
By:


Howard B. Keshlow
President and Chief Operating Officer

FOUNDING PARTNERS STABLE-VALUE FUND, L.P.

By Founding Partners Capital Management Company, its
General partner

By:


William L. Gunlicks
President and Chief Executive Officer

**AMENDMENT TO DEFINITION
OF MAXIMUM AMOUNT OF CREDIT**

This AMENDMENT TO CREDIT AND SECURITY AGREEMENT, dated as of July 2, 2008 (this "Amendment"), is by and between SUN CAPITAL HEALTHCARE, INC., a Florida corporation (the "Borrower"), and FOUNDING PARTNERS STABLE-VALUE FUND, L.P. ("Founding Partners").

WITNESSETH

WHEREAS, the parties hereto are the parties to the Credit and Security agreement dated as of June 6, 2002 (as amended, amended and restated or otherwise modified from time to time, the "Agreement").

WHEREAS, the parties hereto wish to amend the definition of "Maximum Amount of Credit" in the Credit and Security Agreement.

NOW, THEREFORE, for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereto hereby agree as follows:

SECTION 1. Definitions. Capitalized terms defined in the Credit and Security agreement and used herein without definition shall have the meanings assigned thereto in the Credit and Security Agreement.

SECTION 2. Amendment to credit and Security Agreement.

The definition of Maximum Amount of Credit and Security Agreement is hereby amended and restated to read in its entirety as follows:

"Maximum Amount of Credit" shall mean a dollar amount mutually agreed upon in writing by the Borrower and the Lender. Unless and until the Borrower and the Lender otherwise mutually agree in writing upon a different dollar amount pursuant to an agreement substantially in the form of Exhibit C hereto, the Maximum Amount of Credit shall be Four Hundred Seventy Five Million Dollars (\$475,000,000.00).

SECTION 3 Binding effect: Ratification

This Amendment shall become effective as of the date on which counterparts hereof executed by the parties hereto have been received by Founding Partners, and thereafter shall be binding on the parties hereto and their respective successors and assigns.

Except as expressly amended hereby, the Credit and Security Agreement shall remain in full force and effect and is hereby ratified and confirmed by the parties hereto.

SECTION 4 Miscellaneous

Sections 16, 17, 18 and 21 of the Credit and Security Agreement are hereby incorporated herein by this reference, and for this purpose all references in such Sections to the Credit and Security Agreement shall be deemed to be references to this Amendment and to the Credit and Security Agreement as amended hereby.

IN WITNESS WHEREOF, each of the parties hereto has caused this Amendment to be duly executed and delivered as of the date first above written

SUN CAPITAL HEALTHCARE, INC.

By: 

Howard B. Koslow
President and Chief Operating Officer

FOUNDING PARTNERS STABLE-VALUE FUND, L.P.

By Founding Partners Capital Management Company, its
General partner

By: 

William L. Gunlicks
President and Chief Executive Officer

AMENDMENT TO DEFINITION
OF MAXIMUM AMOUNT OF CREDIT

This AMENDMENT TO CREDIT AND SECURITY AGREEMENT, dated as of September 3, 2008 (this "Amendment"), is by and between SUN CAPITAL HEALTHCARE, INC., a Florida corporation (the "Borrower"), and FOUNDING PARTNERS STABLE-VALUE FUND, L.P. ("Founding Partners").

WITNESSETH

WHEREAS, the parties hereto are the parties to the Credit and Security agreement dated as of June 6, 2002 (as amended, amended and restated or otherwise modified from time to time, the "Agreement").

WHEREAS, the parties hereto wish to amend the definition of "Maximum Amount of Credit" in the Credit and Security Agreement.

NOW, THEREFORE, for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereto hereby agree as follows:

SECTION 1. Definitions. Capitalized terms defined in the Credit and Security agreement and used herein without definition shall have the meanings assigned thereto in the Credit and Security Agreement.

SECTION 2. Amendment to credit and Security Agreement.

The definition of Maximum Amount of Credit and Security Agreement is hereby amended and restated to read in its entirety as follows:

"Maximum Amount of Credit" shall mean a dollar amount mutually agreed upon in writing by the Borrower and the Lender. Unless and until the Borrower and the Lender otherwise mutually agree in writing upon a different dollar amount pursuant to an agreement substantially in the form of Exhibit C hereto, the Maximum Amount of Credit shall be Five Hundred Million Dollars (\$500,000,000.00).

SECTION 3 Binding effect: Ratification

This Amendment shall become effective as of the date on which counterparts hereof executed by the parties hereto have been received by Founding Partners, and thereafter shall be binding on the parties hereto and their respective successors and assigns.

Except as expressly amended hereby, the Credit and Security Agreement shall remain in full force and effect and is hereby ratified and confirmed by the parties hereto.

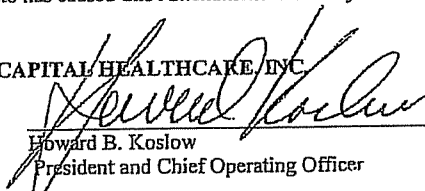
SECTION 4 Miscellaneous

Sections 16, 17, 18 and 21 of the Credit and Security Agreement are hereby incorporated herein by this reference, and for this purpose all references in such Sections to the Credit and Security Agreement shall be deemed to be references to this Amendment and to the Credit and Security Agreement as amended hereby.

IN WITNESS WHEREOF, each of the parties hereto has caused this Amendment to be duly executed and delivered as of the date first above written

SUN CAPITAL HEALTHCARE, INC.

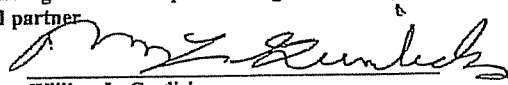
By:


Howard B. Koslow
President and Chief Operating Officer

FOUNDING PARTNERS STABLE-VALUE FUND, L.P.

By Founding Partners Capital Management Company, its
General partner

By:


William L. Gunlicks
President and Chief Executive Officer

Amendment NO.25

Exhibit C

202

AMENDMENT TO DEFINITION OF MAXIMUM AMOUNT OF CREDIT

This AMENDMENT TO CREDIT AND SECURITY AGREEMENT, dated as of October 22, 2008 (this "Amendment"), is by and between SUN CAPITAL HEALTHCARE, INC., a Florida corporation (the "Borrower"), and FOUNDING PARTNERS STABLE-VALUE FUND, L.P. ("Founding Partners").

WITNESSETH

WHEREAS, the parties hereto are the parties to the Credit and Security agreement dated as of June 6, 2002 (as amended, amended and restated or otherwise modified from time to time, the "Agreement").

WHEREAS, the parties hereto wish to amend the definition of "Maximum Amount of Credit" in the Credit and Security Agreement.

NOW, THEREFORE, for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereto hereby agree as follows:

SECTION 1. Definitions. Capitalized terms defined in the Credit and Security agreement and used herein without definition shall have the meanings assigned thereto in the Credit and Security Agreement.

SECTION 2. Amendment to credit and Security Agreement.

The definition of Maximum Amount of Credit and Security Agreement is hereby amended and restated to read in its entirety as follows:

"Maximum Amount of Credit" shall mean a dollar amount mutually agreed upon in writing by the Borrower and the Lender. Unless and until the Borrower and the Lender otherwise mutually agree in writing upon a different dollar amount pursuant to an agreement substantially in the form of Exhibit C hereto, the Maximum Amount of Credit shall be Five Hundred Twenty Five Million Dollars (\$525,000,000.00).

SECTION 3 Binding effect: Ratification

This Amendment shall become effective as of the date on which counterparts hereof executed by the parties hereto have been received by Founding Partners, and thereafter shall be binding on the parties hereto and their respective successors and assigns.

Except as expressly amended hereby, the Credit and Security Agreement shall remain in full force and effect and is hereby ratified and confirmed by the parties hereto.

SECTION 4 Miscellaneous

Sections 16, 17, 18 and 21 of the Credit and Security Agreement are hereby incorporated herein by this reference, and for this purpose all references in such Sections to the Credit and Security Agreement shall be deemed to be references to this Amendment and to the Credit and Security Agreement as amended hereby.

IN WITNESS WHEREOF, each of the parties hereto has caused this Amendment to be duly executed and delivered as of the date first above written

SUN CAPITAL HEALTHCARE, INC.

By:

Howard B. Koslow
President and Chief Operating Officer

FOUNDING PARTNERS STABLE-VALUE FUND, L.P.

By Founding Partners Capital Management Company, its General partner

By:

William L. Gunlicks
President and Chief Executive Officer

AMENDMENT TO DEFINITION
OF MAXIMUM AMOUNT OF CREDIT

This AMENDMENT TO CREDIT AND SECURITY AGREEMENT, dated as of January 9, 2009 (this "Amendment"), is by and between SUN CAPITAL HEALTHCARE, INC., a Florida corporation (the "Borrower"), and FOUNDING PARTNERS STABLE-VALUE FUND, L.P. ("Founding Partners").

WITNESSETH

WHEREAS, the parties hereto are the parties to the Credit and Security agreement dated as of June 6, 2002 (as amended, amended and restated or otherwise modified from time to time, the "Agreement").

WHEREAS, the parties hereto wish to amend the definition of "Maximum Amount of Credit" in the Credit and Security Agreement.

NOW, THEREFORE, for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereto hereby agree as follows:

SECTION 1. Definitions. Capitalized terms defined in the Credit and Security agreement and used herein without definition shall have the meanings assigned thereto in the Credit and Security Agreement.

SECTION 2. Amendment to credit and Security Agreement.

The definition of Maximum Amount of Credit and Security Agreement is hereby amended and restated to read in its entirety as follows:

"Maximum Amount of Credit" shall mean a dollar amount mutually agreed upon in writing by the Borrower and the Lender. Unless and until the Borrower and the Lender otherwise mutually agree in writing upon a different dollar amount pursuant to an agreement substantially in the form of Exhibit C hereto, the Maximum Amount of Credit shall be Five Hundred Fifty Million Dollars (\$550,000,000.00).

SECTION 3 Binding effect: Ratification

This Amendment shall become effective as of the date on which counterparts hereof executed by the parties hereto have been received by Founding Partners, and thereafter shall be binding on the parties hereto and their respective successors and assigns.

Except as expressly amended hereby, the Credit and Security Agreement shall remain in full force and effect and is hereby ratified and confirmed by the parties hereto.

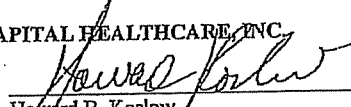
SECTION 4 Miscellaneous

Sections 16, 17, 18 and 21 of the Credit and Security Agreement are hereby incorporated herein by this reference, and for this purpose all references in such Sections to the Credit and Security Agreement shall be deemed to be references to this Amendment and to the Credit and Security Agreement as amended hereby.

IN WITNESS WHEREOF, each of the parties hereto has caused this Amendment to be duly executed and delivered as of the date first above written

SUN CAPITAL HEALTHCARE, INC.

By:


Howard B. Koslow
President and Chief Operating Officer

FOUNDING PARTNERS STABLE-VALUE FUND, L.P.

By Founding Partners Capital Management Company, its
General partner

By:

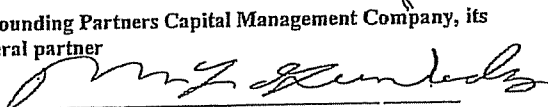

William L. Gunlicks
President and Chief Executive Officer

EXHIBIT E

GRAY ROBINSON
ATTORNEYS AT LAW

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FORT LAUDERDALE
JACKSONVILLE
KEY WEST
LAKELAND
MELBOURNE
MIAMI
NAPLES
ORLANDO
TALLAHASSEE
TAMPA

April 29, 2009

**VIA FEDERAL EXPRESS
OVERNIGHT MAIL**

Sun Capital Healthcare, Inc.
Howard B. Koslow
As President and Chief Operating Officer
999 Yamato Road, 3rd Floor
Boca Raton, FL 33431

Robert Dodek, as Registered Agent
999 Yamato Road, 3rd Floor
Boca Raton, FL 33431

and

Sun Capital Healthcare, Inc.
929 Clint Moor Road
Boca Raton, FL 33487

VIA ELECTRONIC MAIL

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Proskauer Rose, LLP
c/o Vincenzo Paparo, Esq.
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New York, NY 10036-8299
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RE: Credit and Security Agreement dated June 6, 2000 ("Agreement") between Sun Capital Healthcare, Inc., a Florida corporation ("Borrower" or "you") and Founding Partners Stable-Value Fund, L.P. as successor of Founding Partners Multi-Strategy Fund, L.P., ("Lender") incorporated by reference herein.

Dear Messrs Koslow and Dodek:

Please permit this correspondence to serve as the Lender's Notice of Default under the Agreement pursuant to Paragraph 8 "Defaults." You are advised that the Borrower has defaulted under the Agreement as detailed below. These defaults include, without limitation, the following:

- i. Borrower default by failing to purchase accounts in contravention of paragraph 1.37 by: a) purchasing accounts that are Defaulted Accounts as more fully defined in Paragraph 1.32; b) purchasing accounts for services other than health care services as defined in paragraph 1.37(a); purchasing accounts contrary paragraph 1.37(c);
- ii. Borrower defaulted under Paragraph 8.1.1 by failing to make the requisite payment;
- iii. Borrower defaulted under Paragraph 8.1.3 by failing to perform and observe other covenants, agreements, and provisions of the Agreement, including, without limitation:
 - a. Borrower violated Paragraph 2.2 of the Agreement by failing to apply the proceeds of the Loans (as defined in the Agreement) as set forth in Paragraph 2.2 of the Agreement;
 - b. Borrower violated Paragraph 7.17 by engaging in activities other than those contemplated by the Agreement;
- iv. Borrower defaulted under Paragraph 8.1.10 such that it is operating at a negative cash deficit as represented by Borrower.
- v. Borrower defaulted under Paragraph 8.1.4 by making a materially false representation or warranty to the Lender in connection with the Agreement
- vi. Borrower is in violation of Paragraph 5.2.10 to the extent Sun Capital, Inc. has received a notice of default contemporaneous to the instant Notice in respect to the Credit and Security Agreement between Lender and Sun Capital Inc, dated January 24, 2002.
- vii. Borrower is in violation of Paragraph 6.5 with respect to reporting requirements set forth in Paragraph 6.5(a) and (f).

(collectively, the "Defaults"¹).

This Notice of Default is consistent with the terms of the Agreement, specifically under Paragraph 8 and all other specified sections, wherein the Lender reserved its rights to call a default by the Borrower subsequent to the execution of the Agreement.

NOTICE OF DEFAULT

The Lender and the Borrower entered into the Agreement on June 6, 2000, with respect to loans, of which the Lender is the owner and holder. As of the date of this Notice of Default, the Borrower has defaulted under the Agreement and thus the loans made thereunder. Accordingly, notice is hereby given to the Borrower that the Lender is exercising its options pursuant to the Agreement and loans, and thus declares the entire

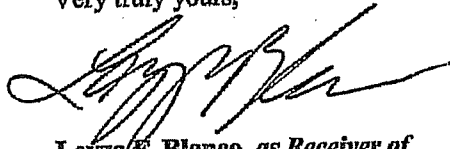
¹ It is reiterated that the defaults listed herein are not exclusive, and the Lender does not waive its rights as to any defaults not enumerated herein.

balance outstanding under the Agreement and loans immediately due and payable, plus interest accruing at the default rate of interest and all attorneys' fees and costs incurred by the Lender. The Lender shall avail itself of all its legal rights and remedies.

The Lender demands immediate payment in full under the Agreement and loans and failure to do so shall leave the Lender with no alternative but to take whatever actions it deems necessary, to which it is entitled, to protect its interests.

This correspondence shall not by implication or otherwise limit the rights and remedies of the Lender under the Agreement or the loans thereunder, and shall in no way alter, modify, amend or affect the terms, conditions, obligations, covenants or agreements contained therein. Moreover, this correspondence shall not be deemed or construed as a waiver of any existing defaults, including the Defaults listed hereinabove, under the Agreement and loans that may exist but which are not enumerated herein, nor create any obligations on the part of the Lender not otherwise existing under the Agreement and loans. Finally, this correspondence shall not be deemed or construed as a waiver of any rights and remedies available to the Lender, and its assignees, under any documents and agreement executed by you for any obligation of the Borrower to Lender.

Very truly yours,



**Leyza F. Blanco, as Receiver of
Founding Partners Stable-Value Fund, L.P., successor of Founding Partners Multi-
Strategy Fund, L.P.,**

EXHIBIT F

CREDIT AND SECURITY AGREEMENT

between

SUN CAPITAL, INC.,
as Borrower,

and

FOUNDING PARTNERS STABLE-VALUE FUND, L.P., as Lender

Dated as of January 24, 2002

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EXHIBITS

Exhibit A	[Reserved]
Exhibit B	Form Purchase and Sale Agreement
Exhibit C	Form of Amendment to Definition of Maximum Amount of Credit
Exhibit D	Form of Officer's Certificate (Section 5.21)

CREDIT AND SECURITY AGREEMENT

This CREDIT AND SECURITY AGREEMENT, dated as of January 24, 2002, is between SUN CAPITAL, INC., a Florida corporation (the "Borrower"), and FOUNDING PARTNERS STABLE-VALUE FUND, L.P. ("Founding Partners"), in its capacity as Lender hereunder.

NOW, THEREFORE, for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereto hereby agree as follows:

1. Definitions: Certain Rules of Construction. Certain capitalized terms are used in this Agreement with the specific meanings defined below in this Section 1. Except as otherwise explicitly specified to the contrary or unless the context clearly requires otherwise, (a) the capitalized term "Section" refers to sections of this Agreement, (b) the capitalized term "Exhibit" or "Schedule" refers to an exhibit or schedule to this Agreement, (c) references to a particular Section include all subsections thereof, (d) the word "including" shall be construed as "including without limitation" (without limiting the foregoing, the parties acknowledge that in some places in this Agreement the complete phrase "including without limitation" is already used), (e) accounting terms not otherwise defined herein have the meaning provided under GAAP, (f) references to a particular statute or regulation include all rules and regulations thereunder and any successor statute, regulation or rules, in each case as from time to time in effect, (g) the meanings of defined terms are equally applicable to the singular and plural forms of such defined terms, (h) the words "hereof," "herein," "hereunder" and similar words refer to this Agreement as a whole and not to any particular provision of this Agreement, (i) the word "or" is not exclusive, and (j) references to a particular Person include such Person's successors and assigns to the extent not prohibited by this Agreement. References to "the date hereof" mean the date first set forth above.

1.1. "Account" shall mean an "account" as such term is now or hereafter defined in the UCC and any other "Account" or account receivable contemplated by a Purchase and Sale Agreement.

1.2. "Affiliate" shall mean, with respect to the Borrower (or any other specified Person), any other Person directly or indirectly controlling, controlled by or under direct or indirect common control with the Borrower (or such specified Person), and shall include (a) any officer or director of the Borrower (or such specified Person), and (b) any Person of which the Borrower (or such specified Person) shall, directly or indirectly, beneficially own either (i) at least five percent (5%) of the outstanding equity securities having the general power to vote or (ii) at least five percent (5%) of all equity interests; provided, however, that "Affiliate," with respect to the Borrower or its Affiliates, shall not include Founding Partners or any partner of Founding Partners.

1.3. "Agreement" shall mean this Credit and Security Agreement as it may be amended, amended and restated or otherwise modified from time to time.

1.4. "A.M. Best" shall mean A.M. Best Company, Inc. and any successor thereto which is a nationally recognized statistical rating organization.

1.5. "Amount Paid to Seller" means, with respect to a particular Account, the actual amount paid by the Borrower to the related Seller for such Account pursuant to the related Purchase and Sale Agreement.

1.6. "Applicable Rate" shall mean one and 4,167/10,000 percent (1.4167%) per month.

1.7. "Assignee" is defined in Section 12.1.1.

1.8. "Availability Termination Date" shall mean the date that is the Business Day immediately preceding the Final Maturity Date.

1.9. "Bankruptcy Code" shall mean Title 11 of the United States Code.

1.10. "Bankruptcy Default" shall mean an Event of Default contemplated by Section 8.1.11.

1.11. "Borrower" has the meaning set forth in the first paragraph of this Agreement.

1.12. "Borrower's Books" shall mean all of the Borrower's books and records including, but not limited to: minute books; ledgers; records indicating, summarizing, relating to or evidencing the Borrower's assets, liabilities, and the Accounts; all information relating to the Borrower's business operations; and all computer programs, disc or tape files, printouts, runs, and other computer prepared information and the equipment containing such information.

1.13. "Borrowing Base" shall mean, on any date, an amount equal to the result of:

(a) the sum of eighty-five percent (85%) of the Net Face Values of the Purchased Accounts which are then Tier 1 Accounts, plus seventy-five percent (75%) of the Confirmed Collectible Amounts of the Purchased Accounts which are then Tier 2 Accounts, minus

(b) to aggregate amount of Collections on such Purchased Accounts, minus

(c) without duplication, the aggregate amount of Dilutions with respect to such Purchased Accounts, minus

(d) the aggregate amount then owed by the Borrower to the Sellers; provided that:

(i) the Borrowing Base shall be shown on the most recent Weekly Report furnished to the Lender in accordance with Section 6.5;

(ii) not more than twenty-five percent (25%) of the aggregate amount of the Borrowing Base may relate to the Tier 2 Accounts;

(iii) if the then Outstanding Amounts Paid to Sellers with respect to Purchased Accounts which are Eligible Accounts on any day is less than the amount determined pursuant to clause (a) above, then clause (a) above for such day shall equal the Outstanding Amounts Paid to Sellers with respect to Purchased Accounts which are then Eligible Accounts; and

(iv) the Borrowing Base shall be reduced to zero dollars (\$0) at any time the Borrower has failed to furnish the computation of the Borrowing Base in the Weekly Report within one day after such Weekly Report was originally due pursuant to Section 6.5 until such time as the Borrower has duly delivered the Borrowing Base computation with respect to such Weekly Report and Borrower has not omitted the Borrowing Base computation with respect to any succeeding Weekly Report.

1.14. "Borrowing Base Deficiency" shall mean that the Loan Availability does not exceed zero dollars (\$0).

1.15. "Business Day" shall mean any day other than (i) Saturday, (ii) Sunday or (iii) a day on which banks in Chicago, Illinois or Naples, Florida are authorized or required by law or other governmental action to close.

1.16. "By-Laws" shall mean all written by-laws, rules, regulations and all other documents relating to the management, governance or internal regulation of any Person other than an individual, all as from time to time in effect.

1.17. "Capital Expenditures" shall mean, for any period, amounts added or required to be added to the property, plant and equipment or other fixed assets account on the balance sheet of the Borrower, prepared in accordance with GAAP, in respect of (a) the acquisition, construction, improvement or replacement of land, buildings, machinery, equipment, leaseholds and any other real or personal property, (b) to the extent not included in clause (a) above, materials, contract labor and direct labor relating thereto (excluding amounts properly expensed as repairs and maintenance in accordance with GAAP) and (c) software development costs to the extent not expensed.

1.18. "Capitalized Lease" shall mean any lease which is required to be capitalized on the balance sheet of the lessee in accordance with GAAP.

1.19. "Capitalized Lease Obligations" shall mean the amount of the liability reflecting the aggregate discounted amount of future payments under all Capitalized Leases calculated in accordance with GAAP.

1.20. "Change of Ownership Event" shall mean any point in time in which the individuals referred to in Section 7.26 (excluding their respective successors and assigns) shall cease to collectively own directly one hundred percent (100%) of the issued and outstanding shares of voting stock of the Borrower, free and clear of all Liens.

1.21. "Closing Date" shall mean the Initial Lending Date and each other date on which any Loan is made pursuant to Section 2.1.

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

1.23. "Collateral" shall mean all of the Property and interests in Property described in Section 10.1, and all other Property and interests in Property that now or hereafter secure the payment or performance of any of the Credit Obligations.

1.24. "Collections" shall mean all funds (regardless of whether in the form of cash, checks, money orders, wire transfers, automatic clearinghouse transfers, money-grams or otherwise) paid by any Person in payment of or in respect of any Account or any fee or other amount paid to the Borrower under a Purchase and Sale Agreement.

1.25. "Confirmed Collectible Amount" shall mean, with respect to an Account, the amount that the Obligor has informed the Borrower, either verbally or in writing, that such Obligor shall pay with respect to such Account; provided that if the unpaid balance of an Account is less than five thousand dollars (\$5,000) prior to becoming a Purchased Account, the Confirmed Collectible Amount of such Account shall mean the amount that the Borrower reasonably expects to collect on such Account from the Obligor thereof prior to such Account becoming a Defaulted Account.

1.26. "Constituent Documents" shall mean, with respect to any non-individual Person: if such Person is a corporation, its certificate of incorporation and By-Laws; if such Person is a limited partnership, its certificate of limited partnership and its limited partnership agreement; and if such Person is a limited liability company, its certificate of formation and its limited liability company agreement.

1.27. "Credit Insurance Policy" shall mean the business credit insurance policy issued by the Designated Insurer in favor of the Borrower. As of the date of this Agreement, the Credit Insurance Policy is the credit insurance policy number 365514R issued by the EULER/ACI in favor of the Borrower.

1.28. "Credit Obligations" shall mean the Loans and all present and future liabilities, covenants, duties, obligations and indebtedness of the Borrower owing to the Lender (or any Affiliate of the Lender) under or in connection with this Agreement or any other Program Document, including obligations in respect of principal, interest, amounts provided for in Sections 3.2, 3.3 and 9 and other fees, charges, indemnities and expenses from time to time owing hereunder or under any other Program Document (whether accruing before or after a Bankruptcy Default), in

each case whether direct or indirect, absolute or contingent, due or to become due, or now existing or hereafter arising.

1.29. "Credit Participant" is defined in Section 12.2.

1.30. "Debtor Relief Laws" shall mean the Bankruptcy Code and all other applicable liquidation, conservatorship, bankruptcy, moratorium, rearrangement, receivership, insolvency, reorganization, suspension of payments, readjustment of debt, marshaling of assets or any other debtor relief law or any other similar law of (a) the United States, (b) any state or (c) any foreign country from time to time in effect, including without limitation any such law that is applicable to the insurance company that issued the Credit Insurance Policy.

1.31. "Default" shall mean (a) any Event of Default, or (b) any event, circumstance or condition which with the passage of time or giving of notice, or both, would become an Event of Default.

1.32. "Defaulted Account", on any date of determination, shall mean a Purchased Account (i) as to which at least one hundred twenty (120) days have passed since the Invoice Date for such Purchased Account or (ii) the Obligor of which is a party to a proceeding provided under any Debtor Relief Law (other than solely as a creditor or a claimant).

1.33. "Designated Insurer" shall mean EULER/ACI or any other insurance company that the Borrower and the Lender may mutually designate in writing from time to time as the "Designated Insurer".

1.34. "Dilution" shall mean, with respect to an Account, any reduction in the amount of such Account, other than as a result of (and in the amount of) payments by the Obligor of such Account.

1.35. "Discount Fee" shall mean, as of any date of determination, the aggregate "discount fee" accrued with respect to a particular Purchased Account determined in accordance with the related Purchase and Sale Agreement.

1.36. "Distribution" shall mean, with respect to the Borrower (or other specified Person):

(a) the declaration or payment of any dividend or distribution, including dividends payable in shares of capital stock of or other equity interests in the Borrower (or such specified Person), on or in respect of any shares of any class of capital stock of or other equity interests in the Borrower (or such specified Person);

(b) the purchase, redemption or other retirement of any shares of any class of capital stock of or other equity interest in the Borrower (or such specified Person) or of options, warrants or other rights for the purchase of such shares, directly, indirectly, through a Subsidiary or otherwise;

(c) any other distribution on or in respect of any shares of any class of capital stock of or equity or other beneficial interest in the Borrower (or such specified Person);

(d) any payment with respect to, or any purchase, redemption or defeasance of, any Indebtedness of the Borrower (or such specified Person);

(e) any payment, loan or advance by the Borrower (or such specified Person) to, or any other investment by the Borrower (or such specified Person) in, the holder of any shares of any class of capital stock of or other equity interests in the Borrower (or such specified Person), or any Affiliate of such holder, including the payment of management and transaction fees; and

(f) any other cash payments by the Borrower to any Person (other than to the Lender or as permitted or directed by the Lender).

1.37. "Dollars" or "\$" shall mean United States Funds.

1.38. "Effective Date" shall mean the first date upon which each of the conditions precedent set forth in Section 5.1 shall have been satisfied or waived to the satisfaction of the Lender.

1.39. "Eligible Account" shall mean, at any time, an Account:

(a) that is payable in United States dollars, for services rendered or goods sold in the United States;

(b) that is not a Defaulted Account;

(c) as to which the Purchase Date is not more than sixty (60) days after the applicable Invoice Date and which contains payment terms of net sixty (60) days, or less, from such Invoice Date;

(d) which was billed to the Obligor prior to its Purchase Date;

(e) as to which the Borrower has good and marketable title free and clear of all Liens (other than Liens in favor of the Lender);

(f) as to which the Lender has a fully perfected first priority security interest;

(g) (i) which is an "account" (as presently or hereafter defined in the UCC), (ii) which is not evidenced by "chattel paper" (as presently or hereafter defined in the UCC), and (iii) which is not evidenced by an "instrument" (as presently or hereafter defined in the UCC);

(h) which does not arise from the sale or other delivery or provision of health care goods or services or medical goods or services;

(i) if the Seller of such Account is not party to a proceeding under any Debtor Relief Law (other than solely as a creditor);

(j) as to which all of the representations and warranties made by the applicable Seller in the applicable Purchase and Sale Agreement are true and correct;

(k) as to which Account (and the related Seller), all of the representations and warranties of the Borrower in this Agreement are true and correct; and

(l) as to which the Borrower has not made any "charge" or "chargeback" to the Seller's account.

Notwithstanding the foregoing, Eligible Accounts shall not include the following:

- (a) Accounts with respect to which the Obligor is an officer, employee or agent of the Borrower;
- (b) Accounts with respect to which services or goods are placed on consignment, guaranteed sale, or other terms by reason of which the payment by the Obligor may be conditional;
- (c) Accounts with respect to which the Obligor is not a resident of the United States unless the Lender has approved such Obligor in writing;
- (d) Accounts with respect to which the Obligor is a Government Obligor; provided, however, that an Account shall not be deemed ineligible by reason of this clause (d) if (i) in the case of a Government Obligor that is the United States or any department, agency or instrumentality of the United States, the Borrower has completed all of the steps necessary to comply with the Federal Assignment of Claims Act of 1940 (31 U.S.C. §203) with respect to such Account and (ii) in the case of a Government Obligor that is a State of the United States or any department, agency or instrumentality of such State, either (A) the Borrower has complied with any law, rule or regulation applicable to such Government Obligor that is similar to the Federal Assignment of Claims Act or (B) no such similar law, order or regulation is applicable to such Government Obligor;
- (e) Accounts with respect to which the Obligor is a subsidiary of, related to, has one or more common officers or directors with the Borrower, or otherwise is an Affiliate of the Borrower;
- (f) Accounts with respect to which Borrower is or becomes liable to the Obligor for goods sold or services rendered by the Obligor to the Borrower;
- (g) Accounts owed by an Obligor the aggregate unpaid amount of which exceeds twenty-five percent (25%) of the aggregate unpaid amount of all Eligible Accounts;
- (h) all of the Accounts owed by an Obligor that is the subject of a proceeding under a Debtor Relief Law;
- (i) all of the Accounts owed by an Obligor where twenty-five percent (25%) or more of all of the Accounts owed by that Obligor are past due more than ninety (90) days from the invoice due date;
- (j) Accounts where the Obligors are located in New Jersey, Minnesota and/or Indiana, unless the Borrower shall have qualified to do business or shall have filed a business activity report with the appropriate state offices in such jurisdictions;
- (k) all amounts in excess of twenty-five percent (25%) of all Eligible Accounts which have been assigned to the Borrower by the same Seller;
- (l) those Accounts where the Lender has notified the Borrower that, in the Lender's sole discretion, the Account or the Obligor is not acceptable to the Lender; and

(m) Accounts for which the services have not yet been rendered to the Obligor or the goods sold have not yet been delivered to the Obligor (commonly referred to as "pre-billed accounts").

1.40. "Eligible Investments" shall mean any one or more of the following types of investments (having original maturities or remaining maturities of no more than thirty (30) days):

(a) direct interest-bearing obligations of, and interest bearing obligations guaranteed as to timely payment of principal and interest by, the United States or any agency or instrumentality of the United States the obligations of which are backed by the full faith and credit of the United States; and direct interest-bearing obligations of, and interest-bearing obligations guaranteed as to timely payment of principal and interest by, the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation;

(b) demand or time deposits in, certificates of deposit of, or bankers' acceptances issued by any depository institution or trust company organized under the laws of the United States or any State and subject to supervision and examination by federal or state banking authorities; provided that the short-term unsecured debt obligations of such depository institution or trust company at the time of such investment, or contractual commitment providing for such investment; are rated in the highest short-term rating category by at least one Rating Agency;

(c) securities bearing interest or sold at a discount issued by any corporation incorporated under the laws of the United States or any State whose long-term unsecured debt obligations are rated in the highest rating category by at least one Rating Agency at the time of such investment or contractual commitment providing for such investment;

(d) commercial paper that is payable in United States dollars and is rated in the highest short-term rating category by at least one Rating Agency;

(e) investments in money market funds having a long term rating in the highest rating category by at least one Rating Agency; and

(f) any other investment approved in writing by the Lender.

1.41. "ERISA" shall mean the Employee Retirement Income Security Act of 1974, as amended from time to time, and the regulations promulgated thereunder.

1.42. "ERISA Affiliate" shall mean with respect to any Person, at any time, each trade or business (whether or not incorporated) that would, at the time, be treated together with such Person as a single employer under Section 4001 of ERISA or Sections 414(b), (c), (m) or (o) of the Code.

1.43. "Euler/ACI" shall mean EULER American Credit Indemnity Company.

1.44. "Event of Default" is defined in Section 8.1.

1.45. "Existing Lender" means Guaranty Business Credit Corporation, as assignee of Capital Business Credit, a division of Capital Factors, Inc., a Florida corporation.

1.46. "Existing Loan Agreement" shall mean the Loan and Security Agreement, dated as of September 27, 1996, between the Borrower and Capital Business Credit, a division of Capital Factors, Inc.

1.47. "Factor Account" shall mean account number 4250013340 maintained at Union Planters, or such other account as the Borrower and the Lender may mutually designate in writing from time to time as the "Factor Account."

1.48. "Final Maturity Date" shall mean the first Business Day that is one year after the date hereof or such other date as may be agreed upon in writing by all of the parties hereto from time to time.

1.49. "Form Purchase and Sale Agreement" shall mean the form of Master Purchase and Sale Agreement attached as Exhibit B hereto.

1.50. "Founding Partners" is defined in the preamble to this Agreement.

1.51. "GAAP" shall mean generally accepted accounting principles in the United States of America as from time to time in effect, including the statements and interpretations of the United States Financial Accounting Standards Board.

1.52. "General Intangibles" shall mean: (a) all general intangibles (as presently or hereafter defined in the UCC); (b) all choses in action, causes of action, corporate or other business books and records, deposit accounts, investments made with funds in deposit accounts (including without limitation Eligible Investments), inventions, designs, patents, patent applications, trademarks, trade names, trade secrets, goodwill, copyrights, registrations, licenses, franchises, rights to royalties, blueprints, drawings, confidential information, catalogs, sales literature, video tapes, consulting agreements, employment agreements, customer lists, tax refund claims, tax refund payments, computer programs, insurance policies, deposits with insurers, and all claims under guaranties; (c) all interests in or claims in or under any policy of insurance; (d) all security interests or other security held by any Person; (e) all rights to indemnification; and (f) all other intangible property of every kind and nature.

1.53. "Government Obligor" or "Governmental Obligor" shall mean a Governmental Entity that is obligated to make any payments with respect to Accounts.

1.54. "Governmental Authority" shall mean the United States of America, any State thereof or the District of Columbia, any political subdivision of any of the foregoing, and any entity exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to government.

1.55. "Governmental Entity" shall mean the United States of America, any State thereof or the District of Columbia, any political subdivision of any of the foregoing and any department, agency or instrumentality of any of the foregoing.

1.56. "Gross Amount" shall mean, with respect to an Account, the gross amount billed to the applicable Obligor with respect to such Account.

1.57. "Guarantee" shall mean, with respect to the Borrower (or other specified Person):

(a) any guarantee by the Borrower (or such specified Person) of the payment or performance of, or any contingent obligation by the Borrower (or such specified Person) in respect of, any Indebtedness or other obligation of any primary obligor;

(b) any other arrangement whereby credit is extended to a primary obligor on the basis of any promise or undertaking of the Borrower (or such specified Person), including any "comfort letter" or "keep well agreement" written by the Borrower (or such specified Person); to a creditor or prospective creditor of such primary obligor, (i) to pay the Indebtedness of such primary obligor, (ii) to purchase an obligation owed by such primary obligor, (iii) to pay for the purchase or lease of assets or services regardless of the actual delivery thereof or (iv) to maintain the capital, working capital, solvency or general financial condition of such primary obligor;

(c) any liability of the Borrower (or such specified Person), as a general partner of a partnership in respect of Indebtedness or other obligations of such partnership;

(d) any liability of the Borrower (or such specified Person) as a joint venturer of a joint venture in respect of Indebtedness or other obligations of such joint venture;

(e) any liability of the Borrower (or such specified Person) with respect to the tax liability of others as a member of a group (other than a group consisting solely of the Borrower and its Subsidiaries) that is consolidated for tax purposes; and

(f) reimbursement obligations, whether contingent or matured, of the Borrower (or such specified Person) with respect to letters of credit, bankers acceptances, surety bonds, other financial guarantees and Interest Rate Protection Agreements,

whether or not any of the foregoing are reflected on the balance sheet of the Borrower (or such specified Person) or in a footnote thereto, provided, however, that the term "Guarantee" shall not include endorsements for collection or deposit in the ordinary course of business. The amount of any Guarantee and the amount of Indebtedness resulting from such Guarantee shall be the maximum amount that the guarantor may become obligated to pay in respect of the obligations (whether or not such obligations are outstanding at the time of computation) and, for purposes of covenant

calculations, shall be without duplication of guaranteed Indebtedness that is already included in such calculations.

1.58. "Indebtedness" shall mean all obligations, contingent or otherwise, which in accordance with GAAP are required to be classified upon the face of the balance sheet of the Borrower (or other specified Person) as liabilities, but in any event including (without duplication):

- (a) borrowed money;
- (b) indebtedness evidenced by notes, debentures or similar instruments;
- (c) Capitalized Lease Obligations;
- (d) the deferred purchase price of assets or securities, including related noncompetition, consulting and stock repurchase obligations;
- (e) mandatory redemption or dividend rights on capital stock (or other equity);
- (f) reimbursement obligations, whether contingent or matured, with respect to letters of credit, bankers acceptances, surety bonds, other financial guarantees and Interest Rate Protection Agreements (without duplication of other Indebtedness supported or guaranteed thereby);
- (g) liabilities secured by any Lien existing on property owned or acquired by the Borrower (or such specified Person), whether or not the liability secured thereby shall have been assumed;
- (h) unfunded pension liabilities;
- (i) obligations that are immediately and directly due and payable out of the proceeds of or production from property; and
- (j) all Guarantees in respect of Indebtedness of others.

1.59. "Indemnified Amounts" shall mean any and all claims, damages, expenses, losses, liabilities, penalties, judgments, suits, actions, costs, charges, and disbursements, including without limitation fees and other charges of any law firm or other counsel.

1.60. "Indemnified Parties" shall mean the Lender, the partners of the Lender, and any officer, director, employee, agent, law firm or other counsel for any of the Lender or any partner of the Lender.

1.61. "Initial Lending Date" shall mean the date on which the first Loan is made by Lender to the Borrower pursuant to Section 2.1.

1.62. "Insolvency" shall mean, with respect to any Multiemployer Plan, the condition that such Plan is insolvent within the meaning of Section 4245 of ERISA.

1.63. "Insured Accounts" shall mean Accounts the Obligors of which are covered by a credit insurance policy in form and substance satisfactory to the Lender and issued by a Designated Insurer, provided that an Account shall be considered an Insured Account only to the extent of such coverage.

1.64. "Interest Rate Protection Agreement" shall mean any interest rate swap, interest rate cap, interest rate hedge or other contractual arrangement that converts variable interest rates into fixed interest rates, fixed interest rates into variable interest rates or other similar arrangements.

1.65. "Investment" shall mean, with respect to the Borrower (or other specified Person):

(a) any share of capital stock, partnership or other equity interest, evidence of Indebtedness or other security issued to the Borrower (or other specified Person) by any other Person;

(b) any loan, advance or extension of credit by the Borrower (or other specified Person) to, or contribution to the capital of, any other Person;

(c) any Guarantee by the Borrower (or other specified Person) of the Indebtedness of any other Person;

(d) any acquisition by the Borrower (or other specified Person) of all, or any division or similar operating unit of, the business of any other Person or the assets comprising such business, division or unit; and

(e) any other similar investment.

The investments described in the foregoing clauses (a) through (e) shall be included in the term "Investment" whether they are made or acquired by purchase, exchange, issuance of stock or other securities, merger, reorganization or any other method.

1.66. "Invoice Date" shall mean, with respect to an Account, the date of the first invoice sent to the related Obligor.

1.67. "Judgment Measurement Amount" means the result of (a) the Borrowing Base, less (b) the sum of (i) the outstanding principal amount of the Loans plus (ii) accrued and unpaid interest on the Loans.

1.68. "Legal Requirement" shall mean any present or future requirement imposed upon the Lender or the Borrower by any law, statute, rule, regulation, directive, order, decree, guideline (or

any interpretation thereof by courts or of administrative bodies) of the United States of America, or any state or political subdivision of any of the foregoing, or by any board, governmental or administrative agency, or any political subdivision of any of the foregoing.

1.69. "Lender" shall mean Founding Partners and its successors and assigns.

1.70. "Lien" shall mean, with respect to the Borrower (or any other specified Person):

(a) any lien, encumbrance, mortgage, pledge, charge or security interest of any kind upon any property or assets of the Borrower (or such specified Person), whether now owned or hereafter acquired, or upon the income or profits therefrom;

(b) the acquisition of, or the agreement to acquire, any property or asset upon conditional sale or subject to any other title retention agreement, device or arrangement (including a Capitalized Lease);

(c) the sale, assignment, pledge or transfer for security of any accounts, general intangibles or chattel paper of the Borrower (or such specified Person), with or without recourse;

(d) the transfer of any tangible property or assets for the purpose of subjecting such items to the payment of previously outstanding Indebtedness in priority to payment to the general creditors of the Borrower (or such specified Person);

(e) any lease in the nature of a security interest; and

(f) the filing of or agreement to file or deliver any financing statement under the UCC or comparable law of any jurisdiction,

1.71. "Loan" is defined in Section 2.1.4.

1.72. "Loan Availability" shall mean, as at any date, an amount equal to the result of:

(a) the lesser of (i) the Maximum Amount of Credit, and (ii) the sum of (x) the Borrowing Base after giving effect to any Eligible Accounts to be acquired on such date with the Loans plus (y) the amount on deposit in the Factor Amount; minus

(b) the sum of (i) the then aggregate outstanding principal amount of all Loans plus (ii) the accrued and unpaid interest on the Loans.

1.73. "Lockbox" shall mean a post office box or lockbox that is subject to a Lockbox Agreement.

1.74. "Lockbox Account" shall mean a bank account that is subject to a Lockbox Agreement.

1.75. "Lockbox Agreement" shall mean an agreement between the Borrower and a Lockbox Bank, and such other Person or Persons as may be acceptable to the Lender, as such agreement may be amended, amended and restated or otherwise modified from time to time.

1.76. "Lockbox Bank" shall mean any bank approved in writing by the Lender to maintain a Lockbox and Lockbox Account pursuant to a Lockbox Agreement. As of the date of this Agreement, the only bank approved by the Lender for purposes of the preceding sentence is Union Planters.

1.77. "Material Adverse Effect" shall mean a material adverse effect on: (a) the condition (financial or otherwise), business, performance, operations, properties, profits or prospects of the Borrower; (b) the Purchased Accounts or the legality, validity, transferability or enforceability of the Purchased Accounts; (c) the rights and remedies of the Lender under or in connection with any Program Document; (d) the ability of the Borrower to perform its obligations under any Program Document to which it is a party or enforce its rights under any Program Document to which it is a party; or (e) the overall reliability of the Borrower's reporting and control procedures under any Program Document.

1.78. "Maximum Amount of Credit" shall mean a dollar amount mutually agreed upon in writing by the Borrower and the Lender. Unless and until the Borrower and the Lender otherwise mutually agree in writing upon a different dollar amount pursuant to an agreement substantially in the form of Exhibit C hereto, the Maximum Amount of Credit shall be eight million dollars (\$8,000,000).

1.79. "Moody's" shall mean Moody's Investors Service, Inc. and any successor thereto which is a nationally recognized statistical rating organization.

1.80. "Multiemployer Plan" shall mean a "multiemployer plan" as defined in Section 4001(a)(3) of ERISA to which contributions are or have been made during the preceding five (5) years by any Person or any ERISA Affiliate of such Person.

1.81. "Negotiable Collateral" means any present and future letters of credit, advices of credit, notes, drafts, instruments, documents, leases, and chattel paper.

1.82. "Net Face Value", with respect to an Account, shall mean the Gross Amount of such Account less (a) allowances, discounts to customers or any other reduction to the Gross Amount of such Account contemplated by the related Purchase and Sale Agreement, and (b) without limiting the foregoing, Dilutions and retainage:

1.83. "Obligor" shall mean the Person or Persons obligated to make payments on an Account.

1.84. "Obligor Notice" shall mean a notice to an Obligor directing such Obligor to make payments on Accounts solely to a Lockbox or a Lockbox Account.

1.85. "Officer's Certificate" shall mean a certificate signed by an officer of the Borrower.

1.86. "Operating Account" shall mean account number 4250012670 in the name of the Borrower and held by Union Planters, or such other account as the Borrower and the Lender may mutually designate in writing from time to time as the "Operating Account".

1.87. "Outstanding Amount Paid to Seller", with respect to a Purchased Account, shall mean the greater of (i) the Amount Paid to Seller for such Purchased Account minus Collections with respect to such Purchased Account and (ii) zero, and "Outstanding Amounts Paid to Sellers" means the sum of the Outstanding Amount Paid to Seller for each Purchased Account.

1.88. "Overdue Reimbursement Rate" shall mean, at any date, a per annum rate equal to the sum of (a) two percent (2%) plus (b) the annualized Applicable Rate then in effect.

1.89. "PBGC" shall mean the Pension Benefit Guaranty Corporation or any successor entity.

1.90. "Permitted Subordinated Debt" means debt for borrowed money that is subordinated to the Credit Obligations pursuant to an agreement that is in form and substance satisfactory to the Lender.

1.91. "Person" shall mean any present or future natural person or any corporation, association, partnership, joint venture, limited liability company, joint stock company or other company, business trust, trust, organization, business or government or any governmental agency or political subdivision thereof.

1.92. "Plan" shall mean, with respect to any Person, any employee pension benefit plan that (a) is maintained by such Person or any ERISA Affiliate of such Person, or to which contributions by any such Person are required to be made or under which such Person has or could have any liability, (b) is subject to the provisions of Title IV of ERISA and (c) is not a Multiemployer Plan.

1.93. "Plan Event" shall mean, with respect to any Person, (a) the provision of a notice of intent to terminate any Plan under Section 4041 of ERISA other than in a "standard termination", (b) the receipt of any notice by any Plan to the effect that the PBGC intends to apply for the appointment of a trustee to administer any Plan; (c) the termination of any Plan which results in any material liability of such Person; (d) the withdrawal of such Person or any ERISA Affiliate of such Person from any Plan described in Section 4063 of ERISA which could be reasonably expected to result in a material liability of such Person; (e) the complete or partial withdrawal of such Person or any ERISA Affiliate of such Person from any Multiemployer Plan which can be reasonably

anticipated to result in a material liability of such Person, (f) a Reportable Event or an event described in Section 4068(f) of ERISA which may result in a material liability of such Person, and (g) any other event or condition which under ERISA or the Code could be reasonably expected to constitute grounds for the imposition of a lien on the assets of such Person in respect of any Plan or Multiemployer Plan.

1.94. "Proceeding" shall mean any lawsuit, investigation, action, counterclaim, litigation or other judicial or administrative proceeding.

1.95. "Proceeds" shall mean whatever is receivable or received from or upon the sale, lease, license, collection, use, exchange or other disposition, whether voluntary or involuntary, of any Collateral, including "proceeds" as defined in the UCC, any and all proceeds of any insurance, indemnity, warranty or guaranty payable under or in connection with any of the Collateral, any and all payments (in any form whatsoever) made or due and payable from time to time in connection with any requisition, confiscation, condemnation, seizure or forfeiture of all or any part of the Collateral by any Governmental Authority (or any Person acting under color of Governmental Authority), any and all other amounts from time to time paid or payable under or in connection with any of the Collateral or for or on account of any damage or injury to or conversion of any Collateral by any Person, any and all other tangible or intangible property received upon the sale or disposition of Collateral, and all proceeds of proceeds.

1.96. "Program Documents" shall mean this Agreement, each Purchase and Sale Agreement, each Lockbox Agreement, the Union Planters Master Agreement, the Credit Insurance Policy, the subordination agreements delivered pursuant to Section 5.1, the other documents, agreements, letters and other items delivered pursuant to Section 5.1 or Section 5.2, any guaranty made by any Person in favor of the Lender with respect to the obligations of the Borrower, and any brokerage agreement, other agreement, letter, certificate, promissory note, UCC financing statement, report, financial statement, instrument, insurance policy, surety bond, application for an insurance policy or surety bond, or other document delivered pursuant to or in connection with any of the foregoing.

1.97. "Property" shall mean any interest in any kind of property or asset, whether real, personal or mixed, or tangible or intangible.

1.98. "Purchase and Sale Agreement" shall mean a purchase and sale agreement between the Borrower and a Seller, as such Purchase and Sale Agreement may be amended, amended and restated or otherwise modified from time to time. Any reference to the "related" or the "applicable" Purchase and Sale Agreement shall be a reference to the Purchase and Sale Agreement under which a particular Account was purchased by the Borrower.

1.99. "Purchase Date" shall mean, with respect to any Account, the related Weekly Closing Date.

1.100. "Purchased Accounts" shall mean Accounts which are purchased by the Borrower from a Seller pursuant to a Purchase and Sale Agreement.

1.101. "Rating Agency" shall mean Moody's, S&P or A.M. Best.

1.102. "Receivables" shall mean all Accounts.

1.103. "Regulations" shall mean the regulations promulgated under the Code.

1.104. "Related Property" shall mean, with respect to any Account, all of the Borrower's right, title and interest in, to and under (a) the related Purchase and Sale Agreement, including, without limitation, all amounts due and to become due to the Borrower under such Purchase and Sale Agreement, and all rights, remedies, powers, privileges and claims of the Borrower under such Purchase and Sale Agreement (whether arising pursuant to the terms of such Purchase and Sale Agreement or otherwise available to the Borrower at law or in equity), and (b) all related records and all rights (but not obligations) relating to such Accounts.

1.105. "Reorganization" shall mean, with respect to any Multiemployer Plan, the condition that such Plan is in reorganization within the meaning of Section 4241 of ERISA.

1.106. "Reportable Event" shall mean any of the events set forth in Section 4043(c) of ERISA.

1.107. "Requirements of Law" for any Person shall mean any law, treaty, rule or regulation, or determination of an arbitrator or Governmental Authority, whether Federal, state or local, in each case applicable to or binding upon such Person or to which such Person is subject.

1.108. "Revocation Order" shall mean a request, direction or order by a Seller to a Lockbox Bank which is inconsistent with the terms of the applicable Lockbox Agreement.

1.109. "Seller" shall mean a Person that transfers or has transferred Accounts to the Borrower pursuant to a Purchase and Sale Agreement.

1.110. "Senior Officer" shall mean the chief executive officer, chairman or president of the Borrower, all of whose incumbency and signatures have been certified to the Lender by the secretary or other appropriate attesting officer of the Borrower.

1.111. "Solvent" shall mean, with respect to any Person, that (i) fair value of the property of the Person is, on the date of determination, greater than the total amount of liabilities (including contingent liabilities) of the Person as of that date, (ii) as of that date, the Person is able to pay all liabilities of the Person as those liabilities mature, and (iii) the Person does not have unreasonably small capital for the business in which it is engaged or for any business or transaction in which it is about to engage. In computing the amount of contingent liabilities at any time, it is intended that

they be computed at the amount that, in light of all the facts and circumstances existing at the time, represents the amount that can reasonably be expected to become an actual or matured liability.

1.112. "Standard & Poor's" or "S&P" shall mean Standard & Poor's Ratings Services, a division of The McGraw-Hill Companies, Inc., and any successor thereto which is a nationally recognized statistical ratings organization.

1.113. "Subsidiary" shall mean any Person of which the Borrower (or other specified Person) shall at the time, directly or indirectly through one or more of its Subsidiaries, (a) own at least fifty percent (50%) of the outstanding capital stock (or other shares of beneficial interest) entitled to vote generally, (b) hold at least fifty percent (50%) of the partnership, joint venture or similar interests or (c) be a managing general partner or managing joint venturer.

1.114. "Sun Capital Entity" shall mean the Borrower and any Affiliate of the Borrower.

1.115. "Tax" shall mean any present or future tax, levy, duty, impost, deduction, withholding or other charges of whatever nature at any time required by any Legal Requirement (a) to be paid by the Lender or (b) to be withheld or deducted from any payment otherwise required hereby to be made to the Lender, in each case on or with respect to any obligations hereunder, any Loan, or any payment in respect of the Credit Obligations not included in the foregoing; provided, however, that the term "Tax" shall not include taxes imposed upon or measured by the net income of the Lender (other than withholding) or franchise taxes.

1.116. "Termination Date" shall mean the date upon which the commitment of the Lender to advance funds to the Borrower hereunder has been terminated, and all fees, expenses and Credit Obligations owing by the Borrower to the Lender hereunder or under any other Program Document have been indefeasibly paid in full.

1.117. "Tier 1 Accounts" means Eligible Accounts that are (a) Insured Accounts, or (b) the Obligors of which have long term, unsecured debt that is rated at least "AA +" by S&P, or (c) the Obligor of which is a Government Obligor.

1.118. "Tier 2 Accounts" means Eligible Accounts that are not Tier 1 Accounts.

1.119. "UCC" shall mean the Uniform Commercial Code, as amended from time to time, as now or hereafter in effect in any specified or applicable jurisdiction.

1.120. "Union Planters" shall mean Union Planters Bank, N.A., a national banking association.

1.121. "Union Planters Master Agreement" shall mean the Addendum among Union Planters, the Borrower and the Lender, as the same may be amended, amended and restated or otherwise modified from time to time.

1.122. "United States Funds" shall mean such coin or currency of the United States of America as at the time shall be legal tender therein for the payment of public and private debts.

1.123. "Weekly Closing Date" shall mean the day of the week on which the Borrower purchases accounts from a Seller.

1.124. "Weekly Report" shall mean a report prepared by the Borrower in form and substance reasonably satisfactory to the Lender.

1.125. "Written" or "in writing" shall mean any form of written communication, including by means of facsimile transmission.

2. Credit Application of Proceeds.

2.1. The Credit.

2.1.1. Loans. Subject to all the terms and conditions of this Agreement, including the conditions set forth in Section 5.1 and Section 5.2, and so long as no Default exists, either immediately before or after giving effect to such Loan, from time to time on and after the Effective Date and prior to the earlier of (a) the termination of this Agreement in accordance with the terms hereof and (b) the Availability Termination Date, the Lender shall make Loans to the Borrower, provided that the aggregate outstanding principal amount of the Loans shall not exceed the Maximum Amount of Credit. Loans shall be made in accordance with the procedures set forth in Section 2.1.3.

2.1.2. Borrowing Requests. The Borrower may from time to time request a Loan under Section 2.1.1 by providing to the Lender a notice in writing. Such notice must be received by the Lender not later than noon (Chicago time) three Business Days prior to the requested Closing Date for such Loan (or, in the case of the first Loan under this Agreement, at least one Business Day prior to the Initial Lending Date). The notice must specify (a) the amount of the requested Loan (which shall be not less than one hundred thousand dollars (\$100,000)) and (b) the requested Closing Date therefor (which shall be a Business Day).

2.1.3. Making of Loans. Subject to Section 2.1.1 and subject to the other terms and conditions of this Agreement, on each Closing Date requested by the Borrower pursuant to Section 2.1.2, the Lender shall deposit the amount of the requested Loan in the Factor Account. The Borrower may withdraw funds (or cause funds to be withdrawn) from the Factor Account without the signature of the Lender, provided, that funds shall be withdrawn from the Factor Account only (a) to purchase Accounts directly from a Seller pursuant to a Purchase and Sale Agreement or to (b) to make payments directly to the Lender for application in accordance with Section 4.5.2; provided, further, that no funds shall be withdrawn from the Factor Account to purchase Accounts from a Seller if any Default exists on the date of such withdrawal or would exist after giving effect to such withdrawal; provided, further, however, that upon the occurrence of an Event of Default, all amounts on

deposit in the Factor Account shall be paid to the Lender for application in accordance with Section 4.5.2.

2.1.4. Loans; No Note. The aggregate principal amount of the extensions of credit under this Agreement outstanding from time to time may be referred to herein as the "Loan" or the "Loans". The Borrower's obligations to repay the Loans to the Lender shall not be evidenced by a promissory note of the Borrower unless the Lender consents in writing thereto.

2.2. Application of Proceeds. The Borrower shall apply the proceeds of the Loans to pay the purchase price of Accounts to a Seller pursuant to a Purchase and Sale Agreement. The Borrower shall not borrow any funds from the Lender unless such funds are applied pursuant to the immediately preceding sentence or unless such funds are used to make payments to the Lender in accordance with Section 2.1.3; provided that the Borrower shall use proceeds of the first Loan under this Agreement to repay amounts owing by the Borrower under the Existing Loan Agreement (as amended as contemplated by Section 7.33 of this Agreement).

3. Interest

3.1. Interest. The Loans and other Credit Obligations shall accrue and bear interest at the Applicable Rate (or the Overdue Reimbursement Rate, if applicable). Prior to any accelerated maturity of the Loans, the Borrower shall pay accrued and unpaid interest on the Loans to the Lender on the first day of each calendar month and on the Final Maturity Date. Upon any accelerated maturity of any of the Credit Obligations pursuant to Section 8.2.3, the Borrower shall pay the Lender immediately all accrued and unpaid interest on the Loans. Upon the occurrence and during the continuance of an Event of Default, the Borrower shall pay interest on the Loans and any other amounts payable by the Borrower hereunder (including overdue interest, to the extent permitted by law) at the Overdue Reimbursement Rate for the period commencing on the date of such Event of Default until such Event of Default is cured or waived, as acknowledged in writing by the Lender.

3.2. Computations of Interest. For purposes of this Agreement, interest (and any other amount expressed as interest) shall be computed for actual days elapsed on the basis of a year of twelve (12) months having thirty (30) days each, provided that this shall not be construed to limit the per month interest calculation contemplated by the definition of Applicable Rate. If any payment required by this Agreement becomes due on any day that is not a Business Day, such payment shall be made on the next succeeding Business Day. If the due date for any payment of interest or principal is extended as a result of the immediately preceding sentence, interest shall be payable for the time during which payment is extended at the Applicable Rate (or the Overdue Reimbursement Rate, if applicable).

3.3. Taxes, Etc.

3.3.1. Taxes. All payments of the Credit Obligations shall be made without set-off or counterclaim and free and clear of any deductions, including deductions for Taxes, unless the Borrower is required by law to make such deductions. If after the date hereof (a) the Lender shall be subject to any Tax with respect to any payment of the Credit Obligations or its obligations hereunder or (b) the Borrower shall be required to withhold or deduct any Tax on any payment on the Credit Obligations, then the Lender may claim compensation from the Borrower under Section 3.3.2. Whenever Taxes must be withheld or deducted by the Borrower with respect to any payments of the Credit Obligations, the Borrower shall promptly pay such Taxes and shall promptly furnish to the Lender the official receipts (to the extent that the relevant governmental authority delivers such receipts) evidencing payment of any such Taxes so withheld or deducted. If the Borrower fails to pay any such Taxes when due or fails to remit to the Lender the required receipts evidencing payment of any such Taxes so withheld or deducted, the Borrower shall indemnify the Lender for any incremental Taxes and interest or penalties that may become payable by the Lender as a result of any such failure.

3.3.2. Compensation Claims. Within ten (10) days after the receipt by the Borrower of a certificate from the Lender setting forth why it is claiming compensation under this Section 3.3 and computations (in reasonable detail) of the amount thereof, the Borrower shall pay to the Lender such additional amounts as the Lender sets forth in such certificate as sufficient fully to compensate it on account of the foregoing provisions of this Section 3.3, together with interest on such amount from the tenth (10th) day after receipt of such certificate until payment in full thereof at the Overdue Reimbursement Rate. The determination by the Lender of the amount to be paid to it and the basis for computation thereof hereunder shall, in the absence of manifest error, be conclusive. In determining such amount, the Lender may use any reasonable averaging and attribution methods.

4. Payment.

4.1. Monthly Interest Payments. The Borrower shall cause the bank holding the Operating Account to remit by wire transfer on the first day of each calendar month, from the Operating Account to a bank account designated by the Lender from time to time, all accrued and unpaid interest on the Loans as of such day.

4.2. Payment Upon Maturity. On the Final Maturity Date, the Borrower shall pay to the Lender an amount equal to the outstanding principal amount of the Loans, together with all accrued and unpaid interest and fees with respect thereto. On the accelerated maturity of the Loans in accordance with Section 8.2.3, the Borrower shall pay to the Lender all Credit Obligations then outstanding.

4.3. Excess Credit Exposure. If at any time a Borrowing Base Deficiency exists for a period of two Business Days, the Borrower shall immediately, without demand or notice, pay the amount of such Borrowing Base Deficiency to the Lender.

4.4. Voluntary Prepayments. The Borrower may from time to time prepay all or any portion of the Loans (in a minimum amount of fifty thousand dollars (\$50,000) and an integral multiple of ten thousand dollars (\$10,000), or such lesser amount as is then outstanding, without premium or penalty of any type. The Borrower shall give the Lender at least one Business Day's prior written notice of its intention to prepay, specifying the date of payment, the total amount and portion of the Loans to be paid on such date and the amount of interest to be paid with such prepayment.

4.5. Application of Payments, etc.

4.5.1. [Reserved.]

4.5.2. Order of Application. All payments to the Lender pursuant to this Agreement shall be applied, without duplication, in the following order:

(i) first, to the Lender for application to overdue interest on the Credit Obligations;

(ii) second, to the Lender for application to accrued and unpaid interest on the Credit Obligations;

(iii) third, to the Lender for application to outstanding principal of the Loans;

(iv) fourth, to the Lender for (x) any and all sums advanced by the Lender in order to preserve the Collateral or the Lender's security interest in the Collateral (if the Borrower shall not have taken such actions as the Lender shall have requested with respect to preserving the Collateral or the Lender's security interest in the Collateral within two Business Days after such request by the Lender), (y) all expenses of (A) taking, holding, preparing for sale or lease, selling or otherwise disposing of or realizing on the Collateral or (B) any exercise by the Lender of its rights under any of the Program Documents, and (z) any attorney fees, other attorney charges and court costs; and

(v) fifth, to the Lender for application to any other Credit Obligations (it being agreed and understood that the Lender may hold payments pursuant to this Section 4.5.2 for application to future Credit Obligations).

4.5.3. Payment with Accrued Interest, etc. Upon all prepayments of the Loans, the Borrower shall pay to the Lender the principal amount to be prepaid, together with unpaid interest in respect thereof accrued to the date of prepayment. Notice of prepayment having been given in accordance with Section 4.4, the amount specified to be prepaid shall become due and payable on the date specified for prepayment.

4.6. Payments in United States Funds. All payments to the Lender (or to an account for the benefit of the Lender) under or in connection with this Agreement shall be made by wire transfer in immediately available United States Funds to an account designated from time to time by the Lender.

4.7. Reborrowing. Subject to Section 2.1.1 and subject to the other terms and conditions of this Agreement, the Borrower may borrow additional Loans after repaying outstanding Loans.

5. Conditions to Loans.

5.1. Conditions of Effective Date. The occurrence of the Effective Date and the Lender's willingness to make the initial Loan pursuant to Section 2 on the Effective Date shall be subject to the receipt by the Lender of the following, each in form and substance (including the date thereof) satisfactory to the Lender:

(a) Counterparts of this Agreement, signed by the Borrower.

(b) Copies, certified by the Secretary of the Borrower, of (i) resolutions of its board of directors, (ii) its certificate of incorporation, certified by the Secretary of State of Florida, and (iii) its by-laws.

(c) A certificate of the Secretary or Assistant Secretary (or other appropriate office) of the Borrower certifying the names and true signatures of the officers of the Borrower authorized to sign the Program Documents to which it is a party. Until the Lender receives a subsequent incumbency certificate from the Borrower, in form and substance satisfactory to the Lender, the Lender shall be entitled to rely on the last such certificate delivered to it by the Borrower.

(d) Acknowledgment copies, or other evidence of filing acceptable to the Lender, of proper UCC financing statements, duly filed against the Borrower in Florida and any other jurisdictions that the Lender may deem necessary or desirable in order to perfect the interests of the Lender contemplated by this Agreement and, if requested by the Lender, a separate written authorization from the Borrower with respect to filing of such UCC financing statements.

(e) Completed UCC search reports with respect to the Borrower and similar search reports in such jurisdictions as the Lender may request, in each case showing no liens on any of the Collateral, and UCC termination statements that terminate any UCC financing statements filed against the Borrower in favor of third parties.

(f) Favorable opinions of Ullman, Ullman & Vazquez, P.A., counsel for the Borrower.

(g) Evidence of payment by the Borrower of all accrued and unpaid fees; costs and expenses to the extent then due and payable, together with fees and other charges of Mayer, Brown & Platt, counsel to the Lender, arising prior to or on such date, plus such additional amounts of fees and charges of counsel to the Lender as shall constitute such counsel's estimate of fees and charges incurred or to be incurred through the closing proceedings (provided that such estimate shall not thereafter preclude final settling of accounts with respect thereto). The Lender shall have the right to "net" such fees, costs, expenses and amounts from the amount payable in respect of the first Loan under this Agreement.

(h) A good standing certificate issued by the Secretary of State of Florida with respect to the Borrower.

(i) A payoff letter signed by Existing Lender and the Borrower relating to the Existing Loan Agreement, as amended, UCC termination statement(s) relating to the Existing Loan Agreement, as amended, and a letter from the Existing Lender to Union Planters to the effect that the Existing Lender is terminating its interest in the post office box in which collections of the Purchased Accounts are deposited.

(j) A copy of the Credit Insurance Policy certified by an officer of the Borrower, and related endorsements in favor of the Lender.

(k) The agreements giving rise to the subordinated debt referred to on Schedule 7.32, and subordination agreements relating thereto in favor of the Lender.

(l) (i) Evidence of (x) repayment of the debt owed by the Borrower to Sun Capital Healthcare, Inc., (y) satisfaction, return and cancellation of the related secured promissory notes, and (ii) the filing of a related UCC termination statement and evidence that Sun Capital Healthcare, Inc. has authorized the filing of such UCC termination statement.

(m) Such other approvals, opinions, certificates, reports and documents as the Lender may request, including affidavits relating to the signature of this Agreement by the Borrower and the Lender outside of the State of Florida.

5.2. Conditions to Each Loan. It shall be a condition precedent to the making of each Loan (including without limitation the first Loan) by this Lender pursuant to this Agreement that all of the conditions set forth in this Section 5.2 shall have been satisfied on or before the Closing Date for such Loan:

5.2.1. General; Officer's Certificate.

(a) The Availability Termination Date shall not have occurred;

(b) the representations and warranties contained in Section 7 shall be true and correct on and as of such Closing Date (except as to any representation or warranty which refers only to a specific earlier date which representation and warranty shall be true and correct as of such earlier date);

(c) no Default shall exist on such Closing Date prior to or immediately after giving effect to the requested Loan;

(d) no Material Adverse Effect shall have occurred since the date of this Agreement;

(e) the funds received from such Loan shall be applied only for the purposes contemplated by Section 2.2;

(f) after giving effect to such Loan, no Borrowing Base Deficiency shall exist; and

(g) the Lender shall have received from the Borrower in connection with the requested Loan an Officer's Certificate to these effects (substantially in the form of Exhibit D hereto) and showing the amount of the Borrowing Base, signed by a Senior Officer.

5.2.2: Legality, Etc. The making of the requested Loan shall not (a) subject the Lender to any penalty or special tax or (b) be prohibited by any Legal Requirement.

5.2.3: Perfection of Security. The Borrower shall have duly authorized, executed, acknowledged, delivered, filed, registered and recorded such security agreements, notices, financing statements and other instruments as the Lender may have requested in order to perfect the Liens of the Lender in the Collateral. The Lender shall have received a copy of any search reports and legal opinions (in form and substance satisfactory to the Lender) with respect to security interests and other matters requested by the Lender.

5.2.4: Purchase and Sale Agreements. Other than as consented to by the Lender in writing:

(a) The Lender shall have received a copy of each applicable Purchase and Sale Agreement, duly executed by each of the parties thereto, pursuant to which the Borrower shall purchase Accounts with the proceeds of the requested Loan, certified as true, correct and complete by a Senior Officer. The provisions of each Purchase and Sale Agreement shall be in full force and effect and shall not have been amended, modified, waived or terminated.

(b) All of the representations and warranties of the Seller set forth in such Purchase and Sale Agreement shall be true, complete and correct in all material respects on

and as of such Closing Date with the same force and effect as though made on and as of such date.

(c) All of the conditions to the obligations of the Borrower and the Seller set forth in such Purchase and Sale Agreement shall have been satisfied.

(d) Such Purchase and Sale Agreement and the transactions contemplated thereby shall have been authorized by all necessary corporate, partnership or other proceedings by the parties thereto. Any consent, authorization, order or approval of any governmental or administrative agency or any other Person required in connection with the transactions contemplated by such Purchase and Sale Agreement shall have been obtained and shall be in full force and effect.

(e) The Borrower shall have followed its usual and customary guidelines in evaluating the Seller and in determining whether to enter into a Purchase and Sale Agreement with such Seller.

5.2.5. Weekly Report. The Lender shall have received a copy of the most recent Weekly Report required to be delivered pursuant to Section 6.5(e).

5.2.6. Lockbox Agreements. The Lender shall have received a copy of the applicable Lockbox Agreements, duly executed by each of the parties thereto. The provisions of each Lockbox Agreement shall be in full force and effect and shall not have been amended, modified, waived or terminated without the prior written consent of the Lender.

5.2.7. Factor Account. The Lender shall have received evidence satisfactory to it with respect to the existence of the Factor Account.

5.2.8. General. The Lender shall have received such information, approvals, opinions, resolutions, certificates, reports, and documents as reasonably requested by the Lender and the Borrower shall have satisfied such other conditions as the Lender may reasonably impose.

5.2.9. Effective Date. The Effective Date has occurred in accordance with the terms of this Agreement.

5.2.10. Cross Default, Etc.

(a) No Sun Capital Entity shall have failed to make any payment when due (after giving effect to any applicable grace periods) in respect of any indebtedness having an aggregate amount of principal (whether or not due) and accrued interest, if applicable, exceeding one hundred thousand dollars (\$100,000).

(b) No Sun Capital Entity shall have failed to perform or observe the terms of any agreement or instrument relating to any Indebtedness having an aggregate amount of principal (whether or not due) and accrued interest, if applicable, exceeding one hundred thousand dollars (\$100,000).

(c) No Indebtedness of any Sun Capital Entity shall have been accelerated or shall have become due or payable prior to its stated maturity (except with respect to voluntary prepayments thereof) for any reason whatsoever.

(d) No Lien on any property of any Sun Capital Entity securing any Indebtedness shall have been enforced by foreclosure or similar action.

(e) No holder of any such Indebtedness shall have exercised any right of rescission with respect to the issuance thereof or any put or repurchase rights against any Sun Capital Entity with respect to such Indebtedness.

(f) No holder of any such Indebtedness shall have terminated any agreement or instrument in respect of such Indebtedness other than as a result of the occurrence of the scheduled termination date thereof.

5.2.11. Agreed-Upon Procedures Report. Not later than the date specified in Section 6.33, the Lender and the accountants referred to in Section 6.33 shall have mutually agreed as to the "agreed-upon procedures" to be applied pursuant to Section 6.33.

5.2.12. Credit Insurance Policy. The Credit Insurance Policy shall not have been amended, modified, waived or terminated without the prior written consent of the Lender. The Lender shall have received such loss payee and additional insured endorsements with respect to the Credit Insurance Policy as to the Lender may request.

In addition, it shall be a condition precedent to the making of any Loan on or after February 1, 2002 that the Lender shall have received (a) the Union Planters Master Agreement, in form and substance satisfactory to the Lender, signed by Union Planters and the Borrower, (b) the agreements (the "Underlying Agreements") between Union Planters and the Borrower referred to in the Union Planters Master Agreement, which Underlying Agreements shall have been signed by Union Planters and the Borrower, and (c) a favorable opinion of Ullman, Ullman & Vazquez, P.A., counsel for the Borrower, with respect to the Union Planters Master Agreement, which opinion shall be substantially in the form of the opinion delivered pursuant to Section 5.1.

6. General Covenants: The Borrower covenants that, until all of the Credit Obligations shall have been paid in full and until this Agreement and all other Program Documents shall have been irrevocably terminated, the Borrower shall comply with the following provisions:

6.1. Compliance with Laws, Etc. The Borrower shall: (i) duly satisfy all of its obligations in connection with the Accounts and the Related Property, (ii) maintain in effect all qualifications

required under Requirements of Law in order to properly purchase and service the Accounts and other Related Property under the Purchase and Sale Agreements and (iii) comply with all Requirements of Law applicable to it in each case to the extent that failure to so maintain or comply, individually or in the aggregate, could reasonably be expected to have a Material Adverse Effect.

6.2. Preservation of Existence. The Borrower (i) shall preserve and maintain its corporate existence, rights, franchises and privileges in the jurisdiction of its incorporation, and (ii) shall qualify and remain qualified in good standing as a foreign corporation in each jurisdiction where the failure to preserve and maintain such existence, rights, franchises, privileges and qualification could, if not remedied, reasonably be expected to have a Material Adverse Effect.

6.3. Audits. During normal business hours and with at least three Business Days' notice furnished by the Lender to the Borrower (provided that if a Default shall have occurred, only one Business Day's notice need be so furnished), the Borrower shall permit the Lender, or its agents or representatives, (i) to examine and make copies of and abstracts from all books, records and documents (including without limitation computer tapes and disks, provided that if copying of a software program used by the Borrower is prohibited by an enforceable agreement between the Borrower and the third party licensor of such software program (which licensor shall not be an Affiliate of the Borrower), then the Borrower shall print out all information contained in such software program instead of copying it)) in the possession or under the control of the Borrower relating to the Accounts and any other Property and (ii) to visit the offices and properties of the Borrower for the purpose of examining such materials and to discuss matters relating to the Accounts and any other Property or the Borrower's performance hereunder or under any other Program Document with any of the officers or employees of the Borrower having knowledge thereof. Any such examination, copying, printing or visit made pursuant to this Section 6.3 shall be at the cost and expense of the Borrower.

6.4. Continuous Perfection. The Borrower shall not change its name, identity, structure or jurisdiction of incorporation in any manner unless the Borrower shall have given the Lender at least ninety (90) days' prior written notice thereof and shall have taken all action sixty (60) days prior to making such change as is necessary or advisable in the judgment of the Lender to cause the security interest of the Lender in the Collateral to continue to be a first priority perfected security interest. The Borrower shall not change its principal place of business or its chief executive office or change the location of its principal records concerning the Collateral from the locations specified in Section 7.10 unless it has given the Lender at least sixty (60) days' prior written notice of its intention to do so and has taken such action as is necessary or advisable in the judgment of the Lender to cause the security interest of the Lender in the Collateral to continue to be a first priority perfected security interest. The Borrower shall at all times maintain its principal place of business and its chief executive office and any other office at which it maintains records relating to the Collateral within the United States of America.

6.5. Reporting and Certain Other Requirements. Unless the Lender consents in writing, the Borrower shall furnish to the Lender:

(a) Defaults. Except as otherwise provided herein, within two Business Days after any officer of the Borrower has knowledge of the occurrence of any Event of Default or other Default, a written statement describing the Event of Default or other Default and the action that the Borrower proposes to take with respect thereto, in each case in reasonable detail.

(b) Material Adverse Effect. Within two Business Days after any officer of the Borrower has knowledge thereof, written notice that describes in reasonable detail any Lien against any Collateral or any other event or occurrence that, individually or in the aggregate for all such Liens, events or occurrences, has had or could reasonably be expected to have a Material Adverse Effect. Without limiting the foregoing, the Borrower shall notify the Lender promptly of all disputes and claims in connection with any material portion of the Accounts.

(c) Proceedings. Within five Business Days after any officer of the Borrower has knowledge thereof, written notice of (i) any Proceeding of the type described in Section 7.7 not previously disclosed to the Lender and (ii) any adverse development that has occurred with respect to any such previously disclosed Proceeding.

(d) Financial Statements.

(i) As soon as available and in any event within ninety (90) days after the end of each fiscal year of the Borrower, audited statements of income, retained earnings and cash flow of the Borrower for such fiscal year and the related audited balance sheet as of the end of such fiscal year (collectively, the "Audited Financial Statements"), setting forth in comparative form the corresponding figures for the preceding fiscal year, and accompanied by (x) a report of the Borrower's independent-certified public accountants (which shall be a "Big 5" firm and which may also render other services to the Borrower or any Affiliate thereof), which report shall state that such Audited Financial Statements fairly present the financial condition and results of operations of the Borrower in accordance with GAAP.

(ii) As soon as available and in any event within forty-five (45) days after the end of each quarterly fiscal period of each fiscal year of the Borrower, statements of income, retained earnings and cash flow of the Borrower for such period and for the period from the beginning of the current fiscal year to the end of such period, and the related balance sheet as of the end of such period, setting forth in each case in comparative form the corresponding figures for the corresponding period in the preceding fiscal year, and accompanied by a certificate of the chief financial officer of the Borrower, which certificate shall state that such financial statements fairly present the financial condition and results of operations of the Borrower in

accordance with GAAP (subject to normal year-end adjustments and absence of footnote disclosures).

(iii) As soon as available and in any event within thirty (30) days after the end of each calendar month, statements of income, retained earnings and cash flow of the Borrower for such calendar month and the related balance sheet as of the end of such calendar month, setting forth in each case in comparative form the corresponding figures for the corresponding calendar month in the preceding fiscal year, and accompanied by a certificate of the chief financial officer of the Borrower, which certificate shall state that such financial statements fairly present the financial condition and results of operations of the Borrower in accordance with GAAP (subject to normal year-end adjustments).

(iv) Promptly after the receipt thereof, copies of all "management letters" received by the Borrower from its independent accountants.

(e) Weekly Reports. On a weekly basis, not later than the third Business Day of each week, a Weekly Report with respect to the immediately preceding week.

(f) Cross-Defaults, Etc. Promptly after any failure or occurrence of the type contemplated by Section 5.2.10, notice as to such failure or occurrence.

(g) Legal Opinions. During the months of July and December of each year, commencing in 2002, an opinion of counsel to the Borrower, in form and substance satisfactory to the Lender and from counsel satisfactory to the Lender, to the effect that as of June 30 of such year (with respect to the opinion required to be delivered in July) and as of November 30 of such year (with respect to the opinion required to be delivered in December):

(i) all UCC filings that are necessary to perfect the security interest granted to the Lender in the Collateral pursuant to this Agreement have been filed in the appropriate public filing offices in the appropriate jurisdictions, and no additional UCC filings are necessary within the next twelve months (or if any such filings are necessary, identifying such filings) to maintain the perfection of such security interest; and

(ii) all UCC filings that are necessary to perfect the interests of the Borrower in the Purchased Accounts have been filed in the appropriate public filing offices in the appropriate jurisdictions, and no additional UCC filings are necessary within the next twelve months (or if any such filings are necessary, identifying such filings) to maintain the perfection of such interests.

(h) Other. Promptly, from time to time, any other information, notices or documents with respect to the Receivables, the Related Property, any other Collateral or any

other Property or any Program Document, or any other information to which the Borrower reasonably has access with respect to the condition or operations, financial or otherwise, of the Borrower or any Seller, in each case as the Lender may from time to time request.

6.6. Assessments. The Borrower shall promptly pay and discharge all taxes, assessments, levies and other governmental charges imposed on it and with respect to its Properties.

6.7. Further Action; Non-Interference. The Borrower shall, from time to time, execute and deliver to the Lender any instruments, financing or continuation statements or other writings necessary or desirable in the judgment of the Lender (i) to maintain the perfection and priority of the Lender's interest in the Collateral under the UCC or other applicable Requirements of Law or (ii) to further the purposes or provisions of this Agreement. Without limiting the foregoing, the Borrower shall execute and deliver to the Lender any and all forms (including without limitation Forms 8821 or 2848) that the Lender may request from time to time in order to enable the Lender to obtain and receive tax information with respect to the Borrower from the U.S. Department of the Treasury, U.S. Internal Revenue Service or any other federal, state or local taxing authority, or in order to obtain and receive tax refund checks or other payments. The Borrower shall not interfere with the Lender's exercise of its rights or remedies under the Lockbox Agreements, under any other Program Document, or under applicable law.

6.8. Additional Indebtedness. The Borrower shall not create, incur, assume or suffer to exist any Indebtedness (including any Guarantee) or expenses (whether or not accounted for as a liability) or cause to be issued for its account any letters of credit or bankers' acceptances, except (i) Credit Obligations and Permitted Subordinated Debt; (ii) indebtedness or other expenses to its professional advisers and its counsel; and (iii) accounts payable in the ordinary course of business.

6.9. No Transfer. The Borrower agrees that, except as contemplated by this Agreement and any Purchase and Sale Agreement, it (i) shall not sell, assign, pledge, convey or otherwise transfer any of its Property or interest therein, (ii) shall not grant, create, incur, or suffer to exist any Lien on any of its Property or any interest therein, (iii) shall notify the Lender upon becoming aware of any such Lien, and (iv) shall defend the interest of the Lender in the Collateral against all claims of other Persons claiming through the Borrower.

6.10. No Other Activities. The Borrower shall not engage in any activity other than those contemplated by this Agreement. The Borrower shall not make any Capital Expenditures, except for expenditures on office equipment and office supplies in the ordinary course of business. The Borrower shall not make any Investments other than (x) the purchase of Accounts pursuant to Purchase and Sale Agreements, and (y) Eligible Investments. Neither the Borrower nor any Person on behalf of the Borrower shall maintain any lockboxes, deposit accounts or other similar accounts, except the Lockboxes, the Lockbox Accounts, the Operating Account, the Factor Account and bank accounts maintained for the payment of reasonable expenses incurred in the ordinary course of business and the deposit of amounts which are not otherwise required to be paid to the Lender in accordance with this Agreement.

6.11. Enforcement. The Borrower shall take all action necessary and appropriate to enforce its rights and claims under each Purchase and Sale Agreement and each Lockbox Agreement. If, upon notice from the Lender, the Borrower does not take such necessary and appropriate action, then, the Lender may, but shall not be obligated to, take such action, provided that the Lender's taking or refraining from taking such action shall not constitute a waiver of the Borrower's failure to take such action.

6.12. Separateness. The Borrower shall not permit its assets to be commingled with those of any other Sun Capital Entity, the Borrower shall maintain separate corporate records and books of account from those of each other Sun Capital Entity, and the Borrower shall conduct its business from an office separate from that of each other Sun Capital Entity with a telephone number and stationery which are separate from the telephone number and stationery of each other Sun Capital Entity (it being understood that, subject to the foregoing, the office of the Borrower may be at the same location as the office of any other Sun Capital Entity). The Borrower shall conduct its business solely in its own name and shall cause each other Sun Capital Entity to conduct its respective business solely in that respective Sun Capital Entity's own name so as not to mislead others as to the identity of the entity with which those others are concerned. The Borrower shall not incur any direct, indirect or overhead expenses that are material for any items shared between the Borrower and any other Sun Capital Entity, other than shared expenses that shall be allocated on a basis reasonably related to the value of services rendered or property used. The Borrower shall not hold itself out, or permit itself to be held out, as having agreed to pay, or as being liable for, the debts of any other Sun Capital Entity, and the Borrower shall cause each other Sun Capital Entity not to hold itself out, or permit itself to be held out, as having agreed to pay, or as being liable for, the debts of the Borrower. The financial statements of the Borrower shall reflect that it is a corporation which is separate from each other Sun Capital Entity. The Borrower shall observe all formalities of an independent corporation.

6.13. Amendment to Documents; Assignments and Delegations. The Borrower shall not amend, grant any consent under, waive, terminate or otherwise modify any or all provisions of its Constituent Documents, any Purchase and Sale Agreement, any Lockbox Agreement or any other Program Document without the prior written consent of the Lender. Without limiting the foregoing, the Borrower shall not assign any of its rights or delegate any of its obligations under or in connection with any Program Document without the prior written consent of the Lender.

6.14. ERISA. The Borrower shall promptly give the Lender notice of the following events, as soon as possible and in any event within ten (10) days after the Borrower or any of its ERISA Affiliates knows or has reason to know thereof: (i) the occurrence or expected occurrence of any Reportable Event with respect to any Plan to which the Borrower or any of its ERISA Affiliates contributed, or any withdrawal from, or the termination, reorganization or Insolvency of, any Multiemployer Plan to which the Borrower or any of its ERISA Affiliates contributes or to which contributions have been required to be made by the Borrower or such ERISA Affiliate during the preceding five years or (ii) the institution of proceedings or the taking of any other action by the PBGC or the Borrower or any of its ERISA Affiliates or any such Multiemployer Plan with respect

to the withdrawal from; or the termination, Reorganization or Insolvency of any such Plan or Multiemployer Plan.

6.15. Copies of Notices, Waivers, Etc. Upon the Lender's request, the Borrower shall promptly give the Lender copies of any notices, reports or certificates given or delivered to the Borrower under any Purchase and Sale Agreement, the Credit Insurance Policy or any Program Document to which the Borrower is a party. The Borrower shall provide the Lender a copy of any claim made by the Borrower under the Credit Insurance Policy at the time such claim is made (and any related correspondence at the time such correspondence is sent or received by the Borrower) and shall provide the Lender with monthly updates as to the status of such claim.

6.16. Subsidiaries, Distributions. The Borrower shall not create any Subsidiary. The Borrower shall not make any Distributions (i) more frequently than once each calendar quarter; (ii) if such payment would be prohibited under applicable law; and (iii) after the occurrence of a Default, without the prior written consent of the Lender.

6.17. Maximum Amount of Purchased Accounts. Except to the extent specifically approved in writing by the Lender, the Borrower shall not purchase under any Purchase and Sale Agreement any single Tier 2 Account having a Confirmed Collectible Amount, or Related Accounts having an aggregate Confirmed Collectible Amount, in excess of two hundred fifty thousand dollars (\$250,000). For purposes of the immediately preceding sentence, "Related Accounts" means two or more Accounts payable by the same Obligor.

6.18. Maximum Amount of Accounts per Seller. Except to the extent specifically approved in writing by the Lender, the Borrower shall not purchase any Accounts from any single Seller to the extent that the portion of the outstanding Loans utilized to fund the purchase of Accounts from such Seller would exceed an amount equal to twenty-five percent (25%) of the Maximum Amount of Credit.

6.19. Limitation on Amount Advanced. (a) Unless the Lender has given its prior written approval to the contrary, the Borrower shall not purchase any Account unless (i) if such Account is a Tier 1 Account, the Amount Paid to Seller for such Account is less than or equal to eighty-five percent (85%) of the Net Face Value of such Account; and (ii) if such Account is a Tier 2 Account, the Amount Paid to Seller for such Account is less than or equal to seventy-five percent (75%) of the Confirmed Collectible Amount of such Account.

(b) The Borrower agrees that (i) the amount payable to any broker with respect to any Accounts purchased pursuant to the applicable Purchase and Sale Agreement shall not exceed twenty percent (20%) of the Discount Fees collected by the Borrower pursuant to such Purchase and Sale Agreement, and (ii) such brokerage fees shall be payable and paid only out of such Discount Fees.

6.20. Purchase and Sale Agreements. The Borrower shall acquire Accounts solely pursuant to Purchase and Sale Agreements. The Borrower shall not sign a Purchase and Sale Agreement, and

shall not cause a Purchase and Sale Agreement to be signed, unless such Purchase and Sale Agreement conforms in all material respects to the Form Purchase and Sale Agreement; provided, however, that no Purchase and Sale Agreement signed after the date of this Agreement shall contain any reference to the Existing Lender or to Capital Business Credit or to Capital Factors, Inc.

6.21. Lockbox Agreements. The Borrower shall not sign any lockbox agreement or similar agreement, and shall not cause a lockbox agreement or blocked account agreement to be signed, unless such lockbox agreement or similar agreement, as the case may be, is in form and substance satisfactory to the Lender.

6.22. Taxes. The Borrower shall file or cause to be filed all Federal, state, and local tax returns that it is required to file under applicable law, and pay or cause to be paid all taxes shown to be due and payable on such returns or on any assessments it receives, except any taxes or assessments the validity of which is being contested in good faith by appropriate proceedings and with respect to which the Borrower has set aside adequate reserves on its books in accordance with GAAP and which proceedings could not reasonably be expected to have a Material Adverse Effect (which reserves and unpaid taxes shall not, on an aggregate basis, exceed five percent (5%) of the Outstanding Amounts Paid to Sellers as of the time any such reserves are set aside).

6.23. Merger or Consolidation, Sales of Assets, Etc. The Borrower shall not consolidate, with or merge into any other Person. The Borrower shall not convey or transfer any of its Properties to any Person except for (a) payments made pursuant to this Agreement, the Lockbox Agreements and the Purchase and Sale Agreements and (b) payments made by the Borrower in the ordinary course of its business which do not conflict with the terms of this Agreement.

6.24. Solvency. The Borrower shall continue to be Solvent.

6.25. Derivative Contracts. The Borrower shall not enter into any Interest Rate Protection Agreement, foreign currency exchange contract or other financial or commodity derivative contracts.

6.26. Negative Pledge Clauses; Subordination. The Borrower shall not enter into any agreement (other than this Agreement), instrument, deed or lease which prohibits or limits the ability of the Borrower to create, incur, assume or suffer to exist any Lien upon any of its Property, whether now owned or hereafter acquired, or which requires the grant of any collateral for any obligation if collateral is granted for another obligation. The Borrower shall not (i) enter into any agreement to subordinate its rights with respect to any Accounts or other Property without the prior written consent of the Lender, or (ii) amend, waive or otherwise modify any such agreement without the prior written consent of the Lender.

6.27. Transactions with Affiliates. The Borrower shall not effect any transaction with any Sun Capital Entity or any of the Borrower's or any Sun Capital Entity's Affiliates on a basis less favorable to the Borrower than would be the case if such transaction had been effected with a non-Affiliate.

6.28. Sellers Subject to Debtor Relief Laws. The Borrower shall not purchase any Accounts from a Seller that is a party to a proceeding under any Debtor Relief Law (other than solely as a creditor) without the prior written consent of the Lender.

6.29. Servicing of Accounts. If and to the extent that the Borrower services Accounts, the Borrower shall service and administer the Accounts and shall collect payments due under the Accounts in a prudent and lawful manner and with a standard of care that is not less than the standard of care that is customary in the industry.

6.30. Insurance Policies. The Borrower shall maintain, at its own expense, one or more fidelity bonds and errors and omissions insurance policies, with broad coverage with responsible companies, with respect to officers and employees (in the case of a fidelity bond) and all officers, directors and employees (in the case of an errors and omissions insurance policy) acting on behalf of the Borrower with regard to its responsibilities as Borrower, which bonds and policies shall name the Lender as the loss payee and as an additional insured. Such bonds and policies shall protect and insure the Borrower (and the Lender) against losses, including forgery, larceny, dishonest or fraudulent acts (in the case of a fidelity bond) and errors and omissions (in the case of an errors and omissions insurance policy) of such persons and shall be maintained in a form and amount approved by the Lender.

The Borrower, at its expense, shall keep and maintain its assets insured against loss or damage by fire, theft, explosion, sprinklers and all other hazards and risks ordinarily insured against by other owners who use such properties in similar businesses for the full insurable value thereof. The Borrower shall deliver to the Lender certified copies of such policies of insurance and evidence of the payments of all premiums therefor. The Borrower shall also keep and maintain business interruption, public liability and property damage insurance relating to the Borrower's ownership and use of its assets. All such policies of insurance shall be in such form, with such companies, and in such amounts as may be satisfactory to the Lender. All such policies of insurance (except those of public liability and property damage) shall contain an endorsement in a form satisfactory to the Lender showing the Lender as a loss payee thereof, and all proceeds payable thereunder shall be payable to the Lender and, upon receipt by the Lender, shall be applied on account of the Credit Obligations. To secure the payment of the Credit Obligations, the Borrower grants the Lender a security interest in and to all such policies of insurance (except those of public liability and property damage) and the proceeds thereof, and the Borrower shall direct all insurers under such policies of insurance to pay all proceeds thereof directly to the Lender.

No provision of this Section 6.30 requiring such bonds and insurance policies shall diminish or relieve the Borrower from its duties and obligations as set forth in this Agreement. The proceeds from any such bond or insurance policy shall be delivered to the Lender and deemed to be Collateral. Any such bond and insurance policy shall not be canceled or modified without ten (10) days' prior written notice to the Lender.

6.31. Modification of Terms. The Borrower shall not permit any rescission or cancellation of a Purchased Account except as ordered by a court of competent jurisdiction or other Governmental Authority or as otherwise consented to by the Lender in writing. The Borrower shall not, except with the prior written consent of the Lender, extend, amend or otherwise modify the terms of any Purchased Account.

6.32. Methods of Collection; Obligor Notices; Factor Account. (a) In connection with each Lockbox Agreement, the Borrower shall cause the related Lockbox Bank to establish a Lockbox and a Lockbox Account:

(b) The Borrower shall cause Obligor Notices to be mailed to the Obligor of each Account, by certified mail, return receipt requested, prior to the time that the Borrower purchases such Account. If a Seller or the Borrower shall neglect or refuse to send an Obligor Notice to an Obligor, then the Lender shall be entitled to send an Obligor Notice to such Obligor. All Collections on Accounts transmitted by Obligors to the Borrower (or by a Seller or other Person to the Borrower) rather than directly to a Lockbox or a Lockbox Account shall be held by the Borrower in trust for the benefit of the Lender and shall be delivered by the Borrower to a Lockbox or a Lockbox Account no later than the Business Day following receipt thereof by the Borrower. The Borrower agrees that it shall not commingle any Collections with any of the Borrower's other funds or property, but shall hold them separate and apart therefrom in trust for the Lender until such Collections are deposited into the relevant Lockbox or Lockbox Account.

(c) The Borrower shall not change the foregoing method of collection or the related instructions to Obligors except with the prior written consent of the Lender.

(d) The Borrower hereby authorizes the Lender, and grants to the Lender an irrevocable power of attorney, with full power of substitution and coupled with an interest, to take in the Borrower's name any and all steps as are necessary or advisable, in the determination of the Lender, in order to change, modify or rescind the direction set forth in any Obligor Notice sent pursuant to a Purchase and Sale Agreement.

(e) The Borrower shall instruct the Lockbox Bank to transfer items on deposit in the Lockboxes only to the Lockbox Accounts. The Borrower shall instruct the Lockbox Bank to transfer amounts on deposit in the Lockbox Accounts only (i) to the Factor Account or (ii) to or at the direction of the Lender. Notwithstanding the foregoing, if one or more Events of Default shall occur and be continuing, (i) the Borrower shall not give any instructions to any Lockbox Bank without the prior written consent of the Lender and (ii) the Borrower shall give instructions to each Lockbox Bank in accordance with the instructions of the Lender.

6.33. Independent Public Accountants' Borrower Report. The Borrower, at the expense of the Borrower, shall cause a firm of nationally recognized independent public accountants (which shall be a "Big 5" firm (or other firm satisfactory to the Lender) and which may also render other

services to the Borrower or any Affiliate thereof) to furnish a report to the Lender on or before the 45th day following June 30 and December 31 of each year (each such report shall cover the six month period ending on such June 30 or December 31 (or, in the case of the first such report, the period since the date of the first Loan under this Agreement)); in each case to the effect that such accountants have applied certain agreed-upon procedures that the Lender and such accountants shall have agreed upon prior to March 31, 2002, which procedures may be modified from time to time by such accountants with the prior written consent of the Lender.

6.34. Covenant to Maintain Privileges. The Borrower shall maintain all of its rights, powers and privileges relevant to the collectibility of the Purchased Accounts.

6.35. Protection of the Lender's Rights. The Borrower shall take no action which, nor omit to take any action the omission of which, could impair the rights of the Lender in any Purchased Account, the Related Property or any other Collateral.

6.36. Modification of Systems. The Borrower agrees, promptly after the replacement or any material modification of any computer, automation or other operating systems (in respect of hardware or software) used in the conduct of the Borrower's business, including in connection with making any calculations or reports hereunder, to give notice of any such replacement or modification to the Lender.

6.37. Keeping of Records and Books of Account. The Borrower shall maintain and implement administrative and operating procedures (including the ability to recreate records evidencing the Receivables in the event of the destruction of the originals thereof), and keep and maintain all documents, books, computer records and other information, reasonably necessary or advisable for the collection of all the Purchased Accounts and the Related Property. Such documents, books and computer records shall reflect all facts giving rise to the Purchased Accounts and the Related Property, all payments and credits with respect thereto, and shall indicate the interests of the Lender in the Purchased Accounts, the Related Property and all other Collateral.

6.38. Factor Account.

(a) The Borrower shall not terminate the Factor Account without the prior written consent of the Lender.

(b) Funds shall be deposited in and withdrawn from the Factor Account in accordance with Section 2.1.3.

(c) Until released from the Factor Account, funds on deposit in the Factor Account, shall be invested only in Eligible Investments. Upon the request of the Lender from time to time, (x) the Borrower shall cease causing such funds to be invested, and (y) the Borrower shall cause all investments of such funds to be sold or otherwise liquidated, in each case in accordance with the instructions of the Lender.

(d) Interest and other investment earnings on amounts in the Factor Account shall be retained in the Factor Account, and shall be considered to be amounts on deposit therein until withdrawn therefrom in accordance with this Agreement.

6.39. Credit Insurance Policy. The Borrower shall: (i) comply with all of the terms and conditions of the Credit Insurance Policy; (ii) make claims under the Credit Insurance Policy in a timely manner; and (iii) maintain the Credit Insurance Policy in full force and effect.

7. Representations and Warranties. In order to induce the Lender to extend credit to the Borrower hereunder, the Borrower represents and warrants as follows on the date of this Agreement and on the Closing Date for each Loan:

7.1. Organization and Good Standing. The Borrower is a corporation duly organized and validly existing in good standing under the laws of the State of Florida, and has full corporate power, authority and legal right to execute, deliver and perform its obligations under each Program Document to which it is a party, and to own its properties and conduct its business as such properties are presently owned and as such business is presently conducted.

7.2. Due Qualification. The Borrower is duly qualified to do business and is in good standing as a foreign corporation (or is exempt from such requirements), and has obtained all necessary licenses and approvals with respect to the Borrower, in each jurisdiction in which the failure to be in good standing, to be so qualified or to obtain such licenses and approvals would reasonably be expected to have a Material Adverse Effect.

7.3. Due Authorization. The execution, delivery and performance of each Program Document to which the Borrower is a party have been duly authorized by the Borrower by all necessary corporate action on the part of the Borrower and each Program Document to which it is a party has been duly executed and delivered by the Borrower.

7.4. Binding Obligation. Each Program Document to which the Borrower is a party constitutes the legal, valid and binding obligation of the Borrower, enforceable against it in accordance with its terms; provided that (x) the enforceability thereof may be subject to bankruptcy, insolvency, reorganization, moratorium or other similar laws now or hereinafter in effect relating to creditors' rights, and (y) the remedy of specific performance and injunctive and other forms of equitable relief may be subject to equitable defenses and to the discretion of the court before which any proceeding therefor may be brought.

7.5. No Conflicts. The execution, delivery and performance by the Borrower of each Program Document to which it is a party, including the performance by the Borrower of the transactions contemplated by each Program Document to which it is a party, and the fulfillment of the terms hereof and thereof by the Borrower, do not and shall not (i) contravene its Constituent Documents, (ii) conflict with or violate any provision of any law, rule, regulation, order, writ, judgment, injunction, decree, determination or award having applicability to the Borrower, (iii) result in a breach of or constitute a default or require any consent under any agreement, lease or

instrument to which the Borrower is a party or by which it or any of its properties may be bound or affected, or (iv) result in, or require, the creation or imposition of any Lien upon or with respect to any of the Properties owned by the Borrower other than in favor of the Lender pursuant to this Agreement.

7.6. Taxes. The Borrower has filed all tax returns (federal, state and local) required to be filed and has paid or made adequate provision for the payment of all taxes, assessments and other governmental charges due from the Borrower or is contesting any such tax, assessment or other governmental charge in good faith through appropriate proceedings and has set aside on its books adequate reserves in accordance with GAAP with respect thereto.

7.7. No Proceedings. There are no Proceedings pending or, to the best knowledge of the Borrower, threatened against the Borrower before any Governmental Authority or arbitrator, and no injunction, writ, restraining order or other order of any nature of any Governmental Authority is in effect with respect to the Borrower; (i) asserting the invalidity of any Program Document to which it is a party, (ii) seeking to prevent the consummation of any of the transactions contemplated by any Program Document to which it is a party, (iii) seeking any determination or ruling that could adversely affect the performance by the Borrower of its obligations under any Program Document to which it is a party, (iv) seeking any determination or ruling that could adversely affect the validity or enforceability of any Program Document to which it is a party, (v) seeking to assert any tax liability against the Borrower or with respect to any Collateral under the United States Federal or any state income tax systems, (vi) asserting that the Borrower (or any officer or director of the Borrower) has engaged or is engaging in any fraudulent or illegal actions or activities, or (vii) which, individually or in the aggregate for all such Proceedings, could reasonably be expected to have a Material Adverse Effect.

7.8. All Filings and Consents Required. All notices, filings with and approvals, authorizations, consents, orders or other actions of any Person or of any Governmental Authority required to be obtained by the Borrower in connection with the execution, delivery and performance by the Borrower of each Program Document to which it is a party have been obtained or have been completed and are in full force and effect, and the Borrower is in compliance with all applicable laws, rules, regulations and orders with respect to itself, its business, properties and assets and the Borrower maintains all necessary licenses and permits to conduct its business (except where the failure to so comply, or to so maintain licenses and permits, could not reasonably be expected to have a Material Adverse Effect).

7.9. Eligible Accounts. Each Account classified as part of the Borrowing Base (or otherwise classified an "Eligible Account") by the Borrower in any document or report delivered hereunder shall satisfy the requirements of eligibility contained in the definition of Eligible Account, except as otherwise consented to in writing by the Lender.

7.10. Place of Business. The principal place of business of the Borrower and its chief executive office (as that term is used in the UCC) is at 929 Clint Moore Road, Boca Raton, Florida 33487 and the offices where the Borrower keeps its records concerning the Accounts and all of its

other Property (and has kept such records during the preceding four months) are at such location. Since the date of its incorporation, there is no other such location at which the Borrower has had such an office.

7.11. Use of Proceeds. All proceeds of the Loan have been used in accordance with Section 2.2.

7.12. Lockboxes; Lockbox Banks. Prior to the purchase of Accounts under the related Purchase and Sale Agreement, Obligor Notices have been mailed to all Obligors relating to such Accounts by certified mail, return receipt requested, except to the extent otherwise consented to in writing by the Lender. The Lockbox Agreements constitute the legal, valid and binding obligations of the parties thereto, enforceable against such parties in accordance with its terms, except the enforceability thereof may be subject to bankruptcy, insolvency, reorganization, moratorium or other similar laws now or hereinafter in effect relating to creditors' rights. Neither the Borrower nor any other Person on behalf of the Borrower maintains or has maintained any lockbox, deposit account or similar account other than the Lockboxes, the Lockbox Accounts, the Factor Account, the Operating Account and bank accounts maintained for the payment of reasonable expenses incurred in the ordinary course of business and the deposit of amounts which are not otherwise required to be paid to the Lender in accordance with this Agreement.

7.13. Default. No Default or Event of Default has occurred or is continuing.

7.14. ERISA. No Plan maintained by the Borrower or any of its ERISA Affiliates has any "accumulated funding deficiency" (within the meaning of Section 302 of ERISA or Section 412 of the Code), whether or not waived. Each of the Borrower and each ERISA Affiliate of the Borrower has timely made all contributions required to be made by it to any Plan and Multiemployer Plan to which contributions are or have been required to be made during the preceding five years by the Borrower or such ERISA Affiliate, and no event requiring notice to the PBGC under Section 302(f) of ERISA has occurred and is continuing or could reasonably be expected to occur with respect to any such Plan, in any case, that could reasonably be expected to result, directly or indirectly, in any Lien being imposed on the property of the Borrower or the payment of any amount to avoid such Lien. No Plan Event with respect to the Borrower or any of its ERISA Affiliates has occurred or could reasonably be expected to occur that could reasonably be expected to result, directly or indirectly, in any Lien being imposed on the property of the Borrower or the payment of any amount to avoid such Lien.

7.15. Legal Name. The legal name of the Borrower is set forth in the preamble to this Agreement, and the Borrower has never used and does not now use any "doing business" names, trade names, fictitious names or other names.

7.16. Subsidiaries. The Borrower has no Subsidiaries.

7.17. Activities. The Borrower engages in no activities other than those contemplated by this Agreement.

7.18. Sellers. None of the Sellers is (a) an Affiliate of the Borrower, (b) an Affiliate of any of the Borrower's Affiliates, or (c) subject to any proceeding (other than solely as a creditor) under any Debtor Relief Law.

7.19. Solvency. The Borrower is Solvent and shall not become insolvent after giving effect to any incurrence of Loans hereunder and the consummation of the other transactions contemplated herein; the Borrower is paying its debts as they come due; and the Borrower, after giving effect to such transactions, shall not have unreasonably small capital with which to conduct its business.

7.20. Title to Properties, Etc.

(a) The Borrower has good title to and is the legal and beneficial owner of all right, title and interest in and to all of the Purchased Accounts and all other Collateral, in each case at all times, free and clear of any Lien (other than in favor of the Lender). No Obligor of a Purchased Account has received any notice of any adverse claim against, interest in or lien on all or any part of such Purchased Account and any Related Property (other than (i) interests being acquired by the Borrower, (ii) any such claim, interest or lien that shall no longer exist after such acquisition by the Borrower and (iii) the Lien of the Lender). At the time the Borrower acquires its interest in any Account or Related Property, the Borrower, having reviewed a UCC search report against the applicable Seller in the state where such Seller is located for UCC purposes and in any other applicable jurisdiction, is acquiring its interest in good faith and without knowledge of any adverse claim against, interest in, lien on, or defense to payment of, such Account or Related Property. The Liens granted to the Lender under Section 10 of this Agreement are first priority perfected Liens in all of the Purchased Accounts and in all of the other Collateral.

(b) The Borrower has indicated on its books and records (including any computer files) that the Lender has, and shall maintain such records in a manner such that the Lender shall continue to have, a first priority perfected security interest in all Purchased Accounts and all of the Borrower's other Property. Each Purchase and Sale Agreement constitutes a valid sale to the Borrower of all of the right, title and interest of the related Seller in and to the Accounts purported to be transferred thereunder now existing or hereafter created and all monies due or to become due with respect thereto and all other proceeds of such Accounts.

(c) No acquisition of any Account or Related Property by the Borrower constitutes a fraudulent transfer or fraudulent conveyance under any Debtor Relief Laws or is otherwise void or voidable or subject to subordination in favor of third party creditors under similar laws or principles or for any other reason.

(d) No effective UCC financing statement or other instrument similar in effect that covers all or part of any Property of the Borrower or any Seller, or any interest in any proceeds thereof, is on file in any recording office except financing statements as to which

termination statements or releases are filed on or before the date of the initial purchase of Accounts under the related Purchase and Sale Agreement and except financing statements naming the Borrower or the Lender as secured party.

(e) The Factor Account is and shall be maintained in the name of the Borrower and the Lender.

7.21. No Brokerage Fee. No brokerage, finder's or similar fee or commission is due to any party by reason of the Borrower entering into this Agreement or any other Program Document or by reason of any of the transactions contemplated hereby or thereby, except for the brokerage fees contemplated by Section 6.19.

7.22. Representations and Warranties in Program Documents. All representations and warranties set forth in the Program Documents were true and correct in all material respects at the time as of which such representations and warranties were made or deemed made.

7.23. Seller Representations and Warranty. To the best of the Borrower's knowledge, (i) each of the representations and warranties relating to Accounts set forth in the Purchase and Sale Agreements are true and correct, and (ii) each of the other representations and warranties set forth in the Purchase and Sale Agreements are true and correct in all material respects. Without limiting the foregoing, each Seller has represented and warranted to the Borrower (and the Borrower hereby represents to the Lender that the Borrower has taken reasonable precautions to ensure and verify the reliability of the Sellers' representations and warranties) that:

A. Each Account is a bona fide existing obligation created by an account debtor's express order for, and the actual sale and physical delivery of, or legal passage of title to, goods or the rendering of services to an account debtor in the ordinary course of business, which goods, prior to the sale, were owned free and clear of any liens or encumbrances, and which Account is then unconditionally owing to the Borrower without dispute, defense, offset, or counterclaim.

B. Each Account arises in connection with a transaction in which the account debtor which is not affiliated with the Borrower or with any of the Sellers; has received and has accepted the goods or services, and the invoices therefor, without dispute, offset, or claim of any kind as to price, terms, quality, quantity, delay in shipment, offsets, counterclaims, contra accounts or any other defense of any kind and character.

C. Each Account will be subject to no discounts, deductions, allowances, offsets, counterclaims or other contra items; nor to any other special terms of payment that are not shown on the face of the invoice thereof.

D. Each Account will not represent a delivery of merchandise upon "consignment", "guaranteed sale", "sale or return", "payment on reorder", or similar terms.

E. Each Account will not represent a "pack, bill and hold" transaction [unless the Borrower or the Seller involved in such transaction has furnished the Lender with a copy of the account debtor's purchase order immediately after its receipt, and the Lender has obtained such account debtor's agreement to grant the Lender a security interest in the merchandise and pay for such merchandise at maturity of such Seller's invoice irrespective of whether or not the Lender has or such Seller has received instructions to deliver the same.

F. With regard to the Borrower's relationship with each of its Sellers:

(a) Each Purchase and Sale Agreement entered into by the Borrower shall comply with Section 6.21.

(b) Each Purchase and Sale Agreement is a bona fide, good, valid and subsisting obligation of the applicable Seller, and the Borrower does not know of any fact which impairs or will impair the validity, legality or enforceability of any Purchase and Sale Agreement.

(c) The signatures of all Sellers and guarantors of the obligations in connection with the Purchase and Sale Agreements are genuine and each Seller and each such guarantor had the legal capacity and authority to enter into and execute such documents on the date thereof.

(d) The Borrower has notified and agrees to notify the Lender promptly of any change in the name, corporate structure, jurisdiction of organization or business address(es) or location(s) of any Seller.

(e) All applicable state and federal laws have been complied with in conjunction with all of the Purchase and Sale Agreements, as well as all of the transactions arising pursuant to such agreements. The Borrower acknowledges to the Lender that the non-compliance with such laws constitutes a breach of this Agreement and would have an adverse impact on the value, enforceability and/or collectibility of any Account pledged to the Lender pursuant to this Agreement.

(f) Each Purchase and Sale Agreement, and the transaction entered into in connection therewith, shall not contravene any applicable statute, law or regulation.

(g) Each Purchase and Sale Agreement correctly sets forth the terms of the Borrower's purchase of Accounts from each Seller, including, without limitation, the factoring commissions applicable thereto. Further, the Borrower shall provide the Lender with immediate notice of any breach of any Purchase and Sale Agreement or any amendment thereto or any termination thereof.

7.24. Government Regulation. Neither the Borrower nor any Person controlling the Borrower or under common control with the Borrower is subject to regulation under the Public Utility Holding Company Act of 1935, as amended, the Federal Power Act, as amended, the

Investment Company Act of 1940, as amended, the Interstate Commerce Act, as amended, or any similar statute or regulation which regulates the incurring by the Borrower of Indebtedness as contemplated by this Agreement.

7.25. Disclosure. Neither this Agreement nor any other document furnished or to be furnished from time to time to the Lender or any insurance company by or on behalf of the Borrower in connection with the transactions contemplated hereby or the other Program Documents contains or shall contain at the time such document is furnished any untrue statement of material fact or omits to state a material fact necessary in order to make the statements contained herein or therein not misleading in light of the circumstances under which they were made. No fact is known to the Borrower which has resulted, or in the future (so far as the Borrower can reasonably foresee) shall result, or creates a material risk of resulting, in any Material Adverse Effect.

7.26. Issuance of Stock. The Borrower has not issued any shares of stock, whether voting or non-voting, to any Person other than Peter Baronoff, Malinda Baronoff, Howard Koslow and Jane Koslow. All of such shares of stock have been duly and validly issued and have been paid for in full.

7.27. Conditions Precedent. On the Closing Date for each Loan, all of the conditions precedent in Section 5.2 have been satisfied with respect thereto.

7.28. Fiscal Year. The Borrower's fiscal year is the calendar year.

7.29. Purchase and Sale Agreements; Lockbox Agreements. Each Purchase and Sale Agreement conforms in all material respects to the Form Purchase and Sale Agreement. The Borrower is not a party to any lockbox agreement or similar agreement other than the "Lock Box Agreement" referred to in the Union Planters Master Agreement.

7.30. Tax Identification Number. The federal tax identification number of the Borrower is 65-066-5095.

7.31. Insurance Policies. The Borrower has paid all premiums payable under each insurance policy contemplated by Section 6.30, has complied with all of its covenants under each such insurance policy, and has satisfied all conditions required to be satisfied under each such insurance policy. All of the representations of the Borrower in each such insurance policy (and in any application relating thereto) are true and correct.

7.32. Liabilities and Contingent Liabilities. All liabilities and contingent liabilities of the Borrower are listed on Schedule 7.32 to this Agreement, other than Credit Obligations and items of the type contemplated by clauses (i), (ii) and (iii) of Section 6.8. The only Persons that are owed or that hold the subordinated debt referred to on Schedule 7.32 to this Agreement are as follows: MICA V, Inc., a Florida corporation, Desarrollos Inmobiliarios Integrales, S.A. DE C.V., Peter Baronoff, Joseph Porcelli and Bess Porcelli.

7.33. Existing Loan Agreement. The Existing Loan Agreement was not amended or otherwise modified prior to the Closing Date, except by the Amendment to Loan and Security Agreement dated as of June 20, 1997 and the Second Amending Agreement to Loan and Security Agreement, dated as of May 15, 1998.

Upon discovery by the Borrower of a breach of any of the foregoing representations and warranties, the Borrower shall give written notice thereof to the Lender within one Business Day of such discovery, provided that failure to provide such notice within one Business Day shall neither toll any applicable cure period nor prevent a Default from occurring.

8. Defaults

8.1. Events of Default. Each of the following shall constitute an "Event of Default":

8.1.1. Payment. (a) The Borrower shall fail to make any payment in respect of (i) interest or any fee on or in respect of any of the Credit Obligations owed by it as the same shall become due and payable, or (ii) principal of any of the Credit Obligations owed by it as the same shall become due, whether at maturity or by acceleration or otherwise (including without limitation pursuant to Section 4.1 or Section 4.2).

(b) Without limiting the foregoing, the Lender shall fail to receive payment in full of all accrued and unpaid interest on the Loans by the second Business Day of each calendar month.

8.1.2. Specified Covenants. The Borrower shall fail to perform or observe any of the provisions of Section 4.3 or Sections 6.1 through 6.39.

8.1.3. Other Covenants. The Borrower shall fail to perform or observe any other covenant, agreement or provision to be performed or observed by it under this Agreement or any other Program Document, and such failure shall not be rectified or cured to the written satisfaction of the Lender within ten (10) days after the earlier of (a) notice thereof by the Lender to the Borrower or (b) any officer of the Borrower having knowledge thereof.

8.1.4. Representations and Warranties. Any representation or warranty of or with respect to the Borrower made to the Lender in, pursuant to or in connection with this Agreement or any other Program Document shall be materially false on the date as of which it was made.

8.1.5. Credit Insurance Policy. (a) The Credit Insurance Policy shall fail to be in full force and effect; (b) the Designated Insurer shall fail to be rated at least "AA" by Standard & Poor's for a period of thirty (30) days; or (c) the aggregate amount of the Borrower's unpaid claims submitted to the Designated Insurer exceeds one hundred thousand dollars (\$100,000) and such claims have not been paid in full within ninety (90) days of being submitted to the Designated Credit Insurer.

8.1.6. Ownership. A Change of Ownership Event shall have occurred.

8.1.7. Enforceability, Etc. Any Program Document shall cease for any reason (other than the termination thereof in accordance with its terms) to be enforceable in accordance with its terms or in full force and effect; or any party to any Program Document shall so assert in a judicial or similar proceeding; or the security interests created by this Agreement or any other Program Document shall cease to be enforceable and of the same effect and priority purported to be created hereby or thereby.

8.1.8. Judgments. A judgment (a) which, with other outstanding judgments against the Borrower, exceeds the Judgment Measurement Amount shall be rendered against the Borrower, or (b) which grants injunctive relief that results, or creates a material risk of resulting, in a Material Adverse Effect and in either case if: (i) within thirty (30) days after entry thereof, such judgment shall not have been discharged or execution thereof stayed pending appeal or (ii) within thirty (30) days after the expiration of any such stay, such judgment shall not have been discharged.

8.1.9. ERISA. Any Plan Event shall occur.

8.1.10. Material Adverse Effect. Any event or circumstance since the Initial Lending Date shall occur or fail to occur which has had or could reasonably be expected to have a Material Adverse Effect.

8.1.11. Bankruptcy, Etc. The Borrower or any Sun Capital Entity or the Designated Insurer shall:

(a) commence a voluntary case or proceeding under any Debtor Relief Law or authorize, by proceedings of its board of directors or other governing body, the commencement of such a voluntary case or proceeding;

(b) (i) have filed against it a petition commencing an involuntary case under any Debtor Relief Law that shall not have been dismissed within thirty (30) days after the date on which such petition is filed, or (ii) file an answer or other pleading within such thirty (30) day period admitting or failing to deny the material allegations of such a petition or seeking, consenting to or acquiescing in the relief therein provided, or (iii) have entered against it an order for relief in any involuntary case commenced under any Debtor Relief Law;

(c) otherwise seek relief under any Debtor Relief Law, or consent to or acquiesce in such relief;

(d) have entered against it an order by a court of competent jurisdiction (i) finding it to be bankrupt or insolvent, (ii) ordering or approving its liquidation or reorganization as a debtor or any modification or alteration of the rights of its creditors or (iii) assuming

custody of, or appointing a receiver or custodian for, all or a substantial portion of its property; or

(e) make an assignment for the benefit of, or enter into a composition with, its creditors, or appoint, or consent to the appointment of, or suffer to exist a receiver or other custodian for, all or a substantial portion of its property.

8.1.12. Seller Default: The occurrence of a default or event of default (regardless of how such default is described) under a Purchase and Sale Agreement, if (a) the Borrower is aware of such default or event of default and (b) such default or event of default has not been cured or waived to the written satisfaction of the Lender within five Business Days after the occurrence thereof.

8.1.13. Lockbox Arrangements. (i) Any Lockbox Bank or any other Person shall fail to transfer any Collections in respect of Accounts in the manner contemplated by the related Lockbox Agreement or in a manner otherwise approved in writing by the Lender, (ii) the applicable Seller delivers a Revocation Order to a Lockbox Bank, (iii) the applicable Seller or the Borrower or any Person acting on behalf of any thereof instructs any Obligor to make payments other than to the applicable Lockbox or Lockbox Account, or (iv) without limiting the foregoing, Union Planters fails to comply with the Union Planters Master Agreement.

8.2. Certain Actions Following an Event of Default. If any one or more Events of Default shall occur and be continuing, then in each and every such case:

8.2.1. Terminate Agreement. The Lender may terminate this Agreement by furnishing notice of such termination to the Borrower.

8.2.2. Specific Performance; Exercise of Rights. The Lender may proceed to protect and enforce the Lender's rights by suit in equity, action at law or other appropriate Proceedings, either for specific performance of any covenant or condition contained in this Agreement or any other Program Document or in any instrument or assignment delivered to the Lender pursuant to this Agreement or any other Program Document, or in aid of the exercise of any power granted in this Agreement or any other Program Document or any such instrument or assignment. Without limiting the foregoing, the Lender may exercise any rights or remedies under applicable law or under any Program Document. None of the foregoing shall limit or be interpreted to limit in any way or by any means the Lender's right to vindicate or prosecute or otherwise protect or sue upon any right of any kind under this Agreement or any other Program Document, whether at law, in equity, or otherwise.

8.2.3. Acceleration. The Lender may by notice in writing to the Borrower declare all or any part of the unpaid balance of the Credit Obligations then outstanding to be immediately due and payable; provided, however, that if a Bankruptcy Default shall have occurred, the unpaid balance of the Credit Obligations shall automatically become immediately due and payable.

8.2.4. Enforcement of Payment; Collateral; Setoff

(a) The Lender may send one or more notices to Union Planters or one or more Lockbox Banks (including one or more notices previously signed by the Borrower) in order to take control of one or more Lockboxes, one or more Lockbox Accounts and the Factor Account.

(b) Without limiting the foregoing, the Lender may proceed to enforce payment of the Credit Obligations in such manner as it may elect, and to realize upon any and all rights in the Collateral (including, without limitation, applying amounts on deposit in any account to the Credit Obligations in such manner as the Lender shall determine in its sole and absolute discretion). The Lender may offset and apply toward the payment of the Credit Obligations (or toward the curing of any Event of Default) any Indebtedness from the Lender to the Borrower, including any Indebtedness represented by deposits in any account maintained with the Lender, regardless of the adequacy of any security for the Credit Obligations. The Lender shall have no duty to determine the adequacy of any such security in connection with any such offset.

8.3. Annulment of Defaults. Once a Default or an Event of Default has occurred, such Default and Event of Default shall be deemed to exist and be continuing until cured by the Borrower to the reasonable satisfaction of the Lender (or until the Lender has waived such Default or Event of Default in writing, has stated in writing that the same has been cured to the Lender's satisfaction or has entered into an amendment to this Agreement which by its express terms cures such Default or Event of Default), at which time such Default or Event of Default shall no longer be deemed to exist or to have continued. The Lender shall not be obligated to make any such waiver, make any such statement or enter into any such amendment. No such action by the Lender shall extend to or affect any subsequent Default or Event of Default or impair any rights of the Lender upon the occurrence thereof. The making of any Loan during the existence of any Default or Event of Default shall not constitute a waiver of such Default or Event of Default.

8.4. Waivers. To the extent that such waiver is not prohibited by the provisions of applicable law that cannot be waived, the Borrower hereby waives:

(a) all presentments, demands for performance, notices of nonperformance (except to the extent required by this Agreement), protests, notices of protest and notices of dishonor;

(b) any requirement of diligence or promptness on the part of the Lender in the enforcement of its rights under this Agreement or any other Program Document;

(c) any and all notices of every kind and description which may be required to be given by any statute or rule of law; and

(d) any defense (other than payment in full) which it may now or hereafter have with respect to its liability under this Agreement or any other Program Document or with respect to the Credit Obligations.

8.5. No Effect on Security Interest. The occurrence of a Default shall not affect the security interest granted pursuant to this Agreement, including but not limited to the security interest in Property not yet owned by the Borrower (or not yet created) as of the date of the occurrence of such Default.

9. Expenses; Indemnity.

9.1. Expenses. In addition to the rights of indemnification under Section 9.2, and whether or not the transactions contemplated hereby shall be consummated, the Borrower shall pay on demand:

(a) all costs and expenses of the Lender (including, without limitation, the fees and other charges of counsel to the Lender): (i) in connection with the preparation, drafting, negotiation, execution, delivery, filing and administration (including, without limitation, periodic auditing) of (A) this Agreement and each other Program Document, and (B) any potential or actual amendment, amendment and restatement, modification or waiver of or consent in respect of this Agreement or any other Program Document (including without limitation in connection with any "workout" or any foreclosure or bankruptcy or insolvency proceeding or any litigation or other adversary proceeding); (ii) without limiting the foregoing, in connection with the Lender obtaining advice as to the rights and remedies of any Person or Persons under this Agreement and any other Program Document (including without limitation in connection with any "workout" or any foreclosure or bankruptcy or insolvency proceeding or any litigation or other adversary proceeding); (iii) without limiting the foregoing, in connection with any litigation, contest, dispute, suit, proceeding or action (whether instituted by the Lender, the Borrower or any other Person) in any way relating to the Collateral, this Agreement or any of the other Program Documents or the Borrower's affairs; (iv) without limiting the foregoing, in connection with any attempt to enforce any rights of the Lender against the Borrower or any other Person which may be obligated to the Lender by virtue of this Agreement or any of the other Program Documents, including any Obligor or any guarantor of the Credit Obligations; or (v) without limiting the foregoing, in connection with any attempt to inspect, verify, protect, preserve, perfect or continue the perfection of the Lender's liens upon, restore, collect, sell, liquidate or otherwise dispose of or realize upon the Collateral;

(b) all recording and filing fees and transfer and documentary stamp and similar taxes at any time payable in respect of this Agreement, any other Program Document, any Collateral or the incurrence of the Credit Obligations; and

(c) any and all reasonable fees, costs or expenses which the Lender pays to a bank or other similar institution arising out of or in connection with (i) the forwarding to the

Borrower or any other Person on behalf of the Borrower, by the Lender, of proceeds of advances made by the Lender to the Borrower pursuant to this Agreement and (ii) the depositing for collection, by the Borrower, of any check or item of payment received or delivered to the Lender on account of the Credit Obligations.

9.2 General Indemnity.

(a) Indemnification by the Borrower. Whether or not the transactions contemplated hereby shall be consummated, and without limiting any other rights that the Indemnified Parties may have under this Agreement or any other Program Document or under applicable law, the Borrower hereby agrees to indemnify each Indemnified Party from and against any and all Indemnified Amounts of any kind or nature whatsoever arising out of, relating to or resulting from (whether directly or indirectly) this Agreement, any other Program Document or the transactions contemplated hereby or thereby, or with respect to the use of proceeds of Loans, or in respect of any Receivable or any other Collateral, excluding, however, Indemnified Amounts to the extent resulting from gross negligence or willful misconduct on the part of such Indemnified Party, or any overall net income taxes or franchise taxes imposed on such Indemnified Party by the jurisdiction under the laws of which such Indemnified Party is organized or by the United States federal government. Without limiting or being limited by the foregoing, but subject to the exclusions set forth in the preceding sentence, the Borrower shall pay on demand to each Indemnified Party any and all amounts necessary to indemnify such Indemnified Party from and against any and all Indemnified Amounts relating to or resulting from any of the following:

(i) the failure of any Account to be an Eligible Account, the failure of any information contained in any report delivered to the Lender under this Agreement to be true and correct, or the failure of any other information provided to the Lender with respect to any Collateral or pursuant to or in connection with this Agreement or any other Program Document to be true and correct; or

(ii) the failure of any representation or warranty or statement or certification made or deemed made by the Borrower or any Seller or any Lockbox Bank (or any officer of any of the foregoing) under or in connection with this Agreement or any other Program Document to have been true and correct in all material respects when made; or

(iii) the failure by the Borrower or any Seller, or any Lockbox Bank to comply with any applicable law, rule or regulation (including without limitation "bulk sales" or analogous laws of any jurisdiction) with respect to any Account or other Collateral or the transactions contemplated by this Agreement or any other Program Document; or the failure of any transaction or circumstance giving rise to an Account or other Collateral to conform to any such applicable law, rule or regulation; or

(iv) the failure to vest in the Lender, a valid and enforceable first priority perfected security interest in the Collateral, in each case free and clear of any Lien; or

(v) the failure to have filed, or any delay in filing, financing statements or other similar instruments or documents under the UCC of any applicable jurisdiction or other applicable laws with respect to any Accounts or other Collateral, whether at the time of any Loan or at any subsequent time; or

(vi) any dispute, claim, offset, billing adjustment or defense of any Obligor to the payment of any Account (including, without limitation, a defense based on such Account not being a legal, valid and binding obligation of such Obligor enforceable against it in accordance with its terms) and any other claim resulting from the sale of the goods or services related to any Account or the furnishing or failure to furnish such goods or services or relating to collection activities with respect to any Account; or

(vii) any failure of the Borrower or any Seller or Union Planters or any Lockbox Bank or the Designated Insurer to perform or comply with its duties or obligations in accordance with the provisions of this Agreement or any other Program Document; or

(viii) the ownership, delivery, non-delivery, possession, design, construction, use, maintenance, transportation, performance (whether or not according to specifications), operation (including without limitation the failure to operate or faulty operation), condition, return, sale, repossession or disposition of any Collateral (including, without limitation, claims for injury to persons or property, claims under other liability principles, and claims for breach of warranty, whether express or implied); or

(ix) any claim, investigation, litigation or proceeding (including without limitation any foreclosure or bankruptcy or insolvency proceeding or appellate proceeding) arising out of or in connection with the goods, insurance or services relating to any Account or any other Collateral; or

(x) the commingling of any portion of Collections at any time with other funds; or

(xi) any claim, investigation, litigation or proceeding (including without limitation any foreclosure or bankruptcy or insolvency proceeding or appellate proceeding) related to this Agreement or any other Program Document or the use of proceeds of any Loan or in respect of any Account or other Collateral, whether or not any Indemnified Party is a party to such claim, investigation, litigation or proceeding; or

(xii) the failure to notify any Obligor of the assignment of any Account from a Seller to the Borrower, or of the pledge of any Account to the Lender, or the failure to require that payments (including without limitation under insurance policies) be made directly to the Seller or to the Lender, as permitted by law; or

(xiii) any brokerage, finder's or other similar fee or commission; or

(xiv) any taxes asserted or imposed in respect of (A) the Accounts or other Collateral or (B) purchases and sales or pledges of Accounts or other Collateral or (C) the transactions contemplated by this Agreement or any other Program Document; or

(xv) any action or omission by the Borrower or any Seller or Union Planters or any Lockbox Bank or any Obligor or the Designated Insurer which reduces or impairs the rights of the Lender with respect to any Account or other Collateral; or

(xvi) any payment made by the Lender to or for the benefit of Union Planters or any Lockbox Bank or the Designated Insurer; or

(xvii) any liabilities of the Borrower to any other Person, including the liabilities listed on Schedule 7.32; or

(xviii) any Dilutions with respect to the Purchased Accounts.

(b) General. For purposes of this Section 9.2, in determining whether any representation of warranty or information was true and correct, or whether any duty or obligation was performed or complied with, any qualification or limitation in such representation and warranty or information or duty or obligation as to materiality, Material Adverse Effect, knowledge, reasonableness, expectations, or limitation on enforcement shall be disregarded. Indemnification pursuant to this Section 9.2 shall not be limited by any due diligence or other investigation made by or on behalf of the Lender or any other Indemnified Party.

10. Collateral: General Terms

10.1. Security Interest in Collateral. To secure the payment and performance to the Lender (and to all Indemnified Parties) of the Credit Obligations, the Borrower hereby grants to the Lender a continuing security interest of first priority in and Lien upon all of the Borrower's right, title and interest in, to and under the following (in each case, whether now owned or existing or hereafter created, acquired or arising and wherever located):

(a) all Receivables, including without limitation all Purchased Accounts;

(b) all Related Property;

(c) the Lockboxes and the Lockbox Accounts, the Operating Account, the Factor Account and all checks, other evidences of payment and other items and funds on deposit from time to time in the Lockboxes or the Lockbox Accounts or the Operating Account or the Factor Account;

(d) all monies and other Property of any kind, now or at any time or times hereafter owned, in the possession or under the control of the Borrower or a bailee of the Borrower or any Lockbox Bank;

(e) the Program Documents;

(f) all "money", "fixtures", "accounts" (including "health-care-insurance receivables"), "chattel paper" (including tangible chattel paper and electronic chattel paper), "commercial tort claims", "goods", "inventory" (including computer programs embedded therein), "equipment" (including computer programs embedded therein), "instruments" (including promissory notes), "investment property", "documents", "deposit accounts", "letters of credit", "letter of credit rights", "general intangibles" (including payment intangibles and software), and "supporting obligations" (all of the terms in quotation marks in this clause (g) being used as presently or hereafter defined in the UCC) relating to or constituting any and all of the foregoing; and

(g) all other Property of the Borrower, including General Intangibles;

(h) the Borrower's Books; and

(i) any and all replacements, substitutions, distributions on, or Proceeds or products of any and all of the foregoing, including without limitation, all present and future claims, demands, causes, and choses in action in respect of any or all of the foregoing and all payments on or under and all Proceeds of every kind and nature whatsoever in respect of any or all of the foregoing, including all Proceeds of the conversion, voluntary, or involuntary, into cash or other liquid property, all cash Proceeds, accounts, accounts receivable, notes, drafts, acceptances, chattel paper, checks, deposit accounts, insurance Proceeds, condemnation awards, rights to payment of any and every kind and other forms of receivables, instruments and other supporting obligations and other property which at any time constitute all or part of or are included in Proceeds of any of the foregoing.

10.2. Lien Perfection. The Borrower shall deliver and authorize the filing of UCC financing statements, shall execute and deliver any and all other instruments, assignments or documents, and shall take such other action, in each case as may be necessary or appropriate in the judgment of the Lender to perfect or to continue the perfection of the Lender's security interest in the Collateral. Unless prohibited by applicable law, the Borrower hereby authorizes the Lender to file any such financing statement on the Borrower's behalf. The Lender hereby agrees to notify the Borrower of any such filing of a financing statement on the Borrower's behalf, provided, however, that any failure

to give such notice shall not affect in any respect whatsoever the validity or effectiveness of such financing statement or the perfection or continued perfection of the Lender's security interest in the Collateral. The parties agree that a carbon, photographic or other reproduction of this Agreement shall be sufficient as a financing statement and may be filed in any office by the Lender. In the event that any Collateral, including proceeds, is evidenced by or consists of Negotiable Collateral, the Borrower shall, immediately upon written request therefor from the Lender, endorse and assign such Negotiable Collateral over to the Lender and deliver actual physical possession of the Negotiable Collateral to the Lender.

10.3. Location of Collateral. All tangible Collateral shall at all times be kept by the Borrower at the business location set forth in Section 7.10 and shall not, without the prior written approval of the Lender, be moved therefrom.

10.4. Protection of Collateral. All insurance expenses and all expenses of protecting, storing, warehousing, insuring, handling, maintaining and shipping the Collateral, any and all excise, property, sales, and use taxes imposed by any Governmental Authority on any of the Collateral or in respect of the sale thereof, shall be borne and paid by the Borrower. If the Borrower fails to promptly pay any portion thereof when due, the Lender may, at its option, but shall not be required to, pay the same and charge the Borrower therefor. The Borrower shall reimburse the Lender promptly therefor with interest accruing thereon daily at the Overdue Reimbursement Rate. All sums so paid or incurred by the Lender for any of the foregoing and all costs and expenses (including attorneys' fees, legal expenses, and court costs) which the Lender may incur in enforcing or protecting its Lien on or rights and interest in the Collateral or any of its rights or remedies under any Program Document or in respect of any of the transactions to be had hereunto, together with interest at the Overdue Reimbursement Rate, shall be considered Credit Obligations hereunder secured by all Collateral. The Lender shall not be liable or responsible in any way for the safekeeping of any of the Collateral or for any loss or damage thereto or for any diminution in the value thereof, or for any act or default of any warehouseman, carrier, forwarding agency, or other Person whomsoever, but the same shall be at the Borrower's sole risk.

10.5. Certain Provisions Relating to Accounts.

10.5.1. Assignments, Records and Reports of Accounts. If so requested by the Lender, the Borrower shall execute and deliver to the Lender formal written assignments of all of its interests in Accounts weekly or, if requested by the Lender, daily, which shall include all Accounts in which the Borrower has acquired an interest since the date of the last assignment, together with copies of invoices or invoice registers related thereto. The Borrower shall keep accurate and complete records of its interests in the Accounts and all payments and collections thereon and shall submit to the Lender such reports in form and substance satisfactory to the Lender as are required by the terms hereof. The Borrower shall deliver such other reports of its interest in the Accounts in form and substance satisfactory to the Lender, as requested by the Lender from time to time.

10.5.2. Administration of Accounts.

(a) Upon and after the occurrence of an Event of Default that has not been cured or waived in accordance with Section 8.3, the Lender shall have the right to settle or adjust all disputes and claims directly with the Obligors and to compromise the amount or extend the time for payment of the Accounts upon such terms and conditions as the Lender may deem advisable, and to charge the deficiencies, costs and expenses thereof, including attorney's fees, to the Borrower.

(b) If any Account includes a charge for any tax payable to any Governmental Authority, the Lender is authorized, after the occurrence of an Event of Default, to pay the amount thereof to the proper Governmental Authority for the Account and to charge the Borrower therefor. The Borrower shall notify the Lender if any Account includes any tax payable to any Governmental Authority and, in the absence of such a notice (i) with respect to any Account, the Borrower shall be deemed to have made a representation and warranty to the Lender that no portion of such Account is payable to any Governmental Authority and (ii) the Lender shall have the right to retain the full proceeds of the Account. In no event shall the Lender be liable for any taxes to any Governmental Authority that may be due by the Borrower by reason of the sale and delivery creating an Account.

(c) Upon and following the occurrence of a Default or an Event of Default and while such Default or Event of Default is continuing, any of the Lender's officers, employees or agents shall have the right in the name of the Lender, any designee of the Lender or the Borrower, to verify the validity, amount or any other matter relating to any Accounts by mail, telephone, telegraph or otherwise. The Borrower shall cooperate fully with the Lender in an effort to facilitate and promptly conclude any such verification process.

10.5.3. Costs of Collection. All costs of collection of the Accounts including attorney's fees, out-of-pocket expenses, administrative and record-keeping costs, and all service charges and costs related to the establishment and maintenance of each Lockbox and each Lockbox Account, shall be the responsibility of the Borrower, whether the same are incurred by the Lender or the Borrower, as the case may be, and the Lender, in its sole discretion, may charge the same against the Borrower or any account maintained by the Borrower and the same shall be deemed part of the Credit Obligations.

10.6. Continuation of Security Interest. Notwithstanding termination of this Agreement, until all Credit Obligations, contingent or otherwise, have been fully repaid and performed, the Lender shall retain its security interest in all presently owned and hereafter arising or acquired Collateral, and the Borrower shall immediately deliver to the Lender, in kind, all collections and other Proceeds received respecting the Accounts and the other Collateral.

11. Netting. The Lender shall have the right from time to time without notice to net, recoup, set-off and deduct from any amount to be advanced by the Lender to the Borrower (or from any other amount that may be payable by the Lender to the Borrower) any and all fees, costs, expenses and other amounts that are payable by the Borrower pursuant to this Agreement,

including without limitation, amounts payable pursuant to Section 5.1(g); Section 9.1 and Section 9.2. In each case, the amount so netted, recouped, set-off, or deducted shall be deemed to have been advanced by the Lender as a Loan to the Borrower and shall constitute a Loan for all purposes of this Agreement. The Lender shall use reasonable efforts to give the Borrower notice of any such netting within five (5) Business Days after any such netting, provided that any failure or delay in giving any such notice (i) shall not limit or otherwise affect any rights or remedies of the Lender, and (ii) shall not impose any liability on the Lender.

12. Successors and Assigns; Lender Assignments and Participations. Any reference in this Agreement to any of the parties hereto shall be deemed to include the successors and permitted assigns of such party, and all covenants and agreements by or on behalf of the Borrower or the Lender that are contained in this Agreement shall bind and inure to the benefit of their respective successors and permitted assigns; provided, however, that the Borrower shall not assign or delegate any of its rights or obligations under this Agreement or any other Program Document (whether directly or indirectly, voluntarily or by operation of law) without prior written consent of the Lender.

12.1. Assignments by Lender.

12.1.1. Assignees.

(a) The Lender may without the consent of the Borrower assign to one or more Persons (each, an "Assignee") all or a portion of its interests, rights and obligations under this Agreement and the other Program Documents, including all or a portion of the Loans. From and after the effective date specified for such an assignment:

(i) the Assignee shall be a party hereto and, to the extent of such assignment, have the rights and obligations of the Lender under this Agreement; and

(ii) the Lender shall, to the extent provided in such assignment, be released from its obligations under this Agreement (and, in the case of an assignment covering all or the remaining portion of the Lender's rights and obligations under this Agreement, the Lender shall cease to be a party hereto but shall continue to be entitled to the benefits of Sections 3.3 and 9, as well as to any fees accrued for its account hereunder and not yet paid).

(b) The Lender shall give prompt notice of such an assignment to the Borrower.

12.1.2. Further Assurances. The Borrower shall sign such documents and take such other actions from time to time reasonably requested by an Assignee to enable it to share in the benefits of the rights created by the Program Documents.

12.2. Credit Participants. The Lender may, without the consent of the Borrower, sell to one or more Persons (each a "Credit Participant") participations in all or a portion of its interests, rights and obligations under this Agreement and the other Program Documents (including all or a portion of the Loans); provided, however, that:

- (a) the Lender's obligations under this Agreement shall remain unchanged;
- (b) the Lender shall remain solely responsible to the Borrower for the performance of such obligations; and
- (c) the Credit Participant shall be entitled to the benefit of the provisions contained in Sections 3.3, 9.1 and 9.2, but shall not be entitled to receive any greater payment thereunder than the Lender would have been entitled to receive with respect to the interest so sold if such interest had not been sold.

The Borrower agrees, to the fullest extent permitted by applicable law, that any Credit Participant and any Lender purchasing a participation from another Lender may exercise all rights of payment (including the right of set-off), with respect to its participation as fully as if such Credit Participant or such Lender were the direct creditor of the Borrower and a Lender hereunder in the amount of such participation.

13. Notices. Except as otherwise specified in this Agreement, any notice, consent, approval, demand or other communication in connection with this Agreement shall be given in writing. Any notice, consent, approval, demand or other communication in connection with this Agreement shall be deemed to be given if given in writing (including by facsimile transmission) addressed as provided in Schedule 13 hereto (or to the addressee at such other address as the addressee shall have specified by notice actually received by the addressor), and if either (a) actually delivered in fully legible form to such address or (b) in the case of a letter, unless actual receipt of the notice is required by this Agreement, five days shall have elapsed after the same shall have been deposited in the United States mails, with first-class postage prepaid and registered or certified.

14. Course of Dealing; Amendments and Waivers. No course of dealing between the Lender, on one hand, and the Borrower or any other Person, on the other hand, shall operate as a waiver of the Lender's rights under this Agreement or any other Program Document or with respect to the Credit Obligations. The Borrower acknowledges that if the Lender gives any notice or information to, or obtains any consent from any other Person, the Lender shall not by implication have amended, waived or modified any provision of this Agreement or any other Program Document, or created any duty to give any such notice or information or to obtain any such consent on any future occasion. No delay or omission on the part of the Lender in exercising any right under this Agreement or any other Program Document or with respect to the Credit Obligations shall operate as a waiver of such right or any other right hereunder or thereunder. A waiver on any one occasion shall not be construed as a bar to or waiver of any right or remedy on any future occasion. This Agreement may be amended only by a

writing signed by both of the parties hereto. No waiver or consent with respect to this Agreement shall be effective unless it is in writing and is signed by the waiving party or consenting party, as the case may be.

15. Survival. Sections 3.3, 9.1, 9.2, 11, 14-21 and any indemnities set forth herein shall survive the execution and delivery of this Agreement, the making and repayment of the Loans, the satisfaction of all other Credit Obligations and termination of this Agreement.

16. GOVERNING LAW AND JURISDICTION, ETC. THIS AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK. EACH PARTY HERETO HEREBY IRREVOCABLY AND UNCONDITIONALLY SUBMITS, FOR ITSELF AND ITS PROPERTY, TO THE NONEXCLUSIVE JURISDICTION OF THE COURTS OF THE STATE OF NEW YORK AND OF THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK, AND ANY APPELLATE COURT FROM ANY THEREOF, IN ANY LAWSUIT, ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER PROGRAM 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 LAWSUIT, ACTION OR PROCEEDING MAY BE HEARD AND DETERMINED IN SUCH NEW YORK STATE COURT OR, TO THE EXTENT PERMITTED BY LAW, IN SUCH FEDERAL COURT. EACH OF THE PARTIES HERETO AGREES THAT A FINAL JUDGMENT IN ANY SUCH LAWSUIT, ACTION OR PROCEEDING SHALL BE CONCLUSIVE AND MAY BE ENFORCED IN OTHER JURISDICTIONS BY SUIT ON THE JUDGMENT OR IN ANY OTHER MANNER PROVIDED BY LAW. NOTHING IN THIS AGREEMENT OR ANY OTHER PROGRAM DOCUMENT SHALL AFFECT ANY RIGHT THAT THE LENDER MAY OTHERWISE HAVE TO BRING ANY LAWSUIT, ACTION OR PROCEEDING RELATING TO THIS AGREEMENT OR ANY OTHER PROGRAM DOCUMENT AGAINST ANY PERSON OR ITS PROPERTIES IN THE COURTS OF ANY JURISDICTION. EACH PARTY 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 LAWSUIT, ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER PROGRAM DOCUMENT IN ANY COURT REFERRED TO IN THIS SECTION 16. 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 LAWSUIT, ACTION OR PROCEEDING IN ANY SUCH COURT. EACH PARTY TO THIS AGREEMENT IRREVOCABLY CONSENTS TO SERVICE OF PROCESS IN THE MANNER PROVIDED FOR NOTICES IN SECTION 13. NOTHING IN THIS AGREEMENT SHALL AFFECT THE RIGHT OF ANY PARTY TO THIS

AGREEMENT TO SERVE PROCESS IN ANY OTHER MANNER PERMITTED BY LAW. TO THE EXTENT THAT THE BORROWER HAS OR HEREAFTER MAY ACQUIRE ANY IMMUNITY FROM JURISDICTION OF ANY COURT OR FROM ANY LEGAL PROCESS (WHETHER THROUGH SERVICE OR NOTICE, ATTACHMENT PRIOR TO JUDGMENT, ATTACHMENT IN AID OF EXECUTION OR OTHERWISE): WITH RESPECT TO ITSELF OR ITS PROPERTY, THE BORROWER HEREBY IRREVOCABLY WAIVES SUCH IMMUNITY IN RESPECT OF ITS OBLIGATIONS UNDER THIS AGREEMENT AND UNDER ANY OTHER PROGRAM DOCUMENT.

17. WAIVER OF JURY TRIAL. EACH PARTY HERETO HEREBY WAIVES ITS RIGHTS TO A TRIAL BY JURY OF ANY CLAIM OR CAUSE OF ACTION BASED UPON OR ARISING OUT OF OR RELATED TO THIS AGREEMENT OR ANY OTHER PROGRAM DOCUMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY, IN ANY ACTION, PROCEEDING OR OTHER LITIGATION OF ANY TYPE BROUGHT BY ANY OF THE PARTIES HERETO AGAINST ANY OTHER PARTY, WHETHER WITH RESPECT TO CONTRACT CLAIMS, TORT CLAIMS, OR OTHERWISE. EACH PARTY HERETO HEREBY AGREES THAT ANY SUCH CLAIM OR CAUSE OF ACTION SHALL BE TRIED BY A COURT TRIAL WITHOUT A JURY. WITHOUT LIMITING THE FOREGOING, EACH OF THE PARTIES HERETO FURTHER AGREES THAT ITS RESPECTIVE RIGHT TO A TRIAL BY JURY IS WAIVED BY OPERATION OF THIS SECTION AS TO ANY LAWSUIT, ACTION, OR OTHER PROCEEDING WHICH SEEKS, IN WHOLE OR IN PART, TO CHALLENGE THE VALIDITY OR ENFORCEABILITY OF THIS AGREEMENT OR ANY OTHER PROGRAM DOCUMENT OR ANY PROVISION HEREOF OR THEREOF. THIS WAIVER SHALL APPLY TO ANY SUBSEQUENT AMENDMENTS, AMENDMENTS AND RESTATEMENTS, OR MODIFICATIONS TO THIS AGREEMENT OR ANY OTHER PROGRAM DOCUMENT.

18. Headings. The headings and captions of sections and subsections in this Agreement, of the exhibits to this Agreement, and the table of contents of this Agreement, are for purposes of reference only and shall not limit or otherwise affect the meaning or interpretation of any provision of this Agreement.

19. Interest Rates.

(a) It is the intention of the parties hereto that the Loans made hereunder shall conform strictly to applicable usury laws. Accordingly, none of the terms and provisions contained in this Agreement or any of the other Program Documents shall ever be construed to create a contract to pay interest to the Lender for the use, forbearance or detention of money at a rate in excess of the highest lawful rate applicable (the "Maximum Lawful Rate"); for purposes of this Section 19, "Interest" shall include the aggregate of all charges or other consideration which constitute interest under applicable laws (whether or not denominated

as interest) and are contracted for, taken, reserved, charged or received under any of this Agreement or the other Program Documents or otherwise in connection with the transactions contemplated by this Agreement and the other Program Documents. If as a result of prepayment, acceleration of maturity or otherwise, the effective rate of interest which would otherwise be payable to the Lender under this Agreement or any other Program Document would exceed the Maximum Lawful Rate for the period during which the principal amount of the Loans was outstanding, or if the Lender shall receive moneys or other consideration that are deemed to constitute interest that would increase the effective rate of interest payable by the Borrower to the Lender under this Agreement or any other Program Document to a rate in excess of the Maximum Lawful Rate for the period during which the principal amount of the Loans or other Credit Obligations was outstanding, then (i) the amount of interest that would otherwise be payable by the Borrower to the Lender under this Agreement and the other Program Documents shall be reduced to the Maximum Lawful Rate, and (ii) any interest paid by the Borrower to the Lender in excess of the Maximum Lawful Rate shall be credited by the Lender as an optional prepayment of the Loans and other Credit Obligations (to be applied, to the extent lawful, to interest, principal and other Credit Obligations in the order specified in Section 4.5.2) and, thereafter, shall be returned to the Borrower. All calculations of the rate or amount of interest contracted for, taken, reserved, charged or received by the Lender under any of this Agreement and the other Program Documents that are made for the purpose of determining whether such rate or amount exceeds the Maximum Lawful Rate shall be made, to the extent permitted by applicable law, by amortizing, prorating, allocating and spreading during the full stated term of all of the Loans and other Credit Obligations owed to the Lender.

(b) If at any time and from time to time (i) the amount of interest payable to the Lender on any date would otherwise exceed the Maximum Lawful Rate, the amount of interest payable to the Lender shall be limited to the Maximum Lawful Rate pursuant to paragraph (a) above and (ii) in respect of any subsequent interest computation period, the amount of interest otherwise payable to the Lender would be less than the amount of interest payable to the Lender computed at the Maximum Lawful Rate, then the amount of interest payable in respect of such subsequent computation period shall be computed at the Maximum Lawful Rate until the earlier to occur of (x) the date upon which the total amount of interest payable to the Lender shall equal the total amount of interest that would have been payable to the Lender if the total amount of interest had been computed without giving effect to paragraph (a) above, or (y) payment in full of the Loans and other Credit Obligations.

20. No Strict Construction. The parties have participated jointly in the negotiation and drafting of this Agreement and the other Program Documents with counsel sophisticated in financing transactions. In the event an ambiguity or question of intent or interpretation arises, this Agreement and the other Program Documents shall be construed as if drafted jointly by the parties and no presumption or burden of proof shall arise favoring or disfavoring any party by virtue of the authorship of any provisions of this Agreement and the other Program Documents. Without limiting the generality of the foregoing, this Agreement may use more than one test, calculation, representation and warranty, covenant, Event of Default or measure

to cover the same or similar matters, and all of such tests, calculations, representations and warranties, covenants, Events of Default and measurements are cumulative in nature and each shall be tested, calculated, determined, performed or measured in accordance with its terms.

21. Miscellaneous.

(a) All covenants, agreements, and representations and warranties made in this Agreement or any other Program Document or in certificates delivered pursuant hereto or thereto shall be deemed to have been relied on by the Lender and shall survive the execution and delivery to the Lender hereof and thereof.

(b) The invalidity or unenforceability of any provision hereof shall not affect the validity or enforceability of any other provision hereof.

(c) This Agreement constitutes the entire understanding of the parties with respect to the subject matter hereof and supersedes all prior and contemporaneous understandings and agreements, whether written or oral. In the event of any conflict or inconsistency between this Agreement and any other document or agreement to which the Borrower and the Lender are parties, this Agreement shall control.

(d) This Agreement may be executed in any number of counterparts and by the parties hereto on different and separate counterparts, each of which shall constitute an original and all of which together shall constitute one agreement.

(e) The Borrower acknowledges that there is no, and it shall not seek or attempt to establish any, fiduciary relationship between the Borrower and the Lender. The Borrower waives any right to assert, now or in the future, the existence or creation of any fiduciary relationship between the Borrower and the Lender in any Proceeding (whether by way of claim, counterclaim, crossclaim or otherwise) for damages or other relief.

(f) The Borrower acknowledges that this Agreement is one of financial accommodation and is not assumable by the Borrower (whether as debtor or debtor-in-possession), or by the bankruptcy trustee of the Borrower, in any bankruptcy proceeding without the Lender's express written consent.

(g) The Lender's books and records shall be admissible in evidence without objection as prima facie evidence of the status of the accounts between the Lender and the Borrower. Each statement, report or accounting, if any, provided by the Lender to the Borrower shall be deemed conclusively accurate and binding on the Borrower unless, within fifteen (15) days after the date such statement, report or accounting was given to the Borrower by the Lender, the Borrower notifies the Lender to the contrary by registered or certified mail, setting forth with reasonable specificity the reasons why the Borrower believes such statement, report or accounting is inaccurate, as well as what the Borrower believes to be correct amount(s) therefor. The Borrower's failure to receive any such statement shall not

relieve it of the responsibility to request such statement and the Borrower's failure to do so shall nonetheless bind the Borrower to whatever the Lender's records would have reported.

(h) Each of the Lender's rights and remedies under this Agreement and any other Program Document are cumulative, and such rights and remedies are in addition to and not by way of limitation of any other rights or remedies which the Lender may have under applicable law. The Lender shall have the right, in its sole discretion, to determine which rights and remedies, and in which order any of the same, are to be exercised. No act, failure or delay by the Lender shall constitute a waiver of any of the rights and remedies to which it would otherwise be entitled. In the event the Lender deems it necessary to seek equitable relief, including, but not limited to, injunctive or receivership remedies, as a result of a Default, the Borrower waives any requirement that the Lender post or otherwise obtain or procure any bond. In the event the Lender, in its sole and exclusive discretion, desires to procure and post a bond, the Lender may procure and file with the court a bond in an amount which the Lender selects (which amount may be fifty thousand dollars (\$50,000) or such other amount as the Lender selects) in its sole and exclusive discretion. Upon the Lender's posting such a bond, the Lender shall be entitled to all benefits as if such bond was posted in compliance with applicable law. The Borrower also waives any right it may be entitled to, including an award of attorney's fees or costs, in the event any relief (whether equitable or otherwise) sought by and awarded to the Lender is thereafter, for whatever reason, vacated, dissolved or reversed. Notwithstanding the existence of any law, statute or rule in any jurisdiction which may provide the Borrower with a right to attorney's fees or costs, the Borrower hereby (x) waives any and all rights to hereafter seek attorney's fees or costs from the Lender and (y) agrees that the Lender exclusively shall be entitled to indemnification and recovery of any and all attorney's fees or costs in respect to any Proceeding based hereon, arising out of, or related hereto, whether under, or in connection with, this Agreement or any agreement executed in conjunction herewith, or any course of conduct, course of dealing, statements (whether verbal or written) or actions of either party.

(i) In the event that a court of competent jurisdiction renders a final, non-appealable judgment that the Borrower suffered actual damages as the direct result of the Lender's willful misconduct, then the Lender shall be liable to the Borrower for such amount of actual damages (excluding any attorney's fees or costs which may be included in or which may relate to such actual damages). Notwithstanding the foregoing, and notwithstanding any other term or provision of this Agreement, under no circumstances shall the Lender be liable for any incidental, punitive, special or consequential damages, including, but not limited to, any costs associated therewith, whether the Lender did or did not have any reason to know of a loss that may result from any general or particular requirement of the Borrower.

(j) Notwithstanding any other term or provision of this Agreement, and notwithstanding the date of this Agreement, this Agreement shall become effective at the Designated Effective Time but not prior to the Designated Effective Time. The Borrower and the Lender intend that the foregoing shall constitute an agreement within the meaning of Section 9-203 of the UCC which expressly postpones the time of the attachment of the

security interest created under this Agreement until the Designated Effective Time.
"Designated Effective Time" shall mean 8:00 a.m. Florida time on the Initial Lending Date.

[SIGNATURES FOLLOW]

IN WITNESS WHEREOF, each of the parties hereto has caused this Agreement to be duly executed and delivered as of the date first above written.

SUN CAPITAL, INC.

By _____

Howard B. Koslów
President and Chief Operating Officer

4930948

S-1

FP-SEC-00532

**FOUNDING PARTNERS STABLE-VALUE
FUND, L. P.**

**By Founding Partners Capital Management
Company, its general partner**

By _____

**William L. Gunlicks
President and Chief
Executive Officer**

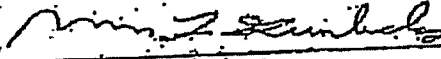
IN WITNESS WHEREOF, each of the parties hereto has caused this Agreement to be duly executed and delivered as of the date first above written.

SUN CAPITAL, INC.

By Howard B. Koslow
Howard B. Koslow
President and Chief Operating Officer

FOUNDING PARTNERS STABLE-VALUE
FUND, L.P.

By Founding Partners Capital Management
Company, its general partner

By 

William L. Gunlicks
President and Chief
Executive Officer

EXHIBIT G



5100 N. Tamiami Trail, Suite 110, Newgate Center, Naples, Florida 34103
Telephone: 239-514-2900 Facsimile: 239-514-2901

June 6, 2008

Sun Capital, Inc.
Attn: Howard Koslow
999 Yamato Road, 3rd Floor
Boca Raton, Florida 33431

Re: Credit and Security Agreement

Dear Howard:

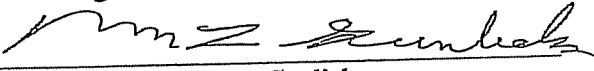
Please refer to the Credit and Security Agreement dated as of January 24, 2002 ("Credit and Security Agreement") between Sun Capital, Inc. and Founding Partners Stable-Value Fund, L.P. ("Founding Partners"). Founding Partners hereby agrees to amend the definition of Final Maturity Date in the Credit and Security Agreement to read as follows:

"Final Maturity Date" shall mean February 1, 2013 or such other date as may be agreed upon in writing from time to time by the Borrower and Founding Partners.

Sincerely,

FOUNDING PARTNERS STABLE-VALUE FUND, L.P.

By Founding Partners Capital Management Company, its general partner

By: 
William L. Gunlicks
President and Chief Executive Officer

Agreed as of the date first above written:

SUN CAPITAL, INC.

By: 

Name: Howard Koslow

Title: President & Chief Operating Officer



5100 N. Tamiami Trail, Suite 110, Newgate Center, Naples, Florida 34103
Telephone: 239-514-2900 Facsimile: 239-514-2901

TO: Howard B. Koslow Fax # 561-995-9845
COMPANY: Sun Capital Inc.
FROM: William L. Gunlicks / Judy Aller
DATE: January 31, 2009 Page 1 of 9
SUBJECT: Monthly Interest Payment

The Credit and Security Agreement, Section 4.1 Debiting of Interest Payments, provides that the Borrower shall remit by Fed wire transfer from the Operating Account on the first day of each calendar month all accrued and unpaid interest on the Loans. Attached is a statement with the calculation of accrued interest of \$247,313.11 for the month of January.

The interest payment may be Fed wire transferred to the Lender, as follows:

Harris Trust and Savings Bank
111 West Monroe Street
Chicago, Illinois 60690
ABA #071000288
Credit to: Founding Partners Stable-Value Fund, L.P.
Account # 261-339-6

Thank you.

The information contained in this facsimile message is legally privileged and confidential information intended only for the use of the individual or entity named above. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution or copy of this telecopy is strictly prohibited. If you have received this telecopy in error, please immediately notify us by telephone and return the original message to us at the address above via the United States Postal Service. Thank you.

SunCapital, Inc.
Interest Calculation - Payable Monthly

	<u>Principal</u>	<u>Annual Interest Rate</u>	<u>Number of Interest Days In Month</u>	<u>Interest Calculation</u>
Commercial Receivables 12/31/08 Balance	\$18,509,647.32	16.000%	31	\$246,795.30
Due as of 1/31/09	18,509,647.32			246,795.30
Promissory Note 12/31/08 Principal Balance	\$75,000.00	18.000%	14	\$517.81
1/15 - 1/31/09 balance	\$0.00	18.000%	17	<u>0.00</u>
Total due for Promissory Note	\$0.00			<u>\$517.81</u>
Total Interest Due 1/31/09 from Sun Capital Inc.				<u>\$247,313.11</u>

Sun Capital Inc. Principal and Interest Worksheet
 Borrowings from Founding Partners Stable-Value Fund, L.P.

Certificate Number	Date	Borrowed Amount	Monthly Interest Due	Total Balance	Principal Balance	Total Interest Due	Notes
1	1/25/2002	1,298,732.82		1,298,732.82	1,298,732.82		17% Annual interest rate
1	1/25/2002	1,461,267.18		2,768,998.36	2,760,000.00		
	1/31/2002		8,998.36	2,768,998.36	2,760,000.00	8,998.36	2,760,000 x 17% annual interest x 7/365 days
	2/5/2002	34,647.32		2,794,647.32	2,794,647.32		Legal fees to Mayer, Brown & Platt
2	2/6/2002	500,000.00		3,294,647.32	3,294,647.32		
3	2/14/2002	500,000.00		3,794,647.32	3,794,647.32		
4	2/22/2002	250,000.00		4,044,647.32	4,044,647.32		
	2/28/2002		50,018.99	4,094,666.31	4,044,647.32	50,018.99	
5	3/4/2002	500,000.00		4,544,647.32	4,544,647.32		
6	3/7/2002	600,000.00		5,144,647.32	5,144,647.32		
	3/15/2002	2,600,000.00		7,744,647.32	7,744,647.32		
	3/31/2002		89,562.19	7,834,209.51	7,744,647.32	89,562.19	
8	4/3/2002	1,000,000.00		8,744,647.32	8,744,647.32		
9	4/2/2002	500,000.00		9,244,647.32	9,244,647.32		Transferred from Sun Capital Healthcare
10	4/15/2002	500,000.00		9,744,647.32	9,744,647.32		
11	4/25/2002	500,000.00		10,244,647.32	10,244,647.32		
	4/30/2002		128,368.01	10,373,015.33	10,244,647.32	128,368.01	
12	5/8/2002	500,000.00		10,744,647.32	10,744,647.32		
13	5/23/2002	500,000.00		11,244,647.32	11,244,647.32		
	5/31/2002		158,590.09	11,403,237.41	11,244,647.32	158,590.09	
14	6/14/2002	500,000.00		11,744,647.32	11,744,647.32		
	6/30/2002		163,312.29	11,907,959.61	11,744,647.32	163,312.29	
	7/31/2002		166,381.72	11,911,029.04	11,744,647.32	166,381.72	
	8/31/2002		166,381.72	11,911,029.04	11,744,647.32	166,381.72	
	9/30/2002		166,381.72	11,911,029.04	11,744,647.32	166,381.72	
15	10/11/2002	500,000.00		12,244,647.32	12,244,647.32		
16	10/24/2002	500,000.00		12,744,647.32	12,744,647.32		
	10/31/2002		173,008.03	12,917,655.35	12,744,647.32	173,008.03	
	11/30/2002		180,548.32	12,925,195.64	12,744,647.32	180,548.32	
17	12/5/2002	600,000.00		13,344,647.32	13,344,647.32		
18	12/30/2002	400,000.00		13,744,647.32	13,744,647.32		
	12/31/2002		188,371.26	13,933,018.58	13,744,647.32	188,371.26	
	1/31/2003		194,714.92	13,939,362.24	13,744,647.32	194,714.92	
	2/28/2003		194,714.92	13,939,362.24	13,744,647.32	194,714.92	
19	3/10/2003	500,000.00		14,244,647.32	14,244,647.32		
	3/31/2003		199,741.78	14,444,389.10	14,244,647.32	199,741.78	
	4/30/2003		201,798.22	14,446,445.54	14,244,647.32	201,798.22	
	5/31/2003		201,798.22	14,446,445.54	14,244,647.32	201,798.22	

Sun Capital Inc. Principal and Interest Worksheet
 Borrowings from Founding Partners Stable-Value Fund, L.P.

Certificate Number	Date	Borrowed Amount	Monthly Interest Due	Total Balance	Principal Balance	Total Interest Due	Notes
	6/30/2003		201,798.22	14,446,445.54	14,244,647.32	201,798.22	
	7/31/2003		195,863.90	14,440,511.22	14,244,647.32	195,863.90	Annual interest rate reduced from 17% to 16.5%
	8/31/2003		195,863.90	14,440,511.22	14,244,647.32	195,863.90	
	9/30/2003		189,928.63	14,434,575.95	14,244,647.32	189,928.63	Annual interest rate reduced from 16.5% to 16%
	10/31/2003		189,928.63	14,434,575.95	14,244,647.32	189,928.63	
	11/30/2003		189,928.63	14,434,575.95	14,244,647.32	189,928.63	
	12/31/2003		189,928.63	14,434,575.95	14,244,647.32	189,928.63	
	1/31/2004		242,428.63	14,487,075.95	14,244,647.32	242,428.63	
	2/1/2004	-4,500,000.00		9,744,647.32	9,744,647.32		Moving 4.5M Promissory Note to separate worksheet
20	2/13/2003	15,000.00		9,759,647.32	9,759,647.32		Ernst & Young services
	2/29/2004		130,045.87	9,889,693.19	9,759,647.32	130,045.87	
	3/31/2004		130,128.63	9,889,775.95	9,759,647.32	130,128.63	
	4/30/2004		130,128.63	9,889,775.95	9,759,647.32	130,128.63	
	5/31/2004		130,128.63	9,889,775.95	9,759,647.32	130,128.63	
	6/30/2004		130,128.63	9,889,775.95	9,759,647.32	130,128.63	
	7/31/2004		130,128.63	9,889,775.95	9,759,647.32	130,128.63	
	8/31/2004		130,128.63	9,889,775.95	9,759,647.32	130,128.63	
	9/30/2004		130,128.63	9,889,775.95	9,759,647.32	130,128.63	
	10/31/2004		130,128.63	9,889,775.95	9,759,647.32	130,128.63	
	11/30/2004		130,128.63	9,889,775.95	9,759,647.32	130,128.63	
	12/31/2004		130,128.63	9,889,775.95	9,759,647.32	130,128.63	
	1/31/2005		130,128.63	9,889,775.95	9,759,647.32	130,128.63	
	2/28/2005		130,128.63	9,889,775.95	9,759,647.32	130,128.63	
	3/31/2005		130,128.63	9,889,775.95	9,759,647.32	130,128.63	
	4/30/2005		130,128.63	9,889,775.95	9,759,647.32	130,128.63	
	5/31/2005		130,128.63	9,889,775.95	9,759,647.32	130,128.63	
	6/30/2005		130,128.63	9,889,775.95	9,759,647.32	130,128.63	
	7/31/2005		130,128.63	9,889,775.95	9,759,647.32	130,128.63	
	8/31/2005		130,128.63	9,889,775.95	9,759,647.32	130,128.63	
	9/30/2005		130,128.63	9,889,775.95	9,759,647.32	130,128.63	
	10/31/2005		130,128.63	9,889,775.95	9,759,647.32	130,128.63	
	11/30/2005		130,128.63	9,889,775.95	9,759,647.32	130,128.63	
	12/31/2005		130,128.63	9,889,775.95	9,759,647.32	130,128.63	
	1/31/2006		130,128.63	9,889,775.95	9,759,647.32	130,128.63	
	2/28/2006		130,128.63	9,889,775.95	9,759,647.32	130,128.63	
	3/31/2006		130,128.63	9,889,775.95	9,759,647.32	130,128.63	
	4/30/2006		130,128.63	9,889,775.95	9,759,647.32	130,128.63	
	5/31/2006		130,128.63	9,889,775.95	9,759,647.32	130,128.63	

Sun Capital Inc. Principal and Interest Worksheet
 Borrowings from Founding Partners Stable-Value Fund, L.P.

Certificate Number	Date	Borrowed Amount	Monthly Interest Due	Total Balance	Principal Balance	Total Interest Due	Notes
	6/30/2006		130,128.63	9,889,775.95	9,759,647.32	130,128.63	
	7/31/2006		130,128.63	9,889,775.95	9,759,647.32	130,128.63	
	8/31/2006		130,128.63	9,889,775.95	9,759,647.32	130,128.63	
	9/30/2006		130,128.63	9,889,775.95	9,759,647.32	130,128.63	
	10/31/2006		130,128.63	9,889,775.95	9,759,647.32	130,128.63	
	11/30/2006		130,128.63	9,889,775.95	9,759,647.32	130,128.63	
	12/31/2006		130,128.63	9,889,775.95	9,759,647.32	130,128.63	
	1/31/2007		130,128.63	9,889,775.95	9,759,647.32	130,128.63	
	2/28/2007		130,128.63	9,889,775.95	9,759,647.32	130,128.63	
	3/31/2007		130,128.63	9,889,775.95	9,759,647.32	130,128.63	
	4/30/2007		130,128.63	9,889,775.95	9,759,647.32	130,128.63	
21	5/30/2007	750,000.00		10,509,647.32	10,509,647.32		
	5/31/2007		130,704.57	10,640,351.89	10,509,647.32	130,704.57	
22	6/18/2007	1,000,000.00		11,509,647.32	11,509,647.32		
	6/30/2007		143,793.52	11,653,440.84	11,509,647.32	143,793.52	
	7/31/2007		151,644.29	11,661,291.61	11,509,647.32	151,644.29	
	8/31/2007		149,962.07	11,659,609.39	11,509,647.32	149,962.07	
	9/30/2007		146,686.18	11,656,333.50	11,509,647.32	146,686.18	
23	10/5/2007	4,000,000.00		15,509,647.32	15,509,647.32		
24	10/31/2007	2,000,000.00		17,509,647.32	17,509,647.32		
	10/31/2007		188,472.27	17,698,119.59	17,509,647.32	188,472.27	
25	11/1/2007	1,000,000.00		18,509,647.32	18,509,647.32		
	11/30/2007		216,222.98	18,725,870.30	18,509,647.32	216,222.98	
	12/31/2007		238,546.59	18,747,893.91	18,509,647.32	238,546.59	
	1/31/2008		245,777.44	18,755,424.76	18,509,647.32	245,777.44	
	2/28/2008		245,548.96	18,755,196.28	18,509,647.32	245,548.96	
	3/31/2008		241,735.18	18,751,382.50	18,509,647.32	241,735.18	
	4/30/2008		246,795.30	18,756,442.62	18,509,647.32	246,795.30	
	5/31/2008		246,795.30	18,756,442.62	18,509,647.32	246,795.30	
	6/30/2008		246,795.30	18,756,442.62	18,509,647.32	246,795.30	
	7/31/2008		246,795.30	18,756,442.62	18,509,647.32	246,795.30	
	8/31/2008		246,795.30	18,756,442.62	18,509,647.32	246,795.30	
	9/30/2008		246,795.30	18,756,442.62	18,509,647.32	246,795.30	
	10/31/2008		246,795.30	18,756,442.62	18,509,647.32	246,795.30	
	11/30/2008		246,795.30	18,756,442.62	18,509,647.32	246,795.30	
	12/31/2008		246,795.30	18,756,442.62	18,509,647.32	246,795.30	
	1/31/2009		246,795.30	18,756,442.62	18,509,647.32	246,795.30	

Sun Capital Inc. Principal and Interest Worksheet
 Promissory Note to Founding Partners Stable-Value Fund, L.P.

Date	Principal Payment	Monthly Interest Due	Total Balance	Principal Balance	Total Interest Due	Notes
2/1/2004			4,500,000.00	4,500,000.00		2/1/04 Note Balance
2/18/2004	-75,000.00		4,425,000.00	4,425,000.00		
2/29/2004		60,199.32	4,485,199.32	4,425,000.00	60,199.32	
3/15/2004	-75,000.00		4,350,000.00	4,350,000.00		
3/31/2004		67,056.16	4,417,056.16	4,350,000.00	67,056.16	
4/15/2004	-75,000.00		4,275,000.00	4,275,000.00		
4/30/2004		63,801.37	4,338,801.37	4,275,000.00	63,801.37	
5/14/2004	-75,000.00		4,200,000.00	4,200,000.00		
5/31/2004		64,726.03	4,264,726.03	4,200,000.00	64,726.03	
6/15/2004	-75,000.00		4,125,000.00	4,125,000.00		
6/30/2004		61,545.21	4,186,545.21	4,125,000.00	61,545.21	
7/15/2004	-75,000.00		4,050,000.00	4,050,000.00		
7/31/2004		62,432.88	4,112,432.88	4,050,000.00	62,432.88	
8/16/2004	-75,000.00		3,975,000.00	3,975,000.00		
8/31/2004		59,326.03	4,034,326.03	3,975,000.00	59,326.03	
9/16/2004	-75,000.00		3,900,000.00	3,900,000.00		
9/30/2004		58,253.42	3,958,253.42	3,900,000.00	58,253.42	
10/15/2004	-75,000.00		3,825,000.00	3,825,000.00		
10/31/2004		59,030.14	3,884,030.14	3,825,000.00	59,030.14	
11/15/2004	-75,000.00		3,750,000.00	3,750,000.00		
11/30/2004		56,034.25	3,806,034.25	3,750,000.00	56,034.25	
12/15/2004	-75,000.00		3,675,000.00	3,675,000.00		
12/31/2004		56,736.99	3,731,736.99	3,675,000.00	56,736.99	
1/18/2005	-75,000.00		3,600,000.00	3,600,000.00		
1/31/2005		55,701.37	3,655,701.37	3,600,000.00	55,701.37	
2/15/2005	-75,000.00		3,525,000.00	3,525,000.00		
2/28/2005		49,228.77	3,574,228.77	3,525,000.00	49,228.77	
3/15/2005	-75,000.00		3,450,000.00	3,450,000.00		
3/31/2005		53,297.26	3,503,297.26	3,450,000.00	53,297.26	
4/15/2005	-75,000.00		3,375,000.00	3,375,000.00		
4/30/2005		50,486.30	3,425,486.30	3,375,000.00	50,486.30	
5/16/2005	-75,000.00		3,300,000.00	3,300,000.00		
5/31/2005		51,041.10	3,351,041.10	3,300,000.00	51,041.10	
6/15/2005	-75,000.00		3,225,000.00	3,225,000.00		
6/30/2005		48,267.12	3,273,267.12	3,225,000.00	48,267.12	
7/15/2005	-75,000.00		3,150,000.00	3,150,000.00		
7/31/2005		48,710.96	3,198,710.96	3,150,000.00	48,710.96	

Sun Capital Inc. Principal and Interest Worksheet
 Promissory Note to Founding Partners Stable-Value Fund, L.P.

Date	Principal Payment	Monthly Interest Due	Total Balance	Principal Balance	Total Interest Due	Notes
8/15/2005	-75,000.00		3,075,000.00	3,075,000.00		
8/31/2005		47,564.38	3,122,564.38	3,075,000.00	47,564.38	
9/15/2005	-75,000.00		3,000,000.00	3,000,000.00		
9/30/2005		44,938.36	3,044,938.36	3,000,000.00	44,938.36	
10/17/2005	-75,000.00		2,925,000.00	2,925,000.00		
10/31/2005		45,345.21	2,970,345.21	2,925,000.00	45,345.21	
11/15/2005	-75,000.00		2,850,000.00	2,850,000.00		
11/30/2005		42,682.19	2,892,682.19	2,850,000.00	42,682.19	
12/15/2005	-75,000.00		2,775,000.00	2,775,000.00		
12/31/2005		42,941.10	2,817,941.10	2,775,000.00	42,941.10	
1/17/2006	-75,000.00		2,700,000.00	2,700,000.00		
1/31/2006		41,868.49	2,741,868.49	2,700,000.00	41,868.49	
2/15/2006	-75,000.00		2,625,000.00	2,625,000.00		
2/28/2006		36,764.38	2,661,764.38	2,625,000.00	36,764.38	
3/15/2006	-75,000.00		2,550,000.00	2,550,000.00		
3/31/2006		39,501.37	2,589,501.37	2,550,000.00	39,501.37	
4/17/2006	-75,000.00		2,475,000.00	2,475,000.00		
4/30/2006		37,208.22	2,512,208.22	2,475,000.00	37,208.22	
5/15/2006	-75,000.00		2,400,000.00	2,400,000.00		
5/31/2006		37,208.22	2,437,208.22	2,400,000.00	37,208.22	
6/15/2006	-75,000.00		2,325,000.00	2,325,000.00		
6/30/2006		34,915.07	2,359,915.07	2,325,000.00	34,915.07	
7/17/2006	-75,000.00		2,250,000.00	2,250,000.00		
7/31/2006		34,989.04	2,284,989.04	2,250,000.00	34,989.04	
8/15/2006	-75,000.00		2,175,000.00	2,175,000.00		
8/31/2006		33,768.49	2,208,768.49	2,175,000.00	33,768.49	
9/15/2006	-75,000.00		2,100,000.00	2,100,000.00		
9/30/2006		31,586.30	2,131,586.30	2,100,000.00	31,586.30	
10/16/2006	-75,000.00		2,025,000.00	2,025,000.00		
10/31/2006		31,512.33	2,056,512.33	2,025,000.00	31,512.33	
11/15/2006	-75,000.00		1,950,000.00	1,950,000.00		
11/30/2006		29,404.11	1,979,404.11	1,950,000.00	29,404.11	
12/15/2006	-75,000.00		1,875,000.00	1,875,000.00		
12/31/2006		29,182.19	1,904,182.19	1,875,000.00	29,182.19	
1/16/2007	-75,000.00		1,800,000.00	1,800,000.00		
1/31/2007		28,072.60	1,828,072.60	1,800,000.00	28,072.60	
2/15/2007	-75,000.00		1,725,000.00	1,725,000.00		

Sun Capital Inc. Principal and Interest Worksheet
 Promissory Note to Founding Partners Stable-Value Fund, L.P.

Date	Principal Payment	Monthly Interest Due	Total Balance	Principal Balance	Total Interest Due	Notes
2/28/2007		24,336.99	1,749,336.99	1,725,000.00	24,336.99	
3/15/2007	-75,000.00		1,650,000.00	1,650,000.00		
3/31/2007		25,742.47	1,675,742.47	1,650,000.00	25,742.47	
4/16/2007	-75,000.00		1,575,000.00	1,575,000.00		
4/30/2007		23,856.16	1,598,856.16	1,500,000.00	23,856.16	
5/15/2007	-75,000.00		1,500,000.00	1,500,000.00		
5/31/2007		23,449.32	1,523,449.32	1,500,000.00	23,449.32	
6/15/2007	-75,000.00		1,425,000.00	1,425,000.00		
6/30/2007		21,600.00	1,446,600.00	1,425,000.00	21,600.00	
7/16/2007	-75,000.00		1,350,000.00	1,350,000.00		
7/31/2007		21,193.15	1,371,193.15	1,350,000.00	21,193.15	
8/15/2007	-75,000.00		1,275,000.00	1,275,000.00		
8/31/2007		20,009.59	1,295,009.59	1,275,000.00	20,009.59	
9/17/2007	-75,000.00		1,200,000.00	1,200,000.00		
9/30/2007		18,345.21	1,218,345.21	1,200,000.00	18,345.21	
10/15/2007	-75,000.00		1,125,000.00	1,125,000.00		
10/31/2007		17,716.44	1,142,716.44	1,125,000.00	17,716.44	
11/15/2007	-75,000.00		1,050,000.00	1,050,000.00		
11/30/2007		16,052.05	1,066,052.05	1,050,000.00	16,052.05	
12/14/2007	-75,000.00		975,000.00	975,000.00		
12/31/2007		15,386.30	990,386.30	975,000.00	15,386.30	
1/15/2008	-75,000.00		900,000.00	900,000.00		
1/31/2008		14,276.71	914,276.71	900,000.00	14,276.71	
2/15/2008	-75,000.00		825,000.00	825,000.00		
2/29/2008		12,916.44	837,916.44	825,000.00	12,916.44	
3/17/2008	-75,000.00		750,000.00	750,000.00		
3/31/2008		12,057.53	762,057.53	750,000.00	12,057.53	
4/15/2008	-75,000.00		675,000.00	675,000.00		
4/30/2008		10,504.11	685,504.11	675,000.00	10,504.11	
5/13/2008	-75,000.00		600,000.00	600,000.00		
5/31/2008		9,690.41	609,690.41	600,000.00	9,690.41	
6/16/2008	-75,000.00		525,000.00	525,000.00		
6/30/2008		8,321.92	533,321.92	525,000.00	8,321.92	
7/15/2008	-75,000.00		450,000.00	450,000.00		
7/31/2008		7,397.26	457,397.26	450,000.00	7,397.26	
8/15/2008	-75,000.00		375,000.00	375,000.00		
8/31/2008		\$6,250.68	381,250.68	375,000.00	\$6,250.68	

Sun Capital Inc. Principal and Interest Worksheet
 Promissory Note to Founding Partners Stable-Value Fund, L.P.

Date	Principal Payment	Monthly Interest Due	Total Balance	Principal Balance	Total Interest Due	Notes
9/15/2008	-75,000.00		300,000.00	300,000.00		
9/30/2008		4,956.16	304,956.16	300,000.00	4,956.16	
10/16/2008	-75,000.00		225,000.00	225,000.00		
10/31/2008		3,957.53	228,957.53	225,000.00	3,957.53	
11/17/2008	-75,000.00		150,000.00	150,000.00		
11/30/2008		2,810.96	152,810.96	150,000.00	2,810.96	
12/15/2008	-75,000.00		75,000.00	75,000.00		
12/31/2008		1,664.38	76,664.38	75,000.00	1,664.38	
1/15/2009	-75,000.00		0.00	0.00		
1/15/2009		517.81	517.81	0.00	517.81	

EXHIBIT H

GRAY | ROBINSON
ATTORNEYS AT LAW

SUITE-1650
1221 BRICKELL AVENUE
MIAMI, FLORIDA 33131
TEL 305-416-6880
FAX 305-416-6887
gray-robinson.com

FORT LAUDERDALE
JACKSONVILLE
KEY WEST
LAKELAND
MELBOURNE
MIAMI
NAPLES
ORLANDO
TALLAHASSEE
TAMPA

April 29, 2009

**VIA FEDERAL EXPRESS
OVERNIGHT MAIL**

Sun Capital, Inc.
Howard B. Koslow
As President and Chief Operating Officer
999 Yamato Road, 3rd Floor
Boca Raton, FL 33431

David J. Armstrong
As Executive Vice President and Registered Agent
999 Yamato Road, 3rd Floor
Boca Raton, FL 33431

VIA ELECTRONIC MAIL

Charles C. Harper, P.A.
c/o Charles C. Harper, Esq.
8520 SW 89 Avenue
Miami, FL 33173
Email: charlieharper@bellsouth.net

Gilbride Heller & Brown
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Proskauer Rose, LLP
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Proskauer Rose, LLP
c/o Vincenzo Paparo, Esq.
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New York, NY 10036-8299
Email: vpaparo@proskauer.com

RE: Credit and Security Agreement dated January 24, 2002 ("Agreement") between Sun Capital, Inc., a Florida corporation ("Borrower" or "you") and Founding Partners Stable-Value Fund, L.P. ("Lender") incorporated by reference herein.

Dear Messrs:

Please permit this correspondence to serve as the Lender's Notice of Default under the Agreement pursuant to Paragraph 8 "Defaults." You are advised that the Borrower has defaulted under the Agreement as detailed below. These defaults include, **without limitation**, the following:

- i. Borrower defaulted under Paragraph 8.1.1 by failing to make the requisite payment;

- ii. Borrower defaulted under Paragraph 8.1.3 by failing to perform and observe other covenants, agreements, and provisions of the Agreement, including, without limitation:
 - a. Borrower violated Paragraph 2.2 of the Agreement by failing to apply the proceeds of the Loans (as defined in the Agreement) as set forth in Paragraph 2.2 of the Agreement;
 - b. Borrower violated Paragraph 6.35 of the Agreement by taking action(s) that impaired or could impair the rights of the Lender in any Purchased Account, the Related Property or any other Collateral (as defined in the Agreement); and
 - c. Borrower violated Paragraph 7.17 by engaging in activities other than those contemplated by the Agreement;
 - d. Borrower violated Paragraph 5.2.10 by having failed to direct Sun Capital Healthcare, Inc. to make payments due
- iii. Borrower defaulted under Paragraph 8.1.10 such that it is operating at a negative cash deficit as represented by Borrower.
- iv. Borrower is in violation of Paragraph 5.2.10 to the extent Sun Capital Healthcare, Inc. has received a notice of default contemporaneous to the instant Notice in respect to the Credit and Security Agreement between Lender and Sun Capital Inc, dated June 6, 2000.
- v. Borrower violated Paragraph 6.8 by incurring additional Indebtedness with its affiliate, Sun Capital Healthcare, Inc.

(collectively, the "Defaults"¹).

This Notice of Default is consistent with the terms of the Agreement, specifically under Paragraph 8 and all other specified sections, wherein the Lender reserved its rights to call a default by the Borrower subsequent to the execution of the Agreement.

NOTICE OF DEFAULT

The Lender and the Borrower entered into the Agreement on January 24, 2002, with respect to loans, of which the Lender is the owner and holder. As of the date of this Notice of Default, the Borrower has defaulted under the Agreement and thus the loans made thereunder. Accordingly, notice is hereby given to the Borrower that the Lender is exercising its options pursuant to the Agreement and loans and declares the entire balance outstanding under the Agreement and loans immediately due and payable, plus interest accruing at the default rate of interest and all attorneys' fees and costs incurred by the Lender. The Lender shall avail itself of all its legal rights and remedies.

The Lender demands immediate payment in full under the Agreement and loans and failure to do so shall leave the Lender with no alternative but to take whatever actions it deems necessary, to which it is entitled, to protect its interests.

This correspondence shall not by implication or otherwise limit the rights and remedies of the Lender under the Agreement or the loans thereunder, and shall in no way alter, modify, amend or

¹ It is reiterated that the defaults listed herein are not exclusive, and the Lender does not waive its rights as to any defaults not enumerated herein.

affect the terms, conditions, obligations, covenants or agreements contained therein. Moreover, this correspondence shall not be deemed or construed as a waiver of any existing defaults, including the Defaults, under the Agreement and loans that may exist but which are not enumerated herein, nor create any obligations on the part of the Lender not otherwise existing under the Agreement and loans. Finally, this correspondence shall not be deemed or construed as a waiver of any rights and remedies available to the Lender, and its assignees, under any documents and agreement executed by you for any obligation of the Borrower to Lender.

Very truly yours,
GRAYROBINSON



**Leyza F. Blanco, as Receiver of
Founding Partners Stable-Value Fund, L.P., the Lender**

EXHIBIT I

LOAN AND SECURITY AGREEMENT

THIS LOAN AND SECURITY AGREEMENT (this "Agreement"), dated as of June 28, 2006, is made by and between FOUNDING PARTNERS STABLE-VALUE FUND, L.P. ("Lender"), and HLP PROPERTIES OF PORT ARTHUR, LLC, a Texas limited liability company ("Borrower").

RECITALS

A. Borrower is the owner of that certain real property described on Exhibit A attached hereto (the "Property"), together with the Improvements (as hereinafter defined).

B. Borrower desires to borrow from Lender, and Lender is willing to loan to Borrower, a loan (the "Loan") in the maximum principal amount of the Loan Amount (as hereinafter defined), for the purposes and upon the terms set forth herein.

NOW THEREFORE, in consideration of the foregoing, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

ARTICLE 1

DEFINITIONS

When used herein, the following initially-capitalized terms shall have the following meanings:

"Affiliate" means, with respect to any Person, any other Person which controls, is controlled by, or is under common control with the Person in question. For the purposes of the foregoing definition, "controls" (and the correlative terms "controlled by" and "under common control with") means possession by the applicable Person of the power to direct or cause the direction of the management and policies thereof, whether through the ownership of voting securities, by contract, or otherwise, including, without limitation, the power to elect or appoint a majority of the directors of a corporation or the trustees of a trust. "Affiliate" shall also include, without limitation, relatives of any natural person.

"Agreement" means this Loan and Security Agreement, together with all supplements, amendments, modifications, extensions, renewals and replacements hereto.

"Application Information" means all financial information and statements and other information submitted to Lender in connection with the Loan, including, without limitation, information relating to the tenants, Leases and rent payment history.

"Assignment of Rents" means that certain Assignment of Rents (and Leases) of even date herewith executed by Borrower, as assignor, in favor of Lender, as assignee, to be recorded in the Recording Location, together with all supplements, amendments, modifications, extensions, renewals and replacements thereto.

"Attorneys' Fees," "Attorneys' Fees and Costs," "attorneys' fees" and "attorneys' fees and costs" mean the reasonable fees and expenses of counsel to the applicable parties to the Loan Documents, which may include printing, photostating, duplicating, facsimilating, messengering, filing and other expenses; air freight charges, and fees billed for law clerks, paralegals, librarians and others not admitted to the bar but performing services under the supervision of an attorney. The terms "attorneys' fees" or "attorneys' fees and costs" shall also include, without limitation, all such reasonable fees and expenses incurred with respect to appeals, arbitrations, bankruptcy proceedings (including, without limitation, any adversary proceeding, contested motion or motion) and any post-judgment proceedings to

collect any judgment, and whether or not any action or proceeding is brought with respect to the matter for which such fees and expenses were incurred. The recovery of post-judgment fees, costs and expenses under this Agreement or any of the other Loan Documents is separate and several and shall survive the merger of the applicable Loan Documents into any judgment.

"Bankruptcy Code" means Title 11 of the U.S. Code, as applicable, or any similar federal or state laws for the relief of debtors, each as hereafter amended.

"Business Day" means any day other than a Saturday, a Sunday, a legal holiday under the laws of the State of New York or the State in which the Project is located, or a day on which commercial banks in the State of New York or the State in which the Project is located are authorized or required by law or other governmental action to be closed.

"Closing Date" means June 28, 2006.

"Collateral" means the collateral now or hereafter pledged to Lender under the Security Instrument or any other Loan Document as security for any of the Loan Obligations, including, without limitation, the Project and the Personal Property.

"Contractual Obligation" as applied to any Person means any provision of any instrument, document or security issued by that Person or of any indenture, mortgage, deed of trust, contract, undertaking, agreement or other instrument to which that Person is a party or by which any of its properties is bound or to which it or any of its properties is subject.

"Default Interest Rate" is defined in the Note.

"Entitlements" means all final zoning, platting, site plan and other applicable development approvals and permits from all applicable Governmental Agencies for the construction of the Renovations, including, without limitation, conditional use permits and building permits.

"Environmental Indemnity" means that certain Environmental Indemnity of even date herewith executed by Borrower and the other parties named therein, if any, together with all supplements, amendments, modifications, extensions, renewals and replacements thereto.

"Environmental Laws" means any and all present and future federal, state and local laws, ordinances, regulations, policies and any other requirements of any Governmental Agency relating to health, safety, the environment or to any Hazardous Substances, including without limitation, the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), the Resource Conservation Recovery Act (RCRA), the Hazardous Materials Transportation Act, the Toxic Substance Control Act, the Endangered Species Act, the Clean Water Act, the Clean Air Act, the Occupational Safety and Health Act (to the extent the same relates to Hazardous Substances), each as hereafter amended from time to time, and the present and future rules, regulations and guidance documents promulgated under any of the foregoing, or under similar laws, ordinances, regulations, policies or requirements of other states or localities.

"Environmental Obligations" means all terms, conditions, covenants and obligations under Section 7.4 of this Agreement.

"Equity Distributions" means any sums or other consideration directly or indirectly distributed (or paid as a dividend, return of capital or similar payment, as payment on account of indebtedness, as return of capital, or as a redemption of any equity interest in Borrower) by Borrower to (or to any Affiliate, subsidiary or relative of) any partner, member, shareholder, principal or other equity owner of Borrower, or paid as above-market management, asset management, development, leasing or other fees or commissions to any of the foregoing.

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

"Existing Improvements" means the improvements located on the Property as of the Closing Date, consisting of a large two-story brick building and several smaller surrounding buildings as more particularly shown on the survey of the Project prepared by Arceneaux & Gates.

"Financial Reporting Method" means generally accepted accounting principles (GAAP), consistently applied.

"Financial Statement Delivery Date" means with respect to the financial statements and information required by Sections 7.7(A) and 7.7(B), ninety (90) days after the end of each calendar year, and at such other times within thirty (30) days after written request by Lender.

"Flood Insurance Acts" means the National Flood Insurance Act of 1968, the Flood Disaster Protection Act of 1973 and the National Flood Insurance Reform Act of 1994, and any other flood insurance act, each as may be amended.

"Formation Documents" means (a) as to any corporation, its articles of incorporation and bylaws, (b) as to any limited partnership, its Certificate of Limited Partnership and partnership agreement, (c) as to any general partnership or joint venture, its Statement of Partnership and partnership agreement, (d) as to any limited liability company, its articles or certificate of organization and operating agreement, and (e) as to any trust, its trust agreement and a certification of the current trustees thereof, each of the foregoing together with all supplements, amendments and modifications thereto.

"Formation Documents Certificates" means such certificates in connection with the Formation Documents of Borrower as may be required by Lender.

"Further Assurances Clauses" means the provisions of the Loan Documents requiring Borrower to deliver additional documents or instruments to Lender upon Lender's written request, including, without limitation, Section 5.4, Section 7.9 and Section 9.1 of this Agreement and Section 8 of the Assignment of Rents.

"Governing State" means New York.

"Governmental Agency" means any federal, state, municipal or other governmental or quasi-governmental court, agency, authority or district.

"Hazardous Substances" means (a) any chemical, compound, material, mixture or substance that is now or hereafter defined or listed in, or otherwise classified pursuant to, any Environmental Laws as a "hazardous substance", "hazardous material", "hazardous waste", "extremely hazardous waste", "acutely hazardous waste", "radioactive waste", "infectious waste", "biohazardous waste", "toxic substance", "pollutant", "toxic pollutant", "contaminant", or any formulation not mentioned herein intended to define, list, or classify substances by reason of deleterious properties such as ignitability, corrosivity, reactivity, carcinogenicity, toxicity, reproductive toxicity, "EP toxicity", or "TCLP toxicity"; (b) petroleum, natural gas, natural gas liquids, liquefied natural gas, synthetic gas usable for fuel (or mixtures of natural gas and such synthetic gas) and ash produced by a resource recovery facility utilizing a municipal solid waste stream, and drilling fluids, produced waters and other wastes associated with the exploration, development or production of crude oil, natural gas, or geothermal resources; (c) asbestos in any form; (d) urea formaldehyde foam insulation; (e) polychlorinated biphenyls (PCBs); (f) radon; and (g) any other chemical, material, or substance exposure to which is limited or regulated by any Governmental Agency because of its quantity, concentration, or physical or chemical characteristics, or which poses a significant present or potential hazard to human health or safety or to the environment if released into the workplace or the environment. "Hazardous Substances" shall not include ordinary office supplies and repair, maintenance and cleaning supplies maintained in de minimis, reasonable and necessary quantities and used in accordance with all Environmental Laws.

"Impound Expenses" means premiums for insurance required by the Insurance Agreement, and all real estate and personal property taxes and other taxes and assessments, and water, sewer, electrical and other utility charges relating to the Project or any portion thereof and rents due under any ground lease.

"Improvements" means the improvements and fixtures now or hereafter located on the Property including, without limitation, the Existing Improvements and the Renovations.

"Indebtedness" means, with respect to any Person, (a) all indebtedness of such Person for borrowed money; (b) all obligations issued, undertaken or assumed by such Person as the deferred purchase price of property or services; (c) all non-contingent reimbursement or payment obligations; (d) all obligations of such Person evidenced by notes, bonds, debentures or similar instruments; (e) all indebtedness of such Person created or arising under any conditional sale or other title retention agreement, or incurred as financing, in either case with respect to property acquired by such Person (even though the rights and remedies of the seller or lender under such agreement in the event of default are limited to repossession or sale of such property); (f) all obligations of such Person with respect to capital leases; (g) all indebtedness referred to in clauses (a) through (f), inclusive, above secured by (or for which the holder of such Indebtedness has an existing right, contingent or otherwise, to be secured by) any Lien upon or in property owned by such Person, even though such Person has not assumed or become liable for the payment of such Indebtedness; and (h) all guaranty obligations of such Person in respect of indebtedness or obligations of others of the kinds referred to in clauses (a) through (g), inclusive, above.

"Indemnitees" means, collectively and individually, Lender, its Affiliates and its and their respective directors, officers, agents, attorneys, employees, successors and assigns.

"Insolvency Laws" means the Bankruptcy Code and any and all present and future federal, state and local laws, ordinances, regulations, rules and any other requirements of any Governmental Agency relating to the bankruptcy, insolvency, appointment of a receiver, reorganization, arrangement, readjustment of debt, dissolution or liquidation of, for or relating to, any Person, each as hereafter amended from time to time and the present and future rules, regulations and guidance documents promulgated under any of the foregoing.

"Insurance Agreement" means that certain Insurance Agreement of even date herewith executed by Borrower in favor of Lender, together with all supplements, amendments, modifications, extensions, renewals and replacements thereto.

"Insurance/Condemnation Proceeds" means insurance proceeds, condemnation awards (including, without limitation, payments arising from change in grade of streets and awards for severance damages), and payments in lieu of the foregoing, arising from the Project or relating to Borrower's ownership of the Project, or any other sums payable by any Person to or for the benefit of Borrower on account of any loss, condemnation or taking of, or damage to, the Project or any portion thereof.

"Laws" means all of the following in effect at any time: (a) all orders of any court, all federal, state, county, municipal and other governmental and quasi-governmental statutes, laws, rules, orders, regulations, ordinances, judgments, decrees and injunctions, whether now or hereafter enacted and in force, including, without limitation, the Americans with Disabilities Act, 42 U.S.C. Sections 12101-12213 (1991), all Terrorism Laws and all Environmental Laws, any zoning or other land use entitlements and any requirements which may require repairs, modifications or alterations in or to the Project, (b) all foreign country (non-United States) statutes, laws, rules, orders, regulations, ordinances, judgments, decrees and injunctions, whether now or hereafter enacted and in force, (c) all Permits at any time in force affecting the Project or the occupancy, operation, ownership, transfer or use thereof, and (d) all covenants, agreements, restrictions and encumbrances running in favor of any Person, contained in any instruments, either of record or known to Borrower, at any time in force affecting the Project or the occupancy, operation, ownership, transfer or use thereof.

"Lease Deposits" means all security deposits, letters of credit, escrow deposits and similar sums at any time received by or delivered to Borrower under or in connection with any Lease.

"Leases" is defined in the Assignment of Rents.

"Lease Termination Payments" means all sums, however denominated, paid or payable to or for the benefit of Borrower in connection with, as a result of, or as consideration for, the termination or expiration of any Lease (including, without limitation, holdover rent and damage and other awards), or any reduction of the space covered by any Lease or any reduction in the term of any Lease.

"Lien" means any mortgage, deed of trust, deed to secure debt, pledge, security interest, encumbrance, lien, charge or claim of any kind (including, without limitation, any agreement to give any of the foregoing, any conditional sale or other title retention agreement, any lease in the nature thereof, and/or the filing of or agreement to give any financing statement under the Uniform Commercial Code of any jurisdiction) with respect to the Project or the other Collateral or any portion thereof or interest therein.

"Lien Enforcement Action" means (a) any action in which Lender exercises any rights or remedies against Borrower pursuant to the Loan Documents or under applicable law or at equity against or with respect to the Project or the Collateral, including, without limitation: appointment and maintenance of a receiver; any action to prevent waste or otherwise to protect the Project or the Collateral from material physical damage or material physical deterioration; Lender's exercise of a power of sale contained in any Loan Document; commencement and prosecution of a foreclosure, trustee's sale, or similar proceeding or other judicial process; prosecution of any and all rights available to Lender relating to Borrower or the Project and the Collateral in any bankruptcy, insolvency or similar proceeding (including Lender's rights under the Bankruptcy Code to file a claim for the full amount of all Loan Obligations, to require that all collateral held by Lender continue to secure all Loan Obligations, and to elect treatment under 11 U.S.C. Section 1111(b)(2)); consummation of a U.C.C. sale; and (b) any other action or proceeding relating to the Project or the Collateral (including, without limitation, an action for specific performance as to Borrower's express nonmonetary obligations under the Loan Documents), or relating to any other collateral held by Lender for the Loan.

"Loan" is defined in the recitals.

"Loan Amount" means an amount of up to Five Million Dollars (\$5,000,000).

"Loan Documents" means the documents described in Section 3.1 and all other documents now or hereafter securing, or executed in connection with, the Loan, together with all supplements, amendments, modifications, extensions, renewals and replacements thereto.

"Loan Obligations" means all obligations of Borrower with respect to: (a) payment of principal, interest, and any other sums payable under the Loan Documents; (b) performance of all nonmonetary obligations of Borrower under the Loan Documents; (c) payment of damages for breach of any representation, warranty, or covenant in any Loan Document; (d) any obligation to indemnify any party under any Loan Document; and (e) payment of any monetary judgment obtained by Lender under the Loan Documents or in connection with the Loan.

"Loan Year" means the twelve (12) month period commencing on the Closing Date, if the Closing Date occurs on the first day of a calendar month, or on the first day of the calendar month following the Closing Date if the Closing Date does not occur on the first day of a calendar month, and each twelve (12) months thereafter. If the Closing Date does not occur on the first day of a calendar month, the first Loan Year shall in addition include any period from the Closing Date to the first day of the calendar month following the Closing Date.

"Losses" means any and all liabilities, claims and actual, out-pocket losses, damages, costs, and expenses (including, without limitation, reasonable attorneys' fees and expenses) incurred, paid or

suffered by Lender or any Affiliate, subsidiary or nominee of Lender: (a) as a direct result of the specified matter; (b) to cure or remedy such matter; and/or (c) in enforcing Lender's claims against any Person with respect to such matter.

"Maturity Date" is defined in the Note.

"Member" or "member" means the members of the limited liability company in question, together with any constituent members of such members.

"Monthly Installment" is defined in the Note.

"Nonforeign Status Statutes" means Section 1445 of the Internal Revenue Code of 1986, as amended, and the regulations promulgated thereunder, and any successor Laws.

"Note" means that certain Secured Promissory Note of even date herewith in the principal amount of Five Million Dollars (\$5,000,000) executed by Borrower as maker, in favor of Lender, as payee, together with all supplements, amendments, modifications, extensions, renewals and replacements thereto.

"Permits" means all permits, certificates, licenses, franchises, approvals, variances and land use entitlements necessary for the occupancy, operation, lease, ownership and use of the Project.

"Permitted Indebtedness" means (a) trade payables entered into, and accrued expenses arising, in the ordinary course of business on reasonable and customary terms; (b) obligations under Leases entered into in accordance with this Agreement; (c) non-delinquent Impositions (as defined in the Security Instrument) relating to the Project; and (d) the Loan.

"Person" means and includes natural persons, corporations, limited liability companies, limited liability partnerships, limited partnerships, general partnerships, joint stock companies, joint ventures, associations, companies, trusts, banks, trust companies, land trusts, business trusts, real estate investment trusts or other organizations, whether or not legal entities, and governments, agencies and countries and political subdivisions thereof.

"Personal Property" means all personal property in which Borrower now or hereafter owns or acquires any interest or right, together with all present and future attachments, accessions, replacements, substitutions, additions and renovations thereto or therefor, and together with all products and proceeds thereof, including, without limitation, all insurance proceeds from any policy of insurance covering any of the foregoing property now or hereafter acquired by Borrower. "Personal Property" shall include, without limitation, the personal property described in Exhibit B attached hereto and any leased personal property.

"Pledge Agreement" means the Amended and Restated Pledge Agreement dated as of June 28, 2006 among Mr. Howard Koslow, Mr. Larry Leder, Mr. Peter Baronoff and Lender, together with all supplements, amendments, modifications, extensions, renewals and replacements thereto.

"Potential Default" means a monetary default, or material nonmonetary default, in either case which, with the giving of notice or the passage of time, or both, would constitute an Event of Default under any of the Loan Documents.

"Project" means the Property and the Improvements.

"Project Documents" means (a) all agreements now or hereafter in effect with any contractor, architect or engineer, including, without limitation, any design architect, landscape architect, civil engineer, electrical engineer, environmental engineer, soils engineer or mechanical engineer, in connection with the Project; (b) all other agreements now or hereafter in effect with any property manager or broker with respect to the management, leasing, or operation of the Project; (c) all as-built plans and

specifications and surveys for the Project; (d) all Permits; and (e) all renewals, substitutions, extensions, modifications or replacements of any of the foregoing.

"Property" is defined in the recitals.

"Recording Location" means Jefferson County, Texas.

"Renovations" means the improvements, renovations and/or construction to be funded from the Loan in accordance with the Loan Documents.

"Secured Obligations" is defined in the Security Instrument.

"Security Instrument" means that certain Deed of Trust and Fixture Filing of even date herewith executed by Borrower, in favor of Lender, to be recorded in the Recording Location, together with all supplements, amendments, modifications, extensions, renewals and replacements thereto.

"Tax Identification Number" means Borrower's employer identification number or social security number, which is 20-4929301.

"Termination Date" means June 28, 2007.

"Terrorism Laws" means Executive Order 13224 issued by the President of the United States of America, the Terrorism Sanctions Regulations (Title 31 Part 595 of the U.S. Code of Federal Regulations), the Terrorism List Governments Sanctions Regulations (Title 31 Part 596 of the U.S. Code of Federal Regulations), and the Foreign Terrorist Organizations Sanctions Regulations (Title 31 Part 597 of the U.S. Code of Federal Regulations), and all other present and future federal, state and local laws, ordinances, regulations, policies and any other requirements of any Governmental Agency (including, without limitation, the United States Department of the Treasury Office of Foreign Assets Control) addressing, relating to, or attempting to eliminate, terrorist acts and acts of war, each as hereafter supplemented, amended or modified from time to time, and the present and future rules, regulations and guidance documents promulgated under any of the foregoing, or under similar laws, ordinances, regulations, policies or requirements of other States or localities.

"Title Company" means Port Arthur Abstract & Title Company or another title insurance company selected by Borrower and approved by Lender in Lender's sole discretion to provide the Title Policy.

"Title Policy" means an ALTA extended coverage policy of title insurance (1970 version, amended 10/17/70 only) (or such other form as approved by Lender in its discretion if the ALTA 1970 form is unavailable in the jurisdiction where the Property is located), with a liability limit equal to the Loan Amount, issued by the Title Company, insuring Lender that on the Closing Date Borrower owns fee simple title to the Project and that the Security Instrument is a valid first lien on the Project. The Title Policy shall contain such endorsements as Lender requires in its good faith sole discretion and shall be subject only to non-delinquent real estate taxes and assessments and such other exceptions to coverage as approved by Lender in writing, in its good faith sole discretion, prior to the Closing Date. To the extent permitted in the jurisdiction in which the Project is located, the Title Policy shall expressly insure against all mechanics' liens and shall not contain any bankruptcy, fraudulent conveyance or other creditors' rights exclusion from coverage. The Title Policy shall also insure against matters which would be shown by a current survey of the Property and the rights of any tenants, occupants, or parties in possession not specifically approved by Lender in writing in its good faith sole discretion.

"Transfer" is defined in the Security Instrument.

ARTICLE 2

LOAN TERMS

2.1 Loan and Disbursements of Loan Proceeds.

Subject to the terms and conditions of this Agreement, and in reliance upon the representations and warranties of Borrower set forth in the Loan Documents, Lender agrees to make to Borrower, and Borrower agrees to accept from Lender, the Loan. The Loan proceeds shall be disbursed by Lender as provided in the Note.

2.2 Evidence of Indebtedness and Maturity.

Borrower shall execute and deliver to Lender, on or before the Closing Date, the Note evidencing the Loan. Borrower agrees to repay the indebtedness evidenced by the Note in accordance with the terms thereof and the terms hereof. The outstanding principal balance of the Loan, together with accrued and unpaid interest thereon and all other amounts payable by Borrower under the Loan Documents shall be due and payable on the Maturity Date provided in the Note, as the same may be accelerated as provided in the Note or the other Loan Documents.

2.3 Interest Rate.

The Loan shall bear interest at the rate per annum specified in the Note.

2.4 Payment of Closing Expenses.

Whether or not the Loan closes, Borrower shall promptly pay all expenses in connection with the making and closing of the Loan, including, without limitation, all charges for environmental and seismic assessments, all report fees (including property condition, structural, engineering and termite), title examination, title insurance and survey, appraisal, recording, and filing fees, inspection fees, travel expenses of Lender's personnel related to the making of the Loan, mortgage and documentary stamp taxes and mortgage recording taxes and fees, if any, note intangible taxes, if any, costs of tax lien searches, brokerage fees and commissions, the fees and costs charged by any third party construction consultant employed by Lender in connection with the making of the Loan, the fees and costs charged by Lender's counsel (including Lender's local counsel, if any), and all of Lender's out-of-pocket expenses in connection with Project and the Loan. Borrower hereby authorizes Lender to disburse proceeds of the Loan to Lender or to any other party to pay interest for any partial calendar month in which the Closing Date occurs, and the fees and expenses described in this Section 2.4, notwithstanding that Borrower may not have requested a disbursement of such amounts. Borrower covenants to pay all amounts required to be paid by Borrower under this Section 2.4 within ten (10) days after written demand by Lender or disbursed by Lender from proceeds of the Loan.

2.5 Prepayment.

Borrower may prepay the outstanding principal balance of the Note in whole or in part at any time as provided in the Note.

ARTICLE 3
CONDITIONS TO LOAN CLOSING

3.1 Conditions Precedent to Closing of the Loan.

As a condition precedent to Lender's obligation to close the Loan and disburse any Loan proceeds, on or before the Closing Date Borrower must satisfy and fulfill each of the following conditions precedent to closing, to the satisfaction of Lender in its good faith sole discretion:

A. Loan Documents. Borrower shall deliver to Lender the following documents, each duly executed and acknowledged by a notary public where necessary, and in form and substance satisfactory to Lender in its good faith sole discretion:

- (i) This Agreement;
- (ii) The Note;
- (iii) The Security Instrument;
- (iv) The Pledge Agreement and all pledged equity interests referred to therein;
- (v) The Assignment of Rents;
- (vi) The Insurance Agreement;
- (vii) The Environmental Indemnity;
- (viii) UCC-1 Financing Statements relating to the Personal Property for such States as are required by Lender; and
- (ix) The Formation Documents Certificates.

B. Legal Opinions. Lender shall have received opinions of inside and outside counsel to Borrower and the "Shareholders" referred to in the Pledge Agreement, each in form and substance satisfactory to Lender.

C. Good Standing Certificates. Lender shall have received a certificate of good standing with respect to Borrower in the State of Texas.

D. Lien Searches. Lender shall have received satisfactory lien searches with respect to Borrower.

E. Title Policy and Survey. Lender shall have received a Title Policy and a survey with respect to the Project, each in form and substance satisfactory to Lender.

F. Other Documents and Conditions. Lender shall have received such other documents, agreements and/or certificates as it may reasonably request.

G. Truth of Representations and Warranties. The representations and warranties contained herein and in the other Loan Documents shall be true, correct and complete in all material respects on the Closing Date.

H. No Default. As of the Closing Date, no event or condition shall have occurred or shall exist that constitutes, and there shall be no event or condition that would result from the funding of the

Loan that would constitute, an Event of Default under any of the Loan Documents or a Potential Default under any of the Loan Documents.

3.2 Termination of Agreement.

Lender's obligation to make the Loan and perform any of its other obligations under the Loan Documents shall terminate unless all of the conditions precedent set forth in Section 3.1 have been satisfied, and the Closing Date has occurred, on or before the Termination Date.

ARTICLE 4

PROJECT DOCUMENTS

4.1 Performance under Project Documents.

Borrower shall at all times perform and discharge each of its obligations under the Project Documents, diligently enforce its rights under the Project Documents unless otherwise agreed by Lender, in Lender's reasonable discretion and, at Borrower's sole cost and expense, appear in and defend Lender in any action or proceeding in any way related to any of the Project Documents. Borrower shall, within ten (10) days after written demand by Lender, pay all reasonable costs and expenses incurred by Lender in connection with any such action or proceeding, including, without limitation, reasonable attorneys' fees and costs.

4.2 Indemnification.

Borrower hereby indemnifies and agrees to defend and hold the Indemnitees harmless for, from and against all expenses, loss, claims, damage or liability which the Indemnitees incur or may or might incur under any of the Project Documents or by reason of any actual or alleged obligation or undertaking on Lender's part to perform or discharge any covenants or agreements contained in any of the Project Documents; provided that such indemnity shall not extend to expenses, loss, claims, damage or liability arising from an Indemnitee's gross negligence or willful misconduct.

ARTICLE 5

SECURITY AGREEMENT

5.1 Grant of Security Interest.

As security for the payment and performance of the Secured Obligations, Borrower hereby assigns, transfers and grants to Lender, and there is hereby created in favor of Lender, a security interest under the Uniform Commercial Code in effect in the Governing State in and to the Personal Property, whether now owned or hereafter acquired, and in all proceeds thereof (and proceeds of proceeds) in whatever form. This Agreement shall constitute a security agreement pursuant to the Governing State Uniform Commercial Code with respect to the Personal Property and proceeds thereof, with Borrower the "Debtor" and Lender the "Secured Party" as such terms are used therein. Borrower agrees that Lender may, in such manner, on such terms and at such times as may be elected by Lender, and without demand or notice to, or the consent or signature of, Borrower, file and/or record such UCC financing statements (which financing statements may indicate the Collateral (x) as all assets of Borrower or words of similar effect, regardless of whether any particular asset in the Collateral falls within the scope of Article 9 of the Uniform Commercial Code of the jurisdiction wherein such financing statement is filed, (y) as being of an equal or lesser scope or with greater detail), fixture filings, and/or amendments to or continuations of any financing statements or fixture filings to evidence, perfect and/or continue the perfection of, any security interests created or to be created pursuant to this Agreement or any of the other Loan Documents, in any or all of the Collateral.

5.2 Representations, Agreements and Covenants Regarding Personal Property.

As an inducement to Lender to execute this Agreement and make the Loan, Borrower represents and warrants to Lender, and covenants and agrees, as follows:

A. Except for the security interest in favor of Lender, Borrower is, and as to any of the Personal Property acquired after the date hereof shall be, the sole owner of the Personal Property, free from any adverse Lien of any kind whatsoever. Borrower shall promptly notify Lender of, and will defend the Personal Property against, all claims and demands of all persons at any time claiming any interest therein.

B. Borrower shall keep the Personal Property in good condition and repair, and shall not misuse, abuse, allow to deteriorate, waste or destroy the Personal Property or any part thereof, except for ordinary wear and tear resulting from normal and expected use in the ordinary course of Borrower's business, which shall be promptly replaced by Borrower with property of similar nature and of equal or greater value, unless such Personal Property is obsolete.

C. Borrower shall not, without the prior written consent of Lender, which consent shall not be unreasonably withheld, sell, offer to sell or otherwise transfer, exchange, hypothecate or dispose of the Personal Property or any interest therein, unless in the normal course of business the Personal Property is being replaced by collateral of similar nature and of equal or greater value, or such Personal Property is obsolete. If the Personal Property or any part thereof is sold, transferred, exchanged, or otherwise disposed of (either with or without the written consent of Lender), the security interest of Lender shall extend to the proceeds of such sale, transfer, exchange or other disposition and, if the proceeds thereof are in excess of Ten Thousand Dollars (\$10,000) individually or in the aggregate, at Lender's written request, Borrower shall hold such proceeds in a separate account for Lender's benefit and shall, at Lender's written request, transfer such proceeds into a cash collateral account with Lender as additional collateral for the Loan.

D. The tangible Personal Property shall be kept on or at the Project and Borrower shall not, without the prior written consent of Lender, which may be withheld in Lender's good faith sole discretion, remove the Personal Property therefrom except such portions or items of Personal Property which are consumed or worn out in ordinary usage, all of which shall be promptly replaced by Borrower as provided in Section 5.2(B).

E. Borrower shall immediately notify Lender in writing of any change in its state of incorporation or organization or in its place of business, any change in Borrower's name or organizational number or the adoption or change of any trade name or fictitious business name used by Borrower.

F. The Personal Property is not and shall not be used or bought for personal, family or household purposes.

G. Lender may examine and inspect the Personal Property at any reasonable time, wherever located upon reasonable prior notice to Borrower (except in the event of an emergency or from and after the occurrence of any Event of Default under the Loan Documents, or at any time during which an uncured Potential Default exists under the Loan Documents, in which event prior notice shall not be required).

5.3 Affixed Collateral.

The inclusion in Section 5.1 of any Personal Property which may now be or hereafter become affixed or in any manner attached to the Project shall be without prejudice to any claim at any time made by Lender that such Personal Property is or has become a part of or an accession to the Project.

5.4 Further Security Agreements.

Borrower agrees to take such actions and, within ten (10) days after Lender's written request, to execute, deliver and file and/or record such documents, agreements and financing statements, as may be reasonably necessary to evidence the security interest set forth in Section 5.1, to establish the priority thereof, to carry out the intent and purpose of this Article 5 and/or reflect any change in Borrower's state of incorporation or organization, name, organizational number or place of business.

ARTICLE 6

BORROWER'S REPRESENTATIONS AND WARRANTIES

As an inducement to Lender to execute this Agreement and make the Loan, Borrower represents and warrants to Lender the truth and accuracy of the matters set forth in this Article 6.

6.1 Organization, Power, Good Standing, and Business.

Borrower is a limited liability company duly formed, validly existing and in good standing under the Laws of the State of Texas. Borrower has the full power and authority to own and operate its properties, to carry on its business as now conducted, to enter into each Loan Document and the Environmental Indemnity, and to carry out the transactions contemplated hereby and thereby. Borrower does not do business under any trade name or fictitious business name. Borrower has duly registered in compliance with all applicable Laws in all applicable jurisdictions, and has the lawful right to use, the name set forth in the definition of "Borrower" herein. Borrower has delivered to Lender true, correct and complete copies of its Formation Documents and such Formation Documents have not been amended or modified except pursuant to agreements delivered to Lender prior to the date hereof.

6.2 Authorization of Borrowing, etc.

A. Authorization of Borrowing. The execution, delivery and performance of the Loan Documents and the Environmental Indemnity, and the issuance, delivery and payment of the Note, have been duly authorized by all necessary action of Borrower.

B. No Conflict. The execution, delivery and performance by Borrower of each applicable Loan Document and the Environmental Indemnity do not and will not (i) violate any Law applicable to Borrower, the Formation Documents of Borrower, or any order, judgment or decree of any court or other Governmental Agency binding on Borrower; (ii) conflict with, result in a breach of, or constitute (with the giving of notice or the passage of time or both), a default under any Contractual Obligation of Borrower; (iii) result in or require the creation or imposition of any Lien of any nature on Borrower's properties or assets other than the Liens in favor of Lender under the Loan Documents; or (iv) require any approval or consent of any Person under any Contractual Obligation of Borrower.

C. Governmental Consents. The execution, delivery and performance by Borrower of each applicable Loan Document and the Environmental Indemnity does not and will not require any registration with, consent or approval of, or notice to, or other action to, with or by, any Governmental Agency or other Person.

D. Binding Obligation. The Note and the other Loan Documents are the legally valid and binding obligations of Borrower, enforceable against Borrower in accordance with their respective terms, except as enforcement may be limited by bankruptcy, insolvency, reorganization, moratorium or similar laws relating to or limiting creditors' rights generally or by the application of equitable principles. The Environmental Indemnity is the legally valid and binding obligation of each of the parties thereto, enforceable against such parties in accordance with its terms, except as enforcement may be limited by bankruptcy, insolvency, reorganization, moratorium or similar laws relating to or limiting creditors' rights generally or by the application of equitable principles.

6.3 Actions.

There is no action, suit, proceeding or arbitration, before or by any Governmental Agency or other Person, pending or, to Borrower's best knowledge, threatened in writing against or affecting Borrower or any properties or rights of Borrower which might materially and adversely affect Lender's rights or remedies under the Loan Documents or the Environmental Indemnity, the business, assets, operations or financial condition of any such party or its ability to perform its obligations under the Loan Documents or the Environmental Indemnity. There are no outstanding judgments against Borrower, the Project, any other Collateral or any of Borrower's assets.

6.4 Financial Position.

A. **Financial Information.** The Application Information and all financial statements and financial data delivered to Lender in connection with the Loan and/or relating to Borrower are true, correct and complete in all material respects and accurately present the financial position of Borrower as of the date thereof. No material adverse change has occurred in the financial position disclosed by the Application Information or in any other financial statements or financial data delivered to Lender or in Borrower's assets, liabilities, financial position or business.

B. **Bankruptcy and Insolvency.** Borrower has not filed or been the subject of any bankruptcy, insolvency, reorganization, dissolution or similar proceeding or any proceeding for the appointment of a receiver or trustee for all or any substantial part of its property. Borrower has not admitted in writing its inability to pay its debts when due, made an assignment for the benefit of creditors or taken other similar action.

C. **Other Borrowing.** Except for the Loan, no borrowings have been made by Borrower which are secured by the Project or any other assets of Borrower, or which might give rise to any Lien, other than the Liens created by the Loan Documents.

6.5 Liens.

Borrower is the sole owner of the Project, the Personal Property and any other Collateral free from any adverse Liens, except for Liens in favor of Lender. Borrower has paid or will pay in full all contractors, materialmen, laborers, architects or other such Persons hired by Borrower to perform services or work with respect to the Project and all statutory lien periods have expired with respect to any such services or work performed prior to the date hereof. No previous assignment, sale, pledge, encumbrance or other hypothecation of the Leases or the Project Documents has been made (except for pledges and encumbrances which have been released in full prior to the date hereof or will be released in full concurrently with the funding of the Loan).

6.6 Compliance with Laws.

The Project and the Personal Property and the use thereof are in material compliance with all Laws. The Property consists of legal and separate lot(s) for tax assessment purposes and under and in compliance with all applicable subdivision Laws. All Permits, easements and rights of way necessary for the occupancy, operation, lease, ownership and use of the Project have been obtained by Borrower and are in full force and effect.

6.7 Defects.

There are no defects, facts or conditions affecting the Project or the Personal Property or any portion thereof which would make the Project unsuitable for the occupancy, operation, lease, use or sale thereof. There are no surface or subsurface soils conditions adversely affecting the Property, including, without limitation, unstable soil or landfills.

6.8 Utilities.

All utilities necessary for the full enjoyment of the Project, including, without limitation, trash collection, police and fire protection, sewer and storm drain, water, telephone, gas and electricity, are available to the Project and are not subject to any conditions which would limit the use of such utilities, other than the payment of normal charges to the utility supplier.

6.9 No Condemnation.

No Condemnation Event (as defined in the Security Instrument) is pending against the Project or any portion thereof. To Borrower's best knowledge, as of the date hereof no Condemnation Event has been threatened in writing against the Project or any portion thereof.

6.10 Hazardous Substances.

There are no Hazardous Substances on, in, under or at the Project. The Project and each portion thereof is in full compliance with all Environmental Laws. There are no above or below ground storage tanks located at the Project. Borrower has not received written notice from any Governmental Agency or any tenant, property manager or any other third party alleging that the Project or any portion thereof does not comply with any Environmental Laws or that evidence exists of a release, disposal of, or other contamination from, any Hazardous Substance at, on, in, from, under or about the Project.

6.11 No Defaults.

No Event of Default has occurred under this Agreement or any of the other Loan Documents, and no Potential Default exists under this Agreement or any of the other Loan Documents. No default by Borrower exists under any Contractual Obligation which would have a material adverse effect on Borrower's ability to repay the Loan or to perform its obligations under any of the Loan Documents or under the Environmental Indemnity.

6.12 Disclosure.

No representation or warranty of Borrower contained in this Agreement, any Loan Document, or any Application Information contains any untrue statement of a material fact or omits to state a material fact necessary in order to make the statements contained herein or therein not misleading.

6.13 Entity Requirements.

Borrower (a) has not engaged, does not engage and is not authorized to engage in any business unrelated to the Project, (b) has not had and does not have assets other than those related to its interest in the Project, (c) has not had and does not have any Indebtedness other than the Permitted Indebtedness, (d) has its own books and records separate and apart from any other Person, (e) holds itself out as being, and conducts all business as, a legal entity, separate and apart from any other Person, with separate stationery, invoices and checks, (f) has not guaranteed the debts or obligations of any other Person, and (g) has not commingled its assets or funds with those of any other Person. Borrower's Formation Documents provide that any dissolution and winding up or insolvency filing for Borrower requires the unanimous consent of all partners, directors or members, as applicable.

6.14 Violations of Governmental Prohibitions.

Neither the making of the Loan, nor the receipt of Loan proceeds by Borrower, violates any Law applicable to Borrower, including, without limitation, any of the Terrorism Laws. Neither the making of the Loan, nor the receipt of Loan proceeds by Borrower, violates any of the Terrorism Laws applicable to Borrower. To Borrower's best knowledge, no holder of any direct or indirect equitable, legal or beneficial interest in Borrower is the subject of any of the Terrorism Laws. No portion of the Loan proceeds will be

used, disbursed or distributed by Borrower for any purpose, or to any Person, directly or indirectly, in violation of any Law including, without limitation, any of the Terrorism Laws.

ARTICLE 7

BORROWER'S COVENANTS

Borrower covenants and agrees that, until the Loan and all other amounts owing to Lender under the Loan Documents have been paid in full and all Secured Obligations have been satisfied, Borrower shall perform all of the covenants in this Article 7.

7.1 No Liens.

Except as expressly provided in the Loan Documents, Borrower shall not permit any Lien to be created or filed. Borrower shall be the sole owner of the Project, Personal Property and all other Collateral, free from any adverse Liens, except for Liens in favor of Lender. Borrower shall not assign, sell, pledge, encumber or otherwise hypothecate all or any portion of the Leases or the Project Documents.

7.2 Compliance with Laws; Correction of Defects.

Borrower will comply with all Laws applicable to Borrower, its property, the Project, the Personal Property, the other Collateral and/or the occupancy, operation, ownership or use thereof, including, without limitation, all applicable subdivision Laws. The Property shall consist of legal and separate lot(s) for tax assessment purposes. Borrower shall comply with, and maintain in full force and effect, all Permits, easements and rights of way necessary for the occupancy, operation, lease, ownership or use of the Project. If at any time Borrower becomes aware of (a) any defects, facts or conditions affecting the Project or any portion thereof or any of the Personal Property or other Collateral which would make the Project unsuitable for the occupancy, operation, lease, use or sale thereof, or (b) any surface or subsurface soils conditions adversely affecting the Property, or (c) any fact, event, occurrence or condition that would render or cause any of Borrower's representations or warranties in the Loan Documents to be then incorrect or incomplete if such representation or warranty were remade as of such date, Borrower will promptly notify Lender in writing and shall promptly and diligently cause the same to be fully remedied and cured at Borrower's cost and expense.

7.3 Inspection.

During normal business hours and upon reasonable advance notice (except in the event of an emergency or from and after the occurrence of an Event of Default under the Loan Documents, or at any time during which an uncured Potential Default exists under the Loan Documents, in which event entry shall not be limited to normal business hours and no advance notice shall be necessary), Borrower shall permit Lender and any Person designated by Lender to visit and inspect the Project.

7.4 Environmental Matters.

A. Borrower shall, at its own expense, comply and cause all persons entering the Project to comply with all Environmental Laws applicable thereto and Borrower shall not use, store, process, manufacture, transport, dispose or release any Hazardous Substances on, in or adjacent to any part of the Project or permit any of the foregoing to occur. Borrower shall immediately advise Lender in writing of any (i) discovery of Hazardous Substances on, at, from or under the Project or any portion thereof; or (ii) any claim, action or order threatened or instituted by any third party (including, without limitation, any Governmental Agency) against the Project or Borrower relating to damages, cost recovery, liability, loss or injury resulting from any Hazardous Substances. Borrower shall provide Lender with copies of all communications with any third party (including, without limitation, any Governmental Agency) relating to any Environmental Law or any claim, action, notice of violation, inquiry, investigation or order relating to

Hazardous Substances at, on, under or in the Project or any portion thereof. Borrower shall promptly and diligently remediate any Hazardous Substances contamination at, under, from or attributable by joint and several liability to the Project to a level which will not cause any diminution in the value of the Project, but in no event to a level less than that required by Environmental Laws. Without limiting the foregoing, if any remedial action is required under this Section 7.4(A) or by any Environmental Laws, Borrower shall immediately notify Lender of such situation and shall prepare a written plan setting forth a description of such situation (and all environmental reports relating thereto) and the remedial action that Borrower proposes to implement in connection therewith. Borrower shall, at its own expense, thereafter diligently and continuously pursue the remediation of the condition necessary to bring the Project into compliance with this Section 7.4(A) and shall, at its own expense, promptly cause all liens or encumbrances against the Project in connection therewith to be removed and satisfied.

B. Lender shall have the right at any time to retain a professional environmental consultant to conduct tests and investigations of the Project (including, without limitation, ground water and soils testing) with respect to Hazardous Substances or the Project's compliance with Environmental Laws. Borrower hereby grants to Lender, its agents, employees, consultants and contractors, an irrevocable license and authorization to enter upon and inspect the Project and to conduct such tests and investigations on the Project or any portion thereof as Lender, in its sole discretion, determines necessary. Such tests and investigations shall be at Lender's expense unless (i) Lender reasonably believes that a breach of the provisions of Section 6.10 has occurred, or a breach of, or release or contamination governed by, this Section 7.4 has occurred or is in existence, (ii) a breach of the provisions of Section 6.10 has occurred, or a breach of, or release or contamination governed by, this Section 7.4 has in fact occurred, or (iii) an Event of Default has occurred under any of the Loan Documents or an uncured Potential Default exists under any of the Loan Documents. Borrower acknowledges and agrees that, as between it and Lender, only Borrower owns and operates the Project and only Borrower has the responsibility for compliance with this Section 7.4 and neither Lender's enforcement of, or failure to enforce, any of the provisions of Section 7.4 shall be deemed to affect the obligations or provisions of this Section 7.4.

C. To the fullest extent permitted by law, Borrower hereby indemnifies and agrees to defend, and hold harmless the Indemnitees for, from and against any and all loss, claim, damage or liability of any kind or nature and from any suits, actions, claims or demands, including without limitation, all amounts described in Section 7.4(D), arising directly or indirectly, in whole or in part, out of (i) the existence or alleged existence of any Hazardous Substances at, on, under, from or in the Project or any portion thereof, (ii) the removal of or failure to remove any Hazardous Substances from the Project or any portion thereof or from neighboring property, including, without limitation, from the groundwater of the Project or any neighboring property, (iii) any activity involving Hazardous Substances with respect to the Project carried on or undertaken on or off the Project, (iv) any residual contamination on or under the Project or on or under any neighboring property, or (v) any contamination of any property or natural resources arising in connection with any activity involving Hazardous Substances, in each case whether prior to or during the term of the Loan, and whether by Borrower or any other party, provided that such indemnity shall not extend to damage or liability incurred by an Indemnitee to the extent such damage or liability is caused directly by such Indemnitee's gross negligence or willful misconduct. Upon receiving knowledge of any suit, action, claim or demand asserted by a third party that Lender believes is covered by this indemnity, Lender shall give Borrower written notice of the matter and an opportunity to defend it, at Borrower's sole cost and expense, with legal counsel reasonably satisfactory to Lender. Lender may also require Borrower to so defend the matter. The obligations of Borrower under this Section 7.4(C) are, without limitation, intended to operate as a binding valid indemnity agreement under 42 U.S.C. § 9607(e)(1) and shall survive the closing of the Loan and the repayment of the Loan and the satisfaction of all other Secured Obligations.

D. The indemnity set forth in Section 7.4(C) shall include, without limitation, (i) loss, claims, damage or liability for, or arising from, personal injury and property damage, including, without limitation, diminution in marketability or value of property, (ii) compensation for lost wages, rents, business income, profits or other economic loss, (iii) all consequential damages; (iv) all damages to any natural resources and the environment, the costs of any repair, clean up, response cost, or remediation of the Property, the

Project, and, to the extent required or necessary, the neighboring property, and the investigation, preparation and implementation of any closure, remedial or other required plans; and (v) all costs and expenses incurred in connection with any of the foregoing, including, without limitation, reasonable attorneys' fees and costs and reasonable consultants' fees and costs.

7.5 Insurance Requirements.

Borrower shall at all times maintain and keep in force or cause to be maintained and kept in force, at no expense to Lender, policies of insurance in accordance with the terms of the Insurance Agreement.

7.6 Notice of Proceeding.

Borrower will promptly notify Lender of any notice of violation, action, suit, proceeding or arbitration (including, without limitation, any judicial or nonjudicial foreclosure proceeding, any voluntary or involuntary bankruptcy proceeding or any proceeding for the appointment of a receiver), commenced or threatened in writing against Borrower or the Project or the other Collateral or any portion thereof or interest therein. Borrower shall deliver to Lender copies of all notices and other information in connection with any such action, suit, proceeding or arbitration promptly upon receipt or transmittal thereof.

7.7 Financial and Other Information.

Borrower shall maintain full and complete books of account and other records reflecting the results of operations of the Project in accordance with the Financial Reporting Method. Borrower shall furnish or cause to be furnished to Lender such financial information concerning Borrower and the Project and the other Collateral as Lender may reasonably request from time to time. Lender shall also have access to such books and records and Borrower's corporate or organizational books, during regular business hours and upon reasonable advance notice to Borrower, and shall have the right to make copies thereof or extracts therefrom and to discuss the affairs, finances and accounts of Borrower with Borrower, its partners or members, as applicable, and its independent public accountants, all as Lender may reasonably request. Without limiting the generality of the foregoing, Borrower shall furnish to Lender, without prior request or demand:

A. Entity Financial Statements. Borrower shall provide Lender with financial statements (including, without limitation, a balance sheet and a profit and loss statement) for the previous calendar year (if applicable) and the current calendar year-to-date, each of which shall (i) be prepared in accordance with the Financial Reporting Method and otherwise in form reasonably acceptable to Lender, (ii) be certified as true, correct and complete by Borrower, and (iii) at Lender's election after the occurrence of an Event of Default under any of the Loan Documents or while any uncured Potential Default exists under any of the Loan Documents, be certified by a certified public accountant acceptable to Lender. Within fifteen (15) days after the end of each Loan Year, Borrower shall provide Lender with a written certification, in form reasonably satisfactory to Lender, that there has been no material adverse change in the financial condition of Borrower from the financial statements for such party most recently delivered to Lender (or, if there has been a material adverse change, explaining such material adverse change in reasonable detail).

B. Project Financial Statements. On or before each Financial Statement Delivery Date, Borrower shall provide Lender with operating statements for the Project for the previous calendar year or calendar month, as applicable and the current calendar year-to-date, which shall (1) be prepared in accordance with the Financial Reporting Method and otherwise in form reasonably acceptable to Lender, (2) contain comparative information for the two (2) previous calendar years or calendar months, as applicable, (3) be certified as true, correct and complete by Borrower, and (4) at Lender's election after the occurrence of an Event of Default under any of the Loan Documents or while any uncured Potential Default exists under any of the Loan Documents, be certified by a certified public accountant acceptable to Lender.

7.8 Other Contractual Obligations.

Borrower shall perform all of its obligations under (a) any Contractual Obligation if the failure to perform any such obligation would have a material adverse effect on Borrower's ability to repay the Loan or to perform any of its obligations under any of the Loan Documents or under the Environmental Indemnity, and (b) all Permitted Indebtedness.

7.9 Further Assurances.

Borrower shall execute and deliver from time to time, within ten (10) days after written any request by Lender, any and all instruments, agreements and documents, and shall take such other action, as may be reasonably necessary or desirable in the opinion of Lender to maintain, perfect or insure Lender's security provided for herein and in the other Loan Documents, including, without limitation, the execution of UCC-1 renewal statements, the execution of such amendments to the Security Instrument and the other Loan Documents and the delivery of such endorsements to the Title Policy, all as Lender shall reasonably require, and shall pay all reasonable fees and expenses (including, without limitation, reasonable attorney's fees and costs) related thereto.

7.10 Equity Distributions.

Borrower shall not make any direct or indirect Equity Distributions (a) from and after the occurrence of an Event of Default under any of the Loan Documents or (b) so long as any uncured Potential Default exists under any of the Loan Documents, including, without limitation, at any time during which any Impound Expenses are delinquent.

7.11 Entity Requirements.

Borrower (a) shall not engage or be authorized to engage in any business unrelated to the Project, (b) shall not have assets other than those related to its interest in the Project, (c) shall not have any Indebtedness other than the Permitted Indebtedness, (d) shall have its own books and records separate and apart from any other Person, (e) shall hold itself out as being, and shall conduct all business as, a legal entity, separate and apart from any other Person, with separate stationary, invoices and checks, (f) shall not guaranty the debts or obligations of any other Person, and (g) shall not commingle its assets or funds with those of any other Person. Borrower's Formation Documents shall at all times provide that any dissolution and winding up or insolvency filing for Borrower requires the unanimous consent of all partners, directors or members, as applicable. Borrower shall maintain and preserve its existence and all rights and franchises material to its business and shall be, at all times, validly existing and in good standing in the state of its formation. Borrower shall not at any time be a foreign corporation, foreign partnership, foreign trust or foreign estate, as those terms are defined in the Nonforeign Status Statutes. Without limiting the provisions of Section 1.10 of the Security Instrument, Borrower shall not amend or modify any of its Formation Documents without Lender's prior written consent, which shall not be unreasonably withheld unless such amendment or modification relates to a Transfer (in which event Lender's consent may be withheld in Lender's good faith sole discretion). Promptly after Lender's written request from time to time, but not more frequently than once in any calendar year, Borrower shall deliver to Lender evidence reasonably satisfactory to Lender that Borrower is in compliance with the provisions of this Section 7.11.

7.12 Management of the Project.

The Project shall be managed by either (a) Borrower or an Affiliate of Borrower approved by Lender for so long as no Event of Default has occurred under the Loan Documents and so long as Borrower or such Affiliate is managing the Project in a first class manner; or (b) a professional property management company approved by Lender. Management of the Project shall be pursuant to a written agreement. Such written agreement shall be approved in writing by Lender if (a) any Event of Default has occurred under any of the Loan Documents or an uncured Potential Default exists under any of the Loan Documents or (b) such agreement is not terminable with or without cause and without penalty, upon not more than thirty (30) days' notice to the manager thereunder. In no event shall any manager be removed or replaced or any management agreement modified, amended, or terminated without the prior written consent of Lender if any Event of Default has occurred under any of the Loan Documents or an uncured Potential Default exists under any of the Loan Documents. At Lender's election; within ten (10) days after Lender's written request, Borrower and any such manager of the Project shall execute and deliver to Lender an assignment of such management agreement in form reasonably satisfactory to Lender and, at Lender's election in its sole discretion, allowing Lender either to terminate such management agreement immediately upon the transfer of title to the Project as a result of the exercise of its remedies under the Loan Documents, or to keep such management agreement in effect after such transfer of title. Lender's consent and approval under this Section 7.12 shall not be unreasonably withheld.

7.13 Compliance with Governmental Prohibitions.

No portion of the Loan proceeds will be used, disbursed or distributed by Borrower for any purpose, or to any Person, in violation of any Law including, without limitation, any of the Terrorism Laws. Borrower shall provide Lender with immediate written notice (a) of any failure of any of the representations and warranties set forth in Section 6.14 of this Agreement to be true, correct and complete in all respects at any time, or (b) if Borrower obtains knowledge that Borrower or any holder at any time of any direct or indirect equitable, legal or beneficial interest in Borrower is the subject of any of the Terrorism Laws. Borrower shall immediately and diligently take, or cause to be immediately and diligently taken, all necessary action to comply with all Terrorism Laws and to cause the representations and warranties set forth in Section 6.14 of this Agreement to be true, correct and complete in all respects.

7.14 Borrower Estoppel Certificates.

Within ten (10) days after Lender's written request from time to time, but not more frequently than once in any calendar year, Borrower shall execute and deliver to Lender, an estoppel certificate in the form reasonably requested by Lender, stating that the Loan Documents and the Environmental Indemnity are in full force and effect, the amount of Loan proceeds advanced by Lender, and such other matters relating to the Loan and the Loan Documents as may be reasonably requested by Lender.

7.15 Construction of Renovations.

A. Borrower shall promptly and diligently proceed to obtain all of the Entitlements for the Renovations as soon as reasonably practical. Borrower shall at all times comply with all of the terms and conditions of the Entitlements for the Renovations. Subject to the provisions of Section 1.12 of the Security Instrument, the construction of the Renovations shall be free and clear of defects and Liens or claims of Liens for materials supplied or labor or services performed in connection therewith. The Renovations shall comply with all Laws and shall be contained wholly within the boundaries of the Property and shall not encroach on any other real estate, easements, building lines or set-back requirements.

B. Within ten (10) days after written notice from Lender, Borrower shall proceed with diligence to correct all defects in the Renovations. The disbursement of any Loan proceeds shall not constitute a waiver of Lender's right to require compliance with this subsection (B) with respect to any

such defect. Lender shall have no duty to review or inform Borrower of the quality or suitability of the Renovations.

ARTICLE 8

EVENTS OF DEFAULT: REMEDIES

8.1 Events of Default.

A. Events of Default on Notice to Borrower. The occurrence of any of the following events shall constitute an Event of Default under this Agreement and the other Loan Documents upon written notice by Lender to Borrower given at any time on or after the occurrence of any such event; provided that upon such notice from Lender, such Event of Default shall be deemed to have occurred as of the occurrence of such event, irrespective of the date of such notice; and provided further that Lender's giving of or failure to give such notice shall not affect, in any manner whatsoever, the imposition of any late charge or interest at the Default Interest Rate pursuant to the provisions of the Note or the other Loan Documents:

(i) **Failure to Make Payments When Due.** Borrower's failure to pay any principal, interest or other monies due under this Agreement or any of the other Loan Documents within ten (10) days after such amount is due.

(ii) **Breach of Certain Covenants.** Borrower's failure to perform or comply with any term, obligation or condition contained in this Agreement or any of the other Loan Documents, other than those terms, obligations and conditions otherwise referred to in this Section 8.1(A) and other than Borrower's obligations under Section 1.10 of the Security Instrument, for a period of thirty (30) days.

(iii) **Breach of Warranty.** Any representation, warranty, certification or other statement made by Borrower herein or in any Application Information, or in any other Loan Document or in any statement or certificate at any time given by Borrower to Lender in writing in connection with the Loan shall be materially false or misleading.

(iv) **Lien Priority.** Lender fails to have a legal, valid, binding and enforceable first priority Lien on the Project or any portion thereof or on any material portion of the Personal Property or other Collateral.

(v) **Unapproved Transfers.** Any Transfer which requires Lender's consent under Section 1.10 of the Security Instrument occurs without Lender's prior written consent in accordance with Section 1.10 of the Security Instrument.

(vi) **Failure to Maintain Insurance/Failure of Insurance Coverage to Remain in Effect.** Borrower fails to maintain or cause to be maintained the insurance coverage required by the Insurance Agreement, or there is any rescission or cancellation of any insurance required by the Insurance Agreement, or any carrier of any insurance required by the Insurance Agreement denies coverage as a result of any act or omission of Borrower or any of its agents.

(vii) **Other Liens.** Without limiting the provisions of Section 7.1 of this Agreement or Section 1.10 of the Security Instrument, Borrower defaults under any Lien (other than the Liens created by the Loan Documents) or foreclosure or other proceedings are commenced to enforce any Lien (other than the Liens created by the Loan Documents).

(viii) **Material Adverse Change.** A material adverse change occurs in Borrower's assets, liabilities, financial position or business.

(ix) **Material Litigation.** The commencement or filing of any action, suit, proceeding or arbitration against or involving Borrower which, if determined adversely to Borrower, would not be covered in whole or in part by insurance and for which Borrower would have liability in excess of Fifty Thousand Dollars (\$50,000).

(x) **Governmental Prohibitions.** Borrower's failure to perform or comply with any of the terms, obligations or provisions of Section 7.14 of this Agreement.

(xi) **Actions Adversely Affecting Lien Priority.** Borrower or any of its agents takes any action which causes Lender to fail to have a valid first priority lien on the Project or any portion thereof, or on any material portion of the Personal Property or other Collateral.

(xii) **Other Loan Documents.** The occurrence of an Event of Default under any of the other Loan Documents (as "Event of Default" is defined therein).

(xiii) **Pledge Agreement.** The Pledge Agreement shall fail to remain in full force and effect or any action shall be taken to discontinue or to assert the invalidity or unenforceability of the Pledge Agreement against any party thereto.

B. Automatic Events of Default. The occurrence of any of the following events shall constitute an Event of Default under this Agreement and the other Loan Documents automatically and with no notice from Lender required:

(i) **Involuntary Bankruptcy; Appointment of Receiver, etc.**

(a) A court having proper jurisdiction shall enter a decree or order for relief with respect to Borrower in an involuntary case under any of the Insolvency Laws, which decree or order is not stayed within seven (7) days after entry and dismissed within sixty (60) days after the entry of such order; or any other similar relief shall be granted under any applicable Insolvency Law; or

(b) An involuntary case is commenced against Borrower under any Insolvency Law; or a decree or order of a court for the appointment of a receiver, liquidator, sequestrator, trustee, custodian or other officer having similar powers over Borrower or over all or a substantial part of its property, shall be entered; or the involuntary appointment of an interim receiver, trustee or other custodian of Borrower for all or a substantial part of its property; or the issuance of a warrant of attachment, execution or similar process against any substantial part of the property of Borrower, and the continuance of any such event in this clause (b) for sixty (60) days unless dismissed or discharged.

(ii) **Voluntary Bankruptcy; Appointment of Receiver, etc.**

(a) Borrower shall have an order for relief entered with respect to it or commence a voluntary case under any of the Insolvency Laws, or shall consent to the entry of an order for relief in an involuntary case, or to the conversion of an involuntary case to a voluntary case, under any Insolvency Law, or shall consent to the appointment of or taking possession by a receiver, trustee or other custodian for all or a substantial part of its property; the making by Borrower of any assignment for the benefit of creditors; or

(b) The inability or failure of Borrower to pay its debts as such debts become due, the inability or failure of Borrower to pay any of its debts in excess of Fifty Thousand Dollars (\$50,000) as such debts become due, or the admission by Borrower in writing of its inability to pay its respective debts as such debts become due.

8.2 General Remedies.

Notwithstanding anything to the contrary contained herein or in any of the other Loan Documents, from and after the occurrence of any Event of Default, (a) the unpaid principal amount of the Loan, all accrued and unpaid interest and all other Secured Obligations shall become immediately due and payable, without presentment, demand, protest, notice of intent to accelerate, notice of acceleration, notice or other requirements of any kind, all of which are hereby expressly waived by Borrower, (b) Lender shall have the rights and remedies of a secured party under the Governing State Uniform Commercial Code, and under any other applicable law, (c) Lender may pursue all of its rights and remedies hereunder, under the other Loan Documents, at law, in equity or otherwise, including without limitation, obtaining the appointment of a receiver to perform any act of Lender permitted in this Agreement and to perform such other duties as permitted by applicable Law and (d) Lender shall have no further obligation to disburse Loan proceeds to Borrower. Further, from and after the occurrence of any Event of Default all outstanding indebtedness and all other amounts owing to Lender under the Loan Documents shall bear interest at the Default Interest Rate.

8.3 Specific Performance.

From and after the occurrence of an Event of Default, Lender may commence and maintain an action in any court of competent jurisdiction for specific performance of any of the covenants and agreements contained herein or in any of the other Loan Documents, may obtain the aid and direction of the court in the performance of any of the covenants and agreements contained herein or therein, and may obtain orders or decrees directing the same and, in the case of any sale under the Security Instrument, directing, confirming or approving Lender's actions or, if applicable, the trustee's actions.

8.4 Remedies as to Project Documents.

From and after the occurrence of an Event of Default, Lender shall have the right (and Borrower hereby irrevocably constitutes and appoints Lender as its attorney-in-fact, which power is coupled with an interest and is deemed to be non-cancelable, with full power of substitution, to do so), but not the obligation, to (a) demand, receive and enforce Borrower's rights with respect to any or all the Project Documents, (b) give appropriate receipts, releases and satisfactions for and on behalf of Borrower with respect to any of the Project Documents, (c) do any and all acts with respect to any of the Project Documents in the name of Borrower or in the name of Lender with the same force and effect as Borrower could do, (d) take such action as Lender may from time to time deem necessary in its sole discretion to cure any default by Borrower under any of the Project Documents or to protect the rights of Borrower thereunder or the rights of Lender thereunder as the assignee of Borrower, and (e) perform and discharge any obligation, covenant, condition and agreement of Borrower under any of the Project Documents.

8.5 Construction Remedies.

From and after the occurrence of an Event of Default, Lender will also have the right (and Borrower hereby irrevocably constitutes and appoints Lender as its attorney-in-fact, which power is coupled with an interest and is deemed to be non-cancelable, with full power of substitution, to do so), in its sole discretion, but not the obligation, to enter the Project and take any and all actions necessary in its sole discretion to complete the Renovations, subject to Lender's right at any time to discontinue any work without liability, including, but not limited to, making changes in the Project Documents, work, or materials, entering into, modifying, or terminating any contractual arrangements, paying, settling, compromising or releasing any claims, prosecuting and defending actions and proceedings in connection with the Project, taking such action as it deems necessary with respect to any bonds or insurance policies, and settling, compromising or releasing claims with any sureties or insurers. If Lender elects to complete the Renovations, it will not thereby assume any liability to Borrower or to any other person for completing the Renovations, or for the manner or quality of construction of the Renovations, and Borrower expressly waives any such liability. Borrower irrevocably appoints, designates, empowers, and authorizes Lender as Borrower's attorney-in-fact, which power is coupled with an interest and is deemed to be non-cancelable, with full power of substitution, to sign and file for record any notices of completion,

notices of cessation of labor, or any other notice or written document that Lender may deem necessary to file or record to protect its interests, and to complete construction in Borrower's name or in Lender's own name. In any event, all sums expended by or on behalf of Lender in completing construction (whether or not construction is, in fact, completed), plus a fee of fifteen percent (15%) for supervision of construction in addition to any fees charged by third party inspectors or architects to supervise construction, will be considered to be disbursed to Borrower, and will be secured by the Security Instrument and the other Loan Documents, and any such sums that cause the principal amount of the Loan to exceed the face amount of the Note will be considered to be an additional advance to Borrower, payable on demand, bearing interest at the Default Interest Rate, and secured by the Security Instrument and the other Loan Documents.

ARTICLE 9

MISCELLANEOUS PROVISIONS

9.1 Nonforeign Status.

The Nonforeign Status Statutes provide that a transferee of a U.S. real property interest, or State of Texas property interest, as the case may be, must withhold tax under the circumstances described therein. To inform Lender that the withholding of tax will not be required in the event of the disposition of the Project pursuant to the terms of the Security Instrument, Borrower hereby certifies, under penalty of perjury, that: (a) Borrower is not a foreign corporation, foreign partnership, foreign trust or foreign estate, as those terms are defined in the Nonforeign Status Statutes; and (b) Borrower's U.S. employer identification number is the Tax Identification Number; (c) Borrower's principal place of business is at the address set forth in Section 9.9, and (d) Borrower is qualified to do business in the State of Texas. Lender may disclose the contents of this Section 9.1 to the Internal Revenue Service or any other Governmental Agency and Borrower acknowledges that any false statement contained herein could be punished by fine, imprisonment or both. Within ten (10) days after Lender's written request, Borrower shall execute and deliver to Lender further certificates, which shall be signed under penalty of perjury, as Lender shall reasonably require in connection with the certifications set forth herein. The covenant set forth herein shall survive the foreclosure of the lien of the Security Instrument or acceptance of a deed in lieu or in aid thereof.

9.2 Assignments and Participations in Loan and Note.

Lender may assign its rights and delegate its obligations under this Agreement or any of the other Loan Documents and/or the Environmental Indemnity and further may assign, or sell participations in, all or any part of the Loan, the Loan Documents and/or the Environmental Indemnity, or any other interest herein or in the Note to any Person, all without notice to or the consent of Borrower. To the extent of any such assignment, Lender shall be relieved of its obligations with respect to the Loan and the assignee shall have the same rights, benefits and obligations as it would if it were Lender hereunder and a holder of the Note. Lender may furnish any information (including, without limitation, financial information) concerning the Project, the Collateral, Borrower and any of its assets to third parties from time to time for legitimate business purposes.

9.3 Expenses.

Borrower agrees to pay, within ten (10) days after written demand by Lender, all reasonable costs and expenses (including, without limitation, reasonable attorneys' fees and costs, fees of any consultants, and fees for any environmental audits, appraisal, inspections or other review required by Lender) incurred by Lender in connection with the Loan or the Loan Documents, the enforcement of any of the Secured Obligations, the enforcement of any of Lender's rights and remedies under the Loan Documents, the collection of any payments owing to Lender hereunder or under any of the other Loan Documents, whether or not such enforcement and collection includes the filing of a lawsuit, or the retaking, holding, preparing for sale or selling the Project or the Collateral or any portion thereof or any interest therein.

Such costs and expenses shall include, without limitation, Lender's reasonable attorneys' fees and costs, including without limitation reasonable attorneys' fees and costs incurred by Lender in connection with any insolvency, bankruptcy, reorganization, arrangement or other similar proceedings involving Borrower which in any way affect the exercise by Lender of its rights and remedies hereunder, under any of the other Loan Documents, at law or in equity.

9.4 Indemnity.

Without limiting any other provision of the Loan Documents, Borrower hereby indemnifies and agrees to defend and hold harmless the Indemnitees for, from and against any and all Losses, including, without limitation, reasonable consultants', architects', engineers' and attorneys' fees and costs by reason of: (a) the construction of any improvements on the Project, (b) any capital improvements, other work or things done in, on or about the Project or any part thereof, (c) any use, nonuse, misuse, possession, occupation, alteration, operation, maintenance or management of the Project or any part thereof or any street, drive, sidewalk, curb passageway or space comprising a part thereof or adjacent thereto, (d) any negligence or willful act or omission on the part of Borrower or its agents, contractors, servants, employees, licensees or invitees, (e) any accident, injury (including death) or damage to any person or property occurring in, on or about the Project or any part thereof, (f) any Lien or claim which may be alleged to have arisen on or against the Project or any part thereof or any liability asserted against Lender with respect thereto, (g) any tax attributable to the execution, delivery, filing or recording of the Security Instrument, the Note or the other Loan Documents, (h) any contest due to Borrower's actions or failure to act, (i) any default under the Note or the other Loan Documents, or (j) any claim by or liability to any contractor or subcontractor performing work or any party supplying materials in connection with the Project.

9.5 Waiver of Offset.

All sums payable by Borrower pursuant to any of the Loan Documents shall be paid without notice, demand, counterclaim, setoff, deduction or defense and without abatement, suspension, deferment, diminution or reduction, and the obligations and liabilities of Borrower under the Loan Documents shall in no way be released, discharged or otherwise affected (except as expressly provided in the Loan Documents) by reason of: (a) any Casualty Event (as defined in the Security Instrument) or any Condemnation Event (as defined in the Security Instrument) affecting the Project or any part thereof; (b) any restriction or prevention of or interference by any third party with any use of the Project or any part thereof; (c) any title defect or encumbrance or any eviction from the Project or any part thereof by title paramount or otherwise; (d) any bankruptcy, insolvency, reorganization, composition, adjustment, dissolution, liquidation or other like proceeding relating to Lender, or any action taken with respect to any of the Loan Documents by any trustee or receiver of Lender, or by any court, in any such proceeding; (e) any claim which Borrower has or might have against Lender; (f) any default or failure on the part of Lender to perform or comply with any of the terms hereof or of any other agreement with Borrower; or (g) any other occurrence whatsoever, whether similar or dissimilar to the foregoing; whether or not Borrower shall have notice or knowledge of any of the foregoing. Except as expressly provided herein, Borrower waives all rights now or hereafter conferred by statute or otherwise to any abatement, suspension, deferment, diminution or reduction of any of the Secured Obligations.

9.6 Approvals, Amendments and Waivers.

All approvals and consents required or allowed to be given by Lender under this Agreement and the other Loan Documents must be in writing to be effective. This Agreement and the other Loan Documents may only be modified in writing signed by all of the parties hereto or thereto or their respective successors and assigns. No waiver of any provision of this Agreement or of any of the other Loan Documents, or consent to any departure by Borrower therefrom, shall in any event be effective without the written agreement of Lender. Any waiver or consent shall be effective only in the specific instance and for the specific purpose for which it was given. Except as expressly required by the terms of the Loan Documents, no notice to or demand on Borrower in any case shall entitle Borrower to any other or further notice or demand in similar or other circumstances.

9.7 WAIVER OF JURY TRIAL.

BORROWER AND LENDER EACH HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVE ANY RIGHT THEY MAY HAVE TO A TRIAL BY JURY WITH RESPECT TO ANY CONTROVERSY OR CLAIM, WHETHER ARISING IN TORT OR CONTRACT OR BY STATUTE OR LAW, BASED HEREON, OR ARISING OUT OF, UNDER OR IN CONJUNCTION WITH THIS AGREEMENT OR ANY OF THE OTHER LOAN DOCUMENTS (INCLUDING, WITHOUT LIMITATION, THE VALIDITY, INTERPRETATION, COLLECTION OR ENFORCEMENT HEREOF OR THEREOF), OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER VERBAL OR WRITTEN) OR ACTIONS OF ANY PARTY IN CONNECTION HERewith OR THEREWITH. EACH PARTY ACKNOWLEDGES AND AGREES THAT NO REPRESENTATIONS OF FACT OR OPINION HAVE BEEN MADE BY ANY PERSON TO INDUCE THIS WAIVER OF TRIAL BY JURY OR TO IN ANY WAY MODIFY OR NULLIFY ITS EFFECT. THIS PROVISION IS A MATERIAL INDUCEMENT FOR BORROWER'S AND LENDER'S ENTERING INTO THE LOAN DOCUMENTS AND THE PARTIES WOULD NOT HAVE ENTERED INTO THE LOAN DOCUMENTS WITHOUT THIS WAIVER. LENDER AND BORROWER ARE EACH HEREBY AUTHORIZED TO FILE A COPY OF THIS SECTION 9.7 IN ANY PROCEEDING AS CONCLUSIVE EVIDENCE OF THIS WAIVER OF JURY TRIAL.

9.8 Submission of Loan Documents.

The submission of this Agreement, any of the other Loan Documents or the Environmental Indemnity to Borrower or its agents or attorneys for review or signature does not constitute a commitment by Lender to make the Loan to Borrower, and the Loan Documents and the Environmental Indemnity shall have no binding force or effect unless and until they are executed and delivered by Borrower and Lender and all of the conditions set forth in Section 3.1 have been satisfied.

9.9 Notices.

Any notice, or other document or demand, required or permitted under this Agreement or any of the other Loan Documents shall be in writing addressed to the appropriate address set forth below and shall be deemed delivered upon the earliest of (a) actual receipt, (b) the next Business Day after the date when sent by recognized overnight courier for next Business Day delivery, or (c) the second Business Day after the date when sent by certified mail, postage prepaid. Any party may, from time to time, change the address at which such written notice or other documents or demands are to be sent, by giving the other party written notice of such change in the manner hereinabove provided.

To Borrower: HLP Properties of Port Arthur, LLC.
1001 Yamato Road, Suite 300
Boca Raton, FL 33431
Attn: Howard B. Koslow
Facsimile: (561) 869-3101

To Lender: Founding Partners Stable-Value Fund, L.P.
c/o Founding Partners Capital Management Company
5100 N. Tamiami Trail, Suite 119
Newgate Center
Naples, Florida 34103
Attn: William L. Gunlicks
Facsimile: (941) 514-2901

9.10 Survival of Warranties and Certain Agreements.

All agreements, indemnities, representations and warranties made herein and in the other Loan Documents shall survive the execution and delivery of this Agreement, the making of the Loan hereunder and the execution and delivery of the Note. All representations and warranties made in this Agreement or

in any of the other Loan Documents shall further survive any and all investigations and inquiries made by Lender. Notwithstanding anything in this Agreement or the other Loan Documents or implied by law to the contrary, any indemnities made by Borrower in the Loan Documents shall survive the payment of the Loan, the satisfaction of the Secured Obligations, and/or the termination of this Agreement or the other Loan Documents.

9.11 Failure or Indulgence Not Waiver; Remedies Cumulative.

No failure or delay on the part of Lender or any holder of the Note or portion thereof in the exercise of any power, right or privilege hereunder or under the Note or any of the other Loan Documents shall impair such power, right or privilege or be construed to be a waiver of any default or acquiescence therein, nor shall any single or partial exercise of any such power, right or privilege preclude other or further exercise thereof or of any other right, power or privilege. All rights and remedies existing under this Agreement and the other Loan Documents are separate, distinct and cumulative to, and not exclusive of, any rights or remedies otherwise available at law or in equity. No act of Lender under any of the Loan Documents shall be construed as an election to proceed under any one provision to the exclusion of any other provision, notwithstanding anything in the Loan Documents to the contrary. Borrower expressly waives all right to the benefit of any statute of limitations and any moratorium, reinstatement, marshaling, forbearance, extension, redemption, valuation, or appraisal now or hereafter provided by federal or state law, as a defense to any demand against Borrower to the fullest extent permitted by law.

9.12 Survival of Obligations Upon Termination of Agreement.

No termination or cancellation (regardless of cause or procedure) of this Agreement or any of the other Loan Documents shall in any way affect or impair the powers, obligations, duties, rights, and liabilities of Borrower or Lender relating to (a) any transaction or event occurring prior to such termination or cancellation, or (b) any of the undertakings, agreements, covenants, indemnities, warranties and representations of Borrower or Lender contained in this Agreement or any of the other Loan Documents.

9.13 Disbursements in Excess of Loan Amount.

In the event the total disbursements by Lender exceed the amount of the Loan set forth herein, the total of all disbursements shall, to the extent permitted by the laws of the Governing State, constitute part of the Secured Obligations and be secured by the Security Instrument and other Loan Documents. All other sums expended by Lender pursuant to this Agreement or any of the other Loan Documents shall be deemed to have been disbursed to Borrower and shall be secured by the Loan Documents.

9.14 Severability.

If any term of this Agreement or any of the other Loan Documents or the application thereof to any Person or circumstances, shall, to any extent, be invalid or unenforceable, the remainder of this Agreement or other Loan Document or the application of such term to Persons or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby, and each term of this Agreement or other Loan Document shall be valid and enforceable to the fullest extent.

9.15 Rules of Construction.

Where the identity of the parties to this Agreement or any of the other Loan Documents or the circumstances make it appropriate, the masculine gender includes the feminine and/or neuter, and the singular number includes the plural. Article and Section headings in this Agreement and the other Loan Documents are included for convenience of reference only and shall not constitute a part of this Agreement or such other Loan Documents for any other purpose or be given any substantive effect. The recitals to this Agreement and to each of the other Loan Documents are incorporated herein and therein and made a part hereof and thereof. All exhibits to each of the Loan Documents shall constitute a part of the applicable Loan Documents. Borrower and Lender have each had an opportunity to review and

negotiate the terms of this Agreement and the other Loan Documents; accordingly, the rule requiring that language be construed against drafting party shall not be applicable to this Agreement or the other Loan Documents.

9.16 Applicable Law.

This Agreement and the other Loan Documents shall be governed by, and construed and enforced in accordance with, the laws of the Governing State.

9.17 Successors and Assigns.

This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns. Borrower's rights and obligations or any interest hereunder or under any of the other Loan Documents may not be assigned, including, without limitation, assigned for security purposes, and any purported assignment shall be null and void ab initio. As used herein, and in the other Loan Documents, "Lender" (or similar references to the lender) shall include all holders of the Note, including, without limitation, pledgees of the Note, whether or not named herein or therein. In exercising any rights hereunder or under any of the other Loan Documents or taking any actions provided for herein or therein, Lender may act through its employees, agents or independent contractors authorized by Lender.

9.18 Disclosure of Information.

Borrower hereby acknowledges and agrees that upon the request of any partner, member or shareholder or other owner of Borrower, as applicable, Lender may disclose to such party any information (including, without limitation, financial information) relating to the Loan and Borrower's performance of its obligations under the Loan Documents. Borrower hereby indemnifies and agrees to defend and hold harmless the Indemnitees for, from and against any and all Losses including, without limitation, reasonable attorneys' fees and costs, arising by reason of any disclosure of information by Lender under this Section 9.18.

9.19 Disclaimer by Lender.

Except for obligations expressly assumed by Lender in writing, in its sole discretion and without any obligation, after the occurrence of an Event of Default, Lender shall not be liable to any contractor, subcontractor, supplier, laborer, architect, engineer or any other party for services performed or materials supplied in connection with the Project. Lender shall not be liable for any debts or claims accruing in favor of any such parties against Borrower or others or against the Property or the Project. No disbursement of Loan proceeds directly to any contractor, subcontractor, supplier, laborer, architect, engineer or any other party for services performed or materials supplied shall create, or shall be deemed or construed to create, any third-party beneficiary status in favor of such party or recognition of the same by Lender. Borrower is not and shall not be an agent of Lender for any purpose. Lender is not a joint venture partner with Borrower.

9.20 Counterparts.

This Agreement and the other Loan Documents may be executed in any number of counterparts, each of which when so executed and delivered shall be deemed to be an original and all of which counterparts taken together shall constitute but one and the same instrument. Signature and, if applicable, acknowledgment pages, may be detached from the counterparts and attached to a single copy of the applicable document to physically form one document, which may be recorded if applicable.

9.21 Entire Agreement.

The Loan Documents set forth the entire understanding between Borrower and Lender relative to the Loan and the same supersede all prior agreements and understandings relating to the subject matter hereof or thereof.

9.22 Time is of the Essence.

Time is strictly of the essence of this Agreement and the other Loan Documents.

9.23 No Third Party Beneficiaries.

This Agreement and the other Loan Documents are made and entered into for the sole protection and benefit of the parties hereto and thereto, and, except as provided in Section 9.17 of this Agreement and in Section 5 of the Assignment of Rents, no other person or entity shall be a direct or indirect beneficiary of, or shall have any direct or indirect cause of action or claim as a beneficiary in connection with, this Agreement or any of the other Loan Documents.

9.24 Consent to Jurisdiction.

Borrower and Lender each hereby consent to the jurisdiction of any state or federal court located within the Governing State in any suit, action or proceeding based hereon or arising out of, under or in connection with this Agreement or any of the other Loan Documents (and further agree not to assert or claim that such venue is inconvenient or otherwise inappropriate or unsuitable), and waive personal service of any and all process upon them and consent that all service of process be made by certified mail to the applicable address set forth herein.

9.25 Brokerage Commission.

Borrower hereby indemnifies and agrees to defend and hold the Indemnitees harmless for, from and against any and all Losses for any commissions, fees, charges or other compensation claimed to be due by any mortgage or real estate broker, Realtor, agent or finder with whom it, or any of its Affiliates, agents, employees or representatives have had or have allegedly had any dealings in connection with this Agreement or the making of the Loan.

9.26 Maximum Interest.

It is the intention of the parties hereto to conform strictly to applicable usury laws and, anything herein to the contrary notwithstanding, the Loan Obligations of Borrower to Lender under this Agreement, the Note and the other Loan Documents shall be subject to the limitation that payments of interest shall not be required to the extent that receipt thereof would be contrary to provisions of law applicable to Lender limiting rates of interest which may be charged or collected by Lender. Accordingly, if the transactions contemplated hereby or thereby would be usurious under applicable law (including without limitation the Federal and state laws of the United States of America, or of any other jurisdiction whose laws may be mandatorily applicable) with respect to Lender, then, in that event, notwithstanding anything to the contrary in this Agreement, the Note or the other Loan Documents, it is agreed as follows: (a) the provisions of this Section 9.26 shall govern and control; (b) the aggregate of all consideration which constitutes interest under applicable law that is contracted for, charged or received under this Agreement, the Note and the other Loan Documents or otherwise in connection with this Agreement, the Note and the other Loan Documents by Lender shall under no circumstances exceed the maximum amount of interest allowed by applicable law (such maximum lawful interest rate, if any, herein called the "Highest Lawful Rate"), and any excess shall be credited to Borrower by Lender (or, if such consideration shall have been paid in full, such excess promptly refunded to Borrower); (c) all sums paid, or agreed to be paid, to Lender for the use, forbearance and detention of the indebtedness of Borrower to Lender hereunder shall, to the extent permitted by applicable law, be amortized, prorated, allocated and spread throughout the full

term of such indebtedness until payment in full so that the actual rate of interest is uniform throughout the full term thereof; and (d) if at any time the interest provided pursuant to Section 2.1 of the Note, together with any other fees and expenses payable pursuant to this Agreement, the Note or the other Loan Documents and deemed interest under applicable law, exceeds that amount which would have accrued at the Highest Lawful Rate, then the amount of interest and any such fees to accrue to Lender pursuant to this Agreement, the Note and the other Loan Documents shall be limited, notwithstanding anything to the contrary in any Loan Document, to that amount which would have accrued at the Highest Lawful Rate, but any subsequent reductions, as applicable, shall not reduce the interest to accrue to Lender pursuant to this Agreement and the Note below the Highest Lawful Rate until the total amount of interest accrued pursuant to this Agreement and the Note and such fees deemed to be interest equals the amount of interest which would have accrued to Lender if a varying rate per annum equal to the interest provided pursuant to Section 2.1 of the Note had at all times been in effect, plus the amount of fees which would have been received but for the effect of this Section 9.26. To the extent that, notwithstanding Section 9.16 and the intent of the parties to be bound by the laws of the State of New York, the laws of Texas are applied to the transactions contemplated by this Agreement, the Note or the other Loan Documents, for purposes of Chapter 303 of the Texas Finance Code, as amended (formerly Chapter 1D of Article 5069 of the Texas Credit Title, Title 79, Vernon's Texas Civil Statutes, as amended), to the extent applicable, Borrower agrees that the Highest Lawful Rate shall be the "indicated (weekly) rate ceiling" as defined in said Chapter, provided that Lender may also rely, to the extent permitted by applicable laws, on alternative maximum rates of interest under other laws applicable to Lender, if greater. Chapter 346 of the Texas Finance Code (formerly Tex. Rev. Civ. Stat. Ann. Art. 5069, Ch. 15 and which regulates certain revolving credit loan accounts and revolving tri-party accounts) shall not apply to this Agreement, the Note or the other Loan Documents.

[Signature Pages Follow]

IN WITNESS WHEREOF, this Agreement has been duly executed and delivered by Borrower and Lender as of the date first above written.

HLP PROPERTIES OF PORT ARTHUR, LLC

By: *Howard B. Koslow*

Howard B. Koslow

Its: Manager

STATE OF New York)
COUNTY OF Westchester) ss.

On July 2, 2006, before me, Erin H. Kanterman-Gondon, Notary Public, personally appeared **HOWARD B. KOSLOW**, personally known to me or proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person(s) acted, executed the instrument.

Witness my hand and official seal.

Erin H. Kanterman-Gondon
Notary Public

Name: _____

Commission Expires: _____

ERIN H. KANTERMAN GONDON
Notary Public, State of New York
No. 02KA6123249
Qualified in Westchester County
Commission Expires March 7, 2009

Loan and Security Agreement

LENDER:

FOUNDING PARTNERS STABLE-VALUE FUND, L. P.

By: Founding Partners Capital Management Company,
its general partner

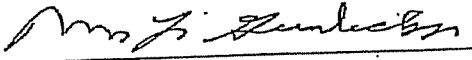
By 
William L. Gunlicks
President and Chief Executive Officer

EXHIBIT A

Description of Property

Tract I:

Being a 9.288 acre tract or parcel of land, a portion of that certain tract of land (called Tract 1 - 11.4339 acres) as conveyed by deed dated October 14, 1999 from Lifemark Hospitals, Inc. to Beaumont Hospital Holdings, Inc. recorded in Clerk's File No. 1999041147 of the Official Public Records of Real Property, County Clerk's Office, Jefferson County, Texas, as situated in and a part of Lots 3 and 4, Block 14, Range "H" of the Port Arthur Land Company Subdivision as recorded in Volume 1, Page 22 of the Map or Plat Records of said County and being more particularly described by metes and bounds as follows;

Beginning at a 5/8" steel rod found located at the intersection of the Easterly line of 27th Street with the Northerly line of F. M. Highway No. 365 marking the Southwest corner of said 11.4339 acre tract and the Southwest corner of the herein described tract of land;

THENCE North 48 deg. 46 min. 45 sec. West (North 48 deg. 47 min. 11 sec. West 538.49 feet - deed) along the said Easterly line of 27th Street with the lower West line of said 11.4339 acre tract and this tract a distance of 538.41 feet to a 5/8" steel rod found marking the lower Northwest corner of said 11.4339 acre tract and the lower Northwest corner of the herein described tract of land, this point also marks the Southwest corner of that certain tract of land as conveyed by deed to Benski Management Partnership, recorded in Clerk's File No. 2004020486 of said Official Public Records;

THENCE North 41 deg. 11 min. 22 sec. East (North 41 deg. 11 min. 55 sec. East 629.88 feet - deed) along the South line of said Benski tract with the lower North line of said 11.4339 acre tract and this tract a distance of 629.80 feet to a 1/2" steel rod found marking the Southeast corner of said Benski tract and an ELL corner of said 11.4339 acre tract and the herein described tract of land;

THENCE North 48 deg. 47 min. 36 sec. West (North 48 deg. 54 min. 09 sec. West 217.98 feet - deed) along the East line of said Benski tract with the upper West line of said 11.4339 acre tract and this tract a distance of 217.70 feet to a 1/2" steel rod found marking the Northeast corner of said Benski tract, the upper Northwest corner of said 11.4339 acre tract and the upper Northwest corner of the herein described tract of land, this point also marks the Southeast corner of that certain tract of land (called 7.590 acres) as conveyed by deed to the Fellowship Baptist Church, recorded in Volume 1832, Page 105 of the Deed Records of said County, same point also marks the Southwest corner of the Atrium Place Section One Addition as recorded in Volume 14, Page 365 of said Map or Plat Records;

THENCE North 40 deg. 22 min. 09 sec. East (North 40 deg. 25 min. 42 sec. East 230.37 feet - deed) along the South line of said Atrium Place Section One Addition with the upper North line of said 11.4339 acre tract and this tract a distance of 230.13 feet to a 1/2" steel rod found located on the Westerly line of 24th Street marking the Southeast corner of said Atrium Place Section One Addition, the Northeast corner of said 11.4339 acre tract and the Northeast corner of the herein described tract of land;

THENCE South 48 deg. 50 min. 13 sec. East (Reference Bearing) along the said Westerly line of 24th Street with the upper East line of said 11.4339 acre tract and this tract a distance of 349.95 feet (349.91 feet - deed) to a 1/2" steel rod found marking an angle point for corner on said 24th Street Right of Way line and an ELL corner of said 11.4339 acre tract and the herein described tract of land;

THENCE South 40 deg. 27 min. 45 sec. West (South 40 deg. 27 min. 59 sec. West 30.02 feet - deed) along said 24th Street Right of Way line, 11.4339 acre tract and this tract a distance of 30.06 feet to a 1/2" steel rod found marking an angle point for corner on said 24th Street Right of Way and an ELL corner of said 11.4339 acre tract and the herein described tract of land;

THENCE South 48 deg. 48 min. 48 sec. East (South 48 deg. 49 min. 50 sec. East - deed) continuing along the said Westerly Right of Way line of 24th Street with the lower East line of said 11.4339 acre tract and middle east line of this tract a distance of 86.95 feet to a 1/2" steel rod with cap marked Arceneaux & Gates set marking the upper Southeast corner of the herein described tract of land;

THENCE South 41 deg. 09 min. 49 sec. West, departing said Westerly Right of Way line of 24th Street along the upper South line of this tract a distance of 253.91 feet to a 1/2" steel rod with cap marked Arceneaux & Gates set marking an angle point for corner;

THENCE South 21 deg. 42 min. 29 sec. West continuing along said upper South line of this tract a distance of 49.12 feet to a 1/2" steel rod with cap marked Arceneaux & Gates set marking an ELL for corner of the herein described tract of land;

THENCE South 48 deg. 50 min. 11 sec. East along the lower East line of this tract a distance of 303.25 feet to a 1/2" steel rod with cap marked Arceneaux & Gates set located on the said Northerly Right of Way line of F. M. Highway No. 365 and South line of said 11.4339 acre tract marking the lower Southeast corner of the herein described tract of land;

THENCE South 40 deg. 51 min. 09 sec. West (South 40 deg. 27 min. 00 sec. West - deed) along the said Northerly Right of Way line of F. M. Highway No. 365 with the South line of said 11.4339 acre tract and this tract a distance of 424.37 feet to a 1/2" steel rod found marking an angle point for corner;

THENCE South 41 deg. 14 min. 45 sec. West (South 41 deg. 13 min. 00 sec. West 105.83 feet - deed) continuing along the said Northerly Right of Way line and South line a distance of 105.93 feet to the Southwest corner and PLACE OF BEGINNING and containing in area 404,606 square feet or 9.288 acres of land, more or less.

NOTE: THE COMPANY DOES NOT REPRESENT THAT THE ABOVE ACREAGE OR SQUARE FOOTAGE CALCULATIONS ARE CORRECT.

Tract II:

Access easement established in that certain Declaration of Covenants, Conditions, Restrictions and Easements by Beaumont Hospital Holdings, Inc. dated _____, 2006, under County Clerk's File No. _____, Official Public Records of Real Property of Jefferson County, Texas.

EXHIBIT B

Description of Personal Property

All of Borrower's right, title and interest, now or hereafter acquired, in and to the following:

(a) All personal property, wherever located, including, without limitation, all accounts, chattel paper, commercial tort claims, deposit accounts, documents, general intangibles (including but not limited to payment intangibles and software), goods (including but not limited to fixtures, equipment and inventory), instruments, investment property, letter-of-credit rights, letters of credit, money, and oil, gas or other minerals before extraction, all supporting obligations and all other personal property of any nature or type which Borrower now or hereafter owns or in which Borrower now or hereafter acquires an interest or right, including, without limitation, those which are now or hereafter located on or affixed to the Project or used or useful in the operation, use or occupancy thereof or the construction of any improvements thereon, including, without limitation, any interest of Borrower in and to personal property which is leased or subject to any superior security interest, or which is being manufactured or assembled for later installation into the improvements now or hereafter located at the Project, and all books, records, leases and other documents, of whatever kind or character, relating to the foregoing;

(b) All fees, income, rents, issues, profits, earnings, receipts, royalties and revenues which, after the date hereof and while any portion of the Secured Obligations remains unpaid, may accrue from such goods, fixtures, furnishings, equipment and building materials or any part thereof or from the Project or any part thereof, or which may be received or receivable by Borrower from any hiring, using, letting, leasing, subhiring, subletting, or subleasing thereof;

(c) All of Borrower's present and future rights to receive payments of money, services or property, including, without limitation, rights to all deposits from tenants of the Project, deposits from prospective purchasers of the Project, capital contributions from the shareholders or constituent partners or members of Borrower, as applicable, amounts payable on account of the sale of partnership or membership interests or stock of Borrower, as applicable, accounts, accounts receivable, deposit accounts, chattel paper, notes, drafts, contract rights, instruments, financial assets, investment property, general intangibles, documents, letter of credit rights, payment intangibles, money, and principal, interest and payments due on account of goods sold, services rendered, loans made or credit extended, together with title or interest in all documents evidencing or securing the same.

(d) All other intangible property and rights relating to the Project or the operation thereof, or used in connection therewith, including but not limited to all governmental permits relating to construction or other activities on the Project, all names under or by which the Project may at any time be operated or known, all rights to carry on business under any such names, or any variant thereof, all trade names and trademarks relating in any way to the Project, goodwill in any way relating to the Project, and all permits, licenses, franchises, approvals, variances and land use entitlements relating in any way to, or to the occupancy, operation, ownership and use of, the Project;

(e) All (i) agreements now or hereafter in effect with any contractor, architect or engineer, including, without limitation, any design architect, landscape architect, civil engineer, electrical engineer, environmental engineer, soils engineer or mechanical engineer, in connection with the Project; (ii) other agreements now or hereafter in effect with any property manager or broker with respect to the management, leasing, or operation of the Project; (iii) as-built plans and specifications and surveys for the Project; (iv) Permits; and (v) renewals, substitutions, extensions, modifications or replacements of any of the foregoing.

(f) All judgments, commercial tort claims, other claims, settlements of claims and causes of action under any legal proceeding relating to the Project or the ownership, use, occupancy or operation thereof;

- (g) All proceeds from sale or disposition of the Personal Property;
- (h) Borrower's rights under all insurance policies covering the Project or any of the Personal Property (whether or not Borrower is required to maintain such insurance under the terms of the Loan Documents), and all proceeds, loss payments and premium refunds payable regarding the same;
- (i) All reserves, deferred payments, deposits, refunds, cost savings and payments of any kind relating to the construction of any improvements on the Project;
- (j) All water stock relating to the Project;
- (k) All causes of action, commercial tort claims, other claims, compensation and recoveries for any damage to or condemnation or taking of the Project or the Personal Property, or for any conveyance in lieu thereof, whether direct or consequential, or for any damage or injury to the Project or the Personal Property, or for any loss or diminution in value of the Project or the Personal Property;
- (l) All architectural, structural, mechanical, electrical, civil and other engineering plans and specifications prepared for construction of improvements or extraction of minerals or gravel from the Project and all studies, data and drawings related thereto, and all contracts and agreements of Borrower relating to such plans and specifications or such studies, data and drawings or to the construction of improvements on or extraction of minerals or gravel from the Project;
- (m) All of Borrower's present and future rights in and to all refunds, rebates, reimbursements, reserves, deferred payments, deposits, cost savings, governmental subsidy payments, governmentally-registered credits (such as emissions reduction credits), other credits, waivers and payments, whether in cash or kind, due from or payable by any Governmental Agency or any insurance or utility company relating to any or all of the Project, any improvements thereon or any of the collateral described herein or arising out of satisfaction of any condition imposed upon or the obtaining of any approvals for the development of the Project or the improvements thereon;
- (n) All of Borrower's present and future rights in and to all refunds, rebates, reimbursements, credits and payments of any kind due from or payable by any Governmental Agency or other entity for any taxes, special taxes, assessments, or similar governmental or quasi-governmental charges or levies imposed upon Borrower with respect to the Project, any improvements thereon or any of the collateral described herein or arising out of the satisfaction of any condition imposed upon or the obtaining of any approvals for the development of the Project or the improvements thereon;
- (o) All Borrower's rights in proceeds of the Loan;
- (p) All Borrower's rights to receive the proceeds of any "take-out" or permanent financing or commitment to provide such financing;
- (q) All of Borrower's present and future books and records of every kind or nature, including without limitation, statements, correspondence, memoranda, files and other data relating to the foregoing, together with the tapes, disks, diskettes and other data and software, computers, storage media and devices, file cabinets or containers in or on which the foregoing are stored (including any rights of Borrower with respect to the foregoing maintained with or by any other person); and
- (r) All proceeds and products of any of the foregoing (and proceeds and products of proceeds and products).

All terms used herein which are defined in the Governing State Uniform Commercial Code shall have the same meanings when used herein, unless the context requires otherwise.

SECURED PROMISSORY NOTE

June 28, 2006

\$5,000,000

FOR VALUE RECEIVED, **HLP PROPERTIES OF PORT ARTHUR, LLC**, a Texas limited liability company ("**Borrower**") promises to pay to the order of **FOUNDING PARTNERS STABLE-VALUE FUND, L. P.** and its successors and assigns (collectively, "**Lender**"), at 5100 N. Tamiami Trail, Suite 119, Naples, Florida 34103 or at such other place as Lender may designate in writing, in lawful money of the United States of America, the principal sum of Five Million Dollars (\$5,000,000), together with interest thereon at the rate set forth herein from the date of disbursement until paid, on the terms set forth herein.

ARTICLE 1

DEFINITIONS

As used herein, the following initially-capitalized terms shall have the meanings set forth below. Any initially-capitalized terms not otherwise defined herein shall have the meanings given such terms in that certain Loan and Security Agreement of even date herewith between Borrower and Lender (as amended, amended and restated or otherwise modified from time to time, the "**Loan Agreement**").

"**Advance**" is defined in Section 2.4.

"**Attorneys' Fees**," "**Attorneys' Fees and Costs**," "**attorneys' fees**" and "**attorneys' fees and costs**" are defined in the Loan Agreement.

"**Default Interest Rate**" means a rate of one percent (1%) per annum in excess of the Interest Rate in effect from time to time under this Note.

"**Event of Default**" means any of the events specified in Section 4.4.

"**Extended Maturity Date**" means June 28, 2008.

"**Extension Commencement Date**" means the day after the date on which all of the conditions to the extension of the Maturity Date to the Extended Maturity Date are satisfied.

"**Extension Term**" means, if the Maturity Date is extended to the Extended Maturity Date as provided in this Note, the period commencing on the Extension Commencement Date and ending on the Extended Maturity Date.

"**Final Payment**" means the final payment due on the Maturity Date of all unpaid principal, interest, charges and other amounts due under this Note or any of the other Loan Documents.

"**Initial Disbursement**" means Loan proceeds in the amount of Five Million Dollars (\$5,000,000).

"**Initial Maturity Date**" means June 28, 2007.

"**Initial Payment Date**" means June 28, 2006.

"**Initial Term**" means the period commencing on the Closing Date and ending on the Initial Maturity Date.

"**Interest Rate**" means sixteen percent (16%) per annum.

"**Loan**" means the loan evidenced by this Note.

"Maturity Date" means the Initial Maturity Date or, if the Initial Maturity Date is extended as provided in this Note, the Extended Maturity Date.

"Monthly Interest Payment" shall mean the monthly payments of interest required to be made by Borrower pursuant to Section 2.2 of this Note.

"Payment" means the Monthly Interest Payments, the Final Payment and/or any other payment required to be made by Borrower pursuant to the terms of the Loan Documents.

ARTICLE 2

INTEREST; PAYMENTS; ADVANCES

2.1 Interest Rate.

Subject to the provisions of Section 4.2 and Section 4.3, interest shall accrue on the unpaid principal balance outstanding under this Note from time to time at the Interest Rate.

2.2 Payments.

A. Borrower shall make monthly payments of interest beginning on the Initial Payment Date, and on the first day of each calendar month thereafter, in the amount of interest accrued thereon at the Interest Rate under this Note. Borrower shall make the Final Payment on the Maturity Date.

B. Interest shall commence to accrue under this Note upon the disbursement by Lender of Loan proceeds. At closing, the disbursement by Lender of Loan proceeds into the escrow for the Loan closing shall be deemed the disbursement of such proceeds by Lender. All interest shall be calculated based on a three hundred and sixty (360) day year (which may result in a higher annual rate than if a three hundred sixty-five (365) day year were used) (unless such calculation would result in a usurious rate under the laws of the Governing State, in which event interest shall be calculated on the basis of a three hundred sixty-five (365) day year), but shall be computed for the actual number of days in the period for which interest is charged.

C. Each Monthly Interest Payment and the Final Payment shall be applied first to the payment of accrued and unpaid fees, charges and interest under this Note and the other Loan Documents as of the date of receipt and the remainder, if any, shall be applied to the unpaid principal balance of the Loan; provided that from and after the occurrence of an Event of Default under any of the Loan Documents, or at any time that an uncured Potential Default exists under any of the Loan Documents, Lender shall be entitled to allocate Monthly Interest Payments, the Final Payment and any other payments received by Lender to principal, interest, fees, and/or charges in such order as Lender may elect. All payments of principal, interest, and other amounts under this Note and the other Loan Documents shall be payable without any right of reduction, deferral, set-off, deduction, abatement, rescission or counterclaim.

D. Whenever any payment to be made hereunder or under any of the other Loan Documents shall be stated to be due on a day that is not a Business Day, such payment shall be made on the next succeeding Business Day and such extension of time shall be included in the computation of the interest due hereunder or under the other Loan Documents.

2.3 Prepayment.

Borrower may prepay the outstanding principal balance of this Note in whole or in part at any time without premium or penalty.

2.4 Advances.

A. The Loan proceeds will be advanced by Lender to Borrower pursuant to the terms and conditions of this Section 2.4 in an initial disbursement in the amount of the Initial Disbursement, less any fees, costs, expenses and interest payable to Lender as of such date (the "Advance"), upon the closing of the Loan.

B. The parties agree that the provisions of this Section 2.4 constitute a contract to make a loan (extend debt financing or financial accommodations) within the meaning of 11 U.S.C. Section 365(c)(2) and Section 365(e)(2)(B).

ARTICLE 3

MATURITY DATE: EXTENSION OF MATURITY DATE

3.1 Maturity Date: Extension of Maturity Date.

The Final Payment and all other amounts owing by Borrower to Lender under the Loan Documents (including without limitation the outstanding amount of the Loan) shall be due and payable on the Initial Maturity Date. The Initial Maturity Date may be extended to the Extended Maturity Date upon the satisfaction of all of the following terms and conditions:

A. At least sixty (60) days prior to the Initial Maturity Date, Borrower shall give Lender written notice that Borrower desires to extend the Initial Maturity Date to the Extended Maturity Date;

B. Lender shall have approved the extension of the Initial Maturity Date in its sole discretion;

C. Borrower shall pay all reasonable costs and expenses incurred by Lender in connection with the extension of the Maturity Date and Lender's approval thereof, including, without limitation, reasonable consultants' fees, appraisal costs, title fees and reasonable attorneys' fees and costs; and

D. No Event of Default shall have occurred, and no uncured Potential Default shall exist, under this Note or any of the other Loan Documents either on the date of Borrower's notice to Lender pursuant to Section 3.1(A) above or on the Initial Maturity Date.

ARTICLE 4

MISCELLANEOUS PROVISIONS

4.1 Restrictions on Transfer and Encumbrance.

This Note is secured by, among other things, the Loan Agreement, the Pledge Agreement and the Security Instrument. The Security Instrument contains provisions allowing for the acceleration of the maturity date of this Note upon the sale, transfer, conveyance, assignment, encumbrance, hypothecation or other alienation without Lender's prior written consent (which may be withheld in Lender's good faith sole discretion), of all or any portion of the Project or any interest therein, or of certain interests in Borrower. Further, the Loan Agreement contains provisions for the acceleration of the Maturity Date of this Note upon the occurrence of certain events described therein.

4.2 Interest Rate Limitation.

It is the intention of Borrower and Lender to conform strictly to applicable usury laws and, anything herein to the contrary notwithstanding, the Loan Obligations of Borrower to Lender under this Note shall be subject to the limitation that payments of interest shall not be required to the extent that receipt thereof would be contrary to provisions of law applicable to Lender limiting rates of interest which

may be charged or collected by Lender. Accordingly, if the transactions contemplated hereby would be usurious under applicable law (including without limitation the Federal and state laws of the United States of America, or of any other jurisdiction whose laws may be mandatorily applicable) with respect to Lender, then, in that event, notwithstanding anything to the contrary in this Note, it is agreed as follows: (a) the provisions of this Section 4.2 shall govern and control; (b) the aggregate of all consideration which constitutes interest under applicable law that is contracted for, charged or received under this Note by Lender shall under no circumstances exceed the maximum amount of interest allowed by applicable law (such maximum lawful interest rate, if any, herein called the "Highest Lawful Rate"), and any excess shall be credited to Borrower by Lender (or, if such consideration shall have been paid in full, such excess promptly refunded to Borrower); (c) all sums paid, or agreed to be paid, to Lender for the use, forbearance and detention of the indebtedness of Borrower to Lender hereunder shall, to the extent permitted by applicable law, be amortized, prorated, allocated and spread throughout the full term of such indebtedness until payment in full so that the actual rate of interest is uniform throughout the full term thereof; and (d) if at any time the interest provided pursuant to Section 2.1, together with any other fees and expenses payable pursuant to this Note and deemed interest under applicable law, exceeds that amount which would have accrued at the Highest Lawful Rate, then the amount of interest and any such fees to accrue to Lender pursuant to this Note shall be limited, notwithstanding anything to the contrary in any Loan Document, to that amount which would have accrued at the Highest Lawful Rate, but any subsequent reductions, as applicable, shall not reduce the interest to accrue to Lender pursuant to this Note below the Highest Lawful Rate until the total amount of interest accrued pursuant to this Note and such fees deemed to be interest equals the amount of interest which would have accrued to Lender if a varying rate per annum equal to the interest provided pursuant to Section 2.1 had at all times been in effect, plus the amount of fees which would have been received but for the effect of this Section 4.2. To the extent that, notwithstanding Section 4.10 and the intent of the parties to be bound by the laws of the State of New York, the laws of Texas are applied to the transactions contemplated by this Note, for purposes of Chapter 303 of the Texas Finance Code, as amended (formerly Chapter 1D of Article 5069 of the Texas Credit Title, Title 79, Vernon's Texas Civil Statutes, as amended), to the extent applicable, Borrower agrees that the Highest Lawful Rate shall be the "indicated (weekly) rate ceiling" as defined in said Chapter, provided that Lender may also rely, to the extent permitted by applicable laws, on alternative maximum rates of interest under other laws applicable to Lender, if greater. Chapter 346 of the Texas Finance Code (formerly Tex. Rev. Civ. Stat. Ann. Art. 5069, Ch. 15 and which regulates certain revolving credit loan accounts and revolving tri-party accounts) shall not apply to this Note.

4.3 Default Interest Rate.

Subject to Section 4.2, if any Event of Default occurs hereunder or under any of the other Loan Documents, all amounts owing to Lender under the Loan Documents shall bear interest at the Default Interest Rate commencing on the occurrence thereof. Borrower acknowledges that late payment of any Payment or the occurrence of an Event of Default will cause Lender to incur costs which would be costly or inconvenient to establish. Borrower and Lender agree that it would be impractical or extremely difficult to fix Lender's actual damages if any Payment is not paid when due or an Event of Default occurs, and the Default Interest Rate represents a reasonable sum considering all of the circumstances and represents a fair and reasonable estimate of the costs that Lender will incur by reason of late payment or default. Notwithstanding anything to the contrary set forth herein, such interest at the Default Interest Rate and/or Lender's acceptance thereof shall not obligate Lender to accept the cure of any Event of Default under the Loan Documents or limit Lender's right to compel performance of any obligation or exercise any of its rights or remedies under the Loan Documents.

4.4 Event of Default; Remedies.

Borrower's failure to pay any principal, interest or other monies due under this Note within ten (10) days after such amount is due shall constitute an Event of Default under this Note upon written notice by Lender to Borrower given at any time on or after the occurrence of such event; provided that upon such notice from Lender, such Event of Default shall be deemed to have occurred as of the occurrence of such event, irrespective of the date of such notice; and provided further that Lender's giving of or failure to give such notice shall not affect, in any manner whatsoever, the imposition of any late

charge or interest at the Default Interest Rate pursuant to the provisions of this Note or the other Loan Documents; and the occurrence of an Event of Default under any of the other Loan Documents (as "Event of Default" is defined in such other Loan Documents) shall constitute an Event of Default under this Note automatically and with no notice from Lender required. From and after the occurrence of any Event of Default hereunder, Lender may, at its option, declare all principal, interest and other indebtedness evidenced by this Note to be immediately due and payable without any presentment, demand, protest, notice of intent to accelerate, notice of acceleration, or notice of any kind, and Lender shall be entitled to exercise any and all remedies available to it under the Loan Documents or at law or in equity.

4.5 Attorneys' Fees and Other Expenses.

If Borrower fails to pay any amounts owing under this Note or any of the other Loan Documents when due or if an Event of Default occurs under any of the Loan Documents, Borrower shall pay Lender, within ten (10) days after demand by Lender, all reasonable attorneys' fees and costs, and all other reasonable out-of-pocket expenses, incurred by Lender in connection with this Note or the exercise of any right or remedy under this Note or any of the other Loan Documents, including, without limitation, reasonable title, filing, recording, appraisal, environmental, trustee and other costs or fees.

4.6 Waivers.

Borrower hereby waives diligence, presentment, protest and demand, notice of protest, notice of intent to accelerate, notice of acceleration, notice on non-payment, dishonor and repayment of this Note and, to the extent permitted by applicable law, the defense of the statute of limitations. Borrower expressly agrees that, without in any way affecting the liability of Borrower hereunder or under the other Loan Documents and without giving any notice to Borrower thereof, Lender may, at its option, extend the Maturity Date or the time for payment of any Payment due hereunder, accept additional security, release any party liable hereunder, release any security now or hereafter securing this Note, accept a renewal of this Note or join in any subordination agreement. No provision in this Note (including, without limitation, the provisions for the late charge or interest at the Default Interest Rate) shall be construed as in any way excusing Borrower from its obligation to make each Payment under this Note promptly when due.

4.7 Successors and Assigns.

This Note shall be binding upon and shall inure to the benefit of Borrower and Lender and their respective successors and assigns.

4.8 Notices.

All notices, or other documents or demands, required or permitted to be given under this Note shall be in writing and shall be given in the manner provided in the Loan Agreement.

4.9 Counterparts.

This Note may be executed in any number of counterparts, each of which when so executed and delivered shall be deemed to be an original and all of which counterparts taken together shall constitute but one and the same instrument. Signature pages may be detached from the counterparts and attached to a single copy of this Note to physically form one document.

4.10 Governing Law; Waiver of Jury Trial.

This Note shall be governed by, and construed and enforced in accordance with, the laws of the Governing State.

BORROWER AND LENDER EACH HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVE ANY RIGHT THEY MAY HAVE TO A TRIAL BY JURY WITH RESPECT TO ANY CONTROVERSY OR CLAIM, WHETHER ARISING IN TORT OR CONTRACT OR BY STATUTE OR LAW, BASED HEREON, OR ARISING OUT OF, UNDER OR IN CONJUNCTION WITH THIS NOTE (INCLUDING, WITHOUT LIMITATION, THE VALIDITY, INTERPRETATION, COLLECTION OR ENFORCEMENT HEREOF), OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER VERBAL OR WRITTEN) OR ACTIONS OF ANY PARTY IN CONNECTION HEREWITH. EACH PARTY ACKNOWLEDGES AND AGREES THAT NO REPRESENTATIONS OF FACT OR OPINION HAVE BEEN MADE BY ANY PERSON TO INDUCE THIS WAIVER OF TRIAL BY JURY OR TO IN ANY WAY MODIFY OR NULLIFY ITS EFFECT. THIS PROVISION IS A MATERIAL INDUCEMENT FOR BORROWER'S AND LENDER'S ENTERING INTO THE LOAN DOCUMENTS AND THE PARTIES WOULD NOT HAVE ENTERED INTO THE LOAN DOCUMENTS WITHOUT THIS WAIVER. LENDER AND BORROWER ARE EACH HEREBY AUTHORIZED TO FILE A COPY OF THIS SECTION 4.10 IN ANY PROCEEDING AS CONCLUSIVE EVIDENCE OF THIS WAIVER OF JURY TRIAL.

[Signature Page Follows]

EXHIBIT J

AMENDED AND RESTATED PLEDGE AGREEMENT

THIS AMENDED AND RESTATED PLEDGE AGREEMENT dated as of June 28, 2006 (this "Agreement"), is made and executed by each of Howard Koslow, together with Jane Koslow, his wife, as tenants by the entireties, by Larry Leder, together with Carole Leder, his wife, as tenants by the entireties, and by Peter Baronoff, together with Malinda Baronoff, his wife, as tenants by the entireties, (each a "Shareholder" and together the "Shareholders") in favor of Founding Partners Stable-Value Fund, L.P. (the "Secured Party").

WHEREAS, the Shareholders are party to one or more existing pledge agreements in favor of the Secured Party (all of such agreements as amended, supplemented or otherwise modified from time to time shall be referred to collectively herein as the "Existing Agreement"); and

WHEREAS, the parties hereto wish to amend and restate the Existing Agreement as set forth herein.

NOW, THEREFORE, for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereto hereby agree to amend and restate the Existing Agreement to read in its entirety as follows:

SECTION 1. DEFINITIONS; CERTAIN RULES OF CONSTRUCTION. Certain capitalized terms are used in this Agreement with the specific meanings defined below in this Section 1. Except as otherwise explicitly specified to the contrary or unless the context clearly requires: (a) words and terms used in the singular shall include the plural, and the plural shall include the singular, as the context may require; (b) words and terms defined in the New York Uniform Commercial Code and used but not otherwise defined in this Agreement shall have the meanings attributed to such terms in the New York Uniform Commercial Code; (c) the word "or" is not exclusive; and (d) references to a particular Person include such Person's successors and assigns, provided that nothing in this Agreement shall authorize any succession or assignment that is prohibited by the HLP Loan and Security Agreement, any other Loan Document, the Sun Capital Credit and Security Agreement or any other Program Document.

Business Day means any day other than (i) Saturday, (ii) Sunday or (iii) a day on which banks in Chicago, Illinois or Naples, Florida are authorized or required by law or other governmental action to close.

Collateral is defined in Section 3.

Default means (a) any Event of Default, or (b) any event, circumstance or condition which with the passage of time or giving of notice, or both, would become an Event of Default.

Equity Interests means with respect to any Issuer, (1) any and all shares or other equity interests (including without limitation common stock, preferred stock, limited liability company interests and partnership interests) in such Issuer and (2) all rights to purchase, warrants or options (whether or not currently exercisable), participations or other

equivalents of or interests in (however designated) such shares or other interests in such Issuer.

Event of Default means (a) an "Event of Default" (as defined in the Sun Capital Credit and Security Agreement), (b) an "Event of Default" (as defined in the HLP Loan and Security Agreement), or (c) any breach by a Shareholder of the terms of this Agreement.

Governmental Authority means the government of the United States of America or any other nation, or of 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 without limitation any supra-national bodies such as the European Union or the European Central Bank).

HLP means HLP Properties of Port Arthur, LLC, a Texas limited liability company.

HLP Loan and Security Agreement means the Loan and Security Agreement dated as of June 28, 2006, between HLP and the Secured Party, as the same may be amended, amended and restated or otherwise modified from time to time.

Interest Rate is defined in the Note.

Issuers shall mean, collectively, each Person identified as an "Issuer" on Schedule I hereto.

Lien means any mortgage, deed of trust, pledge, hypothecation, assignment, deposit arrangement, charge, encumbrance, lien (statutory or other), preference, priority or other security agreement or similar preferential arrangement of any kind or nature whatsoever (including without limitation any conditional sale or other title retention agreement, any financing lease having substantially the same economic effect as any of the foregoing, and the authorized filing by or against a Person of any financing statement as debtor under the Uniform Commercial Code or comparable law of any jurisdiction).

Loan Documents is defined in the HLP Loan and Security Agreement.

Loan Obligations is defined in the HLP Loan and Security Agreement.

Note is defined in the HLP Loan and Security Agreement.

Obligations means, collectively, (a) all Loan Obligations and other obligations of HLP to the Secured Party pursuant to, under or in connection with the HLP Loan and Security Agreement or any other Loan Documents and (b) all obligations of Sun Capital to the Secured Party pursuant to, under or in connection with the Sun Capital Credit and Security Agreement or any other Program Documents.

Person is defined in the HLP Loan and Security Agreement.

Program Documents is defined in the Sun Capital Credit and Security Agreement.

Sun Capital means Sun Capital, Inc., a Florida corporation.

Sun Capital Credit and Security Agreement means the Credit and Security Agreement dated as of January 24, 2002 between Sun Capital and the Secured Party, as the same may be amended, amended and restated or otherwise modified from time to time.

Taxes means all present or future taxes, levies, imposts, duties, deductions, withholdings, assessments, fees or other charges imposed by any Governmental Authority, including without limitation any interest, additions to tax or penalties applicable thereto.

SECTION 2. GRANT OF SECURITY INTEREST. For valuable consideration, each Shareholder pledges to the Secured Party and grants to the Secured Party a first priority security interest in all of such Shareholder's right, title and interest in, to and under the Collateral to secure the payment and performance of the Obligations and agrees that the Secured Party shall have the rights stated in this Agreement with respect to the Collateral, in addition to all other rights that the Secured Party may have by law.

SECTION 3. COLLATERAL DESCRIPTION. The word "Collateral" as used in this Agreement means the following described property, whether now owned or hereafter acquired, whether now existing or hereafter arising, and wherever located:

(a) all Equity Interests, and all certificates, instruments or documents, if any, representing or evidencing such Equity Interests now or hereafter issued or issued in replacement or substitution for such certificates, instruments or documents, including without limitation the certificates listed on Schedule I hereto, as well as all "carry units" that have vested, or will vest in the future, in such Issuer, as set forth on Schedule I hereto (as adjusted from time to time to give effect to splits, reverse splits, dividends and similar events) and any securities into which or for which any such certificates, instruments or documents or units may be converted or exchanged;

(b) all rights, now existing or hereafter arising or acquired, to receive from time to time profits, losses, income, surplus, compensation, return of capital, fees, distributions and other reimbursements and payments from each Issuer (including without limitation specific properties of such Issuer upon dissolution or otherwise) in respect of any Equity Interests in such Issuer;

(c) all other property hereafter delivered to the Secured Party in exchange or substitution for, or in addition to any of the foregoing and all certificates or instruments, if any, representing or evidencing such other property;

(d) all books, records, writings, data bases, information and other property relating to, used or useful in connection with, evidencing, embodying, incorporating or referring to, any of the foregoing; and

(e) any and all proceeds of and from any and all of the foregoing.

SECTION 4. DELIVERY OF COLLATERAL. All certificates or instruments representing or evidencing any Collateral shall be delivered to and held by or on behalf of the Secured Party

pursuant hereto, shall be in suitable form for transfer by delivery, and shall be accompanied by all necessary instruments of transfer or assignment, duly executed in blank.

SECTION 5. SHAREHOLDER'S WAIVERS AND RESPONSIBILITIES. Except as otherwise required under this Agreement or by applicable law: (a) each Shareholder agrees that the Secured Party need not tell such Shareholder about any action or inaction the Secured Party takes in connection with this Agreement; (b) each Shareholder assumes the responsibility for being and keeping informed about the Collateral (and the Secured Party agrees to respond to reasonable written inquiries with respect thereto by a Shareholder); (c) each Shareholder waives any defenses that may arise because of any action or inaction of the Secured Party, including without limitation any failure of the Secured Party to realize upon the Collateral or any delay by the Secured Party in realizing upon the Collateral; and each Shareholder agrees to remain liable under the Obligations no matter what action the Secured Party takes or fails to take under this Agreement; and (d) without limiting the foregoing, each Shareholder waives any defenses of a surety or guarantor under or in connection with this Agreement, the other Loan Documents or the Collateral.

SECTION 6. SHAREHOLDER'S REPRESENTATIONS AND WARRANTIES. Each Shareholder represents and warrants to the Secured Party that such Shareholder has the full right, power and authority to enter into this Agreement and to pledge the Collateral to the Secured Party hereunder.

SECTION 7. SHAREHOLDER'S COVENANTS, AGREEMENTS, REPRESENTATIONS AND WARRANTIES WITH RESPECT TO THE COLLATERAL. With respect to the Collateral, each Shareholder covenants, agrees, represents and warrants to the Secured Party that:

(a) **Equity Interests.** The Shareholders are the only direct or indirect legal or beneficial owners of the Equity Interests. All Equity Interests that have been issued by the Issuers are referred to on Schedule I. Such Equity Interests are duly authorized, validly issued, fully paid and non-assessable, and none of such Equity Interests are subject to any option to purchase or similar right of any Person. The information contained in Schedule I with respect to each Shareholder and each Issuer is true and accurate in all respects.

(b) **Perfection of Security Interest.** Such Shareholder authorizes the Secured Party to such file Uniform Commercial Code financing statements, and such Shareholder agrees to take whatever other actions are requested by the Secured Party, to perfect and continue the Secured Party's security interest in the Collateral. Each Shareholder has delivered to the Secured Party all certificates, instruments and documents evidencing or constituting the Collateral as of the date of this Agreement, and shall deliver to the Secured Party any and all of certificates, instruments and documents that from time to time in the future may evidence or constitute the Collateral.

(c) **Notice to the Secured Party.** Such Shareholder shall promptly notify the Secured Party in writing, in accordance with Section 14(g), prior to any: (i) change in such Shareholder's name or (ii) change in such Shareholder's principal residence. No

change in a Shareholder's name or principal residence shall take effect until after the Secured Party has received prior written notice thereof.

(d) Transactions Involving Collateral. Except as otherwise provided for in this Agreement, such Shareholder shall not sell, offer to sell, or otherwise transfer or dispose of any of the Collateral. No Shareholder shall pledge, mortgage, encumber or otherwise permit any of the Collateral to be subject to any Lien, other than the security interest provided for in this Agreement. This includes security interests even if junior in right to the security interests granted under this Agreement. All proceeds from any disposition of any of the Collateral (for whatever reason) shall be held by the Shareholders in trust for the Secured Party and shall not be commingled with any other funds; provided however, that this requirement shall not constitute consent by the Secured Party to any sale or other disposition of any of the Collateral. Upon receipt of any such proceeds, such Shareholder shall immediately deliver such proceeds to the Secured Party.

(e) Title. Such Shareholder represents and warrants to the Secured Party that such Shareholder holds good and marketable title to its indicated portion of the Collateral, free and clear of all Liens except for the security interest created by this Agreement. No Uniform Commercial Code financing statement covering any of the Collateral is on file in any public office other than those that reflect the security interest created by this Agreement. Such Shareholder shall defend the Secured Party's rights in the Collateral against the claims and demands of all other Persons.

(f) Inspection of Collateral. The Secured Party and the Secured Party's representatives and agents shall have the right at all reasonable times and from time to time to examine, audit and inspect the Collateral wherever located.

(g) Taxes and Liens. Such Shareholder will pay and discharge when due all Taxes and Liens upon or in respect of the Collateral; provided that this Agreement shall not constitute the authorization of any Lien upon or in respect of any Collateral other than the security interest in favor of the Secured Party hereunder. If the Collateral is subjected to a Lien that is not discharged within fifteen (15) days, such Shareholder shall deposit with the Secured Party cash, a sufficient corporate surety bond satisfactory to the Secured Party or other security satisfactory to the Secured Party in each case in an amount adequate to provide for the discharge of the Lien plus any interest, costs, attorneys' fees or other charges that could accrue as a result of foreclosure or sale of the Collateral. In any contest such Shareholder shall defend itself and the Secured Party and shall satisfy any final adverse judgment before enforcement against the Collateral. Such Shareholder shall name the Secured Party as an additional obligee under any surety bond furnished in the contest proceedings. Such Shareholder further agrees to furnish the Secured Party upon demand with evidence that such Taxes and Liens have been discharged, paid in full and released, as applicable, in a timely manner.

(h) Compliance with Governmental Requirements. Such Shareholder shall comply promptly with all laws, ordinances, rules and regulations of all Governmental

Authorities, now or hereafter in effect, applicable to the ownership, disposition, or use of the Collateral.

(i) Name, etc. Such Shareholder's full legal name and principal residence are as set forth under such Shareholder's name set forth on Schedule II hereto.

SECTION 8. DIVIDENDS; DISTRIBUTIONS.

(a) Prior to a Default, each Shareholder shall be entitled to receive and retain distributions in cash and other payments made in cash by any Issuer; provided that, whether or not a Default has occurred, all dividends and distributions in respect of the Collateral or any part thereof made in shares of stock, membership interests or securities or other property or representing any return of capital, whether resulting from a subdivision, combination or reclassification of Collateral or any part thereof or received in exchange for Collateral or any part thereof or as a result of any merger, consolidation, acquisition or other exchange of assets to which any Issuer may be a party or otherwise or as a result of any exercise of any stock purchase or subscription right, shall be and become part of the Collateral hereunder and such Shareholder promptly (and in any event within two Business Days) shall deliver or cause to be delivered to the Secured Party, without any request therefor by the Secured Party, in due form for transfer (i.e., endorsed in blank or accompanied by stock or membership interest powers, as applicable, executed in blank) to be held for the purposes of this Agreement.

(b) In any circumstance in which a Shareholder receives payments and distributions and all proceeds of the Collateral otherwise than as permitted by paragraph (a) above, promptly (and in any event within two Business Days) and without any request therefor by the Secured Party, such Shareholder shall deliver (properly endorsed where required hereby or requested by the Secured Party) all such payments and distributions and all such proceeds of the Collateral to the Secured Party, all of which shall be held by the Secured Party as additional Collateral.

All cash payments and proceeds which may at any time and from time to time be held by such Shareholder but which such Shareholder is then obligated to deliver to the Secured Party, shall, until delivery to the Secured Party, be held by such Shareholder separate and apart from its other property in trust for the Secured Party.

SECTION 9. UNDERTAKINGS AND AGREEMENTS OF THE SHAREHOLDERS. Each Shareholder shall:

(a) Upon request of the Secured Party, file such Uniform Commercial Code financing statements and execute such other documents (and pay the cost of filing or recording the same in all public offices deemed necessary or appropriate by the Secured Party) and do such other acts and things, all as the Secured Party may from time to time request, to establish and maintain a valid, perfected pledge of, and security interest in, the Collateral (including without limitation delivery of any instruments or certificates evidencing Collateral and the taking of all acts necessary to vest control of the Collateral

in the Secured Party) (free of all other Liens, claims and rights of third parties whatsoever) to secure the payment and performance of the Obligations;

(b) Keep, at its address set forth under such Shareholder's name on Schedule II hereto, all its records concerning the Collateral, which records will be of such character as will enable the Secured Party or its designees to determine at any time the status thereof;

(c) Not change such Shareholder's name or address in any manner unless prior to such change, such Shareholder notifies the Secured Party of such change, and takes all action requested by the Secured Party to amend such Uniform Commercial Code financing statement in a manner acceptable to the Secured Party; and

(d) Indemnify and hold harmless the Secured Party from any present or future claim or liability for any stamp or any other similar Tax and any penalties or interest with respect thereto, which may be assessed, levied or collected by any Governmental Authority in connection with this Agreement, any Collateral or the security interest granted hereunder.

Each Shareholder hereby authorizes the Secured Party to file any Uniform Commercial Code financing statement that (i) indicates the Collateral and (ii) contains any other information required by Section 5 of Article 9 of the Uniform Commercial Code of the jurisdiction wherein such financing statement is filed regarding the sufficiency or filing office acceptance of any financing statement.

SECTION 10. THE SECURED PARTY'S EXPENDITURES. If any action or proceeding is commenced that could affect the Secured Party's interest in the Collateral or if any Shareholder fails to comply with any provision of this Agreement, the Secured Party on such Shareholder's behalf may (but shall not be obligated to) take any action that the Secured Party deems appropriate, including but not limited to discharging or paying all Taxes, Liens, and other claims, at any time levied or placed on as asserted against the Collateral and paying all costs for insuring, maintaining and preserving the Collateral. All such expenditures incurred or paid by the Secured Party for such purposes will then bear interest at the Interest Rate from the date incurred or paid by the Secured Party to the date of repayment by such Shareholder. All such expenses will become a part of the Obligations and, at the Secured Party's option, shall be payable on demand. The Collateral shall also secure payment of such amounts. For avoidance of doubt, the rights and remedies contemplated by this Section 10 shall be in addition to all other rights and remedies to which the Secured Party may be entitled upon an Event of Default.

SECTION 11. REINSTATEMENT OF SECURITY INTEREST. If payment is made by a Shareholder, whether voluntarily or otherwise, or by any guarantor or by any third party, on the Obligations and thereafter the Secured Party remits or pays the amount of that payment (the amount so remitted or paid by the Secured Party may be referred to as the "Designated Amount") (a) to such Shareholder's trustee in bankruptcy or to any similar Person under any federal or state bankruptcy law or law for the relief of debtors, (b) by reason of any judgment, decree or order of any court or administrative body, or (c) by reason of any settlement or compromise of any claim made by or against the Secured Party (including without limitation any claim made by or against

such Shareholder), the Obligations shall be considered unpaid for the purpose of enforcement of this Agreement and this Agreement shall continue to be effective or shall be reinstated, as the case may be, notwithstanding any cancellation of this Agreement or of any note or other instrument or agreement evidencing the Obligations and the Collateral shall continue to secure payment of the Designated Amount to the Secured Party to the same extent as if the Designated Amount never had been originally received by the Secured Party, and such Shareholder shall be bound by any judgment, decree, order, settlement or compromise relating to the Obligations or to this Agreement.

SECTION 12. RIGHTS AND REMEDIES ON DEFAULT. Following the occurrence of an Event of Default,

(a) Assemble Collateral. The Secured Party may require any Shareholder to deliver to the Secured Party all or any portion of the Collateral and any and all certificates and other documents relating to the Collateral. The Secured Party may require such Shareholder to assemble the Collateral and make it available to the Secured Party at a place to be designated by the Secured Party. The Secured Party also shall have full power to take possession of the Collateral and to prevent its use by such Shareholder or any third parties, with or without process of law, and with or without notice or demand.

(b) Sell the Collateral. The Secured Party shall have full power to sell, transfer, or otherwise deal with the Collateral or proceeds thereof in the Secured Party's own name or that of any Shareholder. All expenses relating to the disposition of the Collateral, including without limitation the expenses of retaking, holding, insuring, preparing for sale and selling the Collateral, shall become a part of the Obligations secured by this Agreement and shall be payable on demand by the Shareholders, with interest at the Interest Rate from date of expenditure until repaid.

(c) Collect Revenues. The Secured Party, either itself or through a receiver, may collect the payments, income, and revenues from the Collateral. The Secured Party may at any time and from time to time in the Secured Party's discretion transfer any Collateral into the Secured Party's own name or that of the Secured Party's nominee and receive the payments, income, and revenues therefrom and hold the same as security for the Obligations or apply the same to payment of the Obligations in such order of preference as the Secured Party may determine. Upon notice from the Secured Party or upon any Event of Default, each Shareholder agrees that all sums of money it receives on payment, settlement or otherwise related to any Collateral shall be held by such Shareholder as trustee for the Secured Party without commingling with any of such Shareholder's funds and shall be immediately delivered to the Secured Party.

(d) Obtain Deficiency. If the Secured Party chooses to sell any or all of the Collateral, the Secured Party may obtain a judgment against the Shareholders for any deficiency remaining on the Obligations due to the Secured Party after application of all amounts received from the exercise of the rights provided in this Agreement.

(e) Other Rights and Remedies. The Secured Party shall have all the rights and remedies of a secured creditor under the provisions of the New York Uniform

Commercial Code, as may be amended from time to time. In addition, the Secured Party shall have and may exercise any or all other rights and remedies it may have available at law, in equity, or otherwise.

(f) Election of Remedies. Except as may be prohibited by applicable law, all of the Secured Party's rights and remedies, whether evidenced by this Agreement or by any other writing, shall be cumulative and may be exercised singularly or concurrently. Election by the Secured Party to pursue any remedy will not bar any other remedy, and an election to make expenditures or to take action to perform an obligation of Shareholder under this Agreement, after any Shareholder's failure to perform, shall not affect the Secured Party's right to declare a default and exercise its remedies.

SECTION 13. JURY WAIVER. THE PARTIES HERETO HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVE TRIAL BY JURY IN ANY LEGAL ACTION OR PROCEEDING RELATING TO THIS AGREEMENT AND FOR ANY COUNTERCLAIM RELATING THERETO. EACH PARTY ACKNOWLEDGES THAT THE OTHER PARTIES HERETO ARE ENTERING INTO THIS AGREEMENT IN RELIANCE UPON SUCH WAIVER.

SECTION 14. MISCELLANEOUS PROVISIONS.

(a) Modification of Agreement. All modifications, consents, amendments or waivers of any provision of this Agreement shall be effective only if the same shall be approved in writing by all of the parties hereto and then shall be effective only in the specific instance and for the specific purpose for which given.

(b) Agreement to Pay Fees, Costs, Expenses, etc.; Indemnification. In addition to any and all rights of reimbursement, subrogation or any other rights that the Secured Party has under law or equity, each of the Shareholders, jointly and severally, agrees:

(i) to pay or reimburse the Secured Party for all of its out-of-pocket costs, expenses and disbursements (including without limitation travel expenses and attorneys', accountants' and other third parties' fees, costs, expenses and disbursements) incurred in connection with the negotiation, preparation, execution and delivery of any consent, amendment, waiver, supplement or other action or indemnification with respect to, or related to, this Agreement, whether or not executed or completed,

(ii) to pay or reimburse the Secured Party for all of its out-of-pocket charges, fees, costs, expenses and disbursements (including without limitation attorneys', accountants' and other third parties' fees, costs, expenses and disbursements) in connection with: (i) the enforcement, defense or preservation of any rights in respect of this Agreement, including without limitation instituting, defending, monitoring or participating in any litigation or other proceeding (including without limitation any insolvency or bankruptcy proceeding in respect of any party to this Agreement or any affiliate thereof) relating to this Agreement,

any party to this Agreement and/or the transactions contemplated hereby, and (ii) any action, proceeding or investigation affecting any Shareholder, the collateral pledged under this Agreement and/or the rights or obligations of the Secured Party hereunder, and

(iii) to pay, indemnify and hold the Secured Party and its affiliates and the officers, directors, partners, agents, counsel and employees of any of them or any of their respective affiliates (each an "Indemnified Party") harmless from and against any and all out-of-pocket liabilities (including without limitation penalties), obligations, losses, damages, actions, suits, demands, claims, judgments, costs, expenses or disbursements of any kind or nature whatsoever, including without limitation attorneys', accountants' and other third parties' fees, costs, expenses and disbursements, with respect to: (i) the transactions contemplated by this Agreement, (ii) any investigation or defense of, or participation in, any legal proceeding relating to the execution, delivery, enforcement, performance or administration of this Agreement (whether or not such Indemnified Party is a party thereto) and/or the transactions contemplated thereby, (iii) the negligence, bad faith, misconduct, misfeasance, fraud, theft or other violation of law of or by any Shareholder in connection with or relating to this Agreement or the transactions contemplated herein, (iv) any breaches of agreements, representations, warranties or covenants with respect to this Agreement by any Shareholder and (v) any violation (or claim of a violation) by any Shareholder of any law,

(all of the foregoing collectively being the "Indemnified Liabilities"), together with interest at the Interest Rate (if in respect of any unpaid amounts representing interest, to the extent permitted by applicable law) on each Indemnified Liability from the date on which any Shareholder is notified by the Secured Party that such Indemnified Liability has been incurred until the date on which such amount has been paid or reimbursed to the Secured Party.

(c) Caption Headings. Caption headings in this Agreement are for convenience purposes only and are not to be used to interpret or define the provisions of this Agreement.

(d) Governing Law. This Agreement shall be governed by, and construed and enforced in accordance with, the laws of the State of New York.

(e) Submission to Jurisdiction. Each Shareholder and the Secured Party each hereby consent to the jurisdiction of any state or federal court located within the State of New York in any suit, action or proceeding based hereon or arising out of, under or in connection with this Agreement (and further agree not to assert or claim that such venue is inconvenient or otherwise inappropriate or unsuitable), and waive personal service of any and all process upon them and consent that all service of process be made by certified mail to the applicable address determined in accordance with Section 14(g).

(f) No Waiver by the Secured Party. The Secured Party shall not be deemed to have waived any rights under this Agreement unless such waiver is given in writing

and signed by the Secured Party. No delay or omission on the part of the Secured Party in exercising any right shall operate as a waiver of such right or any other right. A waiver by the Secured Party of a provision of this Agreement shall not prejudice or constitute a waiver of the Secured Party's right otherwise to demand strict compliance with that provision or any other provision of this Agreement. No prior waiver by the Secured Party, nor any course of dealing between the Secured Party and any Shareholder, shall constitute a waiver of any of the Secured Party's rights or of any of such Shareholder's obligations as to any future matter. Whenever the consent of the Secured Party is required under this Agreement, the granting of such consent by the Secured Party in any instance shall not constitute continuing consent to subsequent instances where such consent is required and in all cases such consent may be granted or withheld in the sole discretion of the Secured Party.

(g) Notices. Any notice required to be given under this Agreement shall be given in writing, and shall be directed to the address set forth below the applicable party's name on Schedule II hereto. Any party may change its address for notices under this Agreement by giving written notice to the other parties, specifying that the purpose of the notice is to change such party's address. For notice purposes, each Shareholder agrees to keep the Secured Party informed at all times of such Shareholder's current address.

(h) Power of Attorney. Each Shareholder hereby irrevocably appoints the Secured Party as its true and lawful attorney-in-fact, such power of attorney being coupled with an interest, with full power of substitution to do the following in the place and stead of such Shareholder and in the name of such Shareholder: (a) to demand, collect, receive, receipt for, sue and recover all sums of money or other property which may now or hereafter become due, owing or payable from or in respect of the Collateral; (b) to execute, sign and endorse any and all claims, instruments, receipts, checks, drafts or warrants issued in payment for or in respect of the Collateral; (c) to settle or compromise any and all claims arising under or in respect of the Collateral, and, in the place and stead of such Shareholder, to execute and deliver its release and settlement for any such claim; (d) to file any claim or claims or to take any action or institute or take part in any proceedings, either in its own name or in the name of such Shareholder, or otherwise, which in the discretion of the Secured Party may seem to be necessary or advisable; (e) to execute any documents or instruments necessary to perfect or continue the Secured Party's security interest in the Collateral; and (f) to file such Uniform Commercial Code financing statements (including without limitation filing carbon, photographic or other reproduction of any Uniform Commercial Code financing statement or this Agreement for use as a financing statement) or other documents or instruments to perfect or continue the Secured Party's security interest in the Collateral. This power is given as security for the Obligations, and the authority hereby conferred is and shall be irrevocable and shall remain in full force and effect until renounced by the Secured Party.

(i) Severability. Any provision of this Agreement that 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.

(j) Successors and Assigns. This Agreement shall be binding upon each Shareholder and the heirs, estates and legal representatives thereof and shall inure to the benefit of the Secured Party and the successors and assigns of the Secured Party. Each Shareholder agrees that it shall not assign or transfer all or any portion of its rights hereunder or assign or delegate any of its obligations hereunder without the prior written consent of the Secured Party; it being understood that any attempt by any Shareholder to do so shall be null and void ab initio.

(k) Servicemembers Civil Relief Act. Reverence is made to the Servicemembers Civil Relief Act, 560 U.S.C. App. 501 et. seq., as the same may be amended (the "Civil Relief Act"). If any Shareholder is a "servicemember" or is in the "military service" (each as defined in the Civil Relief Act), then, with respect to the obligations of such Shareholder hereunder, such Shareholder hereby affirmatively and irrevocably waives any and all protections of the Civil Relief Act, including without limitation any and all protections under Section 103 of the Civil Relief Act. If a Shareholder's "period of military service" (as defined in the Civil Relief Act) commences after the date hereof but prior to the indefeasible satisfaction and payment in full of the Loan and the obligations of such Shareholder hereunder (the "Satisfaction Date"), then such Shareholder shall give Secured Party prompt written notice of the commencement of such period of military service and such Shareholder shall, within ten (10) days of Secured Party's written request, execute and deliver to Secured Party a waiver of the Civil Relief Act, in substantially the form of this waiver (it being the intent of the parties that such Shareholder waive the protections of the Civil Relief Act until the Satisfaction Date).

(l) Advice of Counsel. Each Shareholder hereby acknowledges, represents and warrants that such Shareholder has had advice of counsel of such Shareholder's own choosing in negotiations for and the preparation of this Agreement (including without limitation all waivers in this Agreement), that such Shareholder has read and fully understands this Agreement (including without limitation all waivers in this Agreement) or has had the same read to such Shareholder by such counsel, that such Shareholder has had this Agreement (including without limitation all waivers in this Agreement) fully explained by such counsel, and that such Shareholder is fully aware of its contents and legal effect of this Agreement (including without limitation all waivers in this Agreement).

(m) Survival of Representations and Warranties and Indemnities. All representations and warranties made herein shall survive the execution and delivery of this Agreement. Notwithstanding anything in this Agreement or implied by law to the contrary, any indemnities made by any Shareholder in this Agreement shall survive the satisfaction of the Obligations and/or the termination of this Agreement.

(n) Counterparts. This Agreement may be executed in any number of counterparts, each of which when so executed and delivered shall be deemed to be an

original and all of which counterparts taken together shall constitute but one and the same instrument. Signature pages may be detached from the counterparts and attached to a single copy of the applicable document to physically form one document, which may be recorded if applicable.

(o) Amendment and Restatement. This Agreement amends, restates and replaces in its entirety the Existing Agreement. All rights, benefits, indebtedness, interests, liabilities and obligations of the parties to the Existing Agreement are hereby amended and restated in their entirety according to the terms and provisions set forth herein. All indebtedness, liabilities and obligations under the Existing Agreement are hereby renewed by this Agreement and shall, from and after the date hereof, be governed by this Agreement. All references to the Existing Agreement in any document, instrument, agreement, or writing shall from and after the date hereof be deemed to refer to this Agreement, and, as used in this Agreement, the terms, "herein", "hereunder", "hereto", and words of similar import shall mean, from and after the date hereof, this Agreement.

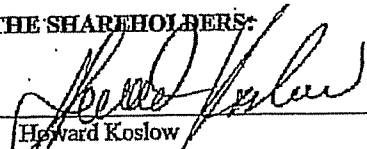
(p) Consent by Members of HLP Properties of Port Arthur, LLC. Each Shareholder, in such Shareholder's capacity as a member of HLP Properties of Port Arthur, LLC, consents to the pledge of Equity Interests contemplated by this Agreement for purposes of the Company Agreement of HLP Properties of Port Arthur, LLC dated as of May 1, 2006.

(q) Consent by Shareholders of Promise Healthcare, Inc. Each Shareholder, in such Shareholder's capacity as a shareholder of Promise Healthcare, Inc., consents to the pledge of Equity Interests contemplated by this Agreement for purposes of the Shareholder Agreement of Promise Healthcare, Inc.

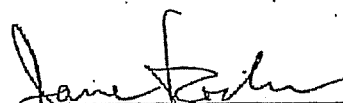
[Signature Pages Follow]

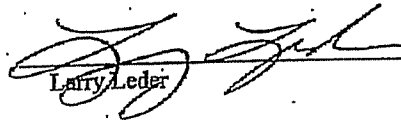
IN WITNESS WHEREOF, this Agreement has been duly executed and delivered as of the day and year first above written.

THE SHAREHOLDERS:

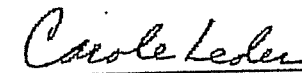

Howard Koslow

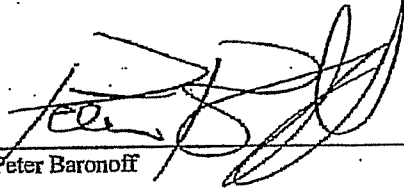
and


Jane Koslow, his wife, as tenants by the
entireties

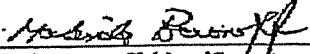

Larry Leder

and


Carole Leder, his wife, as tenants by the
entireties


Peter Baronoff

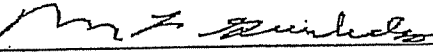
and


Malinda Baronoff, his wife, as tenants by the
entireties

THE SECURED PARTY:

**FOUNDING PARTNERS STABLE-VALUE
FUND, L. P.**

By: Founding Partners Capital Management
Company, its general partner

By 
William L. Gunlicks
President and Chief Executive Officer

SCHEDULE I

Pledged Equity Interests

<u>Shareholder</u>	<u>Issuer</u>	<u>No. of Shares or Membership Interests</u>	<u>Certificate No.</u>
Howard Koslow / Jane Koslow	Promise Healthcare, Inc.	200	3
Howard Koslow / Jane Koslow	HLP Properties of Port Arthur, LLC	All membership interests owned by such Shareholder	N/A
Larry Leder / Carole Leder	Promise Healthcare, Inc.	200	1
Larry Leder / Carole Leder	HLP Properties of Port Arthur, LLC	All membership interests owned by such Shareholder	N/A
Peter Baronoff / Malinda Baronoff	Promise Healthcare, Inc.	200	2
Peter Baronoff / Malinda Baronoff	HLP Properties of Port Arthur, LLC	All membership interests owned by such Shareholder	N/A

SCHEDULE II

Addresses for Notice

If to Howard Koslow or Jane Koslow:

5698 Huntington Park Court
Boca Raton, FL 33496

If to Larry Leder or Carole Leder:

16456 Braeburn Ridge Trail
Boca Raton, FL 33446

If to Peter Baronoff or Malinda Baronoff:

3969 N.W. 52nd Avenue
Boca Raton, FL 33496

If to the Secured Party:

5100 N. Tamiami Trail, Suite 119
Newgate Center
Naples, Florida 34103

PROMISE HEALTHCARE, INC.

Certificate No. 03

Issued to Howard Koslow and Jane Koslow

from whom transferred

Received Certificate, to

as tenants by the entirety

Dated _____

No. of ORIGINAL CERTIFICATE

No. of ORIGINAL SHARES

No. of SHARES TRANSFERRED

For _____ Shares

on _____

Dated August 12

1980

03

INCORPORATED UNDER THE LAWS OF THE STATE OF FLORIDA

No. 03

This stock certificate is subject to a Shareholder Agreement and is therefore not transferable by the named shareholders without written consent from all corporate shareholders of the Corporation.

PROMISE HEALTHCARE, INC.

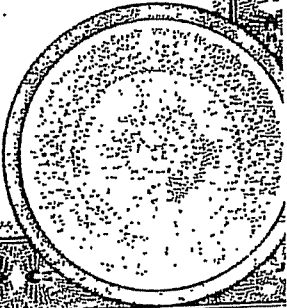
1000 SHARES COMMON STOCK \$100 PAR VALUE

This Certifies that Howard B. Koslow and Jane Koslow, as tenants by the entirety, is hereby issued Two Hundred (200) Shares Common Stock of Promise Healthcare, Inc. fully paid and non-assessable on the books of the Corporation, by the holder hereof in person or by duly authorized attorney upon surrender of this Certificate properly endorsed.

In Witness Whereof, Promise Healthcare, Inc. has caused this Certificate to be signed by its duly authorized officers and its Corporate Seal to be hereunto affixed this _____ day of August, 1980.

[Signature]
PETER BARONOFF

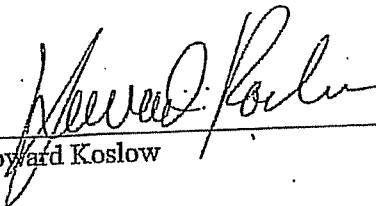
[Signature]
LAWRENCE LEBER



ASSIGNMENT SEPARATE FROM CERTIFICATE.

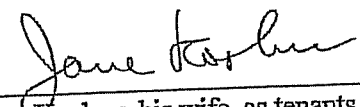
FOR VALUE RECEIVED, Howard Koslow, together with Jane Koslow, his wife, as tenants by the entireties (together, the "Shareholder"), hereby assigns and transfers unto _____ two hundred (200) shares of the common stock of Promise Healthcare, Inc. (the "Company"), standing in the name of _____ on the books of said Company represented by Certificate No. 3. The Shareholder does hereby irrevocably constitute and appoint _____ as its attorney-in-fact to transfer the said stock on the books of the within named Company with full power of substitution in the premises. By execution hereof, the Shareholder represents that such shares now stand in its name on the books of the Company.

Dated: _____



Howard Koslow

and



Jane Koslow, his wife, as tenants by the entireties

PROMISE HEALTHCARE, INC.

Certificate No 02 *For 200 Shares*

same amount transferred

Received Certificate, to

Issued to Peter Baronoff and Malinda Baronoff,
as tenants by the entirety

Dated _____
NO. OF ORIGINAL CERTIFICATE

NO. OF ORIGINAL SHARES

NO. OF SHARES TRANSFERRED

200

August 12

For _____ *Shares*

200

No. 02

INCORPORATED UNDER THE LAWS OF THE STATE OF FLORIDA

This stock certificate is subject to a Shareholder Agreement and is therefore not transferable by the named shareholders without written consent from all corporate Shareholders of the Corporation.

PROMISE HEALTHCARE, INC.

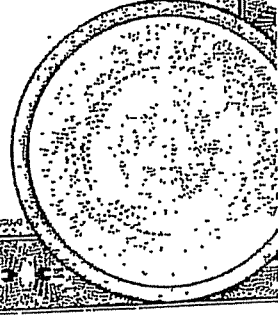
1000 SHARES COMMON STOCK \$100 PAR VALUE

This Certifies that PETER BARONOFF AND MALINDA BARONOFF, as tenants by the entirety is hereby issued Two Hundred (200) Shares Common Stock of Promise Healthcare, Inc. fully paid and non-assessable, Shares transferable only on the books of the Corporation by the holder, hereof in person or by duly authorized Attorney upon surrender of this Certificate properly endorsed.

In Witness Whereof, Promise Healthcare, Inc. has caused this Certificate to be signed by its duly authorized officers and its Corporate Seal to be hereunto affixed this 12th day of August, A.D. 2003

Peter Baronoff
PETER BARONOFF

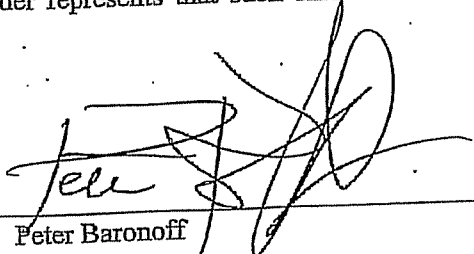
Lawrence Feder
LAWRENCE FEDER



ASSIGNMENT SEPARATE FROM CERTIFICATE

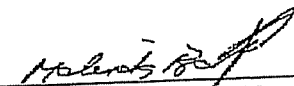
FOR VALUE RECEIVED, Peter Baronoff, together with Malinda Baronoff, his wife, as tenants by the entireties (together, the "Shareholder"), hereby assigns and transfers unto _____ two hundred (200) shares of the common stock of Promise Healthcare, Inc. (the "Company"), standing in the name of _____ on the books of said Company represented by Certificate No. 2. The Shareholder does hereby irrevocably constitute and appoint _____ as its attorney-in-fact to transfer the said stock on the books of the within named Company with full power of substitution in the premises. By execution hereof, the Shareholder represents that such shares now stand in its name on the books of the Company.

Dated: _____



Peter Baronoff

and



Malinda Baronoff, his wife, as tenants by the entireties

PROMISE HEALTHCARE, INC.

Certificate No 01 *Two 200 Shares*

Issued to Lawrence Leder and Carole Leder, as tenants by the entirety

Dated August 12 *19* 03

from whom transferred

Received Certificate, to

For *Shares*

or 20

<i>Dated</i>	No. OF ORIGINAL CERTIFICATE	No. OF ORIGINAL SHARES	No. OF SHARES TRANSFERRED
			<i>20</i>

INCORPORATED UNDER THE LAWS OF THE STATE OF FLORIDA

PROMISE HEALTHCARE, INC.

500 SHARES COMMON STOCK \$100 PAR VALUE

This Certifies that LAWRENCE LEDER AND CAROLE LEDER, as tenants by the entirety,
is hereby issued Two Hundred (200)
fully paid and non-assessable Shares Common Stock of Promise
Healthcare, Inc. transferable only on the books of the Corporation by the
holder hereof in person or by duly authorized Attorney upon surrender of this
Certificate properly endorsed.

In Witness Whereof, *Promise Healthcare, Inc. has caused this Certificate to be signed by its duly*
authorized officers and its Corporate Seal to be hereunto affixed this
 August 12 *th* day of August, *19* 03 A.D. 1903

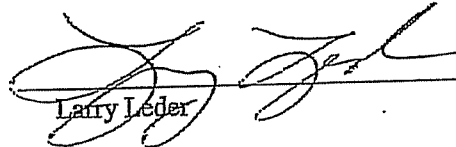
[Signature]
 PETER BARONOFF
 SECRETARY

[Signature]
 LAWRENCE LEDER

ASSIGNMENT SEPARATE FROM CERTIFICATE

FOR VALUE RECEIVED, Larry Leder, together with Carole Leder, his wife, as tenants by the entireties (together, the "Shareholder"), hereby assigns and transfers unto _____ two hundred (200) shares of the common stock of Promise Healthcare, Inc. (the "Company"), standing in the name of _____ on the books of said Company represented by Certificate No. 1. The Shareholder does hereby irrevocably constitute and appoint _____ as its attorney-in-fact to transfer the said stock on the books of the within named Company with full power of substitution in the premises. By execution hereof, the Shareholder represents that such shares now stand in its name on the books of the Company.

Dated: _____


Larry Leder

and

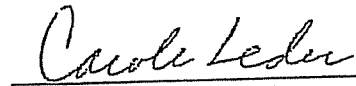

Carole Leder, his wife, as tenants by the entireties

EXHIBIT K

FOURTH AMENDMENT TO LOAN AGREEMENT AND OTHER LOAN DOCUMENTS

This Fourth Amendment to Loan Agreement and Other Loan Documents (the "Amendment") made as of the 28th day of December, 2008, by and between FOUNDING PARTNERS STABLE-VALUE FUND, L.P. ("Lender") and HLP PROPERTIES OF PORT ARTHUR, LLC, a Texas limited liability company ("Borrower").

RECITALS

A. Borrower and Lender entered into that certain Loan and Security Agreement dated June 28, 2006 (the "Loan Agreement") along with the other Loan Documents (as defined therein) secured by a certain property set forth on Exhibit A to the Loan Agreement. Borrower and Lender subsequently entered into that certain First Amendment to Loan Agreement and Other Loan Documents dated as of May ____, 2007 (the "First Amendment"), that certain Second Amendment to Loan Agreement and Other Loan Documents dated as of December 26, 2007 (the "Second Amendment") and that certain Third Amendment to Loan Agreement and Other Loan Documents dated as of June 28, 2008 (together with the First Amendment and the Second Amendment, the "Prior Amendments").

B. Borrower has requested that the Initial Maturity Date (as defined in the Secured Promissory Note), and as extended pursuant to the Prior Amendments, be extended for a period of six (6) months to June 28, 2009 from December 28, 2008 and Lender has agreed to such extension.

C. Lender and Borrower are entering into this Amendment to memorialize the amendment changing the Initial Maturity Date.

AGREEMENTS

1. Definitions. Capitalized terms used in this Amendment and not otherwise defined herein are defined in the Loan Agreement and are incorporated herein by reference.

2. Initial Maturity Date. Lender hereby consents to the extension of the Initial Maturity Date from December 28, 2008 to June 28, 2009. Lender and Borrower agree that the definition of "Initial Maturity Date" set out in the Secured Promissory Note, as amended by the Prior Amendments is hereby changed to the following:

"Initial Maturity Date" means June 28, 2009."

3. Lender's Expenses. Borrower shall pay all reasonable costs and expenses incurred by Lender in connection with this Amendment and Lender's approval thereof, including, without limitation, reasonable consultants' fees, appraisal costs, title fees and reasonable attorneys' fees and costs.

4. Miscellaneous.

a. **Successors.** This Amendment shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns. This Amendment and the provisions hereof are solely for the benefit of the parties hereto and their respective successors and assigns and not any other person; and, without limiting the generality of the foregoing, no other person, other than the lender under the Loan, shall be deemed to be a third party beneficiary hereof or shall have any right or remedy hereunder or with respect to any provision hereof.

b. **Authority.** The individuals signing on behalf of Borrower and Lender, respectively, represent and warrant that they are duly authorized to do so.

c. **Ratification.** Except as amended pursuant to the terms hereof, the Loan Documents are hereby ratified and confirmed in all respects.

d. **Counterparts.** This Amendment may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. The parties agree that the use of facsimile signatures for the execution of this Amendment shall be legal and binding and shall have the same full force and effect as if originally signed.

IN WITNESS WHEREOF, this Agreement has been duly executed and delivered by Borrower and Lender as of the date first above written.

BORROWER:

HLP PROPERTIES OF PORT ARTHUR, LLC

By: 
Howard B. Koslow

Its: Managing Member

LENDER:

FOUNDING PARTNERS STABLE-VALUE
FUND, L. P.

By: Founding Partners Capital Management
Company, its general partner

By: 
William L. Gunlicks
President and Chief Executive Officer

EXHIBIT L

SECURED PROMISSORY NOTE

\$5,800,000.00

January 11, 2005

FOR VALUE RECEIVED, SUN CAPITAL HEALTHCARE, INC. ("Maker"), promises to pay to the order of FOUNDING PARTNERS STABLE-VALUE FUND, L.P. ("Founding Partners"), at the office of *Founding Partners, 5100 N. THUNDERBOLT TRAIL, Suite 119 Naples, FL 34103* or at such other place as Founding Partners may designate to Maker in writing from time to time, the principal sum of Five Million Eight Hundred Thousand Dollars (\$5,800,000.00), together with simple interest on the outstanding principal balance hereof from the date hereof at the rate of fourteen and one-half percent (14½ %) per annum (computed on the basis of a 360-day year); provided, however, that Holder may charge and receive interest upon any renewal or extension hereof at the greater of (i) the rate set out above, or (ii) any rate agreed to by the undersigned that is not in excess of the maximum rate of interest allowed to be charged under applicable law (the "Maximum Rate") at the time of such renewal or extension.

Beginning on February 1, 2005, and each month thereafter Maker shall make monthly principal payments of Twenty-Five Thousand Dollars (\$25,000.00), each due on the fifteenth day of the month, and monthly interest payments in the amount of all interest accrued during the prior month, each due on the first day of the month. The entire remaining outstanding principal balance hereof, plus accrued interest, shall be due and payable on January 20, 2010, (the "Maturity Date"). The Maturity Date may be extended by agreement of the parties.

The indebtedness evidenced hereby may be prepaid in whole or in part, at any time and from time to time, without penalty. Any such prepayments shall be credited first to any accrued and unpaid interest and then to the outstanding principal balance hereof.

Time is of the essence of this Note. It is hereby expressly agreed that in the event that any default be made in the payment of principal or interest as stipulated above, which default is not cured within five (5) days of written notice; or in the event that any default or event of default shall occur under that certain Commercial Security Agreement dated as of even date herewith between Maker

*Commercial
Security
Agmt ??*

and Payee (as amended, amended and restated, or otherwise modified from time to time, now or hereafter amended, the "Security Agreement"), which default or event of default is not cured following the giving of any applicable notice and within any applicable cure period set forth in said Security Agreement; or should any default by Maker be made in the performance or observance of any covenants or conditions contained in any other instrument or document now or hereafter evidencing, securing, or otherwise relating to the indebtedness evidenced hereby (subject to any applicable notice and cure period provisions that may be set forth therein); then, and in such event, the entire outstanding principal balance of the indebtedness evidenced hereby, together with any other sums advanced hereunder, and under any other instrument or document now or hereafter evidencing, securing, or in any way relating to the indebtedness evidenced hereby, together with all unpaid interest accrued thereon, shall, at the option of Holder and without notice to Maker, at once become due and payable and may be collected forthwith, regardless of the stipulated date of maturity. Upon the occurrence of any default as set forth herein, at the option of Holder and without notice to Maker, all accrued and unpaid interest, if any, shall be added to the outstanding principal balance hereof, and the entire outstanding principal balance, as so adjusted, shall bear interest thereafter until paid at an annual rate (the "Default Rate") equal to the lesser of (i) the rate that is seven percentage points (7.0%) in excess of the above-specified interest rate, or (ii) the Maximum Rate in effect from time to time, regardless of whether or not there has been an acceleration of the payment of principal as set forth herein. All such interest shall be paid at the time of and as a condition precedent to the curing of any such default.

In the event this Note is placed in the hands of an attorney for collection, or if Holder incurs any costs incident to the collection of the indebtedness evidenced hereby, Maker and any endorsers hereof agree to pay to Holder an amount equal to all such costs, including without limitation all actual reasonable attorneys' fees and all court costs.

Presentment for payment, demand, protest, and notice of demand, protest, and nonpayment are hereby waived by Maker and all other parties hereto. No failure to accelerate the indebtedness evidenced hereby by reason of default hereunder, acceptance of a past-due installment, or other extensions or indulgences granted from time to time, may be construed as a novation of this Note or as a waiver of such right of acceleration or of the right of Holder

thereafter to insist upon strict compliance with the terms of this Note or to prevent the exercise of such right of acceleration or any other right granted hereunder or by applicable law. No extension of the time for payment of the indebtedness evidenced hereby or any installment due hereunder, made by agreement with any person now or hereafter liable for payment of the indebtedness evidenced hereby, shall operate to release, discharge, modify, change or affect the original liability of Maker hereunder or that of any other person now or hereafter liable for payment of the indebtedness evidenced hereby, either in whole or in part, unless Holder agrees otherwise in writing. This Note may not be changed orally, but only by an agreement in writing signed by the party against whom enforcement of any waiver, change, modification, or discharge is sought.

All agreements herein made are expressly limited so that in no event whatsoever, whether by reason of advancement of proceeds hereof, acceleration of maturity of the unpaid balance hereof, or otherwise, shall the amount paid or agreed to be paid to Holder for the use of the money advanced or to be advanced hereunder exceed the Maximum Rate. If, from any circumstances whatsoever, the fulfillment of any provision of this Note or any other agreement or instrument now or hereafter evidencing, securing, or in any way relating to the indebtedness evidenced hereby shall involve the payment of interest in excess of the Maximum Rate, then, *ipso facto*, the obligation to pay interest hereunder shall be reduced to the Maximum Rate; and if from any circumstance whatsoever, Holder shall ever receive interest, the amount of which would exceed the amount collectible at the Maximum Rate, such amount as would be excessive interest shall be applied to the reduction of the principal balance remaining unpaid hereunder and not to the payment of interest, and any excess amount shall be promptly returned to Maker. This provision shall control every other provision in any and all other agreements and instruments existing or hereafter arising between Maker and Holder with respect to the indebtedness evidenced hereby.

To secure the obligations of Maker under this Note, Maker grants to Holder a security interest in all of Maker's accounts, chattel paper, commercial tort claims, deposit accounts, documents, fixtures, general intangibles (including without limitation payment intangibles), goods, instruments, investment property, letter-of-credit rights, letters of credit, money, and supporting obligations, all accessions, products, substitutions, replacements and proceeds of any of the foregoing, and all other personal property of any nature or type and all proceeds

thereof, and hereby authorizes the filing of a Financing Statement in accordance with the Uniform Commercial Code perfecting such security interest.

This Note is intended as a contract under and shall be construed and enforceable in accordance with the laws of the State of Florida.

As used herein, the terms "Maker" and "Holder" shall be deemed to include their respective successors, legal representatives and assigns, whether by voluntary action of the parties or by operation of law.

MAKER:

SUN CAPITAL HEALTHCARE, INC.
a Florida corporation

By: 

HOWARD KOSLOW
Its President and COO

EXHIBIT A

GREENBERG TRAUIG. P.A. OPINION

(See Attached)

EXHIBIT M

**STATE OF FLORIDA UNIFORM COMMERCIAL CODE
FINANCING STATEMENT FORM**

A. NAME & DAYTIME PHONE NUMBER OF CONTACT PERSON
 William Gunlicks 800 514 3080

B. SEND ACKNOWLEDGEMENT TO:
 Name: Founding Partners
 Address: Stable Value Fund
 5100 N. Tamiami Trail, Ste 119
 Newgate Center
 City/State/Zip: Naples, FL 34103

FLORIDA SECURED TRANSACTION REGISTRY

FILED

2002 Jan 23 AM 12:00

***** 200200168817 *****

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

1. DEBTOR'S EXACT FULL LEGAL NAME - INSERT ONLY ONE DEBTOR NAME (1a OR 1b) - Do Not Abbreviate or Combine Names

1a. ORGANIZATION'S NAME Sun Capital Inc				
1b. INDIVIDUAL'S LAST NAME		FIRST NAME	MIDDLE NAME	SUFFIX
1c. MAILING ADDRESS 929 Clint Moore Road		CITY Booth Raton	STATE FL	POSTAL CODE 33487
1d. TAX ID# 65-0668095	REQUIRED ADD'L INFO RE: ORGANIZATION DEBTOR	1e. TYPE OF ORGANIZATION Corporation	1f. JURISDICTION OF ORGANIZATION Florida	1g. ORGANIZATIONAL ID# 99584689 <input type="checkbox"/> NONE

2. ADDITIONAL DEBTOR'S EXACT FULL LEGAL NAME - INSERT ONLY ONE DEBTOR NAME (2a OR 2b) - Do Not Abbreviate or Combine Names

2a. ORGANIZATION'S NAME				
2b. INDIVIDUAL'S LAST NAME		FIRST NAME	MIDDLE NAME	SUFFIX
2c. MAILING ADDRESS		CITY	STATE	POSTAL CODE
2d. TAX ID#	REQUIRED ADD'L INFO RE: ORGANIZATION DEBTOR	2e. TYPE OF ORGANIZATION	2f. JURISDICTION OF ORGANIZATION	2g. ORGANIZATIONAL ID# <input type="checkbox"/> NONE

3. SECURED PARTY'S NAME (or NAME of TOTAL ASSIGNOR or ASSIGNOR S/P) - INSERT ONLY ONE SECURED PARTY NAME (3a OR 3b)

3a. ORGANIZATION'S NAME Founding Partners Stable-Value Fund L.P.				
3b. INDIVIDUAL'S LAST NAME		FIRST NAME	MIDDLE NAME	SUFFIX
3c. MAILING ADDRESS 5100 N. Tamiami Trail # 119		CITY Naples	STATE FL	POSTAL CODE 34103
COUNTRY USA				

4. This FINANCING STATEMENT covers the following collateral:

All accounts, chattel paper, commercial tort claims; deposit accounts, documents, fixtures, general intangibles (including without limitation payment intangibles), goods, instruments, investment property, letter-of-credit rights, letters of credit, money and supporting obligations, all accessions, products, substitutions, replacements and proceeds of any of the foregoing, and all other personal property of any nature or type and all proceeds thereof.

5. ALTERNATE DESIGNATION (if applicable)	LESSOR/LESSOR	CONSIGNEE/CONSIGNOR	BAILEE/BAILOK
	AG. LIEN	NON-UCC FILING	SELLER/BUYER

6. Florida DOCUMENTARY STAMP TAX - YOU ARE REQUIRED TO CHECK EXACTLY ONE BOX

All documentary stamp due and payable or to become due and payable pursuant to s. 201.22 F.S., have been paid.

Florida Documentary Stamp Tax is not required.

7. OPTIONAL FILER REFERENCE DATA

STANDARD FORM - FORM UCC-1 (REV.12/2001)

Filing Office Copy

Approved by the Secretary of State, State of Florida

UCC FINANCING STATEMENT AMENDMENT

FLORIDA SECURED TRANSACTION REGISTRY

FILED

2006 Aug 02 AM 12:00

***** 200603326364 *****

FOLLOW INSTRUCTIONS (read and hear) CAREFULLY

A. NAME & PHONE OF CONTACT AT FILER (optional)

B. SEND ACKNOWLEDGMENT TO: (Name and Address)

Jennifer Goff
CT
208 South LaSalle Street
Suite 814
Chicago, IL 60604

THIS ABOVE SPACE IS FOR FILING OFFICE USE ONLY

1. ORIGINAL FINANCING STATEMENT FILED

200200168817

Filed 1/23/2002

10. THIS FINANCING STATEMENT AMENDMENT IS TO BE FILED (for record) IN THE REAL ESTATE RECORDS.

2. TERMINATION: Effectiveness of this Financing Statement identified above is terminated with respect to security interests of the Secured Party authorizing this Termination Statement.

3. CONTINUATION: Effectiveness of this Financing Statement identified above with respect to security interests of the Secured Party authorizing this Continuation Statement is continued for the additional period provided by applicable law.

4. ASSIGNMENT (all or part): Give notice of assignment to Item 7a or 7b and address of assignee in Item 7c and also the name of assignee in Item 6.

6. AMENDMENT (PARTY INFORMATION): This Amendment affects Debtor or Secured Party of record. Check only one of these two boxes. Also check one of the following items below and provide appropriate information in Items 8 and/or 9.

CHANGE name and/or address: Give current name and address in Item 8a or 8b; also give new name if name changed in Item 7a or 7b. DELETE name: Give record number to be deleted in Item 8a or 8b. ADD name: Complete Item 7a or 7b, and also Item 7c; also complete Items 7d-7g if applicable.

8. CURRENT RECORD INFORMATION:

8a. ORGANIZATION'S NAME

OR 8b. INDIVIDUAL'S LAST NAME FIRST NAME MIDDLE NAME SUFFIX

7. CHANGED (NEW) OR ADDED INFORMATION:

7a. ORGANIZATION'S NAME

OR 7b. INDIVIDUAL'S LAST NAME FIRST NAME MIDDLE NAME SUFFIX

7c. MAILING ADDRESS CITY STATE POSTAL CODE COUNTRY

7d. TAX ID# OR EIN OR EIN ADDL. INFO FOR ORGANIZATION DEBTOR 7e. TYPE OF ORGANIZATION 7f. JURISDICTION OF ORGANIZATION 7g. ORGANIZATION'S ID #, if any

9. AMENDMENT (COLLATERAL CHANGE): check only one box. Describe collateral deleted or added, or give entire restricted collateral description, or describe collateral assigned.

8. NAME OF SECURED PARTY OF RECORD AUTHORIZING THIS AMENDMENT (name of assignor, if this is an Assignment; if this is an Amendment authorized by a Debtor which adds collateral or adds the authorizing Debtor, or if this is a Termination authorized by a Debtor, check here) and enter name of DEBTOR authorizing this Amendment.

8a. ORGANIZATION'S NAME

OR 8b. INDIVIDUAL'S LAST NAME FIRST NAME MIDDLE NAME SUFFIX

10. OPTIONAL FILER REFERENCE DATA

FL 805 Debtor: Sun Capital, Inc. 9072979/02966865-3

FILING OFFICE COPY - NATIONAL UCC FINANCING STATEMENT AMENDMENT (FORM UCC3) (REV. 07/20/00)

FLORIDA SECURED TRANSACTION REGISTRY

FILED

2005 Jul 26 AM 12:00

**** 200500271842 ****

C * 07260561186501-25.0025.00***

UCC FINANCING STATEMENT

FOLLOW INSTRUCTIONS (front and back) CAREFULLY

A. NAME & PHONE OF CONTACT AT FILER (if phone)

B. SEND ACKNOWLEDGMENT TO: (Name and Address)

Please return to:
 Julie Jarecki
 CT CORPORATION SYSTEM
 208 S. LaSalle Street, Suite 814
 Chicago, IL 60604

THIS ABOVE SPACE IS FOR FILING OFFICE USE ONLY

1. DEBTOR'S EXACT FULL LEGAL NAME - insert only one debtor name (1a or 1b) - do not abbreviate or combine names

1a. ORGANIZATION'S NAME Sun Capital Healthcare, Inc.		FIRST NAME		MIDDLE NAME		SUFFIX	
OR 1b. INDIVIDUAL'S LAST NAME		CITY Boca Raton		STATE FL	POSTAL CODE 33487	COUNTRY USA	
2a. MAILING ADDRESS 929 Clint Moore Road		2b. TYPE OF ORGANIZATION corporation		2c. JURISDICTION OF ORGANIZATION Florida		2d. ORGANIZATIONAL ID # (if any) P99000064624	
2a. TAX ID #, EIN OR EIN	2b. FEDERAL OR STATE ORGANIZATION DEBTOR	2c. TYPE OF ORGANIZATION		2d. JURISDICTION OF ORGANIZATION		2e. ORGANIZATIONAL ID # (if any)	

2. ADDITIONAL DEBTOR'S EXACT FULL LEGAL NAME - insert only one debtor name (2a or 2b) - do not abbreviate or combine names

2a. ORGANIZATION'S NAME		FIRST NAME		MIDDLE NAME		SUFFIX	
OR 2b. INDIVIDUAL'S LAST NAME		CITY		STATE	POSTAL CODE	COUNTRY	
2a. MAILING ADDRESS		2b. TYPE OF ORGANIZATION		2c. JURISDICTION OF ORGANIZATION		2d. ORGANIZATIONAL ID # (if any)	
2a. TAX ID #, EIN OR EIN	2b. FEDERAL OR STATE ORGANIZATION DEBTOR	2c. TYPE OF ORGANIZATION		2d. JURISDICTION OF ORGANIZATION		2e. ORGANIZATIONAL ID # (if any)	

3. SECURED PARTY'S NAME (or NAME of TOTAL ASSIGNEE of ASSIGNOR (S)) - insert only one secured party name (3a or 3b)

3a. ORGANIZATION'S NAME Founding Partners Stable-Value Fund, L.P.		FIRST NAME		MIDDLE NAME		SUFFIX	
OR 3b. INDIVIDUAL'S LAST NAME		CITY Naples		STATE FL	POSTAL CODE 34103	COUNTRY USA	
3a. MAILING ADDRESS 5100 N. Tamiami Trail		3b. TYPE OF ORGANIZATION		3c. JURISDICTION OF ORGANIZATION		3d. ORGANIZATIONAL ID # (if any)	

4. THIS FINANCING STATEMENT covers the following collateral:
 All of the debtor's personal property or assets now existing or hereafter acquired.
 Florida Documentary Stamp tax not required.

4. ALTERNATIVE DESIGNATION (if applicable)	5. UCC SECTION	6. CONSUMER CREDIT	7. SALES/LEASE	8. SELLER/BUYER	9. AG. LIEN	10. NON-ACC'G
11. THE FINANCING STATEMENT IS (a) for cash (b) for goods (c) for real property (d) for fixtures (e) for inventory (f) for other	12. CHECK ONE: (a) PUBLIC SEARCH REPORT (b) OR (c) PRIVATE	13. ADDITIONAL FEES	14. Debtor 1	15. Debtor 2	16. Debtor 3	17. Debtor 4
B. OPTIONAL FILER REFERENCE DATA						
File with Secretary of State of Florida 02966865-1						
FILING OFFICE COPY - NATIONAL UCC FINANCING STATEMENT (FORM UCC-1) (REV 07/2005)						

6416869-1

UCC FINANCING STATEMENT

FLORIDA SECURED TRANSACTION REGISTRY

FOLLOW INSTRUCTIONS (front and back) CAREFULLY

FILED

2005 Jul 28 AM 12:00

***** 200500291371 *****

A. NAME & PHONE OF CONTACT AT FILER (optional)

B. SEND ACKNOWLEDGMENT TO: (Name and Address)

Please return to:
 Julie Jarecki
 CT CORPORATION SYSTEM
 208 S. LaSalle Street, Suite 814
 Chicago, IL 60604

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

1. DEBTOR'S EXACT FULL LEGAL NAME - Insert only one debtor name (a or b) - do not abbreviate or combine names

1A. ORGANIZATION'S NAME
 Sun Capital Healthcare, Inc.

CR 1B. INDIVIDUAL'S LAST NAME FIRST NAME MIDDLE NAME SUFFIX

1C. MAILING ADDRESS CITY STATE POSTAL CODE COUNTRY
 929 Clint Moore Road Boca Raton FL 33487 USA

1D. TAX ID # **1E. ORIGIN** **1F. ADD. INFO RE ORGANIZATION DEBTOR** **1G. TYPE OF ORGANIZATION** **1H. JURISDICTION OF ORGANIZATION** **1I. ORGANIZATIONAL ID #, if any**
 corporation Florida P99000054624 None

2. ADDITIONAL DEBTOR'S EXACT FULL LEGAL NAME - Insert only one debtor name (a or b) - do not abbreviate or combine names

2A. ORGANIZATION'S NAME

CR 2B. INDIVIDUAL'S LAST NAME FIRST NAME MIDDLE NAME SUFFIX

2C. MAILING ADDRESS CITY STATE POSTAL CODE COUNTRY

2D. TAX ID # **2E. ORIGIN** **2F. ADD. INFO RE ORGANIZATION DEBTOR** **2G. TYPE OF ORGANIZATION** **2H. JURISDICTION OF ORGANIZATION** **2I. ORGANIZATIONAL ID #, if any**
 None

3. SECURED PARTY'S NAME (or NAME of TOTAL ASSIGNOR or ASSIGNOR ENT) - Insert only one secured party name (a or b)

3A. ORGANIZATION'S NAME
 Founding Partners Stable-Value Fund, L.P.

CR 3B. INDIVIDUAL'S LAST NAME FIRST NAME MIDDLE NAME SUFFIX

3C. MAILING ADDRESS CITY STATE POSTAL CODE COUNTRY
 5100 N. Tamiami Trail Naples FL 34103 USA

4. This FINANCING STATEMENT covers the following collateral:

All of the following property of the debtor, whether now owned or hereafter acquired or coming into existence and wherever located: (a) all accounts, chattel paper, commercial tort claims, deposit accounts, documents, general intangibles (including but not limited to payment intangibles and software), goods (including but not limited to fixtures, equipment and inventory), instruments, investment property, letter-of-credit rights, letters of credit, money, and oil, gas or other minerals before extraction; (b) all supporting obligations; (c) all other personal property of any nature or type; (d) all accessions to, substitutions for or replacements of any of the property described in clause (a), clause (b) or clause(c); and (e) all products or proceeds of each or any of the foregoing.

Florida Documentary Stamp tax not required.

5. ALTERNATIVE DISBURSMENT (if applicable): REEVEN PERSON CONSIGNEE/CONSIGNOR BULK SELLER BULK BUYER AG. LIEN NON UCC FILING

6. THIS FINANCING STATEMENT IS TO BE FILED FOR RECORD (or recorded) IN: FEDERAL STATE LOCAL INTERNATIONAL OTHER

7. CHECKS REQUIRED REPORT REPORTED ON (check): DEBTOR DEBTOR 1 DEBTOR 2

8. OPTIONAL FILER REFERENCE DATA
 file with Secretary of State of Florida 02966865-2 6418524-1

UNIFORM COMMERCIAL CODE

STATE OF FLORIDA
FINANCING STATEMENT

FORM UCC-1 (REV. 1993)

This Financing Statement is presented to a filing officer for filing pursuant to the Uniform Commercial Code.

1. Debtor (Last Name First if an Individual) Sun Capital Healthcare, Inc.		12. Date of Birth or FEI# 65-0941604
1b. Mailing Address 929 Clint Moore Road	1c. City, State BOCA RATON, FL	1d. Zip Code 33487
2. Additional Debtor or Trade Name (Last Name First if an Individual)		23. Date of Birth or FEI#
2b. Mailing Address	2c. City, State	2d. Zip Code
3. Secured Party (Last Name First if an Individual) Founding Partners Multi-Strategy Fund, L.P.		
3a. Mailing Address 800 Laurel Oak Drive	3b. City, State NAPLES, FL	3c. Zip Code 34108
4. Assignee of Secured Party (Last Name First if an Individual)		
4a. Mailing Address	4b. City, State	4c. Zip Code
5. This Financing Statement covers the following types or items of property [include description of real property on which located and owner of record when required. If more space is required, attach additional sheet(s)]. Accounts, general intangibles, inventory, equipment and other tangible and intangible property as described on Exhibit A attached hereto and made a part hereof.		
200000155874-9		
99607566-1		
6. Check only if Applicable:	<input checked="" type="checkbox"/> Products of collateral are also covered.	<input checked="" type="checkbox"/> Proceeds of collateral are also covered. <input type="checkbox"/> Debtor is transmitting utility.
7. Check appropriate box (One box must be marked)	<input type="checkbox"/> All documentary stamp taxes due and payable or to become due and payable pursuant to s. 201.22 F.S., have been paid.	<input checked="" type="checkbox"/> Florida Documentary Stamp Tax is not required. FL-608
8. In accordance with s. 679.402(2), F.S., this statement is filed without the Debtor's signature to perfect a security interest in collateral: <input type="checkbox"/> already subject to a security interest in another jurisdiction when it was brought into this state or debtor's location changed to this state. <input type="checkbox"/> which is proceeds of the original collateral described above in which a security interest was perfected. <input type="checkbox"/> as to which the filing has lapsed. Date filed _____ and previous UCC-1 file number _____ <input type="checkbox"/> acquired after a change of name, identity, or corporate structure of the debtor.		9. Number of additional sheets presented: 5
10. Signature(s) of Debtor(s) Sun Capital Healthcare, Inc. By: <i>James O. Kros-law</i> President		This Space for Use of Filing Officer <i>EP 7/6/2000</i> 00 JUL -6 PM 12: 05 FILED SECRETARY OF STATE TALLAHASSEE, FLORIDA <i>FCA 5</i>
11. Signature(s) of Secured Party or If Assigned, by Assignee(s)		
12. Return Copy to: Name Lexis Document Services Address 135 South LaSalle Street Suite 2260 Address Chicago, IL 60603 City, State, Zip		

FILING OFFICER COPY

STANDARD FORM - FORM UCC-1

Approved by Secretary of State, State of Florida

EXHIBIT A
to Uniform Commercial Code Financing Statement
on Form UCC-1

Debtor

Sun Capital Healthcare, Inc.
929 Clint Moore Road
Boca Raton, Florida 33487

Secured Party

Founding Partners Multi-Strategy Fund, L.P.
800 Laurel Oak Drive
Naples, Florida 34108

The financing statement to which this Exhibit A is attached and made a part covers the following types (or items) of property:

All of the Borrower's right, title and interest in, to and under the following (in each case, whether now owned or existing or hereafter created, acquired or arising and wherever located):

- (a) all Receivables, including without limitation all Purchased Accounts;
- (b) all Related Property;
- (c) the Lockboxes and the Lockbox Accounts, the Collection Account, and all Items (as defined in the Form Lockbox Agreement, which term is defined in the Credit and Security Agreement) and funds on deposit from time to time in the Lockboxes, the Lockbox Accounts and the Collection Account;
- (d) the Holding Account, the Non-Government Obligor Reserve Account, and all funds on deposit from time to time in the Holding Account and the Non-Government Obligor Reserve Account;
- (e) all inventory (as presently or hereafter defined in the UCC), equipment (as presently or hereafter defined in the UCC) and any other tangible assets or Property;
- (f) all General Intangibles;
- (g) all monies and other Property of any kind, now or at any time or times hereafter owned, in the possession or under the control of the Borrower or a bailee of the Borrower or any Lockbox Bank;

- (h) the Program Documents and all other contracts, contract rights, chattel paper (as presently or hereafter defined in the UCC), instruments (as presently or hereafter defined in the UCC) and documents of the Borrower;
- (i) all other Property of the Borrower;
- (j) all accessions to, substitutions for and all replacements, products and cash and cash proceeds and non-cash proceeds of the items referred to in clauses (a) through (i) above, including, without limitation, (x) all Collections and (y) all proceeds of and unearned premiums with respect to insurance policies insuring any of the Collateral; and
- (k) all books and records (including, without limitation, customer lists, credit files, computer programs, print-outs, and other computer materials and records) of the Borrower pertaining to any of the items referred to in clauses (a) through (j) above.

The capitalized terms defined below shall have the meanings assigned to them below. The meanings of the following defined terms are equally applicable to both the singular and the plural forms of the terms defined.

"Accounts" shall have the meaning set forth in the Form Purchase and Sale Agreement.

"Borrower" shall mean the Debtor, which is Sun Capital Healthcare, Inc.

"CHAMPUS" shall mean the United States Civilian Health and Medical Program of the Uniformed Services.

"Collateral" shall mean all of the Property and interests in Property described in the Credit and Security Agreement, and all other Property and interests in Property that now or hereafter secure the payment or performance of any of the Credit Obligations.

"Collection Account" shall have the meaning assigned thereto in the Credit and Security Agreement.

"Collections" shall mean all funds (regardless of whether in the form of cash, checks, money orders, wire transfers, automatic clearinghouse transfers, money-grams or otherwise) paid by any Person in payment of or in respect of any Account or any fee or other amount paid to the Borrower under a Purchase and Sale Agreement.

"Credit and Security Agreement" shall mean the Credit and Security Agreement between the Borrower and the Lender, as such Credit and Security Agreement may be amended, amended and restated or otherwise modified from time to time.

"Credit Obligations" shall have the meaning assigned thereto in the Credit and Security Agreement.

"Eligible Investments" shall have the meaning assigned thereto in the Credit and Security Agreement.

"EOB" shall mean the explanation of benefits, remittance advice or other record that is provided by a Third Party Obligor setting forth the amount it shall or shall not pay with respect to a Receivable on which it is the Third Party Obligor.

"Form Purchase and Sale Agreement" shall mean the form of Master Purchase and Sale Agreement attached as an exhibit to the Credit and Security Agreement.

"Founding Partners" means Founding Partners Multi-Strategy Fund, L.P.

"General Intangibles" shall mean: (a) all general intangibles (as presently or hereafter defined in the UCC); (b) all choses in action, causes of action, corporate or other business books and records, deposit accounts, investments made with funds in deposit accounts (including without limitation Eligible Investments), inventions, designs, patents, patent applications, trademarks, trade names, trade secrets, goodwill, copyrights, registrations, licenses, franchises, rights to royalties, blueprints, drawings, confidential information, catalogs, sales literature, video tapes, consulting agreements, employment agreements, customer lists, tax refund claims, tax refund payments, computer programs, insurance policies, deposits with insurers, and all claims under guaranties; (c) all interests in or claims in or under any policy of insurance; (d) all security interests or other security held by any Person; (e) all rights to indemnification; and (f) all other intangible property of every kind and nature.

"Governmental Accounts" shall have the meaning set forth in the Form Purchase and Sale Agreement.

"Government Obligor" or "Governmental Obligor" shall mean a Governmental Entity that is obligated to make any payments with respect to Accounts representing amounts owing under Medicaid, Medicare or any other program established by federal or state law which provides for payments for health care goods or services to be made to the providers of such goods or services (including, without limitation, CHAMPUS and the program set forth in Title 38 U.S.C. Section 1713).

"Governmental Entity" shall mean the United States of America, any State thereof or the District of Columbia, any political subdivision of any of the foregoing and any department, agency or instrumentality of any of the foregoing (including, without limitation, HCFA) or any fiscal intermediary thereof.

"HCFA" shall mean the Health Care Financing Administration of the United States Department of Health and Human Services.

"Holding Account" shall have the meaning assigned thereto in the Credit and Security Agreement.

"Lender" shall mean Founding Partners and its successors and assigns.

"Lockbox" shall mean a Purchaser Lockbox or a Provider Lockbox.

"Lockbox Account" shall mean a Purchaser Lockbox Account or a Provider Lockbox Account.

"Lockbox Agreement" shall mean an agreement among the Borrower, a Seller and a Lockbox Bank, and such other Person or Persons as may be acceptable to the Lender, as such agreement may be amended, amended and restated or otherwise modified from time to time.

"Lockbox Bank" shall mean any bank approved in writing by the Lender to maintain a Lockbox and Lockbox Account pursuant to a Lockbox Agreement.

"Medicaid" shall have the meaning assigned thereto in the Credit and Security Agreement.

"Medicare" shall have the meaning assigned thereto in the Credit and Security Agreement.

"Non-Government Obligor Reserve Account" shall have the meaning assigned thereto in the Credit and Security Agreement.

"Person" shall mean any present or future natural person or any corporation, association, partnership, joint venture, limited liability company, joint stock company or other company, business trust, trust, organization, business or government or any governmental agency or political subdivision thereof.

"Program Documents" shall have the meaning assigned thereto in the Credit and Security Agreement.

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

"Provider Lockbox" shall mean a post office box or lockbox maintained pursuant to a Lockbox Agreement for the purpose of receiving checks and other forms of Collections and EOBs from Governmental Obligors.

"Provider Lockbox Account" shall mean an account maintained at a Lockbox Bank for the purpose of depositing checks and other forms of Collections, and receiving wire transfers and other electronic funds transfers, in each case on account of Governmental Accounts.

"Purchase and Sale Agreement" shall mean a purchase and sale agreement between the Borrower and a Seller, as such Purchase and Sale Agreement may be amended, amended and restated or otherwise modified from time to time.

"Purchased Accounts" shall mean Accounts which are purchased by the Borrower from a Seller pursuant to a Purchase and Sale Agreement.

"Purchaser Lockbox" shall mean a post office box or lockbox maintained pursuant to a Lockbox Agreement for the purpose of receiving checks and other forms of Collections and EOBs from Third Party Obligors other than Governmental Obligors.

"Purchaser Lockbox Account" shall mean an account maintained by the Borrower at a Lockbox Bank for the purposes of depositing checks and other forms of Collections from Third Party Obligors, and receiving wire transfers and other electronic funds transfers from Third Party Obligors, in each case with respect to Accounts other than Governmental Accounts.

"Receivables" shall mean: (a) all accounts (as presently or hereafter defined in the UCC); and (b) without limiting the foregoing, all Accounts (as defined in the Form Purchase and Sale Agreement).

"Related Property" shall mean, with respect to any Account, all of the Borrower's right, title and interest in, to and under (a) the related Purchase and Sale Agreement, including, without limitation, all amounts due and to become due to the Borrower under such Purchase and Sale Agreement, and all rights, remedies, powers, privileges and claims of the Borrower under such Purchase and Sale Agreement (whether arising pursuant to the terms of such Purchase and Sale Agreement or otherwise available to the Borrower at law or in equity), and (b) all related EOBs, records and all rights (but not obligations) relating to such Accounts.

"Seller" shall mean a Person which sells or has sold Accounts to the Borrower pursuant to a Purchase and Sale Agreement.

"Third Party Obligor" shall have the meaning specified in the Form Purchase and Sale Agreement.

"UCC" shall mean the Uniform Commercial Code, as amended from time to time, as in effect in any specified or applicable jurisdiction.

EXHIBIT N

AGREEMENT

The parties to this Agreement are Daniel S. Newman (the "Receiver"), solely in his capacity as Receiver for Founding Partners Capital Management Company and Related Entities (the "Receivership Entities"); Sun Capital, Inc., and Sun Capital Healthcare, Inc. (collectively "Borrowers"); and LH Acquisition, LLC ("LH").

In consideration of the Receiver's releasing up to \$14 million of the Receivership Entities cash collateral (the "Cash Collateral") to the Borrowers as more fully set forth below, the Parties agree as follows:

1. LH shall grant a first mortgage on real property located at 1800 Irving Place, Shreveport, Louisiana (the "Shreveport Property"), on which Promise Hospital of Louisiana, Inc., is currently operating, as soon as practicable but no later than five days from the date of this Agreement, to provide additional security for the existing indebtedness of Borrowers to the Receivership Entities under the Loan and Security Agreements dated respectively 2000 and 2002.
2. The value of the Shreveport Property has an unencumbered value of at least \$14,000,000; to the extent that the unencumbered value of the Shreveport Property is less than \$14,000,000, Borrowers shall provide additional real property collateral equaling the value of the Cash Collateral released pursuant to this Agreement;
3. The Receiver shall instruct SunTrust Bank by no later than 10:00 AM on July 20, 2009, to release up to \$14 million from Borrowers' lockbox collections (the "Lock Boxes") frozen by SunTrust and any additional Lock Boxes collections thereafter through July 26, 2009 (the "Released Funds"), which funds shall be used by Borrowers to purchase accounts receivable in the ordinary course of Borrowers' businesses and to release reserves associated with those accounts receivable in the ordinary course of Borrowers' businesses;
4. HLP shall not increase any lease obligations of Promise Hospital of Louisiana, Inc., or other occupants of the Shreveport Collateral during the term of the mortgage;
5. The Borrower shall permit the Receiver's accountants to monitor the use of the Released Funds at the Borrowers' place of business;
6. The parties agree to meet on Friday July 26, 2009, to review the collection and use of the \$14,000,000 of the Cash Collateral; *and discuss further funding for the following weeks;*
7. The Parties agree to meet no later than two weeks after the date of this Agreement to consider Borrowers' 13 week operating budget for Borrowers' related healthcare facilities;
8. Borrowers agree to provide full and complete disclosure to assist the Receiver and his professionals to analyze the current financial and related information of Borrowers and their related healthcare facilities;
9. This Agreement is limited to the express terms and events set forth herein and is in no way meant to effectuate any amendments to any existing agreements between the parties; and

10. The Parties do not hereby waive any claims, rights, or remedies they now have or may have in the future against each other.

Dated: July 19, 2009

Sun Capital, Inc.

By 

Sun Capital Healthcare, Inc.

By 

Acquisitions, Inc.

By 

Daniel S. Newman, Receiver for Founding Partners Capital Management Company and Related Entities,

