

TRADEMARK ASSIGNMENT

Electronic Version v1.1
 Stylesheet Version v1.1

SUBMISSION TYPE:	NEW ASSIGNMENT		
NATURE OF CONVEYANCE:	SECURITY INTEREST		
CONVEYING PARTY DATA			
Name	Formerly	Execution Date	Entity Type
Northern Gold Foods Ltd.		12/22/2005	CORPORATION: CANADA
RECEIVING PARTY DATA			
Name:	J.P. Morgan Europe Limited		
Street Address:	125 London Wall		
City:	London		
State/Country:	UNITED KINGDOM		
Postal Code:	EC2Y5AJ		
Entity Type:	CORPORATION: UNITED KINGDOM		
PROPERTY NUMBERS Total: 6			
Property Type	Number	Word Mark	
Registration Number:	1092428	NORTHERN GOLD	
Serial Number:	78139277	NORTHERN GOLD BITES	
Registration Number:	2044066	SPENCER'S CRUNCHY OATS N HONEY CEREAL	
Registration Number:	1838502	THE BREAKFAST COMPANY	
Serial Number:	78271480	FROSTED HONEY HIVES	
Registration Number:	2046252	SPENCER'S	
CORRESPONDENCE DATA			
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CH \$165.00 1092428

DOMESTIC REPRESENTATIVE

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Address Line 2:
Address Line 3:
Address Line 4:

NAME OF SUBMITTER:	Jonathan D. Reichman, Esq.
Signature:	/Jonathan D. Reichman/
Date:	03/15/2006

Total Attachments: 57

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SECURITY AGREEMENT

DATED AS OF DECEMBER 22, 2005

Between

THE WEETABIX COMPANY, INC.

BARBARA'S BAKERY, INC.

WEETABIX LIMITED

WEETABIX OF CANADA LIMITED

NORTHERN GOLD FOODS LTD.

And

J.P. MORGAN EUROPE LIMITED

ALLEN & OVERY

ALLEN & OVERY LLP

NEW YORK

NY-895098.2

**TRADEMARK
REEL: 003269 FRAME: 0004**

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THIS AGREEMENT is dated as of December ____, 2005

BETWEEN:

- (1) The Weetabix Company, Inc., a Delaware corporation (**WCI**);
- (2) Barbara's Bakery, Inc., a California corporation (**BBI**) (and together with WCI, each a **US Debtor**, and collectively the **US Debtors**);
- (3) Weetabix Limited, a limited liability company organized under the laws of England and Wales with registered number 267687 (**WL**);
- (4) Weetabix of Canada Limited (**WCL**);
- (5) Northern Gold Foods Ltd. (**NGFL**) (and together with WCI, BBI, WL and WCL, each a **Debtor**, and collectively the **Debtors**);
- (6) J.P. Morgan Europe Limited, as Security Agent for itself and the other Secured Parties (in that capacity the **Agent**).

BACKGROUND:

- (A) Latimer Group Limited, Latimer Acquisitions Limited and the Agent, among others, have entered into a facilities agreement dated December [], 2005 (the **Senior Facilities Agreement**).
- (B) Latimer Group Limited, Latimer Acquisitions Limited and the Agent, among others, have entered into a mezzanine term loan facility agreement dated December [], 2005 (the **Mezzanine Facility Agreement**, and together with the Senior Facilities Agreement, the **Facilities Agreements**).
- (C) It is a condition precedent to the obligations of the Agent and the other Secured Parties under the Facilities Agreements that each Debtor enter into this Agreement and grant the security described in this Agreement.

IT IS AGREED as follows:

1. INTERPRETATION

1.1 UCC and Senior Facilities Agreement Defined Terms

Any term defined in the Uniform Commercial Code as in effect from time to time in the State of New York (the **UCC**) and not defined in this Agreement has the meaning given to the term in the UCC. Any term defined in or whose interpretation is provided for in the Senior Facilities Agreement (both before and after the Senior Discharge Date) and not defined in this Agreement or the UCC has the meaning given to the term in the Senior Facilities Agreement.

1.2 Other Definitions

In this Agreement:

Bailee means any bailee, processor, shipper, warehouseman, agent or other third party at any time having possession of any Collateral.

Collateral means

- (a) with respect to each US Debtor, all IP Collateral arising under the laws of the United States of America,
- (b) with respect to each US Debtor, all personal property, wherever located, in which such Debtor now has or later acquires any right title or interest, including all:
 - accounts,
 - chattel paper (including tangible chattel paper and electronic chattel paper),
 - goods (including equipment, inventory and fixtures),
 - health-care-insurance receivables,
 - instruments (including promissory notes),
 - investment property,
 - documents,
 - deposit accounts,
 - letter-of-credit rights,
 - general intangibles (including payment intangibles),
 - software,
 - supporting obligations,
 - other assets (including inventions, discoveries, trade secrets, intellectual property rights, Patents, Trademarks and Copyrights, registrations of and applications relating to any of the foregoing, and all associated goodwill), and
- (c) with respect to each Debtor, to the extent not listed above as original Collateral, proceeds and products of, and accessions to, the foregoing.

The term **Collateral** also includes all existing commercial tort claims of each US Debtor as described in Schedule 1 (Commercial Tort Claims).

Notwithstanding the foregoing, Collateral shall not include any property, right or interest in which a security interest may not be granted under applicable law or under enforceable contractual restrictions binding on any Debtor.

Control Agreements has the meaning given to that term in Clause 2.4 (Control).

Copyrights shall mean the copyrights of the Debtors (including those described in Schedule 4), and:

- (a) all common law rights therein;
- (b) all applications and resignations thereof;
- (c) all renewals and extensions thereof;
- (d) all income, royalties, damages, and payments owed to any Debtor now or hereafter due and/or payable to any Debtor with respect thereto (including payments under all licenses

granted by any Debtor in connection therewith and damages and payments owed to any Debtor for past or future infringements thereof); and

- (e) the right to sue or otherwise recover for all past, present, and future infringements thereof, and all rights corresponding thereto within the United States of America.

Enforcement Date means the date on which the Agent declares this Agreement to be enforceable in accordance with Clause 11.2(d) of the Senior Facilities Agreement or Clause 11.2(c) of the Mezzanine Facility Agreement, or any of the events or circumstances described in Clause 11.4 of the Senior Facilities Agreement occurs, whichever is the first to occur.

Finance Documents means the Finance Documents and the Mezzanine Finance Documents.

IP Collateral shall mean the intellectual property and proprietary rights of the Debtors throughout the world, now or hereafter existing, including all existing and future Patents, inventions, discoveries, trade secrets, Copyrights, works of authorship, license rights, Trademarks, service marks, trade names, designs, logos, trade dress, domain names, and all associated goodwill, including those details set out in Schedules 4, 5 and 6 to this Agreement, and all embodiments or fixations thereof and related documentation, applications and registrations, therefor, all common law rights therein, and all additions, improvements, accessions, extensions, renewal, reversions to, and all books and records describing or used in connection with, any of the foregoing and all associated products.

Lien has the meaning ascribed to the term "Encumbrance" in the Senior Facilities Agreement and/or the Mezzanine Facility Agreement.

Material Intellectual Property means Intellectual Property Rights which are owned by or licensed to a Debtor and which are material to the conduct of any Debtor's business.

Patents shall mean the patents of the Debtors (including those described in Schedule 5), and:

- (a) any and all additions thereto and reissues, extensions, continuations, continuations-in-part, divisionals and renewals thereof;
- (b) all applications and registrations therefor;
- (c) all income, royalties, damages, and payments owed to any Debtor now or hereafter due and/or payable to any Debtor with respect thereto (including payments under all licenses granted by any Debtor in connection therewith and damages and payments owed to any Debtor for past or future infringements thereof); and
- (d) the right to sue or otherwise recover for all past, present, and future infringements thereof, and all rights corresponding thereto within the United States of America.

Possessory Collateral means all Collateral consisting of:

- (a) certificated securities;
- (b) instruments;

- (c) tangible chattel paper, other than tangible chattel paper that has been legended in compliance with Clause 4.3(c) (The Collateral); and
- (d) negotiable documents.

Secured Obligations means

- (a) all obligations and liabilities of each US Debtor now or hereafter due, owing or incurred by it to the Secured Parties or any of them under or pursuant to the Finance Documents, and
- (b) with respect to each US Debtor, the following (whether now existing or later arising):
 - (i) the Advances, the Mezzanine Facility Advances and all other amounts payable under the Finance Documents;
 - (ii) all other obligations of such US Debtor and the other Obligor under the Finance Documents;
 - (iii) all obligations of such US Debtor under this Agreement and the Control Agreements;
 - (iv) all amounts owed under any amendments, modifications, renewals, extensions or novations of any of the foregoing obligations; and
 - (v) any of the foregoing that arises after the filing of a petition by or against any US Debtor or any other Obligor under the U.S. Bankruptcy Code of 1978, even if the obligations do not accrue because of the automatic stay under section 362 of the U.S. Bankruptcy Code of 1978 or otherwise.

Secured Parties means the Finance Parties and each Mezzanine Finance Party.

Senior Discharge Date has the meaning ascribed to it in the Intercreditor Agreement.

Trademarks shall mean the trademarks, service marks, trade names and domain names of the Debtors (including those described in Schedule 6), and:

- (a) all common law rights therein;
- (b) all applications and registrations thereof;
- (c) all renewals and extensions thereof;
- (d) all income, royalties, damages, and payments owed to any Debtor now or hereafter due and/or payable to any Debtor with respect thereto (including payments under all licenses granted by any Debtor in connection therewith and damages and payments owed to any Debtor for past or future infringements thereof); and
- (e) the right to sue or otherwise recover for all past, present, and future infringements hereof, and all rights corresponding thereto within the United States of America; together in each

case with the goodwill of the business connected with the use of and symbolized by each trademark.

1.3 Construction

- (a) No reference to **proceeds** in this Agreement authorizes any sale, transfer or other disposition of Collateral by any Debtor, such authority issuing solely by the terms of the Facilities Agreements.
- (b) **Includes and including** are not limiting.
- (c) **Or** is not exclusive.
- (d) **All** includes **any** and **any** includes **all**.
- (e) The term **law** includes any law, statute, regulation, regulatory requirement, rule, ordinance, ruling, decision, treaty, directive, order, guideline, regulation, policy, writ, judgment, injunction or request of any court or other governmental, inter-governmental or supranational body, officer or official, fiscal or monetary authority, or other ministry or public entity (and their interpretation, administration and application), whether or not having the force of law.
- (f) A reference to a law is a reference to that law as amended or re-enacted and to any successor law.
- (g) A reference to an agreement is a reference to that agreement as amended, supplemented, restated or novated.
- (h) References to a **person** shall be construed as including references to an individual, firm, company, corporation, unincorporated body of persons or any State or any of its agencies.
- (i) Clause headings used in this Agreement are for convenience only. They are not a part of this Agreement and shall not be used in construing it.

2. CREATION AND PERFECTION OF SECURITY INTEREST

2.1 Grant

As security for the prompt and complete payment and performance of the Secured Obligations when due (whether due because of stated maturity, acceleration, mandatory prepayment, or otherwise) and to induce the Secured Parties to make the Advances and the Mezzanine Facility Advances, each Debtor grants to the Agent for the benefit of the Secured Parties a continuing security interest in the Collateral of such Debtor.

2.2 Continuing security interest

- (a) This Agreement creates a continuing security interest in the Collateral and will remain in full force and effect until the irrevocable and indefeasible payment in full of the ultimate balance of the Secured Obligations, regardless of any intermediate payment or discharge in whole or in part.
- (b) If, at any time for any reason (including the bankruptcy, insolvency, receivership, reorganization, dissolution or liquidation of any Debtor or any other Obligor or the appointment of any receiver, intervenor or conservator of, or agent or similar official for, any Debtor or any other Obligor or

any of their respective properties), any payment received by the Agent or any other Secured Party in respect of the Secured Obligations is rescinded or avoided or must otherwise be restored or returned by the Agent or any other Secured Party, that payment shall not be considered to have been made for purposes of this Agreement, and this Agreement will continue to be effective or will be reinstated, if necessary, as if that payment had not been made.

2.3 Filing of financing statements

Each Debtor authorizes the Agent to prepare and file, at such Debtor's expense, financing statements describing the Collateral of such Debtor, as well as continuation statements and amendments in respect of those financing statements. Each US Debtor expressly authorizes the Agent, if it so elects, to file financing statements with the collateral description "all assets of the Debtor", "all personal property of the Debtor" or other words to that effect.

2.4 Control

Other than with respect to those deposit accounts which contain investment property, cash balances or deposits of cash which do not on the date hereof exceed in the aggregate the applicable amounts set forth in Clause 10.5(w) (Cash balances) of the Senior Facilities Agreement and Clause 10.5(w) (Cash balances) of the Mezzanine Facility Agreement, each US Debtor and all other necessary parties have entered into appropriate control agreements with the Agent in form and substance reasonably satisfactory to the Agent (**Control Agreements**) and have taken all other actions necessary for the Agent to have control of any Collateral consisting of:

- (a) deposit accounts;
- (b) investment property;
- (c) letter-of-credit rights; and
- (d) electronic chattel paper.

If after the date of this Agreement any US Debtor acquires Collateral consisting of any of the foregoing types of collateral, and this new Collateral is not covered by an existing Control Agreement, such Debtor will, except with respect to those deposit accounts which do not at any one time contain investment property, cash balances or deposits of cash which exceeds in the aggregate as to all such deposit accounts the applicable amounts set forth in Clause 10.5(w) (Cash balances) of the Senior Facilities Agreement and Clause 10.5(w) (Cash balances) of the Mezzanine Facility Agreement, enter into a Control Agreement in respect of this new Collateral and take all other actions necessary for the Agent to have control over this new Collateral.

2.5 Delivery of Possessory Collateral

Each US Debtor has delivered to the Agent (or as directed by the Agent) the originals of all Possessory Collateral existing on the date of this Agreement, and each US Debtor agrees to deliver to the Agent (or as directed by the Agent), immediately upon receipt, originals of any other Possessory Collateral arising or acquired by such Debtor after the date of this Agreement. All Possessory Collateral delivered under this Agreement will be either duly endorsed and in suitable form for transfer by delivery or accompanied by undated instruments of transfer endorsed

in blank, as directed by the Agent, and in form and substance reasonably satisfactory to the Agent. The Agent will hold (directly or through an agent) all Possessory Collateral and related instruments of transfer delivered to it until the Agent's security interest has been released in accordance with Clause 7.13 (Release of Security Interest) below.

2.6 Notice of security interest

- (a) Each US Debtor has executed a notice in the form of Exhibit 1 (an **Assignment Notice**) in respect of each account, contract or agreement identified in Part 1 of Schedule 2 (Contracts and Counterparties to Contracts being Assigned) and delivered each of these notices to the appropriate account debtors and contract parties identified in Part 1 of Schedule 2 (Contracts and Counterparties to Contracts being Assigned). Each US Debtor shall use commercially reasonable efforts to cause each of these account debtors and contract parties to deliver to the Agent an acknowledgement in the form of Exhibit 2 (an **Assignment Acknowledgement**) within 30 days of the date of this Agreement. Promptly following the occurrence of the Enforcement Date, each US Debtor will (i) give notice to the Agent of each material account, contract or agreement then existing, and (ii) send an Assignment Notice to the relevant account debtor or contract party and use its best efforts to cause that account debtor or contract party to deliver a signed Assignment Acknowledgement promptly to the Agent.
- (b) Subject to the second sentence of this Clause 2.6(b), on and after the date of this Agreement no US Debtor will permit any Bailee to hold Collateral unless and until it has delivered to that Bailee a notice substantially in the form of Exhibit 3 (a **Bailee Notice**) (with such changes thereto as may be mutually agreed by the parties hereto) and that Bailee has delivered to the Agent a signed acknowledgement substantially in the form of Exhibit 4 (a **Bailee Acknowledgement**) (with such changes thereto as may be mutually agreed by the parties hereto). Notwithstanding the foregoing, the US Debtors may permit Bailees who have failed to comply with the preceding sentence to hold Collateral with a fair market value not exceeding \$3,000,000 at any time in the aggregate as to all such Bailees.

2.7 No liability

Each Debtor represents, warrants and agrees that:

- (a) its liabilities and obligations under contractual obligations that constitute part of the Collateral of such Debtor shall not be affected by this Agreement or the exercise by the Agent of its rights under this Agreement;
- (b) neither the Agent nor any other Secured Party, unless it expressly agrees in writing, shall have any liabilities or obligations under any contractual obligation that constitutes part of such Collateral as a result of this Agreement, the exercise by the Agent of its rights under this Agreement or otherwise; and
- (c) neither the Agent nor any other Secured Party has or shall have any obligation to collect upon or enforce any contractual obligation or claim that constitutes part of such Collateral, or to take any other action with respect to such Collateral.

2.8 Consideration and enforceability

- (a) Each Debtor represents, warrants and agrees that:

- (i) it will receive valuable direct and indirect benefits as a result of the transactions financed by the Advances and the Mezzanine Facility Advances; and
 - (ii) these benefits will constitute "reasonably equivalent value" and "fair consideration" as those terms are used in the fraudulent transfer laws.
- (b) Each Debtor acknowledges and agrees that each of the Secured Parties has acted in good faith in connection with the security interest granted under this Agreement.
 - (c) This Agreement shall be enforceable against each Debtor to the maximum extent permitted by the fraudulent transfer laws.
 - (d) For purposes of this Clause, "**fraudulent transfer laws**" mean applicable United States bankruptcy and State fraudulent transfer and conveyance statutes and the related case law.

3. REPRESENTATIONS AND WARRANTIES

3.1 Representations and warranties

Each Debtor makes the representations and warranties set out in this Clause 3 to each Secured Party.

3.2 The Debtors

- (a) WCI
 - (i) WCI is incorporated in the State of Delaware.
 - (ii) WCI's exact legal name, as it appears in the public records of its jurisdiction of incorporation is The Weetabix Company, Inc. Except as may be set forth in the official records of the State of Delaware, WCI has not changed its name, whether by amendment of its charter, reorganization, merger or otherwise, since its date of incorporation.
 - (iii) WCI's organizational number, as issued by its jurisdiction of incorporation, is 2085572.
 - (iv) WCI's chief executive office is located at 20 Cameron Street, Clinton, Massachusetts.
- (b) BBI
 - (i) BBI is incorporated in the State of California.
 - (ii) BBI's exact legal name, as it appears in the public records of its jurisdiction of incorporation is Barbara's Bakery, Inc. Except as may be set forth in the official records of the State of California, BBI has not changed its name, whether by amendment of its charter, reorganization, merger or otherwise, since its date of incorporation.
 - (iii) BBI's organizational number, as issued by the jurisdiction of incorporation is C0729092.
 - (iv) BBI's chief executive office is located at 3900 Cyprus Drive, Petaluma, California.
- (c) WL

- (i) WL is incorporated in England and Wales.
 - (ii) WL's exact legal name, as it appears in the public records of its jurisdiction of incorporation, is Weetabix Limited. Except as may be set forth in the official records at Companies House, WL has not changed its name since its date of incorporation.
- (d) WCL
- (i) WCL is incorporated in Canada.
 - (ii) WCL's exact legal name, as it appears in the public records of its jurisdiction of incorporation, is Weetabix of Canada Limited. Except as may be set forth in the official records at Industry Canada, Corporations Directorate, 9th Floor, Jean Edmonds Tower South, 365 Laurier Avenue West, Ottawa, Ontario K1A 0C8, WCL has not changed its name since its date of incorporation.
- (e) NGFL
- (i) NGFL is incorporated in British Columbia.
 - (ii) NGFL's exact legal name, as it appears in the public records of its jurisdiction of incorporation, is Northern Gold Foods Ltd. Except as may be set forth in the official records at British Columbia Ministry of Finance and Corporate Relations, Corporate and Personal Property Registries, 2nd Floor, 940 Blanchard Street, Victoria BC, V8W 9V3, NGFL has not changed its name since its date of incorporation.
- (f) Each Debtor keeps at the address indicated in Schedule 3 (Addresses in which Collateral Consisting of Goods is Located) its corporate records and all records, documents and instruments constituting, relating to or evidencing Collateral, except for the Possessory Collateral delivered to the Agent in compliance with Clause 2.5 (Delivery of Possessory Collateral) above.

3.3 The Collateral

- (a) Each Debtor has exclusive possession and control of all Collateral except for Collateral subject to a Control Agreement in compliance with Clause 2.4 (Control) above and Possessory Collateral delivered to the Agent in compliance with Clause 2.5 (Delivery of Possessory Collateral) above.
- (b) Except as permitted under the Facilities Agreements:
 - (i) each Debtor is the sole legal and beneficial owner of, and has the power to transfer and grant a security interest in, the Collateral;
 - (ii) none of the Collateral is subject to any Lien other than any Permitted Encumbrance;
 - (iii) each Debtor has not agreed or committed to sell, assign, pledge, transfer, license, lease or encumber any of the Collateral, or granted any option, warrant or right with respect to any of the Collateral; and

- (iv) no effective mortgage, deed of trust, financing statement, security agreement or other instrument similar in effect is on file or of record with respect to any Collateral, except for those that create, perfect or evidence the Agent's security interest.
- (c) All Collateral of the US Debtors consisting of goods is located solely at the addresses listed in Schedule 3 (Addresses in which Collateral Consisting of Goods is Located).
- (d) None of the Collateral is in the public domain.
- (e) None of the registrations for Collateral constituting Material Intellectual Property is expired.
- (f) The Debtors have made all appropriate filings in respect of Collateral constituting Material Intellectual Property in the United States Patent and Trademark Office (the **PTO**) under 15 U.S.C. §§ 1058, 1059 and 1065 to maintain and maximize the protection for such registrations.
- (g) All of the Trademarks which are the subject of the registrations set forth in Schedule 6 (Trademarks) hereto and which constitute Material Intellectual Property have been in continuous use from the first use dates identified in such registrations.
- (h) All of the Copyrights which are the subject of the registrations set forth in Schedule 4 (Copyrights) hereto and which constitute Material Intellectual Property constitute original works of authorship.
- (i) None of the Collateral constituting Material Intellectual Property infringes, violates, dilutes, impairs, misappropriates, conflicts with, or breaches any right or interest of any third party (including any trademark right, service mark right, trade name right, Internet domain name right, copyright right, patent right, inventorship right, trade secret right, moral right, privacy right, publicity right, or contractual right), and no third party has asserted a claim, or is currently asserting a claim, with respect thereto.
- (j) Nothing will inhibit or impair in any material respect the Debtor's full enjoyment of the Collateral, including the right to use, exploit, license, and enforce same, as contemplated by this Agreement.
- (k) To any Debtor's knowledge, no third party is infringing, violating, diluting, impairing, or misappropriating any of the Collateral in any material respect.
- (l) Except as disclosed in Part 2 of Schedule 2, none of the Collateral is the subject of any outstanding license agreement (whether exclusive or non-exclusive), consent, permission, right-to-use, or release.

3.4 Security interest

- (a) This Agreement confers the security interest it purports to confer over the Collateral in favor of the Agent, and, subject to the provisions of section 552 of the U.S. Bankruptcy Code, that security interest is not liable to avoidance on liquidation or bankruptcy, composition or any other similar insolvency proceedings.
- (b) The description of the Collateral contained in this Agreement is true, correct, and complete in all material respects and is sufficient to describe the Collateral for the purpose of creating, attaching,

and perfecting the security interest in favor of the Agent intended to be created by this Agreement.

- (c) As of the first Drawdown Date, the security interest granted pursuant to this Agreement shall constitute a valid and continuing perfected security interest in favor of the Agent in the Collateral upon, (i) in the case of all Collateral in which a security interest may be perfected by filing a financing statement under the UCC, the filing of the financing statements attached hereto as Exhibit 5 (UCC Financing Statements), in each case in the jurisdiction noted at bottom of each such financing statement, and (ii) the delivery to the Agent of all Possessory Collateral, in each case properly endorsed for transfer to the Agent in blank. Such security interests shall be prior to all other Liens on the Collateral except for Permitted Encumbrances having priority over the Agent's Lien by operation of law or otherwise as permitted by the Facilities Agreements.

3.5 Solvency

- (a) The sum of each Debtor's debts (including its obligations under this Agreement) is less than the value of such Debtor's property (calculated at the lesser of fair valuation and present fair saleable value).
- (b) The capital of each Debtor is not unreasonably small to conduct its business as currently conducted or as proposed to be conducted.
- (c) Each Debtor has not incurred, does not intend to incur and does not believe it will incur debts beyond its ability to pay as they mature.
- (d) Each Debtor has not made a transfer or incurred an obligation under this Agreement with the intent to hinder, delay or defraud any of its present or future creditors.
- (e) For purposes of this Clause:
 - (i) **debt** means any liability on a claim;
 - (ii) **claim** means:
 - (A) any right to payment, whether or not that right is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured or unsecured; or
 - (B) any right to an equitable remedy for breach of performance if that breach gives rise to a right to payment, whether or not the right to an equitable remedy is reduced to judgment, fixed, contingent, matured, unmatured, disputed, undisputed, secured or unsecured; and
 - (iii) terms used in this Clause shall be construed in accordance with the applicable United States and New York bankruptcy and fraudulent conveyance statutes and the related case law.

3.6 Times for making representations and warranties

- (a) The representations and warranties set out in this Clause 3 (Representations and Warranties) are made on the date of this Agreement.
- (b) The representations and warranties set out in Clauses 3.3(a), 3.3(b), 3.4(a) and 3.4(b) are deemed to be repeated by each Debtor on each day on which certain of the representations and warranties contained in the terms of either of the Facilities Agreements are repeated in accordance with the terms thereof until all the Secured Obligations have been paid or discharged in full and none of the Secured Parties has any obligation to permit Secured Obligations to be incurred by it, as if made with reference to the facts and circumstances existing on each such day.

3.7 Survival

The representations and warranties of each Debtor contained in this Agreement or made by the Debtor in any certificate, notice or report delivered under this Agreement will survive each Drawdown Date, the making and repayment of the Advances and the Mezzanine Facility Advances, the entry into and performance of the Hedge Documents, and any novation, transfer or assignment of the Advances, the Mezzanine Facility Advances and/or the Hedge Documents.

4. UNDERTAKINGS

4.1 Undertakings

Each Debtor covenants and agrees that, so long as any Secured Party has any commitment under either of the Facilities Agreements and until payment in full of the Secured Obligations, it will perform and observe each of the undertakings in this Clause 4 (Undertakings).

4.2 The Debtors

- (a) Each Debtor will preserve its corporate existence and will not, except as otherwise expressly permitted by the Facilities Agreements, in one transaction or a series of related transactions, merge into or consolidate with any other entity, or sell all or substantially all of its assets.
- (b) Each Debtor will not change the jurisdiction of its incorporation.
- (c) The Debtor will not change its name without providing the Agent with 30 days prior written notice.
- (d) Each Debtor will keep at its address indicated in Clause 7.8 (Notices) below or such other addresses notified to the Agent its corporate records and all records, documents and instruments constituting, relating to or evidencing Collateral, except for the Possessory Collateral delivered to the Agent in compliance with Clause 2.5 (Delivery of Possessory Collateral) above.
- (e) Each Debtor agrees to permit the Agent and its agents and representatives, during normal business hours and upon reasonable notice, to inspect the Collateral, to examine and make copies of and abstracts from the records referred to in paragraph (d) above, and to discuss matters relating to the Collateral directly with such Debtor's officers and employees.

- (f) Upon request, each Debtor shall provide the Agent with such information concerning the Collateral as the Agent shall reasonably request.

4.3 The Collateral

- (a) Except as otherwise expressly permitted by the Facilities Agreements:
 - (i) each Debtor will maintain sole legal and beneficial ownership of the Collateral;
 - (ii) each Debtor will not permit any Collateral to be subject to any Lien other than any Permitted Encumbrance and will at all times warrant and defend the Agent's security interest in the Collateral against all other Liens; and
 - (iii) each Debtor will not, and is not authorized to, sell, assign, transfer, pledge, license, lease or encumber, or grant any option, warrant, or right with respect to, any of the Collateral, or agree or contract to do any of the foregoing.
- (b) The Collateral shall remain personal property at all times. No US Debtor shall affix any of the Collateral to any real property in any manner which would change its nature from that of personal property to real property or to a fixture.
- (c) Each US Debtor shall mark conspicuously all Collateral consisting of chattel paper with a legend, in form and substance reasonably satisfactory to the Agent, indicating that the Agent has a security interest in the chattel paper.
- (d) Except as otherwise expressly permitted by the Facilities Agreements, each Debtor shall pay when due (and in any case before any penalties are assessed or any Lien is imposed on any Collateral) all taxes, assessments and charges imposed on or in respect of Collateral and all claims against the Collateral, including claims for labor, materials and supplies.
- (e) In any suit, legal action, arbitration or other proceeding involving the Collateral or the Agent's security interest, each Debtor will take all lawful action to avoid impairment of the Agent's security interest or the Agent's rights under this Agreement or the imposition of a Lien on any Collateral other than a Permitted Encumbrance.
- (f) Each Debtor will not permit any Collateral to be subject to any security interest other than Permitted Encumbrances and will at all times warrant and defend the Agent's security interest in the Collateral against all other security interests.
- (g) Each Debtor will take any and all lawful action to avoid impairment of the Agent's security interest or the Agent's rights under this Agreement or the imposition of any other security interest (other than Permitted Encumbrances) on any Collateral.
- (h) Each Debtor will not, and will not permit any of its licensees or sublicensees to, commit or omit to perform any act whereby any Material Intellectual Property may become forfeited, abandoned or dedicated to the public.
- (i) Each Debtor (either itself or through its licensees or its sublicensees) will, for each Trademark that is Material Intellectual Property, (i) maintain such Trademark (including pursuit of all applications and maintenance of all registrations) in full force and effect free from any claim of

abandonment or invalidity for non-use, (ii) maintain as in the past the quality of products and services offered under such Trademark, (iii) use such Trademark with notice of federal or foreign registration to the extent sufficient to establish and preserve its maximum rights under applicable law and (iv) not knowingly use or knowingly permit the use of such Trademark in violation of any third party rights.

- (j) No Debtor (either itself or through licensees or sublicensees) shall (i) do any act or omit to do any act whereby any portion of the Copyrights that is Material Intellectual Property may become invalidated or otherwise impaired nor (ii) do any act whereby any portion of the Copyrights that is Material Intellectual Property may fall into the public domain.
- (k) No Debtor (either itself or through licensees or sublicensees) shall do any act that knowingly uses any Material Intellectual Property to infringe, misappropriate, or violate the intellectual property rights of any other person.
- (l) Each Debtor shall notify the Agent promptly if it knows, or has reason to know, that any application or registration relating to any Material Intellectual Property may become forfeited, abandoned or dedicated to the public, or of any adverse determination or development (including the institution of, or any such determination or development in, any proceeding in the PTO, the United States Copyright Office or any court or tribunal in any country) regarding such Debtor's ownership of, right to use, interest in, or the validity of, any Material Intellectual Property or such Debtor's right to register the same or to own and maintain the same.
- (m) Whenever any Debtor, either by itself or through any agent, licensee or designee, shall file an application for the registration of any Intellectual Property Rights with the PTO, the United States Copyright Office or any similar office or agency within or outside the United States of America, such Debtor shall report such filing to the Agent within ten Banking Days after the last day of the financial quarter in which such filing occurs. Upon request of the Agent, such Debtor shall execute and deliver, and have recorded, all agreements, instruments, documents and papers as the Agent may reasonably request to evidence the Agent's security interest in any Copyright, Patent or Trademark and the goodwill and general intangibles of such Debtor relating thereto or represented thereby.
- (n) Each Debtor shall take all reasonable actions necessary or requested by the Agent, including in any proceeding before the PTO, the United States Copyright Office or any similar office or agency, to maintain and pursue each application (and to obtain the relevant registration) and to maintain each registration of any Copyright, Trademark or Patent that is Material Intellectual Property, including filing of applications for renewal, affidavits of use, affidavits of incontestability and opposition and interference and cancellation proceedings.
- (o) In the event that any Material Intellectual Property is or has been infringed upon or misappropriated or diluted by a third party, the applicable Debtor shall notify the Agent promptly after such Debtor learns thereof. Such Debtor shall take appropriate action in response to such infringement, misappropriation or dilution, including promptly bringing suit for infringement, misappropriation or dilution and to recover all damages for such infringement, misappropriation or dilution, and shall take such other actions may be appropriate in its reasonable judgment under the circumstances to protect such Material Intellectual Property.
- (p) Each Debtor will take all necessary steps, or steps reasonably requested by the Agent, that are consistent with the practice in any proceeding before the PTO or the United States Copyright

office or any office or agency of any other country, to maintain and pursue each material application relating to any of the patents, trademarks and copyrights that are Material Intellectual Property (and to obtain the relevant grant or registration) and to maintain each issued patent and each registration of the trademarks and copyrights material to each Debtor's business, including timely filings of applications for renewal, affidavits of use, affidavits of incontestability and payment of maintenance fees.

- (q) Upon the occurrence of the Enforcement Date, each Debtor shall use its best efforts to obtain all requisite consents or approvals by the licensor or licensee, as the case may be, under each patent, trademark or copyright license to effect the assignment of all of such Debtor's right, title and interest thereunder to the Agent or its designee.

4.4 Security interest

Each Debtor shall take all actions necessary to insure that the Agent has and continues to have in all relevant jurisdictions a duly and validly created, attached, perfected and enforceable first-priority security interest in the Collateral (including after-acquired Collateral). Promptly upon acquiring rights in any Collateral, each Debtor shall deliver possession of any Collateral to the Agent or its designated agent to the extent the Agent is required under applicable law to perfect its interest in that Collateral by taking possession.

4.5 Notices

Each Debtor will give the Agent prompt notice of the occurrence of any of the following events:

- (a) any pending or threatened claim, suit, legal action, arbitration or other proceeding involving or affecting such Debtor or any Collateral which could reasonably be expected to impair the Agent's security interest or the Agent's rights under this Agreement; or
- (b) any loss or damage to any material portion of the Collateral.

In each notice delivered under this Clause, each Debtor will include reasonable details concerning the occurrence that is the subject of the notice as well as such Debtor's proposed course of action, if any. Delivery of a notice under this Clause will not affect any Debtor's obligations to comply with any other provision of this Agreement. For the avoidance of doubt, it is agreed that any notice to the Agent under the Facilities Agreements that satisfies the foregoing shall constitute notice to the Agent under this Agreement.

5. SURETYSHIP PROVISIONS

5.1 Nature of Debtor's obligations

Each Debtor's obligations under this Agreement are independent of any obligation of any other Obligor or any other person, and a separate action or actions may be brought and prosecuted against each Debtor under this Agreement, and the Agent may enforce its rights under this Agreement, whether or not any action is brought or prosecuted against any other Obligor or any other person and whether or not any other Obligor or any other person is joined in any action under this Agreement.

5.2 Waiver of defenses

- (a) The obligations of each Debtor under this Agreement will not be affected by, and each Debtor irrevocably waives any defense it might have by virtue of, any act, omission, matter or thing which, but for this Clause, would reduce, release or prejudice any of its obligations under this Agreement, including (whether or not known to it or any Secured Party):
- (i) any time, forbearance, extension or waiver granted to, or composition or compromise with, an Obligor or any other person;
 - (ii) the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, take up or enforce, any rights against, or security over assets of, any Obligor or any other person or any non-presentation or non-observance of any formality or other requirement in respect of any instrument or any failure to realize the full value of any security;
 - (iii) any disability, incapacity or lack of powers, authority or legal personality of or dissolution or change in the members or status of any Obligor or any other person;
 - (iv) any amendment or variation (however fundamental), restatement, replacement or novation of a Finance Document or any other document, guaranty or security so that references to that Finance Document in this Agreement shall include each amendment, variation, restatement, replacement and novation;
 - (v) any unenforceability, illegality or invalidity of any obligation of any person under any Finance Document or any other document, guaranty or security, to the intent that the Agent's security interest in the Collateral and each Debtor's obligations under this Agreement shall remain in full force and be construed accordingly, as if there were no unenforceability, illegality or invalidity;
 - (vi) any avoidance, postponement, discharge, reduction, non-provability or other similar circumstance affecting any obligation of any Obligor under a Finance Document resulting from any bankruptcy, insolvency, receivership, liquidation or dissolution proceedings or from any law, regulation or order so that each such obligation shall for the purposes of each Debtor's obligations under this Agreement be construed as if there were no such circumstance; or
 - (vii) the acceptance or taking of other guaranties or security for the Secured Obligations, or the settlement, release or substitution of any guaranty or security or of any endorser, guarantor or other obligor in respect of the Secured Obligations.
- (b) Each Debtor unconditionally and irrevocably waives:
- (i) diligence, presentment, demand for performance, notice of nonperformance, protest, notice of protest, notice of dishonor, notice of the creation or incurring of new or additional indebtedness of the Obligors to the Agent or the other Secured Parties, notice of acceptance of this Agreement, and notices of any other kind whatsoever;
 - (ii) the filing of any claim with any court in the event of a receivership, insolvency or bankruptcy;

- (iii) the benefit of any statute of limitations affecting any Obligor's obligations under the Finance Documents or each Debtor's obligations under this Agreement or the enforcement of this Agreement or the Agent's security interest in the Collateral; and
 - (iv) any offset or counterclaim or other right, defense, or claim based on, or in the nature of, any obligation now or later owed to each Debtor by the Obligors, the Agent or any other Secured Party.
- (c) Each Debtor irrevocably and unconditionally authorizes the Agent and the other Secured Parties to take any action in respect of the Secured Obligations or any collateral or guaranties securing them or any other action that might otherwise be deemed a legal or equitable discharge of a surety, without notice to or the consent of any Debtor and irrespective of any change in the financial condition of any Obligor.

5.3 Immediate recourse

Each Debtor waives any right it may have of first requiring the Agent or any other Secured Party (or any trustee or agent on their behalf) to proceed against or enforce any other rights, security or other guaranty or claim payment from any Obligor or any other person before claiming from such Debtor under this Agreement and enforcing the Agent's security interest in the Collateral of such Debtor.

5.4 Appropriations

Until all amounts which may be or become payable by the Obligors under or in connection with the Finance Documents have been irrevocably and indefeasibly paid in full, the Agent and each other Secured Party (or any trustee or agent on their behalf) may:

- (a) refrain from applying or enforcing any other moneys, security, guaranties or rights held or received by the Agent or that other Secured Party (or any trustee or agent on their behalf) in respect of those amounts, or apply and enforce the same in such manner and order as it sees fit (whether against those amounts or otherwise) and the Pledgor shall not be entitled to the benefit of the same; and
- (b) hold in a suspense account any moneys received from any realization upon the Collateral, from any Debtor or on account of any Debtor's liability under this Agreement or any other Finance Document, without liability to pay interest on those moneys.

5.5 Non-competition; waiver of subrogation

- (a) Until all amounts which may be or become payable by the Obligors under or in connection with the Finance Documents have been irrevocably and indefeasibly paid in full, no Debtor shall, after a claim has been made or by virtue of any payment or performance by it under this Agreement:
 - (i) be subrogated to any rights, security or moneys held, received or receivable by the Agent or any other Secured Party (or any trustee or agent on their behalf) or be entitled to any right of contribution or indemnity in respect of any payment made or moneys received on account of such Debtor's liability under this Agreement or any other Finance Document;

- (ii) claim, rank, prove or vote as a creditor of any Obligor or its estate in competition with the Agent or any other Secured Party (or any trustee or agent on their behalf); or
- (iii) receive, claim or have the benefit of any payment, distribution or security from or on account of any Obligor, or exercise any right of set-off as against any Obligor,

unless the Agent otherwise consents or directs in writing. Each Debtor shall hold in trust for and forthwith pay or transfer to the Agent (or as directed by the Agent) for the Secured Parties any payment or distribution or benefit of security received by it contrary to this Clause.

- (b) Notwithstanding any contrary provision of any guaranty given by any Debtor in respect of the Secured Obligations, each Debtor irrevocably and unconditionally waives, for the benefit of the Agent and the other Secured Parties, and agrees not to claim or assert after the Agent has exercised its rights under Clause 6 (Rights and remedies) below, any right of subrogation, contribution or indemnity it may have against any Obligor as a result of any payment under that guaranty or in respect of the Secured Obligations.

5.6 Additional security

This Agreement and the Collateral are in addition to and are not in any way prejudiced by any other security or guaranty now or subsequently held by any Secured Party.

5.7 Election of remedies

Each Debtor understands that the exercise by the Agent and the other Secured Parties of certain rights and remedies contained in the Finance Documents may affect or eliminate such Debtor's right of subrogation and reimbursement against the Obligors and that such Debtor may therefore incur a partially or totally nonreimbursable liability under this Agreement. Each Debtor expressly authorizes the Agent and the other Secured Parties to pursue their rights and remedies with respect to the Secured Obligations in any order or fashion they deem appropriate, in their sole and absolute discretion, and waives any defense arising out of the absence, impairment, or loss of any or all rights of recourse, reimbursement, contribution, or subrogation or any other rights or remedies of such Debtor against any Obligor, any other person or any security, whether resulting from any election of rights or remedies by the Agent or the other Secured Parties, or otherwise.

5.8 Information concerning the Obligors

Each Debtor represents and warrants to the Agent and the other Secured Parties that such Debtor is affiliated with each other Obligor and is otherwise in a position to have access to all relevant information bearing on the present and continuing creditworthiness of each other Obligor and the risk that any Obligor will be unable to pay the Secured Obligations when due. Each Debtor waives any requirement that the Agent or the other Secured Parties advise such Debtor of information known to the Agent or any other Secured Party regarding the financial condition or business of any Obligor, or any other circumstance bearing on the risk of non-performance of the Secured Obligations, and each Debtor assumes sole responsibility for keeping informed of the financial condition and business of each Obligor.

6. RIGHTS AND REMEDIES

6.1 Collections on and after the Enforcement Date

On and after the Enforcement Date, each Debtor will hold all funds and other property received or collected in respect of the Collateral in trust for the Agent, and will keep these funds and this other property separate and apart from all other funds and property so as to be capable of identification. Each Debtor will deliver these funds and this other property to the Agent in the identical form received, properly endorsed or assigned when required to enable the Agent to complete collection. On and after the Enforcement Date, no Debtor shall settle, compromise, adjust, discount or release any claim in respect of Collateral and no Debtor shall accept any returns of merchandise.

6.2 Agent's rights upon the occurrence of the Enforcement Date

- (a) On or after the Enforcement Date, the Agent may, in its sole discretion, take any of the following actions, in each case at the Debtors' expense, and without prior notice to the Debtors except as required under applicable law:
- (i) transfer or assign to, or register in the name of, the Agent or its nominees any of the Collateral;
 - (ii) exercise all consent and other rights relating to any Collateral;
 - (iii) perform or comply with any contractual obligation that constitutes part of the Collateral;
 - (iv) receive, endorse, negotiate, execute and deliver or collect upon any check, draft, note, acceptance, chattel paper, account, instrument, document, letter of credit, contract, agreement, receipt, release, bill of lading, invoice, endorsement, assignment, bill of sale, deed, security, share certificate, stock power, proxy, or instrument of conveyance or transfer constituting or relating to any Collateral;
 - (v) assert, institute, file, defend, settle, compromise, adjust, discount or release any suit, action, claim, counterclaim or right of set-off relating to any Collateral;
 - (vi) execute and deliver acquittances, receipts and releases in respect of Collateral; and
 - (vii) exercise any other right or remedy available to the Agent under applicable law, the other Finance Documents, or any other agreement between the parties.
- (b) Each Debtor agrees that the Agent will have, with respect to the Collateral, in addition to the rights and remedies described in this Agreement, all of the rights and remedies available to a secured party under applicable law and under the UCC (whether or not the UCC applies to the affected Collateral and regardless of whether or not the UCC is the law of the jurisdiction where the rights or remedies are asserted) as if those rights and remedies were fully set forth in this Agreement.
- (c) Subject to the limitations set forth in this Agreement, the Agent may exercise the rights and remedies described in this Agreement and those available under applicable law in such order, at such times and in such manner as the Agent may, in its sole discretion, determine from time to

time. The Agent may at any time and from time to time release or relinquish any right, remedy, or security interest it has with respect to a particular item of Collateral without releasing, relinquishing, or in any way affecting its rights, remedies, or security interests with respect to any other item of Collateral.

- (d) Each Debtor irrevocably constitutes and appoints the Agent, with full power of substitution, as such Debtor's true and lawful attorney-in-fact, in such Debtor's name or in the Agent's name or otherwise, and at the Debtors' expense, to take any of the actions authorized by this Agreement or permitted under applicable law but only upon and after the occurrence of the Enforcement Date, without notice to or the consent of any Debtor. This power of attorney is a power coupled with an interest and cannot be revoked. Each Debtor ratifies and confirms all actions taken by the Agent or its agents under this power of attorney.
- (e) The Agent may comply with any applicable state or federal law requirements in connection with a disposition of Collateral and compliance will not be considered adversely to affect the commercial reasonableness of any sale of Collateral.
- (f) The grant to the Agent under this Agreement of any right or power does not impose upon the Agent any duty to exercise that right or power. The Agent will have no obligation to take any steps to preserve any claim or other right against any person or with respect to any Collateral.
- (g) All risk of loss, damage, diminution in value, or destruction of the Collateral will be borne by the Debtors.
- (h) Each Debtor agrees that any sale, transfer or other disposition under this Agreement on and after the Enforcement Date of any right, title, or interest of such Debtor in any item of Collateral will operate to permanently divest such Debtor and all persons claiming under or through it of that right, title, or interest, and will be a perpetual bar, both at law and in equity, to any claims by such Debtor or any person claiming under or through it with respect to that item of Collateral.
- (i) No Debtor nor any affiliate or subsidiary of any Debtor shall make any use of the Patents, Copyrights, or Trademarks or any mark similar thereto for any purpose on and after the Enforcement Date.
- (j) The Agent may, at any time and from time to time on and after the Enforcement Date, license (whether general, special or otherwise, and whether on an exclusive or non-exclusive basis) the Collateral, throughout the United States of America, its territories and possessions and all foreign countries, for such term or terms, on such conditions, and in such matter, as the Agent shall in its sole discretion determine.

6.3 No marshaling

The Agent has no obligation to attempt to satisfy the Secured Obligations by collecting them from any other person liable for them and the Agent may release, modify or waive any collateral provided by any other person to secure any of the Secured Obligations, all without affecting the Agent's rights against each Debtor. Each Debtor waives any right it may have to require Agent to pursue any third person for any of the Secured Obligations. Except to the extent required by applicable law, the Agent will not be required to marshal any collateral securing, or any guaranties of, the Secured Obligations, or to resort to any item of collateral or any guaranty in any particular order, and the Agent's rights with respect to any collateral and any guaranties will be

cumulative and in addition to all other rights, however existing or arising. To the extent permitted by applicable law, each Debtor irrevocably waives, and agrees that it will not invoke or assert, any law requiring or relating to the marshaling of collateral or any other law which might cause a delay in or impede the enforcement of the Agent's rights under this Agreement or any other agreement.

7. MISCELLANEOUS

7.1 Further assurances

At any time and from time to time upon the request of the Agent, each Debtor will execute and deliver such further documents and instruments and do such other acts as the Agent may reasonably request in order to effect fully the purposes of this Agreement, to create, perfect, maintain, and preserve a first-priority security interest in the Collateral in favor of the Agent for the benefit of the Secured Parties, to facilitate any sale, transfer or other disposition of Collateral and to make any sale, transfer or other disposition of Collateral valid, binding, and in compliance with applicable law.

7.2 Costs and indemnity

(a) Each Debtor will pay to the Agent on demand all costs reasonably incurred by the Agent for the purpose of enforcing its rights under this Agreement, including:

- (i) costs of foreclosure and of disposition and sale of the Collateral;
- (ii) costs of maintaining or preserving the Collateral or assembling it or preparing it for sale;
- (iii) costs of obtaining money damages; and
- (iv) reasonable fees and expenses of attorneys employed by the Agent for any purpose related to this Agreement or the Secured Obligations, including consultation, drafting documents, sending notices or instituting, prosecuting or defending litigation or arbitration,

but no Debtor will be liable to the Agent to the extent that any liability results from the Agent's gross negligence or willful misconduct or from the material breach of this Agreement by the Agent. Payment by the Agent will not be a condition precedent to the obligations of any Debtor under this indemnity.

(b) Each Debtor agrees to indemnify the Agent, the other Secured Parties and their respective affiliates, directors, officers, representatives and agents from and against all claims, liabilities, obligations, losses, damages, penalties, judgments, costs and expenses of any kind (including attorney's fees and expenses) which may be imposed on, incurred by or asserted against any of them by any person (including any Secured Party) in any way relating to or arising out of:

- (i) this Agreement;
- (ii) the Collateral;
- (iii) the Agent's security interest in the Collateral;

- (iv) any Event of Default or "Event of Default" (as defined in the Mezzanine Facility Agreement);
- (v) any action taken or omitted by the Agent under this Agreement or any exercise or enforcement of rights or remedies under this Agreement; or
- (vi) any sale or other disposition of or any realization on Collateral,

but no Debtor will be liable to an indemnified party to the extent any liability results from that indemnified party's gross negligence or willful misconduct or from the material breach of this Agreement by that indemnified party. Payment by an indemnified party will not be a condition precedent to the obligations of any Debtor under this indemnity.

- (c) This Clause 7.2 will survive the initial Drawdown Date, the making and repayment of the Advances and the Mezzanine Facility Advances, the entry into and performance of the Hedge Documents, any novation, transfer or assignment of the Advances, the Mezzanine Facility Advances and/or the Hedge Documents and the termination of this Agreement.

7.3 Successors

This Agreement shall be binding upon and inure to the benefit of the Debtors and the Agent and their respective successors and assigns, except that no Debtor may assign or transfer all or any part of its rights or obligations under this Agreement without the prior written consent of the Agent, and any assignment by any Debtor in violation of this provision shall be void and of no effect. Each Debtor waives and will not assert against any assignee of the Agent any claims, defenses or set-offs which any Debtor could assert against the Agent except for defenses which cannot be waived under applicable law, it being understood and agreed that the foregoing waiver shall not apply to any claims, defenses or set-offs that such Debtor may be entitled to raise against the Secured Parties generally.

7.4 Amendments and waivers

Any term of this Agreement may be amended or waived only by the written agreement of each Debtor and the Agent.

7.5 Rights cumulative

The rights and remedies of the Agent under this Agreement:

- (a) may be exercised as often as necessary;
- (b) are cumulative and not exclusive of its rights under applicable law; and
- (c) may be waived only in writing and specifically.

The Agent's delay in exercising, or failure to exercise, any right or remedy under this Agreement is not a waiver of that right or remedy.

7.6 Severability

If any provision of this Agreement is or becomes illegal, invalid or unenforceable in any jurisdiction, that shall not affect:

- (a) the legality, validity or enforceability in that jurisdiction of any other provision of this Agreement; or
- (b) the legality, validity or enforceability in any other jurisdiction of that or any other provision of this Agreement.

7.7 Counterparts

This Agreement may be executed in counterpart, and this has the same effect as if the signatures on the counterparts were on a single copy of this Agreement.

7.8 Notices

- (a) All notices or other communications under or in connection with this Agreement shall be given in writing. Any such notice will be deemed to be given:

- (i) if by mail or courier, when delivered; and
- (ii) if by facsimile, when sent with confirmation of transmission,

except that a notice given on a day which is not a Banking Day or after business hours in the place of receipt will only be deemed to be given on the next Banking Day in that place.

- (b) The address and facsimile number of each Debtor are:

c/o Weetabix Limited
Weetabix Mills
Burton Latimer
Kettering
Northants NN15 5JR

Attention: Richard Martin
Telefax: 011+44 (0)1536 421 919

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

Lion Capital
21 Grosvenor Place
London SW1X 7HF

Attention: Lyndon Lea/Robert Darwent
Telefax: 011+44 (0)20 7201-2222

- (c) The address and facsimile number of the Agent are:

125 London Wall
London
EC2Y 5AJ

Attention: Gilda Ferdenzi, Agency Loans Department
Telefax: 011+44 (0)20 7777-2360

- (d) Either party may change its address or facsimile number for notices by a notice to the other party given in accordance with this Clause 7.8 (Notices).

7.9 Jurisdiction

- (a) For the benefit of the Agent, each Debtor agrees that any New York State court or Federal court sitting in the City and County of New York has jurisdiction to settle any disputes in connection with this Agreement and accordingly submits to the jurisdiction of those courts.

- (b) Without prejudice to any other mode of service, each Debtor:

- (i) (a) irrevocably appoints CT Corporation System, 111 8th Avenue, 13th Floor, New York, New York 10011 as its agent for service of process in relation to any proceedings before any courts located in the State of New York in connection with this Agreement;
- (ii) agrees to maintain an agent for service of process in the State of New York until the Agent's Lien is released in accordance with Clause 7.13 (Release of Security Interest) below;
- (iii) agrees that failure by a process agent to notify such Debtor of the process will not invalidate the proceedings concerned;
- (iv) consents to the service of process relating to any proceedings by a notice given in accordance with Clause 7.8 (Notices) above; and
- (v) agrees that if the appointment of any person mentioned in paragraph (b)(i) above ceases to be effective, such Debtor shall immediately appoint a further person in the State of New York to accept service of process on its behalf in the State of New York, and, if such Debtor does not appoint a process agent within 15 days, the Agent is entitled and authorized to appoint a process agent for such Debtor by notice to it.

- (c) Each Debtor:

- (i) waives objection to the New York State and Federal courts on grounds of personal jurisdiction, inconvenient forum or otherwise as regards proceedings in connection with this Agreement; and
- (ii) agrees that a judgment or order of a New York State or Federal court in connection with this Agreement is conclusive and binding on it and may be enforced against it in the courts of any other jurisdiction.

- (d) Nothing in this Clause 7.9 limits the right of the Agent or any other Secured Party to bring proceedings against any Debtor in connection with this Agreement:

- (i) in any other court of competent jurisdiction; or
- (ii) concurrently in more than one jurisdiction.

7.10 Complete Agreement

This Agreement contains the complete agreement between the parties on the matters to which it relates and supersedes all prior commitments, agreements and understandings, whether written or oral, on those matters.

7.11 Waiver of Jury Trial

EACH DEBTOR AND THE AGENT (FOR ITSELF AND ON BEHALF OF THE OTHER SECURED PARTIES) WAIVE ANY RIGHTS THEY MAY HAVE TO A JURY TRIAL OF ANY CLAIM OR CAUSE OF ACTION BASED ON OR ARISING FROM THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT. In the event of litigation, this Agreement may be filed as a written consent to a trial by the court.

7.12 Governing Law

This Agreement is governed by the laws of the State of New York, except to the extent that the validity, perfection or enforcement of any security interest granted under this Agreement or any remedy in respect of any particular Collateral is mandatorily governed by the law of another jurisdiction.

7.13 Release of Security Interest

Once the Secured Obligations have been irrevocably and indefeasibly discharged in full and all obligations which might give rise to Secured Obligations have terminated, the Agent shall promptly at the request and cost of each Debtor execute and do all such deeds, acts and things as may be reasonably necessary to release or (as appropriate) re-assign the Collateral from the Lien created by this Agreement. In addition, the Agent shall, if directed by the Secured Parties in accordance with the Intercreditor Agreement, at the cost of each Debtor execute and do all such deeds, acts and things as may be reasonably necessary to release or (as appropriate) re-assign any Collateral from the Lien created by this Agreement, in each case solely to the extent authorized by such direction.

The undersigned, intending to be legally bound, have executed and delivered this Agreement on the date stated at the beginning of this Agreement.

SIGNATORIES

Debtor

The Weetabix Company, Inc.

By:

Barbara's Bakery, Inc.

By:

Weetabix Limited

By:

Weetabix of Canada Limited

By:

Northern Gold Foods Ltd.

By:

Agent

J.P. Morgan Europe Limited, as Security Agent for the Secured Parties

By:



The undersigned, intending to be legally bound, have executed and delivered this Agreement on the date stated at the beginning of this Agreement.

SIGNATORIES

Debtor

The Weetabix Company, Inc.

By:

Barbara's Bakery, Inc.

By:

Weetabix Limited

By:

Weetabix of Canada Limited

By: 

Northern Gold Foods Ltd.

By: 

Agent

J.P. Morgan Europe Limited, as Security Agent for the Secured Parties

By:

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SIGNATORIES

Debtor

The Weetabix Company, Inc.

By:

Barbara's Bakery, Inc.

By:

Weetabix Limited

A handwritten signature in black ink, appearing to be 'Kell', is written over the text 'Weetabix Limited'.

By:

Weetabix of Canada Limited

By:

Northern Gold Foods Ltd.

By:

Agent

J.P. Morgan Europe Limited, as Security Agent for the Secured Parties

By:

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Debtor

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By:

Barbara's Bakery, Inc.

By:



Weetabix Limited

By:

Weetabix of Canada Limited

By:

Northern Gold Foods Ltd.

By:

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By: 

Barbara's Bakery, Inc.

By:

Weetabix Limited

By:

Weetabix of Canada Limited

By:

Northern Gold Foods Ltd.

By:

Agent

J.P. Morgan Europe Limited, as Security Agent for the Secured Parties

By:

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SIGNATORIES

Debtor

The Weetabix Company, Inc.

By: _____

Barbara's Bakery, Inc.

By:

Weetabix Limited

By:

Weetabix of Canada Limited

By:

Northern Gold Foods Ltd.

By:

Agent

J.P. Morgan Europe Limited, as Security Agent for the Secured Parties

By:

SCHEDULE 1
COMMERCIAL TORT CLAIMS

[None.]

SCHEDULE 2

CONTRACTS AND COUNTERPARTIES TO CONTRACTS BEING ASSIGNED

Part 1

Account, Contract or Agreement

Account Debtor or Contract Debtor

[None.]

[None.]

Part 2

Outstanding License Agreements

[None.]

SCHEDULE 3

ADDRESSES AT WHICH COLLATERAL CONSISTING OF GOODS IS LOCATED

THE WEETABIX COMPANY, INC.

20 Cameron Street, Clinton, Massachusetts

11 Adams Road, Clinton, Massachusetts

99 Green Street, Clinton, Massachusetts

12 Industrial Drive, Sterling, Massachusetts

BARBARA'S BAKERY, INC.

3900 Cyprus Drive, Petaluma, California

3905 Cyprus Drive, Petaluma, California

3750 Pell Circle, Sacramento, California

16150 E. Stephens Street, City of Industry, California

10711 Bloomfield Street, Los Alamitos, California

312 Rader Road, McComb, Ohio

SCHEDULE 4

COPYRIGHTS

THE WEETABIX COMPANY, INC.

Reg. No.	Title
VA-423-589	Grain-Genecring

SCHEDULE 5

PATENTS

None found.

SCHEDULE 6**TRADEMARKS****BARBARA'S BAKERY, INC.**

MARK	REG/APP. NO.	REG./ APP. DATE
NATURE'S CHOICE	1,335,747	May 14, 1985
BARBARA'S BAKERY	76/416,819	June 4, 2002
PUFFINS	2,119,937	December 9, 1997
SUNFIELD	1,508,437	October 11, 1988
BARBARA'S	1,446,650	July 7, 1987
JACK LA LANNE	1,351,946	July 30, 1985
WILD PUFFS	78/316,706	October 21, 2003
RITE LIFE ROUNDS	2,456,628	June 5, 2001
PRO TOUR	2,101,975	September 30, 1997
EDGE BAR	1,688,450	May 19, 1992
POCKET FRUIT	1,195,303	May 11, 1982
2 GOOD	78/316,694	October 21, 2003
SHREDDED SPOONFULS	1,916,677	September 5, 1995
GREAT TASTE WITHOUT COMPROMISE	76/410,682	May 21, 2002
SOYESSENCE	2,724,948	June 10, 2003
GO GO GRAHAMS	78/226,650	March 17, 2003
BARBARA'S	3,001,395	September 27, 2005
PUFFINS	78/664,382	July 6, 2005
PUFFINS	78/680,802	July 28, 2005

WEETABIX LIMITED

MARK	REG/APP. NO.	REG./ APP. DATE
WEETABIX	1,293,105	September 4, 1984
Grain Design	1,293,104	September 4, 1984
ALPEN	0,980,689	March 19, 1974
FROM THE MAKERS OF WEETABIX	1,307,332	November 27, 1984

WEETABIX OF CANADA LIMITED

MARK	REG/APP. NO.	REG./ APP. DATE
GRAINWORKS	2,803,582	January 6, 2004
GRAIN SHOP	2,505,293	November 6, 2001

NORTHERN GOLD FOODS LTD.

MARK	REG/APP. NO.	REG./ APP. DATE
NORTHERN GOLD	1,092,428	May 30, 1978
NORTHERN GOLD BITS	78/139,277	June 27, 2002
SPENCER'S CRUNCHY OAT'S N HONEY CEREAL	2,044,066	March 11, 1997
THE BREAKFAST COMPANY	1,838,502	May 31, 1994
FROSTED HONEY HIVES	78/271,480	July 8, 2003
SPENCER'S	2,046,252	March 18, 1997

THE WEETABIX COMPANY, INC.

MARK	REG/APP. NO.	REG./ APP. DATE
FRUIT CIRCLES	1,416,840	November 11, 1986
GOLDEN CORN BLOSSOMS	78/055,697	March 29, 2001
FRUTIBIX	2,646,766	November 5, 2002
BANANABIX	2,646,765	November 5, 2002
BANANA CRUNCHY DELIGHT	2,550,838	March 19, 2002
PEANUT BUTTER DOTS	2,507,516	November 13, 2001
MINIBIX	2,402,586	November 7, 2000
APPLE CINNAMON CIRCLES	2,114,623	November 18, 1997
DISTINCTLY LITE	2,080,123	July 15, 1997
CRANBERRY CRUNCHY DELIGHT	2,508,059	November 13, 2001
COCOA SPECKLES	2,494,844	October 2, 2001
FRUITY SPECKLES	2,494,840	October 2, 2001
CORN CRAZIES	2,796,002	December 16, 2003
BREAKFAST GOLD	1,601,161	June 12, 1990
ORGANIC GOLD	78/252,271	May 20, 2003
FRUIT DOTS	1,550,379	August 1, 1989

THE WEETABIX COMPANY, INC.

MARK	REG/APP. NO.	REG/ APP. DATE
GRAINFIELD'S	1,272,039	March 27, 1984
HIGH NUTRITION	1,815,563	January 4, 1994
COCOA DOTS	1,653,338	August 6, 1991
DULCITA	1,548,520	July 18, 1989

EXHIBIT 1

FORM OF ASSIGNMENT NOTICE

To: [Relevant party]

[Date]

Dear Sirs,

We give you notice that, by a Security Agreement dated [●] (the **Security Agreement**), made by [●] (we or us) in favor of [●] as agent for the Secured Parties referred to in the Security Agreement (the **Agent**), we have granted a first-priority security interest to the Agent in all of our right, title and interest in, to and arising under the [●] dated [●] by and between [●] (the **Assigned Obligation**).

We irrevocably instruct and authorize you, without any further authorization from us or notice to us:

- (a) to disclose to the Agent such information relating to the Assigned Obligation as the Agent may at any time and from time to time request;
- (b) to comply with the terms of any written notice or instructions received by you from the Agent in any way relating to, or purporting to relate to, the Assigned Obligation, including without limitation instructions relating to the payment of moneys under the Assigned Obligation; and
- (c) to send copies of all notices and other information required or permitted to be sent to us under the Assigned Obligation to the Agent as follows:

[●]

Fax: [●]
Telex: [●]
Attention: [●]

Please note that under the terms of the Security Agreement, we are permitted to exercise our rights under the Assigned Obligation unless and until you receive a notice or instruction from the Agent to the contrary. In the event you receive conflicting instructions from us and from the Agent, you are instructed to follow the instructions of the Agent.

Please also note that these instructions may not be revoked or amended without the prior written consent of the Agent.

This letter shall be governed by and construed in accordance with the law of the State of New York.

Please confirm your agreement to the above by sending a signed copy of the attached acknowledgement to the Agent with a copy to ourselves.

Yours faithfully,

{Debtor}

By:
Title:

EXHIBIT 2

FORM OF ASSIGNMENT ACKNOWLEDGEMENT

To: [●]
as Agent

Re: [●] (the **Assigned Obligation**)

Dear Sirs

We confirm that we have received from [●] (the **Debtor**) a notice dated [●] informing us that the Debtor has granted to you a first-priority security interest in all of the Debtor's right, title and interest in, to and arising under the Assigned Obligation.

We confirm that:

- (a) we accept the instructions and authorization contained in that notice and we undertake to act in accordance with and comply with the terms of that notice;
- (b) we have not received notice of any interest or claim of any third party in or to the Assigned Obligation; and
- (c) we will not permit any sums to be paid to the Debtor or any other person under or pursuant to the Assigned Obligation if we receive instructions from you to the contrary.

[Relevant party]

By:
Title:

EXHIBIT 3

FORM OF BAILEE NOTICE

To: [Relevant party]

[Date]

Dear Sirs,

We give you notice that, by a Security Agreement dated [●] (the **Security Agreement**), made by [●] (we or **us**) in favor of [●] as agent for the Secured Parties referred to in the Security Agreement (the **Agent**), we have granted a first-priority security interest to the Agent in all property (the **Property**) belonging to us that is now or later in your possession, including without limitation the following:

[●]

We irrevocably direct you to hold possession of the Property for the Agent's benefit. In addition, we irrevocably instruct and authorize you, without any further authorization from us or notice to us:

- (a) to disclose to the Agent such information relating to the Property as the Agent may at any time and from time to time request;
- (b) to comply with the terms of any written notice or instructions received by you from the Agent in any way relating to, or purporting to relate to, the Property, including without limitation instructions relating to the delivery of the Property;
- (c) to permit the Agent and its agents and representatives, at any reasonable time and from time to time, to inspect the Property, to examine and make copies of and abstracts from your records concerning the Property and to discuss these records and other matters relating to the Property with your officers and employees; and
- (d) to send copies of all notices and other information required or permitted to be sent to us with respect to the Property to the Agent as follows:

[●]

Fax: [●]
Telex: [●]
Attention: [●]

Please note that under the terms of the Security Agreement, we are permitted to exercise our rights with respect to the Property unless and until you receive a notice or instruction from the Agent to the contrary. In the event you receive conflicting instructions from us and from the Agent, you are instructed to follow the instructions of the Agent.

Please also note that these instructions may not be revoked or amended without the prior written consent of the Agent.

This letter shall be governed by and construed in accordance with the law of the State of New York.

Please confirm your agreement to the above by sending a signed copy of the attached acknowledgement to the Agent with a copy to ourselves.

Yours faithfully,

[Debtor]

By:
Title:

EXHIBIT 4

FORM OF BAILEE ACKNOWLEDGEMENT

To: [●]
as Agent

Dear Sirs

We confirm that we have received from [●] (the **Debtor**) a notice dated [●] informing us that the Debtor has granted to you a first-priority security interest in all property (the **Property**) belonging to the Debtor that is now or later in our possession.

We acknowledge and confirm that:

- (a) we are holding possession of the Property for your benefit;
- (b) we accept the instructions and authorization contained in that notice and we undertake to act in accordance with and comply with the terms of that notice;
- (c) we will not deliver the Property to the Debtor or any other person if we receive instructions from you to the contrary; and
- (d) we have not received notice of any claim or interest of any third party in or to the Property.

[Relevant party]

By:
Title:

EXHIBIT 5

UCC Financing Statements

[see attached]

AMENDMENT AGREEMENT

DATED AS OF JANUARY 23, 2006

BETWEEN

THE WEETABIX COMPANY, INC.

BARBARA'S BAKERY, INC.

WEETABIX LIMITED

WEETABIX OF CANADA LIMITED

NORTHERN GOLD FOODS LTD.

And

J.P. MORGAN EUROPE LIMITED

relating to the Security Agreement dated as of December 22, 2005

THIS AMENDMENT AGREEMENT (this Amendment Agreement) is dated as of January 23, 2006,

BETWEEN:

- (1) The Weetabix Company, Inc., a Delaware corporation (**WCI**);
- (2) Barbara's Bakery, Inc., a California corporation (**BBI**);
- (3) Weetabix Limited, a limited liability company organized under the laws of England and Wales with registered number 267687 (**WL**);
- (4) Weetabix of Canada Limited (**WCL**);
- (5) Northern Gold Foods Ltd. (**NGFL**) (and together with WCI, BBI, WL and WCL, each a **Debtor**, and collectively the **Debtors**); and
- (6) J.P. Morgan Europe Limited, as Security Agent for itself and the other Secured Parties (in that capacity the **Agent**).

WHEREAS:

- (A) The Debtors and the Agent entered into the Security Agreement dated as of December 22, 2005 (the **Security Agreement**).
- (B) NGFL entered into a General Security Agreement with the Agent dated December 22, 2005 and, among other things, granted security over its Intangibles (as defined therein) in favor of the Agent. NGFL further agreed under clause 5.4 of that agreement that it would do anything reasonably necessary to better assure and perfect the security granted under that agreement.
- (C) WCL entered into a General Security Agreement with the Agent dated December 22, 2005 and, among other things, granted security over its Intangibles (as defined therein) in favor of the Agent. WCL further agreed under clause 5.4 of that agreement that it would do anything reasonably necessary to better assure and perfect the security granted under that agreement.
- (D) WL and various other companies entered into a Group Debenture with the Agent dated December 22, 2005 and, among other things, granted security over its Intellectual Property Rights (as defined therein) in favor of the Agent. WL further agreed under clause 6 of that group debenture that it would do anything to perfect or protect the security granted under that group debenture.
- (E) On the basis of the above, the Debtors and the Agent are entering into this Amendment Agreement to make the following amendments to the Security Agreement.

IT IS AGREED as follows:

I. INTERPRETATION

I.1 Definitions

Unless otherwise noted or defined, capitalized terms used herein and not otherwise defined shall have the meaning given to them in the Security Agreement.

2. EFFECT OF AMENDMENT AGREEMENT

With effect on and from the date of this Amendment Agreement, the Security Agreement will be amended by this Amendment Agreement, and the rights and obligations of the parties thereto relating to their future performance under the Security Agreement, and the Encumbrances created or evidenced by the Security Agreement, will be governed by and construed in accordance with the Security Agreement as amended and supplemented by this Amendment Agreement. Except as specifically amended by this Amendment Agreement, the Security Agreement is and shall continue to be in full force and effect and is hereby in all respects ratified and confirmed. The Security Agreement and this Amendment Agreement will be read and construed as a single document. Each Debtor which is not a US Debtor acknowledges and agrees that by this Amendment Agreement it grants to the Agent for the benefit of the Secured Parties a continuing security interest in all its IP Collateral arising under the laws of the United States of America and all proceeds and products of, and accessions to, such IP Collateral.

3. AMENDMENTS

3.1 The definition of Collateral subclause (a) will state:

- (a) with respect to each Debtor, all IP Collateral arising under the laws of the United States of America,

3.2 The definition of Secured Obligations subclause (a) will state:

- (a) all obligations and liabilities of each Debtor now or hereafter due, owing or incurred by it to the Secured Parties or any of them under or pursuant to the Finance Documents, and

4. GOVERNING LAW

This Amendment Agreement shall be governed by the New York law.

5. INCORPORATION BY REFERENCE

The provisions of Clauses 7.6 (Severability), 7.7 (Counterparts) and 7.9 (Jurisdiction) of the Security Agreement are incorporated by reference into this Amendment Agreement as if fully set out herein, with each reference to "this Agreement" being understood to be a reference to this Amendment Agreement.

6. COMPLETE AGREEMENT

This Amendment Agreement and the Security Agreement contain the complete agreement between the parties on the matters to which such agreements relate and supersede all prior commitments, agreements and understandings, whether written or oral, with respect to those matters.

The undersigned, intending to be legally bound, have executed and delivered this Amendment Agreement on the date stated at the beginning of this Amendment Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Amendment Agreement to be duly executed, under seal, by their respective authorized officers as of the day and year first above written.

Debtor

The Weetabix Company, Inc.

By:

Barbara's Bakery, Inc.

By:

Weetabix Limited

By:

Weetabix of Canada Limited

By:

Northern Gold Foods Ltd.

By:

A handwritten signature in black ink, appearing to read "R. MacKell". The signature is written in a cursive style with a large, prominent initial "R".

Agent

J.P. Morgan Europe Limited, as Security Agent for the Secured Parties

By:

IN WITNESS WHEREOF, the parties hereto have caused this Amendment Agreement to be duly executed, under seal, by their respective authorized officers as of the day and year first above written.

Debtor

The Weetabix Company, Inc.

By:

Barbara's Bakery, Inc.

By:

Weetabix Limited

By:

Weetabix of Canada Limited

By:

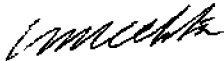
Northern Gold Foods Ltd.

By:

Agent

J.P. Morgan Europe Limited, as Security Agent for the Secured Parties

By:



**Cyrus Mehta
Vice President**

IN WITNESS WHEREOF, the parties hereto have caused this Amendment Agreement to be duly executed, under seal, by their respective authorized officers as of the day and year first above written.

Debtor

The Weetabix Company, Inc.

By: 

Barbara's Bakery, Inc.

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Weetabix Limited

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Agent

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Weetabix of Canada Limited

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Agent

J.P. Morgan Europe Limited, as Security Agent for the Secured Parties

By:

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Barbara's Bakery, Inc.

By:

Weetabix Limited

By:

Weetabix of Canada Limited

By: 

Northern Gold Foods Ltd.

By: 

Agent

J. P. Morgan Europe Limited, as Security Agent for the Secured Parties

By: