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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM GREENVILLE COUNTY
Court of Common Pleas

Honorable J. Derham Cole, Circuit Court Judge

Appellate Case No. 2023-000155

Richard D. White, ...Appellant,

v.

FT Acquisitions, LLC; Commercial Food Service Repair, Inc.; and Kurt Herwald, ...Respondent.

RECORD ON APPEAL
VOLUME III

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CLOSING BINDER

CREDIT AGREEMENT

Dated as of November 2, 2015

by and among

COMMERCIAL FOODSERVICE REPAIR, INC.,

FT ACQUISITION, LLC, and

FOODSERVICE TECHNOLOGIES, INC.,
as Borrowers,

CERTAIN LENDERS

and

MCLARTY CAPITAL PARTNERS SBIC, L.P.,
as Administrative Agent

Prepared by:

Proskauer Rose LLP
One International Place
Boston, MA 02110



Boca Raton | Boston | Chicago | Hong Kong | London | Los Angeles | New Orleans | New York | Newark | Paris | São Paulo | Washington, D.C.

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EXECUTION VERSION

THIS INSTRUMENT IS SUBJECT TO THE TERMS OF A SUBORDINATION AND INTECREDITOR AGREEMENT DATED AS OF NOVEMBER 2, 2015 IN FAVOR OF FIFTH THIRD BANK, AS AGENT, WHICH AGREEMENT (AS AMENDED IN ACCORDANCE WITH ITS TERMS) IS INCORPORATED HEREIN BY REFERENCE.

CREDIT AGREEMENT

among

COMMERCIAL FOODSERVICE REPAIR, INC.,

FT ACQUISITION, LLC,

FOODSERVICE TECHNOLOGIES, INC.
as Borrowers

CERTAIN LENDERS

and

MCLARTY CAPITAL PARTNERS SBIC, L.P.,
as Administrative Agent

November 2, 2015

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CREDIT AGREEMENT

THIS CREDIT AGREEMENT, dated as of November 2, 2015, is made and entered into by and among COMMERCIAL FOODSERVICE REPAIR, INC., a South Carolina corporation ("CFR"), FT ACQUISITION, LLC, a South Carolina limited liability company ("FTA"), FOODSERVICE TECHNOLOGIES, INC., a Virginia corporation ("FTT") (individually, a "Borrower" and collectively, the "Borrowers"), the lenders identified on the signature pages hereof (such lenders together with any other lender that becomes a party hereto from time to time pursuant to Section 8.8, collectively the "Lender") and MCLARTY CAPITAL PARTNERS SBIC, L.P., a Delaware limited partnership ("McLarty") as the administrative agent for the Lender (in such capacity, together with its successors and assigns, "Administrative Agent").

BACKGROUND STATEMENT

A. The Borrowers have requested from Lender term loans in the aggregate principal amount of \$20,000,000, \$10,000,000 of which shall be drawn on the Closing Date, to be advanced by Lender pursuant to the terms and conditions hereof.

B. Lender is willing to extend the Term Loans upon the terms and subject to the conditions set forth in this Credit Agreement.

AGREEMENT

NOW, THEREFORE, in consideration of the premises, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and in order to induce Administrative Agent and Lender to enter into this Agreement and to induce Lender to make the Term Loans described herein, the parties hereto hereby agree as follows:

ARTICLE I

DEFINITIONS

1.1 Defined Terms. In addition to the words and terms defined elsewhere in this Agreement, the following terms when used herein shall have the following respective meanings:

"Affiliate" means, as to any Person, (i) any other Person which directly, or indirectly through one or more intermediaries, controls such Person, (ii) any other Person which directly, or indirectly through one or more intermediaries, is controlled by or is under common control with such Person, or (iii) any other Person of which such Person owns, directly or indirectly, 10% or more of the common stock or equivalent equity interests. As used herein, the term "control" means possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a Person, whether through the ownership of voting securities or otherwise.

"Agreement" means this Credit Agreement and all schedules and exhibits hereto, together with any amendments, modifications, replacements and supplements hereto, any substitutes herefor, and any replacements, renewals or extensions hereof, in whole or in part, and shall refer to this Agreement as the same may be in effect at the time such reference becomes operative.

"Attorneys' Fees", "attorneys' fees", or "reasonable attorneys' fees" or other words or provisions of similar import and whether capitalized or not shall mean attorneys' and paralegal fees incurred based upon the usual and customary hourly rates of the attorneys and paralegals involved for time actually spent by such attorneys and paralegals and without giving effect to any statutory presumption that may then be in effect.

"Bankruptcy Code" means Title 11 of the United States Code, as amended, and any successor statute or statutes having substantially the same function.

"Board" means the board of directors (or comparable managers) of each Borrower or any committee of any Borrower duly authorized to act on behalf of the board of directors (or comparable managers).

"Borrowers" shall mean Commercial Foodservice Repair, Inc., a South Carolina corporation, FT Acquisition, LLC, a South Carolina limited liability company, and Foodservice Technologies, Inc., a Virginia corporation, and all of their permitted successors and assigns.

"Borrowing" means the initial borrowing of the Term Loans made to the Borrowers pursuant to Article II.

"Business Day" means any day of the year on which banks are open for business in New York, New York.

"Capital Expenditures" means, during any period, the sum of all amounts paid during such period that would, in accordance with GAAP, be included on the statement of cash flows of the Borrowers as an acquisition of fixed assets or improvements, replacements, substitutions or additions thereto, excluding (a) expenditures of insurance proceeds to rebuild or replace any capital or fixed asset after a casualty loss, (b) leasehold improvement expenditures for which the Person is reimbursed promptly by the lessor, (c) expenditures made in connection with any Investment made prior to the Closing Date and the Permitted Acquisition, (d) capital expenditures for replacement of equipment to the extent funded from the cash proceeds of the sale of those assets being sold and (e) capital expenditures to the extent acquired through the use of proceeds of a capital contribution to a Borrower by a holder of Capital Stock thereof.

"Capital Stock" means (i) with respect to any Person that is a corporation, any and all shares, interests or equivalents in capital stock (whether voting or nonvoting, and whether common or preferred) of such corporation, and (ii) with respect to any Person that is not a corporation, any and all partnership, membership, limited liability company or other equity interests of such Person; and in each case, any and all warrants, rights or options to purchase any of the foregoing.

"Capital Lease" means any lease that has been or should be, in accordance with GAAP, recorded as capitalized leases.

"Change of Control" means (A) the termination or material diminution in the principal responsibilities of Kurt Herwald as the chief executive officer of CFR and Kurt Herwald shall fail to be replaced by a Person reasonably acceptable to Administrative Agent within 90 days or (B) an event or series of events by which: (i) the Permitted Holder shall at any time fail to have the power to elect a majority of the board of directors or other managing body of CFR; (ii) the Permitted Holder shall at any time directly or indirectly, fail to own beneficially and of record, on a fully diluted basis, 51% or more of the economic and voting interests in the Capital Stock of CFR, free and clear of all Liens; (iii) CFR shall at any time, directly or indirectly, fail to own beneficially and of record, on a fully diluted basis, 100% of the economic and voting interests in the Capital Stock of FTA (other than as a result of a merger, consolidation or liquidation by FTA into another Borrower in a manner permitted under this Agreement); (iv) FTA shall at any time, directly or indirectly, fail to own beneficially and of record, on a fully diluted basis, 100% of the economic and voting interests in the Capital Stock of FTI (other than as a result of a merger, consolidation or liquidation by FTI into another Borrower in a manner permitted under this Agreement) or (v) all, or substantially all, of the assets of the Borrowers shall be sold, transferred and/or disposed of (including pursuant to a sale and leaseback transaction).

"Closing Date" means the date upon which the Closing Date Term Loans are made pursuant to this Agreement, which shall be the date upon which each of the conditions set forth in Section 3.1 has been satisfied or waived in accordance with the terms of this Agreement.

"Closing Date Term Loans" shall have the meaning set forth in Section 2.1(b).

"Closing Date Term Note" means the commercial promissory note of the Borrowers, substantially in the form of EXHIBIT B hereto, evidencing the Closing Date Term Loan dated the date hereof, together with any amendments, modifications, extensions, renewals, substitutions or replacements thereto or therefor.

“Code” means the Internal Revenue Code of 1986, as amended.

“Collateral” means the property and property rights described in the Security Agreement.

“Credit Documents” means and collectively refer to this Agreement, the Term Notes, the Security Documents, the Fifth Third Intercreditor Agreement and any and all other agreements, instruments and documents now or hereafter executed by or in behalf of the Borrowers or delivered to Administrative Agent or Lender with respect to this Agreement or with respect to the transactions contemplated by this Agreement, and in each case, together with any amendments, modifications and supplements thereto, any replacements, renewals, extensions and restatements thereof, and any substitutes therefor, in whole or in part.

“Default” means any event which with the giving of notice, lapse of time, or both, would become an Event of Default.

“Default Rate” shall have the meaning set forth in the applicable Term Note.

“Delayed Draw Commitment” shall have the meaning set forth in Section 2.1(c).

“Delayed Draw Term Loan” shall have the meaning set forth in Section 2.1(c).

“Delayed Draw Term Note” means the commercial promissory note of the Borrowers, substantially in the form of Exhibit C hereto, evidencing the Delayed Term Loan (if any) dated as of the day of the funding of such Delayed Draw Term Loan, together with any amendments, modifications, extensions, renewals, substitutions or replacements thereto or therefor.

“Delayed Draw Termination Date” means November 1, 2020.

“Dollar” or “\$” means dollars in lawful currency of the United States of America.

“EBITDA” means the total of (i) net income from continuing operations (excluding extraordinary gains and losses) and to the extent deducted in determining net income, (ii) Interest Expense, (iii) income taxes, (iv) depreciation, depletion and amortization expenses, (v) transaction costs, fees and expenses in connection with the Term Loans hereunder and the Senior Debt made on or prior to the Closing Date; (vi) costs, fees and expenses associated with any Investment made on or prior to the Closing Date and the Permitted Acquisition; (vii) all other non cash charges, fees and expenses from time to time plus (viii) the items set forth on Exhibit D.

“Environmental Law” means any federal, state or local law, statute, ordinance, rule, regulation, permit, license, approval, interpretation, order, guidance or other legal requirement (including without limitation any subsequent enactment, amendment or modification) relating to the protection of human health or the environment, including, but not limited to, any requirement pertaining to the manufacture, processing, distribution, use, treatment, storage, disposal, transportation, handling, reporting, licensing, permitting, investigation or remediation of materials that are or may constitute a threat to human health or the environment.

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

“Event of Default” shall have the meaning specified in Article VIII hereof.

“Excluded Taxes” means (a) Taxes imposed on or measured by net income (however denominated), franchise Taxes, and branch profits Taxes, in each case (i) imposed as a result of Administrative Agent or Lender being organized under the laws of, or having its principal office or its applicable lending office located in, the jurisdiction imposing such Tax (or any political subdivision thereof) or (ii) that are Other Connection Taxes or (b) in the case of Lender, U.S federal withholding Taxes imposed on amounts payable to or for the account of such Lender with respect to an applicable interest in a loan or commitment pursuant to a law in effect on the date on which (i) Lender acquires such interest in the loan or commitment or (ii) Lender changes its lending office, except in each

case to the extent that, pursuant to Section 2.7, amounts with respect to such Taxes were payable either to Lender's assignor immediately before Lender became a party hereto or to Lender immediately before it changed its lending office.

"FATCA" means Sections 1471 through 1474 of the Code, as of the date of this Agreement (or any amended or successor version that is substantively comparable and not materially more onerous to comply with), any current or future regulations or official interpretations thereof and any agreements entered into pursuant to Section 1471(b)(1) of the Code.

"Fifth Third" means Fifth Third Bank, an Ohio banking corporation.

"Fifth Third Intercreditor Agreement" shall mean that certain Subordination and Intercreditor Agreement of even date herewith between Administrative Agent and Fifth Third, in form and substance reasonably satisfactory to Administrative Agent.

"Fixed Charge Coverage Ratio" means, for any date of determination, the ratio of (a) EBITDA for the trailing twelve month period ended on such date plus rent and operating lease payments, less cash taxes paid, distributions, dividends (other than the Key Man Dividend) and Capital Expenditures (other than Capital Expenditures financed with the proceeds of purchase money Indebtedness or Capital Leases to the extent permitted hereunder), plus agreed upon adjustments to EBITDA as included in Exhibit D ("Pro-Forma EBITDA") to (b) the sum of (i) Borrowers' interest expense, and (ii) all scheduled principal payments with respect to Indebtedness that were paid or were due and payable by Borrowers during such twelve month period plus rent and operating lease expense incurred in the same such period.

"Foreign Account" means when either the jurisdiction of organization or chief executive office of the account debtor is located outside the United States of America or the Province of Ontario or a Province of Canada which has adopted and has in effect the Personal Property Security Act.

"Foreign Lender" means a Lender that is not a U.S. Person.

"Funded Debt" means, at any time all indebtedness (i) in respect of borrowed money, or (ii) evidenced by a note, debenture or other like written obligations to pay money, or (iii) in respect of rent or hire of property under Capital Leases, or (iv) in respect of obligations under conditional sales or other title retention arrangements.

"Funded Debt to EBITDA Ratio" means, the ratio of (i) Funded Debt to (ii) EBITDA plus the pro forma impact on trailing EBITDA of any acquisition, for the trailing twelve month period ending on such date.

"GAAP" means generally accepted accounting principles, as recognized by the American Institute of Certified Public Accountants, consistently applied and maintained on a consistent basis for the Borrowers throughout the period indicated and consistent with the financial practice of the Borrowers after the date hereof.

"Governmental Authority" means any nation or government, any state, department, agency or other political subdivision thereof, and any entity exercising executive, legislative, judicial, regulatory, taxing or administrative functions of or pertaining to any government, and any corporation or other entity owned or controlled (through stock or capital ownership or otherwise) by any of the foregoing.

"Hazardous Material" means any substance or material meeting any one or more of the following criteria: (i) it is or contains a substance designated as a hazardous waste, hazardous substance, pollutant, contaminant or toxic substance under any Environmental Law; (ii) it is toxic, explosive, corrosive, ignitable, infectious, radioactive, mutagenic or otherwise hazardous, (iii) its presence requires investigation or remediation under an Environmental Law or common law; (iv) it constitutes a danger, nuisance, trespass or health or safety hazard to persons or property; and/or (v) it is or contains, without limiting the foregoing, petroleum hydrocarbons.

"Indebtedness" means, for any Person, without duplication (i) obligations of such Person for borrowed money; (ii) obligations of such Person evidenced by bonds, debentures, notes or other similar instruments;

(iii) obligations of such Person in respect of the deferred purchase price of property or services (other than trade payables incurred in the ordinary course of business on terms customary in the trade); (iv) obligations of such Person under any conditional sale or other title retention agreement(s) relating to property acquired by such Person; (v) capitalized lease obligations of such Person; (vi) obligations, contingent or otherwise, of such Person in respect of letters of credit, acceptances or similar extensions of credit (whether or not drawn upon and in the stated amount thereof); (vii) guaranties by such Person of the type of indebtedness described in clauses (i) through (vi) above; (viii) all indebtedness of a third party secured by any Lien on property owned by such Person, whether or not such indebtedness has been assumed by such Person; (ix) all mandatory obligations of such Person to purchase, redeem, retire or otherwise acquire for value any common stock of such Person which may be exercised during the term of the Agreement; (x) off-balance sheet liability retained in connection with asset securitization programs, synthetic leases, sale and leaseback transactions or other similar obligations arising with respect to any other transaction which is the functional equivalent of or takes the place of borrowing but which does not constitute a liability on the consolidated balance sheet of such Person and its subsidiaries; and (xi) obligations under any Rate Management Agreement (as defined in the Senior Credit Agreement as in effect on the date hereof).

"Indemnified Taxes" means (a) Taxes, other than Excluded Taxes, imposed on or with respect to any payment made by or on account of any obligation of the Borrowers under any Credit Document and (b) to the extent not otherwise described in (a), Other Taxes.

"Interest Expense" means the total of the costs of advances outstanding under Indebtedness including (i) capitalized interest, (ii) the interest component of Capital Leases, (iii) fees payable with respect to letters of credit and letters of guarantee and (iv) discounts incurred and fees payable with respect to bankers' acceptances.

"Investments" shall have the meaning set forth in Section 6.4.

"Leeds Put Right" means the "LNC Put Right" in favor of Leeds Novamark Capital I, L.P., as set forth in further detail in that certain Amended and Restated Shareholders' Agreement dated as of November 2, 2015, by and among CFR and the shareholders of CFR, as in effect on the date hereof.

"Lien" means any interest in property securing an obligation owed to, or claim by, a Person other than the owner of such property, whether such interest arises by virtue of contract, statute or common law, including but not limited to the lien or security interest arising from a mortgage, security agreement, pledge, lease, conditional sale, consignment or bailment for security purposes or from attachment, judgment or execution. The term "Lien" shall include any easements, covenants, restrictions, conditions, encroachments, reservations, rights-of-way, leases and other title exceptions and encumbrances affecting real property. For the purpose of this Agreement, the Borrowers shall be deemed to own, subject to a Lien, any proceeds of a sale with recourse of accounts receivable, any asset leased under any "sale and lease back" or similar arrangement and any asset which it has acquired or holds subject to the interest of a vendor or lessor under any conditional sale agreement, financing lease or other title retention agreement relating to such asset.

"Material Adverse Effect" or "Material Adverse Change" means a material adverse effect upon, or a material adverse change in, any of (i) the financial condition, operations, business or properties of the Borrowers; (ii) the ability of the Borrowers to perform under this Agreement or any other Credit Document in any material respect; (iii) the legality, validity or enforceability of this Agreement or any other Credit Document; or (iv) the perfection or priority of the Liens of Administrative Agent granted under this Agreement or any other Credit Document in a material portion of the collateral or the rights and remedies of Administrative Agent and Lender under this Agreement or any other Credit Document (other than a change resulting from any act or omission by Administrative Agent or Lender).

"McLarty" means McLarty Capital Partners SBIC, L.P., a Delaware limited partnership, and its successors and assigns.

"Notes" means the Closing Date Term Note, the Delayed Draw Term Note and any other promissory note of the Borrowers evidencing a debt or obligation owed to Lender, including any amendments, modifications, extensions, renewals, substitutions, or replacements thereto or therefore.

"Notice of Borrowing" shall have the meaning set forth in Section 3.2(a).

"Obligations" means and includes (i) the Term Loans and all other loans, advances, Indebtedness, liabilities, obligations, covenants and duties owing, arising, due or payable from the Borrowers to Administrative Agent, Lender or any of their respective Affiliates of any kind or nature, present or future, arising under this Agreement, the Closing Date Term Note, the Delayed Draw Term Note (if any) or the other Credit Documents, whether direct or indirect (including those acquired by assignment), absolute or contingent, primary or secondary, due or to become due, now existing or hereafter arising and however acquired; and (ii) all interest (including to the extent permitted by law, all post-petition interest), charges, expenses, fees, attorneys' fees and any other sums payable by the Borrowers to Administrative Agent or Lender under this Agreement or any of the other Credit Documents; provided, however, in no event shall the obligations include any loans, advances, Indebtedness, liabilities, obligations, covenants or duties owing, arising or due or payable by virtue of the Administrative Agent or any Lender's holding of Capital Stock of a Borrower.

"OFAC" means the U.S. Department of the Treasury's Office of Foreign Assets Control, and any successor thereto.

"Other Connection Taxes" means Taxes that are imposed as a result of a present or former connection between Administrative Agent or Lender and the jurisdiction imposing such Tax (other than connections arising from Administrative Agent or Lender having executed, delivered, become a party to, performed its obligations under, received payments under, received or perfected a security interest under, engaged in any transaction pursuant to or enforced any Credit Document, or sold or assigned an interest in any Notes or Credit Document).

"Other Taxes" means all present or future stamp, court or documentary, intangible, recording, filing or similar Taxes that arise from any payment made under, from the execution, delivery, performance, enforcement or registration of, from the receipt or perfection of a security interest under, or otherwise with respect to, any Credit Document.

"PATRIOT Act" means the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT Act of 2001), as amended from time to time, and any successor statute, and all rules and regulations from time to time promulgated thereunder.

"Permitted Acquisition" means the acquisition of the Purchased Assets under and as defined in that certain Asset Purchase Agreement dated as of September 8, 2015 by and among COMMERCIAL FOODSERVICE REPAIR, INC., Service Solutions Group, LLC, Franke SSG, Inc. and Franke TSI, Inc. (as in effect on the date hereof, the "SSG Purchase Agreement").

"Permitted Holder" means (i) Kurt Herwald, (ii) an estate planning vehicle established by Kurt Herwald for the benefit of Kurt Herwald's immediate family (spouse, lineal descendant and/or a trust or partnership established for the benefit of such persons, including, without limitation, Kurt A. Herwald).

"Permitted Liens" shall have the meaning set forth in Section 6.3.

"Person" means an individual, a corporation, a partnership, a limited liability company, an association, a trust or any other entity or organization, including a government or political subdivision or an agency or instrumentality thereof.

"Required Lenders" means, at any time, Lenders hereunder whose aggregate pro rata share of the outstanding Term Loans exceeds 50%.

"Requirement of Law" means, with respect to any Person, the charter, articles or certificate of organization or incorporation and bylaws or other organizational or governing documents of such Person, and any statute, law, treaty, rule, regulation, order, decree, writ, injunction or determination of any arbitrator or court or other Governmental Authority, in each case applicable to or binding upon such Person or any of its property or to which

such Person or any of its property is subject or otherwise pertaining to any or all of the transactions contemplated by this Agreement and the other Credit Documents.

“Sanctioned Country” means a country subject to a sanctions program identified on the list maintained by OFAC and available at <http://www.treas.gov/offices/enforcement/ofac/programs/>, or as otherwise published from time to time.

“Sanctioned Person” means (i) a Person named on the list of Specially Designated Nationals or Blocked Persons maintained by OFAC available at <http://www.treas.gov/offices/enforcement/ofac/sdn/index.shtml>, or as otherwise published from time to time, or (ii) (A) an agency of the government of a Sanctioned Country, (B) an organization controlled by a Sanctioned Country, or (C) a Person resident in a Sanctioned Country, to the extent subject to a sanctions program administered by OFAC.

“SBA” shall mean the U.S. Small Business Administration.

“SBIC Act” shall have the meaning set forth in Section 4.20 hereof

“Security Agreement” means that certain Security Agreement, dated as of the date hereof, by and among the Borrowers and Administrative Agent, as the same may be amended, modified or supplemented from time to time.

“Security Documents” means the Security Agreement, Trademark Security Agreement, and all other pledge or security agreements, mortgages, deeds of trust, assignments, deposit account control agreements or other similar agreements or instruments executed and delivered by the Borrowers pursuant to the terms of this Agreement or otherwise in connection with the transactions contemplated hereby, in each case as amended, modified or supplemented from time to time.

“Seller Note” means that certain Junior Subordinated Promissory Note dated July 28, 2014 made by FT ACQUISITION, LLC in favor of Richard D. White, as Seller Representative in the original principal amount of \$1,000,000.

“Senior Credit Agreement” means that certain Credit Agreement dated as of the date hereof, by and among the Borrowers and Fifth Third, as the same may be amended, restated or otherwise modified in accordance with the terms of the Fifth Third Intercreditor Agreement.

“Senior Credit Documents” means the “Credit Documents” as defined in the Senior Credit Agreement.

“Senior Debt” means the indebtedness of Borrowers under the Senior Credit Agreement.

“Solvent” means as to any Person on any particular date, that such Person (i) does not have unreasonably small capital to carry on its business as now conducted and as presently proposed to be conducted, (ii) is able to pay its debts as they become due in the ordinary course of business, and (iii) has assets with a present fair saleable value greater than its total stated liabilities and identified contingent liabilities, including any amounts necessary to satisfy preferential rights of shareholders.

“Subordinated Debt” means the indebtedness of Borrowers under the Seller Note, together with any other Indebtedness which is subordinated to the Obligations from time to time as approved by Administrative Agent, which such indebtedness shall be subordinated to the Obligations pursuant to the terms of a subordination agreement, in form and substance reasonably satisfactory to Administrative Agent.

“Subsidiary” means any corporation, partnership, limited liability company, association or other business entity of which the Borrowers owns, directly or indirectly, more than fifty percent (50%) of the voting securities thereof.

"Taxes" means all present or future taxes, levies, imposts, duties, deductions, withholdings (including backup withholding), assessments, fees or other charges imposed by any Governmental Authority, including any interest, additions to tax or penalties applicable thereto.

"Term Loan" or "Term Loans" means the Closing Date Term Loan and the Delayed Draw Term Loan and any other any loans, advances, extensions of credit made by Lender to Borrowers, together with any and all renewals, extensions, amendments, modifications, replacements and substitutions thereof and therefor.

"Total Voting Power" means, with respect to any Person, the total number of votes which may be cast in the election of directors of such Person at any meeting of shareholders or members of such Person if all securities entitled to vote in the election of directors of such Person (on a fully diluted basis, assuming the exercise, conversion or exchange of all rights, warrants, options and securities exercisable for, exchangeable for or convertible into, such voting securities) were present and voted at such meeting (other than votes that may be cast only upon the happening of a contingency).

"Trademark Security Agreement" means that certain Trademark Security Agreement, dated as of the date hereof, by and between CFR and the Administrative Agent.

"U.S. Person" means any Person that is a "United States Person" as defined in Section 7701(a)(30) of the Code.

1.2 Accounting Terms. Except as specifically provided otherwise in this Agreement, all accounting terms used herein that are not specifically defined shall have the meanings customarily given them in accordance with GAAP. Notwithstanding anything to the contrary in this Agreement, for purposes of calculation of the financial covenants set forth in Article V, all accounting determinations and computations hereunder shall be made in accordance with GAAP as in effect as of the date of this Agreement applied on a basis consistent with the application used in preparing the most recent financial statements of the Borrowers referred to in Section 4.9. In the event that any changes in GAAP after such date are required to be applied to the Borrowers and would affect the computation of the financial covenants contained in Article V, such changes shall be followed only from and after the date this Agreement shall have been amended to take into account any such changes.

ARTICLE II

AMOUNT AND TERM OF THE TERM LOANS

2.1 Commitments.

(a) [Reserved].

(b) Closing Date Term Loan. Subject to and upon the conditions herein set forth, Lender shall extend to Borrowers on the Closing Date a term facility in the principal amount of Ten Million Dollars (\$10,000,000) (the "Closing Date Term Loan"), which shall be repaid in accordance with the terms of the Closing Date Term Note of even date herewith evidencing the same. Once repaid or prepaid, no Closing Date Term Loan may be reborrowed.

(c) Delayed Draw Term Loan. The Borrowers may request one or more term loans (each, a "Delayed Draw Term Loan," and collectively, the "Delayed Draw Term Loans") from time to time after the Closing Date and before the Delayed Draw Termination Date in an aggregate amount not to exceed Ten Million Dollars (\$10,000,000), subject to the satisfaction of the following conditions:

i. the Administrative Agent shall have approved such request for a Delayed Draw Term Loan, which approval shall be in the sole discretion of the Administrative Agent;

ii. The Borrowers shall have paid the Delayed Draw Fee (as defined in Section 5.10);

iii. the terms of each Delayed Draw Term Loans shall be identical to the terms applicable to the Closing Date Term Loans, and shall be repaid in accordance with the terms of the Delayed Draw Term Note evidencing such Delayed Draw Term Loan;

iv. amounts repaid on the Delayed Draw Term Loans may not be reborrowed;

v. Lender shall have received a duly executed Delayed Draw Term Note for the account of Lender; and

vi. each of the conditions precedent to each extension of credit set forth in Section 3.2 shall have been satisfied.

2.2 Notes.

(a) [Reserved].

(b) The Closing Date Term Loan made by Lender shall be evidenced by the Closing Date Term Note payable to the order of Lender in an amount equal to the original principal amount of the Closing Date Term Loan. The Borrowers and Lender hereby agree that the terms of this Agreement shall be incorporated by reference into the Closing Date Term Note as if set forth therein and, in the event of any conflict between the terms of this Agreement and the Closing Date Term Note, the terms of this Agreement shall control.

(c) Any Delayed Draw Term Loan made by Lender shall be evidenced by the Delayed Term Note payable to the order of Lender in an amount equal to the original principal amount of such Delayed Draw Term Loan. The Borrowers and Lender hereby agree that the terms of this Agreement shall be incorporated by reference into the Delayed Draw Term Note as if set forth therein and, in the event of any conflict between the terms of this Agreement and the Delayed Draw Term Note, the terms of this Agreement shall control.

2.3 Principal Payments; Maturity.

(a) [Reserved]

(b) The Borrowers shall repay the Term Loans:

(i) In accordance with the terms of the applicable Note;

(ii) In full, upon the occurrence of any Event of Default or acceleration of the Obligations by Lender pursuant to Article VII hereof or at the option of the Lender upon the occurrence of a Change of Control.

2.4 Interest; Fees.

(a) [Reserved].

(b) The Borrowers shall pay interest and fees on the Term Loans in accordance with the terms of the applicable Note.

2.5 Disbursement of Term Loan Proceeds. The Borrowers hereby authorize and direct Administrative Agent to disburse, for and on behalf of the Borrowers and for the Borrowers' accounts, the proceeds of the Term Loans made by Lender pursuant to this Agreement (i) to such Person or Persons as the Borrowers shall direct, whether orally or in writing and (ii) to pay Administrative Agent and Lender any interest, fees, costs and expenses payable pursuant to Section 8.2 hereof.

2.6 Use of Proceeds.

(a) [Reserved].

(b) The proceeds of the Closing Date Term Loan shall be used by the Borrowers solely (i) to refinance existing indebtedness, (ii) to finance Permitted Acquisition and (iii) to pay fees and expenses in connection with the acquisition and the transactions contemplated by this Agreement.

(c) The proceeds of the Delayed Draw Term Loans shall be used by the Borrowers in a manner approved by the Administrative Agent.

2.7 Taxes.

(a) All payments of principal, interest and fees and all other amounts to be made by the Borrowers pursuant to this Agreement with respect to the Term Loans or fees relating thereto shall be paid without deduction for, and free from, Taxes, except as required by applicable law. If any applicable law (as determined in good faith by the Borrowers) requires the deduction or withholding of any Tax from any such payment by the Borrowers, then the Borrowers shall be entitled to make such deduction or withholding and shall timely pay the full amount deducted or withheld to the relevant Governmental Authority in accordance with applicable law and, if such Tax is an Indemnified Tax, then the sum payable by the Borrowers shall be increased as necessary so that after such deduction or withholding has been made (including such deductions and withholding applicable to the additional sums under this Section) Administrative Agent or Lender, as applicable, receives an amount equal to the sum it would have received had no such deduction or withholding been made.

(b) The Borrowers shall timely pay to the relevant Governmental Authority in accordance with applicable law, or at the option of Administrative Agent, timely reimburse it for the payment of, any Other Taxes.

(c) The Borrowers shall jointly and severally indemnify Administrative Agent and Lender, within 10 days after demand therefor, for the full amount of any Indemnified Taxes (including Indemnified Taxes imposed or asserted on or attributable to amounts payable under this Section) payable or paid by Administrative Agent or Lender or required to be withheld or deducted from a payment to Administrative Agent or Lender and any reasonable expenses arising therefrom or with respect thereto, whether or not such Indemnified Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority; provided that the Borrowers shall not be required to compensate Administrative Agent or Lender pursuant to this Section 2.6(c) for any amounts unless such Administrative Agent or Lender makes a written demand therefor to the Borrowers within 180 days following the date on which such Administrative Agent or Lender receives a written assessment of such amounts from the applicable Governmental Authority; provided further, that if the event giving rise to such amounts has retroactive effect, such 180-day period shall be extended to include the period of retroactive effect. A certificate as to the amount of such payment or liability delivered to the Borrowers by Administrative Agent or Lender shall be conclusive absent manifest error.

(d) Status of Lenders.

(i) Any Lender that is entitled to an exemption from or reduction of withholding Tax with respect to payments made under any Credit Document shall deliver to the Borrowers and Administrative Agent, at the time or times reasonably requested by the Borrowers or Administrative Agent, such properly completed and executed documentation reasonably requested by the Borrowers or Administrative Agent as will permit such payments to be made without withholding or at a reduced rate of withholding. In addition, any Lender, if reasonably requested by the Borrowers or Administrative Agent, shall deliver such other documentation prescribed by applicable law or reasonably requested by the Borrowers or Administrative Agent as will enable the Borrowers or Administrative Agent to determine whether or not such Lender is subject to backup withholding or information reporting requirements. Notwithstanding anything to the contrary in the preceding two sentences, the completion, execution and submission of such documentation (other than such documentation set forth in Section 2.7(d)(ii)(A), (ii)(B) and (ii)(D) below) shall not be required if in the Lender's reasonable judgment such completion, execution or submission would subject such Lender to any material unreimbursed cost or expense or would materially prejudice the legal or commercial position of such Lender.

(ii) Without limiting the generality of the foregoing, in the event that a Borrower is a U.S. Person,

(A) any Lender that is a U.S. Person shall deliver to the Borrowers and Administrative Agent on or prior to the date on which such Lender becomes a Lender under this Agreement (and from time to time thereafter upon the reasonable request of the Borrowers or Administrative Agent), executed originals of IRS Form W-9 certifying that such Lender is exempt from U.S. federal backup withholding tax;

(B) any Foreign Lender shall, to the extent it is legally entitled to do so, deliver to the Borrowers and Administrative Agent (in such number of copies as shall be requested by the recipient) on or prior to the date on which such Foreign Lender becomes a Lender under this Agreement (and from time to time thereafter upon the reasonable request of the Borrowers or Administrative Agent), whichever of the following is applicable:

(i) in the case of a Foreign Lender claiming the benefits of an income tax treaty to which the United States is a party (x) with respect to payments of interest under any Credit Document, executed originals of IRS Form W-8BEN or W-8BEN-E establishing an exemption from, or reduction of, U.S. federal withholding Tax pursuant to the "interest" article of such tax treaty and (y) with respect to any other applicable payments under any Credit Document, IRS Form W-8BEN or W-8BEN-E establishing an exemption from, or reduction of, U.S. federal withholding Tax pursuant to the "business profits" or "other income" article of such tax treaty;

(ii) executed originals of IRS Form W-8ECI;

(iii) in the case of a Foreign Lender claiming the benefits of the exemption for portfolio interest under Section 881(c) of the Code, (x) a certificate to the effect that such Foreign Lender is not a "bank" within the meaning of Section 881(c)(3)(A) of the Code, a "10 percent shareholder" of the Borrowers within the meaning of Section 881(c)(3)(B) of the Code, or a "controlled foreign corporation" described in Section 881(c)(3)(C) of the Code (a "U.S. Tax Compliance Certificate") and (y) executed originals of IRS Form W-8BEN or W-8BEN-E; or

(iv) to the extent a Foreign Lender is not the beneficial owner, executed originals of IRS Form W-8IMY, accompanied by IRS Form W-8ECI, IRS Form W-8BEN or W-8BEN-E, a U.S. Tax Compliance Certificate and/or other certification documents from each beneficial owner, as applicable; provided that if the Foreign Lender is a partnership and one or more direct or indirect partners of such Foreign Lender are claiming the portfolio interest exemption, such Foreign Lender may provide a U.S. Tax Compliance Certificate on behalf of each such direct and indirect partner;

(C) any Foreign Lender shall, to the extent it is legally entitled to do so, deliver to the Borrowers and Administrative Agent (in such number of copies as shall be requested by the recipient) on or prior to the date on which such Foreign Lender becomes a Lender under this Agreement (and from time to time thereafter upon the reasonable request of the Borrowers or Administrative Agent), executed originals of any other form prescribed by applicable law as a basis for claiming exemption from or a reduction in U.S. federal withholding Tax, duly completed, together with such supplementary documentation as may be prescribed by applicable law to permit the Borrowers or Administrative Agent to determine the withholding or deduction required to be made; and

(D) if a payment made to a Lender under any Credit Document would be subject to U.S. federal withholding Tax imposed by FATCA if such Lender were to fail to comply with the applicable reporting requirements of FATCA (including those contained in Section 1471(b) or 1472(b) of the Code, as applicable), such Lender shall deliver to the Borrowers and Administrative Agent at the time or times prescribed by law and at such time or times reasonably requested by the Borrowers or Administrative Agent such documentation prescribed by applicable law (including as prescribed by Section 1471(b)(3)(C)(i) of the Code) and such additional documentation reasonably requested by the Borrowers or Administrative Agent as may be necessary for the Borrowers and Administrative Agent to comply with their obligations under FATCA and to determine that such Lender has

complied with such Lender's obligations under FATCA or to determine the amount to deduct and withhold from such payment. Solely for purposes of this clause (D), "FATCA" shall include any amendments made to FATCA after the date of this Agreement.

Each Lender agrees that if any form or certification it previously delivered expires or becomes obsolete or inaccurate in any respect, it shall update such form or certification or promptly notify the Borrowers and Administrative Agent in writing of its legal inability to do so.

2.8 Tax Treatment. The Borrowers, Lender and Administrative Agent each agree (a) that the Notes shall be treated as debt for U.S. federal income tax purposes, (b) that the issue price of the Notes is equal to par, (c) that the Notes are not governed by the rules set out in Treasury Regulations Section 1.1275-4 and (d) to adhere to this Agreement for U.S. federal income tax purposes and not to take any action or file any tax return, report or declaration inconsistent herewith. The inclusion of this Section 2.8 is not an admission by Lender that is subject to U.S. taxation.

2.9 Cross-Collateral and Cross-Default of Loans. All of the Collateral pledged, mortgaged, granted, assigned to, or deposited with Administrative Agent or Lender (or Fifth Third, as bailee for Administrative Agent) as security for the performance and re-payment of each of the Term Loans, shall be, and is hereby, pledged, mortgaged, granted, assigned to and deposited with Administrative Agent or Lender (or Fifth Third, as bailee for Administrative Agent) as security for the performance and repayment of the documents evidencing or securing each of the other Term Loans. The Borrowers acknowledge and agree that any Event of Default under any of the Credit Documents with respect to one Term Loan shall automatically be an Event of Default under the Credit Documents with respect to the other Term Loans.

ARTICLE III

CLOSING; CONDITIONS OF CLOSING AND BORROWING

3.1 Conditions to Closing of the Closing Date Loans. The obligation of Lender to make the Closing Date Term Loans hereunder is subject to the satisfaction of the following conditions precedent:

(a) Credit Documents. Administrative Agent and Lender shall have received the following, each dated as of the Closing Date (unless otherwise specified) and in such number of copies as Lender shall have requested:

- (i) from each of the parties hereto, a duly executed counterpart of this Agreement, in form and substance acceptable to Lender, signed by such party;
- (ii) a duly executed Closing Date Term Note for the account of Lender;
- (iii) a duly executed copy of the Fifth Third Intercreditor Agreement; and
- (iv) duly executed counterparts of all Security Documents, in form and substance acceptable to Lender.

(b) Officer's Certificate. Administrative Agent shall have received from each Borrower a certificate of an officer of such Borrower as of the Closing Date, dated as of the Closing Date and in form and substance reasonably satisfactory to Administrative Agent, certifying (i) that attached thereto is a true and complete copy of the articles or certificate of incorporation, certificate of formation or other organizational document and all amendments thereto of such party, certified as of a recent date by the Secretary of State (or comparable Governmental Authority) of its jurisdiction of organization, and that the same has not been amended since the date of such certification, (ii) that attached thereto is a true and complete copy of the bylaws, operating agreement or similar governing document of such party, as then in effect and as in effect at all times from the date on which the resolutions referred to in clause (iii) below were adopted to and including the date of such certificate, (iii) that attached thereto is a true and complete copy of resolutions adopted by the board of directors (or similar governing

body) of such party, authorizing the execution, delivery and performance of this Agreement and the other Credit Documents to which it is a party, and (iv) as to the incumbency and genuineness of the signature of each officer of such party executing this Agreement or any of such other Credit Documents, and attaching all such copies of the documents described above.

(c) Good Standings. Administrative Agent shall have received a certificate as of a recent date of the good standing of each Borrower as of the Closing Date, under the laws of its jurisdiction of incorporation and each other jurisdiction in which it is qualified to do business (except where the failure to be in good standing would not have a Material Adverse Effect), from the Secretary of State (or comparable Governmental Authority) of such jurisdiction.

(d) Lien Searches. Administrative Agent shall have received certified reports from an independent search service satisfactory to it listing any judgment or tax lien filing or Uniform Commercial Code financing statement that names the Borrowers (or any of them) as debtor, in South Carolina and Virginia and in any other jurisdiction reasonably requested by Lender, and the results thereof shall be reasonably satisfactory to Lender.

(e) Recording and Filing. Administrative Agent shall have received evidence that a UCC financing statements have been duly recorded in the Office of the Secretaries of State of South Carolina and Virginia, as applicable, and that all other filings and action needed to provide Administrative Agent with perfected, first priority security interests in the Collateral described in the Security Documents have occurred.

(f) Insurance. Administrative Agent shall have received certificates of insurance evidencing the insurance coverages described on Schedule 4.14 and all other or additional coverages required under the Security Documents and naming Administrative Agent as loss payee or additional insured, as its interests may appear.

(g) Fees; Expenses. The Borrowers shall have paid (i) to McLarty Capital Advisors SBIC, LLC, the fees required to be paid to it on the Closing Date, which consists of a (x) \$200,000 underwriting fee, payable on the Closing Date (the "Underwriting Fee") and (y) \$50,000 application fee, payable on the Closing Date (the "Application Fee") together with the Underwriting Fee, the "Closing Fee"), and (ii) all other fees and reasonable expenses required hereunder or under any other Credit Document to be paid on or prior to the Closing Date (including reasonable fees and expenses of counsel) in connection with this Agreement and the other Credit Documents.

(h) Acquisition Documents. CFR shall have consummated the Permitted Acquisition in accordance with the SSG Purchase Agreement, and Administrative Agent shall have received all documents evidencing the such Permitted Acquisition (including without limitation the SSG Purchase Agreement), including all amendments, modifications and supplements thereto, as in effect on the Closing Date.

(i) Legal Opinion. Administrative Agent and Lender shall have received a favorable written opinion of Borrowers' counsel, which shall in in form and substance satisfactory to Administrative Agent and its counsel, and covering such other matters relating to the Borrowers, this Agreement or the transactions contemplated hereby as Administrative Agent shall reasonably request.

(j) Senior Credit Documents. Administrative Agent shall have received fully executed copies of the Senior Credit Agreement and accompanying documents, instruments and certificates, each in form and substance satisfactory to Administrative Agent, and all conditions precedent thereunder with respect to the initial funding of the Senior Debt shall have been satisfied

(k) Payoff Letters. Administrative Agent shall have received evidence of the payment in full and the termination of all obligations, indebtedness and liens in connection with Borrowers' existing Indebtedness with PNC Bank, National Association and Leeds Novamark Capital I, L.P.

(l) Solvency. After giving effect to the transactions contemplated hereby and the Senior Credit Agreement, the Borrowers, on a consolidated basis, shall be Solvent.

(m) Legal Restraints/Litigation. As of the Closing Date, there shall be no (x) injunction, writ or restraining order restraining or prohibiting the consummation of the financing arrangements contemplated under this Agreement, or (y) (1) suit, action, investigation or proceeding (judicial or administrative) pending against any Borrower, any subsidiary of any Borrower or any of their assets or which, in the reasonable opinion of Administrative Agent, could reasonably be expected to have a Material Adverse Effect.

(n) Other Documents. Administrative Agent shall have received such other documents, certificates, opinions, instruments and other evidence as Administrative Agent may reasonably request, all in form and substance satisfactory to Administrative Agent and its counsel.

(o) Diligence. Administrative Agent shall have concluded all legal and business due diligence, which shall be in substance satisfactory to Administrative Agent and its counsel.

3.2 Conditions to all Loans and Advances. The obligation of Lender to make any Term Loan hereunder is subject to the continued validity of all Credit Documents and the satisfaction of the following conditions:

(a) Notice of Borrowing. Administrative Agent shall have received a notice of borrowing (each a "Notice of Borrowing"), in the form of Exhibit A, specifying (i) the aggregate principal amount of the requested Delayed Draw Term Loan to be made pursuant to such Borrowing, and (ii) the requested date of such Borrowing, which shall be a Business Day. Each such Notice of Borrowing shall be irrevocable.

(b) Representations and Warranties. Each of the representations and warranties made by the Borrowers in Article IV shall be true and correct in all material respects (except to the extent any such representation or warranty is qualified by materiality, in which case such representation or warranty shall be true and correct in all respects) on and as of such date (except to the extent any such representation or warranty related to a specific date, in which case such representation or warranty shall be true and correct as of such date).

(c) No Event of Default. No Default or Event of Default shall have occurred and be continuing after giving effect to the making of the applicable Term Loan.

(d) Covenant Compliance. Before and after giving effect to any Delayed Draw Term Loan, the Borrowers shall be in pro forma compliance with the financial covenants contained in Section 5.14 as of the date of such funding.

Each Borrowing hereunder shall be deemed to be a representation and warranty by the Borrowers on the date of such Borrowing as to the truth and accuracy of the facts specified in paragraphs (b) and (c) of this Section 3.2 on such date.

ARTICLE IV

REPRESENTATIONS AND WARRANTIES

The Borrowers, jointly and severally, each represent and warrant to Administrative Agent and Lender as follows:

4.1 Company Organization and Power. Each Borrower (a) is a corporation or limited liability company duly organized or formed, validly existing and in good standing under the laws of the state of its organization; (b) is duly qualified or licensed to do business and is in good standing in every other jurisdiction where the nature of its business or its properties makes such qualification or licensing necessary (except where the failure to be so qualified or licensed would not have a Material Adverse Effect); (c) has full corporate power and authority to execute, deliver and perform the Credit Documents to which it is or will be a party, to own and hold its property and to engage in its business as presently conducted, and (d) has all governmental licenses, permits, franchises, certificates, inspections, authorizations, consents and approvals required to carry on its business as it is now being conducted (except where the failure to have such governmental authorization would not have a Material Adverse Effect).

4.2 Company Authority: No Conflict With Other Instruments or Law. The execution, delivery and performance of this Agreement and the other Credit Documents and the consummation of the transactions contemplated hereby and thereby (a) are within the corporate or limited liability company power and authority of the Borrowers, (b) have been duly authorized by all necessary corporate or limited liability company action on the part of the Borrowers, (c) do not and will not conflict with, contravene or violate any provision of, or result in a breach of or default under, or require the waiver (not already obtained) of any provision of or the consent (not already given) of any Person under the terms of the Borrowers' articles or certificate of incorporation, its bylaws, or other applicable formation or organizational documents, or any indenture, mortgage, deed of trust, loan or credit agreement or other agreement or instrument to which the a Borrower is a party or by which it is bound or to which any of its properties are subject, the termination and non-compliance with which could reasonably be expected to have a Material Adverse Effect, (d) will not violate, conflict with, give rise to any liability under, or constitute a default under any Requirement of Law, and (e) will not result in the creation, imposition, or acceleration of any Indebtedness or tax or any Lien that is not a Permitted Lien of any nature upon, or with respect to, the Borrowers or any of their properties.

4.3 Due Execution and Delivery. This Agreement and the other Credit Documents to which the Borrowers are a party have been duly executed and delivered to Administrative Agent by an officer of the Borrowers who have been duly authorized to perform such acts.

4.4 Enforceability. This Agreement and the other Credit Documents to which the Borrowers are a party constitute the legal, valid and binding obligations of the Borrowers, enforceable against the Borrowers in accordance with their terms, except as enforcement may be limited by bankruptcy, insolvency, reorganization, moratorium or other similar laws, statutes or rules of general application affecting the enforcement of creditor's rights or general principles of equity.

4.5 Governmental Approval. The execution, delivery and performance of this Agreement and the other Credit Documents to which the Borrowers are a party and the transactions contemplated hereby and thereby do not require any authorization, exemption, consent or approval of, notice to, or declaration or filing with, any Governmental Authority other than those obtained on or before the Closing Date.

4.6 Margin Stock. The Borrowers are not engaged principally or as one of its important activities in the business of extending credit for the purpose of purchasing or carrying margin stock (within the meaning of Regulation T, U or X of the Board of Governors of the Federal Reserve System). The execution, delivery and performance of this Agreement and the use of the proceeds of the Term Loans or any extension of credit hereunder, do not and will not constitute a violation of such Regulations.

4.7 Investment Company. No Borrower is an "investment company" or a company "controlled" by an "investment company", within the meaning of the Investment Company Act of 1940, as amended.

4.8 Litigation. There are no suits or proceedings pending or, to Borrowers' knowledge, threatened against or affecting the Borrowers, and no proceedings before any Governmental Authority are pending or, to Borrowers' knowledge, threatened against the Borrowers, which could reasonably be expected to have a Material Adverse Effect except as set forth on Schedule 4.8 attached hereto.

4.9 Financial Statements.

(a) Borrowers have delivered to Administrative Agent their unaudited financial statements dated September 30, 2015. Such financial statements contain no material misstatement or omission and fairly present, in all material respects, the financial position, assets and liabilities of the Borrowers for the period then ended (subject to year-end footnote disclosure).

(b) The Borrowers are Solvent.

4.10 No Material Adverse Change. Since December 31, 2014, (a) there has been no Material Adverse Change, nor to the knowledge of the Borrowers, is any Material Adverse Change threatened or reasonably likely to

occur, and (b) the Borrowers have not incurred any obligation or liability that would be reasonably likely to have a Material Adverse Effect or entered into any material contracts not specifically contemplated by this Agreement or the other Credit Documents or not in the ordinary course of business consistent with past practice.

4.11 Laws and Taxes. Borrowers are in material compliance with all laws, regulations, rulings, orders, injunctions, decrees, conditions or other requirements applicable to or imposed upon the Borrowers by any law or by any Governmental Authority. Borrowers have filed all required tax returns and reports that are now required to be filed by it in connection with any federal, state and local tax, duty or charge levied, assessed or imposed upon the Borrowers or its assets, including unemployment, social security, and real estate taxes. Borrowers have paid all taxes which are now due and payable under any such returns. No taxing authority has asserted or assessed any additional tax liabilities against the Borrowers which are outstanding on this date, and the Borrowers have not filed for any extension of time for the payment of any tax or the filing of any tax return or report.

4.12 Environmental Compliance. Except as set forth on Schedule 4.12 and except as, individually or in the aggregate, could not reasonably be expected to have a Material Adverse Effect,

(a) All activities and operations of the Borrowers meet all requirements of all applicable Environmental Laws and the Borrowers have not violated any Environmental Law in the past.

(b) Borrowers are not involved in any suit or proceeding and has not received any notice from any Governmental Authority or other third party with respect to a release or threat of release of any Hazardous Material, or violation or alleged violation of any Environmental Law, and has not received notice of any claim from any person or entity relating to property damage or to personal injuries from exposure to any Hazardous Material.

(c) Borrowers have timely filed all reports required to be filed, has acquired all necessary certificates, approvals and permits, and has generated and maintained all required data, documentation and records required under all Environmental Laws.

4.13 Ownership of Properties. Borrowers (i) has good and marketable title to the Collateral, (ii) holds interests as lessee under valid leases in full force and effect with respect to all material leased real and personal property used in connection with its business, and (iii) has good title to all of its other material properties and assets reflected in the financial statements referred to in Section 4.9 (except as sold or otherwise disposed of since the date thereof in the ordinary course of business), in each case free and clear of all Liens other than Permitted Liens.

4.14 Insurance. Schedule 4.14 sets forth, as of the Closing Date, an accurate and complete list and a brief description (including the insurer, policy number, type of insurance, coverage limits, deductibles, expiration dates and any special cancellation conditions) of all policies of property and casualty, liability (including, but not limited to, product liability), business interruption, workers' compensation, key man life insurance, trade credit insurance on any Foreign Accounts, and other forms of insurance owned or held by the Borrowers or pursuant to which any of their respective assets are insured. The assets, properties and business of the Borrowers are insured against such hazards and liabilities, under such coverages and in such amounts, as are customarily maintained by prudent companies similarly situated and under policies issued by insurers of recognized responsibility.

4.15 No Default. No Default or Event of Default under this Agreement has occurred and is continuing.

4.16 Subsidiaries. The Borrowers have no Subsidiaries except as are Borrowers and are not a party to any partnership or joint venture agreement.

4.17 First Priority Liens. Except for Permitted Liens, this Agreement, together with the Security Documents, will create valid, perfected, first-priority security interests in the Collateral described in the Security Documents, in each case enforceable against the Borrowers and securing the payment of all obligations purported to be secured thereby.

4.18 Full Disclosure. All information heretofore furnished to Administrative Agent or Lender by the Borrowers for purposes of or in connection with this Agreement or any transaction contemplated hereby is, and all

such information hereafter furnished to Administrative Agent or Lender by the Borrowers will be, true, accurate and complete in every material respect or based on reasonable estimates on the date as of which such information is stated or certified. The Borrowers have disclosed to Administrative Agent and Lender in writing any and all facts which materially and adversely affect or may affect (to the extent the Borrowers can now reasonably foresee), the business, operations, prospects or condition, financial or otherwise, of the Borrowers, or the ability of the Borrowers to perform their obligations under this Agreement or any of the other Credit Documents.

4.19 OFAC; Anti-Terrorism Laws.

(a) No Borrower nor any Affiliate of a Borrower (i) is a Sanctioned Person, (ii) has more than 10% of its assets in Sanctioned Countries. No part of the proceeds of any Term Loan hereunder will be used directly or indirectly to fund any operations in, finance any investments or activities in or make any payments to, a Sanctioned Person or a Sanctioned Country.

(b) The Borrowers are in compliance in all material respects with the PATRIOT Act. No part of the proceeds of the Term Loans will be used, directly or indirectly, for any payments to any governmental official or employee, political party, official of a political party, candidate for political office, or anyone else acting in an official capacity, in order to obtain, retain or direct business or obtain any improper advantage, in violation of the United States Foreign Corrupt Practices Act of 1977, as amended.

4.20 Small Business Concern. The Borrowers, taken with their "affiliates" (as that term is defined in 13 C.F.R. §121.103), is a "Small Business Concern" within the meaning of 15 U.S.C. §662(5), that is Section 103(5) of the Small Business Investment Act of 1958, as amended (the "SBIC Act"), and the regulations thereunder, including 13 C.F.R. §107, and meets the applicable size eligibility criteria set forth in 13 C.F.R. §121.301(c)(2) or the industry standard covering the industry in which Borrowers are primarily engaged as set forth in 13 C.F.R. §121.301(c)(1). None of the Borrowers nor any of their respective subsidiaries presently engages in any activities for which a small business investment company is prohibited from providing funds by the SBIC Act, including 13 C.F.R. §107.720.

ARTICLE V

AFFIRMATIVE COVENANTS

Until payment in full of all Obligations of the Borrowers to Administrative Agent and Lender, the Borrowers shall:

5.1 Financial and Business Information. Deliver to Administrative Agent:

(a) Within one hundred twenty (120) days (or 150 days in the case of the fiscal year ended December 31, 2015) after the close of the fiscal year of the Borrowers, audited financial statements of Borrowers (including a balance sheet, an income statement and a statement of retained earnings and changes in financial position for such year and setting forth in comparative form the figures for the prior year) prepared in accordance with GAAP, consistently applied, together with an opinion on such financial statements from an independent certified public accounting firm reasonably acceptable to Administrative Agent;

(b) As soon as available but in any event within forty-five (45) days after the end of each fiscal quarter, internally prepared quarterly consolidated and consolidating financial statements, along with year-to-date information, including a balance sheet, income statement and statement of cash flows with respect to the periods measured;

(c) As soon as available, but in any event within twenty-five (25) days after the last day of each calendar month, Borrowers shall deliver to Administrative Agent an unaudited balance sheet, a statement of income, cash flow and retained earnings prepared in accordance with GAAP, consistently applied, in form acceptable to Administrative Agent and certified by the chief financial officer, controller, chief accounting officer of the Borrowers or other Person reasonably acceptable to Administrative Agent; and

(d) Concurrently with the delivery of the financial statements described in subsection (b) above, a Compliance Certificate in form and substance acceptable to Administrative Agent with respect to the period covered by the financial statements being delivered thereunder, executed by the president or chief financial officer of the Borrowers, together with a Covenant Compliance Worksheet reflecting the computation of the financial covenants set forth in Section 5.14 as of the last day of the period covered by such financial statements;

(e) At least thirty (30) days prior to the first day of each fiscal year, annual consolidated and consolidating projections for Borrowers for such year, including a balance sheet, income statement and statement of cash flow projections, all prepared on a monthly basis;

(f) Promptly, but in any case within five (5) days of delivery to Fifth Third, copies of completed Borrowing Base Certificate (as defined in the Senior Credit Agreement as in effect on the date hereof) delivered pursuant to the Senior Credit Agreement;

(g) Promptly, but in any case within three (3) days of delivery or receipt, copies of all amendments, waivers and notices of default relating to the Senior Debt and any Subordinated Debt, and

(h) Within a reasonable time, upon Administrative Agent's request, such other information about the property, financial condition and operations of the Borrowers as Administrative Agent may from time to time reasonably request.

5.2 Notice of Certain Events. Promptly give notice in writing to Administrative Agent of:

(a) Any Material Adverse Change;

(b) All litigation when the aggregate amount of claims pending or threatened in writing is \$175,000 or more and the Borrowers are a defendant;

(c) Any dispute which may exist between the Borrowers and any Governmental Authority or any threatened action by any Governmental Authority to acquire or condemn any of the properties of the Borrowers where the amount involved is \$175,000 or more;

(d) Any proceeding or order before any court or administrative body requiring the Borrowers to comply with any statute or regulation regarding protection of the environment if such compliance would require (i) expenditures in the amount of \$175,000 or more or (ii) the shutting down of any major installation for a period in excess of seventy-two (72) hours or if such violation involves the possibility of the imposition of a fine of \$125,000 or more;

(e) Any casualty loss resulting in an aggregate loss of \$175,000 or more with respect to the Collateral described in any Security Document; and

(f) Any Default or Event of Default.

5.3 Existence; Maintenance of Properties. (a) Maintain and preserve in full force and effect its legal existence, its good standing under the laws of the jurisdiction of its incorporation or formation, as the case may be, and its qualification to do business in every other jurisdiction where the nature of its business or its properties makes such qualification necessary (except where the failure to be so qualified or licensed would not have a Material Adverse Effect), and (b) keep all material properties in good working order and condition (normal wear and tear and damage by casualty excepted) and from time to time make all necessary repairs to and renewals and replacements of such properties, except to the extent that any of such properties are obsolete or are being replaced or, in the good faith judgment of the Borrowers, are no longer useful or desirable in the conduct of the business.

5.4 Compliance with Law. Comply with all federal, state and local laws, regulations and orders applicable to Borrowers or any of their assets including but not limited to all Environmental Laws, in all respects material to Borrowers' business, assets or prospects and shall immediately notify Administrative Agent of any

complaint or notification of violation of any rule, regulation, statute, ordinance, order or law relating to the public health or the environment and of any complaint or notifications received by the Borrowers regarding to any environmental or safety and health rule, regulation, statute, ordinance or law. The Borrowers shall obtain and maintain any and all licenses, permits, franchises, Governmental Authorizations or other rights necessary for the ownership of its properties and the advantageous conduct of its business and as may be required from time to time by applicable law (except where the failure to have such Governmental Authorizations would not have a Material Adverse Effect).

5.5 Payment of Obligations. (a) Pay, discharge or otherwise satisfy at or before maturity all liabilities and obligations as and when due (subject to any applicable subordination, grace and notice provisions), except to the extent failure to do so could not reasonably be expected to have a Material Adverse Effect, and (b) pay when due all taxes, assessments and other governmental charges imposed upon it or its assets, franchises, business, income or profits before any penalty or interest accrues thereon, and all claims (including, without limitation, claims for labor, services, materials and supplies) for sums which by law might be a lien or charge upon any of its assets, provided that (unless any material item or property would be lost, forfeited or materially damaged as a result thereof) no such charge or claim need be paid if it is being diligently contested in good faith, if Administrative Agent is notified in advance of such contest and if the Borrowers establish an adequate reserves in an amount acceptable to Administrative Agent.

5.6 Maintenance of Books and Records; Inspection. Maintain proper books of accounts and records and enter therein complete and accurate entries and records of all of its transactions and give representatives of Administrative Agent access thereto at all reasonable times provided Administrative Agent gives the Borrowers two (2) Business Days' notice (except no prior notice shall be required if an Event of Default has occurred and is continuing) prior to seeking access thereto, including permission to: (a) examine, copy and make abstracts from any such books and records and such other information which might be helpful to Administrative Agent in evaluating the status of the Obligations or appropriate for the enforcement of this Agreement as it may reasonably request from time to time, and (b) communicate directly with any of the Borrowers' officers, accountants or other financial advisors with respect to the business, financial conditions and other affairs of the Borrowers; provided, however, that unless an Event of Default exists, Borrowers shall not be responsible for the cost of more than one inspection during any calendar year.

5.7 Maintenance of Insurance.

(a) At their own cost, obtain and maintain insurance against (i) loss, destruction or damage to their properties and business of the kinds and in the amounts customarily insured against by corporations with established reputations engaged in the same or similar businesses as the Borrowers and, in any event, sufficient to fully protect Administrative Agent's interest in the Collateral described in the Security Documents, and (ii) insurance against public liability and third party property damage of the kinds and in the amounts customarily insured against by corporations with established reputations engaged in the same or similar businesses as the Borrowers. All such policies shall (x) be issued by financially sound and reputable insurers, (y) name Administrative Agent as an additional insured and, where applicable, as loss payee under a lender loss payable endorsement satisfactory to Administrative Agent, and (z) shall provide for the insurer to use it best efforts to provide thirty (30) days written notice to Administrative Agent before such policy is altered or canceled. All of the insurance policies required hereby shall be evidenced by one or more certificates of insurance delivered to Administrative Agent by the Borrowers on or prior to the Closing Date and at such other times as Administrative Agent may request from time to time. Administrative Agent acknowledges that the insurance maintained by the Borrowers as of the Closing Date satisfies this Section 5.7(a).

(b) In the event of casualty loss with respect to any the Collateral described in any Security Document, Administrative Agent, as mortgagee, loss payee or additional insured, as appropriate to the policy, may make proof of loss if not made promptly by the Borrowers, and each insurance company concerned shall hereby be authorized and directed to make payment for such loss directly to Administrative Agent instead of to the Borrowers and Administrative Agent jointly. Any such proceeds must be applied, at the option of Borrowers so long as no Event of Default exists to either (i) the payment of the Obligations, or (ii) the repair and/or restoration of the Collateral.

5.8 Environmental Laws.

(a) Comply in all material respects with, and use commercially reasonable efforts to ensure compliance in all material respects by all tenants and subtenants, if any, with, all applicable Environmental Laws and obtain and comply in all material respects with and maintain, and use commercially reasonable efforts to ensure that all tenants and subtenants obtain and comply in all material respects with and maintain, any and all licenses, approvals, notifications, registrations or permits required by applicable Environmental Laws, except to the extent that the failure to do so could not reasonably be expected to have a Material Adverse Effect.

(b) Conduct and complete all investigations, studies, sampling and testing, and all remedial, removal and other actions, required under Environmental Laws and promptly comply in all material respects with all lawful orders and directives of all Governmental Authorities regarding Environmental Laws, except to the extent that the same are being contested in good faith by appropriate proceedings or to the extent the failure to conduct or complete any of the foregoing could not reasonably be expected to have a Material Adverse Effect.

5.9 Name Change. Notify Administrative Agent at least thirty (30) days prior to the effective date of any change of its name, and prior to such effective date the Borrowers shall have executed any required amended or new UCC financing statements and other documents necessary to maintain and continue the perfected security interests of Administrative Agent and Lender in all of the Collateral and shall have taken such other actions and executed such documents as Administrative Agent shall reasonably require.

5.10 Fees. The Borrowers agree to pay to McLarty Capital Advisors SBIC, LLC, (i) the Closing Fee on the Closing Date, which Closing Fee shall be fully earned on the Closing Date (and once paid shall be non-refundable) and (ii) commensurate with the funding of any Delayed Draw Term Loan (which shall be made with the approval of the Administrative Agent in its sole discretion), (x) an underwriting fee on the date of such funding (the "Delayed Draw Funding Date") in an amount equal to 2.0% of the Delayed Draw Term Loan funded on such date (the "DDTL Underwriting Fee") and (y) an application fee on such Delayed Draw Funding Date in an amount equal to 0.5% of the Delayed Draw Term Loan funded on such date (the "DDTL Application Fee", together with the DDTL Underwriting Fee, the "Delayed Draw Fee"), which Delayed Draw Fee shall be fully earned on such Delayed Draw Funding Date (and once paid shall be non-refundable).

5.11 Other Amounts Deemed Term Loans. If the Borrowers fail to pay any tax, assessment, governmental charge or levy or to maintain insurance within the time permitted or required by this Agreement, or to discharge any Lien prohibited hereby, or to comply with any other obligation, Administrative Agent or Lender may, but shall not be obligated to, pay, satisfy, discharge or bond the same for the account of the Borrowers, and to the extent permitted by law and at the option of Administrative Agent or Lender, all monies so paid by Administrative Agent or Lender (as applicable) on behalf of the Borrowers shall be deemed Obligations unless any such tax, assessment or governmental charge is being disputed in good faith by appropriate proceedings.

5.12 OFAC, PATRIOT Act Compliance. Refrain from doing business in a Sanctioned Country or with a Sanctioned Person in violation of the economic sanctions of the United States administered by OFAC, and (b) provide, to the extent commercially reasonable, such information and take such actions as are reasonably requested by Administrative Agent in order to assist Administrative Agent in maintaining compliance with the PATRIOT Act.

5.13 Key Man Policy Proceeds. Upon receipt of the proceeds of the Key Man Policy, promptly (and in any case within three (3) business days) (i) prepay and permanently reduce the Senior Debt (as defined in the Fifth Third Intercreditor Agreement) in an amount equal to \$2,500,000, (ii) offer to prepay the Obligations (as further set forth in the Notes) in an amount equal to \$2,500,000 and (iii) make the Key Man Dividend.

5.14 Financial Covenants. Maintain, for the periods set forth below, fully and timely comply with each and every one of the financial covenants set forth in this Section 5.14 and other applicable provisions of this Agreement and Security Documents.

(a) [Reserved].

(b) [Reserved].

(c) Funded Debt to EBITDA Ratio. A Funded Debt to EBITDA Ratio of no more than 4.25 to 1.00 as of the last day of the fiscal quarter tested beginning with the quarter ending December 31, 2015 and concluding with the fiscal quarter ending June 30, 2016.

(d) Funded Debt to EBITDA Ratio. A Funded Debt to EBITDA Ratio of no more than 4.125 to 1.00 as of the last day of the fiscal quarter tested beginning with the fiscal quarter ending September 30, 2016 and concluding with the fiscal quarter ending December 31, 2016.

(e) Funded Debt to EBITDA Ratio. A Funded Debt to EBITDA Ratio of no more than 4.00 to 1.00 as of the last day of the fiscal quarter tested beginning with the fiscal quarter ending March 31, 2017 and concluding with the fiscal quarter ending December 31, 2017.

(f) Funded Debt to EBITDA Ratio. A Funded Debt to EBITDA Ratio of no more than 3.875 to 1.00 as of the last day of the fiscal quarter tested beginning with the fiscal quarter ending March 31, 2018 and concluding with the fiscal quarter ending December 31, 2018.

(g) Funded Debt to EBITDA Ratio. A Funded Debt to EBITDA Ratio of no more than 3.750 to 1.00 as of the last day of the fiscal quarter tested beginning with the fiscal quarter ending March 31, 2019.

(h) Fixed Charge Coverage Ratio. A Fixed Charge Coverage Ratio as of the last day of each fiscal quarter tested to be greater than or equal to 1.10 to 1.00, beginning with the quarter ending December 31, 2015 and concluding with the fiscal quarter ending on December 31, 2016.

(i) Fixed Charge Coverage Ratio. A Fixed Charge Coverage Ratio as of the last day of each fiscal quarter tested to be greater than or equal to 1.150 to 1.00, beginning with the quarter ending March 31, 2017.

5.15 Further Assurances. Execute, acknowledge and deliver, or cause to be executed, acknowledged or delivered, any and all such further assurances and other agreements or instruments, and take or cause to be taken all such other action, as shall be reasonably necessary from time to time to give full effect to the Credit Documents and the transactions contemplated thereby.

5.16 Senior Credit Enhancements. If Fifth Third, or its successor under the Senior Credit Agreement, receives any additional guaranty, letter of credit, or any other credit enhancement after the Closing Date, cause the same to be granted to Administrative Agent and Lender, subject to the terms of the Fifth Third Intercreditor Agreement.

5.17 SBA. Provide to Administrative Agent all closing certificates, corporate documents, evidence of authorization, forms and information required by the SBA, including without limitation SBA Forms 480, 652 and 1031, Part A and other agreements, instruments and documents in respect of any aspect or consequence of the transactions contemplated hereby as Administrative Agent may reasonably request, all of which shall be in form and substance reasonably satisfactory to the Agent.

5.18 SBA Information. Within one hundred twenty (120) days after the end of the fiscal year of each Borrower, respectively, furnish or cause to be furnished to Administrative Agent information required by the SBA concerning the economic impact of Lender's Term Loans, for (or as of the end of) each fiscal year, including but not limited to, information concerning full-time equivalent employees; Federal, state and local income taxes paid; gross revenue; source of revenue growth; after-tax profit or loss; and Federal, state and local income tax withholding. Such information shall be forwarded by each of the Borrowers, respectively, on a form provided by Administrative Agent, if Administrative Agent so requests. The Borrowers will also furnish or cause to be furnished to Administrative Agent such other information regarding the business, affairs and condition of the Borrowers as Administrative Agent may from time to time reasonably request; provided, however, that unfettered access to trade secrets and confidential proprietary information will not be provided.

5.19 Meetings; Board Observer Rights. CFR will permit McLarty to elect to have one representative present (whether in person or by telephone) in an observer capacity at all meetings of its Board and any committee meetings thereof (the "Observer"). Observer shall have all rights at such meetings as a member of each such Board or a member of any committee thereof, as applicable, other than the right to vote. CFR shall send to Observer all of the notices, information and other materials that are distributed to its Board or any committee thereof, as applicable, and shall provide Observer with a notice and agenda of each meeting of such Board and any committee thereof all at the same time and in the same manner as such notices, agenda, information and other materials are provided to the members of the Board or any committee thereof. Borrowers shall reimburse McLarty for the reasonable expenses (including travel expenses) incurred by Observer in attending such meetings. CFR shall cause meetings of each Board to be held no less frequently than quarterly with at least one such meeting in each fiscal year to be held in person. Any meeting of the CFR's Board or any committee may be held telephonically or by other means permitted by applicable law, at the sole discretion of its Board. Notwithstanding anything in this Agreement to the contrary, CFR reserves the right to exclude Observer from access to any material or meeting or portion thereof if and to the extent that (x) CFR reasonably believes or has been advised by counsel that such exclusion is reasonably necessary to preserve attorney-client privilege with respect to any matter for which an adverse effect on any such Person could result if such privilege is not preserved, (y) such material, meeting or portion thereof relates to the Administrative Agent, Lender, the Credit Documents, the Senior Credit Documents (or the lenders thereunder), any Default or Event of Default under the Credit Documents or in each case, the equivalent under the Senior Credit Documents, any proprietary information or trade secrets of the Borrowers, or any proposed or contemplated material transaction (including any proposed merger or acquisition, material disposition of assets or sale of Borrowers, or any restructuring transaction) or (x) in the reasonable belief of the board of directors (or equivalent body, as applicable), is not appropriate to be discussed in the presence of Observer in order to avoid a breach of fiduciary responsibilities or a conflict of interest on the part of such observer, then such issue may be discussed without Observer being present.

5.20 Key Man Insurance. Borrowers shall obtain key man life insurance on the Permitted Holder in the amount of \$10,000,000 on terms and from an insurer satisfactory to the Administrative Agent (the "Key Man Policy"). The Borrowers shall cause at least \$2,500,000 of the proceeds of such key man life insurance policy to be collaterally assigned to Administrative Agent pursuant to an assignment agreement reasonably satisfactory to Administrative Agent and remain in effect until the Obligations are paid in full in cash and performed in their entirety. Administrative Agent agrees and acknowledges that Administrative Agent shall only make a claim for death benefit proceeds against such Key Man Policy for the lesser of (i) \$2,500,000 and (ii) the balance of the Obligations due to Lender; and upon receipt thereof Administrative Agent shall apply such applicable amount in satisfaction of the Obligations. In the event that Administrative Agent at any time receives any proceeds in excess of the applicable amount referenced in the previous sentence (the "Excess Key Man Proceeds"), Administrative Agent shall segregate and hold such Excess Key Man Proceeds in trust for Borrowers and promptly upon receipt (and in any event within five (5) Business Days following receipt) remit all such Excess Key Man Proceeds, including any cash, checks and instruments, duly endorsed or with duly executed instruments of transfer, to Borrowers. In the event Borrowers fail to provide Administrative Agent with evidence of the insurance coverage required by this Agreement, Administrative Agent may purchase insurance at Borrowers' expense upon the advanced written notice to the Borrowers. This insurance may, but need not, protect Borrowers' interests. Borrowers may later cancel any insurance purchased by Administrative Agent, but only after providing Administrative Agent with advanced written evidence that Borrowers have obtained insurance as required by this Agreement. If Administrative Agent purchases insurance, Borrower will be responsible for the costs of that insurance, including interest and other charges imposed by Administrative Agent in connection with the placement of the insurance, until the effective date of the cancellation or expiration of the insurance. The costs of the insurance may be added to the Obligations. The costs of the insurance may be more than the cost of insurance Borrowers are able to obtain on their own.

5.21 Post-Closing Obligations. The Borrowers shall deliver to Administrative Agent the items set forth on Schedule 5.21 within the time periods set forth in such schedule (which may be extended by the Administrative Agent in its sole discretion).

ARTICLE VI
NEGATIVE COVENANTS

Until payment in full of all Obligations of the Borrowers to Administrative Agent and Lender, no Borrower shall, without the express prior written approval of Administrative Agent or Lender:

6.1 Merger; Dispositions of Assets. (a) Recapitalize its equity structure in any manner adverse to the Administrative Agent and Lender, (b) merge or consolidate with any Person (other than a Borrower upon reasonable advance notice to Administrative Agent), (c) amend or change its articles of organization or other incorporation document, as applicable (excluding any amendment to effectuate a name change in accordance with Section 5.9 above or in a manner that does not negatively impact Lender), (d) amend or change its bylaws or similar governing document in a manner that negatively impacts Lender, or (e) sell, lease, transfer or otherwise dispose of, or grant any person an option to acquire, or sell and leaseback, more than \$500,000 of its assets in any fiscal year, whether now owned or hereafter acquired, except for bona fide sales of inventory in the ordinary course of business and dispositions of property which is obsolete and not used or useful in its business.

6.2 Indebtedness. Directly or indirectly issue, assume, create, incur or suffer to exist any Indebtedness except for: (i) Indebtedness of the Borrower in favor of Administrative Agent or Lender incurred under this Agreement and the other Credit Documents; (ii) Indebtedness secured by Permitted Liens; (iii) Subordinated Debt to shareholders of any Borrower; (iv) Indebtedness of the Borrower under Rate Management Agreements (as defined in the Senior Credit Agreement) entered into in connection with the Senior Credit Agreement or in the ordinary course of business to manage existing or anticipated interest rate or foreign currency risks and not for speculative purposes; (v) capital leases for vehicles; (vi) other capital leases and purchase money indebtedness in an amount not to exceed \$862,500 at any time outstanding; (vii) Indebtedness incurred by Borrower to the extent of adjustment of purchase price or similar obligations, or guaranty, letter of credit, surety bond, appeal bonds or performance bond obligations; (viii) Indebtedness of Borrower in respect of netting services, overdraft protections and otherwise in connection with deposit accounts in the ordinary course of business; (ix) guaranties incurred in the ordinary course of business of the obligations of suppliers, customers, franchisees, lessors and licensees of Borrower; (x) Indebtedness under the Seller Note and (xi) Indebtedness under the Leeds Put Right.

6.3 Liens and Encumbrances. Create, assume or suffer to exist any Lien in or on the Collateral, except for (collectively, the "Permitted Liens"): (i) Liens in favor of Administrative Agent created by or otherwise existing under or in connection with this Agreement and the other Credit Documents; (ii) Liens imposed by mandatory provisions of law of carriers, warehousemen, mechanics and materialmen incurred in the ordinary course of business for sums not yet due and payable; (iii) Liens for current taxes, assessments or other governmental charges that are not delinquent or remain payable without any penalty or that are being contested in good faith and with due diligence by appropriate proceedings, provided that all such liens in the aggregate have no reasonable likelihood of causing a Material Adverse Effect and, if requested by Administrative Agent, the Borrower has established reserves satisfactory to Administrative Agent with respect thereto; (iv) all licenses, restrictions, charges and encumbrances on title that do not secure monetary obligations and do not materially impair the use of the Collateral for its intended purposes or the value thereof; and (v) liens securing the Senior Debt; (vi) liens securing capital leases and purchase money Indebtedness permitted under Section 6.2; (vii) carriers', warehousemen's, mechanics', materialmen's, repairmen's or other like Liens arising in the ordinary course of business which are not overdue for a period of more than thirty (30) days or which are being contested in good faith and by appropriate proceedings diligently conducted, if adequate reserves with respect thereto are maintained on the books of the applicable person; (viii) pledges or deposits in the ordinary course of business in connection with workers' compensation, unemployment insurance and other social security legislation; (ix) deposits to secure the performance of bids, trade contracts and leases (other than Indebtedness), statutory obligations, surety bonds (other than bonds related to judgments or litigation), performance bonds and other obligations of a like nature incurred in the ordinary course of business; (x) easements, rights-of-way, restrictions and other similar encumbrances affecting real property which, in the aggregate, are not substantial in amount, and which do not in any case materially detract from the value of the property subject thereto or materially interfere with the ordinary conduct of the business of the applicable person; (xi) liens securing judgments for the payment of money not constituting an Event of Default or securing appeal or other surety bonds related to such judgments; and (x) non-exclusive outbound licenses of patents, copyrights, trademarks and other

intellectual property rights granted by any Borrower in the ordinary course of business and not interfering in any respect with the ordinary conduct of or materially detracting from the value of the business of such Borrower.

6.4 Restricted Investments. Purchase, own, invest in or otherwise acquire, directly or indirectly, any stock, evidence of Indebtedness, all or substantially all of the assets of, or other obligation or security or any interest whatsoever in any other Person, or make or permit to exist any loans, advances or extensions of credit to, or any investment in cash or by delivery of property in, any Person (collectively, "Investments"), except for (i) Investments of the Borrower under Rate Management Agreements (as defined in the Senior Credit Agreement) entered into in connection with the Senior Credit Agreement or in the ordinary course of business to manage existing or anticipated interest rate or foreign currency risks and not for speculative purposes; (ii) Investments in a Borrower; (iii) Investments held by Borrower in the form of cash or cash equivalents; (iv) Investments consisting of extensions of credit in the nature of accounts receivable or notes receivable arising from the grant of trade credit in the ordinary course of business, and investments received in satisfaction or partial satisfaction thereof from financially troubled account debtors to the extent reasonably necessary in order to prevent or limit loss, and Investments in the form of deposits, prepayments and other credits to suppliers made in the ordinary course of business and consistent with past practice; (vii) bank deposits in the ordinary course of business; (viii) the Permitted Acquisition and (ix) Investments by a Borrower in another Borrower.

6.5 Restricted Payments. Directly or indirectly, declare or make any dividend payment, or make any other distribution of cash, property or assets, in respect of any of its Capital Stock, or purchase, redeem, retire or otherwise acquire for value any shares of its Capital Stock, or set aside funds for any of the foregoing; provided however that, a Borrower shall be permitted to (i) make annual tax distributions to another Borrower in such amounts to cover any income tax liabilities that such Borrower owes directly to a taxing authority resulting from such Borrower's ownership in the other Borrower (ii) make dividends to the shareholders of CFR, ratably among them, with the proceeds of the Key Man Policy in an amount not to exceed \$5,000,000, plus, in the Borrowers' sole discretion, any Excess Key Man Proceeds (as defined herein and under the Senior Credit Agreement) (the "Key Man Dividend").

6.6 Subordinated Debt. Except as otherwise set forth herein or without Administrative Agent's prior written consent, Borrower shall not incur Subordinated Debt or make any payments in respect of any Subordinated Debt or amend any provision contained in any documentation relating to the Subordinated Debt; unless such incurrence, payment or amendment is subject to and permitted under the terms of a subordination agreement with the Administrative Agent, which shall be in form and substance satisfactory to Administrative Agent.

6.7 Transactions With Related Persons. Directly or indirectly make any loan or advance to, or purchase, assume or guarantee any Indebtedness to or from, any of its officers, directors, stockholders or Affiliates, or to or from any member of the immediate family of any of its officers, directors, stockholders or Affiliates, or subcontract any operations to any Affiliate, except for travel or other reasonable expense advances to employees in the ordinary course of business; or enter into any transaction with any Affiliate, except pursuant to the reasonable requirements of the business of such Affiliate and on terms no more favorable to such Affiliate than those that such Affiliate would obtain in a comparable arms-length transaction with a Person not an Affiliate of the Borrower, transactions among the Borrowers, and those transactions set forth on Schedule 6.7. Notwithstanding the foregoing, Borrower shall be permitted to make management fee payments upon the prior written consent of Administrative Agent so long as no Event of Default has occurred and is continuing and the making of any such payments will not result in the occurrence of an Event of Default.

6.8 Sale-Leaseback Transactions. Directly or indirectly, become or remain liable as lessee or as guarantor or other surety with respect to any lease, whether an operating lease or a capital lease, of any property (whether real, personal or mixed, and whether now owned or hereafter acquired) (i) that the Borrower has sold or transferred (or are to sell or transfer) to a Person that is not a party to this Agreement or any of the Credit Documents or (ii) that Borrower intends to use for substantially the same purpose as any other property that, in connection with such lease, has been sold or transferred (or is to be sold or transferred) by the Borrower to another Person that is not a party to this Agreement or any of the Credit Documents, in each case except for transactions otherwise expressly permitted under this Agreement.

6.9 Certain Amendments. (a) Amend, modify or waive, or permit the amendment, modification or waiver of, any material provision of any material contract in a manner which materially and adversely affects Administrative Agent's or Lender's rights or interest under the Credit Documents; or (b) amend, modify or change any provision of its certificate of formation, operating agreement or other applicable formation or organizational documents, as applicable, the terms of any class or series of its Capital Stock, or any agreement among the holders of its Capital Stock or any of them.

6.10 Limitation on Certain Restrictions. Directly or indirectly, create or otherwise cause or suffer to exist or become effective any restriction or encumbrance on the ability of the Borrower to perform and comply with its obligations under the Credit Documents.

6.11 No Other Negative Pledges. Enter into or suffer to exist any agreement or restriction that, directly or indirectly, prohibits or conditions the creation, incurrence or assumption of any Lien upon or with respect to any part of its property or assets, whether now owned or hereafter acquired, or agree to do any of the foregoing, except for such agreements or restrictions existing under or by reason of (i) this Agreement and the other Credit Documents, (ii) applicable Requirements of Law, (iii) any agreement or instrument creating a Permitted Lien (but only to the extent such agreement or restriction applies to the assets subject to such Permitted Lien), (iv) customary provisions in leases and licenses of real or personal property entered into by the Borrower as lessee or licensee in the ordinary course of business, restricting the granting of Liens therein or in property that is the subject thereof (v) customary restrictions and conditions contained in any agreement relating to the sale of assets pending such sale, provided that such restrictions and conditions apply only to the assets being sold and (vi) nonconsensual restrictions imposed by operation of law.

6.12 Partnerships. Become a partner or joint venturer in any partnership or joint venture.

6.13 Subsidiaries. Create or acquire any Subsidiary or divest itself of any material assets by transferring them to any Subsidiary.

6.14 Lines of Business. Engage in any business other than the business in which it is currently engaged or a business reasonably related thereto, or make any material change in its business objectives.

6.15 Fiscal Year. Change its fiscal year or its method of determining fiscal quarters.

6.16 Accounting Changes. Make or permit any material change in its accounting policies unless it promptly notifies Administrative Agent of such change and the impact such change will have on the financial statements that are required to be delivered hereunder.

6.17 Amendments to Senior Credit Documents. Agree to any modification to or amendment, consent or waiver with respect to, any Senior Debt or any Senior Credit Document that would violate the terms of the Fifth Third Intercreditor Agreement.

6.18 Acquisition of Senior Debt. Purchase or otherwise acquire, or permit any Borrower or any Affiliate thereof to purchase or otherwise acquire, directly or indirectly, any of the outstanding Senior Debt. The Borrowers and their Affiliates will promptly cancel all Senior Debt acquired by them pursuant to any purchase or acquisition thereof, and no Senior Debt may be issued in substitution or exchange for any such cancelled Senior Debt. For the avoidance of doubt, this Section 6.18 is not intended and shall not prevent Borrowers from making (a) regularly scheduled payments of principal and interest pursuant to the Senior Credit Documents, or (b) any prepayments of the Senior Debt not otherwise prohibited by this Agreement or the Fifth Third Intercreditor Agreement.

6.19 Antilayering. Create or incur any Indebtedness (other than the Obligations) which is subordinated or junior in right of payment to the Senior Debt, unless such Indebtedness is also subordinated or junior in right of payment, in the same manner and to the same extent, to the Obligations.

ARTICLE VII

EVENTS OF DEFAULT; REMEDIES

7.1 Events of Default. The occurrence of any one or more of the following events shall constitute an Event of Default hereunder:

(a) The Borrowers shall fail to pay when due, subject to any cure periods, any principal amount or any interest, fees or other charges payable under this Agreement, any Note or under any other Credit Document and such failure continues for a period of five (5) days from the date due;

(b) The Borrowers shall fail to observe or perform any covenant, restriction or agreement contained in Sections 5.1, 5.2 and 5.3 of this Agreement;

(c) The Borrowers shall fail to observe or perform any covenant, restriction or agreement contained in this Agreement or any Credit Document and not described in Sections 7.1(a) or (b) above for thirty (30) days after the earlier of any Borrower (i) obtaining knowledge of such failure, or (ii) receiving written notice of such failure from Administrative Agent or Lender.

(d) Any representation, warranty, certification or statement made or deemed made by the Borrowers in Article IV of this Agreement, in any other Credit Document or in any certificate, financial statement or other document delivered pursuant to this Agreement or any other Credit Document shall prove to have been incorrect in any material respect when made or deemed made;

(e) The occurrence and continuance of any default or event of default on the part of the Borrowers (including specifically, but without limitation, defaults due to non-payment) under the terms of any agreement, document or instrument pursuant to which the Borrowers have incurred any Indebtedness with a principal amount outstanding in excess of \$200,000, which default would permit acceleration of such indebtedness;

(f) The occurrence and continuance of (i) nonpayment by the Borrowers of any Rate Management Obligation (as defined in the Senior Credit Agreement) when due or the breach by the Borrowers of any term, provision or condition contained in any Rate Management Agreement (as defined in the Senior Credit Agreement), or (ii) any breach or default under other agreement between the Borrowers and Lender and/or Administrative Agent (or Borrowers and Fifth Third) for thirty (30) days after the earlier of the Borrowers (x) obtaining knowledge of such failure, or (y) receiving written notice of such failure from Lender or Administrative Agent (or Fifth Third) which could reasonably be expected to result in a termination payment in excess of \$200,000;

(g) Any Security Document to which the Borrowers are now or hereafter a party shall for any reason cease to be in full force and effect or cease to be effective to give Administrative Agent a valid and perfected security interest in and Lien upon a material portion of the collateral purported to be covered thereby, subject to no Liens other than Permitted Liens, in each case unless any such cessation occurs in accordance with the terms thereof or is due to any act or failure to act on the part of Administrative Agent or Lender; or the Borrowers shall assert any of the foregoing;

(h) A Borrower (i) files a petition for relief under the Bankruptcy Code or any other insolvency law or seeking to adjudicate it bankrupt or insolvent, or seeking dissolution, winding up, liquidation, reorganization, arrangement, adjustment or composition of it or its debts under any law relating to bankruptcy, insolvency or reorganization or relief of debtors or fails to file an answer or other pleading denying the material allegations of any such proceeding filed against it, (ii) takes any corporate action to authorize or effect any of the foregoing actions, (iii) generally fails to pay, or admits in writing its inability to pay, its debts as such debts become due; (iv) shall apply for, seek or consent to, or acquiesce in, the appointment of a custodian, receiver, trustee, examiner, liquidator or similar official for it or for any material portion of its assets; (v) benefits from or is subject to the entry of an order for relief under any bankruptcy or insolvency law; or (vi) makes an assignment for the benefit of creditors;

(i) Failure of a Borrower within sixty (60) days after the commencement of any proceeding against it seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any present or future statute, law or regulation, to have such proceeding dismissed, or to have all orders or proceedings thereunder affecting the operations or the business of the Borrower stayed, or failure of the Borrower within sixty (60) days after the appointment, without its consent or acquiescence, of any custodian, receiver trustee, examiner, liquidator or similar official for it or for any material portion of its assets, to have such appointment vacated;

(j) A Borrower ceases to be Solvent, or ceases to conduct its business substantially as now conducted or is enjoined, restrained or in any way prevented by court order from conducting all or any material part of its business affairs;

(k) The entry of one or more judgments or orders for the payment of money against a Borrower in excess of \$200,000 in the aggregate outstanding at any time and such judgment(s) or order(s) shall continue unsatisfied and unstayed for a period of thirty (30) days or the issuance of a writ of execution, attachment or similar process against a Borrower which shall not be dismissed, stayed, discharged or bonded within thirty (30) days after the Borrower acquires knowledge thereof; or

(l) Any Borrower shall (i) engage in any "prohibited transaction" as defined in ERISA, (ii) incur any "accumulated funding deficiency" as defined in ERISA that could reasonably be expected to result in liability in excess of \$200,000, (iii) incur any "reportable event" as defined in ERISA that could reasonably be expected to result in liability in excess of \$200,000, (iv) terminate any "plan", as defined in ERISA that could reasonably be expected to result in liability in excess of \$200,000 or (v) become involved in any proceeding in which the Pension Benefit Guaranty Corporation shall seek appointment, or is appointed, as trustee or administrator of any "plan", as defined in ERISA, and with respect this Section 7.1(k), such event or condition either (x) remains uncured for a period of thirty (30) days from date of occurrence and (y) could, in Administrative Agent's reasonable business judgment, subject any Borrower to any tax, penalty or other liability having a Material Adverse Effect.

7.2 Remedies. Upon the occurrence and during the continuance of any Event of Default:

(a) Acceleration of Indebtedness. Administrative Agent may, or at the direction of Required Lenders shall, (i) declare all or any part of a Term Loan immediately due and payable, whereupon such Term Loan shall become immediately due and payable without presentment, demand, protest, notice or legal process of any kind, all of which are hereby expressly waived by the Borrowers; provided, however, that the Term Loans shall automatically become due and payable upon the occurrence of an Event of Default under Sections 7.1(h) or (l); and (ii) pursue all other remedies available to it by contract, at law or in equity, including but not limited to its rights under the Security Documents.

(b) Right of Set-off. Lender may, and is hereby authorized by the Borrowers, at any time and from time to time, to the fullest extent permitted by applicable laws, without advance notice to the Borrowers (any such notice being expressly waived by the Borrowers), set off and apply any and all deposits (general or special, time or demand, provisional or final) at any time held and any other Indebtedness at any time owing by Lender or any of its Affiliates to or for the credit or the account of the Borrowers against any or all of the Obligations of the Borrowers under this Agreement or the other Credit Documents now or hereafter existing, whether or not such obligations have matured. Lender agrees promptly to notify the Borrowers after any such set-off or application; provided, however, that the failure to give such notice shall not affect the validity of such set-off and application.

(c) Rights and Remedies Cumulative; Non-Waiver; etc. The enumeration of Administrative Agent's and Lender's rights and remedies set forth in this Agreement is not intended to be exhaustive and the exercise by Administrative Agent or Lender of any right or remedy shall not preclude the exercise of any other rights or remedies, all of which shall be cumulative, and shall be in addition to any other right or remedy given hereunder, under the other Credit Documents or under any other agreement between the Borrowers and Lender and/or Administrative Agent or that may now or hereafter exist in law or in equity or by suit or otherwise. No delay or failure to take action on the part of Lender or Administrative Agent in exercising any right, power or privilege shall operate as a waiver thereof, nor shall any single or partial exercise of any such right, power or privilege preclude other or further exercise thereof or the exercise of any other right, power or privilege or shall be construed to be a

waiver of any Event of Default. No course of dealing between the Borrowers and Lender and/or Administrative Agent or their agents or employees shall be effective to change, modify or discharge any provision of this Agreement or any of the other Credit Documents or to constitute a waiver of any Event of Default.

ARTICLE VIII

MISCELLANEOUS

8.1 Costs and Expenses. The Borrowers agree to pay on demand all reasonable out-of-pocket expenses of Lender and Administrative Agent, including reasonable fees and disbursements of counsel, incurred in connection with: (i) the preparation, execution, delivery, and filing, if required of this Agreement and the other Credit Documents, (ii) any amendments, supplements, consents or waivers hereto or to the Credit Documents, and (iii) the administration or enforcement of this Agreement and the other Credit Documents. It is the intention of the parties hereto that the Borrowers shall pay amounts referred to in this Section directly. In the event Administrative Agent or Lender pays any of the amounts referred to in this Section directly, the Borrowers will reimburse Administrative Agent or Lender (as applicable) for such advances and interest on such advance shall accrue until reimbursed at the Default Rate.

8.2 Indemnification. From and at all times after the date of this Agreement, and in addition to all of Administrative Agent's and Lender's other rights and remedies against the Borrowers, the Borrowers agree to indemnify, defend and hold harmless Administrative Agent, Lender and each of their respective directors, officers, employees, agents, successors, assigns, advisors, representatives and affiliates from and against any and all claims (whether valid or not), losses, damages, actions, suits, inquiries, investigations, administrative proceedings, judgments, liens, liabilities, penalties, fines, amounts paid in settlement, requirements of Governmental Authorities, punitive damages, interest, damages to natural resources and the environment and other costs and expenses of any kind or nature whatsoever (including without limitation reasonable attorneys' fees and expenses, court costs and fees, investigations, and consultant and expert witness fees and expenses actually incurred) (collectively "Costs") arising in any manner, directly or indirectly, out of or by reason of: (a) the negotiation, preparation, execution or performance of this Agreement or the other Credit Documents, or any transaction contemplated herein or therein, whether or not Administrative Agent, Lender or any other party protected under this Section is a party to any action, proceeding or suit in question, or the target of any inquiry or investigation in question, (b) any breach of any of the covenants, warranties or representations of the Borrowers hereunder or under any other Credit Document, (c) any lien or charge upon amounts payable hereunder by the Borrowers to Administrative Agent or Lender or any taxes, assessments, impositions and other charges in respect of the Collateral described in the Security Documents, (d) damage to property or any injury to or death of any person that may be occasioned by any cause whatsoever pertaining to any such Collateral or the use thereof, (e) any violation or alleged violation of any Environmental Law, federal or state securities law, common law, equitable requirement or other legal requirement by the Borrowers or with respect to any property owned, leased or operated by the Borrowers (in the past, currently or in the future), or (f) any presence, generation, treatment, storage, disposal, transport, movement, release, suspected release or threatened release of any Hazardous Material on, in, to or from any property (or any part thereof including without limitation the soil and groundwater thereon and thereunder) owned, leased or operated by the Borrowers (in the past, currently or in the future); provided, however, that such indemnity shall not, as to any indemnified party, be available to the extent such liability results from the willful misconduct or gross negligence of such indemnified party (as finally determined by a court of competent jurisdiction). All Costs shall be additional Obligations of the Borrowers under this Agreement, shall be payable on demand to the party to be indemnified, and shall be secured by the lien of the Security Documents. Without limiting the foregoing, the Borrowers shall be obligated to pay, on demand, the costs of any investigation, monitoring, assessment, enforcement, removal, remediation, restoration or other response or corrective action undertaken by Administrative Agent or Lender or any other indemnified party, or their respective agents, with respect to any property owned, leased or operated by the Borrowers. It is expressly understood and agreed that the obligations of the Borrowers under this Section shall not be limited to any extent by payment of the Obligations and termination of this Agreement and shall remain in full force and effect until expressly terminated by Administrative Agent and Lender in writing.

8.3 Consent to Jurisdiction; Waiver of Jury Trial. AS PART OF THE CONSIDERATION FOR NEW VALUE THIS DAY RECEIVED, THE BORROWERS HEREBY CONSENT TO THE NONEXCLUSIVE JURISDICTION OF ANY STATE OR FEDERAL COURT SITTING WITHIN THE

STATE OF NEW YORK FOR ANY ACTION TO WHICH THE BORROWERS AND LENDER OR ADMINISTRATIVE AGENT ARE PARTIES. TO THE EXTENT PERMITTED BY LAW, THE BORROWERS WAIVE TRIAL BY JURY AND WAIVES ANY OBJECTION WHICH IT MAY HAVE BASED ON LACK OF JURISDICTION OR IMPROPER VENUE OR *FORUM NON CONVENIENS* TO THE CONDUCT OF ANY ACTION INSTITUTED HEREUNDER OR UNDER ANY OF THE OTHER CREDIT DOCUMENTS, OR ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT OR ANY OF THE OTHER CREDIT DOCUMENTS, OR ANY OTHER PROCEEDING TO WHICH ADMINISTRATIVE AGENT OR LENDER IS A PARTY, INCLUDING ANY ACTIONS BASED UPON, ARISING OUT OF OR IN CONNECTION WITH ANY COURSE OF CONDUCT, COURSE OF DEALING OR STATEMENT (WHETHER ORAL OR WRITTEN) OR ACTIONS OF ADMINISTRATIVE AGENT OR LENDER OR THE BORROWERS. THE BORROWERS ALSO CONSENT TO THE GRANTING OF SUCH LEGAL OR EQUITABLE RELIEF AS IS DEEMED APPROPRIATE BY THE COURT. NOTHING IN THIS SECTION SHALL AFFECT THE RIGHT OF ADMINISTRATIVE AGENT OR LENDER TO BRING ANY ACTION OR PROCEEDING AGAINST THE BORROWERS IN THE COURTS OF ANY OTHER JURISDICTION THAT HAS JURISDICTION OVER THE BORROWERS.

8.4 Notices. All demands, notices, approvals, consents, requests, and other communications hereunder shall be in writing and shall be deemed to have been given when the writing is delivered, if given or delivered by hand or overnight delivery service, or five (5) days after being mailed, if mailed, by first class, registered or certified mail, postage prepaid, to the address or telecopy number set forth below:

<u>Party</u>	<u>Address</u>
Borrowers	410 E. Washington Street Greenville, S.C. 29601 Attention: President Telecopier No.: []
Lender or Administrative Agent	McLarty Capital Partners SBIC, L.P. 1345 Avenue of the Americas, 27 th Floor New York, NY 10105 Attn: Christopher D. Smith, President & Managing Principal Telecopier No.: (212) 956-1066

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

Proskauer Rose LLP
One International Place
Boston, MA 02110
Attn: Sabrina Rusnak-Carlson
Telecopier No. (617) 526-9899

The Borrowers, Administrative Agent or Lender may, by notice given hereunder, designate any further or different addresses or telecopy numbers to which subsequent demands, notices, approvals, consents, requests or other communications shall be sent or persons to whose attention the same shall be directed.

8.5 Continuing Obligations. All agreements, representations and warranties contained herein or made in writing by or on behalf of the Borrowers in connection with the transactions contemplated hereby shall survive the execution and delivery of this Agreement and the other Credit Documents. The Borrowers further agree that to the extent the Borrowers make a payment to Administrative Agent or Lender, which payment or any part thereof is subsequently invalidated, declared to be fraudulent or preferential, set aside or required to be repaid to a trustee, receiver or any other party under any bankruptcy, insolvency or other similar state or federal statute, or principle of equity, then, to the extent of such repayment by Administrative Agent or Lender, the Obligation or part thereof intended to be satisfied by such payment shall be revived and continued in full force and effect as if such payment had not been received by Administrative Agent or Lender.

8.6 Controlling Law. This Agreement has been executed, delivered and accepted at, and shall be deemed to have been made in, the State of New York and shall be interpreted in accordance with the internal laws (as opposed to conflicts of laws provisions) of the State of New York.

8.7 Successors and Assigns. This Agreement shall be binding upon the Borrowers and their successors and assigns and all rights against the Borrowers arising under this Agreement shall be for the sole benefit of Administrative Agent and Lender.

8.8 Assignment and Sale. The Borrowers may not sell, assign or transfer this Agreement or any of the other Credit Documents or any portion hereof or thereof, including without limitation the Borrowers' rights, title, interests, remedies, powers, and duties hereunder or thereunder. Nothing in this Agreement or any other Credit Document shall prohibit Lender from pledging, participating or assigning this Agreement (and the Term Loans hereunder) and Lender's rights under any of the other Credit Documents, including Collateral therefor; provided that, McLarty shall not, without the prior written consent of the Borrowers, make any assignment or assignments the result of which would cause McLarty and its Affiliates to no longer constitute Required Lenders (unless an Event of Default exists, in which case no such consent shall be required).

8.9 Entire Agreement. **THIS AGREEMENT AND THE DOCUMENTS AND INSTRUMENTS EXECUTED AND DELIVERED CONTEMPORANEOUSLY HERewith EMBODY THE ENTIRE AGREEMENT AND UNDERSTANDING BETWEEN THE PARTIES HERETO AND SUPERSEDE ALL PRIOR AGREEMENTS AND UNDERSTANDINGS OF SUCH PERSONS, VERBAL OR WRITTEN, RELATING TO THE SUBJECT MATTER HEREOF. THIS AGREEMENT AND THE DOCUMENTS AND INSTRUMENTS EXECUTED IN CONNECTION HERewith REPRESENT THE FINAL AGREEMENT BETWEEN THE PARTIES AND MAY NOT BE CONTRADICTED BY PRIOR, CONTEMPORANEOUS OR SUBSEQUENT ORAL AGREEMENTS OF THE PARTIES. THERE ARE NO UNWRITTEN ORAL AGREEMENTS BETWEEN THE PARTIES.**

8.10 Amendment. Any provision of this Agreement or any other Credit Document to which the Borrowers are a party may be amended if such amendment is in writing and is signed by the Borrowers, Administrative Agent and Required Lenders. In connection with any amendment entered into in accordance with this Section, the Borrowers shall pay to McLarty a fee to be negotiated between the Borrowers and McLarty. Payment of such fee by the Borrowers to McLarty shall be a condition precedent to the effectiveness of such amendment and shall be due on the date such amendment is signed by McLarty.

8.11 Severability. In the event that any provision of this Agreement shall be determined to be invalid or unenforceable by any court of competent jurisdiction, such determination shall not invalidate or render unenforceable any other provision hereof.

8.12 Counterparts. This Agreement may be executed in several counterparts, each of which shall be an original and all of which, together shall constitute but one and the same instrument. Delivery of an executed counterpart by telecopy or other electronic transmission (including via "PDF") shall be as effective as delivery of an originally executed counterpart.

8.13 Captions. The captions to the various sections and subsections of this Agreement have been inserted for convenience only and shall not limit or affect any of the terms hereof.

8.14 Register. Administrative Agent shall maintain at its offices in the United States a copy of each assignment and assumption delivered to it and a register for the recordation of the names and addresses of the lenders, and the commitments of, and principal amounts (and stated interest) of the Notes owing to, each Lender pursuant to the terms hereof from time to time (the "Register"). The entries in the Register shall be conclusive absent manifest error, and the Borrowers and the Lender shall treat each Person whose name is recorded in the Register pursuant to the terms hereof as a lender hereunder for all purposes of this Agreement. The Register shall be available for inspection by Lender, at any reasonable time and from time to time upon reasonable prior notice.

ARTICLE IX

ADMINISTRATIVE AGENT

9.1 Appointment; Nature of Relationship. McLarty is hereby appointed by Lender as the initial Administrative Agent hereunder. McLarty accepts such appointment subject to the terms and conditions of this Agreement. Lender agrees that Administrative Agent shall serve as its contractual representative hereunder and under each other Credit Document, and Lender irrevocably authorizes Administrative Agent to act as the contractual representative of Lender with the rights and duties expressly set forth in this Agreement and the other Credit Documents. Any provision to the contrary contained elsewhere in this Agreement or in any other Credit Document notwithstanding, Administrative Agent shall not have any duties or responsibilities, except those expressly set forth herein, nor shall Administrative Agent have or be deemed to have any fiduciary relationship with Lender, and no implied covenants, functions, responsibilities, duties, obligations or liabilities shall be read into this Agreement or any other Credit Document or otherwise exist against Administrative Agent; it being expressly understood and agreed that the use of the word "Administrative Agent" is for convenience only, that McLarty (or any successor Administrative Agent) is merely the representative of the Lender, and only has the contractual duties set forth herein. Except as expressly otherwise provided in this Agreement, Administrative Agent shall have and may use its sole discretion with respect to exercising or refraining from exercising any discretionary rights or taking or refraining from taking any actions that Administrative Agent expressly is entitled to take or assert under or pursuant to this Agreement and the other Credit Documents. Without limiting the generality of the foregoing, or of any other provision of the Credit Documents that provides rights or powers to Administrative Agent, Lender agrees that Administrative Agent shall have the right to exercise the following powers as long as this Agreement remains in effect: (a) maintain, in accordance with its customary business practices, ledgers and records reflecting the status of the Obligations, the Collateral, and related matters, (b) execute or file any and all financing or similar statements or notices, amendments, renewals, supplements, documents, instruments, proofs of claim, notices and other written agreements with respect to the Credit Documents, and (c) perform, exercise, and enforce any and all other rights and remedies of the Lender with respect to Borrowers, the Obligations, the Collateral, or otherwise related to any of same as provided in the Credit Documents. Lender hereby agrees to assert no claim against Administrative Agent on any agency theory or any other theory of liability for breach of fiduciary duty, all of which claims Lender hereby waives. The provisions of this Section 9 are solely for the benefit of Administrative Agent and Lender, and none of Borrowers, any guarantor or any other Person shall have any rights as a third party beneficiary of any of the provisions hereof.

9.2 Ownership and Possession of Credit Documents. Lender acknowledges that it has received and approved the form of all of the Credit Documents. Administrative Agent will hold in its possession, at its office (or at the office of a custodian of Administrative Agent if required by applicable law or deemed convenient by Administrative Agent), or at such other location as Administrative Agent designates in writing to Lender, the Credit Documents and will keep and maintain complete records of all material matters pertaining to the Obligations. Upon reasonable prior notice to Administrative Agent by Lender, such files and records will be made available to Lender and its representatives and agents, at the above-described location, for inspection and copying during normal business hours. Administrative Agent will deliver copies of the executed Credit Documents to Lender within a reasonable time after the Closing Date.

9.3 Powers. Administrative Agent shall have and may exercise such powers under the Credit Documents as are specifically delegated to Administrative Agent by the terms of each thereof, together with such powers as are reasonably incidental thereto. Administrative Agent shall have no implied duties to Lender, or any obligation to Lender to take any action thereunder except any action specifically provided by the Credit Documents to be taken by Administrative Agent.

9.4 General Immunity. Neither Administrative Agent nor any of its directors, officers, agents or employees shall be liable to Borrowers or Lender for any action taken or omitted to be taken by it or them hereunder or under any other Credit Document or in connection herewith or therewith except to the extent such action or inaction is determined in a final non-appealable judgment by a court of competent jurisdiction to have arisen from the gross negligence or willful misconduct of Administrative Agent or other such Person.

9.5 No Responsibility for Loans, Recitals, Etc. Neither Administrative Agent nor any of its directors, officers, agents or employees shall be responsible for or have any duty to ascertain, inquire into, or verify: (a) any statement, warranty or representation made in connection with any Credit Document or any borrowing hereunder; (b) the performance or observance of any of the covenants or agreements of any obligor under any Credit Document, including any agreement by an obligor to furnish information directly to Lender; (c) the satisfaction of any condition specified in Section 3, except receipt of items required to be delivered solely to Administrative Agent; (d) the existence or possible existence of any Event of Default or any Default; (e) the validity, enforceability, effectiveness, sufficiency or genuineness of any Credit Document or any other instrument or writing furnished in connection therewith; (f) the value, sufficiency, creation, perfection or priority of any lien in any Collateral; or (g) the financial condition of Borrowers or any guarantors or of any of any Borrower's or any guarantor's respective Affiliates. Administrative Agent shall have no duty to disclose to Lender information that is not required to be furnished by Borrowers to Administrative Agent, but is voluntarily furnished by Borrowers to Administrative Agent (either in its capacity as Administrative Agent or in its individual capacity). Administrative Agent shall not have any duty to the Lender to inspect the Collateral (including the books and records of Borrowers or any guarantor). Administrative Agent shall not have any duty to monitor the financial condition of Borrowers or guarantors.

9.6 Action on Instructions of Lenders. Administrative Agent shall in all cases be fully protected in acting, or in refraining from acting, hereunder and under any other Credit Document in accordance with written instructions signed by the Required Lenders, and such instructions and any action taken or failure to act pursuant thereto shall be binding on the Lender. The Lender hereby acknowledges that Administrative Agent shall be under no duty to take any discretionary action permitted to be taken by it pursuant to the provisions of this Agreement or any other Credit Document unless it shall be requested in writing to do so by the Required Lenders. Administrative Agent shall be fully justified in failing or refusing to take any action hereunder and under any other Credit Document unless it shall first be indemnified to its satisfaction by Lender, pro rata based upon their pro rata share (if applicable) against any and all liability, cost and expense that it may incur by reason of taking or continuing to take any such action. Notwithstanding anything in this Agreement to the contrary, Administrative Agent shall not be required to take any action which exposes Administrative Agent to personal liability or which is contrary to this Agreement or any other Credit Documents. Only the Administrative Agent or its designee shall take any actions pursuant to Section 7.2 hereof or any similar section regarding the enforcement of remedies pursuant to any of the Credit Document.

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

9.8 Reliance on Documents; Counsel. Administrative Agent shall be entitled to rely, and shall be fully protected in relying, upon any writing, resolution, notice, consent, certificate, affidavit, letter, email, telefacsimile or other electronic method of transmission, telex or telephone message, statement or other document or conversation believed by it to be genuine and correct and to have been signed, sent, or made by the proper Person or Persons, and upon advice and statements of legal counsel (including counsel to Borrowers or counsel to Lender), independent accountants and other experts selected by Administrative Agent. Administrative Agent shall be fully justified in failing or refusing to take any action under this Agreement or any other Credit Document unless Administrative Agent shall first receive such advice or concurrence of the Lender as it deems appropriate and until such instructions are received, Administrative Agent shall act, or refrain from acting, as it deems advisable. If Administrative Agent so requests, it shall first be indemnified to its reasonable satisfaction by the Lender against any and all liability and expense that may be incurred by it by reason of taking or continuing to take any such action. Administrative Agent shall in all cases be fully protected in acting, or in refraining from acting, under this Agreement or any other Credit Document in accordance with a request or consent of the Lender and such request and any action taken or failure to act pursuant thereto shall be binding upon the Lender.

9.9 Administrative Agent's Reimbursement and Indemnification. Lender agrees to reimburse, defend, indemnify Administrative Agent and hold Administrative Agent harmless from and against: (a) any amounts not

reimbursed by Borrowers for which Administrative Agent is entitled to reimbursement by Borrowers under the Credit Documents; (b) any other costs or expenses incurred by Administrative Agent on behalf of the Lender, in connection with (i) the preparation, execution, delivery, administration and enforcement of the Credit Documents, and (ii) the protection of the Collateral; and (c) any liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements of any kind and nature whatsoever which may be imposed on, incurred by or asserted against Administrative Agent in any way relating to or arising out of (i) the Credit Documents or any other document delivered in connection therewith or the transactions contemplated thereby, (ii) the protection of the Collateral, or (iii) the enforcement of any of the terms of the Credit Documents or of any such other documents (in each case, including any such amounts incurred by or asserted against Administrative Agent in connection with any dispute between Administrative Agent and Lender or among the Lender); provided that Lender shall not be liable for any of the foregoing to the extent any of the foregoing is found in a final non-appealable judgment by a court of competent jurisdiction to have resulted from the gross negligence or willful misconduct of Administrative Agent. The obligations of the Lender under this Section 9.9 shall survive payment and performance of the Obligations and the termination of this Agreement. All payments under this indemnity shall be made to Administrative Agent within ten (10) business days after any demand for such payment that is accompanied by a description of the amounts so payable.

9.10 Rights as a Lender. In the event Administrative Agent is also a Lender, Administrative Agent shall have the same rights and powers hereunder and under any other Credit Document as Lender, and the approval and other rights of the Lender as Lender and may exercise the same as though it were not Administrative Agent.

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

9.12 Successor Administrative Agent. Administrative Agent may resign at any time by giving written notice thereof to the Lender and Borrower, such resignation to be effective upon the appointment of a successor Administrative Agent or, if no successor Administrative Agent has been appointed, forty-five (45) days after the retiring Administrative Agent gives notice of its intention to resign. Administrative Agent may be removed at any time with or without cause by written notice received by Administrative Agent from the Required Lenders, such removal to be effective on the date specified by the Required Lenders. Upon any such resignation or removal, the Required Lenders shall have the right to appoint, on behalf of Borrowers and the Lender, a successor Administrative Agent. If no successor Administrative Agent shall have been so appointed by the Required Lenders within thirty days after the resigning Administrative Agent's giving notice of its intention to resign, then the resigning Administrative Agent may appoint, on behalf of Borrowers and the Lender, a successor Administrative Agent. Notwithstanding the previous sentence, Administrative Agent may at any time without the consent of Borrowers or Lender, appoint any of its Affiliates as a successor Administrative Agent hereunder. If Administrative Agent has resigned or been removed and no successor Administrative Agent has been appointed, the Lender may perform all the duties of Administrative Agent hereunder and Borrowers shall make all payments in respect of the Obligations to the Lender (to the extent Borrowers are not already making such payments directly to each Lender) and for all other purposes shall deal directly with the Lender. No Administrative Agent shall be deemed to be appointed hereunder until such Administrative Agent has accepted the appointment. Upon the acceptance of any appointment as Administrative Agent hereunder by a successor Administrative Agent, such successor Administrative Agent shall thereupon succeed to and become vested with all the rights, powers, privileges and duties of the resigning or removed Administrative Agent. Upon the effectiveness of the resignation or removal of Administrative Agent, the resigning or removed Administrative Agent shall be discharged from its duties and obligations hereunder and under the Credit Documents. After the effectiveness of the resignation or removal of an Administrative Agent, the provisions of this Section 9 shall continue in effect for the benefit of such Administrative Agent in respect of any actions taken or omitted to be taken by it while it was acting as Administrative Agent hereunder and under the other Credit Documents.

9.13 Delegation to Affiliates. Each Borrower and Lender agree that Administrative Agent may delegate any of its duties under this Agreement to any of its affiliates. Any such affiliate (and such affiliate's directors, officers, agents and employees) which performs duties in connection with this Agreement shall be entitled to the same benefits of the indemnification, waiver and other protective provisions to which Administrative Agent is entitled under this Agreement.

9.14 Execution of Collateral Documents; Releases. Lender hereby empowers and authorizes Administrative Agent to execute and deliver to Borrowers on its behalf the security agreement(s) and all related financing statements and any financing statements, agreements, documents or instruments as shall be necessary or appropriate to effect the purposes of this Agreement and the other Credit Documents. Lender hereby empowers and authorizes Administrative Agent to execute and deliver to Borrowers on their behalf any agreements, documents or instruments as shall be necessary or appropriate to effect any releases of Collateral which shall be permitted or required by, or approved under, the terms of this Agreement or of any other Credit Document.

9.15 Agency for Perfection. Administrative Agent hereby appoints Lender as its agent (and Lender hereby accepts such appointment) for the purpose of perfecting Administrative Agent's Liens in assets which, in accordance with Article VIII or Article IX, as applicable, of the UCC (as defined in the Security Agreement) can be perfected by possession or control. Should Lender obtain possession or control of any such Collateral, Lender shall notify Administrative Agent thereof, and, promptly upon Administrative Agent's request therefor shall deliver possession or control of such Collateral to Administrative Agent or in accordance with Administrative Agent's instructions.

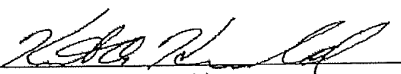
9.16 Several Obligations; No Liability. Notwithstanding that certain of the Credit Documents now or hereafter may have been or will be executed only by or in favor of Administrative Agent in its capacity as such, and not by or in favor of the Lender, any and all obligations on the part of Administrative Agent (if any) to make any credit available hereunder shall constitute the several (and not joint) obligations of the Lender to make such credit available. Nothing contained herein shall confer upon Lender any interest in, or subject Lender to any liability for, or in respect of, the business, assets, profits, losses, or liabilities of any other Lender. Each Lender shall be solely responsible for notifying its participants of any matters relating to the Credit Documents to the extent any such notice may be required, and no Lender shall have any obligation, duty, or liability to any participant of any other Lender. No Lender shall have any liability for the acts of any other Lender. No Lender shall be responsible to Borrowers or any other Person for any failure by any other Lender to fulfill its obligations to make credit available hereunder, nor to advance for it or on its behalf in connection with its commitment, nor to take any other action on its behalf hereunder or in connection with the financing contemplated herein.

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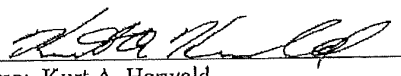
IN WITNESS WHEREOF, the parties hereto have caused this Credit Agreement to be duly executed and delivered by their respective duly authorized officers as of the date first above written.

BORROWERS:

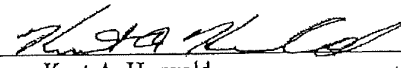
**COMMERCIAL FOODSERVICE REPAIR,
INC.**

By: 
Name: Kurt A. Herwald
Title: President

FT ACQUISITION, LLC

By: 
Name: Kurt A. Herwald
Title: President

FOODSERVICE TECHNOLOGIES, INC.

By: 
Name: Kurt A. Herwald
Title: President

[Signature Page to Credit Agreement]

ADMINISTRATIVE AGENT AND LENDER:

MCLARTY CAPITAL PARTNERS SBIC, L.P.

By: CD Smith
Name: Christopher D. Smith
Title: President and Managing Partner

[Signature Page to Credit Agreement]

EXHIBIT A

FORM OF NOTICE OF BORROWING

McLarty Capital Partners SBIC, L.P.
40 West 57th Street, 20th Floor
New York, NY 10019
Attn: Christopher D. Smith, President & Managing Principal
Telecopier No.: (212) 956-1066
Email: csmith@mcclartycapital.com

Ladies and Gentlemen:

The undersigned, Commercial Foodservice Repair, Inc., a South Carolina corporation, FT Acquisition, LLC, a South Carolina limited liability company, and Foodservice Technologies, Inc., a Virginia corporation (individually, a "Borrower" and collectively, the "Borrowers"), refer to the Credit Agreement, dated as of November 2, 2015, between the Borrowers, the Lenders party thereto, and McLarty Capital Partners SBIC, L.P., as Administrative Agent (as amended, modified or supplemented from time to time, the "Credit Agreement," the terms defined therein being used herein as therein defined), and, pursuant to Section 3.2(a) of the Credit Agreement, hereby gives you irrevocable notice that the Borrowers request a Borrowing of Delayed Draw Term Loans under the Credit Agreement, and to that end sets forth below the information relating to such Borrowing (the "Proposed Borrowing") as required by Section 3.2(a) of the Credit Agreement:

- (i) The aggregate principal amount of the Proposed Borrowing is [\$_____].
- (ii) The Proposed Borrowing is requested to be made on _____ (the "Borrowing Date").

The Borrowers hereby certify that the following statements are true on and as of the date hereof and will be true on and as of the Borrowing Date:

A. Each of the representations and warranties contained in Article IV of the Credit Agreement and in the other Credit Documents is and will be true and correct in all material respects (except to the extent any such representation or warranty is qualified by materiality, in which case such representation or warranty is and will be true and correct in all respects) on and as of each such date, with the same effect as if made on and as of each such date, both immediately before and after giving effect to the Proposed Borrowing and to the application of the proceeds therefrom (except to the extent any such representation or warranty is expressly stated to have been made as of a specific date, in which case such representation or warranty shall be true and correct in all material respects as of such date); and

B. No Default or Event of Default has occurred and is continuing or would result from the Proposed Borrowing or from the application of the proceeds therefrom.

Very truly yours,

COMMERCIAL FOODSERVICE REPAIR, INC.

By: _____
Name:
Title:

FT ACQUISITION, LLC

By: _____
Name:
Title:

FOODSERVICE TECHNOLOGIES, INC.

By: _____
Name:
Title:

EXHIBIT B

[Form of Closing Date Term Note]

THIS INSTRUMENT IS SUBJECT TO THE TERMS OF A SUBORDINATION AND INTERCREDITOR AGREEMENT DATED AS OF NOVEMBER 2, 2015 IN FAVOR OF FIFTH THIRD BANK, AS AGENT, WHICH AGREEMENT (AS AMENDED IN ACCORDANCE WITH ITS TERMS) IS INCORPORATED HEREIN BY REFERENCE.

PROMISSORY NOTE

Lender: McLarty Capital Partners SBIC, L.P.

Borrowers: Commercial Foodservice Repair, Inc., FT Acquisition, LLC and Foodservice Technologies, Inc.

Amount: \$10,000,000

Type: Closing Date Term Loan

Date: November 2, 2015

FOR VALUE RECEIVED, COMMERCIAL FOODSERVICE REPAIR, INC., a South Carolina corporation, **FT ACQUISITION, LLC**, a South Carolina limited liability company, and **FOODSERVICE TECHNOLOGIES, INC.**, a Virginia corporation (individually, a "Borrower" and collectively, the "Borrowers"), promise to pay to **MCLARTY CAPITAL PARTNERS SBIC, L.P.** ("Lender"), or order, the principal sum of Ten Million and 00/100ths Dollars (\$10,000,000.00), or so much thereof as shall have been disbursed and remains unpaid, together with interest as set forth in this Note. Payments by Borrowers under this Note will be made as provided in this Note. All payments shall be made to Lender at its office at 40 West 57th Street, 20th Floor, New York, NY 10019 (or at such other place or via wire transfer as Lender may specify) no later than 4:00 p.m. (New York, NY time) on the date any such payment is due and payable.

TERMS

Interest Rates

Except as provided below, prior to maturity of this Note, interest will accrue on the unpaid principal of this Note at an interest rate per annum equal to 12.25% in cash.

All interest payable under this Note will be calculated quarterly and will accrue daily on the basis of the actual number of calendar days elapsed and a year of three hundred sixty (360) calendar days, and shall be paid quarterly in arrears on the 1st day of each fiscal quarter, commencing on January 1, 2016. All accrual rates of interest under this Note will be contract rates of interest, whether a pre-default rate or a default rate, and references to contract rates in any Credit Documents executed and delivered by Borrowers or others to Administrative Agent or Lender in connection with this Note will be to such contract rates.

Payment Terms

Except as provided for below, the Borrowers shall repay Obligations on November 2, 2020 (the "Maturity Date"). In the event that any payment is due on a calendar day that is not a Business Day, then such payment will be due on the next calendar day that is a Business Day.

All such payments shall be made in lawful money of the United States of America, in immediately available funds at the place of payment, without set-off or counterclaim and without reduction for, and

free from, any and all present or future taxes, levies, imposts, duties, fees, charges, deductions, withholdings, restrictions, and conditions of any nature imposed by any government or any political subdivision or taxing authority thereof (but excluding any taxes imposed on or measured by the net income of Lender).

Each payment hereunder shall be applied first to advanced costs, charges and fees, then to accrued interest, and then to principal, if applicable, which will be repaid in inverse chronological order of maturity.

Optional Prepayments

Borrowers may optionally prepay all or part of this Note, subject to the Prepayment Premium, as applicable, at any time without advance notice to Lender, which prepaid amounts shall be applied to the amounts due in reverse order of their due dates.

Mandatory Prepayments

In the event and on each occasion of (1) a Change of Control (if elected by the Lender in accordance with **Section 2.3(b)(ii)** of the Credit Agreement), the Borrowers shall promptly prepay this Note in full, (2) any cash proceeds (all such cash proceeds less any transaction expenses or other expenses paid to a non-affiliated third party being "Net Proceeds") are received by or on behalf of the Borrowers (or any of them) in respect of (i) any sale, transfer or other disposition (including pursuant to a sale and leaseback transaction) of any property or asset of any Borrower in violation of **Section 6.1** of the Credit Agreement, or (ii) the issuance by the Borrower of any (x) Indebtedness in violation of the Credit Agreement or (y) Capital Stock the sole purpose of which is to raise capital and the proceeds of which are not used by the Borrower to fund (or commit to fund, via a legally binding agreement) acquisitions permitted under the Credit Agreement within 180 days of receipt thereof, the Borrowers shall promptly (and in any event within three (3) business days) offer to prepay the Term Loans in an amount equal to 100% of such Net Proceeds or (3) any cash proceeds of the Key Man Policy are received by or on behalf of the Borrowers (or any of them), the Borrower shall promptly (and in any event within three (3) business days) offer to prepay the Term Loans in an amount equal to \$2,500,000, *in each case* of clauses (1) and (2) above, plus the applicable Prepayment Premium, as applicable.

For purposes hereof, "Prepayment Premium" means, with respect to any voluntary or mandatory prepayment described in this Note, including as a result of a Change of Control, whether or not during the existence of an Event of Default and whether before or after acceleration (including after the commencement of an insolvency proceeding):

- a) three percent (3.0%) of the Term Loans to be prepaid, in the case of a prepayment on or prior to the first anniversary of the Closing Date;
- b) two percent (2.0%) of the Term Loans to be prepaid, in the case of a prepayment after the first anniversary of the Closing Date but on or prior to the second anniversary thereof; and
- c) one percent (1.0%) of the Term Loans to be prepaid, in the case of a prepayment after the second anniversary of the Closing Date but prior to the third anniversary thereof.

Borrowers acknowledge that Lender shall suffer damages on account of the early payment of the Term Loans and that the Prepayment Premium is a reasonable calculation of the lost profits of Lender holding the Term Loans in view of the difficulties and impracticality of determining actual damages resulting from prepayment.

Any payment in respect of a mandatory prepayment pursuant to this Note may be declined by Lender without prejudice to Lender's rights hereunder to accept or decline any future payments in respect of any mandatory prepayment. If Lender chooses to decline payment in respect of such mandatory prepayment,

such Lender shall provide written notice thereof to the Administrative Agent and the Borrowers not less than one (1) business day prior to the date of such prepayment. Any such declined proceeds shall be retained by the Borrower.

Supporting Documents

Borrowers, Administrative Agent and Lender entered into a Credit Agreement effective on November 2, 2015 (the "Credit Agreement"). The terms of the Credit Agreement are incorporated into this Note.

This Note is secured by the Security Documents.

Late Charges and Expenses

If any payment is not paid when due (whether by acceleration or otherwise) or within ten (10) days thereafter, Borrowers agree to pay to Lender a late payment fee of 5% of the payment amount, with a minimum fee of \$20.00. While an Event of Default exists, Borrowers agree to pay to Lender a fixed charge of \$25.00, or Borrowers agree that Lender may, upon notice to Borrowers, increase the Interest Rate applicable to the Term Loans evidenced by this Note by two percentage points (2%) (the "Default Rate"), effective as of the date of the occurrence of such Event of Default, whichever is greater. Lender may impose a non-sufficient funds fee for any check that is presented for payment that is returned for any reason. In addition, Lender may charge loan documentation fees as may be reasonably determined by Lender.

Default and Acceleration

Any Event of Default under and as defined in the Credit Agreement will constitute an Event of Default under this Note.

Upon the occurrence and during the continuance of an Event of Default under this Note, (1) the entire unpaid principal balance of this Note and all interest, fees, premiums (including the Prepayment Premium), charges, costs and expenses owing and to be owing under this Note, will, at the option of Administrative Agent or Required Lenders (as detailed in the Credit Agreement) (or, in the event of an Event of Default pursuant to Section 7.1(h) or 7.1(i), automatically), become immediately due and payable, without notice or demand, and (2) Administrative Agent may, or at the direction of Required Lenders shall, both before and after acceleration, exercise any of and all of its other rights and remedies under this Note and the other Credit Documents, as well as any additional rights and remedies it may have at law or in equity. The failure by Administrative Agent or Lender to exercise any of its options will not constitute a waiver of the right to exercise same in the event of any subsequent default.

General Terms

Borrowers waive presentment, demand, protest and notice of dishonor.

Time is of the essence for the performance of all of Borrowers' covenants and agreements set forth in this Note, including its payment obligations under this Note.

The terms of the Credit Agreement and each Security Document will be determinative of when and the conditions under which any of the security interests or liens created by the Credit Agreement or such Security Document will be released or otherwise terminated.

This Note will be governed by the substantive laws of the State of New York, excluding, however, the conflict of law and choice of law provisions thereof. Borrowers submit to the jurisdiction of either the state courts of the jurisdiction whose laws govern this Note, or a United States District Court for any federal district in such jurisdiction, over any action or proceeding arising from or related to this Note; and, Borrowers irrevocably waive the defense of improper venue or an inconvenient forum.

Each provision of this Note will be interpreted in a manner so as to be valid under applicable law, but if any provision of this Note is held invalid under such law by a court or other tribunal of competent jurisdiction, the provision will be ineffective to the extent of such invalidity without invalidating the remainder of such provision or the remaining provisions of this Note, or the application thereof will be in a manner and to an extent permissible under applicable law.

If the rate at which interest accrues under this Note exceeds at any time the maximum contract rate which may be charged to or collected from Borrowers on the Term Loan under applicable law, or if any fees, premiums, charges or costs and expenses assessed against or collected from Borrowers exceed those permitted by law, then *ipso facto* the same will be reduced to the limits prescribed by law; and, if Lender receives any interest, fees, premiums, charges or costs and expenses in excess of any limits prescribed by law, such excess will be applied to the reduction of the principal balance owing under this Note in the inverse order of its maturity, even if not then due, or at the option of Lender, paid to Borrowers.

Borrowers, to the extent permitted by law, waive any right to a trial by jury in any action or proceeding arising from or related to this Note.

This Note will apply to and bind Borrowers' successors and assigns. At any time or times and upon notice to Borrowers or any other person, subject to the provisions of the Credit Agreement, Lender may sell one or more participations in this Note and may assign this Note in whole or in part; and, this Note will apply to, be binding upon and inure to the benefit of each one of and all of Lender's participants, successors and assigns, including any person that may administer or service this Note for any holder of this Note or any participants in this Note. Lender may disclose financial and other information concerning Borrowers and any other person obligated on this Note to any participant or prospective participant, and to any assignee or prospective assignee as long as such person agrees to keep such information confidential.

This Note and the other Credit Documents contain the entire/final agreement between Borrowers, Administrative Agent and Lender relative to the Obligations. Lender will be under no obligation to extend, renew or refinance this Note, or amend, modify or change any provision of this Note. This Note and any of the rights and remedies of any of the parties to this Note may not be changed or waived orally, but only by an agreement in writing signed by the party against whom enforcement of any change or waiver is sought.

Definitions

In this Note: (1) "Borrowers" refers to all signatories of this Note collectively and severally, as the context of this Note requires, and all signatories of this Note will be and the same are jointly and severally liable hereunder; (2) "Term Loan" refers to the term facility evidenced by this Note; (3) "maturity of this Note" refers to the date on which payment of the entire balance of principal then outstanding on this Note becomes due and payable in full, whether the stated Maturity Date, by acceleration or otherwise; (4) "Note" refers to this Promissory Note; (5) "Security Documents" refers to the security documents and supporting obligations which reference that they secure this Note or reference that they secure all obligations of Borrowers to Administrative Agent and Lender, and includes all security documents and supporting obligations shown on Administrative Agent's and Lender's records as being security documents or supporting obligations that secure this Note, whether or not such security documents or supporting obligations correctly or accurately refer to this Note; and (6) any terms defined in the Credit Agreement that are not defined in this Note will have the meanings given thereto in the Credit Agreement, and the rules of construction or rules related to use of terms in the Credit Agreement will apply to this Note.

[Signatures Begin on Following Page]

EXECUTED under SEAL by the undersigned as of the day and year first above stated.

BORROWERS:

COMMERCIAL FOODSERVICE REPAIR, INC.

Witness:

By: _____
Name:
Title:

Print Name: _____

FT ACQUISITION, LLC

Witness:

By: _____
Name:
Title:

Print Name: _____

FOODSERVICE TECHNOLOGIES, INC.

Witness:

By: _____
Name:
Title:

Print Name: _____

EXHIBIT C

[Form of Delayed Draw Term Note]

THIS INSTRUMENT IS SUBJECT TO THE TERMS OF A SUBORDINATION AND INTERCREDITOR AGREEMENT DATED AS OF NOVEMBER 2, 2015 IN FAVOR OF FIFTH THIRD BANK, AS AGENT, WHICH AGREEMENT (AS AMENDED IN ACCORDANCE WITH ITS TERMS) IS INCORPORATED HEREIN BY REFERENCE.

PROMISSORY NOTE

Lender: []

Borrowers: Commercial Foodservice Repair, Inc., FT Acquisition, LLC and Foodservice Technologies, Inc.

Amount: []

Type: Delayed Draw Term Loan

Date: [], 20[]

FOR VALUE RECEIVED, COMMERCIAL FOODSERVICE REPAIR, INC., a South Carolina corporation, FT ACQUISITION, LLC, a South Carolina limited liability company, and FOODSERVICE TECHNOLOGIES, INC., a Virginia corporation (individually, a "Borrower" and collectively, the "Borrowers"), promise to pay to [] ("Lender"), or order, the principal sum of [] Dollars (\$[]), or so much thereof as shall have been disbursed and remains unpaid, together with interest as set forth in this Note. Payments by Borrowers under this Note will be made as provided in this Note. All payments shall be made to Lender at its office at [] (or at such other place or via wire transfer as Lender may specify) no later than 4:00 p.m. (New York, NY time) on the date any such payment is due and payable.

TERMS

Interest Rates

Except as provided below, prior to maturity of this Note, interest will accrue on the unpaid principal of this Note at an interest rate per annum equal to 12.25% in cash.

All interest payable under this Note will be calculated quarterly and will accrue daily on the basis of the actual number of calendar days elapsed and a year of three hundred sixty (360) calendar days, and shall be paid quarterly in arrears on the 1st day of each fiscal quarter, commencing on [], 20[]. All accrual rates of interest under this Note will be contract rates of interest, whether a pre-default rate or a default rate, and references to contract rates in any Credit Documents executed and delivered by Borrowers or others to Administrative Agent or Lender in connection with this Note will be to such contract rates.

Payment Terms

Except as provided for below, the Borrowers shall repay Obligations on November [2], 2020 (the "Maturity Date"). In the event that any payment is due on a calendar day that is not a Business Day, then such payment will be due on the next calendar day that is a Business Day.

All such payments shall be made in lawful money of the United States of America, in immediately available funds at the place of payment, without set-off or counterclaim and without reduction for, and free from, any and all present or future taxes, levies, imposts, duties, fees, charges, deductions,

withholdings, restrictions, and conditions of any nature imposed by any government or any political subdivision or taxing authority thereof (but excluding any taxes imposed on or measured by the net income of Lender).

Each payment hereunder shall be applied first to advanced costs, charges and fees, then to accrued interest, and then to principal, if applicable, which will be repaid in inverse chronological order of maturity.

Optional Prepayments

Borrowers may optionally prepay all or part of this Note, subject to the Prepayment Premium, as applicable, at any time without advance notice to Lender, which prepaid amounts shall be applied to the amounts due in reverse order of their due dates.

Mandatory Prepayments

In the event and on each occasion of (1) a Change of Control (if elected by the Lender in accordance with **Section 2.3(b)(ii)** of the Credit Agreement), the Borrowers shall promptly prepay this Note in full, (2) any cash proceeds (all such cash proceeds less any transaction expenses or other expenses paid to a non-affiliated third party being "Net Proceeds") are received by or on behalf of the Borrowers (or any of them) in respect of (i) any sale, transfer or other disposition (including pursuant to a sale and leaseback transaction) of any property or asset of any Borrower in violation of **Section 6.1** of the Credit Agreement, or (ii) the issuance by the Borrower of any (x) Indebtedness in violation of the Credit Agreement or (y) Capital Stock the sole purpose of which is to raise capital and the proceeds of which are not used by the Borrower to fund (or commit to fund, via a legally binding agreement) acquisitions permitted under the Credit Agreement within 180 days of receipt thereof, the Borrowers shall promptly (and in any event within three (3) business days) offer to prepay the Term Loans in an amount equal to 100% of such Net Proceeds or (3) any cash proceeds of the Key Man Policy are received by or on behalf of the Borrowers (or any of them), the Borrower shall promptly (and in any event within three (3) business days) offer to prepay the Term Loans in an amount equal to \$2,500,000, in each case of clauses (1) and (2) above, plus the applicable Prepayment Premium, as applicable.

For purposes hereof, "Prepayment Premium" means, with respect to any voluntary or mandatory prepayment described in this Note, including as a result of a Change of Control, whether or not during the existence of an Event of Default and whether before or after acceleration (including after the commencement of an insolvency proceeding):

- a) three percent (3.0%) of the Term Loans to be prepaid, in the case of a prepayment on or prior to the first anniversary of the Closing Date;
- b) two percent (2.0%) of the Term Loans to be prepaid, in the case of a prepayment after the first anniversary of the Closing Date but on or prior to the second anniversary thereof; and
- c) one percent (1.0%) of the Term Loans to be prepaid, in the case of a prepayment after the second anniversary of the Closing Date but prior to the third anniversary thereof.

Borrowers acknowledge that Lender shall suffer damages on account of the early payment of the Term Loans and that the Prepayment Premium is a reasonable calculation of the lost profits of Lender holding the Term Loans in view of the difficulties and impracticality of determining actual damages resulting from prepayment.

Any payment in respect of a mandatory prepayment pursuant to this Note may be declined by Lender without prejudice to Lender's rights hereunder to accept or decline any future payments in respect of any mandatory prepayment. If Lender chooses to decline payment in respect of such mandatory prepayment, such Lender shall provide written notice thereof to the Administrative Agent and the Borrowers not less

than one (1) business day prior to the date of such prepayment. Any such declined proceeds shall be retained by the Borrower.

Supporting Documents

Borrowers, Administrative Agent and Lender entered into a Credit Agreement effective on November 2, 2015 (the "Credit Agreement"). The terms of the Credit Agreement are incorporated into this Note.

This Note is secured by the Security Documents.

Late Charges and Expenses

If any payment is not paid when due (whether by acceleration or otherwise) or within ten (10) days thereafter, Borrowers agree to pay to Lender a late payment fee of 5% of the payment amount, with a minimum fee of \$20.00. While an Event of Default exists, Borrowers agree to pay to Lender a fixed charge of \$25.00, or Borrowers agree that Lender may, upon notice to Borrowers, increase the Interest Rate applicable to the Term Loans evidenced by this Note by two percentage points (2%) (the "Default Rate"), effective as of the date of the occurrence of such Event of Default, whichever is greater. Lender may impose a non-sufficient funds fee for any check that is presented for payment that is returned for any reason. In addition, Lender may charge loan documentation fees as may be reasonably determined by Lender.

Default and Acceleration

Any Event of Default under and as defined in the Credit Agreement will constitute an Event of Default under this Note.

Upon the occurrence and during the continuance of an Event of Default under this Note, (1) the entire unpaid principal balance of this Note and all interest, fees, premiums (including the Prepayment Premium), charges, costs and expenses owing and to be owing under this Note, will, at the option of Administrative Agent or Required Lenders (as detailed in the Credit Agreement) (or, in the event of an Event of Default pursuant to Section 7.1(h) or 7.1(i), automatically), become immediately due and payable, without notice or demand, and (2) Administrative Agent may, or at the direction of Required Lenders shall, both before and after acceleration, exercise any of and all of its other rights and remedies under this Note and the other Credit Documents, as well as any additional rights and remedies it may have at law or in equity. The failure by Administrative Agent or Lender to exercise any of its options will not constitute a waiver of the right to exercise same in the event of any subsequent default.

General Terms

Borrowers waive presentment, demand, protest and notice of dishonor.

Time is of the essence for the performance of all of Borrowers' covenants and agreements set forth in this Note, including its payment obligations under this Note.

The terms of the Credit Agreement and each Security Document will be determinative of when and the conditions under which any of the security interests or liens created by the Credit Agreement or such Security Document will be released or otherwise terminated.

This Note will be governed by the substantive laws of the State of New York, excluding, however, the conflict of law and choice of law provisions thereof. Borrowers submit to the jurisdiction of either the state courts of the jurisdiction whose laws govern this Note, or a United States District Court for any federal district in such jurisdiction, over any action or proceeding arising from or related to this Note; and, Borrowers irrevocably waive the defense of improper venue or an inconvenient forum.

Each provision of this Note will be interpreted in a manner so as to be valid under applicable law, but if any provision of this Note is held invalid under such law by a court or other tribunal of competent jurisdiction, the provision will be ineffective to the extent of such invalidity without invalidating the remainder of such provision or the remaining provisions of this Note, or the application thereof will be in a manner and to an extent permissible under applicable law.

If the rate at which interest accrues under this Note exceeds at any time the maximum contract rate which may be charged to or collected from Borrowers on the Term Loan under applicable law, or if any fees, premiums, charges or costs and expenses assessed against or collected from Borrowers exceed those permitted by law, then *ipso facto* the same will be reduced to the limits prescribed by law; and, if Lender receives any interest, fees, premiums, charges or costs and expenses in excess of any limits prescribed by law, such excess will be applied to the reduction of the principal balance owing under this Note in the inverse order of its maturity, even if not then due, or at the option of Lender, paid to Borrowers.

Borrowers, to the extent permitted by law, waive any right to a trial by jury in any action or proceeding arising from or related to this Note.

This Note will apply to and bind Borrowers' successors and assigns. At any time or times and upon notice to Borrowers or any other person, subject to the provisions of the Credit Agreement, Lender may sell one or more participations in this Note and may assign this Note in whole or in part; and, this Note will apply to, be binding upon and inure to the benefit of each one of and all of Lender's participants, successors and assigns, including any person that may administer or service this Note for any holder of this Note or any participants in this Note. Lender may disclose financial and other information concerning Borrowers and any other person obligated on this Note to any participant or prospective participant, and to any assignee or prospective assignee as long as such person agrees to keep such information confidential.

This Note and the other Credit Documents contain the entire/final agreement between Borrowers, Administrative Agent and Lender relative to the Obligations. Lender will be under no obligation to extend, renew or refinance this Note, or amend, modify or change any provision of this Note. This Note and any of the rights and remedies of any of the parties to this Note may not be changed or waived orally, but only by an agreement in writing signed by the party against whom enforcement of any change or waiver is sought.

Definitions

In this Note: (1) "Borrowers" refers to all signatories of this Note collectively and severally, as the context of this Note requires, and all signatories of this Note will be and the same are jointly and severally liable hereunder; (2) "Term Loan" refers to the term facility evidenced by this Note; (3) "maturity of this Note" refers to the date on which payment of the entire balance of principal then outstanding on this Note becomes due and payable in full, whether the stated Maturity Date, by acceleration or otherwise; (4) "Note" refers to this Promissory Note; (5) "Security Documents" refers to the security documents and supporting obligations which reference that they secure this Note or reference that they secure all obligations of Borrowers to Administrative Agent and Lender, and includes all security documents and supporting obligations shown on Administrative Agent's and Lender's records as being security documents or supporting obligations that secure this Note, whether or not such security documents or supporting obligations correctly or accurately refer to this Note; and (6) any terms defined in the Credit Agreement that are not defined in this Note will have the meanings given thereto in the Credit Agreement, and the rules of construction or rules related to use of terms in the Credit Agreement will apply to this Note.

[Signatures Begin on Following Page]

EXECUTED under SEAL by the undersigned as of the day and year first above stated.

BORROWERS:

COMMERCIAL FOODSERVICE REPAIR, INC.

Witness:

By: _____
Name: _____
Title: _____

Print Name: _____

FT ACQUISITION, LLC

Witness:

By: _____
Name: _____
Title: _____

Print Name: _____

FOODSERVICE TECHNOLOGIES, INC.

Witness:

By: _____
Name: _____
Title: _____

Print Name: _____

EXHIBIT D
[EBITDA Addbacks]

Exhibit A

	Detail by Quarter						
	Q3-14	Q4-14	Q1-15	Q2-15	Q3-15	Q4-15	Q1-16
1) Projected through March 2016 - IT/Acquisition	-	-	-	-	-	178,969	178,969
2) Insurance Charge (2014)	-	98,180	-	-	-	-	-
3) Tech Training & Hiring	-	80,000	200,000	57,000	-	-	-
4) Admin Staffing/Alert Billing (2015)	-	158,000	200,000	158,700	114,200	-	-
5) Taxes	-	-	-	-	-	-	-
6) Year End Accruals	90,000	-	-	-	-	-	-
7) Professional Fees	-	-	-	-	-	-	-
8) Capitalized Freight	-	-	-	-	-	-	-
9) Bad Debt Expense	-	-	-	-	-	-	-
10) Out of Period Expenses	-	-	-	-	-	-	-
11) Branch Opening Costs	120,000	-	-	60,000	64,900	-	-
12) Credits in 2015 for 2014	-	-	66,000	-	-	-	-
12) T24 Software	-	-	72,000	-	-	-	-
Total	210,000	336,180	538,000	275,700	179,100	178,969	178,969

Schedule 4.8

Litigation

1. A technician at Service Solutions Group, LLC ("**SSG**"), an employee of TriNet, filed a complaint on July 10, 2015 alleging that SSG's policy of deducting set amounts of time from the beginning and end of a technician's work day is a violation of various U.S. laws. SSG reviewed the complaint and replied to the technician indicating that the practice is legal.
2. Florida Vehicle Accident
 - 5 vehicle accident, involving one Borrower employee,
 - Accident occurred on August 13, 2015 in Orlando, Florida.
 - As of October 26, 2015, no injury has been reported by Borrower's employee.
 - Borrower received notice that a firm has been retained to represent three clients in a claim against Borrower resulting from the accident.

Schedule 4.12

Environmental Compliance

None.

Schedule 4.14

Insurance

Insurer	Policy Number	Type	Coverage Limits	Deductibles	Expiration Date	Special Cancellation Conditions
Hartford Fire Insurance Co.	22UUNZI3025	Property Insurance	\$5,722,000 Personal Property Limit	\$2,500	7/1/2016	
			\$7,675,000 Stock	\$2,500		
			\$2,500,000 Extra Expense Limit			
			\$1,255,000 EDP Limit	\$2,500		
Zurich American Insurance Company	WC-380919	Work Comp	\$1,000,000 Each Accident / \$1,000,000 - Disease - Policy Limit / \$1,000,000 Disease - Each Employee	N/A	7/1/2016	Maximum deductible under the captive lines prior to current acquisition is \$1,205,814.
Travelers Casualty and Surety Company of America	105507282	Directors & Officers Liability	\$1,000,000 for all claims	A - \$0 / B - \$10,000 / C - \$10,000	7/1/2016	
		Employment Practices Liability	\$1,000,000 for all claims	\$25,000		
		Fiduciary Liability	\$1,000,000 for all claims	\$0		
		Crime	Employee Theft - \$250,000	\$2,500		
			ERISA - \$250,000	\$0		
			Forgery or Alteration - \$250,000	\$2,500		
			On Premises - \$250,000	\$2,500		

			In Transit - \$250,000	\$2,500		
			Money Orders and Counterfiet Money - \$250,000	\$2,500		
			Computer Fraud - \$250,000	\$2,500		
			Funds Transfer Fraud - \$250,000	\$2,500		
			Claim Expense - \$5,000	\$0		
		Kidnap and Ransom	Each Insured Event - \$1,000,000	\$0		
Travelers Property Casualty Co of America	ZUP15S95355	Umbrella	\$5,000,000 Each Occurrence / \$5,000,000 General Aggregate / \$5,000,000 Products- Completed Operations Aggregate	\$10,000 Self- Insured Retention	7/1/2016	
Underwriters at Lloyd's	04-7500057344- S-01	Difference in Conditions	\$1,000,000	5%	7/1/2016	720 S Milliken Ave, Ontario, CA 91761 location only.

Zurich American Insurance Company	GLO0380920-00	General Liability	\$1,000,000 Each Occurrence / \$2,000,000 General Aggregate / \$2,000,000 Products - Completed Operations Aggregate / \$1,000,000 Personal and Advertising Injury Limit / \$1,000,000 Damage to Premises Rented to You / Medical Expense Limit \$10,000	\$0	7/1/2016	Maximum deductible under the captive lines prior to current acquisition is \$1,205,814.
		Employee Benefit Liability	\$1,000,000 Aggregate / \$1,000,000 Each Act, Error or Omission Limit	\$1,000		
Zurich American Insurance Company	BAP0380921-00	Automobile	\$1,000,000 Liability / \$5,000 Medical Payments	\$250 Comp / \$500 Collision for Private Passenger Vehicles and Commercial Vehicles (Other than Tractors) // \$2,500 Comp / \$2,500 Collision for Tractors		Maximum deductible under the captive lines prior to current acquisition is \$1,205,814.

Northwestern Mutual	20616543	Key Man Insurance – Kurt Herwald	\$10,000,000 term life coverage			

Schedule 5.21

Post-Closing Obligations

1. Within 30 days of the Closing Date (or such later date as may be agreed to by the Administrative Agent in its sole discretion), the Borrowers shall deliver to the Administrative Agent signed collateral access agreements with respect to the following leased locations of the Borrowers:

- i. 410 E. Washington Street, Greenville, SC 29601;
- ii. 1815 West 1st Avenue, Unit 117, Mesa, AZ 85202;
- iii. 9432 Atlee Commerce Boulevard, Suite E, F, G, Ashland, VA 23005;
- iv. 2545 Lord Baltimore Drive, Suite F, G, Baltimore, MD 21244; and
- v. 2013 New Hope Church Road, Suite G, Raleigh, NC 27064.

2. Within 5 days of the Closing Date (or such later date as may be agreed to by the Administrative Agent in its sole discretion), the Borrowers shall deliver to the Administrative Agent a property insurance endorsement naming Administrative Agent as lenders loss payee, in form and substance satisfactory to the Administrative Agent.

3. Within 5 business day of the Closing Date (or such later date as may be agreed to by the Administrative Agent in its sole discretion), the Borrowers shall deliver to Fifth Third the certificated Pledged Equity.

Schedule 6.7

Transactions with Related Persons

1. Subordinated Promissory Note dated July 28, 2014 in the amount of \$1,000,000 in favor of Richard D. White, as sellers' representative.
2. Lease Agreement dated July 1, 2011 by and between Foodservice Technologies, Inc. and SLR, LLC for the premises located at 534 W. 24th Street, Norfolk, VA 23517. SLR, LLC is owned by Richard D. White, Jean Viteri, Roger Moore, & Russell White.
3. Lease Agreement, dated June 1, 2013, for the premises located at 410 East Washington Street, Greenville, South Carolina from Washington Street Real Estate, LLC which is owned in part by Kurt A. Herwald, Jean Hodges and Derek W. Herwald, Kurt A. Herwald's son.
4. Tech-24 Construction, LLC leases a small amount of space in the Company's Alexandria Office. The Company does business with and for this general contractor from time to time, but nothing significant. The Company has a licensing agreement with this entity for use of Company marks. Tech-24 Construction, LLC is a Virginia limited liability company and an affiliate entity. The majority member is Victor Bonomi (90%). The other members are Richard D. White (10%).
5. SLR, LLC leases property to the Company in Norfolk, Virginia. SLR, LLC is a Virginia limited liability company and affiliate entity. Each of Richard D. White, Jean Carlos Viteri, Russell A. White, and Roger L. Moore own 25% of the membership interests of SLR, LLC.
6. The Borrower intends to enter into a Lease Agreement as soon as possible for the premises located at 424 East Washington Street, Greenville, South Carolina 29601 owned by Washington Street Real Estate, LLC, which is owned in part by Kurt A. Herwald, Jean Hodges and Derek W. Herwald, Kurt A. Herwald's son. The Lease Agreement provides for a term of 5 years, commencing on July 1, 2016, or earlier if the facility is vacated by the current tenant, and terminating on July 1, 2021, or sooner as provided in the Lease Agreement, at the annual rental of Twenty Nine Thousand Four Hundred (\$29,400.00) dollars per year with payments to be made monthly in the amount of \$2,450.00 per month with the payment due on the first (1st) day of each month and payable by the fifth (5th) day thereof (payable in advance). Rent payable under the Lease Agreement shall increase annually by the lower of: i) three percent (3%), or ii) the Consumer Price Index over the rent paid for the previous year on the anniversary of the commencement date of the lease.

THIS INSTRUMENT IS SUBJECT TO THE TERMS OF A SUBORDINATION AND INTERCREDITOR AGREEMENT DATED AS OF NOVEMBER 2, 2015 IN FAVOR OF FIFTH THIRD BANK, AS AGENT, WHICH AGREEMENT (AS AMENDED IN ACCORDANCE WITH ITS TERMS) IS INCORPORATED HEREIN BY REFERENCE.

PROMISSORY NOTE

Lender: McLarty Capital Partners SBIC, L.P.

Borrowers: Commercial Foodservice Repair, Inc., FT Acquisition, LLC and Foodservice Technologies, Inc.

Amount: \$10,000,000

Type: Closing Date Term Loan

Date: November 2, 2015

FOR VALUE RECEIVED, **COMMERCIAL FOODSERVICE REPAIR, INC.**, a South Carolina corporation, **FT ACQUISITION, LLC**, a South Carolina limited liability company, and **FOODSERVICE TECHNOLOGIES, INC.**, a Virginia corporation (individually, a “Borrower” and collectively, the “Borrowers”), promise to pay to **MCLARTY CAPITAL PARTNERS SBIC, L.P.** (“Lender”), or order, the principal sum of Ten Million and 00/100ths Dollars (\$10,000,000.00), or so much thereof as shall have been disbursed and remains unpaid, together with interest as set forth in this Note. Payments by Borrowers under this Note will be made as provided in this Note. All payments shall be made to Lender at its office at 40 West 57th Street, 20th Floor, New York, NY 10019 (or at such other place or via wire transfer as Lender may specify) no later than 4:00 p.m. (New York, NY time) on the date any such payment is due and payable.

TERMS

Interest Rates

Except as provided below, prior to maturity of this Note, interest will accrue on the unpaid principal of this Note at an interest rate per annum equal to 12.25% in cash.

All interest payable under this Note will be calculated quarterly and will accrue daily on the basis of the actual number of calendar days elapsed and a year of three hundred sixty (360) calendar days, and shall be paid quarterly in arrears on the 1st day of each fiscal quarter, commencing on January 1, 2016. All accrual rates of interest under this Note will be contract rates of interest, whether a pre-default rate or a default rate, and references to contract rates in any Credit Documents executed and delivered by Borrowers or others to Administrative Agent or Lender in connection with this Note will be to such contract rates.

Payment Terms

Except as provided for below, the Borrowers shall repay Obligations on November 2, 2020 (the “Maturity Date”). In the event that any payment is due on a calendar day that is not a Business Day, then such payment will be due on the next calendar day that is a Business Day.

All such payments shall be made in lawful money of the United States of America, in immediately available funds at the place of payment, without set-off or counterclaim and without reduction for, and

free from, any and all present or future taxes, levies, imposts, duties, fees, charges, deductions, withholdings, restrictions, and conditions of any nature imposed by any government or any political subdivision or taxing authority thereof (but excluding any taxes imposed on or measured by the net income of Lender).

Each payment hereunder shall be applied first to advanced costs, charges and fees, then to accrued interest, and then to principal, if applicable, which will be repaid in inverse chronological order of maturity.

Optional Prepayments

Borrowers may optionally prepay all or part of this Note, subject to the Prepayment Premium, as applicable, at any time without advance notice to Lender, which prepaid amounts shall be applied to the amounts due in reverse order of their due dates.

Mandatory Prepayments

In the event and on each occasion of (1) a Change of Control (if elected by the Lender in accordance with Section 2.3(b)(ii) of the Credit Agreement), the Borrowers shall promptly prepay this Note in full, (2) any cash proceeds (all such cash proceeds less any transaction expenses or other expenses paid to a non-affiliated third party being "Net Proceeds") are received by or on behalf of the Borrowers (or any of them) in respect of (i) any sale, transfer or other disposition (including pursuant to a sale and leaseback transaction) of any property or asset of any Borrower in violation of Section 6.1 of the Credit Agreement, or (ii) the issuance by the Borrower of any (x) Indebtedness in violation of the Credit Agreement or (y) Capital Stock the sole purpose of which is to raise capital and the proceeds of which are not used by the Borrower to fund (or commit to fund, via a legally binding agreement) acquisitions permitted under the Credit Agreement within 180 days of receipt thereof, the Borrowers shall promptly (and in any event within three (3) business days) offer to prepay the Term Loans in an amount equal to 100% of such Net Proceeds or (3) any cash proceeds of the Key Man Policy are received by or on behalf of the Borrowers (or any of them), the Borrower shall promptly (and in any event within three (3) business days) offer to prepay the Term Loans in an amount equal to \$2,500,000, in each case of clauses (1) and (2) above, plus the applicable Prepayment Premium, as applicable.

For purposes hereof, "Prepayment Premium" means, with respect to any voluntary or mandatory prepayment described in this Note, including as a result of a Change of Control, whether or not during the existence of an Event of Default and whether before or after acceleration (including after the commencement of an insolvency proceeding):

- a) three percent (3.0%) of the Term Loans to be prepaid, in the case of a prepayment on or prior to the first anniversary of the Closing Date;
- b) two percent (2.0%) of the Term Loans to be prepaid, in the case of a prepayment after the first anniversary of the Closing Date but on or prior to the second anniversary thereof; and
- c) one percent (1.0%) of the Term Loans to be prepaid, in the case of a prepayment after the second anniversary of the Closing Date but prior to the third anniversary thereof.

Borrowers acknowledge that Lender shall suffer damages on account of the early payment of the Term Loans and that the Prepayment Premium is a reasonable calculation of the lost profits of Lender holding the Term Loans in view of the difficulties and impracticality of determining actual damages resulting from prepayment.

Any payment in respect of a mandatory prepayment pursuant to this Note may be declined by Lender without prejudice to Lender's rights hereunder to accept or decline any future payments in respect of any mandatory prepayment. If Lender chooses to decline payment in respect of such mandatory prepayment,

such Lender shall provide written notice thereof to the Administrative Agent and the Borrowers not less than one (1) business day prior to the date of such prepayment. Any such declined proceeds shall be retained by the Borrower.

Supporting Documents

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This Note is secured by the Security Documents.

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If any payment is not paid when due (whether by acceleration or otherwise) or within ten (10) days thereafter, Borrowers agree to pay to Lender a late payment fee of 5% of the payment amount, with a minimum fee of \$20.00. While an Event of Default exists, Borrowers agree to pay to Lender a fixed charge of \$25.00, or Borrowers agree that Lender may, upon notice to Borrowers, increase the Interest Rate applicable to the Term Loans evidenced by this Note by two percentage points (2%) (the "Default Rate"), effective as of the date of the occurrence of such Event of Default, whichever is greater. Lender may impose a non-sufficient funds fee for any check that is presented for payment that is returned for any reason. In addition, Lender may charge loan documentation fees as may be reasonably determined by Lender.

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Borrowers waive presentment, demand, protest and notice of dishonor.

Time is of the essence for the performance of all of Borrowers' covenants and agreements set forth in this Note, including its payment obligations under this Note.

The terms of the Credit Agreement and each Security Document will be determinative of when and the conditions under which any of the security interests or liens created by the Credit Agreement or such Security Document will be released or otherwise terminated.

This Note will be governed by the substantive laws of the State of New York, excluding, however, the conflict of law and choice of law provisions thereof. Borrowers submit to the jurisdiction of either the state courts of the jurisdiction whose laws govern this Note, or a United States District Court for any federal district in such jurisdiction, over any action or proceeding arising from or related to this Note; and, Borrowers irrevocably waive the defense of improper venue or an inconvenient forum.

Each provision of this Note will be interpreted in a manner so as to be valid under applicable law, but if any provision of this Note is held invalid under such law by a court or other tribunal of competent jurisdiction, the provision will be ineffective to the extent of such invalidity without invalidating the remainder of such provision or the remaining provisions of this Note, or the application thereof will be in a manner and to an extent permissible under applicable law.

If the rate at which interest accrues under this Note exceeds at any time the maximum contract rate which may be charged to or collected from Borrowers on the Term Loan under applicable law, or if any fees, premiums, charges or costs and expenses assessed against or collected from Borrowers exceed those permitted by law, then *ipso facto* the same will be reduced to the limits prescribed by law; and, if Lender receives any interest, fees, premiums, charges or costs and expenses in excess of any limits prescribed by law, such excess will be applied to the reduction of the principal balance owing under this Note in the inverse order of its maturity, even if not then due, or at the option of Lender, paid to Borrowers.

Borrowers, to the extent permitted by law, waive any right to a trial by jury in any action or proceeding arising from or related to this Note.

This Note will apply to and bind Borrowers' successors and assigns. At any time or times and upon notice to Borrowers or any other person, subject to the provisions of the Credit Agreement, Lender may sell one or more participations in this Note and may assign this Note in whole or in part; and, this Note will apply to, be binding upon and inure to the benefit of each one of and all of Lender's participants, successors and assigns, including any person that may administer or service this Note for any holder of this Note or any participants in this Note. Lender may disclose financial and other information concerning Borrowers and any other person obligated on this Note to any participant or prospective participant, and to any assignee or prospective assignee as long as such person agrees to keep such information confidential.

This Note and the other Credit Documents contain the entire/final agreement between Borrowers, Administrative Agent and Lender relative to the Obligations. Lender will be under no obligation to extend, renew or refinance this Note, or amend, modify or change any provision of this Note. This Note and any of the rights and remedies of any of the parties to this Note may not be changed or waived orally, but only by an agreement in writing signed by the party against whom enforcement of any change or waiver is sought.

Definitions

In this Note: (1) "Borrowers" refers to all signatories of this Note collectively and severally, as the context of this Note requires, and all signatories of this Note will be and the same are jointly and severally liable hereunder; (2) "Term Loan" refers to the term facility evidenced by this Note; (3) "maturity of this Note" refers to the date on which payment of the entire balance of principal then outstanding on this Note becomes due and payable in full, whether the stated Maturity Date, by acceleration or otherwise; (4) "Note" refers to this Promissory Note; (5) "Security Documents" refers to the security documents and supporting obligations which reference that they secure this Note or reference that they secure all obligations of Borrowers to Administrative Agent and Lender, and includes all security documents and supporting obligations shown on Administrative Agent's and Lender's records as being security documents or supporting obligations that secure this Note, whether or not such security documents or supporting obligations correctly or accurately refer to this Note; and (6) any terms defined in the Credit Agreement that are not defined in this Note will have the meanings given thereto in the Credit Agreement, and the rules of construction or rules related to use of terms in the Credit Agreement will apply to this Note.

[Signatures Begin on Following Page]

EXECUTED under SEAL by the undersigned as of the day and year first above stated.

BORROWERS:

**COMMERCIAL FOODSERVICE
REPAIR, INC.**

By: [Signature]
Name: Kurt A. Herwald
Title: President

Witness:

[Signature]
Print Name: Brittany McIsaac

FT ACQUISITION, LLC

By: [Signature]
Name: Kurt A. Herwald
Title: President

Witness:

[Signature]
Print Name: Brittany McIsaac

FOODSERVICE TECHNOLOGIES, INC.

By: [Signature]
Name: Kurt A. Herwald
Title: President

Witness:

[Signature]
Print Name: Brittany McIsaac

[Signature Page to Promissory Note – Closing Date Term Loan]

EXECUTION VERSION

SUBORDINATION AND INTERCREDITOR AGREEMENT

THIS SUBORDINATION AND INTERCREDITOR AGREEMENT (this "Agreement") is made and entered into as of November 2, 2015 by McLarty Capital Advisors SBIC, L.P., a Delaware limited partnership (together with each other Person that may join this Agreement as a Junior Creditor pursuant to Section 24 hereof, are referred to herein, collectively, as "Junior Creditors" and, individually, as a "Junior Creditor"), and in its capacity as agent for Junior Creditors (in such capacity, "Junior Agent"), and Fifth Third Bank, an Ohio banking corporation, in its capacity as the sole lender under the Senior Credit Agreement (in such capacity, together with any other lender that becomes party to the Senior Credit Agreement, "Senior Lender").

RECITALS

A. Concurrently herewith, Obligors (as defined below) and Senior Lender are entering into the Senior Credit Agreement (as defined below) pursuant to which, among other things, Senior Lender has agreed, subject to the terms and conditions set forth in the Senior Credit Agreement, to make certain loans and other extensions of credit to the Borrowers named in the Senior Credit Agreement.

B. Concurrently herewith, Obligors, Junior Creditors and Junior Agent are entering into the Junior Loan Agreement (as defined below) and, pursuant thereto, Borrower will issue a certain Note in the aggregate original principal amount of \$10,000,000 (as amended modified, supplemented or restated from time to time, the "Initial Junior Note").

C. Obligors, Junior Creditors and Junior Agent are entering into this Agreement to, among other things, induce Senior Lender to enter into the Senior Credit Agreement.

NOW, THEREFORE, in consideration of the premises, any loan, advance or other extension of credit now or hereafter made by Senior Lender to Borrowers and the terms and conditions set forth in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto hereby agree as follows:

1. Definitions.

(a) Except as otherwise provided in this Agreement, capitalized terms used herein shall have the meanings set forth in the Senior Credit Agreement (as amended, restated, supplemented, replaced, or otherwise modified from time to time subject to the terms hereof). In addition to the terms defined elsewhere herein, the following terms shall have the following respective meanings:

"Borrowers" shall have the meaning ascribed thereto in the Senior Credit Agreement (as amended, restated, supplemented, replaced, or otherwise modified from time to time subject to the terms hereof).

"Cash Collateralized Senior Debt" means (a) Senior Debt with respect to Letters of Credit, including the amount available to be drawn or which may become available to be drawn on a Letter of Credit and all amounts which have been paid by Senior Lender on a Letter

of Credit to the extent not reimbursed by any Obligor, (b) all Funds Transfer and Deposit Account Liabilities, including reserves for returned or charged-back checks, drafts, automated clearing house entry, electronic transfers of funds or other payment items, and (c) all Hedging Liabilities.

“Code” shall mean the United States Bankruptcy Code, 11 U.S.C. § 101, et seq., as amended and in effect from time to time.

“Collateral” shall mean any and all property and interests in property of any one or more of the Obligors or any other Person which now constitutes or hereafter will constitute collateral or other security for the payment and performance of the Senior Debt or for the payment and performance of the Junior Debt, including any Collateral (as such term is defined in the Senior Credit Agreement as in effect on the date hereof or as amended with the consent of the Junior Agent) and any additional collateral contemplated by the second to last sentence of Section 5(f).

“Collection Action” shall mean (a) to demand, sue for, take or receive from or on behalf of any one or more of Obligors or any guarantor of any Junior Debt, by payment in cash, property, by setoff or in any other manner, the whole or any part of any moneys which may now or hereafter be owing by any one or more of Obligors or any such guarantor with respect to any Junior Debt (excluding receipt of (i) Permitted Payments to the extent not prohibited to be paid and received hereunder and (ii) Non-Blockable Payments), (b) to initiate or participate with others in any suit, action or proceeding against any one or more of Obligors or any guarantor of any Junior Debt to (i) enforce payment of or to collect the whole or any part of the Junior Debt or (ii) enforce (including to commence judicial enforcement) any of the rights and remedies under the Junior Agreements or applicable law with respect to the Junior Debt or the Junior Agreements, (c) to accelerate or otherwise declare due and payable any Junior Debt, (d) to exercise any put or similar option with respect to the Junior Debt or to cause any one or more of Obligors or any guarantor of any Junior Debt to honor any redemption or mandatory prepayment obligation under any Junior Agreement (other than Permitted Payments), (e) to foreclose, execute, levy, or collect on, take possession or control of, sell or otherwise realize upon (judicially or non-judicially), or lease, license or otherwise dispose of (whether publicly or privately), any Collateral, or otherwise exercise or enforce remedial rights with respect to any Collateral at law, in equity or under any Junior Agreement (including by way of setoff, notification of a public or private sale or other disposition pursuant to the UCC or other applicable law, notification to account debtors, notification to depository banks under deposit account control agreements, or exercise of rights under landlord consents, if applicable), (f) to take any action to enforce or foreclose any Lien, take control or possession of or sell or otherwise realize upon any Collateral or any other assets or to exercise any right or remedy, as a secured creditor or otherwise, with respect to any Collateral or any other assets at law, in equity or pursuant to any Junior Agreement, (g) to receive a transfer of any Collateral in full or partial satisfaction of indebtedness or any other obligation secured thereby, (h) to permit third Persons from whom Junior Agent is soliciting bids or has engaged to conduct the liquidation or to value, market, promote or sell the Collateral, to interfere, in any material respect, in the operations or business of the Obligors, (i) to commence (or join with another Person in commencing) any action or proceeding described in clause (e), (f), (g) or (h), (j) to file (or join with others in filing in the absence of a joinder by Senior Lender) any petition to commence any involuntary

Insolvency Proceeding, or (k) to commence or pursue any judicial, arbitral or other proceeding or legal action of any kind seeking injunctive or other equitable relief to prohibit, limit or impair the commencement or pursuit by Senior Lender of any of its rights or remedies with respect to any Collateral under or in connection with the Senior Agreements or otherwise available to Senior Lender under applicable law; *provided* that none of the following actions shall be deemed to be a Collection Action: (1) filing a claim or statement of interest with respect to the Junior Debt, provided that an Insolvency Proceeding has been commenced by or against the Obligors; (2) filing any necessary responsive or defensive pleadings in opposition to any motion, claim, adversary proceeding or other pleading made by any Person objecting to or otherwise seeking the disallowance of the claims for any of the Junior Debt, in each case so long as such filing is in accordance with the terms of this Agreement; (3) taking any action to the extent necessary to prevent the running of any applicable statute of limitation or similar restriction on claims, or to assert a compulsory crossclaim or counterclaim against an Obligor; (4) voting and filing proofs of claim with respect to the Junior Debt in an Insolvency Proceeding, and making other filings, arguments and motions with respect to the Junior Debt in an Insolvency Proceeding that are, in each case in accordance with the terms of this Agreement; (5) making a cash or credit bid for or purchasing Collateral for cash at any private disposition or judicial foreclosure upon such Collateral initiated by Senior Lender, so long as the Senior Debt is Paid in Full with the proceeds of such foreclosure; (6) taking any action (not adverse to the perfection or priority status of the Liens securing the Senior Debt, or the rights of Senior Lender to exercise remedies in respect thereof) in order to create or perfect Junior Agent's or any Junior Creditor's Lien on any of the Collateral; (7) joining (but not controlling) any foreclosure or other Collection Action initiated by Senior Lender so long as it does not delay or interfere with the exercise by Senior Lender of its rights as provided in this Agreement; (8) enforcing the terms of any subordination agreement with respect to any indebtedness or other obligation subordinated to the Junior Debt; or (9) taking any action to seek and obtain specific performance or injunctive relief to compel Obligors to comply with (or not violate or breach) an obligation under the Junior Agreements requiring Obligors to provide information or financial reports to, or permit access or inspection by, Junior Agent or Junior Creditors.

"DIP Financing" shall have the meaning set forth in Section 5(f).

"DIP Liens" shall have the meaning set forth in Section 5(f).

"Disposition" shall mean any abandonment, public or private sale, lease, exchange, transfer or other disposition under the UCC, the Code or otherwise, in each case, with or without notice to the Junior Agent or any Junior Creditor, and "Dispose" and "Disposed of" shall have correlative meanings.

"Distribution" shall mean, with respect to any indebtedness or obligation, (a) any payment or distribution by any Person of cash, securities or other property, by setoff or in any other manner or form, on account of such indebtedness or obligation, or (b) any redemption, purchase or other acquisition of such indebtedness or obligation by any Person.

"Funds Transfer and Deposit Account Liabilities" means the liability of any Obligor owing to Senior Lender arising out of (a) the execution or processing of electronic transfers of funds by automatic clearing house transfer, wire transfer or otherwise to or from

deposit accounts of any Obligor now or hereafter maintained with Senior Lender, (b) the acceptance for deposit or the honoring for payment of any check, draft or other item with respect to any such deposit accounts, (c) any other deposit, disbursements, and cash management services afforded to any Obligor by Senior Lender, and (d) any debit cards and credit cards maintained with Senior Lender *provided* that the amount included in the Funds Transfer and Deposit Account Liabilities pursuant to this clause (d) shall not exceed \$1,000,000.

"Hedging Liability" means the liability of Obligor to any Senior Lender, in respect of any interest rate, foreign currency, and/or commodity swap, exchange, cap, collar, floor, forward, future or option agreement, or any other similar interest rate, currency or commodity hedging arrangement, as such Obligor may from time to time enter into with Senior Lender; *provided* that Hedging Liability shall not include Excluded Swap Obligations.

"Insolvency Proceeding" shall mean any receivership, conservatorship, general meeting of creditors, reorganization, insolvency or bankruptcy proceeding, assignment for the benefit of creditors or any proceeding or action by or against any one or more of Obligors or any guarantor of any Senior Debt for any relief under any bankruptcy or insolvency law or other laws relating to the relief of debtors, readjustment of indebtedness, reorganization, dissolution, liquidation, composition or extension, or the appointment of any receiver, intervenor or conservator of, or trustee, or similar officer for, any one or more of Obligors or any guarantor of any Senior Debt or any substantial part of its or their respective properties or assets, including proceedings under the Code, or under other federal, state or local statute, laws, rules and regulations, all whether now or hereafter in effect.

"Junior Agreements" shall mean the Junior Loan Agreement, the Junior Notes, the Junior Security Agreement, each of the agreements, documents and instruments listed on Schedule A attached hereto, the Credit Documents (as such term is defined in the Junior Loan Agreement as in effect on the date hereof or as amended with the consent of Senior Lender) and all other notes, documents, agreements and instruments entered into by any of the parties to any of the foregoing in connection therewith, including any evidences of or instrument granting or perfection of a Lien (e.g. Uniform Commercial Code financing statements, mortgages, pledge and security agreements, deeds of trust and control agreements), all as originally executed and as amended, modified, supplemented, refinanced or restated from time to time in accordance with the terms of this Agreement.

"Junior Costs and Expenses" shall mean reasonable and documented out-of-pocket costs and expenses (including reasonable and documented out-of-pocket legal fees and expenses) payable by any one or more of Obligors to Junior Agent or any Junior Creditor pursuant to the terms of the Junior Agreements.

"Junior Debt" shall mean all Obligations (as such term is defined in the Junior Loan Agreement as in effect on the date hereof or as amended with the consent of Senior Lender), including all principal, interest (including Post-Petition Interest and interest payable in kind and not in cash) and premium (if any), expenses (including fees and expenses of attorneys, consultants and advisors), fees and other amounts owing or payable by any one or more of Obligors or any guarantor of any Junior Debt to any one or more of Junior Creditors or Junior Agent under any Junior Agreement, whether direct or indirect, absolute or contingent, joint or

several, due or not due, primary or secondary, liquidated or unliquidated, including all principal of, interest on and fees and other charges with respect to all Junior Notes and any costs, expenses or indemnities owed under any Junior Agreement, however evidenced, whether as principal, surety, endorser, guarantor or otherwise, whether now existing or hereafter arising, whether arising before, during or after the initial or any renewal term of the Junior Loan Agreement and whether arising before, during or after the commencement of any Insolvency Proceeding, including all redemption, put price and other amounts payable with respect to all equity interests issued in connection therewith or thereunder.

"Junior Debt Maturity Date" shall mean the date which is not earlier than the first to occur of (a) November 2, 2020, (b) the date that is six months after the Senior Debt is Paid in Full, and (c) the final scheduled maturity date of the Junior Debt, if such earlier date has been expressly consented to in writing by the Senior Lender.

"Junior Default" shall mean the occurrence and continuance of any Default (as such term is defined in the Junior Loan Agreement as in effect on the date hereof or as amended with the consent of Senior Lender).

"Junior Loan Agreement" shall mean that certain Credit Agreement dated as of November 2, 2015 among Obligors, Junior Creditors and Junior Agent, as amended, modified, supplemented, refinanced or restated from time to time in accordance with the terms of this Agreement.

"Junior Notes" shall mean, collectively, the Initial Junior Note and all other promissory notes issued at any time by any Obligor in favor of any one or more of Junior Creditors or Junior Agent, all as amended, modified, supplemented or restated from time to time after the date hereof in accordance with the terms of this Agreement.

"Junior Payment Default" shall mean the occurrence and continuance of a Default under Section 7.1(a) of the Junior Loan Agreement, including any default in payment of Junior Debt after acceleration thereof.

"Junior Security Agreement" shall mean that certain Security Agreement dated as of November 2, 2015 among Obligors and Junior Agent, as amended, modified, supplemented or restated from time to time in accordance with the terms of this Agreement.

"Letter of Credit" shall mean a letter of credit issued by Senior Lender under the Senior Credit Agreement.

"Lien" shall mean any mortgage, deed of trust, pledge, hypothecation, assignment, charge or deposit arrangement, encumbrance, lien (statutory or other) or preference, priority or other security interest or preferential arrangement of any kind or nature whatsoever (including, but not limited to, those created by, arising under or evidenced by any conditional sale or other title retention agreement, the interest of a lessor under a capital lease, any financing lease having substantially the same economic effect as any of the foregoing, or the filing of any financing statement naming the owner of the asset to which such lien relates as debtor, under the Uniform Commercial Code or any comparable law), any contingent or other agreement to provide any of the foregoing, but not including the interest of a lessor under a lease which is not

a capital lease, and, in the case of securities, any purchase option, call or similar right of a third party with respect to such securities.

“Material Portion” shall mean that portion of Collateral of the Obligors, taken as a whole, that, in the aggregate, represents more than thirty percent (30%) of the fair market value of the Collateral of the Obligors, taken as a whole.

“Non-Blockable Payments” shall mean (a) Permitted PIK Payments, (b) payments in the form of Reorganization Securities, (c) payment on the date hereof of closing fees to the Junior Agent and Junior Creditors in aggregate amount agreed to by Senior Lender pursuant to the terms of the Junior Agreements, (d) payment on the date hereof of Junior Costs and Expenses incurred by any one or more of Junior Agent and Junior Creditors in connection with the negotiation, execution and delivery of the Junior Agreements in an aggregate amount agreed to by Senior Lender, and (e) payments of other Junior Costs and Expenses, provided that the aggregate amount of all Junior Costs and Expenses (other than Junior Costs and Expenses described in the foregoing clause (d)) included as Non-Blockable Payments shall not exceed \$100,000 in any calendar year or \$500,000 in the aggregate during the term of this Agreement.

“Obligors” shall mean Commercial Foodservice Repair, Inc., a South Carolina corporation, FT Acquisition, LLC, a South Carolina limited liability company, Foodservice Technologies, Inc., a Virginia corporation, and any other Person who may become liable with respect to any Senior Debt or any Junior Debt, whether as co-maker or co-obligor, guarantor or other surety, or otherwise.

“Other Default” shall mean the occurrence and continuance (after taking into effect any applicable grace periods) of a Senior Default other than a Payment Default.

“Paid in Full” shall mean, with respect to the Senior Debt, such time when (i) the aggregate amount of all Senior Debt (including all Funds Transfer and Deposit Account Liabilities and all Hedging Liabilities, but excluding any Senior Debt Unasserted Contingent Indemnification Claims) has been paid in full in cash or other consideration acceptable to the Senior Lenders, and (ii) all commitments and obligations of Senior Lender to make loans or other extensions of credit under the Senior Agreements have been terminated.

“Payment Default” shall mean the occurrence and continuance of a Default under Section 8.1(a) of the Senior Credit Agreement, where the defaulted amount is \$25,000 or greater, including any default in payment of Senior Debt after acceleration or stated maturity thereof.

“Permitted Payments” shall mean (a) all regularly scheduled payments of cash interest on the outstanding principal amount of the Junior Notes at a rate not to exceed 12.25 per annum (or as amended pursuant to its term of this Agreement or as consented to by Senior Lender), *plus* any increase permitted pursuant to Section 16 hereof as provided in and as when due in accordance with the Junior Loan Agreement as in effect on the date hereof (before giving effect to any acceleration, any required prepayments or any increase in the rate of interest or application of the default rate of interest), (b) payments of Junior Costs and Expenses not constituting a Non-Blockable Payment, (c) payment of principal and other obligations of the Junior Debt on the Junior Debt Maturity Date, (d) catch-up payments of interest comprised of

Permitted Payments made pursuant to Section 4(d), (e) payments of reasonable amendment and waiver fees in connection with the execution of an amendment or waiver permitted hereby, so long as such fees are consistent with any amendment or waiver fees charged by the Senior Lender, (f) mandatory prepayments of the Notes (as defined in the Junior Loan Agreement) set forth in such Notes, to the extent that such mandatory prepayment is waived by Senior Lender and not otherwise applied to permanently reduce the Senior Debt, (g) payment of the Delayed Draw Fee (as defined in the Junior Loan Agreement) and (h) payment of the Closing Fee (as defined in the Junior Loan Agreement).

"Permitted PIK Payments" shall mean the payment in kind, but not in cash, of (a) default interest on the Junior Debt in accordance with, and at the default rates provided in, the Junior Agreements, and (b) interest, fees and other amounts (including Junior Costs and Expenses) on the Junior Debt payable in lieu of cash payments thereof, including the payment in kind, but not in cash, of any such amounts that were prohibited or restricted from being paid in cash under the terms of this Agreement, in each case so long as all such amounts paid in kind are subject to this Agreement, do not require any payments thereon to be made in cash prior to the Junior Debt Maturity Date and otherwise having terms no less favorable to the Obligors than the terms of the Initial Junior Note.

"Permitted Refinancing" shall mean any refinancing of the Senior Debt under the Senior Agreements, *provided* that the financing documentation entered into by the Obligors in connection with such Permitted Refinancing constitute Permitted Refinancing Senior Agreements.

"Permitted Refinancing Senior Agreements" shall mean any financing documentation which replaces the Senior Agreements and pursuant to which the Senior Debt under the Senior Agreements is refinanced, as such financing documentation may, subject to the terms of this Agreement, be amended, supplemented, restated, extended, renewed or otherwise modified from time to time, but specifically excluding any such financing documentation to the extent that it contains, either initially or by amendment or other modification, any terms, conditions, covenants or defaults other than those which (a) then existing in the Senior Agreements or (b) could be included in the Senior Agreements by amendment or other modification that would not be prohibited by the terms of this Agreement.

"Post-Petition Interest" shall mean interest and premium that accrues after the commencement of an Insolvency Proceeding filed by or against any one or more of Obligors, whether or not allowed or allowable as a claim in any such proceeding.

"Reorganization Securities" shall mean (a) debt securities of any Obligor or any of their respective successors as reorganized in an Insolvency Proceeding and (b) equity securities of any Obligor or any other Person provided for by a plan of reorganization in an Insolvency Proceeding, in the case of subsection (a) above that (i) the payment on, of, or with respect to which is subordinated or junior in right of payment and in all other respects (including all provisions relating to amortization and prepayment or, if applicable, redemption or repurchase) to all Senior Debt (or any debt securities issued in substitution of all or any portion of any Senior Debt) to the same or greater extent that the Junior Debt is subordinated to the Senior Debt under this Agreement, (ii) are not secured by a Lien on any assets unless (x) the

Senior Debt (or any debt securities issued in substitution of all or any portion of any Senior Debt) is also secured by a similar Lien on such assets, and (y) the Liens securing such securities are subordinated to the Liens securing the Senior Debt (or any debt securities issued in substitution of all or any portion of any Senior Debt) to the same or greater extent that Junior Agent's Liens on the Collateral are subordinated under this Agreement to Senior Lender's Lien on the Collateral, (iii) do not have the benefit of any obligation of any Person (whether as issuer, co-maker, guarantor or otherwise) unless the Senior Debt (or any debt securities issued in substitution of all or any portion of any Senior Debt) has at least the same benefit of the obligation of such Person and (iv) do not have any terms, and are not subject to or entitled to the benefit of any agreement or instrument that has terms, that are more burdensome to the issuer of, or other obligor on, such debt securities than are the terms of the Junior Debt as in effect on the date hereof, in each case under clauses (i) through (iv) above to the reasonable satisfaction of Senior Lender.

"Senior Agreements" shall mean, collectively, the Senior Credit Agreement, any order or agreement governing DIP Financing under Section 5(f), and each and every note, instrument, security agreement, pledge agreement, guaranty agreement, mortgage, deed of trust, indemnity deed of trust, loan agreement, hypothecation agreement, indemnity agreement, letter of credit application or reimbursement agreement, assignment, agreements evidencing or underlying the Hedging Liabilities in favor of Senior Lender or any Affiliate of Senior Lender, overdraft obligation, currency agreement, currency spot, foreign exchange and forward contract or similar arrangement or agreements providing for the transfer or mitigation of interest or currency risks either generally or under specific contingencies, subordination agreement, or any other document (whether similar or dissimilar to any of the foregoing) heretofore, now or hereafter executed and delivered by any one or more of Obligors or any other Person, singly or jointly with such Person or Persons to or for the benefit of Senior Lender or any Affiliate of Senior Lender, including all Credit Documents, all as originally executed and as amended, modified, supplemented, restated, extended or renewed from time to time and, after the consummation of any Permitted Refinancing, the Permitted Senior Refinancing Agreements.

"Senior Credit Agreement" shall mean that certain Credit Agreement dated as of November 2, 2015 among Obligors and Senior Lender, as from time to time amended, restated, renewed, supplemented or otherwise modified at the option of the parties thereto and, after the consummation of any Permitted Refinancing, the Permitted Senior Refinancing Agreements that constitute the principal credit or facility agreement with respect thereto.

"Senior Debt" shall mean all existing and future (a) Secured Obligations (as defined in the Senior Agreements), (b) principal of and interest on loans (including Post-Petition Interest, interest payable in kind and not in cash and principal of and interest on any DIP Financing under Section 5(f)) and letter of credit obligations (including unmatured, unliquidated, contingent reimbursement or indemnification obligations) payable to Senior Lender, (c) Funds Transfer and Deposit Account Liabilities and Hedging Liabilities, (d) interest rate swap, cap, floor or collar agreements, overdraft obligations, currency agreements, currency spot, foreign exchange and forward contracts or similar arrangements or agreements providing for the transfer or mitigation of interest or currency risks either generally or under specific contingencies, and other extensions of credit under the Senior Agreements, and (e) any and all other costs, fees, indemnifications, damage claims, expenses (including fees and expenses of attorneys,

consultants and advisors) and other amounts payable by any one or more of Obligor under the Senior Agreements or in connection with Funds Transfer and Deposit Account Liabilities; *provided* that without the consent of Junior Agent (i) the principal of the foregoing loans, letter of credit obligations and DIP Financing shall be Senior Debt only to the extent that the aggregate outstanding amount thereof does not exceed the Senior Debt Cap, and (ii) Senior Debt shall not include any interest or fees on the aggregate outstanding principal amount of the foregoing loans, letter of credit obligations and DIP Financing in excess of the Senior Debt Cap.

"Senior Debt Cap" shall mean the sum of (a) \$16,000,000, plus (b) the aggregate amount of all term loans advanced under the Senior Credit Agreement in accordance with Section 2.1(b) thereof (as in effect on the date hereof and without giving effect to any waiver of the terms thereof), *plus* (c) 15% of the aggregate amount of clauses (a) and (b) *minus* (d) the aggregate amount of all payments of principal made from time to time after the date hereof on the term loans under the Senior Credit Agreement, other than any such payments made in connection with a Permitted Refinancing, *minus* (e) the aggregate amount of all payments of principal and commitment reductions made from time to time after the date hereof on the revolving loans under the Senior Credit Agreement, but only to the extent that such payments result in a concomitant permanent reduction of the revolving commitment under the Senior Credit Agreement (other than in connection with a Permitted Refinancing).

"Senior Debt Unasserted Contingent Indemnification Claim" shall mean an obligation comprising Senior Debt that is a contingent indemnification obligation to the extent no claim giving rise thereto has been asserted or is likely to be asserted; *provided, however*, that "Senior Debt Unasserted Contingent Indemnification Claims" shall in any event exclude (a) Hedging Liabilities, (b) principal, interest, fees, attorneys' fees and expenses, (c) contingent indemnification obligations related to Funds Transfer and Deposit Account Liabilities unless Senior Lender is reasonably satisfied that Senior Lender has received satisfactory indemnity for items such as bounced checks and other similar matters that may arise after termination of the Senior Agreements, and (d) any Obligor's contingent obligation to reimburse Senior Lender for any drawing under or other amounts due with respect to a Letter of Credit.

"Senior Default" shall mean the occurrence and continuance of an Event of Default under the Senior Credit Agreement.

"UCC" means the Uniform Commercial Code as the same may be in effect from time to time in the State of New York; *provided* that if, by reason of applicable law, the validity or perfection of any security interest in any Collateral is governed by the UCC as in effect in another jurisdiction, then as to the validity or perfection, as the case may be, of such security interest, "UCC" means the Uniform Commercial Code as in effect from time to time in such other jurisdiction.

(b) Unless otherwise stated or the context clearly requires otherwise: (i) definitions of terms apply equally to the singular and plural forms, (ii) pronouns will include the corresponding masculine, feminine and neuter forms, (iii) "will" and "shall" have the same meaning, (iv) "including" means "including, but not limited to," (v) "A or B" means "A or B or both," (vi) references to a statute refer to the statute and all regulations promulgated under or implementing the statute as in effect at the relevant time and references to a specific provision of

a statute or regulation include successor provisions, (vii) references to a governmental or quasi-governmental agency or authority or a self-regulatory organization include any successor agency, authority or self-regulatory organization, (viii) section references refer to sections of this Agreement and references to numbered sections refer to all included sections, (ix) references to a Person include the Person's permitted successors and assigns, (x) "herein," "hereof," "hereunder," and words of similar import refer to this Agreement in its entirety and not to any particular provision, and (xi) "asset" and "property" have the same meaning and refer to both real and personal, tangible and intangible assets and property, including cash, securities, accounts and general intangibles.

2. **Subordination.** All of the Junior Debt and any and all Liens securing any Junior Debt are hereby made expressly subordinate and junior to the Senior Debt and all Liens securing the Senior Debt to the extent and in the manner set forth in this Agreement. The payment by any Obligor or by any guarantor of any Junior Debt of any and all of the Junior Debt shall be subordinate and subject in right of payment to the Senior Debt, and all Liens securing the Junior Debt shall be junior and subordinate to all Liens securing the Senior Debt, in each case until the Senior Debt has been Paid in Full. Irrespective of (a) the date, time, method, manner or order of attachment or perfection of any Liens any Obligor has granted to Senior Lender, Junior Agent or any one or more of Junior Creditors, (b) the usual application of the priority provisions of the Uniform Commercial Code or any other applicable laws or agreements, (c) whether the Liens granted to Senior Lender, Junior Agent or any Junior Creditor are properly perfected or avoided, (d) whether arising before or after the commencement of an Insolvency Proceeding, (e) whether granted pursuant to any Senior Agreement, a debtor-in-possession financing provided to any one or more of Obligors by any one or more of Senior Lender or any other Person, or the post-petition use of cash collateral by any Obligor, (f) any understanding between Junior Agent, any one or more of Junior Creditors and any one or more of Obligors, (g) any understanding among any one or more of Senior Lender and Obligors, and (h) any other priority provided by law or by any other agreement or any other matter, any and all Liens on or in any of the assets of each Obligor in favor of or for the benefit of Junior Agent or any one or more of Junior Creditors, whether now existing or arising in the future, are hereby expressly made subordinate and junior in priority and right of enforcement to any Liens, on or in any of the Collateral or other assets of such Obligor, both now existing and arising in the future, securing any of the Senior Debt. Except as expressly permitted by Section 6, none of Junior Agent nor any Junior Creditor shall have any right to possession of any such assets or to foreclose upon any such assets, whether by judicial action or otherwise, unless and until the Senior Debt is Paid in Full.

3. **Payment Limitations.** None of Junior Agent nor any Junior Creditor will, directly or indirectly ask, demand, sue for, take or receive (whether from any Obligor or any guarantor) any Distribution of or on account of the whole or any part of any Junior Debt and no Obligor nor any guarantor of any Junior Debt shall remit, make or pay, directly or indirectly, any Distribution of or on account of, the whole or any part of any of the Junior Debt (whether such amounts represent principal or interest, or obligations which are due or not due, direct or indirect, absolute or contingent), including the taking of any negotiable instruments evidencing any of the Junior Debt. Notwithstanding the foregoing sentence, Borrower may pay or deliver and each Junior Creditor may accept and retain, (i) except as expressly provided in Sections 4 and 5, Permitted Payments, and (ii) Non-Blockable Payments, but no other payments (including prepayments) on the Junior Debt. Notwithstanding any provision of this Agreement to the

contrary, each Junior Creditor may accept Junior Notes, bearing a legend as required by this Agreement, in lieu of scheduled payments (in cash) of interest on the outstanding Junior Notes, at any time so long as such Junior Notes are subject to this Agreement and have terms no less favorable to Obligor than the terms of the Junior Notes existing on the date hereof.

4. Default in Senior Debt.

(a) Except for Non-Blockable Payments, no Obligor shall make, and none of Junior Agent nor any Junior Creditor shall receive, any Distribution in respect of the Junior Debt (including Permitted Payments), whether pursuant to the terms of any Junior Agreement, upon acceleration or otherwise, if at the time of such payment there is in effect a Payment Blockage Period (as defined below) or a Limited Payment Blockage Period (as defined below). The provisions of this Section 4 are in addition to, and not in limitation of, the restrictions contained in Section 3.

(b) A "Payment Blockage Period" shall be any period commencing on the date of receipt by Junior Agent from Senior Lender of a written notice (and Senior Lender shall send Obligor a copy of such notice), specifying that a Payment Default has occurred and is continuing (and a brief description thereof) and that a Payment Blockage Period is commencing, and ending on the earliest to occur of:

(i) the date on which such Payment Default has been waived in writing by the Senior Lender or cured in accordance with the terms of the Senior Credit Agreement, or the Payment Blockage Period shall have been terminated by written notice from Senior Lender to Junior Agent;

(ii) the date on which the Senior Debt to which such written notice relates is Paid in Full in cash or the date that all Senior Debt is Paid in Full; and

(iii) the commencement of an Insolvency Proceeding, in which case the provisions of Section 5 hereof shall apply.

(c) A "Limited Payment Blockage Period" shall be any period commencing on the date of receipt by Junior Agent from Senior Lender of a written notice (and Senior Lender shall send Obligor a copy of such notice), specifying that an Other Default has occurred and is continuing (and a brief description thereof) and that a Limited Payment Blockage Period is commencing, and ending on the earliest to occur of:

(i) the 179th day after the beginning of such period;

(ii) the date on which the Other Default specified in such notice has been waived in writing by the Senior Lender in accordance with the terms of the Senior Credit Agreement or the Limited Payment Blockage Period shall have been terminated by written notice from Senior Lender to Junior Agent;

(iii) the date on which the Senior Debt is Paid in Full;

(iv) the commencement of an Insolvency Proceeding, in which case the provisions of Section 5 hereof shall apply; and

(v) the date on which the Borrower and the Junior Agent received from Senior Lender written notice that the Limited Payment Blockage Period has been terminated.

(d) No Obligor shall be prohibited from making, and no Junior Creditor shall be prohibited from receiving, Permitted Payments due to a Limited Payment Blockage Period for more than an aggregate of 179 days during any period of 365 consecutive days. Senior Lender shall not be permitted to declare a Limited Payment Blockage Period (i) more than two (2) times in any period of 365 consecutive days, and (ii) more than five (5) times in the aggregate. Upon termination of any Payment Blockage Period or Limited Payment Blockage Period, Borrower may resume all Permitted Payments on account of the Junior Debt (including making any Permitted Payments prohibited during any Payment Blockage Period or Limited Payment Blockage Period), subject to the provisions of Section 3, Section 4, Section 5, Section 6 and the other provisions hereof. Any acceleration by Junior Agent or any one or more of Junior Creditors in respect of any Junior Default (i) which is a Junior Payment Default (excluding the effect of acceleration) on which payment has been made at the end of such Payment Blockage Period or Limited Payment Blockage Period (including payment of all Permitted Payments prohibited during any Payment Blockage Period or Limited Payment Blockage Period) or (ii) which is a Junior Default other than a payment default which is curable and has been cured by any Obligor during a Payment Blockage Period or Limited Payment Blockage Period, shall be deemed automatically rescinded. An Other Default as to which Senior Lender received notice of such Other Default from any Obligor at or prior to the commencement of a Limited Payment Blockage Period may not serve as the basis for the commencement of a subsequent Limited Payment Blockage Period, *provided* that if the Senior Debt is accelerated and is not Paid in Full, such failure to pay the Senior Debt in full is a Payment Default separate and distinct from the default which gave rise to the acceleration; *provided, further*, that if Senior Lender rescinds an acceleration, the Payment Blockage Period arising from such acceleration shall terminate.

(e) Upon the occurrence of a Junior Default resulting solely from a Senior Default, if the Required Lenders waive such Senior Default, Junior Agent and Junior Creditors hereby agree to waive such Junior Default. Notwithstanding the foregoing, the parties agree that Senior Lender shall be under no obligation to waive any Senior Default.

5. Insolvency Proceeding.

(a) Upon the occurrence of any Insolvency Proceeding: (i) the Senior Debt shall first be Paid in Full before any Distribution shall be made on account of or applied with respect to any Junior Debt; and (ii) any Distribution which would otherwise (but for this clause (ii)) be payable or deliverable with respect to any Junior Debt shall be paid or delivered directly to Senior Lender, until all Senior Debt has been Paid in Full in accordance with the term of the Senior Credit Agreement (as in effect on the date hereof) (after giving effect to any concurrent payment to Senior Lender with respect to the Senior Debt). Junior Agent and each Junior Creditor irrevocably authorizes, empowers and directs (x) all receivers, trustees,

liquidators, custodians, conservators and others having authority in the premises to effect all such forgoing Distributions, and (y) Senior Lender to collect and receive every such Distribution.

(b) At any meeting of creditors or in the event of any Insolvency Proceeding, Junior Agent and Junior Creditors shall retain the right to vote, file proofs of claim and otherwise act with respect to the Junior Debt in a manner not in violation of the provisions in this Agreement (including the right to vote to accept or reject any plan of partial or complete liquidation, reorganization, arrangement, composition or extension); *provided* that (i) neither the Junior Agent nor any Junior Creditor shall propose, support or vote in favor of any such plan that is inconsistent with the lien priorities set forth herein, and (ii) the Junior Agent and each Junior Creditor hereby irrevocably authorizes, empowers and appoints Senior Lender as its agent and attorney-in-fact to execute, verify, deliver and file such proofs of claim upon the failure of the Junior Agent or such Junior Creditor promptly to do so prior to ten (10) days before the expiration of the time to file any such proof of claim; *provided* that Senior Lender shall have no obligation to execute, verify, deliver and/or file any such proof of claim or to vote any such claim.

(c) Notwithstanding the foregoing provisions of this Section 5, any Obligor may pay and deliver to Junior Agent and each Junior Creditor, and Junior Agent and each Junior Creditor shall be entitled to receive and retain, any Non-Blockable Payments.

(d) During any Insolvency Proceeding, until the Senior Debt has been Paid in Full, Junior Agent and each Junior Creditor hereby consents and agrees that Senior Lender or any Obligor (with Senior Lender's consent) may, and authorizes Senior Lender or any Obligor (with Senior Lender's consent) to, purchase, sell, assign, release, abandon or otherwise dispose of the Collateral by private or public sale with or without notice, pursuant to court order, under Sections 363, 365 or 1129 of the Code or otherwise and by any commercially reasonable means, all free and clear of any Lien, Claim (as that term is defined in the Code), or other interest of or by Junior Agent or any Junior Creditor with respect thereto, and all without any liability of Senior Lender whatsoever to account for, allocate or deliver to Junior Agent or any Junior Creditor any proceeds or distributions received by Senior Lender as a result thereof; *provided* that (i) the Liens of the Junior Creditors attach to any net proceeds of such Disposition with the same priority and validity as the Liens held by Junior Creditors on the assets disposed of in such Disposition, and any such Liens shall remain subject to the terms of this Agreement, (ii) Junior Agent and the Junior Creditors shall not be deemed to have waived any right to bid in connection with such Dispositions, and shall not be deemed to have waived their rights to credit bid on the Collateral in any such Disposition in accordance with Section 363(k) of the Code; *provided, further*, that any such bid must be consistent with the terms of this Agreement, including the payment in full in cash of all Senior Debt upon the closing of any resulting Disposition, (iii) Junior Agent and Junior Creditors shall not be deemed to have waived any right to object to any Disposition of Collateral that does not provide that the Liens of the Junior Creditors attach to any net proceeds of such Disposition with the same priority and validity as the Liens held by Junior Creditors on the assets disposed of in such Disposition, so long as such objections are not inconsistent with any other term or provision of this Agreement, and (iv) the net cash proceeds of such Disposition shall be applied to permanently reduce any Senior Debt.

(e) During any Insolvency Proceeding, until the Senior Debt has been Paid in Full, Junior Agent and each Junior Creditor waives, with respect to each Obligor's assets or the enforcement of any right or remedy of Senior Lender arising under any Senior Agreement, this Agreement or at law or in equity, any requirement or claim regarding, and agree not to demand, request, plead or otherwise claim the benefit of, any marshaling, foreclosure, appraisal, adequate protection, relief from the automatic stay or any other right (including under Section 1111(b) or any other section of the Code) contemplated at law or in equity (whether or not relating to notice, diligence, presentment, demand, protest, setoff, reliance, defense, counterclaim or election) that may otherwise be available to Junior Agent or Junior Creditors.

(f) During any Insolvency Proceeding, until the Senior Debt has been Paid in Full, Junior Agent and each Junior Creditor hereby consents to, and agrees not to object, solely on ground available to secured creditors, to (including any objection alleging any Obligor's or guarantor's failure to provide adequate protection for the Liens of Junior Agent or any one or more of Junior Creditors) or seek adequate protection in respect of, debtor-in-possession financing ("DIP Financing") provided by Senior Lender by (i) any use of cash or noncash collateral by any Obligor under Section 363 of the Code or (ii) any borrowing by any one or more of Obligors and any grant of a Lien or superpriority claim by any Person in favor of any one or more of Senior Lender and other Persons under Section 364 of the Code ("DIP Liens"); *provided* that the foregoing shall not prevent the Junior Creditors from objecting to any (A) DIP Financing that permits Senior Lender to be granted adequate protection in the form of additional collateral without Junior Agent, on behalf of itself or any of the Junior Creditors, being granted adequate protection in the form of a Lien on such additional collateral that is subordinated to the Liens securing the Senior Debt and such DIP Financing (and all obligations relating thereto) on the same basis as the other Liens securing the Junior Debt are so subordinated to the Senior Debt under this Agreement, (B) DIP Financing, the amount of which together with the aggregate principal and stated amount of loans outstanding under the Senior Credit Agreement, exceeds the Senior Debt Cap; *provided* that for purposes of this clause (B), the aggregate principal and stated amount of any loans or letters of credit (if any) outstanding under the Senior Credit Agreement which are "rolled-up" or "rolled-over" as loans under a DIP Financing shall be deemed to be outstanding under such DIP Financing only and shall not be considered, for purposes of this calculation, as amounts outstanding under the Senior Credit Agreement, (C) provision in a DIP Financing (x) that purport to bind Junior Agent or any Junior Creditor to a plan of reorganization or similar dispositive restructuring, (y) that compels the sale of Collateral except as otherwise provided in 5(g) below, or (z) that is otherwise inconsistent with this Agreement and the priorities of the Liens; *provided* that Junior Agent and each Junior Creditor agrees that adequate notice to Junior Agent and Junior Creditors for such DIP Financing or use of cash collateral shall have been delivered to Junior Agent and Junior Creditors if Junior Agent and Junior Creditors receive notice two (2) Business Days prior to the entry of the order approving such DIP Financing or use of cash collateral, or (D) such DIP Financing that is not senior to, or *pari passu* with, the Senior Debt. Junior Agent and each Junior Creditor will subordinate (and will be deemed hereunder to have subordinated) their Liens (A) to the DIP Liens (and such subordination will not alter in any manner the terms of this Agreement), (B) to any "replacement Liens" granted to Senior Lender as adequate protection of its interests in the Collateral and (C) to any "carve-out" agreed to by Senior Lender. None of Junior Agent nor any Junior Creditor will oppose Senior Lender's motions to receive adequate protection payments, liens or covenants of

any kind, or Post-Petition Interest, or additional collateral in connection with any use of cash collateral or DIP Financing.

(g) Junior Agent and each Junior Creditor agrees that it will not oppose any sale of Collateral free and clear of the Lien securing the Junior Debt under Section 363(f) or the proposed bidding procedures for any such sale that has been approved by Senior Lender on grounds solely available to a secured creditor, so long as any Lien of Junior Agent shall attach to the proceeds of such sale and be subject to the provisions of this Agreement.

(h) Junior Agent and each Junior Creditor agrees that Senior Lender shall have no liability to Junior Agent or any Junior Creditor for, and Junior Agent and each Junior Creditor waives any claim which it may now or hereafter have against Senior Lender arising out of (i) Senior Lender's election, in any Insolvency Proceeding of the application of Section 1111(b) of the Code or (ii) any borrowing or grant of a security interest under Section 363 or 364 of the Code by any one or more Obligor, as debtor in possession.

(i) The parties acknowledge and agree that (i) the claims and interests of Senior Lender under the Senior Agreements are substantially different from the claims and interests of Junior Agent and Junior Creditors under the Junior Agreements and (ii) such claims and interests should be treated as separate classes for purposes of Section 1122 of the Code and, in any Insolvency Proceeding, none of Junior Agent nor any Junior Creditor will make any assertion to the contrary or object to the assertion that the claims and interests of Senior Lender under the Senior Agreements are substantially different from the claims of Junior Agent and Junior Creditors under the Junior Agreements.

(j) This Agreement shall be applicable both before and after the filing of any Insolvency Proceeding by or against any Obligor or any guarantor under the Code and all converted or succeeding cases in respect thereof, and all references herein to any Obligor or any guarantor shall be deemed to apply to the trustee for such Obligor or guarantor and such Obligor or guarantor as a debtor-in-possession. The relative rights of Senior Lender, Junior Agent and Junior Creditors in respect of any Collateral or any other assets or proceeds thereof shall continue after the filing of such petition on the same basis as prior to the date of such filing, subject to any court order approving the financing of, or use of cash collateral by, any Obligor or guarantor. This Agreement shall constitute a "subordination agreement" for the purposes of Section 510(a) of the Code and shall be enforceable in any Insolvency Proceeding in accordance with its terms.

(k) The provisions of this Agreement shall continue in full force and effect notwithstanding the occurrence of any Insolvency Proceeding. All references in this Agreement to each Obligor shall be deemed to include such Obligor as a debtor-in-possession and any receiver or trustee for such Obligor in any Insolvency Proceeding.

(l) If in or as a result of any Insolvency Proceeding, Senior Lender returns, refunds or repays to any Obligor or any trustee, receiver or committee appointed in such Insolvency Proceeding any payment or proceeds of any Collateral in connection with any action, suit or proceeding alleging that Senior Lender's receipt of such payment or proceeds was a transfer voidable or avoidable under state or federal law, (a "Recovery"), then Senior Lender

shall be deemed not to have ever received such payment or proceeds for purposes of this Agreement in determining whether and when the Senior Debt has been Paid in Full and any payments or distributions received by the Junior Agent or Junior Creditors prior to such Recovery shall be delivered to Senior Lender for application to the Senior Debt.

(m) Notwithstanding anything in this Section 5 to the contrary, Junior Creditors may exercise any rights and remedies available to unsecured creditors against any Obligor in accordance with the terms of the Junior Agreement and applicable law.

(n) Junior Agent and each Junior Creditor agrees that it will not oppose (i) any motion by Senior Lender for relief from the automatic stay pursuant to Section 362(a) for lack of adequate protection or other cause, (ii) any motion by Senior Lender to dismiss any Insolvency Proceeding for inability to reorganize, lack of good faith or any other cause, (iii) any motion by Senior Lender to enforce the provisions of any agreement entered into with any Obligor or guarantor prior to the filing of the Insolvency Proceeding, (iv) any motion by Senior Lender to prohibit or condition the use of cash collateral, or (v) any plan of reorganization or liquidation filed by Senior Lender that is not inconsistent with any provision of this Agreement and that does not alter or impair the Liens of the Junior Creditors or any of the rights of Junior Agent and Junior Creditors under this Agreement.

6. Limitation on Right of Action. Without implying any limitation on the obligation of Junior Agent and each Junior Creditor to turn over to Senior Lender all Distributions on or on account of the Junior Debt (other than, to the extent such payments are permitted by this Agreement, Permitted Payments and Non-Blockable Payments) until the Senior Debt has been Paid in Full, none of Junior Agent nor any Junior Creditor shall (nor shall any agent on behalf of Junior Agent or any Junior Creditor), without the prior written consent of Senior Lender, take any Collection Action prior to the first to occur of (the first date upon which any of the foregoing occurs is referred to herein as the "Standstill Termination Date");

(a) the acceleration of the Senior Debt, *provided, however*, if, within 90 days after any such acceleration of the Senior Debt, such acceleration is rescinded and all other Events of Default occurring under Junior Agreements have been cured or waived, other than the failure to pay the accelerated amount of Junior Debt, then any acceleration of the Junior Debt shall also be deemed automatically rescinded and any Collection Action commenced by Junior Agent or any one or more of Junior Creditors shall also be immediately discontinued;

(b) the commencement of an Insolvency Proceeding, in which case the provisions of Section 5 hereof shall apply, *provided, however*, if, within 90 days after the commencement of any such Insolvency Proceeding, such Insolvency Proceeding is dismissed, then, unless any of the other events set forth in clauses (a), (c) or (d) of this Section 6 have occurred, any Collection Action commenced by Junior Agent or any one or more of Junior Creditors shall also be immediately discontinued;

(c) the expiration of the 150 day period beginning on the date of receipt by Senior Lender from Junior Agent of a written notice (and Junior Agent shall send Obligors a copy of such notice) specifying that a Junior Default has occurred and is continuing (and a brief description thereof) if at least ten (10) days prior to the date on which Junior Agent and Junior

Creditors intend to take such Collection Action, Senior Lender has received written notice from Junior Agent (which notice may be given prior to the end of such 150 day period) of Junior Agent's and Junior Creditors' intention to take such Collection Action; *provided* that (i) if a Junior Default which is the subject of any such notice has been cured or waived within such 150 day period, the applicable notice shall be deemed automatically rescinded and shall have no further force or effect and any acceleration in respect of such Junior Default shall be deemed automatically rescinded, and (ii) a Junior Default which, to the actual knowledge of Junior Agent or any Junior Creditor, exists at or prior to the giving of any such notice may not serve as the basis for a subsequent notice by Junior Agent under this clause (c);

- (d) the date on which the Senior Debt is Paid in Full; and
- (e) the Junior Debt Maturity Date.

Notwithstanding the foregoing, none of Junior Agent nor any Junior Creditor shall (nor shall any agent on behalf of Junior Agent or any Junior Creditor), without the prior written consent of Senior Lender, take any Collection Action after the Standstill Termination Date if Senior Lender is diligently pursuing in good faith the exercise of its enforcement rights or remedies against, or diligently attempting to vacate any stay or enforcement of its Liens on, a Material Portion of the Collateral, including, without limitation, commencement of any reasonable action to foreclose its Liens on a Material Portion of the Collateral, any reasonable action to take possession of a Material Portion of the Collateral or commencement of any reasonable legal proceedings or actions against or with respect to a Material Portion of the Collateral. In addition, to the extent that any provision of any Junior Agreement provides rights, remedies, powers or benefits to Junior Agent or any one or more of Junior Creditors or imposes obligations or duties on any Obligor with respect to the Collateral that is inconsistent or conflict with or exceed the rights, remedies, powers or benefits provided to Senior Lender under any Senior Agreement, such provision of the applicable Junior Agreement shall not be enforced or given effect by any one or more of Junior Agent, Junior Creditors and Obligors prior to such time as the Senior Debt is Paid in Full. Prior to such time as the Senior Debt is Paid in Full, except to the extent necessary to maintain its second perfected security interest in the Collateral and to the extent expressly permitted by the first sentence of this Section 6 after the Standstill Termination Date, none of Junior Agent nor any Junior Creditor shall exercise or enforce, and no Obligor shall perform, any right, remedy, power, duty or obligation with respect to the Collateral or any other assets, notwithstanding the terms of any Junior Agreement. In any event, none of Junior Agent nor any Junior Creditor will oppose, object to, interfere with, hinder or delay in any manner, directly or indirectly, by judicial proceedings or otherwise, any foreclosure, sale, lease, exchange, transfer or other disposition of any Collateral by Senior Lender (or by any Obligor with the consent of Senior Lender) or the exercise of any other right or remedy by Senior Lender. Without limiting the generality of the foregoing, (i) until the Senior Debt has been Paid in Full, Junior Agent and each Junior Creditor shall turn over to Senior Lender all Distributions on or on account of the Junior Debt (other than, to the extent such payments are permitted by this Agreement, Permitted Payments and Non-Blockable Payments), (ii) if any Disposition of any Collateral or any assets of any Obligor or guarantor of any Senior Debt is permitted under the terms of the Senior Agreements or is consented to by Senior Lender, Junior Agent and each Junior Creditor shall be deemed to have consented under the Junior Agreements to such Disposition free and clear of any Liens securing the Junior Debt and to have waived the provisions of the Junior Agreements to

the extent necessary to permit such Disposition, and (iii) until the Senior Debt has been Paid in Full, Senior Lender shall have no obligation whatsoever to account for, allocate or deliver to Junior Agent or any Junior Creditor any proceeds or distributions received by Senior Lender as a result thereof.

7. **Release of Liens.** In the event that Senior Lender is required pursuant to the terms of any Senior Agreement to release its Liens in any of the Collateral securing the Senior Debt, or in the event that Senior Lender voluntarily elects to release its Liens in any of the Collateral securing the Senior Debt in connection with the Disposition of any Collateral (including as described in Section 6), Junior Agent and each Junior Creditor shall be deemed to have contemporaneously released, without any further action, any Liens which it may have in such Collateral (and in the case of the release by Senior Lender of any guarantor under any guaranty of the Senior Debt and Senior Lender's Liens on assets of such guarantor in connection with the sale or disposition of all or substantially all of the equity interests or assets of such guarantor, Junior Agent and each Junior Creditor shall be deemed to have contemporaneously released, without further action, such guarantor from its Liens on such assets and the obligations of such guarantor under and with respect to the Junior Agreements); *provided, however*, that if any such Disposition is of a Material Portion of the Collateral and is not effected in connection with the exercise by Senior Lender and its rights and remedies against the Collateral or under the Senior Agreements, then Junior Agent and Junior Creditors shall not be so required to release its or their Lien in connection with any such Disposition if the Junior Agent, in the exercise of its good faith discretion determines that any such Disposition has not been conducted in a commercially reasonable manner. Junior Agent and each Junior Creditor shall from time to time promptly deliver to Senior Lender such releases and additional documents of termination or release with respect to the Liens of Junior Agent or such Junior Creditor as Senior Lender may request pursuant to this Agreement to effect any such release of Liens of Junior Agent or such Junior Creditor. Junior Agent and each Junior Creditor authorize and empower Senior Lender, at its election and in the name of Junior Agent or such Junior Creditor, as attorney in fact for Junior Agent or such Junior Creditor (Junior Agent and each Junior Creditor appoints Senior Lender as its attorney in fact for such limited purpose as provided in this Section 7), to file such statements and other releases of record in connection with a release of the Liens of Junior Agent or such Junior Creditor or such guarantors pursuant to this Agreement. Junior Agent and each Junior Creditor shall be deemed to have consented under the Junior Agreements to any Disposition of Collateral pursuant to this Section 7 and to have waived the provisions of the Junior Agreements to the extent necessary to permit such Disposition.

8. **Payments from Collateral or in Contravention of this Agreement.** Until the Senior Debt is Paid in Full, any Collateral or proceeds thereof received by Junior Agent or any Junior Creditor, including any such Collateral constituting proceeds, or any Distribution (other than Non-Blockable Payments) that may be received by Junior Agent or any Junior Creditor (a) in connection with the exercise of any right or remedy (including any right of setoff) with respect to the Collateral, (b) in connection with any insurance policy claim or any condemnation award (or deed in lieu of condemnation), (c) from the collection or other Disposition of, or realization on, the Collateral, whether or not pursuant to an Insolvency Proceeding or (d) in violation of any provision of this Agreement (without the written consent of Senior Lender) shall be held in trust by Junior Agent or such Junior Creditor for Senior Lender and shall be promptly delivered, in kind, to Senior Lender to the extent necessary to cause the Senior Debt to be Paid in

Full in accordance with its terms and after giving effect to any concurrent Distribution to Senior Lender. The foregoing shall not be construed as any consent by Senior Lender to the exercise by Junior Agent or any Junior Creditor of any right or remedy with respect to the Collateral.

9. **Subrogation.** If any Distribution on the Junior Debt to which Junior Agent or any Junior Creditor would otherwise have been entitled (but for the provisions of this Agreement) shall have been turned over to Senior Lender or otherwise applied to the payment of the Senior Debt pursuant to the provisions of this Agreement, then Junior Agent or such Junior Creditor shall be entitled to receive from Senior Lender (after the Senior Debt has been Paid in Full) any Distributions (if any) actually received by it (on account of the Senior Debt) in excess of the amount sufficient to cause all Senior Debt to be Paid in Full. Upon the Senior Debt being Paid in Full, Junior Agent and such Junior Creditor shall be subrogated to all rights of Senior Lender to receive all further Distributions applicable to the Senior Debt until the Junior Debt shall have been Paid in Full. For purposes of Junior Agent's and each Junior Creditor's subrogation rights hereunder, Distributions to Senior Lender with respect to the Senior Debt which Junior Agent or such Junior Creditor would have been entitled to receive with respect to the Junior Debt but for the provisions of this Agreement shall not, as between any one or more of Obligors, their creditors (other than Senior Lender), Junior Agent and any one or more of Junior Creditors be deemed Distributions with respect to the Senior Debt, it being understood that the provisions of this Agreement are solely for the purpose of defining the relative rights of the holders of Senior Debt, on the one hand, and Junior Agent and Junior Creditors on the other hand.

10. **Default Notices.** Senior Lender shall use reasonable efforts to give Junior Agent prompt written notice (and if any notices are sent to any one or more of Obligors, contemporaneously with such sending) of any written notice provided by Senior Lender to any one or more of Obligors regarding (a) the occurrence of any Senior Default (including any demand for payment of the Senior Debt following any such default or event of default), (b) the acceleration of all or any portion of the Senior Debt and (c) the assignment of all or any portion of the Senior Debt (together with the name and address of the assignee); *provided, however*, unless expressly stated therein, no such notice shall be deemed to commence a Payment Blockage Period or a Limited Payment Blockage Period. Junior Agent and each Junior Creditor shall use reasonable efforts to give Senior Lender prompt written notice (and if any notices are sent to any one or more of Obligors, contemporaneously with such sending) of (i) its actual knowledge of the occurrence of any Junior Default, (ii) the acceleration of all or any portion of any Junior Debt, and (iii) the assignment of all or any portion of the Junior Debt (together with the name and address of the assignee). The failure to give any such notice shall not, however, deprive Senior Lender, Junior Agent or any Junior Creditor of any subordinations, rights or remedies to which they are entitled hereunder or otherwise or subject any of them to any liabilities to Senior Lender, Junior Agent, any Junior Creditor, any Obligor or any other Person.

11. **Legend.** Until the Senior Debt has been Paid in Full, Obligors shall cause each Junior Agreement (including, all Uniform Commercial Code financing statements naming any Obligor as debtor and Junior Agent or any one or more of Junior Creditors as secured party) to be conspicuously marked with the following legend:

“THIS INSTRUMENT IS SUBJECT TO THE TERMS OF A SUBORDINATION AND INTERCREDITOR AGREEMENT DATED AS OF NOVEMBER 2, 2015 IN FAVOR OF FIFTH THIRD BANK, AS AGENT, WHICH AGREEMENT (AS AMENDED IN ACCORDANCE WITH ITS TERMS) IS INCORPORATED HEREIN BY REFERENCE.”

12. **No Impairment of Obligation.** Except as otherwise expressly provided herein, nothing contained in this Agreement shall (a) impair, as between Junior Agent, Junior Creditors and Obligors, the obligation of Obligors, which is unconditional and absolute, to pay any Junior Debt to Junior Agent and Junior Creditors as and when all or any portion thereof shall become due and payable in accordance with its terms or (b) prevent Junior Agent or any Junior Creditor upon any default or event of default under any Junior Debt, from exercising all rights, powers and remedies otherwise provided therein or by applicable law (except as expressly limited hereby).

13. **Cumulative Rights, No Waivers.** Each and every right, remedy and power granted to Senior Lender hereunder shall be cumulative and in addition to any other right, remedy or power specifically granted in this Agreement, any Senior Agreement, any Junior Agreement or now or hereafter existing in equity, at law, by virtue of statute or otherwise, and may be exercised by Senior Lender from time to time, concurrently or independently and as often and in such order as such Person may deem expedient. Any failure or delay on the part of Senior Lender in exercising any such right, remedy or power, or abandonment or discontinuance of steps to enforce the same, shall not operate as a waiver thereof or affect the rights of Senior Lender thereafter to exercise the same, and any single or partial exercise of any such right, remedy or power shall not preclude any other or further exercise thereof or the exercise of any other right, remedy or power, and no such failure, delay, abandonment or single or partial exercise of the rights of Senior Lender hereunder shall be deemed to establish a custom or course of dealing or performance among the parties hereto.

14. **Duration.** This Agreement is of a continuing nature, and it shall continue in force until all the Senior Debt is Paid in Full and thereafter as provided in Section 17.

15. **Amendments to Senior Agreements.** Notwithstanding anything to the contrary contained herein or in any other agreement executed and delivered in connection with the Junior Debt, Junior Agent and each Junior Creditor hereby acknowledges that at any time and from time to time and with or without consideration, Senior Lender may, without further consent of or notice to Junior Agent or any Junior Creditor, without incurring responsibility to Junior Agent or any Junior Creditor and without in any manner affecting, impairing, lessening or releasing the subordination provided in this Agreement or any of the other obligations of Junior Agent or any Junior Creditor under this Agreement or any of the provisions of this Agreement (a) renew, extend, change the manner, time, place and terms of payment of, sell, exchange, release, increase, substitute, surrender, realize upon, modify, waive, alter, grant indulgences with respect to and otherwise deal with in any manner: (i) all or any part of the Senior Debt; (ii) all or any of the Senior Agreements; (iii) all or any part of any property at any time securing all or any part of the Senior Debt; or (iv) any Person at any time primarily or secondarily liable for all or any part of the Senior Debt or any Collateral or other security therefor, all as if this Agreement and any

interest which Junior Agent or any Junior Creditor has in such property did not exist; *provided* that, notwithstanding the foregoing, neither Senior Lender nor any Obligor shall, without the prior written consent of Junior Agent, agree to any amendment or modification of, or supplement to, any Senior Agreement the effect of which is or would be to: (1) increase the pre-default interest rates applied to the unpaid principal of the Senior Debt from time to time outstanding by more than 3% per annum above the interest rate formulas currently provided for in the Senior Credit Agreement (including any component thereof or margin added thereto excluding increases in the rate of interest resulting from increases in reference rates, such as LIBOR Base Rate or similar rates and increases provided for by any applicable margin table) (it being understood that the indices to which LIBOR Base Rate is pegged may float over time without limit and that such rates may otherwise change as provided in Notes under the Senior Credit Agreement); (2) impose or increase any scheduled recurring fees assessed at a rate per annum under the Senior Agreements by more than 300 basis points in excess of the maximum non-default rate set forth in the Senior Credit Agreement on the date hereof; (3) increase the post-default interest rates applied to the unpaid principal balance of Senior Debt from time to time outstanding above the interest rate formulas currently provided for in the Senior Credit Agreement on the date hereof; (4) advance the scheduled principal payment dates with respect to the Senior Debt (other than the final maturity date of the Senior Debt or upon an acceleration of the Senior Debt as a result of any Senior Default); (5) expressly prohibit or restrict (x) the payment of principal of, interest on, or other amounts payable with respect to, the Junior Debt or (y) the ability to amend any Junior Agreement, in each case in a manner that is more restrictive than the express prohibitions and restrictions on such payment or amendment contained in the Senior Credit Agreement as in effect on the date hereof or in this Agreement (it being understood that Obligors and Senior Lender shall not be prohibited from agreeing to changes to or additions of the covenants and events of defaults in the Senior Agreements that may cause the covenants or events of default therein to be more restrictive to any Obligor); (6) agree to increase the aggregate outstanding amount of the sum (without duplication) of the principal of the loans and letter of credit obligations included in Senior Debt to an amount greater than the Senior Debt Cap; (7) extend the final maturity of the Senior Debt beyond the Junior Debt Maturity Date; and (b) exercise or refrain from exercising any rights and remedies against any one or more of Obligors or any other Person, including those with respect to any Collateral securing payment of the Senior Debt; or (8) change or amend any term of the Senior Agreement relating to the assignment of or participation in all or any portion of the Senior Debt to any Obligor or any of their respective Affiliates or to the voting rights of any Obligor or any of their respective Affiliates with respect to any portion of the Senior Debt held by any such Person as set forth in the Senior Agreement (as in effect on the date hereof)..

16. Amendments to Junior Agreements. Notwithstanding anything contained in the Junior Agreements or the Senior Agreements to the contrary, none of Junior Agent, any Junior Creditor or any Obligor shall, without the prior written consent of Senior Lender, agree to any amendment, modification or supplement to any Junior Agreement the effect of which is or would be to: (a) increase the maximum principal amount of the Junior Debt or increase the rate of interest or amount of fees payable with respect thereto, except that (i) the principal amount of the Junior Debt may be increased as a result of Permitted PIK Payments, (ii) Junior Agent and the Junior Creditors may increase the interest rate per annum with respect to the Junior Notes by an aggregate amount of not more than 3% points above the interest rate formulas currently provided for in the Junior Loan Agreement, and (iii) any scheduled recurring fees assessed at a rate per

annum under the Junior Loan Agreement may be increased by not more than 300 basis points in excess of the maximum non-default rate set forth in the Junior Agreements on the date hereof, provided that the post-default interest rates applied to the unpaid principal balance of Junior Debt from time to time outstanding shall not be increased above the interest rate formulas currently provided for in the Junior Loan Agreement on the date hereof, (b) accelerate or make earlier the dates upon which payments of principal, interest or fees are due or increase the amount of principal due on any date, (c) change or add any redemption or prepayment provision or otherwise alter any repayment terms of the Junior Debt such that in each case it would be more restrictive to any Obligor, (d) make more restrictive or add any default, event of default or any covenant with respect to the Junior Debt (*provided* that if any default, event of default or covenant contained in both the Senior Credit Agreement and the Junior Loan Agreement is amended in the Senior Credit Agreement by agreement of Senior Lender and Obligors, then this clause (d) shall not prohibit a parallel amendment to such default, event of default or covenant contained in the Junior Loan Agreement, preserving on a percentage basis any "cushions" that may exist), or (e) cause any Person to be obligated, whether primarily, secondarily or otherwise, on the Junior Debt other than Obligors, unless such Person also becomes so obligated on the Senior Debt. So long as the Senior Debt has not been Paid in Full, the parties hereto agree that no additional Liens shall be granted or permitted on any Collateral or any other asset of any Obligor or any other Person to secure any Junior Debt unless (x) Senior Lender has consented to such Liens and (y) prior to the grant of such Lien, a senior and prior Lien, entitled to the benefits of this Agreement, shall have been granted on such Collateral or asset to secure the Senior Debt.

17. **Payment Set Aside.** If, after receipt of any payment or application of the proceeds of any Collateral to payment of all or any part of the Senior Debt, Senior Lender is compelled to surrender or voluntarily surrenders such payment or proceeds to any Person, because such payment or application of proceeds is or may be avoided, invalidated, declared fraudulent, set aside, declared to be void or voidable as a preference, fraudulent conveyance, fraudulent transfer, impermissible setoff, diversion of trust funds, or any other void or voidable transfer or payment, or because of any settlement or compromise of such claim, then this Agreement shall be reinstated and shall continue to be in full force and effect, as if such payment or proceeds had not been received by Senior Lender, notwithstanding any revocation thereof, or the surrender of any promissory note, or the return or cancellation of any instrument or document relating to the Senior Credit Agreement; *provided, however*, that neither Junior Agent nor any Junior Creditor shall be required to turn over any payment that it received during the period after the Senior Debt has been Paid in Full but prior to the date on which Junior Agent and such Junior Creditor receives written notice from Senior Lender that a payment or application of proceeds has been reinstated pursuant to this Section 17. This Section 17 shall survive the termination of this Agreement.

18. **Waivers.**

(a) Junior Agent and each Junior Creditor expressly waive all notice of the acceptance by Senior Lender of the subordination and other provisions of this Agreement and all other notices not specifically required pursuant to the terms of this Agreement whatsoever, and expressly waive reliance by Senior Lender upon the subordination and other agreements as herein provided. Junior Agent and each Junior Creditor agree that (i) Senior Lender has not made any warranties or representations with respect to the due execution, legality, validity,

completeness or enforceability of any Senior Agreement, or the collectability of any Senior Debt, and (ii) Senior Lender shall be entitled to manage and supervise its loans to and affairs with any one or more of Obligor in accordance with applicable law and its usual practices, modified from time to time as it deems appropriate under the circumstances, without regard to the existence of any rights that Junior Agent or any Junior Creditor may now or hereafter have in or to any of the assets of any Obligor.

(b) Senior Lender shall have no liability to Junior Agent or any Junior Creditor for, and Junior Agent and each Junior Creditor waives, any claim which such Person may now or hereafter have against, Senior Lender arising out of any and all actions which Senior Lender takes or omits to take (including actions with respect to the creation, perfection or continuation of Liens in the Collateral and other security for the Senior Debt, actions with respect to the occurrence of any default, actions with respect to the foreclosure upon, sale, release, or depreciation of, or failure to realize upon, any of the Collateral, actions with respect to the collection of any claim for all or any part of the Senior Debt from any account debtor, guarantor or any other party, and other collection actions) with respect to any of the Senior Agreements or any other agreement related thereto, or the exercise of one or more rights or remedies thereunder, or with respect to the collection of the Senior Debt or the valuation, use, protection or release of the Collateral and/or other security for the Senior Debt. In furtherance of and not in limitation of the foregoing: Junior Agent and each Junior Creditor hereby consents and agrees that Senior Lender may purchase, sell, assign, release, abandon or dispose of the Collateral by private or public sale with or without notice, pursuant to court order, and by any means, all free and clear of any interest or claim of or by Junior Agent or any Junior Creditor with respect thereto, and all without any liability of Senior Lender whatsoever to account for, allocate or deliver to Junior Agent or any Junior Creditor any proceeds or distributions received by Senior Lender as a result thereof. Without limiting the generality of the foregoing, Senior Lender shall have the exclusive right to manage, perform and enforce the terms of the Senior Agreements with respect to the Collateral, to exercise and enforce all privileges and rights thereunder according to its sole discretion and the exercise of its sole business judgment, including the exclusive right to take or retake control or possession of the Collateral and to hold, prepare for sale, process, Dispose of, or liquidate the Collateral and to incur expenses in connection with such Disposition and to exercise all the rights and remedies of a secured lender under the Uniform Commercial Code of any applicable jurisdiction. Junior Agent and each Junior Creditor agrees not to demand, request, plead or otherwise claim the benefit of, any marshaling, foreclosure, appraisal, valuation or any other right contemplated at law or in equity (whether or not relating to notice, diligence, presentment, demand, protest, setoff, reliance, defense, counterclaim or election) that may otherwise be available to Junior Agent or such Junior Creditor with respect to Senior Lender or any of their rights and remedies in the Collateral, or any collection action by Senior Lender.

(c) Junior Agent and each Junior Creditor agrees not to initiate or prosecute or encourage any other Person to initiate or prosecute (and, in any event, Junior Agent and each Junior Creditor agrees not to participate on any creditor's committee with respect to any one or more of Obligor or the Collateral) any claim, action, motion, objection, pleading or other proceeding (i) challenging or contesting the validity, perfection, priority or enforceability of the Senior Debt, any Senior Agreement, any Lien securing the Senior Debt, or any adequate protection rights granted by any bankruptcy court in favor of Senior Lender, or the allowance of

any claim for Senior Debt (including any portion thereof consisting of Post-Petition Interest, fees or expenses), (ii) opposing, interfering with or delaying any collection action or other action by Senior Lender to enforce its rights or remedies arising under the Senior Agreements, (iii) asserting any claims which Obligors may hold with respect to Senior Lender, (iv) seeking to lift the automatic stay to the extent that such action is opposed by Senior Lender or (v) opposing a motion by Senior Lender to lift the automatic stay. If any Senior Debt or Lien securing or claim for any Senior Debt is held to be invalid or not perfected or is set aside or disallowed, the provisions of this Agreement shall remain in effect with respect to such Senior Debt and such Senior Debt shall continue to be entitled to the benefits of the Senior Debt under this Agreement as if still outstanding.

(d) Until the Senior Debt has been Paid in Full, Senior Lender shall have the exclusive right to settle and adjust claims in respect of Collateral under policies of insurance and to approve any award granted in any condemnation or similar proceeding, or any deed in lieu of condemnation, in respect of the Collateral.

19. **No Offset.** In the event Junior Agent or any Junior Creditor at any time purchases goods or services from any Obligor, Junior Agent and such Junior Creditor hereby irrevocably agree that it shall pay for such goods or services in cash or cash equivalents in accordance with the terms of such purchases and shall not deduct from or setoff against any amounts billed to Junior Agent or such Junior Creditor by any Obligor in connection with such purchases any amounts Junior Agent or such Junior Creditor claims are due to it with respect to the Junior Debt.

20. **Junior Debt Owed Only to Junior Creditors.** Junior Agent and each Junior Creditor represents and warrants that it has not previously assigned any interest in the Junior Debt or any security interest in connection therewith, that no other party owns an interest in the Junior Debt or security therefor other than Junior Agent and Junior Creditors (whether as a joint holder of the Junior Debt, participant or otherwise) and that the entire Junior Debt is owing only to Junior Creditors.

21. **Information; Application of Payments.** Junior Agent and each Junior Creditor hereby assumes responsibility for keeping itself informed of the financial condition of each Obligor, any and all endorsers and any and all guarantors of the Senior Debt and Junior Debt and of all other circumstances bearing upon the risk of nonpayment of the Senior Debt and/or Junior Debt that diligent inquiry would reveal, and Junior Agent and each Junior Creditor hereby agrees that Senior Lender shall have no duty to advise Junior Agent or any Junior Creditor of information known to it regarding such condition or any such circumstances. In the event Senior Lender in its sole discretion, undertakes, at any time or from time to time, to provide any such information to Junior Agent or any Junior Creditor, Senior Lender shall be under no obligation (i) to provide any such information to Junior Agent or any Junior Creditor on any subsequent occasion or (ii) to undertake any investigation and shall be under no obligation to disclose any information which Senior Lender wishes to maintain confidential. Junior Agent and each Junior Creditor hereby agrees that all payments received by Senior Lender may be applied, reversed, and reapplied, in whole or in part, to any of the Senior Debt, as Senior Lender, in its sole discretion, deems appropriate and assents to any extension (except to the extent the consent of Junior Agent is expressly required by Section 15) or postponement of the time of payment of the Senior Debt or to any other indulgence with respect thereto, to any substitution, exchange or

release of Collateral which may at any time secure the Senior Debt and to the addition or release of any other party or Person primarily or secondarily liable therefor.

22. **No Fiduciary Relationship.** Junior Agent and each Junior Creditor agrees that Senior Lender shall not (a) be deemed or otherwise considered to be acting as an agent or in any other fiduciary capacity on behalf of Junior Agent, any Junior Creditor or the Junior Debt by virtue of this Agreement or otherwise, and (b) have any liability to Junior Agent or any Junior Creditor for, and Junior Agent and each Junior Creditor hereby waives, any claim which Junior Agent or such Junior Creditor may have at any time against Senior Lender arising out of any and all actions which Senior Lender may take or omit to take, including with respect to (i) any Senior Agreement, (ii) collection of Senior Debt, and (iii) foreclosure upon and sale, liquidation or other disposition, or valuation, use, protection or release, of any Obligor's assets.

23. **Action Against.** If Junior Agent or any Junior Creditor, in violation of this Agreement, shall commence a Collection Action against any Obligor or its property either at law or in equity pursuant to a legal action or other legal proceeding, such Obligor may interpose as a defense or dilatory plea the making of this Agreement, and Senior Lender is hereby irrevocably authorized to intervene and to interpose such defense or plea in its name or in the name of such Obligor. If Junior Agent or any Junior Creditor shall take any Collection Action in violation of this Agreement, each Obligor may, by virtue of this Agreement, restrain any such Collection Action or, upon failure to do so, Senior Lender may restrain such Collection Action either in its own name or in the name of the Obligors.

24. **Successors and Assigns.** This Agreement shall be binding upon each Obligor and its respective successors and assigns, and shall be binding upon and inure to the benefit of Senior Lender, Junior Agent and each Junior Creditor, and their respective successors and assigns. Junior Agent and each Junior Creditor agrees not to sell, assign, pledge, grant a security interest, dispose of or otherwise transfer all or any portion of any Junior Debt, any Junior Agreement or any Lien securing the Junior Debt (i) without giving prior written notice of such action to Senior Lender, and (ii) unless prior to the consummation of any such action, the transferee thereof shall execute and deliver to Senior Lender an agreement identical to this Agreement (but *mutatis mutandis*), providing for the continued subordination and forbearance of the Junior Debt and any Lien securing the Junior Debt to the Senior Debt and any Lien securing the Senior Debt as provided herein and for the continued effectiveness of all of the rights of Senior Lender arising under this Agreement. Notwithstanding the failure to execute or deliver any such agreement, the subordination effected hereby shall survive any sale, assignment, pledge, disposition or other transfer of all or any portion of the Junior Debt, and the terms of this Agreement shall be binding upon the successors and assigns of Junior Agent and each Junior Creditor. No Obligor may assign any of its rights or obligations under this Agreement without the prior written consent of Senior Lender, Junior Agent and each Junior Creditor. This Agreement shall also be binding upon and inure to the benefit of each other holder of Senior Debt that exists as a result of an assignment or Permitted Refinancing so long as each such other holder of Senior Debt signs a counterpart hereof and agrees to be bound by the terms hereof. Upon such event, each such other holder of Senior Debt shall be deemed to be included in the term "Senior Lender" for all purposes hereunder. None of Junior Agent nor any Junior Creditor shall sell, assign, dispose of or otherwise transfer all or any portion of any Junior Debt (except to its Affiliates) if, after giving effect thereto, there would be more than ten (10) Persons holding

the Junior Debt (for the purposes of this sentence, each Junior Creditor and all of its Affiliates shall be deemed to be one holder of the Junior Debt). If any Person shall become an Obligor (as such term is defined in the Senior Credit Agreement as in effect on the date hereof or as amended with the consent of Junior Agent) or an Obligor (as such term is defined in the Junior Credit Agreement as in effect on the date hereof or as amended with the consent of Senior Lender) after the date hereof, then the parties hereto shall, upon request of Senior Lender, enter into an amendment to this Agreement (and the other Obligors shall cause such Person to also enter into such amendment), satisfactory in form and substance to Senior Lender, to add such Person as a party to this Agreement and so such Person shall thereafter become an Obligor hereunder.

25. Governing Law; Remedies. THIS AGREEMENT SHALL IN ALL RESPECTS BE GOVERNED BY, AND CONSTRUED AND ENFORCED IN ACCORDANCE WITH, THE INTERNAL LAWS OF THE STATE OF NEW YORK (INCLUDING SECTIONS 5-1401 AND 5-1402 OF THE NEW YORK GENERAL OBLIGATIONS LAW, BUT EXCLUDING ALL OTHER CHOICE OF LAW AND CONFLICTS OF LAW RULES). The parties hereto acknowledge that the provisions of this Agreement are unique and money damages may not provide an adequate remedy for any breach thereof, and each party may seek specific performance and other equitable remedies for any breaches under this Agreement.

26. CONSENT TO JURISDICTION. JUNIOR AGENT, EACH JUNIOR CREDITOR, EACH OBLIGOR AND SENIOR LENDER AGREE THAT ALL DISPUTES ARISING OUT OF, CONNECTED WITH, RELATED TO OR INCIDENTAL TO THIS AGREEMENT, AND WHETHER ARISING IN CONTRACT, TORT, EQUITY OR OTHERWISE, SHALL BE RESOLVED ONLY BY STATE OR FEDERAL COURTS LOCATED IN NEW YORK, NEW YORK, AND JUNIOR AGENT, EACH JUNIOR CREDITOR, EACH OBLIGOR AND SENIOR LENDER WAIVE ANY OBJECTION BASED ON VENUE OR FORUM NON CONVENIENS WITH RESPECT TO ANY ACTION INSTITUTED THEREIN, BUT JUNIOR AGENT, EACH JUNIOR CREDITOR, EACH OBLIGOR AND SENIOR LENDER ACKNOWLEDGE THAT ANY APPEALS FROM THOSE COURTS MAY HAVE TO BE HEARD BY A COURT LOCATED OUTSIDE OF NEW YORK, NEW YORK. JUNIOR AGENT, EACH JUNIOR CREDITOR, EACH OBLIGOR AND SENIOR LENDER WAIVE IN ALL DISPUTES ANY OBJECTION THAT IT MAY HAVE TO THE LOCATION OF THE COURT CONSIDERING THE DISPUTE.

27. WAIVER OF JURY TRIAL. JUNIOR AGENT, EACH JUNIOR CREDITOR, EACH OBLIGOR AND SENIOR LENDER WAIVE ANY RIGHT TO HAVE A JURY PARTICIPATE IN RESOLVING ANY DISPUTE, WHETHER SOUNDING IN CONTRACT, TORT, OR OTHERWISE, ARISING OUT OF, CONNECTED WITH, RELATED TO OR INCIDENTAL TO THIS AGREEMENT OR ANY OTHER INSTRUMENT, DOCUMENT OR AGREEMENT EXECUTED OR DELIVERED IN CONNECTION HERewith OR THE TRANSACTIONS RELATED HERETO. JUNIOR AGENT, EACH JUNIOR CREDITOR, EACH OBLIGOR AND SENIOR LENDER HEREBY AGREE AND CONSENT THAT ANY SUCH CLAIM, DEMAND, ACTION OR CAUSE OF ACTION SHALL BE DECIDED BY COURT TRIAL WITHOUT A JURY AND THAT ANY PARTY MAY FILE AN ORIGINAL COUNTERPART OR A COPY OF THIS AGREEMENT WITH ANY COURT AS WRITTEN EVIDENCE OF THE CONSENT OF THE PARTIES HERETO TO THE WAIVER OF THEIR RIGHT TO TRIAL BY JURY.

28. **Amendments and Waivers.** This Agreement may be changed, modified or waived only by a writing signed by Junior Agent, each Junior Creditor and Senior Lender.

29. **Notices.** All notices to be given under this Agreement must be in writing and shall be addressed to the addresses and to the attention of the Persons stated on the Notice Address Schedule attached hereto, or at such other address or to the attention of such other Person as the recipient has designated after the date hereof in writing by notice to the other parties to this Agreement. No party is obligated to give any other party any notices under this Agreement except as expressly set forth herein. Any communication or notice so addressed and mailed shall be deemed to be given five days after mailing by first class, certified or registered mail, return receipt requested and postage prepaid. Any communication or notice otherwise delivered shall be deemed to be given when receipt is acknowledged if sent by facsimile transmission, when personally delivered, or on the next Business Day after sending by overnight courier, if sent by overnight courier by a nationally recognized overnight courier service for next Business Day delivery.

30. **Counterparts.** This Agreement may be executed and accepted in any number of counterparts, each of which shall be an original with the same effect as if the signatures were on the same instrument. The delivery of a copy of an executed counterpart of the signature page to this Agreement by telecopier or other electronic means (including by email) shall be effective as delivery of a manually executed counterpart of this Agreement.

31. **Severability.** In the event that any provision of this Agreement is deemed to be invalid by reason of the operation of any law or by reason of the interpretation placed thereon by any court or governmental authority, this Agreement shall be construed as not containing such provision and the invalidity of such provision shall not affect the validity of any other provisions hereof, and any and all other provisions hereof which otherwise are lawful and valid shall remain in full force and effect.

32. **Conflict.** In the event of any conflict between any term, covenant or condition of this Agreement and any term, covenant or condition of any of the Junior Agreements, the provisions of this Agreement shall control and govern.

33. **Headings.** The section headings contained in this Agreement are for convenience only and shall have no legal effect or substantive meaning or content of any kind whatsoever, and are not a part of the agreement between the parties.

34. **Buyout Option.** The Junior Creditors shall have the right, but not the obligation, to purchase all, but not less than all, of the Loans comprising the Senior Debt any time during the 15-day period following the occurrence of any of the following (each, a "Triggering Event"): (a) commencement of an Insolvency Proceeding as to an Obligor that comprises a Senior Default, (b) the 30th day after the commencement of any Limited Payment Blockage Period, (c) a Payment Default, (d) the date upon which any portion of the Senior Debt is accelerated, or (e) the date on which Senior Lenders commence a Collection Action against any Material Portion of the Collateral other than the activation of springing control agreements (collectively, the "Exercise Period"). To exercise its right to purchase the Senior Debt, a Junior Creditor shall deliver an irrevocable notice (each, a "Notice of Purchase") to the Senior Lender within the

Exercise Period; *provided, however*, that any Notice of Purchase delivered to Senior Lender based upon a Triggering Event resulting from the commencement of a Payment Blockage Period or a Limited Payment Blockage Period shall automatically terminate and be of no further force and effect if Senior Lender terminates such Payment Blockage Period or Limited Payment Blockage Period on prior to the fifth (5th) Business Day after the date upon which Senior Lender received such Notice of Purchase. If more than one Junior Creditor delivers a Notice of Purchase within the Exercise Period, they shall purchase the Senior Debt in proportion to their respective holdings of the Junior Debt (such proportion being based on the principal amount of Junior Debt held by the Junior Creditors participating in such purchase with each Junior Creditor's right to purchase being automatically proportionately increased by the amount not purchased by another Junior Creditor). Each Junior Creditor that provided a Notice of Purchase within the Exercise Period shall consummate the purchase of the Senior Debt from Senior Lender within ten (10) Business Days after receipt of the first such Notice of Purchase by the Senior Lender together with all Junior Creditors timely providing a Notice of Purchase (each purchasing Junior Creditor shall be referred to as a "Buyout Purchaser") for the purposes of this Section 34). The Buyout Purchasers shall, as the purchase price for the Senior Debt, pay to Senior Lender an amount (the "Purchase Price") equal to, without duplication, (i) 105% of the Cash Collateralized Senior Debt on the date of purchase to be held as cash collateral therefor, *plus* (ii) the aggregate unpaid amount of all other Senior Debt on the date of purchase (including accrued unpaid, fees, expenses and, to the extent known, indemnities) on the date of purchase. Payment of the Purchase Price shall be made by the Buyout Purchasers on the date upon which the purchase of the Senior Debt is consummated in cash in immediately available funds against delivery by Senior Lender of all instruments of conveyance reasonably requested by the Buyout Purchaser on or before the date of purchase. Notwithstanding anything in this Agreement to the contrary, Senior Lender shall have no obligations under this Section 34 unless (i) such purchase of the Senior Debt shall be made pursuant to agreements, documents and instruments reasonably satisfactory in form and substance to Senior Lender (including releases of all obligations of Senior Lender to the Obligors (including under the Senior Agreements) and indemnities executed by the Buyout Purchasers and the Obligors); (ii) such purchase shall be made by Senior Lender without representations, recourse or warranties (express or implied) of Senior Lender of any kind whatsoever other than as to (x) the amount shown as owing with respect to the claims to be transferred as reflected on Senior Lender's books and records, (y) Senior Lender's ownership of and right to transfer to the Buyout Purchasers the rights being transferred, and (z) that such transfer will be free and clear all liens, claims or encumbrances created by Senior Lender; (iii) Senior Lender shall receive satisfactory cash collateral as provided for immediately above in this Section 34 (*provided* that any amounts held by Senior Lender as cash collateral in connection with this Section 34 that are not subsequently used to pay off the related obligation shall be delivered to the Junior Agent to the extent permitted by applicable law); (iv) the Buyout Purchasers have agreed in writing to (x) reimburse Senior Lender for any loss, cost, damage or expense (including attorneys' fees and expenses) in connection with any fees, costs or expenses related to any checks or other payments provisionally credited to the Senior Debt and/or as to which Senior Lender has not yet received final payment and (y) to reimburse Senior Lender in respect of indemnification obligations of the Loan Parties under the Senior Debt Documents as to matters or circumstances known to the Buyout Purchasers at the time of the purchase which could reasonably be expected to result in any loss, cost, damage or expense to Senior Lender; and (v) each Buyout Purchaser is an eligible assignee under the Senior Credit Agreement. Upon

the consummation of the buyout option described herein, all commitments on the part of Senior Lender to fund Loans or provide Letters of Credit shall be terminated and extinguished. None of the Junior Agent nor any Junior Creditor shall have any claim against Senior Lender for any remedies or actions taken by Senior Lender with respect to the Senior Debt or any Collateral. As a condition to the effectuation of the purchase and option contemplated by this Section 34, the Junior Agent, the Junior Creditors and the Obligors shall provide a full and complete release of Senior Lender and its affiliated parties in such form as Senior Lender shall prescribe, releasing any claims, to the extent related to or arising out of the Senior Debt, of such parties against Senior Lender and its affiliated parties for acts or omissions prior to such purchase. Nothing in this Section 34 shall preclude Senior Lender from (a) exercising any or all of its rights and remedies with respect to any Senior Default, the Senior Debt and the Collateral at any time (including during the Exercise Period or after the giving of any Notice of Purchase), or (b) selling or otherwise disposing of the Senior Debt to any other Person, provided that such third party agrees to be bound by this Section 34 as to any sale occurring prior to the expiration of the Exercise Period. For the purposes of any Hedging Liabilities, Senior Lender may deem the giving of any Notice to Purchase as a default or event of default under the Senior Credit Agreement, any agreement evidencing or underlying Hedging Liabilities and all other Credit Documents (as defined in the Senior Credit Agreement).

35. **RESERVED.**

36. **Possessory Collateral.**

(a) With respect to any Collateral that Senior Lender may physically possess or control at any time in which Junior Agent cannot perfect a security interest by filing a financing statement (the "Pledged Collateral"), subject to Section 2 and this Section 36, Senior Lender will be deemed to possess or control the Pledged Collateral as gratuitous bailee and/or gratuitous agent for perfection for the benefit of Junior Agent as secured party, solely so as to satisfy the requirements of sections 8-106(d)(3), 8-301(a)(2) and 9-313(c) of the UCC. Senior Lender shall have no duties, liabilities or obligations to Junior Agent or any Junior Creditor as such representative or bailee except as expressly set forth in this Section 36. In this Section 36, "control" has the meaning given that term in sections 8-106 and 9-314 of the UCC. Senior Lender shall incur no liability to Junior Agent or any Junior Creditor by virtue of any act or failure to act while possessing such Pledged Collateral or with respect thereto and may relinquish such possession or control with respect to any Pledged Collateral at any time. Neither Junior Agent nor any Junior Creditor shall exercise any rights or remedies as to any of the Pledged Collateral. After the Senior Debt is Paid in Full, upon the request of Junior Agent or any Obligor, Senior Lender shall promptly return any Pledged Collateral over which it has physical possession to the Obligors, and the Obligors shall deliver such Pledged Collateral to Junior Agent to hold in its physical possession until the Junior Debt is paid in full. Senior Lender makes no representation or warranty as to the effectiveness for perfection of Senior Lender holding any Pledged Collateral as representative for the Junior Agent.

(b) After the Senior Debt is Paid in Full, Senior Lender shall, upon the reasonable request of Obligors, (i) deliver to the Persons designated by Obligors, or authorize its removal as secured party from any certificates of title with respect to, any Pledged Collateral in Senior Lender's possession, and (ii) if applicable, notify the applicable insurer that the relevant

insurance policy issued by such insurer should reflect a change in the additional insured or the loss payee named therein from Senior Lender (or its agent) to Junior Agent, in each case without recourse, representation or warranty.

[Signature pages follow]

IN WITNESS WHEREOF, the parties hereto have executed this Subordination and Intercreditor Agreement as of the day and year first above written.

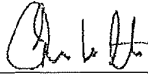
MCLARTY CAPITAL PARTNERS
SBIC, L.P., individually and as Junior
Agent



By: _____
Name: Christopher D. Smith
Title: President and Managing Partner

[Signature Page to Subordination and Intercreditor Agreement]

FIFTH THIRD BANK, as Senior Lender

By: 

Name: Charles H. Arndt

Title: Senior Vice President

[Signature Page to Subordination and Intercreditor Agreement]

Notice Address Schedule

- (i) If to Senior Lender at:

Fifth Third Bank
31 S. Main Street
Greenville, SC 29601
Attention: Charles H. Arndt,
Senior Vice-President
Telecopy: 864-558-2469

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

Smith Moore Leatherwood LLP
2 W. Washington Street, Suite 1100
Greenville, SC 29601
Attention: Richard L. Few, Jr.
Telecopy: 864-751-7800

- (ii) If to any Obligor, to such Obligor c/o:

Commercial Foodservice Repair, Inc.
410 E. Washington Street
Greenville, SC 29601
Attn: President

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

Nelson Mullins Riley & Scarborough LLP
Poinsett Plaza, Suite 900
104 South Main Street
Greenville, SC 29601
Attn: Bo Russell

- (iii) If to any Junior Creditor or the Junior Agent, to Junior Creditor or the Junior Agent c/o:

McLarty Capital Partners SBIC, L.P.
40 West 57th Street, 20th Floor
New York, NY 10019
Attn: Christopher D. Smith, President & Managing Principal
Telecopier No.: (212) 956-1066
Email: csmith@mclartycapital.com

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

Proskauer Rose LLP
One International Place
Boston, MA 02110
Attn: Sabrina Rusnak-Carlson
Telecopier No.: (617) 526-9899

ACKNOWLEDGEMENT

The undersigned hereby acknowledge and consent to the foregoing Subordination and Intercreditor Agreement, dated as of November 2, 2015 (the "Intercreditor Agreement"), among Fifth Third Bank, an Ohio banking corporation, as Senior Lender and McLarty Capital Partners SBIC, L.P., a Delaware limited partnership, as Junior Agent for the Junior Creditors. Unless otherwise defined in this Acknowledgement, terms defined in the Intercreditor Agreement have the same meanings when used in this Acknowledgement.

Each Obligor hereby acknowledges that it has received a copy of the foregoing Intercreditor Agreement and consents thereto, agrees to recognize all rights granted thereby to Senior Lender, and will not do any act or perform any obligation which is not in accordance with the agreements set forth therein. Each Obligor agrees that the Intercreditor Agreement may be amended by the Senior Lender and Junior Agent, without notice to, or the consent of any Obligor or any other Person; *provided, however*, that each Obligor agrees to be bound by the Intercreditor Agreement only as in effect on the date hereof and, to the extent that such Obligor has been notified of the terms of any amendment, as so amended.

COMMERCIAL FOODSERVICE REPAIR, INC.

By: Kurt A. Herwald
Name: Kurt A. Herwald
Title: President

FT ACQUISITION, LLC

By: Kurt A. Herwald
Name: Kurt A. Herwald
Title: President

FOODSERVICE TECHNOLOGIES, INC.

By: Kurt A. Herwald
Name: Kurt A. Herwald
Title: President

[Signature Page to Subordination and Intercreditor Agreement Acknowledgement]

EXECUTION VERSION

THIS INSTRUMENT IS SUBJECT TO THE TERMS OF A SUBORDINATION AND INTECREDITOR AGREEMENT DATED AS OF NOVEMBER 2, 2015 IN FAVOR OF FIFTH THIRD BANK, AS AGENT, WHICH AGREEMENT (AS AMENDED IN ACCORDANCE WITH ITS TERMS) IS INCORPORATED HEREIN BY REFERENCE.

SECURITY AGREEMENT

THIS SECURITY AGREEMENT, dated as of November 2, 2015 (as amended, supplemented or modified from time to time, this "Agreement"), is made by COMMERCIAL FOODSERVICE REPAIR, INC., a South Carolina corporation, FT ACQUISITION, LLC, a South Carolina limited liability company, and FOODSERVICE TECHNOLOGIES, INC., a Virginia corporation (individually, a "Pledgor" and collectively, the "Pledgors"), in favor of MCLARTY CAPITAL PARTNERS SBIC, L.P., a Delaware limited partnership, as Administrative Agent for the Lender ("Administrative Agent"). Except as otherwise provided herein, capitalized terms used herein without definition shall have the meanings given to them in the Credit Agreement referred to below.

BACKGROUND STATEMENT

A. The Pledgors, Administrative Agent and the Lender are parties to a Credit Agreement, dated as of even date herewith (as amended, modified or supplemented from time to time, the "Credit Agreement"), providing for the availability of up to \$20,000,000 in term loans (collectively, the "Loans") to the Pledgors upon the terms and conditions set forth therein.

B. As a condition to the making of the Loans to the Pledgors under the Credit Agreement, the Pledgors have agreed, by executing and delivering this Agreement, to secure the payment in full of its obligations under the Credit Agreement and the other Credit Documents. The Administrative Agent and Lender are relying on this Agreement in its decision to extend credit to the Pledgors under the Credit Agreement and would not enter into the Credit Agreement without the execution and delivery of this Agreement by the Pledgors.

STATEMENT OF AGREEMENT

NOW, THEREFORE, in consideration of the foregoing, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Pledgors and the Administrative Agent, for the benefit of the Lender, and each of their respective successors and assigns, hereby agree as follows:

ARTICLE I

DEFINITIONS

1.1 Defined Terms. Any terms not defined in this Agreement will have the meanings given thereto in the Credit Agreement. The following terms that are defined in the Uniform Commercial Code (as hereinafter defined) are used in this Agreement as so defined (and, in the event any such term is defined differently for purposes of Article 9 of the Uniform Commercial Code than for any other purpose or purposes of the Uniform Commercial Code, the Article 9 definition shall govern): Account, Accounts, Documents, Inventory, and Records. In addition, the following terms have the meanings set forth below:

"Collateral" means and includes the property and property rights of Pledgors described on Schedule I.

"Equity Interest" means any security, share, unit, partnership interest, membership interest, ownership interest, equity interest, option, warrant, participation, equity security or analogous interest (regardless of how designated) of or in a corporation, partnership, limited partnership, limited liability company, business trust or other entity, of whatever nature, type, series or class, whether voting or nonvoting, certificated or uncertificated, common or preferred, and all rights and privileges incident thereto.

“Pledged Equity” means, with respect to each Pledgor, the issued and outstanding Equity Interests owned by such Pledgor in any Subsidiary, including the Equity Interests owned by such Pledgor on the date hereof, together with the certificates (or other agreements or instruments), if any, representing such shares, and all options and other rights, contractual or otherwise, with respect thereto.

“Uniform Commercial Code” means the Uniform Commercial Code as the same may be in effect from time to time in the State of New York; provided that if, by reason of applicable law, the validity or perfection of any security interest in any Collateral granted under this Agreement is governed by the Uniform Commercial Code as in effect in another jurisdiction, then as to the validity or perfection, as the case may be, of such security interest, “Uniform Commercial Code” means the Uniform Commercial Code as in effect from time to time in such other jurisdiction.

ARTICLE II

CREATION OF SECURITY INTEREST

2.1 Pledge and Grant of Security Interest. The Pledgors hereby pledge, assign and deliver to the Administrative Agent and grant to the Administrative Agent a Lien upon and security interest in all of its rights, title and interest in and to the Collateral.

2.2 Security for Secured Obligations. This Agreement and the Collateral secure the full and prompt payment, at any time and from time to time as and when due (whether at the stated maturity, by acceleration or otherwise), of all liabilities and obligations of the Pledgors, whether now existing or hereafter incurred, created or arising and whether direct or indirect, absolute or contingent, due or to become due, under, arising out of or in connection with the this Agreement, the Credit Agreement, the other Credit Documents to which it is or hereafter becomes a party, including, without limitation: (a) all Obligations, including, without limitation, all principal of and interest on the Loans, all fees, expenses, indemnities and other amounts payable by the Pledgors under the Credit Agreement or any other Credit Document (including interest accruing after the filing of a petition or commencement of a case by or with respect to the Pledgors seeking relief under any applicable federal and state laws pertaining to bankruptcy, reorganization, arrangement, moratorium, readjustment of debts, dissolution, liquidation or other debtor relief, specifically including, without limitation, the Bankruptcy Code and any fraudulent transfer and fraudulent conveyance laws, whether or not the claim for such interest is allowed in such proceeding), (b) all such liabilities and obligations that, but for the operation of the automatic stay under Section 362(a) of the Bankruptcy Code, would become due; and (c) all fees, costs and expenses payable by the Pledgors under Section 6.1 (the liabilities and obligations of the Pledgors described in this Section 2.2, collectively, the “Secured Obligations”).

2.3 Security Interests Absolute. All rights of the Administrative Agent and security interests hereunder, and all obligations of the Pledgors hereunder, shall be absolute and unconditional and, without limiting the generality of the foregoing, shall not be released, discharged or otherwise affected by:

- (i) any extension, renewal, settlement, compromise, waiver or release in respect of any Secured Obligation or any other document evidencing or securing such Secured Obligation (including, without limitation the Credit Agreement, the Notes and/or any other Credit Documents to which the Pledgors and the Administrative Agent or Lender or any of the Administrative Agent’s or Lender’s affiliates are parties) by operation of law or otherwise;
- (ii) any modification or amendment or supplement to any document evidencing or securing any Secured Obligation (including, without limitation the Credit Agreement, the Notes and/or any other Credit Documents to which the Pledgors and the Administrative Agent or Lender or any of the Administrative Agent or Lender’s affiliates are parties);
- (iii) any non-perfection or invalidity of any direct or indirect security for any Secured Obligation;

(iv) any insolvency, bankruptcy, reorganization or other similar proceeding affecting the Pledgors or its assets or any resulting disallowance, release or discharge of all or any portion of the Secured Obligations;

(v) the existence of any claim, set-off or other right which the Pledgors may have at any time against the Administrative Agent or Lender or any other corporation or person, whether in connection herewith or any unrelated transactions; provided, that nothing herein shall prevent the assertion of any such claim by separate suit or compulsory counterclaim;

(vi) any invalidity or unenforceability relating to or against the Pledgors for any reason of any Secured Obligation, or any provision of applicable law or regulation purporting to prohibit the payment by the Pledgors of the Secured Obligations;

(vii) any failure by the Administrative Agent or Lender (A) to file or enforce a claim against the Pledgors (in a bankruptcy or other proceeding), (B) to give notice of the existence, creation or incurrence by the Pledgors of any new or additional indebtedness or obligation under or with respect to the Secured Obligations, (C) to commence any action against the Pledgors, or (D) to proceed with due diligence in the collection, protection or realization upon any collateral securing the Secured Obligations; or

(viii) any other act or omission to act or delay of any kind by the Pledgors or the Administrative Agent or Lender or any other corporation or person or any other circumstance whatsoever which might, but for the provisions of this clause, constitute a legal or equitable discharge of the Pledgors' obligations hereunder.

ARTICLE III

REPRESENTATIONS AND WARRANTIES

The Pledgors hereby represent and warrant as follows:

3.1 Ownership of Collateral. The Pledgors owns, or have valid rights as a lessee or licensee with respect to, all Collateral purported to be pledged by it hereunder, free and clear of any Liens except for the Liens granted to the Administrative Agent, and except for other Permitted Liens. No security agreement, financing statement or other public notice with respect to all or any part of the Collateral is on file or of record in any government or public office, and the Pledgors have not filed or consented to the filing of any such statement or notice, except (i) Uniform Commercial Code financing statements naming the Administrative Agent as secured party, (ii) as may be required by the Securities and Exchange Commission, and (iii) as may be otherwise permitted by the Credit Agreement.

3.2 Security Interests; Filings. This Agreement, together with (i) the filing, with respect to the Pledgors, of duly completed and executed Uniform Commercial Code financing statements naming the Pledgors as debtor, the Administrative Agent as secured party, and describing the Collateral, in the jurisdictions set forth with respect to the Pledgors on Schedule II hereto (which filing is hereby authorized by the Pledgors), (ii) delivery of the Pledged Equity to the Administrative Agent, and (iii) to the extent required by applicable law, the filing, with respect to the Pledgors, of duly completed and executed assignments in the forms required by the U.S. Copyright Office or the U.S. Patent and Trademark Office, creates, and at all times shall constitute, a valid and perfected security interest in and Lien upon the Collateral in favor of the Administrative Agent, to the extent a security interest therein can be perfected by such filings or possession, as applicable, superior and prior to the rights of all other Persons therein (except for Permitted Liens).

3.3 Locations. Schedule III lists, as to each Pledgor, (i) its exact legal name, (ii) the jurisdiction of its incorporation or organization, its federal tax identification number, and (if applicable) its organizational identification number, (iii) the addresses of its chief executive office and each other place of business, and (iv) the address of each location at which any Inventory (other than Goods in transit) owned by the Pledgor are kept or

maintained, in each instance except for any new locations established in accordance with the provisions of Section 4.2. Except as may be otherwise noted therein, all locations identified on Schedule III are leased by the Pledgor. The Pledgor does not presently conduct business under any prior or other corporate or company name or under any trade or fictitious names, except as indicated beneath its name on Schedule III, and the Pledgor has not entered into any contract or granted any Lien within the past five (5) years under any name other than its legal corporate name or a trade or fictitious name indicated on Schedule III.

3.4 Authorization; Consent. The execution, delivery and performance by the Pledgors of this Agreement requires no action by or in respect of, or filing with, any Governmental Authority and do not contravene, or constitute (with or without the giving of notice or lapse of time or both) a default under, any provision of applicable law or of any agreement, judgment, injunction, order, decree or other instrument binding upon or affecting the Pledgors.

3.5 No Restrictions. There are no statutory or regulatory restrictions, prohibitions or limitations on the Pledgors' ability to grant to the Administrative Agent a Lien upon and security interest in the Collateral pursuant to this Agreement or (except for the provisions of the federal Anti-Assignment Act (41 U.S.C. 15), as amended and the Anti-Claims Act (31 U.S.C. 3727), as amended) on the exercise by the Administrative Agent of its rights and remedies hereunder (including any foreclosure upon or collection of the Collateral), and there are no contractual restrictions on the Pledgors' ability to grant such Lien and security interest.

3.6 Accounts. Each Account is, or at the time it arises will be, (i) a bona fide, valid and legally enforceable indebtedness of the account debtor according to its terms, arising out of or in connection with the sale, lease or performance of Goods or services by the Pledgors, (ii) subject to no offsets, discounts, counterclaims, contra accounts or any other defense of any kind and character, other than warranties and discounts customarily given by the Pledgors in the ordinary course of business and warranties provided by applicable law, (iii) to the extent listed on any schedule of Accounts at any time furnished to the Administrative Agent, a true and correct statement of the amount actually and unconditionally owing thereunder, maturing as stated in such schedule and in the invoice covering the transaction creating such Account, in each case on and as of the date such schedule of Accounts was furnished, and (iv) not evidenced by any other instrument; or if so, such other instrument (other than invoices and related correspondence and supporting documentation) shall promptly be duly endorsed to the order of the Administrative Agent and delivered to the Administrative Agent to be held as Collateral hereunder. To the knowledge of the Pledgors, there are no facts, events or occurrences that would in any way impair the validity or enforcement of any Accounts except as set forth above.

3.7 Documents of Title. No bill of lading, warehouse receipt or other document or instrument of title is outstanding with respect to any Collateral other than Inventory in transit in the ordinary course of business to a location set forth on Schedule III or to a customer of the Pledgors.

ARTICLE IV

COVENANTS

The Pledgors agree that so long as any Secured Obligation remains unpaid:

4.1 Use and Disposition of Collateral. So long as no Event of Default shall have occurred and be continuing, the Pledgors may, in any lawful manner not inconsistent with the provisions of this Agreement and the other Credit Documents, use, control and manage the Collateral in the operation of its businesses, and receive and use the income, revenue and profits arising therefrom and the proceeds thereof, in the same manner and with the same effect as if this Agreement had not been made; provided, however, that the Pledgors will not sell or otherwise dispose of, grant any option with respect to, or mortgage, pledge, grant any Lien with respect to or otherwise encumber any of the Collateral or any interest therein, except for any security interest created in favor of the Administrative Agent (including, without limitation, the security interest created hereunder) and except as may be otherwise expressly permitted in accordance with the terms of this Agreement and the other Credit Documents (including any applicable provisions therein regarding delivery of proceeds of sale or disposition to the Administrative Agent or Lender).

4.2 Change of Name, Locations, etc. No Pledgor will (i) change its name, identity or corporate structure, (ii) change its chief executive office from the location thereof listed on Schedule III, (iii) change the jurisdiction of its incorporation or organization from the jurisdiction listed on Schedule III (whether by merger or otherwise), or (iv) maintain any Collateral (other than goods or Inventory), or any books, records or other information relating to Collateral, at a location that is not listed on Schedule III, or keep or maintain any Collateral at a location not listed on Schedule III, unless in each case the Pledgor has (A) given prior written notice to the Administrative Agent of its intention to do so, together with information regarding any such new location and such other information in connection with such proposed action as the Administrative Agent may reasonably request, and (B) delivered to the Administrative Agent within thirty (30) days of any such change or removal such documents, instruments and financing statements as may be required by the Administrative Agent, all in form and substance satisfactory to the Administrative Agent, paid all necessary filing and recording fees and taxes, and taken all other actions reasonably requested by the Administrative Agent, in order to perfect and maintain the Lien upon and security interest in the Collateral.

4.3 Records; Inspection.

(a) The Pledgors will keep and maintain at their own cost and expense satisfactory and complete records of the Accounts and all other Collateral, and will furnish to the Administrative Agent from time to time such statements, schedules and reports (including, without limitation, accounts receivable aging schedules) with regard to the Collateral as the Administrative Agent may reasonably request in writing.

(b) The Pledgors shall, from time to time at such times as may be reasonably requested in writing and upon reasonable notice, permit the Administrative Agent to visit its offices or the premises upon which any Collateral may be located, inspect its books and records and make copies and memoranda thereof, inspect the Collateral, discuss its finances and affairs with its officers, employees and independent accountants and take any other actions necessary for the protection of the interests of the Administrative Agent in the Collateral at Pledgors' expense; provided that unless an Event of Default shall have occurred and be continuing, Administrative Agent shall be permitted one such inspection annually at Pledgors' expense and any additional inspections shall be at Administrative Agent's sole expense.

4.4 Accounts. Unless notified otherwise by the Administrative Agent in accordance with the terms hereof, the Pledgors shall endeavor to collect their Accounts and all amounts owing to them thereunder in the ordinary course of their business consistent with past practices and shall apply forthwith upon receipt thereof all such amounts as are so collected to the outstanding balances thereof. The Pledgors shall not, except to the extent done in the ordinary course of its business consistent with past practice and in accordance with sound business judgment, (i) grant any extension of the time for payment of any Account, (ii) compromise or settle any Account for less than the full amount thereof, (iii) release, in whole or in part, any Person or property liable for the payment of any Account, or (iv) allow any credit or discount on any Account. The Pledgors shall promptly inform the Administrative Agent of any disputes with any account debtor or obligor and of any claimed offset and counterclaim that may be asserted with respect thereto involving, in each case, any material amount, where the Pledgors reasonably believe that the likelihood of payment by such account debtor is materially impaired, indicating in detail the reason for the dispute, all claims relating thereto and the amount in controversy.

4.5 Delivery of Certain Collateral. All certificates or Instruments representing or evidencing any Accounts or other Collateral (including without limitation, the Pledged Equity) shall be delivered promptly to the Administrative Agent pursuant hereto to be held as Collateral hereunder, shall be in form suitable for transfer by delivery and shall be delivered together with undated stock powers duly executed in blank, appropriate endorsements or other necessary instruments of registration, transfer or assignment, duly executed and in form and substance satisfactory to the Administrative Agent, and in each case together with such other instruments or documents as the Administrative Agent may reasonably request.

4.6 Inventory. The Pledgors will, in accordance with sound business practices and consistent with past practice, maintain all Inventory held by it or on their behalf in good saleable or useable condition. Unless notified otherwise by the Administrative Agent in accordance with the terms hereof, the Pledgors may, in any lawful manner not inconsistent with the provisions of this Agreement and the other Credit Documents, process, use and, in the ordinary course of business but not otherwise, sell their Inventory.

4.7 Collateral in Possession of Third Party. Without limiting the generality of any other provision of this Agreement, the Pledgors agree that they shall not permit any Collateral to be in the possession of any bailee, warehouseman, agent, processor or other third party at any time unless such bailee or other Person shall have been notified of the security interest created by this Agreement (or, if required under applicable law in order to perfect the Administrative Agent's security interest in such Collateral, such bailee or other Person shall have acknowledged to the Administrative Agent in writing that it is holding such Collateral for the benefit of the Administrative Agent and subject to such security interest and to the instructions of the Administrative Agent) and the Pledgors shall have exercised their commercially reasonable efforts to obtain from such bailee or other Person within 60 days of the Administrative Agent's request therefor, at the Pledgors' sole cost and expense, the written acknowledgement described above (if not already required by applicable law to perfect the Administrative Agent's security interest) and agreement to waive or release any Lien (whether arising by operation of law or otherwise) they may have with respect to such Collateral, such agreement to be in form and substance reasonably satisfactory to the Administrative Agent.

4.8 Account Control Agreements. Within 45 days of the Closing Date (or such later date as may be agreed to by the Administrative Agent), each Pledgor shall cause each bank and other financial institution with a deposit account, securities account or commodities account to execute and deliver to Administrative Agent a control agreement in form and substance reasonably acceptable to Administrative Agent. Without the prior written consent of Administrative Agent (which consent shall not be unreasonably withheld, delayed or conditioned), no Pledgor shall make or maintain any deposit account, commodity account or securities account except for the accounts set forth in Schedule IV and except for any such account for which such Pledgor has delivered a control agreement in form and substance satisfactory to Administrative Agent. Subject to the terms of the Fifth Third Intercreditor Agreement, upon the occurrence and during the continuance of an Event of Default, Administrative Agent may (in its sole and absolute discretion), or at the direction of Required Lenders shall, direct any or all of the banks and financial institutions party to a control agreement to send immediately to Administrative Agent or its designated agent by wire transfer (to such account as Administrative Agent shall specify, or in such other manner as Administrative Agent shall direct) all or a portion of such securities, cash, investments and other items held by such institution. Any such securities, cash, investments and other items so received by Administrative Agent or its designated agent shall (in the sole and absolute discretion of Administrative Agent) be held as additional Collateral for the Secured Obligations subject to the terms hereof.

4.9 Protection of Security Interest; Further Assurances. The Pledgors will, at their expense and in such manner and form as the Administrative Agent may require, execute, deliver, file and record any financing statement, specific assignment or other paper and take any other action that may be necessary or desirable, or that the Administrative Agent may request, in order to create, preserve, perfect or validate the security interests granted hereby or to enable the Administrative Agent to exercise and enforce its rights hereunder with respect to any of the Collateral. To the extent permitted by applicable law, the Pledgors hereby authorize the Administrative Agent to execute and file, in the name of the Pledgors or otherwise, Uniform Commercial Code financing statements which the Administrative Agent in its sole discretion may deem necessary or appropriate to further perfect the security interests.

ARTICLE V

GENERAL AUTHORITY; REMEDIES

5.1 General Authority. The Pledgors hereby irrevocably appoint the Administrative Agent and any officer or agent thereof, with full power of substitution, as its true and lawful attorney-in-fact (which appointment is coupled with an interest), in the name of the Pledgors or its own name, for the sole use and benefit of the Administrative Agent, for the benefit of the Lender, but at the Pledgors' expense, at any time and from time to time, to take any and all appropriate action and to execute any and all documents and instruments which may be necessary or desirable to carry out the terms of this Agreement and, without limiting the foregoing, the Pledgors hereby give the Administrative Agent the power and right on its behalf, without notice to or further assent by the Pledgors to do the following if an Event of Default shall have occurred and be continuing:

- (i) to receive, take, endorse, assign and deliver any and all checks, notes, drafts, acceptances, documents and other negotiable and nonnegotiable instruments taken or received by the Pledgors as, or in connection with, the Collateral;
- (ii) to demand, sue for, collect, receive and give acquittance for any and all monies due or to become due upon or in connection with the Collateral;
- (iii) to commence, settle, compromise, compound, prosecute, defend or adjust any claim, suit, action or proceeding with respect to, or in connection with, the Collateral;
- (iv) to sell, transfer, assign or otherwise deal in or with the Collateral or any part thereof, as fully and effectually as if the Administrative Agent were the absolute owner thereof;
- (v) to exchange certificates or instruments representing or evidencing the Pledged Equity for certificates or instruments of smaller or larger denomination; and
- (vi) to do, at its option, but at the expense of the Pledgors, at any time or from time to time, all acts and things which the Administrative Agent deems necessary to protect or preserve the Collateral and to realize upon the Collateral.

5.2 **Rights and Remedies.** If an Event of Default shall have occurred and be continuing, the Administrative Agent shall be entitled to exercise in respect of the Collateral all of its rights, powers and remedies provided for herein or otherwise available to it under any other Credit Document, by law, in equity or otherwise, including all rights and remedies of a secured party under the Uniform Commercial Code, and shall be entitled in particular, but without limitation of the foregoing, to exercise the following rights, which the Pledgors agree to be commercially reasonable:

- (a) To notify any or all account debtors or obligors under any Accounts or other Collateral of the security interest in favor of the Administrative Agent created hereby and to direct all such Persons to make payments of all amounts due thereon or thereunder directly to the Administrative Agent or to an account designated by the Administrative Agent; and in such instance and from and after such notice, all amounts and proceeds received by the Pledgors in respect of any Accounts or other Collateral shall be received in trust for the benefit of the Administrative Agent hereunder, shall be segregated from the other funds of the Pledgors and shall be forthwith deposited into such account or paid over or delivered to the Administrative Agent in the same form as so received (with any necessary endorsements or assignments), to be held as Collateral and applied to the Secured Obligations as provided herein;
- (b) To take possession of, receive, endorse, assign and deliver, in its own name or in the name of the Pledgors, all checks, notes, drafts and other instruments relating to any Collateral, including receiving, opening and properly disposing of all mail addressed to the Pledgors concerning Accounts and other Collateral; to verify with account debtors or other contract parties the validity, amount or any other matter relating to any Accounts or other Collateral, in its own name or in the name of the Pledgors; to accelerate any indebtedness or other obligation constituting Collateral that may be accelerated in accordance with its terms; to take or bring all actions and suits deemed necessary or appropriate to effect collections and to enforce payment of any Accounts or other Collateral; to settle, compromise or release in whole or in part any amounts owing on Accounts or other Collateral; and to extend the time of payment of any and all Accounts or other amounts owing under any Collateral and to make allowances and adjustments with respect thereto, all in the same manner and to the same extent as the Pledgors might have done;
- (c) To transfer to or register in its name or the name of any of its agents or nominees all or any part of the Collateral, without notice to the Pledgors and with or without disclosing that such Collateral is subject to the security interest created hereunder;
- (d) To notify any or all depository institutions with which any Deposit Accounts are maintained and which Deposit Accounts are subject to control in favor of the Administrative Agent to remit and transfer all monies, securities and other property on deposit in such Deposit Accounts or deposited or received for deposit thereafter to

the Administrative Agent, for deposit in a Collateral Account or such other accounts as may be designated by the Administrative Agent, for application to the Secured Obligations as provided herein;

(e) To require the Pledgors to, and the Pledgors hereby agree that it will at its expense and upon request of the Administrative Agent forthwith, assemble all or any part of the Collateral as directed by the Administrative Agent and make it available to the Administrative Agent at a place designated by the Administrative Agent;

(f) To enter and remain upon the premises of the Pledgors and take possession of all or any part of the Collateral, with or without judicial process; to use the materials, services, books and records of the Pledgors for the purpose of liquidating or collecting the Collateral, whether by foreclosure, auction or otherwise; and to remove the same to the premises of the Administrative Agent or any designated agent for such time as the Administrative Agent may desire, in order to effectively collect or liquidate the Collateral;

(g) To sell, resell, assign and deliver, in its sole discretion, all or any of the Collateral, in one or more parcels, on any securities exchange on which any Capital Stock may be listed, at public or private sale, at any of the Administrative Agent's offices or elsewhere, for cash, upon credit or for future delivery, at such time or times and at such price or prices and upon such other terms as the Administrative Agent may deem satisfactory. If any of the Collateral is sold by the Administrative Agent upon credit or for future delivery, the Administrative Agent shall not be liable for the failure of the purchaser to purchase or pay for the same and, in the event of any such failure, the Administrative Agent may resell such Collateral. In no event shall the Pledgors be credited with any part of the proceeds of sale of any Collateral until and to the extent cash payment in respect thereof has actually been received by the Administrative Agent. Each purchaser at any such sale shall hold the property sold absolutely, free from any claim or right of whatsoever kind, including any equity or right of redemption of the Pledgors, and the Pledgors hereby expressly waive all rights of redemption, stay or appraisal, and all rights to require the Administrative Agent to marshal any assets in favor of the Pledgors or any other party or against or in payment of any or all of the Secured Obligations, that it has or may have under any rule of law or statute now existing or hereafter adopted. No demand, presentment, protest, advertisement or notice of any kind (except any notice required by law, as referred to below), all of which are hereby expressly waived by the Pledgors, shall be required in connection with any sale or other disposition of any part of the Collateral. If any notice of a proposed sale or other disposition of any part of the Collateral shall be required under applicable law, the Administrative Agent shall give the Pledgors at least ten (10) days' prior notice of the time and place of any public sale and of the time after which any private sale or other disposition is to be made, which notice the Pledgors agree is commercially reasonable. The Administrative Agent shall not be obligated to make any sale of Collateral if it shall determine not to do so, regardless of the fact that notice of sale may have been given. The Administrative Agent may, without notice or publication, adjourn any public or private sale or cause the same to be adjourned from time to time by announcement at the time and place fixed for sale, and such sale may, without further notice, be made at the time and place to which the same was so adjourned. Upon each public sale and, to the extent permitted by applicable law, upon each private sale, the Administrative Agent may purchase all or any of the Collateral being sold, free from any equity, right of redemption or other claim or demand, and may make payment therefor by endorsement and application (without recourse) of the Secured Obligations in lieu of cash as a credit on account of the purchase price for such Collateral; and

(h) In addition to the other rights and remedies hereunder, solely upon the occurrence of an Event of Default and during the continuance thereof, the Administrative Agent shall have, at its option, the sole and exclusive right to (or otherwise refrain from exercising its rights relating to) (i) transfer and register in its name or in the name of its nominee or transferee the whole or any part of the Pledged Equity, (ii) exchange certificates or instruments representing or evidencing the Pledged Equity for certificates or instruments of smaller or larger denominations, (iii) exercise the voting and all other rights as a holder with respect thereto, (iv) collect and receive all cash dividends and other payments and distributions made thereon and (v) notify the parties obligated on any of the Pledged Equity to make payment to Administrative Agent of any amounts due or to become due thereunder.

5.3 Application of Proceeds.

(a) All proceeds collected by the Administrative Agent upon any sale, other disposition of or realization upon any of the Collateral, together with all other moneys received by the Administrative Agent hereunder, shall be applied as follows:

(i) first, to payment of the reasonable expenses of such sale or other realization, including reasonable compensation to the Administrative Agent and its agents and counsel, and all reasonable expenses, liabilities and advances incurred or made by the Administrative Agent, its agents and counsel in connection therewith or in connection with the care, safekeeping or otherwise of any or all of the Collateral, and any other unreimbursed expenses for which the Administrative Agent is to be reimbursed pursuant to Section 6.1;

(ii) second, after payment in full of the amounts specified in clause (i) above, to payment of the Secured Obligations; and

(iii) finally, after payment in full of the amounts specified in clauses (i) and (ii) above, any surplus then remaining shall be paid to the Pledgors, or its successors or assigns, or to whomever may be lawfully entitled to receive the same or as a court of competent jurisdiction may direct.

(b) The Pledgors shall remain liable to the extent of any deficiency between the amount of all proceeds realized upon sale or other disposition of the Collateral pursuant to this Agreement. Upon any sale of any Collateral hereunder by the Administrative Agent (whether by virtue of the power of sale herein granted, pursuant to judicial proceeding, or otherwise), the receipt of the Administrative Agent or the officer making the sale shall be a sufficient discharge to the purchaser or purchasers of the Collateral so sold, and such purchaser or purchasers shall not be obligated to see to the application of any part of the purchase money paid over to the Administrative Agent or such officer or be answerable in any way for the misapplication thereof.

5.4 Collateral Accounts. Upon the occurrence and during the continuance of an Event of Default, the Administrative Agent shall have the right to cause to be established and maintained, at its principal office or such other location or locations as it may establish from time to time in its discretion, one or more accounts (collectively, "Collateral Accounts") for the collection of cash proceeds of the Collateral. Such proceeds, when deposited, shall continue to constitute Collateral for the Secured Obligations and shall not constitute payment thereof until applied as herein provided. The Administrative Agent shall have sole dominion and control over all funds deposited in any Collateral Account, and such funds may be withdrawn therefrom only by the Administrative Agent. Upon the occurrence and during the continuance of an Event of Default, the Administrative Agent shall have the right to apply amounts held in the Collateral Accounts in payment of the Secured Obligations in the manner provided for in Section 5.3.

5.5 Grant of License. The Pledgors hereby grant to the Administrative Agent an irrevocable, non-exclusive license (exercisable without payment of royalty or other compensation to the Pledgors) to use, license or sublicense any Intellectual Property now owned or licensed or hereafter acquired or licensed by the Pledgors, wherever the same may be located throughout the world, for such term or terms, on such conditions and in such manner as the Administrative Agent shall determine, whether general, special or otherwise, and whether on an exclusive or nonexclusive basis, and including in such license reasonable access to all media in which any of the licensed items may be recorded or stored and to all computer software and programs used for the compilation or printout thereof. The use of such license or sublicense by the Administrative Agent shall be exercised, at the option of the Administrative Agent, only upon the occurrence and during the continuation of an Event of Default; provided that any license, sublicense or other transaction entered into by the Administrative Agent in accordance herewith shall be binding upon the Pledgors notwithstanding any subsequent cure of an Event of Default.

5.6 Waivers. Each Pledgor, to the greatest extent not prohibited by applicable law, hereby (i) agrees that it will not invoke, claim or assert the benefit of any rule of law or statute now or hereafter in effect (including, without limitation, any right to prior notice or judicial hearing in connection with the Administrative Agent's possession, custody or disposition of any Collateral or any appraisal, valuation, stay, extension, moratorium or redemption law), or take or omit to take any other action, that would or could reasonably be expected to have the effect of delaying, impeding or preventing the exercise of any rights and remedies in respect of the Collateral, the absolute sale of any of the Collateral or the possession thereof by any purchaser at any sale thereof, and waives the benefit of all such laws and further agrees that it will not hinder, delay or impede the execution of any power granted hereunder to the Administrative Agent, but that it will permit the execution of every such power as though no such laws were in effect, (ii) waives all rights that it has or may have under any rule of law or statute now existing or hereafter adopted to require the Administrative Agent to marshal any Collateral or other assets in favor of the

Pledgor or any other party or against or in payment of any or all of the Secured Obligations, and (iii) waives all rights that it has or may have under any rule of law or statute now existing or hereafter adopted to demand, presentment, protest, advertisement or notice of any kind (except notices expressly provided for herein).

5.7 Proxy. Each Pledgor grants to the Administrative Agent, an IRREVOCABLE PROXY, to vote all or any part of such Pledgor's Pledged Equity from time to time, in each case in any manner the Administrative Agent deems advisable in its sole discretion, either for or against any or all matters submitted, or which may be submitted to a vote of shareholders, partners, or members, as the case may be, and to exercise all other rights, powers, privileges, and remedies to which any such shareholders, partners, or members would be entitled (including, without limitation, giving or withholding written consents, ratifications, and waivers with respect to the Pledged Equity, calling special meetings of the holders of the Pledged Equity of any issuer and voting at such meetings). The irrevocable proxy granted hereby is effective automatically solely upon the occurrence and during the continuance of an Event of Default without the necessity that any other action (including, without limitation, that any transfer of any of the Pledged Equity be recorded on the books and records of the relevant Pledgor) be taken by any Person (including the relevant Loan Party of any Pledged Equity or any officer or agent thereof), is coupled with an interest, and shall be irrevocable, shall survive the bankruptcy, dissolution or winding up of any relevant Pledgor, and shall terminate only on the repayment in full of the Obligations; provided that, upon the repayment in full of the Obligations or if such irrevocable proxy is rescinded in writing by the Administrative Agent, such Pledgor will have the right to exercise the voting and consensual rights and powers that it would otherwise be entitled to exercise with respect to its Pledged Equity and all rights of the Administrative Agent to vote all or any part of such Pledged Equity will cease.

ARTICLE VI

MISCELLANEOUS

6.1 Indemnity and Expenses. The Pledgors agree:

(a) To indemnify and hold harmless the Administrative Agent, Lender and each of their respective directors, officers, employees, agents and affiliates from and against any and all claims, damages, demands, losses, obligations, judgments and liabilities (including, without limitation, reasonable attorneys' fees and expenses) in any way arising out of or in connection with this Agreement and the transactions contemplated hereby, except to the extent the same shall arise as a result of the gross negligence or willful misconduct of the party seeking to be indemnified; and

(b) To pay and reimburse the Administrative Agent upon demand for all reasonable costs and expenses (including, without limitation, reasonable attorneys' fees and expenses) that the Administrative Agent may incur in connection with (i) the custody, use or preservation of, or the sale of, collection from or other realization upon, any of the Collateral, including the reasonable expenses of re-taking, holding, preparing for sale or lease, selling or otherwise disposing of or realizing on the Collateral, (ii) the exercise or enforcement of any rights or remedies granted hereunder (including, without limitation, under Article V), under any of the other Credit Documents or otherwise available to it (whether at law, in equity or otherwise), or (iii) the failure by the Pledgors to perform or observe any of the provisions hereof. The provisions of this Section 6.1 shall survive the execution and delivery of this Agreement, the repayment of any of the Secured Obligations, the termination of the commitments under the Credit Agreement and the termination of this Agreement or any other Credit Document.

6.2 No Waiver. The Administrative Agent's failure at any time or times hereafter to require strict performance by the Pledgors of any of the provisions of this Agreement shall not waive, affect or diminish any right of the Administrative Agent at any time or times hereafter to demand strict performance therewith and with respect to any other provision of this Agreement, and any waiver of any Event of Default shall not waive or affect any other Event of Default, whether prior or subsequent thereto, and whether of the same or a different type. None of the provisions of this Agreement shall be deemed to have been waived by any act or knowledge of the Administrative Agent, its agents, officers or employees except by an instrument in writing signed by an officer of the Administrative Agent and directed to the Pledgors specifying such waiver.

6.3 Binding Effect. This Agreement and all other instruments and documents executed and delivered pursuant hereto or in connection herewith shall be binding upon and inure to the benefit of the successors and assigns of the parties hereto.

6.4 Governing Law. This Agreement shall be construed and interpreted in accordance with the internal laws and judicial decisions of the State of New York without giving effect to the conflict of laws principles thereof, except to the extent that matters of perfection and validity of the security interests hereunder, or remedies hereunder, are governed by the laws of a jurisdiction other than the State of New York.

6.5 Survival of Agreement. All representations and warranties of the Pledgors and all obligations of the Pledgors contained herein shall survive the execution and delivery of this Agreement.

6.6 Pre-Filing and Filing of Financing Statements. By execution of this Agreement, the Pledgors (a) expressly authorize the Administrative Agent to prepare and file or cause to be filed such Uniform Commercial Code financing statements (including attached schedules, exhibits, and addenda) as the Administrative Agent may deem reasonably necessary to perfect the security interests and liens granted herein and (b) hereby ratifies and confirms that the Administrative Agent was and is authorized to file all such Uniform Commercial Code financing statements (including attached schedules, exhibits, and addenda) prior to the execution and delivery of this Agreement, and hereby ratifies any such filings.

6.7 Continuing Security Interest; Term; Successors and Assigns; Assignment; Termination and Release; Survival. This Agreement shall create a continuing security interest in the Collateral and shall secure the payment and performance of all of the Secured Obligations as the same may arise and be outstanding at any time and from time to time from and after the date hereof, and shall (i) remain in full force and effect until all of the Secured Obligations have been paid and finally discharged in full (the "Termination Requirements"), (ii) be binding upon and enforceable against the Pledgors and their successors and assigns; provided, however, that the Pledgors may not sell, assign or transfer any of their rights, interests, duties or obligations hereunder without the prior written consent of the Administrative Agent, and (iii) inure to the benefit of and be enforceable by the Administrative Agent and its successors and assigns. Upon any sale or other disposition by the Pledgors of any Collateral in a transaction expressly permitted hereunder or under or pursuant to the Credit Agreement or any other applicable Credit Document, the Lien and security interest created by this Agreement in and upon such Collateral shall be automatically released, and upon the satisfaction of all of the Termination Requirements, this Agreement and the Lien and security interest created hereby shall terminate; and in connection with any such release or termination, the Administrative Agent, at the request and expense of the Pledgors will execute and deliver to the Pledgors such documents and instruments evidencing such release or termination as the Pledgors may reasonably request and will assign, transfer and deliver to the Pledgors, without recourse and without representation or warranty, such of the Collateral as may then be in the possession of the Administrative Agent (or, in the case of any partial release of Collateral, such of the Collateral so being released as may be in its possession).

6.8 Notice. Except as otherwise provided herein, notice to the Pledgors or to the Administrative Agent shall be given or delivered in the manner set forth in Section 9.4 of the Credit Agreement.

6.9 Severability. To the extent any provision of this Agreement is prohibited by or invalid under applicable law, such provision shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Agreement.

6.10 Captions. The captions to the sections of this Agreement have been inserted for convenience only and shall not limit or modify any of the terms hereof.

6.11 Counterparts. This Agreement may be executed in two or more counterparts, which when assembled shall constitute one and the same agreement. Delivery of an executed counterpart hereof by telecopy or other electronic communication (including via "PDF") shall be as effective as delivery of an originally executed counterpart.

6.12 Amendments and Waivers. Any provision of this Agreement may be amended or waived, if, but only if, such amendment or waiver is in writing and is signed by the Pledgors and the Administrative Agent.

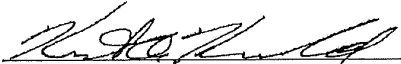
6.13 Conflict of Terms. The terms of this Agreement and the terms of the Credit Agreement shall be construed and interpreted to the full extent possible to give effect to all such terms. In the event of any conflict between the terms of this Agreement and the Credit Agreement, the terms of the Credit Agreement shall control.

6.14 Delivery of Collateral. Notwithstanding anything to the contrary contained in this Agreement or any of the other Credit Documents, until the Senior Debt is Paid in Full (as defined in the Fifth Third Intercreditor Agreement), any requirement hereunder to deliver original Collateral to the Administrative Agent shall be deemed satisfied by delivery thereof to Fifth Third or its successor as gratuitous bailee for the Administrative Agent and the Borrowers solely for the purpose of perfecting the security interest granted hereunder pursuant to the terms of the Fifth Third Intercreditor Agreement.

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IN WITNESS WHEREOF, this Security Agreement has been executed as of the day and year first above written by the duly authorized officers of the parties hereto.

COMMERCIAL FOODSERVICE REPAIR,
INC.

By: 
Name: Kurt A. Herwald
Title: President

FT ACQUISITION, LLC

By: 
Name: Kurt A. Herwald
Title: President

FOODSERVICE TECHNOLOGIES, INC.

By: 
Name: Kurt A. Herwald
Title: President

[Signature Page to Security Agreement]

ACCEPTED AND AGREED TO AS OF
THE DATE FIRST ABOVE WRITTEN:

MCLARTY CAPITAL PARTNERS SBIC, L.P.

By: 
Name: Christopher D. Smith
Title: President and Managing Partner

[Signature Page to Security Agreement]

SCHEDULE I

COLLATERAL DESCRIPTION

PLEDGORS: COMMERCIAL FOODSERVICE REPAIR, INC., FT ACQUISITION, LLC,
and FOODSERVICE TECHNOLOGIES, INC.

SECURED PARTY: MCLARTY CAPITAL PARTNERS SBIC, L.P.

All personal property owned by Pledgors and all personal property in which Pledgors have a property interest, both presently existing and hereafter created, written, produced, developed, acquired and arising, of every nature, kind and description, wherever located and notwithstanding in whose custody and possession any of the foregoing may be at any time or times, including, but not limited to:

(i) all accounts, as-extracted collateral, cash proceeds, chattel paper, commercial tort claims, deposit accounts, documents, equipment, farm products, fixtures, financial assets, general intangibles, goods, instruments, inventory, investment property (including without limitation Equity Interests), letter of credit rights, letters of credit, money, non-cash proceeds, proceeds, intellectual property, software, supporting obligations and other personal property, both now existing and hereafter existing, acquired and arising, owned by Pledgors and in which Pledgors have any property rights and benefits, of whatsoever kind and description, wheresoever located and inclusive of property in Pledgors' constructive possession and control, property in Pledgors' actual possession and control and property in the possession and control of a third person for and on behalf of Pledgors; and, without limiting the foregoing but in furtherance thereof, the following now existing and hereafter acquired and arising property and property rights and benefits, together with all replacements, substitutions, additions, accessions, products and proceeds thereof and of anything described herein;

(ii) all accounts (as such term is defined in Article 9 of the Uniform Commercial Code in effect from time to time in the State of New York and the Uniform Commercial Code of any other jurisdiction applicable to the Collateral) owned by Pledgors and all accounts in which Pledgors have any rights (including, without limitation, rights to grant a security interest in accounts owned by other persons), both now existing and hereafter owned, acquired and arising and, to the extent not included in the term accounts as so defined after ascribing a broad meaning thereto, all accounts receivable, health-care-insurance receivables, credit and charge card receivables, bills, acceptances, documents, choses in action, chattel paper (both tangible and electronic), promissory notes and other instruments, deposit accounts, license fees payable for use of software, commercial tort claims, letter of credit rights and letters of credit, rights to payment for money or funds advanced or sold other than through use of a credit card, lottery winnings, investment property, rights to payment with respect to investment property, general intangibles and other forms of obligations and rights to payment of any nature, now owing to Pledgors and hereafter arising and owing to the Pledgors, together with (1) the proceeds of all of the accounts and other property and property rights described hereinabove, including all of the proceeds of Pledgors' rights with respect to any of its goods and services represented thereby, whether delivered or returned by customers, and all rights as an unpaid vendor and lienor, including rights of stoppage in transit and of recovering possession by any proceedings, including replevin and reclamation, and (2) all customer lists, books and records, ledgers, account cards, and other records including those stored on computer or electronic media, whether now in existence or hereafter created, relating to any of the foregoing;

(iii) all now existing and hereafter acquired software, computer source codes, computer programs embedded in goods that consist solely of the medium in which the program is embedded and other computer programs and supporting information (collectively, the "Software Products"), and all common law and statutory copyrights and copyright registrations, applications for registration, now existing and hereafter arising, United States and foreign, obtained and to be obtained on or in connection with the Software Products, and any parts thereof and any underlying and component elements of the Software Products, together with the right to copyright and all rights to renew and extend such copyrights and the right (but not the obligation) of Administrative Agent to sue in its own name and in the name of Pledgors for past, present and future infringements of copyright;

(iv) all now existing and hereafter acquired goods, including, without limitation, fixtures, equipment and inventory;

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- (v) all now existing and hereafter arising rights in oil, gas or other minerals before extraction;
- (vi) all now existing and hereafter arising guarantees and other supporting obligations, together with the security therefor;
- (vii) all now existing and hereafter arising copyrights, trademarks, service marks, trade names and service names and the goodwill associated therewith;
- (viii) all now existing and hereafter arising (a) patents and patent applications filed in the United States Patent and Trademark Office or any similar office of any foreign jurisdiction, and interests under patent license agreements, including, without limitation, the inventions and improvements described and claimed therein; (b) licenses pertaining to any patent whether Pledgors are licensor or licensee; (c) income, royalties, damages, payments, accounts and accounts receivable now due and those hereafter arising and due under and with respect thereto, including, without limitation, damages and payments for past, present and future infringements thereof; (d) the right (but not the obligation) to sue for past, present and future infringements thereof; (e) rights corresponding thereto throughout the world in all jurisdictions in which such patents have been issued or applied for; and (f) the reissues, divisions, continuations, renewals, extensions and continuations-in-part with any of the foregoing (all of the foregoing patents and applications and interests under patent license agreements, together with the items described in clauses (a) through (f) in this paragraph are sometimes herein individually and collectively referred to as the "Patents");
- (ix) all now existing and hereafter arising accessions, products and proceeds, including, without limitation, insurance proceeds and condemnation proceeds, of any and all of the foregoing property and property rights;
- (x) All general intangibles (as such term is defined in Article 9 of the Uniform Commercial Code in effect from time to time in the State of New York and the Uniform Commercial Code of any other jurisdiction applicable to the Collateral) of Pledgors, whether now existing or hereafter owned, acquired or arising, or in which Pledgors now have or hereafter acquire any rights, and, to the extent not included in the term general intangibles as so defined after ascribing a broad meaning thereto, all now existing and hereafter acquired things in action, payment intangibles, rights to payment of Loans funds not evidenced by chattel paper or an instrument, contract rights, causes of action, business records, inventions, designs, patents, patent applications, software, trademarks, trademark registrations and applications therefor, goodwill, trade names, trade secrets, trade processes, copyrights, copyright registrations and applications therefor, licenses, permits, franchises, customer lists, computer programs, all claims under guaranties and other supporting obligations, tax refund claims, claims under letters-of-credit and all letter-of-credit rights, rights and claims against carriers and shippers, leases, claims under insurance policies, condemnation proceeds, all rights to indemnification and all other intangible personal property of every kind and nature, together with the proceeds of all of the general intangibles and other property and property rights described hereinabove; and all customer lists, books and records, ledgers, account cards, and other records including those stored on computer or electronic media, whether now in existence or hereafter created, relating to any of the foregoing;
- (xi) All equipment (as such term is defined in Article 9 of the Uniform Commercial Code in effect from time to time in the State of New York, and the Uniform Commercial Code of any other jurisdiction applicable to the Collateral) of Pledgors, whether now existing or hereafter owned, acquired or arising, or in which Pledgors now have or hereafter acquire any rights, including, without limitation, equipment now in Pledgors' possession and control, equipment in transit, equipment in storage and equipment hereafter acquired by way of replacement, substitution, addition or otherwise, and, to the extent not included in the term equipment as so defined after ascribing a broad meaning thereto, all now existing and hereafter acquired furniture, furnishings, fixtures (including, without limitation, those located at, upon or about, or attached to, the real estate described herein), machinery, parts, supplies, apparatus, appliances, patterns, molds, dies, blueprints, fittings and computer systems and related hardware and software of every description, together with (i) the proceeds and products of all of the equipment and other property and property rights described hereinabove, including, without limitation, insurance proceeds and condemnation proceeds, (ii) all books and records, abstracts of title, leases and all other contracts and agreements relating thereto or used in connection therewith and (iii) all customer lists, books and records, ledgers, account cards,

and other records including those stored on computer or electronic media, whether now in existence or hereafter created, relating to any of the foregoing; and

(xii) All inventory (as such term is defined in Article 9 of the Uniform Commercial Code in effect from time to time in the State of New York and the Uniform Commercial Code of any other jurisdiction applicable to the Collateral) owned by Pledgors and all inventory in which Pledgors have any rights (including, without limitation, rights to grant a security interest in inventory owned by other persons), both now existing and hereafter owned, acquired and arising, including, without limitation, inventory in transit, inventory in the constructive possession and control of Pledgors, inventory in the actual possession and control of Pledgors and inventory held by others for Pledgors' account; and, to the extent not included in the term inventory as so defined after ascribing a broad meaning thereto, all now existing and hereafter acquired goods manufactured or acquired for sale or lease, and any piece goods, raw materials, as extracted collateral, work in process and finished merchandise, component materials, and all supplies, goods, incidentals, office supplies, packaging materials and any and all items used or consumed in the operation of the business of Pledgors or which may contribute to the finished product or to the sale, promotion and shipment thereof by Pledgors and by others on the account of Pledgors, together with (i) the proceeds and products of all of the inventory and other property and property rights described hereinabove, (ii) all additions and accessions thereto and replacements and substitutions therefore, (iii) all documents related thereto and (iv) all customer lists, books and records, ledgers, account cards, and other records including those stored on computer or electronic media, whether now in existence or hereafter created, relating to any of the foregoing;

SCHEDULE II
JURISDICTIONS FOR
UNIFORM COMMERCIAL CODE FILINGS

<u>Legal Name</u>	<u>Filing Location</u>
Commercial Foodservice Repair, Inc.	Secretary of State – South Carolina
FT Acquisition, LLC	Secretary of State – South Carolina
Foodservice Technologies, Inc.	Secretary of State – Virginia

SCHEDULE III

**PRINCIPAL PLACE OF BUSINESS;
LOCATIONS OF COLLATERAL; FICTITIOUS NAMES**

Commercial Foodservice Repair, Inc.

Jurisdiction of Incorporation/Organization:	South Carolina
Federal Tax ID No.:	57-0757882
Organizational ID No.:	N/A
Chief Executive Office Address:	410 E. Washington Street Greenville, SC 29601
Records Related to Collateral:	410 E. Washington Street Greenville, SC 29601
Locations of Inventory:	1109 South Airport Circle, Suites A, B & D Euless, TX 76040-6852 847 Isom Road San Antonio, TX 78216-4035 3327 Barlett Blvd. Orlando, FL 32811 875 Pennsylvania Blvd, Unit 7 Feasterville, PA 19053 110 Mahan Street West Babylon, NY 11704 720 Milliken Avenue, Unit F Ontario, CA 91761 1815 West 1st Avenue, Unit 117 Mesa, AZ 85202 6280 S. Valley View Blvd, Suite 742 Las Vegas, NV 98118
Other places of business:	N/A
Trade/fictitious or prior corporate names (last five years):	"Tech-24", "Tech-24 Refrigeration", and "Tech-24 Foodservice"

Names used in tax filings (last five years): Commercial Foodservice Repair, Inc.

FT Acquisition, LLC

Jurisdiction of Incorporation/Organization: South Carolina

Federal Tax ID No.: 47-1421854

Organizational ID No.: N/A

Chief Executive Office Address: 410 E. Washington Street
Greenville, SC 29601

Records Related to Collateral: 410 E. Washington Street
Greenville, SC 29601

Locations of Inventory: N/A

Other places of business: N/A

Trade/fictitious or prior corporate names
(last five years): N/A

Names used in tax filings (last five years): FT Acquisition, LLC

Foodservice Technologies, Inc.

Jurisdiction of Incorporation/Organization: Virginia

Federal Tax ID No.: 54-1741869

Organizational ID No.: N/A

Chief Executive Office Address: 410 E. Washington Street
Greenville, SC 29601

Records Related to Collateral: 410 E. Washington Street
Greenville, SC 29601

Locations of Inventory: 5256 Eisenhower Avenue
Alexandria, VA 22304

1530 Viola Way
Charlottesville, VA 22902

9432 Atlee Commerce Boulevard, Suite E, F,
G
Ashland, VA 23005

3768 Peters Creek Road
Roanoke, VA 24018

2545 Lord Baltimore Dr. Suite F, G
Baltimore, MD 21244

534 West 24th Street
Norfolk, VA 23517

2013 New Hope Church Road, Suite G
Raleigh, NC 27064

Other places of business:

N/A

Trade/fictitious or prior corporate names
(last five years):

"Tech-24", "Tech-24 Refrigeration", and
"Tech-24 Foodservice"

Names used in tax filings (last five years):

Foodservice Technologies, Inc., Food Service
Technologies, Inc T/A Tech 24

SCHEDULE IV

DEPOSIT ACCOUNTS, SECURITIES ACCOUNTS, COMMODITY ACCOUNTS

1. Deposit Accounts

<u>Financial Institution</u>	<u>Name of Account</u>	<u>Owner of Account</u>	<u>Account Number</u>	<u>Type of Account</u>
Fifth Third	Deposit Account	CFR/Tech 24	7472288807	Operating
Fifth Third	Payroll	CFR/Tech 24	7472288815	Payroll
Fifth Third	Operating	CFR/Tech 24	7472288823	Operating
Fifth Third	Operating	CFR	7472288831	Operating
Fifth Third	401K	CFR/Tech 24	7472288849	401-K

2. Securities Accounts

a. None.

3. Commodity Accounts

a. None.

EXECUTION VERSION

DEPOSIT ACCOUNT CONTROL AGREEMENT

THIS DEPOSIT ACCOUNT CONTROL AGREEMENT (“**Agreement**”) is hereby made and entered into effective as of the 2nd day of November, 2015 (“**Effective Date**”), by and among **FIFTH THIRD BANK**, an Ohio banking corporation, having an address of 31 South Main Street, Greenville, South Carolina 29601 (“**Depository Bank**”), **COMMERCIAL FOODSERVICE REPAIR, INC.**, a South Carolina corporation, having an address at 410 E. Washington Street, Greenville, S.C. 29601 (“**CFR**”), **FT ACQUISITION LLC**, a Virginia limited liability company, having an address at 410 E. Washington Street, Greenville, S.C. 29601 (“**FTA**”), **FOODSERVICE TECHNOLOGIES, INC.**, a Virginia corporation, having an address at 410 E. Washington Street, Greenville, S.C. 29601 (“**FT**”) (CFR, FTA and FT individually and collectively, the “**Borrower**”), and **MCLARTY CAPITAL PARTNERS SBIC, L.P.**, a Delaware limited partnership, having an address at 1345 Avenue of the Americas, 27th Floor, New York, NY 10105 (“**Secured Party**”) under the Credit Agreement (defined below).

Statement of Facts

Depository Bank acknowledges that as of the Effective Date of this Agreement, Borrower maintains that a deposit account with Depository Bank more particularly described on Exhibit “A” hereto and incorporated herein (such deposit account, including any replacements or substitutions thereof is herein referred to as the “**Account**”). The Account is governed by and subject to the terms and conditions of the deposit account agreement between Borrower and Depository Bank relating to the Account and the other agreements published by Depository Bank from time to time (collectively, the “**Deposit Agreement**”). In consideration of that certain Credit Agreement dated as of November 2, 2015, by and among the Borrower, the other borrowers party thereto, Secured Party and the lenders party thereto (the “**Credit Agreement**”), Borrower hereby informs the Depository Bank, and Depository Bank hereby acknowledges that Borrower has granted to the Secured Party a security interest in, among other things, the Account, all cash or other funds deposited in, credited to, or held for deposit in or credit to, the Account, all of Borrower’s right, title and interest in and to the Account and proceeds and products thereof, including, but not limited to, all interest derived therefrom (collectively, the “**Account Collateral**”).

The parties desire to enter into this Agreement in order to set forth their relative rights and duties with respect to the Account Collateral.

NOW, THEREFORE, in consideration of the mutual covenants herein, as well as other good and valuable consideration, the parties hereto agree as follows:

Statement of Terms

1. The parties agree that the foregoing Statement of Facts is true and correct, and is incorporated herein by reference.
2. Upon Depository Bank’s receipt of a notice in the form of Exhibit B (the “**Secured Party Notice**”), the Account shall be subject to the exclusive control of Secured Party, and Borrower hereby authorizes and directs Depository Bank to comply, and Depository Bank hereby agrees to comply, with written instructions originated by the Secured Party in accordance with this Agreement directing the disposition of funds in the Account or any of the other Account Collateral without further consent by Borrower, even if such instructions are contrary to any instructions or demands that Borrower may give to Depository Bank.

Borrower and Secured Party hereby authorize and, following delivery of an Secured Party Notice, direct Depository Bank to act upon the written instructions of any officer, agent or representative of Secured Party (each an "Authorized Secured Party Officer") delivered to Depository Bank by an Authorized Secured Party Officer concerning the Account, including, but not limited to, the right to direct the disposition of funds in the Account, withdraw any amounts from the Account, or to draw upon or otherwise exercise any authority or powers with respect to the Account and all Account Collateral related thereto. The execution of any such written instructions by an Authorized Secured Party Officer or the doing by an Authorized Secured Party Officer of any action in connection with the foregoing shall be deemed conclusive evidence in favor of every person relying upon any such instructions that such Authorized Secured Party Officer was duly authorized and empowered as an officer, agent or representative of Secured Party to execute and deliver such instructions in the name and on behalf of Secured Party. Such instructions shall be honored by Depository Bank without further consent of Borrower.

Upon request from Secured Party, at the Borrower's expense, Depository Bank will furnish to Secured Party in accordance with its standard practices copies of all notices, and account statements (but not canceled checks) or other information which the Depository Bank is otherwise obligated to send to Borrower (by law, agreement or otherwise) to the Secured Party by regular U.S. mail at the address specified below.

3. Depository Bank has not and will not enter into any agreement with any person other than Secured Party by which Depository Bank is obligated for any reason to comply with instructions from such other person as to the disposition of funds in or from the Account other than those approved in writing by Secured Party. Depository Bank hereby agrees that it will only recognize Borrower and Secured Party as Depository Bank's customer with respect to the Account.

4. Depository Bank will not exercise any rights with respect to its security interest in the Account or any other Account Collateral, including but not limited to any right of set-off, deduction, recoupment or banker's lien or any other rights in or against the Account or any other Account Collateral, except that Depository Bank may offset and charge the Account for (i) returned or charged-back items, reversals or cancellations of payment orders and other electronic fund transfers or other corrections or adjustments to the Account or transactions therein, or (ii) overdrafts in the Account or (iii) Depository Bank's charges, fees and expenses with respect to the Account or the services provided hereunder and (iv) any other offsets or charges provided for in the Deposit Agreement.

5. (a) This Agreement may be terminated by Borrower but only with the express prior written consent of Secured Party and Depository Bank. This Agreement may be terminated by Secured Party at any time upon its delivery of written notice of such termination to Depository Bank. After all obligations under the Credit Agreement and all other amounts due with respect thereto have been paid in full, this Agreement may be terminated by Borrower at any time upon written notice to Depository Bank and which has been acknowledged by Secured Party.

(b) This Agreement may be terminated by Depository Bank at any time upon thirty (30) days' prior written notice of such intention delivered by it to Borrower and Secured Party.

(c) Upon any termination of this Agreement by Depository Bank, all funds remaining in the Account shall be forwarded by Depository Bank directly to the account or accounts designated by Borrower in writing; provided if such termination occurs following the delivery of an Secured Party Notice, all funds remaining in the Account shall be forwarded by Depository Bank directly to the account or accounts designated by Secured Party in writing.

6. Depository Bank shall be entitled to rely conclusively upon any Secured Party Notice, notice or instruction it receives from Secured Party, and Depository Bank shall have no obligation to investigate or verify the authenticity or correctness of any such notice or instruction. Depository Bank shall have no liability to Borrower for Depository Bank's honoring of any instructions or directions regarding the Account or other Account Collateral which Depository Bank receives from Secured Party, and Depository Bank shall be fully discharged from liability with respect to any funds on deposit in the Account to the extent it honors such instructions and transfers the same to or at the direction of Secured Party. Depository Bank will use due care in performing its duties and responsibilities and shall only be responsible for any loss which Borrower or the Secured Party sustains to the extent that such loss is proximately caused by Depository Bank's willful misconduct or gross negligence. Depository Bank shall have no liability to any party for failure of, or delay in its performance under this Agreement as a result of any act of God, fire, other catastrophe, electrical or computer failure, any events beyond the control of Depository Bank or fraud committed by third parties. In no event shall Depository Bank be construed as a fiduciary for any party. Except as specifically required under the Deposit Agreement, Depository Bank has no duty whatsoever to monitor the items deposited into the Account, except as specifically set forth in the Deposit Agreement, nor does Depository Bank have any responsibility for notifying Secured Party or Borrower if any items are returned for any reason.

7. Borrower hereby agrees to indemnify and hold harmless Depository Bank, its representative, agents, employees, successors and/or assigns, against any loss, damage or expense, including but not limited to unpaid charges and fees for which Secured Party and/or Borrower originally received the benefit (including reasonable attorney's fees, court costs and other litigation expenses), which it may suffer as a direct result of the Depository Bank's entering into this Agreement, honoring any instructions or directions it receives from the Secured Party with respect to the Account and the Account Collateral during the term of this Agreement or, to the extent required by this Agreement, not honoring any instructions it receives from Borrower with respect to the Account and the Account Collateral during the term of this Agreement, except in the event of Depository Bank's gross negligence or willful misconduct. In no event shall any party be liable to any other party for lost profits or special, indirect, exemplary, consequential or punitive damages, even if it shall have been advised of the possibility of such damages.

8. To the extent that any conflict may exist between the provisions this Agreement and the Deposit Agreement between Depository Bank and Borrower as to the Account, the terms of this Agreement shall control.

9. All notices or other communications required or provided under this Agreement shall be in writing and shall be sent to each party at its respective address listed on the Page 1 of this Agreement, or at such other address and to or by such other person as such party may designate in writing to the other parties. Such notices or communications shall be effective upon receipt by the applicable party.

10. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns.

11. This Agreement shall be governed by the laws of the State of New York (without giving effect to its conflicts of law rules).

12. This Agreement may be executed in any number of several counterparts. Delivery of an executed counterpart of this Agreement by telecopy or other electronic transmission (including "PDF") shall be as effective as delivery of a manually executed counterpart.

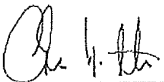
13. This Agreement shall only be modified or amended by written agreement of the parties evidencing such modification or amendment.

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IN WITNESS WHEREOF, each of the parties has executed and delivered this Deposit Account Control Agreement as of the day and year first above set forth.

DEPOSITORY BANK:

FIFTH THIRD BANK

By: 
Name: Charles H. Arndt
Title: Senior Vice President

SECURED PARTY:

MCLARTY CAPITAL PARTNERS SBIC, L.P.

By: _____
Name:
Title:

BORROWER:

COMMERCIAL FOODSERVICE REPAIR, INC.

By: _____
Name: Kurt A. Herwald
Title: President

FT ACQUISITION, LLC

By: _____
Name: Kurt A. Herwald
Title: President

FOODSERVICE TECHNOLOGIES, INC.

By: _____
Name: Kurt A. Herwald
Title: President

IN WITNESS WHEREOF, each of the parties has executed and delivered this Deposit Account Control Agreement as of the day and year first above set forth.

DEPOSITORY BANK:

FIFTH THIRD BANK

By: _____
Name: Charles H. Arndt
Title: Senior Vice President

SECURED PARTY:

MCLARTY CAPITAL PARTNERS SBIC, L.P.

By: CD Smith
Name: Christopher D. Smith
Title: President and Managing Partner

BORROWER:

**COMMERCIAL FOODSERVICE REPAIR,
INC.**

By: _____
Name: Kurt A. Herwald
Title: President

FT ACQUISITION, LLC

By: _____
Name: Kurt A. Herwald
Title: President

FOODSERVICE TECHNOLOGIES, INC.

By: _____
Name: Kurt A. Herwald
Title: President

[Signature Page to Deposit Account Control Agreement]

IN WITNESS WHEREOF, each of the parties has executed and delivered this Deposit Account Control Agreement as of the day and year first above set forth.

DEPOSITORY BANK:

FIFTH THIRD BANK

By: _____
Name: Charles H. Arndt
Title: Senior Vice President

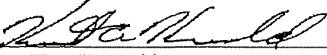
SECURED PARTY:

MCLARTY CAPITAL PARTNERS SBIC, L.P.

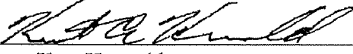
By: _____
Name: _____
Title: _____

BORROWER:

COMMERCIAL FOODSERVICE REPAIR, INC.

By: 
Name: Kurt Herwald
Title: President

FT ACQUISITION, LLC

By: 
Name: Kurt Herwald
Title: President

FOODSERVICE TECHNOLOGIES, INC.

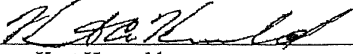
By: 
Name: Kurt Herwald
Title: President

EXHIBIT A

ACCOUNT(S) WITH DEPOSITORY BANK

Account Number(s)	Account Name
7472288807	Deposit Account
7472288815	Payroll
7472288823	Operating
7472288831	Operating
7472288849	401K

GREENVILLE 1431035.3

EXHIBIT 5

CREDIT AGREEMENT

among

COMMERCIAL FOODSERVICE REPAIR, INC.,

FT ACQUISITION, LLC,

FOODSERVICE TECHNOLOGIES, INC.

and

FIFTH THIRD BANK

\$16,000,000 Revolving Line of Credit

\$8,500,000 Term Loan

November 2, 2015

SERVICE EXHIBIT
FOR
PROVISION OF SALES TAX SERVICES

Description of Service:	Sales Tax services.
End Date:	Upon completion of the information processing of the Business from Seller's internal operating system to Buyer's system
Fee:	From Effective Date to six months thereafter: - \$2,000 flat monthly fee From six months after Effective Date to End Date: - \$3,000 flat monthly fee
Seller Contact:	Tom Muellenbach Tel: 615.462.4122 Tom.Muellenbach@Franke.com
Buyer Contact:	Jean Hodges, CFO/VP of Finance 864-382-3067, office 864-350-6564, mobile Jean.Hodges@mytech24.com

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CREDIT AGREEMENT

THIS CREDIT AGREEMENT, dated as of November 2, 2015, is made and entered into by and among COMMERCIAL FOODSERVICE REPAIR, INC., a South Carolina corporation, FT ACQUISITION, LLC, a South Carolina limited liability company, and FOODSERVICE TECHNOLOGIES, INC., a Virginia corporation, (individually, a "Borrower" and collectively, the "Borrowers"), and FIFTH THIRD BANK, an Ohio banking corporation ("Bank").

BACKGROUND STATEMENT

A. The Borrowers have applied to the Bank for a revolving line of credit loan in the principal amount of \$16,000,000 and a term loan in the principal amount of \$8,500,000 (each, a "Loan" and collectively, the "Loans"), to be advanced by the Bank pursuant to the terms and conditions hereof.

B. The Bank is willing to extend the Loans upon the terms and subject to the conditions set forth in this Credit Agreement.

AGREEMENT

NOW, THEREFORE, in consideration of the premises, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and in order to induce the Bank to make the loans described herein, the parties hereto hereby agree as follows:

ARTICLE I

DEFINITIONS

1.1 Defined Terms. In addition to the words and terms defined elsewhere in this Agreement, the following terms when used herein shall have the following respective meanings:

"Affiliate" means, as to any Person, (i) any other Person which directly, or indirectly through one or more intermediaries, controls such Person, (ii) any other Person which directly, or indirectly through one or more intermediaries, is controlled by or is under common control with such Person, or (iii) any other Person of which such Person owns, directly or indirectly, 10% or more of the common stock or equivalent equity interests. As used herein, the term "control" means possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a Person, whether through the ownership of voting securities or otherwise.

"Agreement" means this Credit Agreement and all schedules and exhibits hereto, together with any amendments, modifications, replacements and supplements hereto, any substitutes herefor, and any replacements, renewals or extensions hereof, in whole or in part, and shall refer to this Agreement as the same may be in effect at the time such reference becomes operative.

"Attorneys' Fees", "attorneys' fees", or "reasonable attorneys' fees" or other words or provisions of similar import and whether capitalized or not shall mean attorneys' and paralegal fees incurred based upon the usual and customary hourly rates of the attorneys and paralegals involved for time actually spent by such attorneys and paralegals and without giving effect to any statutory presumption that may then be in effect.

"Bank" means Fifth Third Bank, an Ohio banking corporation, and its successors and assigns.

"Bankruptcy Code" means Title 11 of the United States Code, as amended, and any successor statute or statutes having substantially the same function.

"Borrowers" shall mean Commercial Foodservice Repair, Inc., a South Carolina corporation, FT Acquisition, LLC, a South Carolina limited liability company, and Foodservice Technologies, Inc., a Virginia corporation, and all of their permitted successors and assigns.

"Borrowing" means the initial borrowing of the Loans made to the Borrowers pursuant to Article II.

"Borrowing Base" means the amount equal to 80% of Eligible Accounts plus the lesser of fifty percent (50%) of Eligible Inventory and 100% of Eligible Accounts; provided that, Bank reserves the right, in its sole discretion, from time to time, to increase the percentage on Eligible Accounts which have default insurance coverage in effect with respect to payment of such Eligible Accounts ("Insured Eligible Accounts") to 85%.

"Business Day" means any day of the year on which banks are open for business in New York, New York and, in respect of any determination relevant to the determination or payment of interest determined based on LIBOR, any such day that is also a day on which dealings in Dollar deposits are carried out in the London interbank market.

"Capital Expenditures" means, during any period, the sum of all amounts paid during such period that would, in accordance with GAAP, be included on the statement of cash flows of the Borrowers as an acquisition of fixed assets or improvements, replacements, substitutions or additions thereto, excluding (a) expenditures of insurance proceeds to rebuild or replace any capital or fixed asset after a casualty loss, (b) leasehold improvement expenditures for which the Person is reimbursed promptly by the lessor, (c) expenditures made in connection with any Investment made prior to the Closing Date and the Permitted Acquisition, (d) capital expenditures for replacement of equipment to the extent funded from the cash proceeds of the sale of those assets being sold and (e) capital expenditures to the extent acquired through the use of proceeds of a capital contribution to a Borrower by a holder of Capital Stock thereof.

"Capital Stock" means (i) with respect to any Person that is a corporation, any and all shares, interests or equivalents in capital stock (whether voting or nonvoting, and whether common or preferred) of such corporation, and (ii) with respect to any Person that is not a corporation, any and all partnership, membership, limited liability company or other equity interests of such Person; and in each case, any and all warrants, rights or options to purchase any of the foregoing.

"Capital Lease" means any lease that have been or should be, in accordance with GAAP, recorded as capitalized leases.

"Closing Date" means the date upon which the Loans are made pursuant to this Agreement, which shall be the date upon which each of the conditions set forth in Section 3.1 has been satisfied or waived in accordance with the terms of this Agreement.

"Collateral" means the property and property rights described in the Security Agreement.

"Credit Documents" means and collectively refer to this Agreement, the Revolving Note, the Term Note, the Security Documents, the Subordination Agreement, any Rate Management Agreement and any and all other agreements, instruments and documents now or hereafter executed by or in behalf of the Borrowers or delivered to the Bank with respect to this Agreement or with respect to the transactions contemplated by this Agreement, and in each case, together with any amendments, modifications and supplements thereto, any replacements, renewals, extensions and restatements thereof, and any substitutes therefor, in whole or in part.

"Default" means any event which with the giving of notice, lapse of time, or both, would become an Event of Default.

"Default Rate" shall have the meaning set forth in the Revolving Note or the Term Note, as applicable.

"Dollar" or "\$" means dollars in lawful currency of the United States of America.

"EBITDA" means the total of (i) net income from continuing operations (excluding extraordinary gains and losses) and to the extent deducted in determining net income, (ii) Interest Expense, (iii) income taxes, (iv) depreciation, depletion and amortization expenses, (v) transaction costs, fees and expenses in connection with the Loans hereunder and the Subordinated Debt; (vi) costs, fees and expenses associated with any Investment made

prior to the Closing Date and the Permitted Acquisition, (vii) all other non-cash charges, fees and expenses from time to time plus (viii) the items set forth on Exhibit B.

"Eligible Accounts" means, collectively, each Account (as defined in the UCC) of the Borrowers that satisfies the criteria set forth below as determined by the Bank in its sole discretion: (i) the Account (x) arises from the actual and bona fide sale and delivery of goods by the Borrowers or rendition of services by the Borrowers in the ordinary course of its business which transactions are completed in all material respects in accordance with the terms and provisions contained in any documents related thereto, (y) does not arise from sales on consignment, guaranteed sale, sale and return, sale on approval, or other terms under which payment by the account debtor may be conditional or contingent, and (z) is not subject to offset or other defense on the part of the account debtor or any claim on the part of such account debtor denying liability thereunder has been asserted (but such Account shall only be rendered ineligible to the extent of such offset); (ii) the Account is not unpaid more than 90 days after the date of the original invoice for it, and, unless approved in writing by Bank in advance, is not owed by an account debtor having more than 50% of its Accounts to the Borrowers over 90 days past invoice date; provided that, with respect to Foreign Accounts insured by trade credit insurance acceptable to the Bank, the foregoing periods shall be increased to 120 days; (iii), the aggregate amount of the Accounts owing by a single account debtor does not constitute more than 20% of the aggregate amount of all Eligible Accounts; (iv) the Account (x) is subject to a first-priority Lien in favor of the Bank, (y) is not subject to any other Lien other than Permitted Liens, and (z) is not evidenced by chattel paper or an instrument of any kind unless such chattel paper or instrument is duly endorsed to and is in the possession of the Bank; (v) the account debtor is not an officer, employee, subsidiary, stockholder, Affiliate or other related party of the Borrowers and is not a supplier to the Borrowers; (vi) Foreign Accounts in excess of \$1,000,000 in the aggregate or which are not insured by trade credit insurance upon terms acceptable to Bank; (vii) the Account does not arise out of a contract with the United States of America, or any state or local government, or any department, agency, subdivision or instrumentality thereof unless the Borrowers have complied with all requirements of the Federal Assignment of Claims Act relative to the assignment of such Account to Bank or similar laws, if any, applicable to state or local governments; and (viii) the account debtor is not insolvent, and the Account is otherwise eligible and not "doubtful for collection" as determined by the Bank in its discretion exercised in good faith.

"Eligible Inventory" means goods (as defined in the UCC), which are owned and held for sale or lease by Borrowers in the ordinary course of Borrowers' businesses and in which the Bank has a perfected security interest or a security interest that can be perfected, but excludes the following, unless otherwise specifically approved in writing as being eligible by Bank: (i) goods that have been identified and are to be promptly furnished under a contract of service; (ii) goods which that person has had more than one year on hand; (iv) damaged, broken, flawed, imperfect, inoperable, discounted, returned, repossessed or reclaimed goods; (v) goods held for sale to an Affiliate or a Subsidiary; (vi) goods being sold by others on "sale or return" or under some other consignment arrangement with that person; (vii) goods of another being sold on consignment by that person; (viii) goods located outside of the borders of the United States of America or the Province of Ontario, Canada or a Province of Canada which has adopted and has in effect the Personal Property Security Act, except for goods in transit to be delivered to Borrowers' warehouse in the United States, and (ix) goods located in the borders of the United States of America but in the possession of someone else without that person having appropriate warehouse receipts or other negotiable documentation evidencing a valid bailment and the ownership of the goods by that person.

"Environmental Law" means any federal, state or local law, statute, ordinance, rule, regulation, permit, license, approval, interpretation, order, guidance or other legal requirement (including without limitation any subsequent enactment, amendment or modification) relating to the protection of human health or the environment, including, but not limited to, any requirement pertaining to the manufacture, processing, distribution, use, treatment, storage, disposal, transportation, handling, reporting, licensing, permitting, investigation or remediation of materials that are or may constitute a threat to human health or the environment.

"Event of Default" shall have the meaning specified in Article VII hereof.

"Excluded Swap Obligation" means, with respect to any guarantor of a Swap Obligation, including the grant of a security interest to secure the guaranty of such Swap Obligation, any Swap Obligation if, and to the extent that, such Swap Obligation is or becomes illegal under the Commodity Exchange Act or any rule, regulation or order of the Commodity Futures Trading Commission (or the application or official interpretation of any thereof) by

virtue of such guarantor's failure for any reason to constitute an "eligible contract participant" as defined in the Commodity Exchange Act and the regulations thereunder at the time the guaranty or grant of such security interest becomes effective with respect to such Swap Obligation. If a Swap Obligation arises under a master agreement governing more than one swap, such exclusion shall apply only to the portion of such Swap Obligation that is attributable to swaps for which such Swap Obligation or security interest is or becomes illegal.

"Fixed Charge Coverage Ratio" means, for any date of determination, the ratio of (a) Borrowers' EBITDA for the trailing twelve month period ended on such date plus rent and operating lease payments, less cash taxes paid, distributions, dividends and Capital Expenditures (other than Capital Expenditures financed with the proceeds of purchase money Indebtedness or Capital Leases to the extent permitted hereunder), plus agreed upon adjustments to EBITDA as included in Exhibit B to (b) the sum of (i) Borrowers' interest expense, and (ii) all scheduled principal payments with respect to Indebtedness that were paid or were due and payable by Borrowers during such twelve month period plus rent and operating lease expense incurred in the same such period.

"Foreign Account" means when either the jurisdiction of organization or chief executive office of the account debtor is located outside the United States of America or the Province of Ontario or a Province of Canada which has adopted and has in effect the Personal Property Security Act.

"Funded Debt" means, at any time all indebtedness (i) in respect of borrowed money, or (ii) evidenced by a note, debenture or other like written obligations to pay money, or (iii) in respect of rent or hire of property under Capital Leases, or (iv) in respect of obligations under conditional sales or other title retention arrangements.

"Funded Debt to EBITDA Ratio" means, the ratio of (i) Funded Debt to (ii) EBITDA plus the pro-forma impact on trailing EBITDA of any acquisition, for the trailing twelve month period ending on such date.

"GAAP" means generally accepted accounting principles, as recognized by the American Institute of Certified Public Accountants, consistently applied and maintained on a consistent basis for the Borrowers throughout the period indicated and consistent with the financial practice of the Borrowers after the date hereof.

"Governmental Authority" means any nation or government, any state, department, agency or other political subdivision thereof, and any entity exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to any government, and any corporation or other entity owned or controlled (through stock or capital ownership or otherwise) by any of the foregoing.

"Hazardous Material" means any substance or material meeting any one or more of the following criteria: (i) it is or contains a substance designated as a hazardous waste, hazardous substance, pollutant, contaminant or toxic substance under any Environmental Law; (ii) it is toxic, explosive, corrosive, ignitable, infectious, radioactive, mutagenic or otherwise hazardous, (iii) its presence requires investigation or remediation under an Environmental Law or common law; (iv) it constitutes a danger, nuisance, trespass or health or safety hazard to persons or property; and/or (v) it is or contains, without limiting the foregoing, petroleum hydrocarbons.

"Indebtedness" means, for any Person, without duplication (i) obligations of such Person for borrowed money; (ii) obligations of such Person evidenced by bonds, debentures, notes or other similar instruments; (iii) obligations of such Person in respect of the deferred purchase price of property or services (other than trade payables incurred in the ordinary course of business on terms customary in the trade); (iv) obligations of such Person under any conditional sale or other title retention agreement(s) relating to property acquired by such Person; (v) capitalized lease obligations of such Person; (vi) obligations, contingent or otherwise, of such Person in respect of letters of credit, acceptances or similar extensions of credit (whether or not drawn upon and in the stated amount thereof); (vii) guaranties by such Person of the type of indebtedness described in clauses (i) through (vi) above; (viii) all indebtedness of a third party secured by any Lien on property owned by such Person, whether or not such indebtedness has been assumed by such Person; (ix) all mandatory obligations of such Person to purchase, redeem, retire or otherwise acquire for value any common stock of such Person which may be exercised during the term of the Agreement; (x) off-balance sheet liability retained in connection with asset securitization programs, synthetic leases, sale and leaseback transactions or other similar obligations arising with respect to any other transaction which is the functional equivalent of or takes the place of borrowing but which does not constitute a liability on the

consolidated balance sheet of such Person and its subsidiaries; and (xi) obligations under any Rate Management Agreement.

"Interest Expense" means the total of the costs of advances outstanding under Indebtedness including (i) capitalized interest, (ii) the interest component of Capital Leases, (iii) fees payable with respect to letters of credit and letters of guarantee and (iv) discounts incurred and fees payable with respect to bankers' acceptances.

"Investments" shall have the meaning set forth in Section 6.4.

"Lien" means any interest in property securing an obligation owed to, or claim by, a Person other than the owner of such property, whether such interest arises by virtue of contract, statute or common law, including but not limited to the lien or security interest arising from a mortgage, security agreement, pledge, lease, conditional sale, consignment or bailment for security purposes or from attachment, judgment or execution. The term "Lien" shall include any easements, covenants, restrictions, conditions, encroachments, reservations, rights-of-way, leases and other title exceptions and encumbrances affecting real property. For the purpose of this Agreement, the Borrowers shall be deemed to own, subject to a Lien, any proceeds of a sale with recourse of accounts receivable, any asset leased under any "sale and lease back" or similar arrangement and any asset which it has acquired or holds subject to the interest of a vendor or lessor under any conditional sale agreement, financing lease or other title retention agreement relating to such asset.

"Loan" or "Loans" means the Revolving Loan, the Term Loan and any other any loans, advances, extensions of credit made by Bank to Borrowers, together with any and all renewals, extensions, amendments, modifications, replacements and substitutions thereof and therefor.

"Material Adverse Effect" or "Material Adverse Change" means a material adverse effect upon, or a material adverse change in, any of (i) the financial condition, operations, business or properties of the Borrowers; (ii) the ability of the Borrowers to perform under this Agreement or any other Credit Document in any material respect; (iii) the legality, validity or enforceability of this Agreement or any other Credit Document; or (iv) the perfection or priority of the Liens of the Bank granted under this Agreement or any other Credit Document in a material portion of the collateral or the rights and remedies of the Bank under this Agreement or any other Credit Document (other than a change resulting from any act or omission by the Bank).

"Notes" means the Revolving Note, the Term Note and any other promissory note of the Borrowers evidencing a debt or obligation owed to Bank, including any amendments, modifications, extensions, renewals, substitutions, or replacements thereto or therefore.

"Notice of Borrowing" shall have the meaning set forth in Section 3.2(a).

"Obligations" means and include (i) the Loans, any Rate Management Obligations and all other loans, advances, Indebtedness, liabilities, obligations, covenants and duties owing, arising, due or payable from the Borrowers to the Bank or any of the Bank's Affiliates of any kind or nature, present or future, arising under this Agreement, the Revolving Note, the Term Note or the other Credit Documents or any Rate Management Agreement, whether direct or indirect (including those acquired by assignment), absolute or contingent, primary or secondary, due or to become due, now existing or hereafter arising and however acquired; and (ii) all interest (including to the extent permitted by law, all post-petition interest), charges, expenses, fees, attorneys' fees and any other sums payable by the Borrowers to the Bank under this Agreement or any of the other Credit Documents; provided however that, any Excluded Swap Obligations shall not be included as an Obligation hereunder.

"OFAC" means the U.S. Department of the Treasury's Office of Foreign Assets Control, and any successor thereto.

"PATRIOT Act" means the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT Act of 2001), as amended from time to time, and any successor statute, and all rules and regulations from time to time promulgated thereunder.

"Permitted Acquisition" means the acquisition of the Purchased Assets under and as defined in that certain Asset Purchase Agreement dated as of September 8, 2015 by and among COMMERCIAL FOODSERVICE REPAIR, INC., Service Solutions Group, LLC, Franke SSG, Inc. and Franke TSI, Inc.

"Permitted Liens" shall have the meaning set forth in Section 6.3.

"Person" means an individual, a corporation, a partnership, a limited liability company, an association, a trust or any other entity or organization, including a government or political subdivision or an agency or instrumentality thereof.

"Rate Management Agreement" means if mutually agreed by Bank and Borrowers, any agreement, device or arrangement executed and delivered by Bank and Borrowers following the Closing Date, providing for payments which are related to fluctuations of interest rates, exchange rates, forward rates, or equity prices, including, but not limited to, dollar-denominated or cross-currency interest rate exchange agreements, forward currency exchange agreements, interest rate cap or collar protection agreements, forward rate currency or interest rate options, puts and warrants, and any agreement pertaining to equity derivative transactions (e.g., equity or equity index swaps, options, caps, floors, collars and forwards), including without limitation any ISDA Master Agreement between the Borrowers and the Bank or any affiliate of Bank, and any schedules, confirmations and documents and other confirming evidence between the parties confirming transactions thereunder, all whether now existing or hereafter arising, and in each case as amended, modified or supplemented from time to time.

"Rate Management Obligations" means any and all obligations of the Borrowers to the Bank or any affiliate of Bank, whether absolute, contingent or otherwise and howsoever and whensoever (whether now or hereafter) created, arising, evidenced or acquired (including all renewals, extensions and modifications thereof and substitutions therefore), under or in connection with (i) any and all Rate Management Agreements, and (ii) any and all cancellations, buy-backs, reversals, terminations or assignments of any Rate Management Agreement.

"Requirement of Law" means, with respect to any Person, the charter, articles or certificate of organization or incorporation and bylaws or other organizational or governing documents of such Person, and any statute, law, treaty, rule, regulation, order, decree, writ, injunction or determination of any arbitrator or court or other Governmental Authority, in each case applicable to or binding upon such Person or any of its property or to which such Person or any of its property is subject or otherwise pertaining to any or all of the transactions contemplated by this Agreement and the other Credit Documents.

"Revolving Credit Commitment" shall have the meaning set forth in Section 2.1(a).

"Revolving Credit Termination Date" means the date of the earliest to occur of the following: (i) October 31, 2017; and (ii) such earlier date of termination of the Revolving Credit Commitment pursuant to Section 2.3 hereof.

"Revolving Loan" shall have the meaning set forth in Section 2.1(a).

"Revolving Note" means the commercial promissory note of the Borrowers evidencing the Revolving Loan dated the date hereof, together with any amendments, modifications, extensions, renewals, substitutions or replacements thereto or therefor.

"Sanctioned Country" means a country subject to a sanctions program identified on the list maintained by OFAC and available at <http://www.treas.gov/offices/enforcement/ofac/programs/>, or as otherwise published from time to time.

"Sanctioned Person" means (i) a Person named on the list of Specially Designated Nationals or Blocked Persons maintained by OFAC available at <http://www.treas.gov/offices/enforcement/ofac/sdn/index.shtml>, or as otherwise published from time to time, or (ii) (A) an agency of the government of a Sanctioned Country, (B) an organization controlled by a Sanctioned Country, or (C) a Person resident in a Sanctioned Country, to the extent subject to a sanctions program administered by OFAC.

"Security Documents" means the Security Agreement and all other pledge or security agreements, mortgages, deeds of trust, assignments or other similar agreements or instruments executed and delivered by the Borrowers pursuant to the terms of this Agreement or otherwise in connection with the transactions contemplated hereby, in each case as amended, modified or supplemented from time to time.

"Seller Note" means that certain Junior Subordinated Promissory Note dated July 28, 2014 made by FT ACQUISITION, LLC in favor of Richard D. White, as Seller Representative in the original principal amount of \$1,000,000.

"Senior Funded Debt" means Funded Debt other than Subordinated Debt.

"Senior Funded Debt to EBITDA Ratio" means, for any date of determination, the ratio of (i) Senior Funded Debt on such date to (ii) EBITDA plus the pro-forma impact on trailing EBITDA of any acquisition, for the trailing twelve month period ending on such date.

"Shareholders Agreement" shall mean that certain Amended and Restated Shareholders Agreement of Commercial Foodservice Repair, Inc. dated as of July 28, 2014 among the parties thereto.

"Solvent" means as to any Person on any particular date, that such Person (i) does not have unreasonably small capital to carry on its business as now conducted and as presently proposed to be conducted, (ii) is able to pay its debts as they become due in the ordinary course of business, and (iii) has assets with a present fair saleable value greater than its total stated liabilities and identified contingent liabilities, including any amounts necessary to satisfy preferential rights of shareholders.

"Subordination Agreement" shall mean that certain Subordination Agreement of even date herewith between McLarty Capital Advisors SBIC, L.P. of even date herewith in form and substance reasonably satisfactory to Bank, together with any other Subordination Agreement relating to any other Subordinated Debt.

"Subordinated Debt" means the indebtedness of Borrowers to McLarty Capital Advisors SBIC, L.P. and Indebtedness under the Seller Note, together with any other Indebtedness which is subordinated to the Obligations from time to time as approved by Bank, which such indebtedness shall be subordinated to the Obligations pursuant to the terms of the Subordination Agreement.

"Subsidiary" means any corporation, partnership, limited liability company, association or other business entity of which the Borrowers owns, directly or indirectly, more than fifty percent (50%) of the voting securities thereof.

"Swap Obligation" means any Rate Management Obligation that constitutes a "swap" within the meaning of section 1a(47) of the Commodity Exchange Act, as amended from time to time.

"Term Loan" shall have the meaning set forth in Section 2.1(b).

"Term Note" means the commercial promissory note of the Borrowers evidencing the Term Loan dated the date hereof, together with any amendments, modifications, extensions, renewals, substitutions or replacements thereto or therefor.

"Total Voting Power" means, with respect to any Person, the total number of votes which may be cast in the election of directors of such Person at any meeting of shareholders or members of such Person if all securities entitled to vote in the election of directors of such Person (on a fully diluted basis, assuming the exercise, conversion or exchange of all rights, warrants, options and securities exercisable for, exchangeable for or convertible into, such voting securities) were present and voted at such meeting (other than votes that may be cast only upon the happening of a contingency).

"Unused Revolving Facility" means an amount equal to the maximum amount of the Revolving Credit Commitment then in effect less the aggregate amount of Revolving Loans outstanding under the Revolving Loan and any other deductions from the Revolving Credit Commitment as provided in the Agreement.

1.2 Accounting Forms. Except as specifically provided otherwise in this Agreement, all accounting terms used herein that are not specifically defined shall have the meanings customarily given them in accordance with GAAP. Notwithstanding anything to the contrary in this Agreement, for purposes of calculation of the financial covenants set forth in Article V, all accounting determinations and computations hereunder shall be made in accordance with GAAP as in effect as of the date of this Agreement applied on a basis consistent with the application used in preparing the most recent financial statements of the Borrowers referred to in Section 4.9. In the event that any changes in GAAP after such date are required to be applied to the Borrowers and would affect the computation of the financial covenants contained in Article V, such changes shall be followed only from and after the date this Agreement shall have been amended to take into account any such changes.

ARTICLE II

AMOUNT AND TERM OF THE LOAN

2.1 Commitments.

(a) Revolving Loan. The Bank agrees, on the terms and conditions set forth herein, to make loans (each, a "Revolving Loan," and collectively, the "Revolving Loans") to the Borrowers, from time to time before the Revolving Credit Termination Date; provided that, immediately after each Revolving Loan is made, the aggregate outstanding principal amount of the Revolving Loans by the Bank shall not exceed the lesser of (i) \$16,000,000 (as such figure may be reduced from time to time as provided in this Agreement, the "Revolving Credit Commitment"), or (ii) the Borrowing Base; further provided, however, that on the Closing Date, the aggregate outstanding principal amount of the Revolving Loans by the Bank shall not exceed \$11,500,000. Subject to Section 3.2, the Borrowers may borrow under this Section 2.1, repay or prepay Revolving Loans and reborrow under this Section 2.1 at any time before the Revolving Credit Termination Date.

(b) Term Loan. The Bank shall extend to Borrowers a term facility in the principal amount of Eight Million Five Hundred Thousand Dollars (\$8,500,000.00) (the "Term Loan"), which shall be repaid in accordance with the terms of the Term Note of even date herewith evidencing the same.

2.2 Notes.

(a) The Revolving Loan made by the Bank shall be evidenced by the Revolving Note payable to the order of the Bank in an amount equal to the original principal amount of the Revolving Credit Commitment. The Borrowers and the Bank hereby agree that the terms of this Agreement shall be incorporated by reference into the Revolving Note as if set forth therein and, in the event of any conflict between the terms of this Agreement and the Revolving Note, the terms of this Agreement shall control.

(b) The Term Loan made by the Bank shall be evidenced by the Term Note payable to the order of the Bank in an amount equal to the original principal amount of the Term Loan. The Borrowers and the Bank hereby agree that the terms of this Agreement shall be incorporated by reference into the Term Note as if set forth therein and, in the event of any conflict between the terms of this Agreement and the Term Note, the terms of this Agreement shall control.

2.3 Principal Payments; Maturity.

(a) The Borrowers shall repay the Revolving Loan:

(i) In accordance with the terms of the Revolving Note;

(ii) In full, upon the occurrence of any Event of Default and acceleration of the Obligations by the Bank pursuant to Article VII hereof; and

(iii) In part, within two (2) Business Days in the event that the total principal amount outstanding at any time under the Revolving Note exceeds lesser of (i) the Revolving Credit Commitment or (ii) the Borrowing Base, in the amount of such excess.

(b) The Borrowers shall repay the Term Loan:

(i) In accordance with the terms of the Term Note;

(ii) In full, upon the occurrence of any Event of Default and acceleration of the Obligations by the Bank pursuant to Article VII hereof.

2.4 Interest; Fees.

(a) The Borrowers shall pay interest and fees on the Revolving Loan in accordance with the terms of the Revolving Note.

(b) The Borrowers shall pay interest and fees on the Term Loan in accordance with the terms of the Term Note.

2.5 Disbursement of Loan Proceeds. The Borrowers hereby authorize and direct the Bank to disburse, for and on behalf of the Borrowers and for the Borrowers' accounts, the proceeds of the Loans made by the Bank pursuant to this Agreement (i) to such Person or Persons as the Borrowers shall direct, whether orally or in writing, (ii) to pay the Bank any interest, fees, costs and expenses payable pursuant to Section 8.1 hereof, and (iii) to the Borrowers' depository accounts with the Bank in an amount equal to the sum necessary to cover checks or other items of payment drawn by the Borrowers upon such accounts and presented for payment.

2.6 Use of Proceeds.

(a) The proceeds of the Revolving Loan shall be used by the Borrowers solely (i) to provide working capital for the Borrowers and (ii) to pay fees and expenses in connection with the transactions contemplated by this Agreement.

(b) The proceeds of the Term Loan shall be used by the Borrowers solely (i) to refinance existing indebtedness, (ii) to finance the acquisition of Service Solutions Group, and (iii) to pay fees and expenses in connection with the acquisition and the transactions contemplated by this Agreement.

2.7 Taxes. All payments of principal, interest and fees and all other amounts to be made by the Borrowers pursuant to this Agreement with respect to the Loans or fees relating thereto shall be paid without deduction for, and free from, any tax, imposts, levies, duties, deductions, or withholdings of any nature now or at any time hereafter imposed on or measured by any governmental authority or by any taxing authority thereof, or therein, excluding (i) taxes imposed on or measured by the Bank's net income, (ii) franchise taxes imposed on the Bank by the jurisdiction under the laws of which the Bank is organized or any political subdivision thereof, and (iii) taxes imposed on the Bank's income, and franchise taxes imposed on it, by the jurisdiction of the Bank's lending office or any political subdivision thereof. In the event that the Borrowers are required by applicable law to make any such withholding or deduction of taxes with respect to the Loans or fee or other amount, the Borrowers shall pay such deduction or withholding to the applicable taxing authority, shall promptly furnish to the Bank all receipts and other additional amounts as may be necessary in order that the amount received by the Bank after the required withholding or other payment shall equal the amount the Bank would have received had no such withholding or other payment been made.

2.8 Unused Facility Fee. Borrowers shall pay to Bank monthly, in arrears, the fee for the average daily Unused Revolving Facility as detailed below:

(a) If Senior Funded Debt to EBITDA Ratio as of the last day of the immediately preceding month is less than 2.00, the fee on the Unused Revolving Facility shall be .15% per annum for such month.

(b) If Senior Funded Debt to EBITDA Ratio as of the last day of the immediately preceding month is at least 2.00 but less than 2.50, the fee on the Unused Revolving Facility shall be .20% per annum for such month.

(c) If Senior Funded Debt to EBITDA Ratio as of the last day of the immediately preceding month is at least 2.50, the fee on the Unused Revolving Facility shall be .25% per annum for such month.

Following delivery by Borrowers of the monthly financial reports required by Section 5.1(b) hereof reflecting the calculation of the Senior Funded Debt to EBITDA Ratio for the immediately preceding month, the fee for the immediately following calendar month shall be adjusted as provided above. Such payments shall be delivered to the Bank on the fifth day of each month.

2.9 Cross-Collateral and Cross-Default of Loans. All of the Collateral pledged, mortgaged, granted, assigned to, or deposited with the Bank as security for the performance and re-payment of each of the Loans, shall be, and is hereby, pledged, mortgaged, granted, assigned to and deposited with the Bank as security for the performance and repayment of the documents evidencing or securing each of the other Loans. The Borrowers acknowledge and agree that any Event of Default under any of the Credit Documents with respect to one Loan shall automatically be an Event of Default under the Credit Documents with respect to the other Loans.

2.10 Letters of Credit. Prior to the Revolving Credit Termination Date and provided that no Event of Default has occurred and is continuing and sufficient availability exists under the Revolving Loan (as set forth in Section 2.1 above), Bank may, at its sole discretion, issue letters of credit on Borrowers' behalf to third parties. Upon such issuance, the aggregate amount of all outstanding letters of credit shall reduce the Revolving Credit Commitment by such amount until the time that such letters are paid or satisfied in full.

ARTICLE III

CLOSING; CONDITIONS OF CLOSING AND BORROWING

3.1 Conditions to Closing of the Loans. The obligation of the Bank to make the Loans hereunder is subject to the satisfaction of the following conditions precedent:

(a) Credit Documents. The Bank shall have received the following, each dated as of the Closing Date (unless otherwise specified) and in such number of copies as the Bank shall have requested:

- (i) from each of the parties hereto, a duly executed counterpart of this Agreement signed by such party;
- (ii) a duly executed Revolving Note and Term Note for the account of the Bank; and
- (iii) duly executed counterparts of all Security Documents, in form and substance acceptable to the Bank.

(b) Officer's Certificate. The Bank shall have received from each Borrower a certificate of an officer of Borrower as of the Closing Date, dated as of the Closing Date and in form and substance reasonably satisfactory to the Bank, certifying (i) that attached thereto is a true and complete copy of the articles or certificate of incorporation, certificate of formation or other organizational document and all amendments thereto of such party, certified as of a recent date by the Secretary of State (or comparable Governmental Authority) of its jurisdiction of organization, and that the same has not been amended since the date of such certification, (ii) that attached thereto is a true and complete copy of the bylaws, operating agreement or similar governing document of such party, as then in effect and as in effect at all times from the date on which the resolutions referred to in clause (iii) below were adopted to and including the date of such certificate, (iii) that attached thereto is a true and complete copy of resolutions adopted by the board of directors (or similar governing body) of such party, authorizing the execution,

delivery and performance of this Agreement and the other Credit Documents to which it is a party, and (iv) as to the incumbency and genuineness of the signature of each officer of such party executing this Agreement or any of such other Credit Documents, and attaching all such copies of the documents described above.

(c) Good Standings. The Bank shall have received a certificate as of a recent date of the good standing of each Borrower as of the Closing Date, under the laws of its jurisdiction of incorporation, from the Secretary of State (or comparable Governmental Authority) of such jurisdiction.

(d) Lien Searches. The Bank shall have received certified reports from an independent search service satisfactory to it listing any judgment or tax lien filing or Uniform Commercial Code financing statement that names the Borrowers as debtor, in South Carolina and Virginia and in any other jurisdiction reasonably requested by the Bank, and the results thereof shall be reasonably satisfactory to the Bank.

(e) Recording and Filing. The Bank shall have received evidence that a UCC financing statements have been duly recorded in the Office of the Secretary of State of South Carolina and Office of the Secretary of the Commonwealth of Virginia and that all other filings and action needed to provide the Bank with perfected, first priority security interests in the Collateral described in the Security Documents have occurred.

(f) Insurance. The Bank shall have received certificates of insurance evidencing the insurance coverages described on Schedule 4.14 and all other or additional coverages required under the Security Documents and naming the Bank as loss payee or additional insured, as its interests may appear.

(g) Fees; Expenses. The Borrowers shall have paid (i) to the Bank, the fees required to be paid to it on the Closing Date, which consists of a \$49,000.00 commitment fee, payable on the Closing Date and (ii) all other fees and reasonable expenses required hereunder or under any other Credit Document to be paid on or prior to the Closing Date (including reasonable fees and expenses of counsel) in connection with this Agreement and the other Credit Documents.

(h) Other Documents. The Bank shall have received such other documents, certificates, opinions, instruments and other evidence as the Bank may reasonably request, all in form and substance satisfactory to the Bank and its counsel.

3.2 Conditions to all Loans and Advances. The obligation of the Bank to make any Loan hereunder is subject to the continued validity of all Credit Documents and the satisfaction of the following conditions:

(a) The Bank shall have received a notice of borrowing (each a "Notice of Borrowing"), in the form of Exhibit A, specifying (i) the aggregate principal amount of the requested Revolving Loans to be made pursuant to such Borrowing, and (ii) the requested date of such Borrowing, which shall be a Business Day. Each such Notice of Borrowing shall be irrevocable.

(b) Representations and Warranties. Each of the representations and warranties made by the Borrowers in Article IV shall be true and correct in all material respects on and as of such date (except to the extent any such representation or warranty related to a specific date, in which case such representation or warranty shall be true and correct as of such date).

(c) No Event of Default. No Default or Event of Default shall have occurred and be continuing on the Closing Date after giving effect to the making of the loan under the Loan.

Each Borrowing hereunder shall be deemed to be a representation and warranty by the Borrowers on the date of such Borrowing as to the truth and accuracy of the facts specified in paragraphs (b) and (c) of this Section 3.2 on such date.

ARTICLE IV

REPRESENTATIONS AND WARRANTIES

The Borrowers, jointly and severally, each represent and warrant to the Bank as follows:

4.1 Company Organization and Power. Each Borrower (a) is a corporation or limited liability company duly organized or formed, validly existing and in good standing under the laws of the state of its organization; (b) is duly qualified or licensed to do business and is in good standing in every other jurisdiction where the nature of its business or its properties makes such qualification or licensing necessary (except where the failure to be so qualified or licensed would not have a Material Adverse Effect); (c) has full corporate power and authority to execute, deliver and perform the Credit Documents to which it is or will be a party, to own and hold its property and to engage in its business as presently conducted, and (d) has all governmental licenses, permits, franchises, certificates, inspections, authorizations, consents and approvals required to carry on its business as it is now being conducted (except where the failure to have such governmental authorization would not have a Material Adverse Effect).

4.2 Company Authority: No Conflict With Other Instruments or Law. The execution, delivery and performance of this Agreement and the other Credit Documents and the consummation of the transactions contemplated hereby and thereby (a) are within the corporate power and authority of the Borrowers, (b) have been duly authorized by all necessary corporate action on the part of the Borrowers, (c) do not and will not conflict with, contravene or violate any provision of, or result in a breach of or default under, or require the waiver (not already obtained) of any provision of or the consent (not already given) of any Person under the terms of the Borrowers' articles or certificate of incorporation, its bylaws, or other applicable formation or organizational documents, or any indenture, mortgage, deed of trust, loan or credit agreement or other agreement or instrument to which the a Borrower is a party or by which it is bound or to which any of its properties are subject, the termination and non-compliance with which could reasonably be expected to have a Material Adverse Effect, (d) will not violate, conflict with, give rise to any liability under, or constitute a default under any Requirement of Law, and (e) will not result in the creation, imposition, or acceleration of any Indebtedness or tax or any Lien that is not a Permitted Lien of any nature upon, or with respect to, the Borrowers or any of their properties.

4.3 Due Execution and Delivery. This Agreement and the other Credit Documents to which the Borrowers are a party have been duly executed and delivered to the Bank by an officer of the Borrowers who have been duly authorized to perform such acts.

4.4 Enforceability. This Agreement and the other Credit Documents to which the Borrowers are a party constitute the legal, valid and binding obligations of the Borrowers, enforceable against the Borrowers in accordance with their terms, except as enforcement may be limited by bankruptcy, insolvency, reorganization, moratorium or other similar laws, statutes or rules of general application affecting the enforcement of creditor's rights or general principles of equity.

4.5 Governmental Approval. The execution, delivery and performance of this Agreement and the other Credit Documents to which the Borrowers are a party and the transactions contemplated hereby and thereby do not require any authorization, exemption, consent or approval of, notice to, or declaration or filing with, any Governmental Authority other than those obtained on or before the Closing Date.

4.6 Margin Stock. The Borrowers are not engaged principally or as one of its important activities in the business of extending credit for the purpose of purchasing or carrying margin stock (within the meaning of Regulation T, U or X of the Board of Governors of the Federal Reserve System). The execution, delivery and performance of this Agreement and the use of the proceeds of the Loan or any extension of credit hereunder, do not and will not constitute a violation of such Regulations.

4.7 Investment Company. No Borrower is an "investment company" or a company "controlled" by an "investment company", within the meaning of the Investment Company Act of 1940, as amended.

4.8 Litigation. There are no suits or proceedings pending or, to Borrowers' knowledge, threatened against or affecting the Borrowers, and no proceedings before any Governmental Authority are pending or, to

Borrowers' knowledge, threatened against the Borrowers, which could reasonably be expected to have a Material Adverse Effect except as set forth on Schedule 4.8 attached hereto.

4.9 Financial Statements.

(a) Borrowers have delivered to the Bank their unaudited financial statements dated September 30, 2015. Such financial statements contain no material misstatement or omission and fairly present, in all material respects, the financial position, assets and liabilities of the Borrowers for the period then ended (subject to year-end footnote disclosure).

(b) The Borrowers are Solvent.

4.10 No Material Adverse Change. Since December 31, 2014, (a) there has been no Material Adverse Change, nor to the knowledge of the Borrowers, is any Material Adverse Change threatened or reasonably likely to occur, and (b) the Borrowers have not incurred any obligation or liability that would be reasonably likely to have a Material Adverse Effect or entered into any material contracts not specifically contemplated by this Agreement or the other Credit Documents or not in the ordinary course of business consistent with past practice.

4.11 Laws and Taxes. Borrowers are in material compliance with all laws, regulations, rulings, orders, injunctions, decrees, conditions or other requirements applicable to or imposed upon the Borrowers by any law or by any Governmental Authority. Borrowers have filed all required tax returns and reports that are now required to be filed by it in connection with any federal, state and local tax, duty or charge levied, assessed or imposed upon the Borrowers or its assets, including unemployment, social security, and real estate taxes. Borrowers have paid all taxes which are now due and payable under any such returns. As of the Closing Date, no taxing authority has asserted or assessed any additional tax liabilities against the Borrowers which are outstanding on this date, and the Borrowers have not filed for any extension of time for the payment of any tax or the filing of any tax return or report.

4.12 Environmental Compliance. Except as set forth on Schedule 4.12 and except as, individually or in the aggregate, could not reasonably be expected to have a Material Adverse Effect,

(c) All activities and operations of the Borrowers meet all requirements of all applicable Environmental Laws and the Borrowers have not violated any Environmental Law in the past.

(d) Borrowers are not involved in any suit or proceeding and has not received any notice from any Governmental Authority or other third party with respect to a release or threat of release of any Hazardous Material, or violation or alleged violation of any Environmental Law, and has not received notice of any claim from any person or entity relating to property damage or to personal injuries from exposure to any Hazardous Material.

(e) Borrowers have timely filed all reports required to be filed, has acquired all necessary certificates, approvals and permits, and has generated and maintained all required data, documentation and records required under all Environmental Laws.

4.13 Ownership of Properties. Borrowers (i) has good and marketable title to the Collateral, (ii) holds interests as lessee under valid leases in full force and effect with respect to all material leased real and personal property used in connection with its business, and (iii) has good title to all of its other material properties and assets reflected in the financial statements referred to in Section 4.9 (except as sold or otherwise disposed of since the date thereof in the ordinary course of business), in each case free and clear of all Liens other than Permitted Liens.

4.14 Insurance. Schedule 4.14 sets forth, as of the Closing Date, an accurate and complete list and a brief description (including the insurer, policy number, type of insurance, coverage limits, deductibles, expiration dates and any special cancellation conditions) of all policies of property and casualty, liability (including, but not limited to, product liability), business interruption, workers' compensation, keyman life insurance, trade credit insurance on any Foreign Accounts, and other forms of insurance owned or held by the Borrowers or pursuant to which any of their respective assets are insured. The assets, properties and business of the Borrowers are insured

against such hazards and liabilities, under such coverages and in such amounts, as are customarily maintained by prudent companies similarly situated and under policies issued by insurers of recognized responsibility.

4.15 No Default. No Default or Event of Default under this Agreement has occurred and is continuing.

4.16 Subsidiaries. The Borrowers have no Subsidiaries except as are Borrowers and are not a party to any partnership or joint venture agreement.

4.17 First Priority Liens. Except for Permitted Liens, this Agreement, together with the Security Documents, will create valid, perfected, first-priority security interests in the Collateral described in the Security Documents, in each case enforceable against the Borrowers and securing the payment of all obligations purported to be secured thereby.

4.18 Full Disclosure. All information heretofore furnished to the Bank by the Borrowers for purposes of or in connection with this Agreement or any transaction contemplated hereby is, and all such information hereafter furnished to the Bank by the Borrowers will be, true, accurate and complete in every material respect or based on reasonable estimates on the date as of which such information is stated or certified. The Borrowers have disclosed to the Bank in writing any and all facts which materially and adversely affect or may affect (to the extent the Borrowers can now reasonably foresee), the business, operations, prospects or condition, financial or otherwise, of the Borrowers, or the ability of the Borrowers to perform their obligations under this Agreement or any of the other Credit Documents.

4.19 OFAC; Anti-Terrorism Laws.

(f) No Borrower nor any Affiliate of a Borrower (i) is a Sanctioned Person, (ii) has more than 10% of its assets in Sanctioned Countries, or (iii) derives more than 10% of its operating income from investments in, or transactions with, Sanctioned Persons or Sanctioned Countries. No part of the proceeds of any Loan hereunder will be used directly or indirectly to fund any operations in, finance any investments or activities in or make any payments to, a Sanctioned Person or a Sanctioned Country.

(g) The Borrowers are in compliance in all material respects with the PATRIOT Act. No part of the proceeds of the Term Loan will be used, directly or indirectly, for any payments to any governmental official or employee, political party, official of a political party, candidate for political office, or anyone else acting in an official capacity, in order to obtain, retain or direct business or obtain any improper advantage, in violation of the United States Foreign Corrupt Practices Act of 1977, as amended.

ARTICLE V

AFFIRMATIVE COVENANTS

Until payment in full of all Obligations of the Borrowers to the Bank, the Borrowers will comply with the following:

5.1 Financial and Business Information. Deliver to the Bank:

(a) Within one hundred twenty (120) days (or 150 days in the case of the fiscal year ended December 31, 2015) after the close of the fiscal year of the Borrowers, audited financial statements of Borrowers (including a balance sheet, an income statement and a statement of retained earnings and changes in financial position for such year and setting forth in comparative form the figures for the prior year) prepared in accordance with GAAP, consistently applied, together with an opinion on such financial statements from an independent certified public accounting firm reasonably acceptable to Bank;

(b) As soon as available, but in any event within forty-five (45) days after the last day of each calendar quarter, Borrowers shall deliver to Bank an unaudited balance sheet, a statement of income, cash flow and

retained earnings prepared in accordance with GAAP, consistently applied, in form acceptable to Bank and certified by the chief financial officer, controller, chief accounting officer of the Borrowers or other Person reasonably acceptable to Bank;

(c) As soon as available, but in any event within sixty (60) days after the end of each fiscal year of the Borrowers, a company prepared annual budget of each Borrower for the current fiscal year;

(d) Concurrently with the delivery of the financial statements described in subsection (b) above, a Compliance Certificate in form and substance acceptable to the Bank with respect to the period covered by the financial statements being delivered thereunder, executed by the president or chief financial officer of the Borrowers, together with a Covenant Compliance Worksheet reflecting the computation of the financial covenants set forth in Section 5.14 as of the last day of the period covered by such financial statements;

(e) To the extent there are any amounts outstanding under the Revolving Loan, within twenty-five (25) days after the end of each calendar month, a company completed Borrowing Base Certificate in form and substance acceptable to the Bank, certified by the Borrowers' president or chief financial officer to be true and accurate and in compliance with the Credit Documents, and attaching thereto (i) an aging report of accounts receivable, (ii) an account payables report, (iii) an inventory report, and (iv) any other information reasonably requested by the Bank in order to verify the Eligible Accounts and Eligible Inventory; and

(f) Within a reasonable time, upon the Bank's request, such other information about the property, financial condition and operations of the Borrowers as the Bank may from time to time reasonably request.

5.2 Notice of Certain Events. Promptly give notice in writing to the Bank of:

(a) Any Material Adverse Change;

(b) All litigation when the aggregate amount of claims pending or threatened in writing is \$175,000 or more and the Borrowers are a defendant;

(c) Any dispute which may exist between the Borrowers and any Governmental Authority or any threatened action by any Governmental Authority to acquire or condemn any of the properties of the Borrowers where the amount involved is \$175,000 or more;

(d) Any proceeding or order before any court or administrative body requiring the Borrowers to comply with any statute or regulation regarding protection of the environment if such compliance would require (i) expenditures in the amount of \$175,000 or more or (ii) the shutting down of any major installation for a period in excess of seventy-two (72) hours or if such violation involves the possibility of the imposition of a fine of \$125,000 or more;

(e) Any casualty loss resulting in an aggregate loss of \$175,000 or more with respect to the Collateral described in any Security Document; and

(f) Any Default or Event of Default.

5.3 Existence; Maintenance of Properties. (a) Maintain and preserve in full force and effect its legal existence, its good standing under the laws of the jurisdiction of its incorporation or formation, as the case may be, and its qualification to do business in every other jurisdiction where the nature of its business or its properties makes such qualification necessary (except where the failure to be so qualified or licensed would not have a Material Adverse Effect), and (b) keep all material properties in good working order and condition (normal wear and tear and damage by casualty excepted) and from time to time make all necessary repairs to and renewals and replacements of such properties, except to the extent that any of such properties are obsolete or are being replaced or, in the good faith judgment of the Borrowers, are no longer useful or desirable in the conduct of the business.

6.16 Accounting Changes. Make or permit any material change in its accounting policies unless it promptly notifies the Bank of such change and the impact such change will have on the financial statements that are required to be delivered hereunder.

ARTICLE VII

EVENTS OF DEFAULT; REMEDIES

7.1 Events of Default. The occurrence of any one or more of the following events shall constitute an Event of Default hereunder:

(a) The Borrowers shall fail to pay when due, subject to any cure periods, any principal amount or any interest, fees or other charges payable under this Agreement, the Revolving Note, the Term Note or under any other Credit Document and such failure continues for a period of five (5) days from the date due;

(b) The Borrowers shall fail to observe or perform any covenant, restriction or agreement contained in Sections 5.1, 5.2 and 5.3 of this Agreement;

(c) The Borrowers shall fail to observe or perform any covenant, restriction or agreement contained in this Agreement or any Credit Document and not described in Sections 7.1(a) or (b) above for thirty (30) days after the earlier of the Borrowers (i) obtaining knowledge of such failure, or (ii) receiving written notice of such failure from the Bank.

(d) Any representation, warranty, certification or statement made or deemed made by the Borrowers in Article IV of this Agreement, in any other Credit Document or in any certificate, financial statement or other document delivered pursuant to this Agreement or any other Credit Document shall prove to have been incorrect in any material respect when made or deemed made;

(e) The occurrence and continuance of any default or event of default on the part of the Borrowers (including specifically, but without limitation, defaults due to non-payment) under the terms of any agreement, document or instrument pursuant to which the Borrowers have incurred any indebtedness with a principal amount outstanding in excess of \$175,000, which default would permit acceleration of such indebtedness;

(f) The occurrence and continuance of (i) nonpayment by the Borrowers of any Rate Management Obligation when due or the breach by the Borrowers of any term, provision or condition contained in any Rate Management Agreement, or (ii) any breach or default under other agreement between the Borrowers and the Bank for thirty (30) days after the earlier of the Borrowers (x) obtaining knowledge of such failure, or (y) receiving written notice of such failure from the Bank which could reasonably be expected to result in a termination payment in excess of \$175,000;

(g) Any Security Document to which the Borrowers are now or hereafter a party shall for any reason cease to be in full force and effect or cease to be effective to give the Bank a valid and perfected security interest in and Lien upon a material portion of the collateral purported to be covered thereby, subject to no Liens other than Permitted Liens, in each case unless any such cessation occurs in accordance with the terms thereof or is due to any act or failure to act on the part of the Bank; or the Borrowers shall assert any of the foregoing;

(h) A Borrower (i) files a petition for relief under the Bankruptcy Code or any other insolvency law or seeking to adjudicate it bankrupt or insolvent, or seeking dissolution, winding up, liquidation, reorganization, arrangement, adjustment or composition of it or its debts under any law relating to bankruptcy, insolvency or reorganization or relief of debtors or fails to file an answer or other pleading denying the material allegations of any such proceeding filed against it, (ii) takes any corporate action to authorize or effect any of the foregoing actions, (iii) generally fails to pay, or admits in writing its inability to pay, its debts as such debts become due; (iv) shall apply for, seek or consent to, or acquiesce in, the appointment of a custodian, receiver, trustee, examiner, liquidator

or to or from any member of the immediate family of any of its officers, directors, stockholders or Affiliates, or subcontract any operations to any Affiliate, except for travel or other reasonable expense advances to employees in the ordinary course of business; or enter into any transaction with any Affiliate, except pursuant to the reasonable requirements of the business of such Affiliate and on terms substantially no more favorable to such Affiliate than those that such Affiliate would obtain in a comparable arms-length transaction with a Person not an Affiliate of the Borrower, transactions among Borrowers, and those transactions set forth on Schedule 6.7. Notwithstanding the foregoing, Borrower shall be permitted to make management fee payments upon the consent of Bank so long as no Event of Default has occurred and is continuing and the making of any such payments will not result in the occurrence of an Event of Default.

6.8 Sale-Leaseback Transactions. Directly or indirectly, become or remain liable as lessee or as guarantor or other surety with respect to any lease, whether an operating lease or a capital lease, of any property (whether real, personal or mixed, and whether now owned or hereafter acquired) (i) that the Borrower has sold or transferred (or are to sell or transfer) to a Person that is not a party to this Agreement or any of the Credit Documents or (ii) that Borrower intends to use for substantially the same purpose as any other property that, in connection with such lease, has been sold or transferred (or is to be sold or transferred) by the Borrower to another Person that is not a party to this Agreement or any of the Credit Documents, in each case except for transactions otherwise expressly permitted under this Agreement.

6.9 Certain Amendments. (a) Amend, modify or waive, or permit the amendment, modification or waiver of, any material provision of any material contract in a manner which materially and adversely affects the Bank's rights or interest under the Credit Documents; or (b) amend, modify or change any provision of its certificate of formation, operating agreement or other applicable formation or organizational documents, as applicable, the terms of any class or series of its Capital Stock, or any agreement among the holders of its Capital Stock or any of them in a manner that negatively impacts Bank.

6.10 Limitation on Certain Restrictions. Directly or indirectly, create or otherwise cause or suffer to exist or become effective any restriction or encumbrance which could reasonably be expected to materially and adversely affect the ability of the Borrower to perform and comply with its obligations under the Credit Documents in any material respect.

6.11 No Other Negative Pledges. Enter into or suffer to exist any agreement or restriction that, directly or indirectly, prohibits or conditions the creation, incurrence or assumption of any Lien upon or with respect to any part of its property or assets, whether now owned or hereafter acquired, or agree to do any of the foregoing, except for such agreements or restrictions existing under or by reason of (i) this Agreement and the other Credit Documents, (ii) applicable Requirements of Law, (iii) any agreement or instrument creating a Permitted Lien (but only to the extent such agreement or restriction applies to the assets subject to such Permitted Lien), (iv) customary provisions in leases and licenses of real or personal property and other contracts entered into by the Borrower in the ordinary course of business, restricting the granting of Liens therein or in property that is the subject thereof, (v) customary restrictions and conditions contained in any agreement relating to the sale of assets pending such sale, provided that such restrictions and conditions apply only to the assets being sold and (vi) nonconsensual restrictions imposed by operation of law.

6.12 Partnerships. Become a partner or joint venturer in any partnership or joint venture.

6.13 Subsidiaries. Create or acquire any Subsidiary or divest itself of any material assets by transferring them to any Subsidiary.

6.14 Lines of Business. Engage in any business other than the business in which it is currently engaged or a business reasonably related thereto, or make any material change in its business objectives.

6.15 Fiscal Year. Change its fiscal year or its method of determining fiscal quarters.

due and payable; (iii) Liens for current taxes, assessments or other governmental charges that are not delinquent or remain payable without any penalty or that are being contested in good faith and with due diligence by appropriate proceedings, provided that all such liens in the aggregate have no reasonable likelihood of causing a Material Adverse Effect and, if requested by the Bank, the Borrower has established reserves satisfactory to the Bank with respect thereto; (iv) all licenses, restrictions, charges and encumbrances on title that do not secure monetary obligations and do not materially impair the use of the Collateral for its intended purposes or the value thereof; and (v) liens securing the Subordinated Debt; (vi) liens securing capital leases and purchase money Indebtedness permitted under Section 6.2.; (vii) carriers', warehousemen's, mechanics', materialmen's, repairmen's or other like Liens arising in the ordinary course of business which are not overdue for a period of more than thirty (30) days or which are being contested in good faith and by appropriate proceedings diligently conducted, if adequate reserves with respect thereto are maintained on the books of the applicable person; (viii) pledges or deposits in the ordinary course of business in connection with workers' compensation, unemployment insurance and other social security legislation; (ix) deposits to secure the performance of bids, trade contracts and leases (other than Indebtedness), statutory obligations, surety bonds (other than bonds related to judgments or litigation), performance bonds and other obligations of a like nature incurred in the ordinary course of business; (x) easements, rights-of-way, restrictions and other similar encumbrances affecting real property which, in the aggregate, are not substantial in amount, and which do not in any case materially detract from the value of the property subject thereto or materially interfere with the ordinary conduct of the business of the applicable person; (xi) liens securing judgments for the payment of money not constituting an Event of Default or securing appeal or other surety bonds related to such judgments; and (x) non-exclusive outbound licenses of patents, copyrights, trademarks and other intellectual property rights granted by any Borrower in the ordinary course of business and not interfering in any respect with the ordinary conduct of or materially detracting from the value of the business of such Borrower.

6.4 Restricted Investments. Purchase, own, invest in or otherwise acquire, directly or indirectly, any stock, evidence of Indebtedness, or other obligation or security or any interest whatsoever in any other Person, or make or permit to exist any loans, advances or extensions of credit to, or any investment in cash or by delivery of property in, any Person (collectively, "Investments"), except for (i) Investments of the Borrower under Rate Management Agreements entered into in connection with this Agreement or in the ordinary course of business to manage existing or anticipated interest rate or foreign currency risks and not for speculative purposes; (ii) Investments in a Borrower; (iii) Investments held by Borrower in the form of cash or cash equivalents; (iv) investments consisting of extensions of credit in the nature of accounts receivable or notes receivable arising from the grant of trade credit in the ordinary course of business, and investments received in satisfaction or partial satisfaction thereof from financially troubled account debtors to the extent reasonably necessary in order to prevent or limit loss, and investments in the form of deposits, prepayments and other credits to suppliers made in the ordinary course of business and consistent with past practice; (vii) bank deposits in the ordinary course of business; (viii) the Permitted Acquisition and (ix) Investments by a Borrower in another Borrower.

6.5 Restricted Payments. Directly or indirectly, declare or make any dividend payment, or make any other distribution of cash, property or assets, in respect of any of its Capital Stock, or purchase, redeem, retire or otherwise acquire for value any shares of its Capital Stock, or set aside funds for any of the foregoing; provided however that, a Borrower shall be permitted to (i) make annual tax distributions to its shareholders in such amounts to cover any tax liabilities resulting from shareholders' ownership in Borrower, (ii) make dividends and distributions to another Borrower, and (iii) repurchase shares of Capital Stock of CFR or otherwise make a cash distribution to the shareholders of CFR in the form of a dividend using up to \$5,000,000 of the proceeds of key man life insurance and, in such event, the Bank agrees that it shall take appropriate actions to insure that the transactions described in this Section 6.5(iii) are included in the numerator for the determination of the Fixed Charge Coverage Ratio.

6.6 Subordinated Debt. Except as otherwise set forth herein or without Bank's prior written consent, Borrower shall not incur Subordinated Debt or make any payments in respect of any Subordinated Debt or amend any provision contained in any documentation relating to the Subordinated Debt; provided, however, that Borrower shall be allowed to make payments in respect of any Subordinated Debt as long as such payments are not made in violation of the Subordination Agreement and provided further that Borrower shall be allowed to prepay any Subordinated Debt using up to \$2,500,000 of the proceeds of key man life insurance.

6.7 Transactions With Related Persons. Directly or indirectly make any loan or advance to, or purchase, assume or guarantee any Indebtedness to or from, any of its officers, directors, stockholders or Affiliates,

(b) *Senior Funded Debt to EBITDA Ratio.* A Senior Funded Debt to EBITDA Ratio of no more than 2.5 to 1.00 as of the last day of the fiscal quarter beginning with the quarter ending December 31, 2016.

(c) *Funded Debt to EBITDA Ratio.* A Funded Debt to EBITDA Ratio of no more than 4.0 to 1.00 as of the last day of the fiscal quarter tested beginning with the quarter ending December 31, 2015.

(d) *Fixed Charge Coverage Ratio.* A Fixed Charge Coverage Ratio as of the last day of each fiscal quarter tested to be greater than or equal to 1.20 to 1.00, beginning with the quarter ending December 31, 2015 and concluding with the quarter ending on September 30, 2016.

(e) *Fixed Charge Coverage Ratio.* A Fixed Charge Coverage Ratio as of the last day of each fiscal quarter tested to be greater than or equal to 1.25 to 1.00, beginning with the quarter ending December 31, 2016.

5.15 *Further Assurances.* Execute, acknowledge and deliver, or cause to be executed, acknowledged or delivered, any and all such further assurances and other agreements or instruments, and take or cause to be taken all such other action, as shall be reasonably necessary from time to time to give full effect to the Credit Documents and the transactions contemplated thereby.

ARTICLE VI

NEGATIVE COVENANTS

Until payment in full of all Obligations of the Borrowers to the Bank, no Borrower shall, without the express prior written approval of the Bank:

6.1 *Merger, Dispositions of Assets.* (a) Recapitalize its equity structure in any manner adverse to the Bank, (b) merge or consolidate with any Person (other than a Borrower upon reasonable advance notice to Bank), (c) amend or change its articles of organization or other incorporation document, as applicable (excluding any amendment to effectuate a name change in accordance with Section 5.9 above or in a manner that does not negatively impact Bank), (d) amend or change its bylaws or similar governing document in a manner that negatively impacts Bank, or (e) sell, lease, transfer or otherwise dispose of, or grant any person an option to acquire, or sell and leaseback, all or any substantial portion of its assets, whether now owned or hereafter acquired, except for bona fide sales of inventory in the ordinary course of business and dispositions of property which is obsolete and not used or useful in its business.

6.2 *Indebtedness.* Directly or indirectly issue, assume, create, incur or suffer to exist any Indebtedness except for: (i) Indebtedness of the Borrower in favor of the Bank incurred under this Agreement and the other Credit Documents; (ii) Indebtedness secured by Permitted Liens; (iii) subordinated Indebtedness to shareholders of Borrower; (iv) Indebtedness of the Borrower under Rate Management Agreements entered into in connection with this Agreement or in the ordinary course of business to manage existing or anticipated interest rate or foreign currency risks and not for speculative purposes; (v) capital leases for vehicles; (vi) other capital leases and purchase money indebtedness in an amount not to exceed \$750,000 at any time outstanding; (vii) Indebtedness incurred by Borrower to the extent of adjustment of purchase price or similar obligations, or guaranty, letter of credit, surety bond, appeal bonds or performance bond obligations; (viii) Indebtedness of Borrower in respect of netting services, overdraft protections and otherwise in connection with deposit accounts in the ordinary course of business; (ix) guaranties incurred in the ordinary course of business of the obligations of suppliers, customers, franchisees, lessors and licensees of Borrower; (x) Indebtedness under the Seller Note and (xi) the Put Rights of Leeds Novamark Capital I, L.P. and McLarty Capital Partners SBIC, L.P. pursuant to and as described and defined in Section 9.01 of the Shareholders Agreement.

6.3 *Liens and Encumbrances.* Create, assume or suffer to exist any Lien in or on the Collateral, except for (collectively, the "Permitted Liens"): (i) Liens in favor of the Bank created by or otherwise existing under or in connection with this Agreement and the other Credit Documents; (ii) Liens imposed by mandatory provisions of law of carriers, warehousemen, mechanics and materialmen incurred in the ordinary course of business for sums not yet

5.8 Environmental Laws.

(a) Comply in all material respects with, and use commercially reasonable efforts to ensure compliance in all material respects by all tenants and subtenants, if any, with, all applicable Environmental Laws and obtain and comply in all material respects with and maintain, and use commercially reasonable efforts to ensure that all tenants and subtenants obtain and comply in all material respects with and maintain, any and all licenses, approvals, notifications, registrations or permits required by applicable Environmental Laws, except to the extent that the failure to do so could not reasonably be expected to have a Material Adverse Effect.

(b) Conduct and complete all investigations, studies, sampling and testing, and all remedial, removal and other actions, required under Environmental Laws and promptly comply in all material respects with all lawful orders and directives of all Governmental Authorities regarding Environmental Laws, except to the extent that the same are being contested in good faith by appropriate proceedings or to the extent the failure to conduct or complete any of the foregoing could not reasonably be expected to have a Material Adverse Effect.

5.9 Name Change. Notify the Bank at least thirty (30) days prior to the effective date of any change of its name, and prior to such effective date the Borrowers shall have executed any required amended or new UCC financing statements and other documents necessary to maintain and continue the perfected security interests of the Bank in all of the Collateral and shall have taken such other actions and executed such documents as the Bank shall reasonably require.

5.10 Depository/Banking Services. As long as any Obligations are outstanding, (i) the Bank shall be the principal depository in which substantially all of the Borrowers' funds are deposited, (ii) the Borrowers shall maintain their principal bank accounts with the Bank, and (iii) the Borrowers shall grant the Bank the first and last opportunity to bid to provide any corporate banking services required by the Borrowers and their Affiliates.

5.11 Other Amounts Deemed Loans. If the Borrowers fail to pay any tax, assessment, governmental charge or levy or to maintain insurance within the time permitted or required by this Agreement, or to discharge any Lien prohibited hereby, or to comply with any other obligation, the Bank may, but shall not be obligated to, pay, satisfy, discharge or bond the same for the account of the Borrowers, and to the extent permitted by law and at the option of the Bank, all monies so paid by the Bank on behalf of the Borrowers shall be deemed Obligations unless any such tax, assessment or governmental charge is being disputed in good faith by appropriate proceedings.

5.12 OFAC, PATRIOT Act Compliance. Refrain from doing business in a Sanctioned Country or with a Sanctioned Person in violation of the economic sanctions of the United States administered by OFAC, and (b) provide, to the extent commercially reasonable, such information and take such actions as are reasonably requested by the Bank in order to assist the Bank in maintaining compliance with the PATRIOT Act.

5.13 Taxes. Borrowers shall pay when due all taxes, assessments and other governmental charges imposed upon it or its assets, franchises, business, income or profits before any penalty or interest accrues thereon, and all claims (including, without limitation, claims for labor, services, materials and supplies) for sums which by law might be a lien or charge upon any of its assets, provided that (unless any material item or property would be lost, forfeited or materially damaged as a result thereof) no such charge or claim need be paid if it is being diligently contested in good faith, if Bank is notified in advance of such contest and if Borrowers establish an adequate reserve or other appropriate provision required by generally accepted accounting principles and deposits with Bank cash or bond in an amount acceptable to Bank.

5.14 Financial Covenants. Borrowers shall maintain, for the periods set forth below, fully and timely comply with each and every one of the financial covenants set forth in this Section 5.14 and other applicable provisions of this Agreement and Security Documents.

(a) Senior Funded Debt to EBITDA Ratio. A Senior Funded Debt to EBITDA Ratio of no more than 3.00 to 1.00 as of the last day of the fiscal quarter beginning with the quarter ending December 31, 2015 and concluding with the quarter ending on September 30, 2016.

5.4 Compliance with Law. The Borrowers shall comply with all federal, state and local laws, regulations and orders applicable to Borrowers or its assets including but not limited to all Environmental Laws, in all respects material to Borrowers' business, assets or prospects and shall immediately notify the Bank of any complaint or notification of violation of any rule, regulation, statute, ordinance, order or law relating to the public health or the environment and of any complaint or notifications received by the Borrowers regarding to any environmental or safety and health rule, regulation, statute, ordinance or law. The Borrowers shall obtain and maintain any and all licenses, permits, franchises, Governmental Authorizations or other rights necessary for the ownership of its properties and the advantageous conduct of its business and as may be required from time to time by applicable law (except where the failure to have such Governmental Authorizations would not have a Material Adverse Effect).

5.5 Payment of Obligations. The Borrowers shall (a) pay, discharge or otherwise satisfy at or before maturity all liabilities and obligations as and when due (subject to any applicable subordination, grace and notice provisions), except to the extent failure to do so could not reasonably be expected to have a Material Adverse Effect, and (b) pay when due all taxes, assessments and other governmental charges imposed upon it or its assets, franchises, business, income or profits before any penalty or interest accrues thereon, and all claims (including, without limitation, claims for labor, services, materials and supplies) for sums which by law might be a lien or charge upon any of its assets, provided that (unless any material item or property would be lost, forfeited or materially damaged as a result thereof) no such charge or claim need be paid if it is being diligently contested in good faith, if the Bank is notified in advance of such contest and if the Borrowers establish an adequate reserve and deposits with the Bank cash or bond in an amount acceptable to the Bank.

5.6 Maintenance of Books and Records; Inspection. Maintain proper books of accounts and records and enter therein complete and accurate entries and records of all of its transactions and give representatives of the Bank access thereto at all reasonable times provided the Bank gives the Borrowers two (2) Business Days' notice (except no prior notice shall be required if an Event of Default has occurred and is continuing) prior to seeking access thereto, including permission to: (a) examine, copy and make abstracts from any such books and records and such other information which might be helpful to the Bank in evaluating the status of the Obligations or appropriate for the enforcement of this Agreement as it may reasonably request from time to time, and (b) communicate directly with any of the Borrowers' officers, accountants or other financial advisors with respect to the business, financial conditions and other affairs of the Borrowers; provided, however, that unless an Event of Default exists, Borrowers shall not be responsible for the cost of more than one inspection during any calendar year.

5.7 Maintenance of Insurance.

(a) At their own cost, obtain and maintain insurance against (i) loss, destruction or damage to their properties and business of the kinds and in the amounts customarily insured against by corporations with established reputations engaged in the same or similar businesses as the Borrowers and, in any event, sufficient to fully protect the Bank's interest in the Collateral described in the Security Documents, and (ii) insurance against public liability and third party property damage of the kinds and in the amounts customarily insured against by corporations with established reputations engaged in the same or similar businesses as the Borrowers. All such policies shall (x) be issued by financially sound and reputable insurers, (y) name the Bank as an additional insured and, where applicable, as loss payee under a lender loss payable endorsement satisfactory to the Bank, and (z) shall provide for the insurer to use its best efforts to provide thirty (30) days written notice to the Bank before such policy is altered or canceled. All of the insurance policies required hereby shall be evidenced by one or more certificates of insurance delivered to the Bank by the Borrowers on the Closing Date and at such other times as the Bank may request from time to time. The Bank acknowledges that the insurance maintained by the Borrowers as of the Closing Date satisfies this Section 5.7(a).

(b) In the event of casualty loss with respect to any the Collateral described in any Security Document, the Bank, as mortgagee, loss payee or additional insured, as appropriate to the policy, may make proof of loss if not made promptly by the Borrowers, and each insurance company concerned shall hereby be authorized and directed to make payment for such loss directly to the Bank instead of to the Borrowers and the Bank jointly. Any such proceeds must be applied, at the option of Borrowers so long as no Event of Default exists to either (i) the payment of the Obligations, or (ii) the repair and/or restoration of the Collateral.

8.9 Entire Agreement. THIS AGREEMENT AND THE DOCUMENTS AND INSTRUMENTS EXECUTED AND DELIVERED CONTEMPORANEOUSLY HERewith EMBODY THE ENTIRE AGREEMENT AND UNDERSTANDING BETWEEN THE PARTIES HERETO AND SUPERSEDE ALL PRIOR AGREEMENTS AND UNDERSTANDINGS OF SUCH PERSONS, VERBAL OR WRITTEN, RELATING TO THE SUBJECT MATTER HEREOF. THIS AGREEMENT AND THE DOCUMENTS AND INSTRUMENTS EXECUTED IN CONNECTION HERewith REPRESENT THE FINAL AGREEMENT BETWEEN THE PARTIES AND MAY NOT BE CONTRADICTED BY PRIOR, CONTEMPORANEOUS OR SUBSEQUENT ORAL AGREEMENTS OF THE PARTIES. THERE ARE NO UNWRITTEN ORAL AGREEMENTS BETWEEN THE PARTIES.

8.10 Amendment. Any provision of this Agreement or any other Credit Document to which the Borrowers are a party may be amended if such amendment is in writing and is signed by the Borrowers and the Bank. In connection with any amendment entered into in accordance with this Section, the Borrowers shall pay to the Bank a fee to be negotiated between the Borrowers and the Bank. Payment of such fee by the Borrowers to the Bank shall be a condition precedent to the effectiveness of such amendment and shall be due on the date such amendment is signed by the Bank.

8.11 Severability. In the event that any provision of this Agreement shall be determined to be invalid or unenforceable by any court of competent jurisdiction, such determination shall not invalidate or render unenforceable any other provision hereof.

8.12 Counterparts. This Agreement may be executed in several counterparts, each of which shall be an original and all of which, together shall constitute but one and the same instrument.

8.13 Captions. The captions to the various sections and subsections of this Agreement have been inserted for convenience only and shall not limit or affect any of the terms hereof.

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

INSTITUTED HEREUNDER OR UNDER ANY OF THE OTHER CREDIT DOCUMENTS, OR ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT OR ANY OF THE OTHER CREDIT DOCUMENTS, OR ANY OTHER PROCEEDING TO WHICH THE BANK IS A PARTY, INCLUDING ANY ACTIONS BASED UPON, ARISING OUT OF OR IN CONNECTION WITH ANY COURSE OF CONDUCT, COURSE OF DEALING OR STATEMENT (WHETHER ORAL OR WRITTEN) OR ACTIONS OF THE BANK OR THE BORROWERS. THE BORROWERS ALSO CONSENT TO THE GRANTING OF SUCH LEGAL OR EQUITABLE RELIEF AS IS DEEMED APPROPRIATE BY THE COURT. NOTHING IN THIS SECTION SHALL AFFECT THE RIGHT OF THE BANK TO BRING ANY ACTION OR PROCEEDING AGAINST THE BORROWERS IN THE COURTS OF ANY OTHER JURISDICTION THAT HAS JURISDICTION OVER THE BORROWERS.

8.4 Notices. All demands, notices, approvals, consents, requests, and other communications hereunder shall be in writing and shall be deemed to have been given when the writing is delivered, if given or delivered by hand or overnight delivery service, or five (5) days after being mailed, if mailed, by first class, registered or certified mail, postage prepaid, to the address or telecopy number set forth below:

<u>Party</u>	<u>Address</u>
Borrowers	410 E. Washington Street Greenville, S.C. 29601 Attention: President
Bank	31 S Main Street Greenville, S.C. 29601 Attention: Charles H. Arndt

The Borrowers or the Bank may, by notice given hereunder, designate any further or different addresses or telecopy numbers to which subsequent demands, notices, approvals, consents, requests or other communications shall be sent or persons to whose attention the same shall be directed.

8.5 Continuing Obligations. All agreements, representations and warranties contained herein or made in writing by or on behalf of the Borrowers in connection with the transactions contemplated hereby shall survive the execution and delivery of this Agreement and the other Credit Documents. The Borrowers further agree that to the extent the Borrowers make a payment to the Bank, which payment or any part thereof is subsequently invalidated, declared to be fraudulent or preferential, set aside or required to be repaid to a trustee, receiver or any other party under any bankruptcy, insolvency or other similar state or federal statute, or principle of equity, then, to the extent of such repayment by the Bank, the Obligation or part thereof intended to be satisfied by such payment shall be revived and continued in full force and effect as if such payment had not been received by the Bank.

8.6 Controlling Law. This Agreement has been executed, delivered and accepted at, and shall be deemed to have been made in, South Carolina and shall be interpreted in accordance with the internal laws (as opposed to conflicts of laws provisions) of the State of South Carolina.

8.7 Successors and Assigns. This Agreement shall be binding upon the Borrowers and their successors and assigns and all rights against the Borrowers arising under this Agreement shall be for the sole benefit of the Bank.

8.8 Assignment and Sale. The Borrowers may not sell, assign or transfer this Agreement or any of the other Credit Documents or any portion hereof or thereof, including without limitation the Borrowers' rights, title, interests, remedies, powers, and duties hereunder or thereunder. Nothing in this Agreement or any other Credit Document shall prohibit Bank from pledging or assigning this Agreement and the Bank's rights under any of the other Credit Documents, including Collateral therefor; provided that, Bank shall not assign this Agreement in part or participate the Loans hereunder without the prior written consent of Borrowers so long as no Event of Default exists if such assignment or participation would result in Bank not controlling the administration and enforcement of this Agreement.

ARTICLE VIII

MISCELLANEOUS

8.1 Costs, Expenses and Taxes. The Borrowers agree to pay on demand all reasonable out-of-pocket expenses of the Bank, including reasonable fees and disbursements of counsel, incurred in connection with: (i) the preparation, execution, delivery, and filing, if required of this Agreement and the other Credit Documents, (ii) any amendments, supplements, consents or waivers hereto or to the Credit Documents, and (iii) the administration or enforcement of this Agreement and the other Credit Documents. In addition, the Borrowers shall pay any and all stamp and other taxes and fees payable or determined to be payable in connection with the execution, delivery, filing and recording of this Agreement and the other Credit Documents and agree to save the Bank harmless from and against any and all liabilities with respect to or resulting from any delay in paying or omission to pay such taxes and fees. It is the intention of the parties hereto that the Borrowers shall pay amounts referred to in this Section directly. In the event the Bank pays any of the amounts referred to in this Section directly, the Borrowers will reimburse the Bank for such advances and interest on such advance shall accrue until reimbursed at the Default Rate.

8.2 Indemnification. From and at all times after the date of this Agreement, and in addition to all of the Bank's other rights and remedies against the Borrowers, the Borrowers agree to indemnify, defend and hold harmless the Bank and its directors, officers, employees, agents, successors, assigns and affiliates from and against any and all claims (whether valid or not), losses, damages, actions, suits, inquiries, investigations, administrative proceedings, judgments, liens, liabilities, penalties, fines, amounts paid in settlement, requirements of Governmental Authorities, punitive damages, interest, damages to natural resources and other costs and expenses of any kind or nature whatsoever (including without limitation reasonable attorneys' fees and expenses, court costs and fees, and consultant and expert witness fees and expenses actually incurred) (collectively "Costs") arising in any manner, directly or indirectly, out of or by reason of: (a) the negotiation, preparation, execution or performance of this Agreement or the other Credit Documents, or any transaction contemplated herein or therein, whether or not the Bank or any other party protected under this Section is a party to any action, proceeding or suit in question, or the target of any inquiry or investigation in question, (b) any breach of any of the covenants, warranties or representations of the Borrowers hereunder or under any other Credit Document, (c) any lien or charge upon amounts payable hereunder by the Borrowers to the Bank or any taxes, assessments, impositions and other charges in respect of the Collateral described in the Security Documents, (d) damage to property or any injury to or death of any person that may be occasioned by any cause whatsoever pertaining to any such Collateral or the use thereof, (e) any violation or alleged violation of any Environmental Law, federal or state securities law, common law, equitable requirement or other legal requirement by the Borrowers or with respect to any property owned, leased or operated by the Borrowers (in the past, currently or in the future), or (f) any presence, generation, treatment, storage, disposal, transport, movement, release, suspected release or threatened release of any Hazardous Material on, in, to or from any property (or any part thereof including without limitation the soil and groundwater thereon and thereunder) owned, leased or operated by the Borrowers (in the past, currently or in the future); provided, however, that such indemnity shall not, as to any indemnified party, be available to the extent such liability results from the willful misconduct or gross negligence of such indemnified party (as finally determined by a court of competent jurisdiction). All Costs shall be additional Obligations of the Borrowers under this Agreement, shall be payable on demand to the party to be indemnified, and shall be secured by the lien of the Security Documents. Without limiting the foregoing, the Borrowers shall be obligated to pay, on demand, the costs of any investigation, monitoring, assessment, enforcement, removal, remediation, restoration or other response or corrective action undertaken by the Bank or any other indemnified party, or their respective agents, with respect to any property owned, leased or operated by the Borrowers. It is expressly understood and agreed that the obligations of the Borrowers under this Section shall not be limited to any extent by payment of the Obligations and termination of this Agreement and shall remain in full force and effect until expressly terminated by the Bank in writing.

8.3 Consent to Jurisdiction; Waiver of Jury Trial. AS PART OF THE CONSIDERATION FOR NEW VALUE THIS DAY RECEIVED, THE BORROWERS HEREBY CONSENT TO THE NONEXCLUSIVE JURISDICTION OF ANY STATE OR FEDERAL COURT SITTING WITHIN THE STATE OF SOUTH CAROLINA FOR ANY ACTION TO WHICH THE BORROWERS AND THE BANK ARE PARTIES. TO THE EXTENT PERMITTED BY LAW, THE BORROWERS WAIVE TRIAL BY JURY AND WAIVES ANY OBJECTION WHICH IT MAY HAVE BASED ON LACK OF JURISDICTION OR IMPROPER VENUE OR *FORUM NON CONVENIENS* TO THE CONDUCT OF ANY ACTION

or similar official for it or for any material portion of its assets; (v) benefits from or is subject to the entry of an order for relief under any bankruptcy or insolvency law; or (vi) makes an assignment for the benefit of creditors;

(i) Failure of a Borrower within sixty (60) days after the commencement of any proceeding against it seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any present or future statute, law or regulation, to have such proceeding dismissed, or to have all orders or proceedings thereunder affecting the operations or the business of the Borrower stayed, or failure of the Borrower within sixty (60) days after the appointment, without its consent or acquiescence, of any custodian, receiver trustee, examiner, liquidator or similar official for it or for any material portion of its assets, to have such appointment vacated;

(j) A Borrower ceases to be Solvent, or ceases to conduct its business substantially as now conducted or is enjoined, restrained or in any way prevented by court order from conducting all or any material part of its business affairs;

(k) The entry of one or more judgments or orders for the payment of money against a Borrower in excess of \$175,000 in the aggregate outstanding at any time and such judgment(s) or order(s) shall continue unsatisfied and unstayed for a period of thirty (30) days or the issuance of a writ of execution, attachment or similar process against a Borrower which shall not be dismissed, stayed, discharged or bonded within thirty (30) days after the Borrower acquires knowledge thereof;

7.2 Remedies. Upon the occurrence and during the continuance of any Event of Default:

(a) Acceleration of Indebtedness. The Bank may, in its sole discretion, (i) declare all or any part of a Loan immediately due and payable, whereupon the Loan shall become immediately due and payable without presentment, demand, protest, notice or legal process of any kind, all of which are hereby expressly waived by the Borrowers; provided, however, that a Loan shall automatically become due and payable upon the occurrence of an Event of Default under Sections 7.1(h) or (i); and (ii) pursue all other remedies available to it by contract, at law or in equity, including but not limited to its rights under the Security Documents.

(b) Right of Set-off. The Bank may, and is hereby authorized by the Borrowers, at any time and from time to time, to the fullest extent permitted by applicable laws, without advance notice to the Borrowers (any such notice being expressly waived by the Borrowers), set off and apply any and all deposits (general or special, time or demand, provisional or final) at any time held and any other Indebtedness at any time owing by the Bank or any of its Affiliates to or for the credit or the account of the Borrowers against any or all of the Obligations of the Borrowers under this Agreement or the other Credit Documents now or hereafter existing, whether or not such obligations have matured. The Bank agrees promptly to notify the Borrowers after any such set-off or application; provided, however, that the failure to give such notice shall not affect the validity of such set-off and application.

(c) Rights and Remedies Cumulative; Non-Waiver; etc. The enumeration of the Bank's rights and remedies set forth in this Agreement is not intended to be exhaustive and the exercise by the Bank of any right or remedy shall not preclude the exercise of any other rights or remedies, all of which shall be cumulative, and shall be in addition to any other right or remedy given hereunder, under the other Credit Documents or under any other agreement between the Borrowers and the Bank or that may now or hereafter exist in law or in equity or by suit or otherwise. No delay or failure to take action on the part of the Bank in exercising any right, power or privilege shall operate as a waiver thereof, nor shall any single or partial exercise of any such right, power or privilege preclude other or further exercise thereof or the exercise of any other right, power or privilege or shall be construed to be a waiver of any Event of Default. No course of dealing between the Borrowers and the Bank or their agents or employees shall be effective to change, modify or discharge any provision of this Agreement or any of the other Credit Documents or to constitute a waiver of any Event of Default.

information concerning Borrowers and any other person obligated on the Credit Facility to any participant or prospective participant, and to any assignee or prospective assignee as long as such person agrees to keep such information confidential.

This Note and the other Loan Documents contain the entire/final agreement between Borrowers and Bank relative to the Credit Facility. Bank will be under no obligation to extend, renew or refinance the Credit Facility, or amend, modify or change any provision of this Note. This Note and any of the rights and remedies of any of the parties to this Note may not be changed or waived orally, but only by an agreement in writing signed by the party against whom enforcement of any change or waiver is sought.

Definitions

In this Note: (1) "Borrowers" refers to all signatories of this Note collectively and severally, as the context of this Note requires, and all signatories of this Note will be and the same are jointly and severally liable hereunder; (2) "Term Loan" refers to the term facility evidenced by this Note; (3) "maturity of this Note" refers to the date on which payment of the entire balance of principal then outstanding on this Note becomes due and payable in full, whether the stated Maturity Date, by acceleration or otherwise; (4) "Note" refers to this Commercial Promissory Note; (5) "Security Documents" refers to the security documents and supporting obligations which reference that they secure this Note or reference that they secure all obligations of Borrowers to Bank, and includes all security documents and supporting obligations shown on Bank's records as being security documents or supporting obligations that secure this Note, whether or not such security documents or supporting obligations correctly or accurately refer to this Note; and (6) any terms defined in the Credit Agreement that are not defined in this Note will have the meanings given thereto in the Credit Agreement, and the rules of construction or rules related to use of terms in the Credit Agreement will apply to this Note.

[Signatures Begin on Following Page]

Any Event of Default under and as defined in the Credit Agreement will constitute an Event of Default under this Note.

Upon the occurrence and during the continuance of an Event of Default under this Note, (1) the entire unpaid principal balance of this Note and all interest, fees, premiums, charges, costs and expenses owing and to be owing under this Note, will, at the option of Bank, become immediately due and payable, without notice or demand, and (2) the Bank may, both before and after acceleration, exercise any of and all of its other rights and remedies under this Note and the other Credit Documents, as well as any additional rights and remedies it may have at law or in equity. The failure by Bank to exercise any of its options will not constitute a waiver of the right to exercise same in the event of any subsequent default.

General Terms

Borrowers waive presentment, demand, protest and notice of dishonor.

Time is of the essence for the performance of all of Borrowers' covenants and agreements set forth in this Note, including its payment obligations under this Note.

Payment of this Note in whole or in part, or any other partial or full satisfaction or discharge of Borrowers' obligations under this Note, will not release or otherwise terminate any of the security interests or liens created by any of the Security Documents, or entitle any person to a release or termination thereof; the terms of each Security Document will be determinative of when and the conditions under which any of the security interests or liens created by such Security Document will be released or otherwise terminated.

This Note will be governed by the substantive laws of the State of South Carolina, excluding, however, the conflict of law and choice of law provisions thereof. Borrowers submit to the jurisdiction of either the state courts of the jurisdiction whose laws govern this Note, or a United States District Court for any federal district in such jurisdiction, over any action or proceeding arising from or related to this Note; and, Borrowers irrevocably waive the defense of improper venue or an inconvenient forum.

Each provision of this Note will be interpreted in a manner so as to be valid under applicable law, but if any provision of this Note is held invalid under such law by a court or other tribunal of competent jurisdiction, the provision will be ineffective to the extent of such invalidity without invalidating the remainder of such provision or the remaining provisions of this Note, or the application thereof will be in a manner and to an extent permissible under applicable law.

If the rate at which interest accrues under this Note exceeds at any time the maximum contract rate which may be charged to or collected from Borrowers on the Term Loan under applicable law, or if any fees, premiums, charges or costs and expenses assessed against or collected from Borrowers exceed those permitted by law, then *ipso facto* the same will be reduced to the limits prescribed by law; and, if Bank receives any interest, fees, premiums, charges or costs and expenses in excess of any limits prescribed by law, such excess will be applied to the reduction of the principal balance owing under this Note in the inverse order of its maturity, even if not then due, or at the option of Bank, paid to Borrowers.

Borrowers, to the extent permitted by law, waive any right to a trial by jury in any action or proceeding arising from or related to this Note.

This Note will apply to and bind Borrowers' successors and assigns. At any time or times and upon notice to Borrowers or any other person, subject to the provisions of the Credit Agreement, Bank may sell one or more participations in the Credit Facility and may assign this Note in whole or in part; and, this Note will apply to, be binding upon and inure to the benefit of each one of and all of Bank's participants, successors and assigns, including any person that may administer or service this Note for any holder of this Note or any participants in the Credit Facility. Bank may disclose financial and other

All interest payable under this Note will be calculated monthly and will accrue daily on the basis of the actual number of calendar days elapsed and a year of three hundred sixty (360) calendar days. All accrual rates of interest under this Note will be contract rates of interest, whether a pre-default rate or a default rate, and references to contract rates in any Credit Documents executed and delivered by Borrowers or others to Bank in connection with this Note will be to such contract rates.

Payment Terms

Prior to maturity of this Note, principal plus interest will be paid as follows: (i) equal consecutive monthly payments of principal of \$83,333 plus interest, commencing December 5, 2015 and ending November 5, 2016, and (ii) equal consecutive monthly payments of principal of \$156,250 plus interest, commencing on December 5, 2016 and continuing on the same day of each calendar month thereafter until October 31, 2020 (the "Maturity Date"), when one final payment of the entire balance of principal, interest, fees, premiums, charges and costs and expenses then outstanding on this Note will be due and payable in full. In the event that any payment is due on a calendar day that is not a Business Day, then such payment will be due on the next calendar day that is a Business Day.

Any payments and other amounts owing under this Note shall be initiated by lender in accordance with the terms of this Note from Borrowers' account through Auto BillPayer. Borrowers hereby authorize Bank to initiate such payments from Borrowers' account located at Fifth Third Bank, routing number _____, account number _____. Borrowers acknowledge and agree that use of Auto BillPayer shall be governed by the Auto BillPayer Terms and Conditions, a copy of which Borrowers acknowledge receipt. Borrowers further acknowledge and agree to maintain payments hereunder through Auto BillPayer throughout the term of this Note. If Auto BillPayer is cancelled at any time, may be required to pay Bank the then current amount of the difference between the Bank's customary Note Processing Fee and the discounted Note Processing Fee received by Borrowers in consideration of its use of Auto BillPayer. Each payment hereunder shall be applied first to advanced costs, charges and fees, then to accrued interest, and then to principal, if applicable, which will be repaid in inverse chronological order of maturity.

Borrowers may prepay all or part of this Note, at any time without advance notice to Bank or penalty or premiums, which prepaid amounts shall be applied to the amounts due in reverse order of their due dates.

Supporting Documents

Borrowers and Bank entered into a Credit Agreement effective on November 2, 2015 (the "Credit Agreement"). The terms of the Credit Agreement are incorporated into this Note.

This Note is secured by the Security Documents.

Late Charges and Expenses

If any payment is not paid when due (whether by acceleration or otherwise) or within ten (10) days thereafter, Borrowers agree to pay to Bank a late payment fee of 5% of the payment amount, with a minimum fee of \$20.00. While an Event of Default exists, Borrowers agree to pay to Bank a fixed charge of \$25.00, or Borrowers agree that Bank may, without notice, increase the Interest Rate by three percentage points (3%) (the "Default Rate"), whichever is greater. Bank may impose a non-sufficient funds fee for any check that is presented for payment that is returned for any reason. In addition, Bank may charge loan documentation fees as may be reasonably determined by the Bank.

Default and Acceleration

nycBank Use	Customer Number
Only:	Account Number

COMMERCIAL PROMISSORY NOTE

Lender: Fifth Third Bank

Borrowers: Commercial Foodservice Repair, Inc., FT Acquisition, LLC and Foodservice Technologies, Inc.

Amount: \$8,500,000.00

Type: Term Loan

Date: November 2, 2015

FOR VALUE RECEIVED, COMMERCIAL FOODSERVICE REPAIR, INC., a South Carolina corporation, **FT ACQUISITION, LLC,** a South Carolina limited liability company, and **FOODSERVICE TECHNOLOGIES, INC.,** a Virginia corporation (individually, a "Borrower" and collectively, the "Borrowers"), promise to pay to **FIFTH THIRD BANK** ("Bank"), or order, the principal sum of Eight Million Five Hundred Thousand and No/100ths Dollars (\$8,500,000.00), or so much thereof as shall have been disbursed and remains unpaid, together with interest as set forth in this Note. Payments by Borrowers under this Note will be made as provided in this Note. Payments will be made at the office of Bank, or such other place as Bank may designate in writing from time to time.

TERMS

Interest Rates

Except as provided below, prior to maturity of this Note, interest will accrue on the unpaid principal of this Note at an interest rate per annum equal to 3.750% plus the LIBOR Base Rate. The "LIBOR Base Rate" shall be the rate (rounded upwards, if necessary, to the next 1/8 of 1%) (and adjusted for reserves if Bank is required to maintain reserves with respect to relevant advances) fixed by the ICE Benchmark Administration Limited at 11:00 a.m., London time, relating to quotations for the calendar month (the "LIBOR Interest Period") London InterBank Offered Rates on U.S. Dollar deposits as published on Bloomberg LP, or, if no longer provided by Bloomberg LP, such rate as shall be determined in good faith by the Lender from such sources as it shall determine to be comparable to Bloomberg LP (or any successor) as determined by Lender at approximately 10:00 a.m. Cincinnati, Ohio time on the first day of a LIBOR Interest Period and which has a maturity corresponding to the maturity of the LIBOR Interest Period. The rate for the first month or part thereof will initially become effective on the date of the Note as shown on the face hereof. Thereafter, the rate will change and a new rate will become effective on the first calendar day of each succeeding month. If for any reason the London Interbank Offer Rate is not available, then the "LIBOR Base Rate" shall mean the rate per annum which banks charge each other in a market comparable to England's Eurodollar market on short-term money in U.S. Dollars for an amount substantially equivalent to the principal amount due under this Note as determined at 11:00 A.M., London time, two (2) London business days prior to the day on which the rate will become effective, as determined in Bank's sole discretion. Bank's determination of such interest rate shall be conclusive, absent manifest error.

This is a variable rate note. The rates at which interest accrues under this Note may change from time to time. Any changes in the interest accrual rates will equal changes in the variable rate index to which such interest rates are tied. Bank will not have any obligation to notify Borrowers of adjustments in any interest rates under this Note or any of the other Credit Documents. Adjustments to any rate of interest will be effective as of the first day of following month.

GREENVILLE 1426461.3

Schedule 6.7

Transactions with Related Persons

1. Subordinated Promissory Note dated July 28, 2014 in the amount of \$1,000,000 in favor of Richard D. White, as sellers' representative.
2. Lease Agreement dated July 1, 2011 by and between Foodservice Technologies, Inc. and SLR, LLC for the premises located at 534 W. 24th Street, Norfolk, VA 23517. SLR, LLC is owned by Richard D. White, Jean Viteri, Roger Moore, & Russell White.
3. Lease Agreement, dated June 1, 2013, for the premises located at 410 East Washington Street, Greenville, South Carolina from Washington Street Real Estate, LLC which is owned in part by Kurt A. Herwald, Jean Hodges and Derek W. Herwald, Kurt A. Herwald's son.
4. Tech-24 Construction, LLC leases a small amount of space in the Company's Alexandria Office. The Company does business with and for this general contractor from time to time, but nothing significant. The Company has a licensing agreement with this entity for use of Company marks. Tech-24 Construction, LLC is a Virginia limited liability company and an affiliate entity. The majority member is Victor Bonomi (90%). The other members are Richard D. White (10%).
5. SLR, LLC leases property to the Company in Norfolk, Virginia. SLR, LLC is a Virginia limited liability company and affiliate entity. Each of Richard D. White, Jean Carlos Viteri, Russell A. White, and Roger L. Moore own 25% of the membership interests of SLR, LLC.
6. The Borrower intends to enter into a Lease Agreement as soon as possible for the premises located at 424 East Washington Street, Greenville, South Carolina 29601 owned by Washington Street Real Estate, LLC, which is owned in part by Kurt A. Herwald, Jean Hodges and Derek W. Herwald, Kurt A. Herwald's son. The Lease Agreement provides for a term of 5 years, commencing on July 1, 2016; or earlier if the facility is vacated by the current tenant, and terminating on July 1, 2021, or sooner as provided in the Lease Agreement, at the annual rental of Twenty Nine Thousand Four Hundred (\$29,400.00) dollars per year with payments to be made monthly in the amount of \$2,450.00 per month with the payment due on the first (1st) day of each month and payable by the fifth (5th) day thereof (payable in advance). Rent payable under the Lease Agreement shall increase annually by the lower of: i) three percent (3%), or ii) the Consumer Price Index over the rent paid for the previous year on the anniversary of the commencement date of the lease.

Northwestern Mutual	20616543	Key Man Insurance – Kurt Herwald	\$10,000,000 term life coverage			

GREENVILLE 1426362.8

Zurich American Insurance Company	GLO0380920-00	General Liability	\$1,000,000 Each Occurrence / \$2,000,000 General Aggregate / \$2,000,000 Products - Completed Operations Aggregate / \$1,000,000 Personal and Advertising Injury Limit / \$1,000,000 Damage to Premises Rented to You / Medical Expense Limit \$10,000	\$0	7/1/2016	Maximum deductible under the captive lines prior to current acquisition is \$1,205,814.
		Employee Benefit Liability	\$1,000,000 Aggregate / \$1,000,000 Each Act, Error or Omission Limit	\$1,000		
Zurich American Insurance Company	BAP0380921-00	Automobile	\$1,000,000 Liability / \$5,000 Medical Payments	\$250 Comp / \$500 Collision for Private Passenger Vehicles and Commercial Vehicles (Other than Tractors) // \$2,500 Comp / \$2,500 Collision for Tractors		Maximum deductible under the captive lines prior to current acquisition is \$1,205,814.

			In Transit - \$250,000	\$2,500		
			Money Orders and Counterfiet Money - \$250,000	\$2,500		
			Computer Fraud - \$250,000	\$2,500		
			Funds Transfer Fraud - \$250,000	\$2,500		
			Claim Expense - \$5,000	\$0		
		Kidnap and Ransom	Each Insured Event - \$1,000,000	\$0		
Travelers Property Casualty Co of America	ZUP15S95355	Umbrella	\$5,000,000 Each Occurrence / \$5,000,000 General Aggregate / \$5,000,000 Products- Completed Operations Aggregate	\$10,000 Self- Insured Retention	7/1/2016	
Underwriters at Lloyd's	04-7500057344- S-01	Difference in Conditions	\$1,000,000	5%	7/1/2016	720 S Milliken Ave, Ontario, CA 91761 location only.

GREENVILLE 1426362.8

Schedule 4.14

Insurance

Insurer	Policy Number	Type	Coverage Limits	Deductibles	Expiration Date	Special Cancellation Conditions
Hartford Fire Insurance Co.	22UUNZI3025	Property Insurance	\$5,722,000 Personal Property Limit	\$2,500	7/1/2016	
			\$7,675,000 Stock	\$2,500		
			\$2,500,000 Extra Expense Limit			
			\$1,255,000 EDP Limit	\$2,500		
Zurich American Insurance Company	WC-380919	Work Comp	\$1,000,000 Each Accident / \$1,000,000 - Disease - Policy Limit / \$1,000,000 Disease - Each Employee	N/A	7/1/2016	Maximum deductible under the captive lines prior to current acquisition is \$1,205,814.
Travelers Casualty and Surety Company of America	105507282	Directors & Officers Liability	\$1,000,000 for all claims	A - \$0 / B - \$10,000 / C - \$10,000	7/1/2016	
		Employment Practices Liability	\$1,000,000 for all claims	\$25,000		
		Fiduciary Liability	\$1,000,000 for all claims	\$0		
		Crime	Employee Theft - \$250,000	\$2,500		
			ERISA - \$250,000	\$0		
			Forgery or Alteration - \$250,000	\$2,500		
			On Premises - \$250,000	\$2,500		

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Schedule 4.12

Environmental Compliance

None.

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Schedule 4.8

Litigation

1. A technician at Service Solutions Group, LLC ("SSG"), an employee of TriNet, filed a complaint on July 10, 2015 alleging that SSG's policy of deducting set amounts of time from the beginning and end of a technician's work day is a violation of various U.S. laws. SSG reviewed the complaint and replied to the technician indicating that the practice is legal.
2. Florida Vehicle Accident
 - 5 vehicle accident, involving one Borrower employee,
 - Accident occurred on August 13, 2015 in Orlando, Florida.
 - As of October 26, 2015, no injury has been reported by Borrower's employee.
 - Borrower received notice that a firm has been retained to represent three clients in a claim against Borrower resulting from the accident.

All Entities - Consolidating
Pro Forma EBITDA Adjustments

\$'s	Q1-14	Q2-14	Q3-14	Q4-14	Q1-15	Q2-15	Q3-15	Q4-15
Total Adjustments	38,023	34,113	675,008	259,917	591,575	232,000	249,619	178,969

Exhibit A

	Detail by Quarter						
	Q3-14	Q4-14	Q1-15	Q2-15	Q3-15	Q4-15	Q1-16
1) Projected through March 2016 - IT/Acquisition	-	-	-	-	-	178,969	178,969
2) Insurance Charge (2014)	-	98,180	-	-	-	-	-
3) Tech Training & Hiring	-	80,000	200,000	57,000	-	-	-
4) Admin Staffing/Alert Billing (2016)	-	158,000	200,000	158,700	114,200	-	-
5) Taxes	-	-	-	-	-	-	-
6) Year End Accruals	90,000	-	-	-	-	-	-
7) Professional Fees	-	-	-	-	-	-	-
8) Capitalized Freight	-	-	-	-	-	-	-
9) Bad Debt Expense	-	-	-	-	-	-	-
10) Out of Period Expenses	-	-	-	-	-	-	-
11) Branch Opening Costs	120,000	-	-	60,000	64,900	-	-
12) Credits in 2015 for 2014	-	-	66,000	-	-	-	-
12) T24 Software	-	-	72,000	-	-	-	-
Total	210,000	336,180	538,000	275,700	179,100	178,969	178,969

EXHIBIT B

ADJUSTMENTS TO EBITDA

Attached hereto,

GREENVILLE 1426362.8

IN WITNESS WHEREOF, the parties hereto have caused this Credit Agreement to be duly executed and delivered by their respective duly authorized officers as of the date first above written.

BORROWERS:

COMMERCIAL FOODSERVICE REPAIR, INC.

By: [Signature]
Name: Kurt A. Herwald
Title: President

FT ACQUISITION, LLC

By: [Signature]
Name: Kurt A. Herwald
Title: President

FOODSERVICE TECHNOLOGIES, INC.

By: [Signature]
Name: Kurt A. Herwald
Title: President

BANK:

FIFTH THIRD BANK

By: _____
Name: Charles H. Arndt
Title: Senior Vice President

Signature Page to Credit Agreement

GREENVILLE 1426362.6

IN WITNESS WHEREOF, the parties hereto have caused this Credit Agreement to be duly executed and delivered by their respective duly authorized officers as of the date first above written.

BORROWERS:

COMMERCIAL FOODSERVICE REPAIR, INC.

By: _____
Name: Kurt A. Herwald
Title: President

FT ACQUISITION, LLC

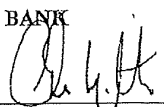
By: _____
Name: Kurt A. Herwald
Title: President

FOODSERVICE TECHNOLOGIES, INC.

By: _____
Name: Kurt A. Herwald
Title: President

BANK:

FIFTH THIRD BANK

By:  _____
Name: Charles H. Arndt
Title: Senior Vice President

Signature Page to Credit Agreement

GREENVILLE 1426362.6

EXHIBIT A

FORM OF NOTICE OF BORROWING

Fifth Third Bank
31 S Main Street
Greenville, S.C. 29601
Attention: Charles H. Arndt

Ladies and Gentlemen:

The undersigned, Commercial Foodservice Repair, Inc., a South Carolina corporation, FT Acquisition, LLC, a South Carolina limited liability company, and Foodservice Technologies, Inc., a Virginia corporation (individually, a "Borrower" and collectively, the "Borrowers"), refer to the Credit Agreement, dated as of November 2, 2015, between the Borrowers and you (as amended, modified or supplemented from time to time, the "Credit Agreement," the terms defined therein being used herein as therein defined), and, pursuant to Section 3.2(a) of the Credit Agreement, hereby gives you irrevocable notice that the Borrowers request a Borrowing of Revolving Loans under the Credit Agreement, and to that end sets forth below the information relating to such Borrowing (the "Proposed Borrowing") as required by Section 3.2(a) of the Credit Agreement:

- (i) The aggregate principal amount of the Proposed Borrowing is [\$_____].
- (ii) The Proposed Borrowing is requested to be made on _____ (the "Borrowing Date").

The Borrowers hereby certify that the following statements are true on and as of the date hereof and will be true on and as of the Borrowing Date:

A. Each of the representations and warranties contained in Article IV of the Credit Agreement and in the other Credit Documents is and will be true and correct in all material respects on and as of each such date, with the same effect as if made on and as of each such date, both immediately before and after giving effect to the Proposed Borrowing and to the application of the proceeds therefrom (except to the extent any such representation or warranty is expressly stated to have been made as of a specific date, in which case such representation or warranty shall be true and correct in all material respects as of such date);

B. No Default or Event of Default has occurred and is continuing or would result from the Proposed Borrowing or from the application of the proceeds therefrom; and

IN WITNESS WHEREOF, the parties hereto have caused this Credit Agreement to be duly executed and delivered by their respective duly authorized officers as of the date first above written.

BORROWERS:

COMMERCIAL FOODSERVICE REPAIR, INC.

By: _____
Name: Kurt A. Herwald
Title: President

FT ACQUISITION, LLC

By: _____
Name: Kurt A. Herwald
Title: President

FOODSERVICE TECHNOLOGIES, INC.

By: _____
Name: Kurt A. Herwald
Title: President

BANK:

FIFTH THIRD BANK

By: _____
Name: Charles H. Arndt
Title: Senior Vice President

Note; (3) "Revolving Credit Termination Date" refers to the last day on which Borrowers may request a loan pursuant to the Credit Agreement; (4) "maturity of this Note" refers to the date on which payment of the entire balance of principal then outstanding on this Note becomes due and payable in full, whether the stated maturity date, by acceleration or otherwise; (5) "Note" refers to this Commercial Promissory Note; (6) "Security Documents" refers to the security documents and supporting obligations which reference that they secure this Note or reference that they secure all obligations of Borrowers to Bank, and includes all security documents and supporting obligations shown on Bank's records as being security documents or supporting obligations that secure this Note, whether or not such security documents or supporting obligations correctly or accurately refer to this Note; and (7) any terms defined in the Credit Agreement that are not defined in this Note will have the meanings given thereto in the Credit Agreement, and the rules of construction or rules related to use of terms in the Credit Agreement will apply to this Note.

[Signatures Begin on Following Page]

Time is of the essence for the performance of all of Borrowers' covenants and agreements set forth in this Note, including its payment obligations under this Note.

Payment of this Note in whole or in part, or any other partial or full satisfaction or discharge of Borrowers' obligations under this Note, will not release or otherwise terminate any of the security interests or liens created by any of the Security Documents, or entitle any person to a release or termination thereof; the terms of each Security Document will be determinative of when and the conditions under which any of the security interests or liens created by such Security Document will be released or otherwise terminated.

This Note will be governed by the substantive laws of the State of South Carolina, excluding, however, the conflict of law and choice of law provisions thereof. Borrowers submit to the jurisdiction of either the state courts of the jurisdiction whose laws govern this Note, or a United States District Court for any federal district in such jurisdiction, over any action or proceeding arising from or related to this Note; and, Borrowers irrevocably waive the defense of improper venue or an inconvenient forum.

Each provision of this Note will be interpreted in a manner so as to be valid under applicable law, but if any provision of this Note is held invalid under such law by a court or other tribunal of competent jurisdiction, the provision will be ineffective to the extent of such invalidity without invalidating the remainder of such provision or the remaining provisions of this Note, or the application thereof will be in a manner and to an extent permissible under applicable law.

If the rate at which interest accrues under this Note exceeds at any time the maximum contract rate which may be charged to or collected from Borrowers on the Revolving Loan under applicable law, or if any fees, premiums, charges or costs and expenses assessed against or collected from Borrowers exceed those permitted by law, then *ipso facto* the same will be reduced to the limits prescribed by law; and, if Bank receives any interest, fees, premiums, charges or costs and expenses in excess of any limits prescribed by law, such excess will be applied to the reduction of the principal balance owing under this Note in the inverse order of its maturity, even if not then due, or at the option of Bank, paid to Borrowers.

Borrowers, to the extent permitted by law, waive any right to a trial by jury in any action or proceeding arising from or related to this Note.

This Note will apply to and bind Borrowers' successors and assigns. At any time or times and upon notice to Borrowers or any other person, subject to the provisions in the Credit Agreement, Bank may sell one or more participations in the Credit Facility and may assign this Note in whole or in part; and, this Note will apply to, be binding upon and inure to the benefit of each one of and all of Bank's participants, successors and assigns, including any person that may administer or service this Note for any holder of this Note or any participants in the Credit Facility. Bank may disclose financial and other information concerning Borrowers and any other person obligated on the Credit Facility to any participant or prospective participant, and to any assignee or prospective assignee so long as such person agrees to keep such information confidential.

This Note and the other Loan Documents contain the entire/final agreement between Borrowers and Bank relative to the Credit Facility. Bank will be under no obligation to extend, renew or refinance the Credit Facility, or amend, modify or change any provision of this Note. This Note and any of the rights and remedies of any of the parties to this Note may not be changed or waived orally, but only by an agreement in writing signed by the party against whom enforcement of any change or waiver is sought.

Definitions

In this Note: (1) "Borrowers" refers to all signatories of this Note collectively and severally, as the context of this Note requires, and all signatories of this Note will be and the same are jointly and severally liable hereunder; (2) "Revolving Loan" refers to the line of credit facility evidenced by this

month thereafter until October 31, 2017, when one final payment of the entire balance of principal, interest, fees, premiums, charges and costs and expenses then outstanding on this Note will be due and payable in full. In the event that any payment is due on a calendar day that is not a Business Day, then such payment will be due on the next calendar day that is a Business Day.

Any payments and other amounts owing under this Note shall be initiated by lender in accordance with the terms of this Note from Borrowers' account through Auto BillPayer. Borrowers hereby authorizes Bank to initiate such payments from Borrowers' account located at Fifth Third Bank, routing number _____, account number _____. Borrowers acknowledge and agree that use of Auto BillPayer shall be governed by the Auto BillPayer Terms and Conditions, a copy of which Borrowers acknowledge receipt. Borrowers further acknowledge and agree to maintain payments hereunder through Auto BillPayer throughout the term of this Note. If Auto BillPayer is cancelled at any time, Borrowers may be required to pay Bank the then current amount of the difference between the Bank's customary Note Processing Fee and the discounted Note Processing Fee received by Borrowers in consideration of its use of Auto BillPayer. Each payment hereunder shall be applied first to advanced costs, charges and fees, then to accrued interest, and then to principal, if applicable, which will be repaid in inverse chronological order of maturity.

Borrowers may prepay all or part of this Note, at any time without advance notice to Bank or penalty or premiums, which prepaid amounts shall be applied to the amounts due in reverse order of their due dates.

Supporting Documents

Borrowers and Bank entered into a Credit Agreement on November 2, 2015 (the "Credit Agreement"). The terms of the Credit Agreement are incorporated into this Note.

This Note is secured by the Security Documents.

Late Charges and Expenses

If any payment is not paid when due (whether by acceleration or otherwise) or within ten (10) days thereafter, Borrowers agree to pay to Bank a late payment fee of 5% of the payment amount, with a minimum fee of \$20.00. While an Event of Default exists, Borrowers agree to pay to Bank a fixed charge of \$25.00, or Borrowers agree that Bank may, without notice, increase the Interest Rate by three percentage points (3%) (the "Default Rate"), whichever is greater. Bank may impose a non-sufficient funds fee for any check that is presented for payment that is returned for any reason. In addition, Bank may charge loan documentation fees as may be reasonably determined by the Bank.

Default and Acceleration

Any Event of Default under and as defined in the Credit Agreement will constitute an Event of Default under this Note.

Upon the occurrence and during the continuance of an Event of Default under this Note, (1) the entire unpaid principal balance of this Note and all interest, fees, premiums, charges, costs and expenses owing and to be owing under this Note, will, at the option of Bank, become immediately due and payable, without notice or demand, and (2) the Bank may, both before and after acceleration, exercise any of and all of its other rights and remedies under this Note and the other Credit Documents, as well as any additional rights and remedies it may have at law or in equity. The failure by Bank to exercise any of its options will not constitute a waiver of the right to exercise same in the event of any subsequent default.

General Terms

Borrowers waive presentment, demand, protest and notice of dishonor.

(1) If the Senior Funded Debt to EBITDA Ratio (as defined in the Credit Agreement) as of the last day of the immediately preceding calendar month is less than 2.00, interest will accrue on the unpaid principal of this Note at a rate per annum equal to 2.15% plus the LIBOR Base Rate.

(2) If the Senior Funded Debt to EBITDA Ratio (as defined in the Credit Agreement) as of the last day of the immediately preceding calendar month is at least 2.00 but less than 2.50, interest will accrue on the unpaid principal of this Note at a rate per annum equal to 2.40% plus the LIBOR Base Rate.

(3) If the Senior Funded Debt to EBITDA Ratio (as defined in the Credit Agreement) as of the last day of the immediately preceding calendar month is equal to or greater than 2.50, interest will accrue on the unpaid principal of this Note at a rate per annum equal to 2.65% plus the LIBOR Base Rate.

The rates above will adjust effective as of the first day of the immediately following calendar month after Borrowers have provided to Bank the financial information for the immediately preceding calendar month which substantiates the Senior Funded Debt to EBITDA Ratio described above.

The "LIBOR Base Rate" shall be the rate (rounded upwards, if necessary, to the next 1/8 of 1%) (and adjusted for reserves if Bank is required to maintain reserves with respect to relevant advances) fixed by the ICE Benchmark Administration Limited at 11:00 a.m., London time, relating to quotations for the calendar month (the "LIBOR Interest Period") London InterBank Offered Rates on U.S. Dollar deposits as published on Bloomberg LP, or, if no longer provided by Bloomberg LP, such rate as shall be determined in good faith by the Lender from such sources as it shall determine to be comparable to Bloomberg LP (or any successor) as determined by Lender at approximately 10:00 a.m. Cincinnati, Ohio time on the first day of a LIBOR Interest Period and which has a maturity corresponding to the maturity of the LIBOR Interest Period. The rate for the first month or part thereof will initially become effective on the date of the Note as shown on the face hereof. Thereafter, the rate will change and a new rate will become effective on the first calendar day of each succeeding month. If for any reason the London Interbank Offer Rate is not available, then the "LIBOR Base Rate" shall mean the rate per annum which banks charge each other in a market comparable to England's Eurodollar market on short-term money in U.S. Dollars for an amount substantially equivalent to the principal amount due under this Note as determined at 11:00 A.M., London time, two (2) London business days prior to the day on which the rate will become effective, as determined in Bank's sole discretion. Bank's determination of such interest rate shall be conclusive, absent manifest error.

This is a variable rate note. The rates at which interest accrues under this Note may change from time to time. In addition to the changes tied to the Senior Funded Debt to EBITDA ratio outlined above, changes in the interest accrual rates will equal changes in the variable rate index to which such interest rates are tied. Bank will not have any obligation to notify Borrowers of adjustments in any interest rates under this Note or any of the other Credit Documents. Adjustments to any rate of interest will be effective as of the first day of following month.

All interest payable under this Note will be calculated monthly and will accrue daily on the basis of the actual number of calendar days elapsed and a year of three hundred sixty (360) calendar days. All accrual rates of interest under this Note will be contract rates of interest, whether a pre-default rate or a default rate, and references to contract rates in any Credit Documents executed and delivered by Borrowers or others to Bank in connection with this Note will be to such contract rates.

Payment Terms

Prior to maturity of this Note, principal and interest will be paid as follows: Interest shall be payable monthly, in arrears, beginning on December 5, 2015, and continuing on the same day of each calendar

Bank Use Only:	Customer Number _____
	Account Number _____

COMMERCIAL PROMISSORY NOTE

Lender: Fifth Third Bank
Borrowers: Commercial Foodservice Repair, Inc., FT Acquisition, LLC and Foodservice Technologies, Inc.
Amount: \$16,000,000.00
Type: Revolving Line of Credit
Date: November 2, 2015

FOR VALUE RECEIVED, COMMERCIAL FOODSERVICE REPAIR, INC., a South Carolina corporation, FT ACQUISITION, LLC, a South Carolina limited liability company, and FOODSERVICE TECHNOLOGIES, INC., a Virginia corporation (individually, a "Borrower" and collectively, the "Borrowers"), promise to pay to FIFTH THIRD BANK ("Bank"), or order, the principal sum of Sixteen Million and No/100ths Dollars (\$16,000,000.00), or so much thereof as shall have been disbursed and remains unpaid, together with interest as set forth in this Note. Payments by Borrowers under this Note will be made as provided in this Note. Payments will be made at the office of Bank, or such other place as Bank may designate in writing from time to time.

Line of Credit

This Note evidences a Revolving Loan that Bank has made available to Borrowers. The Revolving Loan is a line of credit. Under the Revolving Loan, Borrowers may make requests to Bank for Advances under this Note and Bank will, on the basis of those requests, make loans under this Note to or for the benefit of Borrowers up to 2:00 p.m. on the Facility Termination Date, or if the Revolving Credit Termination Date is not on a Business Day, up to 2:00 p.m. on the Business Day immediately preceding the Revolving Credit Termination Date. Amounts loaned under this Note, once repaid, may be re-loaned. Without Bank's prior, written, discretionary consent, at no time may the unpaid principal balance outstanding under this Note exceed the face amount of this Note. All loans under this Note will be subject to and made on the terms and conditions of this Note and the other Credit Documents, including Bank's satisfaction of all conditions precedent to any loans or waiver of such conditions by Bank. Upon the occurrence of an Event of Default under this Note, in addition to Bank's other rights and remedies, Bank may limit, restrict, suspend or terminate Borrowers' right to receive any future or additional Advances under this Note and the other Credit Documents.

Borrowers will be liable under this Note for only so much of the principal amount as equals the total of the amounts loaned to or for Borrowers by Bank from time to time under this Note, less all payments made by or for Borrowers and applied by Bank to principal, and for interest on each such loan incurred or due hereunder, all as shown on Bank's books and records which will be conclusive evidence of the amount owed by Borrowers under this Note, absent a clear and convincing showing of bad faith or manifest error.

TERMS

Interest Rates

Except as provided below, prior to maturity of this Note, interest will accrue as follows:

GREENVILLE 1426439.3

EXECUTED under SEAL by the undersigned as of the day and year first above stated.

Notice—Waiver of Right of Appraisal

The laws of South Carolina provide that in any real estate foreclosure proceeding a defendant against whom a personal judgment is taken or asked may within thirty days after the sale of the mortgaged property apply to the court for an order of appraisal. The statutory appraisal value as approved by the court would be substituted for the high bid and may decrease the amount of any deficiency owing in connection with the transaction. THE UNDERSIGNED HEREBY WAIVE AND RELINQUISHES THE STATUTORY APPRAISAL RIGHTS WHICH MEANS THE HIGH BID AT THE JUDICIAL FORECLOSURE SALE WILL BE APPLIED TO THE DEBT REGARDLESS OF ANY APPRAISED VALUE OF THE MORTGAGED PROPERTY.

BORROWERS:

COMMERCIAL FOODSERVICE REPAIR, INC.

Witness:

By: [Signature]
Name: Kurt A. Herwald
Title: President

[Signature]
Print Name: Brittany McElroy

FT ACQUISITION, LLC

Witness:

By: [Signature]
Name: Kurt A. Herwald
Title: President

[Signature]
Print Name: Brittany McElroy

FOODSERVICE TECHNOLOGIES, INC.

Witness:

By: [Signature]
Name: Kurt A. Herwald
Title: President

[Signature]
Print Name: Brittany McElroy

EXHIBIT A

Officer's Certificate

Foodservice Technologies, Inc.

WHEREAS, the Borrower has applied to Fifth Third Bank (the "**Bank**") for a revolving line of credit loan in the principal amount of \$16,000,000 and a term loan in the principal amount of \$8,500,000 (collectively, the "**Bank Loans**"), to be advanced by the Bank pursuant to that certain Credit Agreement among the Borrower, FT Acquisition, LLC and Foodservice Technologies, Inc. and the Bank dated on or about November 2, 2015 (the "**Bank Credit Agreement**"), a copy of which is attached hereto as Exhibit A and other documents referenced therein or as required by the Bank ("**Other Bank Loan Documents**"); and

WHEREAS, the Bank is willing to extend the Bank Loans upon the terms set forth in the Bank Credit Agreement and the Other Bank Loan Documents; and

WHEREAS, the Board of Directors of the Borrower believe it is in the best interest of the Borrower to obtain from the Bank the Bank Loans.

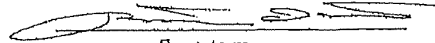
NOW, THEREFORE, BE IT RESOLVED, that the Borrower is hereby authorized to obtain from the Bank the Bank Loans; and that the terms of the Bank Loans may be amended by Kurt A. Herwald as the President of the Borrower and the same hereby are, adopted and approved and determined to be a binding obligation of the Borrower, enforceable against the Borrower in accordance with its terms; and that Kurt A. Herwald as the President of the Borrower is authorized, empowered and directed to execute and deliver, in the name and on behalf of the Borrower, the Bank Credit Agreement, the Other Bank Loan Documents, and any such further documents and agreements, including, without limitation, promissory notes, security agreements, or such other documents as he deems necessary, desirable or appropriate in connection with the Bank Loans;

FURTHER RESOLVED, that the Borrower is hereby authorized to grant a security interest in all or substantially all of its assets, including the equity interests in any of its subsidiaries, to secure the Bank Loans and such other obligations as may be required under the Bank Credit Agreement; and

FURTHER RESOLVED, that any and all such actions heretofore taken and any and all documents, agreements, instruments, certificates or instructions (however characterized or described) heretofore executed and delivered or filed and recorded, as the case may be, on behalf of the Borrower, by Kurt A. Herwald as the President of the Borrower or his designees in order to carry into effect the purposes and intent of the foregoing resolutions are hereby ratified, confirmed and adopted and approved in all respects.

I hereby certify that the foregoing is a full, true and correct copy of the Bylaws of
FOODSERVICE TECHNOLOGIES, INC. as in effect on the date hereof.

WITNESS my hand and the seal of the Corporation.


Secretary

Dated: 10-7-95

Article VII

Bills, Notes, Etc.

7.1. **Execution.** All bills payable, notes, checks, drafts, warrants, or other negotiable instruments of the Corporation will be made in the name of the Corporation. These documents will be signed by such Officer or Officers as the Board will from time to time by resolution direct or by individuals otherwise authorized in these Bylaws.

Article VIII

Offices

8.1. **Principal Office.** The principal office of the Corporation will be located Springfield, Virginia. The Board may change the location of the principal office of the Corporation and may, from time to time, designate other offices within or without Springfield, Virginia as the business of the Corporation may require.

8.2. **Registered Office.** The registered office of the Corporation is located in McLean, Virginia.

Article IX

Amendments

9.1. **Procedure For Amending Bylaws.** These Bylaws may be altered, amended, repealed, or added to by the affirmative vote of a majority of the shares present and entitled to vote at an Annual Meeting or a Special Meeting of the Shareholders called for that purpose. However, a written notice must be sent to each Shareholder of record entitled to vote at such Meeting, at his last-known post office address, at least ten (10) days before the date of such Annual or Special Meeting. The notice must state the alterations, amendments, additions, or changes which will be considered for such Bylaws. Only such changes may be made as have been specified in the notice.

Article X

Waiver Of Notice

10.1. **Authority To Waive Notice.** Whenever under the provisions of these Bylaws or any statute, a Shareholder or Director is entitled to notice of a Regular or Special Meeting, or of any action to be taken by the Corporation, such Meeting may be held or such action may be taken without the giving of such notice, provided every Shareholder or Director entitled to such notice waives in writing the requirements of these Bylaws. Attendance at a Meeting constitutes waiver of notice, subject to the limitations and exceptions provided by law.

Article V

Shares Of Stock

5.1. **Stock Certificates.** The shares of the Corporation will be represented by stock certificates prepared by the Board and signed by the Chairperson of the Board or the President, and by the Secretary, and stamped with the Corporate seal. The certificates will be numbered consecutively according to the order in which they are issued and will be bound in a stock book. The name of the person to whom the shares represented by each such certificate are issued, the number and class of such shares, and the date of issue will be entered in the margin of the stock book. Each certificate will state the Corporation is organized under the laws of the Commonwealth of Virginia, the registered holder's name, the number and class of shares it represents, the date of issue, and the par value of such shares.

5.2. **Subscriptions.** Subscriptions to the shares will be paid at such times and in such installments as the Board may determine. If default occurs in the payment of any installment as required by such resolution, the Board will give a written demand to the subscriber. If the subscription remains unpaid for a period of twenty (20) days after such written demand, the Board will declare the shares and all previous payments thereon forfeited for the use of the Corporation.

5.3. **Transfer Of Shares.** The shares of the Corporation will be assignable and transferable only on the books and records of the Corporation by the registered owner, or his duly authorized attorney, upon surrender of a properly endorsed stock certificate and evidence of authority to transfer. The Corporation will issue a new stock certificate for the shares surrendered to the person or persons entitled.

5.4. **Return Of Certificates.** All stock certificates changed or returned to the Corporation for transfer will be marked by the Secretary "Cancelled," with the date of cancellation. The transaction will be immediately recorded in the certificate book opposite the memorandum of their issue. The returned stock certificates will be inserted in the certificate book. The cancellation of a stock certificate will not reduce the stated capital of the Corporation.

Article VI

Dividends

6.1. **Declaration of Dividends.** The Board may declare at any Regular or Special Meeting that dividends will be payable by the Corporation. Such dividends may be paid in cash, property, or shares of the Corporation. All dividends are subject to the applicable restrictions of the laws of the Commonwealth of Virginia.

b. *Minutes.* The Secretary will keep the minutes of Shareholder and Board Meetings in appropriate books.

c. *List Of Shareholders, Officers And Directors.* The Secretary will keep a list of the names, alphabetically arranged, of all persons who are Shareholders of the Corporation, showing their place of residence and the respective dates when they became Shareholder of record. He will keep such list, and the minutes of the proceedings of its Shareholder, open daily during the usual business hours for inspection by any person duly authorized to inspect such records. At the request of the person entitled to an inspection thereof, he will prepare and make available a current list of the Officers and Directors of the Corporation and their resident addresses.

d. *Stock Certificates.* The Secretary may sign all certificates representing stock ownership and affix the corporate seal thereto.

e. *Custodian Of Records And Seal.* The Secretary will be custodian of the records and seal of the Corporation. He will affix the seal to the certificates of Shareholders and other corporate papers when required.

f. *Correspondence.* The Secretary will respond to all correspondence and present to the Board all official communications received by him.

g. *Other Duties.* The Secretary will perform such other duties and functions as the Board may prescribe.

3.12. *Other Officers.* The Board may designate such other Officers as it deems necessary. Each Officer shall perform such duties and have such powers as the Board may prescribe.

3.13. *Liability of Officers.* The personal liability of the Officers of the Corporation is hereby eliminated to the fullest extent permitted by the Virginia Stock Corporation Act of the Commonwealth of Virginia, as the same may be amended and supplemented.

Article IV

Seal

4.1. *Seal.* The Seal of the Corporation will be as follows:

e. *Stock Certificates.* The President may sign certificates representing shares in the Corporation.

f. *Other Duties.* The President will perform such other duties and functions as the Board may prescribe.

3.9. Vice-President

a. *Replace President.* The Vice-President, in order of seniority by election, will perform the duties of the office of the President during the absence or incapacity of the President. When so acting, he will have the powers and responsibilities of the President.

b. *Other Duties.* The Vice-President will perform such other duties and function as the Board may prescribe.

3.10. Treasurer

a. *Financial Report.* The Treasurer will render a report of the condition of the finances of the Corporation at each Regular Meeting of the Board and at such other times as may be required. He will make a full financial report at the Shareholders' Annual Meeting.

b. *Corporate Funds.* Treasurer will have the care, custody and responsibility of all funds and securities of the Corporation. These funds and securities must be deposited in the name of the Corporation in such banks or safe deposit companies as the Board may designate.

c. *Corporate Books.* The Treasurer will keep in his possession accurate books of account of all the Corporation's business transactions. He will make the accounts available to any Director upon written request from the Director.

d. *Records.* The Treasurer will cause all books, reports, statements, and certificates to be properly kept and filed as required by law.

e. *Bond.* No bond will be necessary for the faithful performance of his duties.

f. *Other Duties.* The Treasurer will perform such other duties and functions as the Board may prescribe.

3.11 Secretary

a. *Notice Of Meetings.* The Secretary will give notice of all Annual and Special Meetings.

the Meeting and the vote may be dispensed with where all Directors entitled to vote upon the action if such Meeting were held, consent in writing to the corporate action.

2.15. Liability of Directors. The personal liability of the Directors of the Corporation is hereby eliminated to the fullest extent permitted by the Virginia Stock Corporation Act of the Commonwealth of Virginia, as the same may be amended and supplemented.

Article III

Officers

3.1. Officers And Qualifications. The Officers of the Corporation shall be a President, a Vice-President, a Treasurer, a Secretary and such other Officers as the Board of Directors may determine. Each Officer must be of majority age.

3.2. Election. Each Officer will be elected annually by the Board at its Meeting held immediately after the Members' Annual Meeting.

3.3. Term Of Office. An Officer will hold office for one year and until his successor is duly elected and qualified, or until he resigns or is removed.

3.4. Removal Of Officers. An Officer may be removed by the Board, with or without cause.

3.5. Vacancies. Any office which is vacant will be filled by the Board.

3.6. Meetings. The Officers may meet at such times and places as they may determine appropriate.

3.7. Duties Of Officers. The duties and powers of the Officers are as follows.

3.8. President.

a. **Generally.** The President will enforce these Bylaws and perform all the duties incident to the office of President which are required by law. Generally, he will supervise and control the business affairs of the Corporation.

b. **Call Meetings.** The President will call all Regular, Annual and Special Meetings of the Shareholders and Directors in accordance with the prevailing statutory requirements of the State of Virginia and these Bylaws.

c. **Preside At Meetings.** The President will preside at all Meetings of the Board of Directors and Shareholders.

d. **Annual Report.** The President will present a report of the condition of the business of the Corporation at each Annual Meeting of the Shareholders and Directors.

a. *Notice Of Regular Meeting.* No notice will be given for any Regular Meeting of the Board.

b. *Notice Of Special Meeting.* Written notice of a Special Meeting will be served upon each Director personally or by mail, addressed to him at his last-known post office address, at least two days prior to the date of such meeting. The time and place of the Meeting must be stated in the notice.

c. *Waiver Of Notice.* Notice of any Meeting may be waived by a Director by submitting a signed waiver either before or after the Meeting, or under certain circumstances, by attendance at the Meeting.

2.7. *Place Of Meeting.* The Board may designate by resolution or in its Notice or Waiver of Notice of a Meeting the place where the Meeting will be held either within or without Springfield, Virginia.

2.8. *Quorum.* Unless otherwise provided in the Articles of Incorporation, or amendments thereto, the presence of a majority of Directors will be necessary to constitute a quorum for the transaction of business at any Meeting of the Board. However, if a quorum is not present, a lesser number may adjourn the Meeting to a future date not more than seven (7) days later.

2.9. *Voting.* Each Director will have one vote at any Meeting of the Board, irrespective of the number of shares he may hold.

2.10. *Compensate.* Each Director will be entitled to receive a fee for his attendance at a Meeting of the Board. The fee will be fixed by the Board, but will not exceed \$100 per Meeting.

2.11. *Vacancies.* Any directorship to be filled by reason of an increase in the number of Directors will be filled by the Shareholders at an Annual or Special Meeting. Any vacancy occurring in the Board by death, resignation, or otherwise will be promptly filled by an affirmative vote of a majority of the remaining Directors at a Special Meeting held for that purpose within thirty (30) days of the occurrence. The Director chosen will hold office for the unexpired term of his predecessor and until his successor is elected and qualified.

2.12. *Removal Of Directors.* A Director may be removed by the Shareholders at any time, with or without cause, by the affirmative vote of Shareholders holding a majority of all votes present at a meeting called for that purpose.

2.13. *Resignation.* A Director may resign at any time. The resignation must be in writing, and delivered to the Board of Directors, the Chairman of the Board, the President, or the Secretary. The resignation will be effective as of the date it is delivered unless a later date is specified.

2.14. *Directors' Consent In Lieu Of Meeting.* When the vote of the Directors is required or permitted to be taken at a Meeting in connection with any corporate action,

from the date of its execution and is revocable at the pleasure of the Shareholder or person executing it.

1.10. Shareholders' Consent In Lieu Of Meeting. When the vote of Shareholders is required or permitted to be taken at a Meeting in connection with any corporate action, the Meeting and the vote may be dispensed with where Shareholders holding one hundred (100%) percent of the stock entitled to vote upon the action if such Meeting were held, consent in writing to the corporate action.

Article II

Directors

2.1. Number And Qualifications. The Board of Directors ("Board") will consist of four people, called Director. Each Director must be of majority age. A Director need not be a Shareholder of the Corporation. The number of Directors may be changed by an amendment to the Bylaws.

2.2. Manner Of Election. Each Director will be elected at the Shareholders' Annual Meeting by a majority of the shares issued and entitled to vote at the Meeting.

2.3. Term Of Office. Each Director will hold office until his successor is elected and qualified, until he resigns, or until he is removed.

2.4. Duties And Powers. The Board will control and manage the affairs and business of the Corporation. The Directors will, in all cases, act as a Board, regularly convened. In the transaction of business, the consent of a simple majority of the Directors present at a meeting will be necessary for the Board to act. The Directors will adopt such rules and regulations for the conduct of their Meetings and the management of the Corporation as they deem proper, but not inconsistent with law or these Bylaws.

2.5. Meetings

a. Annual Meeting. The Board will meet for the election or appointment of Officers and for the transaction of any other business as soon as practicable after the adjournment of the Shareholders' Annual Meeting. Other Regular Meetings of the Board will be held at such times as the Board determines.

b. Special Meeting. A Special Meeting of the Board may be called by the President at any time. The President must, upon the written request of any two Directors, call a Special Meeting to be held not more than seven (7) days after the receipt of such request.

2.6. Notice Of Meetings.

c. *Affidavit.* In the absence of fraud, an affidavit by the Secretary that the notice has been given will be prima facie evidence of the facts stated therein.

1.4. **Waiver Of Notice.** Notice of any Meeting may be waived by a Shareholder by submitting a signed waiver either before or after the Meeting, or, under certain circumstances, by attendance at the Meeting. Waiver shall be equivalent to the giving of the required notice.

1.5. **Quorum.** Unless otherwise provided by law, or in the Articles of Incorporation, and amendments thereto, the presence, in person or by proxy (See section 1.8), of the holder(s) of a majority of the shares issued and entitled to vote is necessary to constitute a quorum for the transaction of business at any Meeting.

1.6. **Record Date.** The Board of Directors will fix in advance of any Shareholders' Meeting a "record date" on which the Shareholders entitled to vote at the Meeting will be determined. The record date must not be less than ten (10) days, nor more than seventy (70) days prior to the date of any Shareholders' Meeting.

1.7. **Voting List.** The Secretary shall make, at least ten days before each meeting of Shareholders, a complete list of the Shareholders entitled to vote at such meeting or any adjournment thereof, with the address of and the number of shares held by each. The list shall be arranged by voting group and within each voting group by class or series of shares. Such list, for a period of ten days prior to such meeting, shall be kept on file at the registered office of the Corporation, at its principal office or at the office of its transfer agent or registrar and shall be subject to inspection by any Shareholder at any time during usual business hours. Such list shall also be produced and kept open at the time and place of the meeting and shall be subject to the inspection of any Shareholder during the whole time of the meeting for the purposes thereof.

1.8. **Voting**

a. *Generally.* A Shareholder entitled to vote at a Meeting may vote either in person or by proxy. A Shareholder is entitled to one vote for each share standing in his name on the record book. Unless otherwise required by the Virginia Stock Corporation Act or the Articles of Incorporation, and amendments thereto, all corporate action is determined by the affirmative vote of a majority of the shares issued and entitled to vote at a Shareholders' Meeting.

b. *Fiduciary Voting.* Persons holding stock in a fiduciary capacity are entitled to vote the shares like any other Shareholder.

c. *Election of Directors.* Each Shareholder is entitled to vote the number of shares owned by him for as many persons as there are directors to be elected.

1.9. **Proxy.** Every proxy must be dated and signed by the Shareholder or by his attorney-in-fact. Unless stated otherwise in the proxy, a proxy is valid for eleven months

AMENDED BYLAWS
OF
FOODSERVICE TECHNOLOGIES, INC.

Article I.

Shareholders

1.1. **Annual Meeting.** The Shareholders will have an Annual Meeting at 10:00 A.M. <Eastern Standard Time> on the second Tuesday in the month of May, each and every year. The Shareholders will elect the Directors and transact any other proper business at the Annual Meeting. Unless otherwise stated in the Notice Of Meeting (See section 1.3), the Annual Meeting will be held at the registered office of the Corporation in McLean, Virginia.

1.2. **Special Meeting.** A Special Meeting of Shareholders may be called at any time by the Board of Directors, Chairman of the Board, the President, the Secretary, the holders of at least twenty-five percent (25%) of the outstanding shares entitled to vote at such Special Meeting, or such other persons as provided by law.

1.3. **Notice Of Meeting**

a. **Annual Meeting.** The Secretary must give written notice, either personally or by mail, of the place, date, and hour of the Annual Meeting. Each Shareholder entitled to vote at the Annual Meeting must be given such notice not less than ten (10) days, nor more than sixty (60) days before the date of the Annual Meeting. If notice is mailed, notice is considered given when deposited in the United States mail, postage prepaid, and directed to the Shareholder at his address as it appears on the records of the Corporation.

b. **Special Meeting.** The Secretary must give written notice, either personally or by mail, of the place, date and hour of the Special Meeting. Additionally, the notice must state the purpose or purposes for which it is called, and the name of the person by whom or at whose direction it is called. Written notice must be given not less than ten (10) days, nor more than sixty (60) days before the date set for the Special Meeting; provided, however, if the meeting is called to act on an amendment of the Articles of Incorporation, a plan of merger or share exchange, a proposed sale of assets, or the dissolution of the Corporation the written notice must be given not less than twenty-five (25) days, nor more than sixty (60) days before the date of the meeting, and shall be accompanied by a copy of the proposed amendment, plan of merger or share exchange, terms of the proposed sale of assets, or plan of dissolution, the notice, if mailed, must be given to each Shareholder of record in the same manner as notice of the Annual Meeting. No business other than that specified in the notice of Special Meeting may be transacted at any such Special Meeting unless all Shareholders consent in writing, either before or after the Special Meeting.

Commonwealth of Virginia



State Corporation Commission

I Certify the Following from the Records of the Commission:

The foregoing is a true copy of all documents constituting the charter of FOODSERVICE TECHNOLOGIES, INC. on file in the Clerk's Office of the Commission.

Nothing more is hereby certified.



*Signed and Sealed at Richmond on this Date:
October 15, 2015*

Joel H. Peck

Joel H. Peck, Clerk of the Commission

CISDJD

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION

December 16, 1994

The State Corporation Commission has found the accompanying articles submitted on behalf of

FOODSERVICE TECHNOLOGIES, INC.

to comply with the requirements of law, and confirms payment of all related fees.

Therefore, it is ORDERED that this

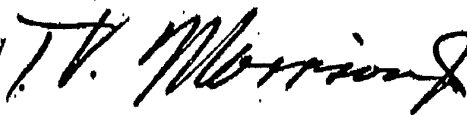
CERTIFICATE OF INCORPORATION

be issued and admitted to record with the articles of incorporation in the Office of the Clerk of the Commission, effective December 16, 1994.

The corporation is granted the authority conferred on it by law in accordance with the articles, subject to the conditions and restrictions imposed by law.

STATE CORPORATION COMMISSION

By



Commissioner

CORPACPT
CIS20423
94-12-16-0035

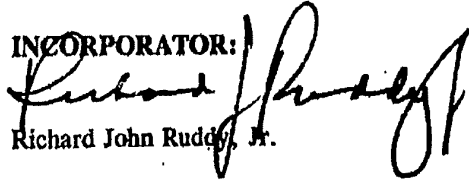
ARTICLE TEN

- 10.1 Incorporators. The name and mailing address of the Incorporator is: Richard John Ruddy, Jr., 8300 Greensboro Drive, Suite 260, McLean, Virginia 22102.

ARTICLE ELEVEN

- 11.1 Severability. Each Article and Section contained in these Articles of Incorporation is considered independent of the other Articles and Sections.

INCORPORATOR:


Richard John Ruddy, Jr.

Dated: 12/18/94

to such individuals and entities, and for such lawful consideration, and on such terms, as the Board of Directors in its discretion may determine.

- 6.4 Quorum. A quorum of the Shareholders is the presence of all shares entitled to vote.
- 6.5 Shareholder Voting. Any action by the Shareholders must be approved by the affirmative vote of all shares entitled to vote.

ARTICLE SEVEN

- 7.1 Initial Directors. The initial Board of Directors of FOODSERVICE TECHNOLOGIES, INC. will be composed of three Directors. The Initial Directors of FOODSERVICE TECHNOLOGIES, INC. will be: Russell White, 600 Water Street, SW, Box 2-2, Washington, D.C. 20024; Richard White, 7138 Gamelord Drive, Springfield, VA 22153; and Michael Reed, 3000 South Randolph Street, Apt. 261, Arlington, VA 22206.
- 7.2 Quorum. A quorum of the Board of Directors is the presence of all Directors.
- 7.3 Director Voting. Any action by the Board of Directors must be approved by the affirmative vote of all Directors.

ARTICLE EIGHT

- 8.1 Indemnification. FOODSERVICE TECHNOLOGIES, INC. shall, to the fullest extent permitted by the provisions of the Virginia Stock Corporation Act, as the same may be amended and supplemented, indemnify any and all persons whom it shall have power to indemnify under said provisions from and against any and all of the expenses, liabilities or other matters referred to in or covered by said provisions, and the indemnification provided for herein shall not be deemed exclusive of any other rights to which those indemnified may be entitled under any Bylaw, vote of stockholders or disinterested directors, or otherwise, both as to action in his official capacity and as to action in another capacity while holding such office, and shall continue as to a person who has ceased to be a director, officer, employee, or agent and shall inure to the benefit of the heirs, executors and administrators of such a person.
- 8.2 Liability of Directors and Officers. The personal liability of the directors and officers of the Corporation is hereby eliminated to the fullest extent permitted by the Virginia Stock Corporation Act of the Commonwealth of Virginia, as the same may be amended and supplemented.

ARTICLE NINE

- 9.1 Amendment of Bylaws. The Bylaws of the Corporation may only be amended or repealed by the unanimous consent of the Shareholders of the Corporation.

(n) To cease its corporate activities and surrender its corporate franchise;

(o) To purchase, take, receive, or otherwise acquire, hold, own, pledge, transfer, or otherwise dispose of its own stock, bonds, notes, and other obligations and securities, subject to applicable limitations and restrictions of the laws of the Commonwealth of Virginia;

(p) To be a promoter, partner, member, associate, or manager of any partnership, joint venture or enterprise;

(q) To pay pensions and establish pension plans, pension trusts, profit sharing plans, stock bonus plans, stock option plans and other incentive plans for any or all of its current or former directors, officers, employees and agents of the Corporation or any of its subsidiaries;

(r) To have and exercise all powers not inconsistent with law which are necessary or convenient to effect any or all of the purposes for which the Corporation is formed; and

(s) To have and exercise all powers conferred upon business corporations organized under the Virginia Stock Corporation Act and which are not required to be specifically described herein.

ARTICLE SIX

6.1 Voting Common Stock. FOODSERVICE TECHNOLOGIES, INC. is authorized to issue 2,500 shares of voting common stock with a par value of \$1 per share.

6.2 Non-Voting Common Stock. FOODSERVICE TECHNOLOGIES, INC. is authorized to issue 2,500 shares of non-voting common stock with a par value of \$1 per share.

6.3 Preemptive Rights. Each share of the Corporation shall entitle the holder thereof to a preemptive right, for a period of thirty days, to subscribe for, purchase, or otherwise acquire any shares of the same class of the Corporation or any shares of any class of the Corporation which the Corporation proposes to issue or any rights or options which the Corporation proposes to grant for the purchase of shares of the same class of the Corporation or of shares of any class of the Corporation or for the purchase of any shares, bonds, securities, or obligations of the Corporation which are convertible into or exchangeable for, or which carry any rights to subscribe for, purchase, or otherwise acquire unissued shares of the same class of the Corporation or shares of any class of the Corporation, whether now or hereafter authorized or created, and whether the proposed issue, reissue, or grant is for cash, property, or any other lawful consideration; and after the expiration of said thirty days, any and all of such shares, rights, options, bonds, securities, or obligations of the Corporation may be issued, reissued, or granted by the Board of Directors, as the case may be,

(d) To purchase, take, receive, lease, take by gift, devise, or bequest, or otherwise acquire, own, hold, improve, use, and otherwise deal in and with real or personal property, or any interest therein, wherever situated;

(e) To sell, convey, mortgage, pledge, lease, exchange, transfer, and otherwise dispose of all or any part of its property and assets;

(f) To lend money to, and otherwise assist, its employees, officers and directors;

(g) To purchase, take, receive, subscribe for, or otherwise acquire, own, hold, vote, use, employ, sell, mortgage, loan, pledge, or otherwise dispose of, and otherwise use and deal in and with, shares or other interests in, or obligations of, other corporations organized under the laws of the Commonwealth of Virginia, of foreign corporations, and of associations, partnerships, or individuals, direct or indirect obligations of the United States or of any other government, state, territory, governmental district or municipality, or of any instrumentality thereof;

(h) To make contracts and guarantees and incur liabilities, to borrow money at such rates of interest as the Corporation may determine without regard to the restrictions of any usury law; to issue its notes, bonds, and other obligations; and to secure any of its obligations by mortgage or pledge of all or any of its property, franchises, and income;

(i) To invest and reinvest its surplus funds, lend money from time to time in any manner which may be appropriate to enable it to carry on the operations or fulfill the purposes specified in its charter, and to take and hold real and personal property as security for the payment of funds so invested or loaned;

(j) To conduct its business, carry on its operations, and have offices and exercise the powers granted by this charter within and without the Commonwealth of Virginia and to exercise in any state, territory, district, colony, or possession of the United States, or in any foreign country, the powers granted by this charter, subject to the laws of such state, territory, district, colony, or possession of the United States, or such foreign country;

(k) To elect directors or appoint officers and agents of the Corporation, and to define their duties and fix their compensation;

(l) To make and alter bylaws, not inconsistent with its Articles of Incorporation or with the laws of the Commonwealth of Virginia, for the administration and regulation of affairs of the Corporation;

(m) To make contributions to charitable organizations, subject to the applicable limitations and restrictions of the laws of the Commonwealth of Virginia;

ARTICLES OF INCORPORATION
OF
FOODSERVICE TECHNOLOGIES, INC.

ARTICLE ONE

- 1.1 Name. The name of the Corporation is FOODSERVICE TECHNOLOGIES, INC.

ARTICLE TWO

- 2.1 Continuity. FOODSERVICE TECHNOLOGIES, INC. will have a perpetual existence.

ARTICLE THREE

- 3.1 Registered Office. The registered Virginia office of FOODSERVICE TECHNOLOGIES, INC. is located in McLean, Virginia at 8300 Greensboro Drive, Suite 260.
- 3.2 Registered Agent. The name and address of the registered agent for FOODSERVICE TECHNOLOGIES, INC. is Richard John Ruddy, Jr., 8300 Greensboro Drive, Suite 260; McLean, Virginia, County of Fairfax. Mr. Ruddy is a resident of Virginia and an active member of the Virginia State Bar.

ARTICLE FOUR

- 4.1 Purposes. FOODSERVICE TECHNOLOGIES, INC. is formed for the following purposes: (1) to engage in any and all aspects of repair and remodeling for the food service industries; (2) to conduct any and all lawful business specified as powers in Article 5 herein; and (3) to conduct any and all lawful business permitted by the laws of Virginia and which is not required to be specifically described herein.

ARTICLE FIVE

- 5.1 Powers. FOODSERVICE TECHNOLOGIES, INC. shall have the power:
- (a) To have perpetual succession by its corporate name;
 - (b) To sue and be sued, complain and defend, in its corporate name;
 - (c) To have a corporate seal, which may be altered at pleasure, and to use the same by causing it, or a facsimile thereof, to be impressed or affixed or in any other manner reproduced, but failure to use the corporate seal shall not affect the validity of any instrument;

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION

February 5, 1996

The State Corporation Commission has found the accompanying
articles submitted on behalf of

FOODSERVICE TECHNOLOGIES, INC.

to comply with the requirements of law, and confirms payment of
all related fees.

Therefore, it is ORDERED that this

CERTIFICATE OF AMENDMENT

be issued and admitted to record with the articles of amendment in
the Office of the Clerk of the Commission, effective February 5,
1996 at 01:25 PM.

The corporation is granted the authority conferred on it by law in
accordance with the articles, subject to the conditions and
restrictions imposed by law.

STATE CORPORATION COMMISSION

By



Commissioner

AMENACPT
CIS20436
96-01-29-0184

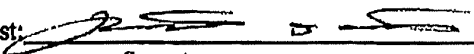
- (e) The amendments were approved by the unanimous consent of the shareholders and directors.

Executed on the 1 day of October, 1995.

FOODSERVICE TECHNOLOGIES, INC.

By: 

President

Attest: 

Secretary

ARTICLES OF AMENDMENT
OF
FOODSERVICE TECHNOLOGIES, INC.

Pursuant to the provisions of Section 13.1-705 of the 1950 Code of Virginia, as amended, the undersigned corporation, by its President and Secretary, sets forth as follows:

- (a) The name of the Corporation is **FOODSERVICE TECHNOLOGIES, INC.**
- (b) Paragraphs 6.4, 6.5, 7.2, 7.3 and 9.1 of the Articles of Incorporation are deleted.
- (c) The following amendments are adopted to replace Paragraphs 6.4, 6.5, 7.2, 7.3, and 9.1 of the Articles of Incorporation:

Paragraph 6.4 of Article Six:

"6.4. Quorum. A quorum of the Shareholders is the presence of a majority of shares entitled to vote."

Paragraph 6.5 of Article Six:

"6.5. Shareholder Voting. Any action by the Shareholders must be approved by the affirmative vote of a majority of shares entitled to vote."

Paragraph 7.2 of Article Seven:

"7.2. Quorum. A quorum of the Board of Directors is the presence of a majority of Directors."

Paragraph 7.3 of Article Seven:

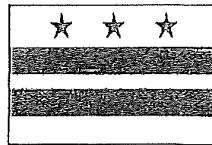
"7.3. Director Voting. Any action by the Board of Directors must be approved by the affirmative vote of a majority of Directors."

Paragraph 9.1 of Article Nine:

"9.1. Amendment of Bylaws. The Bylaws of the Corporation may only be amended or repealed by the consent of a majority of the Shareholders of the Corporation."

- (d) The amendments were adopted on 10-1-95.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
CORPORATIONS DIVISION



C E R T I F I C A T E

THIS IS TO CERTIFY that all applicable provisions of the District of Columbia Business Organizations Code (Title 29) have been complied with and accordingly, this **CERTIFICATE OF GOOD STANDING** is hereby issued to

FOODSERVICE TECHNOLOGIES INC.

WE FURTHER CERTIFY that the qualified foreign entity is registered to do business in the District; that all fees, and penalties owed to the District for entity filings collected through the Mayor have been paid and Payment is reflected in the records of the Mayor; The entity's most recent biennial report required by § 29-102.11 has been delivered for filing to the Mayor; and the entity's registration has not been terminated. This office does not have any information about the entity's business practices and financial standing and this certificate shall not be construed as the entity's endorsement.

IN TESTIMONY WHEREOF I have hereunto set my hand and caused the seal of this office to be affixed as of 10/22/2015 11:56 AM

Business and Professional Licensing Administration



A handwritten signature in cursive script, reading 'Patricia E. Grays'.

PATRICIA E. GRAYS
Superintendent of Corporations
Corporations Division

Muriel Bowser
Mayor

Tracking #: 18dpK4jL

Commonwealth of Virginia



State Corporation Commission

CERTIFICATE OF GOOD STANDING

I Certify the Following from the Records of the Commission:

That FOODSERVICE TECHNOLOGIES, INC. is duly incorporated under the law of the Commonwealth of Virginia;

That the date of its incorporation is December 16, 1994;

That the period of its duration is perpetual; and

That the corporation is in existence and in good standing in the Commonwealth of Virginia as of the date set forth below.

Nothing more is hereby certified.



Signed and Sealed at Richmond on this Date:
October 19, 2015

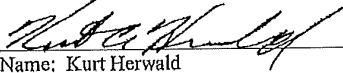
Joel H. Peck

Joel H. Peck, Clerk of the Commission

CISECOM
Document Control Number: 1510195303

In witness whereof, the undersigned has executed this Officer's Certificate on behalf of the Borrower, as of the date first written above.

FOODSERVICE TECHNOLOGIES, INC.

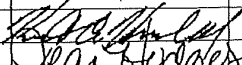
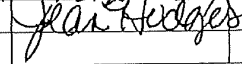


Name: Kurt Herwald

Title: President

Officer's Certificate

6. That in any present and in any future dealings between the Borrower and the Bank relating to the transactions authorized herein, any of the Persons shown below (individually, a "Person"; collectively, the "Persons") is authorized on behalf of the Borrower to transact with the Bank:

NAME	SPECIMEN SIGNATURE		TITLE (If Applicable)
	MANUAL	ELECTRONIC	
Kurt Herwald		/s/	President
Jean Hodges		/s/	Secretary
		/s/	

That the foregoing and attached resolutions and the provisions hereof are in conformity with the organizational documents (e.g., articles of organization, operating agreement, etc.) of the Borrower and the names and specimen signatures of the Persons herein are authorized and the authority hereby conferred shall remain in full force and effect until a reasonable time after the Bank receives notice to the contrary in writing and has a reasonable opportunity to act upon such notice.

Officer's Certificate

OFFICER'S CERTIFICATE

BORROWER: FOODSERVICE TECHNOLOGIES, INC.

ADDRESS: 410 E. Washington Street
Greenville, South Carolina 29601

Date: November 2, 2015

Tax Identification No.: 54-1741869
Telephone Number: 864.271.6522

The undersigned, on behalf of Foodservice Technologies, Inc. ("Borrower"), does hereby certify to Fifth Third Bank (the "Bank") the accuracy of the applicable information set forth below:

1. That the undersigned is a duly qualified President of Foodservice Technologies, Inc., a corporation duly organized, validly existing and in good standing under the laws of South Carolina.
2. That the complete legal name of the Borrower as set forth in its applicable articles of incorporation and other organizational documents, as amended, is set forth above.
3. That attached hereto is a true and complete copy of the articles or certificate of incorporation, certificate of formation or other organizational documents and all amendments thereto of the Borrower, certified as of a recent date by the Secretary of State (or comparable Governmental Authority) of its jurisdiction of organization, and that the same has not been amended since the date of such certification.
4. That attached hereto is a true and complete copy of the bylaws or similar governing document of the Borrower, as in effect on the date hereof and as in effect at all times from the date on which the resolutions referred to in clause 5 below were adopted to and including the date of this certificate.
5. That attached hereto as Exhibit A are true and complete copies of resolutions duly adopted by the Board of Directors of the Borrower authorizing the execution, delivery and performance of the Credit Agreement attached thereto as Exhibit A and the other Credit Documents to which Borrower is a party, that the same are currently in full force and effect and have not been rescinded or modified, and that the same constitute all of the action required to authorize the transactions contemplated by such resolutions.

Officer's Certificate

GREENVILLE 1428980

EXHIBIT A

Officer's Certificate

FT Acquisition, LLC

WHEREAS, the Borrower has applied to Fifth Third Bank (the "**Bank**") for a revolving line of credit loan in the principal amount of \$16,000,000 and a term loan in the principal amount of \$8,500,000 (collectively, the "**Bank Loans**"), to be advanced by the Bank pursuant to that certain Credit Agreement among the Borrower, FT Acquisition, LLC and Foodservice Technologies, Inc. and the Bank dated on or about November 2, 2015 (the "**Bank Credit Agreement**"), a copy of which is attached hereto as Exhibit A and other documents referenced therein or as required by the Bank ("**Other Bank Loan Documents**"); and

WHEREAS, the Bank is willing to extend the Bank Loans upon the terms set forth in the Bank Credit Agreement and the Other Bank Loan Documents; and

WHEREAS, the Board of Directors of the Borrower believe it is in the best interest of the Borrower to obtain from the Bank the Bank Loans.

NOW, THEREFORE, BE IT RESOLVED, that the Borrower is hereby authorized to obtain from the Bank the Bank Loans; and that the terms of the Bank Loans may be amended by Kurt A. Herwald as the President of the Borrower and the same hereby are, adopted and approved and determined to be a binding obligation of the Borrower, enforceable against the Borrower in accordance with its terms; and that Kurt A. Herwald as the President of the Borrower is authorized, empowered and directed to execute and deliver, in the name and on behalf of the Borrower, the Bank Credit Agreement, the Other Bank Loan Documents, and any such further documents and agreements, including, without limitation, promissory notes, security agreements, or such other documents as he deems necessary, desirable or appropriate in connection with the Bank Loans;

FURTHER RESOLVED, that the Borrower is hereby authorized to grant a security interest in all or substantially all of its assets, including the equity interests in any of its subsidiaries, to secure the Bank Loans and such other obligations as may be required under the Bank Credit Agreement; and

FURTHER RESOLVED, that any and all such actions heretofore taken and any and all documents, agreements, instruments, certificates or instructions (however characterized or described) heretofore executed and delivered or filed and recorded, as the case may be, on behalf of the Borrower, by Kurt A. Herwald as the President of the Borrower or his designees in order to carry into effect the purposes and intent of the foregoing resolutions are hereby ratified, confirmed and adopted and approved in all respects.

“Units” represent the basis on which Interests are denominated and the basis on which the relative rights, privileges, preferences and obligations are determined under this Agreement and the Act, and the total number and class of Units attributed to each Unitholder shall be the number recorded on the Information Exhibit as of the relevant time.

[THE REMAINDER OF THIS PAGE INTENTIONALLY HAS BEEN LEFT BLANK]

“Interest” shall mean all of the rights of the Member with respect to the LLC created under this Agreement or under the Act.

“LLC” shall mean FT Acquisition, LLC, a South Carolina limited liability company.

“Manager” shall refer to the Person listed on the Information Exhibit as Manager and to any other Persons who become Managers under the terms of this Agreement until such Person shall cease to be a Manager as provided herein.

“Member” shall refer to the Person listed on the Information Exhibit as the Member and to any other Persons who are admitted to the LLC as Members or who become Members under the terms of this Agreement until such Persons have ceased to be Members under the terms of this Agreement.

“Person” shall mean any natural person, partnership, trust, estate, association, limited liability company, corporation, custodian, nominee, governmental instrumentality or agency, body politic or any other entity in its own or any representative capacity.

“Related Party” shall mean (a) with respect to any individual, such individual’s spouse, any descendants (whether natural, adopted or in the process of adoption), any sibling, any ancestor, any trust more than fifty percent (50%) in the beneficial interests of which are owned by such individuals or any of them, and any corporation, association, partnership or limited liability company more than fifty percent (50%) of the equity interests in which are owned by those above described individuals or trusts, (b) with respect to any trust, the owners of the beneficial interests of such trust, and (c) with respect to any corporation, association, partnership or limited liability company, the owners of more than fifty percent (50%) of the outstanding equity interests in such entity.

“Subsidiary” shall mean any limited liability company, corporation or other entity in which the LLC directly or indirectly owns greater than fifty percent (50%) of the total combined voting power of all classes in equity interests of such entity.

“Transfer” shall mean any sale, assignment, transfer, conveyance, pledge, hypothecation or other disposition, voluntarily or involuntarily, by operation of law, with or without consideration or otherwise (including, without limitation, by way of intestacy, will, gift, bankruptcy, receivership, levy, execution, charging order or other similar sale or seizure by legal process) of all or any portion of any Interest.

“Treasury Regulations” shall mean the final and temporary Income Tax Regulations promulgated under the Code, as such regulations may be amended from time to time (including corresponding provisions of succeeding regulations).

“Unitholder” shall mean a Person holding Units.

**EXHIBIT C
TO THE
OPERATING AGREEMENT
OF
FT ACQUISITION, LLC
a South Carolina limited liability company**

GLOSSARY OF TERMS

Many of the capitalized words and phrases used in this Agreement are defined below. Some defined terms used in this Agreement are applicable to only a particular Section of this Agreement or an Exhibit and are not listed below, but are defined in the Section or Exhibit in which they are used.

“Act” shall mean the South Carolina Uniform Limited Liability Company Act of 1996, as in effect in South Carolina and set forth at S.C. Code Ann. § 33-44-101 et seq. (or any corresponding provisions of succeeding law).

“Affiliate” shall mean, with respect to any Person, (i) any Person directly or indirectly controlling, controlled by or under common control with such Person, (ii) any Person directly or indirectly owning or controlling 10 percent or more of any class of outstanding equity interests of such Person or of any Person which such Person directly or indirectly owns or controls 10 percent or more of any class of equity interests, (iii) any officer, director, general partner or trustee of such Person, or any Person of which such Person is an officer, director, general partner or trustee, or (iv) any Person who is an officer, director, general partner, trustee or holder of 10 percent or more of the equity interests of any Person described in clauses (i) through (iii) of this sentence.

“Agreement” shall mean this Operating Agreement as amended from time to time.

“Articles” shall mean the Articles of Organization required to be filed by the LLC pursuant to the Act together with all amendments thereto, if any.

“Capital Contribution” shall mean with respect to any Member, the amount of money and the initial fair market value of any property (other than money) contributed to the LLC with respect to the Interest of such Member.

“Code” shall mean the Internal Revenue Code of 1986, as amended from time to time, or any successor federal revenue law.

“Effective Date” shall have the meaning set forth in Section 1.1.

**EXHIBIT B
TO THE
OPERATING AGREEMENT
OF
FT ACQUISITION, LLC
a South Carolina limited liability company
INFORMATION EXHIBIT**

Member's Name and Notice Address	Initial Capital Contribution	Units
<u>Commerical Foodservice Repair, Inc.</u> 410 East Washington Street Greenville, SC 29601	\$100.00	100.00

Manager's Name and
Notice Address

Kurt A. Herwald
410 East Washington Street
Greenville, SC 29601

The State of South Carolina



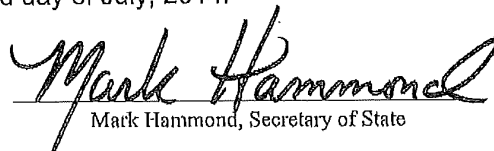
Office of Secretary of State Mark Hammond

Certificate of Existence

I, Mark Hammond, Secretary of State of South Carolina Hereby certify that:

FT ACQUISITION, LLC, A Limited Liability Company duly organized under the laws of the State of South Carolina on July 22nd, 2014, with a duration that is at will, has as of this date filed all reports due this office, paid all fees, taxes and penalties owed to the Secretary of State, that the Secretary of State has not mailed notice to the company that it is subject to being dissolved by administrative action pursuant to section 33-44-809 of the South Carolina Code, and that the company has not filed articles of termination as of the date hereof.

Given under my Hand and the Great
Seal of the State of South Carolina this
22nd day of July, 2014.


Mark Hammond, Secretary of State

Name of Limited Liability Company FT ACQUISITION, LLC

5. ☐ Check this box only if the company is to be a term company. If the company is a term company, provide the term specified. _____

6. ☒ Check this box only if management of the limited liability company is vested in a manager or managers. If this company is to be managed by managers, include the name and address of each initial manager.

(a) KURT A. HERWALD

Name

401 EAST WASHINGTON ST

Street Address

GREENVILLE

SOUTH CAROLINA

29601

City

State

Zip Code

(b)

Name

Street Address

City

State

Zip Code

7. ☐ Check this box only if one or more of the members of the company are to be liable for its debts and obligations under §33-44-303(c). If one or more members are so liable, specify which members, and for which debts, obligations or liabilities such members are liable in their capacity as members. This provision is optional and does not have to be completed.

8. Unless a delayed effective date is specified, these articles will be effective when endorsed for filing by the Secretary of State. Specify any delayed effective date and time.
N/A

9. Any other provisions not inconsistent with law which the organizers determine to include, including any provisions that are required or are permitted to be set forth in the limited liability company operating agreement may be included on a separate attachment. Please make reference to this section if you include a separate attachment.

10. Each organizer listed under number 4 must sign.

[Signature]
Signature of Organizer

JULY 22, 2014

Date

Signature of Organizer

Date

Form Revised by South Carolina
Secretary of State, July 2012

Print Form

§ 33-44-202. CERTIFIED TO BE A TRUE AND CORRECT COPY
AS TAKEN FROM AND COMPARED WITH THE
ORIGINAL ON FILE IN THIS OFFICE

STATE OF SOUTH CAROLINA
SECRETARY OF STATE
ARTICLES OF ORGANIZATION
Limited Liability Company – Domestic
Filing Fee - \$110.00

JUL 22 2014

Mark Hammond
SECRETARY OF STATE OF SOUTH CAROLINA

TYPE OR PRINT CLEARLY IN BLACK INK

The undersigned delivers the following articles of organization to form a South Carolina limited liability company pursuant to S.C. Code of Laws §33-44-202 and §33-44-203.

1. The name of the limited liability company (Company ending must be included in name*)

FT ACQUISITION, LLC

*NOTE: The name of the limited liability company must contain one of the following endings:
"limited liability company" or "limited company" or the abbreviation "L.L.C.", "LLC", "L.C."
"LC", or "Ltd. Co."

2. The address of the initial designated office of the limited liability company in South Carolina is

401 EAST WASHINGTON ST

Street Address

GREENVILLE, SOUTH CAROLINA

29601

City

Zip Code

3. The initial agent for service of process is

HAMILTON E. RUSSELL

Name

Signature of Agent

and the street address in South Carolina for this initial agent for service of process is

104 S. MAIN ST, SUITE 900

Street Address

GREENVILLE, SOUTH CAROLINA

29601

City

Zip Code

4. List the name and address of each organizer. Only one organizer is required, but you may have more than one.

- (a) HAMILTON E. RUSSELL

Name

104 S. MAIN ST, SUITE 900

Street Address

GREENVILLE

South Carolina

29601

City

State

Zip Code

- (b)

Name

Street Address

City

140722-0065

FILED: 07/22/2014

FT ACQUISITION, LLC

Filing Fee: \$110.00 ORIG

Mark Hammond

South Carolina Secretary of State



**EXHIBIT A
TO THE
OPERATING AGREEMENT
OF
FT ACQUISITION, LLC
a South Carolina limited liability company**

ARTICLES OF ORGANIZATION

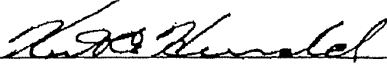
See attached.

**EXECUTION PAGE
TO THE
OPERATING AGREEMENT
OF
FT ACQUISITION, LLC
a South Carolina limited liability company**

MEMBER:

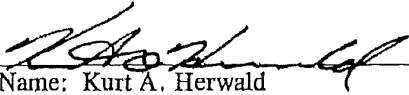
COMMERCIAL FOODSERVICE REPAIR, INC.,
a South Carolina corporation

Date Executed

By: 
Name: Kurt A. Herwald
Title: President

MANAGER:

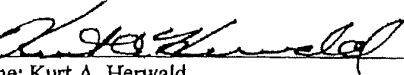
Date Executed


Name: Kurt A. Herwald
Title: Manager

LLC:

FT ACQUISITION, LLC,
a South Carolina limited liability company

Date Executed

By: 
Name: Kurt A. Herwald
Title: Manager

declare any such other party in default, irrespective of how long such failure continues, shall not constitute a waiver by such party of its rights hereunder.

SECTION 12.16 Rights and Remedies Cumulative. The rights and remedies provided by this Agreement are cumulative and the use of any one right or remedy by any party shall not preclude or waive the right to use any or all other remedies. Such rights and remedies are given in addition to any other rights the parties may have by law, statute, ordinance or otherwise.

SECTION 12.17 Exhibits. The Exhibits to this Agreement, each of which is incorporated by reference, are:

EXHIBIT A: Articles of Organization.

EXHIBIT B: Information Exhibit.

EXHIBIT C: Glossary of Terms.

IN WITNESS WHEREOF, the Member, the Manager, and the LLC have executed this Agreement the day and year indicated on the following execution page, to be effective as of the Effective Date.

[EXECUTIONS APPEAR ON FOLLOWING PAGE(S)]

SECTION 12.12 Power of Attorney. The Member hereby irrevocably makes, constitutes and appoints the Manager, with full power of substitution, so long as such Manager is acting in such a capacity (and any successor Manager thereof so long as such Manager is acting in such capacity), its true and lawful attorney, in the Member's name, place and stead (it is expressly understood and intended that the grant of such power of attorney is coupled with an interest) to make, execute, sign, acknowledge, swear and file with respect to the LLC:

(a) all documents which the Manager deems necessary or desirable to effect the dissolution and termination of the LLC which dissolution and termination shall have been authorized in accordance with the terms of this Agreement;

(b) all such other instruments, documents and certificates which may from time to time be required by the laws of the State or any other jurisdiction in which the LLC shall determine to do business, or any political subdivision or agency thereof, to effectuate, implement, continue and defend the valid existence of the LLC; and

(c) all instruments, documents and certificates which the Manager deems necessary or desirable in connection with the conversion or reorganization of the LLC into another form of entity or a Sale of the LLC which has been authorized in accordance with the terms of this Agreement.

This power of attorney shall not be affected by and shall survive the bankruptcy, insolvency, death, incompetency or dissolution of each granting Member and shall survive the delivery of any assignment by the Member of the whole or any portion of its Interest. The Member hereby releases each Manager from any liability or claim in connection with the exercise of the authority granted pursuant to this power of attorney, and in connection with any other action taken by such Manager pursuant to which such Manager purports to act as the attorney-in-fact for the Member, if the Manager believed in good faith that such action taken was consistent with the authority granted to it pursuant to this Section 12.12.

SECTION 12.13 LLC Property. The title to all real or personal property (or interests therein) now or hereafter acquired by the LLC shall be held by and vested in the LLC, and not by or in any Member, individually.

SECTION 12.14 Time of the Essence. Time is of the essence with respect to each and every term and provision of this Agreement.

SECTION 12.15 Waivers. No consent or waiver, express or implied, by any party with respect to any breach or default in the performance by any other party of its obligations hereunder shall be deemed or construed to be a consent or waiver with respect to any other breach or default in the performance by such other party of the same or any other obligations of such party hereunder, and any failure on the part of any party to complain regarding any act of any other party which constitutes a breach of such other party's obligations hereunder or to

BREACH OR ALLEGED BREACH HEREOF SHALL, UPON THE REQUEST OF ANY PARTY INVOLVED, BE SUBMITTED TO, AND SETTLED BY, ARBITRATION IN THE CITY OF GREENVILLE, STATE OF SOUTH CAROLINA, PURSUANT TO THE COMMERCIAL ARBITRATION RULES THEN IN EFFECT OF THE AMERICAN ARBITRATION ASSOCIATION (OR AT ANY TIME OR AT ANY OTHER PLACE OR UNDER ANY OTHER FORM OF ARBITRATION MUTUALLY ACCEPTABLE TO THE PARTIES SO INVOLVED). ANY AWARD RENDERED SHALL BE FINAL AND CONCLUSIVE UPON THE PARTIES AND A JUDGMENT THEREON MAY BE ENTERED IN THE HIGHEST COURT OF THE FORUM, STATE OR FEDERAL, HAVING JURISDICTION. THE EXPENSES OF THE ARBITRATION SHALL BE BORNE EQUALLY BY THE PARTIES TO THE ARBITRATION, PROVIDED THAT EACH PARTY SHALL PAY FOR AND BEAR THE COST OF ITS OWN EXPERTS, EVIDENCE AND COUNSEL FEES, EXCEPT THAT IN THE DISCRETION OF THE ARBITRATOR, ANY AWARD MAY INCLUDE THE COST OF A PARTY'S COUNSEL IF THE ARBITRATOR EXPRESSLY DETERMINES THAT THE PARTY AGAINST WHOM SUCH AWARD IS ENTERED HAS CAUSED THE DISPUTE, CONTROVERSY, OR CLAIM TO BE SUBMITTED TO ARBITRATION AS A DILATORY TACTIC.

SECTION 12.7 Headings. Section and other headings contained in this Agreement are for reference purposes only and are not intended to describe, interpret, define, or limit the scope, extent, or intent of this Agreement or any provision hereof.

SECTION 12.8 Severability. Every provision of this Agreement is intended to be severable. If any term or provision hereof is illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity or legality of the remainder of this Agreement.

SECTION 12.9 Variation of Pronouns. All pronouns and any variations thereof shall be deemed to refer to masculine, feminine, or neuter, singular or plural, as the identity of the Person or Persons indicated thereby may require.

SECTION 12.10 Governing Law; Consent to Jurisdiction. The laws of the State of South Carolina shall govern the validity of this Agreement, the construction and interpretation of its terms, and organization and internal affairs of the LLC and the limited liability of the Members. Each party to this Agreement hereby irrevocably consents to the personal jurisdiction of the state and federal courts sitting in the State of South Carolina with respect to the enforcement of an arbitrator's ruling under Section 12.6 or emergency judicial relief.

SECTION 12.11 Counterpart Execution. This Agreement may be executed in any number of counterparts with the same effect as if all of the Members had signed the same document. Such executions may be transmitted to the LLC and/or the other Members by facsimile or electronic mail, and such facsimile or electronic mail execution shall have the full force and effect of an original signature. All fully executed counterparts hereof, whether original executions or facsimile executions or electronic mail executions or a combination, shall be construed together and shall constitute one and the same agreement.

or sent by regular, registered or certified United States mail, or by facsimile transmission or by electronic mail or by private mail or courier service, addressed as follows: if to the LLC, to its designated office address, or to such other address as may be specified from time to time by notice to the Members; if to a Unitholder or Manager, to the address set forth on the Information Exhibit attached hereto, or to such other address as the Unitholder or Manager may specify from time to time by notice to the Unitholders or Manager. Any such notice shall be deemed to be delivered, given, and received for all purposes (i) as of the date of actual receipt if delivered personally or if sent by regular mail, facsimile transmission, electronic mail or by private mail or courier service, or (ii) two (2) business days after the date on which the same was deposited in a regularly maintained receptacle for the deposit of United States mail, if sent by registered or certified United States mail, postage and charges prepaid, return receipt requested.

SECTION 12.2 Binding Effect. Except as otherwise provided in this Agreement, every covenant, term, and provision of this Agreement shall be binding upon and inure to the benefit of the parties and their respective heirs, legatees, legal representatives, successors, transferees, and assigns.

SECTION 12.3 Construction. Every covenant, term and provision of this Agreement shall be construed simply according to its fair meaning and not strictly for or against any party to this Agreement. No provision of this Agreement is to be interpreted as a penalty upon, or a forfeiture by, any party to this Agreement. The parties acknowledge that each party to this Agreement has shared equally in the drafting and construction of this Agreement and, accordingly, no court construing this Agreement shall construe it more strictly against one party hereto than another.

SECTION 12.4 Entire Agreement; No Oral Operating Agreements; Amendments to the Operating Agreement. This Agreement constitutes the entire agreement among the parties with respect to the affairs of the LLC and the conduct of its business, and supersedes all prior agreements and understandings, whether oral or written. The LLC shall have no oral operating agreements. Except as otherwise provided in this Agreement, this Agreement may be amended only by the Member. If, at any time, the LLC has two or more Unitholders, the Member(s) shall with reasonable promptness make all amendments of this Agreement necessary to establish the relative rights, privileges, preferences, and obligations of the Unitholders that are not already provided in this Agreement, including, but not limited to, the allocation of the LLC's profits and losses, the allocation of management rights, and the change of status for income tax purposes if such change occurs.

SECTION 12.5 Creditors. None of the provisions of this Agreement shall be for the benefit of or enforceable by any creditors of the LLC.

SECTION 12.6 Arbitration. ANY DISPUTE, CONTROVERSY OR CLAIM, INCLUDING WITHOUT LIMITATION ANY DISPUTES FOR WHICH A DERIVATIVE SUIT COULD OTHERWISE BE BROUGHT PURSUANT TO THE ACT, ARISING OUT OF OR IN CONNECTION WITH, OR RELATING TO, THIS AGREEMENT OR ANY

authority of the Manager. The costs of the liquidation shall be borne as an expense of the LLC.

SECTION 10.3 Liquidating Distributions. The LLC's assets and proceeds from the disposition of the LLC's assets shall be distributed in the following order:

(a) To the LLC's creditors, including the Member, to the extent otherwise permitted by law, other than liabilities to the Member for distributions, in satisfaction of liabilities of the LLC, including establishing such reserves as may be reasonably necessary to provide for contingent and other liabilities of the LLC;

(b) To the Member.

ARTICLE 11

BOOKS AND RECORDS; TAX MATTERS

SECTION 11.1 Books and Records. The LLC shall keep adequate books and records at its principal place of business, which shall set forth an accurate account of all transactions of the LLC and which shall enable the LLC to comply with the requirement that it segregate and account for its assets and liabilities separately from those of the Member. The Member or its designated representative shall have the right, during normal business hours, pursuant to Section 33-44-408 of the Act to have access to and inspect and copy, at its expense, the contents of such books or records.

SECTION 11.2 Bank and Financial Accounts. All funds of the LLC are to be deposited in the LLC's name in such bank accounts or investment accounts as may be determined by the Manager and shall be withdrawn solely on the signature of the Manager, unless the Member determines otherwise.

SECTION 11.3 Taxable Year; Accounting Methods. As long as the LLC shall be disregarded as an entity separate from its owner for federal income tax purposes the LLC shall use the taxable year of the Member as its taxable year and the LLC shall report its income for income tax purposes using the method of accounting used by the Member.

SECTION 11.4 Tax Elections. Except as otherwise provided in this Agreement, upon the prior written consent of the Member, the Manager shall cause the LLC to make any and all elections for federal, state and local tax purposes.

ARTICLE 12

MISCELLANEOUS

SECTION 12.1 Notices. Any notice, payment, demand or communication required or permitted to be given by any provision of this Agreement shall be in writing and shall be delivered personally to the Person or to an officer of the Person to whom the same is directed,

SECTION 9.1 Dissociation Events. A Person who is a Member shall cease to be a Member only upon the sale, assignment or transfer as permitted under this Agreement or by the operation of law of the Member's entire Interest. A pledge or hypothecation as permitted under this Agreement shall not result in the dissociation of a Member.

SECTION 9.2 Deceased, Incompetent, Bankrupt, or Dissolved Members. The personal representative, executor, administrator, guardian, conservator or other legal representative of a deceased individual Member or of an individual Member who has been adjudicated incompetent may exercise the rights of such Member for the purpose of administration of such deceased Member's estate or such incompetent Member's property. Upon the occurrence of an Event of Bankruptcy with respect to a Member the legal representative of such Member may exercise the rights of such former Member for the purpose of administration of such Member's estate or such Member's property. If a Member who is a Person other than an individual is dissolved, the legal representative or successor of such Person may exercise the rights of the Member pending liquidation.

ARTICLE 10.

DISSOLUTION WINDING UP AND LIQUIDATING DISTRIBUTIONS

SECTION 10.1 Dissolution Events. The LLC shall dissolve only upon the first to occur of any of the following events:

- (a) The written consent of the Member.
- (b) The sale, disposition or abandonment of all or substantially all of the LLC's assets.
- (c) An event that makes it unlawful for all or substantially all of the business of the LLC to be continued, but any cure of illegality within ninety (90) days after notice to the LLC of the event is effective retroactively to the date of the event.
- (d) The entry of a decree of judicial dissolution of the LLC under Section 33-44-801(4) of the Act or the administrative dissolution of the LLC under Section 33-44-809 of the Act.

SECTION 10.2 Winding Up. Upon the dissolution of the LLC, the Manager, or, if there is no Manager, a liquidating trustee appointed by the Member, shall proceed to wind up the affairs of the LLC as provided in this Agreement and the Act. Upon the dissolution of the LLC, an accounting shall be made by the LLC's independent accountants of the accounts of the LLC and of the LLC's assets, liabilities and operations, from the date of the last previous accounting until the date of dissolution. The Manager (or the liquidating trustee) shall dispose of and convey the LLC's assets (except to the extent any assets are to be distributed to the Member in kind) as promptly as reasonably possible following dissolution as is consistent with obtaining the fair market value for the LLC's assets. Until final distribution, the Manager (or the liquidating trustee) shall continue to operate the LLC's assets with all of the power and

effectuating the Transfer. Notwithstanding the Member's ability to limit a Person's ability to become a Member as provided in the previous sentence, if any time, the exercise of such right would leave the LLC with no Members, then the transferee(s) of such Interest shall automatically be admitted as a Member. Any Person taking or acquiring all or any portion of the Member's Interest, regardless of whether such Person is admitted as a Member or not, shall take such Interest subject to this Agreement. In addition, upon the prior written consent of the Member, the Manager may cause the LLC to issue (i) additional Interests (including other classes or series thereof having different rights, powers and duties, including rights, powers and duties senior to those of the Member), (ii) obligations, evidences of indebtedness or other securities or interests convertible or exchangeable into Interests and (iii) warrants, options or other rights to purchase or otherwise acquire Interests to such Persons, including the Member, in exchange for such Capital Contributions and pursuant to such other terms and conditions as determined by the Member.

The Manager shall amend the Information Exhibit from time to time to reflect the admission of Members or the assignment of Interests pursuant to this Article, any permitted issuance of additional Units, or changes to any information or matters set forth on the Information Exhibit.

SECTION 8.3 Rights of Assignees. Any Person taking or acquiring, by whatever means, all or any portion of the Interest of any Unitholder in the LLC and is not admitted as a Member pursuant to the preceding Section shall become an assignee with respect to such Interest.

An assignee with respect to an Interest is entitled only to receive distributions and allocations with respect to such Interest as set forth in this Agreement, and shall have no other rights, benefits or authority of a Member under this Agreement or the Act, including without limitation no right to receive notices to which Members are entitled under this Agreement, no right to vote, no right to access to information concerning the LLC's transactions, no right to inspect or copy the books or records of the LLC, no right to bring derivative actions on behalf of the LLC, and no other rights of a Member under the Act or this Agreement. Moreover, an assignee shall not have the right to seek a judicial determination that it is equitable to dissolve and wind up the LLC's business under Section 33-44-801(5) of the Act. An amendment to this Agreement may change the rights of an assignee, even if the amendment is made after the assignee takes or acquires the Interest.

Notwithstanding anything to the contrary in this Agreement, an assignee shall not be entitled to receive any distributions from the LLC until such assignee delivers to the Manager written notice of the Transfer, proof of the Transfer deemed sufficient by the Manager, the assignee's federal and state tax identification numbers, the assignee's current legal address and telephone number, and such other information as the Manager may reasonably request.

ARTICLE 9

DISSOCIATION OF MEMBERS

ARTICLE 6

MEMBER

SECTION 6.1 Duties of Members. Except as otherwise provided in this Agreement, a Member who is not also a Manager owes no duties to the LLC solely by reason of being a Member; provided, however, that a Member who, pursuant to this Agreement, exercises some or all of the rights of a Manager in the management and conduct of the LLC's business is held to the standards of conduct applicable to Managers under this Agreement and the Act to the extent that the Member exercises the managerial authority vested in a Manager by this Agreement or the Act.

SECTION 6.2 Liability of Members. No Member shall be liable for any debts or losses of capital or profits of the LLC.

SECTION 6.3 No Agency Authority. Except as expressly provided in this Agreement, no Member (by sole virtue of such Person's capacity as a Member) has the actual or apparent authority to cause the LLC to become bound to any contract, agreement or obligation, and no Member shall take any action purporting to be on behalf of the LLC.

SECTION 6.4 Right to Inspect Books and Records. In accordance with Section 11.1, the LLC shall maintain adequate books and records. The Member or its designated representative shall have the right, during normal business hours, pursuant to Section 33-44-408 of the Act, to have access to and inspect and copy, at its expense, the contents of such books or records.

SECTION 6.5 Written Consent to Action. Any action that is permitted or required to be taken by the Member, including any amendment to the Articles or to this Agreement, may be taken or ratified by written consent setting forth the specific action to be taken and signed by the Member.

ARTICLE 7

RESERVED

ARTICLE 8

TRANSFER OF INTERESTS

SECTION 8.1 In General. The Member may Transfer all or any portion of its Interest, including economic and non-economic rights, to any Person at anytime. The Member may make such Transfer under any terms and conditions which the Member deems appropriate.

SECTION 8.2 Admission of Additional Members. Any Person taking or acquiring, by whatever means, all or any portion of the Member's Interest shall automatically be admitted as a Member unless the Member shall specifically state otherwise in the document

otherwise to the LLC or to any Unitholder for any loss, damage, cost, liability, or expense incurred by reason of or caused by any act or omission performed or omitted by the Manager, whether alleged to be based upon or arising from errors in judgment, if he performs his duties in compliance with this Section 5.5 and such act or omission performed or omitted is not a willful breach of this Agreement. Without limiting the foregoing, in no event will any Manager be liable for: (A) the failure to take any action not specifically required to be taken by the Manager under the terms of this Agreement; or (B) any mistake, misconduct, negligence, dishonesty or bad faith on the part of any employee or other agent of the LLC appointed in good faith by the Manager.

(f) Applicability to Persons whom the Manager has Delegated Authority. A Manager may, but is not required to, provide for the limitation of liability in excess of any limitation granted by the Act for Persons to whom the Manager delegates management authority.

SECTION 5.6 No Exclusive Duty. No Manager shall be required to manage the LLC as its sole and exclusive function. Except as otherwise provided in this Agreement, a Manager may have other business interests and may engage in other activities in addition to those relating to the LLC. Neither the LLC nor any Unitholder shall have any right, by virtue of this Agreement, to share or participate in such permitted investments or activities of a Manager or in the income or proceeds derived therefrom. A Manager shall devote that amount of time to the LLC as is necessary to manage and supervise the business and affairs of the LLC in accordance with this Agreement.

SECTION 5.7 Indemnification. To the fullest extent provided or allowed by law, the LLC shall indemnify, hold harmless and defend its Managers, employees and agents (including any Person to whom a Manager has delegated authority) (each, a "*Covered Person*") for all costs, losses, liabilities and damages paid or incurred by such Covered Persons in connection with the business of the LLC, except for acts or omissions for which the Covered Person is not absolved from liability under Section 5.5(e). Notwithstanding any other provision of this Agreement, any indemnification under this Agreement will be provided only out of LLC assets, and no Unitholder (or Related Party to or Affiliate of the Unitholder) will have personal liability for indemnification.

SECTION 5.8 Confidentiality. Each Manager hereby warrants, covenants and agrees that it will not furnish, divulge, communicate, use to the detriment of the LLC or use for the business of any other Person, any of the LLC's confidential information, including but not limited to pricing information, data, sales methods, know how, processes, licenses, trade secrets, names of customers, customer lists, names of Members, or the partners, shareholders, members or other principals of any Member, future plans, accounting, marketing, financial data or contract information. Each Manager agrees to return all documents which contain any confidential information and all copies of such documents upon request by the LLC.

(p) merge with or into any other Person or any Person to merge with or into the LLC or any Subsidiary, or to enter into any share exchange (or similar transaction) between the Members or owners of any Subsidiary and any other Persons; and

(q) commence a voluntary case as a debtor under the United States Bankruptcy Code.

SECTION 5.5 Fiduciary Duties; Right to Rely; Limitation of Liability.

(a) Duty of Care. A Manager's duty of care to the LLC and the Member in the conduct of and winding up of the LLC's business is limited to refraining from engaging in grossly negligent or reckless conduct, intentional misconduct or a knowing violation of law.

(b) Duty of Loyalty. A Manager's duty of loyalty to the LLC and the Member is limited to the following:

(i) To account to the LLC and to hold as trustee for the LLC any property, profit or benefit derived by the Manager in the conduct or winding up of the LLC's business or derived from a use by the Manager of the LLC's property, including the appropriation of a LLC opportunity;

(ii) To refrain from dealing with the LLC in the conduct or winding up of the LLC's business as or on behalf of a party having an interest adverse to the LLC; and

(iii) To refrain from competing with the LLC in the conduct of the LLC's business before dissolution of the LLC.

(c) Fiduciary Duties. Each Manager shall discharge his duties and exercise any of his rights consistently with the obligation of good faith and fair dealing which he owes to the LLC and the Member. A Manager does not violate a duty or obligation to the LLC merely because the Manager's conduct furthers the Manager's own interest. A Manager may lend money to and transact other business with the LLC. As to each loan or other transaction, the rights and obligations of the Manager are the same as those of a Person who is not a Manager, subject to other applicable law.

(d) Right to Rely. A Manager shall not be held liable to the LLC, or to any Unitholder, for relying in good faith upon the records required to be maintained by this Agreement or upon such information, opinions, reports or statements prepared and presented by any of the Managers, Unitholders, attorneys, accountants, agents, advisors or any other Person who has been selected with reasonable care by or on behalf of the LLC, as to matters the Managers reasonably believe are within such other Person's professional or expert competence.

(e) Limitation of Liability. Notwithstanding any other provision to the contrary in this Agreement, no Manager shall be liable, responsible, or accountable in damages or

delegated authority) shall have authority to cause the LLC or any Subsidiary to do any of the following:

- (a) do any act in contravention of this Agreement;
- (b) authorize or ratify acts or transactions under Section 33-44-103(b)(2)(ii) of the Act which would otherwise violate the duty of loyalty;
- (c) possess any property belonging to the LLC or any Subsidiary, or assign, transfer, or pledge the rights of the LLC or any Subsidiary in specific property, for other than the exclusive benefit of the LLC or any Subsidiary;
- (d) employ, or permit to be employed, the funds or assets of the LLC or any Subsidiary in any manner except for the exclusive benefit of the LLC or any Subsidiary;
- (e) commingle its funds with its own or any other Person's funds;
- (f) waive the right to have the LLC's business or any Subsidiary's business wound up and the LLC or Subsidiary terminated under Section 33-44-802(b) of the Act;
- (g) amend the Articles or the organizational document of any Subsidiary, except as expressly provided otherwise herein;
- (h) issue any ownership interest in the LLC or any Subsidiary or rights to acquire an ownership interest;
- (i) admit an assignee as a Member;
- (j) enter into any transaction with any Unitholder, Manager, Person to whom the Manager has delegated authority, or any Affiliate or Related Party of such Persons, unless such transaction is no less favorable to the LLC or Subsidiary than a comparable transaction entered into on an arms-length basis with an unrelated third party;
- (k) guarantee the obligations of any Person;
- (l) redeem or otherwise purchase or liquidate all or part of a Unitholder's Interest;
- (m) lend funds to any Person (other than advancing expenses in the ordinary course of business);
- (n) convert or reorganize into another form of entity or elect to change the LLC's or Subsidiary's classification for federal income tax purposes;
- (o) sell, transfer, lease or otherwise dispose of all or substantially all of the assets of the LLC or any Subsidiary in a single transaction or a series of related transactions, outside of the ordinary course of business;

granted to the Manager pursuant to this Agreement or pursuant to the Act. Delegation of any powers pursuant to this Subsection shall not of itself create an employment agreement or any other contract right. The Manager may withdraw any powers delegated pursuant to this Subsection at any time and from time to time with or without cause. The delegation of authority by the Manager pursuant to this Subsection shall not relieve the Manager from the duties and responsibilities set forth in the Act or in this Agreement.

(e) Compensation; Reimbursement of Expenses. No Manager, as such, shall receive any compensation for its services as Manager. However, a Manager serving the LLC in any other capacity may receive compensation for such service as shall be approved from time to time in writing by the Member. The LLC may reimburse any Manager for all reasonable expenses incurred by such Persons in managing and conducting the LLC's business, including (but not limited to) overhead, administrative and travel expenses.

SECTION 5.2 Number, Designation, Election and Removal of Managers.

(a) Number, Designation, Execution of Agreement. The LLC shall have one (1) Manager, who may but need not be the Member. The number of Managers shall be fixed from time to time by the written consent of the Member, but in no instance shall there be less than one (1) Manager. A. Todd Justice is the Manager of the LLC as of the Effective Date. Each Manager shall execute and be bound by the provisions of this Agreement and shall serve until its death, resignation or removal, or until the designation of new Managers by the Member.

(b) Designation of Managers. New Managers may be designated by the Member at any time and from time to time.

(c) Removal. A Manager may be removed by the Member at any time with or without cause and shall thus cease to serve as Manager.

(d) Resignation. A Manager may resign at any time upon giving written notice to the Member. The resignation of any Manager shall take effect upon receipt of notice thereof or at such later time as shall be specified in such notice; and, unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

SECTION 5.3 Ascertaining the Actions of the Manager. The requisite vote, consent, approval or ratification of the Manager with respect to any matter may be evidenced in writing signed by the Manager or may be ascertained and evidenced in any other formal or informal matter. The proceedings and deliberations of the Manager need not be in writing. If at any time there is more than one Manager, the Member may establish procedures for holding meetings of Managers, taking Manager action and evidencing the Manager action taken, which procedures may include notice requirements.

SECTION 5.4 Restrictions on Authority of the Manager. Without the prior written consent of the Member, no Manager (or any Person to whom the Manager has

law, the Member shall have authority to cause the LLC to distribute cash or property to the Member, in such amounts, at such times and as of such record dates as the Member shall determine.

ARTICLE 4 **RESERVED**

ARTICLE 5 **MANAGEMENT; DUTIES**

SECTION 5.1 Management by the Manager; Limitations on Actual Authority; Title; Delegation of Authority; Compensation.

(a) General Authority of Manager. Except as set forth in those provisions of this Agreement that specifically require the vote, consent, approval or ratification of the Member, the Manager in its sole and absolute discretion shall have complete authority and exclusive control to conduct any business on behalf of the LLC without the consent of any Member, which authority may be delegated in part as provided in Subsection (d) of this Section. If at any time the LLC has more than one Manager, unless otherwise provided in this Agreement, the vote, consent, approval or ratification of at least a per capita majority of the Managers then serving shall be required in order to constitute the action of the Managers. In such case, no Manager shall cause the LLC to become bound to any contract, agreement or obligation, and no Manager shall take any other action on behalf of the LLC, unless such matter has received the vote, consent, approval or ratification as required pursuant to the foregoing sentence. Any Manager who knowingly exceeds his actual authority under this Agreement shall be liable to the LLC for any damages the LLC shall suffer as a result thereof. The Member (by sole virtue of such Person's capacity as a Member) does not have the actual or apparent authority to cause the LLC to become bound to any contract, agreement or obligation, and the Member shall not take any action purporting to be on behalf of the LLC.

(b) Right to Rely on Action of Any Manager; Manager's Liability for Unauthorized Acts. Persons dealing with the LLC shall have no duty to inquire whether the act of any Manager in carrying on in the usual way the business of the LLC is pursuant to the Manager's actual authority under this Agreement, and such acts shall be binding upon the LLC regardless of whether such Manager had actual authority, unless the Person dealing with such Manager had actual knowledge that the Manager was exceeding his authority.

(c) Manager's Titles. The Manager may use the title "Manager" or such other title or titles as determined by the Manager.

(d) Delegation of Authority. The Manager may, but shall not be required to, delegate by written resolutions, which resolutions may be general or may be limited to specific matters, to one Person/individual, several Persons/individuals or a committee of Persons/individuals (with such titles as the Manager shall select) any powers or authority

SECTION 1.5 Registered Agent; Registered Office. The LLC's registered agent and registered office are set forth in the Articles, and may be changed from time to time by the Member, in which case the Manager shall file a statement of change as required by the Act.

SECTION 1.6 Commencement and Term. The LLC commenced at the time and on the date appearing in the Articles and shall continue in existence until it is dissolved, its affairs are wound up and final liquidating distributions are made pursuant to this Agreement.

SECTION 1.7 Tax Classification. The parties acknowledge that because the LLC will have a single Member pursuant to Treasury Regulations Section 301.7701-3, the LLC shall be disregarded as an entity separate from its owner for federal income tax purposes until the effective date of any election it may make to change its classification for federal income tax purposes to that of a corporation or until the LLC has more than one Unitholder in which case it would be treated as a partnership for federal income tax purposes (provided that the LLC has not elected to be treated as a corporation).

ARTICLE 2

CAPITAL CONTRIBUTIONS

SECTION 2.1 Initial Capital Contribution. The Member shall make the initial Capital Contribution described on the Information Exhibit. As between the LLC and the Member, for all purposes of this Agreement the initial Capital Contribution provided for in this Section shall be effective as of the date the LLC was formed pursuant to the Act, notwithstanding any failure to perfect such transfer with respect to third parties until a later time.

From and after such date, the Member shall pay to the LLC any cash or property received with respect to the assets contributed, and the LLC shall pay all expenses and other amounts associated therewith.

SECTION 2.2 No Required Additional Capital Contributions; Loans. The Member shall not be obligated to make, or have any liability for, Capital Contributions other than pursuant to Section 2.1 above, or be obligated to lend money to the LLC or guarantee any loan to the LLC.

SECTION 2.3 Issuance of Units. In exchange for its initial Capital Contribution the Member shall receive an Interest. The Member's Interest shall be denominated in Units.

ARTICLE 3

DISTRIBUTIONS

SECTION 3.1 Distributions. Subject only to (i) any and all other contractual restrictions agreed to by the LLC or its Manager in writing or (ii) as otherwise required by

**OPERATING AGREEMENT
OF
FT ACQUISITION, LLC
a South Carolina limited liability company**

THIS OPERATING AGREEMENT is made and entered into by and among the Member, the Manager, and the LLC. Unless otherwise indicated, capitalized words and phrases in this Operating Agreement shall have the meanings set forth in the Glossary of Terms attached as Exhibit C hereto.

**ARTICLE 1
FORMATION**

SECTION 1.1 Formation; General Terms; Effective Date. The LLC was formed on July 22, 2014 upon the filing of the Articles with the South Carolina Secretary of State. A copy of the Articles is attached hereto as Exhibit A.

The rights and obligations of the Member and the terms and conditions of the LLC shall be governed by the Act and this Agreement, including all the Exhibits to this Agreement. Unless otherwise required by law, if and to the extent the Act and this Agreement are inconsistent with respect to any subject matter covered in this Agreement, this Agreement shall govern. This Agreement shall be effective as of the date the LLC was formed (the “*Effective Date*”).

The Manager shall execute and file on behalf of the LLC all other instruments or documents, and shall do or cause to be done all such filing, recording, or other acts as may be necessary or appropriate from time to time to comply with the requirements of law for the continuation and operation of a limited liability company in South Carolina and in the other jurisdictions in which the LLC shall transact business.

SECTION 1.2 Name. The name of the LLC shall be FT Acquisition, LLC. The LLC's name may be changed only by an amendment to the Articles adopted pursuant to the voting requirements set forth in this Agreement.

SECTION 1.3 Designated Office. The designated office of the LLC shall be 410 East Washington Street, Greenville, SC 29601 or such other place as the Manager may designate from time to time.

SECTION 1.4 Purpose. The purpose of the LLC shall be (i) to hold equity interests in operating companies; and (ii) to conduct such other activities as may be necessary or incidental to the foregoing, all on the terms and conditions and subject to the limitations set forth in this Agreement.

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OF
FT ACQUISITION, LLC
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OPERATING AGREEMENT
OF
FT ACQUISITION, LLC
a South Carolina limited liability company

BINDING ARBITRATION

This is the first page of the Operating Agreement of FT Acquisition, LLC. Pursuant to South Carolina Code of Laws § 15-48-10 et seq., 1976, as amended, this Operating Agreement is subject to the following:

THIS AGREEMENT IS SUBJECT TO ARBITRATION. THIS AGREEMENT TO ARBITRATE IS BINDING ON ALL PARTIES TO THIS AGREEMENT, THEIR SUCCESSORS, HEIRS, ASSIGNS AND TRANSFEREES, INCLUDING ANY PERSON OBTAINING FINANCIAL RIGHTS IN THE LIMITED LIABILITY COMPANY.

If other pages, including but not limited to, cover pages, indexes, or tables of contents, are placed in front of this page, those pages shall not be deemed the first page. This page and only this page shall be deemed or considered the first page of this Operating Agreement for all legal purposes.

CERTIFIED TO BE A TRUE AND CORRECT COPY
AS TAKEN FROM AND COMPARED WITH THE
ORIGINAL ON FILE IN THIS OFFICE

Oct 19 2015

REFERENCE ID: 1510191007327

Mark Hammond
CLERK OF THE STATE OF SOUTH CAROLINA

Name of Limited Liability Company FT ACQUISITION, LLC

5. ☐ Check this box only if the company is to be a term company. If the company is a term company, provide the term specified. _____
6. ☒ Check this box only if management of the limited liability company is vested in a manager or managers. If this company is to be managed by managers, include the name and address of each initial manager.
- (a) KURT A. HERWALD
Name
401 EAST WASHINGTON ST
Street Address
GREENVILLE SOUTH CAROLINA 29601
City State Zip Code
- (b) _____
Name

Street Address

City State Zip Code
7. ☐ Check this box only if one or more of the members of the company are to be liable for its debts and obligations under §33-44-303(c). If one or more members are so liable, specify which members, and for which debts, obligations or liabilities such members are liable in their capacity as members. This provision is optional and does not have to be completed.
8. Unless a delayed effective date is specified, these articles will be effective when endorsed for filing by the Secretary of State. Specify any delayed effective date and time.
N/A
9. Any other provisions not inconsistent with law which the organizers determine to include, including any provisions that are required or are permitted to be set forth in the limited liability company operating agreement may be included on a separate attachment. Please make reference to this section if you include a separate attachment.
10. Each organizer listed under number 4 must sign.
<i>KAC</i> Signature of Organizer	JULY 22, 2014 Date
_____ Signature of Organizer	_____ Date

Form Revised by South Carolina
Secretary of State, July 2012

Oct 19 2015
REFERENCE ID: 1510191007327

Mark Hammond
Secretary of State

Print Form

STATE OF SOUTH CAROLINA
SECRETARY OF STATE
ARTICLES OF ORGANIZATION
Limited Liability Company -- Domestic
Filing Fee - \$110.00

TYPE OR PRINT CLEARLY IN BLACK INK

The undersigned delivers the following articles of organization to form a South Carolina limited liability company pursuant to S.C. Code of Laws §33-44-202 and §33-44-203.

1. The name of the limited liability company (Company ending must be included in name*)

FT ACQUISITION, LLC

*NOTE: The name of the limited liability company must contain one of the following endings: "limited liability company" or "limited company" or the abbreviation "L.L.C.", "LLC", "L.C.", "LC", or "Ltd. Co."

2. The address of the initial designated office of the limited liability company in South Carolina is

401 EAST WASHINGTON ST

Street Address

GREENVILLE, SOUTH CAROLINA

29601

City

Zip Code

3. The initial agent for service of process is

HAMILTON E. RUSSELL

Name

Hamilton E. Russell
Signature of Agent

and the street address in South Carolina for this initial agent for service of process is

104 S. MAIN ST, SUITE 900

Street Address

GREENVILLE, SOUTH CAROLINA

29601

City

Zip Code

4. List the name and address of each organizer. Only one organizer is required, but you may have more than one.

- (a) HAMILTON E. RUSSELL

Name

104 S. MAIN ST, SUITE 900

Street Address

GREENVILLE

South Carolina

29601

City

State

Zip Code

- (b)

Name

Street Address

City

140722-0065

FILED: 07/22/2014

FT ACQUISITION, LLC

Filing Fee: \$110.00 ORIG

Mark Hammond

South Carolina Secretary of State

The State of South Carolina



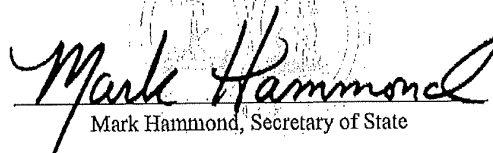
Office of Secretary of State Mark Hammond

Certificate of Existence

I, Mark Hammond, Secretary of State of South Carolina Hereby Certify that:

FT ACQUISITION, LLC,
a limited liability company duly organized under the laws of the State of South Carolina on July 22nd, 2014, with a duration that is at will, has as of this date filed all reports due this office, paid all fees, taxes and penalties owed to the State, that the Secretary of State has not mailed notice to the company that it is subject to being dissolved by administrative action pursuant to S.C. Code Ann. §33-44-809, and that the company has not filed articles of termination as of the date hereof.

Given under my Hand and the Great Seal
of the State of South Carolina this 19th day
of October, 2015.


Mark Hammond, Secretary of State

OFFICER'S CERTIFICATE

BORROWER: FT ACQUISITION, LLC

ADDRESS: 410 E. Washington Street
Greenville, South Carolina 29601

Date: November 2, 2015

Tax Identification No.: 47-1421854
Telephone Number: 864.271.6522

The undersigned, on behalf of FT Acquisition, LLC ("Borrower"), does hereby certify to Fifth Third Bank (the "Bank") the accuracy of the applicable information set forth below:

1. That the undersigned is a duly qualified President of FT Acquisition, LLC, a limited liability company duly organized, validly existing and in good standing under the laws of Virginia.
2. That the complete legal name of the Borrower as set forth in its applicable articles of organization and other organizational documents, as amended, is set forth above.
3. That attached hereto is a true and complete copy of the articles of organization, certificate of formation or other organizational documents and all amendments thereto of the Borrower, certified as of a recent date by the Secretary of State (or comparable Governmental Authority) of its jurisdiction of organization, and that the same has not been amended since the date of such certification.
4. That attached hereto is a true and complete copy of the operating agreement or similar governing document of the Borrower, as in effect on the date hereof and as in effect at all times from the date on which the resolutions referred to in clause 5 below were adopted to and including the date of this certificate.
5. That attached hereto as Exhibit A are true and complete copies of resolutions duly adopted by the [Member/Manager] of the Borrower authorizing the execution, delivery and performance of the Credit Agreement attached thereto as Exhibit A and the other Credit Documents to which Borrower is a party, that the same are currently in full force and effect and have not been rescinded or modified, and that the same constitute all of the action required to authorize the transactions contemplated by such resolutions.

Officer's Certificate

GREENVILLE 1428971

EXHIBIT A

Officer's Certificate

Commercial Foodservice Repair, Inc.

WHEREAS, the Borrower has applied to Fifth Third Bank (the "**Bank**") for a revolving line of credit loan in the principal amount of \$16,000,000 and a term loan in the principal amount of \$8,500,000 (collectively, the "**Bank Loans**"), to be advanced by the Bank pursuant to that certain Credit Agreement among the Borrower, FT Acquisition, LLC and Foodservice Technologies, Inc. and the Bank dated on or about November 2, 2015 (the "**Bank Credit Agreement**"), a copy of which is attached hereto as Exhibit A and other documents referenced therein or as required by the Bank ("**Other Bank Loan Documents**"); and

WHEREAS, the Bank is willing to extend the Bank Loans upon the terms set forth in the Bank Credit Agreement and the Other Bank Loan Documents; and

WHEREAS, the Board of Directors of the Borrower believe it is in the best interest of the Borrower to obtain from the Bank the Bank Loans.

NOW, THEREFORE, BE IT RESOLVED, that the Borrower is hereby authorized to obtain from the Bank the Bank Loans; and that the terms of the Bank Loans may be amended by Kurt A. Herwald as the President of the Borrower and the same hereby are, adopted and approved and determined to be a binding obligation of the Borrower, enforceable against the Borrower in accordance with its terms; and that Kurt A. Herwald as the President of the Borrower is authorized, empowered and directed to execute and deliver, in the name and on behalf of the Borrower, the Bank Credit Agreement, the Other Bank Loan Documents, and any such further documents and agreements, including, without limitation, promissory notes, security agreements, or such other documents as he deems necessary, desirable or appropriate in connection with the Bank Loans;

FURTHER RESOLVED, that the Borrower is hereby authorized to grant a security interest in all or substantially all of its assets, including the equity interests in any of its subsidiaries, to secure the Bank Loans and such other obligations as may be required under the Bank Credit Agreement; and

FURTHER RESOLVED, that any and all such actions heretofore taken and any and all documents, agreements, instruments, certificates or instructions (however characterized or described) heretofore executed and delivered or filed and recorded, as the case may be, on behalf of the Borrower, by Kurt A. Herwald as the President of the Borrower or his designees in order to carry into effect the purposes and intent of the foregoing resolutions are hereby ratified, confirmed and adopted and approved in all respects.

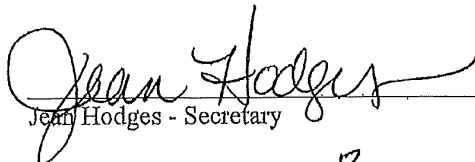
headings contained in these Bylaws are for reference purposes only and shall not affect in any way the meaning or interpretation of these Bylaws. Terms such as "hereof", "hereunder", "hereto", and words of similar import shall refer to these Bylaws in the entirety and all references to "Articles", "Paragraphs", "Sections", and similar cross references shall refer to specified portions of these Bylaws, unless the context clearly requires otherwise. Terms used herein which are not otherwise defined shall have the meanings ascribed to them in the Act. All references to statutory provisions shall be deemed to include corresponding sections of succeeding law.

Section 8.8. Conflict Between Bylaws, Articles of Incorporation and the Act. The Articles of Incorporation and the Act (as either may be amended from time to time) are incorporated herein by reference. Any conflict between the terms of these Bylaws, the Articles of Incorporation or the Act shall be resolved in the following order: (1) the Act; (2) the Articles of Incorporation; and (3) these Bylaws.

Section 8.9. Limited Liability. The adoption of these Bylaws, and the Corporation's compliance or non-compliance with these Bylaws, shall not be construed in any way to adversely affect the application of Section 33-18-250 of the Act for the protection of the shareholders.

These Amended and Restated Bylaws modify, replace in the entirety, and repeal all prior bylaw provisions; provided, however, that no action taken by the Corporation prior to the date hereof pursuant to any such prior bylaw provision shall be affected by the adoption hereof or repeal thereof.

There shall be no interruption in the establishment or governance of the Corporation as a result of the adoption hereof. The foregoing are certified to be the true and complete Amended and Restated Bylaws of the Corporation as adopted by the unanimous consent of the directors and shareholders as of April 13, 2009.


Jean Hodges - Secretary

Date of Certification: April 13, 2009
(Corporate Seal)

Section 8.1. Fiscal Year. The fiscal year of the Corporation shall be established, and may be altered, by resolution of the Board of Directors from time to time as the Board deems advisable.

Section 8.2. Dividends. The Board of Directors may from time to time at any regular or special meeting (or by any other manner of action permitted by these Bylaws and the Act) declare, and the Corporation may pay, dividends or other distributions on its outstanding shares of stock in the manner and upon the terms and conditions as the Board of Directors deems advisable and as may be permitted by the Articles of Incorporation, the Act, and any other lawful restrictions imposed upon the Corporation. Such dividends or other distributions, when declared and permitted, may be paid in cash, stock, property, or any other permitted means lawfully declared by the Board of Directors.

Section 8.3. Seal. The seal of the Corporation, if any, shall be circular in form and shall have inscribed thereon the name of the Corporation, the year of its organization, and the words "Corporate Seal, State of South Carolina."

Section 8.4. Forms of Records. When consistent with good business practices, any records of the Corporation may be maintained in other than written form if such other form is capable of reasonable preservation and conversion into written form within a reasonable time.

Section 8.5. Amendments. Any or all of these Bylaws may be altered, amended, or repealed and new Bylaws may be adopted by the Board of Directors, subject to the following: (a) the right of the shareholders to alter, adopt, amend, or repeal Bylaws as provided in the Act; and (b) action of the shareholders in adopting, amending, or repealing a particular Bylaw wherein the Board of Directors is expressly prohibited by such shareholder action from amending or repealing the particular Bylaw acted upon by the shareholders. The shareholders may amend or repeal any or all of these Bylaws even though these Bylaws may also be amended or repealed by the Board of Directors. Any notice of a meeting of shareholders at which Bylaws are to be adopted, amended, or repealed shall state that the purpose, or one of the purposes, of the meeting is to consider the adoption, amendment, or repeal of Bylaws and contain or be accompanied by a copy or summary of the proposal.

Section 8.6. Severability. If any provision of these Bylaws or the application thereof to any person or circumstances shall be held invalid or unenforceable to any extent by a court of competent jurisdiction, such provision shall be complied with or enforced to the greatest extent permitted by law as determined by such court, and the remainder of these Bylaws and the application of such provision to other persons or circumstances shall not be affected thereby and shall continue to be complied with and enforced to the greatest extent permitted by law.

Section 8.7. Usage. In construing these Bylaws, feminine or neuter pronouns shall be substituted for masculine forms and vice versa, and plural terms shall be substituted for singular forms and vice versa, in any place in which the context so requires. The section and paragraph

therefor upon: (a) the making of an affidavit by the holder of record of the shares represented by such certificate setting forth the facts concerning the loss, theft, or mutilation thereof; (b) delivery of such bond and/or indemnity to the Corporation as the Secretary or Board of Directors may prescribe or as may be required by law; and (c) satisfaction of such other reasonable requirements (which may include without limitation advertisement of the same) as the Secretary or Board of Directors may prescribe. To the extent permitted by applicable law (including Section 36-8-405 of the South Carolina Uniform Commercial Code), a new certificate may be issued without requiring any bond when, in the judgment of the Board of Directors, it is not imprudent to do so; and without limiting the generality of the foregoing, the Secretary or the Board of Directors may in their discretion waive (except as prohibited by law) any bond requirement otherwise applicable where the aggregate fair market value of the shares represented by such lost, stolen, or mutilated certificate is less than five hundred dollars based upon indicia deemed reasonable by the waiving party.

Section 7.5. Beneficial Owners. The Corporation shall be entitled to recognize the exclusive right of a person registered on its stock transfer books as the owner of shares to receive dividends or other distributions, and to vote as such owner, and to hold liable for calls and assessments, if any, a person registered on its books as the owner of shares, and shall not be bound to recognize any equitable or other claim to or interest in such shares on the part of any other person, whether or not the Corporation shall have express or other notice thereof, except as otherwise provided by the Act or by procedures, if any, established by resolution of the Board of Directors in its discretion by which a beneficial owner of shares held by a nominee may be recognized as the owner thereof. Such procedures, if any, shall also set forth the extent of such recognition.

Section 7.6. Transfer Agent. The Board of Directors may, in its discretion, appoint an independent institutional Transfer Agent to serve as transfer agent and registrar for the Corporation's stock at the pleasure of the Board. Such Transfer Agent shall assist the Corporation's Secretary and voting inspectors in performance of their duties respecting shares of the Corporation's stock. Such Transfer Agent shall maintain the Corporation's stock transfer books and stock certificates in accordance with the Act, these Bylaws, instructions of the Board of Directors, and customary procedures consistently applied. Such Transfer Agent shall perform such other duties and shall be entitled to exercise such other powers, as may be assigned to the Transfer Agent from time to time by the Secretary or the Board of Directors.

Section 7.7. Transfer Restrictions. The Secretary (or any other Officer designated by the Board of Directors) shall have full power and authority to place or cause to be placed on any and all stock certificates restrictive legends to the extent reasonably believed necessary or appropriate to ensure the Corporation's compliance with federal or any state's securities laws or any legal obligation upon the Corporation by agreement or otherwise, and to issue to any Transfer Agent stop transfer orders to effect compliance with such legends.

ARTICLE VIII

MISCELLANEOUS

ARTICLE VII

STOCK

Section 7.1. Certificates for Shares. Certificates representing shares of capital stock of the Corporation shall state upon the face thereof the name of the person to whom issued, the number of shares, the fact that the Corporation is organized under the laws of the State of South Carolina, and such other matters as the Board of Directors may approve or as may be required by the Act. Each certificate shall be signed either manually or in facsimile (i) by (a) any one of the President or a Vice President, and (b) by any one of the Secretary or an Assistant Secretary, or (ii) by any two officers of the Corporation set forth in Article IV hereof. Where a certificate is countersigned by (i) a Transfer Agent other than the Corporation or its employee, or (ii) a registrar other than the Corporation or its employee, any other signature on the certificate may be a facsimile. In case any Officer whose facsimile signature has been placed upon a certificate shall have ceased to be such Officer before such certificate is issued it may be issued by the Corporation with the same effect as if he were such Officer at the date of issue. All certificates for shares shall be consecutively numbered. Certificates for shares of different classes, and different series within a class, to the extent authorized, if any, shall bear appropriate designations to identify the class or series as required by the Act.

Section 7.2. Stock Transfer Books. The name and address of the person to whom the shares represented thereby are issued, with the number of shares and date of issuance, shall be entered on the stock transfer books of the Corporation. Such stock transfer books shall be maintained by the Secretary or Transfer Agent as a record of the Corporation's shareholders, in a form that permits preparation of a list of the names and addresses of all shareholders, in alphabetical order by class of shares showing the number and class of shares held by each shareholder.

Section 7.3. Transfer of Shares. Subject to the provisions of the Act and to any transfer restrictions binding on the Corporation, transfer of shares of the Corporation shall be made only on the stock transfer books of the Corporation by the holder of record thereof or by such holder's agent, attorney-in-fact or other legal representative, who shall furnish proper evidence of authority to transfer, upon surrender for cancellation of the certificate for such shares. Unless the Board of Directors in its discretion has by resolution established procedures, if any, by which a beneficial owner of shares held by a nominee may be recognized by the Corporation as the owner thereof, the person in whose name shares stand on the stock transfer books of the Corporation shall be deemed by the Corporation to be the owner thereof for all purposes. The Corporation's stock transfer books maintained by the Secretary or the Transfer Agent shall be conclusive in all such regards absent a determination by the Board of Directors of manifest error. All certificates surrendered to the Corporation for transfer shall be canceled.

Section 7.4. New or Replacement Certificates. No new stock certificate shall be issued until the former certificate for a like number of shares shall have been surrendered and canceled, except that in case of a lost, destroyed, or mutilated certificate a substitute certificate may be issued

ARTICLE VI

TRANSACTIONS

Section 6.1. Contracts. The Board of Directors may authorize any Officer or Officers, or agent or agents, to enter into any contract or execute and deliver any instrument in the name of and on behalf of the Corporation, and such authority may be general or confined to specific instances.

Section 6.2. Loans. The Board of Directors may authorize any Officer or Officers, or agent or agents, to contract any indebtedness and grant evidence of indebtedness and collateral therefor in the name of an on behalf of the Corporation, and such authority may be general or confined to specific instances.

Section 6.3. Checks, Drafts, etc. All checks, drafts or other orders for the payment of money, notes or other evidences of indebtedness issued in the name of the Corporation shall be signed by the Officer or Officers, or agent or agents of the Corporation and in such manner as shall from time to time be determined by resolution of the Board of Directors.

Section 6.4. Deposits. All funds of the Corporation not otherwise employed shall be deposited from time to time to the credit of the Corporation in such banks, trust companies or other depositories as the Board of Directors may select.

Section 6.5. Voting of Shares in Other Corporations Owned By The Corporation. Subject always to the specific directions of the Board of Directors, any share or shares of stock issued by any other corporation and owned or controlled by the Corporation may be voted at any shareholders' meeting of the other corporation by the President of the Corporation if he is present, or in his absence by any Vice-President of the Corporation who may be present or by any other Officer specifically designated by the Board of Directors. Whenever, in the judgment of the President, or in such officer's absence, of any Vice-President or other designated Officer, it is desirable for the Corporation to execute a proxy or give a shareholders' consent in respect to any share or shares of stock issued by any other corporation and owned or controlled by the Corporation, the proxy or consent shall be executed in the name of the Corporation by the President, or one of the Vice-Presidents of the Corporation without necessity of any authorization by the Board of Directors. Any person or persons designated in the manner above stated as the proxy or proxies of the Corporation shall have full right, power and authority to vote such share or shares of stock issued by the other corporation.

ultimate direction of the President. The Assistant Officers shall assume the authority and perform the duties of their respective immediate superior officer as may be necessary at the direction of such immediately superior officer, or in the absence, incapacity, inability, or refusal of such immediate superior officer to act. The seniority of Assistant Officers shall be determined from their dates of appointment unless the Board of Directors shall otherwise specify.

Section 4.7. Salaries. The salaries and other compensation of the officers other than the President shall be fixed from time to time by the President after consultation with the Compensation Committee of the Board of Directors. The President's salary shall be fixed by the Compensation Committee and approved by the Board of Directors. No officer shall be prevented from receiving a salary or other compensation by reason of the fact that such officer is also a Director of the Corporation.

ARTICLE V

INDEMNIFICATION

Section 5.1. Scope. Every person who was or is a party to, or is threatened to be made a party to, or is otherwise involved in, any action, suit, or proceeding, whether civil, criminal, administrative, or investigative, by reason of the fact that he or a person of whom he is the legal representative is or was a Director or Officer of the Corporation or is or was serving at the request of the Corporation or for its benefit as a director or officer of another corporation, or as its representative in a partnership, joint venture, trust, or other enterprise, shall be indemnified and held harmless to the fullest extent legally permissible under and pursuant to the Act, against all expenses, liabilities, and losses (including without limitation attorneys' fees, judgments, fines, and amounts paid or to be paid in settlement) reasonably incurred or suffered by him in connection therewith. Such right of indemnification shall be a contract right that may be enforced in any manner desired by such person. Such right of indemnification shall not be exclusive of any other right which such Directors, Officers, or representatives may have or hereafter acquire and, without limiting the generality of such statement, they shall be entitled to their respective rights of indemnification under any bylaw, agreement, vote of Shareholders, insurance, provision of law, or otherwise, as well as their rights under this Article V.

Section 5.2. Indemnification Plan. The Board of Directors may from time to time adopt an Indemnification Plan implementing the rights granted in Section 5.1. This Indemnification Plan shall set forth in detail the mechanics of how the indemnification rights granted in Section 5.1 shall be exercised.

Section 5.3. Insurance. The Board of Directors may cause the Corporation to purchase and maintain insurance on behalf of any person who is or was a Director or Officer of the Corporation, or is or was serving at the request of the Corporation as a Director or Officer of another corporation, or as its representative in a partnership, joint venture, trust, or other enterprise, against any liability asserted against such person and incurred in any such capacity or arising out of such status, whether or not the Corporation would have the power to indemnify such person.

meetings of the shareholders and the Board of Directors, and whenever the Secretary cannot attend such meetings, such duty shall be delegated by the presiding officer for such meeting to a duly authorized assistant secretary. The Secretary shall record or cause to be recorded under the Secretary's general supervision the proceedings of all such meetings and any other actions taken by the shareholders or the Board of Directors (or by any committee of the Board in place of the Board) in a book or books (or similar collection) to be kept for such purpose. The Secretary shall upon proper request give, or cause to be given, all notices in connection with such meetings. The Secretary shall be the custodian of the Corporate seal and affix the seal to any document requiring it, and to attest thereto by signature. The Secretary may delegate the Secretary's authority to affix the Corporation's seal and attest thereto by signature to any Assistant Secretary. The Board of Directors may give general authority to any other officer or specified agent to affix the Corporation's seal and to attest thereto by signature. Unless otherwise required by law, the affixing of the Corporation's seal shall not be required to bind the Corporation under any documents duly executed by the Corporation and the use of the seal shall be precatory in the discretion of the Corporation's duly authorized signing officers. The Secretary shall properly keep and file, or cause to be properly kept and filed under the Secretary's supervision, all books, reports, statements, notices, waivers, proxies, tabulations, minutes, certificates, documents, records, lists, and instruments required by the Act or these Bylaws to be kept or filed, as the case may be. The Secretary may when requested, and shall when required, authenticate any records of the Corporation. Except to the extent otherwise required by the Act, the Secretary may maintain, or cause to be maintained, such items within or without the State of South Carolina at any reasonable place. In the event the Board of Directors designates and engages a Transfer Agent, as permitted by these Bylaws, such duties of keeping such shareholder records and the like accepted by such Transfer Agent shall be deemed delegated from the Secretary to such Transfer Agent, but such Transfer Agent shall be subject to supervision of the Secretary. The Secretary shall perform such other duties and may exercise such other powers as are incident to the office of secretary and as are from time to time assigned to such office by the Act, these Bylaws, the Board of Directors, an authorized committee thereof, or the President.

Section 4.5. Treasurer. Except as otherwise provided by these Bylaws or determined by the Board of Directors, the Treasurer shall serve under the direction of the President. The Treasurer shall, under the direction of the President, keep safe custody of the Corporation's funds and securities, maintain and give complete and accurate books, records, and statements of account, give and receive receipts for moneys, and make deposits of the Corporation's funds, or cause the same to be done under the Treasurer's supervision. The Treasurer shall upon request report to the Board of Directors on the financial condition of the Corporation. The Treasurer may be required by the Board of Directors at any time and from time to time to give such bond as the Board may determine. The Treasurer shall perform such other duties and may exercise such other powers as are incident to the office of treasurer and as are from time to time assigned to such office by the Act, these Bylaws, the Board of Directors, an authorized committee thereof, or the President.

Section 4.6. Assistant Officers. Except as otherwise provided by these Bylaws or determined by the Board of Directors, the Assistant Secretaries and Assistant Treasurers, if any, shall serve under the immediate direction of the Secretary and the Treasurer, respectively, and under the

ARTICLE IV

OFFICERS

Section 4.1. In General. The Officers of the Corporation shall consist of a President and a Secretary and may also include one or more Vice Presidents, a Treasurer, and such assistant vice presidents, assistant secretaries, assistant treasurers and other officers and agents as the Board of Directors deems advisable from time to time. All Officers shall be appointed by the Board of Directors to serve at the pleasure of the Board. Except as may otherwise be provided by Act or in the Articles of Incorporation, any Officer may be removed by the Board of Directors at any time, with or without cause. Any vacancy, however occurring, in any office may be filled by the Board of Directors for the unexpired term. One person may hold two or more offices. Each Officer shall exercise the authority and perform the duties as may be set forth in these Bylaws and any additional authority and duties as the Board of Directors shall determine from time to time.

Section 4.2. President. The President shall be the chief executive officer of the Corporation and, subject to the authority of the Board of Directors, shall manage the business and affairs of the Corporation. The President shall whenever possible preside at all meetings of the shareholders and all meetings of the Board of Directors, unless a Chairman of the Board is elected and is assigned one or both of such duties by these Bylaws or by action of the Board of Directors. The President shall see that the resolutions of the Board of Directors and authorized committees thereof are put into effect. Except as otherwise provided herein and as may be specifically limited by resolution of the Board of Directors or an authorized committee thereof, the President shall have full authority to execute on the Corporation's behalf any and all contracts, agreements, notes, bonds, deeds, mortgages, certificates, instruments, and other documents. The President shall also perform such other duties and may exercise such other powers as are incident to the office of president and as are from time to time assigned to him by the Act, these Bylaws, the Board of Directors, or an authorized committee thereof.

Section 4.3. Vice Presidents. Except as otherwise determined by the Board of Directors, each Vice President shall serve under the direction of the President. Except as otherwise provided herein, each Vice President shall perform such duties and may exercise such powers as are incident to the office of vice president and as are from time to time assigned to him by the Act, these Bylaws, the Board of Directors, an authorized committee thereof, or the President. In the absence, incapacity, or inability or refusal of the President to act, the most senior Vice President shall assume the authority and perform the duties of the President. If the Board of Directors appoints more than one Vice President, the seniority of the Vice Presidents shall be determined from their dates of appointment unless the Board of Directors shall otherwise specify. Designation of a "Senior" or "Executive" Vice President by the Board of Directors, shall be an indication of seniority.

Section 4.4. Secretary. Except as otherwise provided by these Bylaws or determined by the Board of Directors, the Secretary shall serve under the direction of the President. Except as otherwise provided by the Board of Directors, the Secretary shall whenever possible attend all

action pursuant to resolutions adopted by a majority of the committee's voting members participating in a meeting at which a quorum of the committee is present. Each committee may also take action without a meeting by written consent as to such matters and in accordance with such requirements and procedures authorized by the Act for Director action. Unless otherwise permitted by the Act for Director action, such written consent must be signed by all of the committee's voting members. Special meetings of any committee may be called at any time by any person entitled to call a special meeting of the full Board of Directors. Except as otherwise provided in this section, the conduct of all meetings of any committee, including notice thereof, and the taking of any action by such committee, shall be governed by this Article.

Section 3.16. Compensation. The Board of Directors may by resolution authorize payment to all outside Directors of a uniform fixed sum or other benefit, including capital stock and options to purchase capital stock of the Corporation, for attendance at each meeting or a stated salary (which need not be uniform) as a Director, or a combination thereof, in such amounts as the Board may determine from time to time. The Board of Directors may, in its discretion, authorize payments of greater amounts or different forms to committee members than are paid to other Directors. No such payment shall preclude any Director from serving the Corporation in any other capacity and receiving compensation therefore, except those currently serving as employees of the Corporation. The Board of Directors may also by resolution authorize the payment or reimbursement of all expenses of each Director related to the Director's attendance at meetings or other service to the Corporation.

Section 3.17. Order of Business. Unless otherwise determined by the President, the order of business at the annual meeting, and so far as practicable at all other meetings of the Board of Directors, shall be as follows:

1. Determination of a quorum
2. Election of a member to preside at the meeting
3. Reading and disposal of all unapproved minutes
4. Reports of Officers and committees, if applicable
5. Change in established number of Directors, if applicable
6. Appointment of Officers and committees, if applicable
7. Unfinished business, if applicable
8. New business
9. Adjournment

All meetings of the Board of Directors shall be conducted in accordance with procedures deemed fair and reasonable by the official presiding at the meeting.

Section 3.9. Participation by Telecommunications. Any Director may participate in, and be regarded as present at, any meeting of the Board of Directors by means of conference telephone or any other means of remote electronic communication so long as all persons participating in the meeting can hear each other at the same time.

Section 3.10. Quorum. A majority of Directors in office shall constitute a quorum for the transaction of business at any meeting of the Board of Directors. If a quorum shall not be present at any meeting of the Board of Directors, the Directors present thereat may adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum is present.

Section 3.11. Action. The Board of Directors shall take action pursuant to resolutions adopted by the affirmative vote of a majority of the Directors then in office, or the affirmative vote of a greater number of Directors where required by the Corporation's Articles of Incorporation or otherwise by law.

Section 3.12. Action Without Meeting. To the fullest extent permitted by the Act, the Board of Directors may take action without a meeting by written consent as to such matters and in accordance with such requirements and procedures authorized by the Act. Unless otherwise permitted by the Act, such written consent must be signed by all Directors.

Section 3.13. Presumption of Assent. A Director of the Corporation who is present at a meeting of the Board of Directors at which action on any corporate matter is taken shall be presumed to have assented to the action taken unless such Director's dissent shall be entered in the minutes of the meeting, or unless such Director shall file such Director's written dissent to such action with the person acting as the secretary of the meeting before the adjournment thereof or shall forward such Director's dissent by registered mail to the Secretary of the Corporation immediately after the adjournment of the meeting. The right to dissent shall not apply to a Director who voted in favor of such action.

Section 3.14. Committees. The Board of Directors may from time to time by resolution, adopted in accordance with the Act, designate and delegate authority to an Executive Committee, an Audit Committee, a Compensation Committee, and other committees, with any or all such authority as may be permitted by the Act. Any such committee may be designated as a standing committee or as a special committee for specific circumstances or transactions with a limited duration. Each committee shall be composed of two or more members, who shall serve at the pleasure of the Board of Directors. All voting committee members must be Directors of the Corporation appointed by the Board of Directors in accordance with the Act. The duties, rules, and procedures of any committee shall be prescribed by the Board of Directors. The Board of Directors shall designate one member of each committee as its chairman.

Section 3.15. Committee Meetings. A majority of each committee's voting members shall constitute a quorum for the transaction of business by the committee, and each committee shall take

Section 3.5. Vacancies. The Board of Directors may by majority vote of the Directors then in office, regardless of whether such Directors constitute a quorum, elect a new Director to fill a vacancy on the Board of Directors; provided, however, that no person may be elected to fill a vacancy created by such person's removal from office pursuant to these Bylaws.

Section 3.6. Annual and Regular Meetings. An annual meeting of the Board of Directors may be called and held for the purpose of transacting such business as may properly come before the meeting. If such meeting is held promptly after and at the place specified for the annual meeting of Shareholders, if any, no notice of the annual meeting of the Board of Directors need be given. Otherwise, an annual meeting of the Board of Directors may be held at such time and at such place as may be specified in the notice of the meeting made in accordance with the terms and requirements of **Section 3.7.** The Board of Directors may by resolution provide for the holding of additional regular meetings without notice other than such resolution; provided, however, the resolution shall fix the dates, times, and places for such meetings. The place for any meeting of the Board of Directors may be anywhere within or without the State where the Principal Office is located. Except as otherwise provided by law or these Bylaws, any business may be transacted at any annual or regular meeting of the Board of Directors.

Section 3.7. Special Meetings; Notice of Special Meeting. Special meetings of the Board of Directors may be called for any lawful purpose or purposes by any Director or the President. The person calling a special meeting shall give, or cause to be given, to each Director at his business address, notice of the date, time and place of the meeting by any normal means of communication not less than two days nor more than sixty days prior thereto. The notices may, but need not, describe the purpose of the meeting. If mailed, the notice shall be deemed to be delivered five days after being deposited in the United States mail addressed to the Director's business address, with postage thereon prepaid. If notice is given by telegram, the notice shall be deemed delivered when the telegram is delivered to the telegraph company and the transmission fee therefor is paid. If notice is given by telecopier facsimile transmission, the notice shall be deemed delivered when the facsimile of the notice is transmitted to a telecopier facsimile receipt number designated by the receiving Director, if any, so long as such Director transmits to the sender an acknowledgment of receipt. Any time or place fixed for a special meeting must permit participation in the meeting by means of telecommunications as authorized below.

Section 3.8. Waiver of Notice of Special Meetings. Notice of a meeting need not be given to any Director who signs a waiver of notice either before or after the meeting. To be effective the waiver shall contain recitals sufficient to identify beyond reasonable doubt the meeting to which it applies. The recitals may, but need not necessarily, include reference to the date and purpose of the meeting and the business transacted thereat. Recital of the proper date of a meeting shall be conclusive identification of the meeting to which a waiver of notice applies unless the waiver contains additional recitals creating a patent ambiguity as to its proper application. The attendance of a Director at a special Directors meeting shall constitute a waiver of notice of that meeting, except where the Director attends the meeting for the sole and express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened.

entry to the meeting after the time fixed for the commencement thereof, limitations on the time allotted to questions or comment by participants, and regulation of the opening and closing of the polls for balloting on matters which are to be voted on by ballot. All Shareholder meetings shall be conducted in accordance with procedures deemed fair and reasonable by the official presiding at the meeting.

ARTICLE III

DIRECTORS

Section 3.1. Authority. The Board of Directors shall have ultimate authority over the conduct and management of the business and affairs of the Corporation. The Board shall have the authority given in the Act and must specifically approve the following:

1. Any loan or other indebtedness to be entered into by the Corporation in excess of \$500,000.00.
2. Any material contract as defined by Generally Accepted Accounting Principles.
3. Any transaction or other arrangement in which a conflict of interest may be present as set forth in §33-8-310 of the Act or a transaction or other arrangement between the Corporation and a family member of a Director or Officer.

Section 3.2. Number. The number of Directors shall be no fewer than three nor more than seven. The number of Directors may be increased or decreased within such range by action of the Board of Directors or Shareholders from time to time. However, no decrease in the number of Directors shall have the effect of shortening the term of any incumbent Director. As of the date hereof, the number of Directors is three. Any person may be a Director; provided however, no more than one officer of the Corporation may also be a Director.

Section 3.3. Tenure. Each Director shall hold office from the date of such Director's election and qualification until such Director's successor shall have been duly elected and qualified, or until such Director's earlier disqualification, removal, resignation, death, or incapacity. An election of all Directors by the Shareholders shall be held at each annual meeting of the Corporation's Shareholders. A Director need not be a Shareholder. In case of any increase in the number of Directors, the additional directorships so created may be filled in the first instance in the same manner as a vacancy in the Board of Directors.

Section 3.4. Removal. Any Director may be removed from office, with or without cause, by a vote of the holders of a majority of the shares of the Corporation's voting stock. Any Director may be removed from office with cause by a majority vote of the Board of Directors at a meeting at which only the removal and replacement of the Director or Directors in question shall be considered.

(b) by electronic mail, a telegram or cablegram appearing to have been transmitted by the Shareholder; provided, however that the Board of Directors may also establish procedures by which Shareholders can file proxies with the Secretary by electronic mail, telecopier, or facsimile transmission.

Section 2.12. Voting of Shares by Certain Holders. Shares standing in the name of another corporation may be voted, either in person or by proxy, by the officer, agent, or proxy as the bylaws of that corporation may prescribe, or in the absence of such provision, as the board of directors of the other corporation may determine.

Shares held by an administrator, executor, guardian or conservator may be voted by him, either in person or by proxy, without a transfer of such shares into his name. Shares standing in the name of a trustee may be voted by such trustee, either in person or by proxy, but no trustee shall be entitled to vote shares held by such trustee without a transfer of the shares into such trustee's name as trustee.

Shares standing in the name of a receiver may be voted, either in person or by proxy, by the receiver, and shares held by or under the control of a receiver may be voted, either in person or by proxy, by the receiver without the transfer thereof into such receiver's name if authority to do so is contained in an appropriate order of the court by which such receiver was appointed.

A Shareholder whose shares are pledged shall be entitled to vote such shares until the shares have been transferred into the name of the pledgee, and thereafter the pledgee shall be entitled to vote, either in person or by proxy, the shares so transferred.

Section 2.13. Action. Approval of actions by Shareholders shall be in accordance with the requirements of the Act, except to the extent otherwise provided by the Articles of Incorporation.

Section 2.14. Inspection Rights. The Shareholders shall have only such rights to inspect records of this Corporation to the extent, and according to the procedures and limitations, prescribed by the Act.

Section 2.15 Conduct of Meetings. A meeting of Shareholders shall be chaired by the President, and if the President is not available, by a person chosen by the vote of a majority in interest of the Shareholders present in person or represented by proxy at the meeting and entitled to vote thereat. Such presiding official shall appoint a person to act as secretary of the meeting and keep a record of the proceedings thereof. The presiding official shall have the right and authority to prescribe such rules, regulations and procedures and to do all such acts as, in the judgment of such presiding official, are necessary, appropriate or convenient for the proper conduct of the meeting, including, without limitation, establishing an agenda or order of business for the meeting, rules and procedures for maintaining order at the meeting and the safety of those present, limitations on participation in such meeting to Shareholders of record of the Corporation and their duly authorized and constituted proxies and such other persons as such presiding official shall permit, restrictions on

Section 2.7. Voting. Except as may otherwise be required by the Act or the Corporation's Articles of Incorporation, and subject to the provisions concerning Shareholders of record contained elsewhere in these Bylaws, a person (or such person's proxy) present at a meeting of Shareholders shall be entitled to one vote for each share of voting stock as to which such person is the Shareholder of record. In elections of Directors, those candidates receiving the greater number of votes cast (although not necessarily a majority of votes cast) at the meeting shall be elected. Any other corporate action shall be authorized by a majority of the votes cast at the meeting unless otherwise provided by the Act, the Corporation's Articles of Incorporation, or these Bylaws.

Section 2.8. Voting Inspectors. If redirected by any Shareholder, for each meeting of Shareholders an odd number of persons (which may be only one person) shall be appointed to serve as voting inspectors, either by the Board of Directors prior to the meeting or by the presiding official at the meeting. The voting inspectors may include one or more representatives of the Corporation's Transfer Agent, if any. The voting inspectors shall by majority decision (if more than one inspector) resolve all disputes which may arise concerning the qualification of voters, the validity of proxies, the existence of a quorum, the voting power of shares, and the acceptance, rejection, and tabulation of votes. Each voting inspector shall take an oath (which may be in writing) to execute his duties impartially and to the best of his ability. Such oath shall be administered to each voting inspector before a voting inspector enters upon the discharge of his duties. If no Shareholder requests the appointment of voting inspectors, the Secretary of the Corporation shall fulfill the duties of the voting inspectors. The Corporation is entitled to reject a vote, consent, waiver, or proxy appointment if the voting inspector(s), acting in good faith, has reasonable basis for doubt about the validity of the signature on it or about the signatory's authority to sign for the Shareholder. Neither the Corporation nor the voting inspector(s) who accepts or rejects a vote, consent, waiver, or proxy appointment in good faith and in accordance with the standards of this section shall be liable in damages to any Shareholder for the consequences of the acceptance or rejection. Corporate action based on the acceptance or rejection of a vote, consent, waiver, or proxy appointment under this Section is valid unless a court of competent jurisdiction determines otherwise.

Section 2.9. Adjournments. A majority of the voting shares held by Shareholders of record present in person or by proxy at a meeting of Shareholders may (whether or not constituting a quorum) adjourn a meeting from time to time to a date, time, and place fixed by notice as provided for above or, if such date is less than thirty days from the date of adjournment, to a date, time, and place fixed by the majority vote and announced at the original meeting prior to adjournment.

Section 2.10. Action Without Meeting. To the fullest extent permitted by the Act, holders of record of voting shares may take action without a meeting by written consent as to such matters and in accordance with such requirements and procedures authorized by the Act. Unless otherwise permitted by the Act, such written consent must be signed by all holders of record of voting shares.

Section 2.11. Proxies. At all meetings of Shareholders, a Shareholder may vote in person or by proxy. Such proxy shall be filed with the Secretary before or at the time of the meeting. A proxy must be filed (a) in writing executed by the Shareholder or by his duly authorized attorney in fact, or

any Shareholder who attends such meeting or who, in person or by proxy, signs a waiver of notice either before or after the meeting. To be effective such waiver shall contain statements or recitals sufficient to identify beyond reasonable doubt the meeting to which it applies. Such statements or recitals may, but need not necessarily, include reference to the date and purpose of the meeting and the business transacted thereat. Statement or recital of the proper date of a meeting shall be conclusive identification of the meeting to which a waiver of notice applies unless the waiver contains additional statements or recitals creating a patent ambiguity as to its proper application.

Section 2.4. Quorum. Except as may otherwise be required by the Act or the Corporation's Articles of Incorporation, at any meeting of Shareholders the presence, in person or by proxy, of the holders of a majority of the outstanding shares entitled to vote thereat shall constitute a quorum for the transaction of any business properly before the meeting. Shares entitled to vote as a separate voting group on a matter may take action at a meeting on such matter only if a quorum of the shares in the separate voting group are present in person or by proxy at the meeting. Except as may otherwise be required by law or the Corporation's Articles of Incorporation, at any meeting of Shareholders the presence, in person or by proxy, of the holders of a majority of the outstanding shares in a separate voting group entitled to vote thereat as a separate voting group, if any, shall constitute a quorum of such separate voting group for purposes of such matter. In the absence of a quorum a meeting may be adjourned from time to time, in accordance with the provisions concerning adjournments contained elsewhere in these Bylaws, by the holders of a majority of the shares represented at the meeting in person or by proxy. At such adjourned meeting a quorum of Shareholders may transact such business as might have been properly transacted at the original meeting.

Section 2.5. Transaction of Business. Business transacted at an annual meeting of Shareholders may include all such business as may properly come before the meeting. Business transacted at a special meeting of Shareholders shall be limited to the purposes stated in the notice of the meeting.

Section 2.6. Shareholders of Record. For the purpose of determining Shareholders entitled to vote at any meeting of Shareholders, or entitled to receive dividends or other distributions, or in connection with any other proper purpose requiring a determination of Shareholders, the Board of Directors shall by resolution fix a record date for such determination. The date shall be not more than fifty and not less than ten days prior to the date on which the activity requiring the determination is to occur. The Shareholders of record appearing in the stock transfer books of the Corporation at the close of business on the record date so fixed shall constitute the Shareholders of right in respect of the activity in question. In the absence of action by the Board of Directors to fix a record date, the record date shall be ten days prior to the date on which the activity requiring a determination of Shareholders is to occur. A determination of Shareholders of record entitled to notice of or to vote at a meeting of Shareholders shall apply to any adjournment of the meeting to a date not later than one hundred twenty days after the date fixed for the original meeting; provided, however, that the Board of Directors may in its discretion fix a new record date for any adjourned meeting.

ARTICLE II

SHAREHOLDERS

Section 2.1. Annual Meetings. An annual meeting of the Shareholders shall be held once each calendar year for the purpose of electing Directors and for the transaction of such other business as may properly come before the meeting. The annual meeting shall be held at the time and place designated by the Board of Directors or the President (or an Officer authorized by the Board of Directors to make such designation) from time to time, provided that the time and place so designated conforms to the requirements of the Act and these Bylaws.

Section 2.2. Special Meetings. Special meetings of the Shareholders may be called for any one or more lawful purposes by the Board of Directors, the President, or by the Secretary if the holders of at least ten (10%) percent of all the votes entitled to be cast on any issue proposed to be considered at the proposed special meeting sign, date and deliver to the Secretary one or more written demands for the meeting describing the purpose for which it is to be held. Special meetings of the Shareholders shall be held at a time and location designated by the Board of Directors (or by an Officer authorized by the Board of Directors to make such designation), provided that the time and place so designated conforms to the requirements of the Act and these Bylaws. In the event any such designation is not communicated to the person(s) giving notice of the meeting hereinafter provided, a special meeting of the Shareholders shall be held at the Principal Office at the hour of ten o'clock in the morning on the fourth Tuesday of the calendar month following the calendar month in which the meeting was duly called; but if that day shall be a holiday under federal or South Carolina law, then such special meeting shall be held on the next succeeding business day. A special meeting of the Shareholders shall be duly called when a written call of the special meeting directed to the attention of the Board of Directors and signed by the person(s) calling the meeting is delivered (in person or by registered or certified mail) to the Principal Office.

Section 2.3. Notice of Meetings, Waiver of Notice. The Secretary (or, in the event of the Secretary's inability or refusal to act, such other Officer as may be authorized by the Board of Directors) shall cause written or printed notice of all duly called meetings of Shareholders to be delivered not less than ten nor more than sixty days before the meeting date, either personally, by mail, or by any other method permitted under the Act, to all Shareholders of record entitled to vote at such meeting. If mailed, the notice shall be deemed to be delivered when deposited with postage thereon prepaid in the United States mail, addressed to the Shareholder at the Shareholder's address as it appears on the Corporation's records, or if a Shareholder shall have filed with the Secretary of the Corporation a written request that notices to him be mailed to some other address, then directed to such shareholder at that other address. Such notice shall state the date, time, and place of the meeting and, in the case of a special meeting, the purpose or purposes for which such meeting was called. If notice of a duly called special meeting of Shareholders is not otherwise given at least ten days prior to the date for such meeting fixed in accordance with these Bylaws, the person(s) calling the special meeting may cause notice of the special meeting to be given that conforms to the requirements of the Act and these Bylaws. Notice of a meeting of Shareholders need not be given to

AMENDED AND RESTATED BYLAWS
OF
COMMERCIAL FOODSERVICE REPAIR, INC.

April 3, 2009

ARTICLE I

OFFICES AND REGISTERED AGENT

Section 1.1. Principal Office. The Corporation shall maintain its Principal Office at a location within or without the State of South Carolina as designated by the Board of Directors from time to time. In the absence of a contrary designation by the Board of Directors, the Principal Office of the Corporation shall be located at the business office of the Corporation's President.

Section 1.2. Registered Office. The Corporation shall maintain a Registered Office as required by the South Carolina Business Corporation Act of 1988, as amended from time to time (the "Act"), at a location in the State of South Carolina designated by the Board of Directors from time to time.

Section 1.3. Other Offices. The Corporation may have such other offices within and without the State of South Carolina as the business of the Corporation may require from time to time. The authority to establish or close such other offices may be delegated by the Board of Directors to one or more of the Officers.

Section 1.4. Registered Agent. The Corporation shall maintain a Registered Agent as required by the Act who shall have a business office at the Registered Office. The Registered Agent shall be designated by the Board of Directors from time to time to serve at its pleasure. In the absence of such designation the Registered Agent shall be the Secretary.

Section 1.5. Filings. In the absence of directions from the Board of Directors to the contrary, the Secretary shall cause the Corporation to maintain currently all filings in respect of the Registered Office and Registered Agent with all governmental officials as required by the Act or otherwise by law.

Oct 19 2015
REFERENCE ID: 1510191013154


Mark H. Herwald
VICE PRESIDENT

**CERTIFICATE ACCOMPANYING THE SECOND
AMENDED AND RESTATED ARTICLES OF INCORPORATION**

COMMERCIAL FOODSERVICE REPAIR, INC.

The attached Second Amended and Restated Articles of Incorporation contain one or more amendments to the Amended and Restated Articles of Incorporation for **Commercial Foodservice Repair, Inc.** (the "Corporation") filed on April 13, 2009, as amended. Pursuant to Section 33-10-107(d)(2) of the Act, the following information concerning the amendments is hereby submitted:

1. On July 28, 2014, the Corporation adopted the following amendments to its articles of incorporation:

Section 5 (Redemption) of the Designation of Series A Convertible Preferred Stock as set forth in the Articles of Amendment filed on April 14, 2009 has been deleted in its entirety.

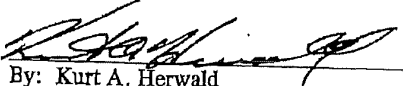
2. The manner in which any exchanged, reclassification, or cancellation of issued shares provided for in the Amendment shall be effected, is as follows: Not Applicable.
3. The amendments were adopted by shareholder action.

At the date of adoption of the amendments, the number of outstanding shares of each voting group entitled to vote separately on the amendments, and the vote of such shares, was:

<u>Voting Group</u>	<u>Number of Outstanding Shares</u>	<u>Number of Votes Entitled to be Cast</u>	<u>Number of Votes Represented at the meeting</u>	<u>Number of Undisputed Shares Voted</u>	
				<u>For</u>	<u>Against</u>
Preferred	8,678	8,678	8,678	8,678	0

DATE: July 28, 2014

COMMERCIAL FOODSERVICE REPAIR, INC.


By: Kurt A. Herwald
Title: President

CERTIFIED TO BE A TRUE AND CORRECT COPY
AS TAKEN FROM AND COMPARED WITH THE
ORIGINAL ON FILE IN THIS OFFICE

Oct 19 2015
REFERENCE ID: 1510191013154


Mark Herwald
LEGISLATIVE COUNSEL

no interruption in the establishment or governance of the Corporation as a result of the
adoption hereof.

DATE: July 28, 2014


By: Kurt A. Herwald
Title: President

Oct 19 2015

REFERENCE ID: 1510191013154

Mark H. Hammett
CLERK OF THE SUPREME COURT

law or laws. Any repeal or modification of the foregoing protection by the Corporation's shareholders shall not adversely affect the right or protection of a director of the Corporation existing at the time of such repeal or modification.

- (c) Evaluation of Offers. To the fullest extent permitted by law, the Board of Directors, when evaluating any offer by another party to (i) make a tender or exchange offer for any equity security of the Corporation outside of the ordinary course of business, (ii) merge or consolidate the Corporation with any other corporation; (iii) purchase or otherwise acquire all or substantially all of the properties and assets of the Corporation, or (iv) undertake any similar extraordinary corporate transactions with the Corporation, may in its discretion, in connection with the exercise of its judgment in determining what is in the best interests of the Corporation and its shareholders, give due consideration to all relevant factors, including without limitation the social, legal, and economic effects on the employees (other than officers and directors), customers, suppliers, and other constituencies of the Corporation and its subsidiaries, on the communities and geographical areas in which the Corporation and its subsidiaries operate or are located, and on any of the businesses and properties of the Corporation or any of its subsidiaries, as well as such factors as the directors deem relevant.

- (f) Miscellaneous. Terms used herein which are not otherwise defined shall have the meanings ascribed to them in the Act. All references to statutory provisions shall be deemed to include corresponding sections of succeeding law. Each provision of these Articles of Incorporation shall be deemed severable from, and shall survive the illegality or invalidity of, any other provision herein.

7. Effective Date. These Second Amended and Restated Articles of Incorporation shall be effective upon the acceptance for filing by the Secretary of State. No action taken by the Corporation prior to the effective date hereof pursuant to any provision of the Original Articles, as amended, or the Restated Articles, as amended, shall be invalidated by the adoption of these Second Amended and Restated Articles of Incorporation, and there shall be

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Mark Hammel
CLERK OF THE COURT

6. Optional Provisions. The optional provisions which the Corporation elects to include in these Second Amended and Restated Articles of Incorporation are as follows:

- (a) Preemptive Rights. Except as expressly provided for in the Shareholders' Agreement, the Corporation elects not to have preemptive rights. Except as expressly provided for in the Shareholders' Agreement, no Shareholder shall be entitled to preemptive rights, and no shares of stock of any class issued by the Corporation shall be subject to any preemptive right.
- (b) Cumulative Voting. The Corporation elects not to have cumulative voting. No shareholder shall be entitled to vote cumulatively for the election of directors, and no shares of stock of any class issued by the Corporation may be cumulatively voted for election of directors.
- (c) Majority Voting. The affirmative vote of the holders of outstanding shares representing a majority of the votes entitled to be cast thereon shall be sufficient to approve for the Corporation a merger, consolidation, sale or lease of substantially all corporate assets outside the ordinary course of business, plan of share exchange, voluntary dissolution, amendment to these Articles of Incorporation, or other extraordinary corporate transactions, for any of which the Act otherwise establishes a two-thirds (2/3) voting requirement absent provision for a different voting requirement in the articles of incorporation. The affirmative vote of the holders of outstanding shares representing a majority of the votes entitled to be cast thereon within a voting group, if any, for which the Act requires separate voting, shall be sufficient to approve for the Corporation any such extraordinary corporate transactions, for any of which the Act otherwise establishes a two-thirds (2/3) voting requirement within such voting group absent provision for a different voting requirement in the articles of incorporation. Shareholder voting requirements for all other matters upon which shareholders are entitled to vote shall be as prescribed by the Act. The provisions of this Article 6(c) shall not restrict any authority granted to the Board of Directors under the Act to establish a greater voting requirement for any matter.
- (d) Director Immunity. No director of the Corporation shall be personally liable to the Corporation or its shareholders for monetary damages for breach of such director's fiduciary duty as a director; provided, however, the foregoing shall not eliminate or limit the liability of a director: (i) for any breach of the director's duty of loyalty to the Corporation or its shareholders; (ii) for acts or omissions not in good faith or which involve gross negligence, intentional misconduct, or a knowing violation of law; (iii) imposed for unlawful distributions as set forth in Section 33-8-330 of the Act; or (iv) for any transaction from which the director derived an improper personal benefit. This provision shall eliminate or limit the liability of a director of the Corporation to the maximum extent permitted from time to time by the Act or any successor.

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Mark Hammond
Secretary of State of South Carolina

market system security by the National Association of Securities Dealers, Inc., the average of the reported closing bid and asked prices of the Common Stock on such date as shown by the National Market System of the National Association of Securities Dealers, Inc. Automated Quotations System and reported by any member firm of the New York Stock Exchange selected by the Corporation; or (d) if none of (a), (b) or (c) is applicable, a market price per share determined at the Corporation's expense by an appraiser chosen by the Corporation and reasonably satisfactory to a majority of the holders of Series A Preferred Stock. Any determination of the Market Price by an appraiser shall be based on a valuation of the Corporation as an entirety without regard to any discount for minority interests or disparate voting rights among classes of Capital Stock.

"New Issue Price" shall have the meaning ascribed to it in Section 4(d)(6)(d)(ii) hereof.

"Person" means any individual, firm, corporation, partnership, limited liability company, trust, incorporated or unincorporated association, joint venture, joint stock company, governmental body or other entity of any kind.

"Relevant Date" shall have the meaning ascribed to it in Section 4(d)(6)(d)(ii) hereof.

"Sale Transaction" shall mean (a) (i) the merger or consolidation of the Corporation into or with one or more Persons, (ii) the merger or consolidation of one or more Persons into or with the Corporation or (iii) a tender offer or other business combination, if, in the case of (i), (ii) or (iii) the shareholders of the Corporation prior to such merger or consolidation do not retain at least a majority of the voting power of the surviving Person or (b) the voluntary sale, conveyance, exchange or transfer to another Person of (i) the voting Capital Stock of the corporation if, after such sale, conveyance, exchange or transfer, the shareholders of the Corporation prior to such sale, conveyance, exchange or transfer do not retain at least a majority of the voting power of the Corporation or (ii) all or substantially all of the assets of the Corporation.

"Securities Act" means the Securities Act of 1933, as amended, and the rules and regulations of the Commission promulgated thereunder.

"Series A Preferred Stock" shall have the meaning ascribed to it in Section 4(d)(1) hereof.

"Share" shall mean a share of the Series A Preferred Stock.

"Shareholders' Agreement" shall mean the Amended and Restated Shareholders' Agreement by and between the Corporation and its shareholders, as amended from time to time.

"Transaction" shall have the meaning ascribed to it in Section 4(d)(6)(g) hereof.

5. Existence. The existence of the Corporation began at the time specified in the Original Articles filed with the Secretary of State on September 14, 1983, and the period of duration of the Corporation is perpetual.

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Mark Hammond
SECRETARY OF THE BOARD OF DIRECTORS

"Common Stock Equivalent" shall mean any security or obligation which is by its terms convertible or exchangeable into shares of Common Stock or another Common Stock Equivalent, and any option, warrant or other subscription or purchase right with respect to Common Stock.

"Controlling Shareholder" shall mean Kurt A. Herwald.

"Conversion Price" shall have the meaning ascribed to it in Section 4(d)(6)(a) hereof.

"Current Market Price" per share shall mean, as of the date of determination, (a) the average of the daily Market Price under clause (a), (h) or (c) of the definition of Market Price of the Common Stock during the immediately preceding thirty (30) trading days ending on such date, and (b) if the Common Stock is not then listed or admitted to trading on any national securities exchange or quoted in the over-the-counter market, then the Market Price under clause (d) of the definition thereof on such date.

"Excluded Transaction" means (a) any issuance of shares of restricted stock or options to purchase shares of Common Stock (subject to adjustment in the event of stock splits, combinations or similar occurrences) to employees, officers or directors of the Corporation pursuant to a stock option plan or other employee benefit arrangement approved by the Board of Directors and (b) any issuance of Common Stock (i) upon the conversion of shares of Series A Preferred Stock, (ii) as a dividend on shares of Series A Preferred Stock or (iii) upon conversion or exercise of any Common Stock Equivalents.

"Initial Public Offering" shall mean the first underwritten public offering of Common Stock pursuant to an effective registration statement under the Securities Act.

"Issue Date" shall have the meaning ascribed to it in Section 4(d)(6)(d)(ii) hereof.

"Junior Stock" shall have the meaning ascribed to it in Section 4(d)(2) hereof.

"Liquidation" shall mean the voluntary or involuntary liquidation under applicable bankruptcy or reorganization legislation, or the dissolution or winding up of the Corporation.

"Liquidation Preference" shall have the meaning ascribed to it in Section 4(d)(4)(a) hereof.

"Market Price" shall mean, as of the date of determination, (a) if the Common Stock is listed on a national securities exchange, the closing price per share of Common Stock on such date published in The Wall Street Journal (National Edition) or, if no such closing price on such date is published in The Wall Street Journal (National Edition), the average of the closing bid and asked prices on such date, as officially reported on the principal national securities exchange on which the Common Stock is then listed or admitted to trading; or (b) if the Common Stock is not then listed or admitted to trading on any national securities exchange but is designated as a national market system security by the National Association of Securities Dealers, Inc., the last trading price of the Common Stock on such date; or (c) if there shall have been no trading on such date or if the Common Stock is not designated as a national

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Mark H. Harned
Deputy Secretary of the State of New York

provided that the holders of shares of Series A Preferred Stock vote such shares in favor of any such action that requires a vote of shareholders,

(j) No Conversion Tax or Charge. The issuance or delivery of certificates for Common Stock upon the conversion of shares of Series A Preferred Stock shall be made without charge to the converting holder of shares of Series A Preferred Stock for such certificates or for any tax in respect of the issuance or delivery of such certificates or the securities represented thereby, and such certificates shall be issued or delivered in the respective names of, or (subject to compliance with the applicable provisions of federal and state securities laws) in such names as may be directed by, the holders of the shares of Series A Preferred Stock converted; provided, however, that the Corporation shall not be required to pay any tax which may be payable in respect of any transfer involved in the issuance and delivery of any such certificate in a name other than that of the holder of the shares of Series A Preferred Stock converted, and the Corporation shall not be required to issue or deliver such certificate unless or until the Person or Persons requesting the issuance or delivery thereof shall have paid to the Corporation the amount of such tax or shall have established to the reasonable satisfaction of the Corporation that such tax has been paid.

7. Certain Remedies. Any registered holder of Series A Preferred Stock shall be entitled to an injunction or injunctions to prevent breaches of the provisions of this Section 4(d) and to enforce specifically the terms and provisions of this Section 4(d) in any court of the United States or any state thereof having jurisdiction, this being in addition to any other remedy to which such holder may be entitled at law or in equity.

8. Business Day. If any payment shall be required by the terms hereof to be made on a day that is not a Business Day, such payment shall be made on the immediately succeeding Business Day.

9. Definitions. As used in this Section 4(d), the following terms shall have the following meanings (with terms defined in the singular having comparable meanings when used in the plural and vice versa), unless the context otherwise requires:

"Business Day" means any day except a Saturday, a Sunday, or other day on which commercial banks in the State of New York are authorized or required by law or executive order to close.

"Capital Stock" means, with respect to any Person, any and all shares, interests, participations, rights in, or other equivalents (however designated and whether voting or non-voting) of, such Person's capital stock and any and all rights, warrants or options exchangeable for or convertible into such capital stock (but excluding any debt security whether or not it is exchangeable for or convertible into such capital stock).

"Commission" means the United States Securities and Exchange Commission.

"Common Stock" shall have the meaning ascribed to it in Section 4(d)(2)(a) hereof.

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Mark Hammond
SECRETARY OF STATE OF SOUTH CAROLINA

therefor in the agreement, if any, relating to such Sale Transaction. Any certificate delivered pursuant to this Section 4(d)(6)(g) shall provide for adjustments which shall be as nearly equivalent as may be practicable to the adjustments provided for in this Section 4(d)(6). The provisions of this Section 4(d)(6)(g) and any equivalent thereof in any such certificate similarly shall apply to successive transactions.

(h) Notices. In case at any time or from time to time:

(w) the Corporation shall declare a dividend (or any other distribution) on its shares of Common Stock;

(x) the Corporation shall authorize the granting to the holders of its Common Stock of rights or warrants to subscribe for or purchase any shares of stock of any class or of any other rights or warrants;

(y) there shall be any Transaction; or

(z) there shall occur the Initial Public Offering or a Sale Transaction; then the Corporation shall mail to each holder of shares of Series A Preferred Stock at such holder's address as it appears on the transfer books of the Corporation, as promptly as possible but in any event at least ten (10) Business Days prior to the applicable date hereinafter specified, a notice stating (A) the date on which a record is to be taken for the purpose of such dividend, distribution or granting of rights or warrants or, if a record is not to be taken, the date as of which the holders of Common Stock of record to be entitled to such dividend, distribution or granting of rights or warrants are to be determined, or (B) the date on which such Transaction, Initial Public Offering or Sale Transaction is expected to become effective and the date as of which it is expected that holders of Common Stock of record shall be entitled to exchange their Common Stock for shares of stock or other securities or property or cash deliverable upon such Transaction, Initial Public Offering or Sale Transaction. Notwithstanding the foregoing, in the case of any event to which Section 4(d)(6)(g) is applicable, the Corporation shall also deliver the certificate described in Section 4(d)(6)(g) to each holder of Series A Preferred Stock at least ten (10) Business Days' prior to effecting such reorganization or reclassification as aforesaid.

(i) Reservation of Common Stock. The Corporation shall at all times reserve and keep available for issuance upon the conversion of the Series A Preferred Stock, such number of its authorized but unissued shares of Common Stock as will from time to time be sufficient to permit the conversion of all outstanding shares of Series A Preferred Stock, and shall take all action to increase the authorized number of shares of Common Stock if at any time there shall be insufficient authorized but unissued shares of Common Stock to permit such reservation or to permit the conversion of all outstanding shares of Series A Preferred Stock;

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Mark H. Hammond
Vice President & General Counsel

of the actions described in any of Sections 4(d)(6)(d)(i) through (iii) or Section 4(d)(6)(g) (but not including any action described in any such Section) and the Board of Directors in good faith determines that it would be equitable in the circumstances to adjust the Conversion Price as a result of such action, then, and in each such case, the Conversion Price shall be adjusted in such manner and at such time as the Board of Directors in good faith determines would be equitable in the circumstances (such determination to be evidenced in a resolution, a certified copy of which shall be mailed to the holders of the shares of Series A Preferred Stock).

(v) No Adjustment. Notwithstanding anything herein to the contrary, no adjustment under this Section 4(d)(6)(d) need be made to the Conversion Price if the Corporation receives written notice from holders of all of the outstanding Series A Preferred Stock that no such adjustment is required.

(e) Abandonment. If the Corporation shall take a record of the holders of its Common Stock for the purpose of entitling them to receive a dividend or other distribution, and shall thereafter and before the distribution to shareholders thereof legally abandon its plan to pay or deliver such dividend or distribution, then no adjustment in the Conversion Price shall be required by reason of the taking of such record.

(f) Certificate as to Adjustments. Upon any increase or decrease in the Conversion Price, the Corporation shall within a reasonable period (not to exceed ten (10) days) following any of the foregoing transactions deliver to each registered holder of Series A Preferred Stock a certificate, signed by (i) the Chief Executive Officer of the Corporation and (ii) the Chief Financial Officer of the Corporation, setting forth in reasonable detail the event requiring the adjustment and the method by which such adjustment was calculated and specifying the increased or decreased Conversion Price then in effect following such adjustment.

(g) Reorganization, Reclassification. In case of any merger or consolidation of the Corporation (other than a Sale Transaction) or any capital reorganization, reclassification or other change of outstanding shares of Common Stock (other than a change in par value, or from par value to no par value, or from no par value to par value) (each, a "Transaction"), the Corporation shall execute and deliver to each holder of Series A Preferred Stock at least twenty (20) Business Days prior to effecting such Transaction a certificate stating that the holder of each share of Series A Preferred Stock shall have the right to receive in such Transaction, in exchange for each share of Series A Preferred Stock, a security identical to (and not less favorable than) the Series A Preferred Stock, and provision shall be made therefor in the agreement, if any, relating to such Transaction. In the event the holders of a majority of the Series A Preferred Stock do not elect to receive the payments contemplated by Section 4(d)(4)(d), then upon the consummation of a Sale Transaction, each outstanding share of Series A Preferred Stock shall be converted into the kind and amount of shares of stock or other securities, property or cash receivable upon such Sale Transaction by a holder of the number of shares of Common Stock into which such share of Series A Preferred Stock could have been converted immediately prior to such Sale Transaction and provision shall be made

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Mark Hammond
CLERK OF THE SUPREME COURT

terminated, (B) treat the additional shares of Common Stock, if any, actually issued or issuable pursuant to the previous exercise of such Common Stock Equivalents as having been issued for the consideration actually received and receivable therefore and (C) treat any of such Common Stock Equivalents which remain outstanding as being subject to exercise or conversion on the basis of such exercise or conversion price as shall be in effect at the time.

(iii) Certain Distributions. In case the Corporation shall at any time or from time to time, prior to conversion of the Series A Preferred Stock, distribute to all holders of shares of the Common Stock (including any such distribution made in connection with a merger or consolidation in which the Corporation is the resulting or surviving Person and the Common Stock is not changed or exchanged) cash, evidences of indebtedness of the Corporation or another issuer, securities of the Corporation or another issuer or other assets (excluding dividends or distributions in which holders of shares of Series A Preferred Stock participate, in the manner provided in Section 4(d)(3), and dividends payable in shares of Common Stock for which adjustment is made under another paragraph of this Section 4(d)(6)(d) and any distribution in connection with an Excluded Transaction) or rights or warrants to subscribe for or purchase securities of the Corporation (excluding those distributions in respect of which an adjustment in the Conversion Price is made pursuant to another paragraph of this Section 4(d)(6)(d) and any distribution in connection with an Excluded Transaction), then, and in each such case, the Conversion Price then in effect shall be adjusted downward (and any other appropriate actions shall be taken by the Corporation) by multiplying the Conversion Price in effect immediately prior to the date of such distribution by a fraction (x) the numerator of which shall be the Current Market Price of the Common Stock immediately prior to the date of distribution less the then fair market value (as determined by the Board of Directors in the exercise of their fiduciary duties) of the portion of the cash, evidences of indebtedness, securities or other assets so distributed or of such rights or warrants applicable to one share of Common Stock and (y) the denominator of which shall be the Current Market Price of the Common Stock immediately prior to the date of distribution (but such fraction shall not be greater than one); provided, however, that no adjustment shall be made with respect to any distribution of rights or warrants to subscribe for or purchase securities of the Corporation if the holder of shares of Series A Preferred Stock would otherwise be entitled to receive such rights or warrants upon conversion at any time of shares of Series A Preferred Stock into Common Stock. Such adjustment shall be made whenever any such distribution is made and shall become effective retroactively to a date immediately following the close of business on the record date for the determination of shareholders entitled to receive such distribution.

(iv) Other Changes. In case the Corporation at any time or from time to time, prior to the conversion of the Series A Preferred Stock, shall take any action affecting its Common Stock similar to or having an effect similar to any

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Mark H. [Signature]
DEPUTY ATTORNEY GENERAL

any Common Stock Equivalent, as equal to (x) the sum of the price for such Common Stock Equivalent plus any additional consideration payable (without regard to any anti-dilution adjustments) upon the conversion, exchange or exercise of such Common Stock Equivalent divided by (y) the number of shares of Common Stock initially underlying such Common Stock Equivalent), other than (A) issuances or sales for which an adjustment is made pursuant to another paragraph of this Section 4(d)(6)(d) and (B) issuances in connection with an Excluded Transaction, then, and in each such case, the Conversion Price then in effect shall be adjusted downward by multiplying the Conversion Price in effect on the day immediately prior to the Relevant Date by a fraction (i) the numerator of which shall be the sum of the number of shares of Common Stock outstanding on the Relevant Date, plus the number of shares of Common Stock which the aggregate consideration received by the Corporation for the total number of such additional shares of Common Stock so issued would purchase at the Conversion Price on the Relevant Date (or, in the case of Common Stock Equivalents, the number of shares of Common Stock which the aggregate consideration received by the Corporation upon the issuance of such Common Stock Equivalents and receivable by the Corporation upon the conversion, exchange or exercise of such Common Stock Equivalents would purchase at the Conversion Price on the Relevant Date) and (ii) the denominator of which shall be the sum of the number of shares of Common Stock outstanding on the Relevant Date plus the number of additional shares of Common Stock issued or to be issued at the New Issue Price (or, in the case of Common Stock Equivalents, the maximum number of shares of Common Stock into which such Common Stock Equivalents initially may convert, exchange or be exercised). Such adjustment shall be made whenever such shares of Common Stock or Common Stock Equivalents are issued, and shall become effective retroactively (x) in the case of an issuance to the shareholders of the Corporation, as such, to a date immediately following the close of business on the record date for the determination of shareholders entitled to receive such shares of Common Stock or Common Stock Equivalents and (y) in all other cases, on the date (the "Issue Date") of such issuance; provided, however, that the determination as to whether an adjustment is required to be made pursuant to this Section 4(d)(6)(d)(ii) shall only be made upon the issuance of such shares of Common Stock or Common Stock Equivalents, and, with respect to Common Stock Equivalents, not upon the issuance of any security into which the Common Stock Equivalents convert, exchange or may be exercised; and provided, further, that if any Common Stock Equivalents (or any portions thereof) which shall have given rise to an adjustment pursuant to this Section 4(d)(6)(d)(ii) shall have expired or terminated without the exercise thereof and/or if by reason of the terms of such Common Stock Equivalents there shall have been an increase or increases, with the passage of time or otherwise, in the price payable upon the exercise or conversion thereof, then the Conversion Price hereunder shall be readjusted (but to no greater extent than originally adjusted) in order to (A) eliminate from the computation any additional shares of Common Stock corresponding to such Common Stock Equivalents as shall have expired or

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Mark Hammond
Secretary of the Board of Directors

above, all rights with respect to the shares of Series A Preferred Stock so converted, including the rights, if any, to receive notices and vote, shall terminate, except only the rights of holders thereof to (i) receive certificates for the number of shares of Common Stock into which such shares of Series A Preferred Stock have been converted, (ii) the payment of dividends, if any, pursuant to Section 4(d)(3) above and (iii) exercise the rights to which they are entitled as holders of Common Stock.

(d) Antidilution Adjustments. The Conversion Price, and the number and type of securities to be received upon conversion of the Series A Preferred Stock, shall be subject to adjustment as follows:

(i) Dividend, Subdivision, Combination Or Reclassification of Common Stock. In the event that the Corporation shall at any time or from time to time, prior to conversion of the Series A Preferred Stock (w) pay a dividend or make a distribution (other than a dividend or distribution in which holders of shares of Series A Preferred Stock participate, in the manner provided in Section 4(d)(3) on the outstanding shares of Common Stock payable in Capital Stock, (x) subdivide the outstanding shares of Common Stock into a larger number of shares, (y) combine the outstanding shares of Common Stock into a smaller number of shares or (z) issue any shares of its Capital Stock in a reclassification of the Common Stock (other than any such event for which an adjustment is made pursuant to another clause of this Section 4(d)(6)(d)), then, and in each such case, the Conversion Price in effect immediately prior to such event shall be adjusted (and any other appropriate actions shall be taken by the Corporation) so that the holder of any share of Series A Preferred Stock thereafter surrendered for conversion shall be entitled to receive the number of shares of Common Stock or other securities of the corporation that such holder would have owned or would have been entitled to receive upon or by reason of any of the events described above, had such share of Series A Preferred Stock been converted immediately prior to the occurrence of such event. An adjustment made pursuant to this Section 4(d)(6)(d)(i) shall become effective retroactively (x) in the case of any such dividend or distribution, to a date immediately following the close of business on the record date for the determination of holders of Common Stock entitled to receive such dividend or distribution or (y) in the case of any such subdivision, combination or reclassification, to the close of business on the day upon which such corporate action becomes effective.

(ii) Issuance of Common Stock or Common Stock Equivalent below Conversion Price. If the Corporation shall at any time or from time to time prior to conversion of the Series A Preferred Stock, other than pursuant to an Excluded Transaction, issue or sell any shares of Common Stock or Common Stock Equivalents at a price per share of Common Stock (the "New Issue Price") that is less than the Conversion Price then in effect as of the record date or Issue Date (as defined below), as the case may be (the "Relevant Date") (treating the price per share of Common Stock, in the case of the issuance of

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Mark H. Henderson
DEPUTY ATTORNEY GENERAL

Price"). Such conversion right shall be exercised by the surrender of certificate(s) representing the shares of Series A Preferred Stock to be converted to the Corporation at any time during usual business hours at its principal place of business to be maintained by it (or such other office or agency of the Corporation as the Corporation may designate by notice in writing to the holders of Series A Preferred Stock), accompanied by written notice that the holder elects to convert such shares of Series A Preferred Stock and specifying the name or names (with address) in which a certificate or certificates for shares of Common Stock are to be issued and (if so required by the Corporation) by a written instrument or instruments of transfer in form reasonably satisfactory to the Corporation duly executed by the holder or its duly authorized legal representative and transfer tax stamps or funds therefor, if required pursuant to Section 4(d)(6)(f). All certificates representing shares of Series A Preferred Stock surrendered for conversion shall be delivered to the Corporation for cancellation and canceled by it. As promptly as practicable after the surrender of any shares of Series A Preferred Stock, the Corporation shall (subject to compliance with the applicable provisions of federal and state securities laws) deliver to the holder of such shares so surrendered certificate(s) representing the number of fully paid and nonassessable shares of Common Stock into which such shares are entitled to be converted and, to the extent funds are legally available therefor, an amount equal to the accrued and unpaid dividends payable with respect to such shares in accordance with Section 4(d)(3) above. At the time of the surrender of such certificate(s), the Person in whose name any certificate(s) for shares of Common Stock shall be issuable upon such conversion shall be deemed to be the holder of record of such shares of Common Stock on such date, notwithstanding that the share register of the Corporation shall then be closed or that the certificates representing such Common Stock shall not then be actually delivered to such Person.

(b) Automatic Conversion. Immediately prior to the earlier of (i) the closing of the Initial Public Offering or (ii) the conversion of that number of shares of Series A Preferred Stock pursuant to Section 4(d)(6)(a) such that less than 25% of the shares of Series A Preferred Stock remain outstanding, each outstanding share of Series A Preferred Stock shall be automatically converted, with no further action required to be taken by the Corporation or the holder thereof, into the number of fully paid and nonassessable shares of Common Stock equal to the product of the number of shares of Series A Preferred Stock being converted multiplied by the quotient of (x) the Liquidation Preference divided by (y) the Conversion Price then in effect (after giving effect to any adjustments pursuant to Section 4(d)(6)(d)). Immediately upon conversion as provided herein, each holder of Series A Preferred Stock shall be deemed to be the holder of record of the Common Stock issuable upon conversion of such holder's Series A Preferred Stock, notwithstanding that the share register of the Corporation shall then be closed or that certificates representing the Common Stock shall not then actually be delivered to such Person. Upon notice from the Corporation, each holder of Series A Preferred Stock so converted shall promptly surrender to the Corporation at its principal place of business to be maintained by it (or at such other office or agency of the Corporation as the Corporation may designate by such notice to the holders of Series A Preferred Stock) certificates representing the shares so converted.

(c) Termination of Rights. On the date of such optional conversion pursuant to Section 4(d)(6)(a) above or of such automatic conversion pursuant to Section 4(d)(6)(b)

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Mark H. Hamad
ATTORNEY AT LAW

(c) At any time when at least 25% of the shares of Series A Preferred Stock are outstanding, except where the vote or written consent of the holders of a greater number of shares of the Corporation is required by law or by the Corporation's Articles of Incorporation, and in addition to any other vote required by law or the Corporation's Articles of Incorporation, without the approval of the holders of at least 50% of the then outstanding shares of Series A Preferred Stock, given in writing or by vote at a meeting, consenting or voting (as the case may be) separately as a series, the Corporation will not:

(i) effect any sale, lease, assignment, transfer or other conveyance of all or substantially all of the Corporation's assets, or any consolidation or merger involving the Corporation exceeding \$5,000,000 in value or 10% of the Capital Stock of the Corporation (other than a merger solely to change jurisdictions or to implement an internal corporation reorganization of the Corporation) or any reclassification or other change of any Capital Stock, or any recapitalization, or any dissolution, liquidation or winding up of the Corporation;

(ii) purchase, redeem or otherwise acquire for value any of the Common Stock, other than pursuant to the Shareholders' Agreement; provided that this provision shall not apply to the purchase of Common Stock from directors, officers, employees, consultants or advisors to the Corporation who acquire such Common Stock in such capacity (except Controlling Shareholders);

(iii) create, authorize or issue, or obligate the Corporation to issue, any other Capital Stock ranking senior to or on a pari passu basis with the Series A Preferred Stock as to dividend or redemption rights, liquidation preferences, conversion rights, voting rights or otherwise;

(iv) increase or decrease (other than by redemption or conversion of the preferred stock) the total number of authorized shares of Preferred Stock or Common Stock; or

(v) effect any transaction or other action that would adversely affect the rights, preferences, powers (including, without limitation, voting powers) and privileges of the Series A Preferred Stock.

6. Conversion.

(a) Optional Conversion. Any holder of Series A Preferred Stock shall have the right, at its option, at any time and from time to time, to convert, subject to the terms and provisions of this Section 4(d)(6), any or all of such holder's shares of Series A Preferred Stock into such number of fully paid and non-assessable shares of Common Stock as is equal to the product of the number of shares of Series A Preferred Stock being so converted multiplied by the quotient of (i) the Liquidation Preference divided by (ii) the conversion price of \$10 per share, subject to adjustment as provided in Section 4(d)(6)(d) (such price, the "Conversion

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MARK HAMMOND
CLERK OF THE COURT

(d) Option. At the election of the holders of two-thirds (2/3) of the combined Common Stock and Preferred Stock, and not less than one-third (1/3) of the Preferred Stock, a Sale Transaction shall be deemed to be a Liquidation pursuant to this Section 4(d)(4). Any securities of the surviving Person to be delivered to the holders of Series A Preferred Stock pursuant to this Section 4(d)(4)(d) shall be valued as follows:

(i) With respect to securities that do not constitute "restricted securities," as such term is defined in Rule 144(a)(3) promulgated under the Securities Act, the value shall be deemed to be the Current Market Price of such securities as of three (3) days prior to the date of distribution.

(ii) With respect to securities that constitute "restricted securities," as such term is defined in Rule 144(a)(3) promulgated under the Securities Act, and that are of the same class or series as securities that are publicly traded, the value shall be adjusted to make an appropriate discount from the value as set forth above in clause (i) to reflect the appropriate fair market value thereof, as mutually determined by the Board of Directors and the holders of a majority of the shares of Series A Preferred Stock, or if there is no active public market with respect to such class or series of securities, such securities shall be valued in accordance with clause (i) above, giving appropriate weight, if any, to such restriction as mutually determined by the Board of Directors and the holders of a majority of the shares of Series A Preferred Stock, or if the Board of Directors and the holders of a majority of the shares of Series A Preferred Stock shall fail to agree, at the Corporation's expense by an appraiser chosen by the Board of Directors and reasonably acceptable to the holders of a majority of the shares of Series A Preferred Stock. If the Board of Directors and the holders of a majority of the shares of Series A Preferred Stock fail to agree on an appraiser, either party may apply to the American Arbitration Association in New York City for the appointment of an appraiser.

5. Voting Rights.

(a) The holders of Series A Preferred Stock, except as otherwise required under South Carolina law or as set forth in Sections 4(d)(5)(b) and 4(d)(5)(c), shall not be entitled or permitted to vote on any matter required or permitted to be voted upon by the shareholders of the Corporation.

(b) Except as set forth in Section 4(d)(5)(c), each outstanding share of Series A Preferred Stock shall entitle the holder thereof to vote, in person or by proxy, at a special or annual meeting of shareholders or in any written consent in lieu of meeting, on all matters entitled to be voted on by holders of Common Stock voting together as a single class with the Common Stock (and with other shares entitled to vote thereon, if any). With respect to any such vote, each share of Series A Preferred Stock shall entitle the holder thereof to cast that number of votes per share as is equal to the number of votes that such holder would be entitled to cast had such holder converted its shares of Series A Preferred Stock into shares of Common Stock pursuant to Section 4(d)(6)(a) on the record date for determining the shareholders of the Corporation eligible to vote on any such matters.

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CLERK OF SUPERIOR COURT

2. Rank. The Series A Preferred Stock shall with respect to distributions of assets and rights upon the occurrence of a Liquidation rank senior to (i) all classes of common stock of the Corporation (including, without limitation, the common stock, no par value, of the Corporation (the "Common Stock")) and (ii) each other class or series of Capital Stock of the Corporation hereafter created which does not expressly rank pari passu with or senior to the Series A Preferred Stock (the "Junior Stock").

3. Dividends. In accordance with Section 33-6-400 of the Act, the holders of shares of Series A Preferred Stock shall be entitled to receive a dividend equal to a) \$1.25 per share each quarter; plus b) if the Corporation declares and pays dividends or distributions on the Common Stock, then, in that event, the holders of shares of Series A Preferred Stock shall be entitled to share in such dividends or distributions on a pro rata basis, as if their shares had been converted into shares of Common Stock pursuant to Section 4(d)(6)(a) immediately prior to the record date for determining the shareholders of the Corporation eligible to receive such dividends or distributions. Dividends shall accumulate if they remain unpaid.

4. Liquidation Preference.

(a) Priority Payment. Upon the occurrence of a Liquidation, the holders of shares of Series A Preferred Stock shall be entitled to be paid for each share of Series A Preferred Stock held thereby, out of, but only to the extent of, the assets of the Corporation legally available for distribution to its shareholders, an amount equal to \$100 plus as provided in Section 4(d)(3) above, all accrued and unpaid dividends, if any, with respect to each share of Series A Preferred Stock (such amount, the "Liquidation Preference"), before any payment or distribution is made to any Junior Stock. If the assets of the Corporation available for distribution to the holders of Series A Preferred Stock shall be insufficient to permit payment in full to such holders of the sums which such holders are entitled to receive in such case, then all of the assets available for distribution to holders of the Series A Preferred Stock shall be distributed among and paid to such holders ratably in proportion to the amounts that would be payable to such holders if such assets were sufficient to permit payment in full.

(b) No Additional Payment. After the holders of all shares of Series A Preferred Stock shall have been paid in full the amounts to which they are entitled in Section 4(d)(4)(a), the shares of Series A Preferred Stock shall not be entitled to any further participation in any distribution of assets of the Corporation and the remaining assets of the Corporation shall be distributed to the holders of Junior Stock.

(c) Notice. Written notice of a Liquidation stating a payment or payments and the place where such payment or payments shall be payable, shall be delivered in person, mailed by certified mail, return receipt requested, mailed by overnight mail or sent by telecopier, not less than ten (10) days prior to the earliest payment date stated therein, to the holders of record of the Series A Preferred Stock, such notice to be addressed to each such holder at its address as shown by the records of the Corporation.

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Mark H. Homan
Secretary of State of North Carolina

- (iii) The time(s) during which, the price(s) at which, and any other terms or conditions on which, the shares of such series may be redeemed, if redeemable, including without limitation whether redeemable at the option of the corporation, the shareholder, or any other person.
- (iv) The par value or absence of par value, and other economic features of such series.
- (v) The voting powers, if any, in addition to the voting powers prescribed by law for shares of such series as a voting group, if any, and the conditions upon effectiveness, and the terms and limitations for exercise of, such voting powers.
- (vi) Whether shares of such series shall be convertible into or exchangeable for shares of any other series or class of stock (including without limitation shares of common stock) or any other securities, and the terms and conditions, if any, applicable to such right, including without limitation whether convertible or exchangeable at the option of the corporation, the shareholder or any other person.
- (vii) The terms and conditions of applicable purchase, retirement, or sinking fund, if any, which may be provided for the shares of such series.
- (viii) The restrictions, if any, upon the creation of indebtedness, payment of distributions on other classes or series of stock, or creation or issuance of additional securities, ranking on a parity with or prior to such series.
- (ix) Other relative, participating, optional, or special rights, qualifications, limitations, values, or restrictions, if any, for shares of such series.

Each such series of preferred stock shall be eligible for issue upon the Board of Directors' duly adopting the appropriate resolution(s) and filing with the Secretary of State articles of amendment as set forth in Section 33-6-102 of the Act, which shall be effective without shareholder action.

- (c) Designation. Share certificates for such capital stock shall designate whether the certificate represents Common Stock or Preferred Stock.
- (d) Designation of Series A Convertible Preferred Stock

1. Designation and Number of Shares. There shall be hereby created and established a series of Preferred Stock designated as "Series A Convertible Preferred Stock" (the "Series A Preferred Stock"). The authorized number of shares of Series A Preferred Stock shall be 20,000. Capitalized terms used herein and not otherwise defined shall have the meanings set forth in Section 4(d)(9) below.

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M. H. Hamad
Secretary of the State of North Carolina

shall have distribution, dividend, and liquidation rights granted by law or declared by resolution(s) of the Board of Directors from time to time, except that in the absence of the establishment of liquidation rights for one or more series of preferred stock (either preferentially to, or on parity with, the common stock) as provided below, the holders of record of shares of common stock shall be entitled to receive the net assets of the Corporation upon dissolution. The distribution, dividend, and liquidation rights associated with the shares of common stock will be subordinated only to the comparable distribution, dividend, or liquidation rights associated with shares of certain series of preferred stock, if any, but only to the extent such preferences, if any, are established for one or more series of preferred stock by the Board of Directors in its discretion as provided below:

- (b) Preferred Stock. Authority is also hereby expressly granted to and vested in the Board of Directors of the Corporation to provide for the issue of preferred stock in one or more series, and in connection therewith to establish by resolution(s) of the Board of Directors from time to time providing for the issue of such series, the number of shares to be included in such series, the designation thereof, and the relative rights, preferences, and limitations of each series and the variations in such rights, preferences, and limitations as between series, all to the fullest extent permitted by Section 33-6-102 of the Act. Without limiting the generality of the grant of authority contained in the preceding sentence, the Board of Directors is authorized to determine any or all of the following with respect to any series of the preferred stock, and the shares of each series may vary from the shares of any other series in any or all of the following respects:
- (i) The number of shares of such series (which may subsequently be increased, except as otherwise provided by the resolution(s) of the Board of Directors providing for the issue of such series, or decreased to a number not less than the number of shares then outstanding) and the distinguishing designation thereof.
 - (ii) The distribution, dividend, and liquidation rights, if any, of such series; the distribution, dividend, or liquidation preferences, if any, as between such series and any other class or series of stock; whether and the extent to which shares of such series shall be entitled to participate in any distributions, dividends, or liquidation proceeds with shares of any other class or series of stock; whether and the extent to which any distributions, dividends, or liquidation proceeds on such series shall be cumulative, noncumulative, or partially cumulative, and any limitations, restrictions, or conditions on the payment of such distributions, dividends, or liquidation proceeds; and whether and the extent to which shares dividends of one series of preferred stock may be issued in respect of shares of another series or class without approval of the holders of the series from which the share dividend is to be issued.

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Mark Hammond
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STATE OF SOUTH CAROLINA
SECRETARY OF STATE

SECOND AMENDED AND RESTATED
ARTICLES OF INCORPORATION

COMMERCIAL FOODSERVICE REPAIR, INC.

Pursuant Sections 33-10-103 and 33-10-107 of the South Carolina Business Corporation Act of 1988, as amended (the "Act"), Commercial Foodservice Repair, Inc. (the "Corporation") hereby amends its Amended and Restated Articles of Incorporation by deleting all existing provisions and amending and restating the same as follows:

1. Name. The name of the Corporation is Commercial Foodservice Repair, Inc., and prior to those certain Articles of Amendment filed on April 18, 2008, the name of the Corporation was Transaction Technology Corporation.
2. Original Articles. The original Articles of Incorporation were filed on September 14, 1983 (the "Original Articles"). The Original Articles were amended by Articles of Amendment filed on October 7, 1987, January 7, 2002, and April 18, 2008, and the Original Articles were amended and restated in its entirety by filing on April 13, 2009 (the "Restated Articles"). The Restated Articles were amended by Articles of Amendment filed on April 14, 2009 and December 10, 2013.
3. Office and Agent: The Corporation's registered office is 75 Beattie Place, Suite 410, Greenville, SC 29601, and the Corporation's registered agent at such address is Kurt A. Herwald.
4. Stock. The Corporation is authorized to issue two classes of stock, as follows:

<u>Class of Shares</u>	<u>Authorized Number of Shares in Class</u>
Common Stock	1,000,000
Preferred Stock	50,000

The relative rights, preferences, and limitations of the shares of each class, and of each series within a class, are as follows:

- (a) Common Stock. Authority is hereby expressly granted to and vested in the Board of Directors of the Corporation to provide for the issue of common stock. The Corporation's shares of common stock shall have no par value. The holders of record of shares of common stock shall be entitled to unlimited voting rights equating to one (1) vote per outstanding share of common stock on all matters upon which shareholders are entitled to vote. Shares of common stock

140728-0040 FILED: 07/28/2014
COMMERCIAL FOODSERVICE REPAIR, INC.
Filing Fee: \$110.00 ORIG

Mark Hammond

South Carolina Secretary of State

CERTIFIED TO BE A TRUE AND CORRECT COPY
AS TAKEN FROM AND COMPARED WITH THE
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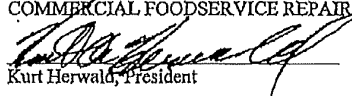

Mark Hammett
CLERK OF SUPERIOR COURT

5. The manner, if not set forth in the Amendment, in which any exchange, reclassification, or cancellation of issued shares provided for in the Amendment shall be effected, is as follows: Not applicable.

6. The above-described Amendment was duly adopted by the Board pursuant to Article 5(b) of the Restated Articles and Section 36-6-102 of the Act. Shareholder action was not required for the adoption of such Amendment.

Date: April 13, 2009

COMMERCIAL FOODSERVICE REPAIR, INC.


Kurt Herwald, President

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principal national securities exchange on which the Common Stock is then listed or admitted to trading; or (b) if the Common Stock is not then listed or admitted to trading on any national securities exchange but is designated as a national market system security by the National Association of Securities Dealers, Inc., the last trading price of the Common Stock on such date; or (c) if there shall have been no trading on such date or if the Common Stock is not designated as a national market system security by the National Association of Securities Dealers, Inc., the average of the reported closing bid and asked prices of the Common Stock on such date as shown by the National Market System of the National Association of Securities Dealers, Inc. Automated Quotations System and reported by any member firm of the New York Stock Exchange selected by the Corporation; or (d) if none of (a), (b) or (c) is applicable, a market price per share determined at the Corporation's expense by an appraiser chosen by the Corporation and reasonably satisfactory to a majority of the holders of Series A Preferred Stock. Any determination of the Market Price by an appraiser shall be based on a valuation of the Corporation as an entirety without regard to any discount for minority interests or disparate voting rights among classes of Capital Stock,

"New Issue Price" shall have the meaning ascribed to it in Section 7(d) (ii) hereof.

"Permitted Transferee" shall mean: (A) with respect to all holders of Preferred or Common Shares (collectively the "Shareholders"), each other Shareholder or the Corporation; (B) with respect to a Shareholder who is an individual, (i) such individual's estate; personal representative, executor, any ancestor, spouse or lineal descendant of such individual; (ii) any organization gifts to which qualify for the gift tax charitable deduction under Section 2522 of the Code to which such individual makes a gift; (iii) any trust for the benefit of the foregoing Persons; and (iv) any partnership, limited liability company, Corporation or other entity in which the foregoing Persons own at least 90% of the equity interests, and (C) with respect to a Shareholder which is a partnership, limited liability company, Corporation, trust or decedent's estate (i) Persons who were the owners of the equity interests in such entity or held the beneficial interests in such trust or estate as of the Effective Date, or (ii) Persons who bear a relationship described in clause (A)(i) above to the owners of the equity interests of such entity or beneficial interests in such trust or estate on the Effective Date.

"Person" means any individual, firm, corporation, partnership, limited liability company, trust, incorporated or unincorporated association, joint venture, joint stock company, governmental body or other entity of any kind.

"Relevant Date" shall have the meaning ascribed to it in Section 7(d)(ii) hereof.

"Sale Transaction" shall mean (a) (i) the merger or consolidation of the Corporation into or with one or more Persons, (ii) the merger or consolidation of one or more Persons into or with the Corporation or (iii) a tender offer or other business combination, if, in the case of (i), (ii) or (iii) the stockholders of the Corporation prior to such merger or consolidation do not retain at least a majority of the voting power of the surviving Person or (b) the voluntary sale, conveyance, exchange or transfer to another Person of (i) the voting Capital Stock of the Corporation if, after such sale, conveyance, exchange or transfer, the stockholders of the Corporation prior to such sale, conveyance, exchange or transfer do not retain at least a majority of the voting power of the Corporation or (ii) all or substantially all of the assets of the Corporation.

"Securities Act" means the Securities Act of 1933, as amended, and the rules and regulations of the Commission promulgated thereunder,

"Series A Preferred Stock" shall have the meaning ascribed to it in Section 1 hereof.

"Share" shall mean a share of the Series A Preferred Stock.

"Transaction" shall have the meaning ascribed to it in Section 7(g) hereof.

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"Corporation" shall have the meaning ascribed to it in the first paragraph of this Certificate of Designation.

"Current Market Price" per share shall mean, as of the date of determination, (a) the average of the daily Market Price under clause (a), (h) or (c) of the definition of Market Price of the Common Stock during the immediately preceding thirty (30) trading days ending on such date, and (b) if the Common Stock is not then listed or admitted to trading on any national securities exchange or quoted in the over-the-counter market, then the Market Price under clause (d) of the definition thereof on such date.

"Exchange Act" means the Securities Exchange Act of 1934, as amended, and the rules and regulations of the Commission promulgated thereunder.

"Excluded Transaction" means (a) any issuance of shares of restricted stock or options to purchase shares of Common Stock (subject to adjustment in the event of stock splits, combinations or similar occurrences) to employees, officers or directors of the Corporation pursuant to a stock option plan or other employee benefit arrangement approved by the Board of Directors and (b) any issuance of Common Stock (i) upon the conversion of shares of Series A Preferred Stock, (ii) as a dividend on shares of Series A Preferred Stock or (iii) upon conversion or exercise of any Common Stock Equivalents.

"Fair Purchase Value per Share" means the fair market value of each Share determined as follows: If the Series A Preferred Stockholder ("Stockholder"), and the Corporation mutually agree on the value of each such Shares within ten (10) days after a party receives notice of the other party's desire to determine the Fair Purchase Value per Share, such agreed-upon value of each such Shares shall be the Fair Purchase Value per Share. If the Stockholder and the Corporation are unable to agree upon such a value, the Corporation and the Stockholder shall each select an appraiser experienced in the business of evaluating or appraising the market value of equity interests in a corporation such as the Corporation. The appraisers so selected (the "Initial Appraisers") shall appraise the Shares. The Initial Appraisers shall not discount the Shares for minority ownership or illiquidity. If the difference between the resulting appraisals are not greater than 10% of the higher appraisal, then the average of the appraisals shall be deemed the Fair Purchase Value per Share; otherwise the Initial Appraisers shall select an additional appraiser (the "Additional Appraiser"), who shall be experienced in a manner similar to the Initial Appraisers. If they fail to select an Additional Appraiser as provided above, then either the Corporation or the Stockholder may apply, after written notice to the other, to any judge of any court of general jurisdiction for the appointment of such Additional Appraiser. The Additional Appraiser shall then choose from the values determined by the Initial Appraisers the value that the Additional Appraiser considers closest to the fair market value per share of the Shares and such value shall be the Fair Purchase Value per Share. The Additional Appraiser shall forthwith give written notice of his determination to the Corporation and the Stockholder. Each party shall pay the expenses and fees of the appraiser selected by him or it, and if an Additional Appraiser is employed, the party who selected the Initial Appraiser whose value determination was rejected by the Additional Appraiser shall pay all the expenses and fees of the Additional Appraiser.

"Initial Public Offering" shall mean the first underwritten public offering of Common Stock pursuant to an effective registration statement under the Securities Act.

"Issue Date" shall have the meaning ascribed to it in Section 7(d) (ii) hereof.

"Junior Stock" shall have the meaning ascribed to it in Section 2(a) hereof

"Liquidation" shall mean the voluntary or involuntary liquidation under applicable bankruptcy or reorganization legislation, or the dissolution or winding up of the Corporation.

"Liquidation Preference" shall have the meaning ascribed to it in Section 4(a) hereof.

"Market Price" shall mean, as of the date of determination, (a) if the Common Stock is listed on a national securities exchange, the closing price per share of Common Stock on such date published in The Wall Street Journal (National Edition) or, if no such closing price on such date is published in The Wall Street Journal (National Edition), the average of the closing bid and asked prices on such date, as officially reported on the

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reservation or to permit the conversion of all outstanding shares of Series A Preferred Stock; provided that (i) the holders of shares of Series A Preferred Stock vote such shares in favor of any such action that requires a vote of stockholders and (ii) such holders cause any directors elected by them pursuant to Section 6(e) to vote in favor of any such action that requires a vote of the Board of Directors.

(j) No Conversion Tax or Charge. The issuance or delivery of certificates for Common Stock upon the conversion of shares of Series A Preferred Stock shall be made without charge to the converting holder of shares of Series A Preferred Stock for such certificates or for any tax in respect of the issuance or delivery of such certificates or the securities represented thereby, and such certificates shall be issued or delivered in the respective names of, or (subject to compliance with the applicable provisions of federal and state securities laws) in such names as may be directed by, the holders of the shares of Series A Preferred Stock converted; provided, however, that the Corporation shall not be required to pay any tax which may be payable in respect of any transfer involved in the issuance and delivery of any such certificate in a name other than that of the holder of the shares of Series A Preferred Stock converted, and the Corporation shall not be required to issue or deliver such certificate unless or until the Person or Persons requesting the issuance or delivery thereof shall have paid to the Corporation the amount of such tax or shall have established to the reasonable satisfaction of the Corporation that such tax has been paid.

8. Certain Remedies. Any registered holder of Series A Preferred Stock shall be entitled to an injunction or injunctions to prevent breaches of the provisions of this Certificate of Designations and to enforce specifically the terms and provisions of this Certificate of Designations in any court of the United States or any state thereof having jurisdiction, this being in addition to any other remedy to which such holder may be entitled at law or in equity.

9. Business Day. If any payment shall be required by the terms hereof to be made on a day that is not a Business Day, such payment shall be made on the immediately succeeding Business Day.

10. Definitions. As used in this Certificate of Designations, the following terms shall have the following meanings (with terms defined in the singular having comparable meanings when used in the plural and vice versa), unless the context otherwise requires:

"Affiliate" shall mean any Person who is an "affiliate" as defined in Rule 12h-2 of the General Rules and Regulations under the Exchange Act.

"Board of Directors" means the Board of Directors of the Corporation.

"Business Day" means any day except a Saturday, a Sunday, or other day on which commercial banks in the State of New York are authorized or required by law or executive order to close,

"Capital Stock" means, with respect to any Person, any and all shares, interests, participations, rights in, or other equivalents (however designated and whether voting or non-voting) of, such Person's capital stock and any and all rights, warrants or options exchangeable for or convertible into such capital stock (but excluding any debt security whether or not it is exchangeable for or convertible into such capital stock).

"Commission" means the United States Securities and Exchange Commission.

"Common Stock" shall have the meaning ascribed to it in Section 2(a) hereof.

"Common Stock Equivalent" shall mean any security or obligation which is by its terms convertible or exchangeable into shares of Common Stock or another Common Stock Equivalent, and any option, warrant or other subscription or purchase right with respect to Common Stock.

"Controlling Shareholder" shall mean Kurt Herwald.

"Conversion Price" shall have the meaning ascribed to it in Section 7(a) hereof.

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(f) Certificate as to Adjustments. Upon any increase or decrease in the Conversion Price, the Corporation shall within a reasonable period (not to exceed ten (10) days) following any of the foregoing transactions deliver to each registered holder of Series A Preferred Stock a certificate, signed by (i) the Chief Executive Officer of the Corporation and (ii) the Chief Financial Officer of the Corporation, setting forth in reasonable detail the event requiring the adjustment and the method by which such adjustment was calculated and specifying the increased or decreased Conversion Price then in effect following such adjustment.

(g) Reorganization, Reclassification. In case of any merger or consolidation of the Corporation (other than a Sale Transaction) or any capital reorganization, reclassification or other change of outstanding shares of Common Stock (other than a change in par value, or from par value to no par value, or from no par value to par value) (each, a "Transaction"), the Corporation shall execute and deliver to each holder of Series A Preferred Stock at least twenty (20) Business Days prior to effecting such Transaction a certificate stating that the holder of each share of Series A Preferred Stock shall have the right to receive in such Transaction, in exchange for each share of Series A Preferred Stock, a security identical to (and not less favorable than) the Series A Preferred Stock, and provision shall be made therefor in the agreement, if any, relating to such Transaction. In the event the holders of a majority of the Series A Preferred Stock do not elect to receive the payments contemplated by Section 4(d), then upon the consummation of a Sale Transaction, each outstanding share of Series A Preferred Stock shall be converted into the kind and amount of shares of stock or other securities, property or cash receivable upon such Sale Transaction by a holder of the number of shares of Common Stock into which such share of Series A Preferred Stock could have been converted immediately prior to such Sale Transaction and provision shall be made therefor in the agreement, if any, relating to such Sale Transaction. Any certificate delivered pursuant to this Section 7(g) shall provide for adjustments which shall be as nearly equivalent as may be practicable to the adjustments provided for in this Section 7. The provisions of this Section 7(g) and any equivalent thereof in any such certificate similarly shall apply to successive transactions.

(h) Notices. In case at any time or from time to time:

(w) the Corporation shall declare a dividend (or any other distribution) on its shares of Common Stock;

(x) the Corporation shall authorize the granting to the holders of its Common Stock of rights or warrants to subscribe for or purchase any shares of stock of any class or of any other rights or warrants;

(y) there shall be any Transaction; or

(z) there shall occur the Initial Public Offering or a Sale Transaction;

then the Corporation shall mail to each holder of shares of Series A Preferred Stock at such holder's address as it appears on the transfer books of the Corporation, as promptly as possible but in any event at least ten (10) Business Days prior to the applicable date hereinafter specified, a notice stating (A) the date on which a record is to be taken for the purpose of such dividend, distribution or granting of rights or warrants or, if a record is not to be taken, the date as of which the holders of Common Stock of record to be entitled to such dividend, distribution or granting of rights or warrants are to be determined, or (B) the date on which such Transaction, Initial Public Offering or Sale Transaction is expected to become effective and the date as of which it is expected that holders of Common Stock of record shall be entitled to exchange their Common Stock for shares of stock or other securities or property or cash deliverable upon such Transaction, Initial Public Offering or Sale Transaction. Notwithstanding the foregoing, in the case of any event to which Section 7(g) is applicable, the Corporation shall also deliver the certificate described in Section 7(g) to each holder of Series A Preferred Stock at least ten (10) Business Days prior to effecting such reorganization or reclassification as aforesaid,

(i) Reservation of Common Stock. The Corporation shall at all times reserve and keep available for issuance upon the conversion of the Series A Preferred Stock, such number of its authorized but unissued shares of Common Stock as will from time to time be sufficient to permit the conversion of all outstanding shares of Series A Preferred Stock, and shall take all action to increase the authorized number of shares of Common Stock if at any time there shall be insufficient authorized but unissued shares of Common Stock to permit such

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Secretary of the Board of Directors

with the passage of time or otherwise, in the price payable upon the exercise or conversion thereof, then the Conversion Price hereunder shall be readjusted (but to no greater extent than originally adjusted) in order to (A) eliminate from the computation any additional shares of Common Stock corresponding to such Common Stock Equivalents as shall have expired or terminated, (B) treat the additional shares of Common Stock, if any, actually issued or issuable pursuant to the previous exercise of such Common Stock Equivalents as having been issued for the consideration actually received and receivable therefore and (C) treat any of such Common Stock Equivalents which remain outstanding as being subject to exercise or conversion on the basis of such exercise or conversion price as shall be in effect at the time.

(iii) Certain Distributions. In case the Corporation shall at any time or from time to time, prior to conversion of the Series A Preferred Stock, distribute to all holders of shares of the Common Stock (including any such distribution made in connection with a merger or consolidation in which the Corporation is the resulting or surviving Person and the Common Stock is not changed or exchanged) cash, evidences of indebtedness of the Corporation or another issuer, securities of the Corporation or another issuer or other assets (excluding dividends or distributions in which holders of shares of Series A Preferred Stock participate, in the manner provided in Section 3, and dividends payable in shares of Common Stock for which adjustment is made under another paragraph of this Section 7(d) and any distribution in connection with an Excluded Transaction) or rights or warrants to subscribe for or purchase securities of the Corporation (excluding those distributions in respect of which an adjustment in the Conversion Price is made pursuant to another paragraph of this Section 7(d) and any distribution in connection with an Excluded Transaction), then, and in each such case, the Conversion Price then in effect shall be adjusted downward (and any other appropriate actions shall be taken by the Corporation) by multiplying the Conversion Price in effect immediately prior to the date of such distribution by a fraction (x) the numerator of which shall be the Current Market Price of the Common Stock immediately prior to the date of distribution less the then fair market value (as determined by the Board of Directors in the exercise of their fiduciary duties) of the portion of the cash, evidences of indebtedness, securities or other assets so distributed or of such rights or warrants applicable to one share of Common Stock and (y) the denominator of which shall be the Current Market Price of the Common Stock immediately prior to the date of distribution (but such fraction shall not be greater than one); provided, however, that no adjustment shall be made with respect to any distribution of rights or warrants to subscribe for or purchase securities of the Corporation if the holder of shares of Series A Preferred Stock would otherwise be entitled to receive such rights or warrants upon conversion at any time of shares of Series A Preferred Stock into Common Stock. Such adjustment shall be made whenever any such distribution is made and shall become effective retroactively to a date immediately following the close of business on the record date for the determination of stockholders entitled to receive such distribution.

(iv) Other Changes. In case the Corporation at any time or from time to time, prior to the conversion of the Series A Preferred Stock, shall take any action affecting its Common Stock similar to or having an effect similar to any of the actions described in any of Sections 7(d)(i) through (iii) or Section 7(g) (but not including any action described in any such Section) and the Board of Directors in good faith determines that it would be equitable in the circumstances to adjust the Conversion Price as a result of such action, then, and in each such case, the Conversion Price shall be adjusted in such manner and at such time as the Board of Directors in good faith determines would be equitable in the circumstances (such determination to be evidenced in a resolution, a certified copy of which shall be mailed to the holders of the shares of Series A Preferred Stock).

(v) No Adjustment. Notwithstanding anything herein to the contrary, no adjustment under this Section 7(d) need be made to the Conversion Price if the Corporation receives written notice from holders of all of the outstanding Series A Preferred Stock that no such adjustment is required.

(e) Abandonment. If the Corporation shall take a record of the holders of its Common Stock for the purpose of entitling them to receive a dividend or other distribution, and shall thereafter and before the distribution to stockholders thereof legally abandon its plan to pay or deliver such dividend or distribution, then no adjustment in the Conversion Price shall be required by reason of the taking of such record.

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Series A Preferred Stock (w) pay a dividend or make a distribution (other than a dividend or distribution in which holders of shares of Series A Preferred Stock participate, in the manner provided in Section 3) on the outstanding shares of Common Stock payable in Capital Stock, (x) subdivide the outstanding shares of Common Stock into a larger number of shares, (y) combine the outstanding shares of Common Stock into a smaller number of shares or (z) issue any shares of its Capital Stock in a reclassification of the Common Stock (other than any such event for which an adjustment is made pursuant to another clause of this Section 7(d)), then, and in each such case, the Conversion Price in effect immediately prior to such event shall be adjusted (and any other appropriate actions shall be taken by the Corporation) so that the holder of any share of Series A Preferred Stock thereafter surrendered for conversion shall be entitled to receive the number of shares of Common Stock or other securities of the Corporation that such holder would have owned or would have been entitled to receive upon or by reason of any of the events described above, had such share of Series A Preferred Stock been converted immediately prior to the occurrence of such event. An adjustment made pursuant to this Section 7(d)(i) shall become effective retroactively (x) in the case of any such dividend or distribution, to a date immediately following the close of business on the record date for the determination of holders of Common Stock entitled to receive such dividend or distribution or (y) in the case of any such subdivision, combination or reclassification, to the close of business on the day upon which such corporate action becomes effective.

(ii) Issuance of Common Stock or Common Stock Equivalent below Conversion Price. If the Corporation shall at any time or from time to time prior to conversion of the Series A Preferred Stock, other than pursuant to an Excluded Transaction, issue or sell any shares of Common Stock or Common Stock Equivalents at a price per share of Common Stock (the "New Issue Price") that is less than the Conversion Price then in effect as of the record date or Issue Date (as defined below), as the case may be (the "Relevant Date") (treating the price per share of Common Stock, in the case of the issuance of any Common Stock Equivalent, as equal to (x) the sum of the price for such Common Stock Equivalent plus any additional consideration payable (without regard to any anti-dilution adjustments) upon the conversion, exchange or exercise of such Common Stock Equivalent divided by (y) the number of shares of Common Stock initially underlying such Common Stock Equivalent), other than (A) issuances or sales for which an adjustment is made pursuant to another paragraph of this Section 7(d) and (B) issuances in connection with an Excluded Transaction, then, and in each such case, the Conversion Price then in effect shall be adjusted downward by multiplying the Conversion Price in effect on the day immediately prior to the Relevant Date by a fraction (i) the numerator of which shall be the sum of the number of shares of Common Stock outstanding on the Relevant Date, plus the number of shares of Common Stock which the aggregate consideration received by the Corporation for the total number of such additional shares of Common Stock so issued would purchase at the Conversion Price on the Relevant Date (or, in the case of Common Stock Equivalents, the number of shares of Common Stock which the aggregate consideration received by the Corporation upon the issuance of such Common Stock Equivalents and receivable by the Corporation upon the conversion, exchange or exercise of such Common Stock Equivalents would purchase at the Conversion Price on the Relevant Date) and (ii) the denominator of which shall be the sum of the number of shares of Common Stock outstanding on the Relevant Date plus the number of additional shares of Common Stock issued or to be issued at the New Issue Price (or, in the case of Common Stock Equivalents, the maximum number of shares of Common Stock into which such Common Stock Equivalents initially may convert, exchange or be exercised).

Such adjustment shall be made whenever such shares of Common Stock or Common Stock Equivalents are issued, and shall become effective retroactively (x) in the case of an issuance to the stockholders of the Corporation, as such, to a date immediately following the close of business on the record date for the determination of stockholders entitled to receive such shares of Common Stock or Common Stock Equivalents and (y) in all other cases, on the date (the "Issue Date") of such issuance; provided, however, that the determination as to whether an adjustment is required to be made pursuant to this Section 7(d)(ii) shall only be made upon the issuance of such shares of Common Stock or Common Stock Equivalents, and, with respect to Common Stock Equivalents, not upon the issuance of any security into which the Common Stock Equivalents convert, exchange or may be exercised; and provided, further, that if any Common Stock Equivalents (or any portions thereof) which shall have given rise to an adjustment pursuant to this Section 7(d)(ii) shall have expired or terminated without the exercise thereof and/or if by reason of the terms of such Common Stock Equivalents there shall have been an increase or increases,

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Mark H. Harnett
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(a) Optional Conversion. Any holder of Series A Preferred Stock shall have the right, at its option, at any time and from time to time, to convert, subject to the terms and provisions of this Section 7, any or all of such holder's shares of Series A Preferred Stock into such number of fully paid and non-assessable shares of Common Stock as is equal to the product of the number of shares of Series A Preferred Stock being so converted multiplied by the quotient of (i) the Liquidation Preference divided by (ii) the conversion price of \$100 per share, subject to adjustment as provided in Section 7(d) (such price, the "Conversion Price"). Such conversion right shall be exercised by the surrender of certificate(s) representing the shares of Series A Preferred Stock to be converted to the Corporation at any time during usual business hours at its principal place of business to be maintained by it (or such other office or agency of the Corporation as the Corporation may designate by notice in writing to the holders of Series A Preferred Stock), accompanied by written notice that the holder elects to convert such shares of Series A Preferred Stock and specifying the name or names (with address) in which a certificate or certificates for shares of Common Stock are to be issued and (if so required by the Corporation) by a written instrument or instruments of transfer in form reasonably satisfactory to the Corporation duly executed by the holder or its duly authorized legal representative and transfer tax stamps or funds therefor, if required pursuant to Section 7(j). All certificates representing shares of Series A Preferred Stock surrendered for conversion shall be delivered to the Corporation for cancellation and canceled by it. As promptly as practicable after the surrender of any shares of Series A Preferred Stock, the Corporation shall (subject to compliance with the applicable provisions of federal and state securities laws) deliver to the holder of such shares so surrendered certificate(s) representing the number of fully paid and nonassessable shares of Common Stock into which such shares are entitled to be converted and, to the extent funds are legally available therefor, an amount equal to the accrued and unpaid dividends payable with respect to such shares in accordance with Section 3 above. At the time of the surrender of such certificate(s), the Person in whose name any certificate(s) for shares of Common Stock shall be issuable upon such conversion shall be deemed to be the holder of record of such shares of Common Stock on such date, notwithstanding that the share register of the Corporation shall then be closed or that the certificates representing such Common Stock shall not then be actually delivered to such Person.

(b) Automatic Conversion. Immediately prior to the earlier of (i) the closing of the Initial Public Offering or (ii) the conversion of that number of shares of Series A Preferred Stock pursuant to Section 7(a) such that less than 25% of the shares of Series A Preferred Stock remain outstanding, each outstanding share of Series A Preferred Stock shall be automatically converted, with no further action required to be taken by the Corporation or the holder thereof, into the number of fully paid and nonassessable shares of Common Stock equal to the product of the number of shares of Series A Preferred Stock being converted multiplied by the quotient of (x) the Liquidation Preference divided by (y) the Conversion Price then in effect (after giving effect to any adjustments pursuant to Section 7(d)).

Immediately upon conversion as provided herein, each holder of Series A Preferred Stock shall be deemed to be the holder of record of the Common Stock issuable upon conversion of such holder's Series A Preferred Stock, notwithstanding that the share register of the Corporation shall then be closed or that certificates representing the Common Stock shall not then actually be delivered to such Person. Upon notice from the Corporation, each holder of Series A Preferred Stock so converted shall promptly surrender to the Corporation at its principal place of business to be maintained by it (or at such other office or agency of the Corporation as the Corporation may designate by such notice to the holders of Series A Preferred Stock) certificates representing the shares so converted.

(c) Termination of Rights. On the date of such optional conversion pursuant to Section 7(a) above or of such automatic conversion pursuant to Section 7(b) above, all rights with respect to the shares of Series A Preferred Stock so converted, including the rights, if any, to receive notices and vote, shall terminate, except only the rights of holders thereof to (i) receive certificates for the number of shares of Common Stock into which such shares of Series A Preferred Stock have been converted, (ii) the payment of dividends, if any, pursuant to Section 3 above and (iii) exercise the rights to which they are entitled as holders of Common Stock.

(d) Antidilution Adjustments. The Conversion Price, and the number and type of securities to be received upon conversion of the Series A Preferred Stock, shall be subject to adjustment as follows:

(i) Dividend, Subdivision, Combination Or Reclassification of Common Stock. In the event that the Corporation shall at any time or from time to time, prior to conversion of the

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REFERENCE ID: 1510191013154

Mark Hammond
Secretary of State of South Carolina

("Person") that is not a direct or indirect wholly-owned subsidiary of the Corporation, (ii) any sale, lease, or exchange of all or substantially all of the assets of the Corporation or any subsidiary of the Company to a Person that is not a direct or indirect wholly-owned subsidiary of the Corporation, (iii) any sale or transfer of more than fifty percent (50%) of the issued and outstanding shares of stock of the Corporation to any Person that is not a direct or indirect wholly-owned subsidiary of the Corporation, (iv) any liquidation of the Corporation or any subsidiary of the Corporation into a Person that is not a direct or indirect wholly-owned subsidiary of the Corporation, or (v) any dissolution of the Corporation or any subsidiary of the Company; provided however, an Extraordinary Transaction shall not include a transaction with a Permitted Transferee.

6. Voting Rights.

(a) The holders of Series A Preferred Stock, except as otherwise required under South Carolina law or as set forth in Sections 6(b), 6(c) and 6(d), shall not be entitled or permitted to vote on any matter required or permitted to be voted upon by the stockholders of the Corporation.

(b) Except as set forth in Section 6(d), each outstanding share of Series A Preferred Stock shall entitle the holder thereof to vote, in person or by proxy, at a special or annual meeting of stockholders or in any written consent in lieu of meeting, on all matters entitled to be voted on by holders of Common Stock voting together as a single class with the Common Stock (and with other shares entitled to vote thereon, if any). With respect to any such vote, each share of Series A Preferred Stock shall entitle the holder thereof to cast that number of votes per share as is equal to the number of votes that such holder would be entitled to cast had such holder converted its shares of Series A Preferred Stock into shares of Common Stock pursuant to Section 7(a) on the record date for determining the stockholders of the Corporation eligible to vote on any such matters.

(d) At any time when at least 25% of the shares of Series A Preferred Stock are outstanding, except where the vote or written consent of the holders of a greater number of shares of the Corporation is required by law or by the Corporation's Articles of Incorporation, and in addition to any other vote required by law or the Corporation's Articles of Incorporation, without the approval of the holders of at least 50% of the then outstanding shares of Series A Preferred Stock, given in writing or by vote at a meeting, consenting or voting (as the case may be) separately as a series, the Corporation will not:

(i) effect any sale, lease, assignment, transfer or other conveyance of all or substantially all of the Corporation's assets, or any consolidation or merger involving the Corporation exceeding \$5,000,000 in value or 10% of the Capital Stock of the Corporation (other than a merger solely to change jurisdictions or to implement an internal corporation reorganization of the Corporation) or any reclassification or other change of any Capital Stock, or any recapitalization, or any dissolution, liquidation or winding up of the Corporation;

(ii) purchase, redeem or otherwise acquire for value any of the Common Stock, other than pursuant to the right of first offer of the Corporation under the Stockholders Agreement; provided that this provision shall not apply to the purchase of Common Stock from directors, officers, employees, consultants or advisors to the Corporation who acquire such Common Stock in such capacity, except Controlling Shareholders;

(iii) create, authorize or issue, or obligate the Corporation to issue, any other Capital Stock ranking senior to or on a pari passu basis with the Series A Preferred Stock as to dividend or redemption rights, liquidation preferences, conversion rights, voting rights or otherwise;

(iv) increase or decrease (other than by redemption or conversion of the preferred stock) the total number of authorized shares of Preferred Stock or Common Stock;

(v) effect any transaction or other action that would adversely affect the rights, preferences, powers (including, without limitation, voting powers) and privileges of the Series A Preferred Stock.

7. Conversion.

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Mark H. Hammond
Secretary of the State of North Carolina

(the "Shareholder Redemption Notice"). For purposes of this provision, a "Change of Control" shall be defined as a transaction causing the ownership or control of the right to vote of more than 50% of the Corporation's common stockholders securities to be issued or transferred to any person or persons who are not on June 29, 2009, holders of the Corporation's common stock.

(c) Purchase Price for Shareholder Optional Put. In the event the Shareholder Put arises out of a Change of Control, the purchase price shall equal the greater of: (i) the Liquidation Preference or (ii) the consideration paid per share of common stock in conjunction with the Change of Control. In the event the Shareholder Put arises other than in connection with a Change of Control, the purchase price shall be equal to the greater of (i) the Liquidation Preference or (ii) the Fair Market Value per Share.

(d) Payment of Redemption Price. Consummation of each redemption pursuant to this Section 5 shall take place on a date which shall be not more than 30 days following the date of the Redemption Notice or Shareholder Redemption Notice, as applicable, at a location to be specified by the Corporation (each a "Redemption Closing"). At each such Redemption Closing held pursuant to the provisions of Section 5(a) above, the holder(s) of the Series A Preferred Stock shall deliver to the Corporation, one or more stock certificates evidencing such shares of Series A Preferred Stock to be redeemed, against delivery to such holder, either by bank cashiers' check or wire transfer of immediately available funds, of an amount equal to the product determined (i) in the case of a Corporate Redemption Option, by multiplying (A) the number of shares of Series A Preferred Stock to be redeemed pursuant to the Optional Redemption Notice, by (B) Redemption Value or (ii) in the case of a Shareholder Put, the Liquidation Preference (the "Redemption Price").

(e) Assignment of Corporate Redemption Option. The rights of the Corporation under the Corporate Redemption Option may be assigned to the Controlling Shareholder. In such case, the Series A Preferred Stock purchased by the Controlling Shareholder shall remain outstanding, but all other terms and conditions of this Section 5 shall remain in place.

(f) Make Whole on Corporate Redemption Option. In the event of a Qualifying Subsequent Transaction (as defined below), the Redemption Price shall be increased by the Make Whole Amount (as defined below). The Make Whole Amount shall be paid by the Corporation or Controlling Shareholder (as applicable), at the times and in the form of consideration as called for by the Qualifying Subsequent Transaction as if the recipient(s) entitled to the Make Whole Amount were recipient(s) of consideration in the Qualifying Subsequent Transaction as if their shares had been converted into shares of Common Stock pursuant to Section 7(a) immediately prior to the Qualifying Subsequent Transaction; provided, however, that if the consideration in the Qualifying Subsequent Transaction consists in whole or in part of securities issued in a private offering and issuance (or transfer) of the securities to the recipient(s) of the Make Whole Amount is not permitted by the issuer of such securities, then the recipients shall be entitled to receive the fair market value of such securities determined by appraisal by an experienced valuation firm acceptable to the Series A Preferred Stock Shareholders and Corporation or, if a mutual agreement cannot be reached, then by the average of the values determined by an appraiser selected by each of the Series A Preferred Stock Shareholders and the Corporation, in cash from the Corporation or Controlling Shareholder (as applicable).

For purposes of this Section 5(e), "Make Whole Amount" means the aggregate difference (but only if a positive number) between (i) the price per share received by the Corporation or Controlling Shareholder pursuant to the exercise of the Redemption Option; and (ii) the price per share received by the Corporation or Controlling Shareholder, as applicable, in the Qualifying Subsequent Transaction; provided, that in a sale of assets by the Corporation, any amount received by the Corporation in such Qualifying Subsequent Transaction shall be deemed to have been received by the shareholders of the Company in proportion to their ownership of shares.

For purposes of this Section 5(e), "Qualifying Subsequent Transaction" means an Extraordinary Transaction that was agreed to or occurs either prior to or within one (1) year following the Redemption Closing arising from the exercise of the Corporate Redemption Option.

For the purposes of this Section 5(e), "Extraordinary Transaction" means (i) any merger of the Corporation or any subsidiary of the Corporation with or into any person, entity, or other association

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Secretary of State of South Carolina

amount equal to \$100 plus as provided in Section 3 above, all accrued and unpaid dividends, if any, with respect to each share of Series A Preferred Stock (such amount, the "Liquidation Preference"), before any payment or distribution is made to any Junior Stock. If the assets of the Corporation available for distribution to the holders of Series A Preferred Stock shall be insufficient to permit payment in full to such holders of the sums which such holders are entitled to receive in such case, then all of the assets available for distribution to holders of the Series A Preferred Stock shall be distributed among and paid to such holders ratably in proportion to the amounts that would be payable to such holders if such assets were sufficient to permit payment in full.

(b) No Additional Payment. After the holders of all shares of Series A Preferred Stock shall have been paid in full the amounts to which they are entitled in paragraph 4(a), the shares of Series A Preferred Stock shall not be entitled to any further participation in any distribution of assets of the Corporation and the remaining assets of the Corporation shall be distributed to the holders of Junior Stock.

(c) Notice. Written notice of a Liquidation stating a payment or payments and the place where such payment or payments shall be payable, shall be delivered in person, mailed by certified mail, return receipt requested, mailed by overnight mail or sent by telecopier, not less than ten (10) days prior to the earliest payment date stated therein, to the holders of record of the Series A Preferred Stock, such notice to be addressed to each such holder at its address as shown by the records of the Corporation.

(d) Option. At the election of the holders of two-thirds (2/3) of the combined Common Stock and Preferred Stock, and not less than one-third (1/3) of the Preferred Stock, a Sale Transaction shall be deemed to be a Liquidation pursuant to this Section 4. Any securities of the surviving Person to be delivered to the holders of Series A Preferred Stock pursuant to this Section 4(d) shall be valued as follows:

(i) With respect to securities that do not constitute "restricted securities," as such term is defined in Rule 144(a)(3) promulgated under the Securities Act, the value shall be deemed to be the Current Market Price of such securities as of three (3) days prior to the date of distribution.

(ii) With respect to securities that constitute "restricted securities," as such term is defined in Rule 144(a)(3) promulgated under the Securities Act, and that are of the same class or series as securities that are publicly traded, the value shall be adjusted to make an appropriate discount from the value as set forth above in clause (i) to reflect the appropriate fair market value thereof, as mutually determined by the Board of Directors and the holders of a majority of the shares of Series A Preferred Stock, or if there is no active public market with respect to such class or series of securities, such securities shall be valued in accordance with clause (i) above, giving appropriate weight, if any, to such restriction as mutually determined by the Board of Directors and the holders of a majority of the shares of Series A Preferred Stock, or if the Board of Directors and the holders of a majority of the shares of Series A Preferred Stock shall fail to agree, at the Corporation's expense by an appraiser chosen by the Board of Directors and reasonably acceptable to the holders of a majority of the shares of Series A Preferred Stock. If the Board of Directors and the holders of a majority of the shares of Series A Preferred Stock fail to agree on an appraiser, either party may apply to the American Arbitration Association in New York City for the appointment of an appraiser.

5. Redemption.

(a) Corporation Optional Redemption. On and after April 1, 2016, the Corporation shall have the right at any time or from time to time to redeem and repurchase all or any portion of the Series A Preferred Stock ("Corporate Redemption Option") at the greater of: (i) the Liquidation Preference of each share, (ii) the Fair Purchase Value per Share; or (iii) the per share value that would result in the total return to the shareholder before taxes to be equal to 15% per annum including all dividends paid and the final purchase amount (the "Redemption Value"), by sending a notice of redemption to the holder(s) of the Series A Preferred Stock (the "Redemption Notice"), specifying therein the number of shares of Series A Preferred Stock to be redeemed.

(b) Shareholder Optional Put. The holders of the Series A Preferred Stock shall have the right to require the Corporation to redeem all Series A Preferred Stock upon the earlier of: (i) the occurrence of a Change of Control of the Corporation, or (ii) April 1, 2014 (the "Shareholder Put") by sending to the Corporation a notice of redemption (the "Shareholder Put") by sending to the Corporation a notice of redemption

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Mark Hammond
Secretary of State of South Carolina

STATE OF SOUTH CAROLINA
SECRETARY OF STATE

ARTICLES OF AMENDMENT
(Designation of Series A Convertible Preferred Stock)

COMMERCIAL FOODSERVICE REPAIR, INC.

Pursuant Sections 33-10-106 and 33-6-102(d) of the South Carolina Business Corporation Act of 1988, as amended (the "Act"), Commercial Foodservice Repair, Inc. (the "Corporation") hereby adopts the following Articles of Amendment to its Amended and Restated Articles of Incorporation:

1. Name. The name of the Corporation is Commercial Foodservice Repair, Inc., and prior to those certain Articles of Amendment filed on April 18, 2008, the name of the Corporation was Transaction Technology Corporation.
2. Original Articles. The original Articles of Incorporation were filed on September 14, 1983 (the "Original Articles"). The Original Articles were amended by Articles of Amendment filed on October 7, 1987, January 7, 2002, and April 18, 2008, and the Original Articles were amended and restated by filing on April 13, 2009 (the "Restated Articles").
3. Office and Agent. The Corporation's registered office is 75 Beattie Place, Suite 410, Greenville, SC 29601, and the Corporation's registered agent at such address is Kurt A. Herwald.
4. Amendment. Pursuant to authority obtained in Article 5(b) of the Corporation's Restated Articles and Section 33-6-102 of the Act, the Board duly adopted the following amendments to the Restated Articles thereby designating a class of Series A Convertible Preferred Stock, which shall be added to the Restated Articles as new Article 5(d):

Designation of Series A Convertible Preferred Stock

1. Designation and Number of Shares. There shall be hereby created and established a series of Preferred Stock designated as "Series A Convertible Preferred Stock" (the "Series A Preferred Stock"). The authorized number of shares of Series A Preferred Stock shall be 20,000. Capitalized terms used herein and not otherwise defined shall have the meanings set forth in Section 10 below.
2. Rank. The Series A Preferred Stock shall with respect to distributions of assets and rights upon the occurrence of a Liquidation rank senior to i) all classes of common stock of the Corporation (including, without limitation, the Common Stock, no par value, of the Corporation (the "Common Stock")) and (ii) each other class or series of Capital Stock of the Corporation hereafter created which does not expressly rank pari passu with or senior to the Series A Preferred Stock (the "Junior Stock").
3. Dividends. The holders of shares of Series A Preferred Stock shall be entitled to receive a dividend equal to a) \$1.25 per share each quarter; plus b) if the Corporation declares and pays dividends or distributions on the Common Stock, then, in that event, the holders of shares of Series A Preferred Stock shall be entitled to share in such dividends or distributions on a pro rata basis, as if their shares had been converted into shares of Common Stock pursuant to Section 7(a) immediately prior to the record date for determining the stockholders of the Corporation eligible to receive such dividends or distributions. Dividends shall accumulate if they remain unpaid.
4. Liquidation Preference.
 - (a) Priority Payment. Upon the occurrence of a Liquidation, the holders of shares of Series A Preferred Stock shall be entitled to be paid for each share of Series A Preferred Stock held thereby, out of, but only to the extent of, the assets of the Corporation leg

090414-0075 FILED: 04/14/2009
COMMERCIAL FOODSERVICE REPAIR, INC.
Filing Fee: \$110.00 ORIG

Mark Hammond

South Carolina Secretary of State

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CLERK OF THE SUPREME COURT

Common

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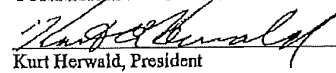
Preferred

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7. The effective date of these Articles of Amendment shall be the date of acceptance for filing by the Secretary of State.

Date: November 30, 2013

COMMERCIAL FOODSERVICE REPAIR, INC.


Kurt Herwald, President

Oct 19 2015
REFERENCE ID: A510191013154

Mark Hammond
Secretary of State

STATE OF SOUTH CAROLINA
SECRETARY OF STATE

ARTICLES OF AMENDMENT
(10 for 1 Stock Split)

COMMERCIAL FOODSERVICE REPAIR, INC.

Pursuant Sections 33-10-106 and 33-6-102(d) of the South Carolina Business Corporation Act of 1988, as amended (the "Act"), Commercial Foodservice Repair, Inc. (the "Corporation") hereby adopts the following Articles of Amendment to its Amended and Restated Articles of Incorporation:

1. Name. The name of the Corporation is Commercial Foodservice Repair, Inc., and prior to those certain Articles of Amendment filed on April 18, 2008, the name of the Corporation was Transaction Technology Corporation.
2. Original Articles. The original Articles of Incorporation were filed on September 14, 1983 (the "Original Articles"). The Original Articles were amended by Articles of Amendment filed on October 7, 1987, January 7, 2002, and April 18, 2008, and the Original Articles were amended and restated by filing on April 13, 2009 (the "Restated Articles"). The Restated Articles were amended on April 14, 2009.
3. Office and Agent. The Corporation's registered office is 75 Beattie Place, Suite 410, Greenville, SC 29601, and the Corporation's registered agent at such address is Kurt A. Herwald.
4. Amendment. Pursuant to authority obtained in Article 5(a) of the Corporation's Restated Articles and Section 33-6-102 of the Act, the Board duly adopted the following amendments to the Restated Articles thereby designating a class of Series A Convertible Preferred Stock, which shall be added to the Restated Articles as new Article 5(d):

Pursuant to a 10 for 1 stock split, the amount of the total authorized stock of the corporation is increased so that the authorized common stock of the corporation, which prior to the filing of this amendment was One Hundred Thousand (100,000) shares of common stock, no par value per share, shall be One Million (1,000,000) shares of common stock, no par value per share. This class of common stock shall have all the rights and powers specifically required by 33-6-101 of the Act.

At the time this amendment becomes effective, each share of the common stock of the corporation, no par value per share, issued and outstanding immediately prior to the time this amendment becomes effective shall thereby and thereupon be split into ten (10) shares of validly issued, fully paid and nonassessable shares of common stock of the corporation, no par value per share. Each person at that time holding of record any issued and outstanding shares of common stock of the corporation, upon surrender to the corporation or the corporation's authorized agency of the certificate(s) representing such shares, shall receive a new stock certificate or certificates to evidence and represent the number of shares of post stock split common stock of the corporation to which such person is entitled after this stock split.

5. The manner, if not set forth in the Amendment, in which any exchange, reclassification, or cancellation of issued shares provided for in the Amendment shall be effected, is as follows:

See Section 4 above.

6. The above-described Amendment was duly adopted by Shareholder approval as follows:

Voting Group	Number of Outstanding Shares	Number of Votes Entitled to be Cast	Number of Votes Represented at the meeting	Number of Undisputed* Shares Voted For / Against

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COMMERCIAL FOODSERVICE REPAIR, INC.
Filing Fee: \$110.00 ORIG



Mark Hammond

South Carolina Secretary of State

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Mark H. Hammon
Secretary of State

I. Items 10 and 11 of the Original Articles are deleted and the following substituted therefor in its entirety as new Item 8:

8. Effective Date. These Amended and Restated Articles of Incorporation shall be effective upon the acceptance for filing by the Secretary of State. No action taken by the Corporation prior to the effective date hereof pursuant to any prior provision of the Original Articles, as amended, shall be invalidated by the adoption of these Amended and Restated Articles of Incorporation, and there shall be no interruption in the establishment or governance of the Corporation as a result of the adoption hereof.

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Mark Hammond
CLERK OF SUPERIOR COURT

for a different voting requirement in the articles of incorporation. The affirmative vote of the holders of outstanding shares representing a majority of the votes entitled to be cast thereon within a voting group, if any, for which the Act requires separate voting, shall be sufficient to approve for the Corporation any such extraordinary corporate transactions, for any of which the Act otherwise establishes a two-thirds (2/3) voting requirement within such voting group absent provision for a different voting requirement in the articles of incorporation. Shareholder voting requirements for all other matters upon which shareholders are entitled to vote shall be as prescribed by the Act. The provisions of this Article 7(c) shall not restrict any authority granted to the Board of Directors under the Act to establish a greater voting requirement for any matter.

- (d) Director Immunity. No director of the Corporation shall be personally liable to the Corporation or its shareholders for monetary damages for breach of such director's fiduciary duty as a director; provided however, the foregoing shall not eliminate or limit the liability of a director: (i) for any breach of the director's duty of loyalty to the Corporation or its shareholders; (ii) for acts or omissions not in good faith or which involve gross negligence, intentional misconduct, or a knowing violation of law; (iii) imposed for unlawful distributions as set forth in § 33-8-330 of the Act; or (iv) for any transaction from which the director derived an improper personal benefit. This provision shall eliminate or limit the liability of a director of the Corporation to the maximum extent permitted from time to time by the Act or any successor law or laws. Any repeal or modification of the foregoing protection by the Corporation's shareholders shall not adversely affect any right or protection of a director of the Corporation existing at the time of such repeal or modification.
- (e) Evaluation of Offers. To the fullest extent permitted by law, the Board of Directors, when evaluating any offer by another party to (i) make a tender or exchange offer for any equity security of this corporation outside of the ordinary course of business, (ii) merge or consolidate this corporation with any other corporation, (iii) purchase or otherwise acquire all or substantially all of the properties and assets of this corporation, or (iv) undertake any similar extraordinary corporate transactions with this corporation, may in its discretion, in connection with exercise of its judgment in determining what is in the best interests of this corporation and its shareholders, give due consideration to all relevant factors, including without limitation the social, legal, and economic effects on the employees, (other than officers and directors) customers, suppliers, and other constituencies of this corporation and its subsidiaries, on the communities and geographical areas in which this corporation and its subsidiaries operate or are located, and on any of the businesses and properties of this corporation or any of its subsidiaries, as well as such other factors as the directors deem relevant.
- (f) Miscellaneous. Terms used herein which are not otherwise defined shall have the meanings ascribed to them in the Act. All references to statutory provisions shall be deemed to include corresponding sections of succeeding law. Each provision of these Articles of Incorporation shall be deemed severable from, and shall survive the illegality or invalidity of, any other provision herein.

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Mark H. [Signature]
SECRETARY OF THE STATE

exchangeable at the option of the corporation, the shareholder or any other person.

- (vii) The terms and conditions of applicable purchase, retirement, or sinking fund, if any, which may be provided for the shares of such series.
- (viii) The restrictions, if any, upon the creation of indebtedness, payment of distributions on other classes or series of stock, or creation or issuance of additional securities, ranking on a parity with or prior to such series.
- (ix) Other relative, participating, optional, or special rights, qualifications, limitations, values, or restrictions, if any, for shares of such series.

Each such series of preferred stock shall be eligible for issue upon the Board of Directors' duly adopting the appropriate resolution or resolutions and filing with the Secretary of State of articles of amendment as set forth in Section 33-6-102 of the Act, which shall be effective without shareholder action.

- (c) Designations. Share certificates for such capital stock shall designate whether the certificate represents Common Stock or Preferred Stock.

F. Item 5 of the Original Articles is deleted and the following substituted therefor in its entirety as new Item 6:

- 6. Existence. The existence of the Corporation began at the time specified in the Original Articles filed with the Secretary of State on September 14, 1983, and the period of duration of the Corporation is perpetual.

G. Items 6, 7, and 8 of the Original Articles are deleted in their entirety.

H. Item 9 of the Original Articles, as amended, is deleted and the following substituted therefor in its entirety as new Item 7:

- 7. Optional Provisions. The optional provisions which the Corporation elects to include in these Amended and Restated Articles of Incorporation are as follows:
 - (a) Preemptive Rights. The Corporation elects not to have preemptive rights. No shareholder shall be entitled to preemptive rights, and no shares of stock of any class issued by the Corporation shall be subject to any preemptive right.
 - (b) Cumulative Voting. The Corporation elects not to have cumulative voting. No shareholder shall be entitled to vote cumulatively for the election of directors, and no shares of stock of any class issued by the Corporation may be cumulatively voted for election of directors.
 - (c) Majority Voting. The affirmative vote of the holders of outstanding shares representing a majority of the votes entitled to be cast thereon shall be sufficient to approve for the Corporation a merger, consolidation, sale or lease of substantially all corporate assets outside the ordinary course of business, plan of share exchange, voluntary dissolution, amendment to these Articles of Incorporation, or other extraordinary corporate transactions, for any of which the Act otherwise establishes a two-thirds (2/3) voting requirement absent provision

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Mark H. Harned
Sergeant at Law, South Carolina

such preferences, if any, are established for one or more series of preferred stock by the Board of Directors in its discretion as provided below.

- (b) Preferred Stock. Authority is also hereby expressly granted to and vested in the Board of Directors of this corporation to provide for the issue of preferred stock in one or more series, and in connection therewith to establish by resolution or resolutions of the Board of Directors from time to time providing for the issue of such series, the number of shares to be included in such series, the designation thereof, and the relative rights, preferences, and limitations of each series and the variations in such rights, preferences, and limitations as between series, all to the fullest extent permitted by Section 33-6-102 of the South Carolina Business Corporations Act of 1988 as amended from time to time (the "Act"). Without limiting the generality of the grant of authority contained in the preceding sentence, the Board of Directors is authorized to determine any or all of the following with respect to any series of the preferred stock, and the shares of each series may vary from the shares of any other series in any or all of the following respects:
- (i) The number of shares of such series (which may subsequently be increased, except as otherwise provided by the resolution or resolutions of the Board of Directors providing for the issue of such series, or decreased to a number not less than the number of shares then outstanding) and the distinguishing designation thereof.
 - (ii) The distribution, dividend, and liquidation rights, if any, of such series; the distribution, dividend, or liquidation preferences, if any, as between such series and any other class or series of stock; whether and the extent to which shares of such series shall be entitled to participate in any distributions, dividends, or liquidation proceeds with shares of any other class or series of stock; whether and the extent to which any distributions, dividends, or liquidation proceeds on such series shall be cumulative, noncumulative, or partially cumulative, and any limitations, restrictions, or conditions on the payment of such distributions, dividends, or liquidation proceeds; and whether and the extent to which share dividends of one series of preferred stock may be issued in respect of shares of another series or class without approval of the holders of the series from which the share dividend is to be issued.
 - (iii) The time or times during which, the price or prices at which, and any other terms or conditions on which, the shares of such series may be redeemed, if redeemable, including without limitation whether redeemable at the option of the corporation, the shareholder, or any other person.
 - (iv) The par value or absence of par value, and other economic features of such series.
 - (v) The voting powers, if any, in addition to the voting powers prescribed by law for shares of such series as a voting group, if any, and the conditions upon effectiveness, and the terms and limitations for exercise of, such voting powers.
 - (vi) Whether shares of such series shall be convertible into or exchangeable for shares of any other series or class of stock (including without limitation shares of common stock) or any other securities, and the terms and conditions, if any, applicable to such right, including without limitation whether convertible or

Oct 19 2015
REFERENCE ID: 1510191013154

Mark H. Hammer
REGISTRAR OF SOUTH CAROLINA

EXHIBIT A

- A. Item 1 of the Original Articles is deleted and the following substituted therefor in its entirety:
1. Name. The name of the corporation is **Commercial Foodservice Repair, Inc.** (the "Corporation").
- B. Item 2 of the Original Articles, as amended is deleted, and the following substituted therefor in its entirety as new Item 2:
2. Name Changes. The Corporation changed on April 18, 2008 to **Commercial Foodservice Repair, Inc.**
- C. Item 3 of the Amended and Restated Articles is added as a new item as follows:
3. Original Articles. The original Articles of Incorporation were filed on September 14, 1983 (the "Original Articles"). The Original Articles were amended by Articles of Amendment filed on January 7, 2002, and April 18, 2008.
- D. Item 3 of the Original Articles, as amended, is deleted and the following substituted therefor in its entirety as new Item 4:
4. Office and Agent. The Corporation's registered office is 75 Beattie Place, Greenville, SC 29650, and the Corporation's registered agent at such address is Kurt Herwald.
- E. Item 4 of the Original Articles, as amended, is deleted and the following substituted therefor in its entirety as a new Item 5:
5. Stock. The Corporation is authorized to issue two classes of stock, as follows:

<u>Class of Shares</u>	<u>Authorized Number of Shares in Class</u>
Common Stock	100,000
Preferred Stock	50,000

The relative rights, preferences, and limitations of the shares of each class, and of each series within a class, are as follows:

- (a) Common Stock. Authority is hereby expressly granted to and vested in the Board of Directors of this corporation to provide for the issue of common stock. The corporation's shares of common stock shall have no par value. The holders of record of shares of common stock shall be entitled to unlimited voting rights equating to one (1) vote per outstanding share of common stock on all matters upon which shareholders are entitled to vote. Shares of common stock shall have distribution, dividend, and liquidation rights granted by law or declared by resolution or resolutions of the Board of Directors from time to time, except that in the absence of the establishment of liquidation rights for one or more series of preferred stock (either preferentially to, or on a parity with, the common stock) as provided below, the holders of record of shares of common stock shall be entitled to receive the net assets of this corporation upon dissolution. The distribution, dividend, and liquidation rights associated with the shares of common stock will be subordinated only to the comparable distribution, dividend, or liquidation rights associated with shares of certain series of preferred stock, if any, but only to the extent

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Oct 19 2015

REFERENCE ID: 1510191013154


Mark Hammond
Secretary of State

**CERTIFICATE ACCOMPANYING THE AMENDED AND RESTATED
ARTICLES OF INCORPORATION OF**

Commercial Foodservice Repair, Inc.

The attached Amended and Restated Articles of Incorporation contain one or more amendments to the Articles of Incorporation for Commercial Foodservice Repair, Inc. (the "Corporation") filed on September 14, 1983 as amended. Pursuant to § 33-10-107(d)(2) of the Act, the following information concerning the amendments is hereby submitted:

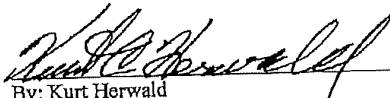
1. On April 13, 2009 the Corporation adopted the following amendments to its articles of incorporation:
See Exhibit A attached hereto and incorporated herein.
2. The manner in which any exchange, reclassification, or cancellation of issued shares provided for in the amendments shall be effected is as follows: Not Applicable.
3. The amendments were adopted by shareholder action.

At the date of adoption of the amendments, the number of outstanding shares of each voting group entitled to vote separately on the amendments, and the vote of such shares, was:

<u>Voting Group</u>	<u>No. of Outstanding Shares</u>	<u>No. of Votes Entitled to be Cast</u>	<u>No. of Votes Represented at the Meeting</u>	<u>No. of Undisputed Shares Voted For Against</u>
Common	1,000	1,000	1,000	1,000 0

DATE: April 13, 2009

Commercial Foodservice Repair, Inc.


By: Kurt Herwald
Title: President

Oct 19 2015

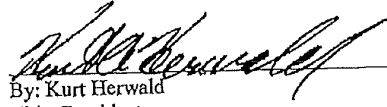
REFERENCE ID: 1510191013154


Kurt Herwald

prescribed by the Act. The provisions of this Article 7(c) shall not restrict any authority granted to the Board of Directors under the Act to establish a greater voting requirement for any matter.

- (d) Director Immunity. No director of the Corporation shall be personally liable to the Corporation or its shareholders for monetary damages for breach of such director's fiduciary duty as a director; provided however, the foregoing shall not eliminate or limit the liability of a director: (i) for any breach of the director's duty of loyalty to the Corporation or its shareholders; (ii) for acts or omissions not in good faith or which involve gross negligence, intentional misconduct, or a knowing violation of law; (iii) imposed for unlawful distributions as set forth in § 33-8-330 of the Act; or (iv) for any transaction from which the director derived an improper personal benefit. This provision shall eliminate or limit the liability of a director of the Corporation to the maximum extent permitted from time to time by the Act or any successor law or laws. Any repeal or modification of the foregoing protection by the Corporation's shareholders shall not adversely affect any right or protection of a director of the Corporation existing at the time of such repeal or modification.
- (e) Evaluation of Offers. To the fullest extent permitted by law, the Board of Directors, when evaluating any offer by another party to (i) make a tender or exchange offer for any equity security of this corporation outside of the ordinary course of business, (ii) merge or consolidate this corporation with any other corporation, (iii) purchase or otherwise acquire all or substantially all of the properties and assets of this corporation, or (iv) undertake any similar extraordinary corporate transactions with this corporation, may in its discretion, in connection with exercise of its judgment in determining what is in the best interests of this corporation and its shareholders, give due consideration to all relevant factors, including without limitation the social, legal, and economic effects on the employees (other than officers and directors), customers, suppliers, and other constituencies of this corporation and its subsidiaries, on the communities and geographical areas in which this corporation and its subsidiaries operate or are located, and on any of the businesses and properties of this corporation or any of its subsidiaries, as well as such other factors as the directors deem relevant.
- (f) Miscellaneous. Terms used herein which are not otherwise defined shall have the meanings ascribed to them in the Act. All references to statutory provisions shall be deemed to include corresponding sections of succeeding law. Each provision of these Articles of Incorporation shall be deemed severable from, and shall survive the illegality or invalidity of, any other provision herein.
8. Effective Date. These Amended and Restated Articles of Incorporation shall be effective upon the acceptance for filing by the Secretary of State. No action taken by the Corporation prior to the effective date hereof pursuant to any prior provision of the Original Articles, as amended, shall be invalidated by the adoption of these Amended and Restated Articles of Incorporation, and there shall be no interruption in the establishment or governance of the Corporation as a result of the adoption hereof.

DATE: April 13, 2009


By: Kurt Herwald
Title: President

Oct 19 2015

REFERENCE ID: 1510191013154

Mark Hammond
Secretary of State

exchangeable at the option of the corporation, the shareholder or any other person.

- (vii) The terms and conditions of applicable purchase, retirement, or sinking fund, if any, which may be provided for the shares of such series.
- (viii) The restrictions, if any, upon the creation of indebtedness, payment of distributions on other classes or series of stock, or creation or issuance of additional securities, ranking on a parity with or prior to such series.
- (ix) Other relative, participating, optional, or special rights, qualifications, limitations, values, or restrictions, if any, for shares of such series.

Each such series of preferred stock shall be eligible for issue upon the Board of Directors' duly adopting the appropriate resolution or resolutions and filing with the Secretary of State of articles of amendment as set forth in Section 33-6-102 of the Act, which shall be effective without shareholder action.

- (c) Designations. Share certificates for such capital stock shall designate whether the certificate represents Common Stock or Preferred Stock.

6. Existence. The existence of the Corporation began at the time specified in the Original Articles filed with the Secretary of State on September 14, 1983, and the period of duration of the Corporation is perpetual.

7. Optional Provisions. The optional provisions which the Corporation elects to include in these Amended and Restated Articles of Incorporation are as follows:

- (a) Preemptive Rights. The Corporation elects not to have preemptive rights. No shareholder shall be entitled to preemptive rights, and no shares of stock of any class issued by the Corporation shall be subject to any preemptive right.
- (b) Cumulative Voting. The Corporation elects not to have cumulative voting. No shareholder shall be entitled to vote cumulatively for the election of directors, and no shares of stock of any class issued by the Corporation may be cumulatively voted for election of directors.
- (c) Majority Voting. The affirmative vote of the holders of outstanding shares representing a majority of the votes entitled to be cast thereon shall be sufficient to approve for the Corporation a merger, consolidation, sale or lease of substantially all corporate assets outside the ordinary course of business, plan of share exchange, voluntary dissolution, amendment to these Articles of Incorporation, or other extraordinary corporate transactions, for any of which the Act otherwise establishes a two-thirds (2/3) voting requirement absent provision for a different voting requirement in the articles of incorporation. The affirmative vote of the holders of outstanding shares representing a majority of the votes entitled to be cast thereon within a voting group, if any, for which the Act requires separate voting, shall be sufficient to approve for the Corporation any such extraordinary corporate transactions, for any of which the Act otherwise establishes a two-thirds (2/3) voting requirement within such voting group absent provision for a different voting requirement in the articles of incorporation. Shareholder voting requirements for all other matters upon which shareholders are entitled to vote shall be as

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Mark H. Henshaw
Secretary of a North Carolina Corporation

such preferences, if any, are established for one or more series of preferred stock by the Board of Directors in its discretion as provided below.

- (b) Preferred Stock. Authority is also hereby expressly granted to and vested in the Board of Directors of this corporation to provide for the issue of preferred stock in one or more series, and in connection therewith to establish by resolution or resolutions of the Board of Directors from time to time providing for the issue of such series, the number of shares to be included in such series, the designation thereof, and the relative rights, preferences, and limitations of each series and the variations in such rights, preferences, and limitations as between series, all to the fullest extent permitted by Section 33-6-102 of the South Carolina Business Corporations Act of 1988 as amended from time to time (the "Act"). Without limiting the generality of the grant of authority contained in the preceding sentence, the Board of Directors is authorized to determine any or all of the following with respect to any series of the preferred stock, and the shares of each series may vary from the shares of any other series in any or all of the following respects:
- (i) The number of shares of such series (which may subsequently be increased, except as otherwise provided by the resolution or resolutions of the Board of Directors providing for the issue of such series, or decreased to a number not less than the number of shares then outstanding) and the distinguishing designation thereof.
 - (ii) The distribution, dividend, and liquidation rights, if any, of such series; the distribution, dividend, or liquidation preferences, if any, as between such series and any other class or series of stock; whether and the extent to which shares of such series shall be entitled to participate in any distributions, dividends, or liquidation proceeds with shares of any other class or series of stock; whether and the extent to which any distributions, dividends, or liquidation proceeds on such series shall be cumulative, noncumulative, or partially cumulative, and any limitations, restrictions, or conditions on the payment of such distributions, dividends, or liquidation proceeds; and whether and the extent to which share dividends of one series of preferred stock may be issued in respect of shares of another series or class without approval of the holders of the series from which the share dividend is to be issued.
 - (iii) The time or times during which, the price or prices at which, and any other terms or conditions on which, the shares of such series may be redeemed, if redeemable, including without limitation whether redeemable at the option of the corporation, the shareholder, or any other person.
 - (iv) The par value or absence of par value, and other economic features of such series.
 - (v) The voting powers, if any, in addition to the voting powers prescribed by law for shares of such series as a voting group, if any, and the conditions upon effectiveness, and the terms and limitations for exercise of, such voting powers.
 - (vi) Whether shares of such series shall be convertible into or exchangeable for shares of any other series or class of stock (including without limitation shares of common stock) or any other securities, and the terms and conditions, if any, applicable to such right, including without limitation whether convertible or

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Oct 19 2015
REFERENCE ID: 1510191013154

Mark Hammond
Secretary of State

STATE OF SOUTH CAROLINA
SECRETARY OF STATE

AMENDED AND RESTATED
ARTICLES OF INCORPORATION

Commercial Foodservice Repair, Inc.

Pursuant to §§ 33-10-103 and 33-10-107 of the South Carolina Business Corporation Act of 1988, as amended (the "Act"), the corporation hereby amends its Articles of Incorporation by deleting all existing provisions and amending and restating the same as follows:

1. Name. The name of the corporation is Commercial Foodservice Repair, Inc. (the "Corporation").
2. Name Changes. The Corporation changed on April 18, 2008 to Commercial Foodservice Repair, Inc. from Transaction Technology Corporation..
3. Original Articles. The original Articles of Incorporation were filed on September 14, 1983 (the "Original Articles"). The Original Articles were amended by Articles of Amendment filed on January 7, 2002, and April 18, 2008.
4. Office and Agent. The Corporation's registered office is 75 Beattie Place, Suite 410, Greenville, SC 29601, and the Corporation's registered agent at such address is Kurt A. Herwald.
5. Stock. The Corporation is authorized to issue two classes of stock, as follows:

<u>Class of Shares</u>	<u>Authorized Number of Shares in Class</u>
Common Stock	100,000
Preferred Stock	50,000

The relative rights, preferences, and limitations of the shares of each class, and of each series within a class, are as follows:

- (a) Common Stock. Authority is hereby expressly granted to and vested in the Board of Directors of this corporation to provide for the issue of common stock. The corporation's shares of common stock shall have no par value. The holders of record of shares of common stock shall be entitled to unlimited voting rights equating to one (1) vote per outstanding share of common stock on all matters upon which shareholders are entitled to vote. Shares of common stock shall have distribution, dividend, and liquidation rights granted by law or declared by resolution or resolutions of the Board of Directors from time to time, except that in the absence of the establishment of liquidation rights for one or more series of preferred stock (either preferentially to, or on a parity with, the common stock) as provided below, the holders of record of shares of common stock shall be entitled to receive the net assets of this corporation upon dissolution. The distribution, dividend, and liquidation rights associated with the shares of common stock will be comparable distribution, dividend, or liquidation rights certain series of preferred stock, if any, but only to the extent

090413-0173
COMMERCIAL FOODSERVICE REPAIR, INC.
Filing Fee: \$110.00 ORIG

FILED: 04/13/2009
South Carolina Secretary of State

Mark Hammond

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Oct 19 2015
REFERENCE ID: 1510191013154

Mark Hammond
Secretary of State

Transaction Technology Corporation
Name of Corporation

*NOTE Pursuant to Section 33-10-106(6)(i) of the 1976 South Carolina Code of Laws as amended the corporation can alternatively state the total number of disputed shares cast for the amendment by each voting group together with a statement that the number of cast for the amendment by each voting group was sufficient for approval by that voting group

b ☐ The Amendment(s) was duly adopted by the incorporators or board of directors without shareholder approval pursuant to Section 33-6-102(d) 33-10-102 and 33-10-105 of the 1976 South Carolina Code of Laws as amended and shareholder action was not required

7 Unless a delayed date is specified the effective date of these Articles of Amendment shall be the date of acceptance for filing by the Secretary of State (See Section 33-1-230(b) of 1976 South Carolina Code of Laws as amended)

Date April 15, 2008

Transaction Technology Corporation
Name of Corporation
Jerry J. Harrison
Signature
Jerry J. Harrison, President
Type or Print Name and Office

FILING INSTRUCTIONS

- 1 Two copies of this form the original and either a duplicate original or a conformed copy must be filed
- 2 If the space in this form is insufficient please attach additional sheets containing a reference to the appropriate paragraph in this form
- 3 Filing fees and taxes payable to the Secretary of State at time of filing application

Filing Fee	\$ 10 00
Filing tax	100 00
Total	\$110 00

Return to Secretary of State
P O Box 11360
Columbia SC 20211

DOM ARTICLES OF AMENDMENT 400

Form Revised by South Carolina
Secretary of State January 2000

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ORIGINAL ON FILE IN THIS OFFICE

Oct 19 2015

REFERENCE ID: 1510191013154

Mark Hammond
SECRETARY OF STATE

STATE OF SOUTH CAROLINA
SECRETARY OF STATE

ARTICLES OF AMENDMENT

TYPE OR PRINT CLEARLY IN BLACK INK

Pursuant Section 33-10-106 of the 1976 South Carolina Code of Laws as amended the undersigned corporation adopts the following Articles of Amendment to its Articles of Incorporation

- 1 The name of the corporation is Transaction Technology Corporation
- 2 Date of Incorporation September 14 1983
- 3 Agent's Name and Address Jerry J Harrison 22 S Main Street Greenville, SC 29601
- 4 On April 15 2008 the corporation adopted the following Amendment (s) of its Articles of Incorporation (Type or attach the complete text of each Amendment)

The name of the Corporation is to be changed to "Commercial Foodservice Repair Inc" and the address for both the registered agent and registered office shall be changed to 75 Beattie Place, Suite 410 Greenville SC 29601

- 5 The manner if not set forth in the Amendment in which any exchange reclassification or cancellation of issued shares provided for in the Amendment shall be effected is as follows (if not applicable insert "not applicable" or "NA")

- 6 Complete either a or "b" whichever is applicable

- a ☒ Amendment(s) adopted by shareholder action
At the date of adoption of the Amendment the number of outstanding shares of each voting group entitled to vote separately on the Amendment and the vote of such shares was

Voting Group	Number of Outstanding Shares	Number of Votes Entitled to be Cast	Number of Votes Represented at the meeting	Number of Undisputed* Shares For or Against
	800	800	800	800 0

080418-0118 FILED 04/18/2008
COMMERCIAL FOODSERVICE REPAIR INC
Filing Fee \$110.00 ORIG

Mark Hammond

South Carolina Secretary of State

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Oct 19 2015
REFERENCE ID: 1510191013154

Mark Hammond
CLERK OF THE COURT

Transaction Technology Corporation
Name of Corporation

NOTE: Pursuant to Section 33-10-106(6)(i) of the 1976 South Carolina Code of Laws, as amended, the corporation can alternatively state the total number of disputed shares cast for the amendment by each voting group together with a statement that the number of cast for the amendment by each voting group was sufficient for approval by that voting group.

- b. ☐ The Amendment(s) was duly adopted by the incorporators or board of directors without shareholder approval pursuant to Section 33-6-102(d), 33-10-102 and 33-10-105 of the 1976 South Carolina Code of Laws, as amended, and shareholder action was not required.
- 7 Unless a delayed dated is specified, the effective date of these Articles of Amendment shall be the date of acceptance for filing by the Secretary of State (See Section 33-1-230(b) of 1976 South Carolina Code of Laws, as amended) N/A

Date January 2, 2002

Transaction Technology Corporation
Name of Corporation

Edward F. Harrison, Sr.
Signature

Edward F. Harrison, Sr.
Type or Print Name and Office

FILING INSTRUCTIONS

1. A copy of the form the applicant and either a duplicate original or a confirmed copy must be filed.
2. If the space on this form is insufficient, please attach additional sheets containing a reference to the appropriate paragraph in the form.
3. Filing fees and taxes payable to the Secretary of State at time of filing apply as follows:

Filing Fee	\$ 10.00
Filing Tax	300.00
Total	\$310.00

Return to: Secretary of State
P.O. Box 11350
Columbia, SC 29211

Form Repealed by South Carolina
Sec 33-1-17 of State January 2000

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Mark Hammond
CLERK OF THE COURT

FILED

JAN 7 2007

STATE OF SOUTH CAROLINA
SECRETARY OF STATE

ARTICLES OF AMENDMENT

Jim Hiles
SECRETARY OF STATE

TYPE OR PRINT CLEARLY IN BLACK INK

Pursuant Section 33-10 106 of the 1976 South Carolina Code of Laws, as amended, the undersigned corporation adopts the following Articles of Amendment to its Articles of Incorporation:

- 1 The name of the corporation is Transaction Technology Corporation
- 2 Date of Incorporation September 14, 1983
- 3 Agent's Name and Address Jerry J. Harrison, 22 S. Main Street, Greenville, SC 29601
- 4 On December 21, 2001, the corporation adopted the following Amendment (s) of its Articles of Incorporation (Type or attach the complete text of each Amendment)

Any provision granting or affirming shareholders' preemptive rights in the corporation's Articles of Incorporation, or amendments thereto, shall be deleted. The corporation elects not to have preemptive rights, whether statutory or otherwise.

- 5 The manner, if set forth in the Amendment, in which any exchange, reclassification, or cancellation of issued shares provided for in the Amendment shall be effected, is as follows: (if not applicable, insert "not applicable" or "NA")

N/A

- 6 Complete either "a" or "b", whichever is applicable

- a ☒ Amendments adopted by shareholder action
At the date of adoption of the Amendment, the number of outstanding shares of each voting group entitled to vote separately on the Amendment, and the vote of such shares was:

Voting Group	Number of Outstanding Shares	Number of Votes Entitled to be Cast	Number of Votes Represented at the meeting	Number of Undisputed Shares	
				For	Against
Common Stock	1000	1000	1000	1000	

02-001312CC

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REFERENCE ID: 1510191013154

Mark Hammond
Secretary of State

98-018637AC

DEPARTMENT OF STATE
COLUMBIA, SOUTH CAROLINA

CERTIFICATE OF REVOCATION OF AUTHORITY

TRANSACTION TECHNOLOGY CORPORATION
P O BOX 560
ROEBUCK SC 29375

20153244-7

Whereas, Section 33-15-300, of the 1976 Code of Laws of S.C., as amended, provides for the Revocation of Foreign Corporation's Authority in The State of South Carolina if the corporation fails to:

- (1) File its annual report within the time required by Code or
- (2) Pay its franchise tax on or before the date on which such franchise tax is due and payable, or
- (3) Appoint and maintain a registered agent in this state, or
- (4) Notify the office of The Secretary of State of a change in its registered agent or registered office.

AND WHEREAS, IT APPEARS FROM THE RECORDS IN THIS OFFICE, THAT THE ABOVE NAMED CORPORATION, AFTER DUE NOTICE, HAS FAILED TO MEET REQUIREMENTS OF NOS. 1 AND/OR 2 ABOVE SET FORTH.

NOW THEREFORE, UNDER THE AUTHORITY OF SAID ACT, THE AUTHORITY OF THE ABOVE CORPORATION IS HEREBY DECLARED FOREFETED AND REVOKED THIS 19 DAY OF DECEMBER, 19 94.

Jim Miles
Secretary of State

Inquires concerning this administrative revocation should be directed to the SC Tax Commission,
P.O. Box 125, Columbia, SC 29214, Attn: Corporate Section.

SOS-4 (Rev. 11/80) 3121

94-023988BC

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REFEREN

Mark Harrison
Secretary of State

6. The manner in which the Amendment effects a change in the amount of stated capital, and amount of stated capital, expressed in dollars, as changed by the Amendment, is as follows: (If not applicable, insert "no change")

Date September 30, 1987 TECHNICAL TRAINING & CONSULTING
OF THE SOUTH, INC.
(Name of Corporation)

Note: Any person signing this form, shall either, opposite or beneath his signature, clearly and legibly state his name and the capacity in which he signs. Must be signed in accordance with Section 33-1-40 of the 1976 Code, as amended.

D. Lee Lucas, Jr.
D. Lee Lucas, Jr., President
Edward F. Harrison, Jr.
Edward F. Harrison, Jr., Secretary
(Name and title)
(Name and title)

STATE OF SOUTH CAROLINA }
COUNTY OF GREENVILLE }

The undersigned, D. Lee Lucas, Jr. and Edward F. Harrison, Jr. do hereby certify that they are the duly elected and acting President and Secretary respectively, of Technical Training & Consulting of the South, Inc. and are authorized to execute this document; that each of the undersigned for himself does hereby further certify that he signed and was so authorized, has read the foregoing document, understands the meaning and purport of the statements herein contained and the same are true to the best of his information and belief.

Dated at Greenville, SC this 30th day of September, 1987.

D. Lee Lucas, Jr.
D. Lee Lucas, Jr.
Edward F. Harrison, Jr.
Edward F. Harrison, Jr.

SCHEDULE OF FEES
(Payable at time of filing application with Secretary of State)

Filing Fee	\$ 5.00
Taxes	40.00
Total Fee	\$45.00

Note: If the Amendment effects an increase in capital stock, in lieu of the above, the filing fee will be as follows:

Fee for filing application	\$ 5.00
In addition to the above, \$140 for each \$1,000.00 of the total increase in the aggregate value of authorized shares, but in no case less than	40.00
nor more than	1,000.00

CERTIFIED TO BE
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ORIGINAL ON
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REFERENCE

Mark H. [Signature]
Secretary of State of South Carolina

ARTICLES OF AMENDMENT (Continued)

c. At the date of adoption of the Amendment, the number of outstanding shares of each class entitled to vote as a class on the Amendment, and the vote of subshares, was: (If inapplicable, insert "none")

Class	Number of Shares Entitled to Vote	For	Number of Shares Voted Against
Common (the only class)	888.88	888.88	

4. a. Prior to the organizational meeting the Corporation and with the consent of the subscribers, the following Amendment was adopted by the Incorporator(s) on

(Text of Amendment)

Not Applicable

b. The number of withdrawals of subscribers, if such be the case is

Not Applicable

c. The number of Incorporators are and the number voting for the Amendment was

Not Applicable

..... and the number voting against the Amendment was

5. The manner, if not set forth in the Amendment, in which any exchange, reclassification, or cancellation or issued shares provided for in the Amendment shall be effected, is as follows: (if not applicable, insert "no change")

NO CHANGE

CERTIFIED TO BE TRUE AND
AS TAKEN FROM
ORIGINAL
O
REFERENCE

Mark H. Harrison
REGISTERED SECRETARY OF STATE

STATE OF SOUTH CAROLINA
SECRETARY OF STATE
ARTICLES OF AMENDMENT

To The Articles of Incorporation of

TECHNICAL TRAINING & CONSULTING
OF THE SOUTH, INC.

(File This Form in Duplicate)

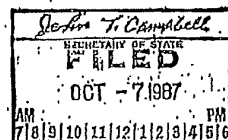
For Use By The
Secretary of State

File No. *DS 9086*

Fee Paid

C.B.

Date



This Space For Use By
Secretary of State

WHJ 01/02 4973
B7-016208/B7-016208 16:10:20 004
10-07-87 PHT:445.00
SECT OF STATE OF SOUTH CAROLINA

Pursuant to Authority of Section 33-15-10 the South Carolina Code of 1976 as amended, the undersigned
Corporation adopts the following Articles of Amendment to its Articles of Incorporation:

1. The name of the Corporation is TECHNICAL TRAINING & CONSULTING OF THE SOUTH, INC.
c/o Hurley & Harrison, Inc.
2. The Registered Office of the Corporation is Lapham St. Road
(Must not be)
in the City of Greenville, County of Greenville and
the State of South Carolina and the name of the Registered Agent at such address is
Jerry J. Harrison

(Complete item 3 of 4 whichever is relevant)

3. a. The following Amendment of the Articles of Incorporation was adopted by the shareholders of the
Corporation on September 8, 1987

(Text of Amendment)

"RESOLVED, that the name of the corporation be changed to
'TRANSACTION TECHNOLOGY CORPORATION' and that the Registered
Office of the corporation be changed to 22 South Main Street,
Greenville, South Carolina 29601.

BE IT FURTHER RESOLVED, that the officers of this corporation
be, and they hereby are, authorized to sign all documents and
do all acts as are necessary to effectuate these changes with
the State of South Carolina and any other states in which the
company is authorized to do business."

- b. At the date of adoption of the Amendment, the total number of all outstanding shares of the Corporation
was 888.88. The total of such shares entitled to vote, and the vote of such shares was:

Total Number of
Shares Entitled
to Vote

888.88

For Number of Shares Voted
Against

888.88

CERTIFIED TO BE A TRUE AND CORRECT COPY

AS TAKEN FROM AN ORIGINAL ON FILE WITH THIS OFFICE

Oct 1 1983
REFERENCE ID: A0191013154

Mark H. ...
REGISTERED SECRETARY

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

The undersigned, Carolyn J. Gilreath, does hereby certify that she is the incorporator of Technical Training & Consulting of the South, Inc. Corporation and is authorized to execute this verification; that each of the undersigned for himself does hereby further certify that he has read the foregoing document; understands the meaning and purport of the statements therein contained and the same are true to the best of his information and belief.

Carolyn J. Gilreath
(Signature of Incorporator)

Carolyn J. Gilreath
(Signature of Incorporator)

(Each Incorporator Must Sign)

CERTIFICATE OF ATTORNEY

I, James R. Gilreath, an attorney licensed to practice in the State of South Carolina, certify that the corporation, to whose articles of incorporation this certificate is attached, has complied with the requirements of chapter 7 of Title 33 of the South Carolina Code of 1976, relating to the organization of corporations, and that in my opinion, the corporation is organized for a lawful purpose.

Date, September 13, 1983

James R. Gilreath
(Signature)
James R. Gilreath
(Type or Print Name)

Address, Post Office Box 2147
Greenville, S. C. 29602

(ITEM 9 CONTINUED*)

the subject to such restrictions shall have reference thereon to such agreement or agreements, then the capital stock of this corporation shall not be sold, transferred, or otherwise disposed of to any party or parties except in accordance with the terms and conditions of such agreement or agreements.

4. This corporation may be voluntarily dissolved by written consent of all of its shareholders, whether or not entitled to vote.

SCHEDULE OF FEES

(Payable at time of filing Articles of With Secretary of State)

Pee for filing Articles	\$ 5.00
In addition to the above, \$.40 for each \$1,000.00 of the aggregate value of shares which the Corporation is authorized to issue, but in not case less than nor more than	40.00
	1,000.00

NOTE, THIS FORM MUST BE COMPLETED IN ITS ENTIRETY BEFORE IT WILL BE ACCEPTED FOR FILING. THIS FORM MUST BE ACCOMPANIED BY THE FIRST REPORT OF CORPORATIONS AND A CHECK IN THE AMOUNT OF \$10 PAYABLE TO THE SOUTH CAROLINA TAX COMMISSION.

Please see instructions on the reverse side.

Oct 19 1983

REFERENCE ID: A191013154

Mark Hammond
Secretary of State, South Carolina

Name _____ Address _____
Name _____ Address _____

8. The general nature of the business for which the corporation is organized is (it is not necessary to set forth in the purposes powers enumerated in Section 33-3-10 of 1976 Code).

To engage in the business of providing technical education services, electronic services, and electronic and micro-processing development for industry; to buy, sell, own, exchange, operate, mortgage, lease and manage real and personal property of all kinds, both as principal and agent, and at either wholesale or retail; to do all things incident or necessary to such businesses and in general carry on any business not contrary to the laws of the State of South Carolina, and to have and to exercise all the powers, rights and privileges conferred by the laws of the State of South Carolina upon corporations organized thereunder.

9. Provisions which the incorporators elect to include in the articles of incorporation are as follows:

1. The pre-emptive rights of stockholders shall apply without exception to all common stock issued by this corporation for any consideration whatsoever.

2. This corporation is authorized to purchase shares of its own stock from either Earned Surplus or Capital Surplus, upon authorization by the Board of Directors.

3. If any of the owners of the capital stock of this corporation, or if this corporation and one or more of its stockholders shall enter into an agreement respecting the management of the affairs of this corporation, or respecting the rights of its stockholders to sell, assign, transfer, pledge, or otherwise dispose of any of the capital stock of this corporation, and if a copy of such agreement shall be filed in the Minute Book of the corporation, and if the certificates of capital stock (**CONTINUED BELOW)

10. The name and address of each incorporator is:

Name _____ Street & Box No. _____ City _____ County _____ State _____

Carolyn J. Gilreath 171 Ingleoak Lane, Greenville (Greenville County), S. C. 29615

Carolyn J. Gilreath
(Signature of Incorporator)

Date September 13, 1983

Carolyn J. Gilreath
(Type or Print Name)

(Signature of Incorporator)

(Type or Print Name)

(Signature of Incorporator)

(Type or Print Name)

AS TAKEN FROM AN ORIGINAL ON FILE IN THIS OFFICE
 Oct 19 1983
 REFERENCE ID: 0191013164

Phil Harnad
 SECRETARY OF STATE OF SOUTH CAROLINA

STATE OF SOUTH CAROLINA
 SECRETARY OF STATE
 ARTICLES OF INCORPORATION

OF

Technical Training & Consulting of the South, Inc.

For Use By
 The Secretary of State
 File No. **D59086**
 Fee Paid \$ **45.00**
 R.N. **20391**
 Date **9-14-83**

(File This Form in
 Duplicate Originals)
 (Sect. 33-7-30 of 1976 Code)

(INSTRUCTIONS ON PAGE 4)

This Space For Use By
 The Secretary of State

John T. Campbell
 SECRETARY OF STATE
FILED
SEP 14 1983
 AM PM
 7 8 9 10 11 12 1 2 3 4 5 6

- The name of the proposed corporation is: Technical Training & Consulting of the South, Inc.
c/o Hurley & Harrison, Inc.,
- The initial registered office of the corporation is: Lehardt Road
Greenville
 located in the city of Greenville, county of Greenville and
 the State of South Carolina and the name of its initial registered agent at such address is:
Jerry J. Harrison
- The period of duration of the corporation shall be perpetual ~~xxxxxxxxxxxxxx~~
- The corporation is authorized to issue shares of stock as follows:

Class of shares	Authorized No. of each class	Par Value
Common	100,000	\$1.00

If shares are divided into two or more classes or if any class of shares is divided into series within a class, the relative rights, preferences, and limitations of the shares of each class, and of each series within a class, are as follows:

- Total authorized capital stock: \$100,000.00
 Please see instructions on Page 4.
- It is represented that the corporation will not begin business until there has been paid into the corporation the minimum consideration for the issue of shares, which is \$1,000.00 of which at least \$500.00 is in cash.
- The number of directors constituting the initial board of directors of the corporation is three
 and the names and addresses of the persons who are to serve as directors until the first annual meeting of shareholders or until their successors be elected and qualify are:
Jerry J. Harrison, P.O. Box 8516-Station A, Greenville, S.C. 29604
Edward F. Harrison, Jr., P.O. Box 8516-Station A, Greenville, S.C. 29604
Kenneth Lynch, Sr., P.O. Box 519, Fairforest, S.C. 29336

Commonwealth of Virginia



State Corporation Commission

CERTIFICATE OF GOOD STANDING

I Certify the Following from the Records of the Commission:

That Commercial Foodservice Repair Inc., a corporation incorporated under the law of South Carolina, is authorized to transact business in the Commonwealth of Virginia;

That it obtained a certificate of authority to transact business in Virginia from the Commission on June 16, 1992; and

That the corporation is in good standing in the Commonwealth of Virginia as of the date set forth below.

Nothing more is hereby certified.



Signed and Sealed at Richmond on this Date:
October 21, 2015

Joel H. Peck
Joel H. Peck, Clerk of the Commission

CISECOM
Document Control Number: 1510216366

Corporations Section
P.O.Box 13697
Austin, Texas 78711-3697



Carlos H. Cascos
Secretary of State

Office of the Secretary of State

Certificate of Fact

The undersigned, as Secretary of State of Texas, does hereby certify that the document, Assumed Name Certificate for Commercial Foodservice Repair, Inc. (file number 7650706), a SOUTH CAROLINA, USA, Foreign For-Profit Corporation, was filed in this office on May 11, 1988.

It is further certified that the entity status in Texas is in existence.

In testimony whereof, I have hereunto signed my name officially and caused to be impressed hereon the Seal of State at my office in Austin, Texas on October 21, 2015.



A handwritten signature in black ink, appearing to read "Cascos", followed by a horizontal line.

Carlos H. Cascos
Secretary of State

Phone: (512) 463-5555
Prepared by: SOS-WEB

Come visit us on the internet at <http://www.sos.state.tx.us/>

Fax: (512) 463-5709
TID: 10264

Dial: 7-1-1 for Relay Services
Document: 636788160002

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE

10/21/2015

TO ALL WHOM THESE PRESENTS SHALL COME, GREETING:

I DO HEREBY CERTIFY THAT,

Commercial Foodservice Repair, Inc.

is duly registered to do business under the laws of the Commonwealth of Pennsylvania and remains a registered Foreign Business Corporation so far as the records of this office show, as of the date herein.

I DO FURTHER CERTIFY THAT this Certificate of Registration shall not imply that all fees, taxes and penalties owed to the Commonwealth of Pennsylvania are paid.



IN TESTIMONY WHEREOF, I have hereunto set my hand and caused the Seal of the Secretary's Office to be affixed, the day and year above written

Pedro A. Contes
Secretary of the commonwealth

Certification Number: TSC151021192155-1

Verify this certificate online at <http://www.corporations.pa.gov/orders/verify.aspx>

State of New York
Department of State } **ss:**

I hereby certify, that TRANSACTION TECHNOLOGY CORPORATION a SOUTH CAROLINA corporation, doing business in the State of New York under the fictitious name of TECHNICAL TRAINING & CONSULTING filed an Application for Authority to do business in the State of New York on 08/15/1991. I further certify that so far as shown by the records of this Department, such corporation is still authorized to do business in the State of New York.

A certificate changing name to COMMERCIAL FOODSERVICE REPAIR, INC. and deleting its fictitious name was filed on 05/07/2010.



*Witness my hand and the official seal
of the Department of State at the City
of Albany, this 20th day of October
two thousand and fifteen.*

Anthony Giardina

Anthony Giardina
Executive Deputy Secretary of State

201510210456 * S8

SECRETARY OF STATE



CERTIFICATE OF EXISTENCE WITH STATUS IN GOOD STANDING

I, BARBARA K. CEGAVSKE, the duly elected and qualified Nevada Secretary of State, do hereby certify that I am, by the laws of said State, the custodian of the records relating to filings by corporations, non-profit corporations, corporation soles, limited-liability companies, limited partnerships, limited-liability partnerships and business trusts pursuant to Title 7 of the Nevada Revised Statutes which are either presently in a status of good standing or were in good standing for a time period subsequent of 1976 and am the proper officer to execute this certificate.

I further certify that the records of the Nevada Secretary of State, at the date of this certificate, evidence, **COMMERCIAL FOODSERVICE REPAIR INC.**, as a corporation duly organized under the laws of South Carolina and existing under and by virtue of the laws of the State of Nevada since February 25, 1991, and is in good standing in this state.



IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Great Seal of State, at my office on October 21, 2015.

Barbara K. Cegavske

BARBARA K. CEGAVSKE
Secretary of State

Electronic Certificate
Certificate Number: C20151021-1418
You may verify this electronic certificate
online at <http://www.nvsos.gov/>

*STATE OF NEW JERSEY
DEPARTMENT OF THE TREASURY
DIVISION OF REVENUE AND ENTERPRISE SERVICES
SHORT FORM STANDING*

COMMERCIAL FOODSERVICE REPAIR, INC.

0100304380

With the Previous or Alternate Name

TECHNICAL TRAINING & CONSULTING OF THE SOUTH, INC. (Previous Name)

I, the Treasurer of the State of New Jersey, do hereby certify that the above-named South Carolina Foreign Profit Corporation was registered by this office on July 10, 1986.

As of the date of this certificate, said business continues as an active business in good standing in the State of New Jersey, and its Annual Reports are current.

I further certify that the registered agent and registered office are:

*Corporation Service Company
830 Bear Tavern Road
West Trenton, NJ 08628*



Certification# 137476167

*IN TESTIMONY WHEREOF, I have
hereunto set my hand and affixed my
Official Seal at Trenton, this
21st day of October, 2015*

Robert A. Romano

*Robert A Romano
Acting State Treasurer*

Verify this certificate at
https://www1.state.nj.us/TYTR_StandingCert/JSP/Verify_Cert.jsp

State of Florida

Department of State

I certify from the records of this office that COMMERCIAL FOODSERVICE REPAIR, INC. is a South Carolina corporation authorized to transact business in the State of Florida, qualified on August 2, 1989.

The document number of this corporation is P25464.

I further certify that said corporation has paid all fees due this office through December 31, 2015, that its most recent annual report/uniform business report was filed on April 22, 2015, and that its status is active.

I further certify that said corporation has not filed a Certificate of Withdrawal.

*Given under my hand and the
Great Seal of the State of Florida
at Tallahassee, the Capital, this
the Twenty-first day of October,
2015*



Ken Datzman
Secretary of State

Tracking Number: CUI146544259

To authenticate this certificate, visit the following site, enter this number, and then follow the instructions displayed.

<https://services.sunbiz.org/Filings/CertificateOfStatus/CertificateAuthentication>

State of California
Secretary of State

CERTIFICATE OF STATUS

ENTITY NAME:

COMMERCIAL FOODSERVICE REPAIR, INC.

FILE NUMBER: C1650848
REGISTRATION DATE: 09/28/1989
TYPE: FOREIGN CORPORATION
JURISDICTION: SOUTH CAROLINA
STATUS: ACTIVE (GOOD STANDING)

I, ALEX PADILLA, Secretary of State of the State of California,
hereby certify:

The records of this office indicate the entity is qualified to
transact intrastate business in the State of California.

No information is available from this office regarding the financial
condition, business activities or practices of the entity.



IN WITNESS WHEREOF, I execute this certificate
and affix the Great Seal of the State of
California this day of October 21, 2015.

ALEX PADILLA
Secretary of State

STATE OF ARIZONA



Office of the CORPORATION COMMISSION

CERTIFICATE OF GOOD STANDING

To all to whom these presents shall come, greeting:

I, Jodi A. Jerich, Executive Director of the Arizona Corporation Commission, do hereby certify that

****COMMERCIAL FOODSERVICE REPAIR, INC.****

a foreign corporation organized under the laws of South Carolina did obtain authority to transact business in the State of Arizona on the 7th day of March 1991.

I further certify that according to the records of the Arizona Corporation Commission, as of the date set forth hereunder, the said corporation has not had its authority revoked for failure to comply with the provisions of the Arizona Business Corporation Act; and that its most recent Annual Report, subject to the provisions of A.R.S. sections 10-122, 10-123, 10-125 & 10-1622, has been delivered to the Arizona Corporation Commission for filing; and that the said corporation has not filed an Application for Withdrawal as of the date of this certificate.

This certificate relates only to the legal authority of the above named entity as of the date issued. This certificate is not to be construed as an endorsement, recommendation, or notice of approval of the entity's condition or business activities and practices.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the Arizona Corporation Commission. Done at Phoenix, the Capital, this 21st day of October, 2015, A. D.




Jodi A. Jerich, Executive Director

By: _____ 1312104

The State of South Carolina



Office of Secretary of State Mark Hammond

Certificate of Existence

I, Mark Hammond, Secretary of State of South Carolina Hereby Certify that:

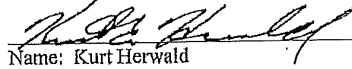
COMMERCIAL FOODSERVICE REPAIR, INC.,
a corporation duly organized under the laws of the State of South Carolina on September 14th, 1983, and having a perpetual duration unless otherwise indicated below, has as of the date hereof filed all reports due this office, paid all fees, taxes and penalties owed to the State, that the Secretary of State has not mailed notice to the corporation that it is subject to being dissolved by administrative action pursuant to S.C. Code Ann. §33-14-210, and that the corporation has not filed articles of dissolution as of the date hereof.

Given under my Hand and the Great Seal
of the State of South Carolina this 19th day
of October, 2015.


Mark Hammond, Secretary of State

In witness whereof, the undersigned has executed this Officer's Certificate on behalf of the Borrower, as of the date first written above.

COMMERCIAL FOODSERVICE REPAIR, INC.

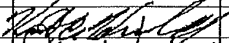
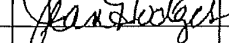


Name: Kurt Herwald

Title: President

Officer's Certificate

6. That in any present and in any future dealings between the Borrower and the Bank relating to the transactions authorized herein, any of the Persons shown below (individually, a "Person"; collectively, the "Persons") is authorized on behalf of the Borrower to transact with the Bank:

NAME	SPECIMEN SIGNATURE		TITLE (If Applicable)
	MANUAL	ELECTRONIC	
Kurt Herwald		/s/	President
Jean Hodges		/s/	Secretary
		/s/	

That the foregoing and attached resolutions and the provisions hereof are in conformity with the organizational documents (e.g., articles of organization, operating agreement, etc.) of the Borrower and the names and specimen signatures of the Persons herein are authorized and the authority hereby conferred shall remain in full force and effect until a reasonable time after the Bank receives notice to the contrary in writing and has a reasonable opportunity to act upon such notice.

Officer's Certificate

OFFICER'S CERTIFICATE

BORROWER: COMMERCIAL FOODSERVICE REPAIR, INC.

ADDRESS: 410 E. Washington Street
Greenville, South Carolina 29601

Date: November 2, 2015

Tax Identification No.: 57-0757882

Telephone Number: 864.271.6522

The undersigned, on behalf of Commercial Foodservice Repair, Inc. ("Borrower"), does hereby certify to Fifth Third Bank (the "Bank") the accuracy of the applicable information set forth below:

1. That the undersigned is a duly qualified President of Commercial Foodservice Repair, Inc., a corporation duly organized, validly existing and in good standing under the laws of South Carolina.
2. That the complete legal name of the Borrower as set forth in its applicable articles of incorporation and other organizational documents, as amended, is set forth above.
3. That attached hereto is a true and complete copy of the articles or certificate of incorporation and all amendments thereto of Borrower, certified as of a recent date by the Secretary of State (or comparable Governmental Authority) of its jurisdiction of organization, and that the same has not been amended since the date of such certification.
4. That attached hereto is a true and complete copy of the bylaws or similar governing document of Borrower, as in effect on the date hereof and as in effect at all times from the date on which the resolutions referred to in clause 5 below were adopted to and including the date of this certificate.
5. That attached hereto as Exhibit A are true and complete copies of resolutions duly adopted by the Board of Directors of the Borrower authorizing the execution, delivery and performance of the Credit Agreement attached thereto as Exhibit A and the other Credit Documents to which Borrower is a party, that the same are currently in full force and effect and have not been rescinded or modified, and that the same constitute all of the action required to authorize the transactions contemplated by such resolutions.

Officer's Certificate

GREENVILLE 1426504

WIRING INSTRUCTIONS

PNC Bank (\$13,608,325.06):

PNC Bank, National Association

Pittsburgh, PA

ABA 043-000-096

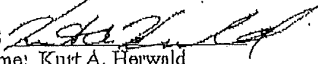
BNF: Commercial Loans

Acct # 130760016803

Ref: COMMERCIAL FOODSERVICE REPAIR INC 606564837 ,606152757, 607045051

Address: PNC Bank, NA
One Financial Parkway
Kalamazoo, MI 49009
Mailstop: Z1-YB42-01-2

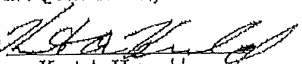
COMMERCIAL FOODSERVICE REPAIR, INC.

By: 
Name: Kurt A. Herwald
Title: President

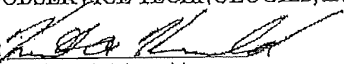
FIFTH THIRD BANK

By: _____
Name: Charles H. Arndt
Title: Senior Vice President

FT ACQUISITION, LLC

By: 
Name: Kurt A. Herwald
Title: President

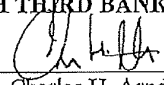
FOODSERVICE TECHNOLOGIES, INC.

By: 
Name: Kurt A. Herwald
Title: President

COMMERCIAL FOODSERVICE REPAIR, INC.

By: _____
Name: Kurt A. Herwald
Title: President

FIFTH THIRD BANK

By: _____
Name: Charles H. Arndt
Title: Senior Vice President

FT ACQUISITION, LLC

By: _____
Name: Kurt A. Herwald
Title: President

FOODSERVICE TECHNOLOGIES, INC.

By: _____
Name: Kurt A. Herwald
Title: President

LOAN CLOSING STATEMENT

Borrower: Commercial Foodservice Repair, Inc., FT Acquisition, LLC and Foodservice Technologies, Inc.
Lender: Fifth Third Bank
Revolving Loan: \$16,000,000.00
Term Loan: \$8,500,000.00
Closing: November 2, 2015

Sources of Funds:

(a)	Funds Advanced	
(i)	Revolving Line	\$12,110,349.56
(ii)	Term Loan	\$8,500,000.00
	TOTAL FROM LENDER	<u>\$20,610,349.56</u>

TOTAL AVAILABLE SOURCES AT CLOSING: \$20,610,349.56

Disbursement of Funds (from Lender):

(a)	PNC Bank	
(i)	Payoff of Loan No. 607045051	\$8,710,115.10
(ii)	Payoff of Loan No. 606564837	\$4,884,901.95
(iii)	Payoff of Loan No. 606152757	\$13,311.01
	TOTAL DUE PNC	<u>\$13,608,328.06</u>
(b)	Fifth Third Bank	
(i)	Commitment Fee	\$49,000.00
(ii)	Costs and Expenses	\$297.25
	TOTAL DUE FIFTH THIRD	<u>\$49,297.25</u>

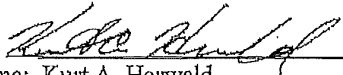
TOTAL DISBURSEMENTS: \$13,657,645.31

BALANCE OF SOURCES AVAILABLE AT CLOSING: \$6,952,724.25

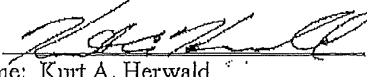
[Signature Page to Follow]

IN WITNESS WHEREOF, the undersigned have executed this Closing Letter on behalf of the Borrowers, as of the date first written above.

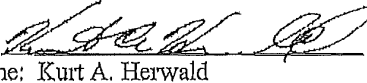
COMMERCIAL FOODSERVICE REPAIR,
INC.

By: 
Name: Kurt A. Herwald
Title: President

FT ACQUISITION, LLC

By: 
Name: Kurt A. Herwald
Title: President

FOODSERVICE TECHNOLOGIES, INC.

By: 
Name: Kurt A. Herwald
Title: President

[Signature Page to Closing Letter]

CLOSING LETTER

November 2, 2015

Lender: FIFTH THIRD BANK
Closing Date: November 2, 2015

Principal Amount of Line of Credit: \$16,000,000.00
Effective Date: November 2, 2015
Maturity Date: October 31, 2017
Obligation No.: A

Principal Amount of Term Loan: \$8,500,000.00
Effective Date: November 2, 2015
Maturity Date: October 31, 2020
Obligation No.: B

Officer: Charlie Arndt
Borrowers: Commercial Foodservice Repair, Inc., FT Acquisition, LLC
and Foodservice Technologies, Inc.

Obligor No.: _____

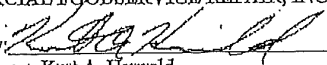
In connection with the closing of the above referenced Loans, Borrowers acknowledge receipt of the loan documents listed below ("Loan Documents") and further acknowledge that, should Borrowers fail to execute and deliver or fail to coordinate the execution and delivery of any one or more of the Loan Documents to Lender at Closing and Lender elects to close the Loan notwithstanding, Borrowers shall execute and deliver or coordinate the execution and delivery of such outstanding Loan Document(s) within thirty (30) days of the date hereof, which time period may be extended at the sole discretion of Lender, or as otherwise set forth in the Credit Agreement. Failure to comply with the foregoing obligation is an Event of Default and Lender may pursue any and all remedies available at law or in equity.

<u>Document Name</u>	<u>Responsible Party</u>
Credit Agreement	Borrowers
Commercial Promissory Note (Revolving Line of Credit)	Borrowers
Commercial Promissory Note (Term Loan)	Borrowers
Security Agreement	Borrowers
Officer's Certificate (Commercial Foodservice Repair, Inc.)	Borrowers
Officer's Certificate (FT Acquisition, LLC)	Borrowers
Officer's Certificate (Foodservice Technologies, Inc.)	Borrowers
Landlord Waivers	Borrowers
UCC Filings	Bank

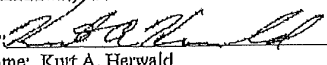
GREENVILLE 1426662

The undersigned duly authorized representatives of the Borrowers have set their hand and seal to this Insurance Certificate and Agreement as of the date first above written.

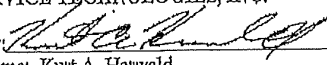
COMMERCIAL FOODSERVICE REPAIR, INC.

By: 
Name: Kurt A. Herwald
Title: President

FT ACQUISITION, LLC

By: 
Name: Kurt A. Herwald
Title: President

FOODSERVICE TECHNOLOGIES, INC.

By: 
Name: Kurt A. Herwald
Title: President

INSURANCE CERTIFICATE AND AGREEMENT

BORROWER: COMMERCIAL FOODSERVICE REPAIR, INC., FT ACQUISITION, LLC and
FOODSERVICE TECHNOLOGIES, INC.
ADDRESS: 410 E. Washington Street
Greenville, South Carolina 29601
DATE: November 2, 2015

In consideration of certain loan facilities between Fifth Third Bank (the "Bank") and Commercial Foodservice Repair, Inc., a South Carolina corporation, FT Acquisition, LLC, a South Carolina limited liability company, and Foodservice Technologies, Inc., a Virginia corporation (individually, a "Borrower" and collectively, the "Borrowers") (the loan facilities, collectively the "Loans"), the undersigned certify to and agree with the Bank as follows:

- (a) the insurance coverage listed below is in place and will remain in force during the term of the Loans;
- (b) the policies of insurance evidencing the insurance coverage referenced in (a) above are listed below, which information is accurate in all material respects as of the date of this certification;
- (c) Borrowers have notified the agent and companies identified below to add "Fifth Third Bank, its successors, and assigns" as lender's loss payee/mortgagee, as directed by Bank, on the existing insurance policies and to add "Fifth Third Bank its successors and assigns" as lender's loss payee on any new policies;
- (d) Borrowers have notified the agents and companies identified below to furnish Bank at the above address copies of the policies with all endorsements, together with any subsequent renewal policies, all of which shall reflect the interests of Bank as required herein or as may otherwise be directed by Bank; and
- (e) Borrowers have notified the agents and companies identified below to provide copies of all notices given under the insurance policies to Bank, including copies of all notices regarding non-payment of premiums and termination or cancellation of the policies, or any of them.

The following are all of the types of required insurance currently in place, together with identifying information for each:

Casualty Insurance:

Company: Hartford Fire Insurance Co.
Agent: Brown & Brown of South Carolina, Inc.
Policy Number: 22UUNZI3025
Expiration Date: July 1, 2016

General Liability Insurance:

Company: Zurich American Insurance Co.
Agent: Brown & Brown of South Carolina, Inc.
Policy Number: GLO0380920
Expiration Date: July 1, 2016

[Signature Page to Follow]

Insurance Certification

GREENVILLE 1426507

Raleigh, NC 27064

Other places of business:

N/A

Trade/fictitious or prior corporate names (last five years):

"Tech-24", "Tech-24 Refrigeration", and "Tech-24 Foodservice"

Names used in tax filings (last five years):

Foodservice Technologies, Inc., Food Service Technologies, Inc T/A Tech 24

Federal Tax ID No.: 47-1421854

Organizational ID No.: N/A

Chief Executive Office Address: 410 E. Washington Street
Greenville, SC 29601

Records Related to Collateral: 410 E. Washington Street
Greenville, SC 29601

Locations of Inventory: N/A

Other places of business: N/A

Trade/fictitious or prior corporate names (last five years): N/A

Names used in tax filings (last five years): FT Acquisition, LLC

Foodservice Technologies, Inc.

Jurisdiction of Incorporation/Organization: Virginia

Federal Tax ID No.: 54-1741869

Organizational ID No.: N/A

Chief Executive Office Address: 410 E. Washington Street
Greenville, SC 29601

Records Related to Collateral: 410 E. Washington Street
Greenville, SC 29601

Locations of Inventory: 5256 Eisenhower Avenue
Alexandria, VA 22304

1530 Viola Way
Charlottesville, VA 22902

9432 Atlee Commerce Boulevard, Suite E, F, G
Ashland, VA 23005

3768 Peters Creek Road
Roanoke, VA 24018

2545 Lord Baltimore Dr. Suite F, G
Baltimore, MD 21244

534 West 24th Street
Norfolk, VA 23517

2013 New Hope Church Road, Suite G

SCHEDULE III

**PRINCIPAL PLACE OF BUSINESS;
LOCATIONS OF COLLATERAL; FICTITIOUS NAMES**

Commercial Foodservice Repair, Inc.

Jurisdiction of Incorporation/Organization:	South Carolina
Federal Tax ID No.:	57-0757882
Organizational ID No.:	N/A
Chief Executive Office Address:	410 E. Washington Street Greenville, SC 29601
Records Related to Collateral:	410 E. Washington Street Greenville, SC 29601
Locations of Inventory:	1109 South Airport Circle, Suites A, B & D Eules, TX 76040-6852 847 Isom Road San Antonio, TX 78216-4035 3327 Barlett Blvd. Orlando, FL 32811 875 Pennsylvania Blvd, Unit 7 Feasterville, PA 19053 110 Mahan Street West Babylon, NY 11704 720 Milliken Avenue, Unit F Ontario, CA 91761 1815 West 1st Avenue, Unit 117 Mesa, AZ 85202 6280 S. Valley View Blvd, Suite 742 Las Vegas, NV 98118
Other places of business:	N/A
Trade/fictitious or prior corporate names (last five years):	"Tech-24", "Tech-24 Refrigeration", and "Tech-24 Foodservice"
Names used in tax filings (last five years):	Commercial Foodservice Repair, Inc.

FT Acquisition, LLC

Jurisdiction of Incorporation/Organization:	South Carolina

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SCHEDULE II
JURISDICTIONS FOR
UNIFORM COMMERCIAL CODE FILINGS

<u>Legal Name</u>	<u>Filing Location</u>
Commercial Foodservice Repair, Inc.	Secretary of State – South Carolina
FT Acquisition, LLC	Secretary of State – South Carolina
Foodservice Technologies, Inc.	Secretary of State – Virginia

account cards, and other records including those stored on computer or electronic media, whether now in existence or hereafter created, relating to any of the foregoing; and

(xii) All inventory (as such term is defined in Article 9 of the Uniform Commercial Code in effect from time to time in the State of South Carolina and the Uniform Commercial Code of any other jurisdiction applicable to the Collateral) owned by Pledgors and all inventory in which Pledgors have any rights (including, without limitation, rights to grant a security interest in inventory owned by other persons), both now existing and hereafter owned, acquired and arising, including, without limitation, inventory in transit; inventory in the constructive possession and control of Pledgors, inventory in the actual possession and control of Pledgors and inventory held by others for Pledgors' account; and, to the extent not included in the term inventory as so defined after ascribing a broad meaning thereto, all now existing and hereafter acquired goods manufactured or acquired for sale or lease, and any piece goods, raw materials, as extracted collateral, work in process and finished merchandise, component materials, and all supplies, goods, incidentals, office supplies, packaging materials and any and all items used or consumed in the operation of the business of Pledgors or which may contribute to the finished product or to the sale, promotion and shipment thereof by Pledgors and by others on the account of Pledgors, together with (i) the proceeds and products of all of the inventory and other property and property rights described hereinabove, (ii) all additions and accessions thereto and replacements and substitutions therefore, (iii) all documents related thereto and (iv) all customer lists, books and records, ledgers, account cards, and other records including those stored on computer or electronic media, whether now in existence or hereafter created, relating to any of the foregoing.

- (v) all now existing and hereafter arising rights in oil, gas or other minerals before extraction;
- (vi) all now existing and hereafter arising guarantees and other supporting obligations, together with the security therefor;
- (vii) all now existing and hereafter arising copyrights, trademarks, service marks, trade names and service names and the goodwill associated therewith;
- (viii) all now existing and hereafter arising (a) patents and patent applications filed in the United States Patent and Trademark Office or any similar office of any foreign jurisdiction, and interests under patent license agreements, including, without limitation, the inventions and improvements described and claimed therein; (b) licenses pertaining to any patent whether Pledgors are licensor or licensee; (c) income, royalties, damages, payments, accounts and accounts receivable now due and those hereafter arising and due under and with respect thereto, including, without limitation, damages and payments for past, present and future infringements thereof; (d) the right (but not the obligation) to sue for past, present and future infringements thereof; (e) rights corresponding thereto throughout the world in all jurisdictions in which such patents have been issued or applied for; and (f) the reissues, divisions, continuations, renewals, extensions and continuations-in-part with any of the foregoing (all of the foregoing patents and applications and interests under patent license agreements, together with the items described in clauses (a) through (f) in this paragraph are sometimes herein individually and collectively referred to as the "Patents");
- (ix) all now existing and hereafter arising accessions, products and proceeds, including, without limitation, insurance proceeds and condemnation proceeds, of any and all of the foregoing property and property rights;
- (x) All general intangibles (as such term is defined in Article 9 of the Uniform Commercial Code in effect from time to time in the State of South Carolina and the Uniform Commercial Code of any other jurisdiction applicable to the Collateral) of Pledgors, whether now existing or hereafter owned, acquired or arising, or in which Pledgors now have or hereafter acquire any rights, and, to the extent not included in the term general intangibles as so defined after ascribing a broad meaning thereto, all now existing and hereafter acquired things in action, payment intangibles, rights to payment of Loans funds not evidenced by chattel paper or an instrument, contract rights, causes of action, business records, inventions, designs, patents, patent applications, software, trademarks, trademark registrations and applications therefor, goodwill, trade names, trade secrets, trade processes, copyrights, copyright registrations and applications therefor, licenses, permits, franchises, customer lists, computer programs, all claims under guaranties and other supporting obligations, tax refund claims, claims under letters-of-credit and all letter-of-credit rights, rights and claims against carriers and shippers, leases, claims under insurance policies, condemnation proceeds, all rights to indemnification and all other intangible personal property of every kind and nature, together with the proceeds of all of the general intangibles and other property and property rights described hereinabove; and all customer lists, books and records, ledgers, account cards, and other records including those stored on computer or electronic media, whether now in existence or hereafter created, relating to any of the foregoing;
- (xi) All equipment (as such term is defined in Article 9 of the Uniform Commercial Code in effect from time to time in the State of South Carolina, and the Uniform Commercial Code of any other jurisdiction applicable to the Collateral) of Pledgors, whether now existing or hereafter owned, acquired or arising, or in which Pledgors now have or hereafter acquire any rights, including, without limitation, equipment now in Pledgors' possession and control, equipment in transit, equipment in storage and equipment hereafter acquired by way of replacement, substitution, addition or otherwise, and, to the extent not included in the term equipment as so defined after ascribing a broad meaning thereto, all now existing and hereafter acquired furniture, furnishings, fixtures (including, without limitation, those located at, upon or about, or attached to, the real estate described herein), machinery, parts, supplies, apparatus, appliances, patterns, molds, dies, blueprints, fittings and computer systems and related hardware and software of every description, together with (i) the proceeds and products of all of the equipment and other property and property rights described hereinabove, including, without limitation, insurance proceeds and condemnation proceeds, (ii) all books and records, abstracts of title, leases and all other contracts and agreements relating thereto or used in connection therewith and (iii) all customer lists, books and records, ledgers,

SCHEDULE I

COLLATERAL DESCRIPTION

PLEDGORS: COMMERCIAL FOODSERVICE REPAIR, INC., FT ACQUISITION, LLC,
and FOODSERVICE TECHNOLOGIES, INC.

SECURED PARTY: FIFTH THIRD BANK

All personal property owned by Pledgors and all personal property in which Pledgors have a property interest, both presently existing and hereafter created, written, produced, developed, acquired and arising, of every nature, kind and description, wherever located and notwithstanding in whose custody and possession any of the foregoing may be at any time or times, including, but not limited to:

(i) all accounts, as-extracted collateral, cash proceeds, chattel paper, commercial tort claims, deposit accounts, documents, equipment, farm products, fixtures, financial assets, general intangibles, goods, instruments, inventory, investment property (including without limitation, Equity Interests), letter of credit rights, letters of credit, money, non-cash proceeds, proceeds, intellectual property, software, supporting obligations and other personal property, both now existing and hereafter existing, acquired and arising, owned by Pledgors and in which Pledgors have any property rights and benefits, of whatsoever kind and description, wherever located and inclusive of property in Pledgors' constructive possession and control, property in Pledgors' actual possession and control and property in the possession and control of a third person for and on behalf of Pledgors; and, without limiting the foregoing but in furtherance thereof, the following now existing and hereafter acquired and arising property and property rights and benefits, together with all replacements, substitutions, additions, accessions, products and proceeds thereof and of anything described herein;

(ii) all accounts (as such term is defined in Article 9 of the Uniform Commercial Code in effect from time to time in the State of South Carolina and the Uniform Commercial Code of any other jurisdiction applicable to the Collateral) owned by Pledgors and all accounts in which Pledgors have any rights (including, without limitation, rights to grant a security interest in accounts owned by other persons), both now existing and hereafter owned, acquired and arising and, to the extent not included in the term accounts as so defined after ascribing a broad meaning thereto, all accounts receivable, health-care-insurance receivables, credit and charge card receivables, bills, acceptances, documents, choses in action, chattel paper (both tangible and electronic), promissory notes and other instruments, deposit accounts, license fees payable for use of software, commercial tort claims, letter of credit rights and letters of credit, rights to payment for money or funds advanced or sold other than through use of a credit card, lottery winnings, investment property, rights to payment with respect to investment property, general intangibles and other forms of obligations and rights to payment of any nature, now owing to Pledgors and hereafter arising and owing to the Pledgors, together with (1) the proceeds of all of the accounts and other property and property rights described hereinabove, including all of the proceeds of Pledgors' rights with respect to any of its goods and services represented thereby, whether delivered or returned by customers, and all rights as an unpaid vendor and lienor, including rights of stoppage in transit and of recovering possession by any proceedings, including replevin and reclamation, and (2) all customer lists, books and records, ledgers, account cards, and other records including those stored on computer or electronic media, whether now in existence or hereafter created, relating to any of the foregoing;

(iii) all now existing and hereafter acquired software, computer source codes, computer programs embedded in goods that consist solely of the medium in which the program is embedded and other computer programs and supporting information (collectively, the "Software Products"), and all common law and statutory copyrights and copyright registrations, applications for registration, now existing and hereafter arising, United States and foreign, obtained and to be obtained on or in connection with the Software Products, and any parts thereof and any underlying and component elements of the Software Products, together with the right to copyright and all rights to renew and extend such copyrights and the right (but not the obligation) of Bank to sue in its own name and in the name of Pledgors for past, present and future infringements of copyright;

(iv) all now existing and hereafter acquired goods, including, without limitation, fixtures, equipment and inventory;

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IN WITNESS WHEREOF, this Security Agreement has been executed as of the day and year first above written by the duly authorized officers of the parties hereto.

COMMERCIAL FOODSERVICE REPAIR, INC.

By: Kurt A. Herwald
Name: Kurt A. Herwald
Title: President

ET ACQUISITION, LLC

By: Kurt A. Herwald
Name: Kurt A. Herwald
Title: President

FOODSERVICE TECHNOLOGIES, INC.

By: Kurt A. Herwald
Name: Kurt A. Herwald
Title: President

ACCEPTED AND AGREED TO AS OF
THE DATE FIRST ABOVE WRITTEN:

FIFTH THIRD BANK

By: _____
Name: Charles H. Arndt
Title: Senior Vice President

Signature Page to Security Agreement

GREENVILLE 1426478

IN WITNESS WHEREOF, this Security Agreement has been executed as of the day and year first above written by the duly authorized officers of the parties hereto,

COMMERCIAL FOODSERVICE REPAIR, INC.

By: _____
Name: Kurt A. Herwald
Title: President

FT ACQUISITION, LLC

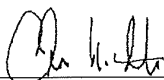
By: _____
Name: Kurt A. Herwald
Title: President

FOODSERVICE TECHNOLOGIES, INC.

By: _____
Name: Kurt A. Herwald
Title: President

ACCEPTED AND AGREED TO AS OF
THE DATE FIRST ABOVE WRITTEN:

FIFTH THIRD BANK

By:  _____
Name: Charles H. Arndt
Title: Senior Vice President

Signature Page to Security Agreement

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may not sell, assign or transfer any of their rights, interests, duties or obligations hereunder without the prior written consent of the Bank, and (iii) inure to the benefit of and be enforceable by the Bank and its successors and assigns. Upon any sale or other disposition by the Pledgors of any Collateral in a transaction expressly permitted hereunder or under or pursuant to the Credit Agreement or any other applicable Credit Document, the Lien and security interest created by this Agreement in and upon such Collateral shall be automatically released, and upon the satisfaction of all of the Termination Requirements, this Agreement and the Lien and security interest created hereby shall terminate; and in connection with any such release or termination, the Bank, at the request and expense of the Pledgors will execute and deliver to the Pledgors such documents and instruments evidencing such release or termination as the Pledgors may reasonably request and will assign, transfer and deliver to the Pledgors, without recourse and without representation or warranty, such of the Collateral as may then be in the possession of the Bank (or, in the case of any partial release of Collateral, such of the Collateral so being released as may be in its possession).

6.8 Notice. Except as otherwise provided herein, notice to the Pledgors or to the Bank shall be given or delivered in the manner set forth in Section 9.4 of the Credit Agreement.

6.9 Severability. To the extent any provision of this Agreement is prohibited by or invalid under applicable law, such provision shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Agreement.

6.10 Captions. The captions to the sections of this Agreement have been inserted for convenience only and shall not limit or modify any of the terms hereof.

6.11 Counterparts. This Agreement may be executed in two or more counterparts, which when assembled shall constitute one and the same agreement.

6.12 Amendments and Waivers. Any provision of this Agreement may be amended or waived, if, but only if, such amendment or waiver is in writing and is signed by the Pledgors and the Bank.

6.13 Conflict of Terms. The terms of this Agreement and the terms of the Credit Agreement shall be construed and interpreted to the full extent possible to give effect to all such terms. In the event of any conflict between the terms of this Agreement and the Credit Agreement, the terms of the Credit Agreement shall control.

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ARTICLE VI

MISCELLANEOUS

6.1 Indemnity and Expenses. The Pledgors agree:

(a) To indemnify and hold harmless the Bank and each of its respective directors, officers, employees, agents and affiliates from and against any and all claims, damages, demands, losses, obligations, judgments and liabilities (including, without limitation, reasonable attorneys' fees and expenses) in any way arising out of or in connection with this Agreement and the transactions contemplated hereby, except to the extent the same shall arise as a result of the gross negligence or willful misconduct of the party seeking to be indemnified; and

(b) To pay and reimburse the Bank upon demand for all reasonable costs and expenses (including, without limitation, reasonable attorneys' fees and expenses) that the Bank may incur in connection with (i) the custody, use or preservation of, or the sale of, collection from or other realization upon, any of the Collateral, including the reasonable expenses of re-taking, holding, preparing for sale or lease, selling or otherwise disposing of or realizing on the Collateral, (ii) the exercise or enforcement of any rights or remedies granted hereunder (including, without limitation, under Article V), under any of the other Credit Documents or otherwise available to it (whether at law, in equity or otherwise), or (iii) the failure by the Pledgors to perform or observe any of the provisions hereof. The provisions of this Section 6.1 shall survive the execution and delivery of this Agreement, the repayment of any of the Secured Obligations, the termination of the commitments under the Credit Agreement and the termination of this Agreement or any other Credit Document.

6.2 No Waiver. The Bank's failure at any time or times hereafter to require strict performance by the Pledgors of any of the provisions of this Agreement shall not waive, affect or diminish any right of the Bank at any time or times hereafter to demand strict performance therewith and with respect to any other provision of this Agreement, and any waiver of any Event of Default shall not waive or affect any other Event of Default, whether prior or subsequent thereto, and whether of the same or a different type. None of the provisions of this Agreement shall be deemed to have been waived by any act or knowledge of the Bank, its agents, officers or employees except by an instrument in writing signed by an officer of the Bank and directed to the Pledgors specifying such waiver.

6.3 Binding Effect. This Agreement and all other instruments and documents executed and delivered pursuant hereto or in connection herewith shall be binding upon and inure to the benefit of the successors and assigns of the parties hereto.

6.4 Governing Law. This Agreement shall be construed and interpreted in accordance with the internal laws and judicial decisions of the State of South Carolina without giving effect to the conflict of laws principles thereof, except to the extent that matters of perfection and validity of the security interests hereunder, or remedies hereunder, are governed by the laws of a jurisdiction other than the State of South Carolina.

6.5 Survival of Agreement. All representations and warranties of the Pledgors and all obligations of the Pledgors contained herein shall survive the execution and delivery of this Agreement.

6.6 Pre-Filing and Filing of Financing Statements. By execution of this Agreement, the Pledgors (a) expressly authorize the Bank to prepare and file or cause to be filed such Uniform Commercial Code financing statements (including attached schedules, exhibits, and addenda) as the Bank may deem reasonably necessary to perfect the security interests and liens granted herein and (b) hereby ratifies and confirms that the Bank was and is authorized to file all such Uniform Commercial Code financing statements (including attached schedules, exhibits, and addenda) prior to the execution and delivery of this Agreement, and hereby ratifies any such filings.

6.7 Continuing Security Interest; Term; Successors and Assigns; Assignment; Termination and Release; Survival. This Agreement shall create a continuing security interest in the Collateral and shall secure the payment and performance of all of the Secured Obligations as the same may arise and be outstanding at any time and from time to time from and after the date hereof, and shall (i) remain in full force and effect until all of the Secured Obligations have been paid and finally discharged in full (the "Termination Requirements"), (ii) be binding upon and enforceable against the Pledgors and their successors and assigns; provided, however, that the Pledgors

such funds may be withdrawn therefrom only by the Bank. Upon the occurrence and during the continuance of an Event of Default, the Bank shall have the right to apply amounts held in the Collateral Accounts in payment of the Secured Obligations in the manner provided for in Section 5.3.

5.5 Grant of License. The Pledgors hereby grant to the Bank an irrevocable, non-exclusive license (exercisable without payment of royalty or other compensation to the Pledgors) to use, license or sublicense any Intellectual Property now owned or licensed or hereafter acquired or licensed by the Pledgors, wherever the same may be located throughout the world, for such term or terms, on such conditions and in such manner as the Bank shall determine, whether general, special or otherwise, and whether on an exclusive or nonexclusive basis, and including in such license reasonable access to all media in which any of the licensed items may be recorded or stored and to all computer software and programs used for the compilation or printout thereof. The use of such license or sublicense by the Bank shall be exercised, at the option of the Bank, only upon the occurrence and during the continuance of an Event of Default; provided that any license, sublicense or other transaction entered into by the Bank in accordance herewith shall be binding upon the Pledgors notwithstanding any subsequent cure of an Event of Default.

5.6 Waivers. Each Pledgor, to the greatest extent not prohibited by applicable law, hereby (i) agrees that it will not invoke, claim or assert the benefit of any rule of law or statute now or hereafter in effect (including, without limitation, any right to prior notice or judicial hearing in connection with the Bank's possession, custody or disposition of any Collateral or any appraisal, valuation, stay, extension, moratorium or redemption law), or take or omit to take any other action, that would or could reasonably be expected to have the effect of delaying, impeding or preventing the exercise of any rights and remedies in respect of the Collateral, the absolute sale of any of the Collateral or the possession thereof by any purchaser at any sale thereof, and waives the benefit of all such laws and further agrees that it will not hinder, delay or impede the execution of any power granted hereunder to the Bank, but that it will permit the execution of every such power as though no such laws were in effect, (ii) waives all rights that it has or may have under any rule of law or statute now existing or hereafter adopted to require the Bank to marshal any Collateral or other assets in favor of the Pledgor or any other party or against or in payment of any or all of the Secured Obligations, and (iii) waives all rights that it has or may have under any rule of law or statute now existing or hereafter adopted to demand, presentment, protest, advertisement or notice of any kind (except notices expressly provided for herein).

5.7 Proxy. Each Pledgor grants to the Administrative Agent, an IRREVOCABLE PROXY, to vote all or any part of such Pledgor's Pledged Equity from time to time, in each case in any manner the Administrative Agent deems advisable in its sole discretion, either for or against any or all matters submitted, or which may be submitted to a vote of shareholders, partners, or members, as the case may be, and to exercise all other rights, powers, privileges, and remedies to which any such shareholders, partners, or members would be entitled (including, without limitation, giving or withholding written consents, ratifications, and waivers with respect to the Pledged Equity, calling special meetings of the holders of the Pledged Equity of any issuer and voting at such meetings). The irrevocable proxy granted hereby is effective automatically solely upon the occurrence and during the continuance of an Event of Default without the necessity that any other action (including, without limitation, that any transfer of any of the Pledged Equity be recorded on the books and records of the relevant Pledgor) be taken by any Person (including the relevant Loan Party of any Pledged Equity or any officer or agent thereof), is coupled with an interest, and shall be irrevocable, shall survive the bankruptcy, dissolution or winding up of any relevant Pledgor, and shall terminate only on the repayment in full of the Obligations; provided that, upon the repayment in full of the Obligations or if such irrevocable proxy is rescinded in writing by the Administrative Agent, such Pledgor will have the right to exercise the voting and consensual rights and powers that it would otherwise be entitled to exercise with respect to its Pledged Equity and all rights of the Administrative Agent to vote all or any part of such Pledged Equity will cease.

adopted. No demand, presentment, protest, advertisement or notice of any kind (except any notice required by law, as referred to below), all of which are hereby expressly waived by the Pledgors, shall be required in connection with any sale or other disposition of any part of the Collateral. If any notice of a proposed sale or other disposition of any part of the Collateral shall be required under applicable law, the Bank shall give the Pledgors at least ten (10) days' prior notice of the time and place of any public sale and of the time after which any private sale or other disposition is to be made, which notice the Pledgors agree is commercially reasonable. The Bank shall not be obligated to make any sale of Collateral if it shall determine not to do so, regardless of the fact that notice of sale may have been given. The Bank may, without notice or publication, adjourn any public or private sale or cause the same to be adjourned from time to time by announcement at the time and place fixed for sale, and such sale may, without further notice, be made at the time and place to which the same was so adjourned. Upon each public sale and, to the extent permitted by applicable law, upon each private sale, the Bank may purchase all or any of the Collateral being sold, free from any equity, right of redemption or other claim or demand, and may make payment therefor by endorsement and application (without recourse) of the Secured Obligations in lieu of cash as a credit on account of the purchase price for such Collateral; and

(h) In addition to the other rights and remedies hereunder, solely upon the occurrence of an Event of Default and during the continuance thereof, the Administrative Agent shall have, at its option, the sole and exclusive right to (or otherwise refrain from exercising its rights relating to) (i) transfer and register in its name or in the name of its nominee or transferee the whole or any part of the Pledged Equity, (ii) exchange certificates or instruments representing or evidencing the Pledged Equity for certificates or instruments of smaller or larger denominations, (iii) exercise the voting and all other rights as a holder with respect thereto, (iv) collect and receive all cash dividends and other payments and distributions made thereon and (v) notify the parties obligated on any of the Pledged Equity to make payment to Administrative Agent of any amounts due or to become due thereunder.

5.3 Application of Proceeds.

(a) All proceeds collected by the Bank upon any sale, other disposition of or realization upon any of the Collateral, together with all other moneys received by the Bank hereunder, shall be applied as follows:

(i) first, to payment of the reasonable expenses of such sale or other realization, including reasonable compensation to the Bank and its agents and counsel, and all reasonable expenses, liabilities and advances incurred or made by the Bank, its agents and counsel in connection therewith or in connection with the care, safekeeping or otherwise of any or all of the Collateral, and any other unreimbursed expenses for which the Bank is to be reimbursed pursuant to Section 6.1;

(ii) second, after payment in full of the amounts specified in clause (i) above, to payment of the Secured Obligations; and

(iii) finally, after payment in full of the amounts specified in clauses (i) and (ii) above, any surplus then remaining shall be paid to the Pledgors, or its successors or assigns, or to whomever may be lawfully entitled to receive the same or as a court of competent jurisdiction may direct.

(b) The Pledgors shall remain liable to the extent of any deficiency between the amount of all proceeds realized upon sale or other disposition of the Collateral pursuant to this Agreement. Upon any sale of any Collateral hereunder by the Bank (whether by virtue of the power of sale herein granted, pursuant to judicial proceeding, or otherwise), the receipt of the Bank or the officer making the sale shall be a sufficient discharge to the purchaser or purchasers of the Collateral so sold, and such purchaser or purchasers shall not be obligated to see to the application of any part of the purchase money paid over to the Bank or such officer or be answerable in any way for the misapplication thereof.

5.4 Collateral Accounts. Upon the occurrence and during the continuance of an Event of Default, the Bank shall have the right to cause to be established and maintained, at its principal office or such other location or locations as it may establish from time to time in its discretion, one or more accounts (collectively, "Collateral Accounts") for the collection of cash proceeds of the Collateral. Such proceeds, when deposited, shall continue to constitute Collateral for the Secured Obligations and shall not constitute payment thereof until applied as herein provided. The Bank shall have sole dominion and control over all funds deposited in any Collateral Account, and

limitation of the foregoing, to exercise the following rights, which the Pledgors agree to be commercially reasonable:

(a) To notify any or all account debtors or obligors under any Accounts or other Collateral of the security interest in favor of the Bank created hereby and to direct all such Persons to make payments of all amounts due thereon or thereunder directly to the Bank or to an account designated by the Bank; and in such instance and from and after such notice, all amounts and proceeds received by the Pledgors in respect of any Accounts or other Collateral shall be received in trust for the benefit of the Bank hereunder, shall be segregated from the other funds of the Pledgors and shall be forthwith deposited into such account or paid over or delivered to the Bank in the same form as so received (with any necessary endorsements or assignments), to be held as Collateral and applied to the Secured Obligations as provided herein;

(b) To take possession of, receive, endorse, assign and deliver, in its own name or in the name of the Pledgors, all checks, notes, drafts and other instruments relating to any Collateral, including receiving, opening and properly disposing of all mail addressed to the Pledgors concerning Accounts and other Collateral; to verify with account debtors or other contract parties the validity, amount or any other matter relating to any Accounts or other Collateral, in its own name or in the name of the Pledgors; to accelerate any indebtedness or other obligation constituting Collateral that may be accelerated in accordance with its terms; to take or bring all actions and suits deemed necessary or appropriate to effect collections and to enforce payment of any Accounts or other Collateral; to settle, compromise or release in whole or in part any amounts owing on Accounts or other Collateral; and to extend the time of payment of any and all Accounts or other amounts owing under any Collateral and to make allowances and adjustments with respect thereto, all in the same manner and to the same extent as the Pledgors might have done;

(c) To transfer to or register in its name or the name of any of its agents or nominees all or any part of the Collateral, without notice to the Pledgors and with or without disclosing that such Collateral is subject to the security interest created hereunder;

(d) To notify any or all depository institutions with which any Deposit Accounts are maintained and which Deposit Accounts are subject to control in favor of the Bank to remit and transfer all monies, securities and other property on deposit in such Deposit Accounts or deposited or received for deposit thereafter to the Bank, for deposit in a Collateral Account or such other accounts as may be designated by the Bank, for application to the Secured Obligations as provided herein;

(e) To require the Pledgors to, and the Pledgors hereby agree that it will at its expense and upon request of the Bank forthwith, assemble all or any part of the Collateral as directed by the Bank and make it available to the Bank at a place designated by the Bank;

(f) To enter and remain upon the premises of the Pledgors and take possession of all or any part of the Collateral, with or without judicial process; to use the materials, services, books and records of the Pledgors for the purpose of liquidating or collecting the Collateral, whether by foreclosure, auction or otherwise; and to remove the same to the premises of the Bank or any designated agent for such time as the Bank may desire, in order to effectively collect or liquidate the Collateral;

(g) To sell, resell, assign and deliver, in its sole discretion, all or any of the Collateral, in one or more parcels, on any securities exchange on which any Capital Stock may be listed, at public or private sale, at any of the Bank's offices or elsewhere, for cash, upon credit or for future delivery, at such time or times and at such price or prices and upon such other terms as the Bank may deem satisfactory. If any of the Collateral is sold by the Bank upon credit or for future delivery, the Bank shall not be liable for the failure of the purchaser to purchase or pay for the same and, in the event of any such failure, the Bank may resell such Collateral. In no event shall the Pledgors be credited with any part of the proceeds of sale of any Collateral until and to the extent cash payment in respect thereof has actually been received by the Bank. Each purchaser at any such sale shall hold the property sold absolutely, free from any claim or right of whatsoever kind, including any equity or right of redemption of the Pledgors, and the Pledgors hereby expressly waive all rights of redemption, stay or appraisal, and all rights to require the Bank to marshal any assets in favor of the Pledgors or any other party or against or in payment of any or all of the Secured Obligations, that it has or may have under any rule of law or statute now existing or hereafter

such bailee or other Person within sixty (60) days of the Bank's request therefor, at the Pledgors' sole cost and expense, the written acknowledgement described above (if not already required by applicable law to perfect the Bank's security interest) and agreement to waive or release any Lien (whether arising by operation of law or otherwise) they may have with respect to such Collateral, such agreement to be in form and substance reasonably satisfactory to the Bank.

4.8 Reserved.

4.9 Protection of Security Interest; Further Assurances. The Pledgors will, at their expense and in such manner and form as the Bank may require, execute, deliver, file and record any financing statement, specific assignment or other paper and take any other action that may be necessary or desirable, or that the Bank may request, in order to create, preserve, perfect or validate the security interests granted hereby or to enable the Bank to exercise and enforce its rights hereunder with respect to any of the Collateral. To the extent permitted by applicable law, the Pledgors hereby authorize the Bank to execute and file, in the name of the Pledgors or otherwise, Uniform Commercial Code financing statements which the Bank in its sole discretion may deem necessary or appropriate to further perfect the security interests.

ARTICLE V

GENERAL AUTHORITY; REMEDIES

5.1 General Authority. The Pledgors hereby irrevocably appoint the Bank and any officer or agent thereof, with full power of substitution, as its true and lawful attorney-in-fact (which appointment is coupled with an interest), in the name of the Pledgors or its own name, for the sole use and benefit of the Bank, but at the Pledgors' expense, at any time and from time to time, to take any and all appropriate action and to execute any and all documents and instruments which may be necessary or desirable to carry out the terms of this Agreement and, without limiting the foregoing, the Pledgors hereby give the Bank the power and right on its behalf, without notice to or further assent by the Pledgors to do the following if an Event of Default shall have occurred and be continuing:

- (i) to receive, take, endorse, assign and deliver any and all checks, notes, drafts, acceptances, documents and other negotiable and nonnegotiable instruments taken or received by the Pledgors as, or in connection with, the Collateral;
- (ii) to demand, sue for, collect, receive and give acquittance for any and all monies due or to become due upon or in connection with the Collateral;
- (iii) to commence, settle, compromise, compound, prosecute, defend or adjust any claim, suit, action or proceeding with respect to, or in connection with, the Collateral;
- (iv) to sell, transfer, assign or otherwise deal in or with the Collateral or any part thereof, as fully and effectually as if the Bank were the absolute owner thereof;
- (v) to exchange certificates or instruments representing or evidencing the Pledged Equity for certificates or instruments of smaller or larger denomination; and
- (vi) to do, at its option, but at the expense of the Pledgors, at any time or from time to time, all acts and things which the Bank deems necessary to protect or preserve the Collateral and to realize upon the Collateral.

5.2 Rights and Remedies. If an Event of Default shall have occurred and be continuing, the Bank shall be entitled to exercise in respect of the Collateral all of its rights, powers and remedies provided for herein or otherwise available to it under any other Credit Document, by law, in equity or otherwise, including all rights and remedies of a secured party under the Uniform Commercial Code, and shall be entitled in particular, but without

at a location not listed on Schedule III, unless in each case the Pledgor has (A) given ten (10) days' prior written notice to the Bank of its intention to do so, together with information regarding any such new location and such other information in connection with such proposed action as the Bank may reasonably request, and (B) delivered to the Bank within twenty (20) days of any such change or removal such documents, instruments and financing statements as may be required by the Bank, all in form and substance satisfactory to the Bank, paid all necessary filing and recording fees and taxes, and taken all other actions reasonably requested by the Bank, in order to perfect and maintain the Lien upon and security interest in the Collateral.

4.3 Records; Inspection.

(a) The Pledgors will keep and maintain at their own cost and expense satisfactory and complete records of the Accounts and all other Collateral, and will furnish to the Bank from time to time such statements, schedules and reports (including, without limitation, accounts receivable aging schedules) with regard to the Collateral as the Bank may reasonably request in writing.

(b) The Pledgors shall, from time to time at such times as may be reasonably requested in writing and upon reasonable notice, permit the Bank to visit its offices or the premises upon which any Collateral may be located, inspect its books and records and make copies and memoranda thereof, inspect the Collateral, discuss its finances and affairs with its officers, employees and independent accountants and take any other actions necessary for the protection of the interests of the Bank in the Collateral; provided that, unless an Event of Default exists, if the Bank conducts more than one (1) inspection annually, such additional inspections shall be at the sole expense of the Bank.

4.4 Accounts. Unless notified otherwise by the Bank in accordance with the terms hereof, the Pledgors shall endeavor to collect their Accounts and all amounts owing to them thereunder in the ordinary course of their business consistent with past practices and shall apply forthwith upon receipt thereof all such amounts as are so collected to the outstanding balances thereof. The Pledgors shall not, except to the extent done in the ordinary course of its business consistent with past practice and in accordance with sound business judgment (i) grant any extension of the time for payment of any Account, (ii) compromise or settle any Account for less than the full amount thereof, (iii) release, in whole or in part, any Person or property liable for the payment of any Account, or (iv) allow any credit or discount on any Account. The Pledgors shall promptly inform the Bank of any disputes with any account debtor or obligor and of any claimed offset and counterclaim that may be asserted with respect thereto involving, in each case, any material amount, where the Pledgors reasonably believe that the likelihood of payment by such account debtor is materially impaired, indicating in detail the reason for the dispute, all claims relating thereto and the amount in controversy.

4.5 Delivery of Certain Collateral. All certificates or Instruments representing or evidencing any Accounts or other Collateral (including without limitation, the Pledged Equity) shall be delivered promptly to the Bank pursuant hereto to be held as Collateral hereunder, shall be in form suitable for transfer by delivery and shall be delivered together with undated stock powers duly executed in blank, appropriate endorsements or other necessary instruments of registration, transfer or assignment, duly executed and in form and substance satisfactory to the Bank, and in each case together with such other instruments or documents as the Bank may reasonably request.

4.6 Inventory. The Pledgors will, in accordance with sound business practices and consistent with past practice, maintain all Inventory held by it or on their behalf in good saleable or useable condition. Unless notified otherwise by the Bank in accordance with the terms hereof, the Pledgors may, in any lawful manner not inconsistent with the provisions of this Agreement and the other Credit Documents, process, use and, in the ordinary course of business but not otherwise, sell their Inventory.

4.7 Collateral in Possession of Third Party. Without limiting the generality of any other provision of this Agreement, the Pledgors agree that they shall not permit any Collateral to be in the possession of any bailee, warehouseman, agent, processor or other third party at any time unless such bailee or other Person shall have been notified of the security interest created by this Agreement (or, if required under applicable law in order to perfect the Bank's security interest in such Collateral, such bailee or other Person shall have acknowledged to the Bank in writing that it is holding such Collateral for the benefit of the Bank and subject to such security interest and to the instructions of the Bank) and the Pledgors shall have exercised their commercially reasonable efforts to obtain from

any contract or granted any Lien within the past five (5) years under any name other than its legal corporate name or a trade or fictitious name indicated on Schedule III.

3.4 Authorization; Consent. The execution, delivery and performance by the Pledgors of this Agreement requires no action by or in respect of, or filing with, any Governmental Authority and do not contravene, or constitute (with or without the giving of notice or lapse of time or both) a default under, any provision of applicable law or of any agreement, judgment, injunction, order, decree or other instrument binding upon or affecting the Pledgors.

3.5 No Restrictions. There are no statutory or regulatory restrictions, prohibitions or limitations on the Pledgors' ability to grant to the Bank a Lien upon and security interest in the Collateral pursuant to this Agreement or (except for the provisions of the federal Anti-Assignment Act (41 U.S.C. 15), as amended and the Anti-Claims Act (31 U.S.C. 3727), as amended) on the exercise by the Bank of its rights and remedies hereunder (including any foreclosure upon or collection of the Collateral), and there are no contractual restrictions on the Pledgors' ability to grant such Lien and security interest.

3.6 Accounts. Each Account is, or at the time it arises will be, (i) a bona fide, valid and legally enforceable indebtedness of the account debtor according to its terms, arising out of or in connection with the sale, lease or performance of Goods or services by the Pledgors, (ii) subject to no offsets, discounts, counterclaims, contra accounts or any other defense of any kind and character, other than warranties and discounts customarily given by the Pledgors in the ordinary course of business and warranties provided by applicable law, (iii) to the extent listed on any schedule of Accounts at any time furnished to the Bank, a true and correct statement of the amount actually and unconditionally owing thereunder, maturing as stated in such schedule and in the invoice covering the transaction creating such Account, in each case on and as of the date such schedule of Accounts was furnished, and (iv) not evidenced by any other instrument; or if so, such other instrument (other than invoices and related correspondence and supporting documentation) shall promptly be duly endorsed to the order of the Bank and delivered to the Bank to be held as Collateral hereunder. To the knowledge of the Pledgors, there are no facts, events or occurrences that would in any way impair the validity or enforcement of any Accounts except as set forth above.

3.7 Documents of Title. No bill of lading, warehouse receipt or other document or instrument of title is outstanding with respect to any Collateral other than Inventory in transit in the ordinary course of business to a location set forth on Schedule III or to a customer of the Pledgors.

ARTICLE IV

COVENANTS

The Pledgors agree that so long as any Secured Obligation remains unpaid:

4.1 Use and Disposition of Collateral. So long as no Event of Default shall have occurred and be continuing, the Pledgors may, in any lawful manner not inconsistent with the provisions of this Agreement and the other Credit Documents, use, control and manage the Collateral in the operation of its businesses, and receive and use the income, revenue and profits arising therefrom and the proceeds thereof, in the same manner and with the same effect as if this Agreement had not been made; provided, however, that the Pledgors will not sell or otherwise dispose of, grant any option with respect to, or mortgage, pledge, grant any Lien with respect to or otherwise encumber any of the Collateral or any interest therein, except for any security interest created in favor of the Bank (including, without limitation, the security interest created hereunder) and except as may be otherwise expressly permitted in accordance with the terms of this Agreement and the other Credit Documents (including any applicable provisions therein regarding delivery of proceeds of sale or disposition to the Bank).

4.2 Change of Name, Locations, etc. No Pledgor will (i) change its name, identity or corporate structure, (ii) change its chief executive office from the location thereof listed on Schedule III, (iii) change the jurisdiction of its incorporation or organization from the jurisdiction listed on Schedule III (whether by merger or otherwise), or (iv) maintain any Collateral (other than goods or Inventory), or any books, records or other information relating to Collateral, at a location that is not listed on Schedule III, or keep or maintain any Collateral

(iv) any insolvency, bankruptcy, reorganization or other similar proceeding affecting the Pledgors or its assets or any resulting disallowance, release or discharge of all or any portion of the Secured Obligations;

(v) the existence of any claim, set-off or other right which the Pledgors may have at any time against the Bank or any other corporation or person, whether in connection herewith or any unrelated transactions; provided, that nothing herein shall prevent the assertion of any such claim by separate suit or compulsory counterclaim;

(vi) any invalidity or unenforceability relating to or against the Pledgors for any reason of any Secured Obligation, or any provision of applicable law or regulation purporting to prohibit the payment by the Pledgors of the Secured Obligations;

(vii) any failure by the Bank (A) to file or enforce a claim against the Pledgors (in a bankruptcy or other proceeding), (B) to give notice of the existence, creation or incurrence by the Pledgors of any new or additional indebtedness or obligation under or with respect to the Secured Obligations, (C) to commence any action against the Pledgors, or (D) to proceed with due diligence in the collection, protection or realization upon any collateral securing the Secured Obligations; or

(viii) any other act or omission to act or delay of any kind by the Pledgors or the Bank or any other corporation or person or any other circumstance whatsoever which might, but for the provisions of this clause, constitute a legal or equitable discharge of the Pledgors' obligations hereunder.

ARTICLE III

REPRESENTATIONS AND WARRANTIES

The Pledgors hereby represent and warrant as follows:

3.1 Ownership of Collateral. The Pledgors owns, or have valid rights as a lessee or licensee with respect to, all Collateral purported to be pledged by it hereunder, free and clear of any Liens except for the Liens granted to the Bank, and except for other Permitted Liens. No security agreement, financing statement or other public notice with respect to all or any part of the Collateral is on file or of record in any government or public office, and the Pledgors have not filed or consented to the filing of any such statement or notice, except (i) Uniform Commercial Code financing statements naming the Bank as secured party, (ii) as may be required by the Securities and Exchange Commission, and (iii) as may be otherwise permitted by the Credit Agreement.

3.2 Security Interests; Filings. This Agreement, together with (i) the filing, with respect to the Pledgors, of duly completed and executed Uniform Commercial Code financing statements naming the Pledgors as debtor, the Bank as secured party, and describing the Collateral, in the jurisdictions set forth with respect to the Pledgors on Schedule II hereto (which filing is hereby authorized by the Pledgors), and (ii) delivery of the Pledged Equity to the Bank, and (iii) to the extent required by applicable law, the filing, with respect to the Pledgors, of duly completed and executed assignments in the forms required by the U.S. Copyright Office or the U.S. Patent and Trademark Office, creates, and at all times shall constitute, a valid and perfected security interest in and Lien upon the Collateral in favor of the Bank, to the extent a security interest therein can be perfected by such filings or possession, as applicable, superior and prior to the rights of all other Persons therein (except for Permitted Liens).

3.3 Locations. Schedule III lists, as to each Pledgor, (i) its exact legal name, (ii) the jurisdiction of its incorporation or organization, its federal tax identification number, and (if applicable) its organizational identification number, (iii) the addresses of its chief executive office and each other place of business, and (iv) the address of each location at which any Inventory (other than Goods in transit) owned by the Pledgor are kept or maintained, in each instance except for any new locations established in accordance with the provisions of Section 4.2. Except as may be otherwise noted therein, all locations identified on Schedule III are leased by the Pledgor. The Pledgor does not presently conduct business under any prior or other corporate or company name or under any trade or fictitious names, except as indicated beneath its name on Schedule III, and the Pledgor has not entered into

"Pledged Equity" means, with respect to each Pledgor, the issued and outstanding Equity Interests owned by such Pledgor in any Subsidiary, including the Equity Interests owned by such Pledgor on the date hereof, together with the certificates (or other agreements or instruments), if any, representing such shares, and all options and other rights, contractual or otherwise, with respect thereto.

"Uniform Commercial Code" means the Uniform Commercial Code as the same may be in effect from time to time in the State of South Carolina; provided that if, by reason of applicable law, the validity or perfection of any security interest in any Collateral granted under this Agreement is governed by the Uniform Commercial Code as in effect in another jurisdiction, then as to the validity or perfection, as the case may be, of such security interest, "Uniform Commercial Code" means the Uniform Commercial Code as in effect from time to time in such other jurisdiction.

ARTICLE II

CREATION OF SECURITY INTEREST

2.1 Pledge and Grant of Security Interest. The Pledgors hereby pledge, assign and deliver to the Bank and grant to the Bank a Lien upon and security interest in all of its rights, title and interest in and to the Collateral.

2.2 Security for Secured Obligations. This Agreement and the Collateral secure the full and prompt payment, at any time and from time to time as and when due (whether at the stated maturity, by acceleration or otherwise), of all liabilities and obligations of the Pledgors, whether now existing or hereafter incurred, created or arising and whether direct or indirect, absolute or contingent, due or to become due, under, arising out of or in connection with the this Agreement, the Credit Agreement, the other Credit Documents to which it is or hereafter becomes a party, and/or any Rate Management Agreement to which the and the Bank (or any of the Bank's affiliates) are parties, including, without limitation: (a) all Obligations, including, without limitation, all principal of and interest on the Loans, all fees, expenses, indemnities and other amounts payable by the Pledgors under the Credit Agreement or any other Credit Document (including interest accruing after the filing of a petition or commencement of a case by or with respect to the Pledgors seeking relief under any applicable federal and state laws pertaining to bankruptcy, reorganization, arrangement, moratorium, readjustment of debts, dissolution, liquidation or other debtor relief, specifically including, without limitation, the Bankruptcy Code and any fraudulent transfer and fraudulent conveyance laws, whether or not the claim for such interest is allowed in such proceeding), (b) all obligations of the Pledgors to the Bank under any Rate Management Agreement to which the Pledgors and the Bank (or any of the Bank's affiliates) are parties; (c) all such liabilities and obligations that, but for the operation of the automatic stay under Section 362(a) of the Bankruptcy Code, would become due; and (d) all fees, costs and expenses payable by the Pledgors under Section 6.1 (the liabilities and obligations of the Pledgors described in this Section 2.2, collectively, the "Secured Obligations").

2.3 Security Interests Absolute. All rights of the Bank and security interests hereunder, and all obligations of the Pledgors hereunder, shall be absolute and unconditional and, without limiting the generality of the foregoing, shall not be released, discharged or otherwise affected by:

- (i) any extension, renewal, settlement, compromise, waiver or release in respect of any Secured Obligation or any other document evidencing or securing such Secured Obligation (including, without limitation the Credit Agreement, the Notes, any other Credit Documents and/or any Rate Management Agreement to which the Pledgors and the Bank or any of the Bank's affiliates are parties) by operation of law or otherwise;
- (ii) any modification or amendment or supplement to any document evidencing or securing any Secured Obligation (including, without limitation the Credit Agreement, the Notes, any other Credit Documents and/or any Rate Management Agreement to which the Pledgors and the Bank or any of the Bank's affiliates are parties);
- (iii) any non-perfection or invalidity of any direct or indirect security for any Secured Obligation;

THIS INSTRUMENT IS SUBJECT TO THE TERMS OF A SUBORDINATION AND INTERCREDITOR AGREEMENT DATED AS OF NOVEMBER 2, 2015 FROM MCLARTY CAPITAL PARTNERS SBIC, L.P. IN FAVOR OF FIFTH THIRD BANK, AS AGENT, WHICH AGREEMENT (AS AMENDED IN ACCORDANCE WITH ITS TERMS) IS INCORPORATED HEREIN BY REFERENCE.

SECURITY AGREEMENT

THIS SECURITY AGREEMENT, dated as of November 2, 2015 (as amended, supplemented or modified from time to time, this "Agreement"), is made by COMMERCIAL FOODSERVICE REPAIR, INC., a South Carolina corporation, FT ACQUISITION, LLC, a South Carolina limited liability company; and FOODSERVICE TECHNOLOGIES, INC., a Virginia corporation (individually, a "Pledgor" and collectively, the "Pledgors"), in favor of FIFTH THIRD BANK (the "Bank"). Except as otherwise provided herein, capitalized terms used herein without definition shall have the meanings given to them in the Credit Agreement referred to below.

BACKGROUND STATEMENT

A. The Pledgors and the Bank are parties to a Credit Agreement, dated as of even date herewith (as amended, modified or supplemented from time to time, the "Credit Agreement"), providing for the availability of a \$16,000,000 revolving line of credit and a \$8,500,000 term loan (collectively, the "Loans") to the Pledgors upon the terms and conditions set forth therein.

B. As a condition to the making of the Loans to the Pledgors under the Credit Agreement, the Pledgors have agreed, by executing and delivering this Agreement, to secure the payment in full of its obligations under the Credit Agreement and the other Credit Documents. The Bank is relying on this Agreement in its decision to extend credit to the Pledgors under the Credit Agreement, and would not enter into the Credit Agreement without the execution and delivery of this Agreement by the Pledgors.

STATEMENT OF AGREEMENT

NOW, THEREFORE, in consideration of the foregoing, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Pledgors and the Bank, for themselves, and their respective successors and assigns, hereby agree as follows:

ARTICLE I

DEFINITIONS

1.1 Defined Terms. Any terms not defined in this Agreement will have the meanings given thereto in the Credit Agreement. The following terms that are defined in the Uniform Commercial Code (as hereinafter defined) are used in this Agreement as so defined (and, in the event any such term is defined differently for purposes of Article 9 of the Uniform Commercial Code than for any other purpose or purposes of the Uniform Commercial Code, the Article 9 definition shall govern): Account, Accounts, Documents, Inventory, and Records. In addition, the following terms have the meanings set forth below:

"Collateral" means and includes the property and property rights of Pledgors described on Schedule I.

"Equity Interest" means any security, share, unit, partnership interest, membership interest, ownership interest, equity interest, option, warrant, participation, equity security or analogous interest (regardless of how designated) of or in a corporation, partnership, limited partnership, limited liability company, business trust or other entity, of whatever nature, type, series or class, whether voting or nonvoting, certificated or uncertificated, common or preferred, and all rights and privileges incident thereto.

EXECUTED under SEAL by the undersigned as of the day and year first above stated.

Notice—Waiver of Right of Appraisal

The laws of South Carolina provide that in any real estate foreclosure proceeding a defendant against whom a personal judgment is taken or asked may within thirty days after the sale of the mortgaged property apply to the court for an order of appraisal. The statutory appraisal value as approved by the court would be substituted for the high bid and may decrease the amount of any deficiency owing in connection with the transaction. THE UNDERSIGNED HEREBY WAIVE AND RELINQUISH THE STATUTORY APPRAISAL RIGHTS WHICH MEANS THE HIGH BID AT THE JUDICIAL FORECLOSURE SALE WILL BE APPLIED TO THE DEBT REGARDLESS OF ANY APPRAISED VALUE OF THE MORTGAGED PROPERTY.

BORROWERS:

COMMERCIAL FOODSERVICE REPAIR, INC.

Witness:

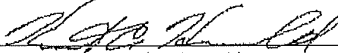
By: 

Name: Kurt A. Herwald
Title: President

Print Name: Brittany McIntosh

FT ACQUISITION, LLC

Witness:

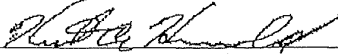
By: 

Name: Kurt A. Herwald
Title: President

Print Name: Brittany McIntosh

FOODSERVICE TECHNOLOGIES, INC.

Witness:

By: 

Name: Kurt A. Herwald
Title: President

Print Name: Brittany McIntosh

EXHIBIT 6

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
)
 COUNTY OF GREENVILLE) C.A. NO. 2019-CP-23-06915

**CERTIFIED
TRANSCRIPT**

RICHARD D. WHITE)
)
 PLAINTIFF,) DEPOSITION
)
 VS.) OF
)
 FT ACQUISTIONS, LLC,) KURT ARTHUR ALBERT HERWALD
 FOOD SERVICE REPAIR, INC.,)
 AND KURT HERWALD, AS OWNER,)
 AND INDIVIDUALLY,)
)
 DEFENDANTS.)

THE DEPOSITION OF KURT ARTHUR ALBERT HERWALD, TAKEN
 BEFORE LISA P. KOPCHO, PROFESSIONAL VERBATIM REPORTER AND
 NOTARY PUBLIC IN AND FOR THE STATE OF SOUTH CAROLINA,
 COMMENCING AT THE HOUR OF 11:10 A.M., THURSDAY, THE 18TH DAY
 OF FEBRUARY, 2021, AT NELSON MULLINS, 2 WEST WASHINGTON
 STREET, SUITE 400, GREENVILLE, SOUTH CAROLINA.

Page 2	Page 4
1	1 EXHIBITS (CONTINUED)
2	2
3	3 PLAINTIFF'S EXHIBIT NUMBER 5, MARKED,
4	4 COMMON STOCK TRANSFER RECORD AND REGISTER, ATTACHED
5	5
6	6 PLAINTIFF'S EXHIBIT NUMBER 6, MARKED,
7	7 GLOBE FOOD EQUIPMENT COMPANY EMAIL - 3/14/17, ATTACHED
8	8
9	9 PLAINTIFF'S EXHIBIT NUMBER 7, MARKED,
10	10 SPORTSLINES EMAIL - 5/18/17, ATTACHED
11	11
12	12 PLAINTIFF'S EXHIBIT NUMBER 8, MARKED,
13	13 VARIMIXER NORTH AMERICA/ASHLAND EMAIL - 11/20/17, ATTACHED
14	14
15	15 PLAINTIFF'S EXHIBIT NUMBER 9, MARKED,
16	16 TECH24 FEBRUARY FINANCIALS UPDATE/JEAN HODGES EMAIL -
17	17 4/3/17, ATTACHED
18	18
19	19 PLAINTIFF'S EXHIBIT NUMBER 10, MARKED,
20	20 JUNE 2017 SHAREHOLDER UPDATE EMAIL - 6/20/17, ATTACHED
21	21
22	22 PLAINTIFF'S EXHIBIT NUMBER 11, MARKED,
23	23 FIFTH THIRD BANK NEXT STEPS EMAIL - 6/21/17, ATTACHED
24	24
25	25
Page 3	Page 5
1	1 EXHIBITS (CONTINUED)
2	2
3	3 PLAINTIFF'S EXHIBIT NUMBER 12, MARKED,
4	4 MCLARTY NOTICE OF DEFAULT EMAIL - 7/20/17, ATTACHED
5	5
6	6 PLAINTIFF'S EXHIBIT NUMBER 13, MARKED,
7	7 ADD CAP EMAIL - 7/21/17, ATTACHED
8	8
9	9 PLAINTIFF'S EXHIBIT NUMBER 14, MARKED,
10	10 INV PRESENTATION EMAIL - 7/21/17, ATTACHED
11	11
12	12 PLAINTIFF'S EXHIBIT NUMBER 15, MARKED,
13	13 REQUESTS TO ADMIT, ATTACHED
14	14
15	15 PLAINTIFF'S EXHIBIT NUMBER 16, MARKED,
16	16 GENERAL WAIVER AND RELEASE AGREEMENT, ATTACHED
17	17
18	18 PLAINTIFF'S EXHIBIT NUMBER 17, MARKED,
19	19 SHAREHOLDER NOTICE, ATTACHED
20	20 [THE ABOVE-REFERENCED EXHIBITS WERE MARKED PRIOR TO THE
21	21 COMMENCEMENT OF THE DEPOSITION.]
22	22
23	23 PLAINTIFF'S EXHIBIT NUMBER 18, MARKED,
24	24 LOAN REPAYMENT EMAIL - 2/25/19, ATTACHED.....167
25	25

Page 6 1 STIPULATIONS 2 IT IS STIPULATED BY AND BETWEEN COUNSEL 3 FOR THE RESPECTIVE PARTIES THAT ALL OBJECTIONS 4 ARE RESERVED UNTIL THE TIME OF TRIAL, EXCEPT 5 AS TO THE FORM OF THE QUESTION. 6 THIS DEPOSITION IS BEING TAKEN PURSUANT 7 TO THE SOUTH CAROLINA RULES OF CIVIL PROCEDURE. 8 - - - - 9 THE READING AND SIGNING OF THIS DEPOSITION IS 10 RESERVED BY THE DEPONENT AND COUNSEL FOR THE RESPECTIVE 11 PARTIES. 12 WHEREUPON, KURT ARTHUR ALBERT HERWALD, BEING 13 DULY SWORN AND CAUTIONED TO SPEAK THE TRUTH, THE WHOLE 14 TRUTH, AND NOTHING BUT THE TRUTH, TESTIFIED AND DEPOSED 15 AS FOLLOWS: 16 EXAMINATION 17 BY MR. PURIEFOY: 18 Q All right, Mr. Herwald. My name is Devon Puriefoy, and 19 I am the attorney representing Rick White in the 20 lawsuit where he's been named plaintiff and you are the 21 named defendant. Although we're meeting under 22 unfortunate circumstances, it's a pleasure to finally 23 get to meet you. And I normally start my depositions 24 by just asking if you're familiar with this process. 25 Have you ever sat for a deposition before?	Page 8 1 A There -- some of them I was the named party, others I 2 was just representing the company. 3 Q Okay. Do you recall any of the suits where you were a 4 named party? 5 A Yes. 6 Q Okay. Let's start with the cases where you were a 7 named plaintiff. Were there any cases that you sat for 8 a deposition where you were the plaintiff in a lawsuit? 9 And by plaintiff, I mean that you bring the suit. 10 A I know, yeah. I can't -- I don't recall being deposed 11 for something where I was the plaintiff. I'm not 12 saying it didn't happen; I just can't remember it. 13 Q No. That's fine. Do you recall being deposed in any 14 of those cases as a defendant? 15 A Yes. 16 Q Okay. What depositions do you recall sitting as a 17 deponent, as a named defendant? 18 A One where we bought a company, and then they later 19 brought anti-trust charges. I don't remember the name 20 of the company. The company at the time was Stevens 21 Aviation, Inc. And -- 22 Q Stevens Aviation? 23 A Yeah. 24 Q Where you a principal in that company? 25 A Well, I was -- at the time, I was the president of it.
Page 7 1 A Yes. 2 Q Okay. How many times? 3 A I would say, you know, ten, give or take. 4 Q Okay. And were you sitting in your individual capacity 5 or were you sitting as a representative of a company or 6 corporation? 7 A With one exception -- well, it was never about me. You 8 know, not that I can remember. Mostly about companies. 9 One's about a traffic accident that I observed. 10 Q Okay. So, in the matter of the traffic accident, were 11 you merely a witness or were you a named party in that 12 case, either plaintiff or defendant? 13 A No. I was just a witness. 14 Q Okay. The other times that you sat in a deposition 15 with companies, do you recall what those companies -- 16 who those companies were? 17 A Let me see. I -- off the top of my head -- 18 Q Were those companies -- was it Tech24 you were sitting 19 with? Or Commercial Food Service Repair? Was it any 20 company that was involved with lawsuit? Let me ask you 21 that. 22 A No. 23 Q Okay. In what capacity were you being deposed in those 24 cases? Were you sitting merely as a witness or were 25 you a named party in those suits, as well?	Page 9 1 Q And do you recall when, about, that lawsuit would've 2 been? 3 A Probably sometime in the mid '90s, maybe, you know -- 4 Q Well, let me just ask you this. In the last ten years, 5 have you sat for a deposition? 6 A Yes. 7 Q Do you recall who you were working for at the time that 8 deposition happened? 9 A I -- yeah. You know, I wasn't really prepared for 10 these questions asked to get with specificity; so -- 11 Q If you don't know, just say you don't know, you don't 12 recall. 13 A Yeah. I don't recall. 14 Q Okay. All right. So the main purpose in asking that 15 is just to see how familiar you are with this process. 16 So what I'm going to do is I just go over a few what I 17 call housekeeping rules, as we work through the 18 deposition. So, over the course of the next couple 19 hours, obviously I'm going to be asking you questions 20 about a lawsuit that was brought by Mr. White. If at 21 any time you do not understand a question, you can 22 simply ask me to repeat it, rephrase it, or just ask it 23 some other way to better help you understand. Okay? 24 A Uh-huh. 25 Q And if you answer a question, I'm going to assume that

Page 10	Page 12
1 you understood the question. Is that fair? 2 A That's fair. 3 Q Okay. The court reporter's job is to ensure that we 4 get an accurate transcript of what you and I discuss 5 here today. In order to help make her job a little bit 6 easier, I'm going to ask that you allow me to finish 7 whatever question I'm asking you before you start your 8 answer, and I will allow you to finish answer before I 9 start my next question, and that will just keep us from 10 talking over each other. 11 A That's fine. 12 Q Okay. We can go as fast or as slow as you'd like. We 13 can take as many or as few breaks as you would like to 14 take. The only thing that I ask is that, in the event 15 you do ask to take a break, that you answer whatever 16 question has been presented before we take that break. 17 Okay? 18 A Okay. 19 Q All right. It's just important for me to note -- I'll 20 say it's important for me to note that, in the event we 21 do take a break, you do not discuss any of your 22 deposition testimony with your attorney because, if you 23 do, I have the right to question you about that. Okay? 24 A Okay. 25 Q All right. You may hear your attorney object to the	1 A Yes. 2 Q Do you have any other adult relatives, family members 3 living in Greenville County? 4 A My father-in-law. 5 Q And his name? 6 A James Difiore. D-i-f-i-o-r-e. Oh, and I have some -- 7 one of my sisters lives here, as well. 8 Q What is your sister's name? 9 A Pidge. P-i-d-g-e. 10 Q First name? 11 A Yes. 12 Q Last name? 13 A Hold on. New husband. I'll get it for you. 14 Q Okay. Well, when it comes to you, just let me know. 15 And the only reason I ask this question is just in case 16 we're required to be in a trial, I just want to make 17 sure I know who can and can't be on the jury, so that's 18 the reason I ask. 19 Are you under the influence of anything that would 20 inhibit or impair your ability to understand the 21 questions that I'm asking you today? 22 A No. 23 Q Okay. All right. So I'm assuming that you're aware 24 that you're sitting today as a 30(b)(6) deponent, 25 meaning that you're not necessarily sitting in your
Page 11	Page 13
1 form of a question. That is not an instruction not to 2 answer the question. That's just him preserving it for 3 trial purposes. But if you do hear that objection, you 4 can still respond. The only time that you do not 5 answer a question is if you attorney specifically 6 instructs you not to respond, which I do not anticipate 7 happening today, okay? 8 A Okay. 9 Q All right. Will you state your full name for me. 10 A Kurt Arthur Albert Herwald. 11 Q And you currently reside in Greenville, South Carolina? 12 A Yes. 13 Q What is your address? 14 A 701 East McBee, 29601. 15 Q How long have you resided there? 16 A About five years, I guess. 17 Q Are you married? 18 A Yes. 19 Q What's your wife's name? 20 A Lucille. 21 Q Can you spell that for me. 22 A Pardon me? 23 Q Can you spell that for me, please. 24 A L-u-c-i-l-l-e. 25 Q Herwald?	1 individual capacity, but rather as a representative of 2 the entities named in this lawsuit. Are you aware of 3 that fact? 4 A Yes. 5 Q Okay. And you understand that there's a difference 6 between sitting in your individual capacity in a 7 deposition and sitting as a 30(b)(6) deponent? 8 A Yes. 9 Q Okay. So I'm assuming it was explained to you that our 10 office provided your attorney with the list of 11 deposition topics that we were going to be talking 12 about today. Did you have a chance to review that 13 list? 14 A I did. 15 Q Okay. What did you do to prepare for today's 16 deposition against the backdrop of those topics? 17 A Giles and I met a week ago. 18 Q And I don't need to hear anything about what you and 19 Giles discussed. 20 A And -- 21 Q I need to know what you did, as the 30(b)(6) deponent, 22 to prepare for this -- 23 A Yesterday, I spent a couple of hours going through that 24 list and just trying to refresh my memory on the events 25 and such that were referred there.

Page 14 1 Q Did you have any conversations with anybody? Did you 2 talk to anybody, whether current or former employees, 3 about any of the topics contained in that topic list? 4 A No. 5 Q Okay. Did you have any discussion with anybody about 6 today's deposition, other than your attorney? 7 A Yes. 8 Q And who's that? 9 A I'm not sure. I mean, probably quite a few people. 10 You know, if for no other reason than to tell them I 11 won't be reachable on Thursday. So... 12 Q Well, beyond just informing somebody where you were 13 going to be or be out-of-pocket today, did you have any 14 specific conversations regarding this lawsuit and 15 today's deposition? 16 A No. 17 Q Okay. Did you attend high school here in Greenville 18 County? 19 A No. 20 Q Where did you go to high school? 21 A Olympia Fields, Illinois. 22 Q Did you graduate? 23 A No. 24 Q You did not graduate? 25 A (Shakes head from side to side.)	Page 16 1 And you said you obtained an MBA? 2 A I went for -- I did not get the MBA, but I attended for 3 all but one class. 4 Q Okay. Where did you attend those classes? 5 A The University of Pennsylvania. 6 Q At the main campus in Pennsylvania? 7 A Yeah, in Philadelphia. 8 Q All right. So you did not get your MBA? 9 A Correct. 10 Q Okay. Any other formal education beyond the classes 11 that you took for the MBA? 12 Q Yeah. If by formal you mean at a university or school, 13 no. 14 Q Okay. Any other certifications or licenses that you 15 hold? 16 A I have a number of different things that I've qualified 17 for and had for a while, but probably didn't keep up 18 because I probably didn't use them. Mostly related to 19 accounting and matters like that. 20 Q Between 2014 and today, do you still have any what I'll 21 call active licenses or certifications? 22 A Well, I -- you know, a lot of these things are like 23 being baptized. Once you do it, you got it, but you're 24 not allowed to use it to promote yourself if you're not 25 keeping up with, like, CPE. So CPA, CTP, you know, a
Page 15 1 Q Did you ever obtain a GED? 2 A Yes. 3 Q Okay. What year? 4 A '74. Early '74, I'd say. Maybe late '73. 5 Q Okay. Any education after you obtained your GED? 6 A Yes. I have an undergraduate degree in accounting and 7 I went to an MBA program. 8 Q Where did you get your undergraduate degree? 9 A Northern Arizona University. 10 Q And that was a four-year degree? 11 A Yes. 12 Q What year did you graduate? 13 A '79. 14 Q Majoring in accounting, you said? 15 A Uh-huh. 16 Q Is that a "yes"? 17 A Yes. 18 Q So let me -- and I should have said this in the 19 beginning. For the court reporter, we have to have a 20 verbal -- 21 A Verbal. 22 Q -- response, so either a "yes", "no", or some 23 explanation to whatever question I'm asking you -- 24 A Okay. 25 Q -- just for the record. Thank you.	Page 17 1 number of certified internal auditor, you know, a lot 2 of things like that. 3 Q But did you say that you obtained a CPA license? 4 A It -- 5 Q At some point? 6 A It's not really a license, but, yes. 7 Q You were considered -- were you a certified public 8 accountant in a state? 9 A Yes. 10 Q Which state were you certified? 11 A Texas. 12 Q Okay. Did you ever -- were you ever a certified public 13 accountant in South Carolina? 14 A No. 15 Q Okay. Any other certifications, licenses other than 16 what you just named? 17 A Nothing coming to mind right now. 18 Q Okay. Did you work between obtaining your GED and your 19 undergraduate degree? So, between '74 and '79, did you 20 have any full-time jobs? 21 A I was in the Navy. 22 Q Okay. 23 A And after the Navy, I went to college. 24 Q Okay. How long were you in the Navy? 25 A I was active-duty for about two and a half years. I

Page 18	Page 20
1 was a reservist, technically. 2 Q So between '74 and '76, '77? Is that about right? 3 A '76, yeah. Mid '76. 4 Q All right. So, after you obtained your undergraduate 5 degree in accounting, what was your first full-time 6 position? 7 A I was an accountant at Shell Oil. 8 Q Okay. What were your everyday responsibilities at 9 Shell Oil? 10 A I had a portfolio of joint ventures that operated 11 pipelines that I was responsible for basically doing 12 the books for. 13 Q Okay. How long were you with Shell? 14 A About a year and a half. 15 Q Where did you go after that? 16 A British Petroleum. 17 Q Say that one more time. 18 A British Petroleum. 19 Q British Petroleum, okay. Is that what's commonly 20 referred to as BP? 21 A Yeah. And at that time, it was also referred to as -- 22 pardon me, Standard Oil. 23 Q Okay. What was your job title there? 24 A I was a joint venture accountant, auditor. 25 Q Okay. Were you an executive level auditor or were you	1 understanding of your work history. So... 2 A Okay. After that, I went to MTC Group. 3 Q MTC -- 4 A Group. 5 Q Group. Title? 6 A I was the CFO. 7 Q Okay. So is that the first time that you ever worked 8 in an executive position, what I'll call an executive 9 position, C-suite position? 10 A Yes. 11 Q How long were you the acting CFO? 12 A Hold on. Let me think about that for a minute. I was 13 doing that for about three years. 14 Q The three preceding jobs, I know who those companies 15 are. MTC Group, what do they do? 16 A MTC Group, first of all, was a client of mine at 17 Citibank, and mainly they operated The Bibb Company, 18 which was bought through a leverage buyout. 19 Q Okay. Did you deal with securities, at all, while you 20 were operating as CFO? 21 A Yes. 22 Q Okay. What capacity did you deal with securities? 23 A I oversaw two public offerings in debt. And that was 24 really, you know, sort of the extent of my registered 25 securities involvement.
Page 19	Page 21
1 just an employee? 2 A I was just an employee. 3 Q Okay. And did you -- at Shell, were you executive 4 level or were you just an employee there, as well? 5 A I was just an employee. 6 Q All right. How long were you with BP/Standard Oil? 7 A About two years and a half years. 8 Q Okay. Next position? 9 A Next, I went to graduate school. 10 Q Graduate school? 11 A Yeah. 12 Q After finishing graduate school, what was your next 13 full-time position? 14 A Citibank. 15 Q Okay. What was your job title? 16 A What did they call us? Sorry, I'm trying to remember 17 what they called us. 18 Q You're fine. 19 A I was an associate or something like that. 20 Q Okay. Not executive level? 21 A No. 22 Q How long were you with Citibank? 23 A Two and a half years. 24 Q Next position? And I apologize. I know this is kind 25 of repetitive, but it's important that I have a clear	1 Q You weren't licensed in trading securities or -- 2 A I was not, no. 3 Q And how familiar did you become with the process of 4 dealing with securities, from a CFO standpoint? 5 A That's hard to say because I don't know how much 6 knowledge I didn't have. So... 7 Q Okay. Did you at least have a working understanding of 8 how securities were bought, sold, traded? 9 A Yeah. Well, most people who go to an MBA program have 10 a working knowledge of how the markets work. 11 Q Okay. Do you consider yourself to have more than a 12 working knowledge of securities? 13 A No. I mean, I knew plenty of people who knew a heck of 14 a lot more about it than me. 15 Q Okay. After the MTC Group, what was your next 16 position? 17 A I came down here to Greenville to take over the 18 presidency of one of our portfolio companies. 19 Q What was that company? 20 A Stevens Aviation, Inc. 21 Q What was your role at Stevens Aviation? 22 A I was the president. 23 Q Okay. And what were your responsibilities on a day-to- 24 day basis? 25 A Well, like most presidents, it was to plan, to manage,

Page 22 1 to seek ways to grow the business, you know, look for 2 acquisitions; you know, the usual stuff that's involved 3 in, you know, being a frontline manager. 4 Q Sure. What year would that have been, that you came to 5 Greenville? 6 A That would have been '93. 7 Q And how long were you with Stevens Aviation? 8 A I was with Stevens for about five years. 9 Q Is that company still operating today? 10 A Yes. 11 Q Okay. After you left Stevens, where did you go? 12 A I was involved in -- I took a stab at working in 13 turnarounds. And I had a number of clients. My 14 biggest was in Philadelphia, Commercial Foodservice, 15 when -- back then it was a client, and others. 16 Q When you were working turnarounds, was it, you know, 17 like, a sole partnership? Was it just you or were you 18 working for a company, or -- 19 A No. I was a sole oper- -- what we used to call them, I 20 forget. 21 Q Sole proprietor? 22 A Yeah. Though I had a number of people who worked with 23 me on a contract basis. 24 Q Okay. Did you operate that business under a business 25 name entity?	Page 24 1 Board fees? 2 A Yeah. 3 Q What are you paying board fees for? 4 A For -- I am paid fees for being on a board. 5 Q So sitting on boards? 6 A Yes. 7 Q Gocha. How many boards do you currently sit on? 8 A Just one. 9 Q What board is that? 10 A New South Construction Supply. 11 Q Where is that based out of? 12 A It's headquartered here in Greenville. 13 Q What do they do? 14 A They're a distributor of building materials. 15 Q Other than sitting on the board, are you a principal of 16 that company? 17 A I am not. 18 Q Okay. You have no ownership interest? 19 A No. 20 Q All right. After Chandelle Solutions, what was your 21 next position? I know you said that Commercial -- CFS, 22 Commercial Foodservice? 23 A Well, most people would call it CFR. 24 Q CFR? 25 A In our industry, foodservice is generally spelled as
Page 23 1 A Yeah. 2 Q What was the name of that? 3 A Chandelle Solutions. 4 Q Chandelle? 5 A Chandelle. 6 Q And was that a South Carolina entity? 7 A Yes. 8 Q Was it an LLC, corporation? 9 A It went through both configurations at various times. 10 Q What did it end up? 11 A Now it's an LLC. 12 Q Okay. Are you still conducting turnaround or still 13 providing turnaround services? 14 A No. 15 Q Okay. Is that company in good standing with the South 16 Carolina Secretary of State or has it been dissolved? 17 A It should still be in good standing. 18 Q Is it still operational? 19 A Well, it's got a bank account. 20 Q Is there somebody running it other than you? 21 A No. No. I use that for -- really, it was a place to 22 just keep books for any other non-CFR related business 23 activities, such as board fees -- 24 Q Such as what? 25 A Board fees.	Page 25 1 one word. 2 Q Okay. You said that was a client of -- 3 A Yes. Back then, it was called Transaction Technology 4 Corporation. But, yes, they became a client and we did 5 an out-of-court restructuring in 2009 -- and, yeah. 6 Q And that was renamed -- 7 A And that became my full-time occupation after that. 8 Q Okay. Let me make sure I'm clear. What did you say 9 the name of CFR was before it became CFR? 10 A Transaction Technologies Corporation, Inc. 11 Q Okay. And what role did you play in Transactions 12 Technologies? 13 A Initially, I was brought in as what is referred to as a 14 CRO, Chief Restructuring Officer. And my -- as is 15 typical in these things, my primary role was to work 16 with the bank to try and, you know, keep them from, you 17 know, blowing up the company. 18 Q So were you providing those services through Chandelle 19 Solutions or were you actually a hired executive of 20 Transaction Technologies? 21 A No. I was an advisor. 22 Q Advisor. So you were never more than an employee? 23 A I was not. 24 Q Okay. And what year would you be in, providing those 25 services?

Page 26	Page 28
1 A 2004. 2 Q So you moved to Greenville in '93. Is that fair? 3 A (Nods head up and down.) 4 Q Okay. And you were working for Chandelle Solutions -- 5 that was the job that you were working at or for in 6 '93? 7 A No. No, I was at Stevens Aviation. 8 Q Stevens Aviation, okay. That's what I wanted to make 9 sure. And you were with Stevens Aviation for five 10 years? 11 A Yes. 12 Q Okay. And then you were with -- 13 A Thereabouts. 14 Q About five years. And then you were with Chandelle 15 Solutions for how long? 16 A Well, I got -- technically I'm still with Chandelle 17 Solutions; so... 18 Q Okay. You were providing services with Chandelle 19 Solutions to Transition Technologies, and this was 20 2004, you said? 21 A Yes. 22 Q Okay. You were responsible or you were considered to 23 be the Chief Restructuring Officer? 24 A Correct. 25 Q Okay. What ultimately happened with that company? I	1 bookstores, Barnes and Nobles, Borders, those types of 2 companies. And we had a huge -- 7-Eleven was an 3 overwhelming customer and, at one time, they were 85 4 percent of the company's business. 5 Q Was CRF -- was it national? Was it a national 6 operation, or was it located in a specific region, or 7 geographic location? 8 A Like most companies in the industry, we couldn't 9 service everywhere, but we used to joke that we're 10 coast-to-coast; we just didn't have anything in 11 between. You know, so we were in California, we were 12 in the eastern seaboard, we were in Florida and Texas. 13 Q Okay. Well, how was business for CFR at that time? 14 Was it a -- 15 A Which time? 16 Q When you became the president in 2009. 17 A It was challenging. You know, the -- we were in the 18 Great Recession. But when we eliminated the debt, the 19 company's performance improved dramatically. 20 Q How were you able to eliminate that debt? I don't need 21 a long, drawn-out version, just kind of a brief 22 version. 23 A Like I said, it was an out-of-court restructuring and 24 it involved key creditors to, you know -- or permanent 25 debtors to -- it -- we got the bank to take a big
Page 27	Page 29
1 think you said it became Commercial Foodservice Repair? 2 A Yes. 3 Q Okay. How did that transition happen? 4 A In 2009, at the request of the bank, we did an out-of- 5 court restructuring, which eliminated most of the 6 company's debt, and eliminated the previous ownership. 7 Q Okay. Was that done in lieu of bankruptcy? 8 A Yeah. You could -- yes, definitely. 9 Q Okay. When -- so Commercial Foodservice Repair -- and 10 I'm just going to call it CFR for the rest of this 11 deposition -- that's the surviving entity. What role 12 did you play with CFR, at that time? 13 A I was the president -- 14 Q President, okay. 15 A -- and chairman. 16 Q And this is 2009? 17 A Yes. 18 Q And how long did you hold the position of president 19 with CFR? 20 A Until about two months ago. 21 Q Okay. And what was the business that CFR was in? 22 A Well, like Tech24 and like CFR today, we were in the 23 business of working on food service equipment, but we 24 were highly focused on convenience stores and retailers 25 that had cafes in them. So, we did a lot of	1 haircut. We had some debt to some other entities that 2 they had piled up and we got all those types of 3 organizations to take significant haircuts. And we 4 brought in money from other investors to pay off the 5 rest of the debt. 6 Q Okay. All right. When did you first start looking 7 into or become aware of Tech24? 8 A I -- that's hard to say. I mean, it was a known 9 company in the industry when we started looking to 10 expand out beyond retailers into restaurants. You 11 know, I mean, if you were a member of SFS and attended 12 stuff, you would have known who Tech24 was. 13 Q All right. So did you know Mr. White personally? And 14 when I say Mr. White, I'm referring to Richard White. 15 A I did not. 16 Q Okay. When did you first start considering purchasing 17 Tech24? 18 A I'm not sure, exactly. It would have either been late 19 '13 or early '14, somewhere in that time frame. 20 Q During that time, were there any other entities that 21 you were looking to acquire, or was Tech24 primarily 22 your focus? 23 A We had a business broker whose job was to find us 24 things and I'm sure he showed us -- showed me other 25 stuff, but none of those, you know, ended up being

Page 30 1 something we did. 2 Q Okay. Who is that business broker? 3 A Ron Rosati. R-o-s-a-t-i, or a-t-i. 4 Q And where was he based out of? 5 A The Tampa area. 6 Q When did you first start having conversations with 7 anybody about the purchase of Tech24? And more 8 specifically, when did you start speaking with Mr. 9 White? 10 A I would guess it was maybe in the first quarter of '14. 11 Q Okay. I assume -- I'm obviously assuming that Tech24 12 was an entity that you thought could benefit your 13 current operation with CFR? 14 A Uh-huh. Yes. 15 Q And in what manner did you plan on folding Tech24 16 services into CFR services? 17 A I -- rephrase that. 18 Q Sure. Why did you believe that Tech24 was a good 19 target for acquisition purposes for CFR? 20 A Well, they had a good reputation with the restaurant 21 community, and one of our key objectives was to 22 leapfrog, in terms of our visibility into the 23 restaurant industry because we were not very well known 24 in the restaurant community. While we were well known 25 with retailers, restaurants really didn't know us	Page 32 1 there. You would have some indication of interest, at 2 a minimum. 3 Q Do you recall any conversations, specifically with Mr. 4 White, regarding what the purchase price was going to 5 be? 6 A We had numerous conversations about what the purchase 7 price would be. 8 Q Sure. 9 A Yeah. I couldn't speak to any single conversation with 10 any accuracy or specificity, at this point. 11 Q Okay. Do you know -- 12 MS. THOMASON: Excuse me. Mr. White's having a 13 little trouble hearing. Could we move the microphone a 14 little closer? 15 MR. PURIEFOY: You can move it out of your way if 16 you -- 17 THE WITNESS: Yeah, it's a little distracting. 18 MR. SCHANEN: Yeah. 19 COURT REPORTER: Sorry. 20 MS. THOMASON: Move it over if you can. 21 BY MR. PURIEFOY: 22 Q All right. Do you know whether a formal -- I'm 23 assuming there was a due diligence phase before you 24 ultimately purchased Tech24? 25 A Correct.
Page 31 1 because we really didn't work for restaurants. 2 Q Okay. And I think you already said that Tech24 had a 3 fairly good reputation in that community -- 4 A Had a good reputation and geographically it was a nice 5 fit for us. 6 Q All right. Tell me -- walk me through that process. 7 How did the ultimate purchase of Tech24 kind of come to 8 be? 9 A It -- you know, through the usual type of things. You 10 know, introduction, you know -- 11 Q Introduction to who? 12 A You know, introduction from -- Ron introduced me to 13 Rick in the business. Rick and I met a number of times 14 to talk about it. Moved to an LOI and I'm sure that -- 15 I don't actually remember, but usually you would have. 16 And then negotiated a, you know, buyout transaction. 17 Q Okay. Do you know whether it was -- did you make an 18 offer to purchase Tech24? Did you choose what the 19 purchase price was going to be or is there -- included 20 in the LOI, was there some understanding as to what the 21 price was going to be? 22 A Again, I don't even know for a fact that we had an LOI 23 -- 24 Q Sure. 25 A -- but I assume we did. Normally, that would be in	Page 33 1 Q Correct, okay. Do you know if a formal valuation of 2 Tech24 was done? 3 A It -- we did not hire an outside firm to come in and 4 place a value on it. That would be, frankly, unusual. 5 Q Sure. 6 A In my experience. 7 Q Yeah, no problem. I just needed to know kind of how 8 this all came to be. So who would have been primarily 9 responsible for valuing the business? 10 A Myself, would have been the most responsible. 11 Q Okay. So I'm assuming at some point you ultimately 12 agreed on a purchase price? 13 A Correct. 14 Q Okay. Was that original purchase price to be -- was it 15 13 million? 16 A That sounds about right. 17 Q Okay. Do you remember how that deal was structured? 18 Was it a cash deal? Was there -- 19 A Well, as we all know, it was not an all cash deal. 20 Q Okay. 21 A Over the course of negotiation, it became, I think, 22 thirteen in cash and a million on a note. 23 Q And who first floated the idea of this note? How did 24 that note become part of the equation in this purchase? 25 A I'm not sure who first floated that.

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1 Q Would any of the financing entities have played any 2 role in the creation of that note? 3 A They certainly could have, but I don't know that they 4 did. 5 Q All right. So let's just look at these two. I'm going 6 to show you what we've marked as Plaintiff's 1 and 2. 7 I'm going to give him -- I apologize. It's unusual 8 that I have to walk them over to you. 9 A (Reviewing.) 10 Q All right. So I've handed you what we're marking as 11 Plaintiff's Exhibits 1 and 2, which is a Form of 12 Subordinated Promissory Note and a Subordinated 13 Agreement. Do you see those two documents? 14 A Yes. 15 Q Okay. And I'm assuming that you're familiar with these 16 documents? 17 A It was a long time ago. 18 Q Sure. 19 A But I'm generally -- I'm no more familiar with these 20 than I would be if they walked in here and gave me one 21 right now for an acquisition that they were working on. 22 Q Sure. And we'll talk about some specifics, but you 23 know what these documents are, at least? 24 A Yes. 25 Q Okay. Now, this is a Subordinated Promissory Note,	1 Acquisitions? 2 A FT Acquisitions was actually Tech24. They were a DBA. 3 Q Okay. All right. Let's just look at this note. We'll 4 start at paragraph one. I know you said that you -- 5 this was a long time ago, so we'll see if we can 6 refresh your memory just a little bit. 7 The very first paragraph of that note looks like 8 this is a purchase -- excuse me, this is a subordinated 9 note of a million dollars. Do you see that? 10 A Yes. 11 Q Okay. If you come down to paragraph two, do you see 12 that the note bears an interest rate of five percent 13 that's going to -- 14 A Yes. 15 Q That's going to be paid over the course of the term of 16 the note? 17 A Yes. 18 Q Okay. And then there was a seven percent interest rate 19 that was going to be paid in the event that there was a 20 default. Do you see that? 21 A Yes. 22 Q Okay. And come down to paragraph three. This note was 23 to be paid in equal monthly installments of \$18,871.24? 24 A Yes. 25 Q Okay. Before we get too far into that, do you know who
Page 35	Page 37
1 which is Plaintiff's Exhibit 1, and the Subordination 2 Agreement, which is Plaintiff's Exhibit 2. Does that 3 appear to be dated July 28, 2014? 4 A This one isn't dated (indicating). 5 Q Which one is that? 6 A Subordinated -- Junior Subordinated Promissory Note 7 that you have here as Exhibit A is not dated. 8 Q Okay. The Subordination Agreement, is that dated July 9 28, 2014? 10 A Yes. 11 Q Do you recall if these documents would have been 12 executed contemporaneously with one another? 13 A That would normally be the situation. 14 Q Okay. Do you believe that the Form Subordinated 15 Promissory Note was ever executed by yourself and Mr. 16 White? 17 A Yes. 18 Q Okay. In fact, if you look at page 5 of Plaintiff's 19 Exhibit 1. 20 A (Reviewing) And is that the signature page? 21 Q Yes. Does that look like your signature? 22 A Yeah. 23 Q Okay. All right. So the Subordinated Promissory Note, 24 which is Plaintiff's Exhibit 1, was executed between 25 Mr. White and -- who is FT Acquisitions? Or what is FT	1 created these documents? 2 A I don't. I mean, Nelson Mullins was the attorneys on 3 the -- for us. 4 Q Okay. So Nelson Mullins was representing you as the 5 buyer? 6 A Right? Yeah. 7 Q I'm sorry. You can't ask your attorney. 8 A Yes, yes. 9 Q If you don't recall, just say you don't recall. 10 A Yeah. Okay. 11 Q But if you think that that's the case, you can -- 12 A I believe that's the case, yes. 13 Q Okay. Do you recall the attorney's name that would 14 have been assisting you in this particular portion of 15 the transaction? 16 A I cannot. 17 Q Would it have been Bo Russell? 18 A Could have been. 19 Q But you're not sure? 20 A Not about this particular document. 21 Q Okay. Do you recall any other Nelson Mullins attorneys 22 that worked with you? 23 A I don't by name, no. 24 Q Is Bo the only one that you recall by name? 25 A Yes.

Page 38 1 Q Bo Russell? 2 A Yes. 3 Q All right. How was -- at the time that you were 4 purchasing Tech24, how many principals were there? I 5 know there was Rick White, and were there any other 6 shareholders in the company? 7 A Well, my understanding was, when Rick and I were first 8 talking, was that there were four shareholders and then 9 they did some transactions that we weren't really privy 10 to that brought it down to two. 11 Q Okay. And who were the two that you understood? 12 A Rick White and J.C. -- sorry. Not J.C., J.P. It'll 13 pop in my head. 14 Q Sure. There are no other shareholders that you're 15 aware of? 16 A No. 17 Q All right. If we go to page 2 of that subordinated 18 note -- 19 A Excuse me. I'm just going ahead and use this stuff. 20 My hands are so dry -- 21 Q Sure. 22 A -- I can't separate the pages. Okay, page 2? 23 Q Yep. 24 A Okay. 25 Q If you go down to the second full paragraph on page 2,	Page 40 1 A I did not. 2 Q Okay. Leeds Novamark Capital, who are they? 3 A Well, they're a -- they're now called LNC. They're an 4 SBA fund that invests in junior, you know, debt -- 5 Q Were they a mezzanine lender -- 6 A Yes. 7 Q -- in this case? 8 A Yes. 9 Q Okay. Had you ever worked with them before? 10 A No. 11 Q Okay. In the subordination agreement, it calls for PNC 12 to be the superior lender and Leeds Novamark to be the 13 junior lender. Is that your understanding of how this 14 is structured? 15 A Relative to each other? Yes. 16 Q Correct. All right. What did superior and junior 17 lenders mean to you? What was your understanding of 18 those designations? 19 MR. SCHANEN: Object to the form. You can answer. 20 THE WITNESS: In general, in corporate finance, you 21 know, the senior lender has the ability to stop 22 servicing -- to have the company stop servicing the 23 junior debt and, in general, has a right to get out 24 first. 25 BY MR. PURIEFOY:
Page 39 1 and I'll give you a second to read it if you need that. 2 But this appears to me to state that, in the event your 3 interest fell below 51 percent of FT Acquisitions, it 4 would call for the immediate acceleration of this note 5 to be paid. Do you see that? 6 A I do. 7 Q All right. As you understand, is there any provision 8 in this note that you believe, at the time or 9 presently, to be unenforceable? 10 A Not that I'm aware of. 11 Q Okay. All right. And I'm going to have you look at 12 what is marked at Plaintiff's 2, which is the 13 Subordination Agreement. 14 A (Reviewing) Okay. 15 Q All right. The very first paragraph, it looks like the 16 lenders in this case are going to be PNC Bank and Leeds 17 Novamark Capital. Do you see that? 18 A Uh-huh, yes. 19 Q How did those two individuals become lenders for this 20 transaction? 21 A Well, that's what they do. You know, they were, you 22 know, one of, no doubt, you know, quite a few that we 23 probably talked to and -- 24 Q Okay. Did you have a working relationship with either 25 one of those entities before this transaction?	Page 41 1 Q Okay. And when you say "get out first", you mean in 2 terms of repayment, who's going to be paid in order on 3 the loan? 4 A Correct. Yeah, if there was a liquidation of the 5 entity, the senior debt would get paid before the 6 junior debt would get a penny. In theory, anyway. 7 Q And it was your understanding that Mr. White's note was 8 subordinate to both of those lenders? 9 A That's correct. 10 Q All right. I believe the subordination agreement 11 allows for the refinancing of that debt if you deem 12 that appropriate. Are you aware of the fact that this 13 allows for that to occur? 14 A Yes. 15 Q Okay. And was that debt ever refinanced? 16 A Yes. 17 Q Okay. And the two companies, or lenders, were those 18 Fifth Third Bank and McLarty Capital Partners? 19 A Correct. 20 Q Okay. Let me back up for one second. At the time that 21 you acquired Tech24, was Leeds just a lender or were 22 they also an equity owner in -- 23 A They purchased a small amount of equity. 24 Q So, at the conclusion of the transaction, were there 25 two principals, two shareholders of Tech24? Was Tech24

Page 42	Page 44
1 the surviving entity? 2 A No. I'm -- it was a stock purchase. 3 Q Okay. 4 A We didn't merge Foodservice away until -- I don't know. 5 It was a year or two ago, right? I know, I can't ask 6 you that. It was relatively recently in the history of 7 the company that we finally got around to merging that 8 out. 9 Q Okay. But at the time, it was just a stock purchase of 10 Tech24? 11 A Correct. 12 Q Okay. After the purchase, did you continue doing 13 business as Tech24? 14 A We did. 15 Q Okay. And were the operations of CFR and Tech24 16 separate and distinct from one another? 17 A Initially, yes. Over time, you know, commonality, you 18 know, grew stronger, which is typical -- 19 Q Sure. 20 A -- of, you know, life after an acquisition. 21 Q Sure. So, I mean, at some point, whether it was 22 initially or some point down the road, there was some 23 overlap between those two entities? 24 A I'm not sure what you're asking. 25 Q Were Tech24 and CFR always distinguishable from one	1 extension, J.C.? 2 A Yes. 3 Q And I think you just said that it's your understanding 4 that the Seller Noteholder would have Rick White and 5 J.C.? 6 A Correct. 7 Q All right. And I think we've already touched on this, 8 but who was your understanding of the superior lender 9 at the time that this agreement was executed? 10 A PNC. 11 Q All right. And I think we've already said that, at 12 some point, that superior lender became Fifth Third 13 Bank? 14 A Correct. 15 Q All right. So I'm going to read this to you, paragraph 16 three. I'm going to read portions of it to you and 17 then ask you a couple of things. So this sentence 18 reads, (as read) "Prior to the receipt by the Seller 19 Noteholder of written notice from a Superior Lender of 20 a Superior Default" -- and that is defined as "Superior 21 Default Notice" -- "but subject to the balance of this 22 Section 3 and 4, Borrowers may pay and Seller 23 Noteholder may accept the following payments of 24 interest and/or principal under the Seller Unsecured 25 Subordinated Note." Do you see that?
Page 43	Page 45
1 another as entities? 2 A No. 3 Q Okay. When -- at what point do you believe that they 4 became indistinguishable from one another? 5 A I couldn't say. That's -- 6 Q Just at some point? 7 A Yeah. 8 Q All right. I'm going to have you look at paragraph 9 three of the subordination agreement. 10 A What page would that be on? 11 Q Page 3, I believe. 12 A (Reviewing) The one that begins, "Prior to the 13 receipt"? 14 Q Correct. 15 A Okay. 16 Q So that sentence that you were just starting to read, 17 "Prior to receipt by the Seller Noteholder", who is 18 your understanding of who the Seller Noteholder was 19 under this agreement? 20 A Rick and J.C. Viteri -- 21 Q Were you aware that Mr. White was acting as the 22 attorney-in-fact for J.C.? 23 A I don't know that I was, and I am now. 24 Q So, as you understand it, Mr. White had the authority 25 to execute these documents on behalf of Tech24 and by	1 A Yes. 2 Q Okay. So let's just break this up a little bit. So, 3 prior to the receipt by Seller Noteholder of written 4 notice from a superior lender, these monies were to be 5 paid. Do you agree with that? 6 A Generally, yeah. 7 Q The monies that were to be paid under the Plaintiff's 8 Exhibit 1, which is the Subordinated Promissory Note -- 9 A Yes. Okay, yes. 10 Q The next sentence says, (as read) "Upon the occurrence 11 of a Superior Default and the receipt of a Superior 12 Default Notice, until such Superior Default has been 13 cured or waived to Senior Lender's satisfaction with 14 respect to Superior Default under the Senior Agreement, 15 and Junior Lender's satisfaction with respect to a 16 Superior Agreement under the Junior Agreement, in 17 either case, pursuant to written agreement with the 18 Senior Lender or Junior Lender, as applicable, 19 Borrowers shall not pay, including set-offs against the 20 Seller Unsecured Subordinated Note, of amounts owed or 21 under such Seller Unsecured Subordinated Note pursuant 22 to Section 5", and then it continues. 23 As you understand that position -- as I understand 24 that position, that tends to indicate that, in the 25 event of a default, you would be prevented or

Page 46 1 prohibited from paying Mr. White under his Subordinated 2 Promissory Note. Is that your understanding? 3 A Yes. 4 MR. SCHANEN: Object to the form. You can answer. 5 BY MR. PURIEFOY: 6 Q Is that your understanding? 7 A Yes. 8 Q Meaning, if you defaulted on the payment terms to the 9 Superior Lender, you could not pay Mr. White under his 10 subordinated note? 11 A It would really be if the bank notified us of a 12 default. 13 Q Correct. 14 A Invoked a default -- 15 Q Right. 16 A -- which isn't the same thing. 17 Q Sure. So let me ask the question this way, just 18 because I want to make sure that I'm clear. If the 19 bank notified you of a default under their loan, would 20 that prohibit you from paying Mr. White under the terms 21 of his subordinated note? 22 A If they instructed us in that way. 23 Q Okay. And if the Junior Lender had -- defaulted under 24 the terms of the loan agreement with the Junior Lender 25 and they instructed you not to pay Mr. White under his	Page 48 1 the borrower and those parties. 2 Q Absolutely, sure. Okay. Do you also agree with me 3 that paragraph three says that, (as read) "Upon the 4 occurrence of a Superior Default and receipt of a 5 Superior Default Notice"? Does that indicate to you 6 that the bank would have had to inform Mr. White that 7 there was, in fact, a default under the Superior or 8 Junior agreements? 9 MR. SCHANEN: Object to the form. You can answer. 10 THE WITNESS: That would be my reading of it. 11 BY MR. PURIEFOY: 12 Q And based on your reading paragraph three, if the bank 13 did not inform the Seller Noteholder of that default, 14 were those payments to continue to Mr. White? 15 A This gets into a complicated situation because the bank 16 had the right to demand us to stop paying. They were 17 the ones who were supposed to send the notice. You 18 know, and so, there's some conflict in this. 19 Q Sure. Well, let me ask it this way. The Subordinated 20 Agreement, was that agreement between the banks and 21 Rick White or was it an agreement between the acquiring 22 company, FT Acquisitions, and Rick White? 23 MR. SCHANEN: Object to the form. You can answer. 24 THE WITNESS: I honestly don't know right now. I 25 would have to see -- I've seen subordination agreements
Page 47 1 subordinated note, would you have to adhere to that 2 demand? 3 A By the Junior, you're referring to? 4 Q McLarty. Well, at this time, at the time of execution 5 of this document -- 6 A LNC or McLarty, yes. 7 Q Okay. And then, so, that's a good segue. Is it your 8 understanding that the Junior Lender eventually became 9 McLarty? 10 A Yes. 11 Q Okay. So would you agree with me that, at the time of 12 the refinancing of those debts, if Fifth Third Bank 13 instructed you not to pay Mr. White as a result of a 14 Superior Default, would you have to listen to them? 15 A Yes. 16 Q If McLarty instructed you not to pay Mr. White as a 17 result of the default under the loan agreement with 18 McLarty, would you have to listen to them? 19 A Yes. 20 Q Okay. And it's your understanding that that's what 21 this paragraph says? 22 A Correct. 23 Q Okay. 24 A Though I might add, in my understanding, this paragraph 25 defines the rights between those parties, not between	Page 49 1 like this where the borrower was not a party to the 2 subordination agreement, so -- 3 BY MR. PURIEFOY: 4 Q How do you understand this deal to have been 5 structured? 6 A -- I'm not sure if we were on this. 7 Q This subordinated agreement? 8 A As I just said, I'm not sure. 9 Q Okay. So, as you read paragraph -- 10 A I don't think it's a mystery, though. I'm sure it's 11 easily obtained. 12 Q Sure. And I need to know what it is that you 13 understand as we sit here today, so don't mind if it 14 flesh this out a little bit more. So, as you read 15 paragraph three, as you sit here today, whose 16 responsibility was it to notify the Seller Noteholder 17 of a Superior or Junior Default? 18 A The -- whichever one of the two Superior Lenders was 19 invoking it. 20 Okay. So, if Fifth Third bank was invoking the default 21 provisions of their loan agreement, did they have the 22 responsibility to inform Mr. White? 23 A Yes. 24 Q And if McLarty was invoking the default provisions of 25 their loan agreement, did they have the responsibility

Page 50		Page 52	
1	to inform Mr. White?	1 Q	So, removing the conflict between the documents and
2 A	Yes.	2	relying solely on the Plaintiff's Exhibit 2, which is
3 Q	Okay. As you read paragraph three, does -- did the --	3	the Subordination Agreement, not against the backdrop
4	did Commercial Foodservice Repair have a responsibility	4	of your agreements with those institutions, but solely
5	to pay Mr. White under the terms of his Subordinated	5	as it relates to this paragraph?
6	Note until such time that he received notice of a	6 A	I don't believe that this paragraph extends any
7	Superior or Junior Default, as you read paragraph	7	obligations to Commercial Foodservice Repair.
8	three?	8 Q	So, I'm going to read paragraph three to you and I'm
9 A	I don't think it's clear as to how that impacts the	9	going to ask you if what you just stated, you believe
10	borrower.	10	to be true. (As read) "Prior to the receipt by the
11 Q	So, I'm going to ask you to read paragraph three for me	11	Seller Noteholder of written notice from a Superior
12	and let me know where you think the ambiguity is.	12	Lender of a Superior Default, but subject to the
13 A	Well, I think the ambiguity is, is that the Senior	13	balance of this Section 3 and Section 4 below,
14	Lenders had an obligation to give them a notice, but	14	Borrowers may pay and Seller Noteholder may accept the
15	our agreements with the bank does not require that.	15	following payments of interest and principal under the
16 Q	Does paragraph three incorporate by reference your	16	Seller Unsecured Subordinated Note." Okay.
17	agreements with Fifth Third Bank or McLarty, or --	17 A	It may.
18	excuse me, the Superior Lender or Junior Lender,	18 Q	Does that say that, unless Mr. White receives, and
19	whoever they were at respective times?	19	we've all agreed that Seller Noteholder is Mr. White,
20 A	I don't know.	20	correct?
21 Q	Do you see in paragraph three where it says that those	21 A	Yes.
22	agreements are incorporated by reference?	22 Q	Does that first sentence suggest that Mr. White is to
23 A	I haven't yet, but I'm sure it's in there if you say it	23	receive payments in accordance with subparts 1 and 2,
24	is.	24	unless he is in receipt by a Superior Lender of a
25 Q	No. My po- -- my -- what I'm representing to you is	25	Notice of Superior Default?
Page 51		Page 53	
1	that it is not in there.	1	MR. SCHANEN: Object to the form. You can answer.
2 A	Okay. Well, that's consistent with my understanding,	2	THE WITNESS: I agree.
3	then.	3 BY MR. PURIEFOY:	
4 Q	Okay. So paragraph three of this agreement does not	4 Q	Okay.
5	incorporate your agreements with, at the time, PNC and	5 A	He should have gotten a notice.
6	Leeds; correct?	6 Q	Okay. Are you aware if he ever got a notice from
7 A	Uh-huh.	7	either Fifth Third Bank or McLarty of a default?
8 Q	Paragraph three does not incorporate by reference your	8 A	I am -- I don't -- I do not know the answer to that.
9	agreements with Fifth Third Bank and McLarty Capital	9 Q	Okay. And as you understand paragraph three, he never
10	Partners; correct?	10	received that notice were those payments to continue or
11 A	Correct.	11	not to continue?
12 Q	Okay. So the document that was signed by you and Mr.	12 A	Purely, in isolation on paragraph three --
13	White requires that Fifth Third Bank, PNC, and	13 Q	Correct.
14	Leeds/McLarty provide Mr. White with notice of default;	14 A	-- I would say that that would be correct.
15	correct?	15 Q	That they were to continue?
16 A	That's what I understand in this paragraph.	16 A	Right.
17 Q	And in the event that notice is not provided, this	17 Q	Okay. Okay. If you would, look at paragraph five of
18	paragraph requires that payments be made to Mr. White.	18	Plaintiff's Exhibit 2, which is the Subordination
19	Is there anything that you see in paragraph three that	19	Agreement. Could you just read that for me? You don't
20	is contrary to that statement?	20	have to read it out loud; just read it to yourself.
21	MR. SCHANEN: Object to the form. You can answer.	21 A	(Reviewing) Okay.
22	THE WITNESS: Again, this is -- I don't know how to	22 Q	Okay. What provisions did just you read? Just so I
23	interpret it because I believe that there's a conflict	23	know.
24	between the documents.	24 A	Paragraph five.
25 BY MR. PURIEFOY:		25 Q	Okay.

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1 A I -- 2 Q Paragraph five? 3 A Yeah. 4 Q Okay. This appears to me, and let me know if you disagree, to prevent Mr. White from being able to bring a lawsuit under his Subordinated Note in the event of a default under either the Superior Note or the Junior Note. Is that how you read that? 5 A Hold on. 6 Q And it may be helpful if you look at paragraph four, as well. Paragraph four and five are... 7 A (Reviewing.) Okay. 8 Q Okay. So, after reading paragraphs four and five of Plaintiff's Exhibit 2, is it your understanding that Mr. White was not able to bring suit or make any demands under his Subordinated Note in the event of a default under either the Senior or Junior notes or loans? 9 A That would be how I would read it. 10 Q Okay. And that also would've required that Mr. White has notice of those defaults; correct? 11 MR. SCHANEN: Object to the form. 12 THE WITNESS: I suppose so. 13 BY MR. PURIEFOY: 14 Q Okay. Well, Mr. White wouldn't know not to bring suit	1 A I believe that would be to his home address. 2 Q Okay. Does this agreement contemplate those notices being sent anywhere else? 3 A To the Ruddy Law Firm and others, you know. 4 Q But as it relates to Mr. White, does it appear to you, based on paragraph 16, to require notice to be sent to either his home address or his attorney's address? 5 A Correct. 6 Q Okay. So, in the event of a default under either the Superior loan or the Junior loan, where was Mr. White to receive that notice? 7 A To either his home or to his law firm. 8 Q And in accordance with this document alone, if those notices of default were not sent to Mr. White at either one of those locations, would he be deemed to have notice of the default? 9 A No. 10 Q Okay. All right. So, at the time you take over Tech24, was your position -- were you the president of Tech24? 11 A CFR, yes. 12 Q CFR? Okay. Were you continuing to conduct business as Tech24? 13 A Yes. 14 Q Okay. Which one would be easier for me to refer to it
Page 55	Page 57
1 on a default under his note if he didn't have notice of the Superior and Junior defaults; correct? 2 MR. SCHANEN: Object to the form. 3 THE WITNESS: Well, I don't know that that would be the only way he could find out, but, yeah, I understand your point. But I disagree that he could know of the default without them having given him a formal notification. 4 BY MR. PURIEFOY: 5 Q Okay. Let me -- I'm going to have you look at paragraph 16, under Plaintiff's Exhibit 2. 6 A (Reviewing.) Okay. 7 Q Okay. Under paragraph 16, these are the notice provisions that are contained in Plaintiff's Exhibit 2, the Subordination Agreement. 8 A I agree. 9 Q Okay. Where does paragraph 16 require all notice, demands, requests, consents, approvals and other communications under this agreement to be sent as it relates to Seller Noteholder, Richard White? 10 A I'm sorry? Say it -- 11 Q Where does paragraph 16, where does that require that all notices, demands, requests, consents, approvals and other communications be sent to Seller Noteholder, Richard White?	1 as? CFR or Tech24? I don't know -- 2 A I think that if you're referring to our legal entity, it would be better to say CFR -- 3 Q Sure. 4 A -- so that, you know... 5 Q All right. So, at the time that you acquired Tech24 from Richard -- Mr. White, how many shareholders were there of CFR? 6 A About ten. 7 Q Okay. And how many shareholders were there of FT Acquisitions at the conclusion of this transaction? 8 A One. 9 Q Okay. And who was that? 10 A CFR. 11 Q Leeds was a shareholder in what entity? 12 A CFR. 13 Q Okay. So, Leeds would have been one of those ten shareholders that you just made reference to? 14 A Yeah. 15 Q Okay. And how would you describe the financial condition of CFR, the acquiring company, after the acquisition of Tech24? 16 A We were in good shape. 17 Q Okay. Had you reviewed the financials of Tech24 before you acquired that business?

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1 A Yes. 2 Q Okay. Did you have any concerns about the financials 3 or? 4 A I had concerns about their accounting system -- 5 Q Okay. 6 A -- but -- 7 Q What were those concerns? 8 A That we had over 100,000 adjusting journal entries in 9 the year preceding the acquisition. That was 10 concerning. 11 Q Okay. Any operational concerns? 12 A Not really. I mean, you always have some concerns 13 about any entity that you're getting involved with, but 14 overall we thought it was a well-run company. 15 Q How many employees were there at Tech24 at the time 16 that you acquired it? 17 A (No response.) 18 Q And I'm not -- this isn't a trick question. If you can 19 recall or give me a guesstimate, that's fine. 20 A I don't remember the number. 21 Q Do you recall how many employees of CFR there were? 22 A We had over 200. We only think about our techs. We 23 only had 165 techs. 24 Q Okay. 25 A The rest of us don't count.	1 there, and so we then set up a slightly different 2 organization there because of the nature of what the 3 customers that we had there were being serviced in a 4 different way. Yeah, so there was that overlap, but we 5 tried to exploit the reputation of Tech24 to gain an 6 entré into restaurant chains. And so... 7 Q Okay. Was there ever a time where the employees of 8 either CFR and Tech24 were all wearing the same 9 uniforms or were they always wearing different uniforms 10 when they were -- 11 A No. Over time we adopted the Tech24 as a DBA. Our 12 thinking at the time was that they were known to the 13 restaurants, and the retailers didn't really care what 14 our name was. 15 Q Okay. All right. I'm going to show you what I want to 16 mark as Plaintiff's 3 and 4. Now, I do not expect you 17 to know everything that's contained in these two 18 documents, and I'd represent to you that Plaintiff's 3 19 and 4 are the Credit Agreements between CFR and Fifth 20 Third Bank, and the Credit Agreements between CFR and 21 McLarty Capital Partners. Before I ask you about those 22 documents, let me ask you -- after the stock purchase 23 of Tech24, did Rick White stay on as an employee with 24 the business? 25 A Yes.
Page 59	Page 61
1 Q What do you consider the rest of you other than the 2 techs? What were you guys considered? 3 A The overhead. It's the management teams -- 4 Q Managers? 5 A -- and the administrative personnel. 6 Q Did the operations of CFR and Tech24 kind of roll 7 together -- roll into the same -- strike that question. 8 Let me ask it this way. Could you distinguish CFR 9 employees from Tech24 employees after the acquisition 10 -- or after the stock purchase? Excuse me. 11 A Yes. 12 Q Okay. How were they distinguished from one another? 13 A Well, initially they were wearing different uniforms 14 and driving trucks that were logoed differently. 15 Q Okay. Did CFR continue to service the areas and, you 16 know, continue to operate kind of in the niche that it 17 was operating initially, and then Tech24 continued in 18 the niche that it was operating? 19 A For a period of time. 20 Q Okay. Was there some overlap that occurred or some 21 kind of rolling into the same entity that occurred at 22 some later day? 23 A Well, you know, we did have a small amount of overlap 24 in offices notably in Virginia Beach, Tidewater. And 25 you know, so we had legacy employees that were already	1 Q Okay. What was his role? 2 A Initially, his role was to continue to operate the 3 Tech24 marketplace, and to assist in transitioning and 4 working through a transition to integrate the Tech24 5 and the CFR operations. 6 Q Okay. Did he have an employment agreement? 7 A Yes. 8 Q Okay. Do you know what Mr. White's formal title was? 9 A I don't remember. It would have been something along 10 the lines of a VP -- 11 Q VP of Operations? 12 A Yeah, well, VP Ops later, but initially -- I don't 13 remember what his initial title was -- 14 Q Okay. 15 A -- but it was some type of operational title, 16 initially. 17 Q And was it your understanding Mr. White was just an 18 employee of Tech24? 19 MR. SCHANEN: Object to the form. THE WITNESS: I wouldn't use the term "just". He was a senior manager in the company. You know, he was one of the highest people in the company; so... BY MR. PURIEFOY: 24 Q Was Mr. Wright, as you under- -- Mr. White, excuse me, 25 considered an officer of the company?

Page 62 1 A He wasn't one of the designated officers, but, yes, we 2 would have considered him an officer. 3 Q When you say "designated officer" he was not named to 4 the corporate resolution as an officer? 5 A Yeah. Our article of incorporation had three officers. 6 Q Okay. 7 A And this -- and COO or something like that was not one 8 of them. 9 Q Okay. And as you sit here today, are you aware of any 10 amendments to those articles that name Mr. White as an 11 officer? 12 A I don't think we would have amended it to name somebody 13 as an officer. We would have amended it to add other 14 titles that would have been considered an officer, but 15 I don't believe we ever did that. 16 Q You don't believe that the articles were ever amended 17 to reflect that the position that Mr. White was holding 18 was to be considered an officer position? 19 A Correct. 20 Q Okay. Did -- was he ever considered an officer? I 21 know his title may have changed, but -- 22 A I mean, from a practical point of view, everybody 23 considered Rick to be an officer, which I agreed with. 24 Q Right. From a corporate structuring standpoint, 25 though, was he ever a designated officer?	Page 64 1 Q Okay. Was this -- would you have considered that the 2 refinancing of the original Superior debt? 3 A Yes. 4 Q So the new Superior Debt Holder would have been -- at 5 the conclusion or the execution of this credit 6 agreement would have been Fifth Third Bank? 7 A Correct. 8 Q Okay. And then Plaintiff's Exhibit 4. 9 A I'm sorry? 10 Q Plaintiff's Exhibit 4. So this appears to me to be 11 another credit agreement dated November 2, 2015, 12 between CFR, FT Acquisitions and Foodservice 13 Technologies, Inc., and McLarty Capital Partners. Do 14 you see that? 15 A Yes. 16 Q And is it your understanding that the execution of this 17 credit agreement would have been a refinancing of the 18 Junior Debt that was originally held by Leeds Novamark? 19 A Yes. 20 Q Okay. And at that time, McLarty would have been the 21 new Junior Lender? 22 A Yes. 23 Q Okay. Who is McLarty? How did they become involved? 24 A They're much like Leeds. You know, they're an SBA, 25 mezzanine-oriented fund. I met some of their people at
Page 63 1 A No. 2 Q Okay. All right. So I showed you what we marked as 3 Plaintiff's Exhibits 3 and 4. Plaintiff's 3 is a 4 credit agreement between CFR and Fifth Third Bank. Do 5 you see that? 6 A I'm sorry. Which one are you looking for? 7 Q Exhibit 3. 8 A Oh, you're looking at this one. Okay. Yes, I see it. 9 Q Okay. And this appears to be a credit agreement 10 between CFR and Fifth Third Bank? 11 MR. SCHANEN: Object to the form. You can answer. 12 THE WITNESS: Yes. 13 BY MR. PURIEFOY: 14 Q Okay. First page of this agreement shows a \$16 million 15 revolving line of credit. Do you see that? 16 A Yes. 17 Q Can you see a \$8.5 million term loan? Do you see that? 18 A Yes. 19 Q Okay. And this is dated November 2, 2015? 20 A Correct. 21 Q Okay. All right. Have you ever seen this document 22 before? 23 A Yes. 24 Q Okay. What is this? 25 A It's the Credit Agreement with Fifth Third.	Page 65 1 a finance event and that's how they got involved. 2 Q Okay. Had you ever worked with McLarty before the 3 execution of this credit agreement? 4 A No. And to be sure, at that time, they were a very, 5 very new fund. 6 Q Okay. 7 A We may have been their first or second deal or 8 something like that. 9 Q Okay. When Leeds's loan was refinanced, did they 10 remain or continue to have an equity interest in CFR? 11 A Yes. 12 Q Do they still have an equity interest today? 13 A Yes. 14 Q Okay. 15 MR. SCHANEN: Devon, we've been going for about an 16 hour and a half. Do you mind if we take a short break? 17 MR. PURIEFOY: No, absolutely not. 18 (OFF THE RECORD) 19 BY MR. PURIEFOY: 20 Q All right, Mr. Herwald. We are back on the record. I 21 already know the answer to this question, but I just 22 have to ask. For the record, did you have any 23 conversations with your attorney about your testimony? 24 A No. 25 Q Okay. All right. We were looking at Plaintiff's 3 and

Page 66 1 Plaintiff's 4. We were -- just a little while ago you 2 were testifying regarding the existence of certain 3 requirements, more specifically, the requirement by the 4 Superior Lender and Junior Lender to provide notice to 5 Mr. White in the event of a default. Do you recall 6 that line of questioning? 7 A Yes. 8 Q And I believe your testimony was that it was either the 9 Superior Lender or Junior Lender's responsibility to 10 provide that notice to Mr. White in the event of a 11 default? 12 A Correct. 13 Q Okay. And I think you also testified that there was an 14 agreement between yourself and the Superior and Junior 15 Lender that allowed them to instruct CFR to not 16 continue making payments on Mr. White's subordinated 17 note. Do you recall that? 18 A Correct. 19 Q Okay. So, as it related to the Superior Lender after 20 the refinancing, is it Plaintiff's Exhibit 3 with Fifth 21 Third Bank that imposed that duty or allowed Fifth 22 Third Bank to instruct you not to make payments to Mr. 23 White? 24 A That would be my assumption, though I can't -- 25 Q Sure.	Page 68 1 A That's correct. 2 Q And based on a review of what was marked as Plaintiff's 3 Exhibit 2, you did not see any reference to an 4 incorporation of these two documents, the two credit 5 agreements, in that subordinated agreement? 6 A No. 7 Q Okay. All right. I'm going to show you what we're 8 going to mark as Plaintiff's 5. I'll give you a second 9 to look over that. 10 A (Reviewing.) 11 Q And for right now, we're just going to be focused on 12 the first page of this. All right. I would represent 13 to you that Exhibit 5 -- Plaintiff's Exhibit 5 is a 14 Common Stock Transfer Record and Register. Do you see 15 that? 16 A That would be incorrect, however. 17 Q Okay. What -- how would you correct this? 18 A Wayne Gotto, Howard Einstein, Robert Schwartz, Steven 19 Owings, Rick White -- not Rick White, I'm sorry. Those 20 people were predominantly holders of a preferred 21 security. 22 Q Did any of them hold common stock? 23 A I'm not sure what the date of this is, so it's a little 24 hard for me to say. But the -- let me see. Oh, well. 25 Oh, okay. I stand corrected. These were subsequent
Page 67 1 A -- swear to it. 2 Q Okay. And would the same be true for Plaintiff's 3 Exhibit 4, is it this credit agreement that would have 4 given McLarty the ability to instruct CFR to not make 5 payments to Mr. White under his subordinated note? 6 A And again, I'd have to read the whole document to 7 ascertain that, but I would expect it to be in the 8 main agreement. 9 Q Okay. As far as you can tell, was Mr. White a party to 10 either Plaintiff's Exhibit 3 or Plaintiff's Exhibit 4? 11 A I would not have expected him to be. 12 Q Would Mr. White be bound by the terms and conditions 13 contained in Plaintiff's 3 and Exhibit 4? 14 MR. SCHANEN: Object to the form. You can answer 15 it. 16 THE WITNESS: I would not expect him to be, but... 17 BY MR. PURIEFOY: 18 Q The responsibilities for the parties involved in the 19 execution of Plaintiff's Exhibit 3 and 4, would Mr. 20 White be bound by those same responsibilities and 21 obligations? 22 A I -- I would not think so. 23 Q Okay. And as we sit here today, it is not your belief 24 that Mr. White is a party to either one of these 25 contracts; correct?	Page 69 1 issues, so this could have been preferred st- -- I 2 mean, common stock in addition to the preferred stock. 3 I'd have to -- 4 Q Right. And so you see on Plaintiff's Exhibit 5 where 5 it says "Date Issued"? 6 A Yeah. 7 Q So, although this may not be correct as we sit here 8 today, but at least at the time of creation of this 9 document, this is how shares were held? 10 A Excluding the preferred shares. 11 Q Excluding or in addition to? 12 A Well, if it says that this is common stock, then I 13 would assume that it does not have the preferred, that 14 those people already held that; so... 15 Q Correct. So this only makes reference to common stock 16 that were being held by individuals and entities; 17 correct? 18 A Correct. 19 Q Okay. All right. I see where Leeds Novamark Capital, 20 LP, is still a shareholder with 15,728 shares. Do you 21 see that? 22 A Yes. 23 Q Okay. And those shares remained even after that Junior 24 debt was refinanced? 25 A Correct.

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1 Q Okay. I also see McLarty Capital Partners became a 2 shareholder on 11/2/2015. Do you see that? 3 A I do. 4 Q Okay. And if you need to look back at Plaintiff's 5 Exhibit 3 or -- excuse me, Plaintiff's Exhibit 4, does 6 it appear to you that the credit agreement was also 7 executed on November 2, 2015, with McLarty? 8 A Yes. 9 Q Okay. 11/2/2015, Kurt Herwald owns 1,250 shares? 10 A (No response.) 11 Q Do you see that? 12 A Yes. 13 Q Okay. All right. Who is Howard Einstein? 14 A He's a businessman who resides in Greenville. 15 Q Okay. Was he related in any way to McLarty Capital 16 Partners? 17 A No. 18 Q Okay. How did he become a shareholder on 11/2/2015? 19 A Howard -- hold on a second. Howard had been -- was a 20 part of -- I believe that he was a part of the original 21 capitalization of the business in 2009 and when we did 22 this transaction, the -- this would all be coincident, 23 or most of this -- all of the 11/2/15s were coincident 24 with the acquisition of SSG. 25 Q Okay. And who's SSG? What is SSG?	1 A Yes. 2 Q And would those financials have been provided to him in 3 advance of him incre- -- did he increase the amount of 4 stocks that he held in CFR? 5 A Yes. 6 Q Okay. Would he have been provided financials prior to 7 electing to increase his shares in CFR? 8 A He would have received information. 9 Q Okay. And who is Steven H. Owings? 10 A Steve Owings is a Greenville businessman. 11 Q Okay. Was he a previous shareholder of CFR? 12 A Yes. 13 Q Okay. Did he increase his shares on November 2, 2015? 14 A Yes. 15 Q Okay. Was he provided financials in advance of him 16 increasing his shares in CFR? 17 A Yes. 18 Q Okay. All right. Between the stock purchase on July 19 28, 2014, and let's say, the end of 2016, how would you 20 describe the operations of CFR/Tech24? How was the 21 business? 22 A What was the ending of that date range? 23 Q So, just an impr- -- between the acquisition there, the 24 stock purchase date July 28, 2014, and the end of 2016, 25 how would you say that the business was operating at
Page 71	Page 73
1 A Service Solutions Group. It was a subsidiary of Franke 2 USA. 3 Q Okay. When was that acquisition completed? 4 A November 2, 2015. 5 Q Did they become shareholders in CFR as a result of that 6 acquisition? Let me -- speaking about Howard Einstein, 7 specifically. 8 A He already was a shareholder, but he increased his 9 shareholdings. 10 Q Okay. He was shareholder with who? 11 A With CFR. 12 Q With CFR, okay. At the time that he increased his 13 shares in CFR -- excuse me -- was he provided with any 14 financial information related to the financials of 15 Tech24? 16 A He would have been receiving financials anyway. 17 Q Okay. As a shareholder of CFR? 18 A Yes, but -- 19 Q Robert Schwartz -- who's that? 20 A He's a doctor and an investor who lives in Greenville. 21 Q Okay. Was he a previous shareholder of CFR before the 22 stock purchase of Tech24? 23 A Yes. 24 Q Okay. Would he have been receiving the financials as 25 well?	1 that time? 2 A The business was operating well in the early period. 3 In '16 we -- is when we ran into issues with 4 integrating into a new IT platform, as well as issues 5 with SSG -- 6 Q Okay. 7 A -- mainly on the west coast. 8 Q Okay. Let me back up. In 2014, who were your acting 9 -- I call them C-Suite executives, but your CFO, your 10 COO? Did you have people filling those positions, at 11 that time? 12 A In 2014, I was the president. 13 Q Right. 14 Q Jean Hodges was the ranking financial employee. Corey 15 Harrison is certainly before Tech24, was the ranking 16 operational and marketing person. Sharon McAbee was 17 over HR, but she was not anywhere near an officer level 18 position. And Jeff Metcalf was the director of IT. He 19 similarly was not internally considered to be an 20 officer. 21 Q Okay. So, were the bylaws and the articles of CFR, 22 were they amended -- 23 A No. 24 Q -- at the conclusion of the transaction with Richard 25 White?

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1 A No. 2 Q Okay. Were the positions of the Chief Financial 3 Officer and then the Head of Operations, were those 4 designated officers? 5 A Let me -- first of all, because I don't want to get 6 caught up in this -- 7 Q Sure. 8 A We didn't use C-suite titles. 9 Q Okay. 10 A Okay? Just as a personal preference -- 11 Q And that's no problem. That's helpful for me. 12 A And so Jean was VP of Finance and Treasurer. As 13 Treasurer, she was in one of the three designated 14 officer spots. The three officer spots were in our 15 articles -- which I didn't write, I inherited those -- 16 was the President, the Treasurer and the Corporate 17 Secretary and they can be filled by one person, if 18 necessary. But Jean was the treasurer, she was the 19 secretary, and I was the president. And that stayed 20 that way for a substantial period of time. 21 Q Okay. So Mr. Harrison didn't occupy any one of the 22 three -- 23 A At one point, he did move over and took over one of 24 those positions. 25 Q Okay.	1 Q Okay. 2 A But in my opinion, she wasn't a CFO -- in a CFO role 3 with us, either. 4 Q Okay. All right. So what was her role? 5 A She was over the accounting department, which is 6 generally somewhat different than a CFO's -- 7 Q Okay. 8 A -- responsibilities. 9 Q How would you distinguish the two? 10 A A CFO traditionally deals directly with shareholders 11 and is responsible for raising money and activities 12 like that, as well as overseeing the production of the 13 financials and that type of thing. 14 Q Okay. Who -- in 2014 at the time of the stock 15 purchase, who maintained what you would consider to be 16 more of a CFO role? 17 A I don't think that we had anybody who was a CFO role. 18 I did a lot of the fundraising and that type of 19 activity since I had background in it. 20 Q Okay. All right. Did Ms. Hodges -- was she 21 responsible for the creation and filing of tax returns? 22 A Well, we outsourced our tax returns -- 23 Q Okay. 24 A -- but, yes, she would have been responsible for 25 preparing all of the information that would have gone
Page 75	Page 77
1 A But again, I'll be honest with you, none of us thought 2 it was important. You know, everybody recognized that 3 Rick and other people were senior -- you know, senior 4 officers of the company, senior managers of the 5 company. 6 Q Really due in part to the fact that he was the one that 7 ran that company for 20 years, is that -- 8 A Who's that? 9 Q Mr. White. 10 A Oh, ran Tech24 you mean? 11 Q Correct. 12 A Yeah. 13 Q Okay. All right. How did you meet Jean Hodges? 14 A I -- she responded to -- I don't remember if it was a 15 headhunter or she responded to something else, that I 16 was looking for somebody for that position. 17 Q Okay. Did you interview Ms. Hodges? 18 A Yes. 19 Q Okay. And what was her background in? 20 A Accounting. 21 Q Okay. Was she a CPA? 22 A No. 23 Q Had she ever -- at that time in 2014, had she ever held 24 a CFO or equivalent role in a company? 25 A Not in my opinion.	1 to the CPA firm for preparation of the tax returns. 2 Q All right. I'm assuming you found -- you believed that 3 Ms. Hodges competent to fill the position that she was 4 hired to -- 5 A Certainly, at that stage, yes. 6 Q Okay. And when you say at that stage, you mean the 7 role that she was to fill in 2014? 8 A Yes. 9 Q Okay. Did her -- 10 A She was hired well before '14, by the way, but I don't 11 remember exactly, but it was before 2009 -- 12 Q Okay. 13 A -- as well. 14 Q So she was previously with CFR? 15 A She had been with CFR. I just don't remember -- I 16 would say it was probably somewhere in the late 2000s 17 that she was hired. 18 Q All right. So she just rolled her position over into 19 this -- the VP of Finance after the stock purchase? 20 A At -- well, I'm sorry. You're talking about which 21 stock purchase? 22 Q Of Tech24. 23 A It didn't affect, structurally, her position. 24 Q Okay. Was she acting as the VP of Finance of CFR and 25 what was acquired as Tech24? Was she over both?

Page 78 1 A Yeah, Tech24 didn't have a -- you know, a full-time 2 accounting manager. And so, yes, she -- that fell 3 under her responsibility. 4 Q So did Tech24's finances just roll into CFR so she was 5 responsible for handling all of those finances? 6 A She was responsible for all of them. 7 Q Okay. Did you consider those finances to be separate 8 and distinct from one another? 9 A Well, for a period of time, they certainly were. 10 Q Okay. But at some later date? 11 A Yeah, you know, we combined those functions. 12 Q And I'm referring to 2014 because that's the stock 13 purchase that we've been referring to with Mr. White. 14 Were there any concerns that Ms. Hodges was not able to 15 perform the duties that she was previously performing 16 with CFR? 17 A No. 18 Q Okay. All right. So I know that you said in 2017 19 there were some -- toward the end of 2016 and 2017 that 20 there were some issues that began to arise 21 operationally? 22 A Correct. 23 Q Okay. Let me ask this. How was the working 24 relationship with Mr. White -- let's say between 2014 25 and 2017? Were there any hiccups, any bumps in the	Page 80 1 A Potentially. 2 Q Okay. What would those have been? 3 A Allegations of promiscuity with employees. 4 Q Okay. Did that result in his termination? 5 A No. 6 Q Okay. All right. I'm going to show you what I'm going 7 to mark as Plaintiff's Exhibits 6 through 9. Excuse me 8 -- this is going to be 6 through 8. There is a 9. So 9 this is your 6 through 9. 10 MR. SCHANEN: All right. 11 MR. PURIEFOY: This is going to be Mr. Herwald's 6 12 through 9. 13 MR. SCHANEN: All right. 14 BY MR. PURIEFOY: 15 All right. And so before we really get into those, let 16 me ask -- was Mr. White handling operations and 17 operational issues as it related to the Tech24 arm? 18 A You know, certainly at -- what time frame are you 19 talking about? 20 Q (No response.) 21 A As I said earlier, initially he was focused on mainly 22 Tech24. 23 Q Okay. 24 A But at one point, I put him over all of the operational 25 units.
Page 79 1 road, or was it fairly smooth sailing? 2 A With me or with other people? 3 Q Let's start with your first. 4 A I, you know -- I felt like we worked well together. 5 Q Okay. Did you have any complaints from any other 6 employees, anybody else about Mr. White's management 7 style? 8 A At times. 9 Q Okay. Do you recall any of those complaints? 10 A I -- you know, there was concerns that people weren't 11 operating in synchronization and things of that nature. 12 Q Okay. 13 A There was, you know -- it's unusual for a manager not 14 to have somebody take an exception -- 15 Q Sure. 16 A -- to the things that they do. 17 Q So what degree of autonomy did Mr. White have? I mean, 18 did he report directly to you? 19 A Yes. 20 Q Okay. So, when these complaints arose, who was kind of 21 dealing with or remedying those complaints? 22 A Me. 23 Q Okay. Were there any complaints that you can recall as 24 we sit here today that would have warranted Mr. White's 25 removal from the company?	Page 81 1 Q Including CFR operations? 2 A Yes. 3 Q Okay. All right. So what position would he have held 4 in the 2017 time frame? Would that have been over both 5 CFR and the Tech24 arm? Or would that still have just 6 been -- 7 A Yes. It would have been over field operations. 8 Q Of Tech24 and CFR? 9 A Yes. 10 Q Okay. 11 A And SSG, if we're going back to the original names 12 again. 13 Q Okay. All right. And was Mr. White tasked with 14 handling -- well, let me ask you this. Was it your 15 understanding or your belief that Mr. White had fairly 16 strong relationships through Tech24 with some of those 17 larger restaurants? 18 A Yes. 19 Q Okay. And he had been working with them with Tech24 20 for extended periods of time -- a long time? 21 A In some cases. And I honestly -- I don't know the 22 pedigree on, you know, all those. 23 Q Okay. All right -- 24 A You know, in fairness, Mr. Viteri was the head 25 marketing guy up there and I can say that he had a lot

Page 82	Page 84
1 of those accounts. 2 Q Okay. So would it be fair to say that you leaned on 3 Mr. White and Mr. Viteri both, with handling some of 4 the suppliers and vendors on the Tech24 side of things? 5 A I don't know that if that would be fair or not. 6 Q Okay. All right. You mentioned in 2016, 2017 time 7 frame you were dealing with some IT issues. I think 8 you said that you switched IT systems or softwares? 9 A Correct. 10 Q Okay. Do you recall in that time frame receiving what 11 I would say -- or classify as an increased number of 12 complaints from suppliers/vendors regarding invoicing/ 13 unpaid bills? 14 A Yes. 15 Q Okay. So I'm going to have you look back to 16 Plaintiff's Exhibit 6. 17 A Okay. 18 Q And I'd represent that this is an email communication 19 from Laura Adcock. Do you see that? 20 A I do. 21 Q Okay. Who is Laura? 22 A Honestly, I don't know. 23 Q Okay. Got it. And if you look at the top of 24 Plaintiff's Exhibit 6, do you see that this is an email 25 correspondence from Ms. Adcock to Mr. White?	1 Food Equipment Company -- the first page, the first 2 invoice, it looks like it has a sales order date of 3 8/10/2016? 4 A (No response.) 5 Q And an invoice date of 8/11/2016? 6 A (Reviewing) On the first invoice? 7 Q Yes. 8 A Yeah, 8/11 and -- 9 Q And then on the second you see an invoice date of 10 8/10/2016? 11 A Okay. 12 Q Okay. So this was an email that would have been 13 forwarded to Mr. White -- let me ask. Why would Mr. 14 White have been forwarded an email like this? 15 A I would assume that Laura was hoping he would expedite 16 it. 17 Q And by "expedite it", do you mean resolve this unpaid 18 invoice? 19 A Yeah, but you'd really have to ask Laura why she sent 20 it to him. 21 Q Okay. Well, let me ask, not specifically as to why Ms. 22 Adcock would have sent this letter. What is your 23 understanding as to why Mr. White would be receiving 24 correspondence, such as these? Or such as this one, 25 Plaintiff's Exhibit 6?
Page 83	Page 85
1 A Yeah, correct. 2 Q Excuse me? 3 A I said, yeah, correct. 4 Q Okay. And then in the subject line it says, (as read) 5 "Urgent -- past due August invoices attached." 6 A Yes. 7 Q Okay. And you see it looks like the body of this email 8 says, (as read) "I have an order being held up"? 9 A Yes. 10 Q Okay. Then I would submit to you, do you see under 11 "Attachments" there appears to be two attachments to 12 this email on the first page? 13 A Yeah. 14 Q And there appear to be invoices from Globe Food 15 Equipment Company? 16 A Correct. 17 Q Okay. What are the amounts on these invoices for Globe 18 Food Equipment Company? 19 A Thirty-five and two-seventy-seven. 20 Q Okay. This is an email -- Plaintiff's Exhibit 6 is an 21 email dated March 14, 2017. Do you see that? 22 A Yes. 23 Q And it -- 24 A We're talking about the Laura Adcock email still? 25 Q Yes, correct. Okay. And then if you look at Globe	1 A Well, if she works in accounting, which I don't know if 2 she did or not, I don't know -- 3 Q Her title on this says "Purchasing Specialist". 4 A Purchasing Specialist. Yeah, so it probably would have 5 been more structurally accurate for these people to 6 address those concerns to Jean Hodges at those times. 7 Q Okay. 8 A But I assume that they were seeking someone who had -- 9 you would, be willing to put pressure on Jean's 10 organization to get these things done. 11 Q Okay. All right. And, I mean, it appears to me that 12 this, you know, the first one with the invoice date of 13 8/11/2016, and the second with the invoice date of 14 8/10/2016, do you agree that Mr. White would have 15 received these? Do you see where these were forwarded 16 to him on March 14th? 17 A This -- yes. 18 Q Okay. All right. Those are fairly insignificant 19 invoices. Was the seven-month delay in payment a 20 result of liquidity issues in 2017 or would you 21 attribute that to operational issues? 22 A I couldn't opine on an individual invoice. We 23 certainly had problems with payments, there's no 24 question -- 25 Q Okay.

Page 86	Page 88
1 A -- that we had -- that we had to manage our cash very 2 closely during this period because one of the key 3 attributes of the problems that we were having with IT, 4 was getting out the invoices in a timely fashion. 5 Q Okay. All right. I guess my question is, as you sit 6 here today, in 2017 was CFR or Tech24 not capable of 7 paying a \$34.80 invoice and a \$277.11 invoice? 8 A I disagree with that. 9 Q Do you think that CFR was capable of paying those? 10 A Of course. 11 Q Okay. All right. What would you attribute the seven 12 months delay and \$300 of invoices to? 13 A I don't have information to answer that. 14 Q Okay. Do you think it's a management issue? 15 A I don't know. 16 Q Okay. Do you think it's a transition to a new IT 17 system issue? 18 A I think on a higher level, rather than looking at 19 individual items. There's no question that we had -- 20 that we were constricted on cash because of slowed 21 billing and that we had other things that were related 22 to that that were causing -- bills that were late were 23 being rejected by customers and things like that, so it 24 certainly had an impact on our availability of cash. 25 Q Okay. All right. Well, how about you look at --	1 Q Okay. And what's the total outstanding balance on that 2 invoice? 3 A \$81. 4 Q Okay. In May 2017, was CFR/Tech24 in such liquidity -- 5 such a liquidity crunch that they could not pay an 6 \$80.87 invoice? 7 A No. 8 Q Okay. I'm going to have you look at Plaintiff's 9 Exhibit 8. Do you see that this is an email from 10 Randel Bryant? 11 A Yes. 12 Q Okay. Do you know Randel Bryant is? 13 A No. But I think it's because he actually goes by a 14 different moniker and I can't -- not able to figure it 15 out. 16 Q That's no problem. Do you see that this is an invoice 17 dated November 20, 2017? 18 A Well, it's responding to an email of that date. 19 Q Correct. Well, what I'm asking you is do you see that 20 there is a sent on date of November 20, 2017, where the 21 underlying email was forwarded to Mr. White? 22 A Yes. 23 Q Okay. And in the body of the underlying email, it 24 says, (as read) "Just a reminder that you have the 25 attached outstanding invoices with the past due balance
Page 87	Page 89
1 A But as far as these individual things, you can waste 2 your time all you want, but -- and I don't really care. 3 But I'm not going to be able to opine on any individual 4 one of these. 5 Q Sure. Okay. Well, I'm going to have you look at 6 Plaintiff's Exhibit 7. 7 A Okay. 8 Q This appears to be an email that was sent from Jill 9 Moore. Do you know who Jill Moore is? 10 A I do. 11 Q Okay. And who is Jill? 12 A Jill was over HR at Tech24 and continues in HR to this 13 day. 14 Q Okay. And this is an email dated May 18, 2017? 15 A Yes. 16 Q Okay. And this is an email that's forwarded to Mr. 17 White? 18 A Yes. 19 Q Okay. Do you know why Ms. Moore would be forwarding an 20 email like this to Mr. White? 21 A I do not. 22 Q Okay. All right. I'm going to have you look at the 23 attachment to Plaintiff's Exhibit 7. Do you see an 24 invoice with Sportline? 25 A Yes.	1 of \$953"? 2 A Yes. 3 Q Okay. At this time in 2017, was CFR or Tech24 in such 4 a bad financial condition that you could not pay a \$953 5 bill? 6 A No. 7 Q Okay. In 2017, can you kind of talk me through some of 8 the liquidity issues that Tech24/CFR was having? 9 A I'm sorry. Say that again? 10 Q Can you kind of talk me through -- I know you that you 11 mentioned there was a transition to a new IT system and 12 there was some delays in getting invoicing done. Is 13 that fair? 14 A Yeah. That's fair. 15 Q Okay. Did that result in some liquidity issues for CFR 16 and Tech24? 17 A As I've already stated, yes. 18 Q Okay. Then tell me about the types of liquidity issues 19 you were facing at that time. 20 A Well, we had about -- probably about \$10 million of 21 invoices that were materially delayed, many of which 22 ended up having to be written off, and probably another 23 \$3 million of issues with SSG. So a \$13 million issue; 24 that's a big issue. 25 Q Okay.

Page 90 1 A Okay. 2 Q Okay. At the start of 2017, as far as you're aware, 3 was CFR current on all of its obligations with Fifth 4 Third Bank, McLarty and Mr. White? 5 A Yes. 6 Q Okay. Do you recall if, at the start of 2017, CFR 7 began having issues paying its financial obligations to 8 Fifth Third Bank and McLarty? 9 A We had not had issues paying them, but we had an 10 overall tightness of liquidity. 11 Q Okay. I'm going to show you -- or if you'd look at 12 Plaintiff's Exhibit 9. This appears to be an email 13 that was forwarded or -- excuse me, an email from Jean 14 Hodges to Charlie Arndt. Who is Charlie? 15 A Charlie Arndt is a credit officer with Fifth Third 16 Bank. 17 Q Okay. And the body of this email says, (as read) "But 18 we figured it would be -- industry is down. Bright 19 spot is that we are better than we were last year." Do 20 you know what Ms. Hodges meant by that? 21 A I would assume that she was referring to whatever she 22 sent him, which I believe were financials based on what 23 it says there. So, I'm assuming that she's saying that 24 February of '17 was ahead of February of '16. 25 Q Okay. So --	Page 92 1 invoices? 2 A Well, it's certainly an indicator of liquidity issues. 3 I'm sure he spoke to Jean repeatedly about it and so I 4 believe he was pretty well written into the 5 circumstances. 6 Q Plaintiff's Exhibits 6, 7, and 8, I asked you if CFR or 7 Tech24 was in such a bad financial position that they 8 were not able to pay those bills, and your response was 9 no. Do you recall that? 10 A Yes. 11 Q Okay. So, if CFR was not in such a bad position 12 financially to be able to pay those bills, why would 13 Mr. White think that those unpaid invoices suggested 14 the financial decline of CFR? 15 A Because it was indicative of a -- of slow cash flow. 16 Q Okay. Is cash flow in the industry that you operate 17 in, is cash flow kind of a peaks and valleys? 18 A It can be. 19 MR. SCHANEN: Object to the form. 20 THE WITNESS: I don't think it's unique to the 21 industry, but there's no doubt that, you know, we all 22 live on cash flow. 23 BY MR. PURIEFOY: 24 Q All right. And if there is a decline in cash flow for 25 some period of time, is that directly tied to the
Page 91 1 A And that's my interpretation, but... 2 Q Sure. And I'm just asking what you believe this email 3 to represent and I think you just said, and I just want 4 to be clear, that you believe that Ms. Hodges' email 5 tends to indicate that the February 2017 financials 6 look better than the February 2016 financials? 7 A Correct. 8 Q Okay. All right. Let me ask you this. Not 9 necessarily just with these particular invoices, 10 Exhibits 6 through 8 invoices, but with invoicing 11 overall, do you believe that Mr. White, in receiving 12 those types of invoices, was aware of the financial 13 condition of CFR and Tech24? 14 A Yes. 15 Q Okay. How would he have been aware of those financial 16 issues? 17 A It wasn't a secret; it was common knowledge, certainly 18 among the senior managers, and honestly, I think most 19 of the techs were fairly aware of them, as well. 20 Q Okay. Well, let me ask this. Would Mr. White be aware 21 of the financial condition of the company based solely 22 on past due invoices? 23 A Maybe. 24 Q Okay. And in what regard would he be able to determine 25 the financial condition of CFR based on past due	Page 93 1 overall financial condition of a company? 2 MR. SCHANEN: Object to the form. You can answer. 3 THE WITNESS: Normally. 4 BY MR. PURIEFOY: 5 Q Okay. So, if, in 2017, CFR was having trouble with 6 cash flow, was that something that you believe 7 indicated that CFR was in a really -- was in a bad 8 financial position long-term? 9 A No, not long term. But certainly it indicated that we 10 were dealing with, you know, issues that needed to be 11 resolved. 12 Q Was 2017 the first time, after the stock purchase with 13 Mr. White, that CFR experienced any cash flow issues? 14 A No, I'm sure not. I was brought in in 2004 because the 15 company was in a lot of financial problems. 16 Q And between 2014 and 2017, do you think that you 17 righted the ship, at least in some regards, as it 18 related to the financial condition? 19 A Yes. 20 Q Okay. 21 A And through '16, as I've said, you know, we had a lot 22 of issues with the SSG acquisition and with the -- you 23 know, with the IT transition. 24 Q Okay. So I guess my -- what I want to confirm with you 25 as you sit here today, is it your testimony that cash

Page 94 1 flow issues are not permanent? 2 A Not usually. 3 MR. SCHANEN: Object to the form. 4 BY MR. PURIEFOY: 5 Q Okay. Is it your understanding that cash flow issues 6 are not necessarily indicative of the long-term 7 financial stability of a company? 8 A They're not necessarily indicative of that. 9 Q Okay. I think that you said that it was common 10 knowledge that CFR was in a bad financial position? 11 A Yes. 12 Q Okay. How was that common knowledge? 13 A Well, we weren't keeping it a secret among the 14 managers, among the senior managers. And frankly, a 15 lot of other ones because of these exactly same type of 16 involvements, you know, were aware that there was, you 17 know, definitely issues. 18 Q Okay. So -- 19 A I mean, we didn't put it up on a neon sign in the 20 offices or anything, but you would have had to be 21 fairly asleep to not have known what was going on, 22 especially if you were in management. 23 Q Okay. In order for someone in a management position to 24 know the financial position of the company, would it 25 have required them to make some assumptions or was	Page 96 1 answer. 2 BY MR. PURIEFOY: 3 Q So if Mr. White was to receive -- or if he did receive 4 specific financial information related to CFR, that 5 would have come from Jean Hodges? 6 A Or one of her employees. 7 Q Okay. Do you recall ever providing Mr. White in 8 advance of him becoming a shareholder in the company -- 9 A No. 10 Q -- any financials of the company? 11 A No. 12 Q Okay. So -- and this is just important for me to make 13 sure I have my head wrapped around. What information 14 was available to Mr. White that suggested the financial 15 or spoke to the financial condition of CFR? 16 A I am not aware of what he specifically got because it 17 would not have come from me. 18 Q Okay. So, as you sit here today, you're not aware of 19 anything that you provided Mr. White? 20 A No. 21 Q Okay. Was Jean Hodges Mr. White's direct supervisor? 22 A No. 23 Q Okay. Can you tell me why Mr. White wasn't being 24 provided with financials of CFR? 25 MR. SCHANEN: Object to the form.
Page 95 1 there direct information provided to those managers 2 that demonstrated the poor financial condition of CFR? 3 MR. SCHANEN: Object to the form. 4 THE WITNESS: It -- the managers, depending on 5 where they were, got different levels of financial 6 information. I would say that their knowledge, though, 7 was more based on discussion, and you know, than them 8 analyzing the financials. 9 BY MR. PURIEFOY: 10 Q Well, let me ask specifically. What information would 11 Mr. White have been provided in this time in 2017 -- 12 A He -- 13 Q -- that would have demonstrated the long-term financial 14 instability of CFR? 15 A Well, as he stated in his deposition, you know, Clark 16 Mizell had given him a full financial package. 17 Q What I'm asking you is -- that occurred at a later date 18 and we're going to get to that. At the time that Mr. 19 White was just acting as an employee of CFR, what 20 information specifically would he have obtained to 21 inform him about the specific financial condition of 22 CFR? 23 MR. SCHANEN: Object to the form. 24 THE WITNESS: I'm not sure that I can answer that. 25 That would be something that Jean Hodge would have to	Page 97 1 THE WITNESS: I don't know that that's the case. 2 BY MR. PURIEFOY: 3 Q Can you tell me why you didn't provide Mr. White with 4 the financials of CFR? 5 A Because we had an accounting department that would do 6 that, not me. 7 Q Are all managers of CFR privy to the overall financial 8 condition of CFR? 9 A Not all, but the senior ones are. 10 Q How do you distinguish between senior and junior 11 managers? 12 A Today, and probably in '17 as well, we consider anybody 13 who's a regional manager or above as being a senior 14 manager. 15 Q And were senior managers provided with yearly 16 financials of CFR? 17 A I -- I can't speak to what Jean sent out to people. 18 Q Okay. So all those questions would be better suited 19 for Jean Hodges? 20 A Sure. 21 Q Were you her superior? 22 A I was. 23 Q Okay. Did you have any conversations with Ms. Hodges 24 in preparation for today's deposition? 25 A No.

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1 Q Okay. 2 MR. SCHANEN: Devon, is this a good time for a 3 break? Our food's getting cold. 4 MR. PURIEFOY: Okay. Yeah, that's fine. 5 (OFF THE RECORD) 6 BY MR. PURIEFOY: 7 Q All right, Mr. Herwald. We are back on the record 8 after a brief lunch break. Again, let me ask. Did you 9 discuss your testimony with your attorney? 10 A No. 11 Q Okay. All right. Before we move on to plaintiff's 12 next exhibit, there's a couple of things that I just 13 wanted to clarify. We were discussing Plaintiff's 14 Exhibits 6, 7, and 8, which were some invoices that had 15 been provided to Mr. White by certain individuals at 16 Tech24. Do you recall those exhibits? 17 A Yes. 18 Q Okay. And I asked you, I believe, whether it was your 19 belief as you sit here today, whether Mr. White could 20 ascertain through invoices such as those the long-term 21 financial condition of CFR and Tech24. 22 A Yeah, and my answer was that you really couldn't use 23 them as a long-term indicator, but it certainly 24 indicated -- you know, it was indicative of the state 25 of affairs.	1 Q Okay. Beyond those senior people in the accounting 2 department, was there anyone else that would have had 3 the authority to provide Mr. White with that 4 information? 5 A Let me clarify that -- there was no hard and fast 6 dictate that only these people could provide -- unless 7 in Jean's area they put up something like that, but as 8 far as I know, there was not any specific policy about 9 such matters. So you ask who was authorized. I don't 10 know that anybody was not auth- -- you know, was not 11 authorized. 12 Q Well, then, let me ask it this way. Who had access to 13 the full financial information of CFR and Tech24? 14 A Well, certainly, you know -- the numerous people within 15 the finance department and others who received them 16 from the finance department. 17 Q As you sit here today, are you aware of anyone, 18 specifically, that provided Mr. White with the 19 financials of CFR or Tech24? 20 A I can't say with specificity and, I mean, I don't know 21 who would have been sending him those out of the 22 finance department. 23 Q I -- I guess my question to you is, as you sit here as 24 the 30(b)(6) deponent for CFR and Tech24, are you aware 25 of anyone that provided that information to Mr. White
Page 99	Page 101
1 Q And I think we were discussing that was indicative of 2 cash flow problems? 3 A Correct. 4 Q Okay. In your mind, are cash flow problems of a 5 business considered short-term or long-term issues? 6 A Well, I don't think cash flow issues fit exclusively 7 into long-term or short-term, you know. 8 Q Okay. 9 A I mean, it just depends on what the reason for it is. 10 Q So let me ask you this. If you were evaluating the 11 financial condition of a company, how would you -- or 12 what would you need to review to determine that 13 company's financial position? 14 A Well, normally you would ask for, you know, the 15 financials would make sense. 16 Q Okay. Are you aware of -- did you provide Mr. White, 17 between January of 2017 and September of 2017, did you 18 personally provide Mr. White with any financials of CFR 19 or Tech24? 20 A Not that I recall. 21 Q Who would have been -- who else would have had the 22 authority to provide Mr. White, between January 2017 23 and September 2017, with the financials of CFR and 24 Tech24? 25 A Any of the senior people in the accounting department.	1 before September of 2017? 2 A I do not know who would have done that. 3 Q Okay. And I think it's -- is it your testimony that 4 Mr. White was aware of the cash flow issues that Tech24 5 was experiencing? 6 A Yes. 7 Q Okay. All right. I'm going to show you what I've 8 marked as Plaintiff's Exhibit 10. And I'll give you a 9 second to look over this. 10 A (Reviewing) Okay. 11 Q All right. Plaintiff's Exhibit 10 appears to be an 12 email that was sent from you to a number of individuals 13 with the subject line "Investor Update". Do you see 14 that? 15 A Yes. 16 Q Okay. And this is an email dated June 20, 2017? 17 A Uh-huh. 18 Q Was that a "yes"? 19 A Yes. 20 Q Okay. Now the first sentence of this email says, (as 21 read) "As we get our arms around our new IT system we 22 are getting back to normalcy in our operations." I 23 know that you had testified earlier that you believe 24 that at least one of the contributing factors to the 25 cash flow issues that CFR and Tech24 were experiencing

Page 102 1 were the result of the IT system. Do you recall that? 2 A Yes. 3 Q The IT system that you're referencing in this email, is 4 that the IT system that you believe was contributing to 5 some of those cash flow issues? 6 A Yes. 7 Q In the second part of that sentence, it says, (as read) 8 "We are getting back to normalcy in our operations." 9 What did that mean? 10 A Well, it meant that we were starting to get our billing 11 out more punctually -- 12 Q Okay. 13 A -- in particular. 14 Q Okay. 15 A And speeding things up like how long it was taking us 16 to get out financials out and other matters of that 17 nature. 18 Q And in doing so, in getting your arms around the new IT 19 system and getting those invoicing bills out in a more 20 timely fashion, was it your subjective belief, at the 21 time, that that would at least to begin curing some of 22 those cash flow issues? 23 A Yes. 24 Q Okay. Was that what the Tech24 and CFR team was led to 25 believe?, that the IT issues were becoming something	Page 104 1 position to take as it relates to the financial 2 condition of CFR at that time? At the time that you're 3 sending this email, what would be a reasonable position 4 to take regarding CFR and Tech24's financial condition? 5 MR. SCHANEN: Object to the form. You can answer. 6 THE WITNESS: Well, I don't know that there's one 7 answer to that. It -- I can only tell you what I -- 8 what mine was. It was that we had dug ourselves a 9 fairly deep hole. I -- you know, you couldn't get back 10 the 13 million that was lost, but that, you know, we 11 certainly hoped and expected that, as we fixed the 12 things that were the initial cause of our problems, 13 that we would, you know, be heading back. Like I say 14 in that, into more of a normal situation. It wasn't 15 going to be -- and I don't think I indicated there, 16 that it was going to be something that was going to 17 happen in a week or two. And, I would have expected 18 that we'd still have a long row to hoe to get fully out 19 of that situation. 20 BY MR. PURIEFOY: 21 Q Okay. In June of 2017, June 20, 2017, as you're 22 sending this email to the investors, did you 23 subjectively believe, as the president of CFR and 24 Tech24, that those entities were in financial ruin? 25 A No.
Page 103 1 that was getting under control -- getting some of those 2 IT systems under control? 3 A I'm not sure I understand your question. 4 Q Let me ask it this way. That was a poor question. 5 Would Mr. White have known or did you have any 6 discussions with Mr. White about these IT issues? 7 A I'm sure that Mr. White knew about the IT issues. 8 Q So, in June of 2017, would it be fair that Mr. White at 9 least could have known that Tech24/CFR was on its way 10 to getting back to normalcy in operations? 11 A Yes. 12 Q Okay. And in doing so, would Mr. White have any reason 13 to believe that the cash flow issues that you were 14 experiencing at the beginning of the year would not at 15 least begin to subside? 16 A I can't answer that question. 17 Q Okay. Would that be a reasonable assumption to make? 18 A It was certainly an element of trying to get things 19 back to normal. 20 Q Okay. And when you say an element, is it fair to say 21 that, in getting your arms around the IT systems, that 22 that was pushing CFR and Tech24 towards a more positive 23 cash flow position? 24 A I believed so, at the time. 25 Q Okay. In June of 2017, what would be a reasonable	Page 105 1 Q Okay. Is there anybody that could have reasonably 2 taken the position that CFR or Tech24 was in financial 3 ruin at the time? 4 A I couldn't tell you what other people would... 5 Q Did the -- the cash flow issues, I know that you said 6 some of it was attributable to these IT systems. Could 7 you attribute any of those issues to management 8 concerns? 9 A Well, yes. You know, in particular in the execution of 10 the IT project, you know, that we were doing. And 11 certainly, you know, with some of the -- with the SSG 12 operations on the west coast. 13 Q Okay. And how much do you think that those management 14 concerns contributed to the cash flow issues that were 15 -- you were experiencing? 16 A Say that again? 17 Q How much of those management concerns do you think 18 attributed to the cash flow issues that CFR and Tech24 19 were experiencing? 20 A I couldn't quantify that. 21 Q Okay. 22 A I mean, you know, from a philosophical point of view, 23 you know, management's always responsible. I'm 24 responsible, Rick's responsible, Corey's responsible, 25 Jean's responsible. You know, I mean, that's how it

Page 106 1 is, and we were the leadership team. 2 Q Okay. In addition to the IT systems and the management 3 issues, what else do you believe was contributing to 4 the cash flow issues? 5 A Well, as I've alluded to throughout the day, SSG 6 operations on the west coast were a mess. It -- you 7 know, their customer base was fleeting and it -- there 8 was just a lot of dysfunctional things going on in that 9 operation out there that hadn't been closely managed by 10 the prior owner. And, you know, among other things, it 11 had a somewhat horrific employee morale problem and -- 12 Q Say that last part one more time. 13 A I said it -- the operations out there had a horrific 14 employee morale problem. 15 Q Okay. 16 A And it was -- you know, it was a -- you know, it 17 started to appear to be an intractable situation. 18 Q Okay. So that sounds to me, though, that the -- let me 19 ask this first. Was SSG under the same umbrella IT 20 system that CFR and Tech24 were under? 21 A Ultimately. But initially, SSG was on a home-grown 22 system of its former parent company and much of the IT 23 problems, as we tend to refer to them, were problems 24 with trying to integrate the data from SSG which was in 25 a -- I'm not an IT guy. I just know that there was	Page 108 1 A I'm just -- was looking at 11. Generally follow that 2 stream. Okay. 3 Q All right. So let's just focus on three of these to 4 begin with, specifically 11, 13 and 14. 5 A Okay. 6 Q So we were previously looking at Exhibit 10, 7 Plaintiff's Exhibit 10, where you indicated to your 8 investors, (as read) "As we get out of -- as we get our 9 arms around our new IT systems, we're getting back to 10 normalcy in our operations." Do you recall that? 11 A Yes. 12 Q Okay. The very next day, there appears to be a 13 conversation that you are having with Charlie Arndt. 14 And what did you say his position was with Fifth Third 15 Bank? 16 A He was the credit officer. 17 Q Okay. So the day after you informed your investors 18 that you're getting back to normalcy in operations, 19 there's an email that you received from Charlie that 20 says, (as read) "Our analysis of the information 21 submitted reveals the company has introduced several 22 more add backs to the covenant calculations which were 23 not originally approved. The company has materially 24 missed plan, not demonstrated an ability to generate 25 sustainable cash flow and is alarmingly illiquid." Do
Page 107 1 enough uniqueness and inaccuracies in it that much of 2 those inaccuracies in SSG's information caused 3 inaccuracies in billing the customer, which was largely 4 related to the slowdown in billing when we brought them 5 onto the system. 6 Q Okay. All right. So in -- up to, let's just say July 7 of 2017, is it your understanding that CFR and Tech24 8 were up to date in paying the Superior Loan to Fifth 9 Third Bank, the Junior Loan to McLarty and Mr. White's 10 subordinated note? 11 A Well, not on July 5th because the bank froze Junior 12 payments on the preceding Friday. And so, McLarty, at 13 that point, was in a payment default. Well, we were in 14 a payment default with McLarty, I should say. 15 Q All right. I'm going to show you what I'm going to 16 mark as Plaintiff's 11, 12, 13, 14 and 15. So that's 17 going to be Plaintiff's 11 through 15. 18 A Thank you. 19 Q So I'll just give you a moment to kind of glance over 20 these and then we'll talk about them more in depth. 21 And we can -- we'll talk about them more specifically. 22 A (Reviewing.) 23 Q Have you had a chance to look over 11 through 15? 24 A No. 25 Q Okay.	Page 109 1 you see that? 2 A Yes. 3 Q Okay. How can you square "we're getting back to 4 normalcy in our operations" with "alarmingly illiquid"? 5 A Well, operations are operations; you know, how you 6 process your work and things like that. You'll never 7 fix anything financial if your operations are not 8 performing properly. 9 Q Okay. So the operations issues that we've been 10 discussing, would that have been sort of common 11 knowledge amongst the managers of Tech24 and CFR? 12 A Yes. 13 Q Okay. These -- the alarmingly illiquid state of Tech24 14 and CFR that's referenced in this email from Mr. Arndt, 15 that's in a conversation between him, yourself and Jean 16 Hodges; correct? 17 A Yes. 18 Q And it's fair to say that this information was not 19 commonly known by the managers of CFR and Tech24? 20 A I don't know that I agree with that, but -- 21 Q Okay. 22 A I mean, certainly the average manager wasn't, like, 23 getting day-to-day updates on, you know, communications 24 between us and the bank. 25 Q Okay. Well, I guess my question is, Mr. Herwald, this

Page 110 1 is an email correspondence with three people on it. 2 Who else would have been privy to this information? 3 A Subsequently, Christopher Bay, Dan Medlin, probably 4 five other people in the accounting department. 5 Q Was Mr. Wright -- Mr. White privy -- 6 A I don't know. 7 Q -- to this information? 8 A I don't know how much people on this may have shared 9 with him. 10 Q Did you personally share any of this information with 11 Mr. White? 12 A It probably came up in conversation, but not in written 13 format. 14 Q What I'm asking you is do you specifically recall a 15 conversation with Mr. White where you explained to him 16 the alarmingly illiquid state of Tech24 and CFR? 17 A I don't recall. 18 Q Okay. So, as you sit here today, you do not recall 19 having a specific conversation with Mr. White regarding 20 that issue? 21 A No. 22 Q Okay. Now, I believe you stated that the last loan 23 payment that Mr. White received from CFR and Tech24 was 24 a January 1, 2017, loan payment. Is that correct? 25 A I don't believe so, no.	Page 112 1 MR. SCHANEN: He's on that. 2 THE WITNESS: You said page 2, paragraph 3. 3 MR. PURIEFOY: Well, I'm calling it page 2. The 4 first page says "Exhibit A". 5 THE WITNESS: Oh. 6 MR. PURIEFOY: The second page says "Junior -- 7 THE WITNESS: Okay. 8 MR. PURIEFOY: -- Subordinated Promissory Note". 9 THE WITNESS: Okay. 10 BY MR. PURIEFOY: 11 Q The third paragraph reads, (as read) "If and to the 12 extent then permitted under the Subordination Agreement 13 this Junior Subordinated Promissory Note shall be 14 payable in monthly installments of principal and 15 interest equal to \$18,871.24 per month, commencing on 16 September 1, 2014, and continuing on the 1st day of 17 each month thereafter until paid in full." Do you see 18 that? 19 A Yeah. So it -- all right. And I didn't appreciate the 20 nuance of that, but maybe -- I guess that would 21 indicate that he got his July payment. 22 Q So what I'm -- is it -- as you sit here today, is it 23 your belief -- and I'm not trying to trick you here, 24 because we could just do the math on this and I don't 25 think that's that big a deal. I'm just trying to
Page 111 1 Q Okay. Did he receive the last payment in June of 2017? 2 A I believe he received it on July 5th by his own 3 testimony, but we processed it the prior week, towards 4 the end of the week. 5 Q Let me ask it this way. Did Mr. White receive his June 6 2017 loan payment at some time -- 7 A Yes. 8 Q -- in the year of 2017? 9 A I believe so, yes. 10 Q Okay. Did Mr. White receive his July loan payment in 11 the year of 2017? 12 A I'm not sure how you're looking at that, you know, in 13 terms of the beginning of July, the end of June. I 14 can't -- I -- we should not have made a July payment to 15 him, based on the bank telling us not to. 16 Q It may help refresh your memory if I can refer you back 17 to Plaintiff's Exhibit 1. 18 A (Reviewing.) 19 Q Specifically, the page 2, third paragraph. Not third 20 number paragraph, I apologize. The third paragraph on 21 page 2 of the Subordinated Promissory Note. 22 A (As read) "Hereby -- Maker hereby expressly waives 23 presentment demand notice"? 24 Q No, sir. So, under the Subordinated Promissory Note, 25 Exhibit 1 --	Page 113 1 figure out, as you understand it, did Mr. White receive 2 his June payment in July and not his July payment? Or 3 did he receive June and July both? 4 A I'm guessing that he received June and July both. 5 Q Okay. All right. Now, if you'll look at Plaintiff's 6 12. 7 A (Witness views document) Okay. 8 Q Plaintiff's 12 appears to be an email from Szeman Lam 9 -- and I'm probably butchering that name, so forgive 10 me. I will provide the court reporter -- 11 A Doesn't matter. I don't know who that -- 12 Q -- with that spelling. 13 A He's the lawyer for Proskauer. 14 Q Okay. And this appears to be -- Plaintiff's Exhibit 12 15 appears to me to be an email where the attorney is 16 notifying certain individuals, including yourself, of a 17 Notice of Default/Reservation of Rights. Do you see 18 that? 19 A Yes. 20 Q And attached to that email appears to be a letter 21 indicating that CFR and Tech24 are in default under the 22 McLarty loan? 23 A Correct. 24 Q Okay. What did that -- tell me about that. What does 25 this letter mean to you as you sit here today?

Page 114 1 A That they're declaring a default. Well, they're 2 reserving their rights to declare a default and -- 3 Q Do you know the grounds under which they declared that 4 default? 5 A Yes. The -- they didn't receive their payment for the 6 third quarter -- third quarter, second quarter -- the 7 payment that was basically due on June 30th, they did 8 not get it. 9 Q And did this serve as formal notice to CFR and Tech24 10 that they were being declared in default under that 11 Junior Credit Agreement? 12 A I'm not sure about the technicality with the 13 Reservation of Rights issue, but it certainly, from a 14 practical point of view, was -- you know, was. 15 Q Let me ask this. Did CFR or Tech24 take this Notice of 16 Default as an exercise by McLarty of their right to 17 declare that note in default? 18 A Yes. 19 Q Okay. And you acted in accordance with those default 20 provisions? 21 A Yes. 22 Q Okay. And this is dated July 20, 2017? 23 A Yes. 24 Q Okay. Beyond the individuals that were listed on this 25 email correspondence, do you have personal knowledge of	Page 116 1 A Not to my knowledge. 2 Q -- on the Subordination Agreement? 3 A Not that I know of. 4 Q Okay. Do you have personal knowledge as to whether 5 McLarty sent Mr. White a Notice of Default? 6 A I do not. 7 Q Okay. If Mr. White did not receive that Notice of 8 Default from you and he did not receive it from 9 McLarty, who else would have had the authority to send 10 him this Notice of Default? 11 A I -- Fifth Third. 12 Q Okay. As you sit here today, are you aware if Fifth 13 Third sent Mr. White notice of the default to the 14 address listed in the Subordination Agreement? 15 A Not that I'm aware of. 16 Q Okay. All right. What's your understanding as to the 17 effect that this Notice of Default on McLarty had on 18 the Superior Credit Agreement that you had with Fifth 19 Third Bank? Was there a triggering event that resulted 20 from this default notice? 21 A I'm not sure that there was a direct link, but it 22 certainly would have, you know, had a detrimental 23 effect on the relationship there. 24 Q Are you aware that, in sending notification of the 25 default -- the Notice of Default to Tech24 and CFR,
Page 115 1 anyone else that this Notice of Default was sent to? 2 A Well, I certainly can't say who else they sent it to. 3 I would have expected them to have sent it to Fifth 4 Third at a minimum. 5 Q And it looks like on July 24th you actually forwarded a 6 copy of this Notice of Default to Charlie Arndt. Do 7 you see that -- 8 A Yes. 9 Q -- at the top of this? 10 A Yes. 11 Q Okay. Do you have any personal knowledge, as you sit 12 here today and as a 30(b)(6) deponent, as to whether 13 this Notice of Default was forwarded to Mr. White? 14 A I do not know that it was. I would expect not. 15 Q Okay. Did you personally provide notice to Mr. White 16 in accordance with the notice provisions of the 17 Subordinated -- Subordination Agreement? 18 A The Subordination Agreement does not compel me to 19 notify him. I truly thought that the bank and McLarty 20 would have been doing that because that's how that 21 agreement reads. 22 Q And it certainly did not require you to do so. What 23 I'm asking you is do you have any personal knowledge as 24 to whether or not you did, in fact, send notice of this 25 default to Mr. White to the address listed --	Page 117 1 that that triggered an automatic default under the 2 Fifth Third Bank loan? 3 (Cell phone interruption.) 4 THE WITNESS: I think that's you. 5 BY MR. PURIEFOY: 6 Q Okay. All right. I think the question that I asked 7 was are you aware that, in providing Notice of Default 8 under the McLarty loan, that there was an automatic 9 trigger of default under the Fifth Third Bank loan? 10 A They're cross-defaulted, yes. 11 Q Meaning? And when you say cross-defaulted -- 12 A That they -- 13 Q -- meaning if McLarty declares a default under their 14 loan, there's an automatic triggering of default of the 15 Fifth Third Bank loan? 16 A It's an automatic right for them to do so if they want, 17 but they -- from a practical point of view, the bank 18 already had that position. 19 Q Correct. But I guess what my question is, on July 20 20th, was that the formal notice to CFR and Tech24 that 21 they were exercising their ability to deem that note to 22 be in default status? 23 A McLarty was? 24 Q McLarty, correct. 25 A Yes.

Page 118 1 Q Are you aware that, subsequent to that notice by 2 McLarty, that Fifth Third Bank also declared their note 3 to be in default? 4 A Yes. 5 Q Okay. And I think I already asked you, but do you have 6 personal knowledge as to whether you sent this default 7 notice to Mr. White? 8 A I did not. 9 Q Is it -- do you believe that Mr. White, as you sit here 10 today, ever received notice of this default? 11 A I -- I don't -- I just don't know. 12 Q Okay. 13 A I really don't. I know Rick says he didn't and I don't 14 -- yeah. 15 Q Well, do you have any reason to believe that that's 16 inaccurate? 17 A I -- I really don't know. I mean, it's hard from me to 18 believe that McLarty and Fifth Third both would have 19 failed to send it to -- to him, but, you know, stranger 20 things happen. 21 Q In your review of documents in preparation for sitting 22 today as a 30(b)(6) deponent, did you see a document 23 where Fifth Third Bank or McLarty sent a notice to Mr. 24 White? 25 A No.	Page 120 1 believe that Mr. White was privy to these 2 communications? 3 A I would not have expected him to have gotten the email, 4 but I don't know if he was -- again, we -- it was 5 fairly well understood that we had problems with the 6 banks and stuff at this stage, but the specifics of 7 this? No. 8 Q Okay. Let me ask this. Would you equate problems with 9 the bank to being in default under the Superior and 10 Junior Loans? Are those the same thing to you? 11 A (No response.) 12 Q You just testified a second ago that it was common 13 knowledge that you were having problems with the bank. 14 Flesh that out. What was common knowledge? 15 A That -- well, people knew that we had a suspension on 16 payments to the Junior Debt and -- and many people were 17 aware that we were having problems with McLarty and, 18 therefore, as a result, with Fifth Third. 19 Q Okay. Who's "many people"? Who would have known that 20 information -- that you know, specifically, would have 21 known that? 22 A Well, I don't -- you know, we had 500 employees. I 23 don't specifically what everybody was talking about, 24 but I can tell you that the management team in 25 Greenville were mostly well aware of it.
Page 119 1 Q Okay. All right. I'm going to have you look at 2 Plaintiff's 13. This is an email dated August 21, 3 2017. 4 A (Reviewing) Yep. 5 Q And this is an email from you to Charlie Arndt that 6 says, (as read) "They intend to take out the term and 7 put in some additional capital." Are you referring to 8 McLarty? 9 A Yes. 10 Q Okay. What was your -- what did that mean, "They 11 intend to take out the term and put in some additional 12 capital"? 13 A This was referring to -- there was discussions going on 14 between the company, McLarty and Fifth Third about 15 various proposals that they were making to help 16 restructure the financing. 17 Q And would this -- these conversations and negotiations 18 have been common knowledge to the managers of Tech24 19 and CFR? 20 A No. 21 Q Okay. Who would have been privy to these 22 conversations? 23 A Well, obviously, myself, Jean, the usual finance people 24 and analysts. 25 Q As you sit here today, do you have any reason to	Page 121 1 Q Did you have any conversations that you can recall 2 specifically today with Mr. White, regarding the 3 default under McLarty and Fifth Third Bank loans? 4 A We had an earlier conversation in July, where I told 5 him this is going to be the last payment you're going 6 to get for a while because they had frozen the 7 payments, which indicates a default. 8 Q Well, did it indicate a default to you? Or did you 9 inform Mr. White during that conversation that you 10 were, in fact, in default? 11 A We had not gotten a formal Notice of Default. We were 12 just in technical default and that's what I would have 13 conveyed to him, at that time. 14 Q Correct. So that means that you would not have been in 15 default under the McLarty and Fifth Third Bank loan; 16 correct? 17 MR. SCHANEN: Object to the form. 18 THE WITNESS: It -- it's a technical distinction, 19 but I suppose so. 20 BY MR. PURIEFOY: 21 Q Okay. Did you personally provide Mr. White with a 22 notice of the default? 23 A No. 24 Q Okay. So is it your testimony that the only 25 conversation or the only knowledge that Mr. White would

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1 have had of this default would have been through 2 conversations with you? 3 A No, I'm not saying that. I'm sure he had conversations 4 with Jean Hodges and other people and -- 5 Q Can you specifically speak to those conversations? 6 A No. 7 Q Okay. So is that -- 8 A I -- 9 Q -- just conjecture? 10 A I didn't stand over their shoulder. I don't know when 11 they called each other. That's a ridiculous question, 12 I might add. 13 Q Well -- well, my question to you is do you have 14 specific knowledge of conversations that occurred 15 between Jean Hodges and Rick White regarding the 16 default under the McLarty loan? 17 A No. 18 Q Okay. Do you recall specific conversations between 19 yourself and Rick White about the default under the 20 McLarty loan? 21 A I do not. 22 Q Okay. All right. I'm going to have you look at 23 Plaintiff's 14. 24 A (Reviewing.) 25 Q And specifically the second page of Plaintiff's 14,	1 A I believe so. 2 Q Okay. And do you know what was contained in that 3 presentation that you had clearly put together? 4 A I don't recall exactly, but I'm sure it was the usual 5 information about the company. 6 Q Okay. What's the "usual information" about the 7 company? 8 A A description of the business, description of the 9 current situation, things of that nature. 10 Q They had been privy to the financial condition of the 11 company? 12 A Yes. 13 Q Okay. So would they also have been made aware that you 14 were in a default position with your Superior Lender 15 and Junior Lender? 16 A I don't remember. I don't recall. 17 Q Do you think that that would be prudent information for 18 an investor to know? 19 A I think so. 20 Q Okay. So, after receiving Notice of Default, you are, 21 what I would say, soliciting investors and looking for 22 capital investors. Is that fair? 23 A Yes. 24 Q Okay. All right. Talk to me about the conversations 25 that you had with Mr. White regarding CFR and Tech24's
Page 123	Page 125
1 which is an email dated August 21, 2017, from you to 2 Lauren Steel and Christopher Smith. Do you see that 3 email? 4 A Yes. 5 Q The body of that email reads, (as read) "I literally 6 just finished this. I am sure there are some typos, or 7 the like, but this is the deck as of now. Obviously, I 8 borrowed from some different presentations. Bo Russell 9 is going to share with three local investment groups 10 that have an interest, though I do not know how 11 seriously." Do you see that? 12 A Yes. 13 Q Okay. What did that mean, that "Bo was going to share 14 a presentation with local investors"? 15 A Well, we were trying to raise money and he was -- knew 16 some investors that he thought might be interested. 17 Q Do you know who those three investors were? 18 A I don't. 19 Q Okay. Would Bo Russell know who those three investors 20 were? 21 A You'd have to ask Bo Russell that. 22 Q Was Bo serving as your legal counsel at the time? 23 A Yes. 24 Q Okay. Do you know if Bo presented a presentation to 25 those investors?	1 failure to pay under his subordinated note. 2 A There were, as we've discussed -- I told him that, you 3 know, the bank has frozen payments to all Junior 4 debtholders and dividends, and that that would impact 5 their debt. Obviously, we talked more about it, but 6 that was essentially the long and the short of it. 7 Q Did you provide Mr. White with a timeline on how 8 quickly you thought those issues were going to be 9 resolved? 10 A I don't recall that. It -- but I'm sure that we'd 11 talked about what we were trying to do to raise money 12 or other things that would have relieved the situation. 13 Q Okay. Do you recall any specific conversations with 14 Mr. White where you informed him that these issues were 15 in the process of being resolved and would only take a 16 couple of weeks or months to sort out? 17 A I do not. 18 Q Okay. Is there anything else that you recall about 19 conversations specifically with Mr. White regarding the 20 failure to pay his note obligation? 21 A I'm sorry? 22 Q Were there any other conversations specifically that 23 you recall with Mr. White where you were discussing CFR 24 and Tech24's failure to pay under the subordinated 25 agreement?

Page 126 1 A We had a number of conversations, though the topic 2 didn't change a great deal. 3 Q Okay. Was -- did it appear to you that Mr. White was 4 concerned with why those payments were being missed? 5 A He wasn't freaking out or anything. You know, it was, 6 you know, a business conversation. 7 Q As you recall and as you sit here today, do you 8 remember a conversation, did Mr. White ever accuse you 9 of never intending to pay -- 10 A No. 11 Q -- his note? 12 A No. 13 Q Okay. At the time that the note payments were being 14 missed, did Mr. White continue to work for CFR and 15 Tech24? 16 A Yes. 17 Q Was the issue on his missed note payment so severe that 18 it caused him to resign his position? 19 A I don't believe so. 20 Q Okay. Well, as you sit here today, did Mr. White have 21 any conversations with you that tended to indicate that 22 your -- that CFR and Tech24's failure to pay under his 23 subordinated note was the cause of his resignation? 24 A No. 25 Q Okay. So, in the July 2017 time frame, Mr. White is	Page 128 1 me up or we were talking about something else and he 2 asked if he could participate in what I was doing. And 3 -- you know, and I told him what I was doing and he 4 wanted to participate in it, and I let him. 5 Q Okay. When you say participate in what you were doing, 6 what do you mean by that? 7 A After we did the B round of equity, I wanted -- 8 Q Explain the B round of equity. 9 A Well, we had Preferred A, Preferred B. The Preferred B 10 round had been done just shortly before this time and 11 -- and I decided to put 150,000 into the business, in 12 equity. And I don't know how it came up exactly, but 13 it -- but Rick was aware that I was doing that and he 14 asked if he could participate in the same round of 15 funding. 16 Q So it was Mr. White's idea -- 17 A Yes. 18 Q -- to invest in CFR and Tech24? 19 A He raised the subject with me. I did not raise it with 20 him. 21 Q Do you recall an email that you sent to Mr. White where 22 you offered to convert his note to stock in CFR and 23 Tech24? 24 A I'd have to see that email. I know that subject came 25 up, but it was a question that he had asked, is whether
Page 127 1 continuing to work on behalf of Tech24 and CFR; 2 correct? 3 A Correct. 4 Q And what position was he working in at that time? 5 A He was Vice President of Field Operations or Opera- -- 6 I forget exactly the title. 7 Q All right. How would you describe your working 8 relationship with Mr. White at that time? 9 A I thought it was good. 10 Q Okay. Although Mr. White was, of course, expressing 11 concerns about the failure to make the note payments, 12 did you have -- was he making any other complaints that 13 you were aware of regarding the operations of Tech24 14 and CFR? 15 A Yes. 16 Q Okay. What were his complaints? 17 A Rick felt that -- that some of the key departments 18 weren't operating in coordination and -- that's the 19 main thing that I recall. 20 Q Okay. Well, let me ask you this. So it's apparent, 21 based on a review of Exhibits 14 -- 13 and 14 that CFR 22 and Tech24 were looking for investors. When did you 23 first begin having conversations with Mr. White 24 regarding a potential investment in Tech24 and CFR? 25 A It was shortly before he made an investment. He called	Page 129 1 they could convert their note into equity and -- and I 2 didn't think it was a good idea, and I didn't think 3 that the bank and McLarty would go along with it, in 4 any of event. 5 Q Okay. Did the conversation where Mr. White requested 6 to invest in Tech24 occur via email or was that a 7 person-to-person conversation? 8 A It was a phone call. 9 Q Okay. How did the idea of investing in Tech24 come up? 10 A I'm not sure. Like I said, I believe it was because we 11 were in that process and he may have -- and I may have 12 told him that I was putting some money in to help the 13 situation. 14 Q Okay. Well, I need to understand -- was Mr. White 15 privy to the negotiations that were going on between 16 Tech24 and CFR and McLarty around that time in 2017? 17 A Well, there was no negotiation between -- with Tech24. 18 Q CFR. 19 A Yeah. I -- I believe he was aware of that situation. 20 I'm not saying that he was involved in them, but he was 21 aware of them. 22 Q Okay. My question -- 23 A That's my -- that would be my understanding. 24 Q My question is do you have any personal knowledge of 25 Mr. White being aware of the negotiations taking place

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1 between CFR and McLarty? 2 A I don't have any personal -- no. 3 Q And you did not provide him with that information; 4 correct? 5 A I can't say that. It would have been something that 6 would have come up in conversation, you know, by way of 7 normal interaction of senior officers, you know, 8 managers. But I don't recall a specific conversation 9 to that effect. 10 Q Okay. How would Mr. White have become aware that you, 11 yourself, were investing \$150,000 in CFR? 12 A It probably just came up in conversation. 13 Q Under what scenario would that conversation come up if 14 he was soliciting the investment himself and if you 15 were not soliciting him? 16 A I -- let me be clear. I did not solicit him. I have 17 never, ever asked an employee of any company to invest 18 in the company. Any company. I just think that's a 19 bad, bad idea. 20 Q Why? 21 A Because it's -- it's inter- -- because I don't think 22 it's a good idea. I don't think most employees fully 23 understand it, and I don't -- I just think that it 24 complicates the relationship between the parties. But 25 I -- you know, we had frequent conversations and it was	1 could participate in it and I -- he asked me how it was 2 priced and that -- and I told him and he wanted to 3 participate. 4 Q Okay. 5 A And he -- so -- 6 Q Mr. Herwald, what exactly would he have been 7 participating in? 8 A He would have been participating in buying shares in 9 the company at the same price that I did. 10 Q Is it your testimony that there would have been a 11 conversation between yourself and him at some earlier 12 date where you discussed you buying into the company? 13 Or investing money in the company that prompted him to 14 ask to participate in the same way? 15 A I did not say that. 16 Q Okay. Well -- 17 A I said that he was aware of it either because of a 18 casual mention or conversation with me about it where I 19 might have brought it up, or he heard it from Jean or 20 somebody else. 21 Q That you were investing -- do you recall having 22 conversations with Ms. Hodges where you informed her 23 that you were investing \$150,000 in the company? 24 A Yes. 25 Q Okay. When would those conversations have taken place?
Page 131	Page 133
1 frequently a conversation that involved, "What are we 2 doing about this?" And, you know -- you know, "Well, 3 we're trying to raise money. We're doing this. We're 4 getting money from our existing shareholders. We're, 5 you know, trying to find a path through the -- you 6 know, to get the bank and McLarty out." 7 Q Okay. So is it your testimony today that you had a 8 specific conversation with Mr. White where you informed 9 him that you were trying to raise money? 10 A No. You had asked me how that might have come up and 11 I'm telling you that I don't remember exactly, but he 12 obviously knew about it and he asked me, "Can I 13 participate?" 14 Q My question is how would Mr. White have any knowledge, 15 whatsoever, that you had invested \$150,000 in CFR? 16 A Well, I hadn't yet. But the -- and my answer to you is 17 as speculative as your question, and that is -- you 18 said, "How might he have?" Well, he might have, 19 because we might have discussed it on a phone call. 20 Q Okay. 21 A Could be that Jean told him that. 22 Q So would it be fair to say that you -- you don't know 23 how that conversation between yourself and Mr. White 24 began? 25 A I -- I remember the conversation where he asked if he	1 A In that approximate time frame. 2 Q Okay. 3 A It wasn't a long, drawn out thing. 4 Q Were there any other investors, other than the three 5 that were mentioned in Plaintiff's Exhibit 14, that you 6 were soliciting at the time? That you or Tech24/CFR 7 were soliciting at the time? 8 A That was more related to the B round, which preceded 9 this time -- 10 Q Okay. 11 A -- so the answer is no. 12 Q Okay. And did Mr. White ultimately invest money in 13 CFR? 14 A Yes. 15 Q Okay. And how much did Mr. White ultimately invest? 16 A 550,000. 17 Q Okay. What types of stock did Mr. White buy? 18 A Common. 19 Q Okay. If you'd look at Plaintiff's Exhibit 5 -- 20 A Well, back to those, okay. (Reviewing.) All right. 21 Q Okay. So it appears to me that, at this time, or -- 22 CFR had Common Stock Series B Preferred, Series A 23 Preferred and Series A-1 Convertible Preferred. Do you 24 see that? 25 A Yeah, we didn't have A-1 at that time.

Page 134 1 Q You did not have -- you did not have A-1 at what point? 2 A At the same time as this (indicating). 3 Q Okay. So, at the time that you're having discussions 4 with Mr. White, there were common stock and Series B 5 stock? 6 A And Series A. 7 Q And Series? 8 A A. 9 Q And Series A, okay. What kind of stock did Mr. White 10 purchase? 11 A As I just told you, common. 12 Q Okay. When you bought into the company, the 150,000 13 that you put in, was that common stock as well? 14 A That's correct. 15 Q Okay. What is your understanding between the 16 difference or the -- what is your understanding as to 17 the difference between common stock, and Series B and 18 Series A as it related to CFR? 19 (CELL PHONE INTERRUPTION) 20 THE WITNESS: The -- I'm sorry. Repeat the 21 question. 22 BY MR. PURIEFOY: 23 Q Sure. 24 A I apologize for that. 25 Q No problem. What is your understanding as to the	Page 136 1 holders -- 2 Q My question to you is did you have specific 3 conversations with Mr. White about the difference 4 between common stock, Series A and Series B? 5 A No. 6 Q Okay. 7 A Not that I remember. 8 Q Did Mr. White get offered Series A stock? 9 A No. 10 Q Okay. Why? 11 A The Series A stock offer was closed. 12 Q You just testified that Mr. White knew about the 13 existence of Series B and Series A stock? 14 A I said Series A, anyway. 15 Q He knew about the existence -- 16 A Just because he had met the shareholders that had it. 17 Q Say that again. 18 A He had met some of the shareholders who had it. 19 Q Okay. Are you aware of specific conversations that Mr. 20 White had with Series A shareholders? 21 A No. I mean, we all went out to dinner and such. The 22 -- I can't talk to his state of mind. 23 Q Okay. 24 A It was common knowledge to everybody that we had Series 25 A shareholders. They were the guys who came in at
Page 135 1 difference between CFR common stock, Series B and 2 Series A? 3 A At the time, the Series A was the senior-ranking 4 preferred stock. So, in the event of the company 5 selling or liquidating, they would have been entitled 6 to, like, receive their preference amount before 7 anybody else received anything. B would have been next 8 on the waterfall. And then common would have been 9 after both A and B. 10 Q Okay. So, at the time that Mr. White is investing in 11 CFR, he was buying common stock, which would have been 12 paid out last in the event of a liquidation? 13 A Yes. 14 Q Okay. Was he offered Series B? 15 A No. 16 Q Okay. Why not? 17 A It -- he -- because it just didn't come up. He said 18 that he wanted to invest in what I was, you know -- 19 along, you know -- he wanted to invest next to me, if 20 you will. 21 Q Did you have conversations with Mr. White about the 22 existence of Series B and A stock? 23 A He -- he had sat in management meetings and in 24 shareholder meetings where -- well, don't shake your 25 head. It's -- the people who were there were Series A	Page 137 1 front of the deal in 2009. Everyone in the business 2 knew about them. Most of the managers had been 3 introduced to their -- those people. 4 Q Sure. And I understand that, Mr. Herwald. I know 5 you've said quite a few times that a lot of things were 6 common knowledge, and I'm not asking about what you 7 believe to be common knowledge. I'm asking if you have 8 specific knowledge as to whether or not Mr. White knew 9 about the existence of Series A and Series B stock? 10 A I don't. 11 Q Okay. And to be clear, you had received a 12 correspondence from Mr. Arndt in June of 2017, where he 13 described CFR as "alarmingly illiquid"; correct? 14 A It -- we ask -- you asked that and I've answered that. 15 Q Okay. That was a "yes"? 16 A Yes. 17 Q Okay. So was Mr. White investing in an alarmingly 18 illiquid company? 19 A It was illiquid. I don't know if alarmingly would have 20 been the right answer, but -- or the right adjective, 21 but -- 22 Q Is that the adjective that the representative from 23 Fifth Third Bank used? 24 A Yes. You read the email. 25 Q Okay. At the time that Mr. White made his investment,

Page 138 1 and I believe that this was in September 2017, at the 2 time that that investment was made, do you recall a 3 specific conversation with Mr. White where you informed 4 him that CFR was in default under the McLarty and Fifth 5 Third Bank Loan? 6 A I don't remember a specific conversation, but I believe 7 we've -- we discussed that. 8 Q Did you discuss that in conjunction with his investment 9 or was that something that was discussed before his 10 investment? 11 A I'm sure that we had numerous conversations about that 12 and the fact that that was leading us to pursue 13 investors and to seek other liquidity options. 14 Q Do you recall a specific conversation with Mr. White 15 where you discussed -- 16 A I recall many conversations discussing the health of 17 the company. 18 Q And I understand. I guess my question is do you recall 19 a specific conversation where you discussed the default 20 status of CFR? 21 A Yes. 22 Q Okay. When did that conversation take place? 23 A I do not know. 24 Q You just know -- 25 A Sometime in that time frame. Probably in July.	Page 140 1 not send him an email saying, "Oh, by the way, here's 2 the default." 3 Q Okay. 4 A I expected, as you agreed, in this document that the 5 two lenders should have sent him that notice. 6 Q Okay. Did you and Mr. White have a specific 7 conversation against the backdrop of the default, as to 8 what would happen if the company were to go into a sale 9 posture? So, if the company were to sell, did you have 10 any conversations with Mr. White about how and when he 11 would be paid out in the event of a sale or 12 liquidation? 13 A Yes, we talked often about that because we were 14 pursuing those liquidity options. 15 Q You had those conversations with Mr. White? 16 A Yes. 17 Q Okay. Explain how those conversations came up. 18 A As you can see in some of these emails, we were talking 19 to Warburg Pincus and other professional investors 20 about putting money into the company that would have 21 resulted in a liquidation event, you know -- a 22 liquidity opportunity for most of the other 23 shareholders. 24 Q But isn't it true that you were in conversations with 25 Warburg Pincus to acquire another competitor?
Page 139 1 Q You just know it did? 2 A Yeah. It -- as -- I believe it was right at the 3 beginning of July. Rick had it down as July 5th. That 4 sounds about right to me, that we were talking about 5 the fact, as we've already discussed, that I told him 6 this payment's going to be your last one until we get 7 this resolved. 8 Q So is there a difference to you between informing Mr. 9 White that there is a stop payment on his subordinated 10 note and providing him with express information that 11 CFR was in default under the note? 12 A I -- I felt that from -- and again, I wasn't acting as 13 an attorney or a financial advisor, but I think for 14 most people in business, it would have been considered 15 the exact same thing. 16 Q Let's assume for a second that Mr. White is not most 17 people in business. How would he have known that there 18 was a default, a specific default, under the McLarty 19 and the Fifth Third Bank note? 20 A Because they had exercised their rights under a default 21 to freeze his payments. 22 Q And did you provide him with notice -- 23 A And that is how I explained it to him. 24 Q Did you provide him with notice of that default? 25 A I -- I -- again, I spoke to Rick on the phone. I did	Page 141 1 A Yes. It was a -- yes. 2 Q Okay. 3 A It was a two-stage transaction. 4 Q And Mr. White was privy to those conversations? 5 A Yes. 6 Q Okay. So you testified earlier that you do not recall 7 any conversations between yourself and Mr. White, 8 specifically, regarding Series A and Series B stock. 9 That was your testimony. Do you recall that? 10 A Yes. 11 Q Okay. So how did you have conversations with Mr. White 12 about the manner in which he would be paid out in the 13 event of a liquidation if you did not discuss Series A 14 and Series B stock? 15 A Well, I think the time frame is different than what you 16 were asking about previously. I -- I interpreted your 17 prior question to be at the time that Rick was asking 18 about making an investment. Did I say -- did I put 19 forth that the A and B would be a different option? 20 That's not the same question that you're asking me now. 21 The timing is different. 22 Q How do you differentiate the two? 23 A Timing. 24 Q In what regard? 25 A Well, I wasn't talking to Warburg Pincus when we made

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1 that investment. That wasn't a part of reality for us. 2 So I don't know that I would have brought that up at 3 that time. 4 Q Okay. So let me ask this. The conversations that you 5 were having about Warburg Pincus, would that have been 6 after Mr. White had already invested? 7 A I believe so. 8 Q Okay. So let me ask this. Did you have a conversation 9 with Mr. White before he invested in CFR about what 10 would happen in the event of a liquidation of CFR and 11 how he would be repaid? 12 A I don't recall such a conversation. 13 Q Okay. Mr. White invested \$550,000 in CFR. Is that 14 correct? 15 A Yes. 16 Q Okay. And in exchange for his purchase -- or, excuse 17 me, in exchange for his investment of \$550,000, Mr. 18 White was given 6,875 shares. Is that correct? 19 A Correct. 20 Q Is that right? 21 A Correct. 22 Q Okay. And do you recall the share price that he 23 invested at? 24 A \$80. 25 Q How is that share price determined?	1 potential investors. 2 Q So is it fair that the arbitrary number was not tied 3 directly to its actual value under any valuation metric 4 that's traditionally used for private companies? 5 A Oh, I think that what I did was very typical of private 6 companies, but I don't know what you're referring to, 7 you know, what valuation method you -- 8 Q Well -- 9 A -- would have advocated. 10 Q So, there are a number of different valuation methods 11 when you're trying to determine the share price in a 12 private company. I'm asking did you pick any of those 13 valuation methods to determine the Series B value? 14 A We tried to relate the value to what we thought were 15 the prospects of the business and the potential value 16 of the overall company. 17 Q So, does that -- was the valuation method that you were 18 using then, a method where you compared the going rate 19 for similarly situated businesses in the same industry? 20 A I wasn't privy to that type of information for private 21 companies. 22 Q Okay. So, what then -- if you were -- 23 A But I had access to people, like Baird Investment Bank, 24 you know, and others just in the, you know, who do 25 acquisitions about what's the type -- you know, I
Page 143	Page 145
1 A As I mentioned before, we had this B round, which was a 2 preferred stock with a five percent dividend. And that 3 was at \$100 per share. And it was convertible into one 4 common share. And so, I took the five dollar dividend. 5 I discounted it by about a ten percent factor for five 6 years, and then I took another ten points off for the 7 fact that they had a preference. 8 Q Okay. How was the common stock -- what valuation 9 method was used to determine the share price at the 10 time that Mr. White invested? 11 A That -- that was what I just told you. 12 Q It -- say that one more time for me. 13 A Okay. The preferred -- the preferred Bs were bought by 14 third-party investors at \$100. I felt it was extremely 15 important that we have a fair ratio relationship 16 between what they paid for a preferred share that had a 17 five dollar dividend, against a common stock that was 18 not a preferred stock and did not have a guaranteed 19 dividend. So I discounted the value of the dividends 20 using a ten percent present value and then I doubled 21 the discount to account for the fact that we were in a 22 junior position. 23 Q Okay. How did you -- what valuation method did you use 24 to determine the value of the Series B stock? 25 A It was more of a matter of negotiation with the	1 appreciate that you referenced modeling. The truth is, 2 is that in most private transactions, it's a multiple 3 of EBITDA. You know, minus debt. 4 Q Do you know what multiple of EBITDA you used? 5 A I assumed we used somewhere around eight because that 6 was pretty common back then. But I don't know that for 7 a fact right now, but that was -- you know, the 8 multiples were higher back then. 9 Q And that was the EBITDA that you were using in the face 10 of a default? 11 A No. We were using a forecast. 12 Q Okay. All right. I know that you've testified that 13 you and Mr. White had conversations about the financial 14 condition of CFR before he invested; correct? 15 A Yes. 16 Q Okay. Did you provide Mr. White with a private 17 placement memoranda, subscription agreement or any 18 other kind of security disclosure before he invested? 19 A No. 20 Q Okay. Are you aware that there were certain Requests 21 to Admit that were sent to you, if you'd refer to 22 Plaintiff's Exhibit 15? 23 A (Reviewing.) 24 Q And if you look at Request to Admit Number 1, which 25 reads, (as read) "Admit Defendants did not present a

Page 146 1 private placement memorandum, subscription agreement, 2 or any similar security disclosures to Plaintiff prior 3 to accepting Plaintiff's \$550,000 investment on 4 September 11, 2017. Response: Denied." 5 A I could just tell you that we did not provide him a 6 memorandum or subscription agreement. 7 Q Okay. What about any other security disclosure? 8 A I don't even don't even know what constitutes a 9 security disclosure. 10 Q Any -- any formal writing where you detailed the risks 11 associated with the potential investment? 12 A No. He would not have -- he was -- this was, again, 13 this round, or whatever, was supposed to just be me. 14 And -- 15 Q This round was supposed to? 16 A It was only going to consist of myself -- 17 Q Okay. 18 A -- and so there was no -- none of that material would 19 have been relevant. 20 Q It wouldn't have been relevant? 21 A Well, if it was just me doing it, no. 22 Q Okay. Well, when Mr. White became a potential 23 investor, did that information become relevant then? 24 MR. SCHANEN: Object to the form. 25 THE WITNESS: I don't know. Apparently, it wasn't.	Page 148 1 MR. PURIEFOY: It's not. I'm asking him -- 2 MR. SCHANEN: I'm instructing him not to answer. 3 BY MR. PURIEFOY: 4 Q I'm asking, Mr. Herwald, about your personal knowledge. 5 You testified at the beginning of this deposition that 6 you had at least a working knowledge of securities; 7 correct? 8 A I did. 9 Q And that was in advance of your hiring of Bo Russell as 10 your attorney? 11 A I -- I don't know. Bo and I have done work together 12 for a long time. 13 Q When you were working for -- as the CFO of NYC Group, 14 did you have a working knowledge of securities at that 15 time? 16 A Yes. 17 Q When you were working for Stevens Aviation, did you 18 have a working knowledge of securities at that time? 19 A Yes. 20 Q Okay. So my question to you is, before your 21 conversations with Mr. Russell, what were your 22 understandings as it related to securities laws, and 23 when you were required and not required to prevent -- 24 to present certain disclosures to potential investors? 25 A It had been my experience being on boards of other
Page 147 1 He didn't ask for it. He didn't ask me for any 2 information. He didn't ask me any questions about it. 3 So I assume, as I still do, that he was fully informed 4 by virtue of his position and -- but, you know, again, 5 it wasn't required by law. We were trying to meet a 6 deadline. It was a last-minute request that I agreed 7 to, and, you know, that's... 8 BY MR. PURIEFOY: 9 Q And what law are you referring to -- 10 A Well -- 11 Q -- when you say it wasn't required by law? 12 MR. SCHANEN: Object to the form. 13 THE WITNESS: I can't tell you that off the top of 14 my head. I just know that -- that it wasn't necessary 15 to do. 16 BY MR. PURIEFOY: 17 Q How -- and how do you know that? 18 A Because I asked Bo. 19 Q Okay. And I don't -- I don't need to discuss any 20 conversations that you had with your attorney, but I 21 need to know what your personal understanding of the 22 law as it relates to securities transactions is? 23 MR. SCHANEN: Object to the form, and that's a -- 24 that's a roundabout way to ask him about attorney- 25 client conversation.	Page 149 1 small, privately-owned companies, that when you were 2 selling to an insider or a qualified investor, that you 3 were not required to give them a subscription 4 agreement. 5 Q Who's considered a qualified investor? 6 A Oh, I think that the requirements is a \$1 million of 7 net worth and some other things, which Rick clearly 8 qualifies as. 9 Q So it was your -- the reason why you didn't present a 10 private placement memorandum subscription agreement is 11 because it was not required by law? 12 MR. SCHANEN: Object to the form. 13 THE WITNESS: I would not say that. I would say 14 that the time did not permit and it was not required. 15 BY MR. PURIEFOY: 16 Q So, if you had more time, would you have provided it? 17 A Possibly. 18 Q Okay. Do you recall J.C., who was Mr. White's former 19 business partner, investing in CFR as well? 20 A He invested later. 21 Q Okay. Do you recall providing J.C. with a subscription 22 agreement? 23 A I believe that he would have gotten one because he was 24 involved in that round when it was being done as a 25 round, and so those materials were present -- prepared

Page 150 1 for that transaction. 2 Q Was it your understanding that Mr. -- or J.C. was a 3 qualified investor? 4 A He signed that he was. 5 Q So, if he was a qualified investor, why was he also 6 provided with a subscription agreement? 7 A Because it was our -- we considered it better practice 8 to do it so, to have a subscription agreement and such, 9 and when it was for a more broadly subscribed issuance, 10 it -- that would have made more sense. 11 Q So you -- I think you testified earlier, though, that 12 you thought it was a bad idea to -- well, let me ask 13 this. Did you solicit J.C.'s investment? 14 A No. 15 Q Okay. He came to you for that investment? 16 A Yes. 17 Q Okay. And he was an employee at the time that he made 18 that investment? 19 A Yes. 20 Q Okay. So would it be fair to say that it was kind of 21 deviation from standard practices of CFR to not provide 22 an investor with a subscription agreement? 23 MR. SCHANEN: Object to the form. 24 THE WITNESS: I don't know that I would actually go 25 that far. It was something that we did if it was going	Page 152 1 A Corey Harrison, in particular. 2 Q Okay. What were the conflicts that they were having? 3 A They -- coordination is what I would've deemed it. 4 Q Okay. Coordination in what regard? I guess I need you 5 to flesh that out for me a little bit. 6 A Well, again, you're asking me, who only has, you know, 7 hearsay knowledge, if you will. But it -- Rick would 8 make changes to -- and, again, I don't know if this is 9 true or not, but I was told that Rick would make 10 changes to the accounting system or the billing system 11 without telling other people and that would present 12 problems because they weren't taken into account by the 13 IT people, and things of that nature. Rick, on the 14 other hand, would say the same thing, that IT made 15 changes without telling us in the field and that was 16 causing him problems. 17 Q Okay. 18 A And I have no doubt that there was truth in that. 19 Q Okay. Did those concerns ever come to a head? 20 A Well, I would say that Rick's resignation, it -- 21 brought that to a head. 22 Q Sure. So, kind of talk me through how that happened. 23 How did Mr. White's resignation kind of come to 24 fruition? 25 A Rick made a proposal to me to consolidate the
Page 151 1 to involve a number of people. 2 BY MR. PURIEFOY: 3 Q Well, I believe you just testified a second ago that 4 not doing so -- 5 A Yeah, it is a better practice to do it. Not because of 6 the -- for the investor but for us. So... 7 Q Okay. All right. And as we sit here today, is it your 8 testimony that there was no material information that 9 was withheld from Mr. Wright -- Mr. White before his 10 investment in 2017? 11 A Yes. 12 Q Okay. So Mr. White invests in CFR in September of 2017 13 and, at that time, he became both a shareholder and an 14 employee; correct? Or he was a shareholder and an 15 employee? 16 A Yes. 17 Q Okay. How -- in the latter part of 2017, how was your 18 working relationship with Mr. White following his 19 investment? 20 A It was fine. 21 Q Okay. If -- did, at any time, that relationship start 22 to sour for any reason? 23 A There was conflict between him and some of his peer 24 managers. 25 Q And who were those peer managers?	Page 153 1 management tasks, and have Corey, and IT, and HR report 2 to him and I declined his request. 3 Q Okay. 4 A At that point, Rick basically said -- in a way -- I 5 mean, he sent an email basically saying, "Then you 6 should have HR prepare my separation". 7 Q Okay. And so, as I understand, kind of, that 8 conversation, was it that Mr. White didn't want to have 9 to coordinate with Mr. Harrison in order to engage in 10 certain conduct? Or did he -- was he trying to be Mr. 11 Harrison's boss? What was it that you understood him 12 be -- 13 A Well -- 14 Q -- requesting? 15 A It -- explicitly, it would have been that Corey 16 would've worked for him -- 17 Q Okay. 18 A -- so he would have been Corey's boss. 19 Q And you declined that offer? 20 A Correct. 21 Q And why is that? 22 A I didn't think it would be the right thing for the 23 business. 24 Q Okay. All right. Did you have any conversations with 25 Mr. White, outside of the email that you referenced

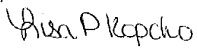
Page 154 1 where he essentially asked that HR prepare his 2 resignation documentation, did you have any other 3 conversations with him regarding his resignation? 4 A No. 5 Q Okay. All right. I'm going to give you what I've 6 marked as Plaintiff's 16. 7 A (Witness views document.) 8 Q Okay. Have you ever seen this document? 9 A Yes. 10 Q Okay. Is this the General Waiver and Release Agreement 11 that was executed by Mr. White on November 29, 2017? 12 A Yes. 13 Q Okay. What was the intended purpose of this General 14 Waiver and Release? 15 A It was to protect the company. 16 Q In what regard? 17 A Pardon me? 18 Q In what regard was it to protect the company? 19 A To -- it was intended to make sure that there was no 20 future claims being made against the company by Rick. 21 It's very common, and especially when a severance 22 agreement involved \$300,000 in payments, that -- that 23 we would reiterate his obligations under his employment 24 agreement for confidentiality and -- and non- 25 competition.	Page 156 1 matters. 2 BY MR. PURIEFOY: 3 Q Okay. Did you -- 4 A And in his employment agreement, it said that his 5 severance would be tied to execution of such an 6 agreement. 7 Q Correct. And did that employment agreement that tied 8 his severance to the execution of this type of 9 agreement make any mention of the Subordinated 10 Promissory Note? 11 A I don't know off the top of my head. 12 Q Okay. In your head and as you sit here today, do Mr. 13 -- does the termination or resignation of Mr. White's 14 employment tie directly to the Subordinated Promissory 15 Note? 16 MR. SCHANEN: Object to the form. 17 THE WITNESS: No. 18 BY MR. PURIEFOY: 19 Q Okay. Do you believe the note, and his employment 20 agreement, and this waiver to be separate and distinct 21 issues? 22 MR. SCHANEN: Object to the form. 23 THE WITNESS: I -- I'm not sure where you're going 24 with this and I'm not sure what your question means, 25 but also, why don't we cut to the chase here, a little
Page 155 1 Q Okay. In the absence of Mr. White's resignation from 2 his employment, would there be any other reason why 3 this document would have been presented for execution? 4 A Pardon me? 5 Q Is there any other reason outside of Mr. White's 6 resignation from employment -- is there any other 7 reason why this document would have been presented to 8 him for execution? 9 A Not that I can think of. 10 Q Okay. Was it your understanding that this release was 11 related specifically to his employment and the 12 termination of that employment? 13 A It -- no, not exactly. It -- you know, part of it 14 sprung from agreements through the acquisition that he 15 had an employment agreement, and this agreement was 16 crafted to comport with the terms of his employment 17 agreement. 18 Q Correct. But I guess what my question is, is apart 19 from his relation to his employment agreement, did this 20 document serve any other purpose other than to 21 memorialize his resignation? 22 MR. SCHANEN: Object to the form. 23 THE WITNESS: Obviously, it did. His resignation 24 was one matter. His getting paid, his confidentiality, 25 his not having claims against the company are other	Page 157 1 bit. You're going to ask me about his note, and, yes, 2 I think that this put him in a position -- put us in a 3 position where we did not have to pay his note. 4 BY MR. PURIEFOY: 5 Q Okay. Did you have a conversation with Mr. White about 6 -- 7 A I did not. 8 Q -- this, the execution of this document relieving you 9 of your obligations to pay him under his subordinated 10 note? 11 A No. 12 Q Who was the attorney that was drafting this General 13 Waiver and Release Agreement? 14 A Oh, he worked here, but I can't remember which one. 15 Q Was he an attorney with Nelson Mullins? 16 A Yes. 17 Q Okay. Would he have been -- so, let me ask it -- are 18 there any -- are there multiple attorneys here at 19 Nelson and Mullins that you worked with? 20 A Yes. 21 Q Okay. Obviously, Giles being one, Bo Russell being 22 one. Can you name or do you recall the names of any 23 other attorneys that you worked with? 24 A Nikki Lee -- 25 Q And is Nikki Lee Bo Russell's partner?

Page 158 1 A I don't think so. 2 Q Okay. In the -- if you'd look at Plaintiff's Exhibit 3 12. 4 A (Reviewing) Okay. 5 Q In the cc -- excuse me, in the To line of that July 20, 6 2017, email, do you see Bo Russell and his email? 7 A Yes. 8 Q Do you see Brittany McIntosh and her email? 9 A Yes. 10 Q Do you see Nikki Lee and her email? 11 A Yes. 12 Q Were those all Nelson Mullins attorneys? 13 A It would appear. 14 Q Okay. Would it have been one of those three attorneys 15 that drafted this General Waiver and Release Agreement? 16 A I don't believe so. 17 Q Do you know the name of the attorney that would have 18 drafted that agreement? 19 A I've already said that I do not. 20 Q Okay. Do you recall the names of any other attorneys 21 that you worked with here, at Nelson Mullins? 22 A Not off the top of my head. And for instance, I don't 23 even know who Brittany McIntosh is. 24 Q Okay. So do you know whether the attorney drafting 25 this document had knowledge of the default under the	Page 160 1 A Late in the situation. 2 Q But at the time that this was being executed, was that 3 your subjective belief that that was the intended 4 purpose of this document? 5 MR. SCHANEN: Object to the form. 6 THE WITNESS: It was a point that we were aware of. 7 BY MR. PURIEFOY: 8 Q And if you're talking about "we" being your attorneys, 9 then I don't need to hear about those conversations. 10 A Yes. 11 Q Okay. But you didn't discuss that fact with Mr. White? 12 A I didn't discuss anything in that agreement with Mr. 13 White. He never contacted me to discuss it -- 14 Q Okay. 15 A -- to ask anything about it or to negotiated it. 16 Q Okay. After the execution of this agreement, did you 17 have any further conversations with Mr. White regarding 18 his payment under the subordinated note? 19 A Not until this lawsuit was brought. 20 Q Okay. So, between -- your testimony is that, between 21 November 29, 2017, and the filing of this lawsuit, in 22 what I believe was March of 2019, you had no further 23 conversations with Mr. White about the repayment of his 24 subordinated note? 25 MR. SCHANEN: Object to the form.
Page 159 1 McLarty loan? 2 A I don't know the answer to that question. 3 Q Okay. So is it your testimony that at the time this 4 document was being drafted, its intended purpose was to 5 relieve CFR's obligation under the subordinated note? 6 A It was intended to make it that we couldn't be pursued 7 for it. 8 Q So, the goal of this document that was executed 9 following Mr. White's resignation, was intended to 10 relieve CFR of its obligations under the subordinated 11 note? 12 MR. SCHANEN: Object to the form. 13 THE WITNESS: That was not the primary purpose of 14 this document. 15 BY MR. PURIEFOY: 16 Q Okay. Was this an ancillary purpose of that document? 17 A Yes. 18 MR. SCHANEN: Object to the form. 19 BY MR. PURIEFOY: 20 Q Did you have conversations with Mr. White about that 21 fact? 22 A No. 23 Q When was it -- when did it become your opinion that 24 this document served to relieve CFR of its obligations 25 under the note?	Page 161 1 THE WITNESS: Not that I'm aware of. 2 MR. PURIEFOY: Okay. All right. We're going to 3 have to take a break. I'm going to have to print some 4 documents out. I maybe have to hook up to one of your 5 printers; I may be able to get somebody to run some 6 stuff over here. 7 MR. SCHANEN: Whatever you need. Whatever we can 8 speed it up is fine. 9 (OFF THE RECORD) 10 BY MR. PURIEFOY: 11 Q We'll go back on the record. I'll ask about some other 12 -- some other things and then we'll finish up with that 13 when -- I'm supposed to be getting it here, in just a 14 second. 15 A Okay. 16 Q All right. Mr. Herwald, we were talking before we took 17 the break, about the General Waiver and Release 18 Agreement that was signed on November 20, 2017, by Mr. 19 White. And I think the last question I asked you was, 20 do you recall having any conversations with Mr. White 21 after the execution of this agreement relating to the 22 payment of his unsubordinated note, and I think your 23 response was that you did not have any further 24 conversations. Is that correct? 25 A That's correct.

Page 162 1 Q Okay. I'm going to show you what we're going to mark 2 as Plaintiff's Exhibit 17. And I'll give you a second 3 to look at that, Mr. Herwald. 4 A (Reviewing.) 5 Q Okay? This appears to be the January 13, 2018, Notice 6 of Special Meeting to be held on January 23, 2018. Do 7 you see that? 8 A Yes. 9 Q The second full paragraph of this Plaintiff's Exhibit 10 17, which starts with the company and its subsidiaries, 11 do you see that? 12 A Yes. 13 Q Okay. Do you see -- does that paragraph, that second 14 full paragraph, tend to you to demonstrate notice to 15 shareholders that CFR is under -- is in default under 16 the McLarty and the Fifth Third Bank loan? 17 A Yes. 18 Q Okay. And it indicates that CFR is in default under an 19 \$11 million principal loan from McLarty. Do you see 20 that? 21 A Yes. 22 Q And a \$5.5 million outstanding loan -- outstanding term 23 loan and \$16 million revolving line of credit with 24 Fifth Third Bank? 25 A Yes.	Page 164 1 authorized. 2 Q Okay. So this authorized 21,322 shares of A-1 3 Preferred? 4 A Yes. 5 Q Okay. Since the sending of the notice of that special 6 meeting, CFR had undergone an acquisition with HCI -- 7 and forgive me, I can't recall the specific name, but 8 it's HCI -- do you -- 9 A It's -- 10 Q Are you familiar with that? 11 A Yeah, of course. 12 Q Okay. What was the result of that acquisition as it 13 related to all the holders of common stock? 14 A It -- it resulted in all the holders of any kind of 15 stock being converted into units in an LLC -- 16 Q Okay. 17 A -- called CFR Investment. 18 Q What assets are held in CFR Investment? 19 A Options on -- on CFR. 20 Q Okay. What are those options? 21 A They're basically, you know, options that will, you 22 know, hopefully entitle CFRI to have proceeds at the 23 time that HCI exits its investment, and that would 24 then, in turn, be distributed to the holders of CFRI. 25 Q Okay. Is there a time frame of how long CFRI has --
Page 163 1 Q Okay. And a copy of this was, in fact, sent to Mr. 2 White; correct? 3 A That's correct. 4 Q Okay. Is this -- as you sit here today, is this the 5 first time that you're aware of any writing informing 6 Mr. White of the default under the Fifth Third and 7 McLarty loan? 8 A In writing, yes. 9 Q Okay. Did this Notice to Shareholder, where it makes 10 reference to convertible -- Series A convertible stock, 11 was that stock created as a result of the shareholder 12 meeting that this document's referring to? 13 A No. The Series A-1 was created. It -- it was what 14 that was about. 15 Q Okay. And what was the Series A-1 and who was going to 16 be entitled to -- and if you look at page 2 of this 17 agreement, it looks like Designation and Number of 18 Shares of Series A-1 Convertible Preferred Stock -- 19 A Uh-huh. 20 Q Okay. What was that? 21 A The Designation of Number of shares? 22 Q Yes. 23 A Well, the designation is just the name of the series. 24 Q Okay. 25 A Okay? And the number of shares is how many that were	Page 165 1 A No. 2 Q -- to be entitled to payment or? Let me ask it this 3 way. Does the option to be paid ever expire, or the 4 ability to be paid ever expire? 5 A No. 6 Q Okay. Have any payments been made to any common 7 shareholders from C -- CFR? 8 A No. 9 Q Okay. Have any dividend payments been made to any 10 common shareholders? 11 A No. 12 Q Have any dividend payments been made to any Series B or 13 Series A shareholders? 14 A I assume you're talking since this took place? 15 Q Correct. 16 A No. 17 Q You're not aware of any dividend payments being made in 18 CFRI to any Series A or Series B shareholders? 19 A Or any other holders. 20 Q Are all of the Series A, Series B, and common being 21 held in CFRI? 22 A Yes. 23 Q Okay. Are there any Series A or Series B shareholders 24 that had investments in any other entity that resulted 25 from this acquisition?

Page 166 1 A I'm not sure I understand. 2 Q Are there -- McLarty Capital Partners, are they a 3 shareholder in CPRI? 4 A No. 5 Q Okay. Where do they hold shares or where -- 6 A They do not -- 7 Q What happened to McLarty as a result of this 8 acquisition? 9 A They -- it was complicated, but they -- you know, they 10 held debt at the time and they held the A-1 shares. 11 They took a substantial haircut to get out and, you 12 know; so... 13 Q All right. Let me ask this. Are there any Series A or 14 Series B preferred stock being held in CPRI? 15 A All of it. 16 Q Okay. Do you -- are all of the shareholders that were 17 Series B and Series A shareholders in CFR currently 18 shareholders in CPRI? 19 A Yes. 20 Q Okay. 21 A Technically, unit holders. 22 Q Unit holders? 23 A Yeah. 24 Q Okay. How were those units valued inside of CPRI? 25 A They are not.	Page 168 1 that, after the November 29, 2017, General Release and 2 Waiver, you had no further conversations with Mr. White 3 regarding the payment of his note. Do you recall that? 4 A Yes. 5 Q Okay. As you read these emails, do you still maintain 6 that position? 7 A Well, obviously, I had forgotten about this. 8 Q Okay. So, in February of 2019, you are discussing with 9 Mr. White the repayment of his subordinated note? 10 A Correct. 11 Q And at any time, did you mention to Mr. White in these 12 correspondence that it was your belief that he was not 13 entitled to payment under that note? 14 A No. 15 Q On February 25, 2019, did you write, (as read) "Just 16 noticed the second item on this when cleaning up 17 emails. I wish I could tell with any certainty. 18 McLarty is holding fast on its ability to block. I 19 asked in Q4 if we could reinstate payments and they 20 expressed shock that I would even ask." Do you recall 21 saying that? 22 A Yes. 23 Q Okay. On February 25, 2019, was it your subjective 24 belief that you still were required to pay under Mr. 25 White's subordinated note?
Page 167 1 Q Okay. Do they -- do they have any value, at all, as it 2 sits there today? 3 A Well, they certainly have value. It's just that they 4 wouldn't be able to access it until the liquidity event 5 occurs. 6 Q Okay, then -- 7 A And then, you know -- and so it's a future value. It's 8 difficult to add -- to determine what it will be. 9 Q Is there a target date for that liquidity event? 10 A No. 11 Q Okay. So, is there any guarantee that there's going to 12 be any payment to the unit holders in CPRI? 13 A Well, as -- presumably, sooner or later HCI will sell, 14 as is their operating practice. 15 Q All right. I'm just waiting for -- 16 MR. SCHANEN: Yep. 17 MR. PURIEFOY: We can go off the record. As soon 18 as I get that, I'll be able to talk more. 19 (OFF THE RECORD) 20 (MARKED FOR IDENTIFICATION, PLAINTIFF'S EXHIBIT 21 NUMBER 18, LOAN REPAYMENT EMAIL - 2/25/2019, ATTACHED.) 22 BY MR. PURIEFOY: 23 Q All right, Mr. Herwald. I've showed you what we've 24 marked as Plaintiff's Exhibit 18. Earlier, you 25 testified and then confirmed that it was your belief	Page 169 1 A No, but it was my intention to. 2 Q Okay. So you were doing that out of the goodness of 3 your heart? 4 MR. SCHANEN: Object to the form. 5 THE WITNESS: Yeah, can I give you a shit answer 6 like that, like your question was? The goodness of my 7 heart? No. I never intended not to do so, but it's 8 nice to have the option. 9 BY MR. PURIEFOY: 10 Q To have an option not to do so? 11 A Yeah. To use it as -- as additional negotiating 12 leverage if somebody opts not to comply with the spirit 13 of a severance agree- -- you know, separation 14 agreement. 15 Q So was it your intended purpose that you were only 16 going to use this ability to not pay the subordinated 17 note if Mr. White didn't do what you wanted him to do, 18 in accordance with the terms of the General Release and 19 Waiver? 20 MR. SCHANEN: Object to the form. 21 THE WITNESS: Generally, yes. 22 BY MR. PURIEFOY: 23 Q Okay. 24 A Yeah. 25 Q So was that the purpose of its inclusion in that

Page 170	Page 172
1 document? 2 MR. SCHANEN: Object to the form. 3 THE WITNESS: It was the reason why I didn't tell 4 him to take it out. 5 BY MR. PURIEFOY: 6 Q Okay. All right. Let me -- let me go talk to my 7 partner and see if there's anything else that I have. 8 A Okay. 9 Q All right. 10 (OFF THE RECORD) 11 BY MR. PURIEFOY: 12 Q All right, Mr. Herwald. At the time that Mr. White 13 entered into the Subordinated Note Agreement with CFR, 14 he was doing so in his capacity as attorney-in-fact for 15 J.C., as well. Do you understand that to be the case? 16 A I do understand that. 17 Q Okay. Has J.C. been paid out his portion of the 18 subordinated note? 19 A Yes. 20 Q Okay. Why was he paid? 21 A Because we would have paid the whole thing if not for 22 this, which we perceive as a violation of our 23 agreement. 24 Q Okay. 25 A And, you know, we didn't want him, you know, to -- you	1 A She knew that she was breaking the spirit of the 2 agreement and that she facilitated that, and that's 3 what it was about. 4 Q Did you file suit in that? 5 A Yes. 6 Q Okay. 7 A Well, she filed the suit. We just stopped paying her. 8 Q Okay. So you stopped paying Ms. Hodges under the terms 9 of her general waiver and release? 10 A Uh-huh. 11 Q Okay. And I think that you just testified a second ago 12 and pointed to Plaintiff's Exhibit 17 that hers was not 13 tied to an employment agreement. So is it your 14 testimony that Mr. White's was tied to his employment 15 agreement? 16 MR. SCHANEN: Object to the form. 17 THE WITNESS: Well, I -- I didn't -- it had to 18 match the terms of his employment agreement -- 19 BY MR. PURIEFOY: 20 Q Okay. 21 A -- because there was one. 22 Q Okay. Are you still actively involved in litigation 23 with Ms. Hodges? 24 A No. That was long ago. 25 Q That matter has been resolved?
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1 know, we wanted to do the right thing. 2 Q Okay. Did you think you had any obligation to pay 3 J.C.? 4 A Well, I did think we had, you know, a -- you know, an 5 ethical obligation to try and pay him. 6 Q Did you think that you had a legal obligation to pay 7 him? 8 A I'm not sure. I'm not sure. 9 Q Okay. 10 A All right. I asked you at the beginning of the 11 deposition any lawsuits that you have been a part of, 12 either individually or representing a company. Do you 13 recall that? 14 A Yes. 15 Q Are you currently or have you ever been involved in a 16 lawsuit with Jean Hodges? 17 A Yes. 18 Q Okay. What was the nature of that lawsuit? 19 A She signed a similar agreement to this. Obviously, it 20 didn't have the same things -- it -- it's different in 21 that it wasn't tied to an employment agreement, you 22 know, so it wasn't mimicking some of the terms of that. 23 And her husband hired three of our employees out of the 24 accounting department and, to me, that -- 25 Q Okay.	1 A Yeah. Quite a while ago. 2 Q And when was that suit filed? 3 A I -- I don't even remember off the top of my head. I'm 4 guessing it was '18 or something like that, but I could 5 be wrong. 6 Q Okay. And did -- was that suit the result of your 7 ceasing to pay -- 8 A Yes. 9 Q -- her under the terms of her severance agreement? 10 A Yes. 11 Q Okay. 12 MR. PURIEFOY: All right, Mr. Herwald. I do not 13 think that I have any more questions for you. 14 MR. SCHANEN: I don't have any questions. I did 15 want to note -- I think a lot of the exhibits that you 16 used were things that had been produced in native 17 format but that were confidential under the protective 18 order -- 19 MR. PURIEFOY: Correct, yeah. 20 MR. SCHANEN: -- and so I just want -- I think all 21 of them -- 22 MR. PURIEFOY: They are. 23 MR. SCHANEN: -- probably were. 24 MR. PURIEFOY: It all was. 25 MR. SCHANEN: So I just wanted to make sure that

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1 they're designated as confidential in the transcript 2 because they're not marked that way. 3 MR. PURIEFOY: Yeah, so, a lot of them, because of 4 the for- -- we work on Madison Arc -- 5 MR. SCHANEN: Yeah. 6 MR. PURIEFOY: -- at our office and so, 7 unfortunately, we have to convert -- 8 MR. SCHANEN: Yeah. 9 MR. PURIEFOY: -- all of those documents into a 10 completely different format for us to be able to open 11 them. 12 MR. SCHANEN: Uh-huh. 13 MR. PURIEFOY: And it just doesn't contain that 14 designation, for whatever reason, at the bottom. So 15 that wasn't intentional, but everything here is going 16 to be considered confidential. 17 MR. SCHANEN: Yeah, can we just note on the 18 transcript that all the exhibits are confidential? 19 COURT REPORTER: Yes. 20 MR. SCHANEN: Okay, thanks. And we'll read and 21 sign. 22 (WHEREUPON, THE DEPOSITION CONCLUDED AT 4:14 P.M.) 23 24 25	1 DEPOSITION ERRATA SHEET 2 3 Our Assignment No. 406800 4 Case Caption: RICHARD D. WHITE V. 5 FT ACQUISITIONS, LLC, ET AL. 6 7 DECLARATION UNDER PENALTY OF PERJURY 8 I declare under penalty of perjury 9 that I have read the entire transcript of 10 my Deposition taken in the captioned matter 11 or the same has been read to me, and 12 the same is true and accurate, save and 13 except for changes and/or corrections, if 14 any, as indicated by me on the DEPOSITION 15 ERRATA SHEET hereof, with the understanding 16 that I offer these changes as if still under 17 oath. 18 Signed on the ____ day of 19 ____, 20__. 20 21 22 KURT HERWALD 23 24 25
1 CERTIFICATE 2 This is to certify that the foregoing deposition 3 of KURT ARTHUR ALBERT HERWALD, consisting of 174 pages, 4 is a true and correct transcript of the testimony given 5 by said deponent after first being duly sworn; said 6 deposition was reported by method of Stenomask with 7 digital backup. This transcript may contain quoted 8 material; said material is transcribed as read or quoted 9 by the speaker. 10 11 I further certify that I am neither employed by 12 nor related to any of the parties in this matter nor 13 their counsel; nor do I have any interest, financial or 14 otherwise, in the outcome of the same. 15 16 IN WITNESS WHEREOF I have hereunto set my hand and 17 seal this 2nd day of March, 2021. 18  19 20 Lisa P. Kopcho 21 Professional Verbatim 22 Reporter 23 24 Notary in and for the State of South Carolina 25 My Commission Expires: November 2, 2030	1 DEPOSITION ERRATA SHEET 2 Page No. ____ Line No. ____ Change to: ____ 3 4 Reason for change: ____ 5 Page No. ____ Line No. ____ Change to: ____ 6 7 Reason for change: ____ 8 Page No. ____ Line No. ____ Change to: ____ 9 10 Reason for change: ____ 11 Page No. ____ Line No. ____ Change to: ____ 12 13 Reason for change: ____ 14 Page No. ____ Line No. ____ Change to: ____ 15 16 Reason for change: ____ 17 Page No. ____ Line No. ____ Change to: ____ 18 19 Reason for change: ____ 20 Page No. ____ Line No. ____ Change to: ____ 21 22 Reason for change: ____ 23 24 SIGNATURE: ____ DATE: ____ 25 KURT HERWALD

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EXHIBIT 7

GENERAL WAIVER AND RELEASE AGREEMENT
PLEASE READ CAREFULLY

This General Waiver and Release Agreement (the "Agreement") is made and entered into this 29th day of November, 2017 (the "Effective Date") by and between Richard D. White (the "Executive") and Commercial Foodservice Repair, Inc., a South Carolina Corporation, together with any and all affiliated or related entities, subsidiaries, or divisions, and the shareholders, members, directors, officers, employees, insurers and agents thereof (collectively referred to herein as the "Company").

THE PARTIES acknowledge the following:

WHEREAS, Executive was employed by the Company until November 29, 2017 when his employment was terminated by mutual agreement between the Company and the Executive (the "Termination Date"); and

WHEREAS, Executive desires to receive severance payments and other consideration provided pursuant to this Agreement, and the Company is willing to provide these benefits to Executive on the condition that Executive enters into this Agreement.

THEREFORE, in consideration of the mutual agreements and promises set forth within this Agreement, the receipt and sufficiency of which are hereby acknowledged, Executive and Employer agree as follows:

1. **Severance Benefits to Executive.** In consideration for the Executive's promises as set forth herein, the Company shall provide Executive the following severance consideration:

a. **Severance/Non-Compete Payments.** Pursuant to Section 6(b) of the Executive's July 28, 2014 Employment Agreement (the "Employment Agreement"), the Company shall pay Executive severance pay in the total gross amount of THREE HUNDRED THOUSAND AND NO/100THS (\$300,000) Dollars (the "Severance/Non-Compete Payments"). The Severance/Non-Compete Payments shall be payable in equal installments, less applicable withholdings and deductions, over a three (3) year period (the "Severance/Non-Compete Period") in the form of salary continuation pursuant to the Company's normal established payroll procedures. The Severance/Non-Compete Payments shall commence no later than the first regularly scheduled payroll run occurring after within thirty (30) days of the Termination Date, provided Executive has timely executed and not revoked this Agreement. The Severance/Non-Compete Payments may not be accelerated or deferred in any regard.

2. **Prior Wages, Salary, and Expenses.** Other than the Severance/Non-Compete Payments set forth in Section 1 of this Agreement, Executive acknowledges receipt of payment for all wages, salary, benefits, and expenses due to Executive.

3. **Release.** Executive hereby releases, acquits, and forever discharges the Company, its parent companies, subsidiaries, divisions, affiliates and controlling persons (if any), their officers, directors, board members, shareholders, members, employees, representatives, attorneys, personal representatives, affiliated or unaffiliated benefit plans, third-party administrators, any and all of their successors and assigns, and all persons acting by, through, under, or in concert with any of them (collectively the "Company") from any and all actions, causes of action, claims, demands, losses, claims for attorneys' fees, and all other forms

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EXHIBIT

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of civil damages, occurrences, and liabilities of any kind whatsoever, both known or unknown, arising out of any matter, happening, or thing, from the beginning of time to the date of this Agreement is signed by Executive, specifically including, but not limited to, any and all liability arising from, including amendments to and anti-retaliation provisions deriving from, the following:

- Local, state, or federal common law, statute, regulation, or ordinance;
- Title VII of the Civil Rights Act of 1964;
- Section 1981 of the Civil Rights Act of 1866;
- the Age Discrimination in Employment Act of 1967;
- the Americans with Disabilities Act of 1990;
- the Family and Medical Leave Act;
- the Employee Retirement Income Security Act of 1974;
- the Health Insurance Portability and Accountability Act;
- the Occupational and Safety Health Act;
- the Equal Pay Act;
- the Uniformed Services Employment and Re-employment Act of 1994;
- Executive Orders 11246 and 11141;
- the Worker Adjustment and Retraining Notification Act;
- the Rehabilitation Act of 1973;
- the Medicare, Medicaid and SCHIP Extension Act of 2007;
- state workers' compensation laws;
- state non-discrimination and/or human affairs laws;
- state payment of wages laws, acts or regulations;
- Executive's employment relationship and/or affiliation with Company

This release also includes a release of any claims for wrongful termination, breach of express or implied contract, intentional or negligent infliction of emotional distress, libel slander, as well as any other claims, whether in tort, contract or equity, under federal or state statutory or common law.

Without waiving any prospective or retrospective rights under the Fair Labor Standards Act ("FLSA"), Executive admits that he has received from Company all rights and benefits, if any, potentially due to him pursuant to the FLSA. Executive states that he is aware of no facts (including any injuries or illnesses) which might lead to his filing of a workers' compensation claim against Company. It is the parties' intent to release all claims which can legally be released but no more than that.

Executive further stipulates, such stipulation being expressly understood by Executive as material to this Agreement, that he has not engaged in, nor is he aware of, any misconduct or wrongdoing on the part of the Company of any kind or any regard. Executive's stipulation in this regard is material to the Company's willingness to enter into this Agreement and provide Executive the benefits provided hereunder.

4. **Covenant Not to Sue.** Executive represents that he has no claims pending or filed with any local, state or federal agency (including the U.S. Equal Employment Opportunity Commission, the U.S. Department of Labor, and any comparable state or local administrative agency) or court against the Company as of the date this Agreement was signed by Executive. Executive further agrees that he will not file or participate in any lawsuit against the Company arising out of or in connection with the employment relationship previously existing between them or the termination of that relationship other than one based upon the Company's alleged violation of this Agreement. The foregoing shall be construed as a covenant not to sue. This Agreement may be introduced as evidence at any legal proceeding as a complete defense to any claims existing as of the date of this Agreement ever asserted by Executive against the Company.

 Executive Init.

5. **Discrimination Charges; ADEA Challenges to this Agreement.** Nothing in this Agreement shall be interpreted or applied in a manner that affects or limits Executive's otherwise lawful ability to bring an administrative charge with, to participate in an investigation conducted by, or to participate in a proceeding involving the U.S. Equal Employment Opportunity Commission or other comparable state or local administrative agency. However, Executive specifically agrees that the consideration provided to him in this Agreement represents full and complete satisfaction of any monetary relief or award that could be sought or awarded to Executive in any administrative action (including any proceedings before the U.S. Equal Employment Opportunity Commission or any comparable state or local agency) arising from events related to his employment with the Company or the termination thereof. Additionally, nothing in this Agreement shall be interpreted or applied in a manner that affects or limits Executive's ability to challenge this Agreement's compliance with notice and other requirements of the Age Discrimination in Employment Act ("ADEA").

6. **Continued Cooperation; Lines of Communication.** During the Severance Period, Executive agrees to make himself reasonably available to the Company to respond to inquiries regarding any pending business matters in which he may have been involved, or for which his expertise and advice may be deemed beneficial by the Company. Executive agrees he will not be entitled to any additional compensation for this cooperation, other than the Severance Payments provided to him hereunder, which are intended to and shall fully compensate him for any such services. Further, Executive and Company agree that all communication between Executive and Company regarding any requested cooperation or assistance hereunder shall occur solely by and through the Company's CEO or his express designee, unless otherwise notified in writing by the CEO or his express designee.

7. **No Prior Assignment.** Executive further warrants and covenants, recognizing that the truth of this warranty and covenant is material to the above consideration having passed, that he has not assigned, transferred or conveyed at any time to any individual or entity any alleged rights, claims or causes of action against the Company.

8. **Re-Affirmation of Restrictive Covenants.** As a material condition of this Agreement, without which the Company would not enter into this Agreement nor provide the benefits to Executive as set forth herein, Executive hereby re-affirms his commitment to honor the covenants set forth in Sections 8 (Non-Competition), 9 (Non-Solicitation), 9 (Confidentiality), 11 (Ownership of Employee Developments) and 12 (Return of Property) of Executive's July 28, 2014, Employment Agreement (inclusive of any and all subsections). Executive further represents and warrants that he has fully complied with each of the above-specified provisions at all times, and acknowledges the validity and reasonableness of each of his promises set forth therein. Executive further acknowledges and agrees that each of the above restrictive covenants, as well as Section 13 (Injunction and Damages), represent continuing obligations that survive the termination of Executive's employment and are not intended to be, and shall not be, superseded or impaired by this Agreement.

9. **Return of Company Property.** Pursuant to Section 12 of the Employment Agreement, Executive stipulates under oath that on or before the Effective Date, (i) he has returned to the Company all of the Company's property, including, but not limited to, vehicle(s), mobile phone, personal digital assistant (PDA), keys, passcards, credit cards, confidential or proprietary lists (including, but not limited to, customer, supplier, licensor, and client lists), rolodexes, tapes, laptop computer, software, computer files, marketing and sales materials, and any other property, record, document, or piece of equipment belonging to the Company, (ii) that he has not retained any copies of the Company's property, including any copies

 Executive Init.

existing or stored in any electronic form or format, which reflect any Confidential Information or Protected Information (as such terms are defined in the Employment Agreement), and (iii) that he has not disclosed or transferred any such Company property to any third party at any time.

10. **Non-Disparagement.** Executive agrees and covenants that he will not in any way (directly or indirectly) do or say anything at any time which disparages or derogates the Company, its business interests or reputation, or any of its individual owners, directors, officers, employees, or agents.

11. **Confidentiality of Agreement.** Executive agrees and acknowledges that this Agreement, the fact and amount of the consideration to him provided hereunder, as well as all other terms contained herein, the events leading up to this Agreement, and any conversations or correspondence relating hereto, will be kept confidential at all times; provided that, however, Executive may disclose the terms of this Agreement to his spouse, accountants, tax advisors, and financial consultants as necessary for tax planning, financial planning, or estate planning purposes. Executive further acknowledges that he will be responsible for ensuring that any of the above-specified individuals to whom he discloses information regarding this Agreement likewise fully complies with this obligation of confidentiality.

12. **Performance.** The Company's obligation to perform under this Agreement is conditioned upon Executive's agreements and promises to the Company as set forth herein, including Executive's re-affirmation of and compliance with each of the covenants specified and re-affirmed by Executive in Section 8 above, and Executive's strict compliance with his obligation to maintain confidentiality with regard to this Agreement as detailed in Section 11 above. In the event of an actual or threatened breach by Executive of any such agreement or promise, the Company's obligations to perform under this Agreement, including, without limitation, the Company's obligation to make the Severance/Non-Compete Payments as set forth in Section 1, shall automatically terminate, the Company shall have no further such obligations to Executive and the Severance/Non-Compete Payments thus far made by the Company shall represent full and complete consideration for the Executive's promises as set forth herein. Further, Executive acknowledges and agrees that for purposes of determining whether the Company is entitled to the relief set forth in this Section 12, the controlling issue shall be Executive's breach or threatened breach of the subject provision, with the enforceability of said provision via injunctive relief treated as a separate issue. Executive further acknowledges and agrees that any argument by Executive that any restrictive covenants re-affirmed in Section 8 of this Agreement is invalid or unenforceable due to the scope or duration of said restriction, shall itself constitute a breach of this Agreement excusing the Company from performance as set forth hereinabove.

13. **No Admission of Liability.** Nothing in this Agreement (or the Agreement itself) shall operate or be interpreted as an admission of liability as to any of the claims, charges, actions and lawsuits released hereby. The Company, and each of its individual directors, officers, employees, agents and insurers, and their successors, individually and collectively, expressly deny any such liability.

14. **Final and Binding/Entire Agreement.** This Agreement sets forth the entire agreement between the parties and is intended to be final and binding upon them. Except as set forth herein, it fully supersedes any and all prior agreements or understandings on the subjects addressed herein, including the Employment Agreement, and may only be amended by a written document signed by the parties or their duly authorized representatives which specifically states that it was intended as an amendment.

 Executive Init.

15. **Notice.** Any notice required or permitted to be given under this Agreement must be in writing and must be given in person or be sent by registered or certified mail to:

a. The Executive at his personal residence, 2096 Harbor Lane, Virginia Beach, Virginia, 23454; and

b. The Company at its principal place of business, 410 East Washington Street, Greenville, SC 29601 (Attn: Gordon Miller), with a copy to Nelson Mullins Riley & Scarborough LLP, 104 South Main Street, 9th Floor, Greenville, SC, 29601 (Attn: Bo Russell).

16. **Controlling Law.** This Agreement will be interpreted and enforced according to the laws of the State of South Carolina and, where applicable, federal law.

17. **Severability.** If any term, provision, covenant, or condition of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the Agreement shall remain in full force and effect and shall be in no way affected, impaired or invalidated.

18. **Enforcement.** In the event either party is required to In the event either party is required to initiate legal action to enforce any provision of this Agreement, the Company and Executive hereby mutually agree that the prevailing party in any such action shall be entitled to recover all reasonable costs and attorneys' fees incurred by the party in such action, in addition to any and all other available and appropriate legal and equitable relief.

19. **Acknowledgements.** Executive acknowledges that it is the mutual intent of the Parties that the full release contained in this Agreement fully complies with the Age Discrimination in Employment Act ("ADEA") and the Older Workers Benefit Protection Act ("OWBPA"). Accordingly, this Agreement requires, and Executive acknowledges and agrees that: 1) the consideration provided to Executive under this Agreement exceeds the nature and scope of any consideration to which Executive would otherwise have been legally entitled to receive absent execution of this Agreement; 2) execution of this Agreement and the full release herein, which specifically includes a waiver of any claims of age discrimination under the ADEA, is Executive's knowing and voluntary act; 3) Executive is hereby advised to consult with an attorney prior to executing this Agreement; 4) Executive has reviewed the additional information provided by the Company regarding this offer of severance as set forth on Exhibit A to this Agreement; 5) Executive has twenty-one (21) calendar days within which to consider this Agreement and his signature on this Agreement prior to the expiration of this twenty-one (21) day period (should Executive choose not to take the full period offered) constitutes an irrevocable waiver of said period or its remainder; 6) in the event Executive signs this Agreement, Executive has another seven (7) calendar days to revoke it by delivering a written notice of revocation to the addressee identified in the Notice provision above, and this Agreement does not become effective until the expiration of this seven (7) day period; 7) Executive has read and fully understands the terms of this Agreement; and 8) nothing contained in this Agreement purports to release any of Executive's rights or claims under the ADEA that may arise from acts occurring after the date of the execution of this Agreement.

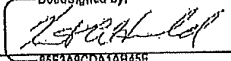
 Executive Init.

PLEASE READ THIS AGREEMENT CAREFULLY. IT CONTAINS A RELEASE OF ALL KNOWN AND UNKNOWN CLAIMS. YOU AGREE THAT YOU RECEIVED VALUABLE CONSIDERATION IN EXCHANGE FOR ENTERING INTO THIS AGREEMENT AND THAT THE COMPANY ADVISED YOU IN WRITING TO CONSULT AN ATTORNEY PRIOR TO SIGNING THIS AGREEMENT. YOU PROMISE THAT NO REPRESENTATIONS OR INDUCEMENTS HAVE BEEN MADE TO YOU EXCEPT AS SET FORTH HEREIN, AND THAT YOU HAVE SIGNED THE SAME KNOWINGLY AND VOLUNTARILY.

YOU HAVE BEEN PROVIDED AT LEAST TWENTY-ONE (21) DAYS WITHIN WHICH TO CONSIDER THIS AGREEMENT AND WAIVE AND RELEASE ALL CLAIMS AND RIGHTS INCLUDING BUT NOT LIMITED TO THOSE ARISING UNDER THE AGE DISCRIMINATION IN EMPLOYMENT ACT. YOU SHALL HAVE SEVEN (7) DAYS WITHIN WHICH TO REVOKE THIS AGREEMENT AND THIS AGREEMENT SHALL NOT BECOME EFFECTIVE OR ENFORCEABLE UNTIL THAT REVOCATION PERIOD HAS EXPIRED. ANY SUCH REVOCATION MUST BE IN WRITING AND RECEIVED BY THE COMPANY, IN ACCORDANCE WITH THE NOTICE PROVISIONS SET FORTH ABOVE, PRIOR TO THE END OF THE REVOCATION PERIOD.

IN WITNESS WHEREOF, the parties have executed this Agreement on the date(s) set forth herein below:

COMMERCIAL FOODSERVICE REPAIR, INC.

By: 
BSP3A9CDA1AB45F...
CEO
Its: _____
Date: 11/29/2017

RICHARD D. WHITE


Executive Signature

SWORN TO AND subscribed before me

this 5th day of December 2017.


Notary Public for Virginia

My Commission Expires: 6-30-2019

SHELLY K SOWERS
NOTARY PUBLIC 182665
COMMONWEALTH OF VIRGINIA
MY COMMISSION EXPIRES 06-30-2019

 Executive Init.

EXHIBIT 8

Commercial Foodservice Repair, Inc.
Notice of Shareholder Meeting for December 20, 2017

The directors of Commercial Foodservice Repair, Inc. hereby notify the shareholders of the Company of the planned shareholder meeting to be held December 20, 2017 at 6:00 PM at the Company's offices located at 410 East Washington Street, Greenville, SC 29601. If attendees are interested, we will host a dinner afterwards.

Agenda for the meeting includes:

1. Review of 2017 performance.
 - Cost containment efforts.
 - Completion of IT and Acquisition Integration.
 - Industry issues impacting CFR.
2. Review of plans for 2018 and beyond.
3. Review of financing activities. We hope and expect to have a clearer picture of where we are with our lenders and other activities.
4. Review of organizational changes.
5. Any other business brought before the board.
6. The reelection of directors Kurt Herwald, Farid Naib, and Steve Owings.

Shareholder Proxy

You may vote in-person at the meeting or by delivering your proxy to Clark Mizell (clark.mizell@mytech24.com) via mail to the company offices or by emailing a scan of your signed proxy by April 10th.

Name: _____

Date: _____

Number of Shares being voted: _____

Item One: Election of directors:

	Yes	No
Kurt Herwald	_____	_____
Farid Naib	_____	_____
Steve Owings	_____	_____

Signature: _____

EXHIBIT 9

SUBORDINATION AGREEMENT

(Seller Subordinated Noteholder)

Dated: July 28, 2014

To: PNC Bank, National Association (together with its designated agent, successors and assigns from time to time party to the Senior Agreement (as defined below), the "Senior Lender"), and Leeds Novamark Capital I, L.P., (together with its designated agent, successors and assigns from time to time party to the Junior Agreement (as defined below), the "Junior Lender")

To induce Senior Lender and Junior Lender at the request of Commercial Foodservice Repair, Inc., a South Carolina corporation ("CFR"), to (i) enter into various credit facilities for the making of loans and extensions of credit to and/or for the benefit of CFR and each of the subsidiaries of CFR from time to time party to the Senior Agreement or the Junior Agreement (each as defined below and as may hereafter be amended, supplemented or replaced from time to time, collectively, "Superior Loan Agreements") (together with CFR and their respective successors and permitted assigns, collectively referred to as the "Borrowers" and each individually referred to as a "Borrower"), and (ii) approve the issuance by Borrowers of the Seller Subordinated Debt and as a condition to such action has required the execution and delivery of this Subordination Agreement. For good and valuable consideration the parties hereto agree as follows:

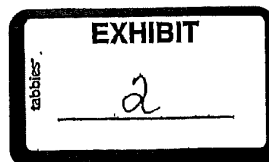
1. Definitions. For purposes of this Subordination Agreement (this "Subordination Agreement"), the following capitalized terms shall have the following respective meanings:

"Junior Agreement" means that certain Senior Subordinated Credit Agreement dated as of date hereof, by and among the Borrowers and Junior Lender, as the same may from time to time be amended, restated, modified or otherwise supplemented from time to time, and including the unsecured subordinated promissory notes issued pursuant thereto, as the same may from time to time be amended, restated, modified or otherwise supplemented from time to time.

"Junior Debt" means (i) indebtedness and Obligations (as defined in the Junior Agreement) under the Loan Documents (as defined in the Junior Agreement), including, without limitation, principal, premium, interest and other liabilities payable from time to time and similar obligations, interest accruing before and after any bankruptcy or insolvency proceeding at the rate provided in the documentation with respect thereto (irrespective of whether such principal, premium, interest or other liabilities are allowed as a claim in any such proceeding), premiums, penalties, fees, indemnities or expenses, and regardless of whether direct or indirect, now existing or hereafter arising, absolute or contingent, secured or unsecured, or long or short term, (ii) obligations arising under any guarantees executed by the Borrowers or any of their subsidiaries of items described in (i) above, (iii) renewals, extensions, refundings, refinancings, deferrals, restructurings, amendments and modifications of the items described in (i) and/or (ii) above, and (iv) any other obligation or liability owing by Borrowers, or any of them, to Junior Lenders.

"Junior Lender" means the lenders or their designated agent, from time to time party to the Junior Agreement, and includes their respective successors and assigns.

"Person" means an individual, a partnership, a corporation, a limited liability company, an association, a joint stock company, a trust, a joint venture, an unincorporated organization and a governmental entity or any department, agency or political subdivision thereof.



"Seller Noteholder" means the holder of the Seller Unsecured Subordinated Note, in its capacity as a holder of the Seller Unsecured Subordinated Note.

"Seller Subordinated Debt" means (i) indebtedness under the Seller Unsecured Subordinated Note, including, without limitation, principal, interest and other liabilities payable from time to time and similar obligations, premiums, penalties, fees, indemnities or expenses, and regardless of whether direct or indirect, now existing or hereafter arising, absolute or contingent, secured or unsecured, or long or short term, (ii) obligations arising under guarantees executed by the Borrowers or any of their Subsidiaries of items described in (i) above, and (iii) renewals, extensions, refundings, refinancings, deferrals, restructurings, amendments and modifications of the items described in (i) and/or (ii) above.

"Seller Unsecured Subordinated Note" means that certain note of even date herewith from FT Acquisition, LLC to Richard D. White, as Seller Representative, in the aggregate principal amount of \$1,000,000.

"Senior Agreement" means that certain Amended and Restated Loan Agreement dated as of [], 2014, by and among the Borrowers and Senior Lender, as the same may from time to time be amended, restated, modified or otherwise supplemented from time to time, and including the senior secured promissory notes issued pursuant thereto, as the same may from time to time be amended, restated, modified or otherwise supplemented from time to time.

"Senior Debt" means (i) indebtedness and Obligations (as defined in the Senior Agreement) under the Loan Documents (as defined in the Senior Agreement), including, without limitation, principal, premium, interest and other liabilities payable from time to time and similar obligations, interest accruing before and after any bankruptcy or insolvency proceeding at the rate provided in the documentation with respect thereto (irrespective of whether such principal, premium, interest or other liabilities are allowed as a claim in any such proceeding), premiums, penalties, fees, indemnities or expenses, and regardless of whether direct or indirect, now existing or hereafter arising, absolute or contingent, secured or unsecured, or long or short term, (ii) obligations arising under guarantees executed by the Borrowers or any of their Subsidiaries of items described in (i) above, (iii) renewals, extensions, refundings, refinancings, deferrals, restructurings, amendments (including amendments which increase the principal amount thereof and interest and fees thereon) and modifications of the items described in (i) and/or (ii) above, and (iv) any other obligation or liability owing by the Borrowers, or any of them, to Senior Lender.

"Senior Lender" means the lenders or their designated agent from time to time party to the Senior Agreement, and includes their respective successors and assigns.

"Subsidiary" means, with respect to any Person, any corporation, limited liability company, partnership, association or other business entity of which (i) if a corporation, a majority of the total voting power of shares of stock entitled (without regard to the occurrence of any contingency) to vote in the election of directors, managers or trustees thereof is at the time owned or controlled, directly or indirectly, by that Person or one or more of the other Subsidiaries of that Person or a combination thereof; or (ii) if a limited liability company, partnership, association or other business entity, a majority of the partnership or other similar ownership interest thereof is at the time owned or controlled, directly or indirectly, by any Person or one or more Subsidiaries of that Person or a combination thereof. For purposes hereof, a Person or Persons shall be deemed to have a majority ownership interest in a limited liability company, partnership, association or other business entity if such Person or Persons shall be allocated a majority of limited liability company, partnership, association or other business entity gains or losses or shall be or control any managing director or general partner of such limited liability company, partnership, association or other business entity.

"Superior Debt" means (i) all Senior Debt; and (ii) all Junior Debt.

"Superior Default" means a default or an event of default under the Senior Debt or the Junior Debt.

"Superior Lenders" means until the Senior Debt is paid and satisfied in full, Senior Lender and thereafter, Junior Lender, and in each case their respective successors and assigns.

"Superior Loan Agreements" has the meaning set forth in the Preamble above.

2. The payment of any and all Seller Subordinated Debt is expressly subordinated to the Superior Debt to the extent and in the manner set forth in this Subordination Agreement. Neither the Seller Noteholder nor the Borrowers shall amend or modify the Seller Unsecured Subordinated Note in any manner whatsoever without the prior written consent of Senior Lender and Junior Lender.

3. Prior to the receipt by the Seller Noteholder of written notice from a Superior Lender of a Superior Default ("Superior Default Notice"), but subject to the balance of this Section 3 and Section 4 below, Borrowers may pay and Seller Noteholder may accept the following payments of interest and/or principal under the Seller Unsecured Subordinated Note: (i) accrued interest at a rate not to exceed five percent (5.0%) per annum, and (ii) annual principal payments not to exceed \$200,000. Upon the occurrence of a Superior Default and receipt of a Superior Default Notice, until such Superior Default has been cured or waived to Senior Lenders' satisfaction, with respect to a Superior Default under the Senior Agreement, and Junior Lenders' satisfaction, with respect to a Superior Default under the Junior Agreement, in either case pursuant to written agreement with Senior Lender or Junior Lender, as applicable, Borrowers shall not pay, including set-offs against the Seller Unsecured Subordinated Note of amounts owed under such Seller Unsecured Subordinated Note pursuant to Section 5 thereof, and Seller Noteholder shall not accept (subject to Section 4 below), any payments of any kind associated with Seller Subordinated Debt. To the extent any amounts owing on the Seller Subordinated Debt are not paid as a result of the provisions of this Section 3 (the "Deferred Amount"), at such time as Borrowers are permitted to resume payments on the Seller Subordinated Debt, the Deferred Amount plus any interest owing as a result of the non-payment at the rate specified in the Seller Unsecured Subordinated Note shall be due and payable.

4. Until such Superior Default has been cured to Senior Lenders' and Junior Lenders' satisfaction, as applicable, or waived by Senior Lender or Junior Lender, as applicable, in either case pursuant to written agreement with Senior Lender or Junior Lender, as applicable, any payments (whether in cash, securities or other property) on the Seller Subordinated Debt received by Seller Noteholder (including, without limitation, prepayments on the Seller Subordinated Debt), other than as expressly permitted in Section 3 above, shall be held in trust for Senior Lender and Junior Lender and such Seller Noteholder will forthwith turn over any such payments in the form received, properly endorsed or assigned, to (i) Senior Lender to be applied to the Senior Debt as determined by Senior Lender until such time as the Senior Debt shall have been paid and satisfied in full and (ii) then to the holders of the Junior Debt until such time as the Junior Debt shall have been paid and satisfied in full. In the event of the failure of any holder of Seller Subordinated Debt to endorse or assign any such payment, distribution or security, Superior Lenders are hereby irrevocably authorized to endorse or assign the same.

5. Until all of the Superior Debt is indefeasibly paid and satisfied in full, Seller Noteholder will not ask, demand, accept, receive or retain any guarantee of the Seller Subordinated Debt, or any collateral security for the payment of the Seller Subordinated Debt, or any other form of payment assurance as to the Seller Subordinated Debt, from the Borrowers or any Subsidiary of the Borrowers, except only the

obligation of the Borrowers evidenced by the Seller Subordinated Debt, and will not initiate or prosecute, or encourage any other person to initiate or prosecute any claim or other proceeding.

6. Until all of the Superior Debt is indefeasibly paid and satisfied in full, no Borrower shall grant to Seller Noteholder and Seller Noteholder shall not take any lien on or security interest in any of Borrowers' Property (as defined in the Junior Agreement) now owned or hereafter acquired or created, without Senior Lenders' and Junior Lenders' prior written consent. The Superior Lenders may release all liens, if any, of Seller Noteholder, and Seller Noteholder, promptly shall execute and deliver to the Superior Lenders such termination statements, releases and other documents as the Superior Lenders may request to effectively confirm such release. Until all of the Superior Debt is indefeasibly paid and satisfied in full, Seller Noteholder hereby irrevocably constitutes and appoints Senior Lender until such time as the Senior Debt is paid in full, and thereafter, Junior Lender on behalf of itself and the other holders of Junior Debt, and any officer or agent of Senior Lender or Junior Lender, as the case may be, with full power of substitution, as its true and lawful attorney-in-fact with full irrevocable power and authority, for the limited purpose of carrying out the terms of this Section 6 and Section 10 below, to take any and all reasonable and appropriate action and to execute any and all documents and instruments which may be necessary to accomplish the purposes of this Section 6 and Section 10 below, including any endorsements or other instruments of transfer or release. This authorization is coupled with an interest and is irrevocable until such time as this Subordination Agreement is terminated in accordance with its terms.

7. This Subordination Agreement shall be effective until the Superior Debt, including without limitation, all loans and all fees, costs, expenses and other charges arising in connection with the Superior Loan Agreements, whether due or to become due, now existing or hereafter arising are indefeasibly paid and satisfied in full.

8. Seller Noteholder agrees that it will not make any assertion or claim in any action, suit or proceeding of any nature whatsoever in any way challenging the priority, validity or effectiveness of the liens and security interests granted to Senior Lender under and in connection with the Senior Agreement, or any amendment, extension, replacement thereof or related agreement, instrument or document by or among Senior Lender or Junior Lender and Borrowers.

9. Seller Noteholder will not commence any action or proceeding at law or equity against Borrowers, or any of them, to recover all or any part of the Seller Subordinated Debt not paid when due and shall at no time join with any creditor, in bringing any proceeding against Borrowers, or any of them, under any liquidation, conservatorship, bankruptcy, reorganization, rearrangement, or other insolvency law now or hereafter existing, unless and until the Superior Debt shall be indefeasibly paid and satisfied in full in cash, and Senior Lender has no further obligation to make revolving loans and advances under the Senior Agreement. Subject to the foregoing, Seller Noteholder may accelerate the Seller Subordinated Debt upon the occurrence of (a) the acceleration of the Superior Debt; and (b) the filing of a petition under the Bankruptcy Code by Borrowers, or any of them; provided that such Seller Noteholder shall reverse such acceleration in the event that (i) the acceleration of the Superior Debt, or any portion thereof, is reversed or (ii) such petition is withdrawn.

10. In the event of any liquidation, conservatorship, bankruptcy, reorganization, rearrangement, or other insolvency proceeding of Borrowers, or any of them, Seller Noteholder will at Superior Lenders' request file any claims, proofs of claim, or other instruments of similar character necessary to enforce the obligations of Borrowers in respect of the Seller Subordinated Debt and will hold in trust for Senior Lender and the Junior Lenders and pay over to Superior Lenders in the same form received, to be applied on the Superior Debt as determined by Superior Lenders, any and all money, dividends or other assets received in any such proceedings on account of the Seller Subordinated Debt, unless and until the Superior Debt shall be paid in full, including, without limitation, interest owing to Senior Lender and the Junior Lenders after

the commencement of a bankruptcy proceeding at the rate specified in the Superior Loan Agreements, whether or not such interest is an allowable claim in any such proceeding. Superior Lenders may, as attorney-in-fact for Seller Noteholder, take such action on behalf of Seller Noteholder, and Seller Noteholder hereby appoints Superior Lenders as attorney-in-fact for Seller Noteholder to demand, sue for, collect, and receive any and all such money, dividends or other assets and give acquittance therefore and to file any claim, proof of claim or other instrument of similar character and to take such other proceedings in Senior Lenders' or the Junior Lenders' name or in the name of Seller Noteholder, as Superior Lenders may deem necessary or advisable for the enforcement of this Subordination Agreement. Seller Noteholder will execute and deliver to Superior Lenders such other and further powers of attorney or other instruments as either reasonably may request in order to accomplish the foregoing. Seller Noteholder agrees not to initiate or prosecute or encourage any other Person to initiate or prosecute any claim, action or other proceeding challenging the enforceability of the Superior Debt or any liens and security interests securing the Superior Debt. The Superior Debt shall continue to be treated as Superior Debt and the provisions of this Subordination Agreement shall continue to govern the relative rights and priorities of the holders of the Superior Debt and the holders of Seller Subordinated Debt even if all or part of the Superior Debt or the security interest securing the Superior Debt are subordinated, set aside, avoided or disallowed in connection with any such proceeding and this Subordination Agreement shall be reinstated if at any time any payment of any of the Superior Debt is rescinded or must otherwise be returned by any holder of Superior Debt or any representative of such holder. Upon indefeasible payment and satisfaction in full of all Superior Debt and termination of Senior Lenders' obligation to make revolving loans under the Senior Agreement, Seller Noteholder shall be subrogated to the rights of Senior Lender and the Junior Lenders, in accordance with applicable equitable principles, to receive distributions with respect to the Superior Debt until Seller Subordinated Debt is paid in full.

11. Senior Lender and the Junior Lenders may at any time and from time to time, without the consent of or notice to Seller Noteholder, without incurring responsibility to Seller Noteholder and without impairing or releasing any of such Person's rights, or any of the obligations of the Seller Noteholder hereunder:

- (a) Change the amount, manner, place or terms of payment or change or extend the time of payment of or renew or alter the Superior Debt, or any part thereof, or amend, supplement or replace the Superior Loan Agreements and/or any notes executed in connection therewith in any manner or enter into or amend, supplement or replace in any manner any other agreement relating to the Superior Debt;
- (b) Sell, exchange, release or otherwise deal with all or any part of any property at any time pledged or mortgaged by any party to secure or securing the Superior Debt or any part thereof;
- (c) Release anyone liable in any manner for the payment or collection of the Superior Debt (including, without limitation, Borrowers);
- (d) Exercise or refrain from exercising any rights against Borrowers or others (including the Seller Noteholder); and
- (e) Apply sums paid by any party to the Superior Debt in any order or manner as determined by Superior Lenders.

12. Seller Noteholder will advise each future holder of all or any part of the Seller Subordinated Debt that the Seller Subordinated Debt is subordinated to the Superior Debt in the manner and to the extent provided herein. Seller Noteholder represents that no part of the Seller Subordinated Debt or any instrument evidencing the same has been transferred or assigned and such Seller Noteholder will not

transfer or assign, except to Superior Lenders, any part of the Seller Subordinated Debt while any Superior Debt remains outstanding, unless such transfer or assignment is made expressly subject to this Subordination Agreement. Upon Superior Lenders' request, Seller Noteholder will in the case of any Seller Subordinated Debt which is not evidenced by any instrument cause the same to be evidenced by an appropriate instrument or instruments, and place thereon and on any and all instruments evidencing the Seller Subordinated Debt a legend in such form as Superior Lenders may determine to the effect that the indebtedness evidenced thereby is subordinated and subject to the prior payment in full of all Superior Debt pursuant to this Subordination Agreement, as well as deliver all such instruments to Superior Lenders.

13. This is a continuing agreement and will remain in full force and effect to each of the Superior Lenders until all of their respective Superior Debt and all of Seller Noteholder's obligations and undertakings to each of Senior Lender and the Junior Lenders have been fully performed and indefeasibly satisfied and until the respective Superior Loan Agreements have been terminated. This Subordination Agreement will continue to be effective or will be automatically reinstated, as the case may be, if at any time payment of all or any part of the Superior Debt is rescinded or must otherwise be returned by the Borrowers, or any of them, upon insolvency, bankruptcy, or reorganization of the Borrowers, or any of them, or otherwise, all as though such payment had not been made.

14. Nothing in this Subordination Agreement is intended to compel Senior Lender or the Junior Lenders or the Seller Noteholder at any time to declare the Borrowers in default or compel Senior Lender or the Junior Lenders to proceed against or refrain from proceeding against any of Borrowers' Property in any order or manner. All rights and remedies of Senior Lender and the Junior Lenders, with respect to Borrowers' Property, the Borrowers, and any other obligors concerning the Superior Debt are cumulative and not alternative. No present or future holder of Superior Debt shall be prejudiced in its right to enforce the provisions in this Subordination Agreement by any act or failure to act.

15. In the event of a bankruptcy, reorganization, other insolvency or court proceeding for the Borrowers, or any of them, commences, the Superior Lenders shall have the option (in their sole and absolute discretion) to continue to provide financing (on terms acceptable to Superior Lenders) to the trustee, other fiduciary, or to the Borrowers as a debtor-in-possession, if Superior Lenders deem such financing to be in their best interests. The subordination and lien priority provisions of this Subordination Agreement shall continue to apply to all advances made during the pendency of such court proceedings, so that the Senior Lender shall have a prior lien on all of Borrowers' Property, created before or during such court proceeding, to secure all Senior Debt, whether created before or during such court proceeding. Seller Noteholder hereby waives any right it may have to object to financing by the Superior Lenders during the pendency of such court proceeding and such Seller Noteholder's consent to such financing shall not be required regardless of whether the court supervising such proceeding approves, grants or allows adequate protection to the Seller Noteholder.

16. All notices, demands, requests, consents, approvals and other communications required or permitted hereunder must be in writing and will be effective upon receipt. Such notices and other communications may be hand delivered, sent by facsimile transmission with confirmation of delivery with a copy sent by first class mail, or sent by nationally recognized overnight courier service, to a party's address set forth below or to such other address as any party may give to the other in writing for such purpose:

To Senior Lender:

PNC Bank, National Association
531 S. Main Street
Greenville, South Carolina 29601
Attention: Calvin Hurst
Telephone: 864.282.1667

Email: calvin.hurst@pnc.com

with a copy to:

Parker Poe Adams & Bernstein LLP
1201 Main Street, Suite 1450
Columbia, South Carolina 29201
Attention: Todd Haynie
Telephone: 803.255.8000
Email: toddhaynie@parkerpoe.com

To Junior Lender:

Leeds Novamark Capital I, L.P.
11710 Plaza America Drive
Suite 160
Reston, VA 20190
Attention: Matthew Kelty
Telephone: 703.651.2147
Email: kelty@leedsnovamark.com

with a copy to:

Moore & Van Allen PLLC
100 North Tryon Street, Suite 4700
Charlotte, North Carolina 28202-4003
Attention: John Chinuntdet
Facsimile: 704.378.1950
Email: johnchinuntdet@mvalaw.com

If to the Seller Noteholder:

Richard D. White
2096 Harbor Lane
Virginia Beach, Virginia 23454
Telephone: 571-435-3491
Rick@mytech24.com

with a copy to:

The Ruddy Law Firm
10427 North Street, Suite 200
Fairfax, VA 22030
Attention: Richard Ruddy
Telephone: 703.383.9000
E-mail: rruddy@ruddylawfirm.com

If to the Borrowers:

Commercial Foodservice Repair, Inc.
410 East Washington Street
Greenville, South Carolina 29601
Attention: Kurt A. Herwald
Facsimile: 864.271.3736
Email: kurt@cfrltd.com

with a copy to:

Nelson Mullins Riley & Scarborough, LLP
104 South Main Street, Suite 900
Greenville, South Carolina 29601
Attention: Hamilton E. Russell
Telephone: 864.250.2313
Email: bo.russell@nelsonmullins.com

17. This Subordination Agreement contains the entire agreement between the parties regarding the subject matter hereof and supersedes all prior agreements between or among the parties hereto. This Subordination Agreement may be amended, supplemented or modified only by written instrument executed by Senior Lender, Junior Lender, Borrowers and the Seller Noteholder.

18. In case any one or more of the provisions contained in this Subordination Agreement should be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein shall not in any way be affected or impaired thereby.

19. This Subordination Agreement may be signed in any number of counterpart copies and by the parties hereto on separate counterparts, but all such copies shall constitute one and the same instrument. Delivery of an executed counterpart of a signature page to this Subordination Agreement by facsimile or electronic transmission shall be effective as delivery of a manually executed counterpart. Any party so executing this Subordination Agreement by facsimile or electronic transmission shall promptly deliver a manually executed counterpart, provided that any failure to do so shall not affect the validity of the counterpart executed by facsimile transmission.

20. Seller Noteholder represents and warrants that neither the execution or delivery of this Subordination Agreement nor fulfillment of nor compliance with the terms and provisions hereof will conflict with, or result in a breach of the terms, conditions, or provisions of or constitute a default under any agreement or instrument to which such Seller Noteholder or any of such Seller Noteholder's assets is now subject.

21. Any notice of acceptance of this Subordination Agreement is hereby waived.

22. This Subordination Agreement shall be binding upon the parties hereto, and each of the parties' successors, representatives and assigns. This Subordination Agreement may be assigned by Senior Lender and/or Junior Lender, or any of them, in whole or in part in connection with any assignment, transfer or refinancing of any portion of the Superior Debt.

23. Except as provided in Sections 3 and 4 above, Borrowers agree that they will not make any payment on any of the Seller Subordinated Debt, or take any other action in contravention of the provisions of this Subordination Agreement.

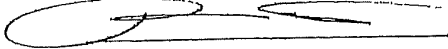
24. THIS SUBORDINATION AGREEMENT SHALL IN ALL RESPECTS BE INTERPRETED, CONSTRUED AND GOVERNED BY THE SUBSTANTIVE LAWS OF THE STATE OF SOUTH CAROLINA. SELLER NOTEHOLDER (I) SUBMITS TO THE JURISDICTION OF THE UNITED STATES DISTRICT COURTS LOCATED IN SOUTH CAROLINA AND OF ANY STATE COURT IN GREENVILLE COUNTY, SOUTH CAROLINA FOR THE PURPOSES OF RESOLVING ANY CONTROVERSY RELATING THERETO AND (II) WAIVES THE RIGHT TO A JURY TRIAL FOR THE PURPOSE OF RESOLVING ANY CONTROVERSY HEREUNDER OR ENFORCING OR DEFENDING ANY RIGHTS OR CLAIM HEREUNDER OR IN CONNECTION HEREWITH, WHETHER SOUNDING IN CONTRACT, TORT OR OTHERWISE.

25. Wherever appropriate in the context, the term "Borrower" and "Borrowers" shall, as the context may require, each be deemed to refer to, and construed as, "the Borrowers and/or any of them".

* * *

IN WITNESS WHEREOF, Seller Noteholder has executed this Subordination Agreement as of
the date first written above.

SELLER NOTEHOLDER:

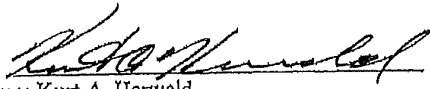
A handwritten signature in black ink, appearing to read "Richard D. White", is written over a horizontal line.

Richard D. White, as Seller Representative

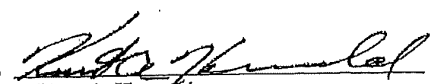
SELLER NOTE SUBORDINATION AGREEMENT

Intending to be legally bound, the undersigned consents and agrees to the terms of the Subordination Agreement as of the date first above written:

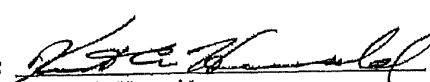
COMMERCIAL FOODSERVICE REPAIR, INC.,
a South Carolina corporation

By: 
Name: Kurt A. Herwald
Title: President

FT ACQUISITION, LLC,
a South Carolina limited liability company

By: 
Name: Kurt A. Herwald
Title: Manager

FOODSERVICE TECHNOLOGIES, INC.,
a Virginia corporation

By: 
Name: Kurt A. Herwald
Title: President

SELLER NOTE SUBORDINATION AGREEMENT

Agreed to and Acknowledged:

SENIOR LENDER:

PNC BANK, NATIONAL ASSOCIATION

By: _____
Name:
Title:

JUNIOR LENDER:

LEEDS NOVAMARK CAPITAL I, L.P.,
in its capacity as Agent and as a Lender

By: Leeds Novamark Associates I, LLC,
A Delaware limited liability company,
General Partner

By: _____
Matthew Kelty

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