EXHIBIT A

AMENDED AND RESTATED
CREDIT AGREEMENT

This Amended and Restated Credit Agreement, dated as of February 27, 2006 is between **ATA AIRLINES, INC. f/k/a AMERICAN TRANS AIR, INC.**, an Indiana corporation (hereinafter "Borrower") and **NATIONAL CITY BANK OF INDIANA**, a national banking association (herein "Bank"). The parties agree as follows:

W I T N E S S E T H:

WHEREAS, the Borrower and the Bank are parties to that certain Credit Agreement dated as of the 19th day of December, 2002, as amended by that certain Amendment No. 1 to Credit Agreement dated January 9, 2004, Amendment No. 2 to Credit Agreement dated October 4, 2004, Amendment No. 3 to Credit Agreement dated December 16, 2004, Amendment No. 4 to Credit Agreement dated May 13, 2005 and Amendment No. 5 to Credit Agreement dated September 26, 2005 (hereinafter referred to as the "Original Credit Agreement");

WHEREAS, the Borrower filed a petition for relief under Chapter 11 of the Bankruptcy Code ("Chapter 11 Case") on October 26, 2004 ("Petition Date") and is operating its business as a Debtor in Possession subject to the jurisdiction of the United States Bankruptcy Court for the Southern District of Indiana, Indianapolis Division ("Bankruptcy Court");

WHEREAS, the Bankruptcy Court entered orders (i) granting the Bank relief from stay to, among other things, enforce the obligations of the Borrower under the Original Credit Agreement and related Loan Documents, including the obligation to reimburse the Bank for draws made under Letters of Credit from Deposit Accounts which are subject to the Bank's security interest, (ii) approving a Stipulation for the use of cash collateral between the Borrower and the Bank ("Stipulation") which modified certain provisions of the Original Credit Agreement and provides protection to the Bank to permit the Borrower to use cash collateral in the Deposit

Accounts which is subject to the Bank's security interest, and (iii) approving Amendment No. 3, Amendment No. 4, and Amendment No. 5 to the Credit Agreement and the post-petition financing under the terms of the Original Credit Agreement as so modified;

WHEREAS, Borrower has proposed, with other related Debtors, a "First Amended Joint Chapter 11 Plan for Reorganizing Debtors" ("Joint Plan"), and the Joint Plan has been confirmed by the Bankruptcy Court;

WHEREAS, as of January 26, 2006, the Bank has issued for the account of the Borrower Letters of Credit with an undrawn face amount currently outstanding of approximately $25,691,735.85 (based upon currency conversions and fluctuations);

WHEREAS, the Borrower desires to continue and amend the financial accommodations extended by the Bank under the Original Credit Agreement from and after the "Effective Date" as defined in the Joint Plan on the terms as contemplated herein;

WHEREAS, the secured claims of the Bank under the Original Credit Agreement are treated under Article 4.4 and Article 6.9 of the Joint Plan, pursuant to which the obligations imposed on the Borrower under the Original Credit Agreement (as authorized and approved by orders of the Bankruptcy Court entered after the Petition Date) are assumed by the Borrower; and

WHEREAS, the Bank is willing to continue such financial accommodations to the Borrower from and after the "Effective Date" as defined in the Joint Plan on the terms and subject to the conditions in this Amended and Restated Credit Agreement.

NOW, THEREFORE, in consideration of the premises, the mutual covenants hereinafter contained, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

ARTICLE 1 DEFINITIONS

Section 1.1 **Defined Terms.** As used herein, "Collateral", "Deposit Accounts",

"Obligations" and "Proceeds" shall have the meanings ascribed herein.

"Acquisition" means any transaction, or any series of related transactions, consummated on or after the date of this Agreement, by which Borrower or any of its Subsidiaries (a) acquires any going business or all or substantially all of the assets of any firm, corporation or division thereof, whether through purchase of assets, merger or otherwise or (b) directly or indirectly acquires (in one transaction or as the most recent transaction in a series of transactions) at least a majority (in number of votes) of the securities of a corporation which have ordinary voting power for the election of directors (other than securities having such power only by reason of the happening of a contingency) or a majority (by percentage of voting power) of the outstanding equity interests of another Person.

"Advance" means a disbursement of proceeds of the Facilities or a draft under a Letter of Credit.

"Affiliate" means, with respect to any Person, any other Person (a) directly or indirectly through one or more intermediaries, controlling, controlled by, or under common control with, such Person, and (b) that directly or indirectly owns more than Ten Percent (10%) of any class of the voting securities or capital stock of or equity interests in such Person. A Person shall be deemed to control another Person if such Person possesses, directly or indirectly, the power to direct or cause the direction of the management and policies of such other Person, whether through the ownership of voting securities, by contract or otherwise.

"Agreement" means this Amended and Restated Credit Agreement, as amended from time to time.

"Bank" means National City Bank of Indiana, its successors and assigns.

"Banking Day" means a day on which the principal domestic office of Bank is open for the purpose of conducting substantially all of its business activities.

"Basis Point" means one-one hundredth of one percent (.01%).

"Code" means the Internal Revenue Code of 1986, as amended, reformed or otherwise modified from time to time.

"Collateral" means the Deposit Accounts and the following instrument of the Borrower (including as such instrument may be replaced, renumbered or retitled) and all proceeds and products thereof: Account No. 07402620706 maintained with The Huntington National Bank.

"Collateral Maintenance Requirement" means an amount equal to (i) the aggregate face amount as stated in U.S. Dollar equivalents of the Letters of Credit outstanding at any time plus the aggregate amount of unreimbursed drawings under any Letters of Credit, provided however, as to any Letters of Credit issued in foreign currencies the Borrower shall maintain an amount in the Deposit Accounts equal to one hundred ten percent (110%) of the U.S. Dollar equivalent of the aggregate face amount of such Letters of Credit outstanding at any time plus any amount which has been drawn on but not yet repaid with respect to such Letters of Credit and (ii) one hundred fifty thousand dollars ($150,000.00).

"Default" means any of the events specified in Section 7 hereof.

"Deposit Accounts" means the following deposit accounts of the Borrower (including as such accounts may be renumbered or retitled) and all proceeds and products thereof: Account No. 758138868 maintained with the Bank and Account No. 01400699625 maintained with The Huntington National Bank.

"Deposit Account Control Agreement" means the Deposit Account Control Agreement dated September 26, 2005, a copy of which is attached hereto as Exhibit E, duly executed by Borrower and The Huntington National Bank in favor of Bank to secure the Obligations, including any amendment or modification thereof.

"Effective Date" has the meaning as defined in the Joint Plan.

"Facilities" means the Line of Credit, and any other credit facility provided by Bank from time to time pursuant to this Agreement.

"Financial Statements" means, as the context may require, (a) the financial statements of Borrower as of September 30, 2005 and/or (b) the similar financial statements of Borrower furnished from time to time pursuant to Section 5.2.1 hereof; in all cases together with any accompanying notes or other disclosures to such financial statements, and any other documents or data furnished to Bank in connection therewith.

"GAAP" means generally accepted accounting principles in the United States of America in effect from time to time as promulgated by the Financial Accounting Standards Board and recognized and interpreted by the American Institute of Certified Public Accountants.

"Governmental Authority" means any nation or government, any state or other political subdivision thereof, and any entity exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to any government, including, without limiting the generality of the foregoing, any agency, body, commission, court or department thereof whether federal, state, local or foreign.

"Indebtedness" of a Person means such Person's (a) obligations for borrowed money, (b) obligations representing the deferred purchase price of Property or services (other than payable arising in the ordinary course of such Person's business payable on turns customary in the trade), (c) obligations, whether or not assumed, secured by any Lien upon or in Property owned by the subject Person or payable out of the proceeds or production from Property now or hereafter owned or acquired by such Person, (d) obligations which are evidenced by notes, acceptances, or other instruments, (e) capitalized lease obligations, (f) indebtedness or other obligations of any other Person for borrowed money or for the deferred purchase price of property or services, the payment or collection of which the subject Person has guaranteed (except by reason of

endorsement for collection in the ordinary course of business) or in respect of which the subject Person is liable, contingently or otherwise, including, without limitation, liability by way of agreement to purchase, to provide funds for payment, to supply funds to or otherwise to invest in such other Person, or otherwise to assure a creditor against loss, (g) reimbursement or other obligations in connection with letters of credit, and (h) any other transaction which is the functional equivalent of, or takes the place of borrowing, but which would not constitute a liability on a balance sheet of such Person prepared in accordance with GAAP.

"Joint Plan" means that certain "First Amended Joint Chapter 11 Plan for Reorganizing Debtors" dated December 14, 2005 filed with the Bankruptcy Court under Case No. 04-19866.

"Letters of Credit" means all standby letters of credit now and hereafter issued by Bank from time to time at the request of and for the account of Borrower, including any renewal, replacement, substitution, extension or modification thereof.

"Letter of Credit Application" means the Application for Irrevocable Standby Letter of Credit, in substantially the form of Exhibit A hereto (or such other form as is customarily utilized by Bank from time to time hereafter, at Bank's sole and exclusive discretion), completed and submitted by Borrower from time to time as a condition precedent to Bank's issuance of a Letter of Credit.

"Lien" means any lien (statutory or other), security interest, mortgage, pledge, hypothecation, assignment for the purpose of security, deposit arrangement for the purpose of security, encumbrance or preference, priority or other security agreement of any kind or nature whatsoever (including, without limitation, the interest of a vendor or lessor under any conditional sale, capitalized lease or other title retention agreement).

"Line of Credit" means the secured line of credit to Borrower governed by this Agreement, including any renewal or extension thereof.

"Line of Credit Maturity Date" means June 30, 2008.

"Loan Documents" means this Agreement, the Reimbursement Note, the Security Agreement, the Deposit Account Control Agreement, any UCC Financing Statements and all other documents executed and delivered by Borrower to govern, evidence or secure the Facilities.

"Loss" shall have the meaning ascribed in Section 9.9 hereof

"Material Adverse Effect" means any event, circumstance or condition that could reasonably be expected to have a material adverse effect on (a) the business, operations, financial condition, Properties or prospects of Borrower, which, considered individually or in the aggregate, could result in a loss or claim to Borrower in the amount of Five Million and No/100 Dollars ($5,000,000.00), (b) the ability of Borrower to perform the Obligations, (c) the validity or enforceability of any of the Loan Documents, or any material provision thereof or any material transaction contemplated thereby, or (d) the rights and remedies of Bank under any of the Loan Documents.

"Obligations" means all of the indebtedness, obligations, and liabilities of the Borrower to the Bank, individually or collectively, whether direct or indirect, joint or several, absolute or contingent, due or to become due, now existing or hereafter arising under or in respect to the Loan Documents.

"PBGC" means the Pension Benefit Guaranty Corporation established pursuant to ERISA, or any successor entity.

"Person" means and includes an individual, a partnership, a joint venture, a corporation, a limited liability company, a trust, an unincorporated association and a Governmental Authority.

"Petition Date" means the date that the Borrower filed a petition for relief under Chapter 11 of the Bankruptcy Code, or October 26, 2004.

"Plan" means an employee pension benefit plan which is covered by Title IV of ERISA or subject to the minimum funding standards under Section 412 of the Code as to which a Borrower may have any liability.

"Prime Rate" means the fluctuating rate per annum which is publicly announced from time to time by Bank as being its so-called "prime rate" or "base rate" thereafter in effect, with each change in the Prime Rate automatically, immediately, and without notice changing the Prime Rate thereafter applicable hereunder, it being acknowledged that the Prime Rate is not necessarily the lowest rate of interest then available from Bank on fluctuating-rate loans.

"Proceeds" shall have the same meaning as that term is defined in Article 9 of the Uniform Commercial Code as in effect in the State of Indiana.

"Property" of a Person means any and all property, whether real, personal, tangible, intangible, or mixed, of such Person, or other assets owned, leased or operated by such Person.

"Reimbursement Note" means the Amended Reimbursement Note dated September 26, 2005, a copy of which is attached hereto as Exhibit B, duly executed by Borrower to Bank to evidence Advances under the Facility, including any amendment, modification, renewal, extension or replacement thereof.

"Security Agreement" means the Security Agreement dated December 19, 2002, as amended by the Amendment No. 1 to Security Agreement dated September 26, 2005, copies of which are attached hereto as Exhibits C and D, duly executed by Borrower in favor of Bank to secure the Obligations, including any amendment or modification thereof.

"Subsidiaries" means, as to any Person, (a) a corporation of which shares of stock having ordinary voting power (other than stock having such power only by reason of the happening of a contingency) to elect a majority of the Board of Directors or other managers of such corporation are at the time owned, or the management of which is otherwise controlled,

directly or indirectly through one or more intermediaries, or both, by such Person, and (b) any partnership, association, joint venture or other entity in which such Person and/or one or more Subsidiaries of such Person has more than a Fifty Percent (50%) equity interest.

"Taxes" shall have the meaning ascribed in Section 2.8 hereof.

"UCC Financing Statements" means the UCC-1 financing statement recorded with the Indiana Secretary of State's Office on September 30, 2005, a copy of which is attached hereto as Exhibit F, including any amendment or modification thereof.

"Unmatured Default" means any event which with notice, or lapse of time, or both, would constitute a Default.

Section 1.2 **Rules of Construction.** The foregoing definitions shall be equally applicable to both the singular and plural forms of the defined terms. Use of the terms "herein" "hereof", and "hereunder" shall be deemed references to this Agreement in its entirety and not to the Section clause in which such term appears.

Section 1.3 **Accounting Terms.** All accounting terms not specifically defined herein shall be construed in accordance with GAAP consistent with those applied in the preparation of the Financial Statements.

ARTICLE 2 CREDIT

Section 2.1.1 **Issuance of Letters of Credit; Interest on Advances.** Subject to the terms and conditions hereof prior to the Line of Credit Maturity Date, the Line of Credit, upon completion and delivery by Borrower of a Letter of Credit Application, shall be solely utilized for the issuance of Letters of Credit issued by Bank for the account of Borrower. The Bank in its sole discretion may, but is not required to, convert the reimbursement obligation of Borrower under the Agreement into an Advance under the Line of Credit. Borrower shall not be permitted any Advances under the Line of Credit other than incidental to the issuance of Letters of Credit.

The aggregate face amount of the Letters of Credit outstanding at any time plus the aggregate amount of unreimbursed drawings under the Letters of Credit shall not exceed the lesser of (a) Forty Million and No/100 Dollars ($40,000.000.00) and (b) the Collateral Maintenance Requirement less ten percent (10%) of the U.S. Dollar equivalent of any Letters of Credit issued in foreign currencies and One Hundred Fifty Thousand and 00/100 Dollars ($150,000.00). The amount of any Letter of Credit outstanding at any time for all purposes hereof shall be the maximum amount which could be drawn thereunder under any circumstances from and after the date of determination. The Letters of Credit and each unreimbursed drawing thereunder shall count against and reduce the available amount under the Line of Credit by the amount of any Letter of Credit outstanding unless and until such Letter of Credit expires by its terms or otherwise terminates or the amount of a drawing thereunder is reimbursed, in which event the Line of Credit shall be reinstated by the amount of such Letter of Credit or the amount of such reimbursement, as the case may be. Each such Letter of Credit shall conform to the general requirements of Bank for the issuance of such credits, as to form and substance, shall be subject to the Uniform Customs and Practices for Documentary Credits (1993 Revision) International Chamber of Commerce Publication No. 500 and shall be a letter of credit which Bank may lawfully issue. If and to the extent a drawing is any time made under any Letter of Credit, Bank shall be permitted, without notice to or further authorization from Borrower, to debit the Deposit Accounts maintained by Borrower as required by this Agreement to reimburse Bank for any amounts drawn under the Letters of Credit, together with any other amounts due to Bank from time to time pursuant to this Agreement and the Loan Documents. If for any reason Bank is prevented from debiting such Deposit Accounts, Borrower agrees to pay to Bank immediately and unconditionally upon demand for reimbursement, in lawful money of the United States, an amount equal to each amount which shall be so drawn, together with interest from the date of

such drawing to and including the date such payment is reimbursed to Bank or converted to an Advance under the Line of Credit as provided herein. Until demand for reimbursement, such interest shall be calculated at a variable per annum rate equal to the Prime Rate plus Two Hundred (200) Basis Points, and interest shall be calculated after such demand for repayment by Bank at a variable per annum rate equal to the Prime Rate plus Four Hundred (400) Basis Points. All such interest shall be calculated on the basis that an entire year's interest is earned in three hundred sixty (360) days. Bank, in its sole discretion, may convert automatically the reimbursement obligations of Borrower arising out of any such drawing into Advances under the Line of Credit so long as the Line of Credit has not expired and no Default or Unmatured Default has occurred and is continuing, and Borrower hereby irrevocably authorizes Bank to refinance, without notice to Borrower, the reimbursement obligation of Borrower arising out of any such drawing into Advances under the Line of Credit, evidenced by the Reimbursement Note and for all purposes under, on and subject to the terms and conditions of this Agreement, without regard to the conditions precedent to making an Advance under the Line of Credit. This Agreement and the other Loan Documents shall supersede any terms of any letter of credit applications or other documents which are irreconcilably inconsistent with the terms hereof or thereof.

Section 2.1.2 The issuance of any Letter of Credit under this Agreement shall be subject to the conditions that the Letter of Credit (i) supports a transaction entered into in the ordinary course of business of Borrower and (ii) is in a form, is for an amount and contains such terms and conditions as are reasonably satisfactory to the Bank. The initial notice requesting the issuance of a Letter of Credit shall be accompanied by the form of the Letter of Credit and the underlying agreement between the Borrower and the proposed beneficiary of the Letter of Credit, and an application for a Letter of Credit, if any, then required by the Bank completed in a manner satisfactory to the Bank. If any provision of any application or reimbursement agreement is

inconsistent with the terms of this Agreement, then the provisions of this Agreement, to the extent of such inconsistency, shall control.

2.1.3 The expiration date of each Letter of Credit shall be on a date which is not later than the earlier of (a) one year from its date of issuance or (b) the thirtieth (30^{th}) day prior to the Line of Credit Maturity Date. Notwithstanding the foregoing, a Letter of Credit may provide for automatic extensions of its expiration date for one (1) or more successive one (1) year periods provided that the Bank has the right to terminate such Letter of Credit on each such annual expiration date and no renewal term may extend the term of the Letter of Credit to a date that is later than the thirtieth (30^{th}) day prior to the Line of Credit Maturity Date. The Bank may elect not to renew any such Letter of Credit. The Bank will use its best efforts to give ten (10) days written notice to the Borrower of its decision not to renew any such Letter of Credit.

2.1.4 Notwithstanding any provision of this Agreement, any Letter of Credit application or reimbursement agreement, Borrower shall give Bank written notice not less than thirty (30) days prior to any date by which Bank must give notice of non-renewal to any beneficiary of a Letter of Credit with an automatic renewal provision requesting that the Bank elect either to renew or not renew such Letter of Credit. In its sole discretion Bank may elect not to renew any Letter of Credit issued pursuant to this Agreement.

Section 2.2 **Letter of Credit Fees.** In addition to Bank's standard and customary charges and fees associated with the Letters of Credit, Borrower agrees to pay to Bank an annual commission fee associated with the Letters of Credit in an amount equal to Seventy-Five (75) Basis Points of the face amount of each Letter of Credit issued by Bank for the account of Borrower, payable on a per annum basis, payable by Borrower to Bank upon the issuance of each Letter of Credit and upon each annual anniversary date of the issuance of such Letter of Credit thereafter during such time as the Letter of Credit remains outstanding. Such fees shall not be

reduced or refundable for any reason. Borrower hereby authorizes Bank to collect such fees by deducting the amount thereof from any account of Borrower at Bank.

Section 2.3 **Unconditional Reimbursement Obligation.** The obligations of Borrower to reimburse any drawing under the Letters of Credit shall be absolute, unconditional and irrevocable and shall be paid and performed strictly in accordance with the terms of this Agreement, as applicable, under all circumstances, whatsoever, including, without limitation, the following:

(a) any lack of validity or enforceability of any Letter of Credit, Letter of Credit Application or any Loan Document;

(b) any amendment or waiver of or consent to departure from the terms of any Loan Document;

(c) the existence of any claim, setoff, defense or other right which Borrower may have at any time against the beneficiary of a Letter of Credit, any transferee thereof, Bank or any other Person, whether in connection with the Loan Documents, any Letter of Credit or any unrelated transaction;

(d) any statement, draft or other document presented under a Letter of Credit proving to be forged, fraudulent, invalid or insufficient in any respect or any statement therein being untrue or inaccurate in any respect whatsoever;

(e) the surrender or impairment of any security for the performance or observance of the terms of the Loan Documents or any Letter of Credit; or

(f) any circumstance, happening or omission whatsoever, whether or not similar to any of the foregoing, including, without limitation, those matters described in Section 2.6 hereof.

Section 2.4 **Risk of Misuse of Letter of Credit.** Except as expressly set forth herein, Borrower assumes all risk for the acts, omissions and/or misrepresentations of the parties benefited by a Letter of Credit. Neither Bank nor any of its affiliates or correspondents shall be responsible for the validity, sufficiency, truthfulness or genuineness of any document required to draw under a Letter of Credit even if such document should in fact prove to be in any or all respects invalid, insufficient, fraudulent or forged, provided only that the document appears on its face to be in accordance with the terms of such Letter of Credit and provided Bank is not grossly negligent or engaging in willful misconduct, or for failure of any draft to bear reference or adequate reference to a Letter of Credit or failure of any Person to note the amount of any draft on a Letter of Credit or to surrender or take up a Letter of Credit, each of which provisions may be waived by Bank, or for errors, omissions, interruptions, or delays in transmission or delivery of any messages or documents. Without limiting the generality of the foregoing, Borrower agrees that any action taken by Bank or any of its correspondents under or in connection with any Letter of Credit, if taken in good faith and without gross negligence, shall be binding upon Borrower and shall not put Bank or any such correspondent under any resulting liability to Borrower, and Borrower likewise agrees as to any omission unless in breach of good faith or grossly negligent. Bank is expressly authorized to honor any request for payment which is made under and in compliance with the terms of a Letter of Credit without regard to and without any duty on its part to inquire into the existence of any disputes or controversies between Borrower and the beneficiary of a Letter of Credit or any other Person or into the respective rights, duties or liabilities of any of them or whether any facts or occurrences represented in any of the documents presented under a Letter of Credit are true and correct. No Person, other than the parties hereto, shall have any rights of any nature under this Agreement or by reason hereof. In no event shall Bank's reliance and payment against documents presented under any Letter of

Credit appearing on its face to substantially comply with the terms thereof be deemed to constitute gross negligence or willful misconduct.

Section 2.5 **Method of Payment.** All payments of principal and interest hereunder shall be made in immediately available funds to Bank at Bank's address set forth on the signature page hereof or at any other place specified in writing by Bank to Borrower, by Noon (Indianapolis time) on the date when due. Borrower authorizes Bank to charge the account of Borrower maintained with Bank for each payment of principal, interest and fees as it becomes due hereunder.

Section 2.6 **Banking Day.** If any installment of principal or interest provided herein becomes due and payable on a date other than a Banking Day, the maturity of the installment of principal or interest shall be extended to the next succeeding Banking Day, and interest shall be payable during such extension of maturity.

Section 2.7 **Unused Fee.** Borrower shall pay to Bank from and after the date hereof until the date on which Bank's commitment under the Line of Credit is terminated in whole, an unused fee accruing at the rate of Ten (10) Basis Points per annum on the average daily portion of the Line of Credit of Forty Million and No/100 Dollars ($40,000,000.00) in excess of the sum of (a) aggregate face amount of issued and outstanding Letters of Credit plus (b) any Advances, from time to time. All such unused fees payable under this clause shall be payable quarterly in arrears on the last day of each fiscal quarter of Borrower occurring after the date hereof (with the first such payment being calculated for the period from January 1, 2006 and ending on March 31, 2006), and, in addition, on the date on which the Bank's commitment under the Line of Credit is terminated in whole. Such unused fee shall be calculated on the basis of the actual number of days elapsed and a three hundred sixty (360) day year.

Section 2.8 **Taxes.**

2.8.1 **General.** All payments by Borrower under this Agreement or the Reimbursement Note shall be made free and clear of, and without deduction or withholding for, any present or future income, stamp or other taxes, levies, duties, imposts, charges or fees or any related penalties, interest or other liabilities ("Taxes"). If any Taxes are required to be deducted or withheld from any amount payable to Bank under this Agreement or the Reimbursement Note, Borrower shall pay additional amounts so that the amount received by Bank after the deduction of such Taxes (including Taxes on such additional amounts) equals the amount that the Bank would have received if no Taxes had been deducted. Borrower shall pay to the appropriate taxing authority all Taxes required to be deducted or withheld. Within thirty (30) days after paying any such Taxes, Borrower shall deliver to Bank the original or a certified copy of the receipt for such payment. Borrower shall not be required to pay additional amounts to Bank on account of any Taxes, including, but not limited to, income taxes, imposed solely by reason of a present or past connection between Bank and the jurisdiction imposing such Taxes (except a connection arising solely from the execution, delivery, performance, enforcement of or the receipt of payments under this Agreement or the Reimbursement Note).

2.8.2 **Tax Indemnity.** Borrower shall indemnify Bank against any Taxes imposed on (and any related expenses reasonably incurred by) Bank on account of the execution, delivery, performance or enforcement of or the receipt of payments under this Agreement or the Reimbursement Note other than Taxes imposed solely by reason of the cause specified in the last sentence of Section 2.8.1 hereof. Borrower also shall pay and indemnify Bank against any stamp or other documentary, excise or property taxes or similar levies, imposts, or charges (or any related liability) arising from the execution,

delivery, registration, performance or enforcement of this Agreement or the Reimbursement Note.

Section 2.9 **Yield Protection.** If (a) there shall be enacted any law (including, without limitation, any change in any law or in its interpretation or administration and any request by any governmental authority) relating to any interest rate or any assessment, reserve, or special deposit requirement against assets held by, deposits in, or credit extended by the Bank or to any tax (other than any tax on the Bank's overall net income) and (b) in the Bank's sole opinion any such event increases the cost of funding or maintaining the Line of Credit and Letters of Credit issued by Bank for the account of Borrower then, and in each such case, upon the Bank's demand, the Borrower shall pay the Bank an amount equal to each such cost increase or reduced payment, as the case may be. In determining any such amount, the Bank may use reasonable averaging and attribution methods. Each determination by the Bank shall be conclusive absent obvious error. If (a) at any time any governmental authority shall require National City Corporation, a Delaware corporation, its successors or assigns, or the Bank, whether or not the requirement has the force of law, to maintain, as support for the Line of Credit and Letters of Credit issued by Bank for the account of Borrower, capital in a specified minimum amount that either is not required or is greater than that required at the date of this Agreement, whether the requirement is implemented pursuant to the "risk-based capital guidelines" (published at 12 CFR 3 in respect of "national banking associations", 12 CFR 208 in respect of "state member banks", and 12 CFR 225 in respect of "bank holding companies") or otherwise, and (b) as a result thereof the rate of return on capital of National City Corporation its successors or assigns, or Bank or both (taking into account their then policies as to capital adequacy and assuming full utilization of their capital) shall be directly or indirectly reduced by reason of any new or added capital thereby attributable to the Line of Credit and Letters of Credit issued by Bank for the account of

Borrower; then and in each such case, the Borrower shall, on the Bank's demand, pay the Bank as an additional fee such amounts as will in the Bank's reasonable opinion reimburse National City Corporation , its successors and assigns, and the Bank for any such reduced rate of return. In determining the amount of any such fee, the Bank may use reasonable averaging and attribution methods. Each determination by the Bank shall be conclusive absent obvious error.

ARTICLE 3 SECURITY

Section 3.1 **Security.** The Obligations shall be secured by the following:

(a) a first priority security interest in Borrower's Collateral and all Proceeds thereof with balances, from time to time, of not less than the Collateral Maintenance Requirement; and

(b) such other security interests as may be described in the Loan Documents.

Section 3.2 **Additional Collateral/Setoff.** Borrower hereby grants to Bank, as additional security for the Obligations, a continuing lien upon all monies, securities and other property of Borrower now or hereafter held or received by, or in transit to, Bank from or for Borrower. Upon the occurrence and during the continuance of a Default or as otherwise provided in Section 5.2.11 of this Agreement, the Bank is authorized at any time and from time to time, without notice to Borrower, and shall have the right to setoff, appropriate and apply its own debt or liability to Borrower, or to any other Person liable for the Obligations, in whole or partial payment of any Obligation in such order or manner as Bank may reasonably determine, without any requirements of mutual maturity.

Section 3.3 **Release of Excess Cash Collateral.** A calculation of the amount of excess cash collateral (i.e., amounts held in the Deposit Accounts in excess of the amount required to be maintained by Borrower pursuant to Subsection 5.2.11) shall be made as of the 10th day of each month and any excess cash collateral shall be released to Borrower within five (5) days of the calculation of the excess cash collateral amount, provided there are no uncured

Defaults or Unmatured Defaults existing at such time.

ARTICLE 4 REPRESENTATIONS AND WARRANTIES

Borrower represents, covenants and warrants to Bank as follows:

Section 4.1 **Due Organization.** Borrower is a corporation duly organized, validly existing and, if applicable, in good standing.

Section 4.2 **Due Qualification.** Borrower is qualified, in good standing and authorized to do business as a foreign corporation in such other states wherein the failure to so qualify would have a Material Adverse Effect.

Section 4.3 **Corporate Power.** Borrower possesses the requisite power to enter into the Loan Documents, as applicable, to borrow thereunder, to execute and deliver the Loan Documents and to perform its respective obligations thereunder.

Section 4.4 **Corporate Authority.** Borrower has taken the necessary corporate action to authorize the execution and delivery of the Loan Documents, as applicable, and the borrowings thereunder and the granting of the security interests therein, and none of the provisions of the Loan Documents violate, breach, contravene, conflict with, or cause a default under any provision of the articles of incorporation, or by-laws of Borrower or any provision of any existing note, bond, mortgage, debenture, indenture, trust, license, lease, instrument, decree, order, judgment, or agreement to which Borrower is a party or by which it or its assets may be bound or affected, the result of which would constitute a Material Adverse Effect.

Section 4.5 **Financial Statements.** The Financial Statements were prepared in accordance with GAAP consistent with prior years, unless specifically otherwise noted thereon, and fairly present the financial condition of Borrower as of the date thereof and the results of its operations for the period then ended, and no material adverse change in the financial condition of

Borrower has occurred since the date of the Financial Statements.

Section 4.6 **No Material Adverse Change.** The information submitted by Borrower to Bank discloses all known or anticipated material liabilities, direct or contingent, of Borrower as of the dates thereof, and, to the best knowledge of Borrower, since such dates, there has been no material adverse change in Borrower's financial condition.

Section 4.7 **Subsidiaries.** Borrower has no Subsidiaries.

Section 4.8 **Binding Obligations.** Each of the Loan Documents, when issued for value, will constitute a legal, valid and binding obligation of Borrower, enforceable against Borrower in accordance with its terms, except as the same may be limited by reorganization, bankruptcy, insolvency, moratorium or other laws affecting generally the enforcement of creditors' rights.

Section 4.9 **Marketable Title.** Borrower has good and marketable title to the Collateral. The Collateral assets are not subject to any Lien and the security interests in favor of Bank under the Loan Documents will constitute first, senior and prior perfected security interests in the Collateral. No financing statement or similar instrument which names Borrower as debtor and relates to the Collateral has been filed in any state or other jurisdiction and remains unreleased, and Borrower has not signed any financing statement or similar instrument or security agreement authorizing the secured party thereunder to file any such financing statement or similar instrument.

Section 4.10 **Default.** As of the date of this Agreement, Borrower has not committed or suffered to exist any default or any circumstance which with notice, lapse of time, or both, would constitute a material default under the terms and conditions of any trust, debenture, indenture, note, bond, instrument, mortgage, lease, agreement, order, decree, or judgment to which Borrower is a party or by which it or its assets may be bound or affected, the result of

which would constitute a Material Adverse Effect.

Section 4.11 **Tax Returns.** All tax returns or reports of Borrower required by law have been filed, and all taxes, assessments, contributions, fees and other governmental charges (other than those presently payable without penalty or interest, those payable pursuant to the terms of the Joint Plan, and those currently being contested in good faith and against which adequate reserves have been established) upon Borrower or its assets, properties or income, which are payable, have been paid.

Section 4.12 **Litigation.** Except as has been publicly disclosed in any filing made by the Borrower with the SEC between December 31, 2004 and the date of this Agreement, there are no actions, suits, proceedings, claims or disputes pending or, to the knowledge of the Borrower after due and diligent investigation, threatened or contemplated, at law, in equity in arbitration or before any Governmental Authority, by or against the Borrower or against any of its properties or revenues that either individually or in the aggregate could reasonably be expected to have a Material Adverse Effect. The performance of any action by the Borrower required or contemplated by any of the Loan Documents is not restrained or enjoined (either temporarily, preliminary or permanently). There are no actions, suits or proceedings pending that challenge the validity of any Loan Document or the applicability or enforceability of any Loan Document or which seek to void, avoid, limit, or otherwise adversely affect the security interest created by or in any Loan Document or any of the orders entered by the Bankruptcy Court authorizing borrowing under the Agreement, as amended, or any payment made pursuant thereto.

Section 4.13 **ERISA.** Borrower and each ERISA Affiliate is in compliance in all material respects with all applicable provisions of ERISA, and neither Borrower nor any ERISA Affiliate has incurred any liability to the PBGC. Neither a "reportable event", nor a "prohibited

transaction", has occurred under, nor has there occurred any complete or partial withdrawal from, nor has there occurred any other event which would constitute grounds for termination of or the appointment of a trustee to administer any "employee benefit plan" (including any "multi-employer plan") maintained for employees of Borrower or any ERISA Affiliate, all within the meanings ascribed by ERISA.

Section 4.14 **Full Disclosure.** No information, exhibit, memorandum, or report (excluding estimated future operating results) furnished by Borrower to Bank in connection with the negotiation of the Facilities contains any material misstatement of fact, or, to Borrower's knowledge, omits to state any fact necessary to make the statements contained therein not materially misleading in light of the circumstances when made, and all estimated future operating results, if furnished, were prepared on the basis of assumptions, data, information, tests or other conditions believed to be valid or accurate or to exist at the time such estimates were prepared and furnished. To Borrower's knowledge, there presently exists no fact or circumstance relative to Borrower, whether or not disclosed, which is presently anticipated to have a Material Adverse Effect.

Section 4.15 **Contracts of Surety.** Except for (a) those guaranties and contracts of surety providing for potential liability in excess of One Million and No/100 Dollars ($1,000,000.00) identified on Schedule 4.15 attached and (b) the endorsements of Borrower of negotiable instruments for deposit or collection in the ordinary course of business, Borrower is not a party to any contract of guaranty or surety.

Section 4.16 **Licenses.** Borrower possesses such franchises, licenses, permits, patents, copyrights, trademarks, and consents of appropriate Governmental Authorities to own and operate its property and as are necessary to carry on its business, except where the failure to obtain any of the foregoing, singularly or in aggregate, could not have a Material Adverse Effect.

Section 4.17 **Compliance with Law.** Borrower is in substantial compliance with all applicable requirements of law and of all Governmental Authorities with which noncompliance could have a Material Adverse Effect.

Section 4.18 **Force Majeure.** Neither the business nor the properties of Borrower is presently affected by any fire, explosion, accident, strike, lockout or other labor dispute, drought, storm, hail, earthquake, embargo, act of God or of the public enemy or other casualty that could have a Material Adverse Effect.

Section 4.19 **Margin Stock.** Borrower is not engaged in the business of extending credit for the purpose of purchasing or carrying margin stock (within the meaning of Regulation U of the Board of Governors of the Federal Reserve System), and no part of the proceeds of the Facilities will be used, either directly or indirectly, for the purpose, whether immediate, incidental or remote, of purchasing or carrying any margin stock or of extending credit to others for the purpose of purchasing or carrying any margin stock, and Borrower shall furnish to Bank, upon its request, a statement in conformity with the requirements of Federal Reserve Board Form U-1 referred to in Regulation U. Further, no part of the proceeds of the Facilities will be used for any purpose that violates, or which is inconsistent with, the provisions of Regulations T, U or X of the Federal Reserve Board of Governors.

Section 4.20 **Approvals.** No authorization, consent, approval or any form of exemption of any Governmental Authority is required in connection with the execution and delivery by Borrower of the Loan Documents, the borrowings and performance by Borrower thereunder or the issuance of the Reimbursement Note.

Section 4.21 **Insolvency.** Borrower is not "insolvent" within the meaning of that term as defined in the Federal Bankruptcy Code and is able to pay its debts as they mature.

Section 4.22 **Regulation.** Borrower is not an "investment company" within the

meaning of the Investment Company Act of 1940, as amended, or a "holding company" or an "affiliate of a holding company" or a "subsidiary of a holding company" within the meanings of the Public Utility Holding Company Act of 1935, as amended.

Section 4.23 **Conditions Precedent.** Each item furnished to Bank pursuant to Section 6.1 hereof is a true and correct copy thereof, has not been modified or amended and is in full force and effect on the date hereof.

Section 4.24 **General.** All statements contained in any certificate or financial statement delivered by or on behalf of Borrower to Bank under any Loan Document shall constitute representations and warranties made by Borrower hereunder.

ARTICLE 5 COVENANTS

Section 5.1 **Negative Covenants.** Until the Obligations shall have been fully and finally paid and performed, and so long as any commitment of Bank is outstanding, without the prior written consent of Bank, Borrower shall not:

5.1.1 **Conduct of Business.** Engage in any business other than the businesses engaged in by Borrower on the date hereof and any business or activities which are substantially similar, related or incidental thereto.

5.1.2 **Guarantees.** Assume, guarantee or otherwise become liable as a guarantor or surety for the obligations of any Person, except (a) the endorsements by Borrower of negotiable instruments for deposit or collection in the ordinary course of business, (b) those in favor of Bank, and (c) guaranties or sureties in each instance of not greater than One Million and No/100 Dollars ($1,000,000.00) and in the aggregate for the Borrower of not greater than Twenty Million and No/100 Dollars($20,000,000.00).

5.1.3 **Change Name or Place of Business.** Change its name or principal place of business, except on not less than thirty (30) days prior written notice to Bank.

5.1.4 **Accounting Policies.** Change its fiscal year or any of its significant accounting policies, except to the extent necessary to comply with GAAP.

5.1.5 **Change of Business.** Make any material change in the nature of its business as carried on as of the date of this Agreement.

5.1.6 **Benefit Plans.** Permit any condition to exist in connection with any employee benefit plan which might constitute grounds for the PBGC to institute proceedings to have the employee benefit plan terminated or a trustee appointed to administer the employee benefit plan; or engage in, or permit to exist or occur any other condition, event or transaction with respect to any employee benefit plan which could result in Borrower incurring any material liability, fine or penalty.

5.1.7 **Adversity.** Permit any event to occur or condition to exist which has a Material Adverse Effect.

5.1.8 **Restrictive Agreements.** Enter into any agreement (excluding any restrictions existing under the Loan Documents) prohibiting (a) the creation or assumption of any lien upon any of its Deposit Accounts, or (b) the ability of Borrower to amend or otherwise modify this Agreement or any other Loan Document.

Section 5.2 **Affirmative Covenants.** Until the Obligations shall have been fully and finally paid and performed, and so long as any commitment of Bank is outstanding, unless expressly waived in writing by Bank, Borrower shall:

5.2.1 **Financial Reporting.** Furnish or caused to be furnished to Bank:

(a) as soon as practicable, but in any event within ninety (90) days after the end of each fiscal year, consolidated and consolidating financial statements of Borrower certified by independent certified public accountants acceptable to Bank, including a balance sheet, statement of income and retained earnings and a statement of cash flows, with accompanying notes to financial statements, all prepared in accordance with GAAP on a consolidated basis

consistent with prior years unless specifically noted thereon, accompanied by the opinion of such accountants, and further accompanied by an annual budget associated with the Borrower's subsequent fiscal year activities, and the certificate of the chief financial officer of Borrower that there exists no Default or Unmatured Default under the Loan Documents, or if any Default or Unmatured Default exists, stating the nature and status thereof;

(b) as soon as possible, but in any event within forty-five (45) days after the end of each calendar quarterly period, similar consolidated and consolidating financial statements of Borrower as of the end of such quarterly period presenting the results of its operations for the quarter then ended and the portion of the fiscal year then elapsed, prepared and signed by the chief financial officer of Borrower, all prepared in accordance with GAAP on a consolidated basis consistent with prior periods, unless specifically otherwise noted thereon, and accompanied by the certificate of the chief financial officer of Borrower that there exists no Default or Unmatured Default under the Loan Documents or if any Default or Unmatured Default exists, stating the nature and status thereof. Such financial statements of Borrower shall contain a variance report for the quarter and year to date setting forth a comparison of actual results against the financial projections provided to and accepted by the Bank for the related fiscal year;

(c) as soon as possible, but in any event within thirty (30) days after the end of each calendar month, consolidated and consolidating financial statements of Borrower acceptable to the Bank including a balance sheet as of month end, a statement of income and retained earnings for the month and for the year to date, a statement of cash flows for the month and for the year to date, and an operating statistics summary for the month and for the year to date, all prepared in accordance with GAAP on a consolidated basis consistent with prior periods, unless specifically otherwise noted thereon, and all containing a variance report for the month and year to date setting forth a comparison of actual results against the financial projections provided to and accepted by the Bank for the related fiscal year;

(d) on or before December 15, of each year, consolidated and consolidating financial operating projections for the subsequent year ending December 31 with detail provided on a monthly basis consisting of (i) balance sheets, (ii) income statements (iii) statements of cash flows, and (iv) assumptions and supporting information; provided, however, that all such information shall be acceptable to the Bank;

(e) as soon as possible, but in any event within five (5) days after Borrower becomes aware thereof, a written statement signed by the chief executive or chief financial officer of Borrower as to the occurrence of any Default or Unmatured Default stating the specific nature thereof, Borrower's intended action to cure the same and the time period in which such cure is to occur;

(f) as soon as possible, but in any event within thirty (30) days after the commencement thereof, a written statement describing any litigation instituted by or against Borrower or any Affiliate which, if adversely determined, may have a Material Adverse Effect;

(g) as soon as possible, but in any event within ten (10) days after Borrower becomes aware thereof, a written statement describing any reportable event or prohibited transaction which has occurred with respect to any employee benefit plan and the action which Borrower proposes to take with respect thereto;

(h) promptly upon the filing thereof, copies of all registration statements and annual, quarterly, monthly, or other regular reports which Borrower files with any securities commission or other Governmental Authority; and

(i) such other information as Bank may from time to time reasonably request.

5.2.2 **Good Standing.** Maintain its corporate existence and right to do business in its state of organization and in such other states wherein non-qualification could have a Material Adverse Effect.

5.2.3 **Taxes, Etc.** Pay and discharge, all taxes, assessments, judgments, orders, and governmental charges or levies imposed upon it or on its income or profits or upon its property prior to the date on which penalties attach thereto and all lawful claims which, if unpaid, may become a Lien or charge upon its Property, provided that Borrower shall not be required to pay any tax, assessment, charge, judgment, order, levy or claim, if such payment is being contested diligently, in good faith, and by appropriate proceedings which will prevent foreclosure or levy upon its Property and adequate reserves against

such liability have been established and provided further that any tax, assessment, charge, judgment, order, levy or claim that arose before the Petition Date may be paid as provided in the Joint Plan.

5.2.4 **Books and Records.** Keep proper books of account in which full, true and correct entries will be made of all dealings and transactions of and in relation to the business and affairs of Borrower and, at all reasonable times, and as often as Bank may reasonably request, permit authorized representatives of Bank to (a) have access to the premises and Properties of Borrower and to the records relating to the operations of Borrower; (b) make copies of or excerpts from such records; (c) discuss the affairs, finances and accounts of Borrower with and be advised as to the same by the chief executive and financial officers of Borrower; and (d) audit and inspect such books, records, accounts, memoranda and correspondence at all reasonable times, to make such abstracts and copies thereof as Bank may deem necessary, and to furnish copies of all such information to any proposed purchaser of or participant in the Facilities.

5.2.5 **Reports.** File, as appropriate, on a timely basis, annual reports, operating records and any other reports or filings required to be made with any Governmental Authority.

5.2.6 **Licenses.** Maintain in full force and effect all operating permits, licenses, franchises, and rights used by it in the ordinary course of business, except such failures as would not constitute a Material Adverse Effect.

5.2.7 **Notice of Material Adverse Change.** Give prompt notice in writing to Bank of the occurrence of any development, financial or otherwise, including pending or threatened litigation which might have a Material Adverse Effect.

5.2.8 **Compliance with Law.** Comply with all material laws, ordinances, rules,

regulations and other legal requirements applicable to it, except such failures as would not constitute a Material Adverse Effect.

5.2.9 **Use of Proceeds.** Use the proceeds of the Facilities solely for the purposes herein described.

5.2.10 **Loan Payments.** Duly and punctually pay or cause to be paid principal and interest on the Facilities in lawful money of the United States at the time and places and in the manner specified herein according to the stated terms and the true intent and meaning hereof.

5.2.11 **Deposit Accounts.** Maintain Deposit Accounts in which Bank has a first priority perfected security interest in an amount equal to (i) the aggregate face amount of the Letters of Credit outstanding at any time plus the aggregate amount of unreimbursed drawings under any Letters of Credit, provided however, as to any Letters of Credit issued in foreign currencies the Borrower shall maintain an amount in the Deposit Accounts equal to one hundred ten percent (110%) of the aggregate face amount of such Letters of Credit outstanding at any time plus any amount which has been drawn on but not yet repaid with respect to such Letters of Credit and (ii) one hundred fifty thousand dollars ($150,000.00). The Borrower shall cure any cash collateral deficiency caused by currency fluctuations or by the payment of Bank charges from the Deposit Accounts upon request, and in the event that the deficiency is not cured within forty-eight (48) hours of notice thereof, the Bank shall be authorized to debit any account of Borrower at Bank for the amount necessary to cure such deficiency.

ARTICLE 6 CONDITIONS PRECEDENT

Section 6.1 **Conditions.** The Agreement shall become effective upon satisfaction of each of the following conditions precedent:

6.1.1 **Authorization.** Bank shall have received and approved copies of Borrower's articles of incorporation and by-laws, all as amended, accompanied by a recent certificate of good standing issued by the appropriate official of its place of organization and certificates of good standing from those states in which Borrower owns property or maintains an office and a certified copy of resolutions adopted by Borrower's Board of Directors authorizing the Facilities and specifying the names and capacities of those persons authorized to execute and deliver the Loan Documents.

6.1.2 **Loan Documents.** Each of the Loan Documents, in the form prescribed by Bank, shall have been executed and delivered by Borrower to Bank, and the other loan documents and guaranties required by this Agreement, in the form prescribed by Bank, shall have been executed and delivered by the appropriate parties thereto.

6.1.3 **Incumbency.** Bank shall have received an Incumbency Certificate, executed by the Secretary or Assistant Secretary of Borrower which shall identify the name and title and bear the signature of the officers of Borrower authorized to sign the Loan Documents, and Bank shall be entitled to rely upon such certificate until informed of any change in writing by Borrower.

6.1.4 **Legal Matters.** All legal matters incident to the Loan Documents and the making of Advances shall be reasonably satisfactory to Bank and its counsel.

6.1.5 **Opinion of Counsel.** Bank shall have received the favorable written opinion of counsel to Borrower, dated of even date herewith, as to those matters which Bank may reasonably require.

6.1.6 **UCC Searches.** Bank shall have received satisfactory return after search in accordance with the Uniform Commercial Code in such governmental offices as Bank shall have deemed appropriate.

6.1.7 **Regulation U.** Bank shall have received such certificates and other documents as it shall have deemed reasonably appropriate as to compliance with Regulations U, T and X of the Board of Governors of the Federal Reserve System.

6.1.8 **No Default.** As of the date hereof, and after giving effect to the initial funding of the Facilities, there shall not exist a Default or Unmatured Default, and Bank shall have received evidence satisfactory to Bank that the transactions contemplated by this Agreement do not create a default under any agreement to which Borrower is a party.

6.1.9 **Consents.** All consents necessary for the secured financing transaction contemplated by this Agreement pursuant to the Loan Documents shall have been obtained.

6.1.10 **Additional Documentation.** Bank shall have received such other documents, instruments, financing statements, waivers, certificates, reaffirmations, consents and opinions as it may reasonably request.

6.1.11 **Participant.** Bank shall have entered into a binding participation arrangement or arrangements with financial institutions selected by Bank creating a legally binding obligation upon such participant or participants to purchase not less than Thirty-Seven and One Half Percent (37.5%) of the Facility from Bank following closing.

6.1.12 **Collateral.** Borrower shall have established Collateral with balances of not less than an amount equal to the Collateral Maintenance Requirement.

6.1.13 **Confirmation of Joint Plan/Joint Plan Effective Date.** The Bankruptcy Court shall have entered a final order confirming the Joint Plan and the Effective Date shall have occurred.

Section 6.2 **Conditions to Subsequent Advances.** Prior to each subsequent Advance under the Line of Credit or the issuance of a Letter of Credit:

6.2.1 **No Default.** No Default or Unmatured Default shall have occurred and be continuing.

6.2.2 **Representations and Warranties.** Each representation and warranty contained in Section 4 shall be true and correct as of the date of such Advance, except to the extent any such representation or warranty relates solely to an earlier date and except changes reflecting transactions permitted by this Agreement.

6.2.3 **Legal Matters.** All legal matters incident to the making of such Advance shall be reasonably satisfactory to Bank and its counsel.

6.2.4 **Expenses.** Borrower shall have reimbursed Bank for all reasonable legal fees and other reasonable expenses incurred by Bank or any participant in connection with the Facilities in accordance with Section 9.8 hereof.

Section 6.3 **General.** Each request for an Advance shall constitute a representation and warranty by Borrower that the applicable conditions contained in this Section 6 have been satisfied.

ARTICLE 7 DEFAULT

The occurrence of any of the following events shall be deemed a Default hereunder:

(a) any representation or warranty made by or on behalf of Borrower or any Affiliate to Bank under or in connection with any Loan Document or any subordination agreement shall be false in any material respect as of the date on which made;

(b) Borrower fails to make any payment of principal of or interest on the Facilities or any fee or other payment Obligation in connection with the Facilities within five (5) days of when due;

(c) the breach of any of the covenants contained in Section 5.2. (other than the covenant as set forth in Subsections 5.2.10 and 5.2.11 for which no cure period shall be permitted) which breach remains uncured for a period of thirty (30) days after written notice to Borrower; or the breach of any other covenant contained in Section 5 hereof;

(d) the breach of any other terms or provisions of the Loan. Documents (other than a

breach which constitutes a Default under Section 7.1(a), (b) or (c) above) not cured within thirty (30) days after written notice from Bank to Borrower specifying such breach;

(e) the failure of Borrower to pay any other Indebtedness in excess of Five Million and No/100 Dollars ($5,000,000.00) when due or within any applicable grace or cure period or the breach by Borrower of any term, provision or condition contained in any agreement under which any such Indebtedness was created or is governed, which constitutes a default thereunder, or any other event shall occur or condition exist, the effect of which is to cause, or to permit the holder or holders of such Indebtedness to cause such Indebtedness to become due prior to its stated maturity, or any Indebtedness shall be declared to be due and payable or required to be prepaid or repurchased (other than by a regularly scheduled payment) prior to the stated maturity thereof;

(f) Borrower shall (i) have an order for relief entered with respect to it under the Federal Bankruptcy Code, (ii) not pay, or admit in writing its inability to pay, its debts generally as they become due, (iii) make an assignment for the benefit of creditors, (iv) apply for, seek, consent to, or acquiesce in, the appointment of a receiver, custodian, trustee, examiner, liquidator or similar official for it or any substantial part of its property, (v) institute any proceeding seeking an order for relief under the Federal Bankruptcy Code or seeking to adjudicate it a 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 fail to file an answer or other pleading denying the material allegations of any such proceeding filed against it, or (vi) suspend operations as presently conducted or discontinue doing business as an ongoing concern;

(g) without the application, approval or consent of Borrower, a receiver, trustee, examiner, liquidator or similar official shall be appointed for Borrower or any substantial part of its Property, or a proceeding described in item (f) above shall be instituted against Borrower and such appointment continues undischarged or such proceeding continues undismissed or unstayed for a period of sixty (60) consecutive days;

(h) any Governmental Authority shall condemn, seize or otherwise appropriate, or take custody or control of all or any substantial portion of the Property of Borrower;

(i) Borrower shall fail within thirty (30) days to pay, bond or otherwise discharge any judgment or order for the payment of money in excess of Five Million and No/100 Dollars ($5,000,000.00) which is not stayed on appeal or otherwise appropriately contested in good faith, or any attachment, levy or garnishment is issued against any Property of Borrower;

(j) there occurs a "reportable event" or a "prohibited transaction" under, or any

complete or partial withdrawal from, or any other event which would constitute grounds for termination of or the appointment of a trustee to administer, any "plan" maintained by Borrower or any ERISA Affiliate for the benefit of its "employees" (as such terms are defined in ERISA) which will have a Material Adverse Effect; or

(k) any Loan Document shall for any reason fail to create a valid and perfected first priority security interest in any collateral purported to be covered thereby (except as permitted by the terms of any Loan Document), or any Loan Document shall fail to remain in full force or effect or any action shall be taken to discontinue or to assert the invalidity or unenforceability of, or the security interest created under, any Loan Document.

ARTICLE 8 REMEDY

Section 8.1 **Acceleration.** If any Default described in Section 7 item (f) or (g) occurs, the Facilities and the commitment of Bank to issue Letters of Credit and to make Advances under the Facilities shall automatically terminate and the Obligations shall immediately become due and payable without any election or action on the part of Bank. If any other Default occurs, Bank may terminate its commitments hereunder and declare the Obligations to be due and payable, whereupon the Obligations shall become immediately due and payable, without presentment, demand, protest or notice of any kind, all of which Borrower hereby expressly waives.

Section 8.2 **Remedy.** Upon the occurrence of a Default, Bank may immediately proceed to exercise all remedies available to it under the Loan Documents or otherwise under applicable law. No right or remedy conferred upon or reserved to Bank under the Loan Documents is intended to be exclusive of any other available remedy or right, but each and every remedy shall be cumulative and concurrent and shall be in addition to every other remedy now or hereafter existing at law or in equity. No single or partial exercise of any power or right shall preclude any further or other exercise of any power or right.

Section 8.3 **Preservation of Rights.** No delay or omission of Bank to exercise any

power or right under the Loan Documents shall impair such power or right or be construed to be a waiver of any Default or an acquiescence therein, and any single or partial exercise of any power or right shall not preclude other or further exercise thereof or the exercise of any other power or right. No Advance hereunder shall constitute a waiver of any of the conditions of Bank's obligation to make further Advances, nor, in the event Borrower is unable to satisfy any such condition, shall a waiver of such condition in any one instance have the effect of precluding Bank from thereafter declaring such inability to be a Default hereunder. No course of dealing shall be binding upon Bank.

ARTICLE 9 GENERAL PROVISIONS

Section 9.1 **Benefit of Agreement.** Bank will accept the Reimbursement Note as evidence of loans made in the ordinary course of its commercial banking business. The terms and provisions of this Agreement, the Reimbursement Note and the other Loan Documents shall be binding upon and inure to the benefit of Borrower and Bank and their respective successors and assigns of their entire interests, except that Borrower shall not have the right to assign this Agreement.

Section 9.2 **Survival of Representations.** All representations, warranties and agreements of Borrower contained in the Loan Documents shall survive delivery of the Reimbursement Note and the making of the Facilities.

Section 9.3 **Governmental Regulation.** Anything contained in this Agreement to the contrary notwithstanding, Bank shall not be obligated to extend credit to Borrower in violation of any limitation or prohibition provided by any applicable statute or regulation.

Section 9.4 **Conflict.** This Agreement and the other Loan Documents shall be interpreted, wherever possible, in a manner consistent with one another, but in the event of any irreconcilable inconsistency, this Agreement shall control.

Section 9.5 **Choice of Law.** The Loan Documents (other than those containing a contrary express choice of law provision) and the rights and obligations of the parties thereunder and hereunder shall be governed by, and construed and interpreted in accordance with the laws of the State of Indiana (but giving effect to federal laws applicable to national banks), notwithstanding the fact that Indiana conflict of law rules might otherwise require the substantive rules of law of another jurisdiction to apply. Borrower and Bank hereby consent to the jurisdiction of any state or federal court located within Marion County, Indiana. All service of process may be made by messenger, certified mail, return receipt requested or by registered mail directed to Borrower or Bank at the address indicated aside its respective signature to this Agreement, and Borrower and Bank each otherwise waives personal service of any and all process made upon the other. Borrower waives any objection which Borrower may have to any proceeding commenced in a federal or state court located within Marion County, Indiana, based upon improper venue or forum non conveniens. Nothing contained in this Section shall affect the right of Bank to serve legal process in any other manner permitted by law or to bring any action or proceeding against Borrower or its property in the courts of any other jurisdiction.

Section 9.6 **Headings.** Section headings in the Loan Documents are for convenience of reference only and shall not govern the interpretation of any of the provisions of the Loan Documents.

Section 9.7 **Entire Agreement.** The Loan Documents embody the entire agreement and understanding between Borrower and Bank and supersede all prior agreements and understandings between Borrower and Bank relating to the subject matter thereof.

Section 9.8 **Expenses.** All reasonable out-of-pocket expenses of the Bank and any participant of the Bank, including without limitation, filing fees, recording fees, and legal fees and disbursements, are to be paid by Borrower either as of execution of this Agreement or

promptly upon demand thereof. Borrower hereby authorizes Bank to collect such reasonable fees and expenses by deducting the amount thereof from any account of the Borrower at the Bank after giving Borrower five (5) days prior written notice.

Section 9.9 **Indemnification.** Borrower agrees to indemnify Bank, and its successors and assigns (including any purchaser of a participation in the Facilities), and their directors, officers and employees, against all losses, claims, costs, damages, liabilities and expenses, including, without limitation, all expenses of litigation or preparation therefor (a "Loss"), which they may pay or incur in connection with or arising out of the direct or indirect application of the proceeds of the Facilities hereunder. The indemnity set forth herein shall be in addition to any other Obligations of Borrower to Bank hereunder or at common law or otherwise, and shall survive any termination of this Agreement, the expiration of the obligation of Bank to make the Facilities and the payment of all Obligations.

Section 9.10 **Confidentiality.** Bank agrees to treat all information received by it in connection with the Loan Documents (except such information which is generally available or has been made available to the public) as confidential, provided, however, that nothing in this Section 9.10 shall prohibit Bank from, or subject Bank to liability for, disclosing any such information to any Governmental Authority to whose jurisdiction Bank is subject, and provided further that Bank may provide such information to proposed purchasers of or participants in the Facilities from time to time.

Section 9.11 **Giving Notice.** Any notice required or permitted to be given under this Agreement may be, and shall be deemed effective if made in writing and delivered to the recipient's address, telex number or facsimile number addressed to Borrower or Bank at the addresses indicated aside their signatures to this Agreement by any of the following means: (a) hand delivery, (b) United States first class mail, postage prepaid, (c) registered or certified mail,

postage prepaid, with return receipt requested, (d) by a reputable rapid delivery service, or (e) by telegraph or telex when delivered to the appropriate office for transmission, charges prepaid, with request for assurance of receipt in a manner typical with respect to communication of that type. Notice made in accordance with this Section shall be deemed given upon receipt if delivered by hand or wire transmission, three (3) Banking Days after mailing if mailed by first class, registered or certified mail, or one (1) Banking Day after deposit with an overnight courier service if delivered by overnight courier. Borrower and Bank may each change the address for service of notice upon it by a notice in writing to the other parties hereto.

Section 9.12 **Counterparts.** This Agreement may be executed in any number of counterparts, all of which taken together shall constitute one agreement, and any of the parties hereto may execute this Agreement by signing any such counterpart. This Agreement shall be effective when it has been executed by Borrower and Bank.

Section 9.13 **Incorporation by Reference.** All Exhibits hereto are incorporated herein by this reference. Each of the other Loan Documents shall be made subject to all of the terms, covenants, conditions, obligations, stipulations and agreements contained in this Agreement to the same extent and effect as if fully set forth therein, and this Agreement is made subject to all of the terms, covenants, conditions, obligations, stipulations and agreements contained in the other Loan Documents to the same extent and effect as if fully set forth therein. The provisions of this Agreement, including, without limitation, provisions relating to maintenance of insurance, are in addition to, and not a limitation upon, the requirements of any other Loan Document or any subordination agreement.

Section 9.14 **Time of Essence.** Time is of the essence under the Loan Documents.

Section 9.15 **No Joint Venture.** Notwithstanding anything to the contrary herein contained or implied, Bank, by this Agreement, or by any action pursuant hereto, shall not be

deemed to be a partner of, or a joint venturer with, Borrower, and Borrower hereby indemnifies and agrees to defend and hold Bank harmless, including the payment of reasonable attorneys' fees, from any Loss resulting from any judicial construction of the parties' relationship as such.

Section 9.16 **Relationship of Parties; Release of Consequential Damages.** The relationship between Borrower and Bank shall be solely that of borrower and lender. Bank shall not have any fiduciary responsibilities to Borrower. Bank undertakes no responsibility to Borrower to review or inform Borrower of any matter in connection with any phase of Borrower's business or operations. Bank shall not have any liability with respect to, and Borrower hereby waives, releases and agrees not to sue for, any special or consequential damages suffered by it in connection with, arising out of, or in any way related to the Loan Documents or the transactions contemplated thereby.

Section 9.17 **Severability.** In the event any provision of this Agreement or any of the Loan Documents shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not affect the validity, enforceability or legality of the remaining provisions hereof or thereof, all of which shall continue unaffected and unimpaired thereby.

Section 9.18 **Gender.** As used herein, the masculine gender shall be deemed to include the feminine and the neuter and the singular number shall also include the plural.

Section 9.19 **Waiver and Amendment.** Borrower and Bank may enter into agreements supplemental hereto for the purpose of adding or modifying provisions of this Agreement or changing the respective rights, powers, privileges, duties, liabilities, covenants or obligations of Bank or Borrower or waiving any Default hereunder, provided, however, that no such agreements supplemental shall be binding unless in writing and duly signed by the parties hereto, and then only to the extent specifically set forth therein.

Section 9.20 **Bank Not in Control.** None of the covenants or other provisions

contained in the Loan Documents shall, or shall be deemed to, give Bank the right or power to exercise control over the affairs and/or management of Borrower, the power of Bank being limited to the right to exercise the remedies provided in the Loan Documents, provided, however, that if Bank becomes the owner of any stock or other equity interest in any Person, whether through foreclosure or otherwise, Bank shall be entitled (subject to requirements of law) to exercise such legal rights as it may have by virtue of being the owner of such stock or other equity interest in such Person.

Section 9.21 **Conflict.** This Agreement and the other Loan Documents shall be interpreted, wherever possible, in a manner consistent with one another, but in the event of any irreconcilable inconsistency, this Agreement shall control.

Section 9.22 **Participations.** Notwithstanding any other provision of this Agreement, Borrower understands that Bank may at any time enter into participation agreements with one or more participating banks whereby Bank will allocate certain percentages of its commitments to them. Borrower acknowledges that, for the convenience of all parties, this Agreement is being entered into with Bank only and that its obligations under this Agreement are undertaken for the benefit of, and as inducement to, any such participating bank as well as Bank and Borrower hereby grants to each such participating bank, to the extent of its participation in the Facilities, the right to set off deposit accounts maintained by Borrower with such bank.

Section 9.23 **Waiver of Defenses and Claims.** In consideration of the financial accommodations provided to the Borrower by the Bank as contemplated by this Agreement, Borrower hereby waives, releases and forever discharges the Bank, its officers, directors, employees, agents, affiliates and participants under the Agreement (collectively, the "Released Parties") from and against any and all rights, claims or causes of action against the Released Parties arising from the Released Parties' actions or inactions with respect to the Loan

Documents or any security interest, lien or collateral in connection therewith as well as any and all rights of set off, defenses, claims, causes of action and any other bar to the enforcement of the Loan Documents which exist as of the date hereof.

Section 9.24 **Waiver Of Jury Trial.** BANK AND BORROWER, AFTER CONSULTING OR HAVING HAD THE OPPORTUNITY TO CONSULT WITH COUNSEL, KNOWINGLY, VOLUNTARILY, INTENTIONALLY, UNCONDITIONALLY AND IRREVOCABLY WAIVE ANY RIGHT EITHER OF THEM MAY HAVE TO A TRIAL BY JURY IN ANY LITIGATION BASED UPON OR ARISING OUT OF THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT OR ANY OF THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT OR ANY COURSE OF CONDUCT, DEALING, STATEMENTS (WHETHER ORAL OR WRITTEN), OR ACTIONS OF EITHER OF THEM. NEITHER BANK NOR BORROWER SHALL SEEK TO CONSOLIDATE, BY COUNTERCLAIM OR OTHERWISE, ANY ACTION IN WHICH A JURY TRIAL HAS BEEN WAIVED WITH ANY OTHER ACTION IN WHICH A JURY TRIAL CANNOT BE OR HAS NOT BEEN WAIVED. THESE PROVISIONS SHALL NOT BE DEEMED TO HAVE BEEN MODIFIED IN ANY RESPECT OR RELINQUISHED BY EITHER BANK OR BORROWER EXCEPT BY A WRITTEN INSTRUMENT EXECUTED BY BOTH OF THEM.

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

[Intentionally Left Blank]

ATA AIRLINES, INC.

By: Misty B. Malone

Address:
7337 West Washington Street
P.O. Box 51609
Indianapolis, Indiana 46251-0609
Attention: _____
Facsimile: (317) 240-7091

With a copy to:

Baker & Daniels
600 East 96th Street, Suite 600
Indianapolis, Indiana 46240
Attention: Terry A. Hall

Sommer Barnard
One Indiana Square, #3500
Indianapolis, IN 46204
Attention: Michael P. O'Neil

NATIONAL CITY BANK OF INDIANA

By: _____
F. Richard Blankenship, III
Senior Vice President,

Address:
One National City Center
101 West Washington Street
Suite 400-S
Indianapolis, Indiana 46255
Attention: F. Richard Blankenship
Facsimile: (317) 267-6249

With a copy to:

Bingham McHale LLP
10 West Market Street, #2700
Indianapolis, Indiana 46204
Attention: Thomas C. Scherer
Facsimile: (317) 968-5407

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Indianapolis, IN 46204
Attention: Michael P. O'Neil

NATIONAL CITY BANK OF INDIANA

By: F. Richard Blankenship III
F. Richard Blankenship, III
Senior Vice President,

Address:
One National City Center
101 West Washington Street
Suite 400-S
Indianapolis, Indiana 46255
Attention: F. Richard Blankenship
Facsimile: (317) 267~~-6249-~~ 7088

With a copy to:

Bingham McHale LLP
10 West Market Street, #2700
Indianapolis, Indiana 46204
Attention: Thomas C. Scherer
Facsimile: (317) 968-5407

Schedule 4.15:	Existing Guaranties and Contracts of Surety
Exhibit A:	Letter of Credit Application
Exhibit B:	Reimbursement Note
Exhibit C:	Security Agreement
Exhibit D:	Amendment No. 1 to Security Agreement
Exhibit E:	Deposit Account Control Agreement
Exhibit F:	UCC Financing Statements

SCHEDULE 4.15: EXISTING GUARANTIES AND CONTRACTS OF SURETY

-NONE-