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

# FORM 8-K

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

Date of Report (Date of earliest event reported): **April 30, 2010**

## LANDEC CORPORATION

(Exact name of registrant as specified in its charter)

**Delaware**
(State or other jurisdiction of incorporation or organization)

| **0-27446** | **94-3025618** |
|---|---|
| (Commission file number) | (IRS Employer Identification No.) |

**3603 Haven Avenue, Menlo Park, California 94025**
(Address of principal executive offices and zip code)

**(650) 306-1650**
(Registrant's telephone number, including area code)

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

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

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

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

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

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

**Item 1.01 Entry Into A Material Definitive Agreement**

On April 30, 2010, Landec Corporation, a Delaware corporation (the “Company”), entered into a stock purchase agreement (the “Purchase Agreement”) by and among the Company, Lifecore Biomedical, Inc., a Delaware corporation (“Lifecore”), Lifecore Biomedical, LLC, a Minnesota limited liability company and wholly-owned subsidiary of Lifecore (“LBL”), and Warburg Pincus Private Equity IX, L.P., a Delaware limited partnership (the “Seller”). Pursuant to the Purchase Agreement, the Company acquired on April 30, 2010 all of the issued and outstanding common stock of Lifecore (the “Acquisition”) for initial consideration of $40.0 million in cash, $6.6 million of which has been deposited in escrow to provide security for certain obligations of the Seller that may arise under the Purchase Agreement, with 50% of such escrowed funds to be held for 12 months and 50% of such escrowed funds to be held for 24 months. In addition, pursuant to the Purchase Agreement, the Company permitted Lifecore and LBL to keep approximately $4.0 million of debt outstanding as of April 30, 2010. Pursuant to the Purchase Agreement, on April 30, 2010, the Seller received from Lifecore a distribution of approximately $8.0 million in cash. The Purchase Agreement includes a potential cash earn-out payment to the Seller of up to $10.0 million, which will be determined based on Lifecore achieving certain financial targets during calendar years 2011 and 2012. In conjunction with the Acquisition and as described more fully below in Item 2.03, LBL secured bank financing of $20.0 million, which is guaranteed by the Company and its subsidiaries, including Lifecore. The financing has a five-year term and, pursuant to an interest rate swap that LBL also entered into with Wells Fargo, will accrue interest at a fixed rate of 4.24% during the entire five-year term.

The foregoing description of the Purchase Agreement does not purport to be complete and is subject to, and qualified in its entirety by, reference to the Purchase Agreement, a copy of which is attached hereto as Exhibit 10.1 and the terms of which are incorporated herein by reference.

The full text of the press release, dated May 3, 2010, announcing the Acquisition, is attached as Exhibit 99.1 to this Current Report on Form 8-K and is incorporated by reference herein.

The information set forth under Item 2.03 of this Current Report on Form 8-K is incorporated into this Item 1.01 by reference.

**Item 2.01 Completion of Acquisition or Disposition of Assets**

The information set forth under Item 1.01 of this Current Report on Form 8-K is incorporated into this Item 2.01 by reference.

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

In connection with the Acquisition, LBL entered into a senior secured $20,000,000 term loan credit agreement (the “Credit Agreement”) with Wells Fargo Bank, National Association ("Wells Fargo"). The Credit Agreement has a five-year term and, pursuant to an interest rate swap that LBL also entered into with Wells Fargo, will accrue interest at a fixed rate of 4.24% during the entire five-year term. The obligations of LBL arising under the Credit Agreement are secured by a lien on all of its personal property assets. The Company, together with all of the Company's subsidiaries (including Lifecore), are guarantying all obligations of LBL under the Credit Agreement. In addition, LBL expects to enter into a reimbursement agreement (the “Reimbursement Agreement”) with Wells Fargo, pursuant to which Wells Fargo will issue a letter of credit in the approximate amount of $4,200,000 in substitution for the letter of credit previously issued and outstanding by M&I Marshall & Ilsley Bank that supports the Variable Rate Demand Purchase Revenue Bonds issued by the City of Chaska, Minnesota (the "Bonds"). The Bonds were issued by the City of Chaska in 2004 and the proceeds were loaned to LBL. The obligations of LBL arising under the Reimbursement Agreement will be secured by a mortgage on its building located at 3513 Lyman Boulevard, Chaska, Minnesota, as well as the lien on its personal property described above. The Company, together with all of the Company's subsidiaries (including Lifecore), will also be guarantying all obligations of LBL under the Reimbursement Agreement.

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The foregoing description of the Credit Agreement does not purport to be complete and is subject to, and qualified in its entirety by, reference to the Credit Agreement, a copy of which is attached hereto as Exhibit 10.2 and the terms of which are incorporated herein by reference.

**CAUTIONARY STATEMENT CONCERNING FORWARD LOOKING STATEMENTS**

Certain statements contained in this Current Report on Form 8-K include "forward-looking statements" within the meaning of the Section 21E of the Securities Exchange Act of 1934 , as amended. Words such as "expect" and "will" or similar expressions are used to identify forward-looking statements. Such statements are made based upon current expectations and projections about our business and assumptions made by our management and are not guarantees of future performance, nor do we assume the obligation to update such forward-looking statements after the date of this Current Report on Form 8-K.

**Item 9.01. Financial Statements and Exhibits**

(a) Financial Statements for Businesses Acquired.

The financial statements required to be filed with respect to the acquired business described in Item 2.01 have not been filed in this initial Current Report on Form 8-K. Instead, financial statements will be filed by amendment within 71 calendar days after the due date for the initial filing of this Current Report on Form 8-K with the Securities and Exchange Commission, as permitted by Item 9.01(a)(4) of Form 8-K.

(b) Pro Forma Financial Information.

The pro forma financial statements required to be filed with respect to the acquired business described in Item 2.01 has not been filed in this initial Current Report on Form 8-K. Instead, the pro forma financial statements will be filed by amendment within 71 calendar days after the due date for the initial filing of this Current Report on Form 8-K with the Securities and Exchange Commission, as permitted by Item 9.01(b)(2) of Form 8-K.

(d) Exhibits.

| Exhibit No. | Description |
|---|---|
| 10.1 | Stock Purchase Agreement dated April 30, 2010 by and among Landec Corporation, Lifecore Biomedical, Inc., Lifecore Biomedical, LLC, and Warburg Pincus Private Equity IX, L.P (exhibits and schedules have been omitted pursuant to Item 601(b)(2) of Regulation S-K and will be provided to the Securities and Exchange Commission upon request) |
| 10.2 | Credit Agreement dated April 30, 2010 by and among Lifecore Biomedical, LLC and Wells Fargo Bank, National Association (exhibits and schedules have been omitted pursuant to Item 601(b)(2) of Regulation S-K and will be provided to the Securities and Exchange Commission upon request) |
| 10.3 | Continuing Guaranty dated April 30, 2010 by Landec Corporation in favor of Wells Fargo Bank, National Association |
| 99.1 | Press Release of Landec Corporation dated May 3, 2010 |

## SIGNATURE

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

**LANDEC CORPORATION**
Registrant

Date: May 5, 2010

By: /s/ Gregory S. Skinner
Gregory S. Skinner
Vice President of Finance and
Chief Financial Officer

EXHIBIT INDEX

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| --- | --- |
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| 10. 2 | Credit Agreement dated April 30, 2010 by and between Lifecore Biomedical, LLC and Wells Fargo Bank, National Association (exhibits and schedules have been omitted pursuant to Item 601(b)(2) of Regulation S-K and will be provided to the Securities and Exchange Commission upon request) |
| 10.3 | Continuing Guaranty dated April 30, 2010 by Landec Corporation in favor of Wells Fargo Bank, National Association |
| 99.1 | Press Release of Landec Corporation dated May 3, 2010 |

**STOCK PURCHASE AGREEMENT**

THIS STOCK PURCHASE AGREEMENT is made and entered into as of the 30th day of April, 2010, by and among LANDEC CORPORATION, a Delaware corporation (the "Buyer"), LIFECORE BIOMEDICAL, INC., a Delaware corporation formerly known as SBT Biomaterials Inc. (the "Holding Company"), LIFECORE BIOMEDICAL, LLC, a Minnesota limited liability company (the "Operating Company"), and WARBURG PINCUS PRIVATE EQUITY IX, L.P., a Delaware limited partnership (the "Seller"). The Holding Company and the Operating Company shall sometimes be referred to herein collectively as the "Company". Capitalized terms used but not otherwise defined herein shall have the meaning assigned to such terms in Article XI below.

**WITNESSETH:**

WHEREAS, the Seller owns all of the issued and outstanding shares of the $0.01 par value common stock of the Holding Company (the "Common Stock");

WHEREAS, the Holding Company owns all of the issued and outstanding membership interests of the Operating Company (the "Units"); and

WHEREAS, the Seller desires to sell to the Buyer, and the Buyer desires to purchase from the Seller, all of the issued and outstanding shares of Common Stock upon the terms and conditions set forth herein.

NOW, THEREFORE, the Buyer, the Holding Company, the Operating Company and the Seller, in consideration of the mutual promises hereinafter set forth, do hereby promise and agree as follows:

**ARTICLE I**

Shares To Be Purchased

Subject to the terms and conditions set forth in this Agreement, at the Closing, the Seller shall sell and transfer to the Buyer, and the Buyer shall purchase from the Seller, all of the issued and outstanding shares of the Common Stock of the Holding Company (the "Subject Shares").

**ARTICLE II**

Closing; Purchase Price

2.1 Closing. The Closing shall be held at the offices of Willkie Farr & Gallagher LLP located at 787 Seventh Avenue, New York, New York, 10019 at 10:00 a.m. Eastern Daylight Time on the date hereof, or at such other time and/or place as the Seller and the Buyer shall mutually agree in writing; provided, that no party hereto shall issue any press release or otherwise make any public statement about this Agreement or any of the transactions contemplated hereby prior to 4:00 p.m. Eastern Daylight Time on the Closing Date.

2.2 Purchase Price. The consideration for the Subject Shares (the "Purchase Price") shall be an amount equal to the sum of (a) Forty Million Dollars ($40,000,000) (the "Cash Purchase Price"), plus (b) the Cash Distribution Amount as provided in Section 2.5 and Section 2.6 below, plus (c) the Contingent Purchase Price as provided in Section 2.6 below. The Purchase Price shall be paid as provided in Section 2.3, Section 2.4, Section 2.5 and Section 2.6 below.

2.3 Cash Payment. At the Closing, the Buyer shall deliver to the Seller, by wire transfer of immediately available funds to a bank account designated in writing by the Seller, an amount equal to the Cash Purchase Price less (a) the Escrow Amount and (b) the amount, if any, of outstanding Excluded Indebtedness as of the Closing (such net amount being referred to herein as the "Cash Payment").

2.4 Escrow Amount. At the Closing, the Buyer shall deliver to the Escrow Agent, by wire transfer of immediately available funds to a bank account designated in writing by the Escrow Agent, an amount equal to the Escrow Amount to be held, managed and paid out pursuant to the terms of the Escrow Agreement.

2.5 Closing Cash Distribution Amount.

(a) Immediately prior to the Closing, the Operating Company shall deliver to the Holding Company, and at the Closing, the Holding Company shall deliver to the Seller by wire transfer of immediately available funds to a bank account designated in writing by the Seller, an amount equal to the aggregate amount of Cash of the Operating Company as of the Closing Date, up to a maximum of the Target Amount (the "Closing Cash Distribution Amount").

(b) Not more than ten (10) business days, but in no event less than three (3) business days, prior to the Closing Date, the Seller, after consultation with the Buyer, shall prepare, in good faith and in accordance with GAAP, and deliver to the Buyer an estimated balance sheet as of the open of business on the Closing Date together with a statement setting forth the determination of the Target Amount, the estimated amount of Cash of the Operating Company as of the open of business on the Closing Date and the Closing Cash Distribution Amount on a reasonable basis using the Company's then available financial information as of such date (collectively, the "Estimated Balance Sheet"). The Estimated Balance Sheet shall be used in order to determine the amount of the Closing Cash Distribution Amount paid at the Closing pursuant to Section 2.5(a) above.

2.6 Contingent Purchase Price; Closing Date Balance Sheet; Post-Closing Cash Distribution Amount.

(a) Calculation of Contingent Purchase Price. For purposes of this Agreement, the "Contingent Purchase Price" means an amount equal to the sum of (i) the amount (if any) by which the Subject Net Revenues for calendar year 2011 exceed Twenty-Five Million Dollars ($25,000,000), plus (ii) the amount (if any) by which the Subject Net Revenues for calendar year 2012 exceed the greater of (A) Twenty-Five Million Dollars ($25,000,000), or (B) the Subject Net Revenues for calendar year 2011; provided, that the Contingent Purchase Price shall in no event exceed Ten Million Dollars ($10,000,000). For purposes of this Section 2.6, each of calendar year 2011 and calendar year 2012 shall be referred to as an "Earn-Out Period", and the portion of the Contingent Purchase Price relating to each Earn-Out Period shall be referred to as an "Earn-Out Amount".

(b) Preparation of Closing Date Balance Sheet and Earn-Out Statement. Within ninety (90) days after the Closing Date, the Buyer shall prepare, in accordance with GAAP, and deliver to the Seller an unaudited interim balance sheet of the Operating Company as of the Closing Date together with a statement setting forth the final determination of the Target Amount, the amount of Remaining Cash, the Closing Cash Distribution Amount and the Post-Closing Cash Distribution Amount (if any) (collectively, the "Closing Date Balance Sheet"), and within ninety (90) days after the end of each Earn-Out Period, the Buyer shall prepare and deliver to the Seller a statement setting forth the determination of the Earn-Out Amount for such Earn-Out Period (each, an "Earn-Out Statement"). The Seller and its Representatives shall have the right to review all records, work papers and calculations of the Buyer related to the Closing Date Balance Sheet (including the calculations of the Target Amount, the amount of Remaining Cash, the Closing Cash Distribution Amount and the Post-Closing Cash Distribution Amount (if any) set forth therein) and each Earn-Out Statement. The Seller shall have thirty (30) days after delivery of the Closing Date Balance Sheet or each Earn-Out Statement, as the case may be, in which to notify the Buyer in writing of any discrepancy in, or disagreement with, the items reflected on the Closing Date Balance Sheet (including the calculations of the Target Amount, the amount of Remaining Cash, the Closing Cash Distribution Amount and the Post-Closing Cash Distribution Amount (if any) set forth therein) or the items reflected on such Earn-Out Statement or the determination of the Earn-Out Amount (a "Notice of Objection"). If the Seller does not submit a Notice of Objection during such thirty (30) day period, then the Closing Date Balance Sheet (including the calculations of the Target Amount, the amount of Remaining Cash, the Closing Cash Distribution Amount and the Post-Closing Cash Distribution Amount (if any) set forth therein) or such Earn-Out Statement, as the case may be, shall be deemed to be accepted in the form presented to the Seller. If the Seller submits a Notice of Objection during such thirty (30) day period and the Buyer agrees with the adjustment requested by the Seller, then an appropriate adjustment shall be made. If the Buyer does not agree, within twenty (20) days after receipt of a Notice of Objection, to make any adjustment timely requested by the Seller, then the disputed items or amounts shall be submitted for review and final determination by the Independent Accounting Firm. Each of the Buyer and the Seller shall make all records, work papers and calculations related to the Closing Date Balance Sheet (including the calculations of the Target Amount, the amount of Remaining Cash, the Closing Cash Distribution Amount and the Post-Closing Cash Distribution Amount (if any) set forth therein) and each Earn-Out Statement available to the Independent Accounting Firm, and the Independent Accounting Firm shall have access to the employees of the Buyer, the Company and the Seller during regular business hours and upon reasonable prior notice in order to review the applicable calculations. Each of the Buyer and the Seller hereby agrees that it will cooperate and assist in the preparation of the Closing Date Balance Sheet (including the calculations of the Target Amount, the amount of Remaining Cash, the Closing Cash Distribution Amount and the Post-Closing Cash Distribution Amount (if any) set forth therein) and each Earn-Out Statement and in the conduct of reviews contemplated by this Section 2.6(b). The determination of the Independent Accounting Firm shall be made as promptly as practical and shall be binding and conclusive upon the parties hereto for purposes hereof. The Independent Accounting Firm shall not attribute a value to any disputed amount greater than the greatest amount proposed by either party nor an amount less than the least amount proposed by either party. The fees, costs and expenses of the Independent Accounting Firm shall be shared by the Buyer, on the one hand, and the Seller, on the other, in inverse proportion to the amount in dispute for which each of them is successful (by way of example, if the amount in dispute is $100,000 and the Independent Accounting Firm determines that the Buyer is entitled to $80,000 of the disputed amount and the Seller is entitled to $20,000 of the disputed amount, then the Seller shall pay 80% of the fees, costs and expenses of the Independent Accounting Firm and the Buyer shall pay 20% of the fees, costs and expenses of the Independent Accounting Firm).

(c) Post-Closing Cash Distribution Amount. After the final determination of the Closing Date Balance Sheet (including the calculations of the Target Amount, the amount of Remaining Cash, the Closing Cash Distribution Amount and the Post-Closing Cash Distribution Amount (if any) set forth therein) in accordance with Section 2.6(b) above, in the event that the Closing Cash Distribution Amount was less than the Target Amount, the Buyer shall cause the Operating Company to deliver to the Seller within thirty (30) days after the final determination of the Closing Date Balance Sheet, by wire transfer of immediately available funds to a bank account designated in writing by the Seller, an amount equal to the lesser of (i) One Million Dollars ($1,000,000), or (ii) the difference between (A) the Target Amount, minus (B) the Closing Cash Distribution Amount. In the event that the Closing Cash Distribution Amount was more than the Target Amount, the Seller shall deliver to the Operating Company within thirty (30) days after the final determination of the Closing Date Balance Sheet, by wire transfer of immediately available funds to a bank account designated in writing by the Operating Company, the amount of any such excess. Any amount payable pursuant to this Section 2.6(c) shall be referred to as the "Post-Closing Cash Distribution Amount".

(d) Payment of Contingent Purchase Price. Within thirty (30) days after each Earn-Out Date of Final Determination, the Buyer shall cause the Operating Company to deliver (i) to each Participant the applicable Earn-Out Bonus (as defined in the Bonus Plan) (if any) and/or the applicable Incentive Bonus (as defined in the Bonus Plan) (if any) payable to such Participant pursuant to the terms of the Bonus Plan, and (ii) to the Seller, by wire transfer of immediately available funds to a bank account designated in writing by the Seller, the applicable Earn-Out Amount (if any) less any amounts paid to the Participants pursuant to the terms of the Bonus Plan pursuant to this Section 2.6(d).

(e) Acceleration of Contingent Purchase Price Payments. If, subsequent to the Closing Date and prior to December 31, 2012, (i) a Change of Control of either the Operating Company or the Holding Company occurs, (ii) the Operating Company terminates Allingham's employment without Cause, or (iii) Allingham terminates his employment with the Operating Company for Good Reason, then, within sixty (60) days after the closing of such Change of Control or the effective date of such termination of employment, as the case may be, the Buyer shall cause the Operating Company (or the surviving entity in the event of a Change of Control in which the Operating Company does not survive) to deliver (A) to each Participant the Earn-Out Bonus (if any) and/or the Incentive Bonus (if any) payable to such Participant pursuant to the terms of the Bonus Plan, which shall be delivered at the time prescribed by the Bonus Plan, and (B) to the Seller, by wire transfer of immediately available funds to a bank account designated in writing by the Seller, an amount equal to the difference between (I) Ten Million Dollars ($10,000,000), minus (II) the aggregate amount of Earn-Out Bonuses (if any) and Incentive Bonuses (if any) previously paid to the Participants pursuant to Section 2.6(d) above and Earn-Out Amounts (if any) previously paid to the Seller pursuant to Section 2.6(d) above and (III) any amounts paid to Participants pursuant to this Section 2.6(e); provided, that in the event the Buyer is subject to an outstanding payment obligation under Section 2.6(d) above at the time of acceleration of the Contingent Purchase Price payments pursuant to this Section 2.6(e), the parties acknowledge and agree that such outstanding payment obligation under Section 2.6(d) above shall be null and void upon receipt by the Participants and the Seller of the applicable payments under this Section 2.6(e).

(f) Conduct of Business During the Earn-Out Periods. After the Closing Date until the earlier of (i) December 31, 2012, or (ii) the acceleration of the Contingent Purchase Price Payments pursuant to Section 2.6(e) above, the Buyer shall, and shall cause the Company:

(i) To maintain separate books and records for the Company and maintain and operate the Company as a separate and distinct segment in order to facilitate, among other things, the calculation of the Subject Net Revenues contemplated hereby;

(ii) To conduct and operate the Company (or business and operations thereof) in good faith taking into consideration the obligations under this Agreement; provided, that the Company will not discontinue any product line without the prior written consent of Allingham;

(iii) To provide reasonable capital resources to the Company for its operations; and

(iv) Not to divert any revenues away from the Company and to the Buyer or any of the Buyer's Affiliates or Subsidiaries.

(g) Guaranty. As security for the Operating Company's payment of the Contingent Purchase Price, the Buyer will execute and deliver to the Seller at the Closing a guaranty in the form of **Exhibit 2.6(g)** attached hereto (the "Guaranty").

## ARTICLE III

Conditions Precedent to Closing; Closing Deliverables

3.1 Conditions Precedent to the Buyer's Obligation. The obligation of the Buyer to consummate the transactions contemplated hereby is subject to the satisfaction as of the Closing, or the waiver by the Buyer, of each of the following conditions:

(a) The warranties and representations of the Seller made in Article V of this Agreement and the warranties and representations of the Company made in Article IV of this Agreement shall be true and correct in all material respects on and as of the date of this Agreement; and the Seller and the Company shall have performed in all material respects the covenants of the Seller and the Company contained in this Agreement required to be performed on or prior to the Closing.

(b) All Consents, in a form reasonably satisfactory to the Buyer, shall have been received by the Seller and a copy of each shall have been delivered to the Buyer on or prior to the Closing Date.

(c) There shall be no effective injunction, writ, preliminary restraining order or any order of any nature issued by any Governmental Body directing that the transactions provided for herein, or any of them, not be consummated as herein provided.

(d) The Seller and/or the Company shall have delivered, or caused to have been delivered, to the Buyer the following:

(i) Certificates representing the Subject Shares, duly endorsed in blank or accompanied by stock powers duly endorsed in blank;

(ii) A certificate from each of the Secretary of the Holding Company and the President and Chief Executive Officer of the Operating Company, in a form reasonably satisfactory to the Buyer, setting forth the resolutions of the Board of Directors and the sole shareholder of the Holding Company or the sole member of the Operating Company, as the case may be, authorizing the execution, delivery and performance of this Agreement and all Ancillary Agreements to be executed, delivered and performed by such entity in connection herewith and the taking of any and all actions deemed necessary or advisable to consummate the transactions contemplated hereby;

(iii) Resignations of the directors and any officers who are not also employees of the Operating Company of each of the Holding Company and the Operating Company, except as the Buyer shall direct to the contrary in writing at least three (3) days prior to the Closing Date;

(iv) Resignations of the signatories of the bank and other depository accounts and safe deposit boxes of the Company from any Persons who are not also employees of the Operating Company, except as the Buyer shall direct to the contrary in writing at least three (3) days prior to the Closing Date;

(v) Constructive possession of the complete Records relating to the business of the Company (constructive possession shall be deemed to include, without limitation, the presence of such Records at the Company's headquarters);

(vi) A recent good standing certificate (or comparable document) for each of the Holding Company and the Operating Company issued by the Secretary of State (or comparable office) of the jurisdiction in which such entity is domiciled;

(vii) The Bonus Agreements, duly executed by the Operating Company and the Former Option Holders;

(viii) Written evidence, in a form reasonably satisfactory to the Buyer, of the termination of the Stock Incentive Plan, effective prior to the Closing;

(ix) The Change of Control Agreement Amendments, duly executed by the Seller, the Operating Company and the Subject Officers;

(x) The Escrow Agreement, duly executed by each of the Seller and the Holding Company; and

(xi) A certificate dated the Closing Date and executed by a duly authorized officer of each of the Holding Company and the Operating Company, in a form reasonably satisfactory to the Buyer, certifying that all conditions set forth in Section 3.1(a) above, have been fully satisfied.

3.2 Conditions Precedent to the Seller's Obligation. The obligation of the Seller to consummate the transactions contemplated hereby is subject to the satisfaction as of the Closing, or the waiver by the Seller, of the following conditions:

(a) The warranties and representations of the Buyer made in Article VI of this Agreement shall be true and correct in all material respects on and as of the date of this Agreement; and the Buyer shall have performed in all material respects the covenants of the Buyer contained in this Agreement required to be performed on or prior to the Closing.

(b) There shall be no effective injunction, writ, preliminary restraining order or any order of any nature issued by any Governmental Body directing that the transactions provided for herein, or any of them, not be consummated as herein provided.

(c) The Buyer shall have delivered, or caused to have been delivered, to the Seller the following:

(i) The Cash Payment as specified in Section 2.3 above;

(ii) A certificate from the Secretary of the Buyer, in a form reasonably satisfactory to the Seller, setting forth the resolutions of the Board of Directors of the Buyer authorizing the execution of this Agreement and all Ancillary Agreements to be executed, delivered and performed by the Buyer in connection herewith and the taking of any and all actions deemed necessary or advisable to consummate the transactions contemplated hereby;

(iii) A recent good standing certificate (or comparable document) for the Buyer issued by the Secretary of State (or comparable office) of the jurisdiction in which the Buyer is domiciled;

(iv) The Escrow Agreement, duly executed by each of the Buyer and the Escrow Agent;

(v) The Guaranty, duly executed by the Buyer;

(vi) Such other endorsements, assignments, affidavits and other good and sufficient instruments of assignment, conveyance and transfer as are reasonably requested by the Seller to reflect that the Permitted Indebtedness will remain an obligation of the Company after the Closing; and

(vii) A certificate dated the Closing Date and executed by a duly authorized officer of the Buyer, in a form reasonably satisfactory to the Seller, certifying that all conditions set forth in Section 3.2(a) above, have been fully satisfied.

(d) The Buyer shall have delivered to the Escrow Agent the Escrow Amount as specified in Section 2.4 above.

(e) The Holding Company shall have delivered to the Seller the Closing Cash Distribution Amount as specified in Section 2.5(a) above.

**ARTICLE IV**

Warranties and Representations of Company

4.1 Warranties and Representations. Except as set forth in the Disclosure Schedules (interpreted in accordance with the provisions of Section 12.12 below), the Company hereby warrants and represents on and as of the date of this Agreement to the Buyer, which warranties and representations shall survive the Closing for the period set forth in Section 10.3(a) below, as follows:

4.1.1 Authority of Company. The Company has the right, power and authority to enter into this Agreement and the Ancillary Agreements to which it is a party and to consummate the transactions contemplated hereby and thereby. The execution, delivery and performance by the Company of this Agreement and the Ancillary Agreements to which the Company is a party have been approved by the Board of Directors and sole shareholder of the Holding Company and the sole member of the Operating Company, as the case may be. This Agreement has been, and each Ancillary Agreement to which the Company is a party hereto will be, duly and validly executed and delivered by the Company, and this Agreement and such Ancillary Agreements are and shall constitute the legal, valid and binding obligations of the Company enforceable against the Company in accordance with their respective terms, except as enforceability may be limited by bankruptcy, insolvency or similar laws affecting the enforcement of creditors' rights generally or by general principles of equity.

4.1.2 Corporate Matters. The Holding Company is a corporation duly incorporated, validly existing and in good standing under the laws of the State of Delaware, and the Operating Company is a limited liability company duly organized and in good standing under the laws of the State of Minnesota. The Company has the power and authority to own or lease its properties and assets and to carry on all business activities now conducted by it. **Schedule 4.1.2** attached hereto contains a true, correct and complete list of all current and former Subsidiaries of the Company. All former Subsidiaries of the Company which have been wound up, liquidated and dissolved were wound up, liquidated and dissolved in compliance in all material respects with all applicable Legal Requirements. To the Knowledge of the Company, there have been no, and there are not any facts, conditions or circumstances that could reasonably be expected to give rise to any, third party claims or any Proceedings arising from or in connection with the operation of any former Subsidiaries of the Company during the period when such entity was a Subsidiary of the Company or the winding up, liquidation and dissolution of any such former Subsidiaries which have been wound up, liquidated and dissolved. The Company is duly qualified to do business as a foreign entity and is in good standing in each jurisdiction in which the nature of its business or the ownership, leasing or holding of its assets makes such qualification necessary, except where the failure to be so qualified or to be in good standing would not, individually or in the aggregate, reasonably be expected to impact materially the Company's business. **Schedule 4.1.2** contains a true, complete and correct list of all jurisdictions in which the Company is qualified to do business as a foreign corporation or limited liability company, as the case may be.

4.1.3 No Conflict. Except as set forth on **Schedule 4.1.3** attached hereto, neither the execution, delivery and performance by the Company of this Agreement or any of the Ancillary Agreements to which the Company is a party nor the consummation or performance of any of the transactions contemplated hereby or thereby will, directly or indirectly: (a) contravene, conflict with, or result in a breach or violation of any provision of the Certificate of Incorporation or By Laws of the Holding Company or the Articles of Organization or the Member Control Agreement of the Operating Company; (b) contravene, conflict with, or result in a breach or violation of, or give any Governmental Body the right to challenge any of the transactions contemplated hereby or to exercise any remedy or obtain relief under, any Legal Requirement or any Order to which the Company or any of the assets of the Company may be subject; (c) contravene, conflict with, or result in a breach or violation of any provision of, or give any Person the right to declare a default or exercise any remedy under, or to accelerate the maturity or performance of, or to cancel, terminate or modify, any Applicable Contract; (d) contravene, conflict with, or result in a violation of any of the terms or requirements of, or give any Governmental Body the right to revoke, withdraw, suspend, cancel, terminate or modify, any Governmental Authorization that is held by the Company or that otherwise relates to the business of or any of the assets owned or used by the Company; or (e) result in the imposition of any Lien, claim or restriction upon or with respect to any of the Subject Shares or any of the assets owned or used by the Company (other than Permitted Liens with respect to such assets), except with respect to clauses (b) through (d), for such contraventions, conflicts, breaches, rights to challenge or exercise a remedy, violations or rights of termination, acceleration, cancellation or modification that would not have or would not reasonably be expected to impact materially the Company's business. No action, consent, approval, Order or authorization of, or registration, declaration or filing with, any Governmental Body, including, without limitation, any labor organization pursuant to any labor or collective bargaining agreement, is required to be obtained or made in connection with the execution and delivery by the Company of this Agreement and the Ancillary Agreements to which the Company is a party or the consummation by the Company of the transactions contemplated hereby and thereby.

4.1.4 Shareholder/Member Agreements. Except for this Agreement and the Ancillary Agreements executed in connection herewith, there are no Contracts restricting or otherwise relating to the management of the Company or the voting, dividend rights or disposition of the Subject Shares or the Subject Units or otherwise granting any Person any right in respect of such Subject Shares and/or Subject Units, and there are no existing contractual restrictions on the transfer of the Subject Shares or the Subject Units.

4.1.5 Corporate Records; Equity Interests. The stock certificates, books of account, minute books and other Records of the Company (copies of which have been made available to the Buyer and its Representatives) are true, complete and correct in all material respects. All of the Company's books and records are in the possession of the Company. The copies of the Holding Company's Certificate of Incorporation and By Laws and the Operating Company's Articles of Organization and Member Control Agreement previously made available to Buyer are true, complete and correct and are in full force and effect without amendment or modification. Except as set forth on **Schedule 4.1.5** attached hereto, the Company does not, directly or indirectly, own or control, or have any Contract to acquire, any stock of, any equity interest in or any other ownership or investment interest in any corporation, partnership, limited liability company, joint venture or other business entity.

4.1.6 Capitalization; Options.

(a) The Holding Company's authorized capital stock consists solely of Five Million (5,000,000) shares of Common Stock and One Million (1,000,000) shares of preferred stock, par value $0.01 per share (the "Preferred Stock"). The entire issued and outstanding capital stock of the Holding Company (of whatever class, series or designation) consists of Two Million Three Hundred Fifty-Two Thousand Nine Hundred Forty-One (2,352,941) shares of Common Stock, and the entire issued and outstanding capital stock of the Operating Company (of whatever class, series or designation) consists of Fourteen Million One Hundred Seventeen Thousand Six Hundred Ninety-Seven (14,117,697) Units, all of which shares or membership interests, as the case may be, are duly authorized, validly issued and outstanding, fully paid and nonassessable. The Subject Shares are all of the shares of Common Stock issued and outstanding. No shares of Preferred Stock are issued or outstanding. The Units owned by the Holding Company (the "Subject Units") are all of the Units issued and outstanding. Neither the Subject Shares nor the Subject Units are subject to, nor issued in violation of, any preemptive or subscription rights, or rights of first refusal.

(b) There are no stock/membership interest award plans of the Company. There are no outstanding or authorized warrants, options, agreements, subscriptions, rights, calls, puts, conversion rights, convertible or exchangeable securities or other Contracts pursuant to which the Company is or may become obligated or which are binding upon the Company to issue, sell, purchase, retire or redeem any shares of capital stock or other securities of the Company. There are no outstanding or authorized stock appreciation, phantom stock or similar rights with respect to the Company. There are no voting trusts, proxies or any other agreements or understandings with respect to the voting of the capital stock of the Company.

(c) All of the issued and outstanding shares of Common Stock and Units have been issued in compliance with all Legal Requirements.

(d) The Company has not entered into any commitment, arrangement or agreement, or is otherwise obligated, to contribute capital, loan money or otherwise provide funds or make additional investments in any Person.

4.1.7 Title to and Condition of Assets. The Company has good and valid title to all of the material property and material assets, personal and real, tangible and intangible, which are used by the Company in connection with the conduct of the Company's business other than equipment and other personal property leased by the Company and included within the Company's assets, free and clear of all Liens and claims whatsoever other than Permitted Liens. The Company's assets are sufficient for the operation of the Company's business in the Ordinary Course of Business as presently being conducted and are suitable for the purpose for which they are being used, in each case, in all material respects. **Schedule 4.1.7(a)** attached hereto contains a true, correct and complete list of all material equipment and other material personal property leased by the Company and included within the Company's assets, all of which such property, to the Knowledge of the Company, is in the condition required of such property by the terms and conditions of the lease applicable thereto in all material respects. To the Company's Knowledge, the Inventory is sufficient for the operation of the Company in the Ordinary Course based on current levels of operation, has been manufactured and/or purchased in the Ordinary Course of Business consistent in quality and quantity with past practices of the Company, is not damaged, obsolete or out of specification and is of a quality and quantity usable and salable in the Ordinary Course of Business, net of any applicable reserves to be reflected on the Closing Date Balance Sheet. All accounts receivable of the Company arose from bona fide transactions in the Ordinary Course of Business. The aggregate value of all Inventory produced by the Company for the Persons listed on **Schedule 4.1.7(b)** attached hereto on hand as of the Closing Date and the aggregate amount of all accounts receivable of the Company due and owing from the Persons listed on **Schedule 4.1.7(b)** as of the Closing Date have been reserved for by the Company as will be reflected on the Closing Date Balance Sheet.

4.1.8 Real Property. The Company does not own any real property in connection with the operation of its business other than the real property described on **Schedule 4.1.8(a)** attached hereto (together with any buildings or other improvements located thereon, the "Owned Real Property"). Except as set forth on **Schedule 4.1.8(b)** attached hereto, the Company does not lease any real property in connection with the operation of its business. Other than the real property described on **Schedule 4.1.8(a)** and **Schedule 4.1.8(b)**, since January 1, 1995, the Company has not owned or leased any real property. The Company has not received written notice of any pending Proceeding with respect to the Owned Real Property, nor does the Company have Knowledge of any such pending or threatened Proceeding. The Company has not received written notice of any Order requiring repair, alteration or correction of any existing condition affecting the Owned Real Property, nor does the Company have Knowledge of any such pending or threatened Order.

4.1.9 Proceedings; Orders. Except as set forth on **Schedule 4.1.9** attached hereto, there is no Proceeding pending or, to the Company's Knowledge, threatened against the Company. The Company is not currently subject to any Order. To the Knowledge of the Company, no event has occurred or circumstances exist that may give rise or serve as a basis for the commencement of any Proceeding to prohibit the transactions contemplated by this Agreement.

4.1.10 Intellectual Property.

(a) **Schedule 4.1.10(a)** attached hereto contains a complete list (specifying the owner thereof and the registration or application number) of each of the following which are owned by the Company: (i) all U.S. and foreign issued patents and pending applications relating to any inventions, and all reissues, divisions, continuations, continuations-in-part and extensions thereof; (ii) all U.S. and foreign registered trademarks, registered service marks, trademark applications and service mark applications, and all renewals and extensions thereof; (iii) all U.S. and foreign registered copyrights and copyright applications, and all renewals and extensions thereof; and (iv) all domain name registrations (collectively, the "Registered Intellectual Property"). The Registered Intellectual Property, together with all common law trademarks, service marks, copyrights, licenses, logos, trade names (including, but not limited to, "Lifecore" and "Lifecore Biomedical") and trade dress owned by the Company and/or used by the Company in the operation of its business, all content contained or stored in or displayed by the websites covered by the domain name registrations listed on **Schedule 4.1.10(a)**, all other inventions, trade secrets, methods, processes, formulae, technical information, know-how, production protocols, product specifications, improvements, blue-prints, architectural and other drawings, computer programs and software owned by the Company and/or used by the Company in the operation of its business and all other similar intellectual property rights which are owned by the Company and/or used by the Company in the operation of its business, shall hereinafter collectively be referred to as the "Intellectual Property".

(b) **Schedule 4.1.10(b)** attached hereto contains a complete list of: (i) all licenses or other Contracts granted by the Company which create rights in any third Person regarding any item of the Intellectual Property; and (ii) all material licenses or other Contracts granted to the Company (excluding shrink-wrap, click-wrap, click-through or other similar Contracts with respect to off-the-shelf or personal computer software) which create rights in the Company regarding any intellectual property rights owned by any third Person (hereinafter individually referred to as an "IP Contract" and collectively referred to as "IP Contracts").

(c) The Company owns or has the valid right to use in the Ordinary Course operation of the Company's business all Intellectual Property, free and clear of all Liens other than Permitted Liens. To the Company's Knowledge, no current or former employee, officer or consultant of the Company has any right, title or interest in or to any of the Intellectual Property. All Intellectual Property developed by or on behalf of the Company and owned or purported to be owned by the Company was developed by employees or consultants who have executed written agreements assigning exclusive rights in and to such developed and owned Intellectual Property to the Company.

(d) The Company has paid all fees required to be paid as of the Closing Date to maintain the Registered Intellectual Property. All registrations for the Registered Intellectual Property are in force and have not been abandoned, and all applications for the Registered Intellectual Property are active and currently pending.

(e) There are no existing or, to the Company's Knowledge, threatened claims or Proceedings by any Person relating to the use by the Company of the Intellectual Property or challenging the Company's ownership of, or the validity or enforceability of, the Intellectual Property owned by the Company. None of the Intellectual Property is subject to any outstanding Order limiting the scope or use of such Intellectual Property or declaring any of it abandoned, invalid or unenforceable. Except for any such written restrictions, undertakings or agreements contained in the IP Contracts, and excluding shrink wrap, click-wrap, click-through or other similar Contracts with respect to off the shelf or personal computer software, none of the Intellectual Property owned by the Company is subject to any written restriction, undertaking or agreement limiting the scope or use of such Intellectual Property or declaring any of it abandoned, invalid or unenforceable.

(f) (i) To the Company's Knowledge, the Company is not infringing, misappropriating or otherwise violating in any material respect the intellectual property rights of any other Person; (ii) the Company is not in receipt of any complaint, claim or other notice alleging that the operation of the Company's business or any of the Intellectual Property is infringing, misappropriating or otherwise violating the intellectual property rights of any other Person; and (iii) to the Company's Knowledge, no other Person is infringing, misappropriating or otherwise violating the Intellectual Property.

(g) The Company has taken commercially reasonable steps to maintain the confidentiality of its trade secrets, and, to the Company's Knowledge, none of such trade secrets have been disclosed to any third Person except pursuant to written confidentiality obligations.

(h) Except for the IP Contracts, the Company has not granted any license, franchise, permit or other right (including covenants not to sue) to any third Person to use any of the Intellectual Property.

4.1.11 Financial Statements. The Financial Statements attached hereto as **Schedule 4.1.11** (a) fairly present in all material respects the financial condition of the Company's business on the dates designated thereon and the results of operations for the period designated therein, (b) were prepared in accordance with GAAP consistently applied throughout all of the periods covered therein, except as disclosed therein and, with respect to the Interim Financial Statements, for the absence of footnotes and year-end adjustments (which will not be material individually or in the aggregate), and (c) were prepared from, and are consistent with, the Records.

4.1.12 Taxes.

(a) Provision for Taxes. All income and other material Taxes of the Company attributable to periods preceding or ending with the Closing Date that are required to be paid have been paid by the Company.

(b) Tax Returns Filed. All income and other material Tax Returns required to be filed by or on behalf of the Company have been timely filed and, when filed, were true, correct and complete in all material respects; provided, however, the foregoing shall not constitute a representation or warranty regarding the accuracy of the tax basis of the assets of the Company or the amount of any net operating loss, net capital loss, unused investment or other credit, foreign tax credit or any similar tax attribute of the Company. Except as set forth on **Schedule 4.1.12(b)** attached hereto, the Company is currently not the beneficiary of any extension of time within which to file any income or other Tax Return.

(c) Withholding. The Company has duly withheld and paid all Taxes that it is required to withhold and pay in connection with amounts paid or owing to any employee, independent contractor, creditor, shareholder or other third party of the Company and all forms W-2 and 1099 required with respect thereto have been properly completed and timely filed.

(d) Tax Audits. Since January 15, 2008, no claim has been made by any authority in a jurisdiction in which the Company does not file Tax Returns that it is or may be subject to taxation by that jurisdiction or authority. The Tax Returns of the Company that are under audit by the IRS or other applicable Tax authorities, together with a true, correct and complete list of all powers of attorney granted by Company with respect to any such Tax matter, are set forth on **Schedule 4.1.12(d)** attached hereto. The Company has not received from the IRS or any other applicable Tax authorities any written notice of underpayment or assessment of any income or other Taxes that has not been paid or any objection to any income or other Tax Return filed by the Company. There are no outstanding Contracts or waivers extending the statutory period of limitations applicable to any income or other Tax Return or extending the time with respect to an income or other Tax assessment or deficiency. There is no dispute or claim or, to the Company's Knowledge, an intent to open an audit, request information or conduct other review concerning any Tax of the Company, including Taxes of those jurisdictions where the Company has not filed Tax Returns, either (i) claimed or raised by any authority in writing, or (ii) as to which the Company has Knowledge based upon personal contact with any agent of such authority.

(e) Consolidated Group. The Company has never been a member of an affiliated group of corporations that filed a consolidated tax return and has no liability or obligation for the Taxes of any other entity under Section 1.1502-6 of the Treasury Regulations (or any similar provision of state, municipal, county, local, foreign or other Tax Legal Requirement) as a transferee or successor, by Contract or otherwise.

(f) No Tax Liens. The Company is not subject to any Liens for Taxes other than for Taxes not yet due and owing.

(g) Tax Positions. The Company has disclosed on its federal income Tax Returns all positions taken therein that could give rise to a substantial understatement of federal income Tax within the meaning of Section 6662 of the Code. The Company has not received a Tax opinion with respect to any transaction relating to the Company other than a transaction in the Ordinary Course of Business. The Company is not the direct or indirect beneficiary of a guarantee of Tax benefits or any other arrangement that has the same economic effect with respect to any transaction or Tax opinion relating to the Company. The Company is not and has not been a party to any "reportable transaction" as defined in Section 6707A of the Code and Treasury Regulation Section 1.6011-4(b). The Company is not party to a lease arrangement involving a defeasance of rent, interest or principal.

(h) Consents and Rulings. The Company has not (i) applied for any Tax ruling, (ii) entered into a closing agreement as described in Section 7121 of the Code or otherwise (or any corresponding or similar provision of state, municipal, county, local, foreign or other Tax Legal Requirement) or any other Contract with any Tax authority, (iii) filed an election under Section 338(g) or Section 338(h)(10) of the Code (nor has a deemed election under Section 338(e) of the Code occurred), (iv) made any payments, or been a party to a Contract (including this Agreement) that under any circumstances could obligate it to make payments (either before or after the Closing Date) that will not be deductible because of Section 162(m) or Section 280G of the Code, (v) been a party to any Tax allocation, Tax sharing or Tax indemnification Contract (other than pursuant to Contracts entered into in the Ordinary Course of Business pursuant to commercial lending arrangements) or (vi) filed or made any material election for any Tax purpose which has not been disclosed on **Schedule 4.1.12(h)** attached hereto.

(i) Real Property Holding Company. The Company is not a "United States real property holding Company" within the meaning of Section 897 of the Code.

(j) Accounting Methods. The Company has not agreed, nor is it required to make, any adjustment under Section 263A, Section 481 or Section 482 of the Code (or any corresponding or similar provision of state, municipal, county, local, foreign or other Tax Legal Requirement) by reason of a change in accounting method or otherwise.

(k) Section 355 Transactions. The Company has not been the "distributing corporation" or a "controlled corporation" (within the meaning of Section 355 of the Code) with respect to a transaction described in Section 355 of the Code.

(l) Tax Agreements and Arrangements. The Company is in compliance with the terms and conditions of any applicable Tax exemptions, Tax Contracts or Tax Orders of any government or Governmental Body to which it may be subject or that it may have claimed, and the transactions contemplated by this Agreement will not have any adverse effect on such compliance.

(m) Effect of Transaction. The Company will not be required to include any item of income in, or exclude any item of deduction from, taxable income for any taxable period (or portion thereof) ending after the Closing Date as a result of any (i) installment sale or open transaction disposition made on or prior to the Closing Date, (ii) prepaid amount received on or prior to the Closing Date, or (iii) use of the cash, modified cash or modified accrual method of accounting.

4.1.13 No Undisclosed Liabilities. There are no commitments, liabilities or obligations relating to the Company, whether known or unknown, accrued or unaccrued, absolute, contingent or otherwise, including, without limitation, (a) any liabilities arising, directly or indirectly, from or in connection with the Lifecore Acquisition or the Dental Operations and Divestiture, or (b) guaranties by the Company of the liabilities of third parties, except for (i) liabilities disclosed, reflected or reserved against on the consolidated balance sheet of the Company (including the notes thereto), dated as of the Interim Balance Sheet Date, (ii) current liabilities incurred in the Ordinary Course of Business between the Interim Balance Sheet Date and the Closing Date, and (iii) liabilities relating to performance obligations under contracts, including Applicable Contracts, and Permitted Liens in accordance with the terms and conditions thereof which are not required by GAAP to be reflected on the consolidated balance sheet of the Company.

4.1.14 Contracts and Other Agreements. **Schedule 4.1.14(a)** attached hereto sets forth a true, correct and complete list of all Applicable Contracts. True, correct and complete copies (or memoranda describing each with respect to oral agreements or plans) of each of the Applicable Contracts, and all amendments and modifications thereof, have been made available to the Buyer prior to the Closing Date. Each Applicable Contract is valid, binding and in full force and effect in all material respects in accordance with its terms. Except as set forth on **Schedule 4.1.14(b)** attached hereto, neither the Company nor, to the Company's Knowledge, any other Person who is a party to any Applicable Contract is in breach or default under any Applicable Contract (with or without the lapse of time, or the giving of notice, or both). Except as set forth on **Schedule 4.1.14(b)**, since January 1, 2009 until the date of this Agreement, the Company has not given or received from any other Person any written notice regarding any actual or alleged violation or breach of, or default under, any Applicable Contract or any termination or possible termination thereof. Except as set forth on **Schedule 4.1.14(c)** attached hereto, there are not, and since January 1, 2009 there have not been any, renegotiations of or attempts to renegotiate any material amounts paid or payable to the Company under any Applicable Contract.

4.1.15 Product Warranties. To the Company's Knowledge, since January 15, 2008, all products and services manufactured and/or sold by the Company (and the delivery thereof) prior to the Closing Date have been in conformity with all applicable contractual commitments and all expressed or implied warranties, in each case in all material respects. Except as set forth on **Schedule 4.1.15** attached hereto, since January 15, 2008, no claim for product liability has been asserted against the Company, and, to the Knowledge of the Company, there are no facts, conditions or circumstances that could reasonably be expected to give rise to any such claim.

4.1.16 Employees. **Schedule 4.1.16** attached hereto contains:

(a) A list of all handbooks, manuals, policies and/or procedures relating to the employees of the Company, true, correct and complete copies of which have been made available to the Buyer prior to the Closing Date; and

(b) A list of all employees of the Company as of March 31, 2010, together with their job titles and current rates of salary, wages or commissions.

4.1.17 Labor Practices.

(a) The Company is in compliance in all material respects with all Legal Requirements applicable to the Company's employees, including, but not limited to, Legal Requirements relating to employment discrimination, family, medical and/or other employee leave, employee welfare and benefits and labor standards. There are no pending or, to the Company's Knowledge, threatened claims, charges, complaints, causes of action, demands or liabilities by any past or present employee of the Company, including, without limitation, that such employee was subject to a wrongful discharge, any unlawful employment discrimination or unlawful harassment by the Company or its management, a breach of contract (whether written or oral, express or implied) or tortious conduct of any type.

(b) The Company is in compliance in all material respects with the Federal Occupational Safety and Health Act, the regulations promulgated thereunder and all other applicable Legal Requirements relating to the safety of employees or the workplace or relating to the employment of labor, including, without limitation, any provisions thereof relating to wages, bonuses, collective bargaining, equal pay and the payment of social security and other payroll taxes. No Proceedings are pending before any Governmental Body relating to labor or employment matters, and there is no pending investigation by any Governmental Body or, to the Knowledge of the Company, threatened claim by any such Governmental Body or other Person relating to labor or employment matters.

(c) The Company is not a party to any Contract with any union, labor organization, employee group, or other similar Person which affects the labor or employment of employees of the Company, including, but not limited to, any collective bargaining agreements or labor contracts. To the Company's Knowledge, none of the employees of the Company are in the process of being organized by or into any other labor unions or organizations. The Company has not agreed to recognize any union or other collective bargaining unit, and no union or collective bargaining unit has been certified as representing any employees of the Company. There is no strike, slowdown or other work stoppage pending or, to the Company's Knowledge, threatened, against the Company.

(d) The execution of this Agreement and the consummation of the transaction contemplated by this Agreement will not result in any breach or other violation of any employment agreement, consulting agreement, labor or collective bargaining agreement or any other labor-related agreement to which the Company is a party.

4.1.18 Employee Benefit Plans.

(a) **Schedule 4.1.18(a)** attached hereto contains a true, correct and complete list of all Plans.

(b) With respect to each Plan, the Company has made available to the Buyer true and complete copies of (i) the Plan document, including all amendments thereto, (ii) the most recent summary plan description, including all summaries of material modifications, (iii) all trust agreements, insurance contracts or other funding instruments, (iv) the actuarial and financial reports and the annual reports filed with any Governmental Body for the three (3) most recent three plan years, (v) copies of all IRS determination and opinion letters in the case of a Plan intended to qualify under Section 401(a) of the Code, (vi) the results of all required coverage and nondiscrimination tests for the three (3) most recent plan years, and (vii) any correspondence to or from the IRS, the U.S. Department of Labor or any other Governmental Body relating to any potential compliance issues.

(c) No Plan is or has been a “multiemployer plan” (within the meaning of Section 3(37) of ERISA), a “multiple employer plan” (within the meaning of Section 413 of the Code) or a “multiple employer welfare arrangement” (within the meaning of Section 3(40) of ERISA), and neither the Company nor, to the Company’s Knowledge, any ERISA Affiliate has any actual or potential liability under any such provision (or related provision) of ERISA or the Code.

(d) No Plan is or has been covered by Title IV of ERISA, Section 302 of ERISA or Section 412 or 430 of the Code, and neither the Company nor, to the Company’s Knowledge, any ERISA Affiliate has any actual or potential liability under any such provision (or related provision) of ERISA or the Code.

(e) Each Plan intended to be qualified under Section 401(a) of the Code and each trust intended to be exempt under Section 501(a) of the Code has been determined to be so qualified or exempt by the IRS and is the subject of a favorable determination letter covering all applicable Legal Requirements with respect to which such a letter can be issued, or the Company has relied on the IRS opinion letter issued to the prototype plan sponsor with respect to such Plan. Since the date of each most recent determination or opinion letter, there has been no event, condition or circumstance that has adversely affected or is reasonably likely to affect such qualified status.

(f) Full payment has been made of all amounts which the Company or any ERISA Affiliate is required to pay with respect to each Plan for the most recent plan year thereof ended prior to the Closing Date, and all such amounts payable with respect to the portion of the current plan year will be paid by the Company on or prior to the Closing Date.

(g) Each of the Plans conforms to, and has been operated and administered in all material respects in accordance with, all applicable Legal Requirements, including, but not limited to, ERISA and the Code. No event has occurred which could subject the Company to any liability (other than routine claims for benefits) under the terms of any Plan, ERISA, the Code or other applicable Legal Requirements. No Plan is currently under audit or review by any Governmental Body and, to the Knowledge of the Company, no such audit or review has been threatened. No charge, complaint or Proceeding with respect to any Plan or the administration of any Plan (except for claims for benefits routinely submitted in the ordinary course of Plan administration) is pending or, to the Knowledge of the Company, threatened with respect to any Plan.

(h) To the extent permitted under applicable Legal Requirements, each Plan can be amended or terminated at any time without the consent of any non-Company party and without liability other than for benefits accrued as of the date of such amendment or termination.

(i) The Company has no obligation to provide health benefits, death benefits or any other welfare benefits to any employee of the Company (or any dependent of such employee) following the termination of such employee's employment, except as is specifically required by applicable Legal Requirements.

(j) No Plan is subject to the Legal Requirements of any jurisdiction outside of the United States.

(k) Each Plan which is a "nonqualified deferred compensation plan" (within the meaning of Section 409A of the Code) has at all times since January 15, 2008 complied with the requirements of paragraphs (2), (3) and (4) of Section 409A(a) of the Code by its terms and has been operated in accordance with such requirements. No participant in any such Plan will incur any Taxes on any benefit under such Plan before the date as of which such benefit is actually paid to such participant. No event has occurred that would be treated by Section 409A(b) of the Code as a transfer of property for purposes of Section 83 of the Code. No Plan requires the Company to gross up a payment to any former or current employee, officer, director or contractor of the Company for Tax related payments under Section 409A of the Code.

(l) Neither the execution and delivery of this Agreement nor the consummation of the transactions contemplated hereby will (either alone or in combination with another event including notice, lapse of time or both) (i) result in any payment becoming due, or increase the amount of any compensation or benefits due, to any current or former employee of the Company or with respect to any Plan, (ii) increase any benefits otherwise payable under any Plan, or (iii) result in the payment of any amount that would, individually or in combination with any other such payment, constitute an "excess parachute payment," as defined in Section 280G(b)(1) of the Code.

4.1.19 Events Since December 31, 2009. Since December 31, 2009, the Company has operated its business in the Ordinary Course of Business, has used, preserved and maintained its assets on a basis consistent with past practices, has maintained its books, accounts and records in the usual manner and on a basis consistent with past practices and has not made any payments of the kind described in the definition of "Restricted Payments" set forth in Article XI below.

4.1.20 Insurance. The Company maintains policies of fire and casualty, liability and other forms of insurance and bonds in such amounts, with such deductibles, and against such risks and losses which do not provide for any retrospective premium adjustment or other experienced-based liability on the part of the Company. A true, correct and complete list of all material insurance and bonds currently maintained by the Company is attached hereto as **Schedule 4.1.20(1)**. The Company has paid all premiums due and has otherwise performed in all material respects all of its obligations under each insurance policy to which the Company is a party or that provides coverage to the Company. Each such insurance policy and bond is in full force and effect and the Company has not received notice of any cancellation or, to the Knowledge of the Company, threat of cancellation of, any such insurance or bond. **Schedule 4.1.20(2)** attached hereto also sets forth all property damage, personal injury, workers' compensation, products liability or other claims that have been made against the Company or the Company's insurance policies since January 15, 2008, or which are pending against the Company or the Company's insurance policies or, to the Company's Knowledge, threatened against the Company or any of the Company's insurance policies. The Company has given notice to the insurer under each insurance policy of any claims that may be insured thereby within the time periods required. **Schedule 4.1.20(3)** also sets forth a true, correct and complete list of any self-insurance arrangements by or affecting the Company, including any reserves established thereunder, and all Contracts or arrangements, other than policies of insurance, for the transfer or sharing of any risk by the Company.

4.1.21 Environmental Matters.

(a) Except as set forth on **Schedule 4.1.21(a)** attached hereto, (i) there are no and there have never been any Hazardous Substances at, on, in, above or under the Owned Real Property except in the Ordinary Course of Business and in compliance with Environmental Laws, and (ii) to the Knowledge of the Company, there are no and there have never been any Hazardous Substances on any property adjacent to the Owned Real Property. Except in the Ordinary Course of Business and in compliance with all Environmental Laws, no Hazardous Substances have ever been generated, treated, stored or handled on, or removed from, the Owned Real Property.

(b) Since January 1, 2005, the Company has not received any written notice from any Governmental Body or any third party notifying of (i) any Hazardous Substances which are present on or have been generated, treated, stored, handled or removed from, or disposed of on, the Real Property, in violation of Environmental Laws, (ii) any Hazardous Substance which has migrated on, in, under or above or to the Real Property from any adjacent property or which has migrated, emanated or originated from the Real Property onto any other property, or (iii) any actual or potential liability, arising out of or relating to any Environmental Law with respect to the Company, the Owned Real Property or the Company's prior use of the Prior Real Property.

(c) The Company has obtained all material Governmental Authorizations required for the operation of its business and the use of the Owned Real Property required by any Environmental Law. To the Company's Knowledge, the consummation of the transactions contemplated by this Agreement will not (i) impose any obligation on the Company under any Environmental Law, including, without limitation, for the investigation or cleanup of the Owned Real Property, or (ii) require notification to or consent of any Governmental Body or third party pursuant to any Environmental Law.

(d) The Company, the Owned Real Property and the Company's other assets are in compliance in all material respects with each Environmental Law and with all Governmental Authorizations issued in connection with the operation of the Company's business and the use of the Owned Real Property.

(e) No material Environmental Claim with respect to the Company or the Owned Real Property is pending or, to the Knowledge of the Company, threatened.

(f) The Owned Real Property does not contain, and, to the Knowledge of the Company, has never contained, any (i) USTs, (ii) to the Knowledge of the Company, asbestos-containing material, PCBs, radon or urea formaldehyde foam, (iii) landfill or dumps, or (iv) a hazardous waste management facility as defined pursuant to RCRA or any comparable state Legal Requirement.

(g) **Schedule 4.1.21(g)** attached hereto contains a list of all material Environmental Claims, reports, studies, assessments and audits in the possession or control of the Company relating to environmental matters and relating to the Company's business, the Owned Real Property or any of the Company's other assets (complete copies of which have been provided to the Buyer).

(h) To the Knowledge of the Company, the assets of the Company are not required to be materially upgraded, modified or replaced to be in compliance with any Environmental Law.

4.1.22 FDA. The Company develops, manufactures, labels, stores, tests, distributes and markets, and since January 1, 2005 has developed, manufactured, labeled, stored, tested, distributed and marketed, its products in all material respects in accordance with all applicable rules and regulations of the United States Food and Drug Administration (the "FDA") (including the "Good Manufacturing Practices" and the "Medical Device Reporting" regulations) and all other applicable foreign, federal, state and local regulatory authorities, and the Company's quality control procedures in effect at the time of developing, manufacture, labeling, storing, testing and distribution. To the extent required, all of the products currently sold by the Company have been approved or cleared for sale by the FDA and applicable foreign regulatory agencies. The Company has not received any written notice from the FDA or any other federal, state or foreign regulatory agency or third party (a) of any circumstances that have arisen which would reasonably be expected to lead to the questioning of its development, application, manufacturing or marketing practices or the safety or efficacy of its products, or (b) threatening to revoke, suspend, cancel, withdraw, place sales or marketing restrictions on, curtail any product clearance or approval, or seek damages (for past or present products or product candidates), and, with respect to clauses (a) and (b) above, the Company is not aware of any intent to deliver any such notice. To the Knowledge of the Company, there are no circumstances which would reasonably be expected to require any material recall, market withdrawal, correction, removal, notification, take repair/replace/refund action or similar action, or claim by order of any Governmental Body or any third party of any product or which would reasonably be expected to lead to an injunction pertaining to such product, including the procedures used to manufacture and test such product. **Schedule 4.1.22(a)** attached hereto contains a complete list of all products manufactured or marketed by the Company, including those which require the approval of, or premarket notification to, or listing with the FDA or any other federal, state or foreign governmental agency or bureau under any existing Legal Requirement. Except as set forth on **Schedule 4.1.22(b)** attached hereto, none of the products identified on **Schedule 4.1.22(a)**, or any product candidate or previously marketed or approved product, has been the subject of any voluntary or involuntary recall, third party action, or governmental investigation other than routine inspections of the Company's facilities. All U.S. and international regulatory approvals or premarket notifications are owned by and registered in the name of the Company and are in full force and effect. To the Knowledge of the Company, all preclinical studies and clinical trials conducted by the Company since January 1, 2005 have been, and are being, conducted in substantial compliance with the requirements of Good Laboratory Practice, data protection/privacy standards and Good Clinical Practice and applicable requirements relating to protection of human subjects contained in Title 21, Parts 50, 54 and 56 of the United States Code of Federal Regulations and foreign equivalents. Any preclinical tests and clinical trials associated with the Company's products and product candidates since January 1, 2005 were, and, if still pending, are, to the Company's Knowledge, being conducted in all material respects in accordance with applicable Legal Requirements of the appropriate regulatory authorities for each such test or trial and in accordance with all Legal Requirements and with good clinical practices. The Company has no Knowledge of any studies or tests the results of which call into question the efficacy, safety or approvability by the FDA or authorizations by its foreign equivalents of the product or product candidate; and the Company has not received any notices or other correspondence from the FDA or any committee thereof or from any other U.S. or foreign government or drug, biologic or medical device regulatory agency requiring the termination or suspension of any clinical trials related to the Company's product or product candidates.

4.1.23 Compliance With Legal Requirements; Governmental Authorizations. The Company has complied in all material respects with each Legal Requirement that is applicable to it for the conduct or operation of its business or the ownership or use of its assets. No event has occurred or, to the Knowledge of the Company, circumstances exist (with or without notice or lapse of time) that may constitute or result in a violation by the Company of, or failure on the part of the Company to comply with, any Legal Requirement. The Company has not received a written notice or other communication from any Governmental Body or any other Person regarding any actual, alleged, possible or potential violation of, or failure to comply with, any Legal Requirement. **Schedule 4.1.23** attached hereto contains a list of all material Governmental Authorizations that are held by the Company, including, without limitation, all approvals, premarket notifications to, or listings with the FDA or any other federal, state or foreign governmental agency or bureau under any existing Legal Requirement with respect to any products listed on **Schedule 4.1.22(a)** attached hereto, regardless of whether such approvals of, premarket notifications and/or registrations are deemed material; and with respect to any such approvals, premarket notifications and registrations, **Schedule 4.1.23** specifies the type of approval, premarket notification or listing required and the reference number or identification thereof. Each such Governmental Authorization is valid and in full force and effect in all material respects. The Company has complied in all material respects with all of the terms and requirements of each Governmental Authorization identified or required to be identified on **Schedule 4.1.23**. No event has occurred that would or, to the Knowledge of the Company, circumstances exist that may (with or without notice or lapse of time) (a) constitute or result, directly or indirectly, in a material violation of or a failure to comply with a term or requirement of any Governmental Authorization, or (b) result, directly or indirectly, in the revocation, withdrawal, suspension, cancellation or termination of, or modification to, any Governmental Authorization. The Company has not received any written notice or other communication from any Governmental Body or any other Person regarding (i) any actual, alleged, possible or potential violation of or failure to comply with any term or requirement of any Governmental Authorization, or (ii) any actual, proposed, possible or potential revocation, withdrawal, suspension, cancellation, termination of, or modification to any Governmental Authorization. The Governmental Authorizations listed on **Schedule 4.1.23** constitute all of the material Governmental Authorizations necessary to permit the Company to conduct and operate lawfully its business in the manner in which it is currently conducted and to permit the Company to own and use its assets in the manner in which it currently owns and uses such assets.

4.1.24 Customers; Suppliers. **Schedule 4.1.24** attached hereto sets forth, with respect to the twelve (12) month period ended March 31, 2010, a list of (a) the ten (10) largest customers of the Company (based on dollar amounts purchased from the Company) (the "Scheduled Customers" and the dollar amount derived from each of them during such period, and (b) the ten (10) largest suppliers of the Company (based on dollar amounts purchased by the Company) (the "Scheduled Suppliers") and the dollar amount derived from each of them during such period. The Company has not received any written notice or, to the Company's Knowledge, indication (whether written or oral) of the intention of any of the Scheduled Customers or Scheduled Suppliers to cease doing business or to reduce in any material respect the business transacted with the Company or to terminate or modify any Contracts with the Company (whether upon consummation of the transactions contemplated hereby or otherwise).

4.1.25 Accounts Payable. All material accounts payable and material accrued expenses of the Company have been incurred and, to the extent paid prior to the Closing, have been paid in the Ordinary Course of Business consistent with past business practices.

4.1.26 Brokers; Agents. The Company has not dealt with any agent, finder, broker or other representative in any manner which could result in the Buyer or the Company being liable for any fee or commission in the nature of a finder's fee or originator's fee in connection with the subject matter of this Agreement.

4.1.27 Accounts; Safe Deposit Boxes. Attached hereto as **Schedule 4.1.27** is a true, correct and complete list of the bank and savings accounts, certificates of deposit and safe deposit boxes of the Company and all persons authorized to sign thereon.

4.1.28 Relationships with Related Parties. Except as set forth on **Schedule 4.1.28** attached hereto, since January 15, 2008, (a) no officer, director or Affiliate of the Company (other than the portfolio companies of the Seller or its Affiliates) (i) has, or has had, any interest in any property being used in or pertaining to the Company's business, (ii) owns, or has owned an equity interest or any other financial or profit interest in, a Person that has (x) had business dealings or a material financial interest in any transaction with the Company, or (y) engaged in competition with the Company with respect to any line of products or services of the Company, or (iii) is a party to any Contract with, or has any claim or right against, the Company, and (b) no Related Person of the Seller is a party to any Applicable Contract with the Company or has any claim or right against the Company with respect to any Applicable Contract. The Company is not a party to any management fee or similar agreement (whether written or oral) with the Seller or any Related Person of the Seller.

4.1.29 Outstanding Indebtedness. As of the Closing Date, the Company shall have no outstanding indebtedness for borrowed money (excluding the Permitted Indebtedness and the Excluded Indebtedness (if any), which Excluded Indebtedness will be paid in full prior to the Closing). In addition, as of the Closing Date, all indebtedness owed to the Company by the Seller or any Affiliate of the Seller (excluding, in the case of any Affiliate of the Seller, accounts payable incurred in the Ordinary Course of Business, if any) will have been paid in full.

4.1.30 Lifecore Acquisition. To the Company's Knowledge, there was no material breach of any representation or warranty made by Lifecore Biomedical, Inc. (n/k/a Lifecore Biomedical, LLC) to SBT Holdings Inc. and SBT Acquisition Inc. in that certain Agreement and Plan of Merger, dated as of January 15, 2008, among SBT Holdings Inc., SBT Acquisition Inc. and Lifecore Biomedical, Inc. as of the closing of such transaction.

4.2 Disclaimer. Except for the representations and warranties of the Company contained in this Article IV, neither the Company nor any Person on behalf of the Company makes any other express or implied representation or warranty with respect to the Company or any of its Affiliates or the execution and delivery of this Agreement or with respect to any other information (including, but not limited to, the Cash Flow Projections and any other projections, forecasts or estimates of revenues, earnings or performance of the Company) provided by the Company or its Affiliates.

## ARTICLE V

### Warranties and Representations of Seller

5.1 Warranties and Representations. Except as set forth in the Disclosure Schedules (interpreted in accordance with the provisions of Section 12.12 below), the Seller hereby warrants and represents on and as of the date of this Agreement to the Buyer, which warranties and representations shall survive the Closing for the period set forth in Section 10.3(a) below, as follows:

5.1.1 Authority of Seller. The Seller has the right, power and authority to enter into this Agreement and the Ancillary Agreements to which it is a party and to consummate the transactions contemplated hereby and thereby. The execution, delivery and performance by the Seller of this Agreement and the Ancillary Agreements to which the Seller is a party have been duly and validly authorized by all necessary limited partnership action. This Agreement has been, and each Ancillary Agreement to which the Seller is a party hereto will be, duly and validly executed and delivered by the Seller, and this Agreement and such Ancillary Agreements are and shall constitute the legal, valid and binding obligations of the Seller enforceable against the Seller in accordance with their respective terms, except as enforceability may be limited by bankruptcy, insolvency or similar laws affecting the enforcement of creditors' rights generally or by general principles of equity.

5.1.2 Organizational Matters. The Seller is a limited partnership duly formed, validly existing and in good standing under the laws of the State of Delaware. The Seller has the power and authority to own or lease its properties and assets and to carry on all business activities now conducted by it.

5.1.3 No Conflict. Neither the execution, delivery and performance by the Seller of this Agreement or any of the Ancillary Agreements to which the Seller is a party nor the consummation or performance of any of the transactions contemplated hereby or thereby will, directly or indirectly: (a) contravene, conflict with, or result in a breach or violation of any provision of the organizational documents of the Seller; (b) contravene, conflict with, or result in a breach or violation of, or give any Governmental Body the right to challenge any of the transactions contemplated hereby or to exercise any remedy or obtain relief under, any Legal Requirement or any Order to which the Seller or the Subject Shares may be subject; (c) contravene, conflict with, or result in a breach or violation of any provision of, or give any Person the right to declare a default or exercise any remedy under, or to accelerate the maturity or performance of, or to cancel, terminate or modify, any material Contract to which the Seller is subject; or (d) result in the imposition of any Lien, claim or restriction upon or with respect to any of the Subject Shares except for restrictions on the transfer of unregistered securities under applicable securities laws; provided, that, assuming the truthfulness and correctness of the Buyer's investment purpose warranties and representations set forth in Section 6.1.5 below, no such restrictions on the transfer of unregistered securities under applicable securities laws shall apply to the transfer of the Subject Shares contemplated hereunder. No action, consent, approval, Order or authorization of, or registration, declaration or filing with, any Governmental Body is required to be obtained or made in connection with the execution and delivery by the Seller of this Agreement and the Ancillary Agreements to which the Seller is a party or the consummation by the Seller of the transactions contemplated hereby and thereby.

5.1.4 Title to Subject Shares. The Seller is the beneficial and record owner of all of the Subject Shares and at the Closing will deliver to the Buyer valid title to such Subject Shares free and clear of all Liens and claims except for restrictions on the transfer of unregistered securities under applicable securities laws; provided, that, assuming the truthfulness and correctness of the Buyer's investment purpose warranties and representations set forth in Section 6.1.5 below, no such restrictions on the transfer of unregistered securities under applicable securities laws shall apply to the transfer of the Subject Shares contemplated hereunder.

5.1.5 Proceedings Against Seller. There is no Proceeding now pending which would affect the Seller's rights in and to the Subject Shares or the ability of the Seller to consummate the sale and/or the transfer of the Subject Shares or the other transactions contemplated by this Agreement or the Ancillary Agreements.

5.1.6 Brokers; Agents. The Seller has not dealt with any agent, finder, broker or other representative in any manner which could result in the Buyer or the Company being liable for any fee or commission in the nature of a finder's fee or originator's fee in connection with the subject matter of this Agreement.

5.2 Disclaimer. Except for the representations and warranties of the Seller contained in this Article V, neither the Seller nor any Person on behalf of the Seller makes any other express or implied representation or warranty with respect to the Seller or any of its Affiliates or the execution and delivery of this Agreement or with respect to any other information provided by the Seller or its Affiliates.

## ARTICLE VI

Warranties and Representations of Buyer

6.1 Warranties and Representations. The Buyer hereby warrants and represents on and as of the date of this Agreement to the Seller, which warranties and representations shall survive the Closing for the period set forth in Section 10.3(a) below, as follows:

6.1.1 Authority of Buyer. The Buyer has the right, power and authority to enter into this Agreement and the Ancillary Agreements which the Buyer is a party to and to consummate the transactions contemplated hereby and thereby. The execution, delivery and performance by the Buyer of this Agreement and the Ancillary Agreements to which the Buyer is a party have been approved by the Board of Directors of the Buyer. This Agreement has been, and each Ancillary Agreement to which the Buyer is a party will be, duly and validly executed and delivered by the Buyer, and this Agreement and such Ancillary Agreements are and shall constitute the legal, valid and binding obligations of the Buyer enforceable against the Buyer in accordance with their respective terms, except as enforceability may be limited by bankruptcy, insolvency or similar laws affecting the enforcement of creditors' rights generally or by general principles of equity.

6.1.2 Corporate Matters. The Buyer is a corporation duly incorporated, validly existing and in good standing under the laws of the State of Delaware. The Buyer has the power and authority to own or lease its properties and assets and to carry on all business activities now conducted by it.

6.1.3 No Conflict. Neither the execution, delivery and performance by the Buyer of this Agreement or any of the Ancillary Agreements to which the Buyer is a party nor the consummation or performance of any of the transactions contemplated hereby or thereby will, directly or indirectly: (a) contravene, conflict with, or result in a breach or violation of any provision of the Certificate of Incorporation or By Laws of the Buyer; (b) contravene, conflict with, or result in a breach or violation of, or give any Governmental Body the right to challenge any of the transactions contemplated hereby or to exercise any remedy or obtain relief under, any Legal Requirement or any Order to which the Buyer may be subject; or (c) contravene, conflict with, or result in a breach or violation of any provision of, or give any Person the right to declare a default or exercise any remedy under, or to accelerate the maturity or performance of, or to cancel, terminate or modify, any material Contract to which the Buyer is subject. Other than any filings required by, and any approvals required under, the applicable requirements of the Exchange Act and the rules and regulations of The NASDAQ Global Select Market, no action, consent, approval, Order or authorization of, or registration, declaration or filing with, any Governmental Body is required to be obtained or made in connection with the execution and delivery by the Buyer of this Agreement and the Ancillary Agreements to which the Buyer is a party or the consummation by the Buyer of the transactions contemplated hereby and thereby.

6.1.4 Proceedings Against Buyer. There is no Proceeding now pending which would affect the ability of the Buyer to consummate the purchase of the Subject Shares or the other transactions contemplated by this Agreement or the Ancillary Agreements.

6.1.5 Investment Purpose. The Buyer understands that the Subject Shares have not been registered under the Securities Act of 1933, as amended, nor qualified under any state securities laws, and that they are being offered and sold pursuant to an exemption from such registration and qualification based in part upon the Buyer's representations contained herein. The Buyer is acquiring the Subject Shares solely for the Buyer's own account for investment and not with a view toward the resale, transfer or distribution thereof, nor with any present intention of distributing the Subject Shares in violation of any securities laws. No other Person has any right with respect to or interest in the Subject Shares to be purchased by the Buyer, nor has the Buyer agreed to give any Person any such interest or right in the future.

6.1.6 Brokers; Agents. Other than Grace Matthews, Inc., the Buyer has not dealt with any agent, finder, broker or other representative in any manner which could result in the Seller being liable for any fee or commission in the nature of a finder's fee or originator's fee in connection with the subject matter of this Agreement.

6.2 Disclaimer. Except for the representations and warranties of the Buyer contained in this Article VI, neither the Buyer nor any Person on behalf of the Buyer makes any other express or implied representation or warranty with respect to the Buyer or any of its Affiliates or the execution and delivery of this Agreement or with respect to any other information provided by the Seller or its Affiliates.

## ARTICLE VII

### Certain Covenants of the Buyer

7.1 Benefits. The Buyer agrees that, during the period beginning on the Closing Date and ending one (1) year following the Closing Date, all employees of the Company as of immediately prior to the Closing who continue employment with the Buyer or any of its Affiliates after the Closing (the "Continuing Employees") shall be eligible to participate in benefit plans and programs that are substantially similar in the aggregate to either those currently provided by the Company or those provided to similarly-situated employees of the Buyer or the Buyer's Affiliates (collectively, the "Specified Parent Benefit Plans").

7.2 Eligibility; Service Credit. From and after the Closing, each Continuing Employee shall (to the extent permitted by applicable Legal Requirements) be credited under each Specified Parent Benefit Plan with his or her years of services with the Company and their respective predecessors before the Closing for purposes of vesting, eligibility and level of benefits (except for purposes of benefit accrual under a defined benefit pension plan or where such credit would result in a duplication of benefits) to the same extent as such Continuing Employee was entitled, before the Closing, to credit for such service with the Company under any similar Plan in which such Continuing Employee participated immediately prior to the Closing. In addition, and without limiting the generality of the foregoing, the Buyer (or its Affiliates) shall (to the extent that such limitation would not apply with respect to substantially similar plans maintained by the Company prior to the Closing) use its commercially reasonable efforts to (i) cause to be waived any eligibility requirements or pre-existing condition limitations, and (ii) give effect, in determining any deductible maximum out of pocket limitations, to amounts paid by such Continuing Employees during the plan year in which the Closing occurs.

7.3 No Third Party Beneficiaries. This Article VII shall be binding upon and inure solely to the benefit of each of the parties to this Agreement, and nothing in this Article VII, expressed or implied, is intended to confer upon any other Person any rights or remedies of any nature whatsoever under or by reason of this Article VII. Without limiting the foregoing, no provision of this Article VII shall create any third party beneficiary rights in any current or former employee, director or consultant of the Company in respect of continued employment or service (or resumed employment or service) or any other matter. Nothing in this Article VII is intended to amend any Plan, or interfere with the Buyer's or the Company's right from and after the Closing to amend or terminate any Plan or the employment or provision of services by any director, employee, independent contractor or consultant.

7.4 Environmental Matters. The Buyer hereby acknowledges and agrees that Section 4.1.21 of this Agreement is the Company's sole and exclusive representation as to environmental matters and that none of the other representations and warranties contained in this Agreement shall be deemed to apply, directly or indirectly, to environmental matters.

7.5 Bonus Plan. The Buyer hereby acknowledges that the Bonus Plan shall continue pursuant to its terms after the Closing.

**ARTICLE VIII**

Mutual Covenants

The Seller and the Buyer covenant and agree as follows:

8.1 Records.

(a) On the Closing Date, the Seller will deliver or cause to be delivered to the Buyer constructive possession of all original Records in the possession or control of the Seller (constructive possession shall be deemed to include, without limitation, the presence of such Records at the Company's headquarters);

(b) For a period of three (3) years after the Closing, upon reasonable written notice, the Buyer and the Seller agree to furnish or cause to be furnished to each other and their respective Representatives reasonable access, during normal business hours, to such information in such parties' possession directly related to the Company and its operations with respect to periods prior to Closing and shall otherwise cooperate with such other party at the expense of the requesting party, to the extent such access is reasonably necessary for financial reporting and accounting matters, the preparation and filing of any returns, reports or forms with any Governmental Bodies or the defense of any Tax claim or assessment; provided, however, that such access (i) does not unreasonably disrupt the normal operations of the Seller, the Buyer or the Company and (ii) is not reasonably likely to adversely affect the ability of the disclosing party to assert attorney-client privilege, work-product privilege or similar privilege.

8.2 Public Announcements. Subject to the provisions of Section 2.1 above, the Buyer, the Company and the Seller will consult with each other before issuing any press release or otherwise making any public statements about this Agreement or any of the transactions contemplated by this Agreement. Neither the Buyer, the Company nor the Seller will issue any such press release or make any such public statement prior to such consultation, except to the extent that the disclosing party determines in good faith it is required to do so by applicable Legal Requirements, in which case that party will use reasonable efforts to consult with the other parties hereto before issuing any such release or making any such public statement.

8.3 Execution of Additional Documents. From time to time, as and when requested by a party hereto, each party hereto shall execute and deliver, or cause to be executed and delivered, all such documents and instruments, and shall take, or cause to be taken, all such further or other actions, as such other party may reasonably deem necessary to consummate the transactions contemplated by this Agreement.

## ARTICLE IX

### Restrictive Covenants

9.1 Standstill. At no time for a period of three (3) years after the Closing Date shall the Seller, either directly or indirectly through a Related Person, acquire an ownership interest in any Person listed on **Schedule 9.1** attached hereto, except as the holder of not more than five percent (5%) of the publicly traded equity securities of such Person. The total amount of all Losses of all of the Buyer Indemnified Persons for claims under this Section 9.1 shall in no event exceed the Purchase Price.

9.2 Non-Solicitation. The Seller acknowledges and agrees that at no time for a period of three (3) years after the Closing Date shall the Seller, either directly or indirectly through a Related Person, induce, or attempt to induce, any person who is an employee or consultant of the Company as of the Closing Date to leave the employ of, or terminate his or her engagement with, the Company and/or to accept employment or engagement elsewhere; provided, however, that notwithstanding the foregoing, neither the Seller nor any of its Related Persons shall be prohibited from engaging in any general solicitation (including in any newspaper or magazine, over the internet or by any search or employment agency) for employment or hiring of any person who responds to such general solicitation if such general solicitation is not specifically directed towards an employee of the Company or a solicitation of any individual whose employment by the Company has ceased for reasons other than a breach of this Section 9.2.

9.3 Non-Disclosure of Confidential Information. The Seller acknowledges that for a period of three (3) years after the Closing Date it shall not disclose any Confidential Information (as defined below) to anyone other than to employees and Representatives of the Buyer except any such Confidential Information which is required to be disclosed by the Seller in connection with any court action or any Proceeding before any Governmental Body or pursuant to any Legal Requirement; provided, that the Seller shall, to the extent practicable, give reasonable prior written notice to the Buyer of the intention so to disclose such Confidential Information. For purposes of this Section 9.3, the term "Confidential Information" shall mean all non-public and all proprietary information relating to the Company, its customers and products and services including, without limitation, the following: (a) all formulations, test results, manufacturing and engineering specifications, production and manufacturing information and know-how and all other technical information relating to the manufacture, formulation or production of the products or services of the Company; (b) all information and records concerning products or services being researched by, under development by or being tested by the Company but not yet offered for sale; (c) all trade secrets relating to the Company; (d) all information concerning pricing policies of the Company, the prices charged by the Company to its customers, the volume or orders of such customers and other information concerning the transactions of the Company with its customers or proposed customers; (e) the customer and prospective customer lists of the Company; (f) financial information concerning the Company; (g) information concerning salaries or wages paid to, the work records of and other personnel information relative to employees of the Company; (h) information concerning the marketing programs or strategies of the Company; and (i) all other confidential and proprietary information of the Company. Notwithstanding the foregoing, the Seller acknowledges and agrees that it will be bound by its obligations under applicable trade secret Legal Requirements which, in the case of Confidential Information that qualifies as a trade secret, may exceed the obligations imposed under this Section 9.3. Nothing in this Section 9.3 shall be construed to limit or supersede the common law of torts or statutory or other protection of trade secrets where such law provides the Company with greater protections or protections for a longer duration than that provided under this Section 9.3. "Confidential Information" shall not be deemed to mean or refer to information that (i) is or becomes a matter of public knowledge through no fault of the Seller; (ii) is rightfully received by the Seller from a third Person (other than a Related Person of the Seller) without violation of any duty of confidentiality; or (iii) is independently developed by the Seller without use of or reference to the Confidential Information.

9.4 Enforcement. In addition to all other legal remedies available to the Buyer for the enforcement of the covenants of this Article IX, the Seller acknowledges and agrees that the Buyer shall be entitled to seek temporary and permanent injunctive relief by any court of competent jurisdiction to prevent or restrain any breach hereof. The Seller further agrees that, because these restrictions arise in the context of the sale of a business and the goodwill associated with such business, if any of the covenants set forth in this Article IX shall at any time be adjudged invalid to any extent by any court of competent jurisdiction, such covenant shall be deemed modified to the extent necessary to render it enforceable.

## ARTICLE X

Indemnification

10.1 Indemnification of the Buyer and the Company. The Seller agrees to indemnify the Buyer, the Company and their respective shareholders, Representatives, controlling persons and Affiliates and their respective successors and assigns (collectively, the "Buyer Indemnified Persons") and to hold them harmless from and against any and all Losses, whether or not involving a third party claim, arising directly or indirectly from, or in connection with, (a) any misrepresentation or breach of any warranty or representation made by the Company and/or the Seller in Article IV and Article V of this Agreement, (b) any breach or non-fulfillment of any agreement or covenant of the Seller contained in this Agreement, (c) any failure of the Company to satisfy the Excluded Indebtedness at or prior to the Closing, or (d) any of the Express Indemnification Items.

10.2 Indemnification of the Seller. The Buyer agrees to indemnify the Seller and its partners, Representatives, controlling persons and Affiliates and their respective successors and assigns (collectively, the "Seller Indemnified Persons") and to hold them harmless from and against any and all Losses, whether or not involving a third party claim, arising directly or indirectly from, or in connection with, (a) any misrepresentation or breach of any warranty or representation made by the Buyer in this Agreement, or (b) any breach or non-fulfillment of any agreement or covenant of the Buyer contained in this Agreement.

10.3 Liability Limitations; Survival of Representations and Warranties.

(a) Survival of Representations and Warranties.

(i) Notwithstanding any investigation by or information supplied to the Buyer, the warranties and representations of the Seller and the Company contained in this Agreement or any certificate delivered pursuant hereto shall survive the Closing for a period of eighteen (18) months after the Closing Date; provided, that (A) any warranties and representations fraudulently made or intentionally misrepresented shall survive the Closing and continue in full force and effect indefinitely, (B) the warranties and representations of the Company contained in Section 4.1.12 (Taxes) above, shall survive the Closing and continue in full force and effect until the date that is sixty (60) days after the applicable statutory limitations period has expired, including any extensions thereto, and (C) the warranties and representations of (I) the Company contained in Section 4.1.1 (Authority of Company), the first sentence of Section 4.1.7 (Title to and Condition of Assets) and Section 4.1.21 (Environmental Matters) above, and (II) of the Seller contained in Section 5.1.1 (Authority of Seller) and Section 5.1.4 (Title to Subject Shares) above shall survive the Closing and continue in full force and effect for a period of two (2) years after the Closing Date. Any claim for indemnification under clause (a) of Section 10.1 above, properly made in writing pursuant to this Article X prior to the expiration of such applicable survival period, and the rights of indemnity with respect thereto, shall survive such expiration, but only for purposes of such claim, until resolved or judicially determined; and any such claim not so made in writing prior to the expiration of such applicable survival period shall be deemed to have been waived.

(ii) The warranties and representations of the Buyer contained in this Agreement or any certificate delivered pursuant hereto shall survive the Closing for a period of eighteen (18) months after the Closing Date; provided, that (A) any warranties and representations fraudulently made or intentionally misrepresented shall survive the Closing and continue in full force and effect indefinitely, and (B) the warranties and representations contained in Section 6.1.1 (Authority of Buyer) above shall survive the Closing and continue in full force and effect for a period of two (2) years after the Closing Date. Any claim for indemnification under clause (a) of Section 10.2 above, properly made in writing pursuant to this Article X prior to the expiration of such applicable survival period, and the rights of indemnity with respect thereto, shall survive such expiration, but only for purposes of such claim, until resolved or judicially determined; and any such claim not so made in writing prior to the expiration of such applicable survival period shall be deemed to have been waived.

(b) Threshold. The Seller shall not have any obligation to indemnify any Buyer Indemnified Person for claims under clause (a) of Section 10.1 above until the aggregate amount of Losses for which the Buyer Indemnified Persons are entitled to indemnification under clause (a) of Section 10.1 above exceeds Four Hundred Forty Thousand Dollars ($440,000) (the "Indemnification Threshold"); provided, however, that once such Losses for which the Buyer Indemnified Persons are entitled to indemnification hereunder exceeds the Indemnification Threshold, then the Seller shall be liable from the first dollar of all such Losses. Notwithstanding the foregoing, the limitations set forth in this Section 10.3(b) shall not apply (i) to any indemnification obligations arising under clause (a) of Section 10.1 above from or in connection with any misrepresentation or breach of any warranty or representation made by the Company in Section 4.1.1 (Authority of Company), the first sentence of Section 4.1.7 (Title to and Condition of Assets), Section 4.1.12 (Taxes) or Section 4.1.21 (Environmental Matters) or by the Seller in Section 5.1.1 (Authority of Seller) and Section 5.1.4 (Title to Subject Shares), (ii) to any indemnification obligations arising under clause (b), (c) or (d) of Section 10.1 above, or (iii) to any claims arising, directly or indirectly, from, or in connection with, any fraud or intentional misrepresentation by the Seller or the Company.

(c) Caps.

(i) The total amount of Losses of all of the Buyer Indemnified Persons for claims under clause (a) of Section 10.1 above shall in no event exceed Six Million Six Hundred Thousand Dollars ($6,600,000) (the "General Cap"); provided, however, that the General Cap shall not apply to (A) any claims arising directly or indirectly from, or in connection with, any fraud or intentional misrepresentation by the Seller or the Company; (B) any claims arising directly or indirectly from, or in connection with, any misrepresentation or breach of any warranty or representation made by the Company in Section 4.1.1 (Authority of Company), the first sentence of Section 4.1.7 (Title to and Condition of Assets), Section 4.1.12 (Taxes) or Section 4.1.21 (Environmental Matters); or (C) any claims arising directly or indirectly from, or in connection with, any misrepresentation or breach of any warranty or representation made by the Seller in Section 5.1.1 (Authority of Seller) or Section 5.1.4 (Title to Subject Shares). Notwithstanding the foregoing, the total amount of Losses of all of the Buyer Indemnified Persons for claims under clause (a) of Section 10.1 above arising directly or indirectly from, or in connection with, any misrepresentation or breach of any warranty or representation made by the Company in Section 4.1.21 (Environmental Matters) above shall in no event exceed the Purchase Price (the "Environmental Cap").

(ii) The total amount of Losses of all of the Buyer Indemnified Persons for claims under clause (d) of Section 10.1 above relating to clause (b) of the definition of "Express Indemnification Items" set forth in Article XI below shall in no event exceed the Purchase Price (the "Bonus Plan Cap").

(iii) The total amount of Losses of all of the Buyer Indemnified Persons for claims under clause (d) of Section 10.1 above relating to clause (a) of the definition of "Express Indemnification Items" set forth in Article XI below shall in no event exceed the Purchase Price (the "FeHA Litigation Cap").

(iv) Notwithstanding anything to the contrary in this Agreement, in no event shall the Seller be responsible for Losses under this Agreement in excess of the Purchase Price, including, but not limited to, any Losses relating to claims under Section 9.1 and Section 10.1 of this Agreement.

(d) Insurance Effect. The amount of any indemnifiable Loss otherwise recoverable by a Buyer Indemnified Person hereunder shall be reduced by the amount of any insurance proceeds paid to the Buyer Indemnified Person with respect to the event giving rise to the Loss. If the Buyer has received the payment required by this Agreement from the Seller in respect of any Losses and later receives proceeds from insurance or other amounts in respect of such Losses, then it shall hold in trust for the benefit of the Seller and shall, as promptly as practicable after receipt thereof, pay to the Seller a sum equal to the amount of such proceeds or other amount received, up to the aggregate amount of any payments received pursuant to this Agreement in respect of such Losses. Notwithstanding any other provisions of this Agreement, it is the intention of the parties that no insurer or any other third party shall be (x) entitled to a benefit it would not be entitled to receive in the absence of the foregoing indemnification provisions, or (y) relieved of the responsibility to pay any claims for which it is obligated.

10.4 Procedure Relative to Indemnification.

(a) In the event that any party hereto shall claim that it is entitled to be indemnified pursuant to the terms of this Article X, such party (the “Claiming Party”) shall so notify the party or parties against which the claim is made (the “Indemnifying Party”) in writing (each, a “Claims Notice”) of such claim within thirty (30) days after the Claiming Party receives notice of any demand, claim or circumstance which is reasonably likely to give rise to a claim or the commencement of any Proceeding (an “Asserted Liability”) that may reasonably be expected to result in a claim for indemnification by the Claiming Party against the Indemnifying Party; provided, however, that failure to give such notification shall not affect the indemnification provided hereunder except to the extent the Indemnifying Party shall have been actually prejudiced as a result of such failure. Each Claims Notice shall describe the Asserted Liability in reasonable detail, and shall indicate the amount (estimated, if necessary) of the Losses that have been or may be suffered by the Claiming Party; provided, however, that failure to provide such reasonable detail shall not affect the indemnification provided hereunder except to the extent the Indemnifying Party shall have been actually prejudiced as a result of such failure; and provided, further, that in no event shall the Claiming Party’s right to recoup Losses from the Indemnifying Party be limited to the amount set forth or estimated in the Claims Notice. If such Losses are liquidated in amount, the Claims Notice shall so state and such amount shall be deemed the amount of the claim of the Claiming Party. If the amount is not liquidated, the Claims Notice shall so state and in such event a claim shall be deemed asserted against the Indemnifying Party on behalf of the Claiming Party, but no payment shall be made on account thereof until the amount of such claim is liquidated and the claim is finally determined.

(b) The following provisions shall apply to claims of the Claiming Party which are based upon a Proceeding filed or instituted by any third party or by any Governmental Body:

(i) Upon receipt of a Claims Notice involving an Asserted Liability against or sought to be collected by a third party, the Indemnifying Party shall have twenty (20) days within which to notify the Claiming Party whether the Indemnifying Party desires to assume the defense of such Asserted Liability.

(ii) If the Indemnifying Party notifies the Claiming Party, within such twenty (20) day period, that the Indemnifying Party desires to defend against such Asserted Liability, then the Indemnifying Party shall assume the defense of such Asserted Liability with counsel of the Indemnifying Party’s choice and, after notice from the Indemnifying Party to the Claiming Party of its election to assume the defense of such Asserted Liability, the Indemnifying Party will not be liable to the Claiming Party under this Article X for any fees and expenses of other counsel or any other expenses with respect to the defense of such Asserted Liability subsequently incurred by the Claiming Party in connection with the defense of such Asserted Liability, unless the Indemnifying Party does not actually assume the defense thereof following notice of such election. The Claiming Party shall cooperate, at the Indemnifying Party’s expense (with respect to out-of-pocket expenses incurred by the Claiming Party), in the compromise of, or defense against such Asserted Liability and may participate in, but not control, such Asserted Liability at its own expense. If the Indemnifying Party is controlling the defense of an Asserted Liability, no compromise or settlement of such Asserted Liability may be effected without the Claiming Party’s consent (which consent shall not be withheld unreasonably) unless (A) there is no finding or admission of any violation of Legal Requirements or any violation of the rights of any Person and (B) the sole relief provided is monetary damages that are paid in full by the Indemnifying Party.

(iii) If a Claims Notice is given to an Indemnifying Party and the Indemnifying Party does not, within twenty (20) days after receipt of the Claims Notice, notify the Claiming Party that it elects to assume the defense of such Asserted Liability, then the Claiming Party will have the right to conduct a defense of the Asserted Liability, the Indemnifying Party will be bound by any determination made with respect to such Asserted Liability or any compromise or settlement effected by the Claiming Party and the Indemnifying Party will be responsible for paying all reasonable professional fees and expenses incurred by the Claiming Party in connection with such defense; provided, however, that in no event shall the Claiming Party, without the prior written consent of the Indemnifying Party (which consent shall not be unreasonably withheld), settle, compromise or offer to settle or compromise any such Asserted Liability.

(iv) Notwithstanding the foregoing, if (A) there exists a conflict of interest that would make it inappropriate in the reasonable judgment of the Claiming Party for the same counsel to represent both the Claiming Party and the Indemnifying Party; (B) the third Person claim seeks injunctive or other non-monetary relief against the Claiming Party; or (C) the Claiming Party elects to pursue one or more defenses or counterclaims available to it that are inconsistent with one or more defenses or counterclaims that are being pursued by the Indemnifying Party in respect of such third Person claim or any litigation related thereto, then the Claiming Party may, by notice to the Indemnifying Party, participate in the defense of such third Person claim and shall be entitled to retain its own counsel at the Indemnifying Party's cost and expense. It is understood and agreed that the Indemnifying Party will not be bound by any determination of an Asserted Liability so defended or any compromise or settlement effected by the Claiming Party without its consent (which may not be withheld unreasonably).

(c) Upon receipt of a Claims Notice involving an Asserted Liability that does not involve an Asserted Liability against or sought to be collected by a third Person, the Indemnifying Party shall have twenty (20) days from the receipt of a Claims Notice to notify the Claiming Party that the Indemnifying Party disputes such Asserted Liability. If the Indemnifying Party does not so notify the Claiming Party, then the amount of such Asserted Liability shall be deemed, conclusively, a liability of the Indemnifying Party hereunder. If the Indemnifying Party shall object in writing to such Asserted Liability, then the Claiming Party shall have twenty (20) days to respond in a written statement to the objection of the Indemnifying Party. If after such twenty (20) day period there remains a dispute as to any Asserted Liability, then the parties shall attempt in good faith for thirty (30) days to agree upon the rights of the respective parties with respect to such Asserted Liability. If the parties should so agree, a memorandum setting forth such agreement shall be prepared and signed by both parties. If after such thirty (30) day period, the parties are unable in good faith to negotiate a resolution of the dispute, then either party may submit the dispute for resolution to a court of competent jurisdiction in accordance with Section 12.9 of this Agreement. Any payment in respect of an Asserted Liability as finally determined shall be made by wire transfer of immediately available funds to an account designed by the party entitled to such payment within ten (10) days after the determination thereof; provided, however, to the extent that any Buyer Indemnified Persons are entitled to indemnification from the Seller pursuant to Section 10.1 above, such Buyer Indemnified Persons shall first recover any Losses from the funds then held pursuant to the terms of the Escrow Agreement.

10.5 Characterization of Indemnification Payments. Except as otherwise required by applicable Legal Requirements, any payment made pursuant to Section 10.1 above shall be treated for Tax purposes as an adjustment to the Purchase Price.

10.6 No Punitive Damages. Except to the extent included in Losses incurred pursuant to an Asserted Liability against or sought to be collected by a third Person, in no event shall the Seller or the Buyer have any liability to a Buyer Indemnified Party or a Seller Indemnified Party, respectively, hereunder for any exemplary or punitive damages relating to the breach or alleged breach of any representation, warranty or covenant in this Agreement.

10.7 Set-Off. The Seller and the Buyer acknowledge and agree that the Buyer shall be entitled, in addition to any other remedies which may be available to it, to set-off against the amount of any unpaid Contingent Purchase Price the aggregate amount of any Losses, as finally determined in accordance with the provisions of Section 10.4 above, arising from, or in connection with, any misrepresentation or breach of any warranty or representation made by the Company in Article IV of this Agreement or by the Seller in Article V of this Agreement. It is understood and agreed that the exercise by the Buyer of its right of set-off pursuant to this Section 10.7 shall be subject to the provisions set forth in Section 2.6 of this Agreement relating to the final determination of the Contingent Purchase Price.

10.8 Exclusive Remedy. Except for claims arising from, or in connection with, fraud or intentional misrepresentation, the foregoing indemnification provisions shall constitute the sole and exclusive remedy for monetary damages in respect of any breach of, or default under, this Agreement by any party hereto and each party hereby waives and releases any and all statutory, equitable, or common law remedy for monetary damages any party may have in respect of any breach of or default under this Agreement, including, without limitation, any rights of contribution.

## ARTICLE XI

### Definitions

**“Affiliate”** means, as to any Person, any other Person which, directly or indirectly, is in control of, is controlled by, or is under common control with, such Person. A Person shall be deemed to control another Person if the controlling Person possesses, directly or indirectly, the power to direct or cause the direction of the management and policies of the other Person, whether through the ownership of voting securities, by contract or otherwise. For purposes of clarification, (a) any Related Persons of the Seller shall be deemed to be Affiliates of the Seller, and (b) after the Closing, the Holding Company and the Operating Company shall be deemed to be Affiliates of the Buyer.

**"Agreement"** means this Stock Purchase Agreement, as the same may be amended or modified from time to time, including all Exhibits and Schedules attached hereto.

**"Allingham"** means Dennis J. Allingham.

**"Ancillary Agreements"** means, as to any party, the agreements, documents and instruments to be executed and delivered by such party pursuant to this Agreement.

**"Applicable Contract"** means any Contract that is in effect on the Closing Date (a) under which the Company is or may be entitled to receive revenues of more than $50,000 in any calendar year, (b) under which the Company may become subject to any obligation to pay a liability of more than $100,000 in any calendar year, (c) by which assets owned or used by the Company having a net book value of at least $100,000 are bound, (d) which affects the voting, transfer, purchase or acquisition of the Subject Shares, (e) whereby the Company has granted any license, franchise, permit or right to any third party to use any of the Intellectual Property owned by the Company or any Contract pursuant to which the Company has a license, franchise, permit or other right to use any intellectual property owned by a third party, (f) involving a share of profits or losses by the Company with any other Person, including any joint venture, partnership or other similar agreement, (g) containing covenants that in any way purport to restrict the business activity of the Company or limit the freedom of the Company to use or disclose confidential information (other than confidentiality agreements or confidentiality provisions entered into in the Ordinary Course of Business) or to engage in any line of business or to compete with any Person, (h) entered into outside the Ordinary Course of Business, (i) which is a material lease, rental or occupancy agreement, license, installment or conditional sale agreement or other Contract affecting the ownership of, leasing of, title to, use of or any leasehold or other interest in, any real or material personal property, (j) which is a Change of Control Agreement Amendment, and (k) each material amendment, supplement and modification with respect to any of the foregoing.

**"Asserted Liability"** has the meaning set forth in Section 10.4(a) above.

**"Beneficially Owns"** (including the terms **"Beneficially Owned"** or **"Beneficially Owning"**) shall mean beneficial ownership within the meaning of Rule 13d-3 under the Exchange Act.

**"Bonus Agreements"** means those certain agreements between the Operating Company and the Former Option Holders in the form of **Exhibit 11(i)** attached hereto pursuant to which the Former Option Holders, among other things, waive their rights with respect to any stock options granted to them pursuant to the Lifecore Biomedical, Inc. 2009 Stock Incentive Plan (which 2009 Stock Incentive Plan shall be terminated effective as of the Closing).

**"Bonus Plan"** has the meaning set forth in Section 2.6(c) above.

**"Bonus Plan Cap"** has the meaning set forth in Section 10.3(c)(ii) above.

**"Buyer"** has the meaning set forth in the preface above.

**"Buyer Indemnified Persons"** has the meaning set forth in Section 10.1 above.

**"Capital Lease"** means any leasing or similar arrangement which, in accordance with GAAP, is classified as a capital lease.

**"Cash"** means cash and cash equivalent assets (including, for this purpose, all collected funds and checks included or located in any lock box accounts of the Company, at or prior to 12:01 a.m. New York City time on the Closing Date, but excluding, for this purpose, all checks written by the Company and wire transfers sent by the Company which have not cleared or been completed, as the case may be, at or prior to 12:01 a.m. New York City time on the Closing Date).

**"Cash Distribution Amount"** means an amount equal to the sum of (a) the Closing Cash Distribution Amount, plus or minus (b) the Post Closing Cash Distribution Amount (if any).

**"Cash Flow Projections"** means the cash flow projections for the Operating Company for fiscal year 2010 delivered to Grace Matthews, Inc. and dated January 22, 2010, a copy of which are attached hereto as **Exhibit 11(a)**.

**"Cash Payment"** has the meaning set forth in Section 2.3 above.

**"Cash Purchase Price"** has the meaning set forth in Section 2.2 above.

**"Cause"** means (a) Allingham's conviction of, indictment for, or pleading "guilty" or "no contest" to any crime (whether or not involving the Company or its Affiliates) (i) constituting a felony, or (ii) that has, or could reasonably be expected to result in, an adverse impact on the performance of Allingham's duties to the Company, or otherwise has, or could reasonably be expected to result in, an adverse impact to the business or reputation of the Company or its Affiliates; (b) Allingham's willful and continued failure to perform his duties or willful misconduct in the course of his employment that has, or could reasonably be expected to result in, material injury to the business or reputation of the Company or its Affiliates; or (c) any material violation of the policies of the Company or its Affiliates, including, but not limited to, those relating to sexual harassment, the disclosure or misuse of confidential information, or those set forth in the manuals or statements of policy of the Company or its Affiliates. For purposes of this definition, an act, or failure to act, shall be considered "willful" if done, or omitted to be done, by Allingham in bad faith and without reasonable belief that the action or omission was in the best interests of the Company.

**"CERCLA"** means the Comprehensive Environmental Response, Compensation and Liability Act of 1980, codified at 42 U.S.C. 9601 et seq., as amended by the Superfund Amendments and Reauthorization Act of 1986.

**"Change of Control"** means, with respect to any entity, any transaction or series of transactions resulting in any of the following: (a) the direct or indirect acquisition by one or more Unrelated Purchasers of all or substantially all of the assets of such entity; (b) the direct or indirect acquisition of equity interests that result in one or more Unrelated Purchasers Beneficially Owning more than fifty percent (50%) of the issued and outstanding equity interests of such entity, including, without limitation, pursuant to a purchase of stock, plan of merger, share exchange or consolidation; or (c) a combination or plan of merger involving such entity in which one or more Unrelated Purchasers Beneficially Own more than fifty percent (50%) of the economic and voting interests of the surviving entity.

**"Change of Control Agreement Amendments"** means those certain amended and restated change of control agreements among the Seller, the Operating Company and the Subject Officers in the form of **Exhibit 11(b)** attached hereto.

**"Claiming Party"** has the meaning set forth in Section 10.4(a) above.

**"Claims Notice"** has the meaning set forth in Section 10.4(a) above.

**"Closing"** means the closing of the purchase and sale contemplated herein.

**"Closing Cash Distribution Amount"** has the meaning set forth in Section 2.5(a) above.

**"Closing Date"** means the date on which the Closing occurs.

**"Closing Date Balance Sheet"** has the meaning set forth in Section 2.6(b) above.

**"COBRA"** means the Consolidated Omnibus Budget Reconciliation Act of 1986 and the rules and regulations promulgated thereunder, each as amended.

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

**"Common Stock"** has the meaning set forth in the recitals above.

**"Company"** has the meaning set forth in the preface above.

**"Confidential Information"** has the meaning set forth in Section 9.3 above.

**"Confidentiality Agreement"** means that certain Confidentiality Agreement, dated May 27, 2009, between the Operating Company and the Buyer.

**"Consents"** means the consents and approvals from, or the written notifications to, the parties to those Contracts listed on **Exhibit 11(c)** attached hereto.

**"Contingent Purchase Price"** has the meaning set forth in Section 2.6(a) above.

**"Continuing Employee"** has the meaning set forth in Section 7.1 above.

**"Contract"** means any agreement, contract, arrangement, lease, license, obligation, promise, understanding or undertaking (whether written or oral) that is legally binding.

**"Dental Operations and Divestiture"** means, collectively, (a) the operation by the Company of its dental business on or prior to June 2, 2008, and (b) the series of transactions amongst Affiliates of the Seller culminating in the distribution of all of the equity of the Operating Company to the Holding Company effective as of November 12, 2008.

**"Disclosure Schedules"** means the disclosure schedules attached to this Agreement.

**"Earn-Out Amount"** has the meaning set forth in Section 2.6(a) above.

**"Earn-Out Date of Final Determination"** means (a) the last day on which a Notice of Objection with respect to an Earn-Out Statement may be given if no such Notice of Objection is given, or (b) the date of resolution of any objections by the parties hereto or by the Independent Accounting Firm if a Notice of Objection with respect to an Earn-Out Statement is timely given.

**"Earn-Out Period"** has the meaning set forth in Section 2.6(a) above.

**"Earn-Out Statement"** has the meaning set forth in Section 2.6(b) above.

**"Environmental Cap"** has the meaning set forth in Section 10.3(c)(i) above.

**"Environmental Claims"** means any investigation, notice, violation, demand, allegation, action, suit, injunction, order, consent decree, penalty, fine, Lien, proceeding or claim (whether administrative, judicial or private in nature) arising (a) pursuant to an actual or alleged violation of any applicable Environmental Law; (b) from the release of a Hazardous Substance; (c) from any abatement, removal, remedial, corrective or other response action in connection with Hazardous Substances, Environmental Law or other order of a Governmental Body; or (d) from any actual or alleged damage, injury, threat, or harm to human health, safety, natural resources, wildlife or the environment.

**"Environmental Law"** means any Legal Requirements pertaining to (a) human health, safety, natural resources, wildlife or the environment, (b) the Occupational Safety and Health Administration, the U.S. Environmental Protection Agency, the Nuclear Regulatory Commission, the Minnesota Department of Natural Resources and the Minnesota Pollution Control Agency, or (c) the management, manufacture, possession, presence, use, generation, transportation, treatment, storage, disposal, release, threatened release, abatement, removal, remediation, emission, discharge or handling of, or exposure to, any petroleum products or Hazardous Substances into ambient air, surface water, ground water or land, or any exposure or impact on worker health and safety, and all amendments, modifications and additions thereto, in each case as amended to date, including, without limitation, CERCLA, RCRA, the Toxic Substances Control Act of 1976, codified at 15 U.S.C. 2601 et seq., the Federal Water Pollution Control Act, as amended by the Clean Water Act of 1977, codified at 33 U.S.C. 1251 et seq., the Clean Air Act of 1966, codified at 42 U.S.C. 741 et seq., the Hazardous Materials Transportation Act, codified at 49, U.S.C. 651 et seq., the Oil Pollution Act of 1990, codified at 33 U.S.C. 2701 et seq., the Emergency Planning and Community Right-To-Know Act of 1986, codified at 42 U.S.C. 11001, et seq., the National Environmental Policy Act of 1969, codified at 42 U.S.C. 4321, et seq., the Occupational Safety and Health Act of 1970, the Safe Drinking Water Act of 1974, codified at 42 U.S.C. 300(f), et seq., the Atomic Energy Community Act of 1955, the Atomic Testing Liability Act, the Atomic Energy Damages Act, the Atomic Energy Omnibus Act, the Atomic/Nuclear Waste Policy Act of 1982, the Atomic/Nuclear Waste Policy Amendments of 1987 or any similar, implementing or successor law.

**"ERISA"** means the Employee Retirement Income Security Act of 1974, as amended, and the rules and regulations promulgated thereunder.

**"ERISA Affiliate"** means any Person (whether or not incorporated) that is treated as a single employer with the Company under Section 414(b), (c), (m) or (o) of the Code.

**"Escrow Agent"** means Wells Fargo Bank, N.A.

**"Escrow Agreement"** means that certain Escrow Agreement among the Buyer, the Seller, the Holding Company and the Escrow Agent in the form attached hereto as **Exhibit 11(d)**.

**"Escrow Amount"** means an amount equal to Six Million Six Hundred Thousand Dollars ($6,600,000), as set forth in the Escrow Agreement.

**"Estimated Balance Sheet"** has the meaning set forth in Section 2.5(b) above.

**"Exchange Act"** means the Securities Act of 1934, as amended, and the rules and regulations promulgated thereunder.

**"Excluded Indebtedness"** means all outstanding indebtedness of the Company for borrowed money as of the Closing Date, including, without limitation, interest-bearing debt and obligations under Capital Leases, as set forth on **Exhibit 11(e)** attached hereto (if any), but excluding the Permitted Indebtedness.

**"Express Indemnification Items"** means (a) any Losses arising directly or indirectly from or in connection with the Proceeding described on **Schedule 4.1.9** attached hereto, and (b) any Losses arising directly or indirectly from or in connection with the Bonus Plan and/or the Bonus Agreements referenced therein (including, without limitation, Losses arising directly or indirectly from or in connection with a claim of a Participant under the Bonus Plan) other than any such Losses arising directly or indirectly from or in connection with a breach by the Company of its scheduled payment obligations thereunder, the willful misconduct or gross negligence of the Company or any other action or inaction of the Company.

**"FDA"** has the meaning set forth in Section 4.1.22 above.

**"FeHA Litigation Cap"** has the meaning set forth in Section 10.3(c)(iii) above.

**"Financial Statements"** means (a) the audited balance sheet of each of the Holding Company and the Operating Company as of December 31, 2008, and the related statement of operations, statement of changes in stockholder/member equity and statement of cash flows for the fiscal period beginning March 26, 2008 and ending December 31, 2008, (b) the audited balance sheet of each of the Holding Company and the Operating Company as of December 31, 2009, and the related statement of operations, statement of changes in stockholder/member equity and statement of cash flows for the fiscal period then ended, and (c) the unaudited interim balance sheet of each of the Holding Company and the Operating Company as of March 31, 2010 (the "Interim Balance Sheet Date"), and the related statement of operations, statement of changes in stockholder/member equity and statement of cash flows for the three (3) month period then ended, all attached hereto as **Schedule 4.1.11**.

**"Former Option Holders"** means Allingham, Larry D. Hiebert, James G. Hall, Kipling Thacker, Jeff Rue, Scott Collins, Phil Sticha, Karl Reindel and Tom Clemens.

**"GAAP"** means United States generally accepted accounting principles and practices as in effect from time to time, consistently applied.

**"General Cap"** has the meaning set forth in Section 10.3(c)(i) above.

**"Good Reason"** means the occurrence of any of the following events without Allingham's written consent: (a) a material diminution in Allingham's authority, duties or responsibilities as in effect during the ninety (90) day period immediately preceding the Closing; (b) a material diminution in Allingham's annual base salary or annual bonus opportunity as in effect immediately preceding the Closing; (c) the Company requiring Allingham to be based more than fifty (50) miles from where his office is located immediately prior to the Closing, except for required travel on the Company's business, and then only to the extent substantially consistent with the business travel obligations which Allingham undertook on behalf of the Company during the ninety (90) day period ending on the Closing Date (without regard to travel related to or in anticipation of the Closing); or (d) any other action or inaction that constitutes a material breach (i) by the Holding Company of the Bonus Plan which relates to the rights of Allingham asserting Good Reason under the Bonus Plan, or (ii) by the Operating Company of the Change of Control Agreement Amendment to which Allingham is a party. Allingham may not terminate employment for Good Reason unless Allingham has provided written notice to the Operating Company of the existence of the event constituting Good Reason within ninety (90) days of the initial existence of the event and the Operating Company has not remedied the condition within thirty (30) days after such notice is received. Allingham's mental or physical incapacity following the occurrence of an event described above in clauses (a) through (d) shall not affect Allingham's ability to terminate employment for Good Reason, and Allingham's death following delivery of a notice of termination for Good Reason shall not affect Allingham's estate's entitlement to severance payments or benefits provided under the Bonus Plan upon a termination of employment for Good Reason. Notwithstanding the foregoing, none of the foregoing events shall be considered "Good Reason" if it occurs in connection with Allingham's death or permanent disability or termination for Cause.

**"Governmental Authorization"** means any permit, license, variance, certificate, closure, exemption, action, consent, waiver or approval or other authorization issued, granted, given or otherwise made available by, or under the authority of, any Governmental Body or pursuant to any Legal Requirement.

**"Governmental Body"** means any (a) nation, state, county, city, town, village, district or other jurisdiction of any nature; (b) federal, state, local, municipal, foreign or other government; (c) governmental or quasi-governmental authority of any nature (including any governmental agency, bureau, branch, department, official or entity and any court or other tribunal); or (d) body exercising, or entitled to exercise, any administrative, executive, judicial, legislative, regulatory or taxing authority, including self-regulatory organizations.

**"Guaranty"** has the meaning set forth in Section 2.6(g) above.

**“Hazardous Substances”** means and includes any “hazardous substance” and any “pollutant or contaminant” as those terms are defined in CERCLA; any “hazardous waste” as that term is defined in RCRA; and any “hazardous material” as that term is defined in the Hazardous Materials Transportation Act (49 U.S.C. § 1801 et seq.), as amended (including as those terms are further defined, construed or otherwise used in rules, regulations issued pursuant to said Environmental Laws); and including, without limitation, any petroleum product or byproduct, solvent, flammable or explosive material, radioactive material, asbestos, polychlorinated biphenyls (PCBs), dioxins, dibenzofurans, heavy metals, radon gas, urea formaldehyde foam, hazardous waste source and raw materials which include hazardous constituents; and including any other substance, chemical, compound, product, solid, gas, liquid, waste, by-product, material, pollutant or contaminant which is hazardous, toxic or otherwise harmful to health, safety, natural resources wildlife or the environment.

**“Holding Company”** has the meaning set forth in the preface above.

**“Indemnification Threshold”** has the meaning set forth in Section 10.3(b) above.

**“Indemnifying Party”** has the meaning set forth in Section 10.4(a) above.

**“Independent Accounting Firm”** means Grant Thornton, LLP.

**“Intellectual Property”** has the meaning set forth in Section 4.1.10(a) above.

**“Interim Balance Sheet Date”** has the meaning set forth in the definition of “Financial Statements” set forth above in this Article XI.

**“Interim Financial Statements”** means the unaudited interim balance sheet of each of the Holding Company and the Operating Company as of the Interim Balance Sheet Date, and the related statement of operations, statement of changes in stockholder/member equity and statement of cash flows for the three (3) month period then ended.

**“Inventory”** means all inventories relating to the business of the Company, wherever located, including, without limitation, raw materials, work in process and finished goods.

**“IP Contract”** has the meaning set forth in Section 4.1.10(b) above.

**“IRS”** means the United States Internal Revenue Service.

**“Knowledge”** – An individual will be deemed to have “Knowledge” of a particular fact or other matter if such individual is actually aware of such fact or other matter following a reasonable inquiry of the subject matter thereof. The Company will be deemed to have “Knowledge” of a particular fact or other matter if any of Allingham, Larry D. Hiebert, Scott Collins, James G. Hall or Kipling Thacker is actually aware of such fact or other matter following a reasonable inquiry of the subject matter thereof.

**“Legal Requirement”** means any federal, state, local, municipal, foreign, international, multinational, territorial or other administrative constitution, law, ordinance, code, policy, principle of common law, rule, regulation, statute, treaty and the like.

**"Lien"** means any mortgage, deed of trust, pledge, hypothecation, assignment, charge or deposit arrangement, encumbrance, lien (statutory or otherwise) or other security interest of any kind or nature whatsoever (including 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) and any contingent or other agreement to provide any of the foregoing.

**"Lifecore Acquisition"** means the acquisition by SBT Holdings Inc., a Delaware corporation, of the business of the Operating Company pursuant to the terms and conditions of that certain Agreement and Plan of Merger, dated as of January 15, 2008, among SBT Holdings Inc., SBT Acquisition Inc. and Lifecore Biomedical, Inc. (n/k/a Lifecore Biomedical, LLC).

**"Losses"** means all damages, losses, deficiencies, liabilities, claims, actions, demands, judgments, fines, fees, costs and expenses (including, without limitation, reasonable attorneys' and accountants' fees and expenses).

**"Member Control Agreement"** means that certain Second Amended and Restated Member Control Agreement of Lifecore Biomedical, LLC, dated as of November 12, 2008, by and between the Operating Company and the Holding Company.

**"Notice of Objection"** has the meaning set forth in Section 2.6(b) above.

**"Operating Company"** has the meaning set forth in the preface above.

**"Order"** means any award, decision, injunction, judgment, order, ruling, subpoena or verdict entered, issued, made or rendered by any court, administrative agency or any other Governmental Body or by any arbitrator.

**"Ordinary Course of Business"** or **"Ordinary Course"** means any action taken by a Person which (a) is consistent with past practices of such Person and is taken in the ordinary course of the normal day to day operations of such Person; (b) is not required to be authorized by the board of directors of such Person (or by any Person or group of Persons exercising similar authority); and (c) is similar in nature and magnitude in actions customarily taken, without any authorization by the board of directors (or by any Person or group of Persons exercising similar authority), in the ordinary course of the normal day to day operations of other Persons that are in the same line of business as such Person.

**"Owned Real Property"** has the meaning set forth in Section 4.1.8 above.

**"Participant"** has the meaning set forth in the Bonus Plan.

**"Permitted Indebtedness"** means the obligations of the Company set forth on **Exhibit 11(f)** attached hereto.

**“Permitted Liens”** means (a) Liens for Taxes and assessments not yet due and payable or which are being contested in good faith by appropriate Proceedings, (b) Liens of carriers, warehousemen, mechanics, materialmen and repairmen incurred in the Ordinary Course of Business consistent with past practice and not yet delinquent, and (c) the Liens set forth on **Exhibit 11(g)** attached hereto.

**“Person”** means any individual, corporation, general or limited partnership, limited liability company, association, joint stock company, joint venture, estate, trust association, organization, labor union or other entity or Governmental Body.

**“Plan”** means (a) any “employee benefit plan,” as defined in Section 3(3) of ERISA, that (i) is subject to Title I of ERISA, (ii) is maintained, administered or contributed to by the Company, and (iii) covers or covered any current or former employee, officer, director or shareholder of, or any other Person that performed or is performing services for, the Company, and (b) any other employment, severance, benefit or similar Contract (whether or not written and whether or not currently in effect) or Contract, plan, program or policy (whether or not written and whether or not currently in effect) providing any compensation or benefits to any current or former employee, officer, director or shareholder of the Company or the dependents of any such individual (including, without limitation, any Contract, plan, program or policy making available bonuses, equity awards, non-taxable benefits such as those provided under a Section 125 Cafeteria Plan or deferred compensation).

**“Post-Closing Cash Distribution Amount”** has the meaning set forth in Section 2.6(c) above.

**“Preferred Stock”** has the meaning set forth in Section 4.1.6(a) above.

**“Prior Real Property”** means all real property previously owned or leased by the Company (together with any buildings or other improvements that were located thereon during the period of the Company’s use thereof).

**“Proceeding”** means any action, arbitration, audit, hearing, formal investigation by a Governmental Body, litigation or suit (whether civil, criminal, administrative, investigative or informal) commenced, brought, conducted or heard by or before, or otherwise involving, any Governmental Body.

**“Purchase Price”** has the meaning set forth in Section 2.2 above.

**“RCRA”** means the Solid Waste Disposal Act, codified at 42 U.S.C. 6901 et seq., as amended by the Resource Conservation and Recovery Act of 1976 and the Hazardous and Solid Waste Amendment of 1984.

**“Real Property”** means collectively the Owned Real Property and the Prior Real Property.

**“Records”** means all books, records, manuals and other materials of the Company, including, without limitation, all sales, manufacturing, customer, prospective customer and supplier/vendor records, advertising, promotional, marketing and sales literature, catalogs and materials, personnel and payroll records, accounting records, purchase and sale records, price lists, correspondence, quality control records and research and development files, wherever located.

**"Registered Intellectual Property"** has the meaning set forth in Section 4.1.10(a) above.

**"Related Person"** means, with respect to the Seller, (a) any affiliated investment fund of Warburg Pincus Partners LLC, Warburg Pincus LLC, Warburg Pincus International LLC or any of their respective Affiliates, (b) any "portfolio company" (as such term is customarily used among private equity investors) of the Seller or any other such affiliated investment fund with respect to which Warburg Pincus Partners LLC, Warburg Pincus LLC, Warburg Pincus International LLC or any of their respective Affiliates directs the investment decisions of such portfolio company (for the purposes hereof, a Person shall be deemed to direct the investment decision of a portfolio company if such Person specifically authorizes the portfolio company to make such investment), (c) any "portfolio company" (as such term is customarily used among private equity investors) of the Seller or any other such affiliated investment fund with respect to which the Seller or such other affiliated investment fund possesses the right to appoint or elect more than fifty percent (50%) of the members of the Board of Directors (or similar body) of such portfolio company and/or owns more than fifty percent (50%) of the voting securities of such portfolio company, or (d) the Persons listed on **Schedule XI** attached hereto.

**"Remaining Cash"** means an amount equal to the Cash of the Company as of the open of business on the Closing Date, as finally determined pursuant to the terms of this Agreement, but not including the Closing Cash Distribution Amount.

**"Representative"** means with respect to a particular Person, any director, officer, employee, agent, consultant, advisor or other representative of such Person, including legal counsel, accountants and financial advisors.

**"Restricted Payments"** means (a) any debt payments (other than scheduled debt payments reflected in the Cash Flow Projections), dividend declarations and/or payments, distributions on capital stock, payments to any Affiliates of the Seller outside of the Ordinary Course of Business (other than any payments made in respect of compensation, salary, wages, commissions or fees payable to the officers, directors or employees of the Company in the Ordinary Course of Business), including, without limitation, Keystone Dental, Inc., a Delaware corporation, any funds of Warburg Pincus Partners LLC, Warburg Pincus LLC and Warburg Pincus International LLC, and any other affiliated funds, and any portfolio companies of any of such funds, or payments of any costs or expenses related to the transactions contemplated by this Agreement or otherwise not incurred in the Ordinary Course of Business made by the Company between February 2, 2010 and the Closing Date, and (b) payments of Closing Bonuses (as defined in the Bonus Plan) made by the Company pursuant to the terms of the Bonus Plan.

**"Satisfied Liens"** means all Liens on the assets of the Company other than Permitted Liens, including those specified on **Exhibit 11(h)** attached hereto, which Liens shall be released by the holder(s) thereof at or prior to the Closing.

**"Scheduled Customers"** has the meaning set forth in Section 4.1.24 above.

**"Scheduled Suppliers"** has the meaning set forth in Section 4.1.24 above.

**"Seller"** has the meaning set forth in the preface above.

**"Seller Indemnified Persons"** has the meaning set forth in Section 10.2 above.

**"Specified Parent Benefit Plan"** has the meaning set forth in Section 7.1 above.

**"Stock Incentive Plan"** means the Lifecore Biomedical, Inc. 2009 Stock Incentive Plan, to be terminated prior to the Closing.

**"Subject Net Revenues"** means, for any given period, the Ordinary Course gross sales of the Company during such period, determined in accordance with GAAP consistent with the past practices of the Company, net of (a) any returns made during such period or made, but not taken into account, during any prior period, and (b) any allowances, discounts, authorized deductions and/or credits paid and/or given by the Company and approved by Allingham with respect to any such sales, in each case, calculated in accordance with GAAP consistent with the past practices of the Company; provided, that "Subject Net Revenues" shall include any revenues generated from the sale of products and/or services (whether sold or provided by the Company, the Buyer or any of their respective Subsidiaries or Affiliates) related to (i) the business or assets of the Company as of the Closing Date; (ii) any technology, processes, methods or similar proprietary rights (whether owned or licensed by the Company) or assets of the Company as of the Closing Date, in any form and including derivatives and modifications thereon made after the Closing Date, including, but not limited to, the use of hyaluronan in any indication (including, but not limited to, ophthalmic, orthopedic, medical and veterinary applications) that is sold, produced, under development or previously under development by the Company as of the Closing Date; or (iii) any such revenues that are diverted from the Company by the Buyer or any of its Affiliates (whether due to the direct or indirect acquisition of any third Person, including, without limitation, pursuant to a purchase of stock, plan of merger, share exchange or consolidation, or acquisition of assets of any third Person) or otherwise allocated from the Company to the Buyer or any of its Affiliates; provided further, that "Subject Net Revenues" shall exclude any revenues generated from the sale of products and/or services (whether sold or provided by the Company, the Buyer or any of their respective Subsidiaries or Affiliates) (v) related to the business or assets of any other business or entity acquired (including, without limitation, pursuant to a purchase of stock, plan of merger, share exchange or consolidation, or acquisition of assets of any third Person) by the Company after the Closing Date, (w) related to any technology, processes, methods or similar proprietary rights contributed by the Buyer or any Affiliate or Subsidiary of the Buyer to the business of the Company, (x) related to any operations of the Company that are not related to the Intellectual Property owned or licensed by the Company as of the Closing Date or the business conducted by the Company as of the Closing Date, (y) related to the use of hyaluronan in any indication (including, but not limited to, ophthalmic, orthopedic, medical and veterinary applications) that is not sold, produced, under development or previously under development by the Company as of the Closing Date, or (z) which, but for the technology or other assets of the Buyer or any other Affiliate or Subsidiary of the Buyer, would not have been made.

**"Subject Officers"** means Allingham, Larry D. Hiebert and James G. Hall.

**“Subject Shares”** has the meaning set forth in Article I above.

**“Subject Units”** has the meaning set forth in Section 4.1.6(a) above.

**“Subsidiary”** means, with respect to any Person, any corporation or other Person of which (or in which) 50% or more of (a) the outstanding capital stock or other equity interest having voting power to elect a majority of the Board of Directors of such corporation or Persons having a similar role as to an entity that is not a corporation, (b) the interest in the profits of such partnership or joint venture, or (c) the beneficial interest of such trust or estate are at such time directly or indirectly owned by such Person or one or more of such Person’s Subsidiaries.

**“Target Amount”** means Eight Million Dollars ($8,000,000) less the aggregate amount of any Restricted Payments.

**“Tax”** or **“Taxes”** means all federal, state, county, local, foreign and other taxes or assessments, however denominated, including, without limitation, income, estimated income, business, occupation, franchise, property (real and personal), sales, employment, gross receipts, use, transfer, ad valorem, profits, license, capital, payroll, employee withholding, unemployment, excise, goods and services, severance and stamp, and including interest, penalties and additions in connection therewith, for which any applicable Person is or may be required to pay, withhold or collect.

**“Tax Return”** means any return, declaration, report, estimate, claim for refund or information return or statement relating to, or required to be filed in connection with, any Taxes, including any schedule, form, attachment or amendment.

**“Treasury Regulations”** means the regulations adopted from time to time by the United States Department of Treasury under the Code.

**“Units”** has the meaning set forth in the recitals above.

**“Unrelated Purchaser”** means any Person other than the Buyer or an Affiliate of the Buyer.

**“UST”** means an underground storage tank, including as that term is defined, construed and otherwise used in the RCRA and in rules, regulations, standards, guidelines and publications issued pursuant to RCRA and comparable state and local laws.

## ARTICLE XII

## Miscellaneous

12.1 Expenses. Except as otherwise specifically provided herein, the parties hereto shall pay their own expenses, including, without limitation, accountants’ and attorneys’ fees and expenses incurred in connection with the negotiation and consummation of the transactions contemplated by this Agreement, except that the Seller shall be responsible for all expenses that are incurred by the Company in connection with the transactions contemplated by this Agreement prior to the Closing Date but which are not paid by the Company on or prior to the Closing Date. The Seller and the Buyer shall share equally all Taxes or fees (including any penalties and interest) applicable to, imposed upon or arising out of the sale or transfer of the Subject Shares to the Buyer and the other transactions contemplated hereby (all necessary Tax Returns and other documentation with respect thereto which shall be filed by the party obligated to make such filings under applicable law at its own expense). Neither the Seller nor the Company shall have any obligation to pay any fees to any one or more third Persons for the purposes of obtaining the Consents or any cost and expense of any one or more third Persons resulting from the process of obtaining any Consents.

12.2 Notices. All notices or other communications required or permitted to be given hereunder shall be in writing and shall be considered to be given and received in all respects when hand delivered, one (1) business day after sent by prepaid express or courier delivery service, when sent by facsimile transmission actually received by the receiving equipment or three (3) days after deposited in the United States mail, certified mail, postage prepaid, return receipt requested, in each case addressed as follows, or to such other address as shall be designated by notice duly given:

IF TO THE BUYER:

Landec Corporation
3603 Haven Avenue
Menlo Park, CA 94025
Attn: Gary Steele
Fax No.: (650) 368-9818

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

Godfrey & Kahn, S.C.
780 North Water Street
Milwaukee, WI 53202
Attn: Nicholas P. Wahl
Fax No.: (414) 273-5198

IF TO THE SELLER:

Warburg Pincus Private Equity IX, L.P.
c/o Warburg Pincus LLC
One Market Plaza
Spear Tower, Suite 1700
San Francisco, CA 94105
Attn: Sean Carney
Noah Knauf
Fax No.: (212) 716-8682

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

Willkie Farr & Gallagher LLP
787 Seventh Avenue
New York, NY 10019
Attn: Steven J. Gartner
Mark A. Cognetti
Fax No.: (212) 728-8111

12.3 Right to Specific Performance. The parties agree that the Subject Shares constitute unique property, that there is no adequate remedy at law for the damage which any of them might sustain for the failure of the others to consummate this Agreement, and, accordingly, that each of them is entitled to the remedy of specific performance to enforce such consummation.

12.4 Entire Agreement; Amendment. This Agreement, the Exhibits attached hereto, the Disclosure Schedules and the Ancillary Agreements constitute the entire agreement among the parties hereto relating to the subject matter hereof, and all prior agreements, correspondence, discussions and understandings of the parties (whether oral or written), with the exception of the Confidentiality Agreement, are merged herein and made a part hereof, it being the intention of the parties hereto that this Agreement and the instruments and agreements contemplated hereby shall serve as the complete and exclusive statement of the terms of their agreement together. No amendment, waiver or modification hereto or hereunder shall be valid unless in writing signed by an authorized signatory of the party or parties to be affected thereby. Each party to this Agreement acknowledges that no other party, nor any agent or attorney of any party, has made any promise, representation or warranty whatsoever, express or implied, not contained herein, concerning the subject matter hereof, to induce the other party to execute this Agreement, and each party acknowledges that it has not executed this Agreement in reliance on any such promise, representation or warranty not contained herein.

12.5 Waiver. The waiver by any party of any provision of this Agreement shall not operate or be construed as a waiver of any subsequent breach by any party.

12.6 Binding Effect. This Agreement shall be binding upon the parties hereto and their respective heirs, successors, legal representatives and permitted assigns.

12.7 Section Headings. The headings in this Agreement are for purposes of convenience and ease of reference only and shall not be construed to limit or otherwise affect the meaning of any part of this Agreement.

12.8 Severability. The parties agree that if any provision of this Agreement shall under any circumstances be deemed invalid or inoperative, this Agreement shall be construed with the invalid or inoperative provision deleted, and the rights and obligations of the parties shall be construed and enforced accordingly.

12.9 Applicable Law; Venue. This Agreement and all questions arising in connection herewith shall be governed by and construed in accordance with the laws of the State of Delaware without application of choice of law or conflicts of law principles. All disputes arising hereunder and any claims made relating to the representations, warranties, covenants or agreements contained in this Agreement shall be resolved exclusively in state or federal courts located in Hennepin County, Minnesota, to which jurisdiction the parties hereto irrevocably consent.

12.10 Assignment. No party hereto may assign any of its rights or obligations hereunder without the prior written consent of the other parties hereto.

12.11 Parties in Interest. With the exception of the Buyer Indemnified Persons and Seller Indemnified Persons who are not parties to this Agreement but who may have rights, benefits or remedies under Article X above, this Agreement shall be binding upon and inure solely to the benefit of each party hereto, and nothing in this Agreement, express or implied, is intended to or shall confer upon any other Person any right, benefit or remedy of any nature whatsoever under or by reason of this Agreement. The Seller and the Buyer shall not be liable for actions or inactions of the Escrow Agent in connection with the performance of the Escrow Agent's obligations, except as explicitly set forth in the Escrow Agreement.

12.12 Disclosure Schedules and Exhibits. Any reference to a section or subsection in the Disclosure Schedules and/or the Exhibits attached hereto refers to the sections and subsections of this Agreement, unless the context requires otherwise; provided, however, a particular matter disclosed in any section or subsection of the Disclosure Schedules or the Exhibits attached hereto that a reasonable buyer would infer, based on the location and express content of such disclosure, qualifies another section or subsection of this Agreement shall also be deemed to qualify such other section or subsection of this Agreement. No disclosure of any matter contained in the applicable Disclosure Schedules shall create an implication that such matter meets any standard of materiality (matters reflected in the applicable Disclosure Schedule are not necessarily limited to matters required by this Agreement to be reflected in the applicable Disclosure Schedule); such additional matters are set forth for informational purposes only and do not necessarily include other matters of a similar nature, nor shall the inclusion of any item be construed as implying that any such item is "material" for any purpose. All capitalized terms used in the Disclosure Schedules and the Exhibits attached hereto and not otherwise defined therein shall have the same meanings as are ascribed to such terms in this Agreement.

12.13 Counterparts; Facsimile Copy. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument. This Agreement may be executed in facsimile copy or by other electronic means with the same binding effect as the original.

12.14 Passage of Title. Legal title, equitable title and risk of loss with respect to the Subject Shares will not pass to Buyer until the Subject Shares are transferred at the Closing, which transfer, once it has occurred, will be deemed effective for tax, accounting and other computational purposes as of 12:01 a.m. New York City time on the Closing Date.

*Signature page follows.*

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

**HOLDING COMPANY:**

LIFECORE BIOMEDICAL, INC. (formerly known as SBT BIOMATERIALS INC.)

By: /s/ Dennis J Allingham
Dennis J. Allingham, President

**OPERATING COMPANY:**

LIFECORE BIOMEDICAL, LLC

By: /s/ Dennis J. Allingham
Dennis J. Allingham, President

**SELLER:**

WARBURG PINCUS PRIVATE EQUITY IX, L.P.

By: Warburg Pincus IX, LLC, its General Partner

By: Warburg Pincus Partners LLC, its Sole Member

By: Warburg Pincus & Co., its Managing Member

By: /s/ Sean D. Carney
Sean D. Carney, Managing Director

**BUYER:**

LANDEC CORPORATION

By: /s/ Gary T. Steele
Gary T. Steele, Chief Executive Officer

[Signature Page to Stock Purchase Agreement]

Exhibits:

| | |
|---|---|
| Exhibit 2.6(g) | Form of Guaranty |
| Exhibit 11(a) | Cash Flow Projections |
| Exhibit 11(b) | Form of Change of Control Agreement Amendments |
| Exhibit 11(c) | Consents |
| Exhibit 11(d) | Form of Escrow Agreement |
| Exhibit 11(e) | Excluded Indebtedness |
| Exhibit 11(f) | Permitted Indebtedness |
| Exhibit 11(g) | Permitted Liens |
| Exhibit 11(h) | Satisfied Liens |
| Exhibit 11(i) | Form of Bonus Agreements |

**Exhibit 10.2**

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CREDIT AGREEMENT

by and between

LIFECORE BIOMEDICAL, LLC,

as Borrower,

and

WELLS FARGO BANK, NATIONAL ASSOCIATION,

as Bank

Dated as of April 30, 2010

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## Credit Agreement

This Credit Agreement (this *"Agreement"*) is dated and made as of April 30, 2010, by and between Lifecore Biomedical, LLC, a Minnesota limited liability company (*"Borrower"*), and Wells Fargo Bank, National Association (*"Bank"*).

## Recitals

Whereas, Borrower has requested that Bank extend or continue credit to Borrower as described below, and Bank has agreed to provide such credit to Borrower on the terms and conditions contained herein.

NOW, THEREFORE, for valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Bank and Borrower hereby agree as follows:

## Article I
## Definitions

Section 1.1.*Definitions*.  For all purposes of this Agreement, except as otherwise expressly provided, the following terms shall have the meanings assigned to them in this Section or in the Section referenced after such term:

*"Account Debtor"* means any Person who is or who may become obligated under, with respect to, or on account of, an Account, chattel paper, or a General Intangible.

*"Accounts"* means all of Borrower's now owned or hereafter acquired right, title, and interest with respect to "accounts" (as that term is defined in the UCC), and any and all supporting obligations in respect thereof.

*"Acquisition"* means the acquisition by Parent of all the issuing and outstanding equity interests of Holdings pursuant to the Stock Purchase Agreement.

*"Affiliate"* means, as applied to any Person, any other Person who, directly or indirectly, controls, is controlled by, or is under common control with, such Person.  For purposes of this definition, "control" means the possession, directly or indirectly, of the power to direct the management and policies of a Person, whether through the ownership of stock, by contract, or otherwise; *provided*, *however*, that, in any event:  (a) any Person which owns directly or indirectly 10% or more of the securities having ordinary voting power for the election of directors or other members of the governing body of a Person or 10% or more of the partnership or other ownership interests of a Person (other than as a limited partner of such Person) shall be deemed to control such Person, (b) each director (or comparable manager) of a Person shall be deemed to be an Affiliate of such Person, and (c) each partnership or joint venture in which a Person is a partner or joint venturer shall be deemed to be an Affiliate of such Person.

*"Agreement"* means this Credit Agreement.

“*Bankruptcy Code*” means Bankruptcy Reform Act, Title 11 of the United States Code.

“*Bond Documents*” means all documents, instruments and agreements related to or governing the indebtedness arising under or pursuant to the Bonds.

“*Bond L/C*” means each irrevocable transferable letter of credit issued by Bank pursuant to the Reimbursement Agreement to the Trustee to facilitate the payment on the Bonds.

“*Bonds*” means the $5,630,000 Variable Rate Demand Purchase Revenue Bonds issued by the City of Chaska, Minnesota, the proceeds of which were advanced to Borrower in connection with the construction of the Mortgaged Premises.

“*Business Day*” means any day other than a Saturday, Sunday or any other day on which commercial banks in California are authorized or required by law to close.

“*Cal Ex*” means Cal Ex Trading Company, a Delaware corporation.

“*Capital Expenditures*” means for a period, any expenditure of money during such period for the purchase or construction of assets, or for improvements or additions thereto, which are capitalized on the Companies’ balance sheet.

“*Cash Equivalents*” has the meaning set forth in Section 6.7(a).

“*Change of Control*” means the occurrence of any of the following events:

(a) any Person or “group” (as such term is used in Sections 13(d) and 14(d) of the Securities Exchange Act of 1934), other than Parent, is or becomes the “beneficial owner” (as defined in Rules 13d-3 and 13d-5 under the Securities Exchange Act of 1934, except that a Person will be deemed to have “beneficial ownership” of all securities that such Person has the right to acquire, whether such right is exercisable immediately or only after the passage of time), directly or indirectly, of more than twenty-five percent of the voting power of all classes of voting stock of Borrower; or

(b) the failure of Parent and/or Holdings to own directly or indirectly, beneficially and of record, 100.00% of the aggregate ordinary voting power and economic interests represented by the issued and outstanding equity interests of Borrower; or

(c) during any consecutive two-year period, individuals who at the beginning of such period constituted the board of Directors of Borrower (together with any new Directors whose election to such board of Directors, or whose nomination for election by the owners of Borrower, was approved by a vote of 66-2/3% of the Directors then still in office who were either Directors at the beginning of such period or whose election or nomination for election was previously so approved) cease for any reason to constitute a majority of the board of Directors of Borrower then in office.

"*Closing Date*" means April 30, 2010.

"*Collateral*" means (a) "Collateral" as such term is defined in the Security Agreement plus (b) all collateral subject to the Lien of any Security Document other than the Security Agreement.

"*Collateral Account*" is defined in Section 2.5(b) hereof.

"*Companies*" means Borrower and Holdings.

"*Commitment*" is defined in Section 2.1 hereof.

"*Contingent Purchase Price Payments*" means certain payments not to exceed $10,000,000 in the aggregate made by the Borrower to the Seller and other designated Persons in accordance with the Stock Purchase Agreement and the Lifecore Biomedical, Inc. Transaction Bonus Plan.

"*Constituent Documents*" means with respect to any Person, as applicable, such Person's certificate of incorporation, articles of incorporation, by-laws, certificate of formation, articles of organization, limited liability company agreement, management agreement, operating agreement, shareholder agreement, partnership agreement or similar document or agreement governing such Person's existence, organization or management or concerning disposition of ownership interests of such Person or voting rights among such Person's owners.

"*Credit Facility*" means the credit facility being made available to Borrower by Bank under Article II hereof.

"*Default*" means an event, or condition which, but for the lapse of time or the giving of notice, or both, would constitute an Event of Default.

"*Default Period*" means any period of time beginning on the day a Default or Event of Default occurs and ending on the date that such Default or Event of Default has been cured or waived, as determined by Bank in its sole and absolute discretion.

"*Default Rate*" is defined in the Note.

"*Disposition*" means the sale, lease, conveyance or other disposition of Property, other than sales or other dispositions expressly permitted under Sections 6.19(v), (w), (x) and (y) hereof.

"*Director*" means a director, member or manager of Borrower or any Guarantor, as applicable.

"*Dollars*" *or* "*$*" means lawful currency of the United States of America.

“*EBITDA*” means, as of any date of determination for any period, Parent’s and its Subsidiaries’ consolidated net profit before tax plus interest expense (net of any capitalized interest), depreciation expense, and amortization expense.

“*Environmental Laws*” means any and all Federal, state, local, and foreign statutes, laws, regulations, ordinances, rules, judgments, orders, decrees, permits, concessions, grants, franchises, licenses, agreements or governmental restrictions relating to pollution, the protection of the environment or the release of any materials into the environment, including those related to Hazardous Substances or wastes, air emissions and discharges to waste or public systems.

“*Equipment*” means all of Borrower’s equipment, as such term is defined in the UCC, whether now owned or hereafter acquired, including but not limited to all present and future machinery, vehicles, furniture, fixtures, manufacturing equipment, shop equipment, office and recordkeeping equipment, parts, tools, supplies, and including specifically the goods described in any equipment schedule or list herewith or hereafter furnished to Bank by Borrower.

“*ERISA*” means the Employee Retirement Income Security Act of 1974.

“*ERISA Affiliate*” means any trade or business (whether or not incorporated) that is a member of a group which includes Borrower and which is treated as a single employer under Section 414 of the IRC.

“*Event of Default*” has the meaning given in Section 7.1.

“*Event of Loss*” means, with respect to any Property, any of the following: (a) any loss, destruction or damage of such Property or (b) any condemnation, seizure, or taking, by exercise of the power of eminent domain or otherwise, of such Property, or confiscation of such Property or the requisition of the use of such Property.

“*Financial Covenants*” means the covenants set forth in Section 6.3.

“*Fixed Charge Coverage Ratio*” means, as of the last day of each fiscal quarter of Borrower, the ratio of (a) the sum of (i) Net Income after taxes for the four fiscal quarters then ended, *plus* (ii) depreciation expense, amortization expense, cash capital contributions, increases in subordinated debt and non-cash expenses associated with the issuance of stock options of the Companies for the four fiscal quarters then ended, *minus* (iii) management fees, dividends, distributions and decreases in subordinated debt of the Companies for the twelve months then ended, to (b) (x) the aggregate of the current maturity of long-term debt and current maturity of subordinated debt as of the last day of the fiscal quarter ending immediately prior to the last day of such fiscal quarter (or with respect to each fiscal quarter ending on or prior to May 31, 2011, as of the last day of such fiscal quarter), and (y) capitalized lease payments of the Companies as of the last day of such fiscal quarter.

“*Funded Debt*” means as the sum of all obligations for Indebtedness for borrowed money (including subordinated debt) of Parent and its Subsidiaries, *plus* all capital lease obligations of Parent and its Subsidiaries, in each case determined on a consolidated basis.

"*GAAP*" means generally accepted accounting principles in the United States of America, consistently applied, which are in effect as of the date of this Agreement. If any changes in accounting principles from those in effect on the date hereof are hereafter occasioned by promulgation of rules, regulations, pronouncements or opinions by or are otherwise required by the Financial Accounting Standards Board or the American Institute of Certified Public Accountants (or successors thereto or agencies with similar functions), and any of such changes results in a change in the method of calculation of, or affects the results of such calculation of, any of the financial covenants, standards or terms found herein, then the parties hereto agree to enter into and diligently pursue negotiations in order to amend such financial covenants, standards or terms so as to equitably reflect such changes, with the desired result that the criteria for evaluating financial condition and results of operations of Borrower and the Subsidiaries shall be the same after such changes as if such changes had not been made.

"*General Intangibles*" means all of Borrower's general intangibles, as such term is defined in the UCC, whether now owned or hereafter acquired, including all present and future Intellectual Property Rights, customer or supplier lists and contracts, manuals, operating instructions, permits, franchises, the right to use Borrower's name, and the goodwill of Borrower's business.

"*Governmental Authority*" means any federal, state, local, or other governmental or administrative body, instrumentality, department, or agency or any court, tribunal, administrative hearing body, arbitration panel, commission, or other similar dispute-resolving panel or body.

"*Guarantor*" or "*Guarantors*" is defined in Section 3.1 hereof.

"*Guaranty*" or "*Guaranties*" is defined in Section 3.1 hereof.

"*Hazardous Substances*" means pollutants, contaminants, hazardous substances, hazardous wastes, petroleum and fractions thereof, and all other chemicals, wastes, substances and materials listed in, regulated by or identified in any Environmental Law.

"*Hedging Obligations*" means all liabilities of Borrower under Swap Contracts entered into with Bank or one of its Affiliates.

"*Holdings*" means Lifecore Biomedical, Inc., a Delaware corporation.

"*Immaterial Intellectual Property Rights*" means Intellectual Property Rights that Borrower, in its commercially reasonable judgment, determines from time to time to be no longer material to the operation of its business.

"*Indebtedness*" means of a Person as of a given date, all items of indebtedness or liability which in accordance with GAAP would be included in determining total liabilities as shown on the liabilities side of a balance sheet for such Person and shall also include the aggregate payments required to be made by such Person at any time under any lease that is considered a capitalized lease under GAAP.

"*Infringe*" means, when used with respect to Intellectual Property Rights, any infringement or other violation of such Intellectual Property Rights.

"*Insolvency Proceeding*" means any proceeding commenced by or against any Person under any provision of Bankruptcy Code or under any other state or federal bankruptcy or insolvency law, assignments for the benefit of creditors, formal or informal moratoria, compositions, extensions generally with creditors, or proceedings seeking reorganization, arrangement, or other similar relief.

"*Intellectual Property Rights*" means all actual or prospective rights arising in connection with any intellectual property or other proprietary rights, including all rights arising in connection with copyrights, patents, service marks, trade dress, trade secrets, trademarks, trade names or mask works.

"*Inventory*" means all of Borrower's inventory, as such term is defined in the UCC, whether now owned or hereafter acquired, whether consisting of whole goods, spare parts or components, supplies or materials, whether acquired, held or furnished for sale, for lease or under service contracts or for manufacture or processing, and wherever located.

"*Investment Property*" means all of Borrower's investment property, as such term is defined in the UCC, whether now owned or hereafter acquired, including but not limited to all securities, security entitlements, securities accounts, commodity contracts, commodity accounts, stocks, bonds, mutual fund shares, money market shares and U.S. Government securities.

"*IRC*" means the Internal Revenue Code of 1986.

"*Landec AG*" means Landec AG, Inc., a Delaware corporation.

"*Licensed Intellectual Property*" has the meaning given in Section 5.11(c).

"*Lien*" means any security interest, mortgage, deed of trust, pledge, lien, charge, encumbrance, title retention agreement or analogous instrument or device, including the interest of each lessor under any capitalized lease and the interest of any bondsman under any payment or performance bond, in, of or on any assets or properties of a Person, whether now owned or hereafter acquired and whether arising by agreement or operation of law.

"*Loan*" is defined in Section 2.1 hereof.

"*Loan Documents*" means this Agreement, the Note, any Guaranties, the Security Documents, and each other instrument or document to be delivered by Borrower or any Guarantor hereunder or thereunder or otherwise in connection herewith or therewith.

"*Management*" means Dennis J. Allingham, Larry Hiebert and James Hall.

"*M&I*" means M&I Marshall & Ilsley Bank, a Wisconsin state banking corporation.

"*Material Adverse Effect*" means any of the following:

(i) a material adverse effect on the business, operations, results of operations, assets, liabilities or financial condition of the Companies, taken as a whole, or Parent and its Subsidiaries, taken as a whole;

(ii) a material adverse effect on the ability of Borrower or any Guarantor to perform its obligations under the Loan Documents;

(iii) a material adverse effect on the ability of Bank to enforce the Obligations or to realize the intended benefits of the Security Documents, including a material adverse effect on the validity or enforceability of any Loan Document or of any rights against any Guarantor, or on the status, existence, perfection, priority (subject to Permitted Liens) or enforceability of any Lien securing payment or performance of the Obligations; or

(iv) any claim against Borrower or any Guarantor or threat of litigation which is reasonably likely to be determined adversely to Borrower or any Guarantor and, if so determined, would cause Borrower or such Guarantor to be liable to pay an amount exceeding $500,000 over applicable insurance coverage, or would be an event described in clauses (i), (ii) and (iii) above.

"*Mortgage*" means that certain Mortgage and Assignment of Rents and Leases dated as of the date of the Reimbursement Agreement, between the Borrower and the Bank, as the same may be amended, modified, supplemented, or restated from time to time.

"*Mortgaged Premises*" means the real property of Borrower commonly known as 3515 Lyman Boulevard, Chaska, Minnesota and all buildings and improvements thereon, and all rents, issues, and profits therefrom.

"*Multiemployer Plan*" means a multiemployer plan (as defined in Section 4001(a)(3) of ERISA) to which Borrower or any ERISA Affiliate contributes or is obligated to contribute.

"*Net Cash Proceeds*" means, as applicable, (a) with respect to any Disposition by a Person, cash and Cash Equivalent proceeds received by or for such Person's account, net of (i) reasonable direct costs relating to such Disposition and (ii) sale, use or other transactional taxes paid or payable by such Person as a direct result of such Disposition, (b) with respect to any Event of Loss of a Person, cash and Cash Equivalent proceeds received by or for such Person's account (whether as a result of payments made under any applicable insurance policy therefor or in connection with condemnation proceedings or otherwise), net of reasonable direct costs incurred in connection with the collection of such proceeds, awards or other payments, and (c) with respect to any offering of equity securities of a Person or the issuance of any Indebtedness by a Person, cash and Cash Equivalent proceeds received by or for such Person's account, net of reasonable legal, underwriting, and other fees and expenses incurred as a direct result thereof.

"*Net Income*" means fiscal year-to-date after-tax net income from continuing operations of the Companies, as determined in accordance with GAAP; *provided, however*, that any amounts deducted in arriving at Borrower's Net Income shall be determined exclusive of (i) non-recurring fees and expenses incurred in connection with the Acquisition in an aggregate amount not to exceed $500,000, (ii) expenses incurred during the month ended April 30, 2010 relating to a one-time reserve for Accounts and Inventory in an amount not to exceed $600,000 in the aggregate in connection with Borrower's contract with a customer previously disclosed to the Bank, (iii) expenses incurred during the two months ended April 30, 2010 relating to a one-time reserve for Inventory in an amount not to exceed $200,000 in the aggregate, and (iv) expenses related to the one-time adjustment to Inventory in an aggregate amount not to exceed $1,500,000 as required by GAAP in connection with the Acquisition.

"*Net Income After Taxes*" is defined in Section 6.3(a)(i) hereof.

"*Note*" is defined in Section 2.1 hereof.

"*Obligations*" means the Note, any Hedging Obligations, any Treasury Management Obligations, and each and every other debt, liability and obligation of Borrower arising under this Agreement or any other Loan Document, whether such debt, liability or obligation now exists or is hereafter created or incurred, whether it is direct or indirect, due or to become due, absolute or contingent, primary or secondary, liquidated or unliquidated, or sole, joint, several or joint and several, and whether now in effect or hereafter entered into.

"*OFAC*" means the United States Department of Treasury Office of Foreign Assets Control.

"*OFAC Event*" means the event specified in Section 6.13(c) hereof.

"*OFAC Sanctions Programs*" means all laws, regulations, and Executive Orders administered by OFAC, including without limitation, Bank Secrecy Act, anti-money laundering laws (including, without limitation, the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, Pub. L. 107-56 (a/k/a the USA Patriot Act)), and all economic and trade sanction programs administered by OFAC, any and all similar United States federal laws, regulations or Executive Orders, and any similar laws, regulators or orders adopted by any State within the United States.

"*OFAC SDN List*" means the list of the Specially Designated Nationals and Blocked Persons maintained by OFAC.

"*Officer*" means a duly appointed and presently sitting officer of Borrower.

"*Owned Intellectual Property*" has the meaning given in Section 5.11(a).

"*Parent*" means Landec Corporation, a California corporation.

“*Pension Plan*” means a pension plan (as defined in Section 3(2) of ERISA) maintained for employees of Borrower or any ERISA Affiliate and covered by Title IV of ERISA.

“*Permitted Lien*” has the meaning given in Section 6.4(a).

“*Person*” means any individual, corporation, partnership, joint venture, limited liability company, association, joint-stock company, trust, unincorporated organization or government or any agency or political subdivision thereof.

“*Plan*” means an employee benefit plan (as defined in Section 3(3) of ERISA) maintained for employees of Borrower or any ERISA Affiliate.

“*Premises*” means all premises where Borrower conducts its business and has any rights of possession, including the premises described in Exhibit C attached hereto.

“*Property*” means, as to any Person, all types of real, personal, tangible, intangible or mixed property owned by such Person whether or not included in the most recent balance sheet of such Person and its subsidiaries under GAAP.

“*Quick Ratio*” means, as of the last day of each fiscal quarter of Borrower, the ratio of (i) the aggregate of unrestricted cash, unrestricted marketable securities and receivables convertible into cash of the Companies as of the last day of such fiscal quarter to (b) total current liabilities of the Companies as of the last day of the same fiscal quarter.

“*Reimbursement Agreement*” means that certain Reimbursement Agreement dated on or about the Closing Date, between Bank and Borrower, as the same may be amended, modified, restated or supplemented from time to time.

“*Reportable Event*” means a reportable event (as defined in Section 4043 of ERISA), other than an event for which the 30-day notice requirement under ERISA has been waived in regulations issued by the Pension Benefit Guaranty Corporation.

“*Security Agreement*” means that certain Security Agreement, dated as of even date herewith, executed by Borrower in favor of Bank.

“*Security Agreement and Collateral Assignment of Membership Interests*” means that certain Security Agreement and Collateral Assignment of Membership Interests, dated as of even date herewith, executed by Holdings in favor of Bank.

“*Security Agreement re: Patents and Trademarks*” means that certain Security Agreement Re: Patents and Trademarks, dated as of even date herewith, executed by Borrower in favor of Bank.

“*Security Documents*” means this Agreement, the Security Agreement, the Security Agreement and Collateral Assignment of Membership Interests, the Security Agreement re: Patent and Trademarks, and any other agreement, instrument or document delivered to Bank from time to time to secure the Obligations.

“*Security Interest*” has the meaning given in Section 3.2.

“*Seller*” means Warburg Pincus Private Equity IX, L.P.

“*Stock Purchase Agreement*” means that certain Stock Purchase Agreement dated as of April 30, 2010, by and among Parent, Borrower, Holdings, and the Seller.

“*Solvent*” means, as to any Person at any time, that: (a) the fair value of the property of such Person on a going concern basis is greater than the amount of such Person’s liabilities (including contingent liabilities), as such value is established and such liabilities are evaluated for purposes of Section 101(32) of the Bankruptcy Code and, in the alternative, for purposes of the California Uniform Fraudulent Transfer Act or any similar state statute applicable to Borrower thereof; (b) the present fair salable value of the property of such Person is not less than the amount that will be required to pay the probable liability of such Person on its debts as they become absolute and matured; (c) such Person is able to realize upon its property and pay its debts and other liabilities (including contingent liabilities) as they mature in the normal course of business; (d) such Person does not intend to, and does not believe that it will, incur debts or liabilities beyond such Person’s ability to pay as such debts and liabilities mature; and (e) such Person is not engaged in business or a transaction, and is not about to engage in business or a transaction, for which such Person’s property would constitute unreasonably small capital

“*Subsidiary*” means, as to any Person, any Person of which a majority of the shares of securities or other interests having ordinary voting power for the election of directors or other governing body (other than securities or interests having such power only by reason of the happening of a contingency) are at the time beneficially owned, or the management of which is otherwise controlled, directly, or indirectly through one or more intermediaries, or both, by such Person. Unless otherwise specified, all references herein to a “Subsidiary” or to “Subsidiaries” shall refer to a Subsidiary or Subsidiaries of a Borrower.

“*Swap Contract*” means: (a) any and all rate swap transactions, basis swaps, credit derivative transactions, forward rate transactions, commodity swaps, commodity options, forward commodity contracts, equity or equity index swaps or options, bond or bond price or bond index swaps or options or forward bond or forward bond price or forward bond index transactions, interest rate options, forward foreign exchange transactions, cap transactions, floor transactions, collar transactions, currency swap transactions, cross-currency rate swap transactions, currency options, spot contracts, or any other similar transactions or any combination of any of the foregoing (including any options to enter into any of the foregoing), whether or not any such transaction is governed by or subject to any master agreement; and (b) any and all transactions of any kind, and the related confirmations, that are subject to the terms and conditions of, or governed by, any form of master agreement published by the International Swaps and Derivatives Association, Inc., any International Foreign Exchange Master Agreement, or any other master agreement including any such obligations or liabilities under any such master agreement (in each case, together with any related schedules).

"*Term Loan Maturity Date*" means the earliest of (i) April 30, 2015, or (ii) the date Bank demands payment of the Obligations after an Event of Default pursuant to Section 7.2 hereof.

"*Treasury Management Agreement*" means any agreement to provide cash management services, including treasury, depository, overdraft, credit or debit car, electronic funds transfer or other cash management arrangement, in each case entered into between Borrower, on the one hand, and Bank or one of its Affiliates, on the other hand.

"*Treasury Management Obligations*" means all obligations of Borrower thereof under all Treasury Management Agreements.

"*Trustee*" means Wells Fargo Bank, National Association, and any co-trustee or successor trustee appointed, qualified, and then acting under the provisions of Bond Documents.

"*UCC*" means the Uniform Commercial Code as in effect in the state designated in Section 8.15 as the state whose laws shall govern this Agreement, or in any other state whose laws are held to govern this Agreement or any portion hereof.

Section 1.2. *Other Definitional Terms; Rules of Interpretation*. The words "hereof", "herein" and "hereunder" and words of similar import when used in this Agreement shall refer to this Agreement as a whole and not to any particular provision of this Agreement. All accounting terms not otherwise defined herein have the meanings assigned to them in accordance with GAAP. All terms defined in the UCC and not otherwise defined herein have the meanings assigned to them in the UCC. References to Articles, Sections, subsections, Exhibits, Schedules and the like, are to Articles, Sections and subsections of, or Exhibits or Schedules attached to, this Agreement unless otherwise expressly provided. The words "include", "includes" and "including" shall be deemed to be followed by the phrase "without limitation". Unless the context in which used herein otherwise clearly requires, "or" has the inclusive meaning represented by the phrase "and/or". Defined terms include in the singular number the plural and in the plural number the singular. Reference to any agreement (including the Loan Documents), document or instrument means such agreement, document or instrument as amended or modified and in effect from time to time in accordance with the terms thereof (and, if applicable, in accordance with the terms hereof and the other Loan Documents), except where otherwise explicitly provided, and reference to any promissory note includes any promissory note which is an extension or renewal thereof or a substitute or replacement therefor. Reference to any law, rule, regulation, order, decree, requirement, policy, guideline, directive or interpretation means as amended, modified, codified, replaced or reenacted, in whole or in part, and in effect on the determination date, including rules and regulations promulgated thereunder.

## Article II
## Amount and Terms of the Term Loan

Section 2.1. *Term Loan*. Subject to the terms and conditions hereof, Bank agrees to make a term loan to Borrower in the principal amount of $20,000,000 (the "*Commitment*", and the term loan made pursuant thereto being referred to herein as the "*Loan*"). The Loan shall be made on the Closing Date, at which time the commitment of Bank to make the Loan shall expire. There shall be only one advance made under the Commitment, and any portion of the Commitment not advanced on the date of such borrowing shall thereupon expire. The Loan shall be made against and evidenced by a promissory note of Borrower in the form (with appropriate insertions) attached hereto as Exhibit A (the "*Note*"). The Note shall be dated the date of issuance thereof and be expressed to bear interest as set forth therein. The Note, and the Loan evidenced thereby, shall mature in fifty-nine (59) monthly principal installments, with each such principal installment to be at the time and in the amounts set forth in the Note, with a final installment in the amount of all principal not sooner paid due and payable on the Term Loan Maturity Date.

Section 2.2. *Usury*. In any event, no rate change shall be put into effect which would result in a rate greater than the highest rate permitted by law. Notwithstanding anything to the contrary contained in any Loan Document, all agreements which either now are or which shall become agreements between Borrower and Bank are hereby limited so that in no contingency or event whatsoever shall the total liability for payments in the nature of interest, additional interest and other charges exceed the applicable limits imposed by any applicable usury laws. If any payments in the nature of interest, additional interest and other charges made under any Loan Document are held to be in excess of the limits imposed by any applicable usury laws, it is agreed that any such amount held to be in excess shall be considered payment of principal hereunder, and the indebtedness evidenced by the Note shall be reduced by such amount so that the total liability for payments in the nature of interest, additional interest and other charges shall not exceed the applicable limits imposed by any applicable usury laws, in compliance with the desires of Borrower and Bank. This provision shall never be superseded or waived and shall control every other provision of the Loan Documents and all agreements between Borrower and Bank, or their successors and assigns.

Section 2.3. *Collection of Payments*. All payments to Bank shall be made in immediately available funds and shall be applied to the Obligations upon receipt by Bank.

Section 2.4. *Fees*. Except as set forth in Section 8.5 hereof, there are no fees in connection with the Loan.

Section 2.5. *Prepayments.* (a) *Optional*. Borrower may prepay the Note, in whole or in part, on the terms and conditions set forth therein.

(b) *Mandatory*. (i) If Borrower shall at any time or from time to time make or agree to make a Disposition or shall suffer an Event of Loss with respect to any Property, then Borrower shall promptly notify Bank of such proposed Disposition or Event of Loss (including the amount of the estimated Net Cash Proceeds to be received by Borrower in respect thereof) and, promptly upon receipt by Borrower of the Net Cash Proceeds of such Disposition or Event of Loss, Borrower shall prepay the Obligations in an aggregate amount equal to 100% of the amount of all such Net Cash Proceeds; *provided* that (x) so long as no Default or Event of Default then exists, this subsection shall not require any such prepayment with respect to Net Cash Proceeds received on account of an Event of Loss so long as such Net Cash Proceeds are applied to replace or restore the relevant Property in accordance with the relevant Collateral Documents, (y) this subsection shall not require any such prepayment with respect to Net Cash Proceeds received on account of Dispositions during any fiscal year of Borrower not exceeding $250,000 in the aggregate so long as no Default or Event of Default then exists, and (z) in the case of any Disposition not covered by clause (y) above, so long as no Default or Event of Default then exists, if Borrower states in its notice of such event that Borrower intends to reinvest, within 90 days of the applicable Disposition, the Net Cash Proceeds thereof in assets similar to the assets which were subject to such Disposition, then Borrower shall not be required to make a mandatory prepayment under this subsection in respect of such Net Cash Proceeds to the extent such Net Cash Proceeds are actually reinvested in such similar assets with such 90-day period. Promptly after the end of such 90-day period, Borrower shall notify Bank whether Borrower has reinvested such Net Cash Proceeds in such similar assets, and, to the extent such Net Cash Proceeds have not been so reinvested, Borrower shall promptly prepay the Obligations in the amount of such Net Cash Proceeds not so reinvested. The amount of each such prepayment shall be applied first to the outstanding Term Loan until paid in full and then to cash collateralize the Bond L/C. If Bank so request, all proceeds of such Disposition or Event of Loss shall be deposited with Bank (or its agent) and held by it in a collateral account for the benefit of Bank (the *"Collateral Account"*). So long as no Default or Event of Default exists, Bank is authorized to disburse amounts representing such proceeds from the Collateral Account to or at Borrower's direction for application to or reimbursement for the costs of replacing, rebuilding or restoring such Property.

(ii) If after the Closing Date Borrower shall issue new equity securities (whether common or preferred stock or otherwise), other than equity securities issued to Holdings or Parent, Borrower shall promptly notify Bank of the estimated Net Cash Proceeds of such issuance to be received by or for the account of Borrower in respect thereof. Promptly upon receipt by Borrower of Net Cash Proceeds of such issuance, Borrower shall prepay the Obligations in an aggregate amount equal to 100% of the amount of such Net Cash Proceeds. The amount of each such prepayment shall be applied first to the outstanding Term Loan until paid in full and then to cash collateralize the Bond L/C. Borrower acknowledges that its performance hereunder shall not limit the rights and remedies of Bank for any breach of Section 6.19 or Section 7.1(c) hereof or any other terms of the Loan Documents.

(iii) If after the Closing Date Borrower shall issue any Indebtedness, other than Indebtedness permitted by Section 6.5 hereof, Borrower shall promptly notify Bank of the estimated Net Cash Proceeds of such issuance to be received by or for the account of Borrower in respect thereof. Promptly upon receipt by Borrower of Net Cash Proceeds of such issuance, Borrower shall prepay the Obligations in an aggregate amount equal to 100% of the amount of such Net Cash Proceeds. The amount of each such prepayment shall be applied first to the outstanding Term Loan until paid in full and then to cash collateralize the Bond L/C. Borrower acknowledges that its performance hereunder shall not limit the rights and remedies of Bank for any breach of Section 6.7 hereof or any other terms of the Loan Documents.

Section 2.6. *Increased Costs; Capital Adequacy; Funding Exceptions*.

(a) *Increased Costs; Capital Adequacy*. If Bank determines at any time that its Return (as defined below) has been reduced as a result of any Rule Change (as defined below), Bank may so notify Borrower and require Borrower, beginning thirty (30) days after such notice is received by Borrower, to pay it the amount necessary to restore its Return to what it would have been had there been no Rule Change. For purposes of this Section 2.6:

(i) *"Capital Adequacy Rule"* means any law, rule, regulation, guideline, directive, requirement or request regarding capital adequacy, or the interpretation or administration thereof by any Governmental Authority, whether or not having the force of law, that applies to any Related Bank (as defined below), including rules requiring financial institutions to maintain total capital in amounts based upon percentages of outstanding loans, binding loan commitments and letters of credit.

(ii) *"Related Bank"* includes (but is not limited to) Bank, any parent of Bank and any assignee of any interest of Bank hereunder.

(iii) *"Return"*, for any period, means the percentage determined by dividing (i) the sum of interest and ongoing fees earned by Bank under this Agreement during such period, by (ii) the average capital such Bank is required to maintain during such period as a result of its being a party to this Agreement, as determined by Bank based upon its total capital requirements and a reasonable attribution formula that takes account of the Capital Adequacy Rules then in effect, costs of issuing or maintaining the Loan and amounts received or receivable under this Agreement or the Note with respect to the Loan. Return may be calculated for each calendar quarter and for the shorter period between the end of a calendar quarter and the date of termination in whole of this Agreement.

(v) *"Rule Change"* means any change in any Capital Adequacy Rule occurring after the date of this Agreement, but the term does not include any changes that at the Closing Date are scheduled to take place under the existing Capital Adequacy Rules or any increases in the capital that Bank is required to maintain to the extent that the increases are required due to a regulatory authority's assessment of that Bank's financial condition.

(b) The initial notice sent by Bank shall be sent as promptly as practicable after Bank learns that its Return has been reduced, shall include a demand for payment of the amount necessary to restore Bank's Return for the subsequent quarter in which the notice is sent, and shall state in reasonable detail the cause for the reduction in its Return and its calculation of the amount of such reduction. Thereafter, Bank may send a new notice during each calendar quarter setting forth the calculation of the reduced Return for that quarter and including a demand for payment of the amount necessary to restore its Return for that quarter. Bank's calculation in any such notice shall be prima facie evidence of such amount.

(c) Borrower shall not be required to compensate Bank pursuant to the provisions of this Section 2.6 for any reduction of its Return suffered more than 90 days prior to the date that Bank notifies Borrower of the Rule Change giving rise to such reduction and of Bank's intention to claim compensation therefore; *provided*, that any Rule Change that is applied retroactively shall be applied retroactively, then the 90 day period referred to above shall be extended to include the period of retroactive effect hereof.

Section 2.7. *Liability Records*. Bank may maintain from time to time, at its discretion, records as to the Obligations. All entries made on any such record shall be presumed correct until Borrower establishes the contrary. Upon Bank's demand, Borrower will admit and certify in writing the exact principal balance of the Obligations that Borrower then asserts to be outstanding. Any billing statement or accounting rendered by Bank shall be conclusive and fully binding on Borrower unless Borrower gives Bank specific written notice of exception within 30 days after receipt.

## Article III
## Security Interest; Guaranties

Section 3.1. *Guaranties* The payment and performance of the Obligations shall at all times be guaranteed by Parent, Holdings and each direct and indirect Subsidiary of Parent (Parent, Holdings and such Subsidiaries shall be collectively referred to herein as the "*Guarantors*") pursuant to one or more guaranty agreements in form and substance reasonably acceptable to Bank, as the same may be amended, modified, or supplemented from time to time (individually a "*Guaranty*" and collectively the "*Guaranties*"). Notwithstanding the foregoing or anything contained herein or in any other Loan Document to the contrary, (i) Parent shall be permitted to sell its interest in Landec AG or Cal Ex, and/or (ii) Parent in its reasonable business judgment shall be permitted to authorize Landec AG and/or Cal Ex to wind down, dissolve or ortherwise terminate its existence (and any such wind down, dissolution or termination shall not constitute an Event of Default hereunder), in each case without any prior approval or consent of Bank.

Section 3.2. *Grant of Security Interest*. Borrower hereby pledges, assigns and grants to Bank a Lien and security interest (collectively referred to as the "*Security Interest*") in the Collateral, as security for the payment and performance of the Obligations. Upon request by Bank, Borrower will grant Bank a security interest in all commercial tort claims it may have against any Person.

All of the foregoing shall be evidenced by and subject to the terms of such security agreements, financing statements and other documents as Bank shall reasonably require, all in form and substance satisfactory to Bank (including, without limitation, the Security Documents). Borrower shall reimburse Bank within fifteen (15) days after written demand for all reasonable costs and expenses incurred by Bank in connection with any of the foregoing security, including without limitation, filing and recording fees and costs of appraisals and audits.

Section 3.3. *Financing Statements*. Borrower authorizes Bank to file from time to time where permitted by law, such financing statements against collateral described as "all personal property" or describing specific items of collateral including commercial tort claims as Bank deems necessary or useful to perfect the Security Interest, including, without limitation, amendments to any financing statements that were filed prior to the Closing Date. A carbon, photographic or other reproduction of this Agreement or of any financing statements authorized by Borrower is sufficient as a financing statement and may be filed as a financing statement in any state to perfect the security interests granted hereby.

Section 3.4. *Pledge of Equity Interest in Borrower*. The Obligations and the Guaranty delivered by Holdings shall at all times be secured by a pledge of all of Holdings' equity interest in Borrower pursuant to the Security Agreement and Collateral Assignment of Membership Interest.

## ARTICLE IV
## CONDITIONS OF LENDING

Section 4.1. *Conditions Precedent to the Loan*. The obligation of Bank to extend any credit contemplated by this Agreement is subject to the fulfillment to Bank's satisfaction of all of the following conditions:

(a) This Agreement, duly executed by Borrower and Bank.

(b) The Note, duly executed by Borrower.

(c) The Security Documents, duly executed by Borrower and Holdings (as applicable), together with (i) any financing statements requested by Bank, (ii) an acknowledgment to the collateral assignment of Holdings' membership interest in the Borrower, (iii) deposit account, securities account, and commodity account control agreements to the extent requested by Bank, and (v) landlord waiver letters for Borrower's collateral locations to the extent required by Bank.

(d) The Guaranties, duly executed by each of the Guarantors.

(e) One or more certificates of Borrower's Secretary or Assistant Secretary certifying that attached to such certificate, or incorporated therein, are (i) the resolutions of Borrower's Directors authorizing the execution, delivery and performance of the Loan Documents to which Borrower is a party, (ii) true, correct and complete copies of Borrower's Constituent Documents, and (iii) examples of the signatures of Borrower's Officers or agents authorized to execute and deliver the Loan Documents to which Borrower is a party and other instruments, agreements and certificates, on Borrower's behalf.

(f) A current certificate issued by the Secretary of State of Minnesota, certifying that Borrower is in good standing and is in compliance with all applicable formation requirements of the State of Minnesota.

(g) One or more certificates from each Guarantor's Secretary or Assistant Secretary certifying that attached to such certificate, or incorporated therein, are (i) the resolutions of each Guarantor's Directors authorizing the execution, delivery and performance of the Loan Documents to which such Guarantor is a party, (ii) true, correct and complete copies of each Guarantor's Constituent Documents, and (iii) examples of the signatures of each Guarantor's corporate officers or agents authorized to execute and deliver the Loan Documents to which such Guarantor is a party and other instruments, agreements and certificates on such Guarantor's behalf.

(h) Current copies of the certificates of good standing for each Guarantor from the office of the secretary of the state of its incorporation or organization;

(i) Evidence that Borrower is duly licensed or qualified to transact business in all jurisdictions where the character of the property owned or leased or the nature of the business transacted by it makes such licensing or qualification necessary.

(j) A certificate of an Officer of Borrower confirming that the representations and warranties contained in this Article IV and Article V are correct on and as of the Closing Date as though made on and as of such date, except to the extent that such representations and warranties relate solely to an earlier date.

(k) A favorable opinion of counsel to Borrower and Guarantors, addressed to Bank.

(l) Certificates of the insurance required hereunder, with all hazard insurance containing a lender's loss payable endorsement in Bank's favor and with all liability insurance naming Bank as an additional insured.

(m) Payment of reasonable expenses incurred by Bank through such date and required to be paid by Borrower under Section 8.5 including all reasonable legal expenses.

(n) The capital and organizational structure of Holdings and Borrower shall be reasonably satisfactory to Bank.

(o) Bank shall have received financing statement, tax, and judgment lien search results against the Property of Borrower and each Guarantor evidencing the absence of Liens on the Collateral except as permitted by Section 6.4 hereof.

(p) Bank shall have received pay-off and lien release letters from secured creditors of Borrower setting forth, among other things, the total amount of Indebtedness outstanding and owing to them (or outstanding letters of credit issued for the account of Borrower) and containing an undertaking to cause to be delivered to Bank UCC termination statements and any other lien release instruments necessary to release their Liens on the assets of Borrower, which pay-off and lien release letters shall be in form and substance reasonably acceptable to Bank.

(q) Intentionally Omitted.

(r) Receipt by Bank of copies of the Bond Documents**,** the management fee agreement (if any)**,** the Transaction Bonus Plan and the Stock Purchase Agreement.

(s) Since March 31, 2010, no material adverse change in the financial condition of the Companies or Parent shall have occurred since the date of the most recent financial statement of Borrower or Parent, as applicable, received by Bank.

(t) A duly completed Internal Revenue Service Form W-9 for Borrower and each Guarantor.

(u) The representations and warranties in the Stock Purchase Agreement shall be true and correct in all material respects as of the Closing Date, and the Acquisition shall close prior to or concurrently with the funding of the Loans without the waiver by Parent, Holdings or Borrower of any material conditions to any of their obligations under the Stock Purchase Agreement.

(v) The Acquisition shall have been approved by Holdings' Directors and (if necessary) owners, and all necessary legal and regulatory approvals with respect to the Acquisition shall have been obtained. On the Closing Date, both before and after giving effect to the Acquisition, there shall be no injunction, temporary restraining order or other legal action in effect which would prohibit or seek to unwind the Acquisition or any component thereof, or would prohibit the making of the Loans, or other litigation which would reasonably be expected to have a Material Adverse Effect, shall be pending, or to the best knowledge of Borrower, threatened.

(w) No event has occurred and is continuing, or would result from making the Loan, which constitutes a Default or an Event of Default.

(x) Such other documents as Bank may reasonably require.

Section 4.2. *Conditions Subsequent to the Loan*. Not later than fifteen (15) days after the Closing Date, the Borrower shall deliver to Bank the Companies' *pro forma* balance sheet as of the Closing Date after giving effect to the transactions contemplated by this Agreement.

## Article V
## Representations and Warranties

Borrower represents and warrants to Bank as follows:

Section 5.1. *Existence and Power; Name; Chief Executive Office; Inventory and Equipment Locations; Federal Employer Identification Number*. Borrower is a limited liability company, duly organized, validly existing and in good standing under the laws of the State of Minnesota, and is duly licensed or qualified to transact business in all jurisdictions where the character of the property owned or leased or the nature of the business transacted by it makes such licensing or qualification necessary, except where the failure to be so qualified would not, individually or in the aggregate, have a Material Adverse Effect. Borrower has all requisite power and authority to conduct its business, to own its properties and to execute and deliver, and to perform all of its obligations under, the Loan Documents to which it is a party. During its existence, Borrower has done business solely under the names set forth in Schedule 5.1 and all of Borrower's records relating to its business or the Collateral are kept at the location set forth on Schedule 5.1. Borrower's chief executive office and principal place of business is located at the address set forth in Schedule 5.1. All Inventory and Equipment is located at that location or at one of the other locations listed in Schedule 5.1. Borrower's federal employer identification number and organizational identification number are each correctly set forth in Section 5.1.

Section 5.2. *Capitalization*. Except as set forth on Schedule 5.2, the Borrower does not own or control or have any contract to acquire any ownership interests.

Section 5.3. *Authorization of Borrowing; No Conflict as to Law or Agreements*. The execution, delivery and performance by Borrower of the Loan Documents to which it is a party and the borrowings from time to time hereunder have been duly authorized by all necessary corporate action and do not and will not (i) require any consent or approval of Borrower's owners; (ii) require any authorization, consent or approval by, or registration, declaration or filing with, or notice to, any Governmental Authority, or any third Person, except such authorization, consent, approval, registration, declaration, filing or notice as has been obtained, accomplished or given prior to the date hereof; (iii) violate any provision of any law, rule or regulation (including Regulation X of the Board of Governors of the Federal Reserve System) or of any order, writ, injunction or decree presently in effect having applicability to Borrower or of Borrower's Constituent Documents; (iv) result in a breach of or constitute a default under any indenture or loan or credit agreement or any other material agreement, lease or instrument to which Borrower is a party or by which it or its properties may be bound or affected, in each case, the failure of which to comply with would result in a Material Adverse Effect; or (v) result in, or require, the creation or imposition of any Lien (other than the Security Interest) upon or with respect to any of the properties now owned or hereafter acquired by Borrower.

Section 5.4. *Legal Agreements*. This Agreement and the other Loan Documents to which Borrower is a party, upon their execution and delivery in accordance with the provisions hereof, will constitute the legal, valid and binding obligations of Borrower, enforceable against Borrower in accordance with their respective terms, except as enforcement may be limited by equitable principles or by bankruptcy, insolvency, reorganization, moratorium, or similar laws relating to or limiting creditors' rights generally or by general principles of equity.

Section 5.5. *Subsidiaries*. Borrower has no Subsidiaries other than as set forth in Schedule 5.5 hereto.

Section 5.6. *Financial Condition; No Adverse Change*. Borrower has furnished to Bank the Companies' audited financial statements for the fiscal year ended December 31, 2009 and unaudited financial statements as of and for the period ended March 31, 2010, and those statements fairly present in all material respects the Companies' financial condition on the dates thereof and the results of their operations and cash flows for the periods then ended and were prepared in accordance GAAP, except with respect to the unaudited financial statements, for the absence of footnotes and year-end adjustments. Since March 31, 2010, there has been no change in the Companies' business, properties or condition (financial or otherwise) which has had a Material Adverse Effect (it being understood that the transactions contemplated in the Stock Purchase Agreement shall not be deemed to have a Material Adverse Effect.

Section 5.7. *Litigation*. There are no actions, suits or proceedings pending or, to Borrower's knowledge, threatened against or affecting Borrower or any of its Affiliates or the properties of Borrower or any Guarantor before any court or governmental department, commission, board, bureau, agency or instrumentality, domestic or foreign, which, is reasonably likely to be adversely determined and, if determined adversely to Borrower or any of Guarantor, would have a Material Adverse Effect.

Section 5.8. *Regulation U*. 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 Loan will be used to purchase or carry any margin stock or to extend credit to others for the purpose of purchasing or carrying any margin stock.

Section 5.9. *Taxes*. Borrower and the Guarantors have paid or caused to be paid to the proper authorities when due all federal and other material state and local taxes required to be paid by each of them (other than taxes that are being contested in good faith through appropriate processes and for which adequate reserves have been established) and Borrower has no knowledge of any pending assessments or adjustments of its income tax payable with respect to any year or the income tax payable by any Guarantor with respect to any year. Except as set forth in Schedule 5.9, Borrower and the Guarantors have filed all federal, state and local tax returns which to the knowledge of the Officers of Borrower or the officers of any Guarantor, as the case may be, are required to be filed, and Borrower and the Guarantors have paid or caused to be paid to the respective taxing authorities all taxes as shown on said returns or on any assessment received by any of them to the extent such taxes have become due.

Section 5.10. *Titles and Liens*. Borrower has good and absolute title to all Collateral free and clear of all Liens other than Permitted Liens. No financing statement naming Borrower as debtor is on file in any office except to perfect only Permitted Liens.

Section 5.11. *Intellectual Property Rights*.

(a) *Owned Intellectual Property*. Schedule 5.11 (as updated by written notice to Bank from time to time) contains a complete list of all patents, applications for patents, trademarks, applications for trademarks, service marks, applications for service marks, mask works, trade dress and copyrights for which Borrower is the registered owner (the *"Owned Intellectual Property"*). Except for Immaterial Intellectual Property Rights or as otherwise disclosed on Schedule 5.11, (i) Borrower owns the Owned Intellectual Property free and clear of all Liens other than Permitted Liens, (ii) no Person other than Borrower owns or has been granted any right in the Owned Intellectual Property, (iii) all Owned Intellectual Property is valid, subsisting and enforceable, and there are no existing, or to Borrower's knowledge, threatened claims challenging Borrower's ownership of, or the validity or enforceability of the owned Intellectual Property, and (iv) Borrower has taken all commercially reasonable action necessary to maintain the Owned Intellectual Property.

(b) *Agreements with Employees and Contractors*. To Borrower's knowledge, Borrower has entered into a legally enforceable agreement with each of its employees and subcontractors obligating each such Person to assign to Borrower, without any additional compensation, any Intellectual Property Rights created, discovered or invented by such Person in the course of such Person's employment or engagement with Borrower (except to the extent prohibited by law), and further requiring such Person to cooperate with Borrower, without any additional compensation, in connection with securing and enforcing any Intellectual Property Rights therein; *provided* that the foregoing shall not apply with respect to employees and subcontractors whose job descriptions are of the type such that no such assignments are reasonably foreseeable.

(c) *Intellectual Property Rights Licensed from Others*. Schedule 5.11 (as updated by written notice to Bank from time to time) contains a complete list of all agreements under which Borrower has licensed Intellectual Property Rights from another Person (*"Licensed Intellectual Property"*) other than readily available, non-negotiated licenses of computer software and other intellectual property used solely for performing accounting, word processing and similar administrative tasks (*"Off-the-shelf Software"*). Except as disclosed on Schedule 5.11 and in written agreements copies of which have been given to Bank, Borrower's licenses to use the Licensed Intellectual Property are free and clear of all restrictions, Liens, court orders, injunctions, decrees, or writs, whether by written agreement or otherwise. Except as disclosed on Schedule 5.11 (as updated by written notice to Bank from time to time), Borrower is not obligated or under any liability whatsoever to make any payments of a material nature by way of royalties, fees or otherwise to any owner of, licensor of, or other claimant to, any Intellectual Property Rights.

(d) *Other Intellectual Property Needed for Business*. Except for Off-the-shelf Software and as disclosed on Schedule 5.11 (as updated by written notice to Bank from time to time), the Owned Intellectual Property and the Licensed Intellectual Property constitute all Intellectual Property Rights used or necessary to conduct Borrower's business as it is presently conducted.

(e) *Infringement*. Except as disclosed on Schedule 5.11 (as updated by written notice to Bank from time to time), Borrower has no knowledge of, and has not received any written claim or notice alleging, any Infringement of another Person's Intellectual Property Rights (including any written claim that Borrower must license or refrain from using the Intellectual Property Rights of any third party).

Section 5.12. *Plans*. Except as disclosed to Bank in writing prior to the date hereof, neither Borrower nor any ERISA Affiliate (i) maintains or has maintained any Pension Plan, (ii) contributes or has contributed to any Multiemployer Plan or (iii) provides or has provided post-retirement medical or insurance benefits with respect to employees or former employees (other than benefits required under Section 601 of ERISA, Section 4980B of the IRC or applicable state law). Neither Borrower nor any ERISA Affiliate has received any notice that it is not in full compliance with any of the requirements of ERISA, the IRC or applicable state law with respect to any Plan. To Borrower's knowledge, no Reportable Event exists in connection with any Pension Plan. Each Plan which is intended to qualify under the IRC is so qualified or exempt by the IRS, to Borrower's knowledge, and no fact or circumstance exists which is reasonably likely to have an adverse effect on the Plan's tax-qualified status. Neither Borrower nor any ERISA Affiliate has (i) any accumulated funding deficiency (as defined in Section 302 of ERISA and Section 412 of the IRC) under any Plan, whether or not waived, (ii) any liability under Section 4201 or 4243 of ERISA for any withdrawal, partial withdrawal, reorganization or other event under any Multiemployer Plan or (iii) any liability or knowledge of any facts or circumstances which could result in any liability to the Pension Benefit Guaranty Corporation, the Internal Revenue Service, the Department of Labor or any participant in connection with any Plan (other than routine claims for benefits under the Plan).

Section 5.13. *Default*. Borrower is in compliance with all provisions of all agreements, instruments, decrees and orders to which it is a party or by which it or its Property is bound or affected, the breach or default of which would have a Material Adverse Effect.

Section 5.14. *Environmental Matters*. (a) To Borrower's knowledge, there are not present in, on or under the Premises, any Hazardous Substances except in the ordinary course of business and in compliance with applicable Environmental Law. Except in the ordinary course of business and in compliance with applicable Environmental Law, no Hazardous Substances have ever been stored, buried, spilled, leaked, discharged, emitted or released in, on or under the Premises.

(b) To Borrower's knowledge, Borrower has not disposed of Hazardous Substances except in the ordinary course of business and in compliance with applicable Environmental Law.

(c) Since January 1, 2005, to Borrower's knowledge, Borrower has not received any written notice of any requests, claims, notices, investigations, demands, administrative proceedings, hearings or litigation, relating in any way to the Premises or Borrower, alleging material liability under, violation of, or noncompliance with any Environmental Law or any license, permit or other authorization issued pursuant thereto. To Borrower's knowledge, no such matter is threatened or impending.

(d) To Borrower's knowledge, Borrower's businesses are and have in the past always been conducted in compliance in all material respects with all Environmental Laws and all licenses, permits and other authorizations required pursuant to any Environmental Law and necessary for the lawful and efficient operation of such businesses are in Borrower's possession and are in full force and effect.

(e) To Borrower's best knowledge, the Premises are not and never have been listed on the National Priorities List, the Comprehensive Environmental Response, Compensation and Liability Information System or any similar federal, state or local list, schedule, log, inventory or database.

(f) Borrower has made available to Bank all environmental assessments, audits, reports, permits, licenses and other documents describing or relating in any way to the Mortgaged Premises or Borrower's businesses.

Section 5.15. *Submissions to Bank*. The representations and warranties made by Borrower in this Agreement and all financial and other information provided to Bank by or on behalf of Borrower in connection with Borrower's request for the credit facilities contemplated hereby are (i) true and correct in all material respects, (ii) do not omit any material fact necessary to make such representations, warranties or information not misleading in any material respect when made, and (iii) as to projections, valuations or proforma financial statements, present a good faith opinion as to such projections, valuations and proforma condition and results.

Section 5.16. *Financing Statements*. Borrower has authorized the filing of financing statements sufficient when filed to perfect the Security Interest and the other security interests created by the Security Documents. When such financing statements are filed in the offices noted therein, Bank will have a valid and perfected security interest in all Collateral which is capable of being perfected by filing financing statements. None of the Collateral is or will become a fixture on real estate, unless a sufficient fixture filing is in effect with respect thereto.

Section 5.17. *Rights to Payment*. To Borrower's best knowledge, each right to payment and each instrument, document, chattel paper and other agreement constituting or evidencing Collateral is (or, in the case of all future Collateral, will be when arising or issued) the valid, genuine and legally enforceable obligation, subject to no defense, setoff or counterclaim, of the Account Debtor or other obligor named therein or in Borrower's records pertaining thereto as being obligated to pay such obligation.

Section 5.18. *Broker Fees*. No broker's or finder's fee or commission will be payable with respect hereto or any of the transactions contemplated thereby; and Borrower hereby indemnifies Bank against, and agrees that it will hold Bank harmless from, any claim, demand, or liability for any such broker's or finder's fees alleged to have been incurred in connection herewith or therewith and any expenses (including reasonable attorneys' fees) arising in connection with any such claim, demand, or liability.

Section 5.19. *No Default.* No Default or Event of Default has occurred and is continuing.

Section 5.20. *Fraudulent Transfer*. Borrower is Solvent. No transfer of property is being made by Borrower and no obligation is being incurred by Borrower in connection with the transactions contemplated by this Agreement or the other Loan Documents with the intent to hinder, delay, or defraud either present or future creditors of Borrower.

Section 5.21. *Permits, Franchises*. Borrower possesses, and will hereafter possess, all permits, consents, approvals, franchises and licenses required and rights to all trademarks, trade names, patents, and fictitious names, if any, necessary to enable it to conduct the business in which it is now engaged in compliance with applicable law and the failure of which to obtain would result in a Material Adverse Effect.

Section 5.22. *No Subordination*. There is no agreement, indenture, contract or instrument to which Borrower is a party or by which Borrower may be bound that requires the subordination in right of payment of any of Borrower's obligations subject to this Agreement to any other obligation of Borrower.

Section 5.23. *Compliance with Laws; OFAC*. (a) Borrower and the Guarantors are in compliance with the requirements of all foreign, federal, state and local laws, rules and regulations applicable to or pertaining to their Property or business operations (including, without limitation, the Occupational Safety and Health Act of 1970, the Americans with Disabilities Act of 1990, and laws and regulations establishing quality criteria and standards for air, water, land and toxic or hazardous wastes and substances), non-compliance with which, individually or in the aggregate, could reasonably be expected to have a Material Adverse Effect. Neither Borrower nor any Guarantor has received notice to the effect that its operations are not in compliance with any of the requirements of applicable federal, state or local environmental, health and safety statutes and regulations or are the subject of any governmental investigation evaluating whether any remedial action is needed to respond to a release of any toxic or hazardous waste or substance into the environment, which non-compliance or remedial action, individually or in the aggregate, could reasonably be expected to have a Material Adverse Effect.

(b) (i) Borrower is in compliance with the requirements of all OFAC Sanctions Programs applicable to it; (ii) each Guarantor is in compliance with the requirements of all OFAC Sanctions Programs applicable to such Guarantor; (iii) Borrower has provided to Bank all information regarding Borrower and its Affiliates and the Guarantors necessary for Bank to comply with all applicable OFAC Sanctions Programs; and (iv) to the best of Borrower's knowledge, neither Borrower nor any of its Affiliates or the Guarantors is, as of the date hereof, named on the current OFAC SDN List.

Section 5.24. *Investment Company.* Borrower is not an "investment company" or a company "controlled" by an "investment company" within the meaning of the Investment Company Act of 1940, as amended.

Section 5.25. *Stock Purchase Agreement.* Borrower has provided to Bank a true and correct copy of the Stock Purchase Agreement. The Stock Purchase Agreement is in full force and effect and has not, except as reflected in amendments provided to Bank, been amended or modified in any material respect from the version so delivered to Bank, and no material condition to the effectiveness thereof or the obligations of the Seller, Parent, Holdings or Borrower thereunder have been waived, except to the extent approved by Bank, and Borrower is not aware of any default thereunder. No authorization, consent, license, or exemption from, or filing or registration with, any court or governmental department, agency, or instrumentality, nor any approval or consent of any other Person, is or will be necessary to the valid execution, delivery, or performance by Borrower of the Stock Purchase Agreement or of any other instrument or document executed and delivered in connection therewith, except for such thereof that have been heretofore obtained and remain in full force and effect.

## **Article VI**
## **Covenants**

So long as the Obligations shall remain unpaid, or the Credit Facility shall remain outstanding, Borrower will comply with the following requirements, unless Bank shall otherwise consent in writing:

Section 6.1. *Punctual Payments*. Borrower shall punctually pay all principal, interest, fees or other liabilities due under any of the Loan Documents at the times and place and in the manner specified therein.

Section 6.2. *Reporting Requirements*. Borrower will deliver, or cause to be delivered, to Bank each of the following, which shall be in form and detail reasonably acceptable to Bank:

(a) *Financial Statements*.

(i) As soon as available, and in any event within 90 days after the end of each fiscal year of Parent (or within 120 days in the case of filing Parent's annual Form 10-K with the Securities and Exchange Commission), Borrower will deliver, or cause to be delivered, to Bank, audited financial statements of Parent with the unqualified opinion of independent certified public accountants selected by Parent and acceptable to Bank, which annual financial statements shall include Parent's balance sheet as at the end of such fiscal year and the related statements of Parent's income, reconciliation of retained earnings and cash flows for the fiscal year then ended, prepared on a consolidated basis to include Parent's Subsidiaries and any Affiliates, all in reasonable detail and prepared in accordance with GAAP, together with (A) copies of all management letters prepared by such accountants; and (B) a certificate of the chief financial officer of Parent stating that such financial statements have been prepared in accordance with GAAP, fairly represent Parent's financial position and the results of its operations, and whether or not such officer has knowledge of the occurrence of any Default or Event of Default and, if so, stating in reasonable detail the facts with respect thereto.

(ii) As soon as available, and in any event within 45 days after the end of each fiscal quarter of Parent, Borrower will deliver, or cause to be delivered, to Bank, Parent's internally-prepared financial statements, which financial statements shall include Parent's balance sheet as at the end of such fiscal quarter and the related statements of Parent's income, reconciliation of retained earnings and cash flows for the fiscal quarter then ended, prepared on a consolidated basis to include Parent's Subsidiaries and any Affiliates, all in reasonable detail and prepared in accordance with GAAP.

(iii) As soon as available, and in any event within 60 days after the end of each fiscal year of Borrower, Borrower will deliver to Bank an unaudited/internal balance sheet and statements of income and reconciliation of retained earnings of the Companies as at the end of and for such fiscal year, prepared, if Bank so requests, on a consolidating and consolidated basis to include any Subsidiaries, in reasonable detail and stating in comparative form the figures for the corresponding date and periods in the previous year, all prepared in accordance with GAAP, subject to year-end audit adjustments and fairly representing in all material respects the Companies' and their Subsidiaries' financial position and the results of their operations.

(iv) As soon as available, and in any event within 30 days after the end of each fiscal quarter of Borrower, Borrower will deliver to Bank an unaudited/internal balance sheet and statements of income and reconciliation of retained earnings of the Companies as at the end of and for such fiscal quarter and for the year to date period then ended, prepared, if Bank so requests, on a consolidating and consolidated basis to include any Subsidiaries, in reasonable detail and stating in comparative form the figures for the corresponding date and periods in the previous year, all prepared in accordance with GAAP, subject to year-end audit adjustments and fairly representing in all material respects the Companies' and their Subsidiaries' financial position and the results of their operations.

(b) *Other Information*. Borrower will, or cause Parent to, deliver to Bank the following documents at the following times in form reasonably satisfactory to Bank:

| | | |
|---|---|---|
| Quarterly | (i) | a certificate of the chief financial officer of Borrower, substantially in the form of Exhibit B-1 hereto stating (i) whether or not such officer has knowledge of the occurrence of any Default or Event of Default not theretofore reported and remedied and, if so, stating in reasonable detail the facts with respect thereto, and (ii) all relevant facts in reasonable detail to evidence, and the computations as to, whether or not Borrower is compliance with the Financial Covenants set forth in Section 6.3(a) and other covenants contained in this Agreement, |
| | (ii) | a certificate of the chief financial officer of Parent, substantially in the form of Exhibit B-2 hereto stating all relevant facts in reasonable detail to evidence, and the computations as to, whether or not Parent is compliance with the Financial Covenants set forth in Section 6.3(b), |
| Upon request by Bank | (iii) | such other reports or information as to the Collateral, or the financial condition of Borrower, or otherwise, as Bank may reasonably request. |

(c) *Projections*. Within 30 days after the beginning of each fiscal year of Parent, Borrower will deliver, or will cause Parent to deliver, to Bank the projected balance sheets and income statements for each month of such year for Parent and its Subsidiaries on a consolidating basis and for Borrower, each in reasonable detail, representing Borrower's good faith projections and certified by the chief financial officer of Borrower and Parent, as applicable, as being the most accurate projections available and identical to the projections used by Borrower and Parent for internal planning purposes, together with a statement of underlying assumptions and such supporting schedules and information as Bank may in its discretion reasonably require.

(d) *Litigation*. Immediately after the commencement thereof, Borrower will deliver to Bank notice in writing of all litigation and of all proceedings before any governmental or regulatory agency affecting Borrower (i) of the type described in Section 5.14(c) or (ii) which seek a monetary recovery against Borrower in excess of $500,000.

(e) *Defaults*. As promptly as practicable (but in any event not later than five business days) after an Officer of Borrower obtains knowledge of the occurrence of any Default or Event of Default, Borrower will deliver to Bank notice of such occurrence, together with a detailed statement by a responsible Officer of Borrower of the steps being taken by Borrower to cure the effect thereof.

(f) *Plans*. As soon as possible, and in any event within 30 days after Borrower knows or has reason to know that any Reportable Event with respect to any Pension Plan has occurred, Borrower will deliver to Bank a statement of the chief financial officer of Borrower setting forth details as to such Reportable Event and the action which Borrower proposes to take with respect thereto, together with a copy of the notice of such Reportable Event to the Pension Benefit Guaranty Corporation. As soon as possible, and in any event within 10 days after Borrower fails to make any quarterly contribution required with respect to any Pension Plan under Section 412(m) of the IRC, Borrower will deliver to Bank a statement of the chief financial officer of Borrower setting forth details as to such failure and the action which Borrower proposes to take with respect thereto, together with a copy of any notice of such failure required to be provided to the Pension Benefit Guaranty Corporation. As soon as possible, and in any event within 10 days after Borrower knows or has reason to know that it has or is reasonably expected to have any liability under Section 4201 or 4243 of ERISA for any withdrawal, partial withdrawal, reorganization or other event under any Multiemployer Plan, Borrower will deliver to Bank a statement of the chief financial officer of Borrower setting forth details as to such liability and the action which Borrower proposes to take with respect thereto.

(g) *Disputes*. Promptly upon knowledge thereof, Borrower will deliver to Bank notice of (i) any disputes or claims by Borrower's customers exceeding $250,000 individually or $500,000 in the aggregate during any fiscal year; or (ii) any goods returned to or recovered by Borrower with a value exceeding $250,000 from any individual Account Debtor or $500,000 in the aggregate from all Account Debtors.

(h) *Officers and Directors*. Promptly upon knowledge thereof, Borrower will deliver to Bank notice of any change in the persons constituting Borrower's Officers and Directors or Management.

(i) *Collateral*. Promptly upon knowledge thereof, Borrower will deliver to Bank notice of any loss of or material damage to any material portion of the Collateral or of any substantial adverse change in any material portion of the Collateral or the prospect of payment thereof.

(j) *Commercial Tort Claims*. Promptly upon knowledge thereof, Borrower will deliver to Bank notice of any commercial tort claims it may bring against any person, including the name and address of each defendant, a summary of the facts, an estimate of Borrower's damages, copies of any complaint or demand letter submitted by Borrower, and such other information as Bank may request.

(k) Intellectual Property.

(i) Borrower will give Bank 30 days prior written notice of its intent to acquire material Intellectual Property Rights; except for transfers permitted under Section 6.19, Borrower will give Bank 30 days prior written notice of its intent to dispose of material Intellectual Property Rights; and upon request, shall provide Bank with copies of all applicable documents and agreements.

(ii) Promptly upon knowledge thereof, Borrower will deliver to Bank notice of (A) any Infringement of its Intellectual Property Rights by others, (B) claims that Borrower is Infringing another Person's Intellectual Property Rights and (C) any threatened cancellation, termination or material limitation of its Intellectual Property Rights.

(iii) Promptly upon receipt, Borrower will give Bank copies of all registrations and filings with respect to its Intellectual Property Rights.

(l) *Reports to Owners*. Promptly upon their distribution, Borrower will deliver to Bank copies of all financial statements, reports and proxy statements which Parent shall have sent to its shareholders.

(m) *SEC Filings*. Promptly after the sending or filing thereof, Borrower will deliver to Bank copies of all regular and periodic reports which Parent shall file with the Securities and Exchange Commission or any national securities exchange.

(n) *Violations of Law*. Promptly upon knowledge thereof, Borrower will deliver to Bank notice of Borrower's violation of any law, rule or regulation, the non-compliance with which could materially and adversely affect Borrower's business or its financial condition.

(o) *Contingent Purchase Price Payments.* Promptly upon notice thereof, Borrower will provide notice to Bank of any Contingent Purchase Price Payments that are due (including any accelerated Contingent Purchase Price Payments).

(p) *Other Reports*. From time to time, with reasonable promptness, Borrower will deliver to Bank any and all receivables schedules, collection reports, deposit records, Equipment schedules, copies of invoices to Account Debtors, shipment documents and delivery receipts for goods sold, and such other material, reports, records or information as Bank may reasonably request.

Section 6.3. *Financial Covenants*.

(a) *Borrower's Financial Covenants.*

(i) *Minimum Net Income After Taxes.* (A) Borrower, together with the other Companies, will maintain, as of the last day each fiscal quarter (other than the fiscal quarter ending August 31, 2010), Net Income After Taxes of not less than $1.00 for the four fiscal quarters then ended.

(B) Borrower, together with other Companies, will maintain, as of August 31, 2010, Net Income After Taxes of not less than $500,000 for the fiscal quarter ending August 31, 2010.

(C) Borrower, together with other Companies, will not, at any time, have Net Income After Taxes less than or equal to $1.00 for any two (2) consecutive fiscal quarters.

For purposes of this Section 6.3(a)(i) Net Income After Taxes shall be determined, to the extent that the Borrower is treated as a pass-through entity for tax purposes, by calculating Net Income before taxes for the four fiscal quarters then ended *minus* dividends and other distributions paid during the same four fiscal quarters to each of Holdings and any other member of the Borrower in connection with its federal income tax liability (and, if applicable, state income tax liability) attributable to its share of Borrower's taxable income (determined in accordance with the Code) (including estimated tax payments determined in good faith by Borrower which are required to be made by its members with respect thereto).

(ii) *Minimum Quick Ratio*. Borrower, together with the other Companies, shall not, as of the last day of each fiscal quarter, permit its Quick Ratio to be less than (i) 1.1 to 1.0 for each fiscal quarter ending during the period from the Closing Date through and including the fiscal quarter ending May 31, 2011, and (ii) 1.25 to 1.0 for each fiscal quarter ending after June 1, 2011.

(iii) *Fixed Charge Coverage Ratio.* As of the last day of each fiscal quarter of Borrower ending during the relevant period set forth below (commencing with the fiscal quarter ending November 30, 2010), Borrower, together with the other Companies, will maintain a Fixed Charge Coverage Ratio of not less than the corresponding ratio set forth opposite such period:

| Period(s) Ending | Fixed Charge Coverage Ratio shall not be less than: |
|---|---|
| Fiscal quarters ending November 30, 2010 through and including May 31, 2011 | 1.20 to 1.0 |
| August 31, 2011 | 1.30 to 1.0 |
| November 30, 2011 | 1.40 to 1.0 |
| January 31, 2012 and each fiscal quarter ending thereafter | 1.50 to 1.0 |

(iv) *Capital Expenditures*. Borrower, together with the other Companies, will not incur financed or unfinanced Capital Expenditures of more than $3,000,000 in the aggregate during any fiscal year.

(b) *Parent's Financial Covenants.*

(i) *Minimum Net Income After Taxes.* Parent, together with its Subsidiaries, will maintain, as of the last day of each fiscal quarter, Net income after taxes of not less than $1.00 for the four fiscal quarters then ended.

(ii) *Leverage Ratio.* Parent, together with its Subsidiaries, shall not, as the last day of each fiscal quarter of Parent, permit the ratio of Funded Debt as of the last day of such fiscal quarter, to EBITDA for the four fiscal quarters then ended to be greater than 2.0 to 1.0.

Section 6.4. *Permitted Liens; Financing Statements*.

(a) Borrower will not create, incur or suffer to exist any Lien upon or of any of its assets, now owned or hereafter acquired, to secure any Indebtedness; excluding, however, from the operation of the foregoing, the following (collectively, *"Permitted Liens"*):

(i) covenants, restrictions, rights, easements and minor irregularities in title which do not materially interfere with Borrower's business or operations as presently conducted;

(ii) Liens in existence on the date hereof and listed in Schedule 6.4 hereto securing Indebtedness for borrowed money permitted under Section 6.5;

(iii) the Security Interest and Liens created by the Security Documents;

(iv) liens of carriers, warehousemen, mechanics, materialmen, vendors, and landlords and other similar liens imposed by law incurred in the ordinary course of business for sums not overdue or being contested in good faith, provided that adequate reserves for the payment thereof have been established in accordance with GAAP;

(v) deposits under workers' compensation, unemployment insurance and social security laws or to secure the performance of bids, tenders, contracts (other than for the repayment of borrowed money) or leases, or to secure statutory obligations of surety or appeal bonds or to secure indemnity, performance or other similar bonds in the ordinary course business;

(vi) banker's liens and similar liens (including set-off rights) in respect of bank deposits;

(vii) purchase money Liens incurred in connection with Capital Expenditures otherwise permitted pursuant to this Agreement; provided that such Liens attach only to the Equipment acquired thereby;

(viii) Liens incurred in connection with extensions, renewals or refinancings of the indebtedness secured by Liens of the type described above;

(ix) Liens incurred in connection with leases, subleases, licenses and sublicenses granted, in the ordinary course of Borrower's business, to Persons not interfering in any material respect with the business of Borrower and its Subsidiaries and any interest or title of a lessee or licensee under any such lease, sublease, license or sublicense; and

(x) so long as the Bond L/C has not been issued, Liens on a cash of Borrower to secure the letter of credit issued by M&I Bank to the Trustee; *provided*, that the aggregate amount of such cash does not at any one time exceed 105% of the reimbursement obligations under such letter of credit.

(b) Borrower will not amend any financing statements in favor of Bank except as permitted by law. Any authorization by Bank to any Person to amend financing statements in favor of Bank shall be in writing.

Section 6.5. *Indebtedness*. Borrower will not incur, create, assume or permit to exist any Indebtedness or liability on account of deposits or advances or any Indebtedness for borrowed money or letters of credit issued on Borrower's behalf, or any other Indebtedness or liability evidenced by notes, bonds, debentures or similar obligations, except:

(a) Indebtedness arising hereunder;

(b) Indebtedness of Borrower in existence on the date hereof and listed in Schedule 6.5 hereto;

(c) Indebtedness relating to Permitted Liens;

(d) Indebtedness of Borrower arising from the endorsement of instruments for collection in the ordinary course of business;

(e) Indebtedness of Borrower under initial or successive refinancings of any Indebtedness permitted by clause (b) or (c) above, *provided* that (i) the principal amount of any such refinancing does not exceed the principal amount of the Indebtedness being refinanced and (ii) the material terms and provisions of any such refinancing (including maturity, redemption, prepayment, default and subordination provisions) are no less favorable to Bank than the Indebtedness being refinanced;

(f) Indebtedness evidenced by the Bond Documents and the Bond L/C;

(g) Indebtedness of Borrower which may be deemed to exist in connection with any Contingent Purchase Price Payments;

(h) so long as the Bond L/C has not been issued, Indebtedness owing to M&I Bank so long as such Indebtedness is secured by a Lien permitted pursuant to Section 6.4(a)(x) hereof; and

(i) any Hedging Obligations in connection with bona fide hedging activities in the ordinary course of business and not for speculative purposes.

Section 6.6. *Guaranties*. Borrower will not assume, guarantee, endorse or otherwise become directly or contingently liable in connection with any obligations of any other Person, except the endorsement of negotiable instruments by Borrower for deposit or collection or similar transactions in the ordinary course of business.

Section 6.7. *Investments and Subsidiaries*. Borrower will not purchase or hold beneficially any stock or other securities or evidences of indebtedness of, make or permit to exist any loans or advances to, or make any investment or acquire any interest whatsoever in, any other Person, including any partnership or joint venture, except:

(a) investments in direct obligations of the United States of America or any agency or instrumentality thereof whose obligations constitute full faith and credit obligations of the United States of America having a maturity of one year or less, commercial paper issued by U.S. corporations rated "A-1" or "A-2" by Standard & Poor's Corporation or "P-1" or "P-2" by Moody's Investors Service or certificates of deposit or bankers' acceptances having a maturity of one year or less issued by members of the Federal Reserve System having deposits in excess of $100,000,000 (which certificates of deposit or bankers' acceptances are fully insured by the Federal Deposit Insurance Corporation) (each of the foregoing, collectively, *"Cash Equivalents"*);

(b) travel advances or loans to Borrower's Officers and employees not exceeding at any one time an aggregate of $50,000; and

(c) current investments in the Subsidiaries in existence on the date hereof and listed in Schedule 5.5 hereto.

Section 6.8. *Dividends and Distributions*. Borrower will not declare or pay any dividends (other than dividends payable solely in stock of Borrower) on any class of its stock or make any payment on account of the purchase, redemption or other retirement of any shares of such stock or make any distribution in respect thereof, either directly or indirectly; *provided, however,* that the foregoing shall not operate or prevent:

(i) the making of any dividends or distributions by any Subsidiary to Borrower,

(ii) Borrower may make dividends and distributions during any fiscal year in amounts necessary to allow Holdings to make payments in respect of its federal income tax liability (and, if applicable, state income tax liability) attributable to its share of Borrower's taxable income (determined in accordance with the Code) (including estimated tax payments determined in good faith by Borrower which are required to be made by its members with respect thereto) so long as Borrower shall have elected to be treated as an limited liability company or other pass-through entity for income tax purposes, and

(iii) the making of any other dividends or distributions to Holdings so long as both before and after giving effect to such dividends or other distributions (A) no Default or Event of Default has occurred and is continuing and (B) Borrower is in compliance with the Financial Covenants set forth in Section 6.3(a) hereof.

Section 6.9. *Salaries*. Borrower will not pay excessive or unreasonable salaries, bonuses, commissions, consultant fees or other compensation to the extent that such payment would cause an Event of Default.

Section 6.10. *Performance by Bank*. If Borrower at any time fails to perform or observe any of the foregoing covenants contained in this Article VI or elsewhere herein, and if such failure shall continue for a period of ten calendar days after Bank gives Borrower written notice thereof (or in the case of the agreement contained in Section 6.16, immediately upon the occurrence of such failure, without notice or lapse of time), Bank may, but need not, perform or observe such covenant or covenants on behalf and in the name, place and stead of Borrower (or, at Bank's option, in Bank's name) and may, but need not, take any and all other actions which Bank may reasonably deem necessary to cure or correct such failure (including the payment of taxes, the satisfaction of Liens, the performance of obligations owed to Account Debtors or other obligors, the procurement and maintenance of insurance, the execution of assignments, security agreements and financing statements, and the endorsement of instruments); and Borrower shall thereupon pay to Bank within fifteen (15) days after written demand the amount of all monies expended and all costs and expenses (including reasonable attorneys' fees and legal expenses) incurred by Bank in connection with or as a result of the performance or observance of such agreements or the taking of such action by Bank, together with interest thereon from the date expended or incurred at the Default Rate. To facilitate Bank's performance or observance of such covenants of Borrower, Borrower hereby irrevocably appoints Bank, or Bank's delegate, acting alone, as Borrower's attorney in fact (which appointment is coupled with an interest) with the right (but not the duty) from time to time to create, prepare, complete, execute, deliver, endorse or file in the name and on behalf of Borrower any and all instruments, documents, assignments, security agreements, financing statements, applications for insurance and other agreements and writings required to be obtained, executed, delivered or endorsed by Borrower under this Section 6.10.

Section 6.11. *Books and Records; Inspection and Examination*. Borrower will keep accurate books of record and account for itself pertaining to the Collateral and pertaining to Borrower's business and financial condition and such other matters as Bank may from time to time reasonably request in which true and complete entries will be made in accordance with GAAP and, upon Bank's request, will permit any officer, employee, attorney or accountant for Bank to audit, review, make extracts from or copy any and all company and financial books and records of Borrower during ordinary business hours and upon one Business Day's advance notice (unless a Default Period exists in which case no notice shall be required), and to discuss Borrower's affairs with any of its Directors, Officers, and/or accounting personnel. Borrower hereby irrevocably authorizes all accountants and third parties to disclose and deliver to Bank, at Borrower's expense, all financial information, books and records, work papers, management reports and other information in its possession regarding Borrower. Borrower will permit Bank, or its employees, accountants, attorneys or agents, to examine and inspect any Collateral or any other property of Borrower during ordinary business hours and upon one Business Day's advance notice (unless a Default Period exists in which case no notice shall be required).

Section 6.12. *Account Verification*. Bank may at any time and from time to time upon written notice to Borrower send or require Borrower to send requests for verification of accounts and amounts owed to Account Debtors and other obligors. Bank may also at any time an Event of Default has occurred and is continuing and from time to time telephone Account Debtors and other obligors to verify accounts and send such Account Debtors and other obligors notification of the assignment of Accounts to Bank.

Section 6.13. *Compliance with Laws; OFAC*.

(a) Borrower will (i) comply with the requirements of applicable laws and regulations, the non-compliance with which would materially and adversely affect its business or its financial condition and (ii) use and keep the Collateral, and require that others use and keep the Collateral, only for lawful purposes, without violation of any federal, state or local law, statute or ordinance.

(b) Without limiting the foregoing undertakings, Borrower specifically agrees that it will comply with all applicable Environmental Laws and obtain and comply with all permits, licenses and similar approvals required by any Environmental Laws, and will not generate, use, transport, treat, store or dispose of any Hazardous Substances except in the ordinary course of business and in compliance with applicable Environmental Law.

(c) (i) Borrower shall at all times comply with the requirements of all OFAC Sanctions Programs applicable to Borrower and shall cause each Guarantor to comply with the requirements of all OFAC Sanctions Programs applicable to such Guarantor; (ii) Borrower shall provide Bank any information regarding Borrower, its Affiliates, and each Guarantor necessary for Bank to comply with all applicable OFAC Sanctions Programs; subject however, in the case of Affiliates and Guarantors, to Borrower's ability to provide information applicable to them; and (iii) if Borrower obtains actual knowledge or receives any written notice that Borrower, any Affiliate or any Guarantor is named on the then current OFAC SDN List (such occurrence, an *"OFAC Event"*), Borrower shall promptly (x) give written notice to Bank of such OFAC Event, and (y) comply with all applicable laws with respect to such OFAC Event (regardless of whether the party included on the OFAC SDN List is located within the jurisdiction of the United States of America), including the OFAC Sanctions Programs, and Borrower hereby authorizes and consents to Bank taking any and all steps Bank deems necessary, in its sole but reasonable discretion, to avoid violation of all applicable laws with respect to any such OFAC Event, including the requirements of the OFAC Sanctions Programs (including the freezing and/or blocking of assets and reporting such action to OFAC).

Section 6.14. *Payment of Taxes and Other Claims*. Borrower will pay or discharge, when due, (a) all taxes, assessments and governmental charges levied or imposed upon it or upon its income or profits, upon any properties belonging to it (including the Collateral) or upon or against the creation, perfection or continuance of the Security Interest, prior to the date on which penalties attach thereto, (b) all federal, state and local taxes required to be withheld by it, and (c) all lawful claims for labor, materials and supplies which, if unpaid, might by law become a Lien upon any properties of Borrower; *provided* that Borrower shall not be required to pay any such tax, assessment, charge or claim whose amount, applicability or validity is being contested in good faith by appropriate proceedings and for which proper reserves have been made.

Section 6.15. *Maintenance of Properties*.

(a) Borrower will keep and maintain the Collateral and all of its other properties necessary or useful in its business in good condition, repair and working order (normal wear and tear excepted) and will from time to time replace or repair any worn, defective or broken parts; *provided* that nothing in this Section 6.15 shall prevent Borrower from discontinuing the operation and maintenance of any of its properties if such discontinuance is, in Borrower's commercially reasonable judgment, desirable in the conduct of Borrower's business and not disadvantageous in any material respect to Bank. Borrower will take all commercially reasonable steps necessary to protect and maintain its Intellectual Property Rights, other than Immaterial Intellectual Property Rights.

(b) Borrower will defend the Collateral against all Liens, claims or demands of all Persons (other than Bank) claiming the Collateral or any interest therein. Borrower will keep all Collateral free and clear of all Liens except Permitted Liens. Borrower will take all commercially reasonable steps necessary to prosecute any Person Infringing its Intellectual Property Rights and to defend itself against any Person accusing it of Infringing any Person's Intellectual Property Rights.

Section 6.16. *Insurance*. Borrower will obtain and at all times maintain insurance with insurers believed by Borrower to be responsible and reputable, in such amounts and against such risks as may from time to time be required by Bank, but in all events in such amounts and against such risks as is usually carried by companies engaged in similar business and owning similar properties in the same general areas in which Borrower operates. Without limiting the generality of the foregoing, Borrower will at all times keep all tangible Collateral insured against risks of fire (including so-called extended coverage), theft, collision (for Collateral consisting of motor vehicles) and such other risks and in such amounts as Bank may reasonably request, with any loss payable to Bank to the extent of its interest, and all policies of such insurance shall contain a lender's loss payable endorsement for Bank's benefit. All policies of liability insurance required hereunder shall name Bank as an additional insured.

Section 6.17. *Preservation of Existence*. Borrower will preserve and maintain its existence and all of its rights, privileges and franchises necessary or desirable in the normal conduct of its business and shall conduct its business in an orderly, efficient and regular manner.

Section 6.18. *Delivery of Instruments, etc*. Upon request by Bank, Borrower will promptly deliver to Bank in pledge all instruments, documents and chattel paper having a face value in excess of $25,000 constituting Collateral, duly endorsed or assigned by Borrower.

Section 6.19. *Sale or Transfer of Assets; Suspension of Business Operations*. Borrower will not sell, lease, assign, transfer or otherwise dispose of (i) the stock of any Subsidiary, (ii) all or a substantial part of its assets, or (iii) any Collateral or any interest therein (whether in one transaction or in a series of transactions) to any other Person other than (v) the sale of Inventory in the ordinary course of business, (w) dispositions of obsolete, surplus, worn or nonfunctional Equipment, (x) dispositions of cash or Cash Equivalents not otherwise prohibited under this Agreement, (y) transfers of Intellectual Property Rights as permitted under this Section 6.19 and (z) dispositions of other assets in any given fiscal year in an aggregate amount not to exceed $250,000. Borrower will not liquidate, dissolve or suspend business operations. Borrower will not transfer any part of its ownership interest in any Intellectual Property Rights except for transfers of Immaterial Intellectual Property Rights and licensing or sublicensing of Intellectual Property Rights in the ordinary course of Borrower's business. If Borrower transfers any Intellectual Property Rights for value, other than transfers of Immaterial Intellectual Property Rights and licensing or sublicensing of Intellectual Property Rights in the ordinary course of Borrower's business, Borrower will pay over the proceeds to Bank for application to the Obligations in accordance with Section 2.5(b) hereof. Bank hereby agrees that in the event Borrower licenses or sublicenses any Intellectual Property Rights pursuant to the terms of this Section 6.19, following written demand of Borrower, Bank shall execute a form of estoppel reasonably acceptable in form and substance to Borrower and Bank pursuant to which Bank shall represent that upon its exercise of any of its rights or remedies hereunder or under any other Loan Document with respect to the licensed or sublicensed Intellectual Property Rights, including a foreclosure under any Security Document, so long as there shall then exist no breach, default, or event of default on the part of the related licensee or sublicensee, as applicable, which breach, default or event of default has continued beyond any cure periods provided in the license or sublicense, Bank shall not extinguish or terminate the interest of the licensee or sublicensee, as applicable, by reason of such foreclosure.

Section 6.20. *Consolidation and Merger; Asset Acquisitions*. Borrower will not consolidate with or merge into any Person, or permit any other Person to merge into Borrower, or acquire (in a transaction analogous in purpose or effect to a consolidation or merger) all or substantially all the assets of any other Person.

Section 6.21. *Sale and Leaseback*. Borrower will not enter into any arrangement, directly or indirectly, with any other Person whereby Borrower shall sell or transfer any real or personal property, whether now owned or hereafter acquired, and then or thereafter rent or lease as lessee such property or any part thereof or any other property which Borrower intends to use for substantially the same purpose or purposes as the property being sold or transferred.

Section 6.22. *Restrictions on Nature of Business*. Borrower will not engage in any line of business materially different from that presently engaged in by Borrower or reasonably incidental thereto and will not purchase, lease or otherwise acquire assets not related to its business.

Section 6.23. *Accounting*. Borrower will not adopt any material change in accounting principles other than as required by GAAP. Borrower will not adopt, permit or consent to any change in its fiscal year.

Section 6.24. *Plans*. Unless disclosed to Bank pursuant to Section 5.12, neither Borrower nor any ERISA Affiliate will (i) adopt, create, assume or become a party to any Pension Plan, (ii) incur any obligation to contribute to any Multiemployer Plan, (iii) incur any obligation to provide post-retirement medical or insurance benefits with respect to employees or former employees (other than benefits required by law) or (iv) amend any Plan in a manner that would materially increase its funding obligations.

Section 6.25. *Place of Business; Name*. Borrower will not transfer its chief executive office or principal place of business, or move, relocate, close or sell any business location. Borrower will not permit any tangible Collateral or any records pertaining to the Collateral to be located in any state or area in which, in the event of such location, a financing statement covering such Collateral would be required to be, but has not in fact been, filed in order to perfect the Security Interest. Borrower will not change its name or jurisdiction of organization without giving Bank at least ten (10) days prior written notice.

Section 6.26. *Constituent Documents*. Borrower will not amend its Constituent Documents in any respect that will result in a Material Adverse Effect.

Section 6.27. *Transactions With Affiliates*. Borrower will not directly or indirectly enter into or permit to exist any transaction with any Affiliate of Borrower except for transactions that are in the ordinary course of Borrower's business, upon fair and reasonable terms, that are fully disclosed to Bank, and that are no less favorable to Borrower than would be obtained in an arm's length transaction with a non-Affiliate.

Section 6.28. *Use of Funds*. Borrower will not use any of the proceeds of the Loan except for its working capital and general corporate purposes not in contravention of any law or of any Loan Document.

Section 6.29. *Subordination of Debt*. All obligations of Borrower to any Guarantor or any Affiliate of Borrower (other than amounts arising pursuant to a tax sharing agreement among the Companies and Parent) permitted hereunder shall be subordinated in right of repayment to all obligations of Borrower to Bank, as evidenced by and subject to the terms of subordination agreements in form and substance satisfactory to Bank.

Section 6.30. *Management Fees; Contingent Purchase Price Payments*. (a) *Management Fees.* The Companies, collectively, will not pay management fees to Parent in an amount greater than $2,500,000 during any one fiscal year and, with respect solely to operating expenses paid by Parent on behalf of the Companies in the ordinary course of business of such parties and in line with historical practices, will reimburse Parent only for the reasonable portion of any such expenses; *provided* during any Default Period, Borrower shall not make any payments of management fees or expense reimbursements and any such items that would otherwise be paid notwithstanding such Default Period shall be accrued until such time, if any, following the expiration of such Default Period. Any management fees paid by Borrower to Parent shall be paid no more frequently than once per month.

(b) *Contingent Purchase Price Payments.* The Borrower will not make Contingent Purchase Price Payments unless and so long as (A) no Default or Event of Default has occurred and is continuing or would immediately result therefrom and (B) both before and after giving effect to such Contingent Purchase Price Payments, the Borrower is in compliance with the Financial Covenants set forth in Section 6.3(a). In the event that Borrower is prohibited from making the Contingent Purchase Price Payments, Borrower shall cause Parent to make such payments in accordance with its guaranty delivered to Seller under the Stock Purchase Agreement.

Section 6.31. *Maintenance of Accounts with Bank*. No later than 120 days after the Closing Date, Borrower shall, and shall cause each of the other Companies to, at all times, maintain its primary depository accounts with Bank pursuant to account agreements and terms mutually acceptable to Borrower and Bank.

## ARTICLE VII
## EVENTS OF DEFAULT, RIGHTS AND REMEDIES

Section 7.1. *Events of Default*. *"Event of Default"*, wherever used herein, means any one of the following events:

(a) Default in the payment when due of all or any part of the principal of the Loan (whether at the stated maturity thereof or at any other time provided for in this Agreement), or default for a period of three (3) Business Days in the payment when due of any interest, fee or other Obligation payable hereunder or under any other Loan Document;

(b) Default not otherwise listed in this Section 7.1 in the performance, or breach, of any covenant or agreement of Borrower contained in this Agreement or in any other Loan Document, and (i) with respect to any such default under Section 6.2, such default shall continue unremedied for a period of five (5) days, and (ii) and with respect to any such default under Sections 6.13, 6.14, 6.15 and 6.18, such default shall continue unremedied for twenty (20) days after the earlier of (A) the date upon which an Officer or Director of Borrower obtained actual knowledge of such failure or (B) the date upon which written notice thereof is given to Borrower by Bank.

(c) A Change of Control shall occur;

(d) An Insolvency Proceeding is commenced by Borrower or any Guarantor;

(e) An Insolvency Proceeding is commenced against Borrower or any Guarantor, and any of the following events occur: (a) Borrower or such Guarantor consents to the institution of such Insolvency Proceeding against it, (b) the petition commencing the Insolvency Proceeding is not timely controverted, (c) the petition commencing the Insolvency Proceeding is not dismissed within sixty (60) calendar days of the date of the filing thereof; *provided* that, during the pendency of such period, Bank shall be relieved of its obligations to extend credit hereunder, (d) an interim trustee is appointed to take possession of all or any substantial portion of the properties or assets of, or to operate all or any substantial portion of the business of, Borrower or any such Guarantor, or (e) an order for relief shall have been entered therein;

(f) Any material portion of Borrower's or any Guarantor's assets is attached, seized, subjected to a writ or distress warrant, levied upon, or comes into the possession of any third Person;

(g) Borrower or any Guarantor is enjoined, restrained, or in any way prevented by court order from continuing to conduct all or any material part of its business affairs;

(h) A notice of Lien, levy, or assessment is filed of record with respect to any of Borrower's or any Guarantor's assets by the United States, or any department, agency, or instrumentality thereof, or by any state, county, municipal, or governmental agency, or if any taxes or debts owing at any time hereafter to any one or more of such entities becomes a Lien, whether choate or otherwise, upon any of Borrower's or any Guarantor's assets valued in excess of $500,000 and the same is not paid before such payment is delinquent;

(i) This Agreement or any other Loan Document that purports to create a Lien, shall, for any reason, fail or cease to create a valid and perfected and, except to the extent permitted by the terms hereof or thereof, first priority Lien on or security interest in the Collateral covered hereby or thereby; *provided* that any such event described in this clause (i) shall not be an Event of Default for so long as Borrower is diligently assisting Bank, as determined by Bank in its sole and absolute discretion, in correcting the applicable problem;

(j) Any material provision of any Loan Document shall at any time for any reason be declared to be null and void, or the validity or enforceability thereof shall be contested by Borrower, or a proceeding shall be commenced by Borrower, or by any Governmental Authority having jurisdiction over Borrower, seeking to establish the invalidity or unenforceability thereof, or Borrower shall deny that Borrower has any liability or obligation purported to be created under any Loan Document;

(k) Any representation or warranty made by Borrower in this Agreement or in any other Loan Document, by any Guarantor in any guaranty delivered to Bank, or by Borrower (or any of its Officers) or any Guarantor in any agreement, certificate, instrument or financial statement or other statement contemplated by or made or delivered pursuant to or in connection with this Agreement or any such guaranty shall prove to have been incorrect in any material respect when deemed to be effective;

(l) The rendering against Borrower of an arbitration award, final judgment, decree or order for the payment of money in excess of $500,000 over applicable insurance coverage and the continuance of such arbitration award, judgment, decree or order unsatisfied and in effect for any period of 60 consecutive days without a stay of execution;

(m) A default under any bond, debenture, note or other evidence of material Indebtedness of Borrower (other than the Bond Documents) owed to any Person other than Bank, or under any indenture or other instrument under which any such evidence of Indebtedness has been issued or by which it is governed, or under any material lease or other contract, and the expiration of the applicable period of grace, if any, specified in such evidence of Indebtedness, indenture, other instrument, lease or contract, and the effect of such failure, event or condition is to cause, or permit the holder or holders thereof to cause, Indebtedness of Borrower (other than the Obligations) (in an aggregate amount exceeding $500,000 in the event that such Indebtedness is unsecured) to become redeemable, due or otherwise payable (whether at scheduled maturity, by required prepayment, upon acceleration or otherwise);

(n) Any Reportable Event, which Bank determines in good faith might constitute grounds for the termination of any Pension Plan or for the appointment by the appropriate United States District Court of a trustee to administer any Pension Plan, shall have occurred and be continuing 30 days after written notice to such effect shall have been given to Borrower by Bank; or a trustee shall have been appointed by an appropriate United States District Court to administer any Pension Plan; or the Pension Benefit Guaranty Corporation shall have instituted proceedings to terminate any Pension Plan or to appoint a trustee to administer any Pension Plan; or Borrower or any ERISA Affiliate shall have filed for a distress termination of any Pension Plan under Title IV of ERISA; or Borrower or any ERISA Affiliate shall have failed to make any quarterly contribution required with respect to any Pension Plan under Section 412(m) of the IRC, which Bank determines in good faith may by itself, or in combination with any such failures that Bank may determine are likely to occur in the future, result in the imposition of a Lien on Borrower's assets in favor of the Pension Plan; or any withdrawal, partial withdrawal, reorganization or other event occurs with respect to a Multiemployer Plan which results or could reasonably be expected to result in a material liability of Borrower to the Multiemployer Plan under Title IV of ERISA.

(o) An event of default shall occur under any Security Document;

(p) Borrower or any Guarantor shall liquidate, dissolve, terminate or suspend its business operations or otherwise fail to operate its business in the ordinary course, or sell or attempt to sell all or substantially all of its assets;

(q) Default in the payment of any amount owed by Borrower to Bank other than any Indebtedness arising hereunder after the expiration of any applicable express grace period related to such amount;

(r) Any Guarantor shall repudiate, purport to revoke or fail to perform its obligations under its guaranty in favor of Bank;

(s) The occurrence of any "Default" or "Event of Default" under, and as defined in, any agreement between any Affiliate of Borrower and Bank (but giving effect to any applicable grace or cure periods with respect thereto);

(t) The occurrence of any "Event of Default" under, and as defined in, the Reimbursement Agreement, the Bond L/C and the Bond Documents (but giving effect to any applicable grace or cure periods with respect thereto);

(u) Any member of the Management shall become unable to perform, or cease to be employed, in his current position with Borrower, and shall not be replaced, within 180 days (or such greater time as approved by the Bank in its reasonable discretion), by an individual with comparable education, experience and qualifications as determined by Parent in its reasonable discretion; or

(v) Holdings owns any assets other than the equity interests of Borrower or incurs, issues, assumes, creates or has outstanding any indebtedness, obligations or liabilities other than its obligations under its Guaranty or engages in any operations, other than (i) owning the equity interest in Borrower and activities reasonably related thereto or to the maintenance of its existence or compliance with applicable law or (ii) acting as a Guarantor pursuant to the Guaranty.

Section 7.2. *Rights and Remedies*. Upon the occurrence and during the continuation of an Event of Default, Bank may exercise any or all of the following rights and remedies, all of which Borrower acknowledges and agrees are commercially reasonable:

(a) Bank may, by notice to Borrower, declare the Credit Facility to be terminated, whereupon the same shall forthwith terminate;

(b) Bank may, by notice to Borrower, declare the Obligations to be forthwith due and payable, whereupon all Obligations shall become and be forthwith due and payable, without presentment, notice of dishonor, protest or further notice of any kind, all of which Borrower hereby expressly waives;

(c) Bank may, without notice to Borrower and without further action, apply any and all money owing by Bank to Borrower to the payment of the Obligations;

(d) Bank may settle or adjust disputes and claims directly with Account Debtors for amounts and upon terms which Bank considers advisable, and in such cases, Bank will credit the Obligations with only the net amounts received by Bank in payment of such disputed Accounts after deducting all expenses incurred or expended by Bank in connection therewith;

(e) Bank may cause Borrower to hold all returned Inventory in trust for Bank, segregate all returned Inventory from all other assets of Borrower or in Borrower's possession and conspicuously label said returned Inventory as the property of Bank;

(f) without notice to or demand upon Borrower or any Guarantor, Bank may make such payments and do such acts as Bank considers necessary or reasonable to protect its security interests in the Collateral. Borrower agrees to assemble the Collateral if Bank so requires, and to make the Collateral available to Bank at a place that Bank may designate which is reasonably convenient to both parties. Borrower authorizes Bank to enter the premises where the Collateral is located, to take and maintain possession of the Collateral, or any part of it, and to pay, purchase, contest, or compromise any Lien that in Bank's determination appears to conflict with Bank's Liens and to pay all expenses incurred in connection therewith and to charge the Obligations therefor. With respect to any of Borrower's owned or leased premises, Borrower hereby grants Bank a license to enter into possession of such premises and to occupy the same, without charge, in order to exercise any of Bank's rights or remedies provided herein, at law, in equity, or otherwise;

(g) without notice to Borrower (such notice being expressly waived), and without constituting a retention of any collateral in satisfaction of an obligation (within the meaning of the UCC), Bank may set off and apply to the Obligations any and all (i) balances and deposits of Borrower held by Bank (including any amounts received in the Lockbox), or (ii) Indebtedness at any time owing to or for the credit or the account of Borrower held by Bank;

(h) Bank may hold, as cash collateral, any and all balances and deposits of Borrower held by Bank, and any amounts received in the Lockbox, to secure the full and final repayment of all of the Obligations;

(i) Bank may ship, reclaim, recover, store, finish, maintain, repair, prepare for sale, advertise for sale, and sell (in the manner provided for herein) the Collateral;

(j) Bank may sell the Collateral at either a public or private sale, or both, by way of one or more contracts or transactions, for cash or on terms, in such manner and at such places (including Borrower's premises) as Bank determines is commercially reasonable. It is not necessary that the Collateral be present at any such sale;

(k) Bank shall give notice of the disposition of the Collateral as follows:

(i) Bank shall give Borrower a notice in writing of the time and place of public sale, or, if the sale is a private sale or some other disposition other than a public sale is to be made of the Collateral, the time on or after which the private sale or other disposition is to be made; and

(ii) The notice shall be personally delivered or mailed, postage prepaid, to Borrower as provided in Section 8.3, at least 10 days before the earliest time of disposition set forth in the notice; no notice needs to be given prior to the disposition of any portion of the Collateral that is perishable or threatens to decline speedily in value or that is of a type customarily sold on a recognized market;

(l) Bank may credit bid and purchase at any public sale;

(m) Bank may seek the appointment of a receiver or keeper to take possession of all or any portion of the Collateral or to operate the same and, to the maximum extent permitted by law, may seek the appointment of such a receiver without the requirement of prior notice or a hearing;

(n) If Bank sells any of the Collateral on credit, the Obligations will be reduced only to the extent of payments actually received. If the purchaser fails to pay for the Collateral, Bank may resell the Collateral and shall apply any proceeds actually received to the Obligations;

(o) Bank shall have no obligation to attempt to satisfy the Obligations by collecting them from any third Person which may be liable for them or any portion thereof, and Bank may release, modify or waive any collateral provided by any other Person as security for the Obligations or any portion thereof, all without affecting Bank's rights against Borrower. Borrower waives any right it may have to require Bank to pursue any third Person for any of the Obligations;

(p) Bank may make demand upon Borrower and, forthwith upon such demand, Borrower will pay to Bank in immediately available funds for deposit in the Special Account an amount equal to the aggregate maximum amount available to be drawn under all Letters of Credit then outstanding, assuming compliance with all conditions for drawing thereunder;

(q) Bank may exercise and enforce its rights and remedies under the Loan Documents; and

(r) Bank may exercise any other rights and remedies available to it by law or agreement.

Notwithstanding the foregoing, upon the occurrence of an Event of Default described in subsections (d) or (e) of Section 7.1, the Obligations shall be immediately due and payable automatically without presentment, demand, protest or notice of any kind.

Section 7.3. *Disclaimer of Warranties*. Bank may sell the Collateral without giving any warranties as to the Collateral. Bank may specifically disclaim any warranties of title or the like. This procedure will not be considered to adversely affect the commercial reasonableness of any sale of the Collateral.

Section 7.4. *Compliance With Laws*. Bank may comply with any applicable state or federal law requirements in connection with a disposition of the Collateral, and Bank's compliance therewith will not be considered to adversely affect the commercial reasonableness of any sale of the Collateral.

Section 7.5. *No Marshalling*. Bank shall be under no obligation to marshal any assets in favor of Borrower, or against or in payment of the Obligations or any other obligation owned to Bank by Borrower or any other Person.

Section 7.6. *Borrower to Cooperate*. Upon the exercise by Bank of any power, right, privilege, or remedy pursuant to this Agreement which requires any consent, approval, registration, qualification, or authorization of any Governmental Authority, Borrower agrees to execute and deliver, or will cause the execution and delivery of, all applications, certificates, instruments, assignments, and other documents and papers that Bank or any purchaser of the Collateral may be required to obtain for such governmental consent, approval, registration, qualification, or authorization.

Section 7.7. *Application of Proceeds*. All proceeds realized as the result of any sale of the Collateral shall be applied by Bank:

FIRST to the costs, expenses, liabilities, obligations and attorneys' fees incurred by Bank in the exercise of its rights under this Agreement;

SECOND to the interest and fees due upon any of the Obligations; and

THIRD to the principal of the Obligations and to cash collateralize the Bond L/C by an amount not less than 105% of the obligations arising under or pursuant to the Reimbursement Agreement, in such order as Bank shall determine in its sole discretion. Any surplus shall be paid to Borrower or other Persons legally entitled thereto; Borrower shall remain liable to Bank for any deficiency.

Section 7.8. *Remedies Cumulative*. The rights and remedies of Bank under this Agreement, the other Loan Documents, and all other agreements contemplated hereby and thereby shall be cumulative. Bank shall have all other rights and remedies not inconsistent herewith as provided under the UCC, by law, or in equity. No exercise by Bank of any one right or remedy shall be deemed an election of remedies, and no waiver by Bank of any default on Borrower's part shall be deemed a continuing waiver of any further defaults.

Section 7.9. *Bank Not Liable For The Collateral*. So long as Bank complies with the obligations, if any, imposed by the UCC, Bank shall not otherwise be liable or responsible in any way or manner for: (a) the safekeeping of the Collateral; (b) any loss or damage thereto occurring or arising in any manner or fashion or from any cause; (c) any diminution in the value thereof; or (d) any act or default of any carrier, warehouseman, bailee, forwarding agency, or other person whomsoever, in each case, other than arising as a result of the gross negligence or willful misconduct of Bank. Borrower bears the risk of loss or damage of the Collateral.

## ARTICLE VIII
## MISCELLANEOUS

Section 8.1. *No Waiver*. No failure or delay by Bank in exercising any right, power or remedy under the Loan Documents shall operate as a waiver thereof; nor shall any single or partial exercise of any such right, power or remedy preclude any other or further exercise thereof or the exercise of any other right, power or remedy under the Loan Documents.

Section 8.2. *Amendments, Etc*. No amendment, modification, termination or waiver of any provision of any Loan Document or consent to any departure by Borrower therefrom or any release of a Security Interest shall be effective unless the same shall be in writing and signed by Bank, and then such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given. No notice to or demand on Borrower in any case shall entitle Borrower to any other or further notice or demand in similar or other circumstances.

Section 8.3. *Addresses for Notices; Requests for Accounting*. Except as otherwise expressly provided herein, all notices, requests, demands and other communications provided for under the Loan Documents shall be in writing and shall be (a) personally delivered, (b) sent by first class United States mail, (c) sent by overnight courier of national reputation, or (d) transmitted by telecopy, in each case addressed or telecopied to the party to whom notice is being given at its address or telecopier number as set forth below next to its signature or, as to each party, at such other address or telecopier number as may hereafter be designated by such party in a written notice to the other party complying as to delivery with the terms of this Section. All such notices, requests, demands and other communications shall be deemed to have been given on (a) the date received if personally delivered, (b) when deposited in the mail if delivered by mail, (c) the date sent if sent by overnight courier, or (d) the date of transmission if delivered by telecopy, except that notices or requests to Bank pursuant to any of the provisions of Article II shall not be effective until received by Bank. All requests under Section 9210 of the UCC (i) shall be made in a writing signed by a person authorized under Section 2.1(d), (ii) shall be personally delivered, sent by registered or certified mail, return receipt requested, or by overnight courier of national reputation (iii) shall be deemed to be sent when received by Bank and (iv) shall otherwise comply with the requirements of Section 9210. Borrower requests that Bank respond to each such request which on its face appears to come from an authorized individual and releases Bank from any liability for so responding. Borrower shall pay Bank the maximum amount allowed by law for responding to such requests.

Section 8.4. *Further Documents*. Borrower will from time to time execute and deliver or endorse any and all instruments, documents, conveyances, assignments, security agreements, financing statements, control agreements and other agreements and writings that Bank may reasonably request in order to secure, protect, perfect or enforce the Security Interest or Bank's rights under the Loan Documents (but any failure to request or assure that Borrower executes, delivers or endorses any such item shall not affect or impair the validity, sufficiency or enforceability of the Loan Documents and the Security Interest, regardless of whether any such item was or was not executed, delivered or endorsed in a similar context or on a prior occasion).

Section 8.5. *Costs and Expenses*. Borrower shall pay within fifteen (15) days after written demand all costs and expenses, including reasonable attorneys' fees and expenses relating to a survey, an environmental report, and an appraisal report, incurred by Bank in connection with the Obligations, this Agreement, the Loan Documents, and any other document or agreement related hereto or thereto, and the transactions contemplated hereby, including all such costs, expenses and fees incurred in connection with the negotiation, preparation, execution, amendment, administration, performance, collection and enforcement of the Obligations and all such documents and agreements and the creation, perfection, protection, satisfaction, foreclosure or enforcement of the Security Interest.

Section 8.6. *Indemnity*. In addition to the payment of expenses pursuant to Section 8.5, Borrower shall indemnify, defend and hold harmless Bank, and any of its participants, parent corporations, subsidiary corporations, affiliated corporations, successor corporations, and all present and future officers, directors, employees, attorneys and agents of the foregoing (the *"Indemnitees"*) from and against any of the following (collectively, *"Indemnified Liabilities"*), in each, other than arising as a result of the gross negligence or willful misconduct of any Indemnitee:

(i) any and all transfer taxes, documentary taxes, assessments or charges made by any Governmental Authority by reason of the execution and delivery of the Loan Documents or the making of the Loan;

(ii) any claims, loss or damage to which any Indemnitee may be subjected if any representation or warranty contained in Section 5.14 proves to be incorrect in any respect or as a result of any violation of the covenant contained in Section 6.13(b); and

(iii) any and all other liabilities, losses, damages, penalties, judgments, suits, claims, costs and expenses of any kind or nature whatsoever (including the reasonable fees and disbursements of counsel) in connection with the foregoing and any other investigative, administrative or judicial proceedings, whether or not such Indemnitee shall be designated a party thereto, which may be imposed on, incurred by or asserted against any such Indemnitee, in any manner related to or arising out of or in connection with the Credit Facility and the Loan Documents or the use or intended use of the proceeds of the Line of Credit.

If any investigative, judicial or administrative proceeding arising from any of the foregoing is brought against any Indemnitee, upon such Indemnitee's request, Borrower, or counsel designated by Borrower and satisfactory to the Indemnitee, will resist and defend such action, suit or proceeding to the extent and in the manner directed by the Indemnitee, at Borrower's sole costs and expense. Each Indemnitee will use its best efforts to cooperate in the defense of any such action, suit or proceeding. If the foregoing undertaking to indemnify, defend and hold harmless may be held to be unenforceable because it violates any law or public policy, Borrower shall nevertheless make the maximum contribution to the payment and satisfaction of each of the Indemnified Liabilities which is permissible under applicable law. Borrower's obligation under this Section 8.6 shall survive the termination of this Agreement and the discharge of Borrower's other obligations hereunder.

Section 8.7. *Participants*. Borrower hereby authorizes Bank to disclose to any assignee or any participant (either, a "*Transferee*") and any prospective Transferee any and all financial information in Bank's possession concerning Borrower which has been delivered to Bank by Borrower pursuant to this Agreement or which has been delivered to Bank by Borrower in connection with Bank's credit evaluation prior to entering into this Agreement. Bank and its participants, if any, are not partners or joint venturers, and Bank shall not have any liability or responsibility for any obligation, act or omission of any of its participants. All rights and powers specifically conferred upon Bank may be transferred or delegated to any of Bank's participants, successors or assigns.

Section 8.8. *Advertising and Promotion*. Borrower agrees that Bank may use Borrower's name in advertising and promotional materials, and in conjunction therewith, Bank may disclose the amount of the Credit Facility and the purpose thereof, only upon the express consent of Borrower, which consent shall not be unreasonably withheld.

Section 8.9. *Execution in Counterparts; Telefacsimile Execution*. This Agreement and the other Loan Documents may be executed in any number of counterparts, each of which when so executed and delivered shall be deemed to be an original and all of which counterparts, taken together, shall constitute but one and the same instrument. Delivery of an executed counterpart of this Agreement by telefacsimile shall be equally as effective as delivery of an original executed counterpart of this Agreement. Any party delivering an executed counterpart of this Agreement by telefacsimile also shall deliver an original executed counterpart of this Agreement but the failure to deliver an original executed counterpart shall not affect the validity, enforceability, and binding effect of this Agreement.

Section 8.10. *Retention of Borrower's Records*. Bank shall have no obligation to maintain any electronic records or any documents, schedules, invoices, or other papers delivered to Bank by Borrower or in connection with the Loan Documents for more than twelve months after receipt by Bank; *provided* that Borrower shall not have any obligation to provide Bank with duplicate records and documents after the same have been destroyed by Bank.

Section 8.11. *Binding Effect; Assignment; Complete Agreement; Exchanging Information*. The Loan Documents shall be binding upon and inure to the benefit of Borrower and Bank and their respective successors and assigns, except that Borrower shall not have the right to assign its rights thereunder or any interest therein without Bank's prior written consent. Bank shall not assign any of its rights and obligations arising under this Agreement or the Note without the prior written consent of Borrower, which consent shall not be unreasonably withheld or delayed; *provided* notwithstanding the foregoing, Borrower's consent to any such assignment shall not be required (i) if a Default Period has occurred and is continuing, (ii) if Bank assigns this Agreement in connection with any sale or all or any portion of its loan portfolio, (iii) if Bank assigns this Agreement to any Affiliate of Bank, or (iv) Bank may pledge or grant a security interest in all or any portion of this Agreement to secure its obligations, including any such pledge or grant to a Federal Reserve Bank, and this Section shall not apply to any such grant or pledge; *provided*, that no such pledge or grant of a security interest shall release Bank from any of its obligations hereunder or substitute any such pledgee or secured party for Bank as party hereto. To the extent permitted by law, Borrower waives and will not assert against any assignee any claims, defenses or set-offs which Borrower could assert against Bank. This Agreement shall also bind all Persons who become a party to this Agreement as Borrower. This Agreement, together with the Loan Documents, comprises the complete and integrated agreement of the parties on the subject matter hereof and supersedes all prior agreements, written or oral, on the subject matter hereof. Without limiting Bank's right to share information regarding Borrower and its Affiliates with Bank's participants, accountants, lawyers and other advisors, Bank, Wells Fargo & Company, and all direct and indirect subsidiaries of Wells Fargo & Company, may exchange any and all information they may have in their possession regarding Borrower and its Affiliates, and Borrower waives any right of confidentiality it may have with respect to such exchange of such information.

Section 8.12. *Severability of Provisions*. Any provision of this Agreement which is prohibited or unenforceable shall be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof.

Section 8.13. *Revival and Reinstatement of Obligations*. If the incurrence or payment of the Obligations by Borrower or any Guarantor or the transfer to Bank of any property should for any reason subsequently be declared to be void or voidable under any state or federal law relating to creditors' rights, including provisions of Bankruptcy Code relating to fraudulent conveyances, preferences, or other voidable or recoverable payments of money or transfers of property (collectively, a *"Voidable Transfer"*), and if Bank is required to repay or restore, in whole or in part, any such Voidable Transfer, or elects to do so upon the reasonable advice of its counsel, then, as to any such Voidable Transfer, or the amount thereof that Bank is required or elects to repay or restore, and as to all reasonable costs, expenses, and attorneys fees of Bank related thereto, the liability of Borrower or any Guarantor automatically shall be revived, reinstated, and restored and shall exist as though such Voidable Transfer had never been made.

Section 8.14. *Headings*. Article, Section and subsection headings in this Agreement are included herein for convenience of reference only and shall not constitute a part of this Agreement for any other purpose.

Section 8.15. ***Governing Law*. This Agreement and the other loan documents (except as otherwise specified therein), and the rights and duties of the parties hereto, shall be construed and determined in accordance with the internal laws of the State of California.**

Section 8.16. ***Submission to Jurisdiction*. Subject to Section 8.17: (i) any legal action or proceeding with respect to this Agreement or any other Loan Document may be brought solely in the courts of the state of California or of the United States for the Northern District of California, and, by execution and delivery hereof, each of Borrower and Bank consents, for itself and in respect of its property, to the jurisdiction of those courts; (ii) each of Borrower and Bank irrevocably waives any objection, including any objection to the laying of venue or based on the grounds of forum non conveniens, which it may now or hereafter have to the bringing of any action or proceeding in such jurisdiction in respect of this agreement or any document related hereto. Each of Borrower and Bank waives personal service of any summons, complaint or other process, which may be made by any other means permitted by California law.**

Section 8.17. ***Waiver of Jury Trial*. Each of Borrower and Bank, to the fullest extent permitted by applicable law, hereby irrevocably waives all right to a trail by jury in any action, proceeding, counterclaim or other litigation in any way arising out of or relating to this Agreement, any other of the Loan Documents or any of the transactions or events referenced herein or therein or contemplated hereby or thereby, whether with respect to contract claims, tort claims or otherwise. This waiver shall apply to any subsequent amendments, renewals, supplements or modifications to this Agreement or any other of the Loan Documents. A copy of this Section 8.17 may be filed with any court as written evidence of the waiver of the right to trial by jury and the consent to trial by court.**

Section 8.18. *Arbitration*. (a) *Arbitration*. The parties hereto agree, upon demand by any party, to submit to binding arbitration all claims, disputes and controversies between or among them (and their respective employees, officers, directors, attorneys, and other agents), whether in tort, contract or otherwise in any way arising out of or relating to (i) any credit subject hereto, or any of the Loan Documents, and their negotiation, execution, collateralization, administration, repayment, modification, extension, substitution, formation, inducement, enforcement, default or termination; or (ii) requests for additional credit.

(b) *Governing Rules*. Any arbitration proceeding will (i) proceed in a location in California selected by the American Arbitration Association (*"AAA"*); (ii) be governed by the Federal Arbitration Act (Title 9 of the United States Code), notwithstanding any conflicting choice of law provision in any of the documents between the parties; and (iii) be conducted by the AAA, or such other administrator as the parties shall mutually agree upon, in accordance with the AAA's commercial dispute resolution procedures, unless the claim or counterclaim is at least $1,000,000.00 exclusive of claimed interest, arbitration fees and costs in which case the arbitration shall be conducted in accordance with the AAA's optional procedures for large, complex commercial disputes (the commercial dispute resolution procedures or the optional procedures for large, complex commercial disputes to be referred to herein, as applicable, as the *"Rules"*). If there is any inconsistency between the terms hereof and the Rules, the terms and procedures set forth herein shall control. Any party who fails or refuses to submit to arbitration following a demand by any other party shall bear all costs and expenses incurred by such other party in compelling arbitration of any dispute. Nothing contained herein shall be deemed to be a waiver by any party that is a bank of the protections afforded to it under 12 U.S.C. §91 or any similar applicable state law.

(c) *No Waiver of Provisional Remedies, Self-Help and Foreclosure.* The arbitration requirement does not limit the right of any party to (i) foreclose against the Collateral; (ii) exercise self-help remedies relating to Collateral or proceeds of Collateral such as setoff or repossession; or (iii) obtain provisional or ancillary remedies such as replevin, injunctive relief, attachment or the appointment of a receiver, before during or after the pendency of any arbitration proceeding. This exclusion does not constitute a waiver of the right or obligation of any party to submit any dispute to arbitration or reference hereunder, including those arising from the exercise of the actions detailed in sections (i), (ii) and (iii) of this paragraph.

(d) *Arbitrator Qualifications and Powers*. Any arbitration proceeding in which the amount in controversy is $5,000,000.00 or less will be decided by a single arbitrator selected according to the Rules, and who shall not render an award of greater than $5,000,000.00. Any dispute in which the amount in controversy exceeds $5,000,000.00 shall be decided by majority vote of a panel of three arbitrators; *provided however,* that all three arbitrators must actively participate in all hearings and deliberations. The arbitrator will be a neutral attorney licensed in the State of California or a neutral retired judge of the state or federal judiciary of California, in either case with a minimum of ten years experience in the substantive law applicable to the subject matter of the dispute to be arbitrated. The arbitrator will determine whether or not an issue is arbitratable and will give effect to the statutes of limitation in determining any claim. In any arbitration proceeding the arbitrator will decide (by documents only or with a hearing at the arbitrator's discretion) any pre-hearing motions which are similar to motions to dismiss for failure to state a claim or motions for summary adjudication. The arbitrator shall resolve all disputes in accordance with the substantive law of California and may grant any remedy or relief that a court of such state could order or grant within the scope hereof and such ancillary relief as is necessary to make effective any award. The arbitrator shall also have the power to award recovery of all costs and fees, to impose sanctions and to take such other action as the arbitrator deems necessary to the same extent a judge could pursuant to the Federal Rules of Civil Procedure, the California Rules of Civil Procedure or other applicable law. Judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction. The institution and maintenance of an action for judicial relief or pursuit of a provisional or ancillary remedy shall not constitute a waiver of the right of any party, including the plaintiff, to submit the controversy or claim to arbitration if any other party contests such action for judicial relief.

(e) *Discovery*. In any arbitration proceeding, discovery will be permitted in accordance with the Rules. All discovery shall be expressly limited to matters directly relevant to the dispute being arbitrated and must be completed no later than 20 days before the hearing date. Any requests for an extension of the discovery periods, or any discovery disputes, will be subject to final determination by the arbitrator upon a showing that the request for discovery is essential for the party's presentation and that no alternative means for obtaining information is available.

(f) *Class Proceedings and Consolidations*. No party hereto shall be entitled to join or consolidate disputes by or against others in any arbitration, except parties who have executed any Loan Document, or to include in any arbitration any dispute as a representative or member of a class, or to act in any arbitration in the interest of the general public or in a private attorney general capacity.

(g) *Payment Of Arbitration Costs And Fees*. The arbitrator shall award all costs and expenses of the arbitration proceeding.

(h) *Real Property Collateral; Judicial Reference*. Notwithstanding anything herein to the contrary, no dispute shall be submitted to arbitration if the dispute concerns indebtedness secured directly or indirectly, in whole or in part, by any real property unless (i) the holder of the mortgage, lien or security interest specifically elects in writing to proceed with the arbitration, or (ii) all parties to the arbitration waive any rights or benefits that might accrue to them by virtue of the single action rule statute of California, thereby agreeing that all indebtedness and obligations of the parties, and all mortgages, liens and security interests securing such indebtedness and obligations, shall remain fully valid and enforceable. If any such dispute is not submitted to arbitration, the dispute shall be referred to a referee in accordance with California Code of Civil Procedure Section 638 et seq., and this general reference agreement is intended to be specifically enforceable in accordance with said Section 638. A referee with the qualifications required herein for arbitrators shall be selected pursuant to the AAA's selection procedures. Judgment upon the decision rendered by a referee shall be entered in the court in which such proceeding was commenced in accordance with California Code of Civil Procedure Sections 644 and 645.

(i) *Miscellaneous*. To the maximum extent practicable, the AAA, the arbitrators and the parties shall take all action required to conclude any arbitration proceeding within 180 days of the filing of the dispute with the AAA. No arbitrator or other party to an arbitration proceeding may disclose the existence, content or results thereof, except for disclosures of information by a party required in the ordinary course of its business or by applicable law or regulation. If more than one agreement for arbitration by or between the parties potentially applies to a dispute, the arbitration provision most directly related to the Loan Documents or the subject matter of the dispute shall control. This arbitration provision shall survive termination, amendment or expiration of any of the Loan Documents or any relationship between the parties.

(j) *Small Claims Court*. Notwithstanding anything herein to the contrary, each party retains the right to pursue in Small Claims Court any dispute within that court's jurisdiction. Further, this arbitration provision shall apply only to disputes in which either party seeks to recover an amount of money (excluding attorneys' fees and costs) that exceeds the jurisdictional limit of the Small Claims Court.

Section 8.19. *Confidentiality.* Except as set forth in Section 8.7 and Section 8.8 hereof, Bank shall hold all confidential non-public information obtained by Bank in accordance with Bank's customary procedures for handling confidential information of this nature; *provided* that Bank may disclose such confidential information (i) to its examiners, Affiliates, outside auditors, counsel and other professional advisors on a need to know basis, (ii) to any prospective participant or transferee of Bank's rights or obligations hereunder, provided such participant or transferee agrees, prior to the disclosure of such information by Bank, to be bound by the terms of this Section 8.19 with respect to such information and (iii) as required or requested by any Governmental Authority or representative thereof or pursuant to legal process; *provided further* that this duty shall expire if such information becomes publicly available through no breach of this Section 8.19 by Bank; *provided further* that unless specifically prohibited by applicable law or court order, Bank shall use commercially reasonable efforts, prior to disclosure thereof, to notify Borrower of the request for disclosure of such non-public information (A) by a Governmental Authority or representative thereof or (B) pursuant to legal process. Notwithstanding anything herein to the contrary, Bank may disclose to any and all Persons, without limitation of any kind, any information with respect to the "tax treatment" and "tax structure" (in each case, within the meaning of Treasury Regulation Section 1.6011-4) of the transactions contemplated hereby and all materials of any kind (including opinions or other tax analyses) that are provided Bank relating to such tax treatment and tax structure; *provided* that with respect to any document or similar item that in either case contains information concerning the tax treatment or tax structure of the transaction as well as other information, this sentence shall only apply to such portions of the document or similar item that relate to the tax treatment or tax structure of the transactions contemplated hereby.

*[Signatures on Next Page]*

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

| | |
|---|---|
| Lifecore Biomedical, LLC<br>3515 Lyman Boulevard<br>Chaska, MN 55318<br>Telecopier: (952) 368-3411<br>Attention: Director of Finance<br>e-mail: scott.collins@lifecore.com | LIFECORE BIOMEDICAL, LLC, a Minnesota limited liability company<br><br>By: /s/Dennnis J. Allingham<br>Dennis J. Allingham<br>President and Chief Executive Officer |
| Wells Fargo Bank, N.A.<br>Peninsula RCBO<br>400 Hamilton Avenue, P.O. Box 150<br>Palo Alto, CA 94302<br>Telecopier: (650) 328-0814<br>Attention: Caroline Peyton<br>e-mail: caroline.peyton@wellsfargo.com | WELLS FARGO BANK, NATIONAL ASSOCIATION<br><br>By: /s/TimPalmer<br>Tim Palmer<br>Vice President |

**Table of Exhibits and Schedules**


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EXHIBIT A
TERM NOTE

$20,000,000 | Palo Alto, California
April 30, 2010

FOR VALUE RECEIVED, the undersigned LIFECORE BIOMEDICAL, LLC, a Minnesota limited liability company ("Borrower") promises to pay to the order of WELLS FARGO BANK, NATIONAL ASSOCIATION ("Bank") at its office at 400 Hamilton Avenue, Palo Alto, California 94302, California, or at such other place as the holder hereof may designate, in lawful money of the United States of America and in immediately available funds, the principal sum of Twenty Million and No/100 Dollars ($20,000,000), with interest thereon as set forth herein.

DEFINITIONS:

Capitalized terms not otherwise defined herein shall have the meaning ascribed to them in the Credit Agreement (as defined below). As used herein, the following terms shall have the meanings set forth after each, and any other term defined in this Note shall have the meaning set forth at the place defined:

(a) "Business Day" means any day except a Saturday, Sunday or any other day on which commercial banks in California are authorized or required by law to close.

(b) "Credit Agreement" means that certain Credit Agreement dated as of even day herewith between Borrower and Bank, as the same may be amended, modified, restated or supplemented from time to time.

(c) "Daily Three Month LIBOR" means, for any day, the rate of interest equal to LIBOR then in effect for delivery for a three (3) month period.

(d) "Fixed Rate Term" means a period commencing on a Business Day and continuing for 1, 2, or 3 months, as designated by Borrower, during which all or a portion of the outstanding principal balance of this Note bears interest determined in relation to LIBOR; provided however, that no Fixed Rate Term may be selected for a principal amount less than Two Hundred Fifty and No/100 Dollars ($250,000); and provided further, that no Fixed Rate Term shall extend beyond the Term Loan Maturity Date. If any Fixed Rate Term would end on a day which is not a Business Day, then such Fixed Rate Term shall be extended to the next succeeding Business Day.

(e) "LIBOR" means the rate per annum (rounded upward, if necessary, to the nearest whole 1/8 of 1%) and determined pursuant to the following formula:

$$\text{LIBOR} = \frac{\text{Base LIBOR}}{100\% - \text{LIBOR Reserve Percentage}}$$

(i) "Base LIBOR" means the rate per annum for United States dollar deposits quoted by Bank (A) for the purpose of calculating effective rates of interest for loans making reference to LIBOR, as the Inter-Bank Market Offered Rate, with the understanding that such rate is quoted by Bank for the purpose of calculating effective rates of interest for loans making reference thereto, on the first day of a Fixed Rate Term for delivery of funds on said date for a period of time approximately equal to the number of days in such Fixed Rate Term and in an amount approximately equal to the principal amount to which such Fixed Rate Term applies, or (B) for the purpose of calculating effective rates of interest for loans making reference to the Daily Three Month LIBOR Rate, as the Inter-Bank Market Offered Rate in effect from time to time for delivery of funds for three (3) month in amounts approximately equal to the principal amount of such loans. Borrower understands and agrees that Bank may base its quotation of the Inter-Bank Market Offered Rate upon such offers or other market indicators of the Inter-Bank Market as Bank in its discretion deems appropriate including, but not limited to, the rate offered for U.S. dollar deposits on the London Inter-Bank Market.

(ii) "LIBOR Reserve Percentage" means the reserve percentage prescribed by the Board of Governors of the Federal Reserve System (or any successor) for "Eurocurrency Liabilities" (as defined in Regulation D of the Federal Reserve Board, as amended), adjusted by Bank for expected changes in such reserve percentage during the applicable term of this Note.

INTEREST:

(a) Interest. The outstanding principal balance of this Note shall bear interest (computed on the basis of a 360-day year, actual days elapsed) as selected by Borrower either (i) at a fluctuating rate per annum determined by Bank to be two percent (2.0%) above the Daily Three Month LIBOR Rate in effect from time to time, or (ii) at a fixed rate per annum determined by Bank to be two percent (2.0%) above LIBOR in effect on the first day of the applicable Fixed Rate Term. When interest is determined in relation to the Daily Three Month LIBOR Rate, each change in the interest rate shall become effective each Business Day that Bank determines that the Daily Three Month LIBOR Rate has changed. Bank is hereby authorized to note the date, principal amount and interest rate applicable thereto and any payments made thereon on Bank's books and records (either manually or by electronic entry) and/or on any schedule attached to this Note, which notations shall be prima facie evidence of the accuracy of the information noted.

(b) Selection of Interest Rate Options. At any time any portion of this Note bears interest determined in relation to LIBOR for a Fixed Rate Term, it may be continued by Borrower at the end of the Fixed Rate Term applicable thereto so that all or a portion thereof bears interest determined in relation to the Daily Three Month LIBOR Rate or to LIBOR for a new Fixed Rate Term designated by Borrower. At any time any portion of this Note bears interest determined in relation to the Daily Three Month LIBOR Rate, Borrower may at any time convert all or a portion thereof so that it bears interest determined in relation to LIBOR for a Fixed Rate Term designated by Borrower. At such time as Borrower requests an advance hereunder or wishes to select an interest rate determined in relation to the Daily Three Month LIBOR Rate or a Fixed Rate Term for all or a portion of the outstanding principal balance hereof, and at the end of each Fixed Rate Term, Borrower shall give Bank notice specifying: (i) the interest rate option selected by Borrower; (ii) the principal amount subject thereto; and (iii) for each LIBOR selection for a Fixed Rate Term, the length of the applicable Fixed Rate Term. Any such notice may be given by telephone (or such other electronic method as Bank may permit) so long as, with respect to each LIBOR selection for a Fixed Rate Term, (A) if requested by Bank, Borrower provides to Bank written confirmation thereof not later than three (3) Business Days after such notice is given, and (B) such notice is given to Bank prior to 10:00 a.m. on the first day of the Fixed Rate Term, or at a later time during any Business Day if Bank, at its sole option but without obligation to do so, accepts Borrower's notice and quotes a fixed rate to Borrower. If Borrower does not immediately accept a fixed rate when quoted by Bank, the quoted rate shall expire and any subsequent LIBOR request from Borrower shall be subject to a redetermination by Bank of the applicable fixed rate. If no specific designation of interest is made at the time any advance is requested hereunder or at the end of any Fixed Rate Term, Borrower shall be deemed to have made a Daily Three Month LIBOR Rate interest selection for such advance or the principal amount to which such Fixed Rate Term applied.

(c) Taxes and Regulatory Costs. Borrower shall pay to Bank immediately within fifteen (15) days after written demand, in addition to any other amounts due or to become due hereunder, any and all (i) withholdings, interest equalization taxes, stamp taxes or other taxes (except income and franchise taxes) imposed by any domestic or foreign governmental authority and related in any manner to LIBOR, and (ii) future, supplemental, emergency or other changes in the LIBOR Reserve Percentage, assessment rates imposed by the Federal Deposit Insurance Corporation, or similar requirements or costs imposed by any domestic or foreign governmental authority or resulting from compliance by Bank with any request or directive (whether or not having the force of law) from any central bank or other governmental authority and related in any manner to LIBOR to the extent they are not included in the calculation of LIBOR. In determining which of the foregoing are attributable to any LIBOR option available to Borrower hereunder, any reasonable allocation made by Bank among its operations shall be conclusive and binding upon Borrower.

(d) Payment of Interest. Interest accrued on this Note shall be payable on the last day of each month, commencing May 31, 2010.

(e) Default Interest. From and after the maturity date of this Note, or such earlier date as all principal owing hereunder becomes due and payable by acceleration or otherwise, or at Bank's option upon the occurrence, and during the continuance of an Event of Default, the outstanding principal balance of this Note shall bear interest at an increased rate per annum (computed on the basis of a 360-day year, actual days elapsed) equal to two percent (2%) above the rate of interest from time to time applicable to this Note ("Default Interest").

REPAYMENT AND PREPAYMENT:

(a) Repayment. Principal shall be payable on the last day of each month in installments of Three Hundred Thirty-Three Thousand Three Hundred Thirty Three and 33/100 Dollars ($333,333.33) each, commencing May 31, 2010, and continuing up to and including March 31, 2015, with a final installment consisting of all remaining unpaid principal due and payable in full on the Term Loan Maturity Date.

(b) Application of Payments. Each payment made on this Note shall be credited first, to any interest then due and second, to the outstanding principal balance hereof. All payments credited to principal shall be applied first, to the outstanding principal balance of this Note which bears interest determined in relation to the Daily Three Month LIBOR Rate, if any, and second, to the outstanding principal balance of this Note which bears interest determined in relation to LIBOR, with such payments applied to the oldest Fixed Rate Term first.

(c) Prepayment. Borrower shall repay the Note in accordance with Section 2.5(b) of the Credit Agreement and may prepay the Note as follows:

Daily Three Month LIBOR Rate. Borrower may prepay principal on any portion of this Note which bears interest determined in relation to the Daily Three Month LIBOR Rate at any time, in any amount and without penalty.

LIBOR. Borrower may prepay principal on any portion of this Note which bears interest determined in relation to LIBOR at any time and in the minimum amount of Two Hundred Fifty Thousand and No/100 Dollars ($250,000); provided however, that if the outstanding principal balance of such portion of this Note is less than said amount, the minimum prepayment amount shall be the entire outstanding principal balance thereof. In consideration of Bank providing this prepayment option to Borrower, or if any such portion of this Note shall become due and payable at any time prior to the last day of the Fixed Rate Term applicable thereto by acceleration or otherwise, Borrower shall pay to Bank immediately upon demand a fee which is the sum of the discounted monthly differences for each month from the month of prepayment through the month in which such Fixed Rate Term matures, calculated as follows for each such month:

(i) Determine the amount of interest which would have accrued each month on the amount prepaid at the interest rate applicable to such amount had it remained outstanding until the last day of the Fixed Rate Term applicable thereto.

(ii) Subtract from the amount determined in (i) above the amount of interest which would have accrued for the same month on the amount prepaid for the remaining term of such Fixed Rate Term at LIBOR in effect on the date of prepayment for new loans made for such term and in a principal amount equal to the amount prepaid.

(iii) If the result obtained in (ii) for any month is greater than zero, discount that difference by LIBOR used in (ii) above.

Borrower acknowledges that prepayment of such amount may result in Bank incurring additional costs, expenses and/or liabilities, and that it is difficult to ascertain the full extent of such costs, expenses and/or liabilities. Borrower, therefore, agrees to pay the above-described prepayment fee and agrees that said amount represents a reasonable estimate of the prepayment costs, expenses and/or liabilities of Bank. If Borrower fails to pay any prepayment fee when due, the amount of such prepayment fee shall thereafter bear interest until paid at a rate per annum two percent (2.0%) above the Daily Three Month LIBOR Rate in effect from time to time (computed on the basis of a 360-day year, actual days elapsed).

All prepayments of principal shall be applied on the most remote principal installment or installments then unpaid.

EVENTS OF DEFAULT:

This Note is made pursuant to and is subject to the terms and conditions of the Credit Agreement. Any default in the payment or performance of any obligation under this Note, or any Event of Default under the Credit Agreement, shall constitute an "Event of Default" under this Note.

MISCELLANEOUS:

(a) Remedies. Upon the occurrence of any Event of Default, the holder of this Note, at the holder's option and in addition to any other remedies set forth in the Credit Agreement, may declare all sums of principal and interest outstanding hereunder to be immediately due and payable without presentment, demand, notice of nonperformance, notice of protest, protest or notice of dishonor, all of which are expressly waived by Borrower. Borrower shall pay to the holder immediately upon demand the full amount of all payments, advances, charges, costs and expenses, including reasonable attorneys' fees (to include outside counsel fees and all allocated costs of the holder's in-house counsel), expended or incurred by the holder in connection with the enforcement of the holder's rights and/or the collection of any amounts which become due to the holder under this Note, and the prosecution or defense of any action in any way related to this Note, including without limitation, any action for declaratory relief, whether incurred at the trial or appellate level, in an arbitration proceeding or otherwise, and including any of the foregoing incurred in connection with any bankruptcy proceeding (including without limitation, any adversary proceeding, contested matter or motion brought by Bank or any other person) relating to Borrower or any other person or entity.

(b) Obligations Joint and Several. Should more than one person or entity sign this Note as a Borrower, the obligations of each such Borrower shall be joint and several.

(c) Governing Law. This Note shall be governed by and construed in accordance with the laws of the State of California.

IN WITNESS WHEREOF, the undersigned has executed this Note as of the date first written above.

LIFECORE BIOMEDICAL, LLC, a
Minnesota limited liability company

By: ______________________________
Dennis J. Allingham
President and Chief Executive Officer

# Continuing Guaranty

TO: Wells Fargo Bank, National Association

Section 1. Guaranty; Definitions. In consideration of the credit and other financial accommodations heretofore, now or hereafter extended or made to Lifecore Biomedical, LLC, a Minnesota limited liability company (the *"Borrower"*), by Wells Fargo Bank, National Association ("*Bank*") pursuant to the terms and conditions of (i) that certain Credit Agreement, dated as of the date hereof, between the Borrower and Bank (as amended, modified, restated and/or supplemented from time to time, the *"Credit Agreement"*), (ii) that certain Reimbursement Agreement dated on or after the date hereof between the Borrower and the Bank (as amended, modified, restated and/or supplemented from time to time, the *"Reimbursement Agreement;"* and together with the Credit Agreement, the *"Agreements"*) and for other valuable consideration, the undersigned Landec Corporation ("*Guarantor*"), jointly and severally unconditionally guarantees and promises to pay to Bank, or order, on demand in lawful money of the United States of America and in immediately available funds, any and all Obligations (as such term is defined in each of the Agreements) of the Borrower to Bank. All capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the Agreements.

Section 2. Successive Transactions; Revocation; Obligation Under Other Guaranties. This is a continuing guaranty and all rights, powers and remedies hereunder shall apply to all past, present and future Obligations, including those arising under successive transactions which shall either continue the Obligations, increase or decrease them, or from time to time create new Obligations after all or any prior Obligations have been satisfied, and notwithstanding the dissolution, liquidation or bankruptcy of the Borrower or Guarantor or any other event or proceeding affecting the Borrower or Guarantor. This Guaranty shall not apply to any new Obligations created after actual receipt by Bank of written notice of its revocation as to such new Obligations; provided however, that Loans or other Obligations arising after revocation under commitments existing prior to receipt by Bank of such revocation, and extensions, renewals or modifications, of any kind, of Obligations incurred by the Borrower or committed by Bank prior to receipt by Bank of such revocation, shall not be considered new Obligations. Any such notice must be sent to Bank by registered U.S. mail, postage prepaid, addressed to its office at 400 Hamilton Avenue, Palo Alto, California 94302, or at such other address as Bank shall from time to time designate. Any payment by Guarantor shall not reduce Guarantor's maximum obligation hereunder unless written notice to that effect is actually received by Bank at or prior to the time of such payment. The obligations of Guarantor hereunder shall be in addition to any obligations of Guarantor under any other guaranties of any liabilities or obligations of the Borrower or any other persons heretofore or hereafter given to Bank unless said other guaranties are expressly modified or revoked in writing; and this Guaranty shall not, unless expressly herein provided, affect or invalidate any such other guaranties.

Section 3. Obligations Joint And Several; Separate Actions; Waiver Of Statute Of Limitations; Reinstatement Of Liability. The obligations hereunder are joint and several and independent of the Obligations of the Borrower, and a separate action or actions may be brought and prosecuted against Guarantor whether action is brought against the Borrower or any other person, or whether the Borrower or any other person is joined in any such action or actions. Guarantor acknowledges that this Guaranty is absolute and unconditional, there are no conditions precedent to the effectiveness of this Guaranty, and this Guaranty is in full force and effect and is binding on Guarantor as of the date written below, regardless of whether Bank obtains collateral or any guaranties from others or takes any other action contemplated by the Agreements. Guarantor waives the benefit of any statute of limitations affecting Guarantor's liability hereunder or the enforcement thereof, and Guarantor agrees that any payment of any Obligations or other act which shall toll any statute of limitations applicable thereto shall similarly operate to toll such statute of limitations applicable to Guarantor's liability hereunder. The liability of Guarantor hereunder shall be reinstated and revived and the rights of Bank shall continue if and to the extent for any reason any amount at any time paid on account of any Obligations guaranteed hereby is rescinded or must otherwise be restored by Bank, whether as a result of any proceedings in bankruptcy or reorganization or otherwise, all as though such amount had not been paid. The determination as to whether any amount so paid must be rescinded or restored shall be made by Bank in its sole discretion; provided however, that if Bank chooses to contest any such matter at the request of Guarantor, Guarantor agrees to indemnify and hold Bank harmless from and against all costs and expenses, including reasonable attorneys' fees, expended or incurred by Bank in connection therewith, including without limitation, in any litigation with respect thereto.

Section 4. Authorizations To Bank. Guarantor authorizes Bank either before or after revocation hereof, without notice to or demand on Guarantor, and without affecting Guarantor's liability hereunder, from time to time to: (a) alter, compromise, renew, extend, accelerate or otherwise change the time for payment of, or otherwise change the terms of the Obligations or any portion thereof, including increase or decrease of the rate of interest thereon; (b) take and hold security for the payment of this Guaranty or the Obligations or any portion thereof, and exchange, enforce, waive, subordinate or release any such security; (c) apply such security and direct the order or manner of sale thereof, including without limitation, a non-judicial sale permitted by the terms of the controlling security agreement, mortgage or deed of trust, as Bank in its discretion may determine; (d) release or substitute any one or more of the endorsers or any other guarantors of the Obligations, or any portion thereof, or any other party thereto; and (e) apply payments received by Bank from the Borrowers to any Obligations of the Borrowers to Bank, in such order as Bank shall determine in its sole discretion, whether or not such Obligations are covered by this Guaranty, and Guarantor hereby waives any provision of law regarding application of payments which specifies otherwise. Bank may without notice assign this Guaranty in whole or in part.

Section 5. Representations And Warranties. Guarantor represents and warrants to Bank that: (a) this Guaranty is executed at the Borrower's request; (b) Guarantor shall not, without Bank's prior written consent, sell, lease, assign, encumber, hypothecate, transfer or otherwise dispose of all or a substantial or material part of Guarantor's assets other than in the ordinary course of Guarantor's business; provided, however, Guarantor may sell (i) its interest in Landec Ag, Inc. or Cal Ex Trading Company or (ii) intellectual property assets not related to the Borrower, notwithstanding this clause (b); (c) Bank has made no representation to Guarantor as to the creditworthiness of the Borrower; and (d) Guarantor has established adequate means of obtaining from the Borrower on a continuing basis financial and other information pertaining to the Borrower's financial condition. Guarantor agrees to keep adequately informed from such means of any facts, events or circumstances which might in any way affect Guarantor's risks hereunder, and Guarantor further agrees that Bank shall have no obligation to disclose to Guarantor any information or material about either Borrower which is acquired by Bank in any manner.

Section 6. Guarantor's Waivers.

(a) Guarantor waives any right to require Bank to: (i) proceed against the Borrower or any other person; (ii) marshal assets or proceed against or exhaust any security held from the Borrower or any other person; (iii) give notice of the terms, time and place of any public or private sale or other disposition of personal property security held from the Borrower or any other person; (iv) take any action or pursue any other remedy in Bank's power; or (v) make any presentment or demand for performance, or give any notice of nonperformance, protest, notice of protest or notice of dishonor hereunder or in connection with any obligations or evidences of indebtedness held by Bank as security for or which constitute in whole or in part the Obligations guaranteed hereunder, or in connection with the creation of new or additional Obligations.

(b) Guarantor waives any defense to its obligations hereunder based upon or arising by reason of: (i) any disability or other defense of the Borrower or any other person; (ii) the cessation or limitation from any cause whatsoever, other than payment in full, of the Obligations of the Borrower or any other person; (iii) any lack of authority of any officer, director, partner, agent or any other person acting or purporting to act on behalf of the Borrower, or any defect in the formation of the Borrower; (iv) the application by the Borrower of the proceeds of any Obligations for purposes other than the purposes represented by the Borrower to, or intended or understood by, Bank or Guarantor; (v) any act or omission by Bank which directly or indirectly results in or aids the discharge of the Borrower or any portion of the Obligations by operation of law or otherwise, or which in any way impairs or suspends any rights or remedies of Bank against the Borrower; (vi) any impairment of the value of any interest in any security for the Obligations or any portion thereof, including without limitation, the failure to obtain or maintain perfection or recordation of any interest in any such security, the release of any such security without substitution, and/or the failure to preserve the value of, or to comply with applicable law in disposing of, any such security; (vii) any modification of the Obligations, in any form whatsoever, including any modification made after revocation hereof to any Obligations incurred prior to such revocation, and including without limitation the renewal, extension, acceleration or other change in time for payment of, or other change in the terms of, the Obligations or any portion thereof, including increase or decrease of the rate of interest thereon; or (viii) any requirement that Bank give any notice of acceptance of this Guaranty. Until all Obligations shall have been paid in full and the Commitment by the Bank to extend credit to the Borrower expires or terminates, Guarantor shall have no right of subrogation, and Guarantor waives any right to enforce any remedy which Bank now has or may hereafter have against the Borrower or any other person, and waives any benefit of, or any right to participate in, any security now or hereafter held by Bank. Guarantor further waives all rights and defenses Guarantor may have arising out of (A) any election of remedies by Bank, even though that election of remedies, such as a non-judicial foreclosure with respect to any security for any portion of the Obligations, destroys Guarantor's rights of subrogation or Guarantor's rights to proceed against the Borrower for reimbursement, or (B) any loss of rights Guarantor may suffer by reason of any rights, powers or remedies of either Borrower in connection with any anti-deficiency laws or any other laws limiting, qualifying or discharging the Borrower's Obligations, whether by operation of Sections 726, 580a or 580d of the California Code of Civil Procedure as from time to time amended, or otherwise, including any rights Guarantor may have to a Section 580a fair market value hearing to determine the size of a deficiency following any foreclosure sale or other disposition of any real property security for any portion of the Obligations.

SECTION 7. FINANCIAL INFORMATION. Guarantor will deliver, or cause to be delivered, the Bank each of the following, which shall be in form and detail acceptable to the Bank:

(i) As soon as available, and in any event within 90 days after the end of each fiscal year of Guarantor (or 120 days in the case of filing Guarantor's Form 10-K with the Securities and Exchange Commission), Guarantor will deliver, or cause to be delivered, to Bank, Guarantor's audited financial statements with the unqualified opinion of independent certified public accountants selected by Guarantor and reasonably acceptable to Bank, which annual financial statements shall include Guarantor's balance sheet as at the end of such fiscal year and the related statements of Guarantor's income, reconciliation of retained earnings and cash flows for the fiscal year then ended, prepared on a consolidated basis to include any Affiliates, all in reasonable detail and prepared in accordance with GAAP, together with (A) copies of all management letters prepared by such accountants; and (B) a certificate of the chief financial officer of Guarantor stating that such financial statements have been prepared in accordance with GAAP, fairly represent Guarantor's financial position and the results of its operations, and whether or not such officer has knowledge of the occurrence of any Default or Event of Default as a result of the Guarantor's failure to comply with the financial covenants applicable to it set forth in Section 6.3(b) of the Credit Agreement and, if so, stating in reasonable detail the facts with respect thereto.

(ii) As soon as available, and in any event within 45 days after the end of each fiscal quarter of Guarantor, Guarantor will deliver, or cause to be delivered, to Bank, Guarantor's internally-prepared consolidating financial statements, which financial statements shall include Guarantor's balance sheet as at the end of such fiscal quarter and the related statements of Guarantor's income, reconciliation of retained earnings and cash flows for the fiscal quarter then ended, prepared on a consolidated basis to include any Affiliates, all in reasonable detail and prepared in accordance with GAAP.

(iii) Concurrently with the delivery of the financial statements set forth in clause (ii) above, Guarantor will deliver a certificate of the chief financial officer of Guarantor, substantially in the form of Exhibit B-2 to the Credit Agreement stating all relevant facts in reasonable detail to evidence, and the computations as to, whether or not Guarantor is compliance with the Financial Covenants set forth in Section 6.3(b) of the Credit Agreement.

SECTION 8. CONTRIBUTION TO BORROWER. Notwithstanding anything contained herein to the contrary, (i) in the event that the Borrower is not in compliance with the Financial Covenants set forth in Section 6.3(a) of the Credit Agreement at any time the same are to be determined, Guarantor irrevocable agrees to, within 50 days after the last day of the relevant fiscal quarter of the Borrower, invest cash into the Borrower in the form of equity in an amount not less than the amount necessary to bring the Borrower into compliance with such section and (ii) in the event that the Borrower is not permitted to make the Contingent Purchase Price Payments under Section 6.30(b) of the Credit Agreement, Parent shall make such Contingent Purchase Price Payments directly to Seller in accordance with its guaranty delivered to Seller in accordance with the Stock Purchase Agreement.

SECTION 9. REMEDIES; NO WAIVER. All rights, powers and remedies of Bank hereunder are cumulative. No delay, failure or discontinuance of Bank in exercising any right, power or remedy hereunder shall affect or operate as a waiver of such right, power or remedy; nor shall any single or partial exercise of any such right, power or remedy preclude, waive or otherwise affect any other or further exercise thereof or the exercise of any other right, power or remedy. Any waiver, permit, consent or approval of any kind by Bank of any breach of this Guaranty, or any such waiver of any provisions or conditions hereof, must be in writing and shall be effective only to the extent set forth in writing.

SECTION 10. COSTS, EXPENSES AND ATTORNEYS' FEES. Guarantor shall pay to Bank within fifteen (15) days after written demand the full amount of all payments, advances, charges, costs and expenses, including reasonable attorneys' fees (to include outside counsel fees and all allocated costs of Bank's in-house counsel), expended or incurred by Bank in connection with the enforcement of any of Bank's rights, powers or remedies and/or the collection of any amounts which become due to Bank under this Guaranty, and the prosecution or defense of any action in any way related to this Guaranty, whether incurred at the trial or appellate level, in an arbitration proceeding or otherwise, and including any of the foregoing incurred in connection with any bankruptcy proceeding (including without limitation, any adversary proceeding, contested matter or motion brought by Bank or any other person) relating to Guarantor or any other person or entity. All of the foregoing shall be paid by Guarantor with interest from the date of written demand until paid in full at a rate per annum equal to the Default Rate then applicable under the Note.

SECTION 11. SUCCESSORS; ASSIGNMENT. This Guaranty shall be binding upon and inure to the benefit of permitted successors and assigns of the parties; provided however, that Guarantor may not assign or transfer any of its interests or rights hereunder without Bank's prior written consent; provided further that Bank may not assign, transfer, negotiate or grant participations in any of its rights under this Guaranty except in connection with an assignment, transfer, negotiation or participation of its rights permitted under the Agreements.

Section 12. Amendment. This Guaranty may be amended or modified only in writing signed by Bank and Guarantor.

Section 13. Application Of Singular And Plural. In all cases where there is but a single Borrower, then all words used herein in the plural shall be deemed to have been used in the singular where the context and construction so require; and when there is more than one Borrower named herein, or when this Guaranty is executed by more than one Guarantor, the word “Borrower” and the word “Guarantor” respectively shall mean all or any one or more of them as the context requires.

Section 14. Understanding With Respect To Waivers; Severability Of Provisions. Guarantor warrants and agrees that each of the waivers set forth herein is made with Guarantor’s full knowledge of its significance and consequences, and that under the circumstances, the waivers are reasonable and not contrary to public policy or law. If any waiver or other provision of this Guaranty shall be held to be prohibited by or invalid under applicable public policy or law, such waiver or other provision shall be ineffective only to the extent of such prohibition or invalidity, without invalidating the remainder of such waiver or other provision or any remaining provisions of this Guaranty.

Section 15. Governing Law. This Guaranty shall be governed by and construed in accordance with the laws of the State of California.

Section 16. Notices. All notices, requests and demands required under this Guaranty shall be delivered in the manner set forth in the Credit Agreement.

[Signature Page Follows]

IN WITNESS WHEREOF, the undersigned Guarantor has executed this Guaranty as of April 30, 2010.

LANDEC CORPORATION

BY: /s/ GREGORY S. SKINNER

Gregory S. Skinner
Chief Financial Officer

LANDEC
INTELLIGENT MATERIALS

**FOR IMMEDIATE RELEASE**

**Contact Information:**

**At the Company:**
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## LANDEC CORPORATION ACQUIRES LIFECORE BIOMEDICAL

MENLO PARK, CA – May 3, 2010 – Landec Corporation (Nasdaq: LNDC), a materials science company that develops and markets patented polymer products for food, agriculture, personal care and drug delivery applications, today announced that it has acquired Lifecore Biomedical, Inc. from Warburg Pincus Private Equity IX, LP ("Warburg Pincus"). When acquired by Warburg Pincus in March 2008, Lifecore was comprised of two divisions, the Dental Division and the Hyaluronan Division. The Dental Division was merged into a Warburg Pincus portfolio company. The Hyaluronan Division, now Lifecore, based in Chaska, MN, is a leading supplier of premium hyaluronan-based biomaterials for the medical and veterinary markets. Lifecore hyaluronan biopolymers are used in a wide and ever-growing range of therapeutic treatments, including cataract surgery, degenerative joint disease, spinal defect filling, medical device coatings, cosmetic soft tissue enhancement and equine osteoarthritis, as well as in numerous research initiatives.

"The acquisition of Lifecore significantly advances our stated strategy to acquire a company that expands our capabilities in materials science, specifically in the area of biomaterials," said Gary Steele, Chairman and CEO of Landec. "Hyaluronic acid (HA) is naturally present in the skin, cartilage and fluid of humans and provides lubricating, connective and shock absorbing functions in both joints and soft tissue. Demand for premium, fermented hyaluronan in biomaterial applications is growing. We view Lifecore's hyaluronan biopolymers as a technology platform that can provide unique HA product innovations, as well as new products from potential synergies with Landec's existing Intelimer® polymers."

Lifecore's President and CEO, Dennis J. Allingham, added, "We welcome the strategic acquisition of Lifecore by Landec, which strengthens our commitment to the development of technically advanced hyaluronan-based specialty medical products that can offer treatment advantages and compatibility within the human body. We are excited about the potential opportunities to apply Landec's knowledge of polymer technology to our new product concepts as a means to expand our product offerings, bring greater value to our customers and attract market-leading partners."

Under the agreement, Landec acquired the stock of Lifecore for $40.0 million in cash and assumed debt of approximately $4.0 million.  In addition, the agreement includes a future cash earn-out potential for Warburg Pincus of up to $10.0 million based on Lifecore achieving certain financial targets during calendar years 2011 and 2012.  In conjunction with the acquisition, Landec secured bank financing of $20.0 million.  The financing has a five year term with a fixed interest rate of approximately 4.2%.  After the acquisition, Landec's cash and marketable securities balance will be approximately $50.0 million.  As a result of this transaction, Landec will record approximately $2.9 million of acquisition related expenses during the fourth quarter of fiscal year 2010.

For Landec's fiscal year 2011, which begins May 31, 2010, Lifecore's revenues are projected to be in the range of $26 million to $28 million.  Before the impact on cost of sales from having to step-up inventory to fair market value and from any incentive stock compensation, Lifecore is expected to realize an average gross margin of approximately 50% and an EBITDA margin of approximately 27%, generating EBITDA in the range of $7.0 million to $8.0 million.  Under accounting guidance for business combinations, inventory must be recorded at its fair market value and thus the value of finished goods inventory, and in some instances work in process inventory, is stepped-up to fair market value.  The increase in the recorded value of the inventory results in lower margins upon the sale of the specific stepped-up inventory until that inventory is completely sold.  Landec is currently in the process of valuing the finished goods inventory and will know the amount of the step-up within the next 30 days.

"The acquisition of Lifecore is consistent with our stated strategy to acquire a company that expands our capabilities in materials science, and advances three additional stated objectives, which are (1) to invest in areas of growth outside of our food technology business, (2) to invest in areas of biomaterials that have potential synergies with Landec's Intelimer polymers and (3) to make an acquisition that is accretive now and going forward.  Lifecore represents an important investment for Landec's future innovation in the area of biomaterials.  Landec's focus on profitable growth and positive cash generation allows us to selectively pursue and take advantage of growth opportunities that meet or exceed our criteria for achieving attractive returns on our investment," stated Steele.

**About Lifecore Biomedical**

Lifecore Biomedical, based in Chaska, MN, develops, manufactures, and markets hyaluronan-based biomaterials in the form of compounds and several finished products for biomedical applications targeting both joints and soft tissue in ophthalmic, orthopedic and veterinary markets.  The compounds, used as components in medical devices, veterinary products and drugs, are available as sodium salts and as a viscous solution available in syringes, vials or bulk sterile containers.  The finished products include: (1) Lurocoat® Ophthalmic Viscoelastic for use in ophthalmic surgical procedures including cataract extraction and intraocular lens implantation, (2) Ortholure™ Orthopedic Viscosupplement for use in pain and restricted mobility indications due to degenerative and traumatic changes in synovial joints such as the knee, and (3) Corgel™ BioHydrogel research kits, a hyaluronan-based biocompatible hydrogel, initially developed at the Cleveland Clinic and now under an exclusive license agreement for numerous biomedical applications.  Lifecore primarily conducts its business through partnerships with strategic market leaders in various medical fields and through contract manufacturing alliances.  For more information visit Lifecore's website at www.lifecore.com.

**About Landec Corporation**

Landec is a materials science company, leveraging its capability in polymer science and bio-application development in order to commercialize new products within a variety of life science fields, including food, agricultural, personal care and drug delivery applications. With its Intelimer® polymers, Landec is able to customize its proprietary polymer materials for each application through the manipulation of their unique controlled release, temperature activation and/or biocompatibility properties. Landec's subsidiary, *Apio Inc*., has leveraged Landec's BreatheWay® membrane to become the leader in US fresh-cut specialty vegetables. *Landec Ag* offers a full solution of seed coatings and enhancements that work with the latest genetic technologies to drive continuous improvements in crop yield. Through long-standing partnerships, Landec has commercialized dozens of personal care and adhesive products. For more information about the Company visit Landec's website at www.landec.com.

Except for the historical information contained herein, the matters discussed in this news release are forward-looking statements that involve certain risks and uncertainties that could cause actual results to differ materially, including such factors among others, as the timing and expenses associated with expanding operations, the ability to achieve acceptance of the Company's new products in the market place, the severity of the current economic slowdown, weather conditions that can affect the supply and price of produce, the amount and timing of research and development funding and license fees from the Company's collaborative partners, the timing of regulatory approvals, new product introductions, the mix between domestic and international sales, and the risk factors listed in the Company's Form 10-K for the fiscal year ended May 31, 2009 (See item 1A: Risk Factors). As a result of these and other factors, the Company expects to continue to experience significant fluctuations in quarterly operating results and there can be no assurance that the Company will remain consistently profitable. The Company undertakes no obligation to update or revise any forward-looking statements whether as a result of new developments or otherwise.

Grace Matthews, Inc. of Milwaukee, Wisconsin assisted Landec Corporation in completing this transaction. Grace Matthews provides merger, acquisition, and corporate finance advisory services to corporate and entrepreneurial clients. Grace Matthews' principals have successfully completed transactions on behalf of clients ranging from private, middle market companies to large foreign and U.S.-based multi-nationals. For more detailed information on Grace Matthews, Inc., visit www.gracematthews.com.