

---

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

---

**FORM 10-Q**

---

(Mark One)

**QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

For the quarterly period ended April 3, 2004

OR

**TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

For the transition period from \_\_\_\_\_ to \_\_\_\_\_

Commission File number 1-9273

---

**PILGRIM'S PRIDE CORPORATION**

(Exact name of registrant as specified in its charter)

---

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

**110 South Texas, Pittsburg, TX**  
(Address of principal executive offices)

**75-1285071**  
(I.R.S. Employer  
Identification No.)

**75686-0093**  
(Zip code)

**(903) 855-1000**  
(Registrant's telephone number, including area code)

**Not Applicable**  
Former name, former address and former fiscal year, if changed since last report.

---

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes  No

Indicate by check mark whether the registrant is an accelerated filer (as defined in Rule 12b-2 of the Exchange Act). Yes  No

Number of shares outstanding of issuer's common stock, as of April 30, 2004, was 66,555,733.

---

[Table of Contents](#)

INDEX

PILGRIM'S PRIDE CORPORATION AND SUBSIDIARIES

[PART I. FINANCIAL INFORMATION](#)

Item 1.	<a href="#">Financial Statements (Unaudited)</a>	3
	<a href="#">Consolidated balance sheets April 3, 2004 and September 27, 2003</a>	3
	<a href="#">Consolidated income statements Three months and six months ended April 3, 2004 and March 29, 2003</a>	4
	<a href="#">Consolidated statements of cash flows Six months ended April 3, 2004 and March 29, 2003</a>	5
	<a href="#">Notes to consolidated financial statements as of April 3, 2004</a>	6
Item 2.	<a href="#">Management's Discussion and Analysis of Financial Condition and Results of Operations</a>	18
Item 3.	<a href="#">Quantitative and Qualitative Disclosures about Market Risk</a>	29
Item 4.	<a href="#">Controls and Procedures</a>	30

[PART II. OTHER INFORMATION](#)

Item 1.	<a href="#">Legal Proceedings</a>	31
Item 4.	<a href="#">Submission of Matters to a Vote of Security Holders</a>	32
Item 6.	<a href="#">Exhibits and Reports on Form 8-K</a>	33

<a href="#">SIGNATURES</a>	34
----------------------------	----

<a href="#">EXHIBIT INDEX</a>	35
-------------------------------	----

## PART I. FINANCIAL INFORMATION

## Item 1. Financial Statements

Pilgrim's Pride Corporation and Subsidiaries  
Consolidated Balance Sheets

	April 3, 2004	September 27, 2003
	<i>(Unaudited)</i> <i>(in thousands</i> <i>except share data)</i>	
<b>Assets</b>		
<b>Current Assets:</b>		
Cash and cash equivalents	\$ 47,151	\$ 16,606
Trade accounts and other receivables, less allowance for doubtful accounts	209,699	127,020
Inventories	605,562	340,881
Other current assets	10,641	6,201
<b>Total Current Assets</b>	<b>873,053</b>	<b>490,708</b>
<b>Other Assets</b>	<b>108,991</b>	<b>31,302</b>
<b>Property, Plant and Equipment:</b>		
Land	54,607	38,708
Buildings, machinery and equipment	1,535,333	1,085,281
Autos and trucks	61,660	55,239
Construction-in-progress	34,225	21,209
	<u>1,685,825</u>	<u>1,200,437</u>
Less accumulated depreciation	519,821	464,963
	<u>1,166,004</u>	<u>735,474</u>
	<u>\$2,148,048</u>	<u>\$1,257,484</u>
<b>Liabilities and Stockholders' Equity</b>		
<b>Current Liabilities:</b>		
Notes payable to banks	\$ 4,000	\$ —
Accounts payable	303,361	159,164
Accrued expenses	221,516	107,503
Current deferred income tax	10,242	10,242
Current maturities of long-term debt	8,331	2,680
<b>Total Current Liabilities</b>	<b>547,450</b>	<b>279,589</b>
<b>Long-Term Debt, Less Current Maturities</b>	<b>643,298</b>	<b>415,965</b>
<b>Deferred Income Taxes</b>	<b>115,905</b>	<b>113,988</b>
<b>Minority Interest in Subsidiary</b>	<b>1,202</b>	<b>1,246</b>
<b>Commitments and Contingencies</b>	<b>—</b>	<b>—</b>
<b>Stockholders' Equity:</b>		
Preferred stock, \$.01 par value, 5,000,000 authorized shares; none issued	—	—
Common stock – \$.01 par value, 160,000,000 authorized shares; 66,826,833 and 41,383,779 issued and outstanding, respectively	668	414
Additional paid-in capital	431,662	79,625
Retained earnings	409,431	368,195
Accumulated other comprehensive income	—	30
Less treasury stock, 271,100 shares	(1,568)	(1,568)
<b>Total Stockholders' Equity</b>	<b>840,193</b>	<b>446,696</b>
	<u>\$2,148,048</u>	<u>\$1,257,484</u>

See notes to consolidated financial statements.

Pilgrim's Pride Corporation and Subsidiaries  
Consolidated Income Statements  
(Unaudited)

	Three Months Ended		Six Months Ended	
	April 3, 2004	March 29, 2003	April 3, 2004 (27 Weeks)	March 29, 2003 (26 Weeks)
	(in thousands, except share and per share data)			
<b>Net Sales</b>	\$ 1,384,907	\$ 630,592	\$ 2,429,275	\$ 1,257,997
<b>Costs and Expenses:</b>				
Cost of sales	1,257,816	604,919	2,225,080	1,204,325
Non-recurring recoveries	(68)	(11,312)	(76)	(25,700)
Selling, general and administrative	65,649	35,576	111,952	67,621
	<u>1,323,397</u>	<u>629,183</u>	<u>2,336,956</u>	<u>1,246,246</u>
Operating income	61,510	1,409	92,319	11,751
<b>Other Expense (Income):</b>				
Interest expense, net	13,524	9,942	25,968	19,418
Foreign exchange (gain) loss	185	217	263	(132)
Miscellaneous, net	1,256	(26,896)	936	(28,662)
	<u>14,965</u>	<u>(16,737)</u>	<u>27,167</u>	<u>(9,376)</u>
Income before income taxes	46,545	18,146	65,152	21,127
Income tax expense	13,594	7,381	21,915	7,606
Net income	<u>\$ 32,951</u>	<u>\$ 10,765</u>	<u>\$ 43,237</u>	<u>\$ 13,521</u>
Net income per common share – basic and diluted	<u>\$ 0.50</u>	<u>\$ 0.26</u>	<u>\$ 0.73</u>	<u>\$ 0.33</u>
Dividends per common share	<u>\$ 0.015</u>	<u>\$ 0.015</u>	<u>\$ 0.030</u>	<u>\$ 0.030</u>
Weighted average shares outstanding	<u>66,555,733</u>	<u>41,112,679</u>	<u>58,882,431</u>	<u>41,112,679</u>

See notes to consolidated financial statements.

[Table of Contents](#)

Pilgrim's Pride Corporation and Subsidiaries  
Consolidated Statements of Cash Flows  
(Unaudited)

	<i>Six Months Ended</i>	
	<u>April 3, 2004</u> <i>(27 Weeks)</i>	<u>March 29, 2003</u> <i>(26 Weeks)</i>
	<i>(in thousands)</i>	
<b>Cash Flows From Operating Activities:</b>		
Net income	\$ 43,237	\$ 13,521
Adjustments to reconcile net income to cash provided by operating activities:		
Depreciation and amortization	58,998	35,312
Gain on property disposals	(365)	(132)
Deferred income taxes	1,917	9,804
Changes in operating assets and liabilities:		
Accounts and other receivables	43,425	(24,739)
Inventories	(68,131)	(18,563)
Other current assets	(1,102)	(1,094)
Accounts payable and accrued expenses	81,953	(28,764)
Other	(73)	(1,345)
Cash provided by (used in) operating activities	159,859	(16,000)
<b>Investing Activities:</b>		
Acquisitions of property, plant and equipment	(39,981)	(25,024)
Business acquisition, net of equity consideration	(304,054)	—
Proceeds from property disposals	706	292
Other, net	262	(589)
Cash used in investing activities	(343,067)	(25,321)
<b>Financing Activities:</b>		
Borrowing for acquisition	300,767	—
Proceeds from notes payable to banks	70,000	206,000
Repayments of notes payable to banks	(66,000)	(206,000)
Proceeds from long-term debt	205,166	108,133
Payments on long-term debt	(288,949)	(65,681)
Equity and debt issue cost	(5,185)	—
Cash dividends paid	(2,001)	(1,237)
Cash Provided By Financing Activities	213,798	41,215
Effect of exchange rate changes on cash and cash equivalents	(45)	(410)
Increase (decrease) in cash and cash equivalents	30,545	(516)
Cash and cash equivalents at beginning of year	16,606	14,913
<b>Cash and Cash Equivalents at End of Period:</b>	<b>\$ 47,151</b>	<b>\$ 14,397</b>
<b>Supplemental Non-cash Disclosure Information:</b>		
Business acquisition, equity consideration (before cost of issuance)	\$ 357,475	\$ —

See notes to consolidated financial statements.

## [Table of Contents](#)

### PILGRIM'S PRIDE CORPORATION AND SUBSIDIARIES

April 3, 2004

#### NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Unaudited)

##### **NOTE A—BASIS OF PRESENTATION**

The accompanying unaudited consolidated financial statements of Pilgrim's Pride Corporation (referred to herein as "Pilgrim's," or "the Company," "we," "us," "our" or similar terms) have been prepared in accordance with accounting principles generally accepted in the United States ("U.S.") for interim financial information and with the instructions to Form 10-Q and Article 10 of Regulation S-X of the U.S. Securities and Exchange Commission. Accordingly, they do not include all of the information and footnotes required by generally accepted accounting principles for complete financial statements. In the opinion of management, all adjustments (consisting of normal and recurring adjustments unless otherwise disclosed) considered necessary for a fair presentation have been included. Operating results for the period ended April 3, 2004 are not necessarily indicative of the results that may be expected for the year ended October 2, 2004. For further information, refer to the consolidated financial statements and footnotes thereto included in Pilgrim's Annual Report on Form 10-K for the fiscal year ended September 27, 2003.

The consolidated financial statements include the accounts of Pilgrim's and its wholly and majority owned subsidiaries. Significant intercompany accounts and transactions have been eliminated.

The assets and liabilities of the foreign subsidiaries are translated at end-of-period exchange rates, except for any non-monetary assets, which are translated at equivalent dollar costs at dates of acquisition using historical rates. Operations of foreign subsidiaries are translated at average exchange rates in effect during the period.

Total comprehensive income was \$33.0 million and \$10.8 million for the three months and \$43.2 million and \$13.5 million for the six months ending April 3, 2004 and March 29, 2003, respectively.

In January 2003, the Financial Accounting Standards Board ("FASB") issued Interpretation No. 46, "Consolidation of Variable Interest Entities, an interpretation of Accounting Research Bulletin No. 51" ("Interpretation No. 46"). On June 29, 1999, the Camp County Industrial Development Corporation issued \$25.0 million of variable-rate environmental facilities revenue bonds supported by letters of credit we obtained. We may draw from these proceeds over the construction period for new sewage and solid waste disposal facilities at a poultry by-products plant to be built in Camp County, Texas. We are not required to borrow the full amount of the proceeds from the revenue bonds. All amounts borrowed from these funds will be due in 2029. The adoption of Interpretation No. 46 did not result in the consolidation of the Camp County Industrial Development Corporation, as variable interest entities created by governmental entities are specifically excluded from consolidation under Interpretation 46. We will record as debt only amounts ultimately spent on construction of the sewage and solid waste disposal facility as proceeds are drawn by the Company in reimbursement of such construction. The Company has no other interest in variable interest entities.

Certain reclassifications have been made to prior periods to conform to current presentations.

PILGRIM'S PRIDE CORPORATION AND SUBSIDIARIES

April 3, 2004

**NOTE B—BUSINESS ACQUISITION**

On November 23, 2003, we completed the purchase of all the outstanding stock of the corporations represented as the ConAgra Foods, Inc. ("ConAgra") chicken division ("ConAgra chicken division"). The acquired business has been included in our results of operations since the date of the acquisition. The acquisition provides us with additional lines of specialty prepared chicken products, well-known brands, well-established distributor relationships and Southeastern United States processing facilities. The acquisition also includes the largest distributor of chicken products in Puerto Rico. This allows us to provide customers at every point in the distribution chain with the broadest range of quality value-added chicken products and services available in the market today.

Based on the estimated closing balance sheet delivered prior to closing, and our common stock data through five days prior to closing, the acquisition has been preliminarily valued at approximately \$667.2 million. This was funded by (1) \$100.0 million of 9 1/4% senior subordinated notes due 2013, issued on November 21, 2003, (2) \$100.0 million of 9 5/8% senior unsecured notes due 2011, issued August 18, 2003 at a price of 103.5% of the principal amount thereof, the net proceeds of which were used to pay down existing borrowings under the Company's revolving/term credit facility pending the closing of the acquisition and as a result at closing the amount was re-borrowed from our revolving/term credit facility, (3) \$100.0 million of secured notes sold to an insurance company, which have an interest rate equal to LIBOR plus 2.2075%, \$80.0 million of which has a maturity date in 2013 and \$20.0 million of which has a maturity date in 2010 and (4) the issuance of 25,443,054 shares of our common stock valued at \$14.05 per share, the closing price of our common stock on November 17, 2003, the day on which final stock consideration was determined, less costs associated with the issuance of the equity. In addition, the Company assumed certain long-term debt and paid transaction costs.

The final purchase price is subject to adjustment based on determination of the final adjusted net book value of the assets purchased, which is expected to occur before the end of fiscal 2004. Based on our determination of the preliminary closing balance sheet and subsequent analyses, it appears that the consideration paid at closing could be as much as \$61 million in excess of the final amount due to ConAgra (the "Potential Overpayment"). This amount has been classified as "Other Assets" pending resolution of the final purchase price. On April 23, 2004, Pilgrim's Pride received a financial statement from the designated auditor of the preliminary closing balance sheet that indicates that the consideration paid at closing was \$24 million in excess of the final amount due to ConAgra. Each of Pilgrim's Pride and ConAgra has the right to object to the calculations contained in this financial statement, and Pilgrim's Pride intends to object and assert the balance of the Potential Overpayment. If Pilgrim's Pride and ConAgra cannot agree on the purchase price, the determination of the purchase price will be submitted to a mutually acceptable independent accountant for a final determination. Accordingly, no assurances can be given that the purchase price will be reduced by \$61 million or at all. According to the purchase agreement, any amounts owed in connection with this final determination of value will also include interest at the rate of 7.0% per annum from November 23, 2003 until the date paid.

## [Table of Contents](#)

### PILGRIM'S PRIDE CORPORATION AND SUBSIDIARIES

April 3, 2004

#### Purchase consideration:

(In thousands):

Common stock	\$ 357,475
Long-term debt	300,767
Transaction costs	8,937
	<hr/>
Total purchase price	\$ 667,179

The following table summarizes the Company's estimates of fair value of the assets acquired and liabilities assumed at the date of acquisition. The Potential Overpayment discussed above, along with a preliminary estimate of the intangible assets acquired are included in "Other Assets." The purchase price allocation is preliminary and will be finalized after completion of the independent appraisal of significant assets and liabilities acquired, which is currently underway, and the Company's evaluation of the operations acquired from ConAgra, which began immediately after the closing of the acquisition, and after determination of the final purchase price pursuant to the Company's stock purchase agreement with ConAgra.

#### Purchase price allocation:

(In thousands):

Current assets	\$ 326,118
Property, plant and equipment	450,539
Other assets	84,628
	<hr/>
Total assets acquired	\$ 861,285
	<hr/>
Current liabilities	\$ 178,106
Long-term debt	16,000
	<hr/>
Total liabilities assumed	\$ 194,106
	<hr/>
Total purchase price	\$ 667,179

The unaudited pro forma financial information has been presented as if the acquisition of the ConAgra chicken division had occurred as of the beginning of each period presented. For the three and six month periods ended March 29, 2003, the ConAgra chicken division information has been included with a one-month lag to the Pilgrim's Pride reporting period in order to maintain their existing quarterly period.

[Table of Contents](#)

## PILGRIM'S PRIDE CORPORATION AND SUBSIDIARIES

April 3, 2004

Pro Forma Financial Information:

	<i>Three Months Ended</i>		<i>Six Months Ended</i>	
	<i>April 3, 2004</i>	<i>March 29, 2003</i>	<i>April 3, 2004 (27 Weeks)</i>	<i>March 29, 2003 (26 Weeks)</i>
<i>In thousands, except share and per share data</i>				
Net sales	\$ 1,384,907	\$ 1,178,245	\$ 2,890,722	\$ 2,399,503
Depreciation and amortization	\$ 33,087	\$ 34,761	\$ 67,488	\$ 66,064
Operating income	\$ 61,510	\$ (26,040)	\$ 117,425	\$ (6,226)
Interest expense, net	\$ 13,524	\$ 18,915	\$ 30,339	\$ 35,187
Income before taxes	\$ 46,545	\$ (16,549)	\$ 86,577	\$ (11,106)
Net Income	\$ 32,951	\$ (11,023)	\$ 56,521	\$ (6,740)
Net income per common share	\$ 0.50	\$ (0.17)	\$ 0.85	\$ (0.10)
Weighted average shares outstanding	66,555,733	66,555,733	66,555,733	66,555,733

**NOTE C—NON-RECURRING RECOVERIES**

Non-recurring recoveries, which is a component of gross profit and operating income, include reimbursements received from the U.S. federal government under a relief plan related to the avian influenza outbreak in The Commonwealth of Virginia ("Virginia") on March 12, 2002 and proceeds received from litigation initiated by the Company in antitrust lawsuits alleging a world-wide conspiracy to control production capacity and raise prices of vitamins and methionine. Proceeds received by the Company as successor to WLR Foods in connection with the lawsuits described above are recorded as Other Expense (Income); Miscellaneous, Net. The Company received approximately \$1.0 million in the second quarter of fiscal 2004 in connection with the vitamin litigation settlement. The Company anticipates no significant future relief from the federal government or from the lawsuits discussed above.

[Table of Contents](#)

PILGRIM'S PRIDE CORPORATION AND SUBSIDIARIES  
April 3, 2004

The following table presents the impact of avian influenza federal compensation and the vitamin and the methionine litigation settlements on non-recurring recoveries and miscellaneous, net:

(million)	Three Months Ended April 3, 2004			Three Months Ended March 29, 2003		
	Non-Recurring	Miscellaneous Net	Total	Non-Recurring	Miscellaneous Net	Total
Avian Influenza	\$ —	\$ —	\$—	\$ 1.8	\$ —	\$ 1.8
Vitamin	0.1	0.9	1.0	1.4	21.1	22.5
Methionine	—	—	—	8.1	5.6	13.7
Total	\$ 0.1	\$ 0.9	\$ 1.0	\$ 11.3	\$ 26.7	\$38.0

(million)	Six Months Ended April 3, 2004			Six Months Ended March 29, 2003		
	Non-Recurring	Miscellaneous Net	Total	Non-Recurring	Miscellaneous Net	Total
Avian Influenza	\$ —	\$ —	\$—	\$ 16.1	\$ —	\$16.1
Vitamin	0.1	0.9	1.0	1.5	22.4	23.9
Methionine	—	—	—	8.1	5.6	13.7
Total	\$ 0.1	\$ 0.9	\$ 1.0	\$ 25.7	\$ 28.0	\$53.7

**NOTE D—ACCOUNTS RECEIVABLE**

Under our Receivables Purchase Agreement, we sell on a revolving basis, up to \$125.0 million of certain trade receivables (the "Pooled Receivables") to a special purpose corporation wholly owned by us, which in turn sells a percentage ownership interest to third parties. At April 3, 2004 and September 27, 2003, an interest in these Pooled Receivables of \$125.0 million and \$58.5 million, respectively, had been sold to third parties and was reflected as a reduction to accounts receivable. The gross proceeds resulting from the sale are included in cash flows from operating activities in the Consolidated Statements of Cash Flows. Gross proceeds of \$66.5 million were received during the six month period ended April 3, 2004. Losses on these sales were immaterial. As of the fiscal month ended April 3, 2004, no additional Pooled Receivables were available for sale.

At the time of the recall of certain deli meats in October 2002, the Company had a separate insurance contract for product recall coverage with an insurance company that specifically provides for reimbursement of direct recall related expenses, product restoration expenses and loss of business income. The Company has recorded receivables related to direct recall related expense, specifically related to the write-off of inventory, third party shipping and freight costs, payments made for outside labor, internal hourly labor, third party warehouse storage costs and payments to customers. The Company has recorded \$10.2 million in recall related expenses, net of the deductible amount of \$0.5 million and the \$16.0 million advance payment from the Company's insurer, as a component of "Current Assets – Trade accounts and other receivables." The Company has recorded as a receivable only the readily, objectively determinable amounts of direct product recall costs reimbursable under its insurance policy. The Company has filed claims, to date, under this insurance contract totaling approximately \$98 million; although, the policy limit is \$50 million. On February 24, 2004, we filed suit against our insurer, Ace American Insurance Company ("Ace"), in the District Court of the State of Texas for Dallas County seeking judgment for the remaining \$34.0 million owed under the policy, consequential and punitive damages, costs and interest. On March 19, 2004, Ace filed a general denial answer to our suit filed against them. We continue to believe, however, that we will recover the remaining amounts owed to us by our insurer under the policy. However, no assurances can be given that we will ultimately recover to the full extent of the policy.

[Table of Contents](#)

## PILGRIM'S PRIDE CORPORATION AND SUBSIDIARIES

April 3, 2004

**NOTE E—INVENTORIES**

Inventories consist of the following:

	<u>April 3, 2004</u>	<u>September 27, 2003</u>
	<i>(in thousands)</i>	
<b>Chicken:</b>		
Live chicken and hens	\$ 205,509	\$ 102,796
Feed, eggs and other	133,518	70,245
Finished chicken products	165,432	83,264
	<u>504,459</u>	<u>256,305</u>
<b>Turkey:</b>		
Live turkey and hens	29,560	30,505
Feed, eggs and other	16,100	12,405
Finished turkey products	55,443	41,666
	<u>101,103</u>	<u>84,576</u>
<b>Total Inventories</b>	<u>\$ 605,562</u>	<u>\$ 340,881</u>

**NOTE F—LONG TERM DEBT**

At April 3, 2004, we maintained \$130.0 million in revolving credit facilities, \$30.0 million of which relates to our Mexico operations, and \$400.0 million in a secured revolving/term borrowing facility. On April 7, 2004, the \$400.0 million revolving/term borrowing facility was increased to \$500.0 million and now provides for borrowing of up to the \$500 million commitment availability until April 4, 2008. Borrowings outstanding under the \$500 million revolving/term borrowing facility as of April 7, 2008 are converted to term loans with approximately one-half of the term loan principal payable in annual installments through August 31, 2011 with the remainder due at that time. The new revolving/term credit facilities provide for interest rates ranging from LIBOR plus one percent to LIBOR plus two and five eighths percent depending upon our total debt to capitalization ratio. Interest rates on debt outstanding under the old facilities at April 3, 2004 ranged from LIBOR plus one and one-half percent to LIBOR plus one and three-quarters percent and would have been LIBOR plus one and one half percent if the April 7, 2004 amendment had occurred prior to that date. Borrowings under this facility at April 3, 2004, were \$76.0 million. On April 7, 2004, the \$100 million domestic revolving credit facility was increased to \$150.0 million and will be available until April 7, 2009. The \$500 million revolving/term borrowing facility, \$417.1 million of which is currently available for borrowings, is secured by certain fixed assets. The \$150.0 million revolving credit facility, \$127.6 million of which is currently available for borrowings (\$36.6 million of which is currently utilized for letters of credit), is secured by domestic chicken inventories. The \$30.0 million facility in Mexico is secured by the accounts receivable, inventories and certain fixed assets of the Company's Mexico operations. Borrowings against these facilities are subject to the availability of collateral and no material adverse change provisions.

In November 2003, the Company borrowed approximately \$299.5 million in additional long-term debt to fund the closing of the ConAgra chicken division acquisition. The specific borrowings are discussed in Note B and consisted of a combination of subordinated debt, senior notes and asset based borrowings.

[Table of Contents](#)

## PILGRIM'S PRIDE CORPORATION AND SUBSIDIARIES

April 3, 2004

The following table presents our long-term debt as of April 3, 2004, adjusted assuming the refinancing described above with respect to our revolving/term credit facility was done as of April 3, 2004:

(in thousands):

	Final Maturity	April 3, 2004	September 27, 2003
Senior unsecured notes, interest at 9 <sup>5</sup> / <sub>8</sub> %	2011	\$ 303,235	\$ 303,500
Senior subordinated unsecured notes, interest at 9 <sup>1</sup> / <sub>4</sub> %	2013	100,000	—
Note payable to an insurance company at 6.68%	2012	57,226	58,512
Notes payable to an insurance company at LIBOR plus 2.2075%	2013	78,662	—
Note payable to a lender at LIBOR plus 2.2075%	2010	19,000	—
Revolving term/credit facility at LIBOR plus 1.50%, payable monthly	2011	76,000	—
Revolving term/credit facility – 10 year tranche at LIBOR plus 1.75%, payable monthly	2010	—	39,188
Revolving term/credit facility – 7 year tranche at LIBOR plus 1.50%, payable monthly	2007	—	15,813
Industrial revenue bond at variable rate	2012	9,500	—
Industrial revenue bond at variable rate	2019	4,700	—
Other notes payable	Various	3,306	1,632
		<u>651,629</u>	<u>418,645</u>
Less current maturities		8,331	2,680
<b>Total</b>		<b>\$ 643,298</b>	<b>\$ 415,965</b>

Annual maturities of long-term debt adjusted assuming the refinancing discussed above had been completed as of April 3, 2004 for the five years subsequent to September 27, 2003 are: Remainder of fiscal 2004 — \$4.1 million, 2005 — \$9.4 million, 2006 — \$9.6 million, 2007 — \$9.9 million and 2008 — \$11.7 million.

**NOTE G – COMMON STOCK**

Prior to November 22, 2003, the Company had two classes of authorized common stock, Class A common stock and Class B common stock. The shares had substantially the same rights, powers and limitations, except that each share of Class B common stock entitled the holder thereof to 20 votes per share, except as otherwise provided by law, on any matter submitted for a stockholder vote, while each share of Class A common stock entitled the holder thereof to one vote per share on any such matter.

The Company's stockholders adopted, at a special meeting of stockholders on November 20, 2003, a proposal to amend our certificate of incorporation to reclassify our Class A common stock and Class B common stock into a single class of common stock.

## [Table of Contents](#)

### PILGRIM'S PRIDE CORPORATION AND SUBSIDIARIES

April 3, 2004

After the New York Stock Exchange closed on November 21, 2003, each share of Class A common stock and each share of Class B common stock was reclassified into one share of new common stock. The new common stock is our only class of authorized common stock. Following the reclassification, the Class A common stock and Class B common stock were no longer listed on the New York Stock Exchange. The new common stock is listed on the New York Stock Exchange under the symbol "PPC" and registered under the Securities Exchange Act of 1934. There were 13,794,529 shares of Class A common stock and 27,589,250 shares of Class B common stock outstanding prior to the reclassification. Immediately after giving effect to the reclassification, there were 41,383,779 shares of our new common stock outstanding, all of which were held by our then current stockholders.

Following the reclassification, our certificate of incorporation contains no provision for Class A common stock or Class B common stock. In connection with the elimination of the dual class capital structure, our certificate of incorporation now authorizes 160 million shares of common stock instead of 100 million shares of Class A common stock and 60 million shares of Class B common stock.

Except as to voting rights, the rights of the new common stock are substantially identical to the rights of the Class A common stock and Class B common stock. Each share of Class A common stock or Class B common stock that was reclassified into our new common stock is entitled to cast twenty votes on all matters submitted to a vote of the stockholders until there is a change in the beneficial ownership of such share, as determined by us or our transfer agent based upon criteria specified in the certificate of amendment to our certificate of incorporation and written procedures we may adopt from time to time.

Subject to certain exceptions specified in the certificate of amendment to our certificate of incorporation, following a change in beneficial ownership of a share that is reclassified, the share will be entitled to only one vote. Shares of new common stock issued after the reclassification will also only be entitled to one vote per share, including the shares issued to ConAgra in the ConAgra chicken division acquisition on November 23, 2003. Shares held in street name or by a broker or nominee will be presumed to have been acquired after the reclassification and to therefore have one vote per share. This presumption is rebuttable by the holder's showing that such share was subject to the reclassification and that no change in beneficial ownership of such share has occurred since the reclassification.

The reclassification had no significant effect on our Consolidated Financial Statements, as the combination of the Class A and Class B shares into a new class of common stock did not affect the overall shares of common stock outstanding. Prior year balances reflect this reclassification as if it had occurred as of the earliest period presented.

As of April 3, 2004, we estimate that approximately 28.0 million shares of our common stock carry 20 votes per share, of which 25.4 million shares are beneficially owned by our Chairman, Lonnie "Bo" Pilgrim, or certain related entities.

## PILGRIM'S PRIDE CORPORATION AND SUBSIDIARIES

April 3, 2004

**NOTE H—RELATED PARTY TRANSACTIONS**

Lonnie “Bo” Pilgrim, the Chairman and, through certain related entities, the major stockholder of the Company (collectively, the “major stockholder”) owns an egg laying and a chicken growing operation. In addition, at certain times during the year, the major stockholder purchases from the Company live chickens and hens and certain feed inventories during the grow-out process and then contracts with the Company to resell the birds at maturity using a market-based formula, with price subject to a ceiling price calculated at his cost plus two percent. Purchases made by the Company under this agreement resulted in an operating margin to the major stockholder of \$392,400 and \$120,600 during the quarters, and \$1,035,500 and \$329,600 during the six months ended April 3, 2004 and March 29, 2003, respectively, on gross amounts paid by the Company to the major stockholder as described below in “Live chicken purchases from major stockholder.”

Transactions with related parties are summarized as follows:

	<i>Three Months Ended</i>		<i>Six Months Ended</i>	
	<i>April 3, 2004</i>	<i>March 29, 2003</i>	<i>April 3, 2004</i>	<i>March 29, 2003</i>
	<i>(in thousands)</i>			
Lease payments on commercial egg property	188	188	376	376
Chick, feed and other sales to major stockholder	4,560	3,803	52,594	47,461
Live chicken purchases from major stockholder	25,098	36,686	53,424	47,326
Loan guaranty fees	883	805	1,485	1,769
Lease payments on airplane	99	99	198	198

**NOTE I—COMMITMENTS and CONTINGENCIES**

The Company’s future minimum lease commitments under non-cancelable operating leases are as follows: 2004 — \$29.8 million, 2005 — \$26.1 million, 2006 — \$21.5 million, 2007 — \$17.0 million, 2008 — \$12.1 million and thereafter \$16.0 million.

At April 3, 2004, the Company had \$36.6 million in letters of credit outstanding relating to normal business transactions which reduce the amount otherwise available under the Company’s revolving credit facility to \$91 million.

In October 2002, a limited number of USDA environmental samples from our Franconia, Pennsylvania plant tested positive for *Listeria*. As a result, we voluntarily recalled all cooked deli products produced at the plant from May 1, 2002 through October 11, 2002. No illnesses have been linked to any of our recalled products and none of such products have tested positive for the strain of *Listeria* associated with an outbreak in the Northeastern U.S. that occurred during the summer of 2002. However, in connection with this recall, we have been named as a defendant in four lawsuits brought by individuals generally alleging injuries resulting from contracting *Listeria monocytogenes*. We believe that we have meritorious defenses to these claims, and intend to assert vigorous defenses to the litigation. Neither the likelihood of an unfavorable outcome nor the amount of ultimate liability, if any, with respect to any of these cases can be determined at this time. After considering our available insurance coverage, we do not expect these cases to have a material impact on our financial position, operations or liquidity.

## [Table of Contents](#)

### PILGRIM'S PRIDE CORPORATION AND SUBSIDIARIES

April 3, 2004

On December 31, 2003, we were served with a purported class action complaint styled "*Angela Goodwin, et al. v. ConAgra Poultry Company and Pilgrim's Pride*" in the United States District Court, Western District of Arkansas, El Dorado Division, alleging racial and age discrimination at one of the facilities we acquired from ConAgra. We are evaluating the defense and materiality of the claim. Neither the likelihood of an unfavorable outcome nor the ultimate liability, if any, can be determined at this time.

The Company is subject to various other legal proceedings and claims which arise in the ordinary course of its business. In the opinion of management, the amount of ultimate liability with respect to these actions will not materially affect the financial position or results of operations of the Company.

The Company also maintains operating leases for various types of equipment, some of which contain residual value guarantees for the market value of assets at the end of the term of the lease. The terms of the lease maturities range from one to seven years. The maximum potential amount of the residual value guarantees is approximately \$14.7 million; however, the actual amount is based on an undeterminable recoverable amount based on the fair market value of the underlying leased assets. The likelihood of payments under these guarantees is not considered to be probable, and accordingly no liabilities have been recorded. The Company historically has not experienced significant payments under similar residual guarantees.

#### **NOTE J – BUSINESS SEGMENTS**

We operate in two reportable business segments as a producer of chicken and other products and a producer of turkey products.

Our chicken and other products segment primarily includes sales of chicken products and by-products we produce and purchase for resale in the United States, including Puerto Rico, and in Mexico. This segment also includes the sale of table eggs, feed and other items. Our chicken and other products segment conducts separate operations in the U.S. and Puerto Rico and in Mexico and is reported as two separate geographical areas. Substantially all of the assets and operations of the recently acquired ConAgra chicken division are included in our U.S. chicken and other products segment since the date of acquisition.

Our turkey segment includes sales of turkey products produced in our turkey operations, which operates exclusively in the U.S.

Inter-area sales and inter-segment sales, which are not material, are accounted for at prices comparable to normal trade customer sales. Corporate expenses are allocated to Mexico based upon various apportionment methods for specific expenditures incurred related thereto with the remaining amounts allocated to the U.S. portions of the segments based on number of employees.

Non-recurring recoveries, which represent settlements for vitamin and methionine litigation covering several periods, as well as federal compensation for avian influenza losses, have not been allocated to any segment because the proper allocation cannot be readily determined.

[Table of Contents](#)

PILGRIM'S PRIDE CORPORATION AND SUBSIDIARIES  
April 3, 2004

The following table presents certain information regarding the Company's segments:

	Three Months Ended		Six Months Ended	
	April 3, 2004 <sup>(a)</sup>	March 29, 2003	April 3, 2004 (27 Weeks) <sup>(a)</sup>	March 29, 2003 (26 Weeks)
(in thousands)				
<b>Net Sales to Customers:</b>				
Chicken and Other Products:				
United States <sup>(b)</sup>	\$ 1,235,005	\$ 475,294	\$ 2,092,437	\$ 913,851
Mexico	95,792	92,891	189,404	187,360
Sub-total	1,330,797	568,185	2,281,841	1,101,211
Turkey	54,110	62,407	147,434	156,786
<b>Total</b>	<b>\$ 1,384,907</b>	<b>\$ 630,592</b>	<b>\$ 2,429,275</b>	<b>\$ 1,257,997</b>
<b>Operating Income:</b>				
Chicken and Other Products:				
United States <sup>(b)</sup>	\$ 69,786	\$ 1,628	\$ 121,793	\$ 5,635
Mexico	2,997	3,872	(2,449)	10,086
Sub-total	72,783	5,500	119,344	15,721
Turkey	(11,341)	(15,403)	(27,101)	(29,670)
Sub-total	61,442	(9,903)	92,243	(13,949)
Non-recurring recoveries <sup>(c)</sup>	68	11,312	76	25,700
<b>Total</b>	<b>\$ 61,510</b>	<b>\$ 1,409</b>	<b>\$ 92,319</b>	<b>\$ 11,751</b>
<b>Depreciation and Amortization<sup>(d)</sup>:</b>				
Chicken and Other Products:				
United States <sup>(b)</sup>	\$ 28,188	\$ 12,942	\$ 48,804	\$ 25,488
Mexico	3,026	2,917	6,245	6,067
Sub-total	31,214	15,859	55,049	31,555
Turkey	1,873	1,943	3,949	3,757
<b>Total</b>	<b>\$ 33,087</b>	<b>\$ 17,802</b>	<b>\$ 58,998</b>	<b>\$ 35,312</b>

(a) The acquisition of the ConAgra chicken division has been accounted for as a purchase, and the results of operations for this acquisition have been included in our consolidated results of operations since November 23, 2003, the acquisition date.

(b) Includes our Puerto Rico operations.

(c) Non-recurring recoveries are as follows (in millions):

	Three Months Ended		Six Months Ending	
	April 3, 2004	March 29, 2003	April 3, 2004	March 29, 2003
Avian influenza	\$ —	\$ 1.8	\$ —	\$ 16.1
Vitamin/Methionine	0.1	9.5	0.1	9.6
<b>Total</b>	<b>\$ 0.1</b>	<b>\$ 11.3</b>	<b>\$ 0.1</b>	<b>\$ 25.7</b>

(d) Includes amortization of capitalized financing costs of approximately \$0.5 million and \$1.0 million, and \$0.4 million and \$0.8 million for the three and six month periods ending April 3, 2004 and March 29, 2003, respectively.

PILGRIM'S PRIDE CORPORATION AND SUBSIDIARIES

April 3, 2004

**NOTE K – SUBSEQUENT EVENT**

On April 26, 2004, the Company announced a plan to restructure its turkey division, including the sale or closure of some facilities in Virginia. The Company will immediately hold the facility and related property and equipment for sale. The net book value of the facility and the related property and equipment at April 3, 2004 was \$58.5 million. Working capital related assets would either be recovered in the ordinary course of business or sold along with the facilities. In accordance with SFAS 144, as of the beginning of the third fiscal quarter the Company will classify these facilities as held for sale on its balance sheet. It is also anticipated that the last half of fiscal year 2004 will include charges and other losses from these restructured operations of as much as \$75 million, \$46 million net of tax, or \$0.69 per share. This includes approximately \$10 million in cash restructuring charges as well as a significant asset impairment charge and other losses resulting directly from the restructured operations. Approximately 1,300 employees will be affected by this restructuring. If the facilities are not sold by October 2004, the Company intends to cease production.

**Item 2. Management's Discussion and Analysis of Financial Condition and Results of Operations**

**Business Acquisition**

On November 23, 2003, we completed the purchase of all the outstanding stock of the corporations represented as the ConAgra Foods, Inc. ("ConAgra") chicken division ("ConAgra chicken division"). The acquired business has been included in our results of operations since the date of the acquisition. The acquisition provides us with additional lines of specialty prepared chicken products, well-known brands, well-established distributor relationships and Southeastern United States processing facilities. The acquisition also includes the largest distributor of chicken products in Puerto Rico. This allows us to provide customers at every point in the distribution chain with the broadest range of quality value-added chicken products and services available in the market today. See Note B to the financial statements included in "Item 1. Financial Statements" above.

We are in the process of fully integrating the operations of the ConAgra chicken division into the Company. We intend to do this as rapidly as possible without interrupting business. We expect the acquisition will result in significant cost saving opportunities and enhanced growth. We are currently preparing an optimization plan for all production and distribution facilities and determining and implementing a "best practices" approach across all operations.

**Restructuring of Turkey Operations**

On April 26, 2004, we announced a plan to restructure our turkey business to significantly reduce our production of commodity turkey meat and strengthen our focus on value-added turkey products. As part of our restructuring effort, we intend to sell or close our Hinton, Virginia turkey commodity meat operations. We expect the restructuring to have a positive impact on pre-tax earnings of approximately \$25-\$30 million per year, reduce working capital employed in the turkey business by approximately \$50 million and decrease commodity sales in our turkey division by approximately \$70 million per year. We expect the charges and other losses from the restructured operations in our remaining six months of fiscal 2004 to be as much as \$75 million, \$46 million net of tax, or \$.69 per share. We expect these charges to include approximately \$10 million in cash restructuring charges, with the remainder resulting from charges associated with asset impairments and inventory liquidation. Including the impact of the restructuring of up to \$75 million referred to above, we expect that our turkey division will have an operating loss of as much as \$78-\$83 million for the remaining six months of fiscal 2004. We expect the continuing turkey operations to be profitable in fiscal 2005. The restructuring will significantly reduce our production of commodity turkey meat and strengthen our focus on value-added turkey products, such as cooked deli breast, turkey sausages, turkey burgers, ground turkey, salads and ready to cook roasts.

PILGRIM'S PRIDE CORPORATION AND SUBSIDIARIES

April 3, 2004

**General**

Profitability in the poultry industry is materially affected by the commodity prices of feed ingredients, chicken and turkey, which are determined by supply and demand factors. As a result, the chicken and turkey industries are subject to cyclical earnings fluctuations. Cyclical earnings fluctuations can be mitigated somewhat by:

- Business strategy;
- Product mix;
- Sales and marketing plans; and
- Operating efficiencies.

In an effort to reduce price volatility and to generate higher, more consistent profit margins, we have concentrated on the production and marketing of prepared foods products. Prepared foods products generally have higher profit margins than our other products. Feed ingredient purchases are the single largest component of our cost of goods sold, representing approximately 31.5% of our cost of goods sold in the first six months of fiscal year 2004. The production of feed ingredients is positively or negatively affected primarily by weather patterns throughout the world, the global level of supply inventories, demand for feed ingredients and the agricultural policies of the United States and foreign governments. As further processing is performed, feed ingredient costs become a decreasing percentage of a product's total production costs. Products sold in this form enable us to charge a premium, reduce the impact of feed ingredient costs on our profitability and improve and stabilize our profit margins.

As a significant portion of U.S. poultry production is exported, the commodity prices of chicken and turkey can be, and in recent periods have been, adversely affected by disruptions in poultry export markets. These disruptions are often caused by restrictions on imports of U.S.-produced poultry products imposed by foreign governments for a variety of reasons, including the protection of their domestic poultry producers and allegations of consumer health issues. For example, Russia, China, Japan and Mexico have restricted the importation of U.S.-produced poultry for these reasons in recent periods. Because these disruptions in poultry export markets are often political, no assurances can be given as to when the existing disruptions will be alleviated or that new ones will not arise. In July 2003, the United States and Mexico entered into a safeguard agreement with regard to imports into Mexico of chicken leg quarters from the United States. Under this agreement, an initial tariff rate for chicken leg quarters of 98.8% on the sales prices was established. This tariff rate was reduced on January 1, 2004 to 79.04%, and is to be reduced in each of the following four years in equal increments so that the final tariff rate at January 1, 2008 will be zero. The tariff was imposed due to concerns that the duty-free importation of such products, as provided by the North American Free Trade Agreement, would injure Mexico's poultry industry. As such tariffs are reduced, we expect greater amounts of chicken to be imported into Mexico from the United States, which could negatively affect the profitability of Mexico chicken producers and positively affect the profitability of U.S. exporters of chicken to Mexico. Although this could have a negative impact on our Mexico chicken operations, we believe that this will be mitigated somewhat by the close proximity of our U.S. operations to the Mexico border and our extensive distribution network in Mexico. We believe we have one of the largest U.S. production and distribution capacities near the Mexico border, which gives us a strategic advantage to capitalize on exports of U.S. chicken to Mexico.

[Table of Contents](#)

PILGRIM'S PRIDE CORPORATION AND SUBSIDIARIES  
April 3, 2004

The following table presents certain information regarding our segments:

	Three Months Ended		Six Months Ended	
	April 3, 2004 <sup>(a)</sup>	March 29, 2003	April 3, 2004 (27 Weeks) <sup>(a)</sup>	March 29, 2003 (26 Weeks)
(in thousands)				
<b>Net Sales to Customers:</b>				
Chicken and Other Products:				
United States <sup>(b)</sup>	\$ 1,235,005	\$ 475,294	\$ 2,092,437	\$ 913,851
Mexico	95,792	92,891	189,404	187,360
Sub-total	1,330,797	568,185	2,281,841	1,101,211
Turkey	54,110	62,407	147,434	156,786
<b>Total</b>	<b>\$ 1,384,907</b>	<b>\$ 630,592</b>	<b>\$ 2,429,275</b>	<b>\$ 1,257,997</b>
<b>Operating Income:</b>				
Chicken and Other Products:				
United States <sup>(b)</sup>	\$ 69,786	\$ 1,628	\$ 121,793	\$ 5,635
Mexico	2,997	3,872	(2,449)	10,086
Sub-total	72,783	5,500	119,344	15,721
Turkey	(11,341)	(15,403)	(27,101)	(29,670)
Sub-total	61,442	(9,903)	92,243	(13,949)
Non-recurring recoveries <sup>(c)</sup>	68	11,312	76	25,700
<b>Total</b>	<b>\$ 61,510</b>	<b>\$ 1,409</b>	<b>\$ 92,319</b>	<b>\$ 11,751</b>
<b>Depreciation and Amortization<sup>(d)</sup>:</b>				
Chicken and Other Products:				
United States <sup>(b)</sup>	\$ 28,188	\$ 12,942	\$ 48,804	\$ 25,488
Mexico	3,026	2,917	6,245	6,067
Sub-total	31,214	15,859	55,049	31,555
Turkey	1,873	1,943	3,949	3,757
<b>Total</b>	<b>\$ 33,087</b>	<b>\$ 17,802</b>	<b>\$ 58,998</b>	<b>\$ 35,312</b>

(a) The acquisition of the ConAgra chicken division has been accounted for as a purchase, and the results of operations for this acquisition have been included in our consolidated results of operations since November 23, 2003, the acquisition date.

(b) Includes our Puerto Rico operations.

(c) Non-recurring recoveries are as follows (in millions):

	Three Months Ended		Six Months Ended	
	April 3, 2004	March 29, 2003	April 3, 2004	March 29, 2003
Avian influenza	\$ —	\$ 1.8	\$ —	\$ 16.1
Vitamin/Methionine	0.1	9.5	0.1	9.6
<b>Total</b>	<b>\$ 0.1</b>	<b>\$ 11.3</b>	<b>\$ 0.1</b>	<b>\$ 25.7</b>

See discussion in "Results of Operations-Non-recurring recoveries" below.

(d) Includes amortization of capitalized financing costs of approximately \$0.5 million and \$1.0 million, and \$0.4 million and \$0.8 million for the three and six month periods ending April 3, 2004 and March 29, 2003, respectively.

[Table of Contents](#)

## PILGRIM'S PRIDE CORPORATION AND SUBSIDIARIES

April 3, 2004

The following table presents certain items as a percentage of net sales for the periods indicated:

	Percentage of Net Sales			
	Three Months Ended		Six Months Ended	
	April 3, 2004	March 29, 2003	April 3, 2004	March 29, 2003
Net Sales	100.0%	100.0%	100.0%	100.0%
Costs and Expenses:				
Cost of sales	90.8	95.9	91.6	95.7
Non-recurring recoveries	0.0	(1.8)	0.0	(2.0)
Gross profit	9.2	5.9	8.4	6.3
Selling, general and administrative	4.7	5.6	4.6	5.4
Operating Income	4.4	0.3	3.8	0.9
Interest Expense	1.0	1.6	1.1	1.5
Other Expense (Income)	0.0	(2.7)	0.0	(0.7)
Income before Income Taxes	3.4	2.9	2.7	1.7
Net Income	2.4	1.7	1.8	1.1

**Results of Operations**

The change in our results of operations for the first six months of fiscal 2004 as compared to the same period in fiscal 2003 is impacted by a number of significant items. The following is a brief description of these items and the nature of their effect in each of the periods being presented. As discussed in Note B to the financial statements above, on November 23, 2003, we completed the purchase of all the outstanding stock of the corporations represented as ConAgra Foods, Inc. ("ConAgra") chicken division ("ConAgra chicken division"). This acquisition has resulted in significant increases in net sales and related costs, as well as, assets, liabilities, interest and outstanding debt. The acquired business has been included in our results of operations for 19 of the 27 weeks in the first six months of fiscal 2004.

Our first six months ended April 3, 2004 included 27 weeks versus the first six months of fiscal 2003, which included 26 weeks, resulting in an increase in each of the categories discussed in our results of operations by approximately 3.9%, as compared to the corresponding period in the preceding year. As this change impacted all the Income Statement categories in a reasonably consistent manner, no separate discussion of this factor is included in our results of operations discussion, unless the impact of the applicable category varied from the increase described above.

In October 2002, one product sample produced in our Franconia, Pennsylvania facility that had not been shipped to customers tested positive for Listeria. We later received information from the USDA suggesting environmental samples taken at the facility had tested positive for both the strain of Listeria identified in the product and a strain having characteristics similar to those of the strain identified in a Northeastern Listeria outbreak. As a result, we voluntarily recalled all cooked deli products produced at the plant from May 1, 2002 through October 11, 2002. We carried insurance designed to cover the direct recall related expenses and certain aspects of the related business interruption caused by the recall. We estimate that the sales in our turkey division were negatively affected by approximately \$82.0 million, \$54.0 million and \$44.0 million during fiscal 2003 and for the first six months of fiscal 2003 and 2004, respectively. For those same periods, we estimate that operating margins were negatively affected by

PILGRIM'S PRIDE CORPORATION AND SUBSIDIARIES

April 3, 2004

approximately \$65.0 to \$70.0 million, \$10.0 to \$20.0 million and \$15 to \$20 million, respectively. As a result of these losses, the Company's insurance claim for business interruption and certain product re-establishment costs amounts to approximately \$74.0 million for the period from the date of the recall through October 11, 2003, the 1-year anniversary of the recall and the insurance policy time limitation period for business interruption loss recovery. Aggregating the direct recall expense claim with the anticipated business interruption and product re-establishment costs, our total insurance claim is expected to be approximately \$100 million, although our policy limit is \$50 million, \$16 million of which has been received as of April 3, 2004 and \$10.2 million of which has been recorded as a receivable from our insurance carriers.

On February 24, 2004, we filed suit against our insurer, Ace American Insurance Company ("Ace"), in the District Court of the State of Texas for Dallas County seeking judgment for the remaining \$34.0 million owing under the policy, consequential and punitive damages, costs and interest. On March 19, 2004, Ace filed a general denial answer to our suit filed against them. We continue to believe, however, that we will recover the remaining amounts owed to us by our insurer under the policy. However, no assurances can be given that we will recover such amounts. Regardless of the outcome of this litigation, the continuing effects of the recall on our business will not be covered by insurance.

As described above under "-Restructuring of Turkey Operations", on April 26, 2004, we announced a plan to restructure our turkey business to significantly reduce our production of commodity turkey meat and strengthen our focus on value-added turkey products. As part of our restructuring effort, we intend to sell or close our Hinton, Virginia turkey commodity meat operations. We expect the restructuring to have a positive impact on pre-tax earnings of approximately \$25-\$30 million per year, reduce working capital employed in the turkey business by approximately \$50 million and decrease commodity sales in our turkey division by approximately \$70 million per year. We expect the charges and other losses from the restructured operations in our remaining six months of fiscal 2004 to be as much as \$75 million, \$46 million net of tax or \$.69 per share. We expect these charges to include approximately \$10 million in cash restructuring charges, with the remainder resulting from charges associated with asset impairments and inventory liquidation. Including the impact of the restructuring of up to \$75 million referred to above, we expect that our turkey division will have an operating loss of as much as \$78-\$83 million for the remaining six months of fiscal 2004. We expect the continuing turkey operations to be profitable in fiscal 2005. The restructuring will significantly reduce our production of commodity turkey meat and strengthen our focus on value-added turkey products, such as cooked deli breast, turkey sausages, turkey burgers, ground turkey, salads and ready to cook roasts.

Fiscal Second Quarter 2004 Compared to Fiscal Second Quarter 2003

*Consolidated Net Sales.* Consolidated net sales were \$1,384.9 million for the second quarter of fiscal 2004, an increase of \$754.3 million, or 119.6%, from the second quarter of fiscal 2003. The increase in consolidated net sales resulted from a \$645.7 million increase in U.S. chicken sales to \$1,068.2 million and a \$118.1 million increase in sales of other products to \$173.6 million, offset partially by an \$8.3 million decrease in turkey sales to \$54.1 million and a \$1.2 million decrease in Mexico chicken sales to \$89.0 million. The increase in U.S. chicken sales was primarily due to the acquisition of the ConAgra chicken division, which contributed \$524.4

PILGRIM'S PRIDE CORPORATION AND SUBSIDIARIES

April 3, 2004

million of U.S. chicken sales. Also affecting U.S. chicken sales was a 13.8% increase in total revenue per dressed pound produced due to significant price improvement during the second quarter of fiscal 2004. The decrease in turkey sales was due primarily to a 15.9% decrease in turkey production, offset partially by a 3.1% increase in total revenue per dressed pound produced. The \$1.2 million decrease in Mexico chicken sales was primarily due to a 1.5% decrease in pounds produced, offset by a 0.1% increase in total revenue per pound produced. The \$118.1 million increase in sales of other products was due to a \$114.0 million increase in U.S. other sales to \$166.8 million, of which \$102.4 million was contributed by the ConAgra chicken division, and a \$4.2 million increase in Mexico's other sales to \$6.8 million.

*Cost of Sales.* Consolidated cost of sales was \$1,257.8 million in the second quarter of fiscal 2004, an increase of \$652.9 million, or 107.9%, when compared to the second quarter of fiscal 2003. The U.S. operations had an increase in cost of sales of \$648.2 million, which was primarily due to the acquisition of the ConAgra chicken division as well as significantly higher grain costs experienced in the second quarter of fiscal 2004 compared to the same period in the prior year. Our Mexico operations had a \$4.7 million increase in cost of sales primarily due to higher grain costs

*Non-recurring recoveries.* Non-recurring recoveries were \$0.1 million in the second quarter of fiscal 2004, consisting of litigation settlements. This was a decrease of \$11.2 million from the \$11.3 million received in the second quarter of fiscal 2003, consisting of \$1.8 million of avian influenza reimbursements and \$9.5 million of litigation settlements.

*Gross Profit.* Gross profit was \$127.2 million for the second quarter of fiscal 2004, an increase of \$90.2 million, or 243.8% from the gross profit of \$37.0 million in the same period last year, due to the ConAgra acquisition and improvements in U.S. operations, partially offset by higher grain costs and weaker results in our Mexico operations. For comparative purposes, management believes some investors may be interested in gross profit excluding the benefit of the Non-recurring recoveries. Excluding these Non-recurring recoveries of \$0.1 million and \$11.3 million in the second quarter of fiscal 2004 and 2003, respectively, gross profit for the second quarter of fiscal 2004 and 2003 would have been \$127.1 million and \$25.7 million, respectively. Gross profit for the second quarter of fiscal 2004 increased \$101.4 million, or 394.6% from the same period last year before Non-recurring recoveries. Gross profit as a percentage of sales increased 55.9% to 9.2% in the second quarter of fiscal 2004, from 5.9% in the second quarter of fiscal 2003. Gross profit before Non-recurring recoveries as a percentage of sales in the second quarter of fiscal 2004 increased 124.4% to 9.2%, up from 4.1% in the same quarter of fiscal 2003.

*Selling, General and Administrative Expenses.* Consolidated selling, general and administrative expenses were \$65.6 million in the second quarter of fiscal 2004 and \$35.6 million in the second quarter of fiscal 2003. The \$30.0 million increase was due primarily to our November 23, 2004 acquisition of the ConAgra chicken division. As a percentage of sales, consolidated selling, general and administrative expenses decreased in the second quarter of fiscal 2004 to 4.7%, from 5.6% in the second quarter of fiscal 2003.

*Operating Income.* Consolidated operating income was \$61.5 million for the second quarter of fiscal 2004, increasing by approximately \$60.1 million when compared to the second quarter of fiscal 2003. The increase was due primarily to higher margins on our U.S. chicken products and the ConAgra acquisition.

## [Table of Contents](#)

### PILGRIM'S PRIDE CORPORATION AND SUBSIDIARIES

April 3, 2004

*Interest Expense.* Consolidated net interest expense increased 36.4% to \$13.5 million in the second quarter of fiscal 2004, when compared to \$9.9 million for the second quarter of fiscal 2003, due primarily to debt issued in connection with the November 23, 2003 acquisition of the ConAgra chicken division.

*Miscellaneous, Net.* Consolidated miscellaneous, net expense (income) decreased \$28.2 million to \$1.3 million, primarily due to \$26.7 million of methionine and vitamin litigation settlements received in the second quarter of fiscal 2003.

*Income Tax Expense.* Consolidated income tax expense in the second quarter of fiscal 2004 was \$13.6 million, compared to an income tax expense of \$7.4 million in the second quarter of fiscal 2003. This increase in consolidated income tax expense was primarily caused by higher pretax earnings in the U.S. for the second quarter fiscal 2004, offset in part by a tax benefit from our Mexico operations in the second quarter of fiscal 2004.

#### First Six Months of Fiscal 2004 Compared to First Six Months of Fiscal 2003

*Consolidated Net Sales.* Consolidated net sales were \$2,429.3 million for the first six months of fiscal 2004, an increase of \$1,171.3 million, or 93.1%, from the first six months of fiscal 2003. The increase in consolidated net sales resulted from a \$999.7 million increase in U.S. chicken sales to \$1,812.2 million and a \$181.4 million increase in sales of other products offset partially by a \$9.4 million decrease in turkey sales to \$147.4 million and a \$0.4 million decrease in Mexico chicken sales to \$177.9 million. The increase in U.S. chicken sales was primarily due to the acquisition of the ConAgra chicken division, which contributed \$734.3 million of U.S. chicken sales and \$151.5 million of sales of other products. Also affecting U.S. chicken sales was a 16.9% increase in total revenue per dressed pound produced due to significantly higher commodity chicken prices. The decrease in turkey sales was due primarily to an 8.4% decrease in turkey production, offset by a 2.7% increase in revenue per pound. The \$0.4 million decrease in Mexico chicken sales was primarily due to a 7.6% decrease in revenue per pound produced, offset by a 7.9% increase in pounds produced. Mexico results in the first quarter of fiscal 2004 were down from the prior year, due to lower chicken pricing caused by the industry's liquidation of excessive levels of frozen inventories and increased industry production levels in Mexico when compared to the same period in the prior year. We expect that industry production levels for the foreseeable future in Mexico will remain higher when compared to the prior year; however, we anticipate our Mexico operations will improve somewhat over the remainder of the year, but will continue to be below our prior year results. The \$181.4 million increase in sales of other products was due to a \$178.9 million increase in U.S. other sales to \$280.3 million, of which \$151.5 million was contributed by the ConAgra chicken division, and by a \$2.5 million increase in Mexico's other sales to \$11.5 million.

*Cost of Sales.* Consolidated cost of sales was \$2,225.1 million in the first six months of fiscal 2004, an increase of \$1,020.8 million, or 84.8%, when compared to the first six months of fiscal 2003. The U.S. operations had an increase in cost of sales of \$1,005.7 million, which was primarily due to the acquisition of the ConAgra chicken division, as well as significantly higher grain costs experienced in the first six months of fiscal 2004 compared to the same period in the prior year. Our Mexico operations had a \$15.1 million increase in cost of sales primarily due to higher grain costs.

## [Table of Contents](#)

### PILGRIM'S PRIDE CORPORATION AND SUBSIDIARIES

April 3, 2004

*Non-recurring recoveries.* Non-recurring recoveries were \$0.1 million in the first six months of fiscal 2004, consisting of litigation settlements. This is a \$25.6 million decrease from the \$25.7 million in the first six months of fiscal 2003, consisting of \$16.1 million of avian influenza reimbursements and \$9.6 million of litigation settlements.

*Gross Profit.* Gross profit was \$204.3 million for the first six months of fiscal 2004, an increase of \$124.9 million, or 157.3% from the gross profit of \$79.4 million in the same period last year, due to the ConAgra acquisition and improvements in U.S. operations, partially offset by weak results in our Mexico operations. For comparative purposes, management believes some investors may be interested in gross profit excluding the benefit of the Non-recurring recoveries. Excluding these Non-recurring recoveries of \$0.1 million and \$25.7 million in the first six months of fiscal 2004 and 2003, respectively, gross profit for the first six months of fiscal 2004 and 2003 would have been \$204.2 million and \$53.7 million, respectively. Gross profit for the first six months of fiscal 2004 increased \$150.5 million, or 280.3% from the same period last year before Non-recurring recoveries. Gross profit as a percentage of sales increased 33.3% to 8.4% in the first six months of fiscal 2004, from 6.3% in the first six months of fiscal 2003. Gross profit before Non-recurring recoveries as a percentage of sales in the first six months of fiscal 2004 increased 95.5% to 8.4%, up from 4.3%, in the same period of fiscal 2003.

*Selling, General and Administrative Expenses.* Consolidated selling, general and administrative expenses were \$112.0 million in the first six months of fiscal 2004 and \$67.6 million in the first six months of fiscal 2003. The \$44.4 million increase was due primarily to our November 23, 2003 acquisition of the ConAgra chicken division. As a percentage of sales, consolidated selling, general and administrative expenses decreased in the first six months of fiscal 2004 to 4.6%, from 5.4% in the second quarter of fiscal 2003.

*Operating Income.* Consolidated operating income was \$92.3 million for the first six months of fiscal 2004, increasing by approximately \$80.5 million when compared to the first six months of fiscal 2003. The increase was due primarily to higher margins on our U.S. chicken products and the ConAgra acquisition.

*Interest Expense.* Consolidated net interest expense increased 34.0% to \$26.0 million in the first six months of fiscal 2004, when compared to \$19.4 million for the first six months of fiscal 2003, due primarily to debt issued in connection with the November 23, 2003 acquisition of the ConAgra chicken division.

*Miscellaneous, Net.* Consolidated miscellaneous, net expense (income) decreased \$29.6 million to \$0.9 million, primarily due to \$28.0 million of methionine and vitamin litigation settlements received in the first six months of fiscal 2003.

*Income Tax Expense.* Consolidated income tax expense for the first six months of fiscal 2004 was \$21.9 million, compared to an income tax expense of \$7.6 million in the first six months of fiscal 2003. This increase in consolidated income tax expense was primarily caused by higher pretax earnings in the U.S. for the second quarter of fiscal 2004, offset in part by a tax benefit from our Mexico operations in the first six months of fiscal 2004.

PILGRIM'S PRIDE CORPORATION AND SUBSIDIARIES

April 3, 2004

**Liquidity and Capital Resources**

On November 23, 2003, we completed the purchase of all the outstanding stock of the corporations represented as the ConAgra Foods, Inc. ("ConAgra") chicken division ("ConAgra chicken division"). The acquired business has been included in our results of operations since the date of the acquisition. The acquisition provides us with additional lines of specialty prepared chicken products, well-known brands, well-established distributor relationships and Southeastern United States processing facilities. The acquisition also includes the largest distributor of chicken products in Puerto Rico. This allows us to provide customers at every point in the distribution chain with the broadest range of quality value-added chicken products and services available in the market today.

Based on the estimated closing balance sheet delivered prior to closing, and our common stock data through five days prior to closing, the acquisition has been preliminarily valued at approximately \$667.2 million. This was funded by (1) \$100.0 million of 9 1/4% senior subordinated notes due 2013, issued on November 21, 2003, (2) \$100.0 million of 9 5/8% senior unsecured notes due 2011, issued August 18, 2003 with net proceeds of \$101.5 million, which were used to pay down existing borrowings under the Company's revolving/term credit facility pending the closing of the acquisition and as a result at closing the amount was re-borrowed from our revolving/term credit facility, (3) \$100.0 million of secured notes sold to an insurance company, which have an interest rate equal to LIBOR plus 2.2075%, \$80.0 million of which has a maturity date in 2013 and \$20.0 million of which has a maturity date in 2010 and (4) the issuance of 25,443,054 shares of our common stock valued at \$14.05 per share, the closing price of our common stock on November 17, 2003, the day on which final stock consideration was determined, less costs associated with the issuance of the equity. In addition, the Company assumed certain long-term debt and paid transaction costs.

The final purchase price is subject to adjustment based on determination of the final adjusted net book value of the assets purchased, which is expected to occur before the end of fiscal 2004. Based on our determination of the preliminary closing balance sheet and subsequent analyses, it appears that the consideration paid at closing could be as much as \$61 million in excess of the final amount due to ConAgra (the "Potential Overpayment"). This amount has been classified as "Other Assets" pending resolution of the final purchase price. On April 23, 2004, Pilgrim's Pride received a financial statement from the designated auditor of the preliminary closing balance sheet that indicates that the consideration paid at closing was \$24 million in excess of the final amount due to ConAgra. Each of Pilgrim's Pride and ConAgra has the right to object to the calculations contained in this financial statement, and Pilgrim's Pride intends to object and assert the balance of the Potential Overpayment. If Pilgrim's Pride and ConAgra cannot agree on the purchase price, the determination of the purchase price will be submitted to a mutually acceptable independent accountant for a final determination. Accordingly, no assurances can be given that the purchase price will be reduced by \$61 million or at all. According to the purchase agreement, any amounts owed in connection with this final determination of value will also include interest at the rate of 7.0% per annum from November 23, 2003 until the date paid.

## [Table of Contents](#)

### PILGRIM'S PRIDE CORPORATION AND SUBSIDIARIES

April 3, 2004

#### Purchase consideration:

(In thousands)

Common stock	\$ 357,475
Long-term debt	300,767
Transaction costs	8,937
	<hr/>
Total purchase price	\$ 667,179

At April 3, 2004, we maintained \$130.0 million in revolving credit facilities, \$30.0 million of which relates to our Mexico operations, and \$400.0 million in a secured revolving/term borrowing facility. On April 7, 2004, the \$400.0 million revolving/term borrowing facility was increased to \$500.0 million and now provides for borrowing of up to the \$500 million commitment availability until April 4, 2008. Borrowings outstanding under the \$500 million revolving/term borrowing facility as of April 7, 2008 are converted to term loans with approximately one-half of the term loan principal payable in annual installments through August 31, 2011 with the remainder due at that time. The new revolving/term credit facilities provide for interest rates ranging from LIBOR plus one percent to LIBOR plus two and five eighths percent depending upon our total debt to capitalization ratio. Interest rates on debt outstanding under the old facilities at April 3, 2004 ranged from LIBOR plus one and one-half percent to LIBOR plus one and three-quarters percent and would have been LIBOR plus one and one half percent if the April 7, 2004 amendment had occurred prior to that date. Borrowings under this facility at April 3, 2004, were \$76.0 million. On April 7, 2004, the \$100 million domestic revolving credit facility was increased to \$150.0 million and will be available until April 7, 2009. The \$500 million revolving/term borrowing facility, \$417.1 million of which is currently available for borrowings, is secured by certain fixed assets. The \$150.0 million revolving credit facility, \$127.6 million of which is currently available for borrowings (\$36.6 million of which is currently utilized for letters of credit), is secured by domestic chicken inventories. The \$30.0 million facility in Mexico is secured by the accounts receivable, inventories and certain fixed assets of the Company's Mexico operations. Borrowings against these facilities are subject to the availability of collateral and no material adverse change provisions.

Under our Receivables Purchase Agreement, we sell on a revolving basis, up to \$125.0 million of certain trade receivables (the "Pooled Receivables") to a special purpose corporation wholly owned by us, which in turn sells a percentage ownership interest to third parties. At April 3, 2004 and September 27, 2003, an interest in these Pooled Receivables of \$125.0 million and \$58.5 million, respectively, had been sold to third parties and was reflected as a reduction to accounts receivable. The gross proceeds resulting from the sale are included in cash flows from operating activities in the Consolidated Statements of Cash Flows. Gross proceeds of \$66.5 million were received during the six month period ended April 3, 2004. Losses on these sales were immaterial. As of the fiscal month ended April 3, 2004, no additional Pooled Receivables were available for sale.

[Table of Contents](#)

PILGRIM'S PRIDE CORPORATION AND SUBSIDIARIES  
April 3, 2004

Obligations under long-term debt as adjusted to reflect the refinancing of certain obligations on April 7, 2004 as if they occurred on April 3, 2004 and non-cancelable operating leases at April 3, 2004 are as follows (in millions):

<u>Contractual Obligations</u>	<u>Payments Due By Period</u>				
	<u>Total</u>	<u>Last Half FY 2004</u>	<u>FY 2005- FY 2006</u>	<u>FY 2007- FY 2008</u>	<u>Thereafter</u>
Long-term Debt(a)	\$ 651.6	\$ 4.1	\$ 19.1	\$ 21.5	\$ 606.9
Guarantee Fees	16.0	2.6	4.9	4.6	3.9
Operating Leases	107.6	14.9	47.6	29.1	16.0
<b>Total</b>	<b>\$ 775.2</b>	<b>\$ 21.6</b>	<b>\$ 71.6</b>	<b>\$ 55.2</b>	<b>\$ 626.8</b>

(a) Excludes \$36.6 million in letters of credit outstanding related to normal business transactions.

At April 3, 2004, our working capital increased to \$325.6 million and our current ratio decreased to 1.59 to 1, compared with working capital of \$211.1 million and a current ratio of 1.76 to 1 at September 27, 2003, primarily due to the working capital changes discussed below.

Trade accounts and other receivables were \$209.7 million at April 3, 2004, compared to \$127.0 million at September 27, 2003. The \$82.7 million, or 65.1%, increase in trade accounts and other receivables was primarily due to the November 23, 2003 acquisition of the ConAgra chicken division, offset by the sale of \$66.5 million of trade receivables under the Receivables Purchase Agreement.

Inventories were \$605.6 million at April 3, 2004, compared to \$340.9 million at September 27, 2003. The \$264.7 million, or 77.6%, increase in inventories was primarily due to the November 23, 2003 acquisition of the ConAgra chicken division.

Accounts payable and accrued expenses increased \$258.2 million to \$524.9 million at April 3, 2004, compared to \$266.7 million at September 27, 2003, primarily due to the November 23, 2003 acquisition of the ConAgra chicken division.

Capital expenditures of \$40.0 million and \$25.0 million for the six months ended April 3, 2004 and March 29, 2003, respectively, were primarily incurred to improve efficiencies, reduce costs and for the routine replacement of equipment. We anticipate spending approximately \$100.0 million to \$120.0 million in fiscal 2004 to improve efficiencies and for the routine replacement of equipment. We expect to finance such expenditures with available operating cash flows and existing revolving/term and revolving credit facilities.

Cash flows provided by (used in) operating activities were \$159.9 million and (\$16.0) million, for the six months ended April 3, 2004 and March 29, 2003, respectively. The increase in cash flows provided by operating activities for the first six months of fiscal 2004, when compared to the first six months of fiscal 2003, was due primarily to improvements in profitability and the November 23, 2003 acquisition of the ConAgra chicken division, as well as the significant changes in working capital items described above.

Cash flows provided by financing activities were \$213.8 million and \$41.2 million for the six months ended April 3, 2004 and March 29, 2003, respectively. The increase in cash provided by financing activities for the first six months of fiscal 2004, when compared to the first six months fiscal 2003, was due primarily to the debt issued to finance the November 23, 2003 acquisition of the ConAgra chicken division.

## [Table of Contents](#)

### PILGRIM'S PRIDE CORPORATION AND SUBSIDIARIES

April 3, 2004

We are a party to many routine contracts in which we provide general indemnities in the normal course of business to third parties for various risks. We have not recorded a liability for any of these indemnities, as the likelihood of payment in each case is considered remote.

### **Item 3. Quantitative and Qualitative Disclosures About Market Risk**

#### **Feed Ingredients**

We purchase certain commodities, primarily corn and soybean meal. As a result, our earnings are affected by changes in the price and availability of such feed ingredients. As market conditions dictate, we will from time to time lock-in future feed ingredient prices using various hedging techniques, including forward purchase agreements with suppliers and futures contracts. We do not use such financial instruments for trading purposes and are not a party to any leveraged derivatives. Market risk is estimated as a hypothetical 10% increase in the weighted-average cost of our primary feed ingredients as of April 3, 2004. Based on our feed consumption during the three and six months ended April 3, 2004, such an increase would have resulted in an increase to cost of sales of approximately \$38.7 million and \$67.8 million, respectively, excluding the impact of any hedging in that period.

#### **Foreign Currency**

Our earnings are affected by foreign exchange rate fluctuations related to the Mexico peso net monetary position of our Mexico subsidiaries. We manage this exposure primarily by attempting to minimize our Mexico peso net monetary position, but from time to time, we have considered executing hedges to help minimize this exposure. Such instruments, however, have historically not been economically feasible. We are also exposed to the effect of potential exchange rate fluctuations to the extent that amounts are repatriated from Mexico to the United States. However, we currently anticipate that the cash flows of our Mexico subsidiaries will continue to be reinvested in our Mexico operations. In addition, the Mexico peso exchange rate can directly and indirectly impact our results of operations and financial position in several ways, including potential economic recession in Mexico resulting from a devalued peso. The impact on our financial position and results of operations resulting from a hypothetical change in the exchange rate between the U.S. dollar and the Mexico peso cannot be reasonably estimated. Foreign currency exchange gains and losses, representing the change in the U.S. dollar value of the net monetary assets of our Mexico subsidiaries denominated in Mexico pesos, was a loss of \$0.3 million in the first six months of fiscal 2004 compared to a gain of \$0.1 million for the first six months of fiscal 2003. On April 3, 2004, the Mexico peso closed at 11.20 to 1 U.S. dollar, compared to 11.03 at September 27, 2003. No assurance can be given as to how future movements in the peso could affect our future earnings.

There have been no material changes from the information provided in Item 7A of our Annual Report on Form 10-K for the fiscal year ended September 27, 2003, other than as described above.

#### **Forward Looking Statements**

Statements of our intentions, beliefs, expectations or predictions for the future, denoted by the words "anticipate," "believe," "estimate," "expect," "project," "imply," "intend," "foresee" and

## [Table of Contents](#)

### PILGRIM'S PRIDE CORPORATION AND SUBSIDIARIES

April 3, 2004

similar expressions, are forward-looking statements that reflect our current views about future events and are subject to risks, uncertainties and assumptions. Such risks, uncertainties and assumptions include the following:

- Matters affecting the poultry industry generally, including fluctuations in the commodity prices of feed ingredients, chicken and turkey;
- Disease outbreaks affecting the production performance and/or marketability of the Company's poultry products;
- Contamination of our products, which can lead to product liability claims and product recalls;
- Exposure to risks related to product liability, product recalls, property damage and injuries to persons, for which insurance coverage is expensive, limited and potentially inadequate;
- Management of our cash resources, particularly in light of our substantial leverage;
- Restrictions imposed by, and as a result of, our substantial leverage;
- Currency exchange rate fluctuations, trade barriers, exchange controls, expropriation and other risks associated with foreign operations;
- Changes in laws or regulations affecting our operations, as well as competitive factors and pricing pressures;
- Inability to effectively integrate any acquisitions, including our recently completed acquisition of ConAgra's chicken division, or realize the associated anticipated cost savings and operating synergies;
- Inability to recognize the anticipated cost savings and anticipated benefits in connection with our recent turkey division restructuring; and
- The impact of uncertainties of litigation as well as other risks described herein and under "Risk Factors" in our Annual Report on Form 10-K filed with the Securities and Exchange Commission.

Actual results could differ materially from those projected in these forward-looking statements as a result of these factors, among others, many of which are beyond our control.

In making these statements, we are not undertaking, and specifically decline to undertake, any obligation to address or update each or any factor in future filings or communications regarding our business or results, and we are not undertaking to address how any of these factors may have caused changes to information contained in previous filings or communications. Although we have attempted to list comprehensively these important cautionary risk factors, we must caution investors and others that other factors may in the future prove to be important and affecting our business or results of operations.

#### **Item 4. Controls and Procedures**

An evaluation was performed under the supervision and with the participation of the Company's management, including the Chairman (the Company's Principal Executive Officer) and Chief Financial Officer ("CFO"), of the effectiveness of the design and operation of the Company's disclosure controls and procedures as of the end of the period covered by this quarterly report. Based on that evaluation, the Company's management, including the Chairman and CFO, concluded that the Company's disclosure controls and procedures were effective.

**PART II. OTHER INFORMATION**

**Item 1. Legal Proceedings**

On August 20, 1999, the former WLR Foods brought legal action as a plaintiff in an antitrust lawsuit filed in the U.S. District Court in Washington D.C. alleging a world-wide conspiracy by approximately 34 named defendants to control production capacity and raise prices of common vitamins such as A, B-4, C and E. We joined this lawsuit with respect to vitamin purchases not included in our previous settlement with the named defendants as a member of a class action lawsuit settled in fiscal 2000. To date, claims related to approximately 86% of the WLR Foods affected vitamin purchases have been settled by or on behalf of the former WLR Foods, which settlements have resulted in payments to us and the former WLR Foods of \$34.1 million. No significant additional proceeds are anticipated related to these actions.

In October 2002, a limited number of USDA environmental samples from our Franconia, Pennsylvania plant tested positive for Listeria. As a result, we voluntarily recalled all cooked deli products produced at the plant from May 1, 2002 through October 11, 2002. No illnesses have been linked to any of our recalled products, and none of such products have tested positive for the strain of Listeria associated with an outbreak in the Northeastern U.S. that occurred during the summer of 2002. However, following this recall, a number of demands and cases have been made and filed alleging injuries purportedly arising from the consumption of products produced at this facility. These cases include: *Lawese Drayton, Individually and as Personal Representative of the Estate of Raymond Drayton, deceased, Plaintiff, v. Pilgrim's Pride Corporation, Jack Lambersky Poultry Company, Inc. DBA JL Foods Co, Inc., Defendants,* which was filed against us in the United States District Court for the Eastern District of Pennsylvania on April 15, 2003; "*Laron Harvey, by his mother and natural guardian, Shakandra Hampton, and Shakandra Hampton in her own right v. Pilgrim's Pride Corporation, et al.*," which was filed in the Pennsylvania Court of Common Pleas on May 5, 2003, and has since been removed to the U.S. District Court of the Eastern District of Pennsylvania; "*Ryan and Dana Patterson v. Pilgrim's Pride Corp., et al.*" which was filed in the Superior Court of New Jersey, Law Division, Passaic County, on August 12, 2003; and *Jamar Clarke, a minor, and Wanda Multrie Clarke v. Pilgrim's Pride Corporation et al.*" which was filed in the Supreme Court of the State of New York, County of Queens on August 1, 2003. Neither the likelihood of an unfavorable outcome nor the amount of ultimate liability, if any, with respect to any of these cases can be determined at this time. These cases are in various stages of litigation, and we believe we have meritorious defenses to each of the claims, which we intend to vigorously defend. After considering our available insurance coverage, we do not expect any of these matters to have a material impact on our financial position, operations or liquidity.

On December 31, 2003, we were served with a purported class action complaint styled "*Angela Goodwin, et al. v. ConAgra Poultry Company and Pilgrim's Pride*" in the United States District Court, Western District of Arkansas, El Dorado Division, alleging racial and age discrimination at one of the facilities we acquired from ConAgra. We are evaluating the defense and materiality of the claim. Neither the likelihood of an unfavorable outcome nor the ultimate liability, if any, can be determined at this time.

We are subject to various other legal proceedings and claims, which arise in the ordinary course of our business. In the opinion of management, the amount of ultimate liability with respect to these actions will not materially affect our financial position or results of operations.

[Table of Contents](#)

PILGRIM'S PRIDE CORPORATION AND SUBSIDIARIES  
April 3, 2004

**Item 4. Submission of Matters to a Vote of Security Holders**

Pilgrim's Pride Corporation held its Annual Meeting of Shareholders on January 14, 2004. The meeting was held to elect the Board of Directors for the ensuing year; to approve the Employee Stock Investment Plan; to appoint Ernst & Young LLP as the Company's independent auditors for the fiscal year ending October 2, 2004; and to transact such other business as was properly brought before the meeting. There were 552,000,697 votes received, constituting 92.72% of the 595,348,066 votes outstanding on the record date and entitled to vote. With regard to the election of Directors for the ensuing year, the following votes were cast:

<u>Nominee</u>	<u>For</u>	<u>Withheld</u>
Lonnie "Bo" Pilgrim	548,516,846	3,483,851
Clifford E. Butler	548,146,007	3,854,690
O.B. Goolsby	548,793,002	3,207,695
Richard A. Cogdill	548,555,472	3,445,225
Lonnie Ken Pilgrim	547,870,590	4,130,107
Charles L. Black	550,915,182	1,085,515
S. Key Coker	550,915,508	1,085,189
Blake D. Lovette	548,796,871	3,203,826
Vance C. Miller, Sr.	550,914,482	1,086,215
James G. Vetter, Jr.	550,815,707	1,184,990
Donald L. Wass, Ph.D.	550,914,482	1,086,215

All Directors were elected by the above results.

With regard to approval of the Employee Stock Investment Plan, the following votes were cast:

<u>FOR</u>	<u>AGAINST</u>	<u>ABSTAIN</u>
551,922,719	40,636	37,342

With regard to ratifying the appointment of Ernst & Young LLP as the Company's independent auditors for fiscal 2004, the following votes were cast:

<u>FOR</u>	<u>AGAINST</u>	<u>ABSTAIN</u>
551,546,888	447,037	6,772

## [Table of Contents](#)

### PILGRIM'S PRIDE CORPORATION AND SUBSIDIARIES

April 3, 2004

#### Item 6. Exhibits and Reports on Form 8-K

(a) Exhibit Number

- |      |   |
|------|---|
| 3.1  | Certificate of Incorporation of the Company, as amended.*   |
| 4.1  | Certificate of Incorporation of the Company, as amended (included as Exhibit 3.1).*   |
| 10.1 | 2004 Amended and Restated Credit Agreement, dated as of April 7, 2004, between Pilgrim's Pride Corporation and CoBank, ACB, as lead arranger and book manager, and as administrative, documentation and collateral agent and the lenders from time to time parties thereto as lenders.* |
| 10.2 | Third Amended and Restated Secured Credit Agreement, dated April 7, 2004, between Pilgrim's Pride Corporation and Harris Trust and Savings Bank, individually and as agent, and the lenders from time to time parties thereto as lenders.*  |
| 31.1 | Certification of Principal Executive Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.*  |
| 31.2 | Certification of Chief Financial Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.*  |
| 32.1 | Certification of Principal Executive Officer of Pilgrim's Pride Corporation pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.*   |
| 32.2 | Certification of Chief Financial Officer of Pilgrim's Pride Corporation pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.*   |

\* Filed herewith

(b) Reports on Form 8-K

The Company filed a Current Report on Form 8-K/A on January 13, 2004, amending its Current Report on Form 8-K of December 8, 2003, to provide the Financial Statements and Pro Forma Financial Information relating to the Company's acquisition of the ConAgra chicken division, pursuant to "Item 2 - Acquisition or Disposition of Assets."

The Company filed a Current Report on Form 8-K on January 26, 2004, to furnish a press release issued by the Company announcing its results of operations for the first fiscal quarter of 2004, pursuant to "Item 12. Results of Operations and Financial Condition," in accordance with SEC Release No. 33-8216.

The Company filed two Current Reports on Form 8-K and one Current Report on Form 8-K/A on January 27, 2003, to furnish certain financial statements as well as exhibits pursuant to "Item 12. Results of Operations and Financial Condition," in accordance with SEC Release No. 33-8216.

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned thereunto duly authorized.

Date: May 4, 2004

PILGRIM'S PRIDE CORPORATION

/s/ Richard A. Cogdill

---

Richard A. Cogdill  
Executive Vice President,  
Chief Financial Officer,  
Secretary and Treasurer  
(Principal Financial Officer,  
Chief Accounting Officer and  
Authorized Signatory)

EXHIBIT INDEX

- 3.1 Certificate of Incorporation of the Company, as amended.\*
- 4.1 Certificate of Incorporation of the Company, as amended (included as Exhibit 3.1).\*
- 10.1 2004 Amended and Restated Credit Agreement, dated as of April 7, 2004, between Pilgrim's Pride Corporation and CoBank, ACB, as lead arranger and book manager, and as administrative, documentation and collateral agent and the lenders from time to time parties thereto as lenders.\*
- 10.2 Third Amended and Restated Secured Credit Agreement, dated April 7, 2004, between Pilgrim's Pride Corporation and Harris Trust and Savings Bank, individually and as agent, and the lenders from time to time parties thereto as lenders.\*
- 31.1 Certification of Principal Executive Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.\*
- 31.2 Certification of Chief Financial Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.\*
- 32.1 Certification of Principal Executive Officer of Pilgrim's Pride Corporation pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.\*
- 32.2 Certification of Chief Financial Officer of Pilgrim's Pride Corporation pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.\*

---

\* Filed herewith

**CERTIFICATE OF INCORPORATION****OF****PILGRIM'S PRIDE CORPORATION**

FIRST: The name of the Corporation is PILGRIM'S PRIDE CORPORATION.

SECOND: The address of the registered office of the Corporation in the State of Delaware is 1209 Orange Street in the City of Wilmington, County of New Castle. The name of its registered agent at that address is The Corporation Trust Company.

THIRD: The purpose of the Corporation is to engage in any lawful act or activity for which a corporation may be organized under the General Corporation Law of Delaware as set forth in Title 8 of the Delaware Code (the "GCL").

FOURTH: The aggregate number of shares of capital stock which the Corporation shall have authority to issue is 50,000,000 shares, consisting of 5,000,000 shares of preferred stock, par value \$.01 per share ("Preferred Stock"), and 45,000,000 shares of common stock, par value \$.01 per share (the "Common Stock").

The following is a statement of the designations, preferences and relative, participating, optional or other special rights in respect of the classes of stock of the Corporation, and of the authority with respect thereto expressly vested in the Board of Directors of the Corporation:

Preferred Stock

Shares of the Preferred Stock may be issued from time to time in one or more series, the shares of each series to have such voting powers, full or limited, or no voting powers, and such designations, preferences and relative, participating, optional or other special rights, and qualifications limitations or restrictions thereof, as shall be stated and expressed in a resolution or resolutions providing for the issue of such series adopted by the Board of Directors of the Corporation. The Board of Directors of the Corporation is hereby expressly authorized, subject to the limitations provided by law, to establish and designate series of the Preferred Stock, to fix the number of shares constituting each series, and to fix the designations and the relative powers, rights, preferences and

limitations of the shares of each series and the variations in the relative powers, rights, preferences and limitations as between series, and to increase and to decrease the number of shares constituting each series.

Common Stock

A. Dividends. Subject to the prior rights and preferences of the Preferred Stock and subject to the provisions and on the conditions set forth in the foregoing part of this Article Fourth or in any resolution of the Board of Directors of the Corporation, dividends may be paid on the Common Stock in money, property or Common Stock, as and when declared by the Board of Directors of the Corporation out of any funds of the Corporation legally available for the payment thereof.

B. Voting. The shares of Common Stock shall be fully voting stock at the rate of one vote for each share of Common Stock.

C. Liquidation Rights. In the event of any liquidation dissolution or winding up of the affairs of the Corporation, whether voluntary or involuntary, after payment or provision for payment of the debts and other liabilities of the Corporation and after distribution in full of the preferential amounts to be distributed to the holders of shares of any and all parties of Preferred Stock, the holders of shares of Common Stock shall be entitled to receive all the remaining assets of the Corporation available for distribution to its stockholders, ratably in proportion to the number of shares of Common Stock held by them.

FIFTH: The name and mailing address of the Sole Incorporator is as follows:

<u>Name</u>	<u>Mailing Address</u>
Van M. Jolas	Rain Harrell Emery Young & Doke 4200 RepublicBank Tower Dallas, Texas 75201

SIXTH: The name and mailing address of each person who is to serve as a director until the first annual meeting of the stockholders or until his successor is elected and qualified is as follows:

<u>Name</u>	<u>Mailing Address</u>
Lonnie A. Pilgrim	P.O. Box 93, Pittsburg, Texas 75686
Clifford S. Butler	P.O. Box 93, Pittsburg, Texas 75686
Robert E. Hendrix	P.O. Box 93, Pittsburg, Texas 75686
James J. Miner, Ph.D.	P.O. Box 93, Pittsburg, Texas 75686
Charles L. Black	P.O. Box 93, Pittsburg, Texas 75686
Richard C. Larkin	P.O. Box 93, Pittsburg, Texas 75686
James G. Vetter, Jr.	P.O. Box 93, Pittsburg, Texas 75686
Robert E. Hilgenfeld	P.O. Box 93, Pittsburg, Texas 75686
Scott D. Jackson	P.O. Box 93, Pittsburg, Texas 75686
Vance C. Miller	P.O. Box 93, Pittsburg, Texas 75686
Lonnie Ken Pilgrim	P.O. Box 93, Pittsburg, Texas 75686

SEVENTH: The following provisions are inserted for the management of the business and the conduct of the affairs of the Corporation, and for further definition, limitation and regulation of the powers of the Corporation and of its directors and stockholders,

- (1) The business and affairs of the Corporation shall be managed by or under the direction of the Board of Directors.
- (2) The directors shall have concurrent power with the stockholders to make, alter, amend, change, add or to repeal the By-Laws of the Corporation.
- (3) The number of directors of the Corporation shall be as from time to time fixed by, or in the manner provided in, the By-Laws of the Corporation. Election of directors need not be by written ballot unless the By-Laws so provide.

(4) In addition to the powers and authority herein-before or by statute expressly conferred upon them, the directors are hereby empowered to exercise all such powers and do all such acts and things as may be exercised or done by the Corporation, subject, nevertheless, to the provisions of the GCL, this Certificate of Incorporation, and any By-Laws adopted by the stockholders; provided, however, that no By-Laws hereafter adopted by the stockholders shall invalidate any prior act of the directors which would have been valid if such By-Laws had not been adopted.

EIGHTH: Meetings of stockholders may be held within or without the State of Delaware, as the Corporation's Bylaws may provide. The books of the Corporation may be kept (subject to any provision contained in the statutes) outside the State of Delaware at such place or places as may be designated from time to time by the Board of Directors or in the Bylaws of the Corporation.

NINTH: Whenever a compromise or arrangement is proposed between the Corporation and its creditors or any class of them and/or between the Corporation and its stockholders or any class of them, any court of equitable jurisdiction within the State of Delaware may, on the application in a summary way of the Corporation or of any creditor or stockholder thereof or on the application of any receiver or receivers appointed for the Corporation under the provisions of Section 291 of the GCL or on the application of trustees in dissolution or of any receiver or receivers appointed for the Corporation under Section 279 of the GCL, order a meeting of the creditors or class of creditors, and/or of the stockholders or class of stockholders of the Corporation, as the case may be, to be summoned in such manner as the said court directs. If a majority in number representing three-fourths in value of the creditors or class of creditors, and/or of the stockholders or class of stockholders of the Corporation, as the case may be, agree to any compromise or arrangement and to any reorganization of the Corporation as a consequence of such compromise or arrangement, the said compromise or arrangement and the said reorganization shall, if sanctioned by the court to which the said application has been made, be binding on all the creditors or class of creditors, and/or on all the stockholders or class of stockholders, of the Corporation, as the case may be, and also on the Corporation.

TENTH: The directors of the Corporation shall not be personally liable to the Corporation or its stockholders for monetary damages for breach of fiduciary duty as a director; provided, however, that this provision shall not eliminate or limit the liability of a director of the

Corporation (i) for any breach of the director's duty of loyalty to the Corporation or its stockholders, (ii) for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law, (iii) under Section 174 of the GCL, or (iv) for any transaction from which the director derived an improper personal benefit.

ELEVENTH: The Corporation reserves the right to amend, alter, change or repeal any provision contained in this Certificate of Incorporation, in the manner now or hereafter prescribed by statute, and all rights conferred upon stockholders herein are granted subject to this reservation.

I, THE UNDERSIGNED, being the Sole Incorporator hereinbefore named, for the purpose of forming a corporation pursuant to the GCL, do make this Certificate, hereby declaring and certifying that this is my act and deed and the facts herein stated are true, and accordingly have hereunto set my hand this 9th day of September, 1986.

/s/ Van M. Jolas

---

Van M. Jolas

**CERTIFICATE OF MERGER**

Pursuant to the provisions of Section 252(c) of the General Corporation Law of the State of Delaware, Pilgrim's Pride Corporation, a Delaware Corporation, does hereby adopt the following Certificate of Merger:

1. The name and state of incorporation of each of the constituent corporations is:

<u>Name of Corporation</u>	<u>State</u>
Pilgrim's Pride Corporation	Texas
Pilgrim's Pride Corporation	Delaware

2. The Plan and Agreement of Merger (the "Merger Agreement") between Pilgrim's Pride Corporation and Pilgrim's Pride Corporation, a Texas Corporation ("PPC"), dated October 25, 1986, attached hereto as Exhibit A, has been approved, adopted, certified, executed and acknowledged by each of the constituent corporations in accordance with subsection (c) of Section 252 of the General Corporation Law of the State of Delaware.

3. The name of the surviving corporation is Pilgrim's Pride Corporation, a Delaware corporation.

4. The Certificate of Incorporation of Pilgrim's Pride Corporation shall be the Certificate of Incorporation of the surviving corporation.

5. The executed Merger Agreement is on file at the principal place of business of Pilgrim's Pride Corporation, 110 South Texas Street, Pittsburg, Texas 75686.

6. A copy of the Merger Agreement will be furnished by Pilgrim's Pride Corporation on request and without cost to any stockholder of any constituent corporation.

7. The authorized capital stock of PPC is 1,750,000 shares of common stock, par value \$1.00 per share.

IN WITNESS WHEREOF, the undersigned has caused this Certificate to be signed as of the 1st day of November, 1986.

Attest:

PILGRIM'S PRIDE CORPORATION  
a Delaware corporation

/s/ Clifford E. Butler

---

Clifford E Butler  
Secretary

By: /s/ Lonnie A. Pilgrim

---

Lonnie A. Pilgrim  
Chairman of the Board of Directors and  
Chief Executive Officer

**EXHIBIT A**  
**PLAN AND AGREEMENT OF MERGER**

THIS PLAN AND AGREEMENT OF MERGER, made and entered into as of the 25th day of October, 1986, by and between Pilgrim's Pride Corporation, a Texas corporation ("PPC"), and Pilgrim's Pride Corporation, a Delaware corporation ("New PPC") (PPC and New PPC are hereinafter collectively referred to as the "Constituent Corporations");

W I T N E S S E T H:

WHEREAS, the respective Boards of Directors of PPC and New PPC have determined that it is desirable and in the best interest of each of the corporations to effect a merger of the corporations, whereby (i) PPC will be merged into New PPC, which will be the surviving corporation in the merger, (ii) each issued and outstanding share of common stock, par value \$.01 per share ("New PPC Common Stock"), of New PCC owned by PPC will be cancelled and (iii) each issued and outstanding share of common stock, par value \$1.00 per share ("PPC Common Stock"), of PPC will be converted into and become shares of New PPC Common Stock; and

WHEREAS, the respective Boards of Directors of PPC and New PPC have directed that the plan of merger be submitted to a vote of shareholders of PPC and New PCC, respectively;

WHEREAS, the respective Boards of Directors of PCC and New PPC have duly authorized the execution hereof;

NOW, THEREFORE, in consideration of the premises and of the mutual covenants and agreements herein contained, PPC and New PPC hereby agree that PPC shall be merged with and into New PCC in accordance with the terms and conditions of this Agreement and prescribe the terms and conditions of the merger of PCC into New PPC, the mode of carrying it into effect, the name of the surviving corporation, and such other details and provisions as are deemed necessary or desirable, as follows:

1. Merger. Subject to the conditions hereinafter set forth, upon the filing of Articles of Merger as required under applicable law (the "Effective Time"), PPC shall be merged with and into New PPC, and New PPC shall be the surviving corporation and shall be governed by the laws of the State of Delaware.

2. Terms and Conditions of the Merger. At the Effective Time, (i) the Certificate of Incorporation of the surviving corporation shall be the Certificate of Incorporation of New PPC in effect immediately prior to the Effective Time, (ii) the Bylaws of the surviving corporation shall be the Bylaws of New PPC in effect immediately prior to the Effective Time, (iii) the directors of the surviving corporation shall be the directors of New PPC in office immediately prior to the Effective Time, who shall serve until their successors shall have been elected and shall qualify, (iv) the officers of the surviving corporation shall be the officers of PPC in office immediately prior to the Effective Time, and (v) the registered office of the surviving corporation in the State of Delaware shall be Corporation Trust Center, 1209 Orange Street, Wilmington, Delaware.

This Merger Agreement shall constitute a Plan of Reorganization pursuant to Section 368(a)(1)(A) of the Internal Revenue Code of 1954, as amended.

At the Effective Time, the separate corporate existence of PPC shall cease, and New PCC shall possess all the rights, privileges, powers and franchises of a public as well as of a private nature and be subject to all the restrictions, disabilities and duties of each of the Constituent Corporations; and all and singular, the rights, privileges, powers and franchises of each of the Constituent Corporations, and all property, real, personal and mixed, and all debts due to either of the Constituent Corporations on whatever account, including stock subscriptions and all other choses or things in action or belonging to each of the Constituent Corporations shall be vested in the surviving corporation; and all property, rights, privileges, powers and franchises, and all and every other interest shall be thereafter as effectually the property of the surviving corporation as they were of the several and respective Constituent Corporations, and the title to any real estate vested by deed or otherwise, under the laws of the State of Delaware, in either of such Constituent Corporations, shall not revert or be in any way impaired by reason of the General Corporation Law of the State of Delaware; but all rights of creditors and all liens upon any property of any of the Constituent Corporations shall be preserved unimpaired, and all debts, liabilities and duties of the respective Constituent Corporations shall thenceforth attach to the surviving corporation and may be enforced against it to the same extent as if said debts, liabilities and duties had been incurred or contracted by it.

At the Effective Time, New PPC assumes the due and punctual payment of the principal of, and premium, if any, and interest on, all of the Notes (as defined in the Collateral Trust Indenture Re: Pilgrim's Pride Corporation Dated as of October 1, 1986 (the "Indenture")), according to their respective tenor, and the due and punctual performance and observance of all of the covenants in the Notes, the Indenture and the documents evidencing or creating any other obligations secured by the Indenture.

New PCC, the surviving corporation, hereby (i) agrees that it may be served with process in the State of Texas in any proceeding for the enforcement of any obligation of PPC and in any proceeding for the enforcement of the rights of a dissenting shareholder of PPC against New PPC, (ii) irrevocably appoints the Secretary of State of Texas as its agent to accept service of process in any such proceeding, and (iii) agrees that it will promptly pay to the dissenting shareholders of PPC the amount, if any, to which they shall be entitled under the provisions of the Texas Business Corporation Act with respect to the rights of dissenting shareholders.

3. The Manner of Converting the Shares. At the Effective Time, (i) each of the issued and outstanding shares of New PPC Common Stock owned by PPC shall be cancelled and returned and resume the status of authorized but unissued shares of New PPC Common Stock and (ii) the issued and outstanding shares of PPC Common Stock shall, by virtue of the merger and without any action, be converted into and become fully paid and non-assessable shares of New PCC Common Stock as set forth in the following table:

<u>Shareholder</u>	<u>Number of Shares of PPC Common Stock Outstanding</u>	<u>Number of Shares of New PPC Common Stock Into Which Converted</u>
Lonnie A. Pilgrim	480,718	16,920,000
Lonnie A. Pilgrim, Trustee for Lonnie Ken Pilgrim	10,228	360,000
Lonnie A. Pilgrim, Trustee for Greta Pilgrim	10,228	360,000
Lonnie A. Pilgrim, Trustee for Patrick Wayne Pilgrim	10,228	360,000

4. Termination. This Agreement may be terminated and abandoned at any time prior to the Effective Time, whether before or after action thereon by the shareholders of PPC or New PPC, by resolution of the Board of Directors of either PPC or New PPC. In the event of the termination and abandonment of this Agreement pursuant to the provisions of this Section, this Agreement shall be of no further force or effect.

5. Further Actions. The parties hereto agree to take all further actions and to execute and acknowledge and deliver all such further instruments or documents as may be necessary or desirable to carry out the transactions provided for in this Agreement.

6. Stock Certificates. At and after the Effective Time, all of the outstanding certificates which, immediately prior to the Effective Time, represented shares of PPC Common Stock shall be deemed for all purposes to evidence ownership of and to represent shares of New PPC Common Stock. The registered owner on the books and records of New PPC or its transfer agent of any such outstanding stock certificate shall, until such certificate shall have been surrendered for transfer or otherwise accounted for to New PPC or its transfer agent, have and be entitled to exercise any voting and other rights with respect to, and to receive any dividends and other distributions on, the shares of New PPC Common Stock evidenced by such outstanding certificate as above provided.

7. Condition to Effectiveness. The obligations of the parties hereto to effect the merger contemplated hereby are subject to the completion of the purchase by PPC of shares of PPC Common Stock from certain of its shareholders pursuant to the provisions of the Stock Purchase Agreement of even date herewith among PPC, Doris Pilgrim Julian, Aubrey Hal Pilgrim, Paulette Pilgrim Rolston and Evanne Pilgrim by March 31, 1987.

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

ATTEST:

/s/ Clifford E. Butler

\_\_\_\_\_  
Clifford E. Butler  
Secretary

ATTEST:

/s/ Clifford E. Butler

\_\_\_\_\_  
Clifford E. Butler  
Secretary

PILGRIM'S PRIDE CORPORATION,  
a Texas corporation

By: /s/ Lonnie A. Pilgrim

\_\_\_\_\_  
Lonnie A. Pilgrim  
Chairman of the Board of Directors and  
Chief Executive Officer

PILGRIM'S PRIDE CORPORATION,  
a Delaware corporation

By: /s/ Lonnie A. Pilgrim

\_\_\_\_\_  
Lonnie A. Pilgrim  
Chairman of the Board of Directors and  
Chief Executive Officer

STATE OF TEXAS           §  
  §  
COUNTY OF DALLAS       §

BEFORE ME, a Notary Public in and for said County and State, personally appeared Lonnie A. Pilgrim and Clifford E. Butler, who being by me duly sworn, declared that they are the Chairman of the Board of Directors and Chief Executive Officer and Secretary, respectively, of Pilgrim's Pride Corporation, a Delaware corporation, that they signed the foregoing document as Chairman of the Board of Directors and Chief Executive Officer and Secretary, respectively, of said corporation, that the statements therein contained are true and acknowledged the instrument to be the free act and deed of said corporation.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this 30<sup>th</sup> day of October, 1986

/s/ Julia M. Martin

---

Notary Public in and of the State of Texas

My Commission Expires:  
January 24, 1989

STATE OF TEXAS           §  
  §  
COUNTY OF DALLAS       §

BEFORE ME, a Notary Public in and for said County and State, personally appeared Lonnie A. Pilgrim and Clifford E. Butler, who being by me duly sworn, declared that they are the Chairman of the Board of Directors and Chief Executive Officer and Secretary, respectively, of Pilgrim's Pride Corporation, a Texas corporation, that they signed the foregoing document as Chairman of the Board of Directors and Chief Executive Officer and Secretary, respectively, of said corporation, that the statements therein contained are true and acknowledged the instrument to be the free act and deed of said corporation.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this 30<sup>th</sup> day of October, 1986

/s/ Julia M. Martin

---

Notary Public in and of the State of Texas

My Commission Expires:  
January 24, 1989

SECRETARY'S CERTIFICATE

I, Clifford E. Butler, do hereby certify that I am the duly elected and qualified secretary of Pilgrim's Pride Corporation, a Delaware corporation ("New PPC"), and that the holder of all of the issued and outstanding shares of common stock, par value \$.01 per share, of New PPC has approved and adopted the Plan and Agreement of Merger by and between New PPC and Pilgrim's Pride Corporation, a Texas corporation, dated as of October 25, 1986 by unanimous written consent dated as of October 25, 1986.

IN WITNESS WHEREOF, I have executed this Certificate as of the 1<sup>st</sup> day of November, 1986.

/s/ Clifford E. Butler

---

Clifford E. Butler

SECRETARY'S CERTIFICATE

I, Clifford E. Butler, do hereby certify that I am the duly elected and qualified secretary of Pilgrim's Pride Corporation, a Texas corporation ("PPC"), and that the holders of all of the issued and outstanding shares of common stock, par value \$1.00 per share, of PPC have approved and adopted the Plan and Agreement of Merger by and between PPC and Pilgrim's Pride Corporation a Delaware corporation, dated as of October 25, 1986 by unanimous written consent dated as of November 1, 1986.

IN WITNESS WHEREOF, I have executed this Certificate as of the 1<sup>st</sup> day of November, 1986.

/s/ Clifford E. Butler

---

Clifford E. Butler

**CERTIFICATE OF MERGER**

Pursuant to the provisions of Section 252 of the General Corporation Law of the State of Delaware, Pilgrim's Pride Corporation, a Delaware Corporation, does hereby adopt the following Certificate of Ownership and Merger:

1. The name and state of incorporation of each of the Constituent corporations is:

<u>Name of Corporation</u>	<u>State</u>
Cash Poultry, Inc.	Arizona
Pilgrim's Pride Corporation	Delaware

2. The Plan and Agreement of Merger (the "Merger Agreement") between Pilgrim's Pride Corporation and Cash Poultry, Inc. dated March 10, 1988, attached hereto as Exhibit A, has been approved, adopted, certified, executed and acknowledge by each of the constituent corporations.

3. The name of the surviving corporation is Pilgrim's Pride Corporation, a Delaware corporation.

4. The Certificate of Incorporation of Pilgrim's Pride Corporation shall be the Certificate of Incorporation of the surviving corporation.

5. The executed Merger Agreement is on file at the principal place of business of Pilgrim's Pride Corporation, 110 South Texas Street, Pittsburg, Texas 75686.

6. A Copy of the Merger Agreement will be furnished by Pilgrim's Pride Corporation on request and without cost to any stockholder of any constituent corporation.

7. The authorized capital stock of Cash Poultry, Inc. is 15,000 shares of common stock, par value 100.00 per share, and 15,000 shares of preferred stock, par value \$100.00 per share.

8. Pilgrim's Pride Corporation is the owner of 100% of the issued and outstanding shares of Cash Poultry, Inc.

IN WITNESS WHEREOF, the undersigned has caused this Certificate to be signed as of the 10<sup>th</sup> day of March, 1988.

Attest:

PILGRIM'S PRIDE CORPORATION,  
a Delaware corporation

/s/ Clifford E. Butler

By: /s/ Lonnie A. Pilgrim

\_\_\_\_\_  
Clifford E. Butler  
Secretary

\_\_\_\_\_  
Lonnie A. Pilgrim  
Chairman of the Board and  
Chief Executive Officer

**EXHIBIT A**  
**PLAN AND AGREEMENT OF MERGER**

THIS PLAN AND AGREEMENT OF MERGER, made an entered into as of the 10th day of March, 1988, by and between Cash Poultry, Inc., an Arizona corporation ("CPI") and Pilgrim's Pride Corporation, a Delaware corporation ("PPC") (hereinafter collectively referred to as the "Constituent Corporations");

W I T N E S S E T H:

WHEREAS, the respective Boards of Directors of CPI and PPC have determined that it is desirable and in the best interest of each of the corporations to effect a merger of the corporations, whereby (i) CPI will be merged into PPC, which will be the surviving corporation in the merger, (ii) each issued and outstanding share of common and preferred stock, par value \$100.00 per share ("CPI Stock"), of CPI owned by PPC will be cancelled and (iii) no new shares of PPC shall be issued in exchange therefor; and

WHEREAS, the respective Boards of Directors of CPI and PPC have duly authorized the execution hereof;

NOW THEREFORE, in consideration of the premises and of the mutual covenants and agreements herein contained, CPI and PPC hereby agree that CPI shall be merged with and into PPC in accordance with the terms and conditions of this Agreement and prescribe the terms and conditions of the merger of CPI into PPC, the mode of carrying it into effect, the name of the surviving corporation, and such other details and provisions as are deemed necessary of desirable, as follows:

1. Merger. Subject to the conditions hereinafter set forth, upon the filing of Articles of Merger as required under applicable law (the "Effective Time"), CPI shall be merged with and into PPC, and PPC shall be the surviving corporation and shall be governed by the laws of the State of Delaware.

2. Terms and Conditions of the Merger. At the Effective Time, (i) the Certificate of Incorporation of the surviving corporation shall be the Certificate of Incorporation of PPC in effect immediately prior to the Effective Time, (ii) the Bylaws of the surviving corporation shall be the bylaws of PPC in effect immediately prior to the Effective Time, (iii) the directors of the surviving corporation shall be the directors of PPC in office immediately prior to the Effective Time, who shall serve until their successors shall have been elected and shall qualify, (iv) the officers of the surviving corporations shall be the offices of PPC in office immediately prior to the Effective Time, and (v) the registered office of the surviving corporation in the state of Delaware shall be the Corporation Trust Center, 1209 Orange Street, Wilmington, Delaware.

This Merger Agreement shall constitute a Plan of Reorganization pursuant to Section 368(a) (l) (A) of the Internal Revenue Code of 1954, as amended.

At the Effective Time, the separate corporate existence of CPI shall cease, and PPC shall possess all the rights, privileges, powers and franchises of a public as well as of a private nature and be subject to all the restrictions, disabilities and duties of each of the Constituent Corporations; and all and singular, the rights, privileges, powers and franchises of each of the Constituent Corporations, and all property, real, personal and mixed, and all debts due to either of the Constituent Corporations on whatever account, including stock subscriptions and all other choses or things in action or belonging to each of the Constituent Corporations shall be vested in the surviving corporation; and all property, rights, privileges, powers and franchises, and all and every other interest shall be thereafter as effectually the property of the surviving corporation as they were of the several and respective Constituent Corporations, and the title to any real estate vested by deed or otherwise, under the laws of the State of Delaware, in either of such Constituent Corporations, shall not revert or be in any way impaired by reason of the General Corporation Law of the State of Delaware; but all rights of creditors and all liens upon any property of any of the Constituent Corporations shall be preserved, unimpaired, and all debts, liabilities and duties of the respective Constituent Corporations shall thenceforth attach to the surviving corporation and may be enforced against it to the same extent as if said debts, liabilities and duties had been incurred or contracted to it.

PPC, the surviving corporation, hereby (i) agrees that it may be served with process in the State of Arizona in any proceeding for the enforcement of any obligation of CPI and in any proceeding for the enforcement of the rights of a dissenting shareholder of CPI against PPC, (ii) irrevocably appoints the Commissioner of the State of Arizona as its agent to accept service of process in any such proceeding, and (iii) agrees that it will promptly pay to the dissenting shareholders of CPI the amount, if any, to which they shall be entitled under the provisions of §10-007 of the Corporate Laws of the State of Arizona with respect to the rights of dissenting shareholders.

3. The Manner of Converting the Shares. At the Effective Time, each of the issued and outstanding shares of CPI Stock owned by PPC shall be cancelled and returned. No shares of stock of PPC shall be issued in exchange therefor.

4. Termination. This Agreement may be terminated and abandoned at any time prior to the Effective Time, whether before or after action thereon by the shareholders of CPI or PPC, by resolution of the Board of Directors of either CPI or PPC. In the event of the termination and abandonment of this Agreement pursuant to the provisions of this Section, this Agreement shall be of no further force or effect.

5. Further Actions. The parties hereto agree to take all further actions and to execute and acknowledge and deliver all such further instruments or documents as may be necessary or desirable to carry out the transactions provided for in this Agreement.

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

ATTEST:  
  
\_\_\_\_\_  
/s/ Clifford E. Butler  
  
Clifford E. Butler  
Secretary

CASH POULTRY, INC.  
an Arizona corporation  
  
By: /s/ Lonnie A. Pilgrim  
\_\_\_\_\_  
Lonnie A. Pilgrim  
President

ATTEST:  
  
\_\_\_\_\_  
/s/ Clifford E. Butler  
  
Clifford E. Butler  
Secretary

PILGRIM'S PRIDE CORPORATION,  
a Delaware corporation  
  
By: /s/ Lonnie A. Pilgrim  
\_\_\_\_\_  
Lonnie A. Pilgrim  
Chief Executive Officer

STATE OF TEXAS           §  
                                      §  
COUNTY OF CAMP       §

BEFORE ME, a Notary Public in and for said County and State, personally appeared Lonnie A. Pilgrim and Clifford E. Butler, who being by me duly sworn, declared that they are the Chief Executive Officer and Secretary, respectively, of Pilgrim's Pride Corporation, a Delaware Corporation, that they signed the foregoing document as Chief Executive Officer and

Secretary, respectively, of said corporation, that the statements therein contained are true, and acknowledged the instrument to be the free act and deed of said corporation.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this 10<sup>th</sup> day of March, 1988.

/s/ Cynthia A. Jackson

\_\_\_\_\_  
Notary Public in and for the State of Texas

My Commission Expires:

7-12-89

STATE OF TEXAS           §

§

COUNTY OF CAMP         §

BEFORE ME, a Notary Public in and for said County and State, personally appeared Lonnie A. Pilgrim and Clifford E. Butler, who being by me duly sworn, declared that they are the President and Secretary, respectively, of Cash Poultry, Inc., an Arizona Corporation, that they signed the foregoing document as President and Secretary, respectively, of said corporation, that the statements therein contained are true, and acknowledged the instrument to be the free act and deed of said corporation.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this 10<sup>th</sup> day of March, 1988.

/s/ Cynthia A. Jackson

\_\_\_\_\_  
Notary Public in and for the State of Texas

My Commission Expires:

7-12-89

SECRETARY'S CERTIFICATE

I, Clifford E. Butler, do hereby certify that I am the duly elected and qualified secretary of Cash Poultry, Inc. and that the holders of all of the issued and outstanding shares of non-voting common and voting preferred stock, par value \$100.00 per share, of CPI have approved and adopted the Plan and Agreement of Merger by and between CPI and Pilgrim's Pride Corporation, a Delaware corporation, dated March 10, 1988 by unanimous consent dated March 10, 1988.

IN WITNESS WHEREOF, I have executed the Certificate as of the 10<sup>th</sup> day of March, 1988.

/s/ Clifford E. Butler

---

Clifford E. Butler

**CERTIFIED RESOLUTIONS APPROVING PLAN  
AND AGREEMENT OF MERGER**

WHEREAS, there has been presented to and discussed at this meeting a proposed Plan and Agreement of Merger, a copy of which is attached hereto, providing for the Merger of Cash Poultry, Inc. into this Corporation; and

WHEREAS, this Board of Directors deems it to be in the best interests of this Corporation and its shareholders that the Plan and Agreement of Merger be approved and that Cash Poultry, Inc. and this Corporation be merged;

RESOLVED, that the terms and conditions of the proposed Plan and Agreement of Merger present to this meeting, and mode of carrying them into effect as well as the manner and basis of converting the shares of the constituent corporations into shares of the surviving corporation as set forth in the Plan and Agreement of Merger, are hereby approved;

RESOLVED FURTHER, that the President and the Secretary of this Corporation are directed to execute said Plan and Agreement of Merger in the name and on behalf of this Corporation and to deliver a duly executed copy thereof to Pilgrim's Pride, Inc.;

SECRETARY'S CERTIFICATE

I, Clifford E. Butler, do hereby certify that I am the duly elected and qualified Secretary of Pilgrim's Pride Corporation, and that the directors of Pilgrim's Pride Corporation have approved the above and foregoing Resolutions by unanimous consent at a meeting of the Board of Directors duly held on February 3, 1988.

SIGNED AND DATED this 10<sup>th</sup> day of March, 1988.

/s/ Clifford E. Butler

---

Clifford E. Butler

**CERTIFICATE OF AMENDMENT OF  
CERTIFICATE OF INCORPORATION OF  
PILGRIM'S PRIDE CORPORATION**

Pilgrim's Pride Corporation a corporation organized and existing under the General Corporation Law of the State of Delaware (the "Corporation"), does hereby certify that:

The amendment to the Corporation's Certificate of Incorporation set forth below was duly adopted in accordance with the provisions of Section 242 of the General Corporation Law of the State of Delaware.

Article Fourth of the Corporation's Certificate of Incorporation is amended to read in its entirety as follows:

"FOURTH:

Authorized Shares

The total number of shares of stock which the Corporation shall have authority to issue is 165,000,000 shares consisting of the following:

- (1) 100,000,000 shares of Class A Common Stock, par value \$.01 per share (the "Class A Common Stock");
- (2) 60,000,000 shares of Class B common stock, par value \$.01 per share (the "Class B Common Stock" and, together with the Class A Common Stock, the "Common Stock"); and
- (3) 5,000,000 shares of preferred stock par value \$.01 per share (the "Preferred Stock").

Upon the filing of this Certificate of Amendment of Certificate of Incorporation with the Secretary of State of the state of Delaware (the "Effective Time"), and without any further action on the part of the Corporation or its stockholders, each share of the Corporation's common stock, par value \$.01 per share, issued and outstanding immediately prior to the Effective Time (the "Existing Common Stock"), including shares held in the treasury of the Corporation, shall be automatically reclassified, changed, and converted into one fully paid and non-assessable share of Class B Common Stock, par value \$.01 per share. Any stock certificate that, immediately prior to the Effective Time, represents shares of the Existing Common Stock will, from and after the Effective Time, automatically and without the necessity of presenting the same for exchange, represent that number of shares of Class B Common Stock equal to the number of shares of the Existing Common Stock represented by such certificate prior to the Effective Time.

Designations, Preferences, etc. of the Capital Stock

The designations, preferences, powers, qualifications, and special or relative rights or privileges of the capital stock of the Corporation shall be as set forth below.

Common Stock

(1) Identical Rights. Except as herein otherwise expressly provided, all shares of Common Stock shall be identical and shall entitle the holders thereof to the same rights and privileges.

(2) Dividends on the Common Stock.

(a) Subject to the prior rights and preferences, if any, applicable to shares of the Preferred Stock or any series thereof, the holders of shares of Common Stock shall be entitled to receive such dividends (payable in cash, stock, or otherwise) as may be declared thereon by the Corporation's board of directors (the "Board of Directors") at any time and from time to time out of any funds of the Corporation legally available therefor, except that

(i) if dividends are declared that are payable in shares of Common Stock, then such stock dividends shall be payable at the same rate on each class of Common Stock and shall be payable only in shares of Class A Common Stock to holders of Class A Common Stock and in shares of Class B Common Stock to holders of Class B Common Stock and (ii) if dividends are declared that are payable in shares of common stock of another corporation, then such shares may differ as to voting rights to extent that voting rights now differ among the Class A Common Stock and the Class B Common Stock.

(b) Dividends payable under this subparagraph (2) shall be paid to the holders of record of the outstanding shares of Common Stock as their names shall appear on the stock register of the Corporation on the record date fixed by the board of Directors in advance of declaration and payment of each dividend. Any shares of Common Stock issued as a dividend pursuant to this subparagraph (2) shall, when so issued, be duly authorized validly issued, fully paid and non-assessable, and free of all liens and charges.

(c) Notwithstanding anything contained herein to the contrary, no dividends on shares of Common Stock shall be declared by the Board of Directors or paid or set apart for payment by the Corporation at any time that such declaration, payment or setting apart is prohibited by applicable law.

(3) Stock Splits Relating to the Common Stock. The Corporation shall not in any manner subdivide (by any stock split, reclassification, stock dividend, recapitalization or otherwise) or combine the outstanding shares of one class of Common Stock unless the outstanding shares of both classes of Common Stock shall be proportionately subdivided or combined.

(4) Liquidation Rights of the Common Stock. In the event of any voluntary or involuntary liquidation, dissolution, or winding-up of the Corporation, after distribution in full of the preferential amounts, if any, to be distributed to the holders of shares of the Preferred Stock or any series thereof, the holders of shares of Common Stock shall be entitled to receive all of the remaining assets of the Corporation available for distribution to its stockholders, ratably in proportion to the number of shares of Common Stock held by them. A liquidation, dissolution or winding-up of the Corporation as such terms are used in this subparagraph (4), shall not be deemed to be occasioned by or to include any consolidation or merger of the Corporation with or into any other corporation or corporations or other entity or a sale, lease, exchange, or conveyance of all or a part of the assets of the Corporation.

(5) Voting Rights of the Common Stock.

(a) The holders of the Class A Common Stock and the Class B Common Stock shall vote as a single class on all matters submitted to a vote of the stockholders, with each share of Class A Common Stock being entitled to one (1) vote and each share of Class B Common Stock being entitled to twenty (20) votes, except as otherwise provided by law.

(b) No holder of Common Stock shall be entitled to preemptive or subscription rights.

(6) Consideration on Merger, Consolidation, etc. In any merger, consolidation or business combination, the consideration to be received per share by the holders of Class A Common Stock and Class B Common Stock must be identical for each class of stock, except that in any such transaction in which shares of common stock are to be distributed, such shares may differ as to voting rights to the extent that voting rights now differ among the Class A Common Stock and the Class B Common Stock.

Preferred Stock

Shares of the Preferred Stock may be issued from time to time in one or more series, the shares of each series to have such voting powers, full or limited, or no voting powers, and such designations, preferences and relative, participating, optional or other special rights, and qualifications, limitations or restrictions thereof, as shall be stated and expressed in a resolution or resolutions providing for the issue of such series adopted by the Board of Directors of the Corporation. The Board of Directors of the Corporation is hereby expressly authorized, subject to the limitations provided by law, to establish and designate series of the Preferred Stock, to fix the number of shares constituting each series, and to fix the designations and the relative powers, rights, preferences and limitations of the shares of each series and the variations in the relative powers, rights, preferences and limitations as between series, and to increase and to decrease the number of shares constituting each series.”

IN WITNESS WHEREOF, Pilgrim’s Pride Corporation has caused this Certificate to be executed by Lonnie A. Pilgrim, its authorized officer, on this 30<sup>th</sup> day of June, 1998.

PILGRIM’S PRIDE CORPORATION

/s/ Lonnie A. Pilgrim

---

Lonnie A Pilgrim, Chairman of the Board of  
Directors and Chief Executive Officer

**CERTIFICATE OF AMENDMENT OF  
CERTIFICATE OF INCORPORATION OF  
PILGRIM'S PRIDE CORPORATION**

Pilgrim's Pride Corporation, a corporation organized and existing under the General Corporation Law of the State of Delaware (the "Corporation") does hereby certify that:

1 The amendment to the Corporation's Certificate of Incorporation set forth below was duly adopted in accordance with the provisions of Section 242 of the General Corporation Law of the State of Delaware.

2 Article Fourth of the Corporation's Certificate of Incorporation is amended to read in its entirety as follows:

"FOURTH:

Authorized Shares

The total number of shares of stock which the Corporation shall have authority to issue is 165,000,000 shares, consisting of the following:

- (1) 100,000,000 shares of Class A Common stock, par value \$.01 per share (the "Class A Common Stock");
- (2) 60,000,000 shares of Class B common stock, par value \$.01 per share (the "Class B Common Stock" and, together with the Class A Common Stock, the "Common Stock"); and
- (3) 5,000,000 shares of preferred stock, par value \$.01 per share (the "Preferred Stock").

Designations, Preferences, etc. of the Capital Stock

The designations, preferences, powers, qualifications, and special or relative rights or privileges of the capital stock of the Corporation shall be as set forth below.

Common Stock

(1) Identical Rights. Except as herein otherwise expressly provided, all shares of Common Stock shall be identical and shall entitle the holders thereof to the same rights and privileges.

(2) Dividends on the Common Stock.

(a) Subject to the prior rights and preferences, if any, applicable to shares of the Preferred Stock or any series thereof, the holders of shares of Common Stock shall be entitled to receive such dividends (payable in cash, stock, or otherwise ) as may be declared thereon by the Corporation's board of directors (the "Board of Directors") at any time and from time to time out of any funds of the Corporation legally available therefor, except that (i) if dividends are declared that are payable in shares of Common Stock, then such stock dividends shall be payable at the same rate on each class of Common Stock and shall be payable only in shares of Class A Common Stock to holders of Class A Common Stock and in shares of either Class A Common Stock or Class B Common Stock, as may be specified by the Board of Directors in a resolution authorizing such stock dividend, to holders of Class B Common Stock and (ii) if dividends are declared that are payable in shares of common stock of another corporation, then such shares may differ as to voting rights to the extent that voting rights now differ among the Class A Common Stock and the Class B Common Stock.

(b) Dividends payable under this subparagraph (2) shall be paid to the holders of record of the outstanding shares of Common Stock as their names shall appear on the stock register of the Corporation on the record date fixed by the Board of Directors in advance of declaration and payment of each dividend. Any shares of Common Stock issued as a dividend pursuant to this subparagraph (2) shall, when so issued, be duly authorized, validly issued, fully paid and non-assessable, and free of all liens and charges.

(c) Notwithstanding anything contained herein to the contrary, no dividends on shares of Common Stock shall be declared by the Board of Directors or paid or set apart for payment by the Corporation at any time that such declaration, payment or setting apart is prohibited by applicable law.

(3) Stock Splits Relating to the Common Stock. Except as expressly provided in subparagraph (2) above, the Corporation shall not in any manner subdivide (by any stock split, reclassification, stock dividend, recapitalization or otherwise) or combine the outstanding shares of one class of Common Stock unless the outstanding shares of both classes of Common Stock shall be proportionately subdivided or combined.

(4) Liquidation Rights of the Common Stock. In the event of any voluntary or involuntary liquidation, dissolution, or winding-up of the Corporation, after distribution in full of the preferential amounts, if any, to be distributed to the holders of shares of the Preferred Stock or any series thereof, the holders of shares of Common Stock shall be entitled to receive all of the remaining assets of the Corporation available for distribution to its stockholders ratably in proportion to the number of shares of Common Stock held by them. A liquidation, dissolution, or winding-up of the Corporation, as such terms are used in this subparagraph (4), shall not be deemed to be occasioned by or to include any consolidation or merger of the Corporation with or into any other corporation or corporations or other entity or a sale, lease, exchange, or conveyance of all or a part of the assets of the Corporation.

(5) Voting Rights of the Common Stock.

(a) The holders of the Class A Common Stock and the Class B Common Stock shall vote as a single class on all matters submitted to a vote of the stockholders, with each share of Class A Common Stock being entitled to one (1) vote and each share of Class B Common Stock being entitled to twenty (20) votes, except as otherwise provided by law.

(b) No holder of Common Stock shall be entitled to preemptive or subscription rights.

(6) Consideration on Merger, Consolidation, etc. In any merger, consolidation, or business combination, the consideration to be received per share by the holders of Class A Common Stock and Class B Common Stock must be identical for each class of stock, except that in any such transaction in which shares of common stock are to be distributed, such shares may differ as to voting rights to the extent that voting rights now differ among the Class A Common Stock and the Class B Common Stock.

Preferred Stock

Shares of the Preferred Stock may be issued from time to time in one or more series, the shares of each series to have such voting powers, full or limited, or no voting powers, and such designations, preferences and relative, participating, optional or other special rights, and qualifications, limitations or restrictions thereof, as shall be stated and expressed in a resolution or resolutions providing for the issue of such series by the Board of Directors of the Corporation. The Board of Directors of the Corporation is hereby expressly authorized, subject to the limitations provided by law, to establish and designate series of the Preferred Stock, to fix the number of shares constituting each

series, and to fix the designations and the relative powers, rights, preferences and limitations of the shares of each series and the variations in the relative powers, rights, preferences and limitations as between series, and to increase and to decrease the number of shares constituting each series.”

IN WITNESS WHEREOF Pilgrim’s Pride Corporation has caused this Certificate to be executed by Lonnie A. Pilgrim, its authorized officer, on this 20<sup>th</sup> day of July, 1999.

PILGRIM’S PRIDE CORPORATION

/s/ Lonnie A. Pilgrim

---

Lonnie A. Pilgrim, Chairman of the Board of Directors

**CERTIFICATE OF OWNERSHIP AND MERGER  
MERGING  
PILGRIM'S PRIDE CORPORATION OF VIRGINIA, INC.  
INTO  
PILGRIM'S PRIDE CORPORATION**

Pursuant to Section 253 of the  
General Corporation Law of the State of Delaware

Pilgrim's Pride Corporation, a corporation organized and existing under and by virtue of the General Corporation Law of the State of Delaware (the "Corporation"), does hereby certify that:

1. The name and the state of incorporation of each of the Constituent Corporations (herein so called) in the merger is as follows:

<u>Name of Corporation</u>	<u>State</u>
Pilgrim's Pride Corporation	Delaware
Pilgrim's Pride Corporation of Virginia, Inc	Virginia

2. The Corporation owns all of the outstanding shares of capital stock of Pilgrim's Pride Corporation of Virginia, Inc., a Virginia corporation.

3. The Corporation, by a consent in writing executed by its Board of Directors, a copy of which is attached hereto as Exhibit "A" and duly adopted on the 16th day of July, 2001, determined to merge Pilgrim's Pride Corporation of Virginia, Inc. with and into itself on the conditions set forth in such resolutions.

4. The Corporation shall be the surviving corporation in the merger and the name of the Corporation as the surviving corporation shall continue to be "Pilgrim's Pride Corporation" (the "Surviving Corporation").

5. The certificate of incorporation of the Corporation as in effect immediately prior to the Effective Time (as defined herein) shall constitute the certificate of incorporation of the Surviving Corporation.

6. The merger shall become effective on July 17, 2001, at 11:59 p.m. (Eastern Time) (the "Effective Time") in accordance with the provisions of Section 103(d) of the General Corporation Law of the State of Delaware.

IN WITNESS WHEREOF, this Certificate was executed for and on behalf and in the name of the undersigned corporation on July 16, 2001.

PILGRIM'S PRIDE CORPORATION

By: /s/ Richard A. Cogdill

Name: Richard A. Cogdill

Title: Executive Vice President, Chief Financial Officer,  
Secretary and Treasurer

**EXHIBIT A**

**UNANIMOUS WRITTEN CONSENT  
OF THE BOARD OF DIRECTORS  
OF  
PILGRIM'S PRIDE CORPORATION**

Dated as of July 16, 2001

The undersigned, being all of the members of the Board of Directors of Pilgrim's Pride Corporation, a Delaware corporation (the "Corporation"), hereby, pursuant to the provisions of Sections 141(f) and 253 of the Delaware General Corporation Law ("DGCL"), consent to, approve and adopt the following resolutions and each and every action effected thereby:

WHEREAS, it is proposed that Pilgrim's Pride Corporation of Virginia, Inc., a Virginia corporation and a wholly owned subsidiary of the Corporation ("Subsidiary"), merge with and into the Corporation (the "Merger"); and

WHEREAS, the Board of Directors of the Corporation has determined that it is advisable and in the best interest of the Corporation that Subsidiary merge with and into the Corporation, with the Corporation being the surviving corporation under the name of "Pilgrim's Pride Corporation".

RESOLVED, that Subsidiary merge with and into the Corporation pursuant to the following terms and provisions:

(a) In accordance with Section 253 of the DGCL and as a wholly owned subsidiary of the Corporation, Subsidiary shall be merged with and into the Corporation effective on July 17, 2001, at 11:59 p.m. (Eastern Time) (the "Effective Time");

(b) As a result of the Merger, the outstanding shares of capital stock of Subsidiary shall be canceled, the separate corporate existence of Subsidiary shall cease, and the Corporation will be the surviving corporation in the Merger (the "Surviving Corporation");

(c) Each share of capital stock of the Corporation issued and outstanding immediately prior to the Effective Time shall remain outstanding and shall constitute the only outstanding shares of capital stock of the Surviving Corporation;

(d) The certificate of incorporation of the Corporation shall constitute the certificate of incorporation of the Surviving Corporation;

(e) The name of the Surviving Corporation shall be "Pilgrim's Pride Corporation"; and

(f) The Corporation shall cause the Merger to be consummated by filing the Certificate of Ownership and Merger (the "Certificate") with the Secretary of State of the State of Delaware in such form as is required by, and executed in accordance with, the relevant provisions of the DCCL, and by filing Articles of Merger (the "Articles") with the State Corporation Commission of the Commonwealth of Virginia in such form as is required by, and executed in accordance with, the relevant provisions of the Virginia Stock Corporation Act;

RESOLVED, that said terms and provisions are hereby ratified, adopted, approved and confirmed;

RESOLVED, that further to such resolutions and for purposes of compliance with Virginia law and for inclusion in the Articles:

The Board of Directors of the Corporation, determining it to be in the best interest of the Corporation, hereby adopts and approves the following plan of merger:

1. Merger. Pursuant to 8 Del C. 1953 § 253(a), at the Effective Time (as defined below), Pilgrim's Pride Corporation of Virginia, Inc., a Virginia corporation ("Pilgrim's of Virginia"), shall be merged (the "Merger") with and into Pilgrim's Pride Corporation, a Delaware corporation ("Pilgrim's"). Pilgrim's shall continue in existence as the surviving corporation, and the separate corporate existence of Pilgrim's of Virginia shall cease.

2. Effective Date. Pursuant to 8 Del C. 1953 § 103(d), the effective time and date of the Merger shall be 11:59 p.m., July 17, 2001 (the "Effective Time").

3. Effect of Merger on Outstanding Shares. At the Effective Time, each issued and outstanding share of common stock of Pilgrim's of Virginia shall be automatically canceled and cease to exist.

4. Certificate of Incorporation and Bylaws. The Certificate of Incorporation and Bylaws of Pilgrim's in effect immediately prior to the Effective Time shall remain in effect until thereafter amended as provided by law.

RESOLVED, that the proper officers of the Corporation be, and each is, hereby authorized, empowered, and directed, for and on behalf and in the name of the Corporation, to execute and deliver the Certificate for filing with the Secretary of State of the State of Delaware in accordance with the relevant provisions of Delaware law and the Articles for filing with the State Corporation Commission of the Commonwealth of Virginia in accordance with the relevant provisions of Virginia law;

RESOLVED, that the officers of the Corporation are hereby severally authorized (a) to sign, execute, certify, verify, acknowledge, deliver, accept, file, and record any and all instruments and documents, and (b) to take, or cause to be taken, any and all such actions, in the name and on behalf of the Corporation, as (in such officers' judgment) shall be necessary, desirable or appropriate in order to effect the purposes of the foregoing resolutions and the transactions contemplated thereby; and

RESOLVED, that any and all action taken by any proper officers of the Corporation prior to the date this Consent is actually executed in effecting the purposes of the foregoing resolutions is hereby ratified, approved, confirmed, and adopted in all respects.

IN WITNESS WHEREOF, the undersigned directors of the Corporation have executed this Consent as of the date first above written.

/s/ Lonnie "Bo" Pilgrim

\_\_\_\_\_  
Lonnie "Bo" Pilgrim

/s/ Clifford E. Butler

\_\_\_\_\_  
Clifford E. Butler

/s/ David Van Hoose

\_\_\_\_\_  
David Van Hoose

/s/ Richard A. Cogdill

\_\_\_\_\_  
Richard A. Cogdill

/s/ Lonnie Ken Pilgrim

\_\_\_\_\_  
Lonnie Ken Pilgrim

/s/ Charles L. Black

\_\_\_\_\_  
Charles L. Black

/s/ S. Key Coker

\_\_\_\_\_  
S. Key Coker

/s/ Vance C. Miller, Sr.

\_\_\_\_\_  
Vance C. Miller, Sr.

/s/ James G. Vetter, Jr.

\_\_\_\_\_  
James G. Vetter, Jr.

/s/ Donald L. Wass, Ph.D.

\_\_\_\_\_  
Donald L. Wass, Ph.D.

**CERTIFICATE OF AMENDMENT OF  
CERTIFICATE OF INCORPORATION OF  
PILGRIM'S PRIDE CORPORATION**

Pilgrim's Pride Corporation, a corporation organized and existing under the General Corporation Law of the State of Delaware (the "Corporation"), does hereby certify that:

1. The amendment to the Corporation's Certificate of Incorporation set forth below was duly adopted in accordance with the provisions of Section 242 of the General Corporation Law of the State of Delaware. This amendment shall be effective as of 4:31 p.m., Eastern Standard Time, on November 21, 2003.

2. Article Fourth of the Corporation's Certificate of Incorporation is amended to read in its entirety as follows:

"FOURTH:

**I. Authorized Shares**

The total number of shares of stock which the Corporation shall have authority to issue is 165,000,000 shares, consisting of the following:

- (1) 160,000,000 shares of common stock, par value \$.01 per share (the "Common Stock"); and
- (2) 5,000,000 shares of preferred stock, par value \$.01 per share (the "Preferred Stock").

**II. Designations, Preferences, etc. of the Capital Stock**

The designations, preferences, powers, qualifications, and special or relative rights or privileges of the capital stock of the Corporation shall be as set forth below.

**A. Common Stock**

**(1) Reclassification of Existing Class A and Class B Common Stock.**

(a) Upon the filing of this Certificate of Amendment of Certificate of Incorporation, each share of Class A Common Stock, par value \$.01 per share, of the Corporation either issued and outstanding or held by the Corporation as treasury stock, shall be and is automatically reclassified and changed (without any further act) into one share of Common Stock (such reclassification being the "Class A Reclassification").

(b) Upon the filing of this Certificate of Amendment of Certificate of Incorporation, each share of Class B Common Stock, par value \$.01 per share, of the Corporation either issued and outstanding or held by the Corporation as treasury stock, shall be and is automatically reclassified and changed (without any further act) into one share of Common Stock (such reclassification being the "Class B Reclassification").

(2) Voting Rights of the Common Stock.

(a) The holders of record of Common Stock shall be entitled to one vote per share for all purposes, except that a holder of record of a share of Common Stock shall be entitled to twenty votes per share on each matter submitted to a vote by the stockholders at a meeting of stockholders for each such share held of record by such holder on the record date for such meeting if, with respect to such share:

(i) each and every beneficial owner of such share was the beneficial owner thereof at the effective time of the Class A Reclassification or the Class B Reclassification; and

(ii) there has been no change in the beneficial ownership of the share at any time after the filing of this Certificate of Amendment of Certificate of Incorporation.

(b) A change in beneficial ownership of an outstanding share of Common Stock shall be deemed to have occurred whenever a change occurs in any person or group of persons who, directly or indirectly, through any contract, arrangement, understanding, relationship or otherwise has or shares (i) voting power, which includes the power to vote or to direct the voting of such share of Common Stock, (ii) investment power, which includes the power to direct the sale or other disposition of such share of Common Stock, (iii) the right to receive or retain the proceeds of any sale or other disposition of such share of Common Stock, or (iv) the right to receive any distributions, including cash dividends, in respect of such share of Common Stock.

(A) In the absence of proof to the contrary provided in accordance with the procedures referred to in subparagraph (d) of this paragraph (2), a change in the beneficial ownership shall be deemed to have occurred whenever a share of Common Stock is transferred of record into the name of any other person.

(B) The beneficial owner of an outstanding share of Common Stock held of record on a record date for determining the holders entitled to vote on any matter submitted to a vote by the shareholders (a "Record Date") in "street" or "nominee" name or by a broker, clearing agency, voting trustee, bank, trust company or other nominee (including any share so held on at the time of filing of this Certificate of Amendment of Certificate of Incorporation) shall be presumed to have acquired the beneficial ownership of such share subsequent to the filing of this Certificate of Amendment of Certificate of Incorporation. Such presumption shall be rebuttable by showing that beneficial ownership of such share with respect to each and every beneficial owner thereof complies with subparagraph (a) of this paragraph (2).

(C) In the case of a share of Common Stock held of record in the name of any person as a trustee, agent, guardian or custodian under the Uniform Transfers to Minors Act in effect in any state, a change in the beneficial ownership shall be deemed to have occurred whenever there is a change in the beneficiary of such trust, the principal of such agent, the ward of such guardian or the minor for whom such custodian is acting or in such trustee, agent, guardian or custodian.

(c) Notwithstanding anything in this paragraph (2) to the contrary, no change in beneficial ownership shall be deemed to have occurred for purposes of clause (i) and (ii) of subparagraph (a) of this paragraph (2) solely as a result of:

(i) any event that occurred prior to the filing of this Certificate of Amendment of Certificate of Incorporation pursuant to the terms of any contract (other than a contract for the purchase and sale of shares of Common Stock contemplating prompt settlement), including contracts providing for options, rights of first refusal and similar arrangements in existence at the time of such filing to which any holder of shares of Common Stock is a party;

(ii) any transfer of any interest in a share of Common Stock pursuant to a bequest or inheritance by operation of law upon the death of any individual, or by any other transfer to or primarily for the benefit of family member(s) of the transferor or any trust, partnership or other entity primarily for the benefit of one or more of such family member(s), or pursuant to an appointment of a successor trustee, general partner or similar fiduciary or the grant of a proxy or other voting rights to one or more individuals with respect to any such trust, partnership or other entity, including a gift;

(iii) any change in the beneficiary of any trust or any distribution of a share of Common Stock from trust, by reason of the birth, death, marriage or divorce of any natural person, the adoption of any natural person prior to age 18 or the passage of a given period of time or the attainment by any natural person of a specific age, or the creation or termination of any guardianship or custodial arrangement;

(iv) any transfer of any interest in a share of Common Stock from one spouse to another by reason of separation or divorce or under or pursuant to community property laws or other similar laws of any jurisdiction;

(v) any appointment of a successor trustee, agent, guardian, custodian or similar fiduciary with respect to a share of Common Stock if neither such successor has nor its predecessor had the power to vote or to dispose of such share of Common Stock without further instructions from others;

(vi) any change in the person to whom dividends or other distributions in respect of a share of Common Stock are to be paid pursuant to the issuance or modification of a revocable dividend payment order;

(vii) any transfer of the beneficial ownership of a share of Common Stock from one employee benefit plan of the Corporation to another employee benefit plan of the Corporation;

(viii) the grant by any person of the right to vote any shares of which such person is the beneficial owner, provided the agreement, arrangement or understanding to vote such shares arises solely from a revocable proxy or consent given in response to a proxy or consent solicitation made to 10 or more persons; or

(ix) any event occurring under the Share Voting Agreement, dated as of June 7, 2003, among Lonnie “Bo” Pilgrim, Lonnie Ken Pilgrim and certain affiliated entities and ConAgra Foods, Inc. or any voting agreement to which any such persons or entities are parties entered into in connection with the New York Stock Exchange’s consent to the Class A Reclassification and Class B Reclassification.

As used in paragraph 2(c)(ii) above, “family member” of a transferor means the transferor’s spouse, ancestors, lineal descendants, siblings and their descendants, aunts and uncles,

mother-in-law, father-in-law, sons-in-law, daughters-in-law, brothers-in-law, sisters-in-law and first cousins; and a legally adopted child of an individual shall be treated as a child of such individual by blood.

(d) For purposes of this paragraph (2), all determinations concerning changes in beneficial ownership, or the absence of any such change, shall be made by the Corporation or, at any time when a transfer agent is acting with respect to the share of Common Stock, by such transfer agent on the Corporation's behalf. Written procedures designed to facilitate such determinations shall be established by the Corporation and refined from time to time. Such procedures shall provide, among other things, the manner of proof of facts that will be accepted and the frequency with which such proof may be required to be renewed. The Corporation and any transfer agent shall be entitled to rely on all information concerning beneficial ownership of the shares of Common Stock coming to their attention from any source and in any manner reasonably deemed by them to be reliable, but neither the Corporation nor any transfer agent shall be charged with any other knowledge concerning the beneficial ownership of the shares of Common Stock.

(e) A beneficial owner of any share of Common Stock acquired as a direct result of a stock split, stock dividend, reclassification, rights offering or other distribution of shares or rights by the Corporation with respect to existing shares ("dividend shares") will be deemed to have been the continuous beneficial owner of such share from the date on which the original shares, with respect to which the dividend shares were issued, were acquired.

(f) The number of authorized shares of Common Stock may be increased or decreased (but not below the number of shares thereof then outstanding) by the affirmative vote of the holders of a majority of the voting power of the Common Stock.

(g) No holder of Common Stock shall be entitled to preemptive or subscription rights.

(3) Identical Rights. Each share of Common Stock, whether at any particular time the holder thereof is entitled to exercise twenty votes or one, shall be identical to all other shares of Common Stock in all respects, and together the shares of Common Stock shall constitute a single class of shares of the Corporation.

(4) Dividends on the Common Stock.

(a) Subject to the prior rights and preferences, if any, applicable to shares of the Preferred Stock or any series thereof, the holders of shares of Common Stock shall be entitled to receive such dividends (payable in cash, stock, or otherwise) as may be declared thereon by the Corporation's board of directors (the "Board of Directors") at any time and from time to time out of any funds of the Corporation legally available therefor.

(b) Dividends payable under this paragraph (4) shall be paid to the holders of record of the outstanding shares of Common Stock as their names shall appear on the stock register of the Corporation on the record date fixed by the Board of Directors in advance of declaration and payment of each dividend. Any shares of Common Stock issued as a dividend pursuant to this paragraph (4) shall, when so issued, be duly authorized, validly issued, fully paid and non-assessable, and free of all liens and charges.

(c) Notwithstanding anything contained herein to the contrary, no dividends on shares of Common Stock shall be declared by the Board of Directors or paid or set apart for payment by the Corporation at any time that such declaration, payment or setting apart is prohibited by applicable law.

(5) Liquidation Rights of the Common Stock. In the event of any voluntary or involuntary liquidation, dissolution, or winding-up of the Corporation, after distribution in full of the preferential amounts, if any, to be distributed to the holders of shares of the Preferred Stock or any series thereof, the holders of shares of Common Stock shall be entitled to receive all of the remaining assets of the Corporation available for distribution to its stockholders, ratably in proportion to the number of shares of Common Stock held by them. A liquidation, dissolution, or winding-up of the Corporation, as such terms are used in this paragraph (5), shall not be deemed to be occasioned by or to include any consolidation or merger of the Corporation with or into any other corporation or corporations or other entity or a sale, lease, exchange, or conveyance of all or a part of the assets of the Corporation.

B. Preferred Stock

Shares of the Preferred Stock may be issued from time to time in one or more series, the shares of each series to have such voting powers, full or limited, or no voting powers, and such designations, preferences and relative, participating, optional or other special rights, and qualifications, limitations or restrictions thereof, as shall be stated and expressed in a resolution or resolutions providing for the issue of such series adopted by the Board of Directors of the Corporation. The Board of

Directors of the Corporation is hereby expressly authorized, subject to the limitations provided by law, to establish and designate series of the Preferred Stock, to fix the number of shares constituting each series, and to fix the designations and the relative powers, rights, preferences and limitations of the shares of each series and the variations in the relative powers, rights, preferences and limitations as between series, and to increase and to decrease the number of shares constituting each series.”

IN WITNESS WHEREOF, Pilgrim’s Pride Corporation has caused this Certificate to be executed by Richard A. Cogdill, its authorized officer, on this 20th day of November, 2003.

PILGRIM’S PRIDE CORPORATION

By: /s/ Richard A. Cogdill

\_\_\_\_\_  
Name: Richard A. Cogdill  
Title: Executive Vice President  
Chief Financial Officer  
Secretary & Treasurer

**CERTIFICATE OF OWNERSHIP AND MERGER  
MERCING  
CONAGRA POULTRY COMPANY OF KENTUCKY, INC.  
INTO  
PILGRIM'S PRIDE CORPORATION**

Pursuant to Section 253 of the  
General Corporation Law of the State of Delaware

Pilgrim's Pride Corporation, a corporation organized and existing under and by virtue of the General Corporation Law of the State of Delaware (the "Corporation"), does hereby certify that:

1. The name and the state of incorporation of each of the Constituent Corporations (herein so called) in the merger is as follows:

<u>Name of Corporation</u>	<u>State</u>
Pilgrim's Pride Corporation	Delaware
ConAgra Poultry Company of Kentucky, Inc.	Kentucky

2. The Corporation owns all of the outstanding shares of capital stock of ConAgra Poultry Company of Kentucky, Inc., a Kentucky corporation.

3. The Corporation, by a consent in writing executed by its Board of Directors, a copy of which is attached hereto as Exhibit "A" and duly adopted on the 24<sup>th</sup> day of November, 2003, determined to merge ConAgra Poultry Company of Kentucky, Inc. with and into itself on the conditions set forth in such resolutions.

4. The Corporation shall be the surviving corporation in the merger and the name of the Corporation as the surviving corporation shall continue to be "Pilgrim's Pride Corporation" (the "Surviving Corporation").

5. The certificate of incorporation of the Corporation as in effect immediately prior to the merger shall constitute the certificate of incorporation of the Surviving Corporation.

**IN WITNESS WHEREOF**, this Certificate was executed for and on behalf and in the name of the undersigned corporation on November 24, 2003.

**PILGRIM'S PRIDE CORPORATION**

By: /s/ Richard A. Cogdill

\_\_\_\_\_  
Name: Richard A. Cogdill  
Title: Executive Vice President, Chief  
Financial Officer, Secretary and  
Treasurer

**EXHIBIT A**

**UNANIMOUS WRITTEN CONSENT  
OF THE BOARD OF DIRECTORS  
OF  
PILGRIM'S PRIDE CORPORATION**

Dated as of November 24, 2003

The undersigned, being all of the members of the Board of Directors of Pilgrim's Pride Corporation, a Delaware corporation (the "Corporation"), hereby, pursuant to the provisions of Sections 141(f) and 253 of the Delaware General Corporation Law ("DGCL"), consent to, approve and adopt the following resolutions and each and every action effected thereby:

**WHEREAS**, it is proposed that ConAgra Poultry Company of Kentucky, Inc. ("Subsidiary"), a Kentucky corporation and a wholly owned subsidiary of the Corporation, merge with and into the Corporation (the "Merger"); and

**WHEREAS**, the Board of Directors of the Corporation has determined that it is advisable and in the best interest of the Corporation that Subsidiary merge with and into the Corporation, with the Corporation being the surviving corporation under the name "Pilgrim's Pride Corporation".

**RESOLVED**, that Subsidiary merge with and into the Corporation pursuant to the following terms and provisions:

(a) In accordance with Section 253 of the DGCL and as a wholly owned subsidiary of the Corporation, Subsidiary shall be merged with and into the Corporation;

(b) As a result of the Merger, the outstanding shares of capital stock of Subsidiary shall be canceled, the separate corporate existence of Subsidiary shall cease, and the Corporation will be the surviving corporation in the Merger (the "Surviving Corporation");

(c) Each share of capital stock of the Corporation issued and outstanding immediately prior to the effective time of the Merger shall remain outstanding and shall constitute the only outstanding shares of capital stock of the Surviving Corporation;

(d) The certificate of incorporation of the Corporation shall constitute the certificate of incorporation of the Surviving Corporation;

(e) The name of the Surviving Corporation shall be “Pilgrim’s Pride Corporation”; and

(f) The Corporation shall cause the Merger to be consummated by filing the Certificate of Ownership and Merger (the “Certificate”) with the Secretary of State of the State of Delaware in such form as is required by, and executed in accordance with, the relevant provisions of the DGCL, and by filing Articles of Merger (the “Articles”) with the Secretary of State of the Commonwealth of Kentucky in such form as is required by, and executed in accordance with, the relevant provisions of the Kentucky Business Corporation Act (“KBCA”);

**RESOLVED**, that said terms and provisions are hereby ratified, adopted, approved and confirmed;

**RESOLVED**, that further to such resolutions and for purposes of compliance with Kentucky law and for inclusion in the Articles:

The Board of Directors of the Corporation, determining it to be in the best interest of the Corporation, hereby adopts and approves the following plan of merger pursuant to Section 253(a) of the DGCL and Section 271B.11-040 of the KBCA:

1. Merger. The name of the parent corporation is Pilgrim’s Pride Corporation, a Delaware corporation (“Pilgrim’s”), and the name of the subsidiary corporation is ConAgra Poultry Company of Kentucky, Inc., a Kentucky corporation (“CPC-Ky”). Pilgrim’s owns 100% of the issued and outstanding capital stock of CPC-Ky. CPC-Ky shall be merged (the “Merger”) with and into Pilgrim’s at the effective time of the Merger, with the effect provided in Section 271B.11-060 of the KBCA. Pilgrim’s shall continue in existence as the surviving corporation, and the separate corporate existence of CPC-Ky shall cease.

2. Effect of Merger on Outstanding Shares. At the effective time of the Merger, each issued and outstanding share of common stock of CPC-Ky shall be automatically canceled and cease to exist, and no cash, securities or other property shall be issued in exchange therefor.

3. Certificate of Incorporation and Bylaws. The Certificate of Incorporation and Bylaws of Pilgrim’s in effect immediately prior to the effective time of the Merger shall remain in effect until thereafter amended as provided by law.

**RESOLVED**, that the proper officers of the Corporation be, and each is, hereby authorized, empowered, and directed, for and on behalf and in the name of the Corporation, to execute and deliver the Certificate for filing with the Secretary of State of the State of Delaware in accordance with the relevant provisions of

Delaware law and the Articles for filing with the Secretary of State of the Commonwealth of Kentucky in accordance with the relevant provisions of Kentucky law;

**RESOLVED**, that the officers of the Corporation are hereby severally authorized (a) to sign, execute, certify, verify, acknowledge, deliver, accept, file, and record any and all instruments and documents, and (b) to take, or cause to be taken, any and all such actions, in the name and on behalf of the Corporation, as (in such officers' judgment) shall be necessary, desirable or appropriate in order to effect the purposes of the foregoing resolutions and the transactions contemplated thereby; and

**RESOLVED**, that any and all action taken by any proper officers of the Corporation prior to the date this Consent is actually executed in effecting the purposes of the foregoing resolutions is hereby ratified, approved, confirmed, and adopted in all respects.

**IN WITNESS WHEREOF**, the undersigned directors of the Corporation have executed this Consent as of the date first above written.

/s/ Lonnie "Bo" Pilgrim

\_\_\_\_\_  
Lonnie "Bo" Pilgrim

/s/ Clifford E. Butler

\_\_\_\_\_  
Clifford E. Butler

/s/ O.B. Goolsby, Jr.

\_\_\_\_\_  
O.B. Goolsby, Jr.

/s/ Richard A. Cogdill

\_\_\_\_\_  
Richard A. Cogdill

/s/ Lonnie Ken Pilgrim

\_\_\_\_\_  
Lonnie Ken Pilgrim

/s/ Charles L. Black

\_\_\_\_\_  
Charles L. Black

/s/ S. Key Coker

\_\_\_\_\_  
S. Key Coker

/s/ Vance C. Miller, Sr.

\_\_\_\_\_  
Vance C. Miller, Sr.

/s/ James G. Vetter, Jr.

\_\_\_\_\_  
James G. Vetter, Jr.

/s/ Donald L. Wass, Ph.D.

\_\_\_\_\_  
Donald L. Wass, Ph.D.

/s/ Blake Lovette

\_\_\_\_\_  
Blake Lovette

**CERTIFICATE OF OWNERSHIP AND MERGER  
MERCING  
PPC ESCROW CORP.  
INTO  
PILGRIM'S PRIDE CORPORATION**

Pursuant to Section 253 of the  
General Corporation Law of the State of Delaware

Pilgrim's Pride Corporation, a corporation organized and existing under and by virtue of the General Corporation Law of the State of Delaware (the "Corporation"), does hereby certify that:

1. The name and the state of incorporation of each of the Constituent Corporations (herein so called) in the merger is as follows:

<u>Name of Corporation</u>	<u>State</u>
Pilgrim's Pride Corporation	Delaware
PPC Escrow Corp.	Delaware

2. The Corporation owns all of the outstanding shares of capital stock of PPC Escrow Corp., a Delaware corporation.

3. The Corporation, by resolutions of its Board of Directors, a copy of which is attached hereto as Exhibit "A" and duly adopted on the 13th day of November, 2003, determined to merge PPC Escrow Corp. with and into itself on the conditions set forth in such resolutions.

4. The Corporation shall be the surviving corporation in the merger and the name of the Corporation as the surviving corporation shall continue to be "Pilgrim's Pride Corporation" (the "Surviving Corporation") and, in accordance with the General Corporation Law of the State of Delaware, (i) the Surviving Corporation shall possess all the rights, privileges, powers and franchises of a public or private nature and being subject to all the restrictions, disabilities and duties of PPC Escrow Corp., (ii) all property, real, personal and mixed, and all debts due to PPC Escrow Corp. on whatever account, as well for share subscriptions and all other things in action, shall be vested in the Surviving Corporation and (iii) all debts, liabilities, duties of PPC Escrow Corp. shall attach to the Surviving Corporation.

5. The certificate of incorporation of the Corporation as in effect immediately prior to the merger shall constitute the certificate of incorporation of the Surviving Corporation.

**IN WITNESS WHEREOF**, this Certificate was executed for and on behalf and in the name of the undersigned corporation on November 24, 2003.

**PILGRIM'S PRIDE CORPORATION**

By: /s/ Richard A. Cogdill

Name: Richard A. Cogdill

Title: Executive Vice President, Chief Financial Officer,  
Secretary and Treasurer

EXHIBIT A

**Pilgrim's Pride Corporation**

Dated as of November 13, 2003

**WHEREAS**, on November 6, 2003, PPC Escrow Corp. ("Escrow Corp."), a Delaware corporation and a wholly owned subsidiary of Pilgrim's Pride Corporation (the "Corporation"), a Delaware corporation entered into a Purchase Agreement to sell \$100,000,000 of 9 1/4% Senior Subordinated Notes due May 15, 2013 to Credit Suisse First Boston pursuant to a private placement in reliance on Section 4(2), Rule 144A and/or Regulation S under the Securities Act of 1933, as amended;

**WHEREAS**, in connection with the closing of the acquisition contemplated by the Stock Purchase Agreement dated June 7, 2003 between the Corporation and ConAgra Foods, Inc., it is proposed that Escrow Corp. merge with and into the Corporation (the "Escrow Corp. Merger"); and

**WHEREAS**, the Board of Directors of the Corporation has determined that it is advisable and in the best interest of the Corporation that Escrow Corp. merge with and into the Corporation, with the Corporation being the surviving corporation under the name "Pilgrim's Pride Corporation".

**RESOLVED**, that Escrow Corp. merge with and into the Corporation pursuant to the following terms and provisions:

(a) In accordance with Section 253 of the General Corporation Law of the State of Delaware (the "DGCL") and as a wholly owned subsidiary of the Corporation, Escrow Corp. shall be merged with and into the Corporation effective upon filing the Certificate (as defined below) with the Secretary of State of the State of Delaware (the "Escrow Corp. Effective Time");

(b) As a result of the Escrow Corp. Merger, the outstanding shares of capital stock of Escrow Corp. shall be canceled, the separate corporate existence of Escrow Corp. shall cease, and the Corporation will be the surviving corporation in the merger;

(c) Each share of capital stock of the Corporation issued and outstanding immediately prior to the Escrow Corp. Effective Time shall remain outstanding and shall constitute the only outstanding shares of capital stock of the surviving corporation;

(d) The certificate of incorporation of the Corporation shall constitute the certificate of incorporation of the surviving corporation;

(e) The name of the surviving corporation shall be “Pilgrim’s Pride Corporation”; and

(f) The Corporation shall cause the Escrow Corp. Merger to be consummated by filing the Certificate of Ownership and Merger (the “Escrow Corp. Certificate”) with the Secretary of State of the State of Delaware in such form as is required by, and executed in accordance with, the relevant provisions of the DGCL;

**FURTHER RESOLVED**, that said terms and provisions are hereby ratified, adopted, approved and confirmed;

**FURTHER RESOLVED**, that the proper officers of the Corporation be, and each is, hereby authorized, empowered, and directed, for and on behalf and in the name of the Corporation, to execute and deliver the Escrow Corp. Certificate for filing with the Secretary of State of the State of Delaware in accordance with the relevant provisions of Delaware law;

**FURTHER RESOLVED**, that the officers of the Corporation are hereby severally authorized (a) to sign, execute, certify, verify, acknowledge, deliver, accept, file, and record any and all instruments and documents, and (b) to take, or cause to be taken, any and all such actions, in the name and on behalf of the Corporation, as (in such officers’ judgment) shall be necessary, desirable or appropriate in order to effect the purposes of the foregoing resolutions and the transactions contemplated thereby; and

**FURTHER RESOLVED**, that any and all action taken by any proper officers of the Corporation prior to the date these resolutions are actually approved in effecting the purposes of the foregoing resolutions is hereby ratified, approved, confirmed, and adopted in all respects.

**2004 AMENDED AND RESTATED  
CREDIT AGREEMENT  
(CONVERTIBLE REVOLVING LOAN)**

**BY AND BETWEEN**

**COBANK, ACB,  
AS LEAD ARRANGER AND BOOK MANAGER, AND AS ADMINISTRATIVE,  
DOCUMENTATION AND COLLATERAL AGENT;**

**AGRILAND, FCS  
AS CO-ARRANGER AND AS A SYNDICATION PARTY; AND**

**DEERE CREDIT, INC.,  
AS SYNDICATION PARTY,**

**AND**

**PILGRIM'S PRIDE CORPORATION, AS BORROWER**

**DATED AS OF APRIL 7, 2004**

## TABLE OF CONTENTS

Article 1. DEFINED TERMS	1
1.1 Administrative Agent Office	1
1.2 Advance Date	1
1.3 Aggregate Commitment	2
1.4 Amendment Documents	2
1.5 Applicable Lending Office	2
1.6 Appraisal	2
1.7 Appraised Value	2
1.8 Availability Period	2
1.9 Available Amount	2
1.10 Bank Debt	2
1.11 Banking Day	2
1.12 Base Rate	3
1.13 Borrower's Account	3
1.14 Borrower Benefit Plan	3
1.15 Capital Lease	3
1.16 Capital Lease Obligation	3
1.17 Casualty Event	3
1.18 Casualty Proceeds	3
1.19 Closing Date	4
1.20 Code	4
1.21 Comerica Loan	4
1.22 Committed Advances	4
1.23 Compliance Certificate	4

1.24 Consolidated Current Assets	4
1.25 Consolidated Current Liabilities	4
1.26 Consolidated Interest Expense	4
1.27 Consolidated Net Income	4
1.28 Consolidated Subsidiary	4
1.29 Current Assets	4
1.30 Current Liabilities	4
1.31 Current Ratio	5
1.32 Debt	5
1.33 Default Interest Rate	5
1.34 Departing Lender	5
1.35 Depreciation	6
1.36 EBITDA	6
1.37 Environmental Laws	6
1.38 ERISA	6
1.39 ERISA Affiliate	6
1.40 Farm Credit System Institution	6
1.41 Financial Projections	6
1.42 Fiscal Quarter	6
1.43 Fiscal Year	6
1.44 Fixed Charge Coverage Ratio	6
1.45 Foreign Subsidiary Debt	7
1.46 Funding Share	7
1.47 GAAP	7
1.48 Good Faith Contest	7

1.49 Governmental Authority	7
1.50 Grower Settlement Agreements	7
1.51 Hancock Loan	7
1.52 Harris Loan	7
1.53 Hazardous Substances	8
1.54 Individual Commitment	8
1.55 Individual Lending Capacity	8
1.56 Individual Outstanding Obligations	8
1.57 Individual Pro Rata Share	8
1.58 Intangible Asset	8
1.59 Intercompany Bond	8
1.60 Interest Expense	9
1.61 Investment	9
1.62 Leverage Ratio	9
1.63 LIBO Rate	9
1.64 Lien	10
1.65 Loans	10
1.66 Loan Documents	10
1.67 Material Adverse Effect	10
1.68 Material Agreements	10
1.69 Maturity Date	10
1.70 Multiemployer Plan	10
1.71 Net Tangible Assets	10
1.72 Net Working Capital	10
1.73 Net Worth	10

1.74 Note or Notes	10
1.75 Operating Lease	10
1.76 Organizational Documents	10
1.77 Pari Passu Loan	11
1.78 Permanent Reduction of Production	11
1.79 Person	11
1.80 Pilgrim Family	11
1.81 Plan	12
1.82 Potential Default	12
1.83 Prohibited Transaction	12
1.84 Protein IRB Bonds	12
1.85 Receivables Securitization Program	12
1.86 Reportable Event	12
1.87 Required Lenders	12
1.88 Revolving Loan	12
1.89 Security Documents	12
1.90 Senior Subordinated Notes	13
1.91 Senior Unsecured Notes	13
1.92 Subsidiary	13
1.93 Successor Agent	13
1.94 Syndication Parties	13
1.95 Tangible Net Worth	13
1.96 Title Insurer	13
1.97 Title Policy	13
1.98 Total Liabilities	14

Article 2. REVOLVING LOAN	16
2.1 Revolving Loan	16
2.1.1 Individual Syndication Party Commitment	16
2.1.2 Individual Syndication Party Pro Rata Share	16
2.1.3 Aggregate Commitment; Available Amount	16
2.2 Revolving Promissory Notes	16
2.3 Advances Under 2000 Credit Agreement	16
2.4 Syndication Party Records	17
2.5 Use of Proceeds	17
2.6 Advances; Funding	17
2.7 Syndication Party Funding Failure	17
2.8 Reduction of Aggregate Commitment	17
Article 3. INTEREST AND FEES	18
3.1 Interest	18
3.1.1 Base Rate Option	18
3.1.2 LIBO Rate Option	18
3.2 Additional Provisions for LIBO Rate Loans	19
3.2.1 Inapplicability or Unavailability of LIBO Rate	19
3.2.2 Change in Law; LIBO Rate Loan Unlawful	19
3.3 Default Interest Rate	20
3.4 Interest Calculation	20
3.5 Fees	20
3.5.1 Commitment Fee	20
3.6 Interest Rate Margins; Commitment Fee Factor	21
3.6.1 Calculation	21

3.6.2 Compliance Certificate	21
3.7 Maximum Interest Rate	22
Article 4. PAYMENTS; FUNDING LOSSES	23
4.1 Principal Payments	23
4.1.1 Automatic Conversion	23
4.1.2 Principal Payments	23
4.2 Interest Payments	23
4.3 Voluntary Prepayments	23
4.4 Mandatory Prepayments	24
4.5 Application of Principal Payments	26
4.5.1 Scheduled Payments	26
4.5.2 Voluntary Prepayments	26
4.5.3 Mandatory Prepayments	26
4.6 Manner of Payment	26
4.7 Distribution of Principal and Interest Payments	27
4.7.1 Principal and Interest Payments on Revolving Loan	27
4.8 Funding Losses	27
Article 5. BANK EQUITY INTERESTS	27
5.1 Purchase of Bank Equity Interests	27
Article 6. SECURITY	28
6.1 Borrower's Collateral	28
6.2 Guaranty	28
Article 7. REPRESENTATIONS AND WARRANTIES	29
7.1 Organization, Good Standing, Etc	29
7.2 Corporate Authority, Due Authorization; Consents	29

7.3 Litigation	29
7.4 No Violations	29
7.5 Binding Agreement	30
7.6 Compliance with Laws	30
7.7 Principal Place of Business	30
7.8 Payment of Taxes	30
7.9 Licenses and Approvals	30
7.10 Employee Benefit Plans	31
7.10.1 Employee Benefit Plans; Multiemployer Plans	31
7.10.2 Pension Benefit Plans	31
7.10.3 Prohibited Transactions	31
7.10.4 Civil/Criminal Action	31
7.10.5 Funding	32
7.10.6 Compliance With Law	32
7.10.7 Multiple Employer Plan	32
7.10.8 Plan Termination Liability; Multiemployer Plan Withdrawal Liability	32
7.10.9 Pension Plan Termination	32
7.10.10 Reportable Event	32
7.10.11 Payment of Contributions	33
7.10.12 Welfare Benefit Plans	33
7.11 Equity Investments	33
7.12 Title to Real and Personal Property	33
7.13 Financial Statements	34
7.14 Environmental Compliance	34
7.15 Fiscal Year	35

7.16	Material Agreements	35
7.17	Regulations U and X	35
7.18	Trademarks, Tradenames	35
7.19	No Default on Outstanding Judgments or Orders	35
7.20	No Default in Other Agreements	35
7.21	Labor Matters; Labor Agreements	35
7.22	Governmental Regulation	36
7.23	Borrower Information	36
7.24	Financial Projections	36
7.25	Solvency	36
7.26	Anti-Terrorism Laws	37
7.26.1	Violation of Law	37
7.26.2	Classification	37
7.26.3	Conduct of Business	37
7.27	Disclosure	37
Article 8. CONDITIONS TO CLOSING AND TO ADVANCES		38
8.1	Conditions to Closing	38
8.1.1	Loan and Amendment Documents; Possession of Collateral; and Pilgrim Guaranty	38
8.1.2	Approvals	38
8.1.3	Organizational Documents	38
8.1.4	Evidence of Insurance	38
8.1.5	Appointment of Agent for Service.	38
8.1.6	No Material Change	38
8.1.7	Fees and Expenses	39
8.1.8	Evidence of Corporate Action	39

8.1.9 Opinion of Counsel	39
8.1.10 Renewal of Harris Loan	39
8.1.11 Financial Projections	39
8.1.12 Further Assurances	39
8.2 Borrowing Notice; Funding Notice	40
8.3 Conditions to Advance	40
8.3.1 Default	40
8.3.2 Availability Period	40
8.3.3 Representations and Warranties; Fees and Expenses	40
8.3.4 No Material Change	41
8.4 Limitation on LIBO Rate Loans	41
8.5 Illegality of Loan	42
8.6 Treatment of Affected Loans	42
Article 9. AFFIRMATIVE COVENANTS	43
9.1 Books and Records	43
9.2 Reports and Notices	43
9.2.1 Annual Financial Statements	43
9.2.2 Quarterly Financial Statements	43
9.2.3 Notice of Default	43
9.2.4 ERISA Reports	44
9.2.5 Notice of Litigation	44
9.2.6 Notice of Material Adverse Effect	44
9.2.7 Notice of Environmental Proceedings	44
9.2.8 Regulatory and Other Notices	44
9.2.9 Adverse Action Regarding Required Licenses	45

9.2.10 Notice of Certain Changes	45
9.2.11 Available Amount Reports	45
9.2.12 Appraisals	46
9.2.13 Filings and Reports	46
9.2.14 Additional Information	46
9.3 Maintenance of Existence and Qualification	46
9.4 Compliance with Legal Requirements and Agreements	47
9.5 Compliance with Environmental Laws	47
9.6 Taxes	47
9.7 Insurance	47
9.8 Title to and Maintenance of Properties	48
9.9 Inspection	48
9.10 Required Licenses; Permits; Etc	49
9.11 ERISA	49
9.12 Financial Covenants	49
9.12.1 Leverage Ratio	49
9.12.2 Tangible Net Worth	49
9.12.3 Current Ratio	50
9.12.4 Net Tangible Assets to Total Liabilities	50
9.12.5 Fixed Charge Coverage Ratio	50
9.12.6 Net Working Capital	50
9.13 Appraised Property	50
9.14 Title Insurance Endorsements.	50
9.15 Production Cut-back	50
9.16 Embargoed Person	52

9.17 Anti-Money Laundering	52
9.18 Additional Collateral	52
Article 10. NEGATIVE COVENANTS	54
10.1 Borrowing	54
10.2 No Other Businesses	55
10.3 Liens	55
10.4 Sale of Collateral	56
10.5 Liabilities of Others	57
10.6 Loans	57
10.7 Merger; Acquisitions; Business Form; Etc	58
10.8 Investments	58
10.9 Transactions With Related Parties	60
10.10 Dividends, etc	60
10.11 ERISA	60
10.12 Change in Fiscal Year	61
10.13 Leases	61
10.14 Principal Payments	61
10.15 Anti-Terrorism Law	62
Article 11. INDEMNIFICATION	62
11.1 General; Stamp Taxes; Intangibles Tax	62
11.2 Indemnification Relating to Hazardous Substances	63
Article 12. EVENTS OF DEFAULT; RIGHTS AND REMEDIES	64
12.1 Events of Default	64
12.2 No Advance	66
12.3 Rights and Remedies	66

12.4 Agreement Regarding, and Waiver of, Certain Rights	66
Article 13. AGENCY AGREEMENT	66
13.1 Funding of Syndication Interest	66
13.2 Syndication Parties' Obligations to Remit Funds	67
13.3 Syndication Party's Failure to Remit Funds	67
13.4 Agency Appointment	68
13.5 Power and Authority of the Administrative Agent	68
13.5.1 Advice	68
13.5.2 Documents; Intercreditor Agreement	69
13.5.3 Proceedings	69
13.5.4 Retain Professionals	69
13.5.5 Incidental Powers	69
13.5.6 Release of Certain Liens	69
13.6 Duties of the Administrative Agent	70
13.6.1 Possession of Documents	70
13.6.2 Distribute Payments	70
13.6.3 Loan Administration	70
13.6.4 Action Upon Default	70
13.6.5 Indemnification as Condition to Action	71
13.6.6 Forwarding of Information	71
13.7 Consent Required for Certain Actions.	71
13.7.1 Unanimous	71
13.7.2 Required Lenders	72
13.7.3 Increase in Individual Commitment Amounts	72
13.7.4 Action Without Vote	72

13.7.5 Vote of Participants	72
13.8 Distribution of Principal and Interest	72
13.9 Distribution of Certain Amounts	73
13.9.1 Funding Losses	73
13.9.2 Fees	73
13.10 Possession of Loan Documents	73
13.11 Collateral Application	73
13.12 Amounts Required to be Returned	73
13.13 Reports and Information to Syndication Parties	74
13.14 Standard of Care	74
13.15 No Trust Relationship	75
13.16 Sharing of Costs and Expenses	75
13.17 Syndication Parties' Indemnification of the Administrative Agent	75
13.18 Books and Records	76
13.19 Administrative Agent Fee	76
13.20 The Administrative Agent's Resignation or Removal	76
13.21 Representations and Warranties of All Parties	76
13.22 Representations and Warranties of CoBank	77
13.23 Syndication Parties' Independent Credit Analysis	77
13.24 No Joint Venture or Partnership	78
13.25 Purchase for Own Account; Restrictions on Transfer; Participations	78
13.26 Certain Participants' Voting Rights	79
13.27 Method of Making Payments	79
13.28 Events of Syndication Default/Remedies	79
13.28.1 Syndication Party Default	79

13.28.2 Remedies	80
13.29 Withholding Taxes	80
13.30 Amendments Concerning Agency Function	80
13.31 Reallocation of Outstanding Advances	81
13.32 Further Assurances	81
Article 14. MISCELLANEOUS	81
14.1 Costs and Expenses	81
14.2 Service of Process and Consent to Jurisdiction	82
14.3 Jury Waiver	82
14.4 Notices	82
14.4.1 Borrower	83
14.4.2 Administrative Agent	83
14.4.3 Agriland	83
14.4.4 Syndication Parties	83
14.5 Liability of Administrative Agent and Co-Arrangers	83
14.6 Successors and Assigns	83
14.7 Severability	84
14.8 Entire Agreement	84
14.9 Applicable Law	84
14.10 Captions	84
14.11 Complete Agreement; Amendments	84
14.12 Additional Costs of Maintaining Loan	84
14.13 Capital Requirements	85
14.14 Replacement Notes	86
14.15 Mutual Release	86

14.16 Liberal Construction	86
14.17 Counterparts	86
14.18 Confidentiality	87
14.19 Limitation of Liability	87
14.20 Departing Lenders; Payment; Transfer and Re-allocation	88
14.21 Affect of Amended and Restated Credit Agreement	89

---

**EXHIBITS**

Exhibit 1.23	Compliance Certificate
Exhibit 1.77	Intercreditor Agreement Form
Exhibit 2.2	Revolving Note Form
Exhibit 6.1	Pledged Facilities
Exhibit 7.3	Litigation
Exhibit 7.8	Payment of Taxes
Exhibit 7.10	Employee Benefit Plans, Borrower Pension Plans, Multiemployer Plans
Exhibit 7.11	Equity Investments
Exhibit 7.14	Environmental Compliance
Exhibit 7.16	Material Agreements
Exhibit 7.21	Labor Matters and Agreements
Exhibit 8.2	Borrowing Notice Form
Exhibit 9.2.11	Available Amount Report Form
Exhibit 9.18	Additional Property
Exhibit 10.3	Liens on Effective Date
Exhibit 10.8	Investments
Exhibit 13.25	Syndication Acquisition Agreement Form
Exhibit 13.27	Wire Instructions
Exhibit 14.20	Form of Endorsement
Schedule 1	Syndication Parties and Individual Commitments
Schedule 2	Departing Lenders

**2004 AMENDED AND RESTATED  
CREDIT AGREEMENT  
(CONVERTIBLE REVOLVING LOAN)**

Recitals

A. COBANK, ACB as the Administrative, Documentation, and Collateral Agent for the benefit of the present and future Syndication Parties, Lead Arranger and Book Manager, and as a Syndication Party, FARM CREDIT SERVICES OF AMERICA, FLCA, as Co-Arranger and as a Syndication Party, the Syndication Parties identified on Schedule 1 thereto, and PILGRIM'S PRIDE CORPORATION, a corporation formed under the laws of the State of Delaware, entered into that certain Amended and Restated Credit Agreement ("**2000 Credit Agreement**") dated as of November 16, 2000 ("**Original Effective Date**").

B. The parties to the 2000 Credit Agreement desire to make certain amendments to, but not to discharge any indebtedness or other obligations owing under, the 2000 Credit Agreement, as incorporated in this 2004 Amended and Restated Credit Agreement.

Agreement

THIS 2004 AMENDED AND RESTATED CREDIT AGREEMENT ("**Credit Agreement**") is entered into as of the 7th day of April 2004 ("**Effective Date**"), by and between COBANK, ACB ("**CoBank**") as the Administrative, Documentation, and Collateral Agent for the benefit of the present and future Syndication Parties (in its capacity as Administrative Agent and Collateral Agent, the "**Administrative Agent**"), Lead Arranger and Book Manager, AGRILAND, FCS, as Co-Arranger ("**Agriland**") and as a Syndication Party, the Syndication Parties identified on Schedule 1 hereto, and PILGRIM'S PRIDE CORPORATION, a corporation formed under the laws of the State of Delaware, whose address is 110 South Texas Street, Pittsburg, Texas 75686 ("**Borrower**"), and amends, restates, and replaces in its entirety the 2000 Credit Agreement effective as of the Effective Date.

**ARTICLE 1. DEFINED TERMS**

As used in this Credit Agreement, the following terms shall have the meanings set forth below (and such meaning shall be equally applicable to both the singular and plural form of the terms defined, as the context may require):

**1.1 Administrative Agent Office:** shall mean the address set forth at Subsection 14.4.2 hereof, as it may change from time to time by notice to all parties to this Credit Agreement.

**1.2 Advance Date:** a day (which shall be a Banking Day) on which an Advance is made.

**1.3 Aggregate Commitment:** shall be \$500,000,000.00, subject to reduction as provided in Sections 2.8 and 9.15 hereof.

**1.4 Amendment Documents:** this Credit Agreement, each amendment to security agreement, each amendment to deed of trust, the amendment to guaranty, and any other documents executed on or as of the Effective Date in connection with this Credit Agreement.

**1.5 Applicable Lending Office:** means, for each Syndication Party and for each type of Advance, the lending office of such Syndication Party designated as such for such type of Advance on its signature page hereof or in the applicable Syndication Acquisition Agreement or such other office of such Syndication Party as such Syndication Party may from time to time specify to the Administrative Agent and Borrower as the office by which its Advances of such type are to be made and maintained.

**1.6 Appraisal:** A written appraisal report by an ARA or MAI certified appraiser with a General Certification from the State in which the property being appraised is located, which report provides the appraiser's opinion as to the market value of the property being appraised on the basis of (a) comparable sales and (b) replacement cost and reflecting an appraisal done (i) no more than six (6) months prior to the date such Appraisal is delivered to the Administrative Agent, or, (ii) with respect to Appraisals provided in connection with Additional Property as provided in Section 9.18(b) hereof, done no more than nine (9) months prior to the date such Appraisal is delivered to the Administrative Agent.

**1.7 Appraised Value:** the value of an asset included within the Collateral determined on the basis of the fair market value as set forth in the most recent Appraisal.

**1.8 Availability Period:** shall mean the period from the Closing Date until the Banking Day immediately prior to the fourth anniversary of the Effective Date.

**1.9 Available Amount:** the lesser of (a) the Aggregate Commitment; and (b) seventy-five percent (75%) of the Appraised Value (as shown on the latest Available Amount Report pursuant to the latest Appraisal as provided pursuant to the 2000 Credit Agreement or this Credit Agreement, whichever is later) of the Collateral in which the Syndication Parties have a perfected first priority lien (without considering the lien which secures, but after deducting from the Appraised Value the amount owing under, any Pari Passu Loan).

**1.10 Bank Debt:** all amounts owing under or on account of the Notes, Funding Losses and all interest, fees, expenses, charges and other amounts payable by Borrower pursuant to the Loan Documents.

**1.11 Banking Day:** any day (a) other than a Saturday or Sunday and other than a day which is a Federal legal holiday or a legal holiday for banks in the States of Colorado or New York, and (b) if such day relates to a borrowing of, a payment or

prepayment of principal of or interest on, a continuation of or conversion into, or a LIBO Rate Period for, a LIBO Rate Loan, or a notice by Borrower with respect to any such borrowing, payment, prepayment, continuation, conversion, or LIBO Rate Period, on which dealings in U.S. Dollar deposits are carried out in the London interbank market.

**1.12 Base Rate:** a rate of interest per annum equal to the “prime rate” as published from time to time in the Eastern Edition of the Wall Street Journal as the average prime lending rate for seventy-five percent (75%) of the United States’ thirty (30) largest commercial banks, or if the Wall Street Journal shall cease publication or cease publishing the “prime rate” on a regular basis, such other regularly published average prime rate applicable to such commercial banks as is acceptable to the Administrative Agent in its reasonable discretion, with such rate modified by adding the Base Rate Margin.

**1.13 Borrower’s Account:** means Borrower’s account # 3788148 at Harris Trust and Savings Bank (ABA #071000288).

**1.14 Borrower Benefit Plan:** means (a) any funded “employee welfare benefit plan,” as that term is defined in Section 3(1) of ERISA; (b) any “multiemployer plans,” as defined in Section 3(37) of ERISA; (c) any “employee pension benefit plan” as defined in Section 3(2) of ERISA; (d) any “employee benefit plan”, as such term is defined in Section 3(3) of ERISA; (e) any “multiple employer plan” within the meaning of Section 413 of the Code; (f) any “multiple employer welfare arrangement” within the meaning of Section 3(40) of ERISA; (g) a “voluntary employees’ beneficiary association” within the meaning of Section 501(c)(9) of the Code; (h) a “welfare benefit fund” within the meaning of Section 419 of the Code; or (i) any employee welfare benefit plan within the meaning of Section 3(1) of ERISA for the benefit of retired or former employees, which is maintained by the Borrower or in which Borrower participates or to which Borrower is obligated to contribute, but excluding any such plan, arrangement, association or fund that is maintained outside of the United States primarily for the benefit of persons substantially all of whom are nonresident aliens.

**1.15 Capital Lease:** means any lease of property (whether real, personal or mixed) by a Person, the discounted present value of the rental obligations of such Person as lessee under such lease, in accordance with GAAP, is required to be capitalized on the balance sheet of such Person.

**1.16 Capital Lease Obligation:** the discounted present value of the rental obligation, under a Capital Lease.

**1.17 Casualty Event:** means a loss or taking caused by or resulting from a fire, earthquake, explosion, wind, rain, or condemnation, or substantially similar occurrence.

**1.18 Casualty Proceeds:** the amount received on account of a Casualty Event from insurance, condemnation award, judgment, or settlement.

**1.19 Closing Date:** that date on which the Administrative Agent, the Syndication Parties, and Borrower have executed all Loan Documents to which they are parties and on which the conditions set forth in Section 8.1 of this Credit Agreement have been met, which shall be no later than April 30, 2004.

**1.20 Code:** means the Internal Revenue Code of 1986, as amended from time to time.

**1.21 Comerica Loan:** that loan in the current principal amount of not more than \$30,000,000.00, pursuant to that certain Revolving Credit Agreement among Grupo Pilgrim's Pride Funding S. de R.L. de C.V., Comerica Bank and Comerica Bank Mexico, S.A., dated as of September 7, 2001, as it may be amended from time to time, and including any loan to refinance the principal owing under such loan so long as the amount of such refinance loan does not exceed \$30,000,000.00 principal.

**1.22 Committed Advances:** the principal amount of all Advances which any Syndication Party is obligated to make as a result of Borrower having presented a Borrowing Notice to the Administrative Agent as provided in Section 8.2 hereof, but which has not been funded.

**1.23 Compliance Certificate:** a certificate of the chief financial officer of Borrower in the form attached hereto as Exhibit 1.23 and otherwise reasonably acceptable to the Administrative Agent.

**1.24 Consolidated Current Assets:** the total current assets of Borrower and its Subsidiaries as measured in accordance with GAAP.

**1.25 Consolidated Current Liabilities:** the total current liabilities of Borrower and its Subsidiaries as measured in accordance with GAAP.

**1.26 Consolidated Interest Expense:** all interest expense of Borrower and its Consolidated Subsidiaries, as determined in accordance with GAAP.

**1.27 Consolidated Net Income:** the net income of Borrower and all its Consolidated Subsidiaries, determined on a consolidated basis in accordance with GAAP.

**1.28 Consolidated Subsidiary:** any Subsidiary whose accounts are consolidated with those of Borrower in accordance with GAAP.

**1.29 Current Assets:** the current amount of assets of a Person which in accordance with GAAP may be properly classified as current assets after deducting adequate reserves where proper.

**1.30 Current Liabilities:** all items (including taxes accrued as estimated) which in accordance with GAAP may be properly classified as current liabilities, and including in any event all amounts outstanding from time to time; provided that for the purposes of making the ratio calculations under Section 9.12 hereof, Current Liabilities

shall not include (a) indebtedness of Borrower related to the Protein IRB Bonds to the extent proceeds remain held in trust and are not paid to Borrower pursuant to the terms of the bond documents pursuant to which the Protein IRB Bonds were issued, (b) indebtedness related to the Intercompany Bonds so long as Borrower or a Subsidiary of Borrower remains the holder of such Intercompany Bonds, and (c) any indebtedness so long as the trustee in respect of such indebtedness holds cash and cash equivalents sufficient to repay the principal balance of such indebtedness, subject to the Administrative Agent's reasonable verification that such cash and cash equivalents are held by a trustee for the sole purpose of insuring such repayment.

**1.31 Current Ratio:** the ratio of Current Assets to Current Liabilities of Borrower and its Consolidated Subsidiaries.

**1.32 Debt:** means as to any Person, without duplication: (a) indebtedness, obligations, or liability of such Person for borrowed money (including by the issuance of debt securities), or for the deferred purchase price of property or services (excluding trade obligations); (b) the aggregate of the principal components of all Capital Leases and other agreements for the use, acquisition or retention of real or personal property which are required to be capitalized under GAAP; (c) to the extent drawn upon, obligations of such Person arising under bankers' or trade acceptance facilities, letters of credit, customer advances and other extensions of credit whether or not representing obligations for borrowed money; (d) all guarantees, endorsements and other contingent obligations of such Person with respect to indebtedness arising from money borrowed by others; (e) all obligations secured by a lien on property owned by such Person, whether or not such Person has assumed or become liable for such obligations; and (f) all obligations of such Person under any agreement providing for an interest rate swap, cap, cap and floor, contingent participation or other hedging mechanisms with respect to interest payable on any of the items described in this definition; provided that for the purposes of making the ratio calculations under Section 9.12 hereof, Debt shall not include (a) indebtedness of Borrower related to the Protein IRB Bonds to the extent proceeds remain held in trust and are not paid to Borrower pursuant to the terms of the bond documents pursuant to which the Protein IRB Bonds were issued, (b) indebtedness related to the Intercompany Bonds so long as Borrower or a Subsidiary of Borrower remains the holder of such Intercompany Bonds, and (c) any indebtedness so long as the trustee in respect of such indebtedness holds cash and cash equivalents sufficient to repay the principal balance of such indebtedness, subject to the Administrative Agent's reasonable verification that such cash and cash equivalents are held by a trustee for the sole purpose of insuring such repayment.

**1.33 Default Interest Rate:** a rate of interest equal to 200 basis points in excess of the Base Rate which would otherwise be applicable on the Loans.

**1.34 Departing Lender:** any Person that, immediately prior to the Closing Date, was party to the 2000 Credit Agreement as a "Syndication Party" thereunder but is not a Syndication Party under this Credit Agreement, and is identified as a "Departing Lender" on Schedule 2 hereto.

**1.35 Depreciation:** the total depreciation of Borrower and its Consolidated Subsidiaries as measured in accordance with GAAP.

**1.36 EBITDA:** for any period, for Borrower and its Consolidated Subsidiaries, net income for such period, plus the sum of the amounts of (a) Interest Expense, plus (b) federal and state income taxes, plus (c) depreciation and amortization expenses, plus (d) extraordinary losses, minus (e) extraordinary gains, in each case as charged against (or added to, as the case may be) revenues to arrive at net income for such period, all as determined by GAAP.

**1.37 Environmental Laws:** any federal, state, or local law, statute, ordinance, rule, regulation, administration order, or permit now in effect or hereinafter enacted, pertaining to the public health, safety, industrial hygiene, or the environmental conditions on, under or about the Collateral, including, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act of 1980 as amended, 42 U.S.C. 9601-9657 (“**CERCLA**”) and the Resource Conservation and Recovery Act of 1976, 42 U.S.C. 6901-6987 (“**RCRA**”).

**1.38 ERISA:** the Employee Retirement Income Security Act of 1974, as amended, and the regulations thereunder.

**1.39 ERISA Affiliate:** means any corporation or trade or business which is a member of the same controlled group of corporations (within the meaning of Section 414(b) of the Code) as Borrower or is under common control (within the meaning of Section 414(c) of the Code) with Borrower, provided, however, that for purposes of provisions herein concerning minimum funding obligations (imposed under Section 412 of the Code or Section 302 of ERISA), the term “ERISA Affiliate” shall also include any entity required to be aggregated with Borrower under Section 414(m) or 414(o) of the Code.

**1.40 Farm Credit System Institution:** shall mean any Farm Credit Bank, any Federal land bank association, any production credit association, the banks for cooperatives, and such other institutions as may be a part of the Farm Credit System and chartered by and subject to regulation by the Farm Credit Administration.

**1.41 Financial Projections:** Financial projections of the operations of Borrower and its Subsidiaries as provided to the Administrative Agent on February 24, 2004.

**1.42 Fiscal Quarter:** each of the four (4) quarter accounting periods of thirteen (13) or fourteen (14) weeks of Borrower that together comprise a Fiscal Year.

**1.43 Fiscal Year:** the 52 or 53 week period (a) ending on the Saturday closest to September 30 in each calendar year, regardless of whether such Saturday occurs in September or October of any calendar year and (b) beginning on the day immediately following the end of the preceding Fiscal Year.

**1.44 Fixed Charge Coverage Ratio:** the ratio of (a) the sum of EBITDA and all amounts payable under all non-cancelable Operating Leases (determined on a

consolidated basis in accordance with GAAP) for the period in question, to (b) the sum of (without duplication) (i) Interest Expense for such period, (ii) the sum of the scheduled current maturities (determined on a consolidated basis in accordance with GAAP) of Debt during the period in question, (iii) all amounts payable under non-cancelable Operating Leases (determined as aforesaid) during such period, and (iv) all amounts payable with respect to Capital Leases (determined on a consolidated basis in accordance with GAAP) for the period in question.

**1.45 Foreign Subsidiary Debt.** Debt of a non-U.S. Subsidiary of Borrower in an aggregate principal amount not to exceed seventy-five percent (75.0%) of such Subsidiary's working capital.

**1.46 Funding Share:** shall mean the amount of any Advance which each Syndication Party is required to fund, which shall be the amount of such Advance multiplied by such Syndication Party's Individual Pro Rata Share as of, but without giving effect to, such Advance.

**1.47 GAAP:** generally accepted accounting principles in the United States of America, applied consistently, as in effect from time to time.

**1.48 Good Faith Contest:** means the contest of an item if (a) the item is diligently contested in good faith by appropriate proceedings timely instituted, (b) either the item is (i) bonded or (ii) adequate reserves are established with respect to the contested item if and to the extent reasonably satisfactory to the Required Lenders, and (c) during the period of such contest, the enforcement of any contested item is effectively stayed.

**1.49 Governmental Authority:** means any nation or government, any state or other political subdivision thereof, and any entity exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to government.

**1.50 Grower Settlement Agreements:** means those certain promissory notes dated October 22, 1987 payable to the order of each of (a) Earl B. Lott, (b) Thomas David Mott, (c) Perry L. Stricklin, and (d) Irone Sumblin.

**1.51 Hancock Loan:** shall mean the loan to Borrower from John Hancock Mutual Life Insurance Company, ING Capital LLC and other lenders in the maximum principal amount of \$185,000,000.00 made pursuant to that certain Fourth Amended and Restated Note Purchase Agreement dated as of November 18, 2003, as it may be amended from time to time (provided that the principal amount owing does not exceed \$185,000,000.00) and the notes issued thereunder and providing a maturity date for said notes of December 15, 2013 or earlier.

**1.52 Harris Loan:** the loans, letters of credit and reimbursement obligations relating to letters of credit in the current principal amount of not more than \$175,239,727.00 to Borrower from Harris Trust and Savings Bank (individually and as Agent), and a group of lenders arranged by Harris Trust and Savings Bank, and their respective successors and assigns, pursuant to that certain Third Amended and Restated

Secured Credit Agreement dated as of April \_\_, 2004, as it may be amended from time to time (provided that the principal amount owing thereunder does not exceed \$175,239,727.00).

**1.53 Hazardous Substances:** dangerous, toxic or hazardous pollutants, contaminants, chemicals, wastes, materials or substances, as defined in or governed by the provisions of any Environmental Laws or any other federal, state or local law, statute, code, ordinance, regulation, requirement or rule relating thereto (“**Environmental Regulations**”), and also including urea formaldehyde, polychlorinated biphenyls, asbestos, asbestos-containing materials, nuclear fuel or waste, and petroleum products, or any other waste, material, substances, pollutant or contaminant which would subject an owner of property to any damages, penalties or liabilities under any applicable Environmental Regulations.

**1.54 Individual Commitment:** shall mean with respect to any Syndication Party the amount shown as its Individual Commitment on Schedule 1 hereto, subject to adjustment in the event of the sale of all or a portion of a Syndication Interest in accordance with Section 13.27 hereof, or a reduction in the Aggregate Commitment in accordance with Sections 2.8 or 9.15 hereof.

**1.55 Individual Lending Capacity:** shall mean with respect to any Syndication Party the amount at any time of its Individual Commitment, less its Individual Outstanding Obligations.

**1.56 Individual Outstanding Obligations:** shall mean with respect to any Syndication Party the total at any time, without duplication, of (a) the aggregate outstanding principal amount of all Advances made by such Syndication Party (after giving effect to the Reallocation); and (b) all of such Syndication Party’s Committed Advances.

**1.57 Individual Pro Rata Share:** shall mean with respect to any Syndication Party a fraction, expressed as a percentage (rounded to 8 decimal points), where the numerator is such Syndication Party’s Individual Commitment; and the denominator is the Aggregate Commitment, determined (a) in the case of LIBO Rate Loans, at 12:00 noon (Central time) on the Banking Day Borrower delivers a Borrowing Notice pursuant to which Borrower requests such LIBO Rate Loan, and (b) in all other cases, 12:00 noon (Central time) on the Banking Day Borrower delivers a Borrowing Notice.

**1.58 Intangible Asset:** means, license agreements, trademarks, trade names, patents, capitalized research and development, proprietary products (the results of past research and development treated as long term assets and excluded from inventory) and goodwill (all determined on a consolidated basis in accordance with GAAP).

**1.59 Intercompany Bond:** means an Investment by Borrower or a Subsidiary in, and Debt of the Borrower or another Subsidiary incurred in connection with, bonds, notes, debentures or similar instruments issued by any federal, state or local government of the United States or any state, territory, municipality, regulatory or

administrative authority or instrumentality or agency thereof in which such bonds, notes, debentures or instruments are fully secured as to payment of both principal and interest by a requisition, loan, lease or similar payment agreement with the Borrower or a Subsidiary.

**1.60 Interest Expense:** means all interest charges during such period, including all amortization of debt discount expense and imputed interest with respect to Capital Lease obligations, determined on a consolidated basis in accordance with GAAP.

**1.61 Investment:** means, with respect to any Person, (a) any loan or advance by such Person to any other Person, (b) the purchase or other acquisition by such Person of any capital stock, obligations or securities of, or any capital contribution to, or investment in, or the acquisition by such Person of all or substantially all of the assets of, or any interest in, any other Person, (c) any performance or standby letter of credit where (i) that Person has the reimbursement obligation to the issuer, and (ii) the proceeds of such letter of credit are to be used for the benefit of any other Person, (d) the agreement by such Person to make funds available for the benefit of another Person to either cover cost overruns incurred in connection with the construction of a project or facility, or to fund a debt service reserve account, (e) the agreement by such Person to assume, guarantee, endorse or otherwise be or become directly or contingently responsible or liable for the obligations or Debts of any other Person (other than by endorsement for collection in the ordinary course of business), (f) an agreement to purchase any obligations, stocks, assets, goods or services but excluding an agreement to purchase any assets, goods or services entered into in the ordinary course of business, (g) an agreement to supply or advance any funds, assets, goods or services entered into outside the ordinary course of business, or (h) an agreement to maintain or cause such Person to maintain a minimum working capital or net worth or otherwise to assure the creditors of any Person against loss.

**1.62 Leverage Ratio:** the ratio for Borrower and its Consolidated Subsidiaries of (a) the aggregate outstanding principal amount of all Debt; **less** unrestricted cash and cash equivalents, to (b) the sum of aggregate outstanding principal amount of all Debt included in clause (a) above; **less** unrestricted cash and cash equivalents, **plus** Net Worth.

**1.63 LIBO Rate:** means (a) the rate quoted by the British Bankers' Association at 11:00 A.M. London Time on the day which is two (2) Banking Days prior to the first day of each LIBO Rate Period for the offering of U.S. dollar deposits in the London interbank market for the LIBO Rate Period selected by Borrower as published by Bloomberg or another major information vendor listed on the British Banker's Association's official website (rounded upward to the nearest thousandth); (b) divided by a percentage equal to 100% minus the stated maximum rate of all reserve requirements (including, without limitation, any marginal, emergency, supplemental, special or other reserves) applicable on such date to any member bank of the Federal Reserve System in respect of "Eurocurrency liabilities" as defined in Regulation D (or any successor category of liabilities under Regulation D); plus (c) the LIBOR Margin.

**1.64 Lien:** means with respect to any asset any mortgage, deed of trust, pledge, security interest, hypothecation, assignment for security purposes, encumbrance, lien (statutory or other), or other security agreement or charge, or encumbrance of any kind or nature whatsoever (including, without limitation, any conditional sale, Capital Lease or other title retention agreement related to such asset).

**1.65 Loans:** shall mean, collectively, all Base Rate Loans and all LIBO Rate Loans outstanding at any time.

**1.66 Loan Documents:** this Credit Agreement, the other Amendment Documents, the Notes and the Security Documents.

**1.67 Material Adverse Effect:** means: (a) a material adverse effect on the financial condition, results of operation, business or property of Borrower and the Subsidiaries, considered in the aggregate; or (b) a material adverse effect on the ability of Borrower to perform its obligations under this Credit Agreement and the other Loan Documents.

**1.68 Material Agreements:** all agreements of a Person, the termination or breach of which, based upon the knowledge of such Person (or such other Person as may be specifically designated herein) as of the date of making any representation with respect thereto, would have a Material Adverse Effect.

**1.69 Maturity Date:** August 31, 2011.

**1.70 Multiemployer Plan:** means a Plan defined as such in Section 3(37) of ERISA.

**1.71 Net Tangible Assets:** the excess of the value of total assets (as determined in accordance with GAAP) over the value of Intangible Assets of the Borrower and its Consolidated Subsidiaries.

**1.72 Net Working Capital:** the excess for the Borrower and its Consolidated Subsidiaries of Current Assets over Current Liabilities.

**1.73 Net Worth:** the total assets (as determined in accordance with GAAP) minus the Total Liabilities of the Borrower and its Consolidated Subsidiaries, all determined on a consolidated basis as in accordance with GAAP.

**1.74 Note or Notes:** the Revolving Notes executed by Borrower pursuant to Section 2.2 hereof, and all amendments, renewals, substitutions and extensions thereof.

**1.75 Operating Lease:** means any lease of property (whether real, personal or mixed) for a period of longer than one year by a Person under which such Person is lessee, other than a Capital Lease.

**1.76 Organizational Documents:** in the case of a corporation, its articles or certificate of incorporation and bylaws; in the case of a partnership, its partnership

agreement and certificate of limited partnership, if applicable; in the case of a limited liability company, its articles of organization and its operating agreement, limited liability company agreement or regulations.

**1.77 Pari Passu Loan:** shall mean a loan which meets all of the following requirements: (a) the proceeds are all made available to Borrower; (b) it is secured by all or a portion of the Collateral equally and ratably with the Bank Debt on the same lien priority basis; (c) the lender thereunder has executed an intercreditor agreement in form and substance substantially identical to Exhibit 1.77 hereto ("**Intercreditor Agreement**"); (d) Borrower has furnished to the Administrative Agent a pro-forma Available Amount Report with such updated Appraisals as the Administrative Agent may reasonably require at, or no more than ten (10) days prior to, the date the Administrative Agent is requested to execute such intercreditor agreement; provided that no updated Appraisals will be required so long as (i) the aggregate outstanding principal balance of all Pari Passu Loans (including the proposed Pari Passu Loan) incurred since the last Appraisal does not exceed \$25,000,000.00 and (ii) the Leverage Ratio is not greater than fifty five percent (55%); and (e) Borrower demonstrates to the Administrative Agent, in each case on a pro-forma basis (including, in each case, the proposed Pari Passu Loan), (i) that the aggregate outstanding principal amounts owing under all Revolving Notes will not exceed the Available Amount as determined pursuant to clause (b) of Section 1.15 hereof (without regard to clause (a) of such Section), and (ii) compliance with the financial covenants.

**1.78 Permanent Reduction of Production:** means the removal, shut down, or disassembly of a facility's processing equipment, or other action by Borrower which, in any such case, has the effect of reducing the production capacity of such facility to a level that is less than seventy-five percent (75%) of the production capacity as shown in the Appraisal used to support the Appraised Value of such facility for the purposes of determining Borrower's Available Amount for a period of ninety (90) consecutive days unless (a) within such period Borrower provides to the Administrative Agent a written plan to bring the facility up to its former production capacity within twelve (12) months of Borrower taking such action resulting in a reduction of production capacity; and (b) the facility in fact resumes production at the former capacity within such twelve (12) month period.

**1.79 Person:** any individual, sole proprietorship, partnership, joint venture, trust, unincorporated organization, association, corporation, limited liability company, cooperative association, institution, or government or governmental agency (whether national, federal, state, provincial, county, city, municipal or otherwise, including without limitation, any instrumentality, division, agency, body or department thereof), or other entity.

**1.80 Pilgrim Family:** means (a) Lonnie A. "Bo" Pilgrim, his spouse, his issue, his estate and any trust, partnership or other entity primarily for the benefit of him, his spouse and/or issue or (b) Pilgrim Ltd.

**1.81 Plan:** means any plan, agreement, arrangement or commitment which is an employee benefit plan, as defined in Section 3(3) of ERISA, maintained by Borrower or any Subsidiary or any ERISA Affiliate or with respect to which Borrower or any Subsidiary or any ERISA Affiliate at any relevant time has any liability or obligation to contribute, but excluding any such plan, arrangement, association or fund that is maintained outside of the United States primarily for the benefit of persons substantially all of whom are nonresident aliens.

**1.82 Potential Default:** any event, other than an event described in Section 12.1(a) hereof, which with the giving of notice or lapse of time, or both, would become an Event of Default.

**1.83 Prohibited Transaction:** means any transaction prohibited under Section 406 of ERISA or Section 4975 of the Code.

**1.84 Protein IRB Bonds:** means the \$25,000,000 aggregate principal amount of the Issuer's Environmental Facilities Reserve Bonds (Pilgrim's Pride Corporation Project), Series 1999 issued by Camp County Industrial Development Corporation, a nonstock, nonprofit industrial development corporation existing under the laws of the State of Texas.

**1.85 Receivables Securitization Program:** shall mean any receivables securitization program to which Borrower or a Subsidiary is a party which provides for the sale by Borrower or such Subsidiary, without recourse, of their receivables for a cash consideration, and including in any event the receivables securitization program pursuant to which Borrower will sell to Pilgrim's Pride Funding Corporation all or substantially all of Borrower's receivables and Pilgrim's Pride Funding Corporation will in turn sell an undivided interest in all of such receivables to Fairway Finance Company, LLC, and its successors or assigns.

**1.86 Reportable Event:** means any of the events set forth in Section 4043(b) of ERISA or in the regulations thereunder.

**1.87 Required Lenders:** shall mean Syndication Parties whose Individual Commitments constitute fifty-one percent (51%) of the Aggregate Commitment. Pursuant to Section 13.26 hereof, Voting Participants shall, under the circumstances set forth therein, be entitled to voting rights and to be included in determining whether certain action is being taken by the Required Lenders.

**1.88 Revolving Loan:** shall mean the loan facility made available to Borrower under Article 2 of this Credit Agreement and shall include the Converted Loans.

**1.89 Security Documents:** the security agreements, mortgages, deeds of trust, leasehold mortgages or deeds of trust, financing statements, pledge agreements, leasehold assignment and consents, and/or other documents executed by Borrower in favor of the Administrative Agent, on behalf and for the benefit of the Syndication Parties, to secure Borrower's performance of its obligations under the Notes and other Loan Documents with a lien on the Collateral, all in form and substance acceptable to the Administrative Agent.

**1.90 Senior Subordinated Notes:** means (a) Borrower's existing 9<sup>1/4</sup>% Senior Subordinated Notes due 2013 in an aggregate amount equal to \$100,000,000.00; and (b) additional notes with substantially the same terms as the 9<sup>1/4</sup>% Senior Subordinated Notes due 2013 of Borrower that may be issued after the Effective Date in an aggregate amount not to exceed \$100,000,000.00.

**1.91 Senior Unsecured Notes:** means (a) Borrower's existing 9<sup>5/8</sup>% Senior Unsecured Notes due 2011 in an aggregate amount equal to \$303,500,000.00 and (b) additional notes in an aggregate amount not to exceed \$100,000,000.00 with substantially the same terms as the 9<sup>5/8</sup>% Senior Unsecured Notes due 2011 issued by Borrower that may, in either case (a) or (b), be issued after the Closing Date.

**1.92 Subsidiary:** means with respect to any Person: (a) any corporation in which such Person, directly or indirectly, (i) owns more than fifty percent (50%) of the outstanding stock thereof, or (ii) has the power under ordinary circumstances to elect at least a majority of the directors thereof (measured by voting power rather than number of shares), or (b) any partnership, association, joint venture, limited liability company, or other unincorporated organization or entity with respect to which such Person, directly or indirectly, (i) owns more than fifty percent (50%) of the outstanding equity interest thereof, or (ii) has the power under ordinary circumstances to directly or indirectly elect or appoint a majority of the directors or equivalent governing body thereof; provided however (c) the cooperative association known as Food Processors Water Cooperative, Inc. shall not be deemed to be a Subsidiary.

**1.93 Successor Agent:** such Person as may be appointed as successor to the rights and duties of the Administrative Agent as provided in Section 13.20 of this Credit Agreement.

**1.94 Syndication Parties:** shall mean those entities listed on Schedule 1 hereto, and such Persons as shall from time to time execute a Syndication Acquisition Agreement substantially in the form of Exhibit 13.25 hereto signifying their election to purchase all or a portion of the Syndication Interest of any Syndication Party, in accordance with Section 13.25 hereof, and to become a Syndication Party hereunder.

**1.95 Tangible Net Worth:** the Net Worth minus the amount of all Intangible Assets of the Borrower and its Consolidated Subsidiaries, determined on a consolidated basis in accordance with GAAP.

**1.96 Title Insurer:** means the insurer under the Title Policies.

**1.97 Title Policy:** means the mortgagees' title insurance policies delivered by Borrower pursuant to the terms of this Credit Agreement and the 2000 Credit Agreement (and any predecessor) with respect to all real property of Borrower included in the Collateral in which Borrower has (a) a fee interest or (b) a leasehold interest calling for a rental payment equal to or in excess of \$100,000.00 per annum.

**1.98 Total Liabilities:** at any date, the aggregate amount of all liabilities of the Borrower and its Consolidated Subsidiaries determined on a consolidated basis in accordance with GAAP; provided that for the purposes of making the ratio calculations under Section 9.12 hereof, Total Liabilities shall not include (a) indebtedness related to the Protein IRB Bonds to the extent proceeds remain held in trust and are not paid to Borrower pursuant to the terms of the bond documents pursuant to which the Protein IRB Bonds were issued, (b) indebtedness related to the Intercompany Bonds so long as Borrower or a Subsidiary of Borrower remains the holder of such Intercompany Bonds, and (c) any indebtedness so long as the trustee in respect of such indebtedness holds cash and cash equivalents sufficient to repay the principal balance of such indebtedness, subject to the Administrative Agent's reasonable verification that such cash and cash equivalents are held by a trustee for the sole purpose of insuring such repayment.

The following terms are defined in portions of this Credit Agreement other than Article 1:

<b>Additional Costs</b>	Section 14.12
<b>Administrative Agent</b>	Introductory Agreement paragraph
<b>Advance</b>	Section 2.1
<b>Advance Payment</b>	Section 13.1
<b>Affected Loans</b>	Section 8.6
<b>Anti-Terrorism Laws</b>	Subsection 7.26.1
<b>Additional Property</b>	Section 9.18
<b>Authorized Officer</b>	Subsection 8.1.8
<b>Available Amount Report Deadline</b>	Subsection 9.2.11
<b>Available Amount Report</b>	Subsection 9.2.11
<b>Bank Equity Interests</b>	Section 5.1
<b>Balloon Payment</b>	Subsection 4.1.2
<b>Base Rate Loans</b>	Subsection 3.1.1
<b>Base Rate Margin</b>	Subsection 3.6.1
<b>Borrower</b>	Introductory Agreement paragraph
<b>Borrower Pension Plan</b>	Subsection 7.10.2
<b>Borrowing Notice</b>	Section 8.2
<b>CERCLA</b>	Section 1.46
<b>Change in Law</b>	Subsection 3.2.2
<b>CoBank</b>	Introductory Agreement paragraph
<b>COBRA</b>	Subsection 7.10.12
<b>Collateral</b>	Section 6.1
<b>Commitment Fee</b>	Subsection 3.5.1
<b>Commitment Fee Factor</b>	Subsection 3.6.1
<b>Commitment Letter</b>	Subsection 8.1.7
<b>Contributing Syndication Parties</b>	Section 13.3
<b>Conversion Amount</b>	Subsection 4.1.1
<b>Conversion Date</b>	Subsections 4.1.1
<b>Converted Loan</b>	Subsection 4.1.1
<b>Credit Agreement</b>	Introductory Agreement paragraph
<b>Delinquency Interest</b>	Section 13.3

<b>Delinquent Amount</b>	Section 13.3
<b>Delinquent Syndication Party</b>	Section 13.3
<b>Effective Date</b>	Introductory Agreement paragraph
<b>Embargoed Person</b>	Section 9.16
<b>Environmental Regulations</b>	Section 1.60
<b>Event of Default</b>	Section 14.1
<b>Event of Syndication Default</b>	Subsection 13.28.1
<b>Executive Order</b>	Subsection 7.26.1
<b>Farm Credit Law</b>	Section 12.4
<b>Fee Letter</b>	Subsection 8.1.7
<b>Funding Losses</b>	Section 4.8
<b>Funding Loss Notice</b>	Section 4.8
<b>Funding Notice</b>	Section 8.2
<b>Indemnified Agency Parties</b>	Section 13.17
<b>Indemnified Parties</b>	Section 11.1
<b>Intercreditor Agreement</b>	Section 1.90
<b>IRS</b>	Subsection 7.10.2
<b>LIBO Rate Loan</b>	Subsection 3.1.2
<b>LIBO Rate Period</b>	Subsection 3.1.2
<b>LIBO Request</b>	Subsection 3.1.2
<b>LIBOR Margin</b>	Subsection 3.6.1
<b>Licensing Laws</b>	Section 7.4
<b>Mandatory Prepayments</b>	Section 4.4
<b>Margin Report Deadline</b>	Subsection 3.6.2
<b>Margins</b>	Subsection 3.6.1
<b>Mortgage</b>	Section 9.14
<b>OFAC</b>	Section 9.16
<b>Original Effective Date</b>	Recital A
<b>Other Lists</b>	Section 9.16
<b>Payment Account</b>	Section 13.8
<b>Payment Distribution</b>	Section 13.8
<b>Permitted Encumbrances</b>	Section 10.3
<b>Pilgrim Ltd</b>	Section 6.2
<b>Pilgrim Guaranty</b>	Section 6.2
<b>Pricing Level</b>	Subsection 3.6.1
<b>Pro Rata Amount</b>	Section 4.4
<b>RCRA</b>	Section 1.46
<b>Reallocation</b>	Section 13.31
<b>Reduction</b>	Section 13.31
<b>Regulatory Change</b>	Subsection 14.12
<b>Required Licenses</b>	Section 7.9
<b>Revolving Note(s)</b>	Section 2.2
<b>Scheduled Payments</b>	Subsection 4.1.2
<b>Scheduled Payment Amount</b>	Subsection 4.1.2
<b>SDN List</b>	Section 9.16
<b>Shut Down</b>	Section 9.15

Successor Agent	Section 13.20
Syndication Acquisition Agreement	Section 13.25
Syndication Interest	Section 13.1
Syndication Party Advance Date	Section 13.2
Transfer	Section 13.25
2000 Credit Agreement	Recital A
Voluntary Prepayments	Section 4.3
Voting Participant	Section 13.26
Voting Participant Notification	Section 13.26
Wire Instructions	Section 13.27

## ARTICLE 2. REVOLVING LOAN

**2.1 Revolving Loan.** On the terms and conditions set forth in this Credit Agreement, and so long as no Event of Default or Potential Default has occurred and is continuing, Borrower may, during the Availability Period, request an advance under the Revolving Loan (“**Advance**”), and each of the Syndication Parties severally agrees, to fund its Individual Pro Rata Share of each Advance from time to time during the Availability Period, subject to the following:

**2.1.1 Individual Syndication Party Commitment.** No Syndication Party shall be required or permitted to fund Advances in an amount which would exceed its Individual Lending Capacity as in effect at the time of the Administrative Agent’s receipt of the Borrowing Notice requesting such Advance.

**2.1.2 Individual Syndication Party Pro Rata Share.** No Syndication Party shall be required or permitted to fund Advances in excess of an amount equal to its Individual Pro Rata Share multiplied by the amount of the requested Advance.

**2.1.3 Aggregate Commitment; Available Amount.** Borrower shall not be entitled to request an Advance in an amount which: (a) when added to the aggregate Individual Outstanding Obligations of all Syndication Parties, would exceed the Aggregate Commitment; or (b) when added to the aggregate Individual Outstanding Obligations of all Syndication Parties, would exceed the Available Amount.

**2.2 Revolving Promissory Notes.** Borrower’s obligations to each Syndication Party under the Revolving Loan, including Borrower’s payment obligations with respect to all Advances made by each Syndication Party shall (a) be evidenced by, and bear interest in accordance with, a single promissory note of Borrower in substantially the form of Exhibit 2.2 hereto duly completed, in the stated maximum principal amount equal to such Syndication Party’s Individual Commitment, payable to such Syndication Party for the account of its Applicable Lending Office, and maturing as to principal on the Maturity Date (each a “**Revolving Note**” and collectively, the “**Revolving Notes**”); and (b) repaid in accordance with Article 4 hereof and such Revolving Note.

**2.3 Advances Under 2000 Credit Agreement.** The aggregate principal amount owing on the Closing Date under the 2000 Credit Agreement on account of 7 Year

Advances and 10 Year Advances (as such terms are defined in the 2000 Credit Agreement) shall be treated as an Advance hereunder made on the Closing Date and each of the Syndication Parties severally agrees to fund its Individual Pro Rata Share of such Advance. Such Advance will be allocated as provided in Section 13.31 hereof and/or distributed as provided in Section 14.20 hereof, as applicable.

**2.4 Syndication Party Records.** Each Syndication Party shall record on its books and records the amount of each Advance, the rate and interest period applicable thereto, all payments of principal and interest, and the principal balance from time to time outstanding. The Syndication Party's record thereof shall be prima facie evidence as to all such amounts and shall be binding on Borrower absent manifest error. Notwithstanding the foregoing, Borrower will never be required to pay as principal more than the principal amount of the Loans made by the Syndication Parties.

**2.5 Use of Proceeds.** The proceeds of the Revolving Loan will be used by Borrower: (a) to fund expansion of Borrower's production and processing facilities, for future acquisitions; (b) as provided in Section 2.3 hereof; and (c) for general corporate purposes of Borrower, and Borrower agrees not to request or use such proceeds for any other purpose. Borrower will not, directly or indirectly, use any part of such proceeds for the purpose of purchasing or carrying any margin stock within the meaning of Regulation U of the Board of Governors or to extend credit to any Person for the purpose of purchasing or carrying any such margin stock.

**2.6 Advances; Funding.** Borrower may request, and the Syndication Parties shall fund, Advances in the manner and within the time deadlines as provided in Section 8.2 hereof.

**2.7 Syndication Party Funding Failure.** The failure of any Syndication Party to remit its Funding Share of any requested Advance on the date specified for such Advance shall not relieve any other Syndication Party of its obligation (if any) to make any Advance on such date, but no Syndication Party shall be responsible for the failure of any other Syndication Party to make any Advance to be made by such other Syndication Party.

**2.8 Reduction of Aggregate Commitment.** Borrower may, by written notice to the Administrative Agent on or before 10:00 A.M. (Central time) on any Banking Day, irrevocably reduce the Aggregate Commitment; provided that (a) such reduction must be in minimum amounts of one million dollars (\$1,000,000.00) and incremental multiples of \$500,000.00 (or, if Borrower elects to proceed under clause (y) of this Section, the amount of the Individual Commitment of such affected Syndication Party or Parties); and (b) Borrower must simultaneously make any principal payment necessary (along with any applicable Funding Losses on account of such principal payment) so that (i) the principal amount outstanding under the Revolving Loan does not exceed the reduced Aggregate Commitment on the date of such reduction, and (ii) the Individual Outstanding Obligations owing to any Syndication Party do not exceed the Individual Commitment of that Syndication Party (after reduction thereof in accordance with the following sentence). Upon the reduction of the Aggregate

Commitment as provided in the preceding sentence, either (x) the Individual Commitment of each Syndication Party shall be reduced in the same proportion as the Individual Commitment of such Syndication Party bears to the Aggregate Commitment before such reduction; or (y) upon the delivery by Borrower to the Administrative Agent of a written election of Borrower, which election shall be irrevocable, to allocate the reduction of the Aggregate Commitment pursuant to this Section 2.8 to any one or more (but fewer than all) of the Syndication Parties, and upon written approval thereof by the Administrative Agent and the Required Lenders, the reduction of Aggregate Commitment shall be allocated to the Syndication Party or Parties so designated by Borrower provided that such reduction is sufficient to reduce the Individual Commitment of each such designated Syndication Party to zero. In the event Borrower elects to proceed as provided in clause (y) above (and such election is approved in writing by the Administrative Agent and the Required Lenders), then (i) Borrower agrees to pay to each such designated Syndication Party all principal, accrued interest, and Funding Losses owing to such Syndication Party as of the date of, and on account of, such payment, and (ii) each such designated Syndication Party agrees to reduce its Individual Commitment to zero upon receipt of such payment and to return its Revolving Note to the Administrative Agent.

### ARTICLE 3. INTEREST AND FEES

**3.1 Interest.** Interest on all Loans shall be calculated as follows:

**3.1.1 Base Rate Option.** Unless Borrower requests and receives a LIBO Rate Loan pursuant to Subsection 3.1.2 hereof, the outstanding principal balance under the Revolving Notes shall bear interest at the Base Rate (each a “**Base Rate Loan**”). Each request for an Advance to bear interest at the Base Rate must request an Advance in a minimum of \$1,000,000.00 and in incremental multiples of \$500,000.00.

**3.1.2 LIBO Rate Option.** From time to time, and so long as no Event of Default has occurred and is continuing, at the request of Borrower included in a Borrowing Notice, all or any part of the outstanding principal balance under the Revolving Notes may bear interest at the LIBO Rate (each a “**LIBO Rate Loan**”); provided that Borrower may have no more than ten (10) LIBO Rate Loans outstanding at any time. To effect this option, the Borrowing Notice must specify (a) the principal amount that is to bear interest at the LIBO Rate, which must be a minimum of \$1,000,000.00 and in incremental multiples of \$500,000.00 and (b) the period selected by Borrower during which the LIBO Rate is to be applied (“**LIBO Rate Period**”), which may be any period of one, two, three, or six months, provided that LIBO Rate Periods must mature no later than the Maturity Date. In addition, for the purposes of determining a LIBO Rate Period, a month means a period starting on one day in a calendar month and ending on a numerically corresponding day in the next calendar month; provided that if there is no numerically corresponding day in the month in which a LIBO Rate Period is to end, or if a LIBO Rate Period begins on the last day of a calendar month, then such LIBO Rate Period shall end on the last Banking Day of the calendar month in which such LIBO Rate Period is to end. Borrower may convert any Base Rate Loan to a LIBO Rate Loan, or continue a LIBO Rate Loan, by making a

written request therefore (“**LIBO Request**”) to the Administrative Agent by facsimile, specifying (y) the principal amount that is to bear interest at the LIBO Rate, which must be a minimum of \$1,000,000.00 and in incremental multiples of \$500,000.00 and (z) the LIBO Rate Period selected by Borrower during which the LIBO Rate is to be applied. The Administrative Agent shall incur no liability in acting upon a request which it believed in good faith had been made by a properly authorized officer of Borrower. Following the expiration of the LIBO Rate Period for any LIBO Rate Loan, interest shall automatically accrue at the Base Rate unless Borrower requests and receives another LIBO Rate Loan as provided in this Subsection.

### **3.2 Additional Provisions for LIBO Rate Loans.**

**3.2.1 Inapplicability or Unavailability of LIBO Rate.** If the Administrative Agent at any time shall reasonably determine that for any reason adequate and reasonable means do not exist for ascertaining the LIBO Rate, then the Administrative Agent shall promptly give notice thereof to Borrower. If such notice is given and until such notice has been withdrawn by the Administrative Agent, then any portion of the outstanding principal balance hereof which bears interest determined in relation to the LIBO Rate shall, subsequent to the end of the LIBO Rate Period applicable thereto, bear interest at the Base Rate.

**3.2.2 Change in Law; LIBO Rate Loan Unlawful.** If any law, treaty, rule, regulation or determination of a court or governmental authority or any change therein or in the interpretation or application thereof (each, a “**Change in Law**”) shall make it unlawful for any of the Syndication Parties to (a) advance its Funding Share of any LIBO Rate Loan or (b) maintain its share of all or any portion of the LIBO Rate Loans, each such Syndication Party shall promptly, by telephone or facsimile, notify the Administrative Agent thereof, and of the reasons therefor and the Administrative Agent shall promptly notify Borrower thereof and if the notice from such Syndication Party is in writing, the Administrative Agent shall provide a copy of such notice to Borrower. In the former event, the obligation of any such Syndication Party to make available its Funding Share of any future LIBO Rate Loan shall immediately be canceled (and, in lieu thereof shall be made as a Base Rate Loan), and in the latter event, any such unlawful LIBO Rate Loans or portions thereof then outstanding shall be converted, at the option of such Syndication Party, to a Base Rate Loan; provided, however, that if any such Change in Law shall permit the LIBO Rate to remain in effect until the expiration of the LIBO Rate Period applicable to any such unlawful LIBO Rate Loan, then such LIBO Rate Loan shall continue in effect until the expiration of such LIBO Rate Period. Upon the occurrence of any of the foregoing events on account of any change in any law, treaty, rule, regulation or determination of a court or governmental authority or in the interpretation or application thereof, Borrower shall pay to the Administrative Agent immediately upon demand such amounts as may be necessary to compensate any such Syndication Party for any fees, charges, or other costs incurred or payable by such Syndication Party as a result thereof and which are attributable to any LIBO Rate Loan made available to Borrower hereunder, and any reasonable allocation made by any such Syndication Party among its operations shall be conclusive and binding upon Borrower absent manifest error. In the event any Syndication Party

provides the Administrative Agent a notice under this Subsection, then Borrower shall have the right, but not the obligation, upon written notice to the Administrative Agent, accompanied by the payment of such amounts as are described above and any applicable Funding Losses on account of the prepayment required below, on or before 10:00 A.M. (Central time) on or before ten (10) Banking Days following receipt of such notice, to reduce the Individual Commitment of such Syndication Party to zero upon making a prepayment, to be treated as a Voluntary Payment to the extent not inconsistent with the provisions of this Subsection, equal to the amount of such Syndication Party's Individual Outstanding Obligations. In the event Borrower makes such an election, then a reduction in a dollar amount corresponding to such reduction in Individual Commitment shall be made to the Aggregate Commitment, and, notwithstanding any provisions of this Credit Agreement to the contrary, including, without limitation, Section 2.8, the amount of such prepayment shall be applied to outstanding LIBO Rate Loans to the extent of such Syndication Party's Pro Rata Share thereof and, along with the amount paid on account of such fees, charges, Funding Losses, or other costs, distributed to the Syndication Party providing such notice and as to which Borrower has made such election.

**3.3 Default Interest Rate.** All past due payments on the Notes or of any other Bank Debt (whether as a result of nonpayment by Borrower when due, at maturity, or upon acceleration) shall bear interest at the Default Interest Rate from and after the due date for the payment, or on the date of maturity or acceleration, as the case may be.

**3.4 Interest Calculation.** Interest on LIBO Rate Loans and Base Rate Loans shall be calculated on the actual number of days the principal owing thereunder is outstanding with the daily rate calculated on the basis of a year consisting of 360 days. In calculating interest, the Advance Date shall be included and the date each payment is received shall be excluded.

**3.5 Fees.** Borrower shall pay or cause to be paid the following fees:

**3.5.1 Commitment Fee.** A fee for each day during the Availability Period ("**Commitment Fee**") for each Facility (a) payable in arrears by the fifteenth day of the month following the close of each Fiscal Quarter, and (b) determined for each day during such Fiscal Quarter by (i) multiplying the Commitment Fee Factor in effect on such day (expressed as a daily rate on the basis of a year of 360 days) times (ii) the difference between the Aggregate Commitment in effect on such day, and the outstanding principal balance owing under the Revolving Loan as of the close of the Administrative Agent's business on such day. The Commitment Fee shall be payable by Borrower to the Administrative Agent, and the Administrative Agent shall distribute the Commitment Fee to the Syndication Parties based on their Individual Pro Rata Share on such day of payment.

**3.6 Interest Rate Margins; Commitment Fee Factor.** The Margins and the Commitment Fee Factor shall be determined as follows:

**3.6.1 Calculation.** The “**Base Rate Margin**” and the “**LIBOR Margin**” (collectively the “**Margins**”), and the “**Commitment Fee Factor**” shall be determined pursuant to the table below (expressed in basis points) based on the Leverage Ratio, as of the end of each Fiscal Quarter, with such Margins effective as of the fifth Banking Day after receipt of a Compliance Certificate as required pursuant to Subsection 3.6.2 hereof (and it being expressly understood that the LIBOR Margin once set for a LIBO Rate Loans will not change during the LIBO Rate Period therefore based upon a subsequent change in the Leverage Ratio), except that (a) the Margins and Commitment Fee Factor effective as of the Closing Date shall be based on the last Compliance Certificate provided pursuant to the requirements of the 2000 Credit Agreement until receipt of a new Compliance Certificate as required pursuant to Subsection 3.6.2 hereof (or in accordance with clause (c) of this Subsection if no such Compliance Certificate was provided); (b) in the event that the final annual audited financial statements establish the Borrower was not entitled to a reduction in the Margins and/or the Commitment Fee Factor previously granted based upon a Compliance Certificate, Borrower shall, upon written demand by the Administrative Agent, pay any excess amount which should have been charged based on such annual audited financial statements; and (c) if the Compliance Certificate is not received by Administrative Agent by the Margin Report Deadline, the Margins and the Commitment Fee Factor for the period commencing on the first Banking Day after the Margin Report Deadline will each be based on Pricing Level VIII continuing until the fifth Banking Day after such time as Borrower delivers the Compliance Certificate to the Administrative Agent, after which time the Margins and the Commitment Fee Factor will be based on such Compliance Certificate:

Pricing Level	Leverage Ratio	LIBOR Margin	Base Rate Margin	Commitment Fee Factor
<b>I</b>	£ 35%	100.0 basis points	0 basis points	25.0 basis points
<b>II</b>	>35% £ 40%	125.0 basis points	0 basis points	25.0 basis points
<b>III</b>	>40% £ 45%	150.0 basis points	0 basis points	37.5 basis points
<b>IV</b>	>45% £ 50%	162.5 basis points	0 basis points	37.5 basis points
<b>V</b>	>50% £ 55%	187.5 basis points	0 basis points	42.5 basis points
<b>VI</b>	>55% £ 60%	212.5 basis points	25.0 basis points	50.0 basis points
<b>VII</b>	>60% £ 65%	237.5 basis points	25.0 basis points	50.0 basis points
<b>VIII</b>	>65%	262.5 basis points	25.0 basis points	50.0 basis points

**3.6.2 Compliance Certificate.** On or before the 45th day after the beginning of the second, third and fourth Fiscal Quarter of each Fiscal Year and on or before the 90<sup>th</sup> day after the beginning of the first Fiscal Quarter of each Fiscal Year (“**Margin Report Deadline**”), commencing with the Fiscal Quarter which begins in January of 2004, Borrower shall provide to the Administrative Agent the Compliance Certificate required pursuant to Subsections 9.2.1 and 9.2.2 hereof, which shall include a statement as to the Leverage Ratio as of the last day of the preceding Fiscal Quarter.

**3.7 Maximum Interest Rate.** Borrower acknowledges and agrees that 12 U.S.C. § 2205 provides that Farm Credit System Institutions are not subject to any interest rate limitation imposed by any state constitution or statute or other laws, and that any such limitations are preempted, and that therefore interest owing under the Notes, to the extent funded by a Farm Credit System Institution, is not subject to any ceiling. Nonetheless, in the event it is ever determined by a court of competent jurisdiction that interest owing on the Notes, or some of them, is subject to any limitations imposed by the laws of the State of Colorado or Texas or any other jurisdiction, it is the intent of Borrower, and the Syndication Parties to, notwithstanding the provisions of Section 3.1 hereof, at all times comply with the applicable usury laws relating to this Credit Agreement or the Notes now or hereafter in effect including, without limitation, Title 4 of the Texas Finance Code and any subsequent revisions or judicial interpretations thereof if, and to the extent, determined by a court to be applicable to the Notes. It is agreed that the aggregate of all interest and other charges constituting interest, or adjudicated as constituting interest, and contracted for, chargeable, or receivable in connection with the Notes shall under no circumstances exceed the maximum nonusurious amount of interest permitted by applicable law. If the applicable laws are ever revised or judicially interpreted so as to render usurious any amount called for under this Credit Agreement or the Notes or contracted for, charged, chargeable, received or receivable with respect to this Credit Agreement or the Notes, or if the exercise of the option to accelerate the maturity of the Notes, or if any payment, results in Borrower having paid any interest on one or more of the Notes in excess of that permitted by applicable law, any such construction shall be subject to the provisions of this Section and, to the extent permitted by applicable law all excess amounts collected on such Notes shall be credited on the principal balance of such Notes (or, if it has been paid in full, refunded to Borrower), and those provisions shall immediately be deemed reformed and the amounts thereafter collectible will be reduced, without the necessity of the execution of any new documents, so as to comply with the then applicable law, but so as to permit the recovery of the fullest amount of interest otherwise lawfully called for under this Credit Agreement or the Notes. In the event the maturity of any Note is accelerated, then earned interest may never include more than the maximum amount of interest permitted by applicable law from the date of each advance of the proceeds of such Note until paid. Specifically, but without in any way limiting the generality of the foregoing, if from any circumstances whatsoever fulfillment of any provision of this Credit Agreement or the Notes, at the time performance of such provision is due, would cause the interest contracted for, charged, chargeable, received or receivable with respect to this Credit Agreement or any of the Notes to exceed the amount permitted by applicable law, then ipso facto and notwithstanding anything to the contrary contained herein, Borrower shall only be required to pay interest on each such Note in an amount equal to the lesser of the amounts payable under this Credit Agreement and the maximum amount permitted by applicable law. In determining whether the amount of interest contracted for, charged, chargeable, received or receivable with respect to this Credit Agreement or any of the Notes would ever exceed the amount permitted by applicable law, all sums charged, paid or agreed to be paid under this Credit Agreement for the use, forbearance, or detention of the indebtedness of Borrower to the Administrative Agent and/or the Syndication Parties shall, to the

extent possible under applicable law, be amortized, prorated, allocated, and spread throughout the full term of the Notes (including any renewal or extension), until payment in full. The provisions of this Section control all agreements between the Administrative Agent and/or the Syndication Parties and Borrower relative to the Notes. In the event any interest is required to be credited to principal or refunded to Borrower with respect to some, but not all, of the Notes, such adjustment shall be for the account of the Syndication Party which is the payee under such Note or Notes, and shall not affect the other Notes or the Syndication Parties which are the payees under such other Notes.

#### **ARTICLE 4. PAYMENTS; FUNDING LOSSES**

**4.1 Principal Payments.** Principal shall be payable under the Converted Loans in quarterly payments in the amounts and on the dates set forth below, with all unpaid principal due on the Maturity Date.

**4.1.1 Automatic Conversion.** The outstanding balance of principal owing under the Revolving Loan as of the last day of the Availability Period (“**Conversion Amount**”) will be automatically converted into a term loan (“**Converted Loan**”) as of such day (“**Conversion Date**”).

**4.1.2 Principal Payments.** The outstanding balance of the Converted Loan shall be payable (a) in 14 equal quarterly installments, commencing on [April 15, 2008] and on the 15th day of each July, October, January, and April thereafter to and including July 15, 2011 (“**Scheduled Payments**”), and (b) one final payment on the Maturity Date equal to the unpaid balance owing under the Converted Loan, requiring a balloon payment on such date (“**Balloon Payment**”). The amount of the Scheduled Payments shall be determined by dividing the Conversion Amount by 28 (“**Scheduled Payment Amount**”).

**4.2 Interest Payments.** Interest shall be payable as follows: (a) interest on Base Rate Loans shall be payable monthly in arrears on the fifteenth day of the following month, (b) interest on LIBO Rate Loans shall be payable in arrears on the last day of the LIBO Rate Period therefor unless the LIBO Rate Period is longer than three (3) months, in which case interest shall also be payable every three (3) months from the date of the relevant Advance and (c) interest on all Loans then accrued and unpaid shall be payable on the Maturity Date.

**4.3 Voluntary Prepayments.** Borrower shall have the right to prepay (“**Voluntary Prepayments**”) all or any part of the outstanding principal balance under the Loans at any time in minimum amounts of \$1,000,000.00 and in integral multiples of \$500,000.00 (or the entire outstanding balance, if less) on any Banking Day; provided that (a) in the event of prepayment of any LIBO Rate Loan (i) Borrower must provide three (3) Banking Days notice to the Administrative Agent prior to making such prepayment, and (ii) Borrower must, at the time of making such prepayment, pay (A) all Funding Losses applicable to such prepayment, and (B) if such Voluntary Prepayment is with respect to a LIBO Rate Loan or the Converted Loan, all interest accrued as of

the date of such prepayment. Principal amounts paid or voluntarily prepaid may be reborrowed under the terms and conditions of this Credit Agreement during the Availability Period.

**4.4 Mandatory Prepayments.** Borrower shall be required to make prepayments (“**Mandatory Prepayments**”) in each of the following events: (a) in the event any of the Collateral is the subject of a Casualty Event, a Mandatory Prepayment equal to the amount of the Casualty Proceeds received by Borrower on account thereof (provided that no such Mandatory Prepayment shall be required to the extent that Borrower uses such Casualty Proceeds for repair or replacement for any Casualty Event if the amount of Casualty Proceeds does not exceed \$25,000,000.00, or such higher amount as may be approved by the Required Lenders at their discretion, and so long as (i) a contract for such repair or replacement is entered into within 180 days of such Casualty Event for such repairs and/or the acquisition of such replacements, (ii) such repair or replacement is effected within 360 days of such Casualty Event, and (iii) any such replacements are covered by the lien in favor of the Administrative Agent on the Collateral); (b) upon the issuance of any equity securities in a capital raising transaction resulting in net proceeds to Borrower of an amount in excess of \$10,000,000.00, a Mandatory Prepayment equal to fifty percent (50.0%) of the net proceeds of such offering of equity securities to the extent not used, under the conditions set forth below, for acquisitions and/or capital investment within 360 days of receipt, provided that in the event Borrower desires to use any of such net proceeds to pay amounts owing under any of the Senior Unsecured Notes or Senior Subordinated Notes, and Borrower provides the Administrative Agent with ten (10) days advance written notice of its intention to make such payment or payments then, if Administrative Agent requires a Mandatory Prepayment under this clause (b), the amount of such Mandatory Prepayment required under this clause (b) shall be the Pro Rata Amount; (c) upon sale or other disposition of any non-current assets (except for sales in the ordinary course of business) which are a part of the Collateral (other than Collateral with respect to which the lien is released pursuant to the provisions of Section 9.15 hereof), a Mandatory Prepayment equal to one hundred percent (100%) of the net proceeds in excess of \$10,000,000 received by Borrower to the extent that such excess net proceeds are not used, under the conditions set forth below, for acquisitions and/or capital investment within 360 days of receipt by Borrower, of or in assets which are covered by a first priority perfected lien in favor of the Administrative Agent subject to Permitted Encumbrances; (d) upon sale or other disposition of any non-current assets (except for sales in the ordinary course of business) which are not part of the Collateral, if Borrower at any time subsequent to such sale desires to use (and is not required to do so under the terms of any secured or unsecured credit facility or indenture) any of the net proceeds thereof to pay amounts owing under any of the Senior Unsecured Notes, Borrower (i) shall provide the Administrative Agent with ten (10) days advance written notice of its intention to make such payment and (ii) shall, if required to do so by the Administrative Agent, make a Mandatory Prepayment in the Pro Rata Amount; and (e) at any time that the aggregate outstanding principal balance owing under the Revolving Loan (including the Converted Loans) (i) exceeds the Available Amount or (ii) exceeds the Aggregate Commitment, as it may be reduced from time to time, a Mandatory Prepayment equal to the amount of such excess. In each case of proceeds from any offering of equity

securities and from any sale or other disposition of Collateral (other than Collateral with respect to which the lien is released pursuant to the provisions of Section 9.15 hereof), to avoid Mandatory Prepayment based thereon, Borrower must, within 180 days of receipt of such proceeds, have used such proceeds for acquisitions and/or capital investments or executed a binding definitive contract for such acquisitions and/or capital investments. Mandatory Prepayments made pursuant to clauses (a) and (b) of this Section, will, in either case, result in a permanent reduction of the Aggregate Commitment to the extent of the Mandatory Payments applied to the Revolving Loan. Mandatory Prepayments under clause (a) shall be due no later than ten (10) Banking Days after the expiration of the applicable repair or replacement period set forth above in clause (a). Mandatory Prepayments under clause (b) shall be due no later than the earlier of (i) the date Borrower makes payment under the Senior Unsecured Notes or Senior Subordinated Notes, and (ii) ten (10) Banking Days after the expiration of the applicable acquisition or capital investment period set forth above in clause (b). Mandatory Prepayments under clause (c) shall be due no later than ten (10) Banking Days after the expiration of the applicable acquisition or capital investment period set forth above in clause (c). Mandatory Prepayments under clause (d) shall be due no later than the date Borrower makes payment under the Senior Unsecured Notes from such excess proceeds. Mandatory Prepayments under (e) shall be due the next Banking Day following such occurrence. In determining the amount of Mandatory Prepayment required under clauses (a) or (c), Borrower shall be permitted to make any prepayment required on account of such Casualty Event or sale under any Pari Passu Loan (in a maximum amount no greater than the pro rata portion based on total outstanding principal balances of such loan and the Revolving Loans), and in determining the amount of Mandatory Prepayment required under clause (b), Borrower shall, without duplication regarding payments made on account of any Pari Passu Loan, be permitted to make any prepayment required on account of such sale under any secured or unsecured credit facility or indenture which is not expressly subordinate to the Revolving Loans in a maximum amount, with respect only to such unsecured facilities, of no greater than the pro rata portion based on the total outstanding principal balances owing under such unsecured facility to the sum of the total outstanding principal balances owing under all such unsecured facilities and under the Revolving Loans. The term “**Pro Rata Amount**”, as used in this Section, means an amount determined (1) by dividing the amount of Borrower’s proposed payment of the Senior Unsecured Notes, by the total amount of principal owing under the Senior Unsecured Notes, and multiplying the result by the average daily unpaid balance of the Revolving Loan over the immediately preceding 30 consecutive days, or (2) by dividing the amount of Borrower’s proposed payment of the Senior Subordinated Notes (where such payment is permitted hereunder), by the total amount of principal owing under the Senior Subordinated Notes, and multiplying the result by the average daily unpaid balance of the Revolving Loan over the immediately preceding 30 consecutive days, or (3) if Borrower proposes to make payments under both the Senior Unsecured Notes and the Senior Subordinated Notes (where such payment is permitted hereunder), by dividing the amount of Borrower’s proposed payment of the Senior Unsecured Notes plus the amount of Borrower’s proposed payment of the Senior Subordinated Notes, by the total amount of principal owing under the Senior Unsecured Notes plus the total amount of

principal owing under the Senior Subordinated Notes, and multiplying the result by the average daily unpaid balance of the Revolving Loan over the immediately preceding 30 consecutive days. In addition to (but not in duplication of) such Mandatory Prepayments as are required pursuant to the foregoing provisions of this Section 4.4, Borrower shall make, as a Mandatory Prepayment, any payments required in the event that Borrower elects to reduce the Aggregate Commitment pursuant to Section 2.8 and to allocate such reduction to a particular Syndication Party and/or Voting Participant.

#### **4.5 Application of Principal Payments.**

**4.5.1 Scheduled Payments.** All Scheduled Payments shall be applied to one or more Converted Loans to the Scheduled Payment next coming due.

**4.5.2 Voluntary Prepayments.** All Voluntary Prepayments shall be applied to principal amounts owing under the Revolving Loan or the Converted Loan, as applicable, and, unless Borrower directs otherwise in writing, shall be applied first to Base Rate Loans and then to LIBO Rate Loans. To the extent Voluntary Prepayments are applied to Converted Loans, they shall be applied first to the four principal installments next coming due, and second to remaining installments on a ratable basis. However, notwithstanding any of the foregoing provisions of this Subsection, upon the occurrence and during the continuance of an Event of Default, all prepayments shall be applied, as the Administrative Agent in its sole discretion shall determine, to fees, interest or principal indebtedness under the Notes, or to any other Bank Debt.

**4.5.3 Mandatory Prepayments.** All Mandatory Prepayments shall be applied to principal amounts owing under the Revolving Loan or the Converted Loan, as applicable, and to the extent not inconsistent with the balance of this Subsection, first to Base Rate Loans and then to LIBO Rate Loans. To the extent Mandatory Prepayments are applied to Converted Loans, on account of clauses (a) or (d)(ii) of Section 4.4, they shall be applied to Scheduled Payments in the inverse order of their due date, so that such Mandatory Prepayments are applied first to the Scheduled Payment last coming due, and to the extent Mandatory Prepayments are applied to Converted Loans, on account of clauses (b), (d)(i), or (e) of Section 4.4, they shall be applied first to the four principal installments next coming due, and second to remaining installments on a ratable basis.

**4.6 Manner of Payment.** All payments, including prepayments, that Borrower is required or permitted to make under the terms of this Credit Agreement shall be made in US dollars to the Administrative Agent (a) in immediately available federal funds, to be received no later than 1:00 P.M. Central time of the Banking Day on which such payment is due by wire transfer through Federal Reserve Bank, Kansas City, Routing Number: 307088754, COBANK ENGWD (or to such other account as the Administrative Agent may designate by notice); and (b) without setoff or counterclaim and free and clear of and without deduction for any taxes, levies, impost, duties, charges, fees, deductions, withholding, compulsory loans, restrictions or conditions of any nature now or hereafter imposed or levied by any jurisdiction or any political subdivision thereof or taxing or other authority therein unless Borrower is required by law to make such deduction or withholding.

**4.7 Distribution of Principal and Interest Payments.** The Administrative Agent shall distribute payments of principal and interest among the Syndication Parties as follows:

**4.7.1 Principal and Interest Payments on Revolving Loan.** Principal and interest payments on or applied to the Revolving Loan (including Converted Loans) shall be remitted to the Syndication Parties in accordance with their Individual Pro Rata Share.

**4.8 Funding Losses.** "Funding Losses" shall be determined on an individual Syndication Party basis as the amount which would result in such Syndication Party being made whole (on a present value basis) for the actual or imputed funding losses (including, without limitation, any loss, cost or expense incurred by reason of obtaining, liquidating or employing deposits or other funds acquired by such Syndication Party to fund or maintain such LIBO Rate Loan) incurred by such Syndication Party as a result of such prepayment of LIBO Rate Loans on any day other than the last day of the LIBO Rate Period applicable thereto. In the event of any such prepayment, each Syndication Party which had funded the LIBO Rate Loan being prepaid shall, promptly after being notified of such prepayment, send written notice ("**Funding Loss Notice**") to the Administrative Agent by facsimile setting forth the amount of attributable Funding Losses and the method of calculating the same. The Administrative Agent shall notify Borrower orally or in writing of the amount of such Funding Losses. A determination by a Syndication Party as to the amounts payable pursuant to this Section shall be conclusive absent manifest error. Notwithstanding the foregoing, each Syndication Party is entitled to fund all or any part of its Pro Rata Share of any LIBO Rate Loan in any manner it selects, and it is understood that for the purposes of determining any Funding Losses, determination shall be made by each Syndication Party as though it had actually funded and maintained each LIBO Rate Loan through the purchase of deposits in the relevant interbank market having a maturity corresponding to the relevant LIBO Rate Period.

## **ARTICLE 5. BANK EQUITY INTERESTS**

**5.1 Purchase of Bank Equity Interests.** Borrower agrees to purchase such equity interests in Agriland ("**Bank Equity Interests**") as Agriland may from time to time require in accordance with its bylaws and capital plan in effect as of the date hereof as applicable to non-cooperative borrowers generally. In connection with the foregoing, Borrower hereby acknowledges receipt, prior to the execution of this Credit Agreement, of the following with respect to Agriland (a) the bylaws, (b) a written description of the terms and conditions under which the Bank Equity Interests are issued, (c) the most recent annual report, and if more recent than the latest annual report, the latest quarterly report.

## ARTICLE 6. SECURITY

**6.1 Borrower's Collateral.** As security for the payment and performance of all obligations of Borrower to the Administrative Agent, to Agriland (with respect to the obligations of Borrower under Article 5 hereof), and to all present and future Syndication Parties, including but not limited to principal and interest under the Notes, purchases of Bank Equity Interests, fees, Funding Losses, reimbursements, and all other Bank Debt or obligations under any of the Loan Documents, Borrower shall grant to, and maintain for, the Administrative Agent, for the benefit of Agriland (to the extent of Borrower's obligations with respect to Bank Equity Interests), and for the benefit of all present and future Syndication Parties, a first lien and security interest, pursuant to the Security Documents, subject only to (i) purchase money security interests which would qualify as Permitted Encumbrances, and (ii) Permitted Encumbrances described in Section 10.3(a) hereof, in the following ("**Collateral**"): (a) all of Borrower's real property interest, furniture, fixtures and equipment located at, or used in connection with, the poultry hatching, raising, slaughtering, processing, packaging, and shipping operations and facilities identified on Exhibit 6.1 hereto; and (b) all proceeds with respect to the assets described in clause (a) above and all insurance policies in connection with the assets described in clauses (a) and (b) hereof and the proceeds thereof, in each case whether now owned or hereafter acquired; provided that only Agriland (or the Administrative Agent on behalf of Agriland) shall have a lien on the Bank Equity Interests and none of the Syndication Parties shall have a lien thereon. Borrower shall execute and deliver to the Administrative Agent, for the benefit of the Syndication Parties, the Security Documents to evidence the security interest of the Administrative Agent, for the benefit of the Syndication Parties, in the Collateral, together with such financing statements or other documents as the Administrative Agent shall reasonably request. Borrower shall also execute such further security agreements, mortgages, deeds of trust, financing statements, assignments or other documents as the Administrative Agent shall reasonably request from time to time, in form and substance as the Administrative Agent shall specify, to establish, confirm, perfect or provide notice of the Administrative Agent's security interest (for the benefit of the Administrative Agent and all Syndication Parties) in the Collateral.

**6.2 Guaranty.** Borrower's obligations under this Credit Agreement, the Notes, and all other Loan Documents shall be guaranteed by Pilgrim Interests, Ltd., a Texas limited partnership ("**Pilgrim Ltd**") through the execution of a guarantee, or an amendment to the guaranty provided by Pilgrim Ltd in connection with the 2000 Credit Agreement, in either case in form and substance acceptable to the Administrative Agent and delivered on the Closing Date ("**Pilgrim Guaranty**").

## ARTICLE 7. REPRESENTATIONS AND WARRANTIES

To induce the Syndication Parties to make the Advances and recognizing that the Syndication Parties and the Administrative Agent are relying thereon, Borrower represents and warrants as follows:

**7.1 Organization, Good Standing, Etc.** Borrower: (a) is duly organized, validly existing, and in good standing under the laws of its state of incorporation; (b) is duly qualified to do business and is in good standing in the states of Texas and Arkansas and each other jurisdiction in which the transaction of its business makes such qualification necessary, except to the extent that the failure to so qualify has not resulted in, and could not reasonably be expected to cause, a Material Adverse Effect; and (c) has all requisite corporate and legal power to own and operate its assets and to carry on its business, and to enter into and perform the Loan Documents to which it is a party. Each Subsidiary: (x) is duly organized, validly existing, and in good standing under the laws of its jurisdiction of organization; (y) is duly qualified to do business and is in good standing in each jurisdiction in which the transaction of its business makes such qualification necessary, except to the extent that the failure to so qualify has not resulted in, and could not reasonably be expected to cause, a Material Adverse Effect; and (z) has all requisite corporate and legal power to own and operate its assets and to carry on its business.

**7.2 Corporate Authority, Due Authorization; Consents.** Borrower has taken all corporate action necessary to execute, deliver and perform its obligations under the Loan Documents to which it is a party. All consents or approvals of any Person which are necessary for, or are required as a condition of Borrower's execution, delivery and performance of and under the Loan Documents, have been obtained except where the failure to obtain such consent or approval could not reasonably be expected to cause a Material Adverse Effect.

**7.3 Litigation.** Except as described on Exhibit 7.3 hereto, there are no pending legal or governmental actions, proceedings or investigations to which Borrower or any Subsidiary is a party or to which any property of Borrower or any Subsidiary is subject which could reasonably be expected to result in any Material Adverse Effect and, to Borrower's knowledge, no such actions or proceedings are threatened or contemplated by any federal, state, county, or city (or similar unit) governmental agency or any other Person.

**7.4 No Violations.** The execution, delivery and performance of the Loan Documents will not: (a) violate any provision of Borrower's Organizational Documents, or any law, rule, regulation (including, without limitation, Regulations T, U, and X of the Board of Governors of the Federal Reserve System), or any judgment, order or ruling of any court or governmental agency; (b) violate, require consent under (except such consent as has been obtained), conflict with, result in a breach of, constitute a default under, or with the giving of notice or the expiration of time or both, constitute a default under, any existing real estate mortgage, indenture, lease, security agreement, contract, note, instrument or any other agreements or documents binding on Borrower or affecting its property which, in any such circumstance, could reasonably be expected to result in any Material Adverse Effect; or (c) violate, conflict with, result in a breach of, constitute a default under, or result in the loss of, or restriction of rights under, any Required License or any order, law, rule, or regulation under or pursuant to which any Required License was issued or is maintained ("**Licensing Laws**") which, in any such circumstance, could reasonably be expected to result in any Material Adverse Effect.

**7.5 Binding Agreement.** Each of the Loan Documents to which Borrower is a party is the legal, valid and binding obligation of Borrower, enforceable in accordance with its terms, subject only to limitations on enforceability imposed by applicable bankruptcy, insolvency, reorganization, moratorium, or similar laws affecting creditors' rights generally and by general principles of equity.

**7.6 Compliance with Laws.** Borrower and each Subsidiary are in compliance with all federal, state, and local laws, rules, regulations, ordinances, codes and orders, including without limitation all Environmental Laws and all Licensing Laws, with respect to which noncompliance would result in a Material Adverse Effect.

**7.7 Principal Place of Business.** Borrower's place of business, or chief executive office if it has more than one place of business, and the place where the records required by Section 9.1 hereof are kept, is located at 110 South Texas Street, Pittsburg, Texas 75686.

**7.8 Payment of Taxes.** Except as shown on Exhibit 7.8 hereto, Borrower and each Subsidiary have filed all required federal, state and local tax returns and have paid all taxes as shown on such returns as they have become due, and have paid when due all other taxes, assessments or impositions levied or assessed against Borrower or any Subsidiary, or their business or properties, except for those subject to a Good Faith Contest or where the failure to make such filing or payment could not reasonably be expected to result in a Material Adverse Effect. Exhibit 7.8 specifically indicates all such taxes which are subject to a Good Faith Contest as of the Closing Date.

**7.9 Licenses and Approvals.** Borrower and each Subsidiary have ownership of, or license to use, or have been issued, all trademarks, patents, copyrights, franchises, certificates, approvals, permits, authorities, agreements, and licenses which are used or necessary to permit it to own its properties and to conduct the business as presently being conducted as to which the termination or revocation thereof could reasonably be expected to have a Material Adverse Effect ("**Required Licenses**"). Each Required License is in full force and effect, and there is no outstanding notice of cancellation or termination or, to Borrower's knowledge, any threatened cancellation or termination in connection therewith, nor has an event occurred with respect to any Required License which, with the giving of notice or passage of time or both, could result in the revocation or termination thereof or otherwise in any impairment of Borrower's rights with respect thereto, which impairment could reasonably be expected to have a Material Adverse Effect. Borrower is not required to obtain any consent, permission, authorization, order, or license of any governmental authority, in connection with the execution, delivery, performance, or enforcement of and under the Loan Documents to which Borrower is a party except such as have been obtained and are in full force and effect.

**7.10 Employee Benefit Plans.** Except as otherwise disclosed in writing to the Administrative Agents and on Exhibit 7.10 hereto:

**7.10.1 Employee Benefit Plans; Multiemployer Plans.** Exhibit 7.10 hereto sets forth as of the Closing Date a true and complete list of each Borrower Benefit Plan, Borrower Pension Plan, and Multiemployer Plan that is maintained by Borrower or in which Borrower participates or to which Borrower is obligated to contribute, in each case as of the Closing Date. Borrower has received no written notification that any Multiemployer Plan to which Borrower currently has any obligation to contribute which is an “employee pension benefit plan” as such term is defined in Section 3(2) of ERISA fails to qualify under the Code.

**7.10.2 Pension Benefit Plans.** To the knowledge of Borrower, each Borrower Benefit Plan that is an “employee pension benefit plan” as defined in Section 3(2) of ERISA that is intended to satisfy the requirements of Section 401(a) of the Code (each a “**Borrower Pension Plan**”), and the trust, if any, forming a part thereof, meets in all material respects, and, in all material respects, since its inception has met, the requirements for qualification under Section 401(a) of the Code, and for exemption from taxation under Section 501(a) of the Code (except that these representations shall not be deemed to have been made subsequent to the Closing Date). Except as disclosed on Exhibit 7.10 hereto, the Internal Revenue Service (“**IRS**”) has issued a favorable determination letter with respect to the qualification of each Borrower Pension Plan as of the Closing Date and the trust, if any, relating thereto, and, to the knowledge of Borrower, the IRS has not taken any action to revoke any such letter.

**7.10.3 Prohibited Transactions.** With respect to each Borrower Benefit Plan sponsored or maintained by Borrower or in which Borrower participates or to which Borrower is obligated to contribute (with the exception of any Multiemployer Plan), neither Borrower nor any Borrower Benefit Plan or, to the knowledge of Borrower, a fiduciary thereof, is engaged or has engaged in any transaction which is prohibited by Part 4 of Subtitle B of Title I of ERISA or which might subject any such plan or related trust, or any trustee or administrator thereof, to a tax or penalty imposed by Section 4975 of the Code or Section 502(i) of ERISA or to liability under Section 409 of ERISA, any of which would have a Material Adverse Effect. With respect to each Multiemployer Plan to which Borrower or a member of Borrower’s “controlled group” (as that term is defined in Section 414(b) or (c) of the Code) has any obligation to contribute, to the knowledge of Borrower, neither Borrower nor any Multiemployer Plan or a fiduciary thereof is engaged or has engaged in any transaction which is prohibited by Part 4 of Subtitle B of Title I of ERISA or which might subject Borrower to a tax or penalty imposed by Section 4975 of the Code or Section 502(i) of ERISA or to liability under Section 409 of ERISA, any of which would have a Material Adverse Effect.

**7.10.4 Civil/Criminal Action.** To the knowledge of Borrower, no civil or criminal action brought pursuant to Part 5 of Subtitle B of Title I of ERISA is pending, or, to the knowledge of Borrower, is threatened against Borrower, any Borrower Benefit Plan or any fiduciary thereof with respect to any Borrower Benefit Plan (except that these representations shall not be deemed to have been made subsequent to the Closing Date).

**7.10.5 Funding.** (a) Each Borrower Pension Plan is in compliance with the minimum funding standards of Section 412 of the Code and Part 3 of Subtitle B of Title I of ERISA, and (b) no waivers of the minimum funding standards have been requested, and no Borrower Pension Plan has any “accumulated funding deficiency” within the meaning of Section 412 of the Code.

**7.10.6 Compliance With Law.** To the knowledge of Borrower, Borrower is in compliance in all material respects with, and each Borrower Benefit Plan has been operated in all material respects in accordance with, the provisions of such plan and in compliance in all material respects with, ERISA, the Code and all other applicable law governing each such Borrower Benefit Plan, including but not limited to rules and regulations promulgated by the Department of Labor, the Pension Benefit Guaranty Corporation, and the Department of the Treasury pursuant to the provisions of ERISA and the Code, including without limitation, the bonding requirements of Section 412 of ERISA and the disclosure and reporting requirements of Part 1 of Subtitle B of Title I of ERISA, except to the extent any such failure would not have a Material Adverse Effect (except that these representations shall not be deemed to have been made subsequent to the Closing Date).

**7.10.7 Multiple Employer Plan.** As of the Closing Date, Borrower does not participate in any “multiple employer plan” within the meaning of Section 413 of the Code.

**7.10.8 Plan Termination Liability; Multiemployer Plan Withdrawal Liability.** (a) Borrower has not incurred any material liability under Title IV of ERISA arising in connection with the termination of, or complete or partial withdrawal from, any employee pension benefit plan (as defined in Section 3(2) of ERISA), covered or previously covered by Title IV of ERISA, which liability, or any portion thereof, will constitute a liability of Borrower at or after the Closing Date except to the extent that any such liability would not have a Material Adverse Effect, and (b) neither Borrower nor any member of Borrower’s “controlled group” as defined in Code Section 414(b), (c), (m), or (o) prior to the Closing Date has incurred any liability under Title IV of ERISA arising in connection with the complete or partial withdrawal from any Multiemployer Plan, which liability, or any portion thereof, will constitute a liability of Borrower at or after the Closing Date, except to the extent that any such liability would not have a Material Adverse Effect.

**7.10.9 Pension Plan Termination.** No proceedings to terminate any Borrower Pension Plan have been instituted under Subtitle C of Title IV of ERISA.

**7.10.10 Reportable Event.** To the knowledge of Borrower, no “reportable event” within the meaning of Section 4043 of ERISA and the regulations thereunder has occurred with respect to any Borrower Pension Plan (other than a Multiemployer Plan), other than a reportable event for which notice or penalty for noncompliance has been waived by regulation or otherwise. With respect to any Multiemployer Plan that is a defined benefit plan to which Borrower has any obligation to contribute, to the knowledge of Borrower, no such “reportable event” has occurred

which would materially and adversely affect such plan, and, to the knowledge of Borrower, no such plan is in reorganization within the meaning of Part 3 of Subtitle E of Title IV of ERISA (except that the representations contained in this sentence shall not be deemed to have been made subsequent to the Closing Date).

**7.10.11 Payment of Contributions.** Except as disclosed in Exhibit 7.10, in respect of each Borrower Benefit Plan, Borrower has paid or will have paid or accrued as of the Closing Date (a) all contributions or premiums required to be made by it for all plan years ending on or prior to the Closing Date and, (b) for the plan year which includes the Closing Date, any contributions or premiums required to be made by it by the Closing Date under the terms of the Borrower Benefit Plan. Except as disclosed in Exhibit 7.10, Borrower is not, as of the Closing Date, obligated to pay any contributions or premiums to a Multiemployer Plan. Except as set forth in Exhibit 7.10 hereto, all contributions paid or accrued by Borrower on or prior to the Closing Date in respect of any Borrower Pension Plan that is a defined benefit plan have been based on the actuarial assumptions and methods used for the last plan year ended on or before the Closing Date, or if there is no prior plan year for any such plan, contributions have been based upon reasonable actuarial assumptions and methods.

**7.10.12 Welfare Benefit Plans.** As of the Closing Date, Borrower does not participate in a “multiple employer welfare arrangement” within the meaning of Section 3(40) of ERISA. Except as disclosed in Exhibit 7.10 hereto, Borrower does not, as of the Closing Date, maintain or contribute to a “voluntary employees’ beneficiary association” within the meaning of Section 501(c)(9) of the Code or a “welfare benefit fund” within the meaning of Section 419 of the Code, nor does Borrower maintain or contribute to any employee welfare benefit plan within the meaning of Section 3(1) of ERISA for the benefit of retired or former employees (other than as required by Section 4980B of the Code and Sections 601 through 608 of ERISA (“**COBRA**”) or other applicable law). Borrower has complied in all material respects with the applicable provisions of COBRA with respect to the Borrower Benefit Plans.

**7.11 Equity Investments.** Borrower does not, as of the Closing Date, own any stock or other voting or equity interest, directly or indirectly, in any Person valued at the greater of book value or market value at \$5,000,000 or more, other than as set forth on Exhibit 7.11 hereto.

**7.12 Title to Real and Personal Property.** Borrower and each Subsidiary (a) have all real and personal property necessary for the conduct of their respective business, and (b) have good and marketable title to, or valid leasehold interests in, all of their material properties and assets, real and personal, including, as of the Closing Date, the properties and assets and leasehold interests reflected in the financial statements of the Borrower and its Subsidiaries referred to in Section 7.13 hereof, except (i) any properties or assets disposed of in the ordinary course of business, (ii) rights of way, easements, and similar interests in real property or defects in title which in the aggregate could not reasonably be expected to result in a Material Adverse Effect, and (iii) Permitted Encumbrances; and none of the properties of Borrower or any Subsidiary are subject to any Lien, except Permitted Encumbrances. All such property is in good

operating condition and repair, reasonable wear and tear excepted, and suitable in all material respects for the purposes for which it is being utilized except where their failure to be in good operating condition could not reasonably be expected to result in a Material Adverse Effect. All of the leases of Borrower and each Subsidiary which constitute Material Agreements are in full force and effect and afford Borrower or such Subsidiary peaceful and undisturbed possession of the subject matter thereof.

**7.13 Financial Statements.** The consolidated balance sheets of Borrower and its Subsidiaries for the Fiscal Quarter ended January 3, 2004, and the related consolidated statements of operations, cash flows and consolidated statements of capital shares and equities for the Fiscal Quarter then ended, and the accompanying footnotes, copies of which have been furnished to the Administrative Agent and the Syndication Parties, fairly present in all material respects the consolidated financial condition of Borrower and its Subsidiaries as at such dates and the results of the consolidated operations of Borrower and its Subsidiaries for the periods covered by such statements, all in accordance with GAAP. Between January 3, 2004 and the Closing Date, there has been no material adverse change in the financial condition, results of operations, or business of Borrower or any of its Subsidiaries taken as a whole. As of the Closing Date, there are no liabilities of Borrower or any of its Subsidiaries, fixed or contingent, which are material but are not reflected in the financial statements of Borrower and its Subsidiaries referred to above or referred to in the notes thereto, other than liabilities arising in the ordinary course of business since January 3, 2004 or referred to in periodic filings of Borrower with the Securities and Exchange Commission subsequent to January 3, 2004 but prior to the Closing Date, copies of which have been provided to the Administrative Agent by Borrower. No information, exhibit, or report furnished by Borrower or any of its Subsidiaries to the Administrative Agent and the Syndication Parties in connection with Borrower's application for the Revolving Loans and the negotiation of this Credit Agreement contained any material misstatement of fact or omitted to state a material fact or any fact necessary to make the statements contained therein not materially misleading in light of the circumstances in which they were made and taken together with the other information, exhibits and reports furnished to the Administrative Agent and the Syndication Parties.

**7.14 Environmental Compliance.** Except as set forth on [Exhibit 7.14](#) hereto, Borrower and each Subsidiary have obtained all permits, licenses and other authorizations which are required under all applicable Environmental Laws, except to the extent failure to have any such permit, license or authorization could not reasonably be expected to result in a Material Adverse Effect. Except as set forth on [Exhibit 7.14](#) hereto, Borrower and each Subsidiary are in compliance with all Environmental Laws and the terms and conditions of the required permits, licenses and authorizations, and are also in compliance with all other limitations, restrictions, obligations, schedules and timetables contained in those Laws or contained in any plan, order, decree, judgment, injunction, notice or demand letter issued, entered, promulgated or approved thereunder, except to the extent, in each case, failure to comply has not resulted in, and could not reasonably be expected to result in, a Material Adverse Effect.

**7.15 Fiscal Year.** Each fiscal year of Borrower is a year (a) ending on the Saturday closest to September 30 in each calendar year, regardless of whether such Saturday occurs in September or October of any calendar year and (b) beginning on the day immediately following the end of the preceding Fiscal Year.

**7.16 Material Agreements.** The periodic reports of Borrower filed with the Securities and Exchange Commission, copies of which have been provided to the Administrative Agent by Borrower, and/or Exhibit 7.16 hereto list each Material Agreement of the Borrower and each Subsidiary as of the Closing Date. Borrower is not in default under any of its Material Agreements, nor, to Borrower's knowledge, (a) is any other party to any of Borrower's Material Agreements in default thereunder, or (b) do any facts exist which with the giving of notice or the passage of time, or both, would constitute such a default by any party to any of Borrower's Material Agreement.

**7.17 Regulations U and X.** No portion of any Advance will be used for the purpose of purchasing, carrying, or making loans to finance the purchase of, any "margin security" or "margin stock" as such terms are used in Regulations U or X of the Board of Governors of the Federal Reserve System, 12 C.F.R. Parts 221 and 224.

**7.18 Trademarks, Tradenames.** Borrower and each Subsidiary have ownership or the lawful right to use all tradenames, trademarks, patents, and other intellectual property which they utilizes in their business as presently being conducted and as anticipated to be conducted, except where the failure to do so could not reasonably be expected to result in a Material Adverse Effect.

**7.19 No Default on Outstanding Judgments or Orders.** Borrower and each Subsidiary have satisfied all final and non-appealable judgments and Borrower and each Subsidiary are not in default with respect to any judgment, writ, injunction, decree, rule or regulation of any court, arbitrator or federal, state, municipal or other Governmental Authority, commission, board, bureau, agency or instrumentality, domestic or foreign, except to the extent such failure to satisfy any or all such final and non-appealable judgments or to be in such a default has not resulted in, and could not reasonably be expected to result in, a Material Adverse Effect.

**7.20 No Default in Other Agreements.** Neither Borrower nor any Subsidiary is in default in any respect in the performance, observance or fulfillment of any of the obligations, covenants or conditions contained in any agreement or instrument where such failure to perform, observe or fulfill has resulted in, or could reasonably be expected to result in, a Material Adverse Effect.

**7.21 Labor Matters; Labor Agreements.** Except as set forth in Exhibit 7.21 hereof: (a) As of the Closing Date, there are no collective bargaining agreements or other labor agreements covering any employees of Borrower or any Subsidiary the termination, cessation, or breach of which could reasonably be expected to result in a Material Adverse Effect, and a true and correct copy of each such agreement will be furnished to the Administrative Agent upon its written request from time to time. (b) There is no organizing activity involving Borrower or any Subsidiary pending or, to Borrower's knowledge, threatened by any labor union or group of employees. (c) There are, to Borrower's knowledge, no representation proceedings pending or threatened with the National Labor Relations Board, and no labor organization or group of employees of Borrower or any Subsidiary has made a pending demand for recognition. (d) There are no complaints or charges against Borrower or any Subsidiary pending or, to

Borrower's knowledge threatened to be filed with any federal, state, local or foreign court, governmental agency or arbitrator based on, arising out of, in connection with, or otherwise relating to the employment or termination of employment by Borrower or any Subsidiary of any individual. (e) There are no strikes or other labor disputes against Borrower or any Subsidiary that are pending or, to Borrower's knowledge, threatened. (f) Hours worked by and payment made to employees of Borrower or any Subsidiary have not been in violation of the Fair Labor Standards Act (29 U.S.C. § 201 et seq.) or any other applicable law dealing with such matters. The representations made in subparagraphs (b) through (f) of this Section are made with respect to those occurrences described which could, considered in the aggregate, reasonably be expected to have a Material Adverse Effect.

**7.22 Governmental Regulation.** Neither Borrower nor any Subsidiary is subject to regulation under the Public Utility Holding Company Act of 1935, the Investment Company Act of 1940, the Interstate Commerce Act, the Federal Power Act or any statute or regulation, in each case, limiting its ability to incur indebtedness for money borrowed as contemplated hereby.

**7.23 Borrower Information .** To the best of Borrower's knowledge, the information contained in, and all attachments to, the materials presented by Borrower at the bank group meeting on February 24, 2004 were, as of such date, and are as of the Closing Date, accurate, true, correct, and complete in all material respects, and not misleading in any material respect.

**7.24 Financial Projections.** The Financial Projections provided to the Administrative Agent and the Syndication Parties with respect to Borrower and its Subsidiaries fairly present, as of the Effective Date, in all material respects the projected operations, financial condition, assets and liabilities as of the dates covered thereby. To Borrower's knowledge, no undisclosed facts existed at the time of submission of the Financial Projections which, if taken into account, would have resulted in any material change in any of the Financial Projections. The Financial Projections were, at the time of submission, based upon reasonable estimates and assumptions, all of which were fair in light of then-current conditions, were prepared on the basis of the assumptions stated therein, and reflected the reasonable estimate of Borrower of the results of operations and other information projected therein. Nothing in this Section shall be deemed to constitute an assurance by Borrower that it will meet the results contained in the Financial Projections.

**7.25 Solvency.** After giving effect to the consummation of each Loan to be made under this Agreement as of the time this representation is given, Borrower (a) will be able to pay its debts as they become due, (b) will have funds and capital sufficient to carry on its business and all businesses in which it is about to engage, and (c) will own

property in the aggregate having a value both at fair valuation and at fair saleable value in the ordinary course of Borrower's business greater than the amount required to pay its Debt, including for this purpose unliquidated, contingent, and disputed claims.

#### **7.26 Anti-Terrorism Laws.**

**7.26.1 Violation of Law.** Neither the Borrower nor, to the knowledge of Borrower, any of its Subsidiaries, is in violation of any laws relating to terrorism or money laundering ("**Anti-Terrorism Laws**"), including Executive Order No. 13224 on Terrorist Financing, effective September 24, 2001 ("**Executive Order**"), and the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, Public Law 107-56.

**7.26.2 Classification.** Neither Borrower nor, to the knowledge of Borrower, any of its Subsidiaries, or their respective brokers or other agents acting or benefiting in any capacity in connection with the Loans, is any of the following:

(a) a Person or entity that is listed in the annex to, or is otherwise subject to the provisions of, the Executive Order;

(b) a Person or entity owned or controlled by, or acting for or on behalf of, any Person or entity that is listed in the annex to, or is otherwise subject to the provisions of, the Executive Order;

(c) a Person or entity with which any Syndication Party is prohibited from dealing or otherwise engaging in any transaction by any Anti-Terrorism Law;

(d) a Person or entity that commits, threatens or conspires to commit or supports "terrorism" as defined in the Executive Order; or

(e) a Person or entity that is named as a "specially designated national and blocked person" on the most current list published by the U.S. Treasury Department Office of Foreign Asset Control at its official website or any replacement website or other replacement official publication of such list.

**7.26.3 Conduct of Business.** Neither Borrower nor to the knowledge of Borrower, any of its brokers or other agents acting in any capacity in connection with the Loans (a) conducts any business or engages in making or receiving any contribution of funds, goods or services to or for the benefit of any Person described in clause (b) of Subsection 7.26.2 above, (b) deals in, or otherwise engages in any transaction relating to, any property or interests in property blocked pursuant to the Executive Order, or (c) engages in or conspires to engage in any transaction that evades or avoids, or has the purpose of evading or avoiding, or attempts to violate, any of the prohibitions set forth in any Anti-Terrorism Law.

**7.27 Disclosure.** The representations and warranties contained in this Article 7 and in the other Loan Documents and in any financial statements provided to the

Administrative Agent do not contain any untrue statement of a material fact or omit to state a material fact necessary to make such representations or warranties not misleading; and all projections provided to the Administrative Agent were prepared in good faith based on reasonable assumptions.

#### **ARTICLE 8. CONDITIONS TO CLOSING AND TO ADVANCES**

**8.1 Conditions to Closing.** The obligation of the Syndication Parties to make the initial Advance hereunder is subject to satisfaction, in the sole discretion of the Administrative Agent and the Syndication Parties, of each of the following conditions precedent:

**8.1.1 Loan and Amendment Documents; Possession of Collateral; and Pilgrim Guaranty.** The Administrative Agent shall have received: (a) duly executed originals of the Amendment Documents, and other Loan Documents; and (b) the Pilgrim Guaranty duly executed by Pilgrim Ltd. (or, at the Administrative Agent's election, an amendment to the Guaranty or an affirmation and consent executed by Pilgrim Ltd. with respect to the Pilgrim Guaranty).

**8.1.2 Approvals.** The Administrative Agent shall have received evidence satisfactory to it that all consents and approvals of governmental authorities and third parties which are with respect to Borrower necessary for, or required as a condition of the validity and enforceability of, the Loan Documents to which it is a party.

**8.1.3 Organizational Documents.** The Administrative Agent shall have received the following, dated no more than thirty (30) days prior to the Closing Date: (a) good standing certificate (or comparable), for Borrower for its state of incorporation and the states of Arkansas and Texas; (b) a copy of the certificate of incorporation of Borrower certified by the Secretary of State of its state of organization; and (c) a copy of the bylaws of Borrower, certified as true and complete by the Secretary or Assistant Secretary of Borrower.

**8.1.4 Evidence of Insurance.** Borrower shall have provided the Administrative Agent with insurance certificates and such other evidence, in form and substance satisfactory to the Administrative Agent, of all insurance required to be maintained by it under the Loan Documents.

**8.1.5 Appointment of Agent for Service.** The Administrative Agent shall have received evidence satisfactory to the Administrative Agent (which, unless the Administrative Agent specifically advised Borrower to the contrary, shall include any such evidence provided in connection with the 2000 Credit Agreement unless such evidence has been subsequently rescinded or terminated) that Borrower has appointed a Person with offices in Denver, Colorado and otherwise reasonably acceptable to the Administrative Agent to serve as its agent for service of process, and that said Person has accepted such appointment by Borrower.

**8.1.6 No Material Change.** No change shall have occurred in the condition or operations of Borrower or any Subsidiary since January 3, 2004 which, when considered in the aggregate, could reasonably be expected to result in a Material Adverse Effect.

**8.1.7 Fees and Expenses.** Borrower shall have paid the Administrative Agent, by wire transfer of immediately available federal funds all fees set forth in the Fee Letter between CoBank and Borrower dated February 21, 2004 (“**Fee Letter**”) and the Mandate Letter between CoBank, Agriland, and Borrower dated February 21, 2004 and Summary of Terms and Conditions attached thereto (collectively “**Commitment Letter**”), and any other fees owing to the Administrative Agent which are due on the Closing Date, and all expenses owing as of the Closing Date pursuant to Section 14.1 hereof and for which Borrower has received an invoice.

**8.1.8 Evidence of Corporate Action.** The Administrative Agent shall have received in form and substance satisfactory to the Administrative Agent (a) documents, certified to be true and correct by the Secretary or Assistant Secretary of Borrower, evidencing all corporate action taken by Borrower to authorize (including the specific names and titles of the persons authorized to so act (each an “**Authorized Officer**”)) the execution, delivery and performance of the Amendment Documents to which it is a party; and (b) a certificate of the Secretary or Assistant Secretary of Borrower, dated the Closing Date, certifying the names and true signatures of the Authorized Officers.

**8.1.9 Opinion of Counsel.** Borrower shall have provided a favorable opinion of its counsel addressed to the Administrative Agent and each of the present and future Syndication Parties, covering such matters as the Administrative Agent may reasonably require, including, without limitation, due incorporation, authorization and execution, enforceability, usury, no impairment as to the creation and perfection of real and personal property liens on the Collateral in relevant jurisdiction, fees, taxes and qualification requirements.

**8.1.10 Renewal of Harris Loan.** Borrower shall have provided to the Administrative Agent such proof satisfactory to the Administrative Agent of the concurrent renewal of the Harris Loan in a minimum amount of \$100,000,000.00 and for a minimum period of three (3) years.

**8.1.11 Financial Projections.** Borrower shall have provided to the Administrative Agent financial projections for the five (5) Fiscal Years, commencing with the Fiscal Year during which the Closing Date falls, acceptable to the Administrative Agent and which demonstrates Borrower’s reasonable ability to repay all amounts owing hereunder, under the Harris Loan, and under the Hancock Loan, in each case as scheduled.

**8.1.12 Further Assurances.** Borrower shall have provided and/or executed and delivered to the Administrative Agent such further assignments, documents or financing statements, in form and substance satisfactory to the Administrative Agent, that Borrower is to execute and/or deliver pursuant to the terms of the Loan Documents or as the Administrative Agent may reasonably request.

**8.2 Borrowing Notice; Funding Notice.** Borrower shall give the Administrative Agent prior written notice by facsimile (effective upon receipt) of each request for an Advance (a) in the case of a Base Rate Loan, on or before 11:00 A.M. (Central time) on the day of making such Base Rate Loan, and (b) in the case of a LIBO Rate Loan, on or before 11:00 A.M. (Central time) at least three (3) Banking Days prior to the date of making such LIBO Rate Loan. Each notice must be in substantially the form of Exhibit 8.2 hereto ("**Borrowing Notice**") and must specify (c) the amount of such Advance, (d) the proposed date of making such Advance, (e) whether Borrower requests that the Advance will bear interest at (i) the Base Rate or (ii) the LIBO Rate, and (f) in the case of a LIBO Rate Loan, the initial LIBO Rate Period applicable thereto. The Administrative Agent shall, on or before 12:00 noon (Central time) of the same Banking Day, notify each Syndication Party ("**Funding Notice**") of its receipt of each such Borrowing Notice and the amount of such Syndication Party's Funding Share thereunder. Not later than 2:00 P.M. (Central time) on the date of an Advance, each Syndication Party will make available to the Administrative Agent at the Administrative Agent's Office, in immediately available funds, such Syndication Party's Funding Share of such Advance. After the Administrative Agent's receipt of such funds, but not later than 3:00 P.M. (Central time), and upon fulfillment of the applicable conditions set forth in Article 8 hereof, the Administrative Agent will make such Advance available to Borrower, in immediately available funds, and will transmit such funds by wire transfer to Borrower's Account.

**8.3 Conditions to Advance.** The Syndication Parties' obligation to fund each Advance is subject to (a) receipt of a properly completed Borrowing Notice, and (b) the satisfaction, in the sole discretion of the Administrative Agent and the Syndication Parties, of each of the following conditions precedent, in addition to those set forth in Sections 8.1 and 8.2 hereof, and each request by Borrower for an Advance shall constitute a representation by Borrower, upon which the Administrative Agent and Syndication Parties may rely, that the conditions set forth in this Section have been satisfied and that the amount of the Advance does not exceed the limits set forth in Section 2.1 hereof:

**8.3.1 Default.** As of the Advance Date no Event of Default or Potential Default shall have occurred and be continuing, and the disbursing of the amount of the Advance requested shall not result in an Event of Default or Potential Default.

**8.3.2 Availability Period.** The Borrowing Notice does not specify an Advance Date which is later than the last Banking Day of the Availability Period.

**8.3.3 Representations and Warranties; Fees and Expenses.** The representations and warranties of Borrower herein shall be true and correct in all material respects on and as of the date on which the Advance is to be made as though made on such date. Borrower shall have paid the Administrative Agent, by wire transfer of immediately available U.S. funds all fees set forth in Section 3.5 hereof and in the Fee Letter and the Commitment Letter, in each case executed by CoBank and Borrower, which are then due and payable, including all expenses owing as of the Advance Date pursuant to Section 14.1 hereof for which Borrower has received an invoice.

**8.3.4 No Material Change.** No change shall have occurred in the condition or operations of Borrower or any Subsidiary since the date of the financial statements (quarterly or annual, as applicable) most recently provided by Borrower to the Administrative Agent pursuant to Subsection 9.2.1 or 9.2.2 hereof, as applicable, (or the comparable provisions of the 2000 Credit Agreement) which, when considered in the aggregate, could reasonably be expected to result in a Material Adverse Effect.

**8.4 Limitation on LIBO Rate Loans.** Anything herein to the contrary notwithstanding, if, on or prior to the determination of the LIBO Rate for any LIBO Rate Period:

(a) The Administrative Agent determines (which determination shall be conclusive) that quotations of interest rates in the definition of LIBO Rate are not being provided in the relevant amounts or for the relevant maturities for purposes of determining rates of interest for LIBO Rate Loans as provided in this Credit Agreement; or

(b) any Syndication Party determines (which determination shall be conclusive) that the relevant rates of interest referred to in the definition of LIBO Rate upon the basis of which the rate of interest for LIBO Rate Loans for such LIBO Rate Period is to be determined do not adequately cover the cost to such Syndication Party of making or maintaining such LIBO Rate Loans for such LIBO Rate Period;

then the Administrative Agent shall give Borrower prompt notice thereof, and so long as such condition remains in effect, in the case of clause (a) above, the Syndication Parties, and in the case of clause (b) above, the Syndication Party that makes the determination, shall be under no obligation to make LIBO Rate Loans, convert Base Rate Loans into LIBO Rate Loans, or continue LIBO Rate Loans, and Borrower shall, on the last day(s) of the then current applicable LIBO Rate Period(s) for the outstanding LIBO Rate Loans, either prepay such LIBO Rate Loans or convert such LIBO Rate Loans into a Base Rate Loan in accordance with Section 3.1 hereof. In addition to the foregoing, in the event a determination is made under clause (b) above, Borrower shall have the right, but not the obligation, upon written notice to the Administrative Agent, on or before 10:00 A.M. (Central time) on or before ten (10) Banking Days following receipt of notice from the Administrative Agent of such condition, to reduce the Individual Commitment of such Syndication Party to zero upon making a prepayment, to be treated as a Voluntary Payment to the extent not inconsistent with the provisions of this Section, equal to the amount of such Syndication Party's Individual Outstanding Obligations plus any Funding Losses attributed to the portion of such payment applied to LIBO Rate Loans as provided below. In the event Borrower makes such an election, then a reduction in a dollar amount corresponding to such reduction in Individual Commitment shall be made to the Aggregate Commitment, and, notwithstanding any provisions of this Credit Agreement to the contrary, including, without limitation, Section 2.8, the amount of such prepayment shall be applied to outstanding LIBO Rate

Loans to the extent of such Syndication Party's Pro Rata Share thereof and, along with the amount paid on account of such Funding Losses, distributed to the Syndication Party making such determination and as to which Borrower has made such election.

**8.5 Illegality of Loan.** Notwithstanding any other provision of this Credit Agreement, in the event that it becomes unlawful for any Syndication Party or its Applicable Lending Office to honor its obligation to make or maintain LIBO Rate Loans hereunder or convert Base Rate Loans into LIBO Rate Loans, then such Syndication Party shall promptly notify the Administrative Agent and Borrower thereof and such Syndication Party's obligation to make or continue, or to convert Base Rate Loans into, LIBO Rate Loans shall be suspended until such time as such Syndication Party may again make and maintain LIBO Rate Loans (in which case the provisions of Section 8.6 hereof shall be applicable) and, unless and until Borrower exercises the rights granted in the next sentence, such Syndication Party's Individual Pro Rata Share, of all Loans and all subsequent Advances shall be made as Base Rate Loans (and such Syndication Party's share of interest payments shall reflect the foregoing), in each case, until such time as such Syndication Party may again make and maintain LIBO Rate Loans (in which case the provisions of Section 8.6 hereof shall be applicable). In the event a such a notification is made, Borrower shall have the right, but not the obligation, upon written notice to the Administrative Agent, on or before 10:00 A.M. (Central time) on or before ten (10) Banking Days following receipt of notice from such Syndication Party, to reduce the Individual Commitment of such Syndication Party to zero upon making a prepayment, to be treated as a Voluntary Payment to the extent not inconsistent with the provisions of this Section, equal to the amount of such Syndication Party's Individual Outstanding Obligations plus any Funding Losses attributed to the portion of such payment applied to LIBO Rate Loans as provided below. In the event Borrower makes such an election, then, notwithstanding any provisions of this Credit Agreement to the contrary, including, without limitation, Section 2.8: the amount of such prepayment shall be applied to outstanding LIBO Rate Loans to the extent of such Syndication Party's Pro Rata Share thereof and, along with the amount paid on account of such Funding Losses, distributed to the Syndication Party making such determination and as to which Borrower has made such election.

**8.6 Treatment of Affected Loans.** If the obligations of any Syndication Party to make or continue LIBO Rate Loans, or to convert Base Rate Loans into LIBO Rate Loans, are suspended pursuant to Section 8.4 or 8.5 hereof (all LIBO Rate Loans so affected being herein called "**Affected Loans**"), such Syndication Party's Affected Loans shall be automatically converted into Base Rate Loans on the last day(s) of the then current LIBO Rate Period(s) for the Affected Loans (or, in the case of a conversion required by Section 8.4 or 8.5, on such earlier date as such Syndication Party may specify to Borrower). To the extent that such Syndication Party's Affected Loans have been so converted, all payments and prepayments of principal which would otherwise be applied to such Syndication Party's Affected Loans shall be applied instead to its Base Rate Loans. All Advances which would otherwise be made or continued by such Syndication Party as LIBO Rate Loans shall be made or continued instead as Base Rate Loans, and all Base Rate Loans of such Syndication Party which would otherwise be converted into LIBO Rate Loans shall remain as Base Rate Loans.

## ARTICLE 9. AFFIRMATIVE COVENANTS

From and after the date of this Credit Agreement and until the Bank Debt is indefeasibly paid in full and the Syndication Parties have no obligation to make an Advance, Borrower agrees that it will observe and comply with the following covenants for the benefit of the Administrative Agent and Syndication Parties:

**9.1 Books and Records.** Borrower shall at all times keep, and cause each Subsidiary to keep, proper books of record and account, in which correct and complete entries shall be made of all its dealings, in accordance with GAAP.

**9.2 Reports and Notices.** Borrower shall provide to the Administrative Agent the following reports, information and notices:

**9.2.1 Annual Financial Statements.** As soon as available, but in no event later than ninety (90) days after the end of any Fiscal Year of Borrower occurring during the term hereof one copy of the audit report for such year and accompanying consolidated financial statements (including all footnotes thereto), including a consolidated balance sheet, a consolidated statement of earnings, a consolidated statement of capital, and a consolidated statement of cash flow for the Borrower and its Subsidiaries, showing in comparative form the figures for the previous Fiscal Year, all in reasonable detail, prepared in conformance with GAAP consistently applied and certified without qualification by Ernst & Young, LLP, or other independent public accountants of nationally recognized standing selected by the Borrower and reasonably satisfactory to the Administrative Agent, and to be accompanied by a copy of any management letter of such accountants addressed to and received by the board of directors of Borrower related to such annual audit and annual financial statements. Such annual financial statements required pursuant to this Subsection shall be accompanied by a Compliance Certificate signed by Borrower's Chief Financial Officer.

**9.2.2 Quarterly Financial Statements.** As soon as available but in no event more than forty-five (45) days after the end of each Fiscal Quarter (excluding the last Fiscal Quarter of Borrower's Fiscal Year) the following financial statements or other information concerning the operations of Borrower and its Subsidiaries for such Fiscal Quarter, the Fiscal Year to date, and for the corresponding periods of the preceding Fiscal Year, all prepared in accordance with GAAP consistently applied: (a) a consolidated balance sheet, (b) a consolidated summary of earnings, (c) a consolidated statement of cash flows, and (d) such other statements as the Administrative Agent may reasonably request. Such quarterly financial statements required pursuant to this Subsection shall be accompanied by a Compliance Certificate signed by Borrower's Chief Financial Officer or other officer of Borrower acceptable to the Administrative Agent (subject to normal year end adjustments).

**9.2.3 Notice of Default.** As soon as the existence of any Event of Default or Potential Default becomes known to any officer of Borrower, prompt written notice of such Event of Default or Potential Default, the nature and status thereof, and the action being taken or proposed to be taken with respect thereto.

**9.2.4 ERISA Reports.** As soon as possible and in any event within twenty (20) days after Borrower or any Subsidiary knows or has reason to know that any Reportable Event (for which notice is not waived under ERISA or by regulation) or Prohibited Transaction (for which a statutory, class, or individual exemption has not been obtained) has occurred with respect to any Plan or that the Pension Benefit Guaranty Corporation or Borrower or any Subsidiary has instituted or will institute proceedings under Title IV of ERISA to terminate any Plan, or that Borrower, any Subsidiary or any ERISA Affiliate has completely or partially withdrawn from a Multiemployer Plan, or that a Plan which is a Multiemployer Plan is in reorganization (within the meaning of Section 4241 of ERISA), is insolvent (within the meaning of Section 4245 of ERISA) or is terminating, a certificate of the Chief Financial Officer of Borrower or such Subsidiary setting forth details as to such Reportable Event or Prohibited Transaction or Plan termination or withdrawal or reorganization or insolvency and the action Borrower or such Subsidiary proposes to take with respect thereto, provided, however, that notwithstanding the foregoing, no reporting is required under this Subsection unless the matter(s), individually or in the aggregate, result, or could be reasonably expected to result, in aggregate obligations or liabilities of Borrower and/or the Subsidiaries in excess of ten million dollars (\$10,000,000).

**9.2.5 Notice of Litigation.** Promptly after the commencement thereof, notice of all actions, suits, arbitration and any other proceedings before any Governmental Authority, affecting Borrower or any Subsidiary which, if determined adversely to Borrower or any Subsidiary, could reasonably be expected to require Borrower or any Subsidiary to have to pay or deliver assets having a value of ten million dollars (\$10,000,000) or more (whether or not the claim is covered by insurance) or could reasonably be expected to result in a Material Adverse Effect.

**9.2.6 Notice of Material Adverse Effect.** Promptly after Borrower obtains knowledge thereof, notice of any matter which, alone or when considered together with other matters, has resulted or could reasonably be expected to result in, a Material Adverse Effect.

**9.2.7 Notice of Environmental Proceedings.** Without limiting the provisions of Subsection 9.2.5 hereof, promptly after Borrower's receipt thereof, notice of the receipt of all pleadings, orders, complaints, indictments, or other communication alleging a condition that may require Borrower or any Subsidiary to undertake or to contribute to a cleanup or other response under Environmental Regulations, or which seeks penalties, damages, injunctive relief, or criminal sanctions related to alleged violations of such laws, or which claims personal injury or property damage to any person as a result of environmental factors or conditions or which, if adversely determined, could reasonably be expected to have a Material Adverse Effect.

**9.2.8 Regulatory and Other Notices.** Promptly after Borrower's receipt thereof, copies of any notices or other communications received from any Governmental Authority with respect to any matter or proceeding the effect of which could reasonably be expected to have a Material Adverse Effect.

**9.2.9 Adverse Action Regarding Required Licenses.** As soon as Borrower learns that any petition, action, investigation, notice of violation or apparent liability, notice of forfeiture, order to show cause, complaint or proceeding is pending, or, to the best of Borrower's knowledge, threatened, to seek to revoke, cancel, suspend, modify, or limit any of the Required Licenses, prompt written notice thereof and Borrower shall contest any such action in a Good Faith Contest.

**9.2.10 Notice of Certain Changes.** Borrower shall: (a) notify the Administrative Agent at least ten (10) Banking Days prior to the occurrence of any change in the name or business form of Borrower; and (b) take all actions necessary or reasonably requested by Agent in order to maintain the perfected status of the first lien and security interest of Agent and the Syndication Parties (subject only to Permitted Encumbrances) in the Collateral.

**9.2.11 Available Amount Reports.** If any Advance is made during any Fiscal Quarter, then, no later than forty-five (45) days after the end of such Fiscal Quarter, unless the outstanding principal balance owing under the Revolving Loans on any Advance Date (including the Advance requested for such date in a Borrowing Notice) exceeds ninety percent (90%) of the Aggregate Commitment, in which case an Available Amount Report effective as of the date of such Borrowing Notice must accompany the Borrowing Notice (the appropriate date in either case being the "**Available Amount Report Deadline**"), a report in the form of Exhibit 9.2.11 attached hereto ("**Available Amount Report**") effective as of the last day of such Fiscal Quarter or the date of such Borrowing Notice, as applicable. In addition to delivery of the Available Amount Reports pursuant to the preceding sentence, Borrower shall be entitled, at its option to furnish an Available Amount Report at any time between the Effective Date and December 31, 2004 (or such later date as may be agreed to by Borrower and the Administrative Agent) to reflect the addition for the Available Amount determination of the Additional Property with respect to which each of the applicable requirements contained in Section 9.18 hereof have been fully met to the satisfaction of the Administrative Agent. Any time that, in connection with a Pari Passu Loan, Borrower requests the Administrative Agent to execute an Intercreditor Agreement, Borrower shall provide to the Administrative Agent an endorsement to the Title Policy increasing the amount of insurance provided thereby (or a new Title Policy in the full amount, including any such increase) if the following two conditions have occurred: (a) the maximum amount available under such Pari Passu Loan, together with the maximum amounts available under all Pari Passu Loans entered into since the most recent increase in the amount of the Title Policy, is equal to or greater than \$25,000,000.00, and (b) Borrower has since the most recent increase in the amount of the Title Policy, provided to the Administrative Agent one or more Available Amount Reports which, in the aggregate, reflect an increase in the Appraised Value of the real estate (including any structures or other improvements thereon, other than equipment) included in the Collateral in an amount equal to or greater than \$25,000,000.00. In the event an increase in the amount of insurance available under the

Title Policy is required pursuant to the preceding sentence, the amount of such increase shall be the amount of the aggregate increase in Appraised Value determined as provided in clause (b) thereof; provided that in no event shall Borrower be required to increase the amount of insurance provided under the Title Policy to the extent it would result in the amount thereof being an amount in excess of (x) during the Availability Period, the Aggregate Commitment, or (y) at any time after the end of the Availability Period, the amount of Bank Debt owing. In the event the parcel or parcels of real estate with respect to which there has been an increase in Appraised Value are insured by separate Title Policies, the increase in insured amount required above need only be provided with respect to those Title Policies. Available Amount Reports shall also be provided as required by Section 9.15 and Subsection 13.5.6 hereof.

**9.2.12 Appraisals.** Borrower shall provide the Administrative Agent with Appraisals covering all interests required to be included within the Collateral: (a) on the earlier of (i) December 14, 2006, or (ii) the one hundred twentieth (120th) day after the Margin Report Deadline for the Fiscal Quarter for which the Leverage Ratio is equal to or greater than fifty percent (50%), but not prior to December 31, 2004, (b) on each two year anniversary of the date Appraisals are required pursuant to clause (a) or this clause (b), provided that if the Leverage Ratio for the Fiscal Quarter immediately preceding (or ending on) such date is less than fifty percent (50%), this requirement will be deferred on a Fiscal Quarter basis so long as such ratio is maintained, and provided further that, unless otherwise agreed by the Required Lenders, any such deferrals pursuant to this clause (b) shall be for no more than 24 months, so that in any event an Appraisal will be required no later than four years after the date the last previous Appraisal was required; and (c) as may be required in connection with Pari Passu Loans as provided herein. The requirements of the preceding sentence of this Subsection requiring Borrower to furnish Appraisals shall cease to be applicable on and after the Conversion Date. Appraisals shall also be provided as required by Section 9.15 hereof (without regard to whether the Conversion Date shall have occurred), and may, at Borrower's option, be provided pursuant to the provisions of Section 9.18 hereof.

**9.2.13 Filings and Reports.** Promptly upon their becoming available, copies of all registration statements and regular periodic reports, if any, which Borrower shall have filed with the Securities and Exchange Commission or any governmental agency substituted therefor, or any national securities exchange, including copies of Borrower's form 10-K annual report, form 10-Q quarterly report and any Form 8-K report filed with the Securities and Exchange Commission.

**9.2.14 Additional Information.** With reasonable promptness, such other information respecting the condition or operations, financial or otherwise, of Borrower or any Subsidiary as any Syndication Party or the Administrative Agent may from time to time reasonably request.

**9.3 Maintenance of Existence and Qualification.** Borrower shall maintain its corporate existence in good standing under the laws of its state of organization. Borrower shall, and shall cause each Subsidiary to, qualify and remain qualified as a foreign corporation or other entity in each jurisdiction in which such qualification is necessary in view of its business, operations and properties except where the failure to so qualify has not and could not reasonably be expected to result in a Material Adverse Effect.

**9.4 Compliance with Legal Requirements and Agreements.** Borrower shall, and shall cause each Subsidiary to: (a) comply with all laws, rules, regulations and orders applicable to Borrower (or such Subsidiary, as applicable) or its business unless such failure to comply is the subject of a Good Faith Contest; and (b) comply with all agreements, indentures, mortgages, and other instruments to which it (or any Subsidiary, as applicable) is a party or by which it or any of its (or any Subsidiary, or any of such Subsidiary's, as applicable) property is bound; provided, however, that the failure of Borrower to comply with this sentence in any instance not directly involving the Administrative Agent or a Syndication Party shall not constitute a Potential Default or an Event of Default unless such failure could reasonably be expected to result in a Material Adverse Effect.

**9.5 Compliance with Environmental Laws.** Without limiting the provisions of Section 9.4 of this Credit Agreement, Borrower shall, and shall cause Subsidiary to, comply in all material respects with, and take all reasonable steps necessary to cause all persons occupying or present on any properties owned or leased by Borrower (or any Subsidiary, as applicable) to comply with, all Environmental Regulations, the failure to comply with which could reasonably be expected to result in a Material Adverse Effect or unless such failure to comply is the subject of a Good Faith Contest.

**9.6 Taxes.** Borrower shall cause to be paid, and shall cause each Subsidiary to pay, when due all taxes, assessments, and other governmental charges upon it, its income, its sales, its properties (or upon Subsidiary and its income, sales, and properties, as applicable), and federal and state taxes withheld from its (or Subsidiary's, as applicable) employees' earnings, unless (a) the failure to pay such taxes, assessments, or other governmental charges could not reasonably be expected to result in a Material Adverse Effect, or (b) such taxes, assessments, or other governmental charges are the subject of a Good Faith Contest.

**9.7 Insurance.** Borrower shall, and shall cause each Subsidiary to, maintain insurance coverage by good and responsible insurance underwriters in such forms and amounts and against such risks and hazards as are customary for companies engaged in similar businesses and owing and operating similar properties, provided that Borrower and its Subsidiaries may self-insure for workmen's compensation, group health risks and their live chicken inventory in accordance with applicable industry standards. In any event, Borrower will insure any of the Collateral which is insurable against loss or damage by fire, theft, burglary, pilferage and loss in transit. In addition, to the extent that any real property interests which constitute a part of the Collateral lie within a designated flood plain, Borrower must provide flood insurance with respect to such real property interests. All such policies of insurance shall be issued by sound and reputable insurers that, at the time of issuance or renewal of such policies, are accorded a rating of A-XII or better by A.M. Best Company or A or better by Standard & Poor's Corporation or Moody's Investors Service, Inc. All liability policies shall name the

Administrative Agent, for the benefit of the Syndication Parties, as additional insured as its interests may appear. All such insurance policies shall be endorsed with a mortgagee's or loss payable clause, as appropriate, in favor of the Administrative Agent, for the benefit of the Syndication Parties. Copies of the policy or policies evidencing all insurance referred to in this Section and receipts for the payment of premiums thereon or certificates of such insurance satisfactory to the Administrative Agent shall be delivered to and held by the Administrative Agent. All such insurance policies shall contain a provision requiring at least ten (10) days' notice to the Administrative Agent prior to any cancellation for non-payment of premiums. Borrower shall give the Administrative Agent satisfactory written evidence of renewal or substitution of all such policies. Borrower agrees to pay, or cause to be paid, all premiums on such insurance as they become due, and will not permit any condition to exist on or with respect to its assets which would wholly or partially invalidate any insurance thereon. Borrower shall give immediate written notice to the insurance carrier and the Administrative Agent of any loss. Borrower hereby authorizes and empowers the Administrative Agent upon the occurrence and during the continuation of an Event of Default, at the Administrative Agent's option and in the Administrative Agent's sole discretion, to, in so far as affects the Collateral, act as attorney-in-fact for Borrower to make proof of loss, to adjust and compromise any claim under insurance policies, to collect and receive insurance proceeds, and to deduct therefrom the Administrative Agent's expenses incurred in the collection of such proceeds, and all insurance policies of Borrower shall provide that the Administrative Agent may act as Borrower's attorney-in-fact for such purposes.

**9.8 Title to and Maintenance of Properties.** Borrower shall defend and maintain title to, and shall maintain, keep and preserve, and cause each Subsidiary to maintain, keep and preserve, all of its material properties (tangible and intangible) necessary or used in the proper conduct of its business in good working order and condition, ordinary wear and tear excepted, and shall cause to be made all repairs, renewals, replacements, betterments and improvements thereof, all as in the sole judgment of Borrower or such Subsidiary may be reasonably necessary so that the business carried on in connection therewith may be properly and advantageously conducted at all times.

**9.9 Inspection.** Borrower (a) shall permit, and cause its Subsidiaries to permit, the Administrative Agent or any Syndication Party or their agents, during normal business hours or at such other times as the parties may agree, to examine, and make copies of or abstracts from, Borrower's properties, books, and records, and to discuss Borrower's affairs, finances, operations, and accounts with its respective officers, directors, employees, and independent certified public accountants; and (b) shall permit the Administrative Agent to obtain periodic verification of the existence and condition, of the Collateral and Borrower shall reimburse the Administrative Agent for the reasonable costs incurred in connection with such verification, provided that so long as no Event of Default has occurred and is continuing, Borrower shall not be required to reimburse the Administrative Agent for costs incurred under this clause (b) with respect to more than one such verification in each Fiscal Year.

**9.10 Required Licenses; Permits; Etc.** Borrower shall duly and lawfully obtain and maintain in full force and effect, and shall cause its Subsidiaries to obtain and maintain in full force and effect, all Required Licenses as appropriate for the business being conducted and properties owned by Borrower or such Subsidiaries at any given time except where the failure to obtain or maintain such Required Licenses could not reasonably be expected to result in a Material Adverse Effect.

**9.11 ERISA.** Borrower shall (a) cause each Borrower Benefit Plan to comply in all material respects with the Code and ERISA; (b) cause any Borrower Benefit Plan that is intended to satisfy the requirements of Section 401(a) of the Code to satisfy such requirements in all material respects; (c) prepare and deliver each material report, statement or other document required by ERISA and the Code within the period specified therein and conforming in form and substance in all material respects to the provisions thereof; and (d) cause each Borrower Benefit Plan (other than a Multiemployer Plan) to be administered in all material respects in accordance with the terms of each such plan and with ERISA, the Code, and any other applicable law, except to the extent any failure to comply with the preceding clauses (a), (b) (c), or (d) would not have a Material Adverse Effect. Within ten (10) Banking Days after receiving such notice, Borrower shall furnish to Administrative Agent any written notice received by Borrower relating to an assertion of withdrawal liability imposed by any Multiemployer Plan upon Borrower or Borrower's controlled group, as defined in Code Section 414(b), (c), (m), or (o), or relating to any violation of the provisions of the Code or ERISA asserted by the Department of Labor, the Pension Benefit Guaranty Corporation or the Department of the Treasury with respect to any Borrower Benefit Plan that could reasonably be expected to have a Material Adverse Effect. Borrower shall notify the Administrative Agent within sixty (60) days after: (l) commencing participation in any "multiple employer plan" within the meaning of Section 413 of the Code; (m) commencing participation in a "multiple employer welfare arrangement" within the meaning of Section 3(40) of ERISA; or (n) establishing or becoming obligated to contribute to any employee "retiree health plan" within the meaning of Section 3(1) of ERISA for the benefit of retired or former employees (other than as required by Section 4980B of the Code and Sections 601 through 608 of ERISA ("COBRA") or other applicable law). Borrower shall notify the Administrative Agent within sixty (60) days after Borrower has knowledge of the occurrence of any fact or event which would make any of the representations contained in Subsections 7.10.2, 7.10.4, 7.10.6, or 7.10.10 hereof incorrect if such representations were made as of the date of such occurrence with respect to any Borrower Benefit Plan that is a Multiemployer Plan.

**9.12 Financial Covenants.** Borrower shall maintain the following financial covenants, measured on the consolidated results of Borrower and its Subsidiaries:

**9.12.1 Leverage Ratio.** A Leverage Ratio of not in excess of 0.625 at any time.

**9.12.2 Tangible Net Worth.** Tangible Net Worth at all times during the periods from the Closing Date and at all times during each Fiscal Year thereafter, of not less than an amount in any Fiscal Year of \$600,000,000.00 plus an amount equal to 50% of Borrower's Net Income (but not less than zero) during such Fiscal Year.

**9.12.3 Current Ratio.** A Current Ratio measured as of the last day of each Fiscal Quarter of not less than 1.35 to 1.00.

**9.12.4 Net Tangible Assets to Total Liabilities.** A ratio of Net Tangible Assets to Total Liabilities measured as of the last day of each Fiscal Quarter of not less than 1.30 to 1.00.

**9.12.5 Fixed Charge Coverage Ratio.** The Fixed Charge Coverage Ratio over the most recent eight consecutive Fiscal Quarters, measured as of the last day of each Fiscal Quarter, of not less than 1.50 to 1.00.

**9.12.6 Net Working Capital.** Net Working Capital, measured as of the last day of each Fiscal Quarter during the periods set forth below, of not less than \$85,000,000.00.

**9.13 Appraised Property.** No Available Amount Report will be based in any part on the Appraised Value of any real property, or improvements, fixtures, machinery or equipment located on any real property, not, in either case, described in the deeds of trust executed, on or prior to the date of such Available Amount Report, by Borrower in connection with this Credit Agreement.

**9.14 Title Insurance Endorsements.** As soon as practical following the Effective Date, but in any event no later than thirty (30) days following the Effective Date, Borrower shall provide to the Administrative Agent with respect to each Title Policy provided to the Administrative Agent in connection with the 2000 Credit Agreement (or its predecessor), either (a) new title policies issued by the Title Insurer which issued such Title Policy describing the mortgage or deed of trust insured thereunder ("**Mortgage**") as the Mortgage as amended by the appropriate Amendment Document and otherwise in substantially the same form as the Title Policy provided to the Administrative Agent in connection with the 2000 Credit Agreement (or its predecessor); or (b) for Texas properties a P9(3)(b) endorsement; or (c) for other properties an endorsement thereto issued by the Title Insurer which issued such Title Policy (i) describing the insured Mortgage as the Mortgage as amended by the appropriate Amendment Document, and (ii) bringing down the effective date of such Title Policy to the Closing Date.

**9.15 Production Cut-back:** In the event that Borrower takes action which results in a Permanent Reduction of Production at any facility included in Borrower's most recent Available Amount Report ("**Shut Down**"), then Borrower shall give the Administrative Agent written notice thereof no later than thirty (30) days after taking such action and shall, at Borrower's option, either: (a) promptly arrange for an Appraisal of such facility based on such Permanent Reduction of Production and, no later than ninety (90) days after taking such action, furnish the Administrative Agent with a copy of such Appraisal and a revised Available Amount Report, properly adjusted to reflect the Appraised Value as shown in such Appraisal; or (b) no later than

thirty (30) days after taking such action, furnish the Administrative Agent with a written request to (i) release its lien on such facility and (ii) remove such facility from the Available Amount. In the event Borrower elects to proceed under clause (b) of this Section, at the time the Administrative Agent releases its lien, on behalf of the Syndication Parties, on such facility, Borrower shall furnish the Administrative Agent with an Available Amount Report with the entire Appraised Value of such facility (as reflected in the most recent Appraisal thereof) removed from such Available Amount Report. In the event Borrower elects to proceed under clause (a) of this Section, but fails to provide to the Administrative Agent the Appraisal or the Available Amount Report within the time required by such clause, such facility shall be deemed to have been removed from the Available Amount Report (and therefore, from calculation of the Available Amount) until the Appraisal and revised Available Amount Report have been provided to the Administrative Agent. In the event Borrower elects to proceed under clause (b) of this Section, but the Required Lenders refuse to authorize the Administrative Agent to release the lien on such facility (or the Administrative Agent refuses to release such lien where it has the power to effect such release without Required Lender approval), (x) the Syndication Parties may, at their sole discretion and cost, obtain an Appraisal on such facility based upon such Permanent Reduction of Production ("**Lender Appraisal**"), in which case the Administrative Agent shall furnish a copy of such Lender Appraisal to Borrower when received and such facility shall thereafter be included in the Available Amount and all subsequent Available Amount Reports at the Appraised Value established by such Lender Appraisal; provided, however, that until such Lender Appraisal has been obtained and furnished to Borrower, such facility will continue to be included in the Available Amount Report (and therefore, included in the calculation of the Available Amount) and all subsequent Available Amount Reports at the Appraised Value in effect prior to such Permanent Reduction of Production until a Lender Appraisal is obtained at the discretion of the Syndication Parties or an Appraisal is obtained pursuant to Subsection 9.2.12 hereof. Notwithstanding the foregoing, in the event the Syndication Parties elect to proceed under clause (x) of this Section, Borrower shall have the option to remove such facility from the Available Amount prior to the Syndication Parties obtaining the Lender Appraisal by providing the Administrative Agent with written notice of the exercise of such option and furnishing the Administrative Agent with an Available Amount Report with the entire Appraised Value of such facility (as reflected in the most recent Available Amount Report prior to such Permanent Reduction of Production) removed from such Available Amount Report, in which case the Aggregate Commitment shall be reduced by an amount equal to seventy-five per cent (75.0%) of the Appraised Value of such facility (as reflected in the most recent Available Amount Report prior to such Permanent Reduction of Production). Any such reduction in the Aggregate Commitment shall be allocated among the Individual Commitments in the manner provided, and subject to the conditions and requirements, including payment requirements, set forth, in Section 2.8(b) and Section 9.15(x) hereof, and any such reduction shall be allocated among the Individual Commitments as provided in such Section 2.8. At the time of furnishing the Administrative Agent with a revised Available Amount Report, and, if required pursuant to clause (a) of this Section, a revised Appraisal, or in the event Borrower shall elect to proceed under clause (a) of

this Section but shall fail to provide the Appraisal or the Appraised Value Report to the Administrative Agent within the time required, or at the time of the Syndication Parties furnishing a Lender Appraisal to Borrower pursuant to clause (x) of this Section, Borrower shall make the payment, if any, that would be required under Section 4.4(e) hereof if the aggregate outstanding principal balance owing under the Revolving Loan (including the Converted Loans) exceeds the Available Amount as calculated pursuant to such Lender Appraisal or such revised Available Amount Report (or as calculated with the removal of such facility, if applicable).

**9.16 Embargoed Person.** At all times throughout the term of the Loans, (a) none of the funds or assets of Borrower that are used to repay the Loans shall constitute property of, or shall be beneficially owned directly or, to the knowledge of Borrower, indirectly by, any Person subject to sanctions or trade restrictions under United States law (“**Embargoed Person**” or “**Embargoed Persons**”) that is identified on (1) the “List of Specially Designated Nationals and Blocked Persons” (the “**SDN List**”) maintained by the Office of Foreign Assets Control (“**OFAC**”), U.S. Department of the Treasury, and/or to the knowledge of Borrower, as of the date thereof, based upon reasonable inquiry by Borrower, on any other similar list (“**Other List**”) maintained by OFAC pursuant to any authorizing statute including, but not limited to, the International Emergency Economic Powers Act, 50 U.S.C. §§ 1701 et seq., The Trading with the Enemy Act, 50 U.S.C. App. 1 et seq., and any Executive Order or regulation promulgated thereunder, with the result that the investment in Borrower (whether directly or indirectly), is prohibited by law, or the Loans made by the Syndication Parties would be in violation of law, or (2) the Executive Order, any related enabling legislation or any other similar Executive Orders, and (b) no Embargoed Person shall have any direct interest, and to the knowledge of Borrower, as of the date hereof, based upon reasonable inquiry by Borrower, indirect interest, of any nature whatsoever in Borrower, with the result that the investment in Borrower (whether directly or indirectly), is prohibited by law or the Loans are in violation of law.

**9.17 Anti-Money Laundering.** At all times throughout the term of the Loans, to the knowledge of Borrower, as of the date hereof, based upon reasonable inquiry by Borrower, none of the funds of Borrower, that are used to repay the Loans shall be derived from any unlawful activity, with the result that the investment in Borrower (whether directly or indirectly), is prohibited by law or the Loans would be in violation of law.

**9.18 Additional Collateral.** (a) Borrower, on or before December 31, 2004 (or such later date as may be agreed to by Borrower and the Administrative Agent), shall, at its discretion, execute and deliver a deed of trust or mortgage and assignment of leases and rents with respect to the property listed on Exhibit 9.18 attached hereto and any other property reasonably acceptable to the Administrative Agent (“**Additional Property**”), in form and substance satisfactory to the Administrative Agent, to the Administrative Agent or a mortgage trustee, in each case for the benefit of the Syndication Parties, granting a first lien of record on and a first security interest in the Additional Property, subject only to Permitted Encumbrances, and such Additional Property shall thereafter be part of the Collateral.

(b) Upon such time as Borrower, in addition to satisfying the requirements of clause (a) of this Section 9.18, shall, with respect to any such parcel of Additional Property, have provided to the Administrative Agent (i) a mortgagees' title insurance policy (Standard Texas Mortgagees Policy Form with respect to Additional Property located in the State of Texas, and Standard ALTA form with respect to Additional Property located in states other than Texas) from an insurer acceptable to the Administrative Agent insuring the lien in favor of the Administrative Agent, on behalf of the Syndication Parties, as a first priority lien on each such parcel of Additional Property, subject only to Permitted Encumbrances, and (A) in such amount as the Administrative Agent shall require, (B) deleting the standard printed exceptions (including exceptions for mechanics liens and exceptions based on lack of adequate survey) and the gap exception, (C) containing only such exceptions to title as are reasonably acceptable to the Administrative Agent, (D) providing access coverage, and (E) containing such other endorsements as the Administrative Agent may reasonably require (but in any event including a revolving credit endorsement), (ii) a survey, which survey, the certifications thereon, and all information contained therein, shall be acceptable to the Administrative Agent, and shall contain a legal description and, except as specifically provided otherwise on Exhibit 9.18, shall, at a minimum, show the location of all structures, visible utilities, fences, hedges, or walls on the parcel and within 5 feet of all boundaries thereof, any conflicting boundary evidence or visible encroachments, and all easements, underground utilities, and tunnels for which properly recorded evidence is available; and (iii) an Appraisal, then such Additional Property shall be a part of the Collateral and shall be included in the Available Amount.

(c) Borrower may include in the Available Amount any leasehold interest in connection with any Additional Property where Borrower is a lessee under a recorded lease calling for a rental payment equal to or in excess of \$100,000.00 per annum, provided that Borrower provides to the Administrative Agent, (i) a leasehold mortgage or deed of trust substantially in form and substance satisfactory to the Administrative Agent, (ii) a Title Policy and survey satisfying the requirements set forth in clause (b) of this Section 9.18 (modified as necessary to reflect a leasehold, rather than fee, interest), (iii) a lessor consent in form and content satisfactory to the Administrative Agent and containing such estoppels of the lessor of the leasehold estate as the Administrative Agent shall require; and (iv) an Appraisal.

(d) Notwithstanding anything contained in this Credit Agreement or the Loan Documents to the contrary, failure by Borrower to complete the execution and delivery of deeds of trust or mortgages and assignments of leases and rents as described in this Section 9.18 by December 31, 2004 (or such later date as may be agreed to by Borrower and the Administrative Agent), shall not be deemed a Potential Default or Event of Default.

## ARTICLE 10. NEGATIVE COVENANTS

From and after the date of this Credit Agreement until the Bank Debt is indefeasibly paid in full, and the Syndication Parties have no obligation to make any Advance, Borrower agrees that it will observe and comply with, and, to the extent applicable, will cause its Subsidiaries to observe and comply with, the following covenants:

**10.1 Borrowing.** Borrower shall not (nor shall it permit any of its Subsidiaries to) create, incur, or assume, directly or indirectly, any Debt, except for:

- (a) indebtedness of Borrower arising under this Credit Agreement and the other Loan Documents;
- (b) trade payables arising in the ordinary course of business;
- (c) Capital Leases in existence from time to time;
- (d) current operating liabilities (other than trade payables or for borrowed money) incurred in the ordinary course of business;
- (e) the Pari Passu Loans;

(f) secured Debt (other than Bank Debt and the Pari Passu Loans, but including amounts owing under the Harris Loan, under the Hancock Loan, and under the Comerica Loan) in an aggregate amount at any time outstanding of up to the sum of (i) eighty-five percent (85%) of the book value of the outstanding accounts receivable of Borrower and its Subsidiaries (as such account receivable would be shown on a consolidated balance sheet of Borrower and its Subsidiaries prepared in accordance with GAAP), less allowance for doubtful accounts, plus (ii) seventy-five percent (75%) of the higher of book value or fair market value, determined in accordance with GAAP, of the assets of Borrower and its Subsidiaries, but excluding from such calculation under this clause (ii), the assets covered by clause (i), the Collateral, and good will;

(g) unsecured Debt in any amount provided that no more than \$50,000,000.00 of unsecured indebtedness outstanding at any time (but excluding from such restriction, the Senior Unsecured Notes, the Senior Subordinated Notes, the Grower Settlement Agreements, and the Foreign Subsidiary Debt) may provide for scheduled principal payments prior to the Maturity Date, and provided that with respect to any individual unsecured indebtedness of greater than \$10,000,000.00 incurred after the Closing Date, Borrower must demonstrate, to the satisfaction of the Administrative Agent, compliance with the covenants set forth at Section 9.12 hereof, on a pro forma basis taking into account such additional indebtedness, before such indebtedness is incurred; and

(h) loans between Subsidiaries or between Borrower and Subsidiaries, in each case either (i) in the ordinary course and pursuant to the reasonable requirements of Borrower's business and consistent with demonstratable past practices; provided that any such loans to Borrower are expressly subordinated to the prior payment in full in cash of all of Borrower's indebtedness, obligations and liabilities to the Administrative Agent and the Syndication Parties under this Credit Agreement and the other Loan Documents; or (ii) in connection with a Receivables Securitization Program.

**10.2 No Other Businesses.** Borrower shall not, and shall not permit its Subsidiaries to, engage in any material respects in any business activity or operations other than operations or activities (a) in the poultry industry, (b) in the processing, packaging, distribution, and wholesale sales of poultry products, or (c) which are not substantially different from or are related to its present business activities or operations.

**10.3 Liens.** Borrower shall not (nor shall it permit any of its Subsidiaries to) create, incur, assume or suffer to exist any mortgage, pledge, lien, charge or other encumbrance on, or any security interest in, any of its real or personal properties (including, without limitation, leasehold interests, leasehold improvements and any other interest in real property or fixtures), now owned or hereafter acquired, except the following (“**Permitted Encumbrances**”):

(a) Liens for taxes or assessments or other charges or levies of any Governmental Authority, that are not delinquent or if delinquent are the subject of a Good Faith Contest;

(b) Liens imposed by law, such as mechanic’s, worker’s, repairman’s, miner’s, agister’s, attorney’s, materialmen’s, landlord’s, warehousemen’s and carrier’s Liens and other similar Liens which are securing obligations incurred in the ordinary course of business for sums not yet due and payable or, if due and payable, which (i) do not exceed an aggregate at any one time of \$20,000,000.00 or (ii) are the subject of a Good Faith Contest;

(c) Liens under workers’ compensation, unemployment insurance, social security or similar legislation (other than ERISA), or to secure payments of premiums for insurance purchased in the ordinary course of business, or to secure the performance of tenders, statutory obligations, surety and appearance bonds and bids, bonds for release of an attachment, stay of execution or injunction, leases, government contracts, performance and return-of-money bonds and other similar obligations, all of which are incurred in the ordinary course of business and not in connection with the borrowing of money;

(d) Any attachment or judgment Lien, the time for appeal or petition for rehearing of which shall not have expired or in respect of which Borrower or the Subsidiary is protected in all material respects by insurance or for the payment of which adequate reserves have been provided, provided that the execution or other enforcement of such Liens is effectively stayed and the claims secured thereby are the subject of a Good Faith Contest, and provided further that the aggregate amount of liabilities of Borrower and its Subsidiaries so secured (including interest and penalties) shall not be in excess of \$20,000,000.00 at any one time outstanding;

(e) Easements, rights-of-way, restrictions, encroachments, covenants, servitudes, zoning and other similar encumbrances which, in the aggregate,

do not materially interfere with the occupation, use and enjoyment by Borrower or any Subsidiary of the property or assets encumbered thereby in the normal course of its business or materially impair the value of the property subject thereto;

(f) All precautionary filings of financing statements under the Uniform Commercial Code which cover property that is made available to or used by Borrower or any Subsidiary pursuant to the terms of an Operating Lease or Capital Lease;

(g) Liens, other than on the Collateral, securing its reimbursement obligations under any letter of credit issued in connection with the acquisition of an asset; provided that (i) the lien attaches only to such asset, and (ii) the lien is released upon satisfaction of such reimbursement obligation;

(h) Liens on the Collateral in connection with the Bank Debt or any permitted Pari Passu Loan;

(i) Liens on assets of Borrower or its Subsidiaries, other than on the Collateral, to secure indebtedness permitted under Sections 10.1(c) and 10.1(f);

(j) Liens existing on the Effective Date and described on Exhibit 10.3 hereto (as such Exhibit may be approved by the Administrative Agent);

(k) Liens on the accounts receivable of Borrower or its Subsidiaries or rights with respect thereto which are the subject of a Receivables Securitization Program; and

(l) Liens of Agriland on the Bank Equity Interests, and Liens of any other Farm Credit System Institution on equity interests therein required to be purchased from time to time by Borrower.

**10.4 Sale of Collateral.** Borrower shall not (nor shall it permit any of its Subsidiaries to) sell, convey, assign, lease or otherwise transfer or dispose of, voluntarily, by operation of law or otherwise (collectively "**Disposition**"), any of the Collateral except: (a) the Disposition of Collateral in the ordinary course of business, and which are either replaced or are no longer necessary or useful for the business conducted at the facilities which are included within the Collateral; (b) without duplication of clause (a) or clause (c), the Disposition in any calendar year, in one or more events or transactions, of Collateral with a book value in the aggregate of up to \$5,000,000.00; and (c) the Disposition of Collateral utilized at a facility with respect to which there has been a Shut Down and as to which Borrower has elected to proceed under the provisions of Section 9.15(b); provided that the following conditions are met: (x) in the case of clause (c), either (i) (A) the book value of such Collateral is \$10,000,000.00 or less and the Administrative Agent has agreed on behalf of the Syndication Parties, in advance of such sale, to release its lien thereon, and (B) the aggregate book value of all Collateral as to which the Administrative Agent has released, or is being asked to release, its lien in any calendar year pursuant to clause (c) of this Section (excluding liens released upon the written authorization of the Required Lenders, as provided in clause (x)(ii) of this Section) shall not exceed \$15,000,000.00,

or (ii) (A) the book value of such Collateral is greater than \$10,000,000.00 and/or (B) the aggregate book value of such Collateral as to which the Administrative Agent has released, or is being asked to release, its lien in any calendar year pursuant to clause (c) of this Section is in excess of \$15,000,000.00 and, (C) in either case (x)(ii)(A) or (x)(ii)(B), the Required Lenders have provided written authorization to the Administrative Agent, in advance of such sale, to release its lien thereon on behalf of the Syndication Parties; (y) in the case of either clause (b) or clause (c), (i) such Disposition of Collateral shall not cause or give rise to a Potential Default or an Event of Default, and (ii) at the time of any such Disposition of Collateral no Event of Default shall have occurred and be continuing; and (z) the full Appraised Value of such Collateral shall be removed at the closing of the Disposition from the calculation of the Available Amount and no later than ten (10) days after closing such Disposition, Borrower shall furnish the Administrative Agent with a revised Available Amount Report with the entire Appraised Value of the Collateral subject to such Disposition removed from such Available Amount Report. At the time of furnishing the Administrative Agent with a revised Available Amount Report, Borrower shall make the payment, if any, that would be required under Section 4.4(d) hereof if the aggregate outstanding principal balance owing under the Revolving Loan (including the Converted Loans) exceeds the Available Amount as calculated without such Collateral being included.

**10.5 Liabilities of Others.** Borrower shall not (nor shall it permit any of its Subsidiaries to) assume, guarantee, become liable as a surety, endorse, contingently agree to purchase, or otherwise be or become liable, directly or indirectly (including, but not limited to, by means of a maintenance agreement, or any other agreement designed to ensure any creditor against loss), for or on account of the obligation of any Person (other than the Bank Debt), except (a) by the endorsement of negotiable instruments for deposit or collection or similar transactions in the ordinary course of the Borrower's or any Subsidiary's business, (b) the guarantee of the obligations of Borrower's wholly owned Subsidiaries, (c) guarantees by any Subsidiary of the indebtedness of Borrower under the Senior Unsecured Notes, the Senior Subordinated Notes, the Hancock Loan and the Harris Loan; provided that each such Subsidiary also executes a guaranty reasonably satisfactory in form and substance to the Administrative Agent guaranteeing all of Borrower's obligations under this Credit Agreement, the Notes, and all other Loan Documents; and (d) without duplication of clauses (b) or (c), guarantees made from time to time by Borrower and its Subsidiaries in the ordinary course of their respective businesses; provided, however, that the aggregate amount of all indebtedness guaranteed at any time under this clause (d) shall not exceed \$20,000,000 in the aggregate.

**10.6 Loans.** Borrower shall not (nor shall it permit any of its Subsidiaries to) lend or advance money, credit, or property to any Person, except for:

(a) loans between Subsidiaries or between Borrower and Subsidiaries, in each case in the ordinary course and pursuant to the reasonable requirements of Borrower's business and consistent with demonstratable past practices;

(b) trade credit extended in the ordinary course of business;

(c) loans and advances to employees and contract growers (other than executive officers and directors of the Borrower or its Subsidiaries) for reasonable expenses incurred in the ordinary course of business and made on an arms length basis;

(d) loans and advances to officers and employees of Borrower and its Subsidiaries made in connection with such officer's or employee's housing related expenses or loans associated with the procurement or sale of personal residences or necessary for the moving of key personnel, in an aggregate amount outstanding at any time not to exceed \$3,000,000.00; and

(e) loans and advances to contract growers in an aggregate amount at any time not to exceed \$25,000,000.00.

**10.7 Merger; Acquisitions; Business Form; Etc.** Borrower shall not (nor shall it permit any of its Subsidiaries to) merge or consolidate with any entity, or acquire all or substantially all of the assets of any person or entity, nor shall Borrower change its business form from a corporation; provided, however, that the foregoing shall not prevent any such acquisition, consolidation, or merger if after giving effect thereto either clauses (a), (c) and (d) are satisfied or clauses (b), (c), and (d) are satisfied, as such clauses are set forth below:

(a) Both (i) the fair market value of all consideration paid or payable (whether paid or payable in money, stock, or some other form, including, without limitation, by promissory note or some other installment obligation) by Borrower and/or its Subsidiaries on account of all such mergers, consolidations or acquisitions does not exceed \$100,000,000.00 in any Fiscal Year of Borrower, and (ii) Borrower (or, if the consolidation or merger is by a Subsidiary, then the Subsidiary) is the surviving entity;

(b) The consolidation or merger is between Borrower and a Subsidiary or subsidiary of a Subsidiary, and Borrower is the surviving entity, or the consolidation or merger is between a Subsidiary and another Subsidiary or a Subsidiary and the subsidiary of a Subsidiary, and the Subsidiary is the surviving entity;

(c) No Event of Default or Potential Default shall have occurred and be continuing;

(d) After giving effect to the merger or consolidation on a pro forma basis, there would be no Event of Default or Potential Default.

**10.8 Investments.** Borrower shall not (nor shall it permit any of its Subsidiaries to) own, purchase or acquire any stock, obligations or securities of, or any other interest in, or make any capital contribution to, any Person, except that Borrower and the Subsidiaries may own, purchase or acquire:

(a) commercial paper maturing not in excess of one year from the date of acquisition and rated P1 by Moody's Investors Service, Inc. or A1 by Standard & Poor's Corporation on the date of acquisition;

(b) certificates of deposit in North American commercial banks rated C or better by Keefe, Bruyette & Woods, Inc. or 3 or better by Cates Consulting Analysts, maturing not in excess of one year from the date of acquisition;

(c) obligations of the United States government or any agency thereof, the obligations of which are guaranteed by the United States government, maturing, in each case, not in excess of one year from the date of acquisition;

(d) repurchase agreements of any bank or trust company incorporated under the laws of the United States of America or any state thereof and fully secured by a pledge of obligations issued or fully and unconditionally guaranteed by the United States government;

(e) banker's acceptances maturing within one year issued by any bank or trust company organized under the laws of the United States or any state thereof and having capital, surplus and undivided profits of at least \$50,000,000;

(f) Eurodollar time deposits maturing within six months purchased directly from a bank meeting the requirements of 10.8(b);

(g) direct obligations issued by any state of the United States or any political subdivision of any such state or public instrumentality thereof maturing within one year and having, at the time of acquisition, the highest rating obtainable from either Standard & Poor's Ratings Group, a division of McGraw Hill, Inc. or Moody's Investors Service, Inc.;

(h) investments in mutual funds that invest not less than 95% of their assets in cash and cash equivalents or investments of the kinds described in clauses (a) through (g) above;

(i) investments in an aggregate amount of up to \$8,000,000.00 in deposits maintained with the Pilgrim Bank of Pittsburg;

(j) corporate bonds rated investment grade by Standard & Poor's Ratings Group, a division of McGraw Hill, Inc. or by Moody's Investors Service, Inc.;

(k) Investments permitted under Sections 10.5, 10.6, 10.7, and 10.9;

(l) Investments made prior to the Effective Date in Persons, which are not Subsidiaries, and which are identified on Exhibit 10.8 hereto;

(m) Investments in the Subsidiaries;

(n) Investments in Intercompany Bonds;

(o) Investments in Southern Hens, Inc. in an aggregate amount not to exceed \$5,000,000.00;

(p) Investments from time to time made after the Effective Date in Food Processors Water Cooperative, Inc. and the Greater Shenandoah Valley Development Company in accordance with past practice and their respective organizational documents as in effect on the date hereof; and

(q) Investments not covered by clauses (a) through (p) above, in an amount not to exceed at any time an aggregate of \$50,000,000.00.

**10.9 Transactions With Related Parties.** Borrower shall not purchase, acquire, provide, or sell any equipment, other personal property, real property or services from or to any Subsidiary, except in the ordinary course and pursuant to the reasonable requirements of Borrower's business and consistent with demonstrable past practices of the type disclosed in Borrower's proxy statement for its Fiscal Year ended September 2003.

**10.10 Dividends, etc.** Borrower shall not, directly or indirectly, declare or pay any dividends (other than dividends payable solely in stock of Borrower) on account of any shares of any class (including common or preferred stock) of its capital stock now or hereafter outstanding, or set aside or otherwise deposit or invest any sums for such purpose, or redeem, retire, defease, purchase or otherwise acquire any shares of any class of its capital stock (or set aside or otherwise deposit or invest any sums for such purpose) for any consideration other than common stock or apply or set apart any sum, or make any other distribution (by reduction of capital or otherwise) in respect of any such shares or agree to do any of the foregoing; provided that if no Potential Default or Event of Default shall exist before and after giving effect thereto, Borrower may (a) pay dividends on preferred stock and other capital stock of Borrower that are convertible, exchangeable or exercisable into Borrower's common stock and on any common stock of Borrower which may be issued upon conversion, exchange or exercise of such capital stock, (b) in addition to the dividends permitted by clause (a) pay dividends in an aggregate amount not to exceed \$6,500,000.00 in any Fiscal Year; (c) pay dividends permitted under clause (b) hereof during the immediately preceding Fiscal Year that were declared but not paid in the immediately preceding Fiscal Year (without giving effect to any carry over); and (d) repurchase, at any time after the Original Effective Date, its shares of capital stock in an amount not to exceed \$25,000,000.00 in the aggregate.

**10.11 ERISA.** Borrower shall not: (a) engage in or permit any transaction which could result in a "prohibited transaction" (as such term is defined in Section 406 of ERISA) that is not exempt under a statutory, class or individual exemption or in the imposition of an excise tax pursuant to Section 4975 of the Code; (b) engage in or permit any transaction or other event which could result in a "reportable event" (as such term is defined in Section 4043 of ERISA) for which the reporting obligation is not waived under ERISA or by regulation for any Borrower Pension Plan; (c) fail to make

full payment when due of all amounts which, under the provisions of any Borrower Benefit Plan, Borrower is required to pay as contributions thereto; (d) permit to exist any "accumulated funding deficiency" (as such term is defined in Section 302 of ERISA) in excess of \$100,000.00 if waived or in excess of \$25,000.00, if not waived, with respect to any Borrower Pension Plan; (e) fail to make any payments to any "multiemployer plan" that Borrower may be required to make under any agreement relating to such "multiemployer plan" or any law pertaining thereto; or (f) terminate any Borrower Pension Plan in a manner which could result in the imposition of a lien on any property of Borrower pursuant to Section 4068 of ERISA. Borrower shall not terminate any Borrower Pension Plan so as to result in any liability to the Pension Benefit Guaranty Corporation. As used in this Section, all terms enclosed in quotation marks shall have the meanings set forth in ERISA. Borrower's failure to comply with any of the foregoing provisions of this Section shall not constitute a breach of this Agreement or an Event of Default unless such failure has a Material Adverse Effect.

**10.12 Change in Fiscal Year.** Borrower shall not change its Fiscal Year unless required to do so by the Internal Revenue Service, in which case Borrower agrees to such amendment of the terms Fiscal Quarter and Fiscal Year, as used herein, as the Administrative Agent reasonably deems necessary.

**10.13 Leases.** Borrower shall not, and shall not permit any Subsidiary to, incur non-cancelable obligations on Operating Leases or sale and leaseback transactions if the aggregate annual amount of all minimum or guaranteed net rentals payable under such leases would exceed four percent (4%) of the Net Tangible Assets of Borrower and its Consolidated Subsidiaries (as determined immediately preceding the execution of such lease).

**10.14 Principal Payments.** Borrower shall not make any principal payments on any subordinated or unsecured debt instruments or related documents unless and until 105 days have passed since August 31, 2011 without a voluntary or involuntary petition having been filed against Borrower under the federal bankruptcy laws during that period, other than (a) scheduled payments of Senior Unsecured Notes; (b) payments under debt instruments between and among Borrower and its Subsidiaries, (c) redemption or purchase of an aggregate of up to \$125,000,000.00 of the Senior Unsecured Notes provided that Borrower demonstrates, on a pro forma basis taking into account such redemption or purchase, compliance with the covenants set forth at Section 9.12 hereof; (d) redemption or repurchase of Senior Unsecured Notes and/or Senior Subordinated Notes with the proceeds of the issuance of any equity securities in accordance with the provisions and limitations of Section 4.4 hereof (including the obligation to make a Mandatory Prepayment of the Pro Rata Amount); (e) repayment of Senior Unsecured Notes with the proceeds of the sale or other disposition of any non-current assets which are not part of the Collateral in accordance with the provisions and limitations of Section 4.4 hereof (including any obligation to make a Mandatory Prepayment of the Pro Rata Amount); (f) prepayments required on account of asset sales, change of control, or similar events; (g) repayment of Foreign Subsidiary Debt; (h) repayment of amounts owing pursuant to or in connection with the Grower Settlement Agreements existing as of the Effective Date in an aggregate amount not to exceed \$1,000,000.00; and (i) payments of up to \$50,000,000.00 as permitted by Section 10.1(g) hereof.

**10.15 Anti-Terrorism Law.** Borrower shall not (a) conduct any business or engage in making or receiving any contribution of funds, goods or services to or for the benefit of any Person described in Subsection 7.26.2 above, (b) deal in, or otherwise engage in any transaction relating to, any property or interests in property blocked pursuant to the Executive Order or any other Anti-Terrorism Law, or (c) engage in or conspire to engage in any transaction that evades or avoids, or has the purpose of evading or avoiding, or attempts to violate, any of the prohibitions set forth in any Anti-Terrorism Law (and Borrower shall deliver to the Administrative Agent any certification or other evidence requested from time to time by the Administrative Agent in its reasonable discretion, confirming Borrower's compliance with this Section).

## **ARTICLE 11. INDEMNIFICATION**

**11.1 General; Stamp Taxes; Intangibles Tax.** Borrower agrees to indemnify and hold the Administrative Agent and each Syndication Party and their directors, officers, employees, agents, professional advisers and representatives ("**Indemnified Parties**") harmless from and against any and all claims, damages, losses, liabilities, costs or expenses whatsoever which the Administrative Agent or any other Indemnified Party may incur (or which may be claimed against any such Indemnified Party by any Person), including attorneys' fees incurred by any Indemnified Party, arising out of or resulting from: (a) the material inaccuracy of any representation or warranty of or with respect to Borrower in this Credit Agreement or the other Loan Documents; (b) the material failure of Borrower to perform or comply with any covenant or obligation of Borrower under this Credit Agreement or the other Loan Documents; or (c) the exercise by the Administrative Agent of any right or remedy set forth in this Credit Agreement or the other Loan Documents, provided that Borrower shall have no obligation to indemnify any Indemnified Party against claims, damages, losses, liabilities, costs or expenses to the extent that a court of competent jurisdiction renders a final non-appealable determination that the foregoing are solely the result of the willful misconduct or gross negligence of such Indemnified Party. In addition, Borrower agrees to indemnify and hold the Indemnified Parties harmless from and against any and all claims, damages, losses, liabilities, costs or expenses whatsoever which the Administrative Agent or any other Indemnified Party may incur (or which may be claimed against any such Indemnified Party by any Person), including attorneys' fees incurred by any Indemnified Party, arising out of or resulting from the imposition or nonpayment by Borrower of any stamp tax, intangibles tax, or similar tax imposed by any state, including any amounts owing by virtue of the assertion that the property valuation used to calculate any such tax was understated. Borrower shall have the right to assume the defense of any claim as would give rise to Borrower's indemnification obligation under this Section with counsel of Borrower's choosing so long as such defense is being diligently and properly conducted and Borrower shall establish to the Indemnified Party's satisfaction that the amount of such claims are not, and will not be, material in comparison to the liquid and unrestricted assets of Borrower available to respond to any award which may be granted on account of such claim. So long as the

conditions of the preceding sentence are met, Indemnified Party shall have no further right to reimbursement of attorneys' fees incurred thereafter. The obligation to indemnify set forth in this Section shall survive the termination of this Credit Agreement and other covenants.

**11.2 Indemnification Relating to Hazardous Substances.** Borrower shall not, and shall cause the Subsidiaries not to, locate, produce, treat, transport, incorporate, discharge, emit, release, deposit or dispose of any Hazardous Substance in, upon, under, over or from any property owned or held by Borrower or such Subsidiary, except in accordance with all Environmental Regulations; Borrower shall not, and shall cause the Subsidiaries not to, permit any Hazardous Substance to be located, produced, treated, transported, incorporated, discharged, emitted, released, deposited, disposed of or to escape in, upon, under, over or from any property owned or held by Borrower or such Subsidiary, except in accordance with Environmental Regulations; and Borrower shall, and shall cause each Subsidiary to, comply with all Environmental Regulations which are applicable to such property except where the failure to comply could not reasonably be expected to result in a Material Adverse Effect. Borrower shall indemnify the Indemnified Parties against, and shall reimburse the Indemnified Parties for, any and all claims, demands, judgments, penalties, liabilities, costs, damages and expenses, including court costs and attorneys' fees incurred by the Indemnified Parties (prior to trial, at trial and on appeal) in any action against or involving the Indemnified Parties, resulting from any breach of the foregoing covenants in this Section or the covenants in Section 9.5 hereof, or from the discovery of any Hazardous Substance in, upon, under or over, or emanating from, such property, it being the intent of Borrower and the Indemnified Parties that the Indemnified Parties shall have no liability or responsibility for damage or injury to human health, the environmental or natural resources caused by, for abatement and/or clean-up of, or otherwise with respect to, Hazardous Substances as the result of the Administrative Agent or any Syndication Party exercising any of its rights or remedies with respect thereto, including but not limited to becoming the owner thereof by foreclosure, including foreclosure on a judgment lien, or conveyance in lieu of foreclosure; provided that such indemnification as it applies to the exercise by the Administrative Agent or any Syndication Party of its rights or remedies with respect to the Loan Documents shall not apply to claims arising solely with respect to Hazardous Substances brought onto such property by the Administrative Agent or such Syndication Party while engaged in activities other than operations substantially the same as the operations previously conducted on such property by Borrower. The foregoing covenants of this Section shall be deemed continuing covenants for the benefit of the Indemnified Parties, and any successors and assigns of the Indemnified Parties, including but not limited to, any transferee of the title of the Administrative Agent or any Syndication Party or any subsequent owner of the property, and shall survive the satisfaction or release of any lien, any foreclosure of any lien and/or any acquisition of title to the property or any part thereof by the Administrative Agent or any Syndication Party, or anyone claiming by, through or under the Administrative Agent or any Syndication Party or Borrower by deed in lieu of foreclosure or otherwise. Any amounts covered by the foregoing indemnification shall bear interest from the date incurred at the Default Interest Rate, shall be payable on demand, and shall be secured by the Security Documents. The indemnification and covenants of this Section shall survive the termination of this Credit Agreement and other covenants.

## ARTICLE 12. EVENTS OF DEFAULT; RIGHTS AND REMEDIES

**12.1 Events of Default.** The occurrence of any of the following events (each an “**Event of Default**”) shall, at the option of the Administrative Agent, make the entire Bank Debt immediately due and payable (provided, that in the case of an Event of Default under Subsection 12.1(h) all amounts owing under the Notes and the other Loan Documents shall automatically and immediately become due and payable without any action by or on behalf of the Administrative Agent), and the Administrative Agent may exercise all rights and remedies for the collection of any amounts outstanding hereunder and take whatever action it deems necessary to secure itself, all without notice of default, presentment or demand for payment, protest or notice of nonpayment or dishonor, or other notices or demands of any kind or character:

(a) Failure of Borrower to pay (i) when due, whether by acceleration or otherwise, any principal in accordance with this Credit Agreement or the other Loan Documents, (ii) within five (5) Banking Days of the date when due, whether by acceleration or otherwise, any interest or amounts other than principal in accordance with this Credit Agreement or the other Loan Documents, or (iii) within ten (10) Banking Days of the date when due, any Delinquent Amount or Delinquency Interest.

(b) Any representation or warranty set forth in any Loan Document, any Borrowing Notice, any financial statements or reports, or in connection with any transaction contemplated by any such document, shall prove in any material respect to have been false or misleading when made or furnished by Borrower.

(c) Any default by Borrower in the performance or compliance with the covenants, promises, conditions or provisions of Sections 9.9, 9.13, 9.14, 10.1, 10.3, 10.4, 10.5, 10.7, 10.10, 10.13, or 10.14 of this Credit Agreement.

(d) Any default by Borrower in the performance or compliance with the covenants, promises, conditions or provisions of Sections 9.2, 9.4, 9.5, 9.6, 9.7, 9.8, 9.10, 9.11, 9.12, 9.16, 9.17, 10.6, 10.8, 10.9, 10.11, 10.12, or 10.15 of this Credit Agreement, and such failure continues for fifteen (15) days after Borrower learns of such failure to comply, whether by Borrower’s own discovery or through notice from the Administrative Agent.

(e) The occurrence of an Event of Default under any of the Security Documents.

(f) Failure of Borrower to comply with any other provision of this Credit Agreement (other than Section 9.18) or the other Loan Documents not constituting an Event of Default under any of the preceding subparagraphs of this Section 12.1, and such failure continues for thirty (30) days after Borrower learns of such failure to comply, whether by Borrower’s own discovery or through notice from the Administrative Agent.

(g) The failure of Borrower to pay when due, or failure to perform or observe any other obligation or condition with respect to any of the following obligations to any Person, beyond any period of grace under the instrument creating such obligation: (i) any indebtedness for borrowed money or for the deferred purchase price of property or services, (ii) any obligations under leases which have or should have been characterized as Capital Leases, or (iii) any contingent liabilities, such as guaranties and letters of credit, for the obligations of others relating to indebtedness for borrowed money or for the deferred purchase price of property or services or relating to obligations under leases which have or should have been characterized as Capital Leases; provided that no such failure will be deemed to be an Event of Default hereunder unless the amount owing under the obligation with respect to which such failures have occurred and are continuing is at least \$20,000,000.00, or unless it is with respect to a Pari Passu Loan.

(h) Borrower, Guarantor, or any Subsidiary applies for or consents to the appointment of a trustee or receiver for any part of its properties; any bankruptcy, reorganization, debt arrangement, dissolution or liquidation proceeding is commenced or consented to by Borrower, Guarantor, or any Subsidiary; or any application for appointment of a receiver or a trustee, or any proceeding for bankruptcy, reorganization, debt management or liquidation is filed for or commenced against Borrower, Guarantor, or any Subsidiary, and is not withdrawn or dismissed within ninety (90) days thereafter; provided that no such consent or filing by or against a Subsidiary shall constitute an Event of Default under this clause (g) unless it could reasonably be expected to result in a Material Adverse Effect.

(i) The entry of one or more judgments in an aggregate amount in excess of \$20,000,000.00 against Borrower not stayed, discharged or paid within thirty (30) days after entry.

(j) The occurrence at any time from the Original Effective Date to the Closing Date of any circumstance which would have constituted an Event of Default under the 2000 Credit Agreement.

(k) In the event (i) the Pilgrim Family shall cease to "own" more than fifty percent (50%) of the total voting power generally entitled to vote in the election of directors, managers or trustees of Borrower, (ii) during any period of two (2) consecutive years, individuals who at the beginning of such period constituted the Board of Directors of Borrower (together with any new directors whose election by such Board of Directors or whose nomination for election by the stockholders of Borrower was approved by a vote of a majority 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, or (iii) the stockholders of Borrower shall approve any plan for the liquidation or dissolution of Borrower. For purposes hereof, the Pilgrim Family shall be deemed to "own" the voting power generally entitled to vote in the election of directors, managers or trustees of Borrower if the Pilgrim Family either directly or indirectly legally or beneficially own such voting power.

**12.2 No Advance.** The Syndication Parties shall have no obligation to make any Advance if a Potential Default or an Event of Default shall occur and be continuing.

**12.3 Rights and Remedies.** In addition to the remedies set forth in Section 12.1 and 12.2 hereof, upon the occurrence of an Event of Default, the Administrative Agent shall be entitled to exercise all the rights and remedies provided in the Loan Documents and by any applicable law. Each and every right or remedy granted to the Administrative Agent pursuant to this Credit Agreement and the other Loan Documents, or allowed the Administrative Agent by law or equity, shall be cumulative. Failure or delay on the part of the Administrative Agent to exercise any such right or remedy shall not operate as a waiver thereof. Any single or partial exercise by the Administrative Agent of any such right or remedy shall not preclude any future exercise thereof or the exercise of any other right or remedy.

**12.4 Agreement Regarding, and Waiver of, Certain Rights.** Borrower acknowledges and agrees that in the event that the provisions of the Agricultural Credit Act of 1987, including, without limitation, those sections thereof designated as 12 U.S.C. Sections 2199 through 2202e, and the implementing Farm Credit Administration regulations (collectively "**Farm Credit Law**") presently apply to Borrower or to this transaction, but are in the future determined (a) not to apply to Borrower, this transaction, or to the collection of any funds Advanced hereunder; or (b) to be waivable by Borrower, then, in either such case, Borrower will execute any document reasonably requested by Agriland, any Syndication Party, and/or the Administrative Agent in the future to waive any rights it may have under any such Farm Credit Law, including any rights with respect to the acceleration and/or restructuring of any Bank Debt owed hereunder as to which an Event of Default has occurred and is continuing and any rights applicable with respect to foreclosure of liens securing any such Bank Debt. Borrower acknowledges that its agreement to execute such waivers pursuant to the provisions of this Section 12.4 is based on its recognition that such action, if permitted by Farm Credit Law, would (x) be important to induce commercial banks and other non-Farm Credit institutions and CoBank to become Syndication Parties and/or Voting Participants hereunder and to agree to provide, directly or indirectly, a portion of the available funds under the Loan; and (y) enhance Borrower's ability to obtain Pari Passu Loans. Nothing contained in this Section 12.4 nor the delivery to Borrower of any summary of any rights under, or any notice pursuant to, the Farm Credit Law shall in any way be deemed to be, or be construed to in any way indicate, the determination or agreement by Borrower, the Administrative Agent, any Syndication Party, and/or any Voting Participants, that the Farm Credit Law, or any rights thereunder, are or will in fact be applicable to Borrower, the Loan, or the Loan Documents.

#### **ARTICLE 13. AGENCY AGREEMENT**

**13.1 Funding of Syndication Interest.** Each Syndication Party, severally but not jointly, hereby irrevocably agrees to fund its Funding Share of the Advances ("**Advance Payment**") as determined pursuant to the terms and conditions contained herein and in particular, Article 2 hereof. Each Syndication Party's interest ("**Syndication Interest**") in each Advance hereunder shall be without recourse to the

Administrative Agent or any other Syndication Party and shall not be construed as a loan from any Syndication Party to the Administrative Agent or to any other Syndication Party.

**13.2 Syndication Parties' Obligations to Remit Funds.** Each Syndication Party agrees to remit its Funding Share to the Administrative Agent as, and within the time deadlines ("**Syndication Party Advance Date**"), required in this Credit Agreement. Unless the Administrative Agent shall have received notice from a Syndication Party prior to the date on which such Syndication Party is to provide funds to the Administrative Agent for an Advance to be made by such Syndication Party that such Syndication Party will not make available to the Administrative Agent such funds, the Administrative Agent may assume that such Syndication Party has made such funds available to the Administrative Agent on the date of such Advance in accordance with the terms of this Credit Agreement and the Administrative Agent in its sole discretion may, but shall not be obligated to, in reliance upon such assumption, make available to Borrower on such date a corresponding amount. If and to the extent such Syndication Party shall not have made such funds available to the Administrative Agent by 2:00 P.M. (Central time) on the Banking Day due, such Syndication Party agrees to repay the Administrative Agent forthwith on demand such corresponding amount together with interest thereon, for each day from the date such amount is made available to Borrower until the Banking Day such amount is repaid to the Administrative Agent (assuming payment is received by the Administrative Agent at or prior to 2:00 P.M. (Central time), and until the next Banking Day if payment is not received until after 2:00 P.M.), at the customary rate set by the Administrative Agent for the correction of errors among banks for three (3) Banking Days and thereafter at the Base Rate. If such Syndication Party shall repay to the Administrative Agent such corresponding amount, such amount so repaid shall constitute such Syndication Party's Advance for purposes of this Credit Agreement. If such Syndication Party does not pay such corresponding amount forthwith upon the Administrative Agent's demand therefor, the Administrative Agent shall promptly notify Borrower, and Borrower shall immediately pay such corresponding amount to the Administrative Agent with the interest thereon, for each day from the date such amount is made available to Borrower until the date such amount is repaid to the Administrative Agent, at the rate of interest applicable at the time to such Advance.

**13.3 Syndication Party's Failure to Remit Funds.** If a Syndication Party ("**Delinquent Syndication Party**") fails to remit its Funding Share in full by the date and time required (the unpaid amount of any such payment being hereinafter referred to as the "**Delinquent Amount**"), in addition to any other remedies available hereunder, any other Syndication Party or Syndication Parties may, but shall not be obligated to, advance the Delinquent Amount (the Syndication Party or Syndication Parties which advance such Delinquent Amount are referred to as the "**Contributing Syndication Parties**"), in which case (a) the Delinquent Amount which any Contributing Syndication Party advances shall be treated as a loan to the Delinquent Syndication Party and shall not be counted in determining the Individual Outstanding Obligations, of any Contributing Syndication Party, and (b) the Delinquent Syndication Party shall be obligated to pay to the Administrative Agent, for the account of the Contributing

Syndication Parties, interest on the Delinquent Amount at a rate of interest equal to the rate of interest which Borrower is obligated to pay on the Delinquent Amount plus 200 basis points (“**Delinquency Interest**”) until the Delinquent Syndication Party remits the full Delinquent Amount and remits all Delinquency Interest to the Administrative Agent, which will distribute such payments to the Contributing Syndication Parties (pro rata (if more than one) based on the amount of the Delinquent Amount which each of them advanced) on the same Banking Day as such payments are received by the Administrative Agent if received no later than 11:00 A.M. Central time or the next Banking Day if received by the Administrative Agent thereafter. In addition, the Contributing Syndication Parties shall be entitled to share, on the same pro rata basis, and the Administrative Agent shall pay over to them, for application against Delinquency Interest and the Delinquent Amount, the Delinquent Syndication Party’s Payment Distribution and any fee distributions or distributions made under Section 13.10 hereof until the Delinquent Amount and all Delinquency Interest have been paid in full. For voting purposes the Administrative Agent shall readjust the Individual Commitments of such Delinquent Syndication Party and the Contributing Syndication Parties from time to time first to reflect the advance of the Delinquent Amount by the Contributing Syndication Parties, and then to reflect the full or partial reimbursement to the Contributing Syndication Parties of such Delinquent Amount. As between the Delinquent Syndication Party and the Contributing Syndication Parties, the Delinquent Syndication Party’s interest in its Notes shall be deemed to have been partially assigned to the Contributing Syndication Parties in the amount of the Delinquent Amount and Delinquency Interest owing to the Contributing Syndication Parties from time to time. For the purposes of calculating interest owed by a Delinquent Syndication Party, payments received on other than a Banking Day shall be deemed to have been received on the next Banking Day, and payments received after 2:00 P.M. (Central time) shall be deemed to have been received on the next Banking Day.

**13.4 Agency Appointment.** Each of the Syndication Parties hereby designates and appoints the Administrative Agent to act as agent to service and collect the Loans and its respective Notes, to act as Secured Party or mortgagee or beneficiary under the Security Documents, and to take such action on behalf of such Syndication Party with respect to the Loans, such Notes, the Collateral, and the Security Documents, and to execute such powers and to perform such duties, as specifically delegated or required herein, as well as to exercise such powers and to perform such duties as are reasonably incident thereto, and to receive and benefit from such fees and indemnifications as are provided for or set forth herein, until such time as a successor is appointed and qualified to act as the Administrative Agent.

**13.5 Power and Authority of the Administrative Agent.** Without limiting the generality of the power and authority vested in the Administrative Agent pursuant to Section 13.4 hereof, the power and authority vested in the Administrative Agent includes, but is not limited to, the following:

**13.5.1 Advice.** To solicit the advice and assistance of each of the Syndication Parties and Voting Participants concerning the administration of the Loans

and the exercise by the Administrative Agent of its various rights, remedies, powers, and discretions with respect thereto. As to any matters not expressly provided for by this Credit Agreement or any other Loan Document, the Administrative Agent shall in all cases be fully protected in acting, or in refraining from acting, hereunder in accordance with instructions signed by all of the Syndication Parties or the Required Lenders, as the case may be (and including in each such case, Voting Participants), and any action taken or failure to act pursuant thereto shall be binding on all of the Syndication Parties, Voting Participants, and the Administrative Agent.

**13.5.2 Documents; Intercreditor Agreement.** To execute, seal, acknowledge, and deliver as the Administrative Agent, (a) all such instruments as may be appropriate in connection with the administration of the Loans and the exercise by the Administrative Agent of its various rights with respect thereto; and (b) upon Borrower's satisfaction of each condition thereto as specified in Section 1.76 hereof, one or more Intercreditor Agreements, including agreements by a lender under a Pari Passu Loan adopting and agreeing to be bound by the same, and the Administrative Agent agrees to execute an Intercreditor Agreement (or agreement by a lender under a Pari Passu Loan adopting and being bound by an Intercreditor Agreement) upon the request of Borrower and upon Borrower's satisfaction of each condition thereto as specified in Section 1.76 hereof; provided that the Administrative Agent shall not exercise any rights under an Intercreditor Agreement after its execution except as directed by the Required Lenders.

**13.5.3 Proceedings.** To initiate, prosecute, defend, and to participate in, actions and proceedings in its name as the Administrative Agent for the ratable benefit of the Syndication Parties.

**13.5.4 Retain Professionals.** To retain attorneys, accountants, and other professionals to provide advice and professional services to the Administrative Agent, with their fees and expenses reimbursable to the Administrative Agent by Syndication Parties pursuant to Section 13.16 hereof.

**13.5.5 Incidental Powers.** To exercise powers reasonably incident to the Administrative Agent's discharge of its duties enumerated in Section 13.6 hereof.

**13.5.6 Release of Certain Liens.** To take such action and execute such documents as may be reasonably necessary to release any liens on or security interests in any Collateral where Borrower is entitled to such release in connection with (a) Dispositions permitted pursuant to the provisions of Section 10.4(a), (b), and (c)(i) hereof, without the need to obtain the consent of any of the Syndication Parties or Voting Participants; (b) the replacement or removal of any Collateral (other than in connection with a Shut Down pursuant to the terms of Section 9.15 hereof) where the book value of such Collateral is \$5,000,000.00 or less, without the need to obtain the consent of any of the Syndication Parties or Voting Participants; (c) the removal of any facility from the Available Amount Report (and therefore, from calculation of the Available Amount) arising from a Shut Down pursuant to the provisions of Section 9.15 hereof where the book value of the Collateral subject to such Shut Down is

\$10,000,000.00 or less, without the need to obtain the consent of any of the Syndication Parties or Voting Participants; (d) Dispositions permitted pursuant to the provisions of Section 10.4(c)(ii) hereof, with the consent of the Required Lenders; (e) the removal of any facility from the Available Amount Report (and therefore, from calculation of the Available Amount) arising from a Shut Down pursuant to the provisions of Section 9.15 where the book value of the Collateral subject to such Shut Down is more than \$10,000,000.00, with the consent of the Required Lenders; and (f) the release of the existing liens, if any, on the following properties as described generally on Exhibit 6.1 hereto, provided that as a condition to such releases Borrower must simultaneously provide the Administrative Agent with a revised Availability Amount Report showing a reduction in the Available Amount reflecting the removal of each of such properties (based on the Appraised Value included for each such property in the most recent prior Available Amount Report): (i) the farms, (ii) Walker Creek, and (iii) the Moorefield, West Virginia facilities.

**13.6 Duties of the Administrative Agent.** The duties of the Administrative Agent hereunder shall consist of the following:

**13.6.1 Possession of Documents.** To safekeep one original of each of the Loan Documents other than the Notes (which will be in the possession of the Syndication Party named as payee therein).

**13.6.2 Distribute Payments.** To receive and distribute to the Syndication Parties payments made by Borrower pursuant to the Loan Documents, as provided herein.

**13.6.3 Loan Administration.** Subject to the provisions of Section 13.7 hereof, to, on behalf of and for the ratable benefit of all Syndication Parties, in accordance with customary banking practices, exercise all rights, powers, privileges, and discretion to which the Administrative Agent is entitled to administer the Loans.

**13.6.4 Action Upon Default.** Each Syndication Party agrees that upon its learning of any facts which would constitute a Potential Default or Event of Default, it shall promptly notify the Administrative Agent by a writing designated as a notice of default specifying in detail the nature of such facts and default, and the Administrative Agent shall promptly send a copy of such notice to all other Syndication Parties. The Administrative Agent shall be entitled to assume that no Event of Default or Potential Default has occurred or is continuing unless an officer thereof primarily responsible for the Administrative Agent's duties as such with respect to the Loans or primarily responsible for the credit relationship, if any, between the Administrative Agent and Borrower has actual knowledge of facts which would result in or constitute a Potential Default or Event of Default, or has received written notice from Borrower of such fact, or has received written notice of default from a Syndication Party. In the event the Administrative Agent has obtained actual knowledge (in the manner described above) or received written notice of the occurrence of a Potential Default or Event of Default as provided in the preceding sentences, the Administrative Agent may, but is not required to exercise or refrain from exercising any rights which may be available

under the Loan Documents or at law on account of such occurrence and shall be entitled to use its discretion with respect to exercising or refraining from exercising any such rights, unless and until the Administrative Agent has received specific written instruction from the Required Lenders to refrain from exercising such rights or to take specific designated action, in which case it shall follow such instruction; provided that the Administrative Agent shall not be required to take any action which will subject it to personal liability, or which is or may be contrary to any provision of the Loan Documents or applicable law. The Administrative Agent shall not be subject to any liability by reason of its acting or refraining from acting pursuant to any such instruction.

**13.6.5 Indemnification as Condition to Action.** Except for action expressly required of the Administrative Agent hereunder, the Administrative Agent shall in all cases be fully justified in failing or refusing to act hereunder unless it shall have received further assurances (which may include cash collateral) of the indemnification obligations of the Syndication Parties under Section 13.17 hereof in respect of any and all liability and expense which may be incurred by it by reason of taking or continuing to take any such action.

**13.6.6 Forwarding of Information.** The Administrative Agent shall, within a reasonable time after receipt thereof, forward to the Syndication Parties and the Voting Participants notices and reports provided to the Administrative Agent by the Borrower pursuant to Section 9.2 hereof.

**13.7 Consent Required for Certain Actions.** Notwithstanding the fact that this Credit Agreement may otherwise provide that the Administrative Agent may act at its discretion, the Administrative Agent may not take any of the following actions with respect to, or under, the Loan Documents (nor may the Syndication Parties or the Voting Participants take the action described in Subsection 13.7.1(c)) without the prior written consent, given after notification by the Administrative Agent of its intention to take any such action (or notification by such Syndication Parties or the Voting Participants as are proposing the action described in Subsection 13.7.1(c) of their intention to do so), of:

**13.7.1 Unanimous.** Each of the Syndication Parties and Voting Participants holding, directly or, in the case of Voting Participants, indirectly, an Individual Commitment, before:

(a) Agreeing to an increase in the Aggregate Commitment or an extension of the Maturity Date;

(b) Agreeing to a reduction in the amount, or to a delay in the due date, of any payment by Borrower of interest, principal, or fees with respect to the Revolving Loan;

(c) Amending any provisions of this Subsection 13.7.1 or Section 14.20; or

(d) Agreeing to release any Collateral from the lien of the Security Documents, except as provided in Subsection 13.5.6 hereof.

**13.7.2 Required Lenders.** The Required Lenders before:

(a) Consenting to any action or amendment, or granting any waiver with respect to, either the Revolving Loan, not covered in Subsection 13.7.1 and except as provided in Subsection 13.5.6(a), (b), or (c) hereof; or

(b) Agreeing to amend Article 13 of this Credit Agreement (other than Subsection 13.7.1).

**13.7.3 Increase in Individual Commitment Amounts.** The Individual Commitment of any Syndication Party may not be increased without (a) the prior written consent of such Syndication Party and (b) if such increase would result in an increase in the Aggregate Commitment, compliance with Subsection 13.7.1(a) hereof.

**13.7.4 Action Without Vote.** Notwithstanding any other provisions of this Section, the Administrative Agent may, without obtaining the consent of the Syndication Parties or Voting Participants, determine (a) whether the conditions to an Advance have been met, and (b) the amount of such Advance;

**13.7.5 Vote of Participants.** Under the circumstances set forth in Section 13.26 hereof, each Voting Participant shall be accorded voting rights as though such Person was a Syndication Party, and in such case the voting rights of the Syndication Party from which such Voting Participant acquired its participation interest shall be reduced accordingly.

**13.8 Distribution of Principal and Interest.** The Administrative Agent will receive and accept all payments (including prepayments) of principal and interest made by Borrower on the Loans and the Notes and will hold all such payments in trust for the benefit of all present and future Syndication Parties, and, if requested in writing by the Required Lenders, in an account segregated from the Administrative Agent's other funds and accounts ("**Payment Account**"). After the receipt by the Administrative Agent of any payment representing interest or principal on the Loans, the Administrative Agent shall remit to each Syndication Party its share of such payment as provided in Article 4 hereof in US dollars ("**Payment Distribution**") no later than 3:00 P.M. (Central time) on the same Banking Day as such payment is received by the Administrative Agent if received no later than 1:00 P.M. (Central time) or the next Banking Day if received by the Administrative Agent thereafter. Any Syndication Party's rights to its Payment Distribution shall be subject to the rights of any Contributing Syndication Parties to such amounts as set forth in Section 13.3 hereof.

**13.9 Distribution of Certain Amounts.** The Administrative Agent shall (a) receive and hold in trust for the benefit of all present and future Syndication Parties, in the Payment Account and, if requested in writing by the Required Lenders, segregated from the Administrative Agent's other funds and accounts and (b) shall remit to the Syndication Parties, as indicated, the amounts described below:

**13.9.1 Funding Losses.** To each Syndication Party the amount of any Funding Losses paid by Borrower to the Administrative Agent in connection with a prepayment of any portion of a LIBO Rate Loan, in accordance with the Funding Loss Notice such Syndication Party provided to the Administrative Agent, no later than 3:00 P.M. (Central time) on the same Banking Day that payment of such Funding Losses is received by the Administrative Agent, if received no later than 1:00 P.M. (Central time), or the next Banking Day if received by the Administrative Agent thereafter.

**13.9.2 Fees.** To each Syndication Party its Individual Pro Rata Share of the Commitment Fee paid by Borrower to the Administrative Agent, no later than 3:00 P.M. (Central time) on the same Banking Day that payment of such fee is received by the Administrative Agent, if received no later than 1:00 P.M. (Central time), or the next Banking Day if received by the Administrative Agent thereafter.

**13.10 Possession of Loan Documents.** The Loan Documents (other than the Notes) shall be held by the Administrative Agent in its name, for the ratable benefit of itself and the other Syndication Parties without preference or priority.

**13.11 Collateral Application.** The Syndication Parties shall have no interest in any other loans made to Borrower by any other Syndication Party other than the Loans, or in any property taken as security for any other loan or loans made to Borrower by any other Syndication Party, or in any property now or hereinafter in the possession or control of any other Syndication Party, which may be or become security for the Loans solely by reason of the provisions of a security instrument that would cause such security instrument and the property covered thereby to secure generally all indebtedness owing by Borrower to such other Syndication Party. Notwithstanding the foregoing, to the extent such other Syndication Party applies such funds or the proceeds of such property to reduction of the Loans, such other Syndication Party shall share such funds or proceeds with all Syndication Parties according to their respective Individual Pro Rata Shares. In the event that any Syndication Party shall obtain payment, whether partial or full, from any source in respect of the Loans, including without limitation payment by reason of the exercise of a right of offset, banker's lien, general lien, or counterclaim, such Syndication Party shall promptly make such adjustments (which may include payment in cash or the purchase of further syndications or participations in the Loans) to the end that such excess payment shall be shared with all other Syndication Parties in accordance with their respective Individual Pro Rata Shares.

**13.12 Amounts Required to be Returned.** If the Administrative Agent makes any payment to a Syndication Party in anticipation of the receipt of final funds from Borrower, and such funds are not received from Borrower, or if excess funds are paid by the Administrative Agent to any Syndication Party as the result of a miscalculation by the Administrative Agent, then such Syndication Party shall, on demand of the Administrative Agent, forthwith return to the Administrative Agent any such amounts, plus interest thereon (from the day such amounts were transferred by the Administrative Agent to the Syndication Party to, but not including, the day such amounts are returned by Syndication Party) at a rate per annum equal to the customary rate set by the

Administrative Agent for the correction of errors among banks for three (3) Banking Days and thereafter at the Base Rate. If the Administrative Agent is required at any time to return to Borrower or a trustee, receiver, liquidator, custodian, or similar official any portion of the payments made by Borrower to the Administrative Agent, whether pursuant to any bankruptcy or insolvency law or otherwise, then each Syndication Party shall, on demand of the Administrative Agent, forthwith return to the Administrative Agent any such payments transferred to such Syndication Party by the Administrative Agent but without interest or penalty (unless the Administrative Agent is required to pay interest or penalty on such amounts to the person recovering such payments).

**13.13 Reports and Information to Syndication Parties.** The Administrative Agent shall use reasonable efforts to provide to the Syndication Parties, as soon as practicable after actual knowledge thereof is acquired by an officer thereof primarily responsible for the Administrative Agent's duties as such with respect to the Loans or primarily responsible for the credit relationship, if any, between the Administrative Agent and Borrower, any material factual information which has a material adverse effect on the creditworthiness of Borrower and Borrower hereby authorizes such disclosure by the Administrative Agent to the Syndication Parties (and by the Syndication Parties to any of their participants). Failure of the Administrative Agent to provide the information referred to in this Section or in Subsection 13.6.4 hereof shall not result in any liability upon, or right to make a claim against, the Administrative Agent except where a court of competent jurisdiction renders a final non-appealable determination that such failure is a result of the willful misconduct or gross negligence of the Administrative Agent. The Syndication Parties acknowledge and agree that all information and reports received pursuant to this Credit Agreement will be received in confidence in connection with their Syndication Interest, and that such information and reports constitute confidential information and shall not, without the prior written consent of the Administrative Agent or Borrower, as applicable, be (x) disclosed to any third party (other than the Administrative Agent, another Syndication Party or potential Syndication Party, or a participant or potential participant in the interest of a Syndication Party, which disclosure is hereby approved by Borrower), except pursuant to appropriate legal or regulatory process, or (y) used by the Syndication Party except in connection with the Loans and its Syndication Interest.

**13.14 Standard of Care.** The Administrative Agent shall not be liable to the Syndication Parties for any error in judgment or for any action taken or not taken by the Administrative Agent or its agents, except for its gross negligence or willful misconduct. Subject to the preceding sentence, the Administrative Agent will exercise the same care in administering the Loans and the Loan Documents as it exercises for similar loans which it holds for its own account and risk, and the Administrative Agent shall not have any further responsibility to the Syndication Parties. Without limiting the foregoing, the Administrative Agent may rely on the advice of counsel concerning legal matters and on any written document it believes to be genuine and correct and to have been signed or sent by the proper Person or Persons.

**13.15 No Trust Relationship.** Neither the execution of this Credit Agreement, nor the sharing in the Loans, nor the holding of the Loan Documents in its name by the Administrative Agent, nor the management and administration of the Loans and Loan Documents by the Administrative Agent (including the obligation to hold certain payments and proceeds in the Payment Account in trust for the Syndication Parties), nor any other right, duty or obligation of the Administrative Agent under or pursuant to this Credit Agreement, is intended to be or create, and none of the foregoing shall be construed to be or create, any express, implied or constructive trust relationship between the Administrative Agent and any Syndication Party. Each Syndication Party hereby agrees and stipulates that the Administrative Agent is not acting as trustee for such Syndication Party with respect to the Loans, this Credit Agreement, or any aspect of either, or in any other respect.

**13.16 Sharing of Costs and Expenses.** To the extent not paid by Borrower, each Syndication Party will promptly upon demand reimburse the Administrative Agent for its Individual Pro Rata Share of all reasonable costs, disbursements, and expenses incurred by the Administrative Agent on or after the date of this Credit Agreement for legal, accounting, consulting, and other services rendered to the Administrative Agent in its role as the Administrative Agent in the administration of the Loans, interpreting the Loan Documents, and protecting, enforcing, or otherwise exercising any rights, both before and after default by Borrower under the Loan Documents, and including, without limitation, all costs and expenses incurred in connection with any bankruptcy proceedings; provided, however, that the costs and expenses to be shared in accordance with this Section shall not include any costs or expenses incurred by the Administrative Agent solely as a Syndication Party in connection with the Loans, nor the Administrative Agent's internal costs and expenses.

**13.17 Syndication Parties' Indemnification of the Administrative Agent.** Each of the Syndication Parties agree to indemnify the Administrative Agent, including any Successor Agent, and their respective directors, officers, employees, agents, professional advisers and representatives ("**Indemnified Agency Parties**"), (to the extent not reimbursed by Borrower, and without in any way limiting the obligation of Borrower to do so), ratably (based on their Individual Pro Rata Shares), from and against any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements of any kind whatsoever which may at any time (including, without limitation, at any time following the payment of the Loans and/or the expiration or termination of this Credit Agreement) be imposed on, incurred by or asserted against the Administrative Agent (or any of the Indemnified Agency Parties while acting for the Administrative Agent or for any Successor Agent) in any way relating to or arising out of this Credit Agreement or the Loan Documents, or the performance of the duties of the Administrative Agent hereunder or thereunder or any action taken or omitted while acting in the capacity of the Administrative Agent under or in connection with any of the foregoing; provided that the Syndication Parties shall not be liable for the payment of any portion of such liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements of an Indemnified Agency Party to the extent that any of the foregoing result from the gross negligence or willful misconduct of that Indemnified Agency Party as determined by

the final non-appealable judgment of a court of competent jurisdiction. The agreements and obligations in this Section shall survive the payment of the Loans and the expiration or termination of this Credit Agreement.

**13.18 Books and Records.** The Administrative Agent shall maintain such books of account and records relating to the Loans as it maintains with respect to other loans of similar type and amount, and which shall clearly and accurately reflect the Syndication Interest of each Syndication Party. Syndication Parties, or their agents, may inspect such books of account and records at all reasonable times during the Administrative Agent's regular business hours.

**13.19 Administrative Agent Fee.** The Administrative Agent and any Successor Agent shall be entitled to the Administrative Agent Fee (as such fee is set forth in the Fee Letter) for acting as the Administrative Agent. In the event the Successor Agent is contractually entitled to an additional fee, each Syndication Party will be responsible for its proportionate share (based on its Individual Pro Rata Share) thereof.

**13.20 The Administrative Agent's Resignation or Removal.** The Administrative Agent may resign at any time by giving at least sixty (60) days' prior written notice of its intention to do so to each of the Syndication Parties and Borrower. After the receipt of such notice, the Required Lenders shall appoint a successor ("**Successor Agent**"). If (a) no Successor Agent shall have been so appointed which is either (i) a Syndication Party, or (ii) if not a Syndication Party, which is a Person approved by Borrower, or (b) if such Successor Agent has not accepted such appointment, in either case within forty-five (45) days after the retiring Administrative Agent's giving of such notice of resignation, then the retiring Administrative Agent may, after consulting with, but without requiring the approval of, Borrower, appoint a Successor Agent which shall be a bank or a trust company organized under the laws of the United States of America or any state thereof and having a combined capital, surplus and undivided profit of at least \$250,000,000.00. Any Administrative Agent may be removed upon the written demand of the Required Lenders, which demand shall also appoint a Successor Agent. Upon the appointment of a Successor Agent hereunder, (y) the term "Administrative Agent" shall for all purposes of this Credit Agreement thereafter mean such Successor Agent, and (z) the Successor Agent shall notify Borrower of its identity and of the information called for in Subsection 14.4.2 hereof. After any retiring Administrative Agent's resignation hereunder as the Administrative Agent, or the removal hereunder of any Administrative Agent, the provisions of this Credit Agreement shall continue to inure to the benefit of such Administrative Agent as to any actions taken or omitted to be taken by it while it was the Administrative Agent under this Credit Agreement.

**13.21 Representations and Warranties of All Parties.** The Administrative Agent and each Syndication Party represents and warrants that: (a) the execution and delivery of, and performance of its obligations under, this Credit Agreement is within its power and has been duly authorized by all necessary corporate and other action by it; (b) this Credit Agreement is in compliance with all applicable laws and regulations promulgated under such laws and does not conflict with nor constitute a breach of its

charter or by-laws nor any agreements by which it is bound, and does not violate any judgment, decree or governmental or administrative order, rule or regulation applicable to it; (c) no approval, authorization or other action by, or declaration to or filing with, any governmental or administrative authority or any other Person is required to be obtained or made by it in connection with the execution and delivery of, and performance of its obligations under, this Credit Agreement; and (d) this Credit Agreement has been duly executed by it, and constitutes the legal, valid, and binding obligation of such Person, enforceable in accordance with its terms, except as such enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting the rights of creditors generally and general equitable principles (regardless of whether such enforceability is considered in a proceeding at law or in equity). Each Syndication Party that is a state or national bank represents and warrants that the act of entering into and performing its obligations under this Credit Agreement has been approved by its board of directors or its loan committee and such action was duly noted in the written minutes of the meeting of such board or committee, and that it will, if requested to do so by the Administrative Agent, furnish the Administrative Agent with a certified copy of such minutes or an excerpt therefrom reflecting such approval.

**13.22 Representations and Warranties of CoBank.** Except as expressly set forth in Section 13.21 hereof, the Administrative Agent makes no express or implied representation or warranty and assumes no responsibilities with respect to the due authorization, execution, or delivery of the Loan Documents; the accuracy of any information, statements, or certificates provided by Borrower, the legality, validity, or enforceability of the Loan Documents; the value of any Collateral, the filing or recording of any document; the collectibility of the Loans; the performance by Borrower of any of its obligations under the Loan Documents; or the financial condition or solvency of Borrower or any other party obligated with respect to the Loans or the Loan Documents.

**13.23 Syndication Parties' Independent Credit Analysis.** Each Syndication Party acknowledges receipt of true and correct copies of all Loan Documents (other than any Note payable to another Syndication Party) from the Administrative Agent. Each Syndication Party agrees and represents that it has relied upon its independent review (a) of the Loan Documents, and (b) any information independently acquired by such Syndication Party from Borrower or otherwise in making its decision to acquire an interest in the Loans independently and without reliance on the Administrative Agent. Each Syndication Party represents and warrants that it has obtained such information as it deems necessary (including any information such Syndication Party independently obtained from Borrower or others) prior to making its decision to acquire an interest in the Loans. Each Syndication Party further agrees and represents that it has made its own independent analysis and appraisal of and investigation into each Borrower's authority, business, operations, financial and other condition, creditworthiness, and ability to perform its obligations under the Loan Documents and has relied on such review in making its decision to acquire an interest in the Loans. Each Syndication Party agrees that it will continue to rely solely upon its independent review of the facts and circumstances related to Borrower, and without reliance upon the Administrative

Agent, in making future decisions with respect to all matters under or in connection with the Loan Documents and the Loans. The Administrative Agent assumes no responsibility for the financial condition of Borrower or for the performance of Borrower's obligations under the Loan Documents. Except as otherwise expressly provided herein, no Syndication Party shall have any duty or responsibility to furnish to any other Syndication Parties any credit or other information concerning Borrower which may come into its possession.

**13.24 No Joint Venture or Partnership.** Neither the execution of this Credit Agreement, the sharing in the Loans, nor any agreement to share in payments or losses arising as a result of this transaction is intended to be or to create, and the foregoing shall not be construed to be, any partnership, joint venture or other joint enterprise between the Administrative Agent and any Syndication Party, nor between or among any of the Syndication Parties.

**13.25 Purchase for Own Account; Restrictions on Transfer; Participations.** Each Syndication Party represents that it has acquired and is retaining its interest in the Loans for its own account in the ordinary course of its banking or financing business. Each Syndication Party agrees that it will not sell, assign, convey or otherwise dispose of ("Transfer") to any Person, or create or permit to exist any lien or security interest on, all or any part of its interest in the Loans without the prior written consent of the Administrative Agent and Borrower (which consent will not be unreasonably withheld); provided that: (a) any such Transfer (except a Transfer to another Syndication Party) must be in a minimum amount of \$5,000,000.00; (b) each Syndication Party must maintain an Individual Commitment of no less than \$5,000,000.00, unless it Transfers its entire interest in the Loans; (c) no consent shall be required from Borrower during any period when an Event of Default shall have occurred and be continuing; (d) the transferee must execute an agreement substantially in the form of Exhibit 13.25 hereto ("**Syndication Acquisition Agreement**") and assume all of the transferor's obligations hereunder and execute such documents as the Administrative Agent may reasonably require; and (e) the Syndication Party making such Transfer must pay the Administrative Agent an assignment fee of \$3,500.00. Upon receipt of such fee and the properly executed Syndication Acquisition Agreement, the assignee of such Transfer shall thereafter be treated as the Syndication Party with respect to the Syndication Interest subject to the Transfer and shall receive all future Payment Distributions, and the assignor and assignee shall make all adjustments and payments between themselves appropriate with respect to such future Payment Distributions. Any Syndication Party may participate any part of its interest in the Loans to any Person with the prior written consent of the Administrative Agent and Borrower (which consent will not be unreasonably withheld), provided that (l) no such consent shall be required where the participant is a Person at least fifty percent (50%) the equity interest in which is owned by such Syndication Party or which owns at least fifty percent (50%) of the equity interest in such Syndication Party or at least fifty percent (50%) of the equity interest of which is owned by the same Person which owns at least fifty percent (50%) of the equity interest of such Syndication Party and (m) no consent shall be required from Borrower during any period when an Event of Default shall have occurred and be continuing, and, further, each Syndication Party understands and agrees

that in the event of any such participation: (y) its obligations hereunder will not change on account of such participation, and (z) except as provided in Section 13.26 hereof with respect to voting rights, (i) the participant will have no rights under this Credit Agreement, including, without limitation, voting rights (except for such participants which qualify as a Voting Participant) or the right to receive payments or distributions; and (ii) the Administrative Agent shall continue to deal directly with the Syndication Party with respect to the Loans (including with respect to voting rights - except for such participants which qualify as a Voting Participant) as though no participation had been granted and will not be obligated to deal directly with any participant. Notwithstanding any provision contained herein to the contrary, any Syndication Party may at any time pledge or assign all or any portion of its interest in the Loans to any Federal Reserve Bank or the Federal Farm Credit Bank's Funding Corporation in accordance with applicable law.

**13.26 Certain Participants' Voting Rights.** All Persons who (a) have purchased a participation interest in the minimum amount of \$10,000,000.00 in a Syndication Party's Syndication Interest on or after the Closing Date; and (b) are, by written notice ("**Voting Participant Notification**"), designated, by Agriland or any other Syndication Party (as applicable), to Borrower and the Administrative Agent as being entitled to be accorded the rights of a Voting Participant hereunder (each a "**Voting Participant**"), shall be entitled to vote (and the voting rights of Agriland or such Syndication Party, as applicable, shall be correspondingly reduced), on a dollar basis, as if such participant were a Syndication Party, on any matter requiring or allowing a Syndication Party, to provide or withhold its consent, or to otherwise vote on any proposed action. To be effective, each Voting Participant Notification shall, with respect to such Voting Participant, (i) state the full name, as well as all contact information required of a Syndication Party as set forth on the Syndication Party signature page hereto, (ii) state the dollar amount of participation interest purchased.

**13.27 Method of Making Payments.** Payment and transfer of all amounts owing or to be paid or remitted hereunder to the Administrative Agent by the Syndication Parties, including, without limitation, payment of the Advance Payment, shall be by wire transfer in accordance with the instructions contained on Exhibit 13.27 hereto ("**Wire Instructions**"). Payment and transfer of all amounts to be paid or remitted hereunder to the Syndication Parties by the Administrative Agent, including, without limitation, Payment Distributions, shall be by wire transfer in accordance with the instructions contained on their respective signature pages hereto.

**13.28 Events of Syndication Default/Remedies.**

**13.28.1 Syndication Party Default.** Any of the following occurrences, failures or acts, with respect to any of the Syndication Parties shall constitute an "**Event of Syndication Default**" hereunder by such Syndication Party: (a) if any representation or warranty made by such Syndication Party in this Credit Agreement shall be found to have been untrue in any material respect; (b) if such Syndication Party fails to make any distributions or payments required under this Credit Agreement within five (5) days of the date required; (c) if such Syndication Party breaches any other covenant,

agreement, or provision of this Credit Agreement which breach shall have continued uncured for a period of thirty (30) consecutive days after such breach first occurs, unless a shorter period is required to avoid prejudicing the rights and position of the other Syndication Parties; (d) if any agency having supervisory authority over such Syndication Party, or any creditors thereof, shall file a petition to reorganize or liquidate such Syndication Party pursuant to any applicable federal or state law or regulation and such petition shall not be discharged or denied within fifteen (15) days after the date on which it is filed; (e) if by the order of a court of competent jurisdiction or by any appropriate supervisory agency, a receiver, trustee or liquidator shall be appointed for such Syndication Party or for all or any material part of its property or if such Syndication Party shall be declared insolvent; or (f) if such Syndication Party shall be dissolved, or shall make an assignment for the benefit of its creditors, or shall file a petition seeking to take advantage of any debtors' act, including the bankruptcy act, or shall admit in writing its inability to pay its debts generally as they become due, or shall consent to the appointment of a receiver or liquidator of all or any material part of its property.

**13.28.2 Remedies.** Upon the occurrence of an Event of Syndication Default, the non-defaulting Syndication Parties, acting by, or through the direction of, a simple majority of the non-defaulting Syndication Parties (determined based on the ratio of the total of their Individual Commitments to the Aggregate Commitment), may, in addition to any other remedy specifically set forth in this Credit Agreement, have and exercise any and all remedies available generally at law or equity, including the right to damages and to specific performance.

**13.29 Withholding Taxes.** Each Syndication Party represents that it is entitled to receive any payments to be made to it hereunder without the withholding of any tax and will furnish to the Administrative Agent and to Borrower such forms, certifications, statements and other documents as the Administrative Agent or Borrower may request from time to time to evidence such Syndication Party's exemption from the withholding of any tax imposed by any jurisdiction or to enable the Administrative Agent or Borrower, as the case may be, to comply with any applicable laws or regulations relating thereto. Without limiting the effect of the foregoing, if any Syndication Party is not created or organized under the laws of the United States of America or any state thereof, such Syndication Party will furnish to the Administrative Agent and Borrower IRS Form 4224 or Form 1001, or such other forms, certifications, statements or documents, duly executed and completed by such Syndication Party, as evidence of such Syndication Party's exemption from the withholding of United States tax with respect thereto. Notwithstanding anything herein to the contrary, Borrower shall not be obligated to make any payments hereunder to or for the benefit of such Syndication Party until such Syndication Party shall have furnished to the Administrative Agent and Borrower the requested form, certification, statement or document.

**13.30 Amendments Concerning Agency Function.** The Administrative Agent shall not be bound by any waiver, amendment, supplement or modification of this Credit Agreement or any other Loan Document which affects its duties hereunder or thereunder unless it shall have given its prior written consent thereto.

**13.31 Reallocation of Outstanding Advances.** Each of the Syndication Parties agrees that: (a) the aggregate outstanding balance of 7 Year Advances under the 2000 Credit Agreement as of the Closing Date and the aggregate outstanding balance of 10 Year Advances as of the Closing Date shall on such date be aggregated and reallocated among the Syndication Parties (as though they were Advances hereunder) in accordance with the ratio which their Individual Commitment bears to the Aggregate Commitment on such date as determined by the Administrative Agent; and (c) to the extent such reallocation as described in clause (a) of this Section ("**Reallocation**") results in the Advances allocated to any Syndication Party being in excess of the 7 Year Advances and 10 Year Advances which were allocated to such Syndication Party under the 2000 Credit Agreement immediately prior to such Reallocation, such Syndication Party shall remit to the Administrative Agent funds in the amount of such excess by 2:00 P.M. (Central time) on the Closing Date in the manner provided in Section 13.27 hereof. To the extent such Reallocation results in the Advances allocated to any Syndication Party being less than the 7 Year Advances and 10 Year Advances which were allocated to such Syndication Party under the 2000 Credit Agreement immediately prior to such Reallocation ("**Reduction**"), the Administrative Agent shall, from funds it receives pursuant to clause (c) of this Section, remit the amount of such Reduction to such Syndication Party in the manner provided in Section 13.27 hereof.

**13.32 Further Assurances.** The Administrative Agent and each Syndication Party agree to take whatever steps and execute such documents as may be reasonable and necessary to implement this Article 13 and to carry out fully the intent thereof.

#### **ARTICLE 14. MISCELLANEOUS**

**14.1 Costs and Expenses.** To the extent permitted by law, Borrower agrees to pay to the Administrative Agent and/or the Syndication Parties, as applicable, on demand, all out-of-pocket costs and expenses (a) reasonably incurred by the Administrative Agent (including, without limitation, the reasonable fees and expenses of counsel retained by the Administrative Agent, and including fees and expenses incurred for consulting, appraisal, engineering, inspection, and environmental assessment services) in connection with the preparation, negotiation, and execution of the Fee Letter, mandate letter, Summary of Terms and Conditions, and the Amendment Documents and the transactions contemplated thereby, processing the Borrowing Notices, and processing requests for and implementing Pari Passu Loans, and (b) incurred by the Administrative Agent or any Syndication Party (including, without limitation, the reasonable fees and expenses of counsel retained by the Administrative Agent and the Syndication Parties) in connection with the enforcement or protection of the Syndication Parties' rights under the Loan Documents upon the occurrence of an Event of Default, including without limitation collection of the Loan or enforcement of rights against the Collateral (regardless of whether such enforcement or collection is by court action or otherwise) or, unless it is determined by a final non-appealable judgment that the Administrative Agent or such Syndication Party, as applicable, has acted in a grossly negligent or willful manner, upon the commencement of an action by Borrower against the Administrative Agent or any Syndication Party. Borrower shall not be obligated to pay the costs or expenses of any Person whose only interest in the Loan is as a holder of a participation interest.

**14.2 Service of Process and Consent to Jurisdiction.** Borrower and each Syndication Party hereby agrees that any litigation with respect to this Credit Agreement or to enforce any judgment obtained against such Person for breach of this Credit Agreement or under the Notes or other Loan Documents may be brought in the courts of the State of Colorado and in the United States District Court for the District of Colorado (if applicable subject matter jurisdictional requirements are present), as the Administrative Agent may elect; and, by execution and delivery of this Credit Agreement, Borrower and each Syndication Party irrevocably submits to such jurisdiction. With respect to litigation concerning this Credit Agreement or under the Notes or other Loan Documents within the jurisdiction of the courts of the State of Colorado or the United States District Court for the District of Colorado, Borrower and each Syndication Party hereby irrevocably appoints, until six (6) months after the expiration of the Maturity Date (as it may be extended at anytime), The Corporation Company, or such other Person as it may designate in writing to the Administrative Agent, in each case with offices in Denver, Colorado and otherwise reasonably acceptable to the Administrative Agent to serve as the agent of Borrower or such Syndication Party to receive for and on its behalf at such agent's Denver, Colorado office, service of process, which service may be made by mailing a copy of any summons or other legal process to such Person in care of such agent. Borrower and each Syndication Party agrees that it shall maintain a duly appointed agent in Colorado for service of summons and other legal process as long as it remains obligated under this Credit Agreement and shall keep the Administrative Agent advised in writing of the identity and location of such agent. The receipt by such agent and/or by Borrower or such Syndication Party, as applicable, of such summons or other legal process in any such litigation shall be deemed personal service and acceptance by Borrower or such Syndication Party, as applicable, for all purposes of such litigation.

**14.3 Jury Waiver.** IT IS MUTUALLY AGREED BY AND BETWEEN THE ADMINISTRATIVE AGENT, EACH SYNDICATION PARTY, AND BORROWER THAT THEY EACH WAIVE TRIAL BY JURY IN ANY ACTION, PROCEEDING, OR COUNTERCLAIM BROUGHT BY ANY OF THEM AGAINST ANY OTHER PARTY ON ANY MATTER WHATSOEVER ARISING OUT OF OR IN ANY WAY CONNECTED WITH THIS CREDIT AGREEMENT, THE NOTES, OR THE OTHER LOAN DOCUMENTS.

**14.4 Notices.** All notices, requests and demands required or permitted under the terms of this Credit Agreement shall be in writing and (a) shall be addressed as set forth below or at such other address as either party shall designate in writing, (b) shall be deemed to have been given or made: (i) if delivered personally, immediately upon delivery, (ii) if by telex, telegram, or facsimile transmission, immediately upon sending and upon confirmation of receipt, (iii) if by nationally recognized overnight courier service with instructions to deliver the next Banking Day, one (1) Banking Day after sending, and (iv) if by United States Mail, certified mail, return receipt requested, five (5) days after mailing.

**14.4.1 Borrower:**

Pilgrim's Pride Corporation  
110 South Texas Street  
Pittsburg, Texas 75686  
FAX: (903) 856-7505  
Attention: Chief Financial Officer

with a copy to:

Baker & McKenzie  
4500 Trammell Crow Center  
2001 Ross Avenue  
Dallas, Texas 75201  
FAX: (214) 965-5902  
Attention: Alan G. Harvey

**14.4.2 Administrative Agent:**

CoBank, ACB  
5500 South Quebec Street  
Greenwood Village, Colorado 80111  
FAX: (303) 694-5830  
Attention: Syndications Coordinator, Corporate Finance Division

**14.4.3 Agriland:**

Agriland, FCS  
3210 W. Northwest Loop 323  
Tyler, Texas 75702  
FAX: (903) 693-6588  
Attention: Steve Ogletree

**14.4.4 Syndication Parties:**

See signature pages hereto.

**14.5 Liability of Administrative Agent and Co-Arrangers.** Neither the Administrative Agent nor the Co-Arrangers shall have any liabilities or responsibilities to Borrower or any Subsidiary on account of the failure of any Syndication Party to perform its obligations hereunder or to any Syndication Party on account of the failure of Borrower or any Subsidiary to perform their respective obligations hereunder or under any other Loan Document.

**14.6 Successors and Assigns.** This Credit Agreement shall be binding upon and inure to the benefit of Borrower, the Administrative Agent, the Co-Arrangers, and the Syndication Parties, and their respective successors and assigns, except that Borrower may not assign or transfer its rights or obligations hereunder without the prior written consent of all of the Syndication Parties.

**14.7 Severability.** The invalidity or unenforceability of any provision of this Credit Agreement or the other Loan Documents shall not affect the remaining portions of such documents or instruments; in case of such invalidity or unenforceability, such documents or instruments shall be construed as if such invalid or unenforceable provisions had not been included therein.

**14.8 Entire Agreement.** This Credit Agreement (together with all exhibits hereto, which are incorporated herein by this reference), the other Loan Documents, and the letter of even date herewith between Borrower and the Administrative Agent regarding certain post-closing matters ("**Post Closing Letter**"), represent the entire understanding of the Administrative Agent, the Co-Arrangers, each Syndication Party, and Borrower with respect to the subject matter hereof and shall replace and supersede any previous agreements of the parties with respect to the subject matter hereof.

**14.9 Applicable Law.** To the extent not governed by federal law, this Credit Agreement and the other Loan Documents, and the rights and obligations of the parties hereto and thereto shall be governed by and interpreted in accordance with the internal laws of the State of Colorado, without giving effect to any otherwise applicable rules concerning conflicts of law.

**14.10 Captions.** The captions or headings in this Credit Agreement and any table of contents hereof are for convenience only and in no way define, limit or describe the scope or intent of any provision of this Credit Agreement.

**14.11 Complete Agreement; Amendments.** This Credit Agreement, the Notes, and the other Loan Documents are intended by the parties hereto to be a complete and final expression of their agreement and may not be contradicted by evidence of any prior or contemporaneous oral agreement. The Administrative Agent, each Syndication Party, and Borrower acknowledge and agree that there is no unwritten oral agreement between them with respect to the subject matter of this Credit Agreement. This Credit Agreement may not be modified or amended unless such modification or amendment is in writing and is signed by Borrower, the Administrative Agent, the Co-Arrangers, and the Required Lenders or, where this Credit Agreement requires the consent of all Syndication Parties, then by all of the Syndication Parties (and each Syndication Party hereby agrees to execute any such amendment approved pursuant to Section 13.7 hereof). Borrower agrees that it shall reimburse the Administrative Agent for all reasonable fees and expenses incurred by the Administrative Agent in retaining outside legal counsel in connection with any amendment or modification to this Credit Agreement.

**14.12 Additional Costs of Maintaining Loan.** Borrower shall pay to the Administrative Agent from time to time such amounts as the Administrative Agent may determine to be necessary to compensate any Syndication Party for any increase in costs to such Syndication Party which the Administrative Agent reasonably determines, based

on information presented to it by such Syndication Party, are attributable to such Syndication Party's making or maintaining an Advance hereunder or its obligation to make such Advance, or any reduction in any amount receivable by such Syndication Party under this Credit Agreement or the Notes payable to it in respect to such Advance or such obligation (such increases in costs and reductions in amounts receivable being herein called "**Additional Costs**"), resulting from any change after the date of this Credit Agreement in United States federal, state, municipal, or foreign laws or regulations (including Regulation D of the Federal Reserve Board), or the adoption or making after such date of any interpretations, directives, or requirements applying to a class of banks or financial institutions including such Syndication Party of or under any United States federal, state, municipal, or foreign laws or regulations (whether or not having the force of law) by any court or governmental or monetary authority charged with the interpretation or administration thereof ("**Regulatory Change**"), which: (a) changes the basis of taxation of any amounts payable to such Syndication Party under this Credit Agreement or the Notes payable to such Syndication Party in respect of such Advance (other than taxes imposed on the overall net income of such Syndication Party); or (b) imposes or modifies any reserve, special deposit, or similar requirements relating to any extensions of credit or other assets of, or any deposits with or other liabilities of, such Syndication Party; or (c) imposes any other condition affecting this Credit Agreement or the Notes payable to such Syndication Party (or any of such extensions of credit or liabilities). The Administrative Agent will notify Borrower of any event occurring after the date of this Credit Agreement which will entitle such Syndication Party to compensation pursuant to this Section as promptly as practicable after it obtains knowledge thereof and determines to request such compensation. The Administrative Agent shall include with such notice, a certificate from such Syndication Party setting forth in reasonable detail the calculation of the amount of such compensation. Determinations by the Administrative Agent for purposes of this Section of the effect of any Regulatory Change on the costs of such Syndication Party of making or maintaining an Advance or on amounts receivable by such Syndication Party in respect of Advances, and of the additional amounts required to compensate such Syndication Party in respect of any Additional Costs, shall be conclusive absent manifest error, provided that such determinations are made on a reasonable basis.

**14.13 Capital Requirements.** In the event after the date of this Credit Agreement of the introduction of or any change in: (a) any law or regulation; (b) the judicial, administrative, or other governmental interpretation of any law or regulation; or (c) compliance by any Syndication Party or any corporation controlling any such Syndication Party with any guideline or request from any governmental authority (whether or not having the force of law) has the effect of requiring an increase in the amount of capital required or expected to be maintained by such Syndication Party or any corporation controlling such Syndication Party, and such Syndication Party certifies, based on a reasonable determination, that such increase is based in any part upon such Syndication Party's obligations hereunder with respect to the Revolving Loan, and other similar obligations, Borrower shall pay to such Syndication Party such additional amount as shall be certified by such Syndication Party to the Administrative Agent and to Borrower to be the net present value of (y) the amount by which such

increase in capital reduces the rate of return on capital which such Syndication Party could have achieved over the period remaining until the Maturity Date, but for such introduction or change, (z) multiplied by the product of such Syndication Party's Individual Pro Rata Share times the Aggregate Commitment. The Administrative Agent will notify Borrower of any event occurring after the date of this Credit Agreement that will entitle any such Syndication Party to compensation pursuant to this Section as promptly as practicable after it obtains knowledge thereof and of such Syndication Party's determination to request such compensation. The Administrative Agent shall include with such notice, a certificate from such Syndication Party setting forth in reasonable detail the calculation of the amount of such compensation. Determinations by any Syndication Party for purposes of this Section of the effect of any increase in the amount of capital required to be maintained by any such Syndication Party and of the amount of compensation owed to any such Syndication Party under this Section shall be conclusive absent manifest error, provided that such determinations are made on a reasonable basis.

**14.14 Replacement Notes.** Upon receipt by Borrower of evidence satisfactory to it of: (a) the loss, theft, destruction or mutilation of any Note, and (in case of loss, theft or destruction) of the agreement of the Syndication Party to which the Note was payable to indemnify Borrower, and upon surrender and cancellation of such Note, if mutilated; or (b) the assignment by any Syndication Party of all or a portion of its Syndication Interest hereunder and the Note relating thereto, pursuant to this Credit Agreement, including assignments as a result of the Reallocation, then Borrower will deliver in lieu of such Note a new Note or, in the case of an assignment of a portion of a Syndication Interest, new Notes, for any remaining balance. All Notes executed pursuant to this Section shall be dated as of the Effective Date. The Syndication Parties shall, as soon as practical after receipt of such new executed Notes, return to Borrower the Note which has been replaced by such new Note or Notes.

**14.15 Mutual Release.** Upon full indefeasible payment and satisfaction of the Bank Debt and Notes and the other obligations contained in this Credit Agreement, the parties, including Borrower, the Administrative Agent, the Co-Arrangers, and each Syndication Party shall, except as provided in Articles 11 and 13 hereof, thereupon automatically each be fully, finally, and forever released and discharged from any further claim, liability, or obligation in connection with the Bank Debt.

**14.16 Liberal Construction.** This Credit Agreement constitutes a fully negotiated agreement between commercially sophisticated parties, each assisted by legal counsel, and shall not be construed and interpreted for or against any party hereto.

**14.17 Counterparts.** This Credit Agreement may be executed by the parties hereto in separate counterparts, each of which, when so executed and delivered, shall be an original, but all such counterparts shall together constitute one and the same instrument. Each counterpart may consist of a number of copies hereof, each signed by less than all, but together signed by all, of the parties hereto. Copies of documents or signature pages bearing original signatures, and executed documents or signature pages delivered by a party by telefax, facsimile, or e-mail transmission of an Adobe® file

format document (also known as a PDF file) shall, in each such instance, be deemed to be, and shall constitute and be treated as, an original signed document or counterpart, as applicable. Any party delivering an executed counterpart of this Credit Agreement by telefax, facsimile, or e-mail transmission of an Adobe file format document also shall deliver an original executed counterpart of this Credit Agreement, but the failure to deliver an original executed counterpart shall not affect the validity, enforceability, and binding effect of this Credit Agreement.

**14.18 Confidentiality.** Each Syndication Party shall, subject to the exceptions below, maintain the confidential nature of, and shall not use or disclose, any of Borrower's financial information, confidential information or trade secrets without first obtaining Borrower's written consent. Nothing in this Section shall require any Syndication Party to obtain such consent following the occurrence and during the continuation of an Event of Default in connection with the exercise by the Administrative Agent or any Syndication Party of its or their rights and remedies hereunder or under any of the other Loan Documents. The obligations of the Syndication Parties shall in no event apply to: (a) providing information about Borrower to any financial institution contemplated in Sections 13.6, 13.13, and 13.25 hereof or to such Syndication Party's parent holding company or any of such Syndication Party's affiliates (provide such Person is bound by similar confidentiality provisions limiting further disclosure); (b) any situation in which any Syndication Party is required by law, regulation, or subpoena or required by any Governmental Authority to disclose information; (c) providing information to counsel to the Administrative Agent or any Syndication Party in connection with the transactions contemplated by the Loan Documents or in connection with the exercise of its or their rights or remedies thereunder; (d) providing information to officers, directors, employees, agents and representatives of such Syndication Party as need to know such information or to independent auditors retained by such Syndication Party (it being understood that they shall be informed by such Syndication Party of the confidential nature of such information and that such Syndication Party shall take reasonable steps to cause them to treat such information on a confidential basis); (e) any information that is in or becomes part of the public domain otherwise than through a wrongful act of such Syndication Party or any of its employees or agents thereof; (f) any information that is in the possession of any Syndication Party prior to receipt thereof from Borrower or any other Person known to such Syndication Party to be acting on behalf of Borrower; (g) any information that is independently developed by any Syndication Party; and (h) any information that is disclosed to any Syndication Party by a third party that has no obligation of confidentiality with respect to the information disclosed. A Syndication Party's confidentiality requirements continue after it is no longer a Syndication Party under this Credit Agreement.

**14.19 Limitation of Liability.** NEITHER BORROWER NOR ANY SUBSIDIARY MAY MAKE ANY CLAIM AGAINST THE ADMINISTRATIVE AGENT, ANY SYNDICATION PARTY, OR THE AFFILIATES, DIRECTORS, OFFICERS, EMPLOYEES, ATTORNEYS OR AGENTS THEREOF FOR ANY SPECIAL, INDIRECT OR CONSEQUENTIAL DAMAGES IN RESPECT OF ANY BREACH OR WRONGFUL CONDUCT (WHETHER BASED IN CONTRACT, TORT,

OR OTHERWISE) IN CONNECTION WITH, ARISING OUT OF OR IN ANY WAY RELATED TO THE TRANSACTIONS CONTEMPLATED BY THIS CREDIT AGREEMENT OR ANY OF THE OTHER LOAN DOCUMENTS, OR ANY ACT, OMISSION OR EVENT OCCURRING IN CONNECTION THEREWITH. BORROWER HEREBY WAIVES, RELEASES AND AGREES NOT TO SUE (AND AGREES NOT TO CONSENT TO ANY SUCH SUIT BY A SUBSIDIARY) UPON ANY CLAIM FOR ANY SUCH DAMAGES, WHETHER OR NOT ACCRUED AND WHETHER OR NOT KNOWN OR SUSPECTED TO EXIST. IN ADDITION, BORROWER ACKNOWLEDGES AND AGREES THAT NEITHER THE ADMINISTRATIVE AGENT NOR ANY SYNDICATION PARTY HAS ANY DUTY OR REVIEW OR ADVISE BORROWER WITH RESPECT TO ANY PHASE OF ITS BUSINESS OPERATIONS OF CONDITION, THE RELATIONSHIP BEING SOLELY THAT OF DEBTOR AND CREDITORS AND THEIR BEING NO TRUST RELATIONSHIP OR RELIANCE.

**14.20 Departing Lenders; Payment; Transfer and Re-allocation.** Notwithstanding anything to the contrary set forth in Section 13.25 hereof, on and as of the Closing Date, subject to satisfaction of the conditions set forth in Section 8.1, (a) each of the Departing Lenders shall sell, assign and transfer, and each of the Syndication Parties hereunder shall purchase and assume, such interests in the Loans and Individual Commitments, in each case, outstanding immediately prior to the Closing Date (or as increased hereunder), as shall be necessary so that, after giving effect to all such assignments and purchases, the Individual Commitments will be held by the Syndication Parties hereunder as set forth, respectively, on Schedule 1 hereto; and (b) the aggregate outstanding balance of 7 Year Advances and of the 10 Year Advances under the 2000 Credit Agreement shall be deemed to be Advances hereunder. The assignments and purchases provided for in this Section 14.20 shall be without recourse, warranty or representation, except that each Departing Lender assigning any interest shall be deemed to have represented that it is the legal and beneficial owner of the interests assigned by it and that such interests are free and clear of any adverse claim. The purchase price for each such assignment and purchase shall equal the principal amount of the 7 Year Advances and/or the 10 Year Advances (as such terms are defined in the 2000 Credit Agreement) purchased and shall be payable to the Administrative Agent for distribution, as applicable, to the Syndication Parties and Departing Lenders, respectively. Borrower shall, on the Closing Date, pay to the Administrative Agent for distribution, as applicable, to the Syndication Parties whose Individual Commitments are being reduced from the 2000 Credit Agreement and to Departing Lenders, respectively, the amount of all interest owing under the 2000 Credit Agreement on such date, as well as all Funding Losses, if any, incurred by Departing Lenders under the 2000 Credit Agreement as a result of the assignments and purchases made pursuant to the provisions of this Section. As a condition to its receipt of amounts owing to it as provided in this Section, each Departing Lender shall return to the Administrative Agent its 7 Year Revolving Note and/or its 10 Year Revolving Note (as such terms are defined in the 2000 Credit Agreement), as applicable. Each Departing Lender shall, upon receipt of amounts owing to it as provided in this Section, be deemed to have assigned to the Administrative Agent (for the purposes of this Section 14.20) its 7 Year Revolving Note and/or its 10 Year Revolving Note (as such

terms are defined in the 2000 Credit Agreement), as applicable, and its Individual Commitment under the 2000 Credit Agreement as provided herein, without the need to execute any documents to reflect such assignments except as may be required by the Administrative Agent. Concurrently with the effectiveness of the assignments and purchases provided for above, the Departing Lenders shall cease to be parties to the 2000 Credit Agreement and shall be released from all further obligations thereunder; provided, however, that the Departing Lenders shall continue to be entitled to the benefits of Subsection 4.4.2 and Sections 12.1, 12.2, 15.12, 15.13 and 15.19 of the 2000 Credit Agreement as in effect immediately prior to the Closing Date.

**14.21 Affect of Amended and Restated Credit Agreement.** This Credit Agreement shall be effective from the Effective Date forward, and the execution of this Credit Agreement shall not relieve any party to the 2000 Credit Agreement from their respective obligations thereunder for the period from the Original Effective Date to the Effective Date or from any liability for the failure to perform such obligations or from any liability arising out of indemnification obligations under the 2000 Credit Agreement.

[SIGNATURES BEGIN ON NEXT PAGE.]

IN WITNESS WHEREOF, the parties have executed this Credit Agreement as of the date first above written.

**BORROWER:**

PILGRIM'S PRIDE CORPORATION, a corporation formed under the laws of the State of Delaware

By: /s/ Richard A. Cogdill

Name: Richard A. Cogdill  
Title: Chief Financial Officer

**ADMINISTRATIVE AGENT:**

COBANK, ACB

By: /s/ Antony Bahr

Name: Antony Bahr  
Title: Senior Vice President

**CO-ARRANGER:**

AGRILAND, FCS

By: /s/ Steve Ogletree

Name: Steve Ogletree  
Title: Chief Executive Officer

**SYNDICATION PARTIES:**

**Agriland, FCS**

By: /s/ Steve Ogletree \_\_\_\_\_

Name: Steve Ogletree

Title: Chief Executive Officer

Contact Name: Steve Ogletree

Title: Chief Executive Officer

Address: 3210 W. Northwest Loop 323

Tyler, Texas 75102

Phone No.: (903) 593-0150

Fax No.: (903) 593-6588

e-mail address: \_\_\_\_\_ -

Individual Commitment: \$475,000,000.00

**Payment Instructions:**

Agriland, FCS

ABA No.: 114924700

Acct. Name: Agriland Farm Credit Services

Account No.: 306100-100

Attn: Steve Ogletree

Reference: Pilgrim's Pride

**SYNDICATION PARTIES:**

**Deere Credit, Inc.**

By: /s/ Raymond L. Murphey

Name: Raymond L. Murphey

Title: Senior Account Credit Manager

Contact Name: Raymond L. Murphey

Title: Senior Account Credit Manager

Address: P.O. Box 6650 – Dept. 140

6400 N.W. 86<sup>th</sup> Street

Johnston, Iowa 50131

Phone No.: 515/267-4058

Fax No.: 515/267-4020

e-mail address: [MurpheyRaymond@JohnDeere.com](mailto:MurpheyRaymond@JohnDeere.com)

Individual Commitment: \$25,000,000.00

Payment Instructions:

First Chicago NBD Bank

ABA: 071000013

For account of Deere Credit Services

Account No.: 51-52135

Ref: Pilgrim's Pride Syndication Loan

THIRD AMENDED AND RESTATED SECURED CREDIT AGREEMENT

AMONG

PILGRIM'S PRIDE CORPORATION

HARRIS TRUST AND SAVINGS BANK  
Individually, as Agent and as Lead Arranger

THE LENDERS FROM TIME TO TIME PARTIES HERETO  
as Lenders

SUNTRUST BANK  
as Syndication Agent

AND

U.S. BANK NATIONAL ASSOCIATION  
WELLS FARGO BANK NATIONAL ASSOCIATION  
as Co-Documentation Agents

Dated as of April 7, 2004

**TABLE OF CONTENTS**  
**PILGRIM'S PRIDE CORPORATION**  
**THIRD AMENDED AND RESTATED SECURED CREDIT AGREEMENT**

SECTION 1.	THE REVOLVING CREDIT	1
Section 1.1.	The Revolving Credit	1
Section 1.2.	The Notes	2
Section 1.3.	Interest Rates	3
Section 1.4.	Conversion and Continuation of Revolving Credit Loans	4
Section 1.5.	Letters of Credit	4
Section 1.6.	Reimbursement Obligation	5
Section 1.7.	Manner of Borrowing and Rate Selection	6
Section 1.8.	Participation in L/Cs	7
Section 1.9.	Capital Adequacy	7
Section 1.10.	The Bond Letter of Credit	8
Section 1.11.	Bond Reimbursement Obligation	8
Section 1.12.	Participation in the Bond L/C	8
Section 1.13.	Reductions and Reinstatements	9
Section 1.14.	Liability of Harris	9
Section 1.15.	Reliance by Harris	9
Section 1.16.	Notice of Default	10
Section 1.17.	Indemnification	10
Section 1.18.	Documents and Reports	10
Section 1.19.	Amendments	10
SECTION 2.	THE COMPETITIVE BID FACILITY	11
Section 2.1.	Amount and Term	11
Section 2.2.	Competitive Bid Requests	11
Section 2.3.	Submission of Competitive Bids	12
Section 2.4.	Notice of Bids	12
Section 2.5.	Acceptance or Rejection of Bids	12
Section 2.6.	Notice of Acceptance or Rejection of Bid	13
Section 2.7.	Restrictions on Bid Loans	13
Section 2.8.	Minimum Amount	13
Section 2.9.	The Notes	13
Section 2.10.	Term of and Interest on Bid Loans	14
Section 2.11.	Disbursement of Bid Loans	14
Section 2.12.	Reliance on Telephonic Notices; Indemnity	14
Section 2.13.	Telephonic Notice	15
SECTION 3.	FEES, PREPAYMENTS, TERMINATIONS AND PLACE AND APPLICATION OF PAYMENTS.	15
Section 3.1.	Facility Fee	15
Section 3.2.	Agent's Fee	16
Section 3.3.	Optional Prepayments	16

Section 3.4.	Mandatory Prepayments - Borrowing Base	16
Section 3.5.	Place and Application of Payments	17
Section 3.6.	Commitment Terminations	17
SECTION 4.	DEFINITIONS	17
Section 4.1.	Certain Terms Defined	17
Section 4.2.	Accounting Terms	32
Section 4.3.	Interpretation	32
SECTION 5.	REPRESENTATIONS AND WARRANTIES.	32
Section 5.1.	Organization and Qualification	32
Section 5.2.	Subsidiaries	33
Section 5.3.	Financial Reports	33
Section 5.4.	Litigation; Tax Returns; Approvals	33
Section 5.5.	Regulation U	34
Section 5.6.	No Default	34
Section 5.7.	ERISA	34
Section 5.8.	Security Interests and Debt	34
Section 5.9.	Accurate Information	34
Section 5.10.	Environmental Matters	34
Section 5.11.	Enforceability	35
Section 5.12.	Restrictive Agreements	35
Section 5.13.	Labor Disputes	35
Section 5.14.	No Violation of Law	36
Section 5.15.	No Default Under Other Agreements	36
Section 5.16.	Status Under Certain Laws	36
Section 5.17.	Federal Food Security Act	36
Section 5.18.	Fair Labor Standards Act	36
Section 5.19.	Organization and Qualification of the Guarantor	37
SECTION 6.	CONDITIONS PRECEDENT	37
Section 6.1.	General	37
Section 6.2.	Each Extension of Credit	37
Section 6.3.	Conditions to Effectiveness of Restatement	38
SECTION 7.	COVENANTS	39
Section 7.1.	Maintenance	39
Section 7.2.	Taxes	39
Section 7.3.	Maintenance of Insurance	39
Section 7.4.	Financial Reports	40
Section 7.5.	Inspection and Reviews	41
Section 7.6.	Consolidation and Merger	41
Section 7.7.	Transactions with Affiliates	42
Section 7.8.	Leverage Ratio	42

Section 7.9.	Tangible Net Worth	42
Section 7.10.	Current Ratio	42
Section 7.11.	Net Tangible Assets to Total Liabilities	42
Section 7.12.	Fixed Charge Coverage Ratio	42
Section 7.13.	Minimum Net Working Capital	43
Section 7.14.	Dividends and Certain Other Restricted Payments	43
Section 7.15.	Liens	43
Section 7.16.	Borrowings and Guaranties	46
Section 7.17.	Investments, Loans and Advances	48
Section 7.18.	Sale of Property	50
Section 7.19.	Notice of Suit, Adverse Change in Business or Default	52
Section 7.20.	ERISA	52
Section 7.21.	Use of Loan Proceeds	52
Section 7.22.	Conduct of Business and Maintenance of Existence	52
Section 7.23.	Additional Information	52
Section 7.24.	Supplemental Performance	53
Section 7.25.	Compliance with Laws, etc.	53
Section 7.26.	Environmental Covenant	53
Section 7.27.	New Subsidiaries	54
Section 7.28.	Guaranty Fees	54
Section 7.29.	Sale and Leasebacks	54
Section 7.30.	Amendments to Subordinated Debt Documents	54
SECTION 8.	EVENTS OF DEFAULT AND REMEDIES.	55
Section 8.1.	Definitions	55
Section 8.2.	Remedies for Non-Bankruptcy Defaults	57
Section 8.3.	Remedies for Bankruptcy Defaults	57
Section 8.4.	L/Cs	57
Section 8.5.	Remedies under the Bond Documents	57
SECTION 9.	CHANGE IN CIRCUMSTANCES REGARDING FIXED RATE LOANS	58
Section 9.1.	Change of Law	58
Section 9.2.	Unavailability of Deposits or Inability to Ascertain the Adjusted Eurodollar Rate	58
Section 9.3.	Taxes and Increased Costs	58
Section 9.4.	Funding Indemnity	59
Section 9.5.	Lending Branch	60
Section 9.6.	Discretion of Bank as to Manner of Funding	60
SECTION 10.	THE AGENT	60
Section 10.1.	Appointment and Powers	60
Section 10.2.	Powers	60
Section 10.3.	General Immunity	60
Section 10.4.	No Responsibility for Loans, Recitals, etc	61
Section 10.5.	Right to Indemnity	61

Section 10.6.	Action Upon Instructions of Banks.	61
Section 10.7.	Employment of Agents and Counsel	61
Section 10.8.	Reliance on Documents; Counsel	61
Section 10.9.	May Treat Payee as Owner	61
Section 10.10.	Agent's Reimbursement	62
Section 10.11.	Rights as a Lender	62
Section 10.12.	Bank Credit Decision	62
Section 10.13.	Resignation of Agent	62
Section 10.14.	Duration of Agency	62
Section 10.15.	Hedging Liability Arrangement	63
Section 10.16.	Designation of Additional Agents	63
Section 10.17.	Authorization to Release or Subordinate or Limit Liens.	63
SECTION 11.	MISCELLANEOUS.	63
Section 11.1.	Amendments and Waivers	63
Section 11.2.	Waiver of Rights	64
Section 11.3.	Several Obligations	64
Section 11.4.	Non-Business Day	65
Section 11.5.	Survival of Indemnities	65
Section 11.6.	Documentary Taxes	65
Section 11.7.	Representations	65
Section 11.8.	Notices	65
Section 11.9.	Costs and Expenses; Indemnity	66
Section 11.10.	Counterparts	66
Section 11.11.	Successors and Assigns	66
Section 11.12.	No Joint Venture	67
Section 11.13.	Severability	67
Section 11.14.	Table of Contents and Headings	67
Section 11.15.	Participants	67
Section 11.16.	Assignments	67
Section 11.17.	Sharing of Payments	68
Section 11.18.	Withholding Taxes	69
Section 11.19.	Jurisdiction; Venue; Waiver of Jury Trial	70
Section 11.20.	Lawful Rate	71
Section 11.21.	Governing Law	71
Section 11.22.	Limitation of Liability	72
Section 11.23.	Nonliability of Lenders	72
Section 11.24.	No Oral Agreements.	72
Signature Page		S-1

---

Exhibit A	Secured Revolving Credit Note
Exhibit B	Application and Agreement for Letter of Credit
Exhibit C	Environmental Disclosure
Exhibit D	Permitted Liens
Exhibit E	Form of Legal Opinion
Exhibit F	Compliance Certificate
Exhibit G	Borrowing Base Certificate
Exhibit H	Subsidiaries
Exhibit I	Assignment Agreement
Exhibit J	Labor Disputes
Exhibit K	Existing Investments
Exhibit L	Competitive Bid Request Confirmation
Exhibit M	Confirmation of Notice of Competitive Bid Request
Exhibit N	Confirmation of Competitive Bid
Schedule 1	Revolving Credit Commitments
Schedule 2	L/C Issuers
Schedule 7.16	Existing Indebtedness

**PILGRIM'S PRIDE CORPORATION**  
**THIRD AMENDED AND RESTATED**  
**SECURED CREDIT AGREEMENT**

Harris Trust and Savings Bank  
Chicago, Illinois

The lenders from time to time  
parties hereto

Ladies and Gentlemen:

The undersigned, PILGRIM'S PRIDE CORPORATION, a Delaware corporation (the "*Company*"), refers to the Second Amended and Restated Secured Credit Agreement dated as of November 5, 1999, as amended and currently in effect between the Company and you (such Second Amended and Restated Secured Credit Agreement as so amended is hereinafter referred to as the "*Credit Agreement*") pursuant to which certain of you agreed to make a revolving credit (the "*Revolving Credit*") available to the Company, all as more fully set forth therein. Each of you is hereinafter referred to individually as "*Bank*" and collectively as "*Banks*." Harris Trust and Savings Bank in its individual capacity is sometimes referred to herein as "*Harris*", and in its capacity as Agent for the Banks is hereinafter in such capacity called the "*Agent*." The Company requests you to make certain further amendments to the Credit Agreement and, for the sake of convenience and clarity, to restate the Credit Agreement in its entirety as so amended. Accordingly, upon your acceptance hereof in the space provided for that purpose below and upon satisfaction of the conditions precedent to effectiveness contained in Section 6.3 hereof, Sections 1 through 11 of the Credit Agreement and all Exhibits thereto shall be amended and as so amended shall be restated in their entirety to read as follows:

SECTION 1. THE REVOLVING CREDIT.

*Section 1.1. The Revolving Credit.* (a) Subject to all of the terms and conditions hereof, the Banks agree, severally and not jointly, to extend a Revolving Credit to the Company which may be utilized by the Company in the form of loans (individually a "*Revolving Credit Loan*" and collectively the "*Revolving Credit Loans*"), and L/Cs (as hereinafter defined). The aggregate principal amount of all Revolving Credit Loans under the Revolving Credit plus the aggregate principal amount of all Bid Loans (as hereinafter defined) outstanding under this Agreement plus the amount available for drawing under all L/Cs and the aggregate principal amount of all unpaid Reimbursement Obligations (as hereinafter defined) at any time outstanding shall not exceed the lesser of (i) the sum of the Banks' Revolving Credit Commitments (as hereinafter defined) in effect from time to time during the term of this Agreement (as hereinafter defined) or (ii) the Borrowing Base as determined on the basis of the most recent Borrowing Base Certificate. The Revolving Credit shall be available to the Company, and may be availed of by the Company from time to time, be repaid (subject to the restrictions on prepayment set forth herein) and used again, during the period from the date hereof to and including April 7, 2009 (the "*Termination Date*").

(b) At any time not earlier than 120 days prior to, nor later than 60 days prior to, the date that is two years before the Termination Date then in effect (the “*Anniversary Date*”), the Company may request that the Banks extend the then scheduled Termination Date to the date one year from such Termination Date. If such request is made by the Company each Bank shall inform the Agent of its willingness to extend the Termination Date no later than 20 days prior to such Anniversary Date. Any Bank’s failure to respond by such date shall indicate its unwillingness to agree to such requested extension, and all Banks must approve any requested extension. At any time more than 15 days before such Anniversary Date the Banks may propose, by written notice to the Company, an extension of this Agreement to such later date on such terms and conditions as the Banks may then require. If the extension of this Agreement to such later date is acceptable to the Company on the terms and conditions proposed by the Banks, the Company shall notify the Banks of its acceptance of such terms and conditions no later than the Anniversary Date, and such later date will become the Termination Date hereunder and this Agreement shall otherwise be amended in the manner described in the Banks’ notice proposing the extension of this Agreement upon the Agent’s receipt of (i) an amendment to this Agreement signed by the Company and all of the Banks, (ii) resolutions of the Company’s Board of Directors authorizing such extension and (iii) an opinion of counsel to the Company equivalent in form and substance to the form of opinion attached hereto as Exhibit E and otherwise acceptable to the Banks.

(c) The respective Revolving Credit Commitment which each Bank by its acceptance hereof severally agrees to make available to the Company is set forth opposite such Bank’s name on Schedule 1 attached hereto and made a part hereof, as the same may be reduced or modified at any time or from time to time pursuant to the terms hereof. Each Bank’s Revolving Credit Commitment shall be reduced from time to time by the aggregate outstanding principal amount of all Bid Loans made by such Bank, and shall be increased (but in no event above the amount set forth on Schedule 1 attached hereto for each Bank) by the aggregate principal amount of each principal repayment of such Bid Loans made from time to time.

(d) Loans under the Revolving Credit may be Eurodollar Loans or Domestic Rate Loans. All Loans under the Revolving Credit shall be made from each Bank in proportion to its respective Revolving Credit Commitment, as adjusted from time to time to reflect outstanding Bid Loans. Each Domestic Rate Loan shall be in an amount not less than \$3,000,000 or such greater amount which is an integral multiple of \$500,000 and each Eurodollar Loan shall be in an amount not less than \$3,000,000 or such greater amount which is an integral multiple of \$1,000,000. Without the Agent’s consent, there shall not be more than ten (10) Eurodollar Loans outstanding hereunder at any one time.

*Section 1.2. The Notes.* All Revolving Credit Loans made by each Bank hereunder shall be evidenced by a single Secured Revolving Credit Note of the Company substantially in the form of Exhibit A hereto (individually, a “*Revolving Note*” and together, the “*Revolving Notes*”) payable to the order of each Bank. The aggregate principal amount of indebtedness evidenced by such Revolving Note at any time shall be, and the same is to be determined by, the aggregate

principal amount of all Revolving Credit Loans and Bid Loans made by such Bank to the Company pursuant hereto on or prior to the date of determination less the aggregate amount of principal repayments on such Revolving Credit Loans and Bid Loans received by or on behalf of such Bank on or prior to such date of determination. Each Revolving Note shall be dated as of the execution date of this Agreement, and shall be expressed to mature on the Termination Date and to bear interest as provided in Section 1.3 hereof. Each Bank shall record on its books or records or on a schedule to its Revolving Note the amount of each Revolving Credit Loan and Bid Loan made by it hereunder, whether each Revolving Credit Loan is a Domestic Rate Loan or Eurodollar Loan, and, with respect to Eurodollar Loans and Bid Loans, the interest rate and Interest Period applicable thereto, and all payments of principal and interest and the principal balance from time to time outstanding, provided that prior to any transfer of such Revolving Note all such amounts shall be recorded on a schedule to such Revolving Note. The record thereof, whether shown on such books or records or on the schedule to the Revolving Note, shall be *prima facie* evidence as to all such amounts; provided, however, that the failure of any Bank to record or any mistake in recording any of the foregoing shall not limit or otherwise affect the obligation of the Company to repay all Revolving Credit Loans and Bid Loans made hereunder together with accrued interest thereon. Upon the request of any Bank, the Company will furnish a new Revolving Note to such Bank to replace its outstanding Revolving Note and at such time the first notation appearing on the schedule on the reverse side of, or attached to, such Revolving Note shall set forth the aggregate unpaid principal amount of Revolving Credit Loans and Bid Loans then outstanding from such Bank, and, with respect to each Fixed Rate Loan, the interest rate and Interest Period applicable thereto. Such Bank will cancel the outstanding Revolving Note upon receipt of the new Revolving Note.

*Section 1.3. Interest Rates.* (a) *Domestic Rate Loans.* Each Domestic Rate Loan shall bear interest (computed on the basis of a year of 360 days and actual days elapsed) on the unpaid principal amount thereof from the date such Loan is made until maturity (whether by acceleration, upon prepayment or otherwise) at a rate per annum equal to the lesser of (i) the Highest Lawful Rate and (ii) the sum of the Applicable Margin plus the Domestic Rate from time to time in effect, payable quarterly in arrears on the last day of each calendar quarter, commencing on the first of such dates occurring after the date hereof and at maturity (whether by acceleration, upon prepayment or otherwise).

(b) *Eurodollar Loans.* Each Eurodollar Loan under the Revolving Credit shall bear interest (computed on the basis of a year of 360 days and actual days elapsed) on the unpaid principal amount thereof from the date such Loan is made until the last day of the Interest Period applicable thereto or, if earlier, until maturity (whether by acceleration or otherwise) at a rate per annum equal to the lesser of (i) the Highest Lawful Rate and (ii) the sum of the Applicable Margin plus the Adjusted Eurodollar Rate, payable on the last day of each Interest Period applicable thereto and at maturity (whether by acceleration or otherwise) and, with respect to Eurodollar Loans with an Interest Period in excess of three months, on the date occurring every three months from the first day of the Interest Period applicable thereto.

(c) *Default Rate.* During the existence of an Event of Default all Loans and Reimbursement Obligations shall bear interest (computed on the basis of a year of 360 days and actual days elapsed) from the date of such Event of Default until paid in full, payable on demand, at a rate per annum equal to the sum of 2.5% plus the Domestic Rate from time to time in effect plus the Applicable Margin.

*Section 1.4. Conversion and Continuation of Revolving Credit Loans.* (a) Provided that no Event of Default or Potential Default has occurred and is continuing, the Company shall have the right, subject to the other terms and conditions of this Agreement, to continue in whole or in part (but, if in part, in the minimum amount specified for Eurodollar Loans in Section 1.1 hereof) any Eurodollar Loan made under the Revolving Credit from any current Interest Period into a subsequent Interest Period, *provided that* the Company shall give the Agent notice of the continuation of any such Loan as provided in Section 1.7 hereof.

(b) In the event that the Company fails to give notice pursuant to Section 1.7 hereof of the continuation of any Eurodollar Loan under the Revolving Credit or fails to specify the Interest Period applicable thereto, or an Event of Default or Potential Default has occurred and is continuing at the time any such Loan is to be continued hereunder, then such Loan shall be automatically converted as (and the Company shall be deemed to have given notice requesting) a Domestic Rate Loan, subject to Sections 1.7(b), 8.2 and 8.3 hereof, unless paid in full on the last day of the then applicable Interest Period.

(c) Provided that no Event of Default or Potential Default has occurred and is continuing, the Company shall have the right, subject to the terms and conditions of this Agreement, to convert Revolving Credit Loans of one type (in whole or in part) into Revolving Credit Loans of another type from time to time provided that: (i) the Company shall give the Agent notice of each such conversion as provided in Section 1.7 hereof, (ii) the principal amount of any Revolving Credit Loan converted hereunder shall be in an amount not less than the minimum amount specified for the type of Revolving Credit Loan in Section 1.1 hereof, (iii) after giving effect to any such conversion in part, the principal amount of any Eurodollar Loan under the Revolving Credit then outstanding shall not be less than the minimum amount specified for the type of Loan in Section 1.1 hereof, (iv) any conversion of a Revolving Credit Loan hereunder shall only be made on a Business Day, and (v) any Eurodollar Loan may be converted only on the last day of the Interest Period then applicable thereto.

*Section 1.5. Letters of Credit.* (a) Subject to all the terms and conditions hereof, satisfaction of all conditions precedent to borrowing under this Agreement and so long as no Potential Default or Event of Default is in existence, at the Company's request the L/C Issuers may in their discretion issue letters of credit (an "L/C" and collectively the "L/Cs") for the account of the Company subject to availability under the Revolving Credit, and the Banks hereby agree to participate therein as more fully described in Section 1.8 hereof. Each L/C shall be issued pursuant to an Application for Letter of Credit (the "L/C Agreement") in the form of Exhibit B hereto. The L/Cs shall consist of standby and commercial letters of credit. Each L/C shall have an expiry date not more than one year from the date of issuance thereof (but in no event later than the Termination Date). The amount available to be drawn under each L/C issued pursuant hereto shall be deducted from the credit otherwise available under the Revolving Credit. In consideration of the issuance of L/Cs the Company agrees to pay each L/C Issuer a fee (the "L/C Fee") in the amount per annum equal to the Applicable Margin for Eurodollar Loans (computed on the basis of a 360 day year and actual days elapsed) of the face amount of each

L/C issued by such L/C Issuer hereunder. In addition the Company shall pay each L/C Issuer for its own account a fronting fee (the “*L/C Fronting Fee*”) in an amount equal to one-eighth of one percent (0.125%) of the stated amount of each L/C issued by such L/C Issuer hereunder. The Company shall also pay each L/C Issuer such drawing, negotiation, amendment and other administrative fees in connection with each L/C as may be generally established by such L/C Issuer from time to time for letters of credit issued by it (the “*L/C Administrative Fees*”). All L/C Fees shall be payable quarterly in arrears on the last day of each calendar quarter and on the Termination Date, and all L/C Administrative Fees and L/C Fronting Fees shall be payable on the date of issuance of each L/C hereunder and on the date of each extension, if any, of the expiry date of each L/C.

(b) The Banks shall, ratably in accordance with their respective Commitment Percentages, indemnify each L/C Issuer (to the extent not reimbursed by the Company) against any cost, expense (including reasonable counsel fees and disbursements), claim, demand, action, loss or liability (except such as result from such L/C Issuer’s gross negligence or willful misconduct) that such L/C Issuer may suffer or incur in connection with any L/C issued by it. The obligations of the Banks under this Section 1.5(b) and all other parts of this Section 1.5 shall survive termination of this Agreement and of all L/C Agreements, and all drafts or other documents presented in connection with drawings thereunder.

(c) Each L/C Issuer shall give prompt teletype notice to the Agent of each issuance of, or amendment to, an L/C by it specifying the effective date of the L/C or amendment, the amount, the beneficiary, and the expiration date of the L/C, in each case as established originally or through the relevant amendment, as applicable.

(d) The Agent shall give prompt teletype notice to each Bank of each issuance of, or amendment to, an L/C of which it has received notice pursuant to subsection (c) above specifying the effective date of the L/C or amendment, the amount, the beneficiary, and the expiration date of the L/C, in each case as established originally or through the relevant amendment, as applicable, each Bank’s *pro rata* participation in such L/C and whether the Agent has classified the L/C as a commercial, performance, or financial letter of credit for regulatory reporting purposes.

*Section 1.6. Reimbursement Obligation.* The Company is obligated, and hereby unconditionally agrees, to pay in immediately available funds to the Agent for the account of the L/C Issuers and the Banks who are participating in L/Cs pursuant to Section 1.8 hereof the face amount of each draft drawn and presented under an L/C issued by an L/C Issuer hereunder not later than 11:00 a.m. (Chicago Time) on the date such draft is presented for payment to such L/C Issuer (the obligation of the Company under this Section 1.7 with respect to any L/C is a “*Reimbursement Obligation*”). If at any time the Company fails to pay any Reimbursement Obligation when due, the Company shall be deemed to have automatically requested a Domestic Rate Loan from the Banks hereunder, as of the maturity date of such Reimbursement Obligation, the proceeds of which Loan shall be used to repay such Reimbursement Obligation. Such Loan shall only be made if no Potential Default or Event of Default shall exist and upon approval by all of the Banks, and shall be subject to availability under the Revolving Credit. If such Loan is not made by the Banks for any reason, the unpaid amount of such Reimbursement Obligation shall be due and payable to the Agent for the *pro rata* benefit of the Banks upon demand and shall bear interest at the rate of interest specified in Section 1.3(c) hereof.

*Section 1.7. Manner of Borrowing and Rate Selection.* (a) The Company shall give telephonic, telex or teletype notice to the Agent (which notice, if telephonic, shall be promptly confirmed in writing) no later than (i) 11:00 a.m. (Chicago time) on the date the Banks are requested to make each Domestic Rate Loan, and (ii) 11:00 a.m. (Chicago time) on the date at least three (3) Business Days prior to the date of (A) each Eurodollar Loan which the Banks are requested to make or continue, and (B) the conversion of any Domestic Rate Loan into a Eurodollar Loan. Each such notice shall specify the date of the Revolving Credit Loan requested (which shall be a Business Day), the amount of such Revolving Credit Loan, whether the Revolving Credit Loan is to be made available by means of a Domestic Rate Loan or Eurodollar Loan and, with respect to Eurodollar Loans, the Interest Period applicable thereto; *provided, that* in no event shall the principal amount of any requested Revolving Credit Loan plus the aggregate principal or face amount, as appropriate, of all Revolving Credit Loans, L/Cs, and unpaid Reimbursement Obligations outstanding hereunder exceed the amounts specified in Section 1.1 hereof. The Company agrees that the Agent may rely on any such telephonic, telex or teletype notice given by any person who the Agent believes is authorized to give such notice without the necessity of independent investigation and in the event any notice by such means conflicts with the written confirmation, such notice shall govern if any Bank has acted in reliance thereon. The Agent shall, no later than 12:30 p.m. (Chicago time) on the day any such notice is received by it, give telephonic, telex or teletype (if telephonic, to be confirmed in writing within one Business Day) notice of the receipt of notice from the Company hereunder to each of the Banks, and, if such notice requests the Banks to make, continue or convert any Eurodollar Loans, the Agent shall confirm to the Company by telephonic, telex or teletype means, which confirmation shall be conclusive and binding on the Company in the absence of manifest error, the Interest Period and the interest rate applicable thereto promptly after such rate is determined by the Agent.

(b) Subject to the provisions of Section 6 hereof, the proceeds of each Revolving Credit Loan shall be made available to the Company at the principal office of the Agent in Chicago, Illinois, in immediately available funds, on the date such Revolving Credit Loan is requested to be made, except to the extent such Revolving Credit Loan represents (i) the conversion of an existing Revolving Credit Loan or (ii) a refinancing of a Reimbursement Obligation, in which case each Bank shall record such conversion on the schedule to its Revolving Note, or in lieu thereof, on its books and records, and shall effect such conversion or refinancing, as the case may be, on behalf of the Company in accordance with the provisions of Section 1.4(a) hereof and 1.8 hereof, respectively. Not later than 2:00 p.m. Chicago time, on the date specified for any Revolving Credit Loan to be made hereunder, each Bank shall make its portion of such Revolving Credit Loan available to the Company in immediately available funds at the principal office of the Agent, except (i) as otherwise provided above with respect to converting or continuing any outstanding Revolving Credit Loans and (ii) to the extent such Revolving Credit Loan represents a refinancing of any outstanding Reimbursement Obligations.

(c) Unless the Agent shall have been notified by a Bank prior to 1:00 p.m. (Chicago time) on the date a Revolving Credit Loan is to be made by such Bank (which notice shall be effective upon receipt) that such Bank does not intend to make the proceeds of such Revolving

Credit Loan available to the Agent, the Agent may assume that such Bank has made such proceeds available to the Agent on such date and the Agent may in reliance upon such assumption (but shall not be required to) make available to the Company a corresponding amount. If such corresponding amount is not in fact made available to the Agent by such Bank, the Agent shall be entitled to receive such amount on demand from such Bank (or, if such Bank fails to pay such amount forthwith upon such demand, to recover such amount, together with interest thereon at the rate otherwise applicable thereto under Section 1.3 hereof, from the Company) together with interest thereon in respect of each day during the period commencing on the date such amount was made available to the Company and ending on the date the Agent recovers such amount, at a rate per annum equal to the effective rate charged to the Agent for overnight Federal funds transactions with member banks of the Federal Reserve System for each day, as determined by the Agent (or, in the case of a day which is not a Business Day, then for the preceding Business Day) (the "*Fed Funds Rate*"). Nothing in this Section 1.7(c) shall be deemed to permit any Bank to breach its obligations to make Loans under the Revolving Credit or to limit the Company's claims against any Bank for such breach.

*Section 1.8. Participation in L/Cs.* Each of the Banks will acquire a risk participation for its own account, without recourse to or representation or warranty from each L/C Issuer, in each L/C upon the issuance thereof ratably in accordance with its Commitment Percentage. In the event any Reimbursement Obligation is not immediately paid by the Company pursuant to Section 1.6 hereof, each Bank will pay to the Agent for the account of the relevant L/C Issuer funds in an amount equal to such Bank's Commitment Percentage of the unpaid amount of such Reimbursement Obligation. At the election of all of the Banks, such funding by the Banks of the unpaid Reimbursement Obligations shall be treated as additional Revolving Credit Loans to the Company hereunder rather than a purchase of participations by the Banks in the related L/Cs held by the relevant L/C Issuer. The availability of funds to the Company under the Revolving Credit shall be reduced in an amount equal to any such L/C. The obligation of the Banks to the L/C Issuers under this Section 1.8 shall be absolute and unconditional and shall not be affected or impaired by any Event of Default or Potential Default which may then be continuing hereunder. Each L/C Issuer shall notify the Agent and thereupon the Agent shall notify each Bank by telephone of its Commitment Percentage of such unpaid Reimbursement Obligation. If such notice has been given to each Bank by 12:00 Noon, Chicago time, each Bank agrees to pay the Agent in immediately available and freely transferable funds on the same Business Day. If such notice is received after 12:00 noon, Chicago time, each Bank agrees to pay the Agent in immediately available and freely transferable funds no later than the following Business Day. Funds shall be so made available at the account designated by the Agent in such notice to the Banks. Upon the election by the Banks to treat such funding as additional Revolving Credit Loans hereunder and payment by each Bank, such Loans shall bear interest in accordance with Section 1.3(a) hereof. Each L/C Issuer shall share with each Bank on a pro rata basis relative to its Commitment Percentage a portion of each payment of a Reimbursement Obligation (whether of principal or interest) and any L/C Fee (but not any L/C Administrative Fee or L/C Fronting Fee) payable by the Company. Any such amount shall be promptly remitted to the Banks when and as received by the Agent from the Company.

*Section 1.9. Capital Adequacy.* If, after the date hereof, any Bank or the Agent shall have determined in good faith that the adoption of any applicable law, rule or regulation

regarding capital adequacy, or any change therein (including, without limitation, any revision in the Final Risk-Based Capital Guidelines of the Board of Governors of the Federal Reserve System (12 CFR Part 208, Appendix A; 12 CFR Part 225, Appendix A) or of the Office of the Comptroller of the Currency (12 CFR Part 3, Appendix A), or in any other applicable capital rules heretofore adopted and issued by any governmental authority), or any change in the interpretation or administration thereof by any governmental authority, central bank or comparable agency charged with the interpretation or administration thereof, or compliance by any Bank (or its Lending Office) with any request or directive regarding capital adequacy (whether or not having the force of law) of any such authority, central bank or comparable agency, has or would have the effect of reducing the rate of return on such Bank's capital, or on the capital of any corporation controlling such Bank, in each case as a consequence of its obligations hereunder to a level below that which such Bank would have achieved but for such adoption, change or compliance (taking into consideration such Bank's policies with respect to capital adequacy) by an amount reasonably deemed by such Bank to be material, then from time to time, within fifteen (15) days after demand by such Bank (with a copy to the Agent), the Company shall pay to such Bank such additional amount or amounts as will compensate such Bank for such reduction.

*Section 1.10. The Bond Letter of Credit.* Subject to all the terms and conditions hereof, Harris has issued a standby letter of credit (as amended (including any amendments increasing the amount thereof) and reinstated from time to time, the "Bond L/C") in an original stated amount of up to \$25,239,727.00 (the "Bond L/C Commitment") for the account of the Company. The Bond L/C Commitment shall be separate and apart from, and in addition to, the Revolving Credit Commitments. The Bond L/C was issued pursuant to a Reimbursement Agreement dated as of June 15, 1999 (as amended, supplemented, restated and otherwise modified from time to time, the "Reimbursement Agreement") for the purpose of supporting the Company's obligations relating to the Bonds. The Bond L/C shall have an expiry date not later than the Termination Date, subject to extension as provided in the Reimbursement Agreement. The Company shall pay Harris for its own account an annual issuance fee (the "Bond L/C Issuance Fee") in an amount equal to one-eighth of one percent (0.125%) of the stated amount of the Bond L/C, payable on the date the Bond L/C is issued by Harris and on each annual anniversary thereof.

*Section 1.11. Bond Reimbursement Obligation.* The Company will pay in immediately available funds to Harris the amount of each demand for payment made under the Bond L/C immediately upon payment by Harris of each amount so demanded and on the date of each such payment by Harris (the obligation of the Company under this Section 1.11 is hereinafter referred to as a "Bond Reimbursement Obligation").

*Section 1.12. Participation in the Bond L/C.* Each of the Banks will acquire a risk participation for its own account, without recourse to or representation or warranty from Harris, in the Bond L/C upon the issuance thereof ratably in accordance with its Commitment Percentage. In the event any Bond Reimbursement Obligation is not immediately paid by the Company pursuant to Section 1.11 hereof, each Bank will pay to Harris funds in an amount equal to such Bank's Commitment Percentage of the unpaid amount of such Bond Reimbursement Obligation. The obligation of the Banks to Harris under this Section 1.12 shall be absolute and unconditional and shall not be affected or impaired by any Event of Default or Potential Default

which may then be continuing hereunder. Harris shall notify each Bank by telephone of its Commitment Percentage of such unpaid Bond Reimbursement Obligation. If such notice has been given to each Bank by 1:00 p.m., Chicago time, each Bank agrees to pay Harris in immediately available and freely transferable funds on the same Business Day. If such notice is received after 1:00 p.m., Chicago time, each Bank agrees to pay Harris in immediately available and freely transferable funds no later than the following Business Day. Funds shall be so made available at the account designated by Harris in such notice to the Banks. Harris shall share with each Bank on a pro rata basis relative to its Commitment Percentage a portion of each payment of a Bond Reimbursement Obligation (whether of principal or interest) and any Bond L/C Fee (but not the Bond L/C Issuance Fee or any Bond L/C Administration Fee) payable by the Company. Any such amount shall be promptly remitted to the Banks when and as received by Harris from the Company.

*Section 1.13. Reductions and Reinstatements.* The Company and the Banks recognize, acknowledge and agree that (i) the Bond L/C provides for automatic reductions and reinstatements as set forth in the provisions of such Bond L/C, and (ii) the Bond L/C provides for the beneficiary thereof to reduce from time to time the amounts available to be drawn thereon. Each Bank acknowledges that, because the interest component of the Bond L/C may be reinstated at a time when the Company has not reimbursed Harris in full for an interest drawing under the Bond L/C, the total may exceed the Bond L/C Commitment pursuant to Section 1.10 hereof and each Bank agrees to pay Harris its pro rata share of any drawing under the Bond L/C notwithstanding that any such payment may result in the aggregate principal amount owing such Bank hereunder exceeding the Bond L/C Commitment of such Bank.

*Section 1.14. Liability of Harris.* None of the Harris-Related Persons shall (i) be liable for any action taken or omitted to be taken by any of them under or in connection with the Reimbursement Agreement or any Bond Document (except for its own gross negligence or willful misconduct), or (ii) be responsible in any manner to any of the Banks for any recital, statement, representation or warranty made by the Company or any Affiliate of the Company, or any officer thereof, contained in the Reimbursement Agreement or any Bond Document, or in any certificate, report, statement or other document referred to or provided for in, or received by Harris under or in connection with, the Reimbursement Agreement or any Bond Document, or for the validity, effectiveness, genuineness, enforceability or sufficiency of the Reimbursement Agreement or any Bond Document, or for any failure of the Company or any other party to the Reimbursement Agreement or any Bond Document to perform its obligations thereunder (other than for the gross negligence or willful misconduct of Harris). No Harris-Related Person shall be under any obligation to any Bank to ascertain or to inquire as to the observance or performance of any of the agreements contained in, or conditions of, the Reimbursement Agreement or any Bond Document, or to inspect the properties, books or records of the Company or any of its Affiliates.

*Section 1.15. Reliance by Harris.* Harris shall be entitled to rely, and shall be fully protected in relying, upon any writing, resolution, notice, consent, certificate, affidavit, letter, telegram, facsimile, telex or telephone message, statement or other document or conversation believed by it to be genuine and correct and to have been signed, sent or made by the proper Person or Persons, and upon advice and statements of legal counsel (including counsel to the

Company). Harris shall be fully justified in failing or refusing to take any action under the Reimbursement Agreement or any Bond Document which would otherwise require the consent of the Required Banks or all of the Banks unless it shall first receive such advice or concurrence of the Required Banks (or, if required by this Agreement, all Banks) as it deems appropriate and, if it so requests, it shall first be indemnified to its satisfaction by the Banks against any and all liability and expense which may be incurred by it by reason of taking or continuing to take any such action. Harris shall in all cases be fully protected in acting, or in refraining from acting, under the Reimbursement Agreement or any Bond Document in accordance with a request or consent of the Required Banks (or, if required by this Agreement, all Banks) and such request and any action taken or failure to act pursuant thereto shall be binding upon all of the Banks.

*Section 1.16. Notice of Default.* Harris shall not be deemed to have knowledge or notice of the occurrence of any Potential Default or Event of Default under Section 8.1(1) hereof, unless Harris shall have received written notice from the Company or any other party to a Bond Document. Harris shall take such action with respect to such Potential Default or Event of Default under the Reimbursement Agreement and the Bond Documents as shall be required pursuant to Section 8 hereof; *provided* that unless and until Harris shall have received direction under Section 8, Harris may (but shall not be obligated to) take such action, or refrain from taking such action, with respect to such Potential Default or Event of Default as it shall deem advisable and in the best interest of the Banks, except any action resulting in the acceleration or redemption of any Bonds.

*Section 1.17. Indemnification.* The Banks shall indemnify upon demand the Harris-Related Persons (to the extent not reimbursed by or on behalf of the Company and without limiting the obligation of the Company to do so), ratably according to such Bank's Commitment Percentage from and against any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses and disbursements of any kind whatsoever which may at any time (including at any time following the termination of the Bond L/C) be imposed on, incurred by or asserted against any such Person and which are in any way relating to or arising out of this Agreement or any document contemplated by or referred to herein or the transactions contemplated hereby or thereby or any action taken or omitted by any such Person under or in connection with any of the foregoing; *provided* that no Bank shall be liable for the payment to the Harris-Related Persons of any portion of such liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements resulting solely from such Person's gross negligence or willful misconduct or for the fees and expenses of counsel in connection with the preparation, execution, delivery, administration, or modification of the Reimbursement Agreement or any Bond Document or any amendments thereto. The obligation of the Banks in this Section shall survive the payment of all amounts owing by the Company hereunder.

*Section 1.18. Documents and Reports.* Harris agrees to deliver to the Banks promptly upon receipt thereof copies of all documents and reports delivered to Harris pursuant to the Reimbursement Agreement or any Bond Document.

*Section 1.19. Amendments.* Harris may enter into any amendment or modification of, or may waive compliance with the terms of any Bond Document (other than an Indenture) without

the consent of any Bank; *provided* (a) that without the consent of the Required Banks, Harris shall not execute any instrument agreeing to any amendment or modification of, or waiver of compliance with the Reimbursement Agreement or any Bond Document, which would waive any “*Event of Default*” arising under the Reimbursement Agreement or any Bond Document, and (b) without the consent of all of the Banks, Harris shall not execute any instrument agreeing to any amendment or modification of, or waiver of compliance with the Reimbursement Agreement or any Bond Document, (i) which would (A) reduce the principal of, or interest on, any Bond Reimbursement Obligation, (B) postpone the due date for any payment of principal of, or interest on, any Bond Reimbursement Obligation, (C) extend the stated expiration date of the Bond L/C, (D) increase in any material manner (in the reasonable opinion of Harris) the obligations of the Banks, or (E) release or otherwise adversely affect the interests of the Banks in any collateral granted under the Reimbursement Agreement or any Bond Document, or (ii) after the occurrence of a Potential Default or Event of Default.

## SECTION 2. THE COMPETITIVE BID FACILITY.

*Section 2.1. Amount and Term.* The Company may from time to time before the Termination Date request Competitive Bids from the Banks and the Banks may make, at their sole discretion, Bid Loans to the Company on the terms and conditions set forth in this Agreement. Notwithstanding any provision to the contrary contained in this Agreement, (a) the aggregate principal amount of all Bid Loans outstanding hereunder at any time may not exceed 50% of the Revolving Credit Commitments, (b) no Bank may make Bid Loans in an aggregate principal amount in excess of the maximum amount of such Bank’s Revolving Credit Commitment set forth in Section 1.1(b) of this Agreement, and (c) the aggregate principal amount of all Bid Loans outstanding hereunder at any time together with the aggregate principal amount of all Revolving Credit Loans outstanding under the Revolving Credit shall not exceed the Banks’ Revolving Credit Commitments from time to time in effect. The Company may request Competitive Bids and the Banks may, in their discretion, make such Competitive Bids on the terms and conditions set forth in this Section 2.

*Section 2.2. Competitive Bid Requests.* In order to request Competitive Bids, the Company shall give telephonic notice to be received by the Agent no later than 11:00 A.M., Chicago time, one Business Day before the date, which must be a Business Day, on which a proposed Bid Loan is to be made (the “*Borrowing Date*”), followed on the same day by a duly completed Competitive Bid Request Confirmation in the form of Exhibit L hereto to be received by the Agent not later than 11:30 A.M., Chicago time. Competitive Bid Request Confirmations that do not conform substantially to the format of Exhibit L may be rejected and the Agent shall give telephonic notice to the Company of such rejection promptly after it determines (which determination shall be conclusive) that a Competitive Bid Request Confirmation does not substantially conform to the format of Exhibit L. Competitive Bid Requests shall in each case refer to this Agreement and specify (x) the proposed Borrowing Date (which shall be a Business Day), (y) the aggregate principal amount thereof (which shall not be less than \$3,000,000 and shall be an integral multiple of \$1,000,000), and (z) up to 3 Interest Periods with respect to the entire amount specified in such Competitive Bid Request (which must be of no less than 30 and no more than 180 days duration and may not end after the Termination Date). Upon receipt by the Agent of a Competitive Bid Request Confirmation which conforms substantially to the

format of Exhibit L attached hereto, the Agent shall invite, by telephone promptly confirmed in writing in the form of Exhibit M attached hereto, the Banks to bid, on the terms and conditions of this Agreement, to make Bid Loans pursuant to the Competitive Bid Request.

*Section 2.3. Submission of Competitive Bids.* Each Bank may, in its sole discretion, make one or more Competitive Bids to the Company responsive to the Competitive Bid Request. Each Competitive Bid by a Bank must be received by the Agent by telephone not later than 8:45 A.M., Chicago time, on the Borrowing Date, promptly confirmed in writing by a duly completed Confirmation of Competitive Bid substantially in the form of Exhibit N attached hereto to be received by the Agent no later than 9:00 A.M. on the same day; *provided, however*, that any Competitive Bid made by Harris must be made by telephone to the Company no later than 8:30 A.M., Chicago time, and confirmed by telecopier to the Company no later than 8:45 A.M., Chicago time, on the Borrowing Date. Competitive Bids which do not conform precisely to the terms of this Section 2.3 may be rejected by the Agent and the Agent shall notify the Bank submitting such Competitive Bid of such rejection by telephone as soon as practicable after determining that the Competitive Bid does not conform precisely to the terms of this Section 2.3. Each Competitive Bid shall refer to this Agreement and specify (x) the maximum principal amount (which shall not be less than \$3,000,000 and shall be an integral multiple of \$1,000,000) of the Bid Loan that the Bank is willing to make to the Company (y) the Yield (which shall be computed on the basis of a 360-day year and actual days elapsed and for a period equal to the Interest Period applicable thereto) at which the Bank is prepared to make the Bid Loan and (z) the Interest Period applicable thereto. The Agent shall reject any Competitive Bid if such Competitive Bid (i) does not specify all of the information specified in the immediately preceding sentence, (ii) contains any qualifying, conditional, or similar language, (iii) proposes terms other than or in addition to those set forth in the Competitive Bid Request to which it responds, or (iv) is received by the Agent later than 8:45 A.M. (Chicago time). Any Competitive Bid submitted by a Bank pursuant to this Section 2.3 shall be irrevocable and shall be promptly confirmed in writing in the form of Exhibit N; *provided that* in all events the telephone Competitive Bid received by the Agent shall be binding on the relevant Bank and shall not be altered, modified, or in any other manner affected by any inconsistent terms contained in, or terms missing from, the Bank's Confirmation of Competitive Bid.

*Section 2.4. Notice of Bids.* The Agent shall give telephonic notice to the Company no later than 9:15 A.M., Chicago time, on the proposed Borrowing Date, of the number of Competitive Bids made, the Yield with respect to each proposed Bid Loan, the Interest Period applicable thereto and the maximum principal amount of each Bid Loan in respect of which a Competitive Bid was made and the identity of the Bank making each bid. The Agent shall send a summary of all Competitive Bids received by the Agent to the Company as soon as practicable after receipt of a Competitive Bid from each Bank that has made a Competitive Bid.

*Section 2.5. Acceptance or Rejection of Bids.* The Company may in its sole and absolute discretion, subject only to the provisions of this Section, irrevocably accept or reject, in whole or in part, any Competitive Bid referred to in Section 2.4 above. No later than 9:45 A.M., Chicago time, on the proposed Borrowing Date, the Company shall give telephonic notice to the Agent of whether and to what extent it has decided to accept or reject any or all the Competitive Bids referred to in Section 2.4 above, which notice shall be promptly confirmed in a writing to

be received by the Agent on the proposed Borrowing Date; *provided, however*, that (x) no bid shall be accepted for a Bid Loan in a minimum principal amount of less than \$3,000,000, (y) the Company shall accept bids solely on the basis of ascending Yields for each Interest Period, (z) if the Company declines to borrow, or it is restricted by other conditions hereof from borrowing, the maximum principal amount of Bid Loans in respect of which bids at such Yield have been made, then the Company shall accept a pro rata portion of each bid made at the same Yield, based as nearly as possible on the ratio of the maximum aggregate principal amounts of Bid Loans for which each such bid was made (provided that if the available principal amount of Bid Loans to be so allocated is not sufficient to enable Bid Loans to be so allocated to each such Bank in integral multiples of \$1,000,000, the Company shall select which Banks will be allocated such Bid Loans and will round allocations up or down to the next higher or lower multiple of \$1,000,000 as it shall deem appropriate but in no event shall any Bid Loan be allocated in a principal amount of less than \$3,000,000), and (w) the aggregate principal amount of all Competitive Bids accepted by the Company shall not exceed the amount contained in the related Confirmation of Competitive Bid Request. A notice given by the Company pursuant to this Section 2.5 shall be irrevocable and shall not be altered, modified, or in any other manner affected by any inconsistent terms contained in, or terms missing from, any written confirmation of such notice.

*Section 2.6. Notice of Acceptance or Rejection of Bid.* The Agent shall promptly (but in any event no later than 10:30 A.M., Chicago time) give telephonic notice to the Banks whether or not their Competitive Bids have been accepted (and if so, in what amount and at what Yield) on the proposed Borrowing Date, and each successful bidder will thereupon become bound, subject to Section 7 and the other applicable conditions hereof, to make the Bid Loan in respect of which its bid has been accepted. Each Bank so bound shall notify the Agent upon making the Bid Loan. As soon as practicable on each Borrowing Date, the Agent shall notify each Bank of the aggregate principal amount of all Bid Loans made pursuant to a Competitive Bid Request on such Borrowing Date, the Interest Period(s) applicable thereto and the highest and lowest Yields at which such Bid Loans were made for each Interest Period.

*Section 2.7. Restrictions on Bid Loans.* A Bid Loan shall not be made if an Event of Default or Potential Default shall have occurred and be continuing on the date on which such Bid Loan is to be made and the Company may not obtain more than three Bid Loans in any calendar week.

*Section 2.8. Minimum Amount.* Each Bid Loan made to the Company on any date shall be in an integral multiple of \$1,000,000 and in a minimum principal amount of \$3,000,000. Bid Loans shall be made in the amounts accepted by the Company in accordance with Section 2.5.

*Section 2.9. The Notes.* The Bid Loans made by each Bank to the Company shall be evidenced by the Revolving Note of the Company payable to the order of such Bank as described in Section 1.2. The outstanding principal balance of each Bid Loan, as evidenced by a Note, shall be payable at the end of every Interest Period applicable to such Bid Loan. Each Bid Loan evidenced by each Revolving Note shall bear interest from the date such Bid Loan is made on the outstanding principal balance thereof as set forth in Section 2.10 below.

*Section 2.10. Term of and Interest on Bid Loans.* Each Bid Loan shall bear interest during the Interest Period applicable thereto at a rate per annum equal to the rate of interest offered in the Competitive Bid therefor submitted by the Bank making such Bid Loan and accepted by the Company pursuant to Section 2.5 above. The principal amount of each Bid Loan, together with all accrued interest thereon, shall be due and payable on the last day of the Interest Period applicable thereto and at maturity (whether by acceleration or otherwise) and, with respect to any Interest Period in excess of three months, interest on the unpaid principal amount shall be due on the date occurring every three months after the date the relevant Bid Loan was made. If any payment of principal or interest on any Bid Loan is not made when due, such Bid Loan shall bear interest (computed on the basis of a year of 360 days and actual days elapsed) from the date such payment was due until paid in full, payable on demand, at a rate per annum equal to the sum of 2.5% plus the rate of interest in effect thereon at the time of such default until the end of the Interest Period then applicable thereto, and, thereafter, at a rate per annum equal to the sum of 2.5 plus the Domestic Rate from time to time in effect.

*Section 2.11. Disbursement of Bid Loans.* (a) Subject to the provisions of Section 6 hereof, the proceeds of each Bid Loan shall be made available to the Company by, at the Company's option, crediting an account maintained by the Company at Harris Trust and Savings Bank or by wire transfer of such proceeds to such account as the Company shall designate in writing to the Agent from time to time, in immediately available funds. Not later than 12:00 Noon, Chicago time, on the date specified for any Bid Loan to be made hereunder, each Bank which is bound to make such Bid Loan pursuant to Section 2.6 hereof shall make its portion of such Bid Loan available to the Company in immediately available funds at the principal office of the Agent in Chicago, Illinois.

(b) Unless the Agent shall have been notified by a Bank no later than the time the Agent gives such Bank a notice pursuant to Section 2.6 hereof (which notice shall be effective upon receipt) that such Bank does not intend to make the proceeds of such Bid Loan available to the Agent, the Agent may assume that such Bank has made such proceeds available to the Agent on such date and the Agent may in reliance upon such assumption (but shall not be required to) make available to the Company a corresponding amount. If such corresponding amount is not in fact made available to the Agent by such Bank, the Agent shall be entitled to receive such amount on demand from such Bank (or, if such Bank fails to pay such amount forthwith upon such demand, to recover such amount from the Company) together with interest thereon in respect of each day during the period commencing on the date such amount was made available to the Company and ending on the date the Agent recovers such amount, at a rate per annum equal to the effective rate charged to the Agent for overnight Federal funds transactions with member banks of the Federal Reserve System for each day, as determined by the Agent (or, in the case of a day which is not a Business Day, then for the preceding Business Day). Nothing in this Section 2.11(b) shall be deemed to permit any Bank to breach its obligations to make Bid Loans hereunder, or to limit the Company's claims against any Bank for such breach.

*Section 2.12. Reliance on Telephonic Notices; Indemnity.* (a) The Company agrees that the Agent may rely on any telephonic notice referred to in this Section 2 and given by any person the Agent reasonably believes is authorized to give such notice without the necessity of independent investigation, and in the event any such telephonic notice conflicts with any written

notice relating thereto, or in the event no such written notice is received by the Agent, such telephonic notice shall govern if the Agent or any Bank has acted in reasonable reliance thereon. The Agent's books and records shall be *prima facie* evidence of all of the matters set forth in Sections 2.2, 2.3, 2.4, 2.5 and 2.6 hereof.

(b) The Company hereby agrees to indemnify and hold the Agent harmless from and against any and all claims, damages, losses, liabilities and expenses, including court costs and legal expenses, paid or incurred by the Agent in connection with any action the Agent may take, or fail to take, in reasonable reliance upon and in accordance with any telephonic notice received by the Agent as described in this Section 2.

(c) The Banks hereby agree to indemnify and hold the Agent harmless from and against any and all claims, damages, losses, liabilities and expenses, including court costs and legal expenses, paid or incurred by the Agent in connection with any action the Agent may take, or fail to take, in reasonable reliance upon and in accordance with any telephonic notice received by the Agent as described in this Section 2, to the extent the Agent is not promptly reimbursed therefor by the Company.

*Section 2.13. Telephonic Notice.* Each Bank's telephonic notice to the Agent of its Competitive Bid pursuant to Section 2.3, and the Company's telephonic acceptance of any offer contained in a Bid pursuant to Section 2.5, shall be irrevocable and binding on such Bank and the Company, as applicable, and shall not be altered, modified, or in any other manner affected by any inconsistent terms contained in, or missing from, any written confirmation of such telephonic notice. It is understood and agreed by the parties hereto that the Agent shall be entitled to act, or to fail to act, hereunder in reliance on its records of any telephonic notices provided for herein and that the Agent shall not incur any liability to any Person in so doing if its records conflict with any written confirmation of a telephone notice or otherwise, provided that any such action taken or omitted by the Agent is taken or omitted reasonably and in good faith. It is further understood and agreed by the parties hereto that each party hereto shall in good faith endeavor to provide the notices specified herein by the times of day as set forth in this Section 2 but that no party shall incur any liability or other responsibility for any failure to provide such notices within the specified times; *provided, however,* that the Agent shall have no obligation to notify the Company of any Competitive Bid received by it later than 8:45 A.M. (Chicago time) on the proposed Borrowing Date, and no acceptance by the Company of any offer contained in a Competitive Bid shall be effective to bind any Bank to make a Bid Loan, nor shall the Agent be under any obligation to notify any Person of an acceptance, if notice of such acceptance is received by the Agent later than 9:45 A.M. (Chicago time) on the proposed Borrowing Date.

### SECTION 3. FEES, PREPAYMENTS, TERMINATIONS AND PLACE AND APPLICATION OF PAYMENTS.

*Section 3.1. Facility Fee.* For the period from the date hereof to and including the Termination Date, the Company shall pay to the Agent for the account of the Banks a facility fee with respect to the Revolving Credit at the rate equal to the Applicable Margin (computed on the basis of a year of 360 days for the actual number of days elapsed) of the aggregate maximum amount of the Banks' Revolving Credit Commitments hereunder in effect from time to time and

whether or not any credit is in use under the Revolving Credit, all such fees to be payable quarterly in arrears on the last day of each calendar quarter commencing on March 31, 2004, and on the Termination Date, unless the Revolving Credit is terminated in whole on an earlier date, in which event the facility fee for the final period shall be paid on the date of such earlier termination in whole.

*Section 3.2. Agent's Fee.* The Company shall pay to and for the sole account of the Agent such fees as may be agreed upon in writing from time to time by the Agent and the Company. Such fees shall be in addition to any fees and charges the Agent may be entitled to receive under Section 10 hereunder or under the other Loan Documents.

*Section 3.3. Optional Prepayments. (a) Domestic Rate Loans.* The Company shall have the privilege of prepaying without premium or penalty and in whole or in part (but if in part, then in a minimum principal amount of \$2,500,000 or such greater amount which is an integral multiple of \$100,000) any Domestic Rate Loan at any time upon prior telex or telephonic notice to the Agent on or before 12:00 Noon on the same Business Day.

(b) *Eurodollar Loans.* The Company may prepay any borrowing of Eurodollar Loans without premium or penalty, upon telephonic notice (which shall be promptly confirmed in writing by facsimile communication, telex or telegraph) by no later than 11:00 a.m. (Chicago time) on the third Business Day prior to the date of such prepayment from the Company to the Agent, such prepayment to be made by the payment of the principal amount to be prepaid and accrued interest thereon and any compensation required by Section 9.4 hereof, if applicable; *provided, however,* that any such prepayment shall be in a principal amount of no less than \$3,000,000 or such greater amount which is an integral multiple of \$1,000,000, and after giving effect to any such prepayment the outstanding principal amount of any such borrowing of Eurodollar Loans prepaid in part shall not be less than \$3,000,000 or such greater amount which is an integral multiple of \$1,000,000.

(c) Any amount prepaid under the Revolving Credit may, subject to the terms and conditions of this Agreement, be borrowed, repaid and borrowed again.

*Section 3.4. Mandatory Prepayments - Borrowing Base.* The Company shall not permit the sum of the principal amount of all Loans plus the amount available for drawing under all L/Cs and the aggregate principal amount of all unpaid Reimbursement Obligations at any time outstanding to exceed the lesser of (i) the sum of the Banks' Revolving Credit Commitments or (ii) the Borrowing Base as determined on the basis of the most recent Borrowing Base Certificate. In addition to the Company's obligations to pay any outstanding Reimbursement Obligations as set forth in Section 1.6 hereof, the Company will make such payments on any outstanding Loans and Reimbursement Obligations (and, if any L/Cs are then outstanding, deposit an amount equal to the aggregate amount available for drawing under all L/Cs into an interest bearing account with the Agent which shall be held as additional collateral security for such L/Cs, and if any such excess still remains and the Bond L/C is outstanding, deposit an amount equal to the aggregate amount available for drawing under the Bond L/C into an interest bearing account with the Agent which shall be held as additional collateral security for the Bond L/C) which are necessary to cure any such excess within three Business Days after the occurrence thereof. Any amount prepaid under the Revolving Credit may, subject to the terms and conditions of this Agreement, be borrowed, repaid and borrowed again.

*Section 3.5. Place and Application of Payments.* All payments of principal and interest made by the Company in respect of the Notes, Bond Reimbursement Obligations and Reimbursement Obligations and all fees payable by the Company hereunder, shall be made to the Agent at its office at 111 West Monroe Street, Chicago, Illinois 60690 and in immediately available funds, prior to 12:00 noon Chicago time on the date of such payment. All such payments shall be made without setoff or counterclaim and without reduction for, and free from, any and all present and future levies, imposts, duties, fees, charges, deductions withholdings, restrictions or conditions of any nature imposed by any government or any political subdivision or taxing authority thereof. Unless the Banks otherwise agree, any payments received after 12:00 noon Chicago time shall be deemed received on the following Business Day. The Agent shall remit to each Bank its proportionate share of each payment of principal, interest and facility fees, and L/C fees received by the Agent by 3:00 P.M. Chicago time on the same day of its receipt if received by the Agent by 12:00 noon, Chicago time, and its proportionate share of each such payment received by the Agent after 12:00 noon on the Business Day following its receipt by the Agent. In the event the Agent does not remit any amount to any Bank when required by the preceding sentence, the Agent shall pay to such Bank interest on such amount until paid at a rate per annum equal to the Fed Funds Rate. The Company hereby authorizes the Agent to automatically debit its account with Harris for any principal, interest and fees when due under the Notes, any L/C Agreement, the Reimbursement Agreement or this Agreement and to transfer the amount so debited from such account to the Agent for application as herein provided. All proceeds of Collateral shall be applied in the manner specified in the Security Agreement.

*Section 3.6. Commitment Terminations.* The Company shall have the right at any time and from time to time, upon 5 days prior written notice to the Agent (or such shorter period of time agreed to by the Agent), to terminate the Revolving Credit Commitments without premium or penalty and in whole or in part, any partial termination to be (i) in an amount not less than \$5,000,000 and (ii) allocated ratably among the Banks in proportion to their respective Commitment Percentages, *provided* that the Revolving Credit Commitments may not be reduced to an amount less than the sum of the aggregate principal amount of Loans, L/Cs and Reimbursement Obligations then outstanding. The Agent shall give prompt notice to each Bank of any such termination of the Revolving Credit Commitments. Any termination of the Revolving Credit Commitments pursuant to this Section 3.6 may not be reinstated.

SECTION 4. DEFINITIONS.

*Section 4.1. Certain Terms Defined.* The terms hereinafter set forth when used herein shall have the following meanings:

“*Account Debtor*” shall mean the Person who is obligated on a Receivable.

“*Adjusted Eurodollar Rate*” means a rate per annum determined pursuant to the following formula:

$$\text{Adjusted Eurodollar Rate} = \frac{\text{Eurodollar Rate}}{100\% - \text{Reserve Percentage}}$$

“Affiliate” shall mean any person, firm or corporation which, directly or indirectly controls, or is controlled by, or is under common control with, the Company. As used in this definition the term “controls” (including the terms “controlled by” and “under common control with”) shall have the meaning given below. Notwithstanding anything herein to the contrary, ConAgra shall not be deemed to be an Affiliate of the Company so long as ConAgra does not own or control more than ten percent of the voting stock of the Company (measured by voting power rather than number of shares).

“Agent” is defined in the first paragraph of this Agreement.

“Agreement” shall mean this Third Amended and Restated Secured Credit Agreement as supplemented, modified, restated and amended from time to time.

“Alternative Credit Facility” shall mean any irrevocable letter of credit, surety bond, insurance policy or other similar instruments, other than the Bond L/C, issued by any Person to support the Company’s obligations with respect to the Bonds or the Company’s or a Subsidiary’s obligations with respect to existing or future industrial revenue bonds permitted by this Agreement.

“Anniversary Date” has the meaning specified in Section 1.1(b) hereof.

“Applicable Margin” shall mean, with respect to each type of Loan and the facility fee described in Column A below, the rate of interest per annum shown in Columns B, C, D, E, F, G, H and I below for the range of Leverage Ratio (expressed as a percentage) specified for each Column:

A	B	C	D	E	F	G	H	I
	<u>Level I</u>	<u>Level II</u>	<u>Level III</u>	<u>Level IV</u>	<u>Level V</u>	<u>Level VI</u>	<u>Level VII</u>	<u>Level VIII</u>
Leverage Ratio	<=35%	>35%<=	>40%<=	>45%<=	>50%<=	>55%<=	>60%<=	>65%
		40%	45%	50%	55%	60%	65%	
Domestic Rate Loans	0.0%	0.0%	0.0%	0.0%	0.0%	0.25%	0.25%	0.25%
Eurodollar Loans	0.875%	1.125%	1.25%	1.375%	1.625%	1.875%	2.125%	2.375%
Facility Fee	0.25%	0.25%	0.25%	0.375%	0.375%	0.375%	0.375%	0.375%

Not later than 5 Business Days after receipt by the Agent of the financial statements called for by Section 7.4 hereof for the applicable fiscal quarter, the Agent shall determine the Leverage Ratio for the applicable period and shall promptly notify the Company and the Banks of such determination and of any change in the Applicable Margins resulting therefrom. Any such change in the Applicable Margins shall be effective as of the date the Agent so notifies the Company and the Banks with respect to all Loans outstanding on such date, and such new

Applicable Margins shall continue in effect until the effective date of the next quarterly redetermination in accordance with this Section. Each determination of the Leverage Ratio and Applicable Margins by the Agent in accordance with this Section shall be conclusive and binding on the Company and the Banks absent manifest error. From the date hereof until the Applicable Margins are first adjusted pursuant hereto, the Applicable Margins shall be those set forth in Level III above.

“*Bank*” and “*Banks*” shall have the meanings specified in the first paragraph of this Agreement.

“*Bid Loan*” shall mean an advance from a Bank to the Company pursuant to the bidding procedures described in Section 2 hereof.

“*Bonds*” shall mean the \$25,000,000 aggregate principal amount of the Issuer’s Environmental Facilities Reserve Bonds (Pilgrim’s Pride Corporation Project), Series 1999.

“*Bond Documents*” shall mean the Indenture and any other instrument and documents relating to the issuance and sale of the Bonds.

“*Bond L/C*” shall have the meaning specified in Section 1.10 hereof.

“*Bond L/C Administrative Fees*” shall mean the fees payable by the Company pursuant to Sections 2.4(b) and (c) of the Reimbursement Agreement.

“*Bond L/C Commitment*” shall have the meaning specified in Section 1.10 hereof.

“*Bond L/C Exposure*” shall mean, as of any date of determination, the sum of (a) the unused amount of the Bond L/C Commitment, if any, (b) the aggregate principal amount of all outstanding Bond Reimbursement Obligations, if any, and (c) the maximum amount available to be drawn under the Bond L/C (after giving effect to any reductions thereof as provided in the Bond L/C), each determined on such date.

“*Bond L/C Fee*” shall mean the fee payable by the Company pursuant to Section 2.4(a) of the Reimbursement Agreement.

“*Bond Reimbursement Obligation*” shall have the meaning specified in Section 1.11 hereof.

“*Borrowing Base*”, as determined on the basis of the information contained in the most recent Borrowing Base Certificate, shall mean an amount equal to:

- (a) 65% of the Value of Eligible Inventory consisting of feed grains, feed and ingredients, plus
- (b) 65% percent of the Value of Eligible Inventory consisting of live and dressed broiler chickens and commercial eggs, plus

- (c) 65% of the Value of Eligible Inventory consisting of prepared foods, plus
- (d) 100% of the Value of Eligible Inventory consisting of breeder hens, breeder pullets, commercial hens, commercial pullets and hatching eggs, plus
- (e) 40% of the Value of Eligible Inventory consisting of packaging materials, vaccines, general supplies, and maintenance supplies, minus
- (f) the aggregate outstanding amount of all Grower Payables that are more than 15 days past due, minus
- (g) the Bond L/C Exposure.

“*Borrowing Base Certificate*” shall mean the certificate in the form of Exhibit G hereto which is required to be delivered to the Banks in accordance with Section 7.4(d) hereof.

“*Business Day*” means any day (other than a Saturday or Sunday) on which banks are not authorized or required to close in Chicago, Illinois and Dallas, Texas and, if the applicable Business Day relates to the advance or continuation of, or conversion into, or payment of a Eurodollar Loan, on which banks are dealing in U.S. Dollar deposits in the interbank eurodollar market in London, England and Nassau, Bahamas.

“*Capitalized Lease*” shall mean, as applied to any Person, any lease of any Property the discounted present value of the rental obligations of such person as lessee under which, in accordance with generally accepted accounting principles, is required to be capitalized on the balance sheet of such Person.

“*Capitalized Lease Obligation*” shall mean, as applied to any Person, the discounted present value of the rental obligation, as aforesaid, under any Capitalized Lease.

“*Capital Raising Transaction*” shall mean any issuance of Capital Stock of the Company to any Person (other than an Affiliate thereof) pursuant to an underwriting or placement agreement, but shall exclude any such issuance (i) in which the primary purpose thereof is for compensatory or similar reasons, (ii) that is pursuant to a registration on Form S-4 or S-8 or any successor form, (iii) in connection with any reclassification of the Company’s securities that involves the substitution of one security for another, including, but not limited to, a stock dividend or similar transaction, or (iv) that is in payment of all or a portion of the purchase price of or other consideration payable in connection with any merger, consolidation, stock exchange, acquisition or transfer of assets or similar business combination.

“*Capital Stock*” means, with respect to any Person, any and all shares, interests, participations or other equivalents (however designated) of such Person’s capital stock, whether or not outstanding on the date of this Agreement, including, without limitation, any option, warrant or other right relating to any such capital stock.

“*Cash Equivalent*” shall mean any short-term investments that are classified as cash equivalents on the Company’s consolidated balance sheet in accordance with generally accepted accounting principles, consistently applied.

“*CERCLA*” shall mean the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended.

“*CERCLIS*” shall mean the CERCLA Information System.

“*Change in Control*” means (a) a sale of all or substantially all the assets of the Company to any Person or related group of Persons as an entirety or substantially as an entirety in one transaction or series of transactions, (b) the merger or consolidation of the Company with or into another corporation or the merger of another corporation into the Company with the effect that immediately after such transaction the stockholders of the Company immediately prior to such transaction hold less than 51% of the total voting power generally entitled to vote in the election of directors, managers or trustees of the Person surviving such merger or consolidation, (c) the Pilgrim Family shall cease to “own” more than 51% of the total voting power generally entitled to vote in the election of directors, managers or trustees of the Company, (d) during any period of two consecutive years, individuals who at the beginning of such period constituted the Board of Directors of the Company (together with any new directors whose election by such Board or whose nomination for election by the stockholders of the Company was approved by a vote of a majority 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 the Company then in office, or (e) the stockholders of the Company shall approve any plan for the liquidation or dissolution of the Company. For purposes herein, the Pilgrim Family shall be deemed to “own” the voting power generally entitled to vote in the election of directors, managers or trustees of the Company if the Pilgrim Family either directly or indirectly legally or beneficially own such voting power.

“*Change in Law*” shall have the meaning specified in Section 9.3 hereof.

“*Code*” means the Internal Revenue Code of 1986, as amended, and any successor statute thereto.

“*Collateral*” shall mean the collateral security provided to the Agent for the benefit of the Banks pursuant to the Security Agreement.

“*Commitment Percentage*” means, for each Bank, the percentage of the Revolving Credit Commitments represented by such Bank’s Revolving Credit Commitment or, if the Revolving Credit Commitments have been terminated, the percentage held by such Bank (including through participation interests in Reimbursement Obligations) of the aggregate principal amount of all Revolving Credit Loans and L/Cs and Reimbursement Obligations then outstanding.

“*Company*” shall have the meaning specified in the first paragraph of this Agreement.

“*Competitive Bid*” shall mean an offer by a Bank to make a Bid Loan pursuant to Section 2 hereof.

“*Competitive Bid Request*” shall mean a request made by the Company pursuant to Section 2.2 hereof.

“*ConAgra*” means ConAgra Foods, Inc., a Delaware corporation.

“*Consolidated Subsidiary*” shall mean any Subsidiary whose accounts are consolidated with those of the Company in accordance with generally accepted accounting principles.

“*Control*” or “*Controlled By*” or “*Under Common Control*” shall mean possession, directly or indirectly, of power to direct or cause the direction of management or policies (whether through ownership of voting securities, by contract or otherwise); provided that, in any event any Person which beneficially owns, directly or indirectly, 10% or more (in number of votes) of the securities having ordinary voting power for the election of directors of a corporation shall be conclusively presumed to control such corporation, and provided further that any Consolidated Subsidiary shall be conclusively presumed to be controlled by the Company.

“*Convertible Stock*” means preferred stock and other Capital Stock that are convertible, exchangeable or exercisable into the Company’s common stock.

“*Current Assets*” of any Person shall mean the aggregate amount of assets of such Person which in accordance with generally accepted accounting principles may be properly classified as current assets after deducting adequate reserves where proper.

“*Current Liabilities*” shall mean all items (including taxes accrued as estimated) which in accordance with generally accepted accounting principles may be properly classified as current liabilities, and including in any event all amounts outstanding from time to time under this Agreement. For purposes of calculating the Current Ratio or Net Working Capital, Current Liabilities shall not include (i) the Company’s indebtedness relating to the Bonds to the extent proceeds remain held in trust and not paid to the Company pursuant to the terms of the Bond Documents, (ii) indebtedness relating to the Intercompany Bonds so long as the Company or a Subsidiary of the Company remains the holder of such Intercompany Bonds, and (iii) any other indebtedness so long as the trustee in respect of such indebtedness holds cash and Cash Equivalents in an amount sufficient to repay the principal balance of such indebtedness.

“*Current Ratio*” shall mean the ratio of Current Assets to Current Liabilities of the Company and its Subsidiaries.

“*Debt*” of any Person shall mean as of any time the same is to be determined, the aggregate on a consolidated basis (without duplication), of:

(a) all indebtedness, obligations and liabilities of such Person with respect to borrowed money (including by the issuance of debt securities and any Convertible Stock that is classified as debt under generally accepted accounting principles, consistently applied or which the Company elects to treat as Debt under this Agreement);

(b) all Capitalized Lease Obligations;

(c) all indebtedness secured by a lien on the Property of such Person, whether or not such Person has assumed or become liable for the payment of such indebtedness;

(d) all indebtedness, obligations and liabilities representing the deferred purchase price of property or services (excluding trade payables incurred in the ordinary course of business);

(e) all reimbursement and other obligations with respect to letters of credit, bankers acceptances, customer advances and other extensions of credit whether or not representing obligations for borrowed money; and

(f) all direct guaranties and indemnities in respect of, and to purchase or otherwise acquire, or otherwise to assure a creditor against loss in respect of, or to assure an obligee against failure to make payment in respect of, liabilities, obligations or indebtedness or others of the kind referred to in clauses (a) through (e) above;

*provided that* for purposes of calculating the financial covenants set forth in Sections 7.8, 7.10, 7.11, 7.12 and 7.13 of this Agreement and the calculation of the Leverage Ratio for purposes of determining the Applicable Margin, the term “*Debt*” shall not include (i) the Company’s indebtedness relating to the Bonds to the extent proceeds remain held in trust and not paid to the Company pursuant to the terms of the Bond Documents, (ii) indebtedness relating to the Intercompany Bonds so long as the Company or a Subsidiary of the Company remains the holder of such Intercompany Bonds, and (iii) any other indebtedness so long as the trustee in respect of such indebtedness holds cash and Cash Equivalents in an amount sufficient to repay the principal balance of such indebtedness.

“*Distribution Business*” means the business conducted at certain distribution facilities located in the United States and operated by the Company and the Distribution Subsidiary.

“*Distribution Subsidiary*” means Pilgrim’s Food Systems, Inc. and its successors, a Delaware corporation engaged in the business of selling and distributing (a) poultry products acquired from the Company’s and its Affiliates’ operations, and (b) poultry and non-poultry products purchased from third parties, in each case to, among others, independent grocers and quick service restaurants.

“*Domestic Rate*” means for any day the rate of interest announced by Harris from time to time as its prime commercial rate in effect on such day, with any change in the Domestic Rate resulting from a change in said prime commercial rate to be effective as of the date of the relevant change in said prime commercial rate (the “*Harris Prime Rate*”), provided that if the rate per annum determined by adding 1/2 of 1% to the rate at which Harris would offer to sell federal funds in the interbank market on or about 10:00 a.m. (Chicago time) on any day (the

“Adjusted Fed Funds Rate”) shall be higher than the Harris Prime Rate on such day, then the Domestic Rate for such day and for any succeeding day which is not a Business Day shall be such Adjusted Fed Funds Rate. The determination of the Adjusted Fed Funds Rate by Harris shall be final and conclusive except in the case of manifest error or willful misconduct.

“Domestic Rate Loan” means a Revolving Credit Loan which bears interest as provided in Section 1.3(a) hereof.

“EBITDA” shall mean, in any fiscal year of the Company, all earnings (other than extraordinary items) of the Company before interest and income tax obligations of the Company for said year and before depreciation and amortization charges of the Company for said year, all determined in accordance with generally accepted accounting principles, consistently applied.

“Eligible Inventory” shall mean any Inventory of the Company in which the Agent has a first priority perfected security interest, which the Banks in their sole judgment deem to be acceptable for inclusion in the Borrowing Base and which complies with each of the following requirements:

- (a) it consists solely of feed grains, feed, ingredients, live broiler chickens, dressed broiler chickens, commercial eggs, prepared food products, breeder hens, breeder pullets, hatching eggs, commercial hens, commercial pullets, packaging materials, vaccines, general supplies and maintenance supplies;
- (b) it is in first class condition, not obsolete, and is readily usable or salable by the Company in the ordinary course of its business;
- (c) it substantially conforms to the advertised or represented specifications and other quality standards of the Company, and has not been determined by the Banks to be unacceptable due to age, type, category, quality and/or quantity;
- (d) all warranties as set forth in this Agreement and the Security Agreement are true and correct with respect thereto;
- (e) it has been identified to the Banks in the manner prescribed pursuant to the Security Agreement;
- (f) it is located at a location within the United States disclosed to and approved by the Banks and, if requested by the Agent, any Person (other than the Company) owning or controlling such location shall have waived all right, title and interest in and to such Inventory in a manner satisfactory to the Banks; and
- (g) it is not subject to any other lien, security interest or counterclaim.

“Environmental Laws” shall have the meaning specified in Section 5.10 hereof.

“ERISA” shall mean the Employee Retirement Income Security Act of 1974, as amended.

“Eurodollar Loan” shall mean a Revolving Credit Loan which bears interest as provided in Section 1.3(b) hereof.

“Eurodollar Rate” shall mean for each Interest Period applicable to a Eurodollar Loan, (a) the LIBOR Index Rate for such Interest Period, if such rate is available, and (b) if the LIBOR Index Rate cannot be determined, the arithmetic average of the rate of interest per annum (rounded upwards, if necessary, to nearest 1/100 of 1%) at which deposits in U.S. dollars in immediately available funds are offered to the Agent at 11:00 a.m. (London, England time) two (2) Business Days before the beginning of such Interest Period by major banks in the interbank eurodollar market for a period equal to such Interest Period and in an amount equal or comparable to the principal amount of the Eurodollar Loan scheduled to be made by the Agent during such Interest Period.

“Event of Default” shall mean any event or condition identified as such in Section 8.1 hereof.

“Fed Funds Rate” shall have the meaning specified in Section 1.7(c) hereof.

“Fiscal Year” shall mean the 52 or 53 week period ending on the Saturday closest to September 30 in each calendar year, regardless of whether such Saturday occurs in September or October of any calendar year.

“Fixed Charge Coverage Ratio” shall mean the ratio of (a) the sum of EBITDA and all amounts payable under all non-cancellable operating leases (determined on a consolidated basis in accordance with generally accepted accounting principles, consistently applied) for the period in question, to (b) the sum of (without duplication) (i) Interest Expense for such period, (ii) the sum of the scheduled current maturities (determined in accordance with generally accepted accounting principles consistently applied) of Funded Debt during the period in question, (iii) all amounts payable under non-cancellable operating leases (determined as aforesaid) during such period, and (iv) all amounts payable with respect to Capitalized Leases (determined on a consolidated basis in accordance with generally accepted accounting principles, consistently applied) for the period in question.

“Fixed Rate Loan” shall mean a Eurodollar Loan or a Bid Loan, and “Fixed Rate Loans” shall mean any one or more of such types of Loans.

“Foreign Subsidiary” shall mean any Subsidiary substantially all of whose assets, operations and business are located outside of the United States.

“Funded Debt,” with respect to any Person shall mean all indebtedness for borrowed money of such Person and with respect to the Company all indebtedness for borrowed money of the Company, in each case maturing by its terms more than one year after, or which is renewable or extendible at the option of such Person for a period ending one year or more after, the date of

determination, and shall include indebtedness for borrowed money of such maturity created, assumed or guaranteed by such Person either directly or indirectly, including obligations of such maturity secured by liens upon Property of such Person and upon which such entity customarily pays the interest, all current maturities of all such indebtedness of such maturity and all rental payments under Capitalized Leases of such maturity. For purposes of calculating the Fixed Charge Coverage Ratio, Funded Debt shall not include (i) the Company's indebtedness relating to the Bonds to the extent proceeds remain held in trust and not paid to the Company pursuant to the terms of the Bond Documents, (ii) indebtedness relating to the Intercompany Bonds so long as the Company or a Subsidiary of the Company remains the holder of such Intercompany Bonds, and (iii) any other indebtedness so long as the trustee in respect of such indebtedness holds cash and Cash Equivalents in an amount sufficient to repay the principal balance of such indebtedness

“*Funding Corp.*” shall mean Pilgrim's Pride Funding Corporation, a Delaware corporation.

“*Grower Payables*” shall mean all amounts owed from time to time by the Company to any Person on account of the purchase price of agricultural products or services (including poultry and livestock) if the Agent reasonably determines that such Person is entitled to the benefits of any grower's lien, statutory trust or similar security arrangements to secure the payment of any amounts owed to such Person.

“*Guarantor*” shall mean Pilgrim Interests, Ltd., a Texas limited partnership.

“*Guaranty Fees*” shall have the meaning specified in Section 7.28 hereof.

“*Harris*” shall have the meaning specified in the first paragraph of this Agreement.

“*Harris – Related Persons*” shall mean Harris, together with its Affiliates, and the officers, directors, employees, agents and attorneys-in-fact of Harris and such Affiliates.

“*Hedging Liabilities*” shall mean indebtedness, obligations and liabilities of the Company and any of its Subsidiaries attributable to (i) any interest rate protection agreement, interest rate future, interest rate option, interest rate swap, cap, collar or floor or other interest rate hedge arrangement, to which the Company or any of its Subsidiaries is a party or a beneficiary, (ii) any foreign exchange contract, currency option, currency swap, cap, collar or floor or other similar agreement or arrangement designed to protect the Company or any of its Subsidiaries against fluctuations in currency values or (iii) any commodity option, commodity forward contract, commodity swap, cap, collar or floor or similar agreement or arrangement designed to protect the Company or any of its Subsidiaries against fluctuations in commodity prices.

“*Highest Lawful Rate*” shall have the meaning specified in Section 11.20 hereof.

“*Indenture*” shall mean the Trust Indenture dated as of June 15, 1999 between the Issuer and the Trustee, relating to the Bonds, as amended.

“*Intangible Assets*” shall mean license agreements, trademarks, trade names, patents, capitalized research and development, proprietary products (the results of past research and development treated as long term assets and excluded from Inventory) and goodwill (all determined on a consolidated basis in accordance with generally accepted accounting principles consistently applied).

“*Intercompany Bonds*” means (a) Tax Bonds in an aggregate principal amount of approximately \$57,500,000 assigned to the Company in connection with and as part of the acquisition by the Company of the stock of certain Subsidiaries of ConAgra, and (b) any industrial revenue bonds, notes, debentures or similar instruments issued by a governmental entity on behalf of the Company or a Subsidiary and concurrently with or following its issuance purchased by the Company or a Subsidiary.

“*Interest Expense*” for any period shall mean all interest charges during such period, including all amortization of debt discount and expense and imputed interest with respect to Capitalized Lease Obligations, determined on a consolidated basis in accordance with generally accepted accounting principles, consistently applied, including without limitation dividends relating to Convertible Stock that is classified as debt under generally accepted accounting principles, consistently applied, or which the Company elects to treat as Debt under this Agreement.

“*Interest Period*” shall mean with respect to (a) the Eurodollar Loans, the period used for the computation of interest commencing on the date the relevant Eurodollar Loan is made, continued or effected by conversion and concluding on the date one, two, three or six months thereafter and, (b) the Bid Loans, the period used for the computation of interest commencing on the date the relevant Bid Loan is made and ending on the date such Bid Loan is scheduled to mature, but in no event may such period have a duration of less than 30 days or more than 180 days; *provided, however*, that no Interest Period for any Fixed Rate Loan may extend beyond the Termination Date. For purposes of determining an Interest Period applicable to a Eurodollar Loan, a month means a period starting on one day in a calendar month and ending on a numerically corresponding day in the next calendar month; *provided, however*, that if there is no numerically corresponding day in the month in which an Interest Period is to end or if an Interest Period begins on the last day of a calendar month, then such Interest Period shall end on the last Business Day of the calendar month in which such Interest Period is to end.

“*Inventory*” shall mean all raw materials, work in process, finished goods, and goods held for sale or lease or furnished or to be furnished under contracts of service in which the Company or any Subsidiary now has or hereafter acquires any right.

“*Issuer*” shall mean the Camp County Industrial Development Corporation, a nonstock, nonprofit industrial development corporation existing under the laws of the State of Texas.

“*L/C*” shall have the meaning set forth in Section 1.5 hereof.

“*L/C Agreement*” shall have the meaning set forth in Section 1.5 hereof.

“*L/C Fee*” has the meaning specified in Section 1.5 hereof.

“*L/C Fronting Fee*” has the meaning specified in Section 1.5 hereof.

“*L/C Issuer*” means the Agent and, with respect to L/Cs issued to credit enhance debt securities, such Banks listed as eligible L/C Issuers on Schedule 2 attached hereto, as such schedule may be modified from time to time in writing by the Company and the Agent.

“*Leverage Ratio*” shall mean the ratio for the Company and its Subsidiaries of (a) an amount equal to the sum of the aggregate outstanding principal amount of all Debt (other than Debt consisting of reimbursement and other obligations with respect to undrawn letters of credit) minus the aggregate principal amount of all cash and Cash Equivalents reflected on the Company’s balance sheet that is not restricted to secure the payment of off-balance sheet liabilities of the Company or any Subsidiary, to (b) the amount included in clause (a) above plus Net Worth.

“*LIBOR Index Rate*” shall mean, for any Interest Period applicable to a Eurodollar Loan, the rate per annum (rounded upwards, if necessary, to the next higher one hundred-thousandth of a percentage point) for deposits in U.S. Dollars for a period equal to such Interest Period, which appears on the Telerate Page 3750 as of 11:00 a.m. (London, England time) on the day two Business Days before the commencement of such Interest Period.

“*Loan*” shall mean a Revolving Credit Loan or a Bid Loan, and “*Loans*” shall mean any two or more Revolving Credit Loans and/or Bid Loans.

“*Loan Documents*” shall mean this Agreement and any and all exhibits hereto, the Notes, the L/C Agreements, the Reimbursement Agreement and the Security Agreement.

“*Material Subsidiary*” shall mean any Subsidiary whose assets total 5% or more of the Total Assets of the Company.

“*Mexican Subsidiary*” shall mean a Foreign Subsidiary substantially all of whose assets, business and operations are located in the Republic of Mexico.

“*Moody’s*” shall mean Moody’s Investor Services, Inc.

“*Net Income*” shall mean the net income of the Company and its Subsidiaries determined on a consolidated basis in accordance with generally accepted accounting principles, consistently applied.

“*Net Tangible Assets*” shall mean the excess of the value of the Total Assets over the value of the Intangible Assets of the Company and its Subsidiaries.

“*Net Working Capital*” shall mean as to any Person in the excess for such Person of Current Assets over Current Liabilities.

“*Net Worth*” shall mean the Total Assets minus the Total Liabilities of the Company and its Subsidiaries, all determined on a consolidated basis in accordance with generally accepted accounting principles, consistently applied.

“*Notes*” shall mean the Revolving Notes, and “*Note*” means any of the Notes.

“*Partnership Guaranty*” shall mean the Amended and Restated Guaranty Agreement dated as of April 7, 2004, from the Guarantor to the Banks, as the same may be supplemented and amended from time to time.

“*PBGC*” shall mean the Pension Benefit Guaranty Corporation.

“*Person*” shall mean and include any individual, sole proprietorship, partnership, joint venture, trust, unincorporated organization, association, corporation, institution, entity, party or government (whether national, federal, state, county, city, municipal, or otherwise, including, without limitation, any instrumentality, division, agency, body or department thereof).

“*Pilgrim Family*” means (a) Lonnie A. “Bo” Pilgrim, his spouse, his issue, his estate and any trust, partnership or other entity primarily for the benefit of him, his spouse and/or issue, or (b) the Guarantor.

“*Plan*” shall mean any employee benefit plan covering any officers or employees of the Company or any Subsidiary, any benefits of which are, or are required to be, guaranteed by the PBGC.

“*Potential Default*” shall mean any event or condition which, with the lapse of time, or giving of notice, or both, would constitute an Event of Default.

“*PPAHC*” shall mean Pilgrim’s Pride Affordable Housing Corp., a Nevada corporation.

“*Property*” shall mean any interest in any kind of property or asset, whether real, personal or mixed or tangible or intangible.

“*Receivables*” shall mean all accounts, contract rights, instruments, documents, chattel paper and general intangibles in which the Company or any Subsidiary now has or hereafter acquires any right.

“*Receivables Securitization Program*” shall mean any receivables securitization program to which the Company or a Subsidiary is a party which provides for the sale by the Company or its Subsidiaries, without recourse, of its Receivables for cash consideration, and including in any event the receivables securitization program pursuant to which the Company will sell to Funding Corp. all or substantially all of the Company’s receivables and Funding Corp. will in turn sell an undivided interest in all of such Receivables to Fairway Finance Company, LLC and its successors and assigns.

“*Reimbursement Agreement*” shall have the meaning specified in Section 1.10 hereof.

“*Reimbursement Obligation*” has the meaning specified in Section 1.6 hereof.

“*Required Banks*” shall mean any Bank or Banks which in the aggregate hold at least 51% of the aggregate unpaid principal balance of the Loans, Bond Reimbursement Obligations and Reimbursement Obligations or, if no Loans are outstanding hereunder, any Bank or Banks in the aggregate having at least 51% of the Revolving Credit Commitments.

“*Reserve Percentage*” means the daily arithmetic average maximum rate at which reserves (including, without limitation, any supplemental, marginal and emergency reserves) are imposed on member banks of the Federal Reserve System during the applicable Interest Period by the Board of Governors of the Federal Reserve System (or any successor) under Regulation D on “*eurocurrency liabilities*” (as such term is defined in Regulation D), subject to any amendments of such reserve requirement by such Board or its successor, taking into account any transitional adjustments thereto. For purposes of this definition, the Eurodollar Loans shall be deemed to be eurocurrency liabilities as defined in Regulation D without benefit or credit for any prorations, exemptions or offsets under Regulation D.

“*Revolving Credit*” shall have the meaning specified in the first paragraph of this Agreement.

“*Revolving Credit Commitment*” means, as to any Bank, the obligation of such Bank to make Revolving Credit Loans and to participate in L/Cs issued for the account of the Company hereunder and in Reimbursement Obligations arising hereunder in an aggregate principal or face amount at any one time outstanding not to exceed the amount set forth opposite such Bank’s name on Schedule 1 attached hereto and made a part hereof, as the same may be reduced or modified at any time or from time to time pursuant to the terms hereof. The Company and the Banks acknowledge and agree that the Revolving Credit Commitments of the Banks aggregate \$150,000,000 on the date hereof.

“*Revolving Credit Loan*” and “*Revolving Credit Loans*” shall have the meanings specified in Section 1.1(a) hereof.

“*Revolving Note*” or “*Revolving Notes*” shall have the meanings specified in Section 1.1(d) hereof.

“*S&P*” shall mean Standard & Poor’s Ratings Group.

“*Security Agreement*” shall mean that certain Amended and Restated Security Agreement Re: Inventory and Farm Products, dated as of April 7, 2004, from the Company to Harris, as Agent, as such agreement may be supplemented and amended from time to time.

“*Senior Subordinated Indenture*” shall mean that certain Subordinated Indenture dated as of November 21, 2003 by and between the Company as successor to PPC Escrow Corp., as Issuer, and The Bank of New York, as Trustee, in connection with the Company’s 9<sup>1</sup>/<sub>4</sub>% Senior Subordinated Notes due November 15, 2013 in an aggregate amount not to exceed \$100,000,000.

“*Subordinated Debt*” shall mean indebtedness for borrowed money of the Company which is subordinate in right of payment to the prior payment in full of the Company’s indebtedness, obligations and liabilities to the Banks under the Loan Documents pursuant to written subordination provisions satisfactory in form and substance to the Required Banks.

“*Subsidiary*” shall mean collectively any corporation or other entity at least a majority of the outstanding voting equity interests (other than directors’ qualifying shares) (measured by voting power rather than number of shares) of which is at the time owned directly or indirectly by the Company or by one of more Subsidiaries or by the Company and one or more Subsidiaries.

“*Tangible Net Worth*” shall mean the Net Worth minus the amount of all Intangible Assets of the Company and its Subsidiaries, determined on a consolidated basis in accordance with generally accepted accounting principles, consistently applied.

“*Tax Bonds*” shall mean certain industrial revenue bonds issued by governmental authorities and similar financing arrangements provided by or through state and local governmental agencies the proceeds of which were used to finance the acquisition and construction of specified projects.

“*Telerate Page 3750*” shall mean the display designated as “*Page 3750*” on the Telerate Service (or such other page as may replace Page 3750 on that service or such other service as may be nominated by the British Bankers’ Association as the information vendor for the purpose of displaying British Bankers’ Association Interest Settlement Rates for U.S. Dollar deposits).

“*Termination Date*” shall have the meaning set forth in Section 1.1(a) hereof.

“*Total Assets*” shall mean at any date, the aggregate amount of assets of the Company and its Subsidiaries determined on a consolidated basis in accordance with generally accepted accounting principles consistently applied.

“*Total Liabilities*” shall mean at any date, the aggregate amount of all liabilities of the Company and its Subsidiaries determined on a consolidated basis in accordance with generally accepted accounting principles, consistently applied, *provided that* for purposes of calculating the financial covenants set forth in Sections 7.8, 7.10, 7.11, 7.12 and 7.13 of this Agreement the term “*Total Liabilities*” shall not include (i) the Company’s indebtedness relating to the Bonds to the extent proceeds remain held in trust and not paid to the Company pursuant to the terms of the Bond Documents, (ii) the Company’s indebtedness relating to the Intercompany Bonds so long as the Company or a Subsidiary of the Company remains the holder of such Intercompany Bonds, and (iii) any other indebtedness so long as the trustee in respect of such indebtedness holds cash and Cash Equivalents in an amount sufficient to repay the principal balance of such indebtedness.

“*Trustee*” shall mean Harris Trust and Savings Bank, as Trustee under the Indenture, and any successor trustee thereunder.

“Turkey Business Assets” shall mean assets of the Company and its Subsidiaries that relate to their turkey line of business.

“Value of Eligible Inventory” shall mean as of any given date with respect to Eligible Inventory:

(a) With respect to Eligible Inventory consisting of feed grains, feed, ingredients, dressed broiler chickens and commercial eggs, an amount equal to the lower of (i) costs determined on a first-in-first-out inventory basis (determined in accordance with generally accepted accounting principles consistently applied), or (ii) wholesale market value;

(b) With respect to Eligible Inventory consisting of live broiler chickens, a price per pound equal to 75% of (i) the price quoted on the Los Angeles Majority Market on the date of calculation minus (ii) \$0.085, rounded up to the nearest 1/4 cent (which is the Arkansas live equivalent);

(c) With respect to Eligible Inventory consisting of prepared food products, the standard cost value;

(d) With respect to Eligible Inventory consisting of: breeder hens, \$1.50 per head; breeder pullets, \$1.00 per head; commercial hens, \$0.70 per head; commercial pullets, \$0.40 per head; and hatching eggs, \$1.25 a dozen; or in each case such other values as may be agreed upon by the Company and the Required Banks; and

(e) With respect to Eligible Inventory consisting of packaging materials, vaccines, general supplies and maintenance supplies, actual costs.

*Section 4.2. Accounting Terms.* Any accounting term or the character or amount of any asset or liability or item of income or expense required to be determined under this Agreement, shall be determined or made in accordance with generally accepted accounting principles at the time in effect, to the extent applicable, except where such principles are inconsistent with the requirements of this Agreement.

*Section 4.3. Interpretation.* The foregoing definitions are equally applicable to both the singular and plural forms of the terms defined. The words “hereof”, “herein”, and “hereunder” and words of like import when used in this Agreement shall refer to this Agreement as a whole and not to any particular provision of this Agreement. All references to time of day herein are references to Chicago, Illinois, time unless otherwise specifically provided.

#### SECTION 5. REPRESENTATIONS AND WARRANTIES.

The Company represents and warrants to the Banks as follows:

*Section 5.1. Organization and Qualification.* The Company is a corporation duly organized and existing and in good standing under the laws of the State of Delaware, has full and

adequate corporate power to carry on its business as now conducted, is duly licensed or qualified in all jurisdictions wherein the nature of its activities requires such licensing or qualification except where the failure to be so licensed or qualified would not have a material adverse effect on the condition, financial or otherwise, of the Company, has full right and authority to enter into this Agreement and the other Loan Documents, to make the borrowings herein provided for, to issue the Notes in evidence thereof, to encumber its assets as collateral security for such borrowings and to perform each and all of the matters and things herein and therein provided for; and this Agreement does not, nor does the performance or observance by the Company of any of the matters or things provided for in the Loan Documents, contravene any provision of law or any charter or by-law provision or any covenant, indenture or agreement of or affecting the Company or its Properties.

*Section 5.2. Subsidiaries.* Each Subsidiary is duly organized and existing under the laws of the jurisdiction of its incorporation or organization, has full and adequate corporate or other organizational power to carry on its business as now conducted and is duly licensed or qualified in all jurisdictions wherein the nature of its business requires such licensing or qualification and the failure to be so licensed or qualified would have a material adverse effect upon the business, operations or financial condition of such Subsidiary and the Company taken as a whole. As of the date hereof, the only Subsidiaries of the Company are set forth on Exhibit H hereto.

*Section 5.3. Financial Reports.* The Company has heretofore delivered to the Banks a copy of the Audit Report as of September 27, 2003 of the Company and its Subsidiaries and unaudited financial statements (including a balance sheet, statement of income and retained earnings, statement of cash flows, footnotes and comparison to the comparable prior year period) of the Company as of, and for the period ending January 3, 2004. Such audited financial statements have been prepared in accordance with generally accepted accounting principles on a basis consistent, except as otherwise noted therein, with that of the previous fiscal year or period and fairly reflect in all material respects the consolidated financial position of the Company and its Subsidiaries as of the dates thereof, and the consolidated results of its operations for the periods covered thereby. The Company and its Subsidiaries have no material contingent liabilities other than as indicated on said financial statements and since said date of January 3, 2004, there has been no material adverse change in the condition, financial or otherwise, of the Company and its Subsidiaries, taken as a whole that has not been disclosed in writing to the Banks.

*Section 5.4. Litigation; Tax Returns; Approvals.* There is no litigation or governmental proceeding pending, nor to the knowledge of the Company threatened, against the Company or any Subsidiary which could reasonably be expected to result in any material adverse change in the Properties, business and operations of the Company and its Subsidiaries, taken as a whole. All income tax returns for the Company required to be filed have been filed on a timely basis, all amounts required to be paid as shown by said returns have been paid except where the failure to make such filing or payment could not reasonably be expected to have a material adverse effect on the business, operations, Property or condition (financial or otherwise) of the Company and its Subsidiaries, taken as a whole. There are no pending or, to the best of the Company's knowledge, threatened objections to or controversies in respect of the United States federal income tax returns of the Company for any fiscal year except such objection or controversies that

could not reasonably be expected to have a material adverse effect on the business, operations, Property or condition (financial or otherwise) of the Company and its Subsidiaries, taken as a whole or are being contested in good faith by appropriate proceedings and adequate reserves have been provided therefor in accordance with generally accepted accounting principles consistently applied. No authorization, consent, license, exemption or filing (other than the filing of financing statements) or registration with any court or governmental department, agency or instrumentality, is or will be necessary to the valid execution, delivery or performance by the Company of the Loan Documents.

*Section 5.5. Regulation U.* Neither the Company nor any Subsidiary is 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 any Loan made hereunder will be used to purchase or carry any margin stock or to extend credit to others for such a purpose.

*Section 5.6. No Default.* As of the date of this Agreement, the Company is in full compliance with all of the terms and conditions of this Agreement, and no Potential Default or Event of Default is existing under this Agreement.

*Section 5.7. ERISA.* The Company and its Subsidiaries are in compliance in all material respects with ERISA to the extent applicable to them and have received no written notice to the contrary from the PBGC or any other governmental entity or agency.

*Section 5.8. Security Interests and Debt.* There are no security interests, liens or encumbrances on any of the Property of the Company or any Subsidiary except such as are permitted by Section 7.15 of this Agreement, and the Company and its Subsidiaries have no Debt except such as is permitted by Section 7.16 of this Agreement.

*Section 5.9. Accurate Information.* No information, exhibit or report furnished by the Company to the Banks in connection with the negotiation of the Loan Documents contained any misstatement of material fact or omitted to state a material fact or any fact necessary to make the statements contained therein not misleading in light of the circumstances in which made.

*Section 5.10. Environmental Matters.* (a) Except as disclosed on *Exhibit C*, the Company has not received any written notice to the effect, or has any knowledge, that its or any Subsidiary's Property or operations are not in compliance with any of the requirements of applicable federal, state and local environmental, health and safety statutes and regulations ("*Environmental Laws*") or are the subject of any federal or state 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 could reasonably be expected to have a material adverse effect on the business, operations, Property, assets or conditions (financial or otherwise) of the Company and its Subsidiaries, taken as a whole;

(b) there have been no releases of hazardous materials at, on or under any Property now or previously owned or leased by the Company or any Subsidiary that, singly or in the aggregate, have, or may reasonably be expected to have, a material adverse effect on the financial condition, operations, assets, business or Properties of the Company and its Subsidiaries, taken as a whole;

(c) there are no underground storage tanks, active or abandoned, including petroleum storage tanks, on or under any property now or previously owned or leased by the Company or any Subsidiary that, singly or in the aggregate, have, or may reasonably be expected to have, a material adverse effect on the financial condition, operations, assets, business or Properties of the Company and its Subsidiaries, taken as a whole;

(d) neither the Company nor any Subsidiary has directly transported or directly arranged for the transportation of any hazardous material to any location which is listed or proposed for listing on the National Priorities List pursuant to CERCLA, on the CERCLIS or on any similar state list or which is the subject of federal, state or local enforcement actions or other investigations which could reasonably be expected to lead to material claims against the Company or any Subsidiary thereof for any remedial work, damage to natural resources or personal injury, including claims under CERCLA; and

(e) no conditions exist at, on or under any Property now or previously owned or leased by the Company or any Subsidiary which, with the passage of time, or the giving of notice or both, would give rise to any material liability under any Environmental Law.

*Section 5.11. Enforceability.* This Agreement and the other Loan Documents are legal, valid and binding agreements of the Company, enforceable against it in accordance with their terms, except as may be limited by (a) bankruptcy, insolvency, reorganization, fraudulent transfer, moratorium or other similar laws or judicial decisions for the relief of debtors or the limitation of creditors' rights generally; and (b) any equitable principles relating to or limiting the rights of creditors generally.

*Section 5.12. Restrictive Agreements.* Neither the Company nor any Subsidiary is a party to any contract or agreement, or subject to any charge or other corporate restriction, which adversely affects its ability to execute, deliver and perform the Loan Documents to which it is a party and repay its indebtedness, obligations and liabilities under the Loan Documents or which materially and adversely affects or, insofar as the Company can reasonably foresee, could reasonably be expected to materially and adversely affect, the property, business, operations or condition (financial or otherwise) of the Company and its Subsidiaries, taken as a whole, or would in any respect materially and adversely affect the Collateral, the repayment of the indebtedness, obligations and liabilities under the Loan Documents, or any Bank's or the Agent's rights under the Loan Documents.

*Section 5.13. Labor Disputes.* Except as set forth on *Exhibit J*, (a) as of the date hereof, there is no collective bargaining agreement or other labor contract covering employees of the Company or any of its Subsidiaries; (b) no such collective bargaining agreement or other labor contract is scheduled to expire during the term of this Agreement; (c) no union or other labor organization is seeking to organize, or to be recognized as, a collective bargaining unit of employees of the Company or any of its Subsidiaries; and (d) there is no pending or (to the best of the Company's knowledge) threatened strike, work stoppage, material unfair labor practice claim or other material labor dispute against or affecting the Company or any of its Subsidiaries or their respective employees.

*Section 5.14. No Violation of Law.* Neither the Company nor any Subsidiary is in violation of any law, statute, regulation, ordinance, judgment, order or decree applicable to it which violation could reasonably be expected to in any respect materially and adversely affect the Collateral, the repayment of the indebtedness, obligations and liabilities under the Loan Documents, any Bank's or the Agent's rights under the Loan Documents, or the Property, business, operations or condition (financial or otherwise) of the Company and its Subsidiaries, taken as a whole.

*Section 5.15. No Default Under Other Agreements.* Neither the Company nor any Subsidiary is in default with respect to any note, indenture, loan agreement, mortgage, lease, deed, or other agreement to which it is a party or by which it or its Property is bound, which default could reasonably be expected to materially and adversely affect the Collateral, the repayment of the indebtedness, obligations and liabilities under the Loan Documents, any Bank's or the Agent's rights under the Loan Documents or the Property, business, operations or condition (financial or otherwise) of the Company and its Subsidiaries, taken as a whole.

*Section 5.16. Status Under Certain Laws.* Neither the Company nor any of its Subsidiaries is an "investment company" or a person directly or indirectly controlled by or acting on behalf of an "investment company" within the meaning of the Investment Company Act of 1940, as amended, or a "holding company," or a "subsidiary company" of a "holding company," or an "affiliate" of a "holding company" or a "subsidiary company" of a "holding company," within the meaning of the Public Utility Holding Company Act of 1935, as amended.

*Section 5.17. Federal Food Security Act.* The Company has received no written notice given pursuant to Section 1324(e)(1) or (3) of the Federal Food Security Act and there has not been filed any financing statement or notice, purportedly in compliance with the provisions of the Federal Food Security Act, purporting to perfect a security interest in farm products purchased by the Company in favor of a secured creditor of the seller of such farm products. The Company has registered, pursuant to Section 1324(c)(2)(D) of the Federal Food Security Act, with the Secretary of State of each State in which are produced farm products purchased by the Company and which has established or hereafter establishes a central filing system, as a buyer of farm products produced in such State; and each such registration is in full force and effect.

*Section 5.18. Fair Labor Standards Act.* The Company and each Subsidiary has complied in all material respects with, and will continue to comply with, the provisions of the Fair Labor Standards Act of 1938, 29 U.S.C. §201, *et seq.*, as amended from time to time (the "FLSA"), including specifically, but without limitation, 29 U.S.C. §215(a). This representation and warranty, and each reconfirmation hereof, shall constitute written assurance from the Company, given as of the date hereof and as of the date of each reconfirmation, that the Company and each Subsidiary has complied in all material respects with the requirements of the FLSA, in general, and Section 15(a)(1), 29 U.S.C. §215(a)(1), thereof, in particular.

*Section 5.19. Organization and Qualification of the Guarantor.* The Guarantor is a limited partnership duly organized and existing and in good standing under the laws of the State of Texas, has full and adequate partnership power to carry on its business as now conducted, is duly licensed or qualified in all jurisdictions wherein the nature of its activities requires such licensing or qualification except where the failure to be so licensed or qualified would not have a material adverse effect on the condition, financial or otherwise, of the Guarantor, has full right and authority to enter into the Partnership Guaranty, to guaranty the payment when due of the Company's indebtedness, obligations and liabilities to the Banks under the Loan Documents pursuant to the Partnership Guaranty and to perform each and all of the matters and things therein provided for; and the Partnership Guaranty does not, nor does the performance or observance by the Guarantor of any of the matters or things provided for in the Partnership Guaranty, contravene any provision of law or any provision of the Guarantor's certificate of limited partnership or its limited partnership agreement or any covenant, indenture or agreement of or affecting the Guarantor or its Properties.

SECTION 6. CONDITIONS PRECEDENT.

The obligation of the Banks to make any Loan pursuant hereto or to issue any L/C shall be subject to the following conditions precedent:

*Section 6.1. General.* The Agent shall have received the notice of borrowings and requests for L/Cs and the Notes hereinabove provided for.

*Section 6.2. Each Extension of Credit.* As of the time of the making of each Loan and the issuance of each L/C hereunder (including the initial Loan or L/C, as the case may be):

(a) each of the representations and warranties set forth in Section 5 hereof shall be and remain true and correct as of said time as if made at said time, except that (i) the representations and warranties made under Section 5.3 shall be deemed to refer to the most recent financial statements furnished to the Banks pursuant to Section 7.4 hereof and (ii) with respect to the Company's Foreign Subsidiaries the representations and warranties made under Section 5.13(d) shall be deemed to refer only to material strikes, work stoppages, unfair labor practice claims or other material labor disputes;

(b) the Company shall be in full compliance with all of the terms and conditions hereof, and no Potential Default or Event of Default shall have occurred and be continuing;

(c) after giving effect to the requested extension of credit and to each Loan that has been made and L/C issued hereunder, the aggregate principal amount of all Loans, the amount available for drawing under all L/Cs and the aggregate principal amount of all Reimbursement Obligations then outstanding shall not exceed the lesser of (i) the sum of the Banks' Revolving Credit Commitments then in effect and (ii) the Borrowing Base as determined on the basis of the most recent Borrowing Base Certificate, except as otherwise agreed by the Company and all of the Banks; and

(d) no change shall have occurred in the condition or operation of the Company or any Subsidiary since the date of the financial statements (quarterly or annual, as applicable) most recently provided by the Company to the Banks pursuant to Sections 7.4(a) or (b), as applicable, which, when considered in the aggregate, could reasonably be expected to have a material adverse effect on the business, operations, Property or condition (financial or otherwise) of the Company and its Subsidiaries taken as a whole;

and the request by the Company for any Loan or L/C pursuant hereto shall be and constitute a warranty to the foregoing effects.

*Section 6.3. Conditions to Effectiveness of Restatement.* This Agreement shall become effective upon satisfaction of all of the following conditions precedent:

(a) The Company and each of the Banks shall have executed this Agreement (such execution may be in several counterparts and the several parties hereto may execute on separate counterparts).

(b) The Agent shall have received (in sufficient counterparts for distribution to each of the Banks) all of the following in a form satisfactory to the Agent, the Banks and their respective counsel:

(i) a Secured Revolving Credit Note in the form attached hereto as Exhibit A payable to the order of each Bank in the principal amount of its Revolving Credit Commitment;

(ii) a fully executed Security Agreement;

(iii) a fully executed Partnership Guaranty;

(iv) copies of the Company's certificate of incorporation and bylaws and any amendments thereto, certified in each instance by its Secretary or Assistant Secretary;

(v) copies of resolutions of the Company's Board of Directors authorizing the execution, delivery and performance of this Agreement and the other Loan Documents to which it is a party and the consummation of the transactions contemplated hereby and thereby, together with specimen signatures of the persons authorized to execute such documents on the Company's behalf, all certified in each instance by its Secretary or Assistant Secretary;

(vi) certificates of good standing for the Company (dated no earlier than 30 days prior to the date hereof) for its state of incorporation and the State of Texas;

(vii) copies of the partnership agreement of the Guarantor and any amendments thereto, certified by the Guarantor's general partner; and

(viii) an opinion of counsel to the Company substantially in a form as set forth in Exhibit E hereto and satisfactory to the Agent, the Banks and their respective counsel;

(c) All legal matters incident to the execution and delivery hereof and the instruments and documents contemplated hereby shall be satisfactory to the Banks.

(d) The Agent shall have received for its account and the account of the Banks all fees payable by the Company to the Agent and the Banks in connection with this Agreement.

(e) The Company shall have satisfied the conditions precedent set forth in Sections 6.1 and 6.2 hereof.

#### SECTION 7. COVENANTS.

It is understood and agreed that so long as credit is in use or available under this Agreement or any amount remains unpaid on any Note, Reimbursement Obligation, L/C, Bond Reimbursement Obligation or Bond L/C, except to the extent compliance in any case or cases is waived in writing by the Required Banks:

*Section 7.1. Maintenance.* The Company will, and will cause each Subsidiary to, maintain, preserve and keep its plant, Properties and equipment in good repair, working order and condition and will from time to time make all needful and proper repairs, renewals, replacements, additions and betterments thereto so that at all times the efficiency thereof shall be preserved and maintained in all material respects, normal wear and tear excepted.

*Section 7.2. Taxes.* The Company will, and will cause each Subsidiary to, duly pay and discharge all taxes, rates, assessments, fees and governmental charges upon or against the Company or its Subsidiaries or against their respective Properties in each case before the same become delinquent and before penalties accrue thereon unless and to the extent that the same are being contested in good faith and by appropriate proceedings diligently conducted and for which adequate reserves in form and amount reasonably satisfactory to the Required Banks have been established or where the failure to make such payment could not reasonably be expected to have a material adverse effect on the business, operations, Property or condition (financial or otherwise) of the Company and its Subsidiaries, taken as a whole, provided that the Company shall pay or cause to be paid all such taxes, rates, assessments, fees and governmental charges forthwith upon the commencement of proceedings to foreclose any lien which is attached as security therefor, unless such foreclosure is stayed by the filing of an appropriate bond in a manner satisfactory to the Required Banks.

*Section 7.3. Maintenance of Insurance.* The Company will, and will cause each Subsidiary to, maintain insurance coverage by good and responsible insurance underwriters in such forms and amounts and against such risks and hazards as are customary for companies engaged in similar businesses and owning and operating similar Properties, provided that the Company and its Subsidiaries may self-insure for workmen's compensation, group health risks and their live chicken inventory in accordance with applicable industry standards. In any event, the Company will insure any of its Property which is insurable against loss or damage by fire,

theft, burglary, pilferage and loss in transit, all in amounts and under policies containing loss payable clauses to the Agent as its interest may appear (and, if the Agent requests, naming the Agent as additional insured therein) and providing for advance notice to the Agent of cancellation thereof, issued by sound and reputable insurers that, at the time of issuance or renewal of such policies, are accorded a rating of A-XII or better or A or better by S&P or Moody's and all premiums thereon shall be paid by the Company and certificates summarizing the same delivered to the Agent.

*Section 7.4. Financial Reports.* The Company will, and will cause each Subsidiary to, maintain a standard and modern system of accounting in accordance with sound accounting practice and will furnish to the Banks and their duly authorized representatives such information respecting the business and financial condition of the Company and its Subsidiaries as may be reasonably requested and, without any request, will furnish to the Banks:

(a) as soon as available, and in any event within 45 days after the close of each quarterly fiscal period of the Company a copy of the consolidated balance sheet, statement of income and retained earnings, statement of cash flows, and the results of operations of the Company and its Subsidiaries, for such period of the Company and its Subsidiaries, and unaudited consolidating balance sheets, statement of income and retained earnings and the results of operations for the Company and its Material Subsidiaries, in each case, together with all such information for the year to date, all in reasonable detail, prepared by the Company and certified on behalf of the Company by the Company's chief financial officer;

(b) as soon as available, and in any event within 90 days after the close of each fiscal year, a copy of the audit report for such year and accompanying financial statements, including a consolidated balance sheet, a statement of income and retained earnings, and a statement of cash flows, together with all footnotes thereto, for the Company and its Subsidiaries, and unaudited consolidating balance sheets, statement of income and retained earnings and statements of cash flows for the Company and its Material Subsidiaries, in each case, showing in comparative form the figures for the previous fiscal year of the Company, all in reasonable detail, accompanied by an unqualified opinion of Ernst & Young LLP or other independent public accountants of nationally recognized standing selected by the Company and reasonably satisfactory to the Required Banks, such opinion to indicate that such statements are prepared in accordance with generally accepted accounting principles;

(c) each of the financial statements furnished to the Banks pursuant to paragraph (a) and (b) above shall be accompanied by a Compliance Certificate in the form of Exhibit F hereto signed on behalf of the Company by its chief financial officer;

(d) within 30 days after the end of each month, a Borrowing Base Certificate in the form of Exhibit G hereto, setting forth a computation of the Borrowing Base as of that month's end date, certified as correct on behalf of the Company by the Company's chief financial officer and certifying that as of the last day of the preceding monthly period the signer thereof has re-examined the terms and provisions of this Agreement and

the Security Agreement and that to the best of his knowledge and belief, no Potential Default or Event of Default has occurred or, if any such Potential Default or Event of Default has occurred, setting forth the description of such Potential Default or Event of Default and specifying the action, if any, taken by the Company to remedy the same;

(e) promptly upon their becoming available, copies of all registration statements and regular periodic reports, if any, which the Company shall have filed with the Securities and Exchange Commission or any governmental agency substituted therefor, or any national securities exchange, including copies of the Company's form 10-K annual report, including financial statements audited by Ernst & Young LLP or other independent public accountants of nationally recognized standing selected by the Company and reasonably satisfactory to the Bank, its form 10-Q quarterly report to the Securities and Exchange Commission and any Form 8-K filed by the Company with the Securities and Exchange Commission;

(f) promptly upon the mailing thereof to the shareholders of the Company generally, copies of all financial statements, reports and proxy statements so mailed; and

(g) together with the audited financial statements delivered pursuant to Section 7.4(b), a list in reasonable detail of all Intercompany Bonds outstanding on the date of such financial statements, certified by the chief financial officer of the Company.

*Section 7.5. Inspection and Reviews.* The Company shall, and shall cause each Subsidiary to, permit the Agent and the Banks, by their representatives and agents, to inspect any of the properties, corporate books and financial records of the Company and its Subsidiaries, to review and make copies of the books of accounts and other financial records of the Company and its domestic Subsidiaries, and to discuss the affairs, finances and accounts of the Company and its Subsidiaries with, and to be advised as to the same by, its officers at such reasonable times and intervals as the Agent or the Banks may designate. In addition to any other compensation or reimbursement to which the Agent and the Banks may be entitled under the Loan Documents, after the occurrence of an Event of Default and during the continuation thereof the Company shall pay to the Agent from time to time upon demand the amount necessary to compensate it for all fees, charges and expenses incurred by the Agent or its designee in connection with the audits of Collateral, or inspections or review of the books, records and accounts of the Company or any domestic Subsidiary conducted by the Agent or its designee or any of the Banks.

*Section 7.6. Consolidation and Merger.* The Company will not, and will not permit any Subsidiary to, consolidate with or merge into any Person, or permit any other Person to merge into it, or acquire (in a transaction analogous in purpose or effect to a consolidation or merger) all or substantially all the Property of the other Person, or acquire substantially as an entirety the business of any other Person, without the prior written consent of the Required Banks; *provided, however,* that (a) if no Potential Default or Event of Default shall have occurred and be continuing or shall result therefrom (including compliance on a pro forma basis with Sections 7.8, 7.9, 7.10, 7.11, 7.12 and 7.13) the Company may acquire all or substantially all the Property of the other Person, or acquire substantially as an entirety the business of any other Person if (i) the aggregate fair market value of all consideration paid or payable by the Company

in all such acquisitions made in any Fiscal Year does not exceed \$100,000,000, (ii) after giving effect to such acquisition the Company shall be in compliance with Section 7.22 hereof, and (iii) if the acquisition involves a merger or consolidation of the Company, the Company is the surviving or resulting entity, and (b) a Subsidiary or the Company may acquire, merge with or into or consolidate with another Subsidiary so long as, in the case of an acquisition, a merger or a consolidation involving the Company, the Company is the surviving or resulting entity, and (c) any Subsidiary may sell, transfer, lease or otherwise dispose of its assets to the Company or any other Subsidiary.

*Section 7.7. Transactions with Affiliates.* The Company will not, and will not permit any Subsidiary to, enter into any transaction, including without limitation, the purchase, sale, lease or exchange of any Property, or the rendering of any service, with any Affiliate of the Company or such Subsidiary except (a) in the ordinary course of and pursuant to the reasonable requirements of the Company's or such Subsidiary's business and upon fair and reasonable terms not materially less favorable to the Company than would be obtained in a comparable arm's-length transaction with a Person not an Affiliate of the Company or such Subsidiary, (b) on-going transactions with Affiliates of the type disclosed in the Company's proxy statement for its Fiscal Year ended September 27, 2003, (c) the sale of all or substantially all of the Company's or a Subsidiary's Receivables pursuant to a Receivables Securitization Program, (d) the guaranties and environmental indemnities described in Section 7.16(o) hereof, and (e) any transaction entered into between any of the Subsidiaries.

*Section 7.8. Leverage Ratio.* The Company will not permit its Leverage Ratio at any time to exceed 0.625 to 1.

*Section 7.9. Tangible Net Worth.* The Company shall maintain its Tangible Net Worth at all times in an amount not less than \$600,000,000, increasing (a) on the last day of each Fiscal Year of the Company by an amount equal to 50% of the Company's Net Income (but not less than zero) for such Fiscal Year, and (b) on the date the Company issues any Capital Stock of the Company in a Capital Raising Transaction by an amount equal to 100% of the cash and Cash Equivalent proceeds received by or for the Company's account, net of reasonable legal, underwriting, and other fees and expenses incurred as a direct result thereof.

*Section 7.10. Current Ratio.* The Company will maintain at all times and measured as of the last day of each quarterly fiscal accounting period a Current Ratio of not less than 1.35 to 1.

*Section 7.11. Net Tangible Assets to Total Liabilities.* The Company will not permit the ratio of its Net Tangible Assets to its Total Liabilities at any time but measured as of the last day of each quarterly fiscal accounting period to be less than 1.3 to 1.

*Section 7.12. Fixed Charge Coverage Ratio.* The Company will not permit, as of the last day of each fiscal quarter of the Company, its Fixed Charge Coverage Ratio for the eight consecutive fiscal quarters of the Company then ended to be less than 1.5 to 1 on the last day of each fiscal quarter of the Company.

*Section 7.13. Minimum Net Working Capital.* The Company will maintain Net Working Capital at all times (measured as of the last day of each monthly fiscal accounting period) in an amount not less than \$85,000,000.

*Section 7.14. Dividends and Certain Other Restricted Payments.* The Company will not (a) declare or pay any dividends or make any distribution on any class of its capital stock (other than dividends payable solely in its capital stock) or (b) directly or indirectly purchase, redeem or otherwise acquire or retire any of its capital stock (except out of the proceeds of, or in exchange for, a substantially concurrent issue and sale of capital stock) or (c) make any other distributions with respect to its capital stock; *provided, however,* that if no Potential Default or Event of Default shall exist before and after giving effect thereto, the Company may (i) pay dividends (A) on Convertible Stock the proceeds of which were used to refinance Debt permitted by Section 7.16 or (B) on Convertible Stock which is classified as debt under generally accepted accounting principles, consistently applied, or which the Company elects to treat as Debt under this Agreement, and such Debt is permitted by Section 7.16 hereof, (ii) in addition to the dividends permitted by clause (i), pay dividends in an aggregate amount not to exceed \$6,500,000 in any Fiscal Year, (iii) pay dividends permitted under Section 7.14(i) during the immediately preceding Fiscal Year that were declared but not paid in the immediately preceding Fiscal Year and (iv) repurchase the Company's capital stock in an aggregate amount not to exceed \$25,000,000.

*Section 7.15. Liens.* The Company will not, and will not permit any Subsidiary to, pledge, mortgage or otherwise encumber or subject to or permit to exist upon or be subjected to any lien, charge or security interest of any kind (including any conditional sale or other title retention agreement and any lease in the nature thereof), on any of its Properties of any kind or character other than:

(a) liens, pledges or deposits for workmen's compensation, unemployment insurance, old age benefits or social security obligations, taxes, assessments, statutory obligations or other similar charges, good faith deposits made in connection with tenders, contracts or leases to which the Company or a Subsidiary is a party or other deposits required to be made in the ordinary course of business, provided in each case the obligation secured is not overdue or, if overdue, is being contested in good faith by appropriate proceedings and adequate reserves have been provided therefor in accordance with generally accepted accounting principles and that the obligation is not for borrowed money, customer advances, trade payables or obligations to agricultural producers;

(b) the pledge of Property for the purpose of securing an appeal or stay or discharge in the course of any legal proceedings, provided that the aggregate amount of liabilities of the Company and its Subsidiaries so secured by a pledge of Property permitted under this subsection (b) including interest and penalties thereon, if any, shall not be in excess of \$20,000,000 at any one time outstanding;

(c) liens, pledges, mortgages, security interests, or other charges granted to the Agent to secure the Notes, L/Cs, or the Reimbursement Obligations;

- (d) liens, pledges, security interests or other charges now or hereafter created under the Security Agreement;
- (e) security interests or other interests of a lessor in equipment leased by the Company or any Subsidiary as lessee under any financing lease, to the extent such security interest or other interest secures rental payments payable by the Company thereunder;
- (f) liens of carriers, warehousemen, mechanics and materialmen and other like liens, in each case arising in the ordinary course of the Company's or any Subsidiary's business to the extent they secure obligations that are not past due or, if past due, which do not exceed an aggregate at any one time of \$10,000,000 or are being contested in good faith by appropriate proceedings and adequate reserves have been provided therefor in accordance with generally accepted accounting principals;
- (g) such minor defects, irregularities, encumbrances, easements, rights of way, and clouds on title as normally exist with respect to similar properties which do not materially impair the Property affected thereby for the purpose for which it was acquired;
- (h) liens, pledges, mortgages, security interests or other charges granted by any of the Company's Foreign Subsidiaries in such Foreign Subsidiary's Inventory, fixed assets and accounts receivable, in each case securing only indebtedness in an aggregate principal amount of up to the sum of 75% of the Net Working Capital of such Foreign Subsidiaries plus \$20,000,000;
- (i) statutory landlord's liens under leases;
- (j) existing liens described on Exhibit D hereto;
- (k) liens on the cash surrender value of the life insurance policy maintained by the Company on the life of Mr. Lonnie A. Pilgrim, to the extent such liens secure loans in an aggregate principal amount not to exceed \$900,000;
- (l) liens, security interests, pledges, mortgages or other charges in any Property other than the Collateral securing obligations in an aggregate amount not exceeding \$100,000,000 at any time;
- (m) liens, mortgages and security interests in the Company's real estate, buildings, machinery and equipment securing indebtedness permitted only by Section 7.16(j) of this Agreement;
- (n) the interest of any purchaser of the Company's or its Subsidiaries' Receivables purchased by it pursuant to a Receivables Securitization Program in such Receivables;

(o) liens and security interests granted by PPAHC on its real estate and all buildings and improvements thereon and all rents, issues and profits thereof securing indebtedness permitted by Sections 7.16(n) and (o) hereof;

(p) (i) liens, pledges, mortgages, security interests, or other charges granted to the Agent to secure the Bond L/C or the Bond Reimbursement Obligations, and (ii) liens, pledges, mortgages, security interests or other charges in Property other than the Collateral granted to the issuer of an Alternative Credit Facility to secure the Company's obligations to such issuer with respect to the Alternative Credit Facility;

(q) liens, pledges, mortgages and security interests on assets (other than the Collateral) of the Company and its Subsidiaries to secure indebtedness permitted by Section 7.16(y) hereof;

(r) liens of Agricultural Production Credit Association on equity interests in Agricultural Production Credit Association, liens of Agriland, FCS on equity interests in Agriland, FCS, and liens of any other farm credit institution in its equity interests purchased from time to time by the Company;

(s) liens, pledges, mortgages and security interests on assets (other than the Collateral) of the Company and its Subsidiaries to secure Hedging Liabilities;

(t) liens, pledges, mortgages and security interests on assets (other than the Collateral) of the Company and its Subsidiaries, *provided* such liens, pledges, mortgages and security interests are permitted under the terms of the indebtedness described in Section 7.16(u);

(u) liens, pledges, mortgages and security interests on assets (other than the Collateral) of the Company to secure indebtedness permitted by Section 7.16(l) hereof;

(v) liens, pledges, mortgages and security interests on assets (other than the Collateral) of the Company to secure indebtedness permitted by Section 7.16(g) hereof; and

(w) liens securing indebtedness of Subsidiaries so long as the liens are in favor of the Company or another Subsidiary.

*Section 7.16. Borrowings and Guaranties.* The Company will not, and will not permit any Subsidiary to, issue, incur, assume, create or have outstanding any indebtedness for borrowed money (including as such all indebtedness representing the deferred purchase price of Property) or customer advances, nor be or remain liable, whether as endorser, surety, guarantor or otherwise (other than such obligations under undrawn surety bonds, undrawn letters of credit and related reimbursement obligations incurred in the ordinary course of business), for or in respect of any liability or indebtedness of any other Person, other than:

- (a) indebtedness of the Company arising under or pursuant to this Agreement or the other Loan Documents;
- (b) the liability of the Company arising out of the endorsement for deposit or collection of commercial paper received in the ordinary course of business;
- (c) trade payables of the Company arising in the ordinary course of the Company's business;
- (d) indebtedness disclosed on Schedule 7.16;
- (e) Subordinated Debt evidenced by the Company's senior subordinated unsecured notes due 2013 in an aggregate principal amount not to exceed \$100,000,000;
- (f) indebtedness in an aggregate principal amount of up to the sum of 75% of each Foreign Subsidiary's working capital plus \$20,000,000;
- (g) Debt arising from sale/leaseback transactions permitted by Section 7.29 hereof and under Capitalized Lease Obligations;
- (h) indebtedness of any Foreign Subsidiary to any other Foreign Subsidiary;
- (i) loans in an aggregate principal amount of up to \$900,000 against the cash surrender value of the life insurance policy maintained on the life of Mr. Lonnie A. Pilgrim;
- (j) Funded Debt incurred to finance capital expenditures;
- (k) in addition to the indebtedness permitted by Section 7.16(f) hereof, unsecured indebtedness of the Company or its Foreign Subsidiaries in an aggregate principal amount not to exceed \$20,000,000 outstanding at any time;
- (l) indebtedness in an aggregate principal amount not to exceed \$185,000,000 owed to John Hancock Mutual Life Insurance Company, ING Capital LLC and the other purchasers named in that certain Fourth Amended and Restated Note Purchase Agreement dated November 18, 2003 (as amended, modified and restated from time to time), that is outstanding on the date of this Agreement and any indebtedness incurred to refinance such indebtedness; *provided* such refinancing does not exceed the greater of the original principal amount of the indebtedness being refinanced and 75% of the appraised value of the collateral securing such indebtedness;

- (m) indebtedness of the Company and its Subsidiaries pursuant to Receivables Securitization Programs;
- (n) indebtedness of PPAHC in an aggregate principal amount not to exceed \$5,000,000 incurred to finance the construction by PPAHC of multi-family residences in Camp County, Texas, and any indebtedness incurred to refinance such indebtedness;
- (o) indebtedness of the Company under its guaranty of payment of PPAHC's indebtedness described in subsection (n) above and its environmental indemnity in connection with PPAHC's indebtedness described in subsection (n) above;
- (p) indebtedness outstanding on the date of this Agreement of the Company and its Subsidiaries relating to industrial revenue bonds issued for the benefit of the Company or any of its Subsidiaries, including without limitation the Bonds, the Bond L/C and any Alternative Credit Facility;
- (q) unsecured indebtedness of the Company evidenced by its senior unsecured notes due September 2011 in an original aggregate principal amount not to exceed \$303,500,000 (and any replacements, exchanges, renewals, refinancings, extensions or amendments thereof so long as the principal amount of such indebtedness does not exceed the principal amount of the indebtedness so replaced, exchanged, renewed, refinanced or extended plus all accrued interest thereon and the amount of all customary expenses and premiums incurred in connection therewith);
- (r) additional unsecured indebtedness of the Company in an original aggregate principal amount not to exceed \$100,000,000 evidenced by additional senior unsecured notes of the Company (and any replacements, exchanges, renewals, refinancings, extensions or amendments thereof so long as the principal amount of such indebtedness does not exceed the principal amount of the indebtedness so replaced, exchanged, renewed, refinanced or extended plus all accrued interest thereon and the amount of all customary expenses and premiums incurred in connection therewith);
- (s) indebtedness of any Subsidiary to any other Subsidiary or, to the extent permitted by Section 7.17 hereof, to the Company and unsecured indebtedness of the Company to any Subsidiary, *provided* that any such indebtedness of the Company is expressly subordinated to the prior payment in full in cash of all of the Company's indebtedness, obligations and liabilities to the Agent and the Banks under this Agreement and the other Loan Documents;
- (t) guarantees by any Subsidiary of the indebtedness of the Company permitted under subsections (e), (l), (q), (r), (u) and (x) of this Section 7.16; *provided* that such Subsidiary guarantees all of the Company's indebtedness, obligations and liabilities to the Agent and the Banks under this Agreement and the other Loan Documents;

*provided further* that the indebtedness of the Company under subsections (e) and (x) are subordinated pursuant to written subordination provisions satisfactory in form and substance to the Required Banks or on substantially the same terms as the Senior Subordinated Indenture;

(u) senior secured indebtedness of the Company under credit facilities agented by CoBank, ACB or other lenders in an aggregate principal amount not to exceed the greater of (i) \$500,000,000, or (ii) 75% of the appraised value of the assets of the Company and its Subsidiaries incurred to finance the expansion of the Company's production and processing facilities, fixture acquisitions, repayment of existing indebtedness and for general corporate purposes;

(v) Hedging Liabilities;

(w) additional secured and unsecured indebtedness of the Company and its Subsidiaries in an aggregate principal amount not to exceed \$100,000,000;

(x) Subordinated Debt maturing no earlier than the Termination Date (and any replacements, exchanges, renewals, refinancings, extensions or amendments thereof so long as the principal amount of such indebtedness does not exceed the principal amount of the indebtedness so replaced, exchanged, renewed, refinanced or extended plus all accrued interest thereon and the amount of all customary expenses and premiums incurred in connection therewith); and

(y) indebtedness of the Company and its Subsidiaries relating to the Intercompany Bonds.

*Section 7.17. Investments, Loans and Advances.* The Company will not, and will not permit any Subsidiary to, make or retain any investment (whether through the purchase of stock, obligations or otherwise) in or make any loan or advance to, any other Person, other than:

(a) investments in certificates of deposit having a maturity of one year or less issued by any United States commercial bank having capital and surplus of not less than \$50,000,000;

(b) investments in an aggregate amount of up to \$8,000,000 in deposits maintained with the Pilgrim Bank of Pittsburg;

(c) investments in commercial paper rated P1 by Moody's or A1 by S&P maturing within 180 days of the date of issuance thereof;

(d) marketable obligations of the United States;

(e) marketable obligations guaranteed by or insured by the United States, or those for which the full faith and credit of the United States is pledged for the repayment of principal and interest thereof; provided that such obligations have a final maturity of no more than one year from the date acquired by the Company;

(f) repurchase, reverse repurchase agreements and security lending agreements collateralized by securities of the type described in subsection (c) and having a term of no more than 90 days, *provided, however*, that the Company shall hold (individually or through an agent) all securities relating thereto during the entire term of such arrangement;

(g) banker's acceptances maturing within one year issued by any bank or trust company organized under the laws of the United States or any state thereof and having capital, surplus and undivided profits of at least \$50,000,000;

(h) Eurodollar time deposits maturing within six months purchased directly from a bank meeting the requirements of Section 7.17(a);

(i) direct obligations issued by any state of the United States or any political subdivision of any such state or public instrumentality thereof maturing within one year and having at the time of acquisition, the highest rating obtainable from either S&P or Moody's;

(j) loans, investments (excluding retained earnings) and advances by the Company to its Mexican Subsidiaries in an aggregate outstanding amount not to exceed \$145,000,000 at any time, *provided, however*, that the Company may make loans, investments (excluding retained earnings) and advances to its Mexican Subsidiaries in an aggregate amount equal to the aggregate amount of any capital withdrawn from its Mexican Subsidiaries after the date hereof but not to exceed an aggregate amount of \$25,000,000 in any Fiscal Year of the Company, *provided further* that any such investments (excluding retained earnings), loans and advances shall not cause the aggregate outstanding amount of all such loans, investments (excluding retained earnings) and advances to exceed \$145,000,000 at any time;

(k) loans and advances to employees (other than executive officers and directors of the Company) for reasonable expenses incurred in the ordinary course of business;

(l) loans and advances from any Subsidiary to any another Subsidiary or to the Company and unsecured indebtedness of the Company to any Subsidiary;

(m) investments in an aggregate amount not to exceed \$5,000,000 in Southern Hens, Inc.;

(n) investments in and loans and advances to each of PPC Delaware Business Trust, Pilgrim's Pride International, Inc. and PPC Marketing, Ltd. in an aggregate amount not to exceed \$1,000,000 for each such entity;

(o) an initial capital contribution to Funding Corp. in an amount of up to \$1,000 and investments, if any, arising from the sale of Receivables pursuant to Receivables Securitization Programs;

(p) loans and advances to officers and employees of the Company and its Subsidiaries made in connection with such officer's and employee's for housing related expenses or loans associated with the procurement or sale of personal residences or necessary for the moving of key personnel, in an aggregate outstanding amount not to exceed \$3,000,000 at any time;

(q) loans and advances to, and investments in, Subsidiaries (other than Mexican Subsidiaries) in any Fiscal Year in an aggregate amount (net of the amount of any repayments of such loans and advances and amounts of any capital investments returned to the Company during such Fiscal Year) which, together with the aggregate amount of investments permitted by Section 7.27 hereof, does not exceed 5% of the Total Assets of the Company and its Subsidiaries;

(r) investments permitted by Section 7.6;

(s) investments made prior to the date hereof in Persons, which are not Subsidiaries, identified on Exhibit K hereto;

(t) investments existing on the date of this Agreement in Subsidiaries listed on Exhibit H;

(u) investments in mutual funds that invest not less than 95% of their assets in cash and Cash Equivalents or investments of the kinds described in subsections (a) through (i) above;

(v) investments existing on the date of this Agreement in industrial revenue bonds issued for the benefit of the Company and its Subsidiaries;

(w) investments in marketable corporate bonds that have a long-term senior unsecured debt rating of not less than BBB by Moody's and not less than Baa3 by S&P;

(x) loans and advances to employees and contract growers (other than executive officers and directors of the Company) in an aggregate amount not to exceed \$25,000,000 at any time;

(y) investments in Intercompany Bonds; and

(z) investments not otherwise permitted by this Section 7.17 in an amount not to exceed at any time an aggregate of \$50,000,000.

*Section 7.18. Sale of Property.* The Company will not, and will not permit any Subsidiary to, sell, lease, assign, transfer or otherwise dispose of (whether in one transaction or in a series of transactions) all or a material part of its Property to any other Person in any Fiscal Year of the Company; *provided, however,* that this Section shall not prohibit:

(a) sales of Inventory by the Company or any Subsidiary in the ordinary course of business, including any sales of Inventory by the Company to the Distribution Subsidiary in the ordinary course of business;

- (b) sales or leases by the Company or any Subsidiary of its surplus, obsolete or worn-out machinery and equipment;
- (c) the sale by the Company or any Subsidiary of all or substantially all of its Receivables pursuant to Receivables Securitization Programs;
- (d) transfers of assets from any Subsidiary to any other Subsidiary or to the Company;
- (e) the sale of the Turkey Business Assets;
- (f) the transfer by the Company of the Distribution Business to the Distribution Subsidiary;
- (g) the transfer by the Company to Pilgrim's Pride Corporation of West Virginia, Inc. of the Company's facility, and related assets, located in Moorefield, West Virginia;
- (h) the transfer by the Company to a Subsidiary of trademarks, trademark registrations, trademark licenses, trade styles and trade names of the Company or a Subsidiary existing on the date of this Agreement;
- (i) the transfer by the Company to a Subsidiary of its motor vehicles and trailers licensed for over-the-road transportation and lease agreements relating to such motor vehicles and trailers having an aggregate net book value of not to exceed \$25,000,000; and
- (j) investments in Subsidiaries permitted by Sections 7.17(j) and (q).

For purposes of this Section 7.18, "*material part*" shall mean 5% or more of the lesser of the book or fair market value of the Property of the Company. The Banks hereby agree to release and authorize and direct the Agent (i) to release its security interest in any Collateral that constitutes a part of the Distribution Business effective upon each transfer of such Distribution Business (or portion thereof) to the Distribution Subsidiary, (ii) to release its security interest in any Collateral that is part of the Company's operations at its Moorefield, West Virginia facilities upon its transfer to Pilgrim's Pride Corporation of West Virginia, Inc., and (iii) to release its security interest in any Collateral that constitutes trademarks, trademark registrations, trademark licenses, trade styles and trade names of the Company upon its transfer to a Subsidiary.

*Section 7.19. Notice of Suit, Adverse Change in Business or Default.* The Company shall, as soon as possible, and in any event within fifteen (15) days after the Company learns of the following, give written notice to the Banks of (a) any proceeding(s) that, if determined adversely to the Company or any Subsidiary could reasonably be expected to have a material adverse effect on the Properties, business or operations of the Company and its Subsidiaries, taken as a whole, being instituted or threatened to be instituted by or against the Company or such Subsidiary in any federal, state, local or foreign court or before any commission or other regulatory body (federal, state, local or foreign); (b) any material adverse change in the business, Property or condition, financial or otherwise, of the Company and its Subsidiaries, taken as a whole; and (c) the occurrence of a Potential Default or Event of Default.

*Section 7.20. ERISA.* The Company will, and will cause each Subsidiary to, promptly pay and discharge all obligations and liabilities arising under ERISA of a character which if unpaid or unperformed might result in the imposition of a lien against any of its Property and will promptly notify the Agent of (a) the occurrence of any reportable event (as defined in ERISA) which could reasonably be expected to result in the termination by the PBGC of any Plan covering any officers or employees of the Company or any Subsidiary any benefits of which are, or are required to be, guaranteed by PBGC, (b) receipt of any notice from PBGC of its intention to seek termination of any Plan or appointment of a trustee therefor, and (c) its intention to terminate or withdraw from any Plan. The Company will not, and will not permit any Subsidiary to, terminate any Plan or withdraw therefrom unless it shall be in compliance with all of the terms and conditions of this Agreement after giving effect to any liability to PBGC resulting from such termination or withdrawal.

*Section 7.21. Use of Loan Proceeds.* The Company will use the proceeds of all Loans and L/Cs made or issued hereunder solely to refinance existing Debt and for general corporate purposes (excluding financing all or any part of the consideration payable by the Company or any Subsidiary in hostile acquisitions).

*Section 7.22. Conduct of Business and Maintenance of Existence.* The Company will not, and will not permit any Subsidiary to, directly or indirectly engage in any material respect in any business other than businesses engaged in by the Company on the date hereof other operations or activities in the poultry industry and in the processing, packaging, distribution and wholesales of poultry products and other business or activities substantially similar or related thereto. The Company will, and will cause each Subsidiary to, preserve, renew and keep in full force and effect the Company's corporate existence and the Company's and each Subsidiary's rights, privileges and franchises necessary or desirable in the normal conduct of business; except where the failure to preserve, renew and keep in full force and effect such rights, privileges and licenses could not reasonably be expected to have a material adverse effect on the business, operations, Property or condition (financial or otherwise) of the Company and its Subsidiaries, taken as a whole; and except that the foregoing shall not prohibit the sale of the Turkey Business Assets.

*Section 7.23. Additional Information.* Upon request of the Agent, the Company shall provide any reasonable additional information pertaining to any of the Collateral.

*Section 7.24. Supplemental Performance.* The Company will at its own expense, register, file, record and execute all such further agreements and documents, including without limitation financing statements, and perform such acts as are necessary and appropriate, or as the Agent or any Bank may reasonably request, to effect the purposes of the Loan Documents.

*Section 7.25. Compliance with Laws, etc.* The Company will, and will cause each of its Subsidiaries to, comply in all material respects with all applicable laws, rules, regulations and orders, such compliance to include (without limitation) (a) in the case of the Company, the maintenance and preservation of its corporate existence, (b) qualification as a foreign corporation wherein the nature of its activities requires such qualification except where the failure to be so qualified would not have a material adverse effect on the business, operations, Property or condition (financial or otherwise) of the Company and its Subsidiaries, taken as a whole, (c) the registration pursuant to the Food Security Act of 1985, as amended, with the Secretary of State of each State in which are produced any farm products purchased by the Company and which has established a central filing system, as a buyer of farm products produced in such state, and the maintenance of each such registration, (d) compliance with the Packers and Stockyard Act of 1921, as amended, (e) compliance with all applicable rules and regulations promulgated by the United States Department of Agriculture and all similar applicable state rules and regulations, and (f) compliance with all rules and regulations promulgated pursuant to the Occupational Safety and Health Act of 1970, as amended; *provided* that the failure of the Company to comply with this Section 7.25 in any instance not directly involving the Agent and the Banks or adversely affecting the Agent's security interest in the Collateral shall not constitute an Event of Default unless such failure would have a material adverse effect on the business, operations, Property or condition (financial or otherwise) of the Company and its Subsidiaries, taken as a whole.

*Section 7.26. Environmental Covenant.* The Company will, and will cause each of its Subsidiaries to:

(a) use and operate all of its facilities and Properties in material compliance with all Environmental Laws, keep all necessary permits, approvals, certificates, licenses and other authorizations relating to environmental matters in effect and remain in material compliance therewith, and handle all hazardous materials in material compliance with all applicable Environmental Laws;

(b) immediately notify the Agent and provide copies upon receipt of all material written claims, complaints, notices or inquiries relating to the condition of its facilities and Property or compliance with Environmental Laws, and shall promptly cure and have dismissed, to the reasonable satisfaction of the Required Banks, any actions and proceedings relating to compliance with Environmental Laws unless and to the extent that the same are being contested in good faith and by appropriate proceedings diligently conducted and for which adequate reserves in form and amount reasonably satisfactory to the Required Banks have been established, provided that no proceedings to foreclose any lien which is attached as security therefor shall have been commenced unless such foreclosure is stayed by the filing of an appropriate bond in a manner satisfactory to the Required Banks; and

(c) provide such information and certifications which the Agent may reasonably request from time to time to evidence compliance with this Section 7.26.

*Section 7.27. New Subsidiaries.* The Company will not, directly or indirectly, create or acquire in any Fiscal Year any Subsidiary unless (a) after giving effect to any such creation or acquisition, the total assets (determined in accordance with generally accepted accounting principles, consistently applied) of all such new Subsidiaries in such Fiscal Year which, together with the aggregate amount of loans, advances and investments permitted by Section 7.17(q) hereof (net of the amount of any repayment of such loans and advances and amounts of any capital investment returned to the Company during such Fiscal Year), would not exceed 5% of the Total Assets of the Company and its Subsidiaries, and (b) at the Company's option either (i) all Inventory of such Subsidiaries (other than any such Subsidiaries that are organized under the laws of any jurisdiction other than the United States of America, any State, the District of Columbia or Puerto Rico) are pledged to the Agent for the benefit of the Banks pursuant to a security agreement substantially identical to the Security Agreement, or (ii) to the extent not pledged pursuant to clause (i), the Company will cause such Subsidiary not to pledge, mortgage or otherwise encumber or subject to or permit to exist upon or be subject to any lien, charge or security interest of any kind on any of such Subsidiary's Inventory other than liens permitted by Section 7.15 hereof.

*Section 7.28. Guaranty Fees.* The Company will not, and it will not permit any Subsidiary to, directly or indirectly, pay to the Guarantor or any other guarantor of any of the Company's indebtedness, obligations and liabilities, any fee or other compensation, but excluding salary, bonus and other compensation for services rendered as an employee (collectively the "Guaranty Fees") in an aggregate amount in excess of \$10,000,000 in any Fiscal Year of the Company. For purposes of this Section 7.30, any Guaranty Fees paid within 45 days after the last day of any Fiscal Year shall be deemed to have been paid during such Fiscal Year.

*Section 7.29. Sale and Leasebacks.* The Company will not, and will not permit any Subsidiary to, enter into any arrangement with any lender or investor providing for the leasing by the Company or any Subsidiary of any real or personal property previously owned by the Company or any Subsidiary, except: such transactions in which the aggregate consideration received by the Company upon the sale of such property does not exceed \$25,000,000 in any Fiscal Year, *provided that* the Company shall apply 100% of the cash proceeds, net of reasonable direct costs relating to such transaction and sale, use or other transactional taxes paid or payable as a direct result of such transaction, to the payment of outstanding Debt concurrently upon the Company's receipt of such proceeds.

*Section 7.30. Amendments to Subordinated Debt Documents.* The Company shall not alter, amend or modify any subordination provision of any Subordinated Debt in a manner adverse to the interests of the Banks without the prior written consent of the Required Banks.

SECTION 8. EVENTS OF DEFAULT AND REMEDIES.

*Section 8.1. Definitions.* Any one or more of the following shall constitute an Event of Default:

(a) Default in the payment when due of any interest on or principal of any Note, Bond Reimbursement Obligation or Reimbursement Obligation, whether at the stated maturity thereof or as required by Section 3.4 hereof or at any other time provided in this Agreement, or of any fee or other amount payable by the Company pursuant to this Agreement;

(b) Default in the observance or performance of any covenant set forth in Sections 7.4, 7.5, 7.6, 7.15, 7.16, 7.18 and 7.19, inclusive, hereof, or of any provision of any Security Document requiring the maintenance of insurance on the Collateral subject thereto or dealing with the use or remittance of proceeds of such Collateral;

(c) Default in the observance or performance of any covenant set forth in Sections 7.7, 7.8, 7.9, 7.10, 7.11, 7.12, 7.13, 7.15, 7.17, 7.20, and 7.22, inclusive, hereof and such default shall continue for 15 days after written notice thereof to the Company by any Bank;

(d) Default in the observance or performance of any other covenant, condition, agreement or provision hereof or any of the other Loan Documents and such default shall continue for 30 days after written notice thereof to the Company by any Bank;

(e) Default shall occur under any evidence of indebtedness in a principal amount exceeding \$20,000,000 issued or assumed or guaranteed by the Company, or under any mortgage, agreement or other similar instrument under which the same may be issued or secured and such default shall continue for a period of time sufficient to permit the acceleration of maturity of any indebtedness evidenced thereby or outstanding or secured thereunder;

(f) Any representation or warranty made by the Company herein or in any Loan Document or in any statement or certificate furnished by it pursuant hereto or thereto, proves untrue in any material respect as of the date made or deemed made pursuant to the terms hereof;

(g) Any judgment or judgments, writ or writs, or warrant or warrants of attachment, or any similar process or processes in an aggregate amount in excess of \$20,000,000 shall be entered or filed against the Company or any Subsidiary or against any of their respective Property or assets and remain unbonded, unstayed and undischarged for a period of 30 days from the date of its entry;

(h) Any reportable event (as defined in ERISA) which constitutes grounds for the termination of any Plan or for the appointment by the appropriate United States District Court of a trustee to administer or liquidate any such Plan, shall have occurred and such reportable event shall be continuing thirty (30) days after written notice to such effect shall have been given to the Company by any Bank; or any such Plan shall be terminated; or a trustee shall be appointed by the appropriate United States District Court to administer any such Plan; or the Pension Benefit Guaranty Corporation shall institute proceedings to administer or terminate any such Plan;

(i) The Company or any Subsidiary shall (i) have entered involuntarily against it an order for relief under the Bankruptcy Code of 1978, as amended, (ii) admit in writing its inability to pay, or not pay, its debts generally as they become due or suspend payment of its obligations, (iii) make an assignment for the benefit of creditors, (iv) apply for, seek, consent to, or acquiesce in, the appointment of a receiver, custodian, trustee, conservator, liquidator or similar official for it or any substantial part of its property, (v) file a petition seeking relief or institute any proceeding seeking to have entered against it an order for relief under the Bankruptcy Code of 1978, as amended, to adjudicate it insolvent, or seeking dissolution, winding up, liquidation, reorganization, arrangement, marshalling of assets, adjustment or composition of it or its debts under any law relating to bankruptcy, insolvency or reorganization or relief of debtors or fail to file an answer or other pleading denying the material allegations of any such proceeding filed against it, or (vi) fail to contest in good faith any appointment or proceeding described in Section 8.1(j) hereof;

(j) A custodian, receiver, trustee, conservator, liquidator or similar official shall be appointed for the Company, any Subsidiary or any substantial part of its respective Property, or a proceeding described in Section 8.1(i)(v) shall be instituted against the Company or any Subsidiary and such appointment continues undischarged or any such proceeding continues undismissed or unstayed for a period of 90 days;

(k) The existence of an "*Event of Default*" as defined in the Security Agreement;

(l) Any shares of the capital stock of the Company owned legally or beneficially by the Guarantor or Mr. And/or Mrs. Lonnie A. Pilgrim shall be pledged, assigned or otherwise encumbered for any reason, other than the pledge of up to 4,000,000 shares (as adjusted for any increase or decrease in the number of issued shares of the Company resulting from a subdivision or consolidation of shares or the payment of a stock dividend or any other increase or decrease in the number of such shares effected without receipt or payment of consideration by the Company) to secure personal obligations of Mr. And Mrs. Lonnie A. Pilgrim or such other personal obligations incurred by any Person so long as such obligations are not related to the financing of the Company of any of its Subsidiaries;

(m) the Guarantor shall terminate, breach, repudiate or disavow the Partnership Guaranty or any part thereof, or any event specified in Sections 8.1(i) or (j) shall occur with regard to the Guarantor;

(n) The occurrence of a Change in Control; or

(o) The existence of any condition or the occurrence of any event specified as an "Event of Default" under the Reimbursement Agreement.

*Section 8.2. Remedies for Non-Bankruptcy Defaults.* When any Event of Default, other than an Event of Default described in subsections (i) and (j) of Section 8.1 hereof, has occurred and is continuing, the Agent, if directed by the Required Banks, shall give notice to the Company and take any or all of the following actions: (a) terminate the remaining Revolving Credit Commitments and the Bond L/C Commitment, if any, hereunder on the date (which may be the date thereof) stated in such notice, (b) declare the principal of and the accrued interest on the Notes, unpaid Bond Reimbursement Obligations and unpaid Reimbursement Obligations to be forthwith due and payable and thereupon the Notes, unpaid Bond Reimbursement Obligations and unpaid Reimbursement Obligations including both principal and interest, shall be and become immediately due and payable without further demand, presentment, protest or notice of any kind, and (c) proceed to foreclose against any Collateral under any of the Security Documents, take any action or exercise any remedy under any of the Loan Documents or exercise any other action, right, power or remedy permitted by law. Any Bank may exercise the right of set off with regard to any deposit accounts or other accounts maintained by the Company with any of the Banks.

*Section 8.3. Remedies for Bankruptcy Defaults.* When any Event of Default described in subsections (i) or (j) of Section 8.1 hereof has occurred and is continuing, then the Notes, unpaid Bond Reimbursement Obligations and all Reimbursement Obligations shall immediately become due and payable without presentment, demand, protest or notice of any kind, and the obligation of the Banks to extend further credit pursuant to any of the terms hereof shall immediately terminate.

*Section 8.4. L/Cs.* Promptly following the acceleration of the maturity of the Notes pursuant to Section 8.2 or 8.3 hereof, the Company shall immediately pay to the Agent for the benefit of the Banks the full aggregate amount of all outstanding L/Cs and the Bond L/C. The Agent shall hold all such funds and proceeds thereof as additional collateral security for the obligations of the Company to the Banks under the Loan Documents. The amount paid under any of the L/Cs or the Bond L/C for which the Company has not reimbursed the Banks shall bear interest from the date of such payment at the default rate of interest specified in Section 1.3(c) hereof.

*Section 8.5. Remedies under the Bond Documents.* In addition to the foregoing, Harris shall have all of the remedies provided to Harris in the Bond Documents upon the occurrence of an Event of Default.

SECTION 9. CHANGE IN CIRCUMSTANCES REGARDING FIXED RATE LOANS.

*Section 9.1. Change of Law.* Notwithstanding any other provisions of this Agreement or any Note to the contrary, if at any time after the date hereof with respect to Fixed Rate Loans, any Bank shall determine in good faith that any change in applicable law or regulation or in the interpretation thereof makes it unlawful for such Bank to make or continue to maintain any Fixed Rate Loan or to give effect to its obligations as contemplated hereby, such Bank shall promptly give notice thereof to the Company to such effect, and such Bank's obligation to make, relend, continue or convert any such affected Fixed Rate Loans under this Agreement shall terminate until it is no longer unlawful for such Bank to make or maintain such affected Loan. The Company shall prepay the outstanding principal amount of any such affected Fixed Rate Loan made to it, together with all interest accrued thereon and all other amounts due and payable to the Banks under Section 9.4 of this Agreement, on the earlier of the last day of the Interest Period applicable thereto and the first day on which it is illegal for such Bank to have such Loans outstanding; provided, however, the Company may then elect to borrow the principal amount of such affected Loan by means of another type of Loan available hereunder, subject to all of the terms and conditions of this Agreement.

*Section 9.2. Unavailability of Deposits or Inability to Ascertain the Adjusted Eurodollar Rate.* Notwithstanding any other provision of this Agreement or any Note to the contrary, if prior to the commencement of any Interest Period any Bank shall determine (a) that deposits in the amount of any Fixed Rate Loan scheduled to be outstanding are not available to it in the relevant market or (b) by reason of circumstances affecting the relevant market, adequate and reasonable means do not exist for ascertaining the Adjusted Eurodollar Rate, then such Bank shall promptly give telephonic or telex notice thereof to the Company, the Agent and the other Banks (such notice to be confirmed in writing), and the obligation of the Banks to make, continue or convert any such Fixed Rate Loan in such amount and for such Interest Period shall terminate until deposits in such amount and for the Interest Period selected by the Company shall again be readily available in the relevant market and adequate and reasonable means exist for ascertaining the Adjusted Eurodollar Rate. Upon the giving of such notice, the Company may elect to either (i) pay or prepay, as the case may be, such affected Loan or (ii) reborrow such affected Loan as another type of Loan available hereunder, subject to all terms and conditions of this Agreement.

*Section 9.3. Taxes and Increased Costs.* With respect to the Fixed Rate Loans, if any Bank shall determine in good faith that any change in any applicable law, treaty, regulation or guideline (including, without limitation, Regulation D of the Board of Governors of the Federal Reserve System) or any new law, treaty, regulation or guideline, or any interpretation of any of the foregoing by any governmental authority charged with the administration thereof or any central bank or other fiscal, monetary or other authority having jurisdiction over such Bank or its lending branch or the Fixed Rate Loans contemplated by this Agreement (whether or not having the force of law) ("*Change in Law*") shall:

(a) impose, modify or deem applicable any reserve, special deposit or similar requirements against assets held by, or deposits in or for the account of, or Loans by, or any other acquisition of funds or disbursements by, such Bank (other than reserves included in the determination of the Adjusted Eurodollar Rate);

(b) subject such Bank, any Fixed Rate Loan or any Note to any tax (including, without limitation, any United States interest equalization tax or similar tax however named applicable to the acquisition or holding of debt obligations and any interest or penalties with respect thereto), duty, charge, stamp tax, fee, deduction or withholding in respect of this Agreement, any Fixed Rate Loan or any Note except such taxes as may be measured by the overall net income of such Bank or its lending branch and imposed by the jurisdiction, or any political subdivision or taxing authority thereof, in which such Bank's principal executive office or its lending branch is located;

(c) change the basis of taxation of payments of principal and interest due from the Company to such Bank hereunder or under any Note (other than by a change in taxation of the overall net income of such Bank); or

(d) impose on such Bank any penalty with respect to the foregoing or any other condition regarding this Agreement, any Fixed Rate Loan or any Note;

and such Bank shall determine that the result of any of the foregoing is to increase the cost (whether by incurring a cost or adding to a cost) to such Bank of making or maintaining any Fixed Rate Loan hereunder or to reduce the amount of principal or interest received by such Bank, then the Company shall pay to such Bank from time to time as specified by such Bank such additional amounts as such Bank shall reasonably determine are sufficient to compensate and indemnify it for such increased cost or reduced amount. If any Bank makes such a claim for compensation, it shall provide to the Company a certificate setting forth such increased cost or reduced amount as a result of any event mentioned herein specifying such Change in Law, and such certificate shall be conclusive and binding on the Company as to the amount thereof except in the case of manifest error. Upon the imposition of any such cost, the Company may prepay any affected Loan, subject to the provisions of Sections 3.3 and 9.4 hereof.

*Section 9.4. Funding Indemnity.* (a) In the event any Bank shall incur any loss, cost, expense or premium (including, without limitation, any loss of profit and any loss, cost, expense or premium incurred by reason of the liquidation or re-employment of deposits or other funds acquired by such Bank to fund or maintain any Fixed Rate Loan or the relending or reinvesting of such deposits or amounts paid or prepaid to such Bank) as a result of:

(i) any payment or prepayment of a Fixed Rate Loan on a date other than the last day of the then applicable Interest Period;

(ii) any failure by the Company to borrow, continue or convert any Fixed Rate Loan on the date specified in the notice given pursuant to Section 1.7 hereof; or

(iii) the occurrence of any Event of Default;

then, upon the demand of such Bank, the Company shall pay to such Bank such amount as will reimburse such Bank for such loss, cost or expense.

(b) If any Bank makes a claim for compensation under this Section 9.4, it shall provide to the Company a certificate setting forth the amount of such loss, cost or expense in reasonable detail and such certificate shall be conclusive and binding on the Company as to the amount thereof except in the case of manifest error.

*Section 9.5. Lending Branch.* Each Bank may, at its option, elect to make, fund or maintain its Eurodollar Loans hereunder at the branch or office specified opposite its signature on the signature page hereof or such other of its branches or offices as such Bank may from time to time elect, subject to the provisions of Section 1.7(b) hereof.

*Section 9.6. Discretion of Bank as to Manner of Funding.* Notwithstanding any provision of this Agreement to the contrary, each Bank shall be entitled to fund and maintain its funding of all or any part of its Loans in any manner it sees fit, it being understood however, that for the purposes of this Agreement all determinations hereunder shall be made as if the Banks had actually funded and maintained each Fixed Rate Loan during each Interest Period for such Loan through the purchase of deposits in the relevant interbank market having a maturity corresponding to such Interest Period and bearing an interest rate equal to the Adjusted Eurodollar Rate for such Interest Period.

#### SECTION 10. THE AGENT.

*Section 10.1. Appointment and Powers.* Harris Trust and Savings Bank is hereby appointed by the Banks as Agent under the Loan Documents, including but not limited to the Security Agreement, wherein the Agent shall hold a security interest for the benefit of the Banks, solely as the Agent of the Banks, and each of the Banks irrevocably authorizes the Agent to act as the Agent of such Bank. The Agent agrees to act as such upon the express conditions contained in this Agreement. The Banks expressly agree that the Agent is not acting as a fiduciary of the Banks in respect of the Loan Documents, the Company or otherwise, and nothing herein or in any of the other Loan Documents shall result in any duties or obligations on the Agent or any of the Banks except as expressly set forth herein

*Section 10.2. Powers.* The Agent shall have and may exercise such powers hereunder as are specifically delegated to the Agent by the terms of the Loan Documents, together with such powers as are incidental thereto. The Agent shall have no implied duties to the Banks, nor any obligation to the Banks to take any action under the Loan Documents except any action specifically provided by the Loan Documents to be taken by the Agent.

*Section 10.3. General Immunity.* Neither the Agent nor any of its directors, officers, agents or employees shall be liable to the Banks or any Bank for any action taken or omitted to be taken by it or them under the Loan Documents or in connection therewith except for its or their own gross negligence or willful misconduct.

*Section 10.4. No Responsibility for Loans, Recitals, etc.* The Agent shall not (a) be responsible to the Banks for any recitals, reports, statements, warranties or representations contained in the Loan Documents or furnished pursuant thereto, (b) be responsible for the payment or collection of or security for any Loans, Bond Reimbursement Obligations or Reimbursement Obligations hereunder except with money actually received by the Agent for such payment, (c) be bound to ascertain or inquire as to the performance or observance of any of the terms of the Loan Documents, or (d) be obligated to determine or verify the existence, eligibility or value of any Collateral, or the correctness of any Borrowing Base Certificate or compliance certificate. In addition, neither the Agent nor its counsel shall be responsible to the Banks for the enforceability or validity of any of the Loan Documents or for the existence, creation, attachment, perfection or priority of any security interest in the Collateral.

*Section 10.5. Right to Indemnity.* The Banks hereby indemnify the Agent for any actions taken in accordance with this Section 10, and the Agent shall be fully justified in failing or refusing to take any action hereunder, unless it shall first be indemnified to its satisfaction by the Banks pro rata against any and all liability and expense which may be incurred by it by reason of taking or continuing to take any such action, other than any liability which may arise out of Agent's gross negligence or willful misconduct.

*Section 10.6. Action Upon Instructions of Banks.* The Agent agrees, upon the written request of the Required Banks, to take any action of the type specified in the Loan Documents as being within the Agent's rights, duties, powers or discretion. The Agent shall in all cases be fully protected in acting, or in refraining from acting, hereunder in accordance with written instructions signed by the Required Banks, and such instructions and any action taken or failure to act pursuant thereto shall be binding on all of the Banks and on all holders of the Notes. In the absence of a request by the Required Banks, the Agent shall have authority, in its sole discretion, to take or not to take any action, unless the Loan Documents specifically require the consent of the Required Banks or all of the Banks.

*Section 10.7. Employment of Agents and Counsel.* The Agent may execute any of its duties as Agent hereunder by or through agents (other than employees) and attorneys-in-fact and shall not be answerable to the Banks, except as to money or securities received by it or its authorized agents, for the default or misconduct of any such agents or attorneys-in-fact selected by it in good faith and with reasonable care. The Agent shall be entitled to advice and opinion of legal counsel concerning all matters pertaining to the duties of the agency hereby created.

*Section 10.8. Reliance on Documents; Counsel.* The Agent shall be entitled to rely upon any Note, notice, consent, certificate, affidavit, letter, telegram, statement, paper or document believed by it to be genuine and correct and to have been signed or sent by the proper person or persons, and, in respect to legal matters, upon the opinion of legal counsel selected by the Agent.

*Section 10.9. May Treat Payee as Owner.* The Agent may deem and treat the payee of any Note as the owner thereof for all purposes hereof unless and until a written notice of the assignment or transfer thereof shall have been filed with the Agent. Any request, authority or consent of any person, firm or corporation who at the time of making such request or giving such authority or consent is the holder of any such Note shall be conclusive and binding on any subsequent holder, transferee or assignee of such Note or of any Note issued in exchange therefore.

*Section 10.10. Agent's Reimbursement.* Each Bank agrees to reimburse the Agent pro rata in accordance with its Commitment Percentage for any reasonable out-of-pocket expenses (including fees and charges for field audits) not reimbursed by the Company (a) for which the Agent is entitled to reimbursement by the Company under the Loan Documents and (b) for any other reasonable out-of-pocket expenses incurred by the Agent on behalf of the Banks, in connection with the preparation, execution, delivery, administration and enforcement of the Loan Documents and for which the Agent is entitled to reimbursement by the Company and has not been reimbursed.

*Section 10.11. Rights as a Lender.* With respect to its commitment, Loans made by it, L/Cs issued by it and the Notes issued to it, Harris shall have the same rights and powers hereunder as any Bank and may exercise the same as though it were not the Agent, and the term "Bank" or "Banks" shall, unless the context otherwise indicates, include Harris in its individual capacity. Harris and each of the Banks may accept deposits from, lend money to, and generally engage in any kind of banking or trust business with the Company as if it were not the Agent or a Bank hereunder, as the case may be.

*Section 10.12. Bank Credit Decision.* Each Bank acknowledges that it has, independently and without reliance upon the Agent or any other Bank and based on the financial statements referred to in Section 5.3 and such other documents and information as it has deemed appropriate, made its own credit analysis and decision to enter into the Loan Documents. Each Bank also acknowledges that it will, independently and without reliance upon the Agent or any other Bank and based on such documents and information as it shall deem appropriate at the time, continue to make its own credit decisions in taking or not taking action under the Loan Documents.

*Section 10.13. Resignation of Agent.* Subject to the appointment of a successor Agent, the Agent may resign as Agent for the Banks under this Agreement and the other Loan Documents at any time by sixty days' notice in writing to the Banks. Such resignation shall take effect upon appointment of such successor. The Required Banks shall have the right to appoint a successor Agent who shall be entitled to all of the rights of, and vested with the same powers as, the original Agent under the Loan Documents. In the event a successor Agent shall not have been appointed within the sixty day period following the giving of notice by the Agent, the Agent may appoint its own successor. Resignation by the Agent shall not affect or impair the rights of the Agent under Sections 10.5 and 10.10 hereof with respect to all matters preceding such resignation. Any successor Agent must be a Bank, a national banking association, a bank chartered in any state of the United States or a branch of any foreign bank which is licensed to do business under the laws of any state or the United States.

*Section 10.14. Duration of Agency.* The agency established by Section 10.1 hereof shall continue, and Sections 10.1 through and including Section 10.14 shall remain in full force and effect, until the Notes and all other amounts due hereunder and thereunder, including without limitation all Bond Reimbursement Obligations or Reimbursement Obligations, shall have been paid in full and the Banks' commitments to extend credit to or for the benefit of the Company shall have terminated or expired.

*Section 10.15. Hedging Liability Arrangements.* By virtue of a Bank's execution of this Agreement or an assignment agreement pursuant to Section 11.16 hereof, as the case may be, any Affiliate of such Bank with whom the Company has entered into an agreement creating Hedging Liability shall be deemed a Bank party hereto for purposes of any reference in a Loan Document to the parties for whom the Agent is acting, it being understood and agreed that the rights and benefits of such Affiliate under the Loan Documents consist exclusively of such Affiliate's right to share in payments and collections out of the Collateral and the Partnership Guaranty. In connection with any such distribution of payments and collections, the Agent shall be entitled to assume no amounts are due to any Bank or its Affiliate with respect to Hedging Liability unless such Bank has notified the Agent in writing of the amount of any such liability owed to it or its Affiliate prior to such distribution.

*Section 10.16. Designation of Additional Agents.* The Agent shall have the continuing right, for purposes hereof, at any time and from time to time to designate one or more of the Banks (and/or its or their Affiliates) as "syndication agents," "documentation agents," "arrangers," or other designations for purposes hereto, but such designation shall have no substantive effect, and such Banks and their Affiliates shall have no additional powers, duties or responsibilities as a result thereof.

*Section 10.17. Authorization to Release or Subordinate or Limit Liens.* The Agent is hereby irrevocably authorized by each of the Banks to (a) release any Lien covering any Collateral that is sold, transferred, or otherwise disposed of in accordance with the terms and conditions of this Agreement and the Security Agreement (including a sale, transfer, or disposition permitted by the terms of Section 7.18 hereof or which has otherwise been consented to in accordance with Section 11.1 hereof), (b) release or subordinate any lien, mortgage or security interest on Collateral consisting of goods financed with purchase money indebtedness or under a Capitalized Lease to the extent such purchase money indebtedness or Capitalized Lease Obligation, and the lien, mortgage or security interest securing the same, are permitted by Sections 7.15(m), 7.15(v), 7.16(g) or 7.16(j) hereof, (c) reduce or limit the amount of the indebtedness secured by any particular item of Collateral to an amount not less than the estimated value thereof to the extent necessary to reduce mortgage registry, filing and similar tax and (d) subordinate any lien, mortgage or security interest on Collateral consisting of general intangibles to the extent such general intangibles relate to real property and improvements thereto granted under mortgages and deeds of trust in favor of, and securing the Company's indebtedness permitted under Section 7.16 to John Hancock Mutual Life Insurance Company, ING Capital LLC and the other purchasers named in that certain Fourth Amended and Restated Note Purchase Agreement dated November 18, 2003, as amended, modified and restated from time to time.

#### SECTION 11. MISCELLANEOUS.

*Section 11.1. Amendments and Waivers.* Any term, covenant, agreement or condition of the Loan Documents may be amended only by a written amendment executed by the Company,

the Required Banks and, if the rights or duties of the Agent are affected thereby, the Agent, or compliance therewith only may be waived (either generally or in a particular instance and either retroactively or prospectively), if the Company shall have obtained the consent in writing of the Required Banks and, if the rights or duties of the Agent are affected thereby, the Agent, *provided, however*, that without the consent in writing of the holders of all outstanding Notes, unpaid Bond Reimbursement Obligations and unpaid Reimbursement Obligations and the issuer of any L/C or Bond L/C, or all Banks if no Notes or L/Cs or Bond L/Cs are outstanding, no such amendment or waiver shall (a) change the amount or postpone the date of payment of any scheduled payment or required prepayment of principal of the Notes or reduce the rate or extend the time of payment of interest on the Notes, or reduce the amount of principal thereof, or modify any of the provisions of the Notes with respect to the payment or prepayment thereof, (b) give to any Note any preference over any other Notes, (c) amend the definition of Required Banks, (d) alter, modify or amend the provisions of this Section 11.1, (e) change the amount or term of any of the Banks' Revolving Credit Commitments or the fees required under Section 3.1 hereof, (f) alter, modify or amend the provisions of Sections 1.9, 6 or 9 of this Agreement, (g) alter, modify or amend any Bank's right hereunder to consent to any action, make any request or give any notice, (h) change the advance rates under the Borrowing Base or the definitions of "*Eligible Inventory*," or (i) release any Collateral under the Security Documents or release or discharge any guarantor of the Company's indebtedness, obligations and liabilities to the Banks, in each case, unless such release or discharge is permitted or contemplated by the Loan Documents; *provided*, further that Schedule 2 may be amended by the Company and the Agent without the consent of any Bank. Any such amendment or waiver shall apply equally to all Banks and the holders of the Notes, Bond Reimbursement Obligations and Reimbursement Obligations and shall be binding upon them, upon each future holder of any Note, Bond Reimbursement Obligation and Reimbursement Obligation and upon the Company, whether or not such Note shall have been marked to indicate such amendment or waiver. No such amendment or waiver shall extend to or affect any obligation not expressly amended or waived; and *provided further*, that (x) any amendments of the Reimbursement Agreement or the Bond Documents by Harris shall be subject to the provisions of Section 1.19 of this Agreement, and (y) Sections 1.10 through 1.19, both inclusive, of this Agreement may only be amended, modified or waived with the consent of Harris.

*Section 11.2. Waiver of Rights.* No delay or failure on the part of the Agent or any Bank or on the part of the holder or holders of any Note, Bond Reimbursement Obligation or Reimbursement Obligation in the exercise of any power or right shall operate as a waiver thereof, nor as an acquiescence in any Potential Default or Event of Default, nor shall any single or partial exercise of any power or right preclude any other or further exercise thereof, or the exercise of any other power or right, and the rights and remedies hereunder of the Agent, the Banks and of the holder or holders of any Notes are cumulative to, and not exclusive of, any rights or remedies which any of them would otherwise have.

*Section 11.3. Several Obligations.* The commitments of each of the Banks hereunder shall be the several obligations of each Bank and the failure on the part of any one or more of the Banks to perform hereunder shall not affect the obligation of the other Banks hereunder, provided that nothing herein contained shall relieve any Bank from any liability for its failure to so perform. In the event that any one or more of the Banks shall fail to perform its commitment

hereunder, all payments thereafter received by the Agent on the principal of Loans, Bond Reimbursement Obligations and Reimbursement Obligations hereunder, whether from any Collateral or otherwise, shall be distributed by the Agent to the Banks making such additional Loans ratably as among them in accordance with the principal amount of additional Loans made by them until such additional Loans shall have been fully paid and satisfied. All payments on account of interest shall be applied as among all the Banks ratably in accordance with the amount of interest owing to each of the Banks as of the date of the receipt of such interest payment.

*Section 11.4. Non-Business Day.* (a) If any payment of principal or interest on any Domestic Rate Loan shall fall due on a day which is not a Business Day, interest at the rate such Loan bears for the period prior to maturity shall continue to accrue on such principal from the stated due date thereof to and including the next succeeding Business Day on which the same is payable.

(b) If any payment of principal or interest on any Eurodollar Loan shall fall due on a day which is not a Business Day, the payment date thereof shall be extended to the next date which is a Business Day and the Interest Period for such Loan shall be accordingly extended, unless as a result thereof any payment date would fall in the next calendar month, in which case such payment date shall be the next preceding Business Day.

*Section 11.5. Survival of Indemnities.* All indemnities and all provisions relative to reimbursement to the Banks of amounts sufficient to protect the yield to the Banks with respect to Eurodollar Loans, including, but not limited to, Sections 9.3 and 9.4 hereof, shall survive the termination of this Agreement and the payment of the Notes for a period of one year.

*Section 11.6. Documentary Taxes.* Although the Company is of the opinion that no documentary or similar taxes are payable in respect of this Agreement or the Notes, the Company agrees that it will pay such taxes, including interest and penalties, in the event any such taxes are assessed irrespective of when such assessment is made and whether or not any credit is then in use or available hereunder.

*Section 11.7. Representations.* All representations and warranties made herein or in certificates given pursuant hereto shall survive the execution and delivery of this Agreement and of the Notes, and shall continue in full force and effect with respect to the date as of which they were made and as reaffirmed on the date of each borrowing or request for L/C and as long as any credit is in use or available hereunder.

*Section 11.8. Notices.* Unless otherwise expressly provided herein, all communications provided for herein shall be in writing (including, without limitation, notice by telecopy) and shall be given to the relevant party at its address or telecopier number set forth below, or such other address or telecopier number as such party may hereafter specify by notice to the Agent and the Company pursuant to this Section 11.8, by courier, by United States certified or registered mail, by telecopy or by other telecommunication device capable of creating a written record of such notice and its receipt. Notices under the Loan Documents to the Banks and the Agent shall be addressed to their respective addresses or telecopier numbers set forth on the signature pages hereof, and to the Company to:

110 South Texas  
Pittsburg, Texas 75686  
Attention: Richard A. Cogdill  
Telephone: (903) 855-4205  
Telecopy: (903) 856-7505

Each such notice, request or other communication shall be effective (i) if given by telecopier, when such telecopy is transmitted to the telecopier number specified in this Section or on the signature pages hereof and a confirmation of such telecopy has been received by the sender, (ii) if given by mail, 5 days after such communication is deposited in the mail, certified or registered with return receipt requested, addressed as aforesaid or (iii) if given by any other means, when delivered at the addresses specified in this Section or on the signature pages hereof; provided that any notice given pursuant to Section 1 hereof shall be effective only upon receipt.

*Section 11.9. Costs and Expenses; Indemnity.* The Company agrees to pay on demand all costs and expenses of the Agent, in connection with the negotiation, preparation, execution and delivery of this Agreement, the Notes and the other instruments and documents to be delivered hereunder or in connection with the transactions contemplated hereby, including the fees and expenses of Chapman and Cutler LLP, special counsel to the Agent; all costs and expenses of the Agent (including attorneys' fees) incurred in connection with any consents or waivers hereunder or amendments hereto, and all costs and expenses (including attorneys' fees), if any, incurred by the Agent, the Banks or any other holders of a Note or any Bond Reimbursement Obligation or any Reimbursement Obligation in connection with the enforcement of this Agreement or the Notes and the other instruments and documents to be delivered hereunder. The Company agrees to indemnify and save harmless the Banks and the Agent from any and all liabilities, losses, costs and expenses incurred by the Banks or the Agent in connection with any action, suit or proceeding brought against the Agent or any Bank by any Person which arises out of the transactions contemplated or financed hereby or by the Notes, or out of any action or inaction by the Agent or any Bank hereunder or thereunder, except for such thereof as is caused by the gross negligence or willful misconduct of the party indemnified. The provisions of this Section 11.9 shall survive payment of the Notes, Bond Reimbursement Obligations and Reimbursement Obligations and the termination of the Revolving Credit Commitments hereunder.

*Section 11.10. Counterparts.* This Agreement may be executed in any number of counterparts and all such counterparts taken together shall be deemed to constitute one and the same instrument. One or more of the Banks may execute a separate counterpart of this Agreement which has also been executed by the Company, and this Agreement shall become effective as and when all of the Banks have executed this Agreement or a counterpart thereof and lodged the same with the Agent.

*Section 11.11. Successors and Assigns.* This Agreement shall be binding upon each of the Company and the Banks and their respective successors and assigns, and shall inure to the benefit of the Company and each of the Banks and the benefit of their respective successors and assigns, including any subsequent holder of any Note, Bond Reimbursement Obligation or Reimbursement Obligation. The Company may not assign any of its rights or obligations hereunder without the written consent of the Banks.

*Section 11.12. No Joint Venture.* Nothing contained in this Agreement shall be deemed to create a partnership or joint venture among the parties hereto.

*Section 11.13. Severability.* In the event that any term or provision hereof is determined to be unenforceable or illegal, it shall be deemed severed herefrom to the extent of the illegality and/or unenforceability and all other provisions hereof shall remain in full force and effect.

*Section 11.14. Table of Contents and Headings.* The table of contents and section headings in this Agreement are for reference only and shall not affect the construction of any provision hereof.

*Section 11.15. Participants.* Each Bank shall have the right at its own cost to grant participations (to be evidenced by one or more agreements or certificates of participation) in the Loans made, and/or Revolving Credit Commitment and participations in L/Cs, Bond L/Cs, Bond Reimbursement Obligations and Reimbursement Obligations held, by such Bank at any time and from time to time, and to assign its rights under such Loans, participations in L/Cs, Bond L/Cs, Bond Reimbursement Obligations and Reimbursement Obligations or the Notes evidencing such Loans to one or more other Persons; provided that no such participation shall relieve any Bank of any of its obligations under this Agreement, and any agreement pursuant to which such participation or assignment of a Note or the rights thereunder is granted shall provide that the granting Lender shall retain the sole right and responsibility to enforce the obligations of the Company under the Loan Documents, including, without limitation, the right to approve any amendment, modification or waiver of any provision thereof, except that such agreement may provide that such Bank will not agree without the consent of such participant or assignee to any modification, amendment or waiver of this Agreement that would (A) increase any Revolving Credit Commitment of such Lender, or (B) reduce the amount of or postpone the date for payment of any principal of or interest on any Loan, Bond Reimbursement Obligation or Reimbursement Obligation or of any fee payable hereunder in which such participant or assignee has an interest or (C) reduce the interest rate applicable to any Loan or other amount payable in which such participant or assignee has an interest or (D) release any collateral security for or guarantor for any of the Company's indebtedness, obligations and liabilities under the Loan Documents, and provided further that no such assignee or participant shall have any rights under this Agreement except as provided in this Section 11.15, and the Agent shall have no obligation or responsibility to such participant or assignee, except that nothing herein provided is intended to affect the rights of an assignee of a Note to enforce the Note assigned. Any party to which such a participation or assignment has been granted shall have the benefits of Section 1.10, Section 9.3 and Section 9.4 hereof but shall not be entitled to receive any greater payment under any such Section than the Bank granting such participation or assignment would have been entitled to receive with respect to the rights transferred.

*Section 11.16. Assignments.* (a) Each Bank shall have the right at any time, with the prior consent of the Agent (and the L/C Issuers, if other than the Agent) and, so long as no Event of Default then exists, the Company (which consent of the Company shall not be unreasonably withheld) to sell, assign, transfer or negotiate all or any part of its rights and obligations under the Loan Documents (including, without limitation, the indebtedness evidenced by the Notes then held by such assigning Bank, together with an equivalent percentage of its obligation to

make Loans and participate in the Bond L/C and L/Cs) to one or more commercial banks or other financial institutions or investors, provided that, unless otherwise agreed to by the Agent, such assignment shall be of a fixed percentage (and not by its terms of varying percentage) of the assigning Bank's rights and obligations under the Loan Documents; *provided, however*, that in order to make any such assignment (i) unless the assigning Bank is assigning all of its Revolving Credit Commitments, outstanding Loans and interests in the Bond L/C, Bond Reimbursement Obligations, L/Cs and Reimbursement Obligations, the assigning Bank shall retain at least \$5,000,000 in unused Revolving Credit Commitments, outstanding Loans and interests in the Bond L/C, Bond Reimbursement Obligations, L/Cs and Reimbursement Obligations, (ii) the assignee Bank shall have Revolving Credit Commitments, outstanding Loans and interests in the Bond L/C, Bond Reimbursement Obligations, L/Cs and Reimbursement Obligations of at least \$5,000,000, (iii) each such assignment shall be evidenced by a written agreement (substantially in the form attached hereto as Exhibit I or in such other form acceptable to the Agent) executed by such assigning Bank, such assignee Bank or Banks, the Agent (and the issuer of the Bond L/C and L/Cs hereunder, if other than the Agent) and, if required as provided above, the Company, which agreement shall specify in each instance the portion of the indebtedness, obligations and liabilities which are to be assigned to the assignee Bank and the portion of the Revolving Credit Commitments of the assigning Bank to be assumed by the assignee Bank, and (iv) the assigning Bank shall pay to the Agent a processing fee of \$3,500 and any out-of-pocket attorneys' fees and expenses incurred by the Agent in connection with any such assignment agreement. Notwithstanding the foregoing, the Company's consent shall not be required for any assignment by a Bank to any of its Affiliates. Any such assignee shall become a Bank for all purposes hereunder to the extent of the rights and obligations under the Loan Documents it assumes and the assigning Bank shall be released from its obligations, and will have released its rights, under the Loan Documents to the extent of such assignment. The address for notices to such assignee Bank shall be as specified in the assignment agreement executed by it. Promptly upon the effectiveness of any such assignment agreement, the Company shall execute and deliver replacement Notes to the assignee Bank and the assigning Bank in the respective amounts of their Revolving Credit Commitments (or assigned principal amounts, as applicable) after giving effect to the reduction occasioned by such assignment (all such Notes to constitute "Notes" for all purposes of the Loan Documents), and the assignee Bank shall thereafter surrender to the Company its old Notes.

(b) Any Bank may at any time pledge or grant a security interest in all or any portion of its rights under this Agreement to secure obligations of such Bank, including any such pledge or grant to a Federal Reserve Bank, and this Section shall not apply to any such pledge or grant of a security interest; *provided* that no such pledge or grant of a security interest shall release a Bank from any of its obligations hereunder or substitute any such pledgee or secured party for such Bank as a party hereto; *provided further, however*, the right of any such pledgee or grantee (other than any Federal Reserve Bank) to further transfer all or any portion of the rights pledged or granted to it, whether by means of foreclosure or otherwise, shall be at all times subject to the terms of this Agreement.

*Section 11.17. Sharing of Payments.* Each Bank agrees with each other Bank that if such Bank shall receive and retain any payment, whether by set-off or application of deposit balances or otherwise ("*Set-Off*"), on any Loan, Bond Reimbursement Obligation, Reimbursement

Obligation or other amount outstanding under this Agreement in excess of its ratable share of payments on all Loans, Bond Reimbursement Obligations, Reimbursement Obligations and other amounts then outstanding to the Banks, then such Bank shall purchase for cash at face value, but without recourse, ratably from each of the other Banks such amount of the Loans, Bond Reimbursement Obligations and Reimbursement Obligations held by each such other Bank (or interest therein) as shall be necessary to cause such Bank to share such excess payment ratably with all the other Banks; *provided, however*, that if any such purchase is made by any Bank, and if such excess payment or part thereof is thereafter recovered from such purchasing Bank, the related purchases from the other Banks shall be rescinded ratably and the purchase price restored as to the portion of such excess payment so recovered, but without interest. Each Bank's ratable share of any such Set-Off shall be determined by the proportion that the aggregate principal amount of Loans, Bond Reimbursement Obligations and Reimbursement Obligations then due and payable to such Bank bears to the total aggregate principal amount of Loans, Bond Reimbursement Obligations and Reimbursement Obligations then due and payable to all the Banks.

*Section 11.18. Withholding Taxes.* (a) *Payments Free of Withholding.* Except as otherwise required by law and subject to Section 11.18(b) hereof, each payment by the Company under this Agreement or the other Loan Documents shall be made without withholding for or on account of any present or future taxes (other than overall net income taxes on the recipient) imposed by or within the jurisdiction in which the Company is domiciled, any jurisdiction from which the Company makes any payment, or (in each case) any political subdivision or taxing authority thereof or therein. If any such withholding is so required, the Company shall make the withholding, pay the amount withheld to the appropriate governmental authority before penalties attach thereto or interest accrues thereon, and forthwith pay such additional amount as may be necessary to ensure that the net amount actually received by each Bank and the Agent free and clear of such taxes (including such taxes on such additional amount) is equal to the amount which that Bank or the Agent (as the case may be) would have received had such withholding not been made. The Company shall not be required to pay any additional amounts payable to a Bank hereunder at the time such Bank becomes a party to this Agreement, except to the extent such Bank's assignor (if any) was entitled, at the time of assignment, to receive additional amounts from the Company with respect to such taxes pursuant to this Section 11.18. If the Agent or any Bank pays any amount in respect of any such taxes, penalties or interest, the Company shall reimburse the Agent or such Bank for that payment on demand in the currency in which such payment was made. If the Company pays any such taxes, penalties or interest, it shall deliver official tax receipts evidencing that payment or certified copies thereof to the Bank or Agent on whose account such withholding was made (with a copy to the Agent if not the recipient of the original) on or before the thirtieth day after payment.

(b) *U.S. Withholding Tax Exemptions.* Each Bank that is not a United States person (as such term is defined in Section 7701(a)(30) of the Code) shall submit to the Company and the Agent on or before the date the initial Loan is made hereunder or, if later, the date such financial institution becomes a Bank hereunder, two duly completed and signed copies of (i) either Form W-8 BEN (relating to such Bank and entitling it to a complete exemption from withholding under the Code on all amounts to be received by such Bank, including fees, pursuant to the Loan Documents and the Company's indebtedness, obligations and liabilities thereunder) or Form

W-8 ECI (relating to all amounts to be received by such Bank, including fees, pursuant to the Loan Documents and the Obligations) of the United States Internal Revenue Service or (ii) solely if such Bank is claiming exemption from United States withholding tax under Section 871(h) or 881(c) of the Code with respect to payments of "portfolio interest", a Form W-8 BEN, or any successor form prescribed by the Internal Revenue Service, and a certificate representing that such Bank is not a bank for purposes of Section 881(c) of the Code, is not a 10-percent shareholder (within the meaning of Section 871(h)(3)(B) of the Code) of the Company and is not a controlled foreign corporation related to the Company (within the meaning of Section 864(d)(4) of the Code) along with such other additional forms as the Company or the Agent may reasonably require to establish the availability of such exemption. Thereafter and from time to time, each Bank shall submit to the Company and the Agent such additional duly completed and signed copies of one or the other of such Forms (or such successor forms as shall be adopted from time to time by the relevant United States taxing authorities) and such other certificates as may be (i) requested by the Company in a written notice, directly or through the Agent, to such Bank and (ii) required under then-current United States law or regulations to avoid or reduce United States withholding taxes on payments in respect of all amounts to be received by such Bank, including fees, pursuant to the Loan Documents or the Company's indebtedness, obligations and liabilities under the Loan Documents. Upon the request of the Company or the Agent, each Bank that is a United States person (as such term is defined in Section 7701(a)(30) of the Code) shall submit to the Company and the Agent a certificate to the effect that it is such a United States person.

(c) *Inability of Bank to Submit Forms.* If any Bank determines, as a result of any change in applicable law, regulation or treaty, or in any official application or interpretation thereof, that it is unable to submit to the Company or the Agent any form or certificate that such Bank is obligated to submit pursuant to subsection (b) of this Section 11.18 or that such Bank is required to withdraw or cancel any such form or certificate previously submitted or any such form or certificate otherwise becomes ineffective or inaccurate, such Bank shall promptly notify the Company and Agent of such fact and the Bank shall to that extent not be obligated to provide any such form or certificate and will be entitled to withdraw or cancel any affected form or certificate, as applicable.

(d) In the event that the Company is required to pay any amounts with respect to taxes, penalties or interest pursuant to this Section 11.18 to a Bank, the Company shall have the right but not the obligation, at its expense, upon notice to such Bank and the Agent, to (a) require such Bank to, and such Bank promptly shall, assign and delegate, without recourse (in accordance with and subject to the provisions of this Agreement), all its interests, rights and obligations under this Agreement to an assignee that shall assume such obligations (which assignee may be another Bank, if a Bank accepts such assignment) or (b) reduce the Revolving Credit Commitment of such Bank to zero and make any necessary prepayments under this Agreement to such Bank in connection with such termination of such Bank's Revolving Credit Commitment.

*Section 11.19. Jurisdiction; Venue; Waiver of Jury Trial.* THE COMPANY HEREBY SUBMITS TO THE NONEXCLUSIVE JURISDICTION OF THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF ILLINOIS AND OF ANY ILLINOIS COURT SITTING IN CHICAGO FOR PURPOSES OF ALL LEGAL PROCEEDINGS ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS

CONTEMPLATED HEREBY. THE COMPANY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, ANY OBJECTION WHICH IT MAY NOW OR HEREAFTER HAVE TO THE LAYING OF THE VENUE OF ANY SUCH PROCEEDING BROUGHT IN SUCH A COURT AND ANY CLAIM THAT ANY SUCH PROCEEDING BROUGHT IN SUCH A COURT HAS BEEN BROUGHT IN AN INCONVENIENT FORUM. THE COMPANY, THE AGENT, AND THE BANKS HEREBY IRREVOCABLY WAIVE ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATING TO ANY LOAN DOCUMENT OR THE TRANSACTIONS CONTEMPLATED THEREBY.

*Section 11.20. Lawful Rate.* All agreements between the Company, the Agent and each of the Banks, whether now existing or hereafter arising and whether written or oral, are expressly limited so that in no contingency or event whatsoever, whether by reason of demand or acceleration of the maturity of any of the indebtedness hereunder or otherwise, shall the amount contracted for, charged, received, reserved, paid or agreed to be paid to the Agent or each Bank for the use, forbearance, or detention of the funds advanced hereunder or otherwise, or for the performance or payment of any covenant or obligation contained in any document executed in connection herewith (all such documents being hereinafter collectively referred to as the “*Credit Documents*”), exceed the highest lawful rate permissible under applicable law (the “*Highest Lawful Rate*”), it being the intent of the Company, the Agent and each of the Banks in the execution hereof and of the Credit Documents to contract in strict accordance with applicable usury laws. If, as a result of any circumstances whatsoever, fulfillment by the Company of any provision hereof or of any of such documents, at the time performance of such provision shall be due, shall involve transcending the limit of validity prescribed by applicable usury law or result in the Agent or any Bank having or being deemed to have contracted for, charged, reserved or received interest (or amounts deemed to be interest) in excess of the maximum, lawful rate or amount of interest allowed by applicable law to be so contracted for, charged, reserved or received by the Agent or such Bank, then, *ipso facto*, the obligation to be fulfilled by the Company shall be reduced to the limit of such validity, and if, from any such circumstance, the Agent or such Bank shall ever receive interest or anything which might be deemed interest under applicable law which would exceed the Highest Lawful Rate, such amount which would be excessive interest shall be refunded to the Company or, to the extent (a) permitted by applicable law and (b) such excessive interest does not exceed the unpaid principal balance of the Notes and the amounts owing on other obligations of the Company to the Agent or any Bank under any Loan Document applied to the reduction of the principal amount owing on account of the Notes or the amounts owing on other obligations of the Company to the Agent or any Bank under any Loan Document and not to the payment of interest. All interest paid or agreed to be paid to the Agent or any Bank shall, to the extent permitted by applicable law, be amortized, prorated, allocated, and spread throughout the full period of the indebtedness hereunder until payment in full of the principal of the indebtedness hereunder (including the period of any renewal or extension thereof) so that the interest on account of the indebtedness hereunder for such full period shall not exceed the highest amount permitted by applicable law. This paragraph shall control all agreements between the Company, the Agent and the Banks.

*Section 11.21. Governing Law.* **(a) THIS AGREEMENT AND THE RIGHTS AND DUTIES OF THE PARTIES HERETO, SHALL BE CONSTRUED AND DETERMINED IN ACCORDANCE WITH THE INTERNAL LAWS OF THE STATE OF ILLINOIS, EXCEPT TO THE EXTENT PROVIDED IN SECTION 11.21(b) HEREOF AND TO THE EXTENT THAT THE FEDERAL LAWS OF THE UNITED STATES OF AMERICA MAY OTHERWISE APPLY.**

**(b) NOTWITHSTANDING ANYTHING IN SECTION 11.20(a) HEREOF TO THE CONTRARY, NOTHING IN THIS AGREEMENT, THE NOTES, OR THE OTHER LOAN DOCUMENTS SHALL BE DEEMED TO CONSTITUTE A WAIVER OF ANY RIGHTS WHICH THE COMPANY, THE AGENT OR ANY OF THE BANKS MAY HAVE UNDER THE NATIONAL BANK ACT OR OTHER APPLICABLE FEDERAL LAW.**

*Section 11.22. Limitation of Liability.* NO CLAIM MAY BE MADE BY THE COMPANY, ANY SUBSIDIARY OR ANY GUARANTOR AGAINST ANY BANK OR ITS AFFILIATES, DIRECTORS, OFFICERS, EMPLOYEES, ATTORNEYS OR AGENTS FOR ANY SPECIAL, INDIRECT OR CONSEQUENTIAL DAMAGES IN RESPECT OF ANY BREACH OR WRONGFUL CONDUCT (WHETHER THE CLAIM THEREFOR IS BASED ON CONTRACT, TORT OR DUTY IMPOSED BY LAW) IN CONNECTION WITH, ARISING OUT OF OR IN ANY WAY RELATED TO THE TRANSACTIONS CONTEMPLATED AND RELATIONSHIPS ESTABLISHED BY THIS AGREEMENT OR ANY OF THE OTHER LOAN DOCUMENTS, OR ANY ACT, OMISSION OR EVENT OCCURRING IN CONNECTION THEREWITH. THE COMPANY, EACH SUBSIDIARY AND EACH GUARANTOR HEREBY WAIVE, RELEASE AND AGREE NOT TO SUE UPON SUCH CLAIM FOR ANY SUCH DAMAGES, WHETHER OR NOT ACCRUED AND WHETHER OR NOT KNOWN OR SUSPECTED TO EXIST IN ITS FAVOR.

*Section 11.23. Nonliability of Lenders.* The relationship between the Company and the Banks is, and shall at all times remain, solely that of borrower and lenders, and the Banks and the Agent neither undertake nor assume any responsibility or duty to the Company to review, inspect, supervise, pass judgment upon, or inform the Company of any matter in connection with any phase of the Company's business, operations, or condition, financial or otherwise. The Company shall rely entirely upon its own judgment with respect to such matters, and any review, inspection, supervision, exercise of judgment, or information supplied to the Company by any Bank or the Agent in connection with any such matter is for the protection of the Bank and the Agent, and neither the Company nor any third party is entitled to rely thereon.

*Section 11.24. No Oral Agreements.* THIS WRITTEN AGREEMENT, TOGETHER WITH THE OTHER LOAN DOCUMENTS EXECUTED CONTEMPORANEOUSLY HEREWITH, REPRESENT THE FINAL AGREEMENT BETWEEN THE PARTIES AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS OR SUBSEQUENT ORAL AGREEMENTS OF THE PARTIES. THERE ARE NO UNWRITTEN ORAL AGREEMENTS BETWEEN THE PARTIES.

Upon your acceptance hereof in the manner hereinafter set forth, this Agreement shall be a contract between us for the purposes hereinabove set forth.

Dated as of April 7, 2004.

PILGRIM'S PRIDE CORPORATION

By /s/ Richard A. Cogdill

\_\_\_\_\_  
Its Chief Financial Officer

Accepted and Agreed to as of the day and year last above written.

HARRIS TRUST AND SAVINGS BANK,  
individually and as Agent

By \_\_\_\_\_

Its Vice President

Address: 111 West Monroe Street  
Chicago, Illinois 60690

Attention: Food Group  
Telecopy: (312) 765-1624  
Telephone: (312) 461-3776

SUNTRUST BANK,  
individually and as Syndication Agent

By \_\_\_\_\_

Its Vice President

Address: 303 Peachtree Street  
Atlanta, Georgia 30308

Attention: Mr. Hugh E. Brown  
Telecopy: (404) 230-5305  
Telephone: (404) 658-4227

U.S. BANK NATIONAL ASSOCIATION,  
individually and as Co-Documentation Agent

By \_\_\_\_\_

Its Vice President

Address: 950 Seventeenth Street  
Suite 350  
Denver, Colorado 80202

Attention: Alan V. Schuler  
Telecopy: (303) 585-4903  
Telephone: (303) 585-4903

WELLS FARGO BANK NATIONAL ASSOCIATION, individually  
and as Co-Documentation Agent

By \_\_\_\_\_

Its Vice President

Address: 111 Congress Avenue, Suite 300  
Austin, Texas 78701

Attention: Mr. Paul Rudd  
Telecopy: (512) 344-7318  
Telephone: (512) 344-7013

ING CAPITAL LLC

By \_\_\_\_\_

Its \_\_\_\_\_

By \_\_\_\_\_

Its \_\_\_\_\_

Address: 1325 Avenue of the Americas  
New York, New York 10019

Attention: William Redmond  
Telecopy: (646) 424-6390  
Telephone: (646) 424-6639

REGIONS BANK

By \_\_\_\_\_

Its \_\_\_\_\_

Address: 417 North 20th Street, 8th Floor  
Birmingham, Alabama 35208

Attention: Mark Burr  
Telecopy: (205) 326-7788  
Telephone: (205) 325-7679

CREDIT SUISSE FIRST BOSTON,  
acting through its Cayman Islands Branch

By \_\_\_\_\_

Its \_\_\_\_\_

By \_\_\_\_\_

Its \_\_\_\_\_

Address: 11 Madison Avenue, 5th Floor  
New York, New York 10010

Attention: Paul Colon  
Telecopy: (212) 448-3397  
Telephone: (212) 325-5352

COBANK, ACB

By \_\_\_\_\_

Its \_\_\_\_\_

Address: P.O. Box 5110  
Denver, Colorado 80217

Attention: Jim Stutzman  
Telecopy: (303) 224-2526  
Telephone: (303) 740-6585

CERTIFICATION BY PRINCIPAL EXECUTIVE OFFICER  
PURSUANT TO 18 U.S.C. SECTION 1350,  
AS ADOPTED PURSUANT TO SECTION 302  
OF THE SARBANES-OXLEY ACT OF 2002

I, Lonnie "Bo" Pilgrim, Chairman of the Board and Principal Executive Officer of Pilgrim's Pride Corporation, certify that:

1. I have reviewed this quarterly report on Form 10-Q for the fiscal quarter ended April 3, 2004, of Pilgrim's Pride Corporation;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) for the registrant and have:
  - a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - b) Intentionally omitted;\*
  - c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of registrant's board of directors (or persons performing the equivalent functions):
- a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
  - b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

---

\* A statement is not required under this paragraph until we file our first Form 10-K for our first year ending on or after November 15, 2004.

Date: May 4, 2004

/s/ Lonnie "Bo" Pilgrim

---

Lonnie "Bo" Pilgrim  
Chairman of the Board  
(Principal Executive Officer)

CERTIFICATION BY CHIEF FINANCIAL OFFICER  
PURSUANT TO 18 U.S.C. SECTION 1350,  
AS ADOPTED PURSUANT TO SECTION 302  
OF THE SARBANES-OXLEY ACT OF 2002

I, Richard A. Cogdill, Chief Financial Officer of Pilgrim's Pride Corporation, certify that:

1. I have reviewed this quarterly report on Form 10-Q for the fiscal quarter ended April 3, 2004, of Pilgrim's Pride Corporation;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) for the registrant and have:
  - a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - b) Intentionally omitted;\*
  - c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of registrant's board of directors (or persons performing the equivalent functions):
- a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
  - b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

---

\* A statement is not required under this paragraph until we file our first Form 10-K for our first year ending on or after November 15, 2004.

Date: May 4, 2004

/s/ Richard A. Cogdill

---

Richard A. Cogdill  
Chief Financial Officer

CERTIFICATION OF PRINCIPAL EXECUTIVE OFFICER  
PURSUANT TO 18 U.S.C. § 1350 ADOPTED PURSUANT TO  
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002

Pursuant to section 906 of the Sarbanes-Oxley Act of 2002 (subsections (a) and (b) of section 1350, chapter 63 of title 18, United States Code), the undersigned officer of Pilgrim's Pride Corporation (the "Company") does hereby certify, to such officer's knowledge, that:

The Quarterly Report on Form 10-Q for the quarter ended April 3, 2004 (the "Form 10-Q") of the Company fully complies with the requirements of section 13(a) or 15(d) of the Securities Exchange Act of 1934, and information contained in the Form 10-Q fairly presents, in all material respects, the financial condition and results of operations of the Company.

Date: May 4, 2004

/s/ Lonnie "Bo" Pilgrim

---

Lonnie "Bo" Pilgrim  
Chairman of the Board  
Principal Executive Officer

A signed original of this written statement required by Section 906, or other document authenticating, acknowledging, or otherwise adopting the signature that appears in typed form with the electronic version of this written statement required by Section 906, has been provided to Pilgrim's Pride Corporation and will be retained by Pilgrim's Pride Corporation and furnished to the Securities and Exchange Commission or its staff upon request.

CERTIFICATION OF PRINCIPAL FINANCIAL OFFICER  
PURSUANT TO 18 U.S.C. § 1350 ADOPTED PURSUANT TO  
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002

Pursuant to section 906 of the Sarbanes-Oxley Act of 2002 (subsections (a) and (b) of section 1350, chapter 63 of title 18, United States Code), the undersigned officer of Pilgrim's Pride Corporation (the "Company") does hereby certify, to such officer's knowledge, that:

The Quarterly Report on Form 10-Q for the quarter ended April 3, 2004 (the "Form 10-Q") of the Company fully complies with the requirements of section 13(a) or 15(d) of the Securities Exchange Act of 1934, and information contained in the Form 10-Q fairly presents, in all material respects, the financial condition and results of operations of the Company.

Date: May 4, 2004

/s/ Richard A. Cogdill

---

Richard A. Cogdill  
Chief Financial Officer

A signed original of this written statement required by Section 906, or other document authenticating, acknowledging, or otherwise adopting the signature that appears in typed form with the electronic version of this written statement required by Section 906, has been provided to Pilgrim's Pride Corporation and will be retained by Pilgrim's Pride Corporation and furnished to the Securities and Exchange Commission or its staff upon request.