

**SECURITIES AND EXCHANGE COMMISSION**  
**WASHINGTON D.C. 20549**

**Form S-4**  
**REGISTRATION STATEMENT**  
**UNDER**  
**THE SECURITIES ACT OF 1933**

**CENTRAL GARDEN & PET COMPANY\***

**Delaware**  
(State or Other Jurisdiction of Incorporation or Organization)

(Exact Name of Registrant as Specified in Its Charter)  
**5199**  
(Primary Standard Industrial Classification Code Number)

**68-0275553**  
(I.R.S. Employer  
Identification Number)

**3697 Mt. Diablo Boulevard**  
**Lafayette, California 94549**  
**(925) 283-4573**  
(Address, Including Zip Code, and Telephone Number,  
Including Area Code, of Registrant's Principal Executive Offices)

**William E. Brown**  
**Chairman and Chief Executive Officer**  
**Central Garden & Pet Company**  
**3697 Mt. Diablo Boulevard, Lafayette, California 94549**  
**(925) 283-4573**  
(Name, Address, Including Zip Code, and Telephone Number,  
Including Area Code, of Agent for Service)

**WITH COPIES TO:**  
**John F. Seegal**  
**Orrick, Herrington & Sutcliffe LLP**  
**Old Federal Reserve Bank Building**  
**400 Sansome Street**  
**San Francisco, California 94111**  
**(415) 392-1122**

Approximate date of commencement of proposed sale to the public: As soon as practicable after the effective date of this registration statement.

If the securities being registered on this form are being offered in connection with the formation of a holding company and there is compliance with General Instruction G, check the following box: ☐

If this form is filed to register additional securities for an offering pursuant to Rule 462(b) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering: ☐

If this form is a post-effective amendment filed pursuant to Rule 462(d) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering: ☐

**CALCULATION OF REGISTRATION FEE**

Title of Each Class of Securities to Be Registered	Amount to Be Registered	Maximum Offering Price Per Note	Maximum Aggregate Offering Price(1)	Amount of Registration Fee(3)
9.125% Senior Subordinated Notes due February 1, 2013	\$150,000,000	100%	\$150,000,000	\$12,135

Guarantees of Senior Subordinated Notes(2)

- (1) Estimated solely for the purposes of calculating the registration fee in accordance with Rule 457 under the Securities Act of 1933.  
(2) No separate consideration will be received for the issuance of the Guarantees, and, pursuant to Rule 457(n), there is no separate registration fee for the Guarantees.  
(3) The registration fee for the securities offered hereby has been calculated under Rule 457(f)(2) of the Securities Act.

The registrant and the additional registrants hereby amends this registration statement on such date or dates as may be necessary to delay its effective date until the registrant shall file a further amendment which specifically states that this registration statement shall thereafter become effective in accordance with Section 8(a) of the Securities Act of 1933 or until this registration statement shall become effective on such date as the Securities and Exchange Commission, acting pursuant to said Section 8(a), may determine.

\* Information regarding additional registrants ("Additional Registrants") is contained in the Table of Additional Registrants on the following page.

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[Table of Contents](#)

## TABLE OF ADDITIONAL REGISTRANTS

NAME	STATE OR OTHER JURISDICTION OF INCORPORATION OR ORGANIZATION	I.R.S. EMPLOYER IDENTIFICATION NUMBER	ADDRESS, INCLUDING ZIP CODE, AND TELEPHONE NUMBER, INCLUDING AREA CODE
Four Paws Products Ltd.	New York	11-2210716	*
Grant Laboratories, Inc.	California	94-2499748	*
Kaytee Products, Incorporated	Wisconsin	39-0399490	*
Matthews Redwood & Nursery Supply, Inc.	California	94-3534820	*
Pennington Seed, Inc.	Delaware	58-2394553	*
Phaeton Corporation	Florida	59-2490166	*
Seeds West, Inc.	Arizona	86-0811151	*
All-Glass Aquarium Co., Inc.	Wisconsin	39-1144104	*
Oceanic Systems, Inc.	Texas	75-1771403	*
T.F.H. Publications, Inc.	Delaware	22-1918893	*
Wellmark International	California	94-3273583	*
Norcal Pottery Products, Inc.	California	94-2371088	*
Pennington Seed, Inc. of Nebraska	Nebraska	47-0792215	*
Gro Tec, Inc.	Georgia	58-1734869	*

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\* The name, address, including zip code, and telephone number of the agent for service of process is William E. Brown, Central Garden & Pet Company, 3697 Mt. Diablo Boulevard, Lafayette, California 94549, (925) 283-4573.

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[Table of Contents](#)

The information in this prospectus is not complete and may be changed. We may not sell these securities until the registration statement filed with the Securities and Exchange Commission is effective. This prospectus is not an offer to sell these securities and it is not soliciting an offer to buy these securities in any jurisdiction where the offer or sale is not permitted.

Subject to Completion, Dated March 14, 2003

PROSPECTUS



**Offer to Exchange**

**9 1/8% Notes Due February 1, 2013  
Which Have Been Registered Under  
the Securities Act of 1933**

**for  
\$150,000,000 Outstanding Unregistered  
9 1/8% Notes Due February 1, 2013**

**The exchange offer will expire at 5:00 p.m.,  
New York City time, on \_\_\_\_\_, 2003, unless extended.**

**Material Terms of the Exchange Offer:**

- We are offering to exchange \$150,000,000 aggregate principal amount of registered 9 1/8% notes due February 1, 2013 for \$150,000,000 aggregate principal amount of unregistered 9 1/8% notes due February 1, 2013.
- The terms of the new notes are identical in all material respects to the terms of the old notes, except that the registration rights and related additional interest payment provisions and the transfer restrictions applicable to the original notes are not applicable to the new notes.
- Subject to the satisfaction or waiver of specified conditions, Central Garden & Pet Company will exchange the new notes for all old notes that are validly tendered and not withdrawn prior to the expiration of the exchange offer.
- The exchange of old notes for new notes in the exchange offer generally will not be a taxable event for U.S. federal income tax purposes. See "U.S. Federal Income Tax Consequences."
- We will not receive any proceeds from the exchange offer.

**Investing in the new notes involves risks. See "Risk Factors" beginning on page 7 of this prospectus for a discussion of certain factors that you should consider in connection with this exchange offer and an investment in the new notes.**

**Neither the Securities and Exchange Commission nor any state securities commission has approved or disapproved of these securities or passed upon the adequacy or the accuracy of this prospectus. Any representation to the contrary is a criminal offense.**

The date of this prospectus is \_\_\_\_\_, 2003.

**TABLE OF CONTENTS**

<a href="#">Forward-Looking Statements</a>	ii
<a href="#">Summary</a>	1
<a href="#">Risk Factors</a>	7
<a href="#">Use of Proceeds</a>	16
<a href="#">Ratio of Earnings to Fixed Charges</a>	16
<a href="#">Description of Certain Indebtedness</a>	21
<a href="#">The Exchange Offer</a>	22
<a href="#">Description of the New Notes</a>	30
<a href="#">U.S. Federal Income Tax Consequences</a>	69
<a href="#">Plan of Distribution</a>	71
<a href="#">Legal Matters</a>	72
<a href="#">Experts</a>	72
<a href="#">Where You Can Find Additional Information and Incorporation by Reference</a>	72
Index to Consolidated Financial Statements	F-1

You should rely only on the information contained or incorporated by reference in this prospectus. We have not authorized any other person to provide you with different or additional information. If anyone provides you with different or additional information, you should not rely on it. You should assume that the information contained or incorporated by reference in this prospectus is accurate as of the date on the front cover of this prospectus or the date of the document incorporated by reference. Our business, financial condition, results of operations and prospects may have changed since then. We are not making an offer to sell the securities offered by this prospectus in any jurisdiction where the offer or sale is not permitted.

## FORWARD-LOOKING STATEMENTS

This prospectus includes “forward-looking statements.” Forward-looking statements include statements concerning our plans, objectives, goals, strategies, future events, future revenues or performance, capital expenditures, financing needs, plans or intentions relating to acquisitions, our competitive strengths and weaknesses, our business strategy and the trends we anticipate in the industries in which we operate and other information that is not historical information. When used in this prospectus, the words “estimates,” “expects,” “anticipates,” “projects,” “plans,” “intends,” “believes” and variations of such words or similar expressions are intended to identify forward-looking statements. All forward-looking statements, including, without limitation, our examination of historical operating trends, are based upon our current expectations and various assumptions. Our expectations, beliefs and projections are expressed in good faith, and we believe there is a reasonable basis for them, but we cannot assure you that our expectations, beliefs and projections will be realized.

There are a number of risks and uncertainties that could cause our actual results to differ materially from the forward-looking statements contained in this prospectus. Important factors that could cause our actual results to differ materially from the forward-looking statements we make in this prospectus are set forth in this prospectus, including the factors described in the section entitled “Risk Factors.” If any of these risks or uncertainties materialize, or if any of our underlying assumptions are incorrect, our actual results may differ significantly from the results that we express in, or imply by, any of our forward-looking statements. We do not undertake any obligation to revise these forward-looking statements to reflect future events or circumstances. Presently known risk factors include, but are not limited to, the following factors:

- consolidation trends in the retail industry;
- dependence on a few customers for a significant portion of each of our businesses;
- uncertainty of our product innovations and marketing successes;
- fluctuations in market prices for seeds and grains;
- competition in our industries;
- risks associated with our acquisition strategy;
- adverse weather during the peak gardening season;
- seasonality and fluctuations in our operating results and cash flow;
- dependence upon our key executive officers;
- potential environmental liabilities and product liability claims; and
- pending litigation.

## EXCHANGE OFFER SUMMARY

*This summary highlights the information contained elsewhere in this prospectus. Because this is only a summary, it does not contain all of the information that may be important to you. For a more complete understanding of the new notes and the exchange offer, we encourage you to read this entire prospectus and documents to which we refer you. You should read the following summary together with the more detailed information and consolidated financial statements and the notes to those statements included elsewhere in this prospectus. Except as otherwise required by the context, as used in this prospectus, references to "Central," the "company," "we," "us," "our" and similar phrases are to Central Garden & Pet Company and its consolidated subsidiaries.*

### Our Company

Central Garden & Pet Company is a leading marketer and producer of quality branded products for the pet and lawn and garden supplies markets. We are one of the largest companies in the fragmented, \$5.1 billion U.S. pet supplies industry and in the \$52.5 billion U.S. lawn and garden supplies industry. Our pet products include pet bird and small animal food, wild bird seed, aquarium products, flea, tick, mosquito and other insect control products, edible bones, cages, carriers, pet books, and other dog, cat, reptile and small animal products. These products are sold under a number of brand names, including Kaytee, All-Glass Aquarium, Zodiac, Nylabone, TFH and Four Paws. Our lawn and garden products include grass seed, wild bird seed, weed and insect control products, decorative outdoor patio products and ant control products. These products are sold under a number of brand names, including Pennington, Norcal Pottery, Matthews Four Seasons, AMDRO and Grant's. In fiscal 2002, our consolidated net sales were \$1.1 billion, of which our pet products segment, or Pet Products, accounted for \$471.1 million and our lawn and garden products segment, or Garden Products, accounted for \$606.7 million. Our fiscal 2002 income from operations was \$52.8 million, of which Pet Products accounted for \$43.4 million and Garden Products accounted for \$37.3 million, before corporate expenses and eliminations of \$27.9 million.

We were incorporated in Delaware in June 1992 and are the successor to a California corporation which was incorporated in 1955. Our executive offices are located at 3697 Mt. Diablo Blvd., Suite 310, Lafayette, CA 94549, and our telephone number is (925) 283-4573.

## SUMMARY OF THE TERMS OF THE EXCHANGE OFFER

General	<p>On January 30, 2003, we completed a private offering of the old notes, which consists of \$150 million aggregate principal amount of our 9 1/8% Notes due February 1, 2013. In connection with the private offering, we entered into a registration rights agreement in which we agreed, among other things, to deliver this prospectus to you and to complete an exchange offer for the old notes.</p>
The exchange offer	<p>We are offering to exchange \$1,000 principal amount of our registered 9 1/8% Notes due February 1, 2013, which we refer to as the “new notes,” for each \$1,000 principal amount of our unregistered 9 1/8% Notes due February 1, 2013, which we refer to as the “old notes.”</p> <p>The terms of the new notes are identical in all material respects to the terms of the old notes, except that the registration rights and related additional interest payment provisions and the transfer restrictions applicable to the old notes are not applicable to the new notes.</p> <p>Old notes may be tendered only in \$1,000 increments. Subject to the satisfaction or waiver of specified conditions, we will exchange the new notes for all old notes that are validly tendered and not withdrawn prior to the expiration of the exchange offer. We will cause the exchange to be effected promptly after the expiration of the exchange offer. See “The Exchange Offer—Terms of the Exchange Offer.”</p> <p>Upon completion of the exchange offer, there may be no market for the new notes and you may have difficulty selling them. See “Risk Factors—If an active trading market does not develop for the new notes, you may be unable to sell the new notes or to sell them at a price you deem sufficient.”</p>
Expiration date	<p>The exchange offer will expire at 5:00 p.m., New York City time, on _____, 2003 unless we extend it. In that case, the phrase “expiration date” will mean the latest date and time to which we extend the exchange offer. We expect that the expiration date will not be later than _____, 2003.</p>
Procedures for participating in the exchange offer	<p>If you wish to participate in the exchange offer, you must either:</p> <ul style="list-style-type: none"><li>• complete, sign and date an original or faxed letter of transmittal in accordance with the instructions in the letter of transmittal accompanying this prospectus; or</li><li>• arrange for The Depository Trust Company to transmit required information to the exchange agent in connection with a book-entry transfer.</li></ul> <p>Then you must mail, fax or deliver this documentation together with the old notes you wish to exchange and any other required</p>

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## [Table of Contents](#)

documentation to Wells Fargo Bank, National Association, which is acting as the exchange agent for the exchange offer. The exchange agent's address appears on the letter of transmittal. By tendering your old notes in either of these manners, you will represent to and agree with us that:

- you are acquiring the new notes in the ordinary course of your business;
- you are not engaged in, and you do not intend to engage in, the distribution (within the meaning of the Securities Act) of the new notes;
- you have no arrangement or understanding with anyone to participate in a distribution of the new notes; and
- you are not an "affiliate," as defined in Rule 405 under the Securities Act, of Central.

See "The Exchange Offer—Procedures for Tendering."

If you are a broker-dealer that will receive new notes for your own account in exchange for old notes that you acquired as a result of your market-making or other trading activities, you will be required to acknowledge in the letter of transmittal that you will deliver a prospectus in connection with any resale of these new notes.

### Resale of new notes

We believe that you may resell and transfer your new notes without registering them under the Securities Act and delivering a prospectus, if you can make the representations that appear above under the heading "—Procedures for participating in the exchange offer." Our belief is based on interpretations of the Securities and Exchange Commission (the "Commission") expressed in the Commission's no-action letters to other issuers in exchange offers like ours.

We cannot guarantee that the Commission would make a similar decision about this exchange offer. If our belief is wrong, or if you cannot truthfully make the representations appearing above, and you transfer any new note issued to you in the exchange offer without meeting the registration and prospectus delivery requirements of the Securities Act, or without an exemption from these requirements, you could incur liability under the Securities Act. We are not indemnifying you for any liability under the Securities Act. A broker-dealer can only resell or transfer new notes if it delivers a prospectus in connection with the resale or transfer.

### Special procedures for beneficial owners

If your old notes are held through a broker, dealer, commercial bank, trust company or other nominee and you wish to surrender your old notes, you should contact your intermediary promptly and instruct it to surrender the old notes on your behalf.

### Guaranteed delivery procedures

If you cannot meet the expiration date deadline, or you cannot deliver your old notes, the letter of transmittal or any other documentation on time, or the procedures for book-entry transfer cannot be completed



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## [Table of Contents](#)

	on time, then you must surrender your old notes according to the guaranteed delivery procedures appearing below under “The Exchange Offer—Guaranteed Delivery Procedures.”
Acceptance of your old notes and delivery of the new notes	We will accept for exchange any and all old notes that are surrendered in the exchange offer prior to the expiration date if you comply with the procedures of the offer. The new notes will be delivered on the earliest practicable date after the expiration date.
Withdrawal rights	You may withdraw the surrender of your old notes at any time prior to the expiration date.
Appraisal rights	You will not be entitled to any appraisal or dissenters’ rights nor any other right to seek monetary damages in court in connection with the exchange offer. See “The Exchange Offer—Terms of the Exchange Offer.”
U.S. federal income tax consequences	The exchange of old notes for new notes in the exchange offer generally will not be a taxable event for U.S. federal income tax purposes. See “U.S. Federal Income Tax Consequences.”
Exchange agent	Wells Fargo Bank, National Association, is serving as the exchange agent in connection with the exchange offer. Wells Fargo Bank, National Association, also serves as trustee under the indenture that governs the notes.

### Summary of the Terms of the New Notes

The following is a summary of the terms of the new notes. The terms of the new notes are identical in all material respects to the terms of the old notes, except that the registration rights provisions and the transfer restrictions applicable to the old notes are not applicable to the new notes. The new notes will evidence the same debt as the old notes. The new notes and the old notes will be governed by the same indenture.

Issuer	Central Garden & Pet Company
Securities	\$150 million aggregate principal amount of 9 <sup>1</sup> / <sub>8</sub> % Senior Subordinated Notes due 2013.
Maturity	February 1, 2013.
Interest	Annual rate: 9 <sup>1</sup> / <sub>8</sub> % Payment frequency: every six months on February 1 and August 1. First payment: August 1, 2003.
Guarantees	The new notes will be unconditionally guaranteed on a senior subordinated basis by each of our existing and future domestic restricted subsidiaries with certain exceptions. If we cannot make payments on the new notes when they are due, the guarantors must make them instead.
Ranking	<p>The new notes and the guarantees will be unsecured senior subordinated obligations. Accordingly, they will rank:</p> <ul style="list-style-type: none"><li>• behind all of our and the guarantors' existing and future senior debt, whether or not secured;</li><li>• equally with all of our and the guarantors' existing and future unsecured senior subordinated obligations that do not expressly provide that they are subordinated to the notes; and</li><li>• ahead of any of our and the guarantors' future debt that expressly provides that it is subordinated to the notes.</li></ul> <p>On a pro forma basis as of December 28, 2002, the new notes and the guarantees would have been subordinated to approximately \$75.8 million of senior debt. In addition, there would have been approximately \$130.0 million of unused commitments under our then outstanding senior credit facilities.</p>
Optional Redemption	<p>On or after February 1, 2008, we may redeem some or all of the new notes at any time at the redemption prices listed under "Description of the New Notes — Optional Redemption."</p> <p>Prior to February 1, 2006, we may redeem up to 33% of the new notes with the proceeds from certain equity offerings at the redemption price listed under "Description of the New Notes — Optional Redemption."</p>

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## Table of Contents

Change of Control	Upon a Change of Control, as that term is defined in the indenture, you will have the right, subject to certain conditions, to require us to repurchase your new notes, in whole or in part, at 101% of their principal amount, plus accrued and unpaid interest and liquidated damages, if any, to the repurchase date. See “Description of the New Notes — Change of Control.”
Certain Covenants	<p>The indenture governing the new notes will, among other things, limit our and the ability of our subsidiaries to:</p> <ul style="list-style-type: none"><li>• incur additional indebtedness;</li><li>• pay dividends or distributions on, or redeem or repurchase, capital stock;</li><li>• make investments;</li><li>• engage in transactions with affiliates;</li><li>• incur liens;</li><li>• transfer or sell assets; and</li><li>• consolidate, merge or transfer all or substantially all of our assets.</li></ul> <p>For more details, see “Description of the New Notes.”</p>
Use of Proceeds	We will not receive any proceeds from the exchange offer.

**You should refer to the section entitled “Risk Factors” for an explanation of certain risks of investing in the new notes.**

## RISK FACTORS

You should read and carefully consider the following risk factors as well as the other information contained in or incorporated by reference in this prospectus before deciding to surrender your old notes in exchange for new notes in this exchange offer.

### Risks Relating to the New Notes

***If you fail to exchange properly your old notes for new notes, you will continue to hold notes subject to transfer restrictions.***

We will only issue new notes in exchange for old notes that you timely and properly tender. Therefore, you should allow sufficient time to ensure timely delivery of the old notes and you should carefully follow the instructions on how to tender your old notes set forth under “The Exchange Offer—Procedures for Tendering” and in the letter of transmittal that you will receive with this prospectus. Neither we nor the exchange agent are required to tell you of any defects or irregularities with respect to your tender of old notes.

If you do not exchange your old notes for new notes in the exchange offer, the old notes you hold will continue to be subject to the existing transfer restrictions. In general, you may not offer or sell the old notes except under an exemption from, or in a transaction not subject to, the Securities Act and applicable state securities laws. We do not plan to register old notes and upon completion of the exchange offer you will not be entitled to any rights to have your old notes registered under the Securities Act. If you continue to hold any old notes after the exchange offer is completed, you may have trouble selling them because of the restrictions on transfer of the old notes.

***If an active trading market does not develop for the new notes, you may be unable to sell the new notes or to sell them at a price you deem sufficient.***

The new notes will be new securities for which there is no established trading market. We do not intend to list the new notes on any exchange. We cannot give you any assurance as to:

- the liquidity of any trading market that may develop;
- the ability of holders to sell their new notes; or
- the price at which holders would be able to sell their new notes.

Even if a trading market develops, the new notes may trade at higher or lower prices than their principal amount or purchase price, depending on many factors, including:

- prevailing interest rates;
- the number of holders of the notes;
- the interest of securities dealers in making a market for the notes;
- the market for similar notes; and
- our financial performance.

We understand that the initial purchasers of the old notes presently intend to make a market in the new notes. However, they are not obligated to do so and may discontinue making a market in the new notes at any time without notice. Finally, if a large number of holders of old notes do not tender old notes or tender old notes improperly, the limited amount of new notes that would be issued and outstanding after we complete the exchange offer could adversely affect the development of a market for the new notes.

## [Table of Contents](#)

### ***Our substantial indebtedness could adversely affect our financial health and prevent us from fulfilling our obligations under the new notes.***

We have a significant amount of indebtedness. The following table sets forth our total debt, total shareholders' equity, total capitalization and ratio of total debt to total capitalization on a pro forma basis:

	<b>Pro Forma as of December 28, 2002</b>	
	<b>(unaudited) (dollars in millions)</b>	
Total debt	\$	225.8
Total shareholders' equity		378.1
Total capitalization	\$	603.9
Ratio of total debt to total capitalization		37.4%

Our substantial indebtedness could have important consequences to you. For example, it could:

- make it more difficult for us to satisfy our obligations with respect to the new notes;
- increase our vulnerability to general adverse economic and industry conditions;
- require us to dedicate a substantial portion of our cash flow from operations to payments on our indebtedness, thereby reducing the availability of our cash flow to fund working capital, capital expenditures, acquisitions and investments and other general corporate purposes;
- limit our flexibility in planning for, or reacting to, changes in our business and the markets in which we operate;
- place us at a competitive disadvantage compared to our competitors that have less debt; and
- limit, among other things, our ability to borrow additional funds.

The terms of the indenture governing the new notes allow us to increase the amount of available borrowings under our senior credit facility and issue and incur additional debt upon satisfaction of certain conditions. If new debt is added to current debt levels, the related risks described above could increase.

### ***Our senior credit facility expires in two years, and we may need to extend or refinance it.***

Our senior credit facility is scheduled to expire in July 2004. If this facility is not repaid prior to its expiration, we will be required to extend or refinance this credit facility to meet our working capital requirements. We cannot assure you that we will be able to extend or refinance this facility on favorable terms, or at all.

### ***Your right to receive payments on the new notes and the guarantees is junior to our existing senior indebtedness and possibly all of our future borrowings. Further, a substantial portion of our existing senior indebtedness is secured. Obligations of certain future subsidiaries may be structurally senior to the new notes in certain circumstances.***

The new notes and the guarantees rank behind all of our and the guarantors' existing senior indebtedness and all of our and the guarantors' future senior indebtedness, including our senior credit facility. On a pro forma basis as of December 28, 2002, the new notes and the guarantees would have been subordinated to approximately \$75.8 million of senior debt. In addition, our then outstanding senior credit facilities would have permitted us to incur up to approximately \$130.0 million of additional borrowings, subject to compliance with the covenants and conditions to borrowing under our senior credit facility, which borrowings would be senior to the new notes and the guarantees. We will be permitted to borrow substantial additional indebtedness, including senior debt, in the future, subject to the terms of our senior credit facility.

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## Table of Contents

As a result of this subordination, upon any distribution to our creditors or the creditors of the guarantors in a bankruptcy, liquidation or reorganization or similar proceedings relating to us or the guarantors or our or the guarantors' property, the holders of our senior debt and the senior debt of the guarantors will be entitled to be paid in full in cash before any payment may be made with respect to the new notes or the guarantees.

In addition, all payments on the new notes and the guarantees will be blocked in the event of a payment default on senior debt and may be blocked for up to 179 consecutive days in the event of certain non-payment defaults on designated senior debt.

In the event of a bankruptcy, liquidation or reorganization or similar proceeding relating to us or the guarantors, the indenture relating to the new notes requires that amounts otherwise payable to holders of the new notes in a bankruptcy or similar proceeding be paid to holders of senior debt instead until the holders of senior debt are paid in full. As a result, holders of the new notes may not receive all amounts owed to them and may receive less, ratably, than holders of trade payables and other unsubordinated indebtedness in any such proceeding.

In addition to being contractually subordinated to all existing and future senior indebtedness, our obligations under the new notes will be unsecured while obligations under our senior credit facility are secured by substantially all of our assets and those of our subsidiaries. If we become insolvent or are liquidated, or if payment under our senior credit facility is accelerated, the lenders under our senior credit facility will have a claim on all of our assets before the holders of unsecured debt, including the new notes.

Finally, the indenture permits future foreign subsidiaries and certain other subsidiaries not to be guarantors and for guarantees to be released for subsidiaries we classify within certain "baskets" in the definition of Permitted Investments. Claims of creditors of those subsidiaries would be structurally senior to the new notes. See "Description of the New Notes."

***We will require a significant amount of cash to service our indebtedness. Our ability to generate cash depends on many factors beyond our control.***

Our ability to make payments on and to refinance our indebtedness, including the new notes and amounts borrowed under our senior credit facility, and to fund planned capital expenditures and expansion efforts and strategic acquisitions we may make in the future, if any, will depend on our ability to generate cash in the future. This, to a certain extent, is subject to general economic, financial, competitive and other factors that are beyond our control.

We cannot assure you that our business will generate sufficient cash flow from operations in the future, that our currently anticipated growth in revenues and cash flow will be realized on schedule or that future borrowings will be available to us under our senior credit facility in an amount sufficient to enable us to service indebtedness, including the new notes, or to fund other liquidity needs. We may need to refinance all or a portion of our indebtedness, including the new notes and our senior credit facility, on or before maturity. We cannot assure you that we will be able to do so on commercially reasonable terms or at all.

***The indenture related to the new notes contains, and our senior credit facility contains, various covenants that limit our management's discretion in the operation of our business.***

The indenture related to the new notes contains, and our senior credit facility contains, various provisions that limit our management's discretion by restricting our and our subsidiaries' ability to, among other things:

- incur additional indebtedness;
- pay dividends or distributions on, or redeem or repurchase, capital stock;

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## Table of Contents

- make investments;
- engage in transactions with affiliates;
- incur liens;
- transfer or sell assets; and
- consolidate, merge or transfer all or substantially all of our assets.

In addition, our senior credit facility requires us to meet certain financial ratios. Any failure to comply with the restrictions of our senior credit facility, the indenture related to the new notes or any other subsequent financing agreements may result in an event of default. An event of default may allow the creditors, if the agreements so provide, to accelerate the related debt as well as any other debt to which a cross-acceleration or cross-default provision applies. In addition, the lenders may be able to terminate any commitments they had made to supply us with further funds.

***We may not have the ability to raise the funds necessary to finance the change of control offer required by the indenture. Our credit agreement prohibits prepayments of the new notes.***

Upon the occurrence of certain specific kinds of change of control events and following certain asset sales, we will be required to offer to repurchase all of the new notes outstanding then outstanding. However, it is possible that we will not have sufficient funds at the time of the change of control to make the required repurchase of the new notes. In addition, restrictions in our senior credit facility prohibit repurchases of the new notes following a change of control or certain asset sales unless a waiver is obtained from the lenders. If we fail to repurchase the new notes following a change of control or certain asset sales, we will be in default under the indenture related to the new notes, which may result in a cross-default under our senior credit facility. Any future debt that we incur may also contain restrictions on repayment of the new notes. In addition, certain important corporate events, such as leveraged recapitalizations, that would increase the level of our indebtedness would not constitute a change of control under the indenture related to the new notes. See “Description of Certain Indebtedness — Senior Credit Facility,” “Description of the New Notes — Repurchase at the Option of Holders — Change of Control” and “Description of the New Notes — Assets Sales.”

***Federal and state statutes allow courts, under specific circumstances, to void guarantees and require noteholders to return payments received from guarantors.***

If a bankruptcy case or lawsuit is initiated by unpaid creditors of any guarantor, the debt represented by the guarantees entered into by the guarantors may be reviewed under the federal bankruptcy law and comparable provisions of state fraudulent transfer laws. Under these laws, a guarantee could be voided, or claims in respect of the guarantee could be subordinated to certain obligations of a guarantor if, among other things, the guarantor, at the time it entered into the guarantee:

- received less than reasonably equivalent value or fair consideration for entering into the guarantee; and
- either:
  - was insolvent or rendered insolvent by reason of entering into a guarantee; or
  - was engaged in a business or transaction for which the guarantor’s remaining assets constituted unreasonably small capital; or
  - intended to incur, or believed that it would incur, debts or contingent liabilities beyond its ability to pay them as they become due.

In addition, any payment by a guarantor could be voided and required to be returned to the guarantor or to a fund for the benefit of the guarantor’s creditors under those circumstances.

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## Table of Contents

If a guarantee of a subsidiary were voided as a fraudulent conveyance or held unenforceable for any other reason, holders of the new notes would be solely creditors of our company and creditors of our other subsidiaries that have validly guaranteed the new notes. The new notes then would be effectively subordinated to all liabilities of the subsidiary whose guarantee was voided.

The measures of insolvency for purposes of these fraudulent transfer laws will vary depending upon the law applied in any proceeding to determine whether a fraudulent transfer has occurred. Generally, however, a guarantor would be considered insolvent if:

- the sum of its debts, including contingent liabilities, were greater than the fair saleable value of all of its assets; or
- the present fair saleable value of its assets were less than the amount that would be required to pay its probable liability on its existing debts, including contingent liabilities, as they become absolute and mature; or
- it could not pay its debts or contingent liabilities as they become due.

The indenture requires that future domestic subsidiaries guarantee the new notes with certain exceptions. These considerations will also apply to those guarantees.

### **Risks Relating to Our Company**

#### ***We may be adversely affected by trends in the retail industry.***

With the growing trend towards retail trade consolidation, we are increasingly dependent upon key retailers whose bargaining strength is growing. Our business may be negatively affected by changes in the policies of our retailer customers, such as inventory destocking, limitations on access to shelf space, price demands and other conditions. In addition, as a result of the desire of retailers to more closely manage inventory levels, there is a growing trend among retailers to make purchases on a “just-in-time” basis. This requires us to shorten our lead time for production in certain cases and more closely anticipate demand, which could in the future require the carrying of additional inventories and increase our working capital and related financing requirements.

A significant deterioration in the financial condition of one of our major customers could have a material adverse effect on our sales, profitability and cash flow. For example, in fiscal 2001, Kmart and House & Home filed for bankruptcy and, as a result, we wrote off \$3.1 million in receivables. We continually monitor and evaluate the credit status of our customers and attempt to adjust sales terms as appropriate. Despite these efforts, another bankruptcy filing by a key customer could have a material adverse effect on our business, results of operations, financial condition and cash flow.

#### ***We depend on a few customers for a significant portion of our business.***

Wal\*Mart, our largest customer, accounted for approximately 20% of our net sales in fiscal 2002, 21% in fiscal 2001 and 25% in fiscal 2000. In addition, although each accounted for less than 10% of our net sales, Home Depot, Lowe’s, PETsMART and Petco are also significant customers and, together with Wal\*Mart, accounted for approximately 42% of our net sales in fiscal 2002, 41% in fiscal 2001 and 41% in fiscal 2000. The market shares of all of these key retailers have increased during the last several years and may continue to increase in future years. See note 4 of our consolidated financial statements.

The loss of, or significant adverse change in, our relationship with any of these key retailers could cause our net sales, income from operations and cash flow to decline. The loss of, or reduction in, orders from any significant customer, losses arising from customer disputes regarding shipments, fees, merchandise condition or related matters, or our inability to collect accounts receivable from any major customer could reduce our income from operations and cash flow.



***We cannot be certain that our product innovations and marketing successes will continue.***

We believe that our past performance has been based upon, and our future success will depend upon, in part, our ability to continue to improve our existing products through product innovation and to develop, market and produce new products. We cannot assure you that we will be successful in the introduction, marketing and production of any new products or product innovations, or develop and introduce in a timely manner innovations to our existing products which satisfy customer needs or achieve market acceptance. Our failure to develop new products and introduce them successfully and in a timely manner could harm our ability to grow our business and could have a material adverse effect on our business, results of operations, financial condition and cash flow.

***Seeds and grains we use to produce bird feed and grass seed are commodity products subject to price volatility that has had, and could have, a negative impact on us.***

Our financial results depend to some extent on the cost of raw materials and our ability to pass along increases in these costs to our customers. In particular, our Pennington and Kaytee subsidiaries are exposed to fluctuations in market prices for commodity seeds and grains used to produce bird feed and grass seed. Historically, market prices for commodity seeds and grains have fluctuated in response to a number of factors, including changes in United States government farm support programs, changes in international agricultural and trading policies and weather conditions during the growing and harvesting seasons. For example, a significant rise in our white millet acquisition cost in late 2000, 2001 and 2002 had a negative impact on profitability of bird feed products in fiscal 2001 and in the first quarter of fiscal 2003. In the event of any increases in raw materials costs, we would be required to increase sales prices to avoid margin deterioration. We cannot assure you as to the timing or extent of our ability to implement future price adjustments in the event of increased raw material costs or as to whether any price increases implemented by us may affect the volumes of future shipments.

To mitigate our exposure to changes in market prices, we enter into purchase contracts for grains, bird feed and grass seed to cover up to approximately one-third of the purchase requirements for a selling season. Since these contracts cover only a portion of our purchase requirements, if market prices for grains increase, our cost of production would increase. In contrast, if market prices for grains decrease because of a lack of demand, we may end up purchasing grains and seeds pursuant to the purchase contracts at prices above market.

***Competition in our industries may hinder our ability to execute our business strategy, achieve profitability, or maintain relationships with existing customers.***

We operate in highly competitive industries. We compete against numerous other companies, some of which are more established in their industries and have substantially greater revenue or resources than we do. Our products compete against national and regional products and private label products produced by various suppliers. Our largest competitor in pet supplies products is Hartz Mountain and our largest competitor in lawn and garden products is The Scotts Company. Since its acquisition of the Ortho line of lawn and garden products from Pharmacia Corporation (formerly Monsanto) in 1999, Scotts' dominant position in the lawn and garden industry has been a significant competitive disadvantage for Garden Products.

To compete effectively, among other things, we must:

- maintain our relationships with key retailers;
- continually develop innovative new products that appeal to consumers;
- maintain strict quality standards;
- deliver products on a reliable basis at competitive prices; and
- effectively integrate acquired companies and adapt them to our internal controls.

Competition could cause lower sales volumes, price reductions, reduced profits or losses, or loss of market share. Our inability to compete effectively could have a material adverse effect on our business, results of operations, financial condition and cash flow.

***Our acquisition strategy involves a number of risks.***

We have completed 13 acquisitions since 1997 and intend to grow through the acquisition of additional companies. We are regularly engaged in acquisition discussions with a number of companies and anticipate that one or more potential acquisition opportunities, including those that would be material, may become available in the near future. If and when appropriate acquisition opportunities become available, we intend to pursue them actively. Further, acquisitions involve a number of special risks, including:

- failure of the acquired business to achieve expected results;
- diversion of management's attention;
- failure to retain key personnel of the acquired business;
- additional financing that, if available, could increase leverage, dilute equity, or both;
- the potential negative effect on our financial statements from an increase in goodwill and other intangibles;
- the high cost and expenses of completing acquisitions and risks associated with unanticipated events or liabilities; and
- possible difficulties in integrating acquired businesses.

These risks could have a material adverse effect on our business, results of operations and financial condition and cash flow.

We expect to face competition for acquisition candidates, which may limit the number of opportunities and may lead to higher acquisition prices. In fiscal 2002, we wrote off \$146.7 million of goodwill related to previous acquisitions in accordance with SFAS 142. We cannot assure you that we will be able to identify, acquire, or manage profitably additional businesses or to integrate successfully any acquired businesses into our existing business without substantial costs, delays or other operational or financial difficulties. In future acquisitions, we also could incur additional indebtedness or pay consideration in excess of fair value, which could have a material adverse effect on our business, results of operations, financial condition and cash flow.

***Our lawn and garden sales are highly seasonal and subject to adverse weather, either of which could impact our cash flow and operating results.***

Because our lawn and garden products are used primarily in the spring and summer, Garden Products' business is highly seasonal. In fiscal 2002, approximately 64% of Garden Products' sales and 58% of our total sales occurred during our second and third fiscal quarters. Substantially all of Garden Products' operating income and cash flow is generated in this period. Our working capital needs and our borrowings generally peak near the middle of our second fiscal quarter because we are generating fewer revenues while incurring expenses in preparation for the spring selling season. If cash on hand and borrowings under our credit facilities are ever insufficient to meet our seasonal needs or if cash flow generated during the spring and summer is insufficient to repay our borrowings on a timely basis, this seasonality could have a material adverse effect on our business, results of operations, financial condition and cash flow.

Because demand for lawn and garden products is significantly influenced by weather, particularly weekend weather during the peak gardening season, our results of operations and cash flow could also be adversely affected by certain weather patterns such as unseasonably cool or warm temperatures, water shortages or floods. During the last several years, our results of operations and cash flow were negatively affected by severe weather conditions in some parts of the United States.

***Our operating results and cash flow are susceptible to fluctuations.***

We expect to continue to experience variability in our net sales, net income and cash flow on a quarterly basis. Factors that may contribute to this variability include:

- weather conditions during peak gardening seasons and seasonality;
- shifts in demand for lawn and garden products;
- shifts in demand for pet products;
- changes in product mix, service levels and pricing by us and our competitors;
- the effect of acquisitions, including the costs of acquisitions that are not completed; and
- economic stability of retail customers.

These fluctuations could negatively impact our business, including our ability to pay our obligations, including the new notes, as they come due.

***Our operating results have been adversely affected by a number of factors that management does not consider representative of our ongoing performance. Our assessment of the impact of those factors is based on management estimates.***

The improvement in our operating results and cash flow in fiscal 2002 compared to fiscal 2001 was based, to a significant degree, on a substantial reduction in fiscal 2002 of expenses and charges that management considers unrepresentative of our ongoing or “core” performance. These expenses and charges are described in “Management’s Discussion and Analysis of Financial Condition and Results of Operations — Other Charges and Unusual Expenses,” of our Annual Report on Form 10-K for the fiscal year ended September 28, 2002. Management believes this discussion provides investors with useful supplemental information in assessing our business, but it is not intended as a substitute for any analysis of our operating performance or cash flow as reported under GAAP. A number of the amounts so described are primarily based on management estimates and assumptions, and cannot be directly derived from our financial statements or accounting records. Moreover, there is no accounting standard or principle that governs our classification of any particular matter as unusual or non-recurring. As with most businesses, it is of course possible that we will incur other significant expenses in the nature of those described (including additional litigation expense) in the future while the new notes are outstanding. Investors are cautioned against placing undue reliance on any analysis of the impact of these amounts on our performance.

***Our success is dependent upon retaining key personnel.***

Our future performance is substantially dependent upon the continued services of William E. Brown, our Chairman and Chief Executive Officer, Glenn W. Novotny, our President and Chief Operating Officer, and Brooks M. Pennington III, the President of our Pennington subsidiary. We recently announced that Mr. Novotny will become our Chief Executive Officer in June 2003. The loss of the services of any of these persons could have a material adverse effect upon us. In addition, our future performance depends on our ability to attract and retain skilled employees. We cannot assure you that we will be able to retain our existing personnel or attract additional qualified employees in the future.

***Some of the products that we manufacture and distribute require governmental permits and also subject us to potential environmental liabilities.***

Many of the products that we manufacture and distribute are subject to regulation by federal, state and local authorities. Such regulations are often complex and are subject to change. Environmental regulations may affect us by restricting the manufacturing or use of our products or regulating their disposal. Regulatory or legislative changes may cause future increases in our operating costs or otherwise affect operations. Although we believe we

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## **Table of Contents**

are and have been in substantial compliance with such regulations and have internal guidelines on the handling and disposal of our products, there is no assurance that in the future we may not be adversely affected by such regulations or incur increased operating costs in complying with such regulations. However, neither the compliance with regulatory requirements nor our environmental procedures can ensure that we will not be subject to claims for personal injury, property damages or governmental enforcement. In addition, while we do not anticipate having to make, and historically have not had to make, significant capital expenditures to comply with applicable environmental laws and regulations, due to the nature of our operations and the frequently changing nature of environmental compliance standards and technology, we cannot predict with any certainty that future material capital expenditures will not be required.

In addition to operational standards, environmental laws also impose obligations on various entities to clean up contaminated properties or to pay for the cost of such remediation, often upon parties that did not actually cause the contamination. Accordingly, we may become liable, either contractually or by operation of law, for remediation costs even if the contaminated property is not presently owned or operated by us, or if the contamination was caused by third parties during or prior to our ownership or operation of the property. With our extensive acquisition history, we have acquired a number of manufacturing and distribution facilities. Given the nature of the past operations conducted by us and others at these properties, there can be no assurance that all potential instances of soil or groundwater contamination have been identified, even for those properties where an environmental site assessment has been conducted. While we are not subject to any existing remediation obligations, future events, such as changes in existing laws or policies or their enforcement, or the discovery of currently unknown contamination, may give rise to future remediation liabilities that may be material.

### ***The products that we manufacture could expose us to product liability claims.***

Our business exposes us to potential product liability risks, which are inherent in the manufacture and distribution of certain of our products. Although we generally seek to insure against such risks, there can be no assurance that such coverage is adequate or that we will be able to maintain such insurance on acceptable terms. A successful product liability claim in excess of our insurance coverage could have a material adverse effect on us and could prevent us from obtaining adequate product liability insurance in the future on commercially reasonable terms.

### ***We have pending litigation which could adversely impact our business, operating results, financial condition and cash flow.***

We are a party to certain legal proceedings, including the litigation between us and Scotts and litigation arising from a fire which destroyed our Phoenix, Arizona facility. We are currently unable to determine the total expense or possible loss, if any, that may ultimately be incurred in the resolution of our legal proceedings. Regardless of the ultimate outcome of our legal proceedings, they could result in significant diversion of time by our management. The results of our pending legal proceedings, including any potential settlements, are uncertain and we cannot assure you that the outcome of these disputes will not materially adversely affect our business, operating results, financial condition and cash flow.

### ***The holders of our Class B stock, through their voting power, can greatly influence control of Central.***

As of December 31, 2002, William E. Brown, our Chairman and Chief Executive Officer, controlled approximately 47.5% of the voting power of our capital stock and, therefore, can effectively control all matters requiring stockholder approval, including the power to elect all of our directors. As a result, William E. Brown has the ability to control our policies and operations. Circumstances may occur in which the interests of Mr. Brown, as a principal stockholder, could be in conflict with your interests as a holder of the new notes. In addition, our equity investors may have an interest in pursuing acquisitions, divestitures and other transactions that, in their judgment, could enhance their equity investment, even though such transactions might involve risks to you as a holder of the new notes.

## USE OF PROCEEDS

This exchange offer is intended to satisfy our obligations under the registration rights agreement that we entered into relating to the old notes. We will not receive any proceeds from the exchange offer. You will receive, in exchange for old notes tendered by you in the exchange offer, new notes in like principal amount. The old notes surrendered in exchange for the new notes will be retired and cancelled and cannot be reissued. Accordingly, the issuance of the new notes will not result in any increase of our outstanding debt.

We received approximately \$144.0 million of net proceeds from the sale of the old notes. We used approximately \$118.9 million of the net proceeds to redeem our 6% convertible subordinated notes due 2003, including the payment of premium and accrued interest, and approximately \$14.8 million of the net proceeds to repay outstanding amounts under two senior secured term loans at our All-Glass Aquarium subsidiary. We used the balance of the proceeds to repay a portion of debt outstanding under our Pennington credit facility.

## RATIO OF EARNINGS TO FIXED CHARGES

The following table sets forth our ratio of earnings to fixed charges for the periods indicated:

Fiscal Year Ended					Three Months Ended	
September 26, 1998	September 25, 1999	September 30, 2000	September 29, 2001	September 28, 2002	December 29, 2001	December 28, 2002
7.39	4.06	—	—	3.81	—	—

For purposes of computing the ratio of earnings to fixed charges, earnings consist of income (loss) before taxes and cumulative effect of accounting change, excluding income and losses associated with equity investees and before fixed charges. Fixed charges consist of interest expense, the portion of rental expense under operating leases deemed by management to be representative of an interest factor and amortization of deferred financing costs. In the fiscal years ended September 30, 2000 and September 29, 2001, and the quarters ended December 29, 2001 and December 28, 2002, our fixed charges exceeded the sum of our earnings and fixed charges by \$10.6 million, \$9.0 million, \$2.0 million and \$0.9 million, respectively.

## CAPITALIZATION

The following table sets forth our cash and cash equivalents and capitalization, both on an actual basis and as adjusted to give effect to the sale of the old notes and the application of the net proceeds therefrom. This table should be read in conjunction with “Use of Proceeds” and our consolidated financial statements, including the related notes, appearing elsewhere in this prospectus.

	As of December 28, 2002	
	Actual	As Adjusted
	(in thousands)	
Cash and cash equivalents	\$ 14,790	\$ 14,790
Debt, including current installments:		
Senior credit facilities and term loans(1)	\$ 79,443	\$ 53,422
Other senior secured debt	22,391	22,391
Convertible Subordinated Notes due 2003	115,000	—
Senior Subordinated Notes due 2013	—	150,000
Total debt	216,834	225,813
Total shareholders' equity	378,916	378,099
Total capitalization	\$ 595,750	\$ 603,912

- (1) At December 28, 2002, the senior credit facilities and term loans consisted of three facilities as follows: (i) a \$125.0 million senior credit facility, with Congress Financial Corporation (Western), at Central and certain of its subsidiaries (excluding our Pennington subsidiary and its subsidiaries) of which \$29.8 million was outstanding at December 28, 2002; (ii) a \$95.0 million senior credit facility at our Pennington subsidiary, of which \$34.8 million was outstanding at December 28, 2002; and (iii) a \$10.0 million senior credit facility at our All-Glass Aquarium subsidiary, of which there was no outstanding balance at December 28, 2002, and two senior secured term loans at our All-Glass Aquarium subsidiary in the aggregate principal amount of \$14.8 million as of December 28, 2002. In January 2003, we increased the Congress Financial credit facility to \$175.0 million. The All-Glass senior credit facility and term loans and Pennington credit facility were repaid and terminated with proceeds from the sale of the old notes, together with borrowings under our Congress Financial credit facility, at the closing of the sale of the old notes.

## SELECTED HISTORICAL FINANCIAL DATA

The following selected income statement and balance sheet data as of and for the fiscal years ended September 26, 1998, September 25, 1999, September 30, 2000, September 29, 2001 and September 28, 2002 have been derived from our audited consolidated financial statements. The historical consolidated financial data as of and for the three months ended December 29, 2001 and December 28, 2002 are unaudited but have been prepared on the same basis as the audited consolidated financial statements and contain all adjustments, consisting of only normal recurring accruals, that we consider necessary for a fair presentation of the financial position and results of operations for the periods presented. The financial data set forth below should be read in conjunction with our consolidated financial statements and related notes contained elsewhere in this prospectus.

	Fiscal Year Ended					Three Months Ended	
	September 26, 1998	September 25, 1999	September 30, 2000	September 29, 2001	September 28, 2002	December 29, 2001	December 28, 2002
	(in thousands)						
<b>Statement of Operations Data:</b>							
Net sales(1)	\$ 1,293,330	\$ 1,531,615	\$ 1,350,878	\$ 1,122,999	\$ 1,077,780	\$ 210,659	\$ 211,936
Cost of goods sold and occupancy	1,021,826	1,212,319	1,037,701	811,186	757,437	149,157	150,718
Gross profit	271,504	319,296	313,177	311,813	320,343	61,502	61,218
Selling, general and administrative expenses	200,677	262,366	274,077	297,751	267,579	59,621	59,254
Other charges(2)	6,903	2,708	27,156	—	—	—	—
Income from operations	63,924	54,222	11,944	14,062	52,764	1,881	1,964
Interest expense, net	(7,609)	(12,087)	(22,551)	(23,083)	(14,608)	(3,911)	(2,817)
Other income (expense)	1,534	1,106	1,176	1,631	5,548	(528)	(341)
Income (loss) before income taxes and cumulative effect of accounting change	57,849	43,241	(9,431)	(7,390)	43,704	(2,558)	(1,194)
Income taxes	24,302	19,041	4,053	(247)	15,159	(1,049)	(477)
Income (loss) before cumulative effect of accounting change	33,547	24,200	(13,484)	(7,143)	28,545	(1,509)	(717)
Cumulative effect of accounting change	—	—	—	—	(112,237)	(112,237)	—
Net income (loss)	\$ 33,547	\$ 24,200	\$ (13,484)	\$ (7,143)	\$ (83,692)	\$ (113,746)	\$ (717)

## Table of Contents

	Fiscal Year Ended					Three Months Ended	
	September 26, 1998	September 25, 1999	September 30, 2000	September 29, 2001	September 28, 2002	December 29, 2001	December 28, 2002
(in thousands)							
<b>Balance Sheet Data:</b>							
Cash and cash equivalents	\$ 10,328	\$ 8,017	\$ 5,685	\$ 8,292	\$ 10,884	\$ 5,692	\$ 14,790
Total assets(5)	928,554	955,394	945,311	916,626	731,957	788,050	732,977
Total debt	133,220	221,266	282,758	278,098	212,899	278,768	216,834
Shareholders' equity(5)	588,628	495,291	461,840	455,315	377,508	341,569	378,916
<b>Other Data:</b>							
Depreciation and amortization	16,114	20,492	26,035	28,362	17,616	4,284	4,501
Capital expenditures	18,904	18,640	16,663	13,888	10,907	1,920	2,467
Cash from operating activities	30,830	63,613	40,076	38,814	72,813	(1,350)	313
Cash used in investing activities	(238,796)	(32,731)	(51,069)	(32,165)	(10,907)	(1,920)	(2,467)
Cash from (used in) financing activities	118,169	(33,193)	8,661	(4,042)	(59,314)	670	6,060
Ratio of earnings to fixed charges(4)	7.4 x	4.1 x	—	—	3.8 x	—	—
EBITDA(3)	\$ 80,038	\$ 74,714	\$ 37,979	\$ 42,424	\$ 70,380	\$ 6,165	\$ 6,465

- (1) See "Management's Discussion and Analysis of Financial Condition and Results of Operations" of our Annual Report on Form 10-K for the fiscal year ended September 28, 2002 for a discussion of sales fluctuations related to internal growth and business acquisitions for fiscal years 2000 and 2001.
- (2) Other charges includes charges resulting from workforce reductions, employee benefit obligations, facility closures, and asset impairments due to the termination of our distribution arrangement with The Scotts Company and other anticipated sales decreases in the distribution business.
- (3) "EBITDA" is calculated as income from operations plus depreciation and amortization.

	Fiscal Year Ended					Three Months Ended	
	September 26, 1998	September 25, 1999	September 30, 2000	September 29, 2001	September 28, 2002	December 29, 2001	December 28, 2002
(in thousands)							
Income from operations	\$ 63,924	\$ 54,222	\$ 11,944	\$ 14,062	\$ 52,764	\$ 1,881	\$ 1,964
Depreciation and amortization	16,114	20,492	26,035	28,362	17,616	4,284	4,501
EBITDA	\$ 80,038	\$ 74,714	\$ 37,979	\$ 42,424	\$ 70,380	\$ 6,165	\$ 6,465

EBITDA is not intended to represent cash flow from operations as defined by accounting principles generally accepted in the United States and should not be used as an alternative to net income as an indicator of operating performance or to cash flow as a measure of liquidity. EBITDA is included in this prospectus because it is a basis upon which our management assesses financial performance. While EBITDA is frequently used as a supplemental measure of operations and the ability to meet debt service requirements, it is not necessarily comparable to other similarly titled captions of other companies due to potential inconsistencies in the method of calculation.



## Table of Contents

As presented, our EBITDA reflects the impact of a number of charges and unusual items that reduced EBITDA significantly in each year and that management does not consider indicative of our ongoing financial performance. For a discussion of these items, see “Risk Factors” on page 14 regarding other charges and unusual expenses. A summary of these other charges and unusual items is as follows:

	Fiscal Year Ended				
	September 26, 1998	September 25, 1999	September 30, 2000	September 29, 2001	September 28, 2002
	(in thousands)				
Other charges	\$ 6,903	\$ 2,708	\$ 27,156	\$ —	\$ —
Unusual items:					
Legal and Professional	—	—	3,800	12,472	14,557
Closed branches	—	—	—	4,184	1,608
Personnel reductions	—	—	—	4,508	—
Excess freight	—	—	—	2,063	—
Excess bad debt	—	—	—	3,100	—
Pre-press publication and inventory write downs	—	—	7,500	3,700	—
Kal Kan	—	—	—	—	1,802
	\$ 6,903	\$ 2,708	\$ 38,456	\$ 30,027	\$ 17,967

- (4) For purposes of determining the ratio of earnings to fixed charges, earnings consist of income (loss) before income tax (provision) benefit and cumulative effect of accounting change, excluding income and losses associated with equity investees, and before fixed charges. Fixed charges consist of interest expense, the portion of rental expense under operating leases deemed by management to be representative of the interest factor and amortization of deferred financing costs. In the fiscal years ended September 30, 2000 and September 29, 2001, and the quarters ended December 29, 2001 and December 28, 2002, our fixed charges exceeded the sum of our earnings and fixed charges by \$10.6 million, \$9.0 million, \$2.0 million and \$0.9 million, respectively.
- (5) In July 2001, the Financial Accounting Standards Board (“FASB”) issued Statement of Financial Accounting Standards (“SFAS”) No. 142, “Goodwill and Other Intangible Assets.” As required by SFAS No. 142, we performed our goodwill impairment analysis and recorded a non-cash charge to write down goodwill in Garden Products by \$51.9 million (\$42.1 million after tax) and in Pet Products by \$94.8 million (\$70.1 million after tax), which reduced our total assets and shareholders’ equity as of September 28, 2002.

## DESCRIPTION OF CERTAIN INDEBTEDNESS

### Senior Credit Facility

The description below is a summary of the material provisions of the credit agreement for our senior credit facility. It does not restate the credit agreement in its entirety. We urge you to read the credit agreement because it, and not this description, defines the terms of our material outstanding indebtedness. We have not included the definitions of many of the defined terms contained in the credit agreement, and we urge you to refer to such document for the definitions of capitalized terms in the following summary. A copy of the credit agreement is available as set forth under the section entitled "Where You Can Find Additional Information And Incorporation By Reference."

**General.** Central and certain of our subsidiaries are parties to a revolving credit facility provided by Congress Financial Corporation (Western). The credit facility provides aggregate financing for Central and certain of our subsidiaries which are designated as co-borrowers with an aggregate revolving loan commitment of up to \$175.0 million. Availability under this credit facility fluctuates based upon the value of assets eligible for inclusion in the borrowing base under the terms of the credit agreement. Additionally, a portion of the total commitment under this credit facility, not to exceed \$15.0 million, is available for the issuance of letters of credit. The revolving credit facility expires on July 12, 2004 and renews for successive one year terms thereafter unless sooner terminated upon at least sixty (60) days prior written notice.

**Interest Rates.** We may elect that all or a portion of the amounts outstanding under the credit facility bear interest at a rate equal to: (i) LIBOR for one, two or three months plus 2.00%, or (ii) the prime rate. Beginning with the first reporting period following the September 2002 fiscal year end, the LIBOR margin will fluctuate from 1.75% to 3.00%, determined quarterly based on the borrowers' EBITDA for the most recent trailing twelve month period.

**Prepayments and Commitment Reductions.** We may prepay amounts outstanding under the credit facility in whole or in part at any time without penalty, subject to reimbursement of the lenders' breakage and redeployment costs in the case of prepayment of LIBOR borrowings. If the credit facility is terminated prior to the then current expiration date, an early termination fee of \$187,500 is required to be paid to Congress Financial.

**Covenants.** Under the credit facility, we are subject to certain financial and operating covenants requiring us to maintain minimum levels of tangible net worth and EBITDA. In addition, the credit facility contains various affirmative and negative covenants, including, but not limited to, limitations on mergers, acquisitions and sales of assets, liens or other encumbrances, indebtedness, loans, investments, guarantees, dividends and redemptions. A breach of any of these covenants or other covenants included in the credit agreement would be cause for acceleration of repayment and termination of the credit agreement.

**Events of Default.** Subject to certain exceptions, events of default under the credit agreement include, among other things, non-payment; failure to perform; certain judgments rendered against any borrower; bankruptcy and insolvency events; certain cross defaults; change in control; and any material adverse change.

**Security and Guarantees.** All obligations under the credit facility are secured by a continuing security interest in, a lien upon, and a right of set off against, all present and future assets and properties of the borrowers. In connection with this offering, we have received consent from Congress Financial for all of our existing domestic restricted subsidiaries to be guarantors of the notes on a senior subordinated basis. We may require consent from Congress Financial for future domestic restricted subsidiaries to be guarantors of the notes.

### Outstanding Industrial Development Revenue Bonds

Central and its subsidiaries also have outstanding approximately \$8.5 million of industrial development revenue bonds as of December 28, 2002, which mature from 2004 to 2018.

## THE EXCHANGE OFFER

### Purpose and Effect of the Exchange Offer

We sold the old notes on January 30, 2001 to Banc of America Securities LLC and certain other initial purchasers pursuant to a purchase agreement. These initial purchasers subsequently sold the old notes to:

- “qualified institutional buyers” (“QIBs”), as defined in Rule 144A under the Securities Act, in reliance on Rule 144A; and
- persons in offshore transactions in reliance on Regulation S under the Securities Act.

As a condition to the initial sale of the old notes, we entered into a registration rights agreement with the initial purchasers. Pursuant to the registration rights agreement, we agreed to:

- file with the Commission by April 30, 2003 a registration statement under the Securities Act with respect to the issuance of the new notes in an exchange offer; and
- use our best efforts to cause the registration statement to become effective under the Securities Act on or before July 29, 2003.

We agreed to issue and exchange the new notes for all old notes validly tendered and not validly withdrawn prior to the expiration of the exchange offer. A copy of the registration rights agreement has been filed as an exhibit to the registration statement which includes this prospectus. The filing of the registration statement is intended to satisfy some of our obligations under the registration rights agreement and the purchase agreement.

The term “holder” with respect to the exchange offer means any person in whose name old notes are registered on the trustee’s books or any other person who has obtained a properly completed bond power from the registered holder, or any person whose old notes are held of record by The Depository Trust Company, which we refer to as the “Depository” or “DTC,” who desires to deliver the old notes by book-entry transfer at DTC.

### Terms of the Exchange Offer

Based on the terms and conditions in this prospectus and in the letter of transmittal, we will issue \$1,000 principal amount of new notes in exchange for each \$1,000 principal amount of outstanding old notes properly surrendered pursuant to the exchange offer and not withdrawn prior to the expiration date. Old notes may be surrendered only in integral multiples of \$1,000. The form and terms of the new notes are the same as the form and terms of the old notes except that:

- the new notes will be registered under the Securities Act and will not bear legends restricting the transfer of the new notes; and
- holders of the new notes will not be entitled to any of the registration rights and related additional interest payment of holders of old notes under the registration rights agreement.

The new notes will evidence the same indebtedness as the old notes, which they replace, and will be issued under, and be entitled to the benefits of, the same indenture, which authorized the issuance of the old notes. As a result, the new notes will be treated as a single class of debt securities under the indenture.

As of the date of this prospectus, \$150 million in aggregate principal amount of the old notes is outstanding. All of it is registered in the name of Cede & Co., as nominee for DTC. Solely for reasons of administration, we have fixed the close of business on \_\_\_\_\_, 2003 as the record date for the exchange offer for purposes of determining the persons to whom this prospectus and the letter of transmittal will be mailed initially. There will be no fixed record date for determining holders of the old notes entitled to participate in this exchange offer.

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## Table of Contents

In connection with the exchange offer, neither the General Corporation Law of the State of Delaware nor the indenture governing the notes gives you any appraisal or dissenters' rights nor any other right to seek monetary damages in court. We intend to conduct the exchange offer in accordance with the provisions of the registration rights agreement and the applicable requirements of the Securities Exchange Act and the related Commission rules and regulations.

For all relevant purposes, we will be regarded as having accepted properly surrendered old notes if and when we give oral or written notice of our acceptance to the exchange agent. The exchange agent will act as agent for the surrendering holders of old notes for the purposes of receiving the new notes from us.

If you surrender old notes in the exchange offer, you will not be required to pay brokerage commissions or fees. In addition, subject to the instructions in the letter of transmittal, you will not have to pay transfer taxes for the exchange of old notes. We will pay all charges and expenses, other than certain applicable taxes described under "—Fees and Expenses."

### **Expiration Date; Extensions; Amendments**

The "expiration date" is 5:00 p.m., New York City time on \_\_\_\_\_, 2003 unless we extend the exchange offer, in which case the expiration date is the latest date and time to which we extend the exchange offer.

In order to extend the exchange offer, we will:

- notify the exchange agent of any extension by oral or written notice; and
- issue a press release or other public announcement which would include disclosure of the approximate number of old notes deposited and which would be issued prior to 9:00 a.m., New York City time, on the next business day after the previously scheduled expiration date.

We reserve the right:

- to delay accepting any old notes;
- to extend the exchange offer;
- to terminate or amend the exchange offer, and not accept for exchange any old notes not previously accepted for exchange, upon the occurrence of any of the events set forth in "—Conditions of the Exchange Offer" by giving oral or written notice to the exchange agent; or
- to waive any conditions or otherwise amend the exchange offer in any respect, by giving oral or written notice to the exchange agent.

Any delay in acceptance, extension, termination or amendment will be followed as soon as practicable by a press release or other public announcement or post-effective amendment to the registration statement.

If the exchange offer is amended in a manner determined by us to constitute a material change, we will promptly disclose that amendment by means of a prospectus supplement or post-effective amendment that will be distributed to the holders. We will also extend the exchange offer for a period of five to ten business days, depending upon the significance of the amendment and the manner of disclosure to the holders, if the exchange offer would otherwise expire during the five to ten business day period.

We will have no obligation to publish, advertise or otherwise communicate any public announcement of any delay, extension, amendment (other than amendments constituting a material change to the exchange offer) or termination that we may choose to make, other than by making a timely release to an appropriate news agency.

### **Interest on the New Notes**

The new notes will accrue cash interest on the same terms as the old notes, payable semi-annually in arrears on February 1 and August 1 of each year, commencing August 1, 2003. Old notes accepted for exchange will not receive accrued interest thereon at the time of exchange. However, each new note will bear interest from the most recent date to which interest has been paid on the old notes, or if no interest has been paid on the old notes or the new notes from January 30, 2003.

### **Resale of the New Notes**

We believe that you will be allowed to resell the new notes to the public without registration under the Securities Act, and without delivering a prospectus that satisfies the requirements of Section 10 of the Securities Act, if you can make the representations set forth above under “Summary—Summary of the Terms of the Exchange Offer—Procedures for participating in the exchange offer.” However, if you intend to participate in a distribution of the new notes, you must comply with the registration requirements of the Securities Act and deliver a prospectus in connection with resales, unless an exemption from registration is otherwise available. In addition, you will be subject to additional restrictions if you are an “affiliate” of Central as defined under Rule 405 of the Securities Act. You will be required to represent to us in the letter of transmittal accompanying this prospectus that you meet these conditions exempting you from the registration requirements.

Our belief that you will be allowed to resell the new notes without registration is based on interpretations of the Commission expressed in some of the Commission’s no-action letters to other issuers in exchange offers like ours. However, we have not asked the Commission to consider this particular exchange offer in the context of a no-action letter. Therefore, you cannot be certain that the Commission will treat it in the same way it has treated other exchange offers in the past.

A broker-dealer that has bought old notes for market-making or other trading activities has to deliver a prospectus to resell any new notes it receives for its own account in the exchange offer. This prospectus may be used by a broker-dealer to resell any of its new notes. We have agreed in the registration rights agreement to send this prospectus to any broker-dealer that requests copies in the letter of transmittal for a period of up to 180 days after expiration date of the exchange offer. See “Plan of Distribution” for more information regarding broker-dealers.

### **Procedures for Tendering**

#### ***General Procedures***

If you wish to surrender old notes you must:

- complete, sign and date the letter of transmittal, or a facsimile thereof, or send a timely confirmation of a book-entry transfer of your old notes to the exchange agent;
- have the signatures guaranteed if required by the letter of transmittal; and
- mail or deliver the required documents to the exchange agent at the address appearing below under “—Exchange Agent” for receipt prior to the expiration date.

In addition, either:

- certificates for your old notes must be received by the exchange agent along with the letter of transmittal;
- a timely confirmation of a book-entry transfer of the old notes into the exchange agent’s account at DTC, pursuant to the procedure for book-entry transfer described below, must be received by the exchange agent prior to the expiration date; or
- you must comply with the procedures described below under “—Guaranteed Delivery Procedures.”

**THE METHOD OF DELIVERY TO THE EXCHANGE AGENT OF OLD NOTES, THE LETTER OF TRANSMITTAL AND ALL OTHER REQUIRED DOCUMENTS IS AT YOUR ELECTION AND RISK. INSTEAD OF DELIVERY BY MAIL, IT IS RECOMMENDED THAT YOU USE AN OVERNIGHT OR HAND DELIVERY SERVICE, PROPERLY INSURED. IN ALL CASES, YOU SHOULD ALLOW SUFFICIENT TIME TO ASSURE DELIVERY TO THE EXCHANGE AGENT BEFORE THE EXPIRATION DATE. DO NOT SEND THE LETTER OF TRANSMITTAL OR ANY OLD NOTES TO US. YOU MAY REQUEST THAT YOUR BROKER, DEALER, COMMERCIAL BANK, TRUST COMPANY OR NOMINEE PERFORM THESE TRANSACTIONS FOR YOU.**

If you do not withdraw your surrender of old notes prior to the expiration date, you will be regarded as agreeing to surrender the new notes in accordance with the terms and conditions in this offer.

If you are a beneficial owner of the old notes and your old notes are held through a broker, dealer, commercial bank, trust company or other nominee and you want to surrender your old notes, you should contact your intermediary promptly and instruct it to surrender the old notes on your behalf.

#### ***Signatures and Guarantee of Signatures***

Signatures on a letter of transmittal or a notice of withdrawal described below under “—Withdrawal of Tenders,” as the case may be, must generally be guaranteed by an eligible institution. You can submit a letter of transmittal without guarantee if you surrender your old notes (a) as a registered holder and you have not completed the box titled “Special Delivery Instruction” on the letter of transmittal or (b) for the account of an eligible institution. In the event that signatures on a letter of transmittal or a notice of withdrawal are required to be guaranteed, the guarantee must be made by:

- a member firm of a registered national securities exchange or of the National Association of Securities Dealers;
- a commercial bank or trust company having an office or correspondent in the United States; or
- an “eligible guarantor institution” within the meaning of Rule 17Ad-15 under the Exchange Act which is a member of one of the recognized signature guarantee programs identified in the letter of transmittal.

If you sign the letter of transmittal even though you are not the registered holder of any old notes listed in the letter of transmittal, your notes must be endorsed or accompanied by a properly completed bond power, signed by the registered holder exactly as the registered holder’s name appears on the old notes.

In connection with any surrender of old notes in definitive certificated form, if you sign the letter of transmittal or any old notes or bond powers in your capacity as trustee, executor, administrator, guardian, attorney-in-fact, officer of a corporation or if you are otherwise acting in a fiduciary or representative capacity, you should indicate this when signing. Unless waived by us, you must submit with the letter of transmittal evidence satisfactory to us of your authority to act in the particular capacity.

The exchange agent and DTC have confirmed that any financial institution that is a participant in DTC’s system may utilize DTC’s automated tender offer program to surrender old notes.

#### ***Acceptance of Tenders***

Your tender of old notes will constitute an agreement between you and us governed by the terms and conditions provided in this prospectus and in the letter of transmittal.

We will be deemed to have received your tender as of the date when your duly signed letter of transmittal accompanied by your old notes tendered, or a timely confirmation of a book-entry transfer of these notes into the exchange agent’s account at DTC with an agent’s message, or a notice of guaranteed delivery from an eligible institution is received by the exchange agent.

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## Table of Contents

All questions as to the validity, form, eligibility (including time of receipt), acceptance and withdrawal of surrendered old notes will be determined by us in our sole discretion, which will be final and binding.

We reserve the absolute right to reject any and all old notes not properly surrendered. Nor will we accept any old notes if our acceptance of them would, in the opinion of our counsel, be unlawful. We also reserve the right to waive any defects, irregularities or conditions of surrender as to particular old notes.

Unless waived, you must cure any defects or irregularities in connection with surrenders of old notes within the time period we will determine. Although we intend to notify holders of defects or irregularities in connection with surrenders of old notes, neither we, the exchange agent nor anyone else will be liable for failure to give this notice. Surrenders of old notes will not be deemed to have been made until any defects or irregularities have been cured or waived.

We do not currently intend to acquire any old notes that are not surrendered in the exchange offer or to file a registration statement to permit resales of any old notes that are not surrendered pursuant to the exchange offer. We reserve the right in our sole discretion to purchase or make offers for any old notes that remain outstanding after the expiration date. To the extent permitted by law, we also reserve the right to purchase old notes in the open market, in privately negotiated transactions or otherwise. The terms of any future purchases or offers could differ from the terms of the exchange offer.

### ***Effect of Surrendering Old Notes***

By surrendering old notes pursuant to the exchange offer, you will be telling us that, among other things:

- you have full power and authority to surrender, sell, assign and transfer the old notes surrendered;
- we will acquire good title to the old notes being surrendered, free and clear of all security interests, liens, restrictions, charges, encumbrances, conditional sale agreements or other obligations relating to their sale or transfer, and not subject to any adverse claim when the old notes are accepted by us;
- you are acquiring the new notes in the ordinary course of your business;
- you are not engaged in, and do not intend to engage in, the distribution of the new notes;
- you have no arrangement or understanding with any person to participate in the distribution of the new notes;
- you acknowledge and agree that if you are a broker-dealer registered under the Exchange Act or you are participating in the exchange offer for the purpose of distributing the new notes, you must comply with the registration and prospectus delivery requirements of the Securities Act in connection with a secondary resale of the new notes, and you understand that you cannot rely on the position of the Commission's staff in their no-action letters;
- you understand that a secondary resale transaction described above and any resales of new notes obtained by you in exchange for old notes acquired by you directly from us should be covered by an effective registration statement containing the selling security holder information required by Item 507 or Item 508 of Regulation S-K of the Commission; and
- you are not an "affiliate," as defined in Rule 405 under the Securities Act, of Central.

If you are a broker-dealer and you will receive new notes for your own account in exchange for old notes that were acquired as a result of market-making activities or other trading activities, you must acknowledge in the letter of transmittal that you will deliver a prospectus in connection with any resale of your new notes. See "Plan of Distribution."

### **Return of Old Notes**

If any surrendered old notes are not accepted for any reason described in this prospectus or if old notes are withdrawn or are submitted for a greater principal amount than you desire to exchange, those old notes will be returned without expense as promptly as practicable (a) to the person who surrendered them or (b) in the case of old notes surrendered by book-entry transfer into the exchange agent's account at DTC, the old notes will be credited to an account maintained with DTC.

### **Book-Entry Delivery Procedure**

Any financial institution that is a participant in DTC's system may make book-entry deliveries of old notes by causing DTC to transfer these old notes into the exchange agent's account at DTC according to DTC's procedures for transfer. To effectively tender notes through DTC, the financial institution that is a participant in DTC will electronically transmit its acceptance through the Automatic Transfer Offer Program. DTC will then edit and verify the acceptance and send an agent's message to the exchange agent for its acceptance. An agent's message is a message transmitted by DTC to the exchange agent stating that DTC has received an express acknowledgment from the participant in DTC tendering the old notes that the participant has received and agrees to be bound by the terms of the letter of transmittal, and that we may enforce this agreement against the participant. The exchange agent will make a request to establish an account for the old notes at DTC for purposes of the exchange offer within two business days after the date of this prospectus.

A delivery of old notes through a book-entry transfer into the exchange agent's account at DTC will only be effective if an agent's message or the letter of transmittal or a facsimile of the letter of transmittal with any required signature guarantees and any other required documents is transmitted to and received by the exchange agent at the address indicated below under "—Exchange Agent" for its receipt on or before the expiration date unless the guaranteed delivery procedures described below are complied with. Delivery of documents to DTC does not constitute delivery to the exchange agent.

### **Guaranteed Delivery Procedures**

If you wish to surrender your old notes and (a) your old notes are not readily available so you can meet the expiration date deadline or (b) you cannot deliver your old notes, the letter of transmittal or any other required documents to the exchange agent prior to the expiration date, you may still participate in the exchange offer if:

- the surrender is made through an eligible institution;
- prior to the expiration date, the exchange agent receives from the eligible institution a properly completed and duly executed notice of guaranteed delivery substantially in the form provided by us, by facsimile transmission, mail or hand delivery, containing the name and address of the holder, the certificate number(s) of the old notes, if applicable, and the principal amount of old notes surrendered. The notice of guaranteed delivery must also state that the surrender is being made thereby and guarantee that, within three Nasdaq National Market trading days after the expiration date, the letter of transmittal, together with the certificate(s) representing the old notes in proper form for transfer or a book-entry confirmation with an agent's message, as the case may be, and any other required documents, will be deposited by the eligible institution with the exchange agent; and
- the properly executed letter of transmittal, as well as the certificate(s) representing all surrendered old notes in proper form for transfer or a book-entry confirmation, as the case may be, and all other documents required by the letter of transmittal are received by the exchange agent within three Nasdaq National Market trading days after the expiration date.

### **Withdrawal of Tenders**

Except as otherwise provided in this prospectus, you may withdraw your surrender of old notes at any time prior to the expiration date.



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## Table of Contents

To withdraw a surrender of old notes in the exchange offer, the exchange agent must receive a written or facsimile transmission notice of withdrawal at its address set forth herein prior to the expiration date. Any notice of withdrawal must:

- specify the name of the person having deposited the old notes to be withdrawn;
- identify the old notes to be withdrawn, including the certificate number or numbers, if applicable, and principal amount of the old notes; and
- be signed by the holder in the same manner as the original signature on the letter of transmittal by which the old notes were tendered or be accompanied by documents of transfer sufficient to permit the trustee for the initial notes to register the transfer of these notes into the name of the person having made the original tender and withdrawing the tender.

All questions as to the validity, form, eligibility and time of receipt of notices will be determined by us, in our sole discretion, and our determination shall be final and binding on all parties. Any old notes so withdrawn will be deemed not to have been validly surrendered for purposes of the exchange offer, and no new notes will be issued unless the old notes so withdrawn are validly retendered. Properly withdrawn old notes may be resurrendered by following one of the procedures described above under “— Procedures for Tendering” at any time prior to the expiration date.

### **Conditions of the Exchange Offer**

Notwithstanding any other term of the exchange offer, or any extension of the exchange offer, we do not have to accept for exchange, or exchange new notes for, any old notes, and we may terminate the exchange offer before acceptance of the old notes, if:

- any statute, rule or regulation has been enacted, or any action has been taken by any court or governmental authority that, in our reasonable judgement, seeks to or would prohibit, restrict or otherwise render consummation of the exchange offer illegal; or
- any change, or any development that would cause a change, in our business or financial affairs has occurred that, in our sole judgment, might materially impair our ability to proceed with the exchange offer or that would materially impair the contemplated benefits to us of the exchange offer; or
- a change occurs in the current interpretations by the staff of the Commission that, in our reasonable judgement, might materially impair our ability to proceed with the exchange offer.

If we, in our sole discretion, determine that any of the above conditions is not satisfied, we may:

- refuse to accept any old notes and return all surrendered old notes to the surrendering holders;
- extend the exchange offer and retain all old notes surrendered prior to the expiration date, subject to the holders’ right to withdraw the surrender of the old notes; or
- waive any unsatisfied conditions regarding the exchange offer and accept all properly surrendered old notes that have not been withdrawn. If this waiver constitutes a material change to the exchange offer, we will promptly disclose the waiver by means of a prospectus supplement or post-effective amendment to the registration statement that includes this prospectus that will be distributed to the holders. We will also extend the exchange offer for a period of five to ten business days, depending upon the significance of the waiver and the manner of disclosure to the holders, if the exchange offer would otherwise expire during the five to ten business day period.

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## [Table of Contents](#)

### **Exchange Agent**

Wells Fargo Bank, National Association, is the exchange agent for the exchange offer. You should direct any questions and requests for assistance, requests for additional copies of this prospectus or of the letter of transmittal and requests for notice of guaranteed delivery to the exchange agent, addressed as follows:

By Registered or Certified Mail, Hand or Overnight Delivery

Attention:

Corporate Trust Department  
Wells Fargo Bank, National Association  
707 Wilshire Blvd., 17th Floor  
Los Angeles, CA 90017

To Confirm by Telephone: (213) 614-3349

Facsimile Transmissions (eligible institutions only): (213) 614-3355

Wells Fargo Bank, National Association, also serves as trustee under the indenture.

### **Fees and Expenses**

We will pay for the expenses of the exchange offer. The principal solicitation is being made by mail. However, additional solicitation may be made by facsimile transmission, e-mail, telephone or in person by our officers and regular employees.

We have not retained a dealer-manager for the exchange offer and will not make any payments to brokers, dealers or others soliciting acceptances of the exchange offer. We will, however, pay the exchange agent reasonable and customary fees and out-of-pocket expenses.

We will pay any transfer taxes applicable to the exchange of old notes. If, however, a transfer tax is imposed for any reason other than the exchange, then the amount of any transfer taxes will be payable by the person surrendering the notes. If you do not submit satisfactory evidence of payment of taxes or of an exemption with the letter of transmittal, the amount of those transfer taxes will be billed directly to you.

### **Consequences of Failing to Exchange Old Notes**

Participation in the exchange offer is voluntary. You are urged to consult your financial and tax advisors in making your decisions on what action to take.

Old notes that are not exchanged will remain “restricted securities” within the meaning of Rule 144(a)(3)(iv) of the Securities Act. Accordingly, they may not be offered, sold, pledged or otherwise transferred except:

- to a person who the seller reasonably believes is a “qualified institutional buyer” within the meaning of Rule 144A under the Securities Act purchasing for its own account or for the account of a qualified institutional buyer in a transaction meeting the requirements of Rule 144A;
- in an offshore transaction complying with Rule 904 of Regulation S under the Securities Act;
- pursuant to an exemption from registration under the Securities Act provided by Rule 144, if available; or
- pursuant to an effective registration statement under the Securities Act.

### **Accounting Treatment**

For accounting purposes, we will recognize no gain or loss as a result of the exchange offer. The expenses of the exchange offer will be amortized over the remaining term of the notes.

## DESCRIPTION OF THE NEW NOTES

The form and terms of the new notes of each series and the old notes of each series are identical in all material respects, except that transfer restrictions and registration rights provisions applicable to the old notes do not apply to the new notes.

The old notes were, and the new notes will be, issued under an indenture dated as of January 30, 2003 between us and Wells Fargo Bank, National Association, as trustee. The following discussion includes a summary description of the material terms of the indenture. Because this is a summary, it does not include all of the information that is included in the indenture, including the definitions of some of the terms used below. For example, in this section we use capitalized words to signify defined terms that have been given special meaning in the indenture. We describe the meaning for only the more important terms. Wherever we refer to particular sections or defined terms, those sections or defined terms are incorporated by reference therein. In this section, references to “we,” “us” or “our” refer solely to Central Garden & Pet Company and not its subsidiaries and, except as otherwise required by the context, in this section, references to the “notes” refer to the new notes offered by this prospectus. You should read the indenture carefully and in its entirety. You may request copies of this document from Central, as described under “Where You Can Find More Information And Incorporation By Reference.”

The registered Holder of a note will be treated as the owner of it for all purposes. Only registered Holders will have rights under the indenture.

### Brief Description of the Notes and the Guarantees

#### **The Notes**

The notes:

- will be general unsecured obligations of Central;
- will be subordinated in right of payment to all existing and future Senior Debt of Central;
- will be *pari passu* in right of payment with any future senior subordinated indebtedness of Central; and
- will be unconditionally guaranteed by the Guarantors.

#### **The Guarantees**

Subject to certain exceptions described below, the notes will be guaranteed by all of Central’s Domestic Subsidiaries.

Each guarantee of the notes:

- will be a general unsecured obligation of the Guarantor;
- will be subordinated in right of payment to all existing and future Senior Debt of the Guarantor; and
- will be *pari passu* in right of payment with any future senior subordinated indebtedness of the Guarantor.

On a pro forma basis, after giving effect to the sale of the old notes, as of December 28, 2002, Central and the Guarantors would have had total Senior Debt of approximately \$75.8 million, and would have had \$130.0 million of additional availability under the Credit Facilities. As indicated above and as discussed in detail below under the caption “— Subordination,” payments on the notes and under the guarantees of the notes will be subordinated to the payment of Senior Debt. The indenture will permit us and our subsidiaries to incur additional Senior Debt.

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## **Table of Contents**

As of the date of the indenture, substantially all of our subsidiaries are “Restricted Subsidiaries” and guarantee the notes. However, under the circumstances described below under the subheading “— Certain Covenants — Designation of Restricted and Unrestricted Subsidiaries and Certain Permitted Investments,” we will be permitted to designate certain of our subsidiaries as “Unrestricted Subsidiaries.” Our Unrestricted Subsidiaries will not be subject to many of the restrictive covenants in the indenture and will not guarantee the notes. In addition, the indenture permits Central to designate Restricted Subsidiaries (including Guarantors) as “Permitted Investments” to the extent permitted under clauses (8) and (9) of the definition of such term, in which case such Restricted Subsidiaries will not be required to be (or required to remain, as the case may be) Guarantors.

### **Principal, Maturity and Interest**

Central will issue in this exchange offering notes in an aggregate principal amount of up to \$150.0 million. Central may issue additional notes under the indenture from time to time after this offering. Any offering of additional notes will be subject to the covenant described below under the caption “— Certain Covenants — Incurrence of Indebtedness and Issuance of Preferred Stock.” All notes issued under the indenture will be treated as a single class for all purposes under the indenture, including, without limitation, waivers, amendments, redemptions and offers to purchase. Central will issue notes in denominations of \$1,000 and integral multiples of \$1,000. The notes will mature on February 1, 2013.

Interest on the notes will accrue at the rate of 9<sup>1</sup>/<sub>8</sub>% per annum and will be payable semi-annually in arrears on February 1 and August 1, commencing on August 1, 2003. Central will make each interest payment to the Holders of record on the immediately preceding January 15 and July 15.

Interest on the notes will accrue from the date of original issuance or, if interest has already been paid, from the date it was most recently paid. Interest will be computed on the basis of a 360-day year comprised of twelve 30-day months.

### **Methods of Receiving Payments on the Notes**

If a Holder of \$1.0 million or more of notes has given wire transfer instructions to Central, Central will pay all principal, interest and premium and Liquidated Damages, if any, on that Holder’s notes in accordance with those instructions. All other payments on the notes will be made at the office or agency of the paying agent and registrar unless Central elects to make interest payments by check mailed to the Holders at their address set forth in the register of Holders.

### **Paying Agent and Registrar for the Notes**

The trustee will initially act as paying agent and registrar. Central may change the paying agent or registrar without prior notice to the Holders of the notes, and Central or any of its Subsidiaries may act as paying agent or registrar.

### **Transfer and Exchange**

A Holder may transfer or exchange notes in accordance with the indenture. The registrar and the trustee may require a Holder, among other things, to furnish appropriate endorsements and transfer documents in connection with a transfer of notes. Holders will be required to pay all taxes due on transfer. Central is not required to transfer or exchange any note selected for redemption. Also, Central is not required to transfer or exchange any note for a period of 15 days before a selection of notes to be redeemed.

### **Subsidiary Guarantees**

The Subsidiary Guarantees will be joint and several obligations of the Guarantors. Each Subsidiary Guarantee will be subordinated to the prior payment in full of all Senior Debt of that Guarantor. The obligations of each Guarantor under its Subsidiary Guarantee will be limited as necessary to prevent that Subsidiary

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## Table of Contents

Guarantee from constituting a fraudulent conveyance under applicable law. See “Risk Factors — Federal and State statutes allow courts, under specific circumstances, to void guarantees and require note holders to return payments received from guarantors.”

A Guarantor may not sell or otherwise dispose of all or substantially all of its assets to, or consolidate with or merge with or into (whether or not such Guarantor is the surviving Person), another Person, other than Central or another Guarantor, unless:

- (1) immediately after giving effect to that transaction, no Default or Event of Default exists; and
- (2) either:
  - (a) the Person acquiring the property in any such sale or disposition or the Person formed by or surviving any such consolidation or merger assumes all the obligations of that Guarantor under the indenture, its Subsidiary Guarantee and the registration rights agreement pursuant to a supplemental indenture satisfactory to the trustee; or
  - (b) the Net Proceeds of such sale or other disposition are applied in accordance with the applicable provisions of the indenture.

The Subsidiary Guarantee of a Guarantor will be released:

- (1) in connection with any sale or other disposition of all or substantially all of the assets of that Guarantor (including by way of merger or consolidation) to a Person that is not (either before or after giving effect to such transaction) a Subsidiary of Central, if the sale or other disposition complies with the “Asset Sale” provisions of the indenture;
- (2) in connection with any sale or other disposition of Capital Stock of a Guarantor to a Person that is not (either before or after giving effect to such transaction) a Subsidiary of Central, if the Guarantor is no longer a Subsidiary of Central as a result of such sale or disposition and if the sale or disposition does not violate the “Asset Sale” or “Restricted Payments” provisions of the indenture; or
- (3) if Central designates any Restricted Subsidiary that is a Guarantor as an Unrestricted Subsidiary in accordance with the applicable provisions of the indenture or if Central designates a Restricted Subsidiary that is a Guarantor as a Permitted Investment made pursuant to clause (8) or (9) of the definition of “Permitted Investments” in accordance with the applicable provisions of the indenture.

See “— Repurchase at the Option of Holders — Asset Sales” and “— Certain Covenants — Designation of Restricted and Unrestricted Subsidiaries and Certain Permitted Investments.”

## **Subordination**

The payment of principal, interest and premium and Liquidated Damages, if any, on the notes will be subordinated to the prior payment in full of all Senior Debt of Central, including Senior Debt incurred after the date of the indenture.

In the event of any distribution to creditors of Central:

- (1) in a liquidation or dissolution of Central;
- (2) in a bankruptcy, reorganization, insolvency, receivership or similar proceeding relating to Central or its property;
- (3) in an assignment for the benefit of creditors; or
- (4) in any marshaling of Central’s assets and liabilities;

the holders of Senior Debt will be entitled to receive payment in full of all Obligations due in respect of Senior Debt (including interest after the commencement of any bankruptcy proceeding at the rate specified in the

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## Table of Contents

applicable Senior Debt) before the Holders of notes will be entitled to receive any payment with respect to the notes (except that Holders of notes may receive and retain Permitted Junior Securities and payments made from the trust described under “— Legal Defeasance and Covenant Defeasance”).

Central also may not make any payment in respect of the notes (except in Permitted Junior Securities or from the trust described under “— Legal Defeasance and Covenant Defeasance”) if:

- (1) a payment default on Designated Senior Debt occurs and is continuing beyond any applicable grace period; or
- (2) any other default occurs and is continuing on any series of Designated Senior Debt that permits holders of that series of Designated Senior Debt to accelerate its maturity and the trustee and Central receive a notice of such default (a “Payment Blockage Notice”) from the holders of any Designated Senior Debt (or their representative).

Payments on the notes may and will be resumed:

- (1) in the case of a payment default, upon the date on which such default is cured or waived; and
- (2) in the case of a nonpayment default, upon the earlier of the date on which such nonpayment default is cured or waived or 179 days after the date on which the applicable Payment Blockage Notice is received, unless the maturity of any Designated Senior Debt has been accelerated.

No new Payment Blockage Notice may be delivered unless and until:

- (1) 360 days have elapsed since the delivery of the immediately prior Payment Blockage Notice; and
- (2) all scheduled payments of principal, interest and premium and Liquidated Damages, if any, on the notes that have come due have been paid in full in cash.

No nonpayment default that existed or was continuing on the date of delivery of any Payment Blockage Notice to the trustee will be, or be made, the basis for a subsequent Payment Blockage Notice.

If the trustee or any Holder of the notes receives a payment in respect of the notes (except in Permitted Junior Securities or from the trust described under “— Legal Defeasance and Covenant Defeasance”) when:

- (1) the payment is prohibited by these subordination provisions; and
- (2) the trustee or the Holder has actual knowledge that the payment is prohibited

the trustee or the Holder, as the case may be, will hold the payment in trust for the benefit of the holders of Senior Debt. Upon the proper written request of the holders of Senior Debt, the trustee or the Holder, as the case may be, will deliver the amounts in trust to the holders of Senior Debt or their proper representative.

Central must promptly notify holders of Senior Debt if payment of the notes is accelerated because of an Event of Default.

As a result of the subordination provisions described above, in the event of a bankruptcy, liquidation or reorganization of Central, Holders of notes may recover less ratably than creditors of Central who are holders of Senior Debt. See “Risk Factors — Your right to receive payments on the notes and the guarantees is junior to our existing senior indebtedness and possibly all of our future borrowings.”

The obligations of each Guarantor under its Subsidiary Guarantee will be subordinated to the Senior Debt of that Guarantor on the same terms described above.

### Optional Redemption

At any time prior to February 1, 2006, Central may on any one or more occasions redeem up to 33% of the aggregate principal amount of notes issued under the indenture at a redemption price of 109.125% of the principal amount, plus accrued and unpaid interest and Liquidated Damages, if any, to the redemption date, with the net cash proceeds of one or more Public Equity Offerings; *provided that*:

- (1) at least 67% of the aggregate principal amount of notes issued under the indenture remains outstanding immediately after the occurrence of such redemption (excluding notes held by Central and its Subsidiaries); and
- (2) the redemption occurs within 60 days of the date of the closing of such Public Equity Offering.

Except pursuant to the preceding paragraph, the notes will not be redeemable at Central's option prior to February 1, 2008.

After February 1, 2008, Central may redeem all or a part of the notes upon not less than 30 nor more than 60 days' notice, at the redemption prices (expressed as percentages of principal amount) set forth below plus accrued and unpaid interest and Liquidated Damages, if any, on the notes redeemed, to the applicable redemption date, if redeemed during the twelve-month period beginning on February 1 of the years indicated below:

Year	Percentage
2008	104.563%
2009	103.042%
2010	101.521%
2011 and thereafter	100.000%

### Mandatory Redemption

Central will not be required to make any mandatory redemption or sinking fund payments with respect to the notes.

### Repurchase at the Option of Holders

#### Change of Control

If a Change of Control occurs, each Holder of notes will have the right to require Central to repurchase all or any part (equal to \$1,000 or an integral multiple of \$1,000) of that Holder's notes pursuant to a Change of Control Offer on the terms set forth in the indenture. In the Change of Control Offer, Central will offer a Change of Control Payment in cash equal to 101% of the aggregate principal amount of notes repurchased plus accrued and unpaid interest and Liquidated Damages, if any, on the notes repurchased, to the date of purchase. Within ten days following any Change of Control, Central will mail a notice to each Holder describing the transaction or transactions that constitute the Change of Control and offering to repurchase notes on the Change of Control Payment Date specified in the notice, which date will be no earlier than 30 days and no later than 60 days from the date such notice is mailed, pursuant to the procedures required by the indenture and described in such notice. Central will comply with the requirements of Rule 14e-1 under the Exchange Act and any other securities laws and regulations thereunder to the extent those laws and regulations are applicable in connection with the repurchase of the notes as a result of a Change of Control. To the extent that the provisions of any securities laws or regulations conflict with the Change of Control provisions of the indenture, Central will comply with the applicable securities laws and regulations and will not be deemed to have breached its obligations under the Change of Control provisions of the indenture by virtue of such conflict.

On the Change of Control Payment Date, Central will, to the extent lawful:

- (1) accept for payment all notes or portions of notes properly tendered pursuant to the Change of Control Offer;

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## Table of Contents

- (2) deposit with the paying agent an amount equal to the Change of Control Payment in respect of all notes or portions of notes properly tendered; and
- (3) deliver or cause to be delivered to the trustee the notes properly accepted together with an officers' certificate stating the aggregate principal amount of notes or portions of notes being purchased by Central.

The paying agent will promptly mail to each Holder of notes properly tendered the Change of Control Payment for such notes, and the trustee will promptly authenticate and mail (or cause to be transferred by book entry) to each Holder a new note equal in principal amount to any unpurchased portion of the notes surrendered, if any; *provided* that each new note will be in a principal amount of \$1,000 or an integral multiple of \$1,000.

If a Change of Control Offer is made, there can be no assurance that Central will have available funds sufficient to pay the purchase price for all of the notes that might be tendered by Holders seeking to accept the Change of Control Offer. The failure of Central to make or consummate the Change of Control Offer or pay the applicable Change of Control purchase price when due would result in an Event of Default and would give the trustee and the Holders the rights described under “— Events of Default and Remedies.”

Central's Credit Facilities provide that certain change of control events with respect to Central would constitute a default thereunder and prohibit Central from consummating a Change of Control Offer. Any future credit agreements or other agreements relating to Senior Debt to which Central becomes a party may contain similar provisions. If a Change of Control occurs, Central could seek a waiver of any resulting default and, if required, the consent of its lenders to the purchase of notes or could attempt to refinance the borrowings that contains such prohibition. If Central is not successful in obtaining a waiver of any change of control default and the consent of the lenders or in refinancing such borrowings, such Senior Debt will be in default, and Central will remain prohibited from purchasing notes. In such case, Central's failure to purchase tendered notes would constitute an Event of Default under the indenture, which would, in turn, also constitute a default under the Credit Facilities. In such circumstances, the subordination provisions in the indenture would likely restrict payments to the Holders.

Prior to mailing the notice referred to above, but in any event within 90 days following a Change of Control, Central will either repay all outstanding Senior Debt or obtain the requisite waivers and consents, if any, under all agreements governing outstanding Senior Debt to permit the repurchase of notes required by this covenant. Central will publicly announce the results of the Change of Control Offer on or as soon as practicable after the Change of Control Payment Date.

The provisions described above that require Central to make a Change of Control Offer following a Change of Control will be applicable whether or not any other provisions of the indenture are applicable, unless a notice of redemption pursuant to the provisions described above under “— Optional Redemption” has been given prior to the obligation to make the Change of Control Offer. Except as described above with respect to a Change of Control, the indenture does not contain provisions that permit the Holders of the notes to require that Central repurchase or redeem the notes in the event of a takeover, recapitalization or similar transaction.

Central will not be required to make a Change of Control Offer upon a Change of Control if a third party makes the Change of Control Offer in the manner, at the times and otherwise in compliance with the requirements set forth in the indenture applicable to a Change of Control Offer made by Central and purchases all notes properly tendered and not withdrawn under the Change of Control Offer.

The definition of Change of Control includes a phrase relating to the direct or indirect sale, lease, transfer, conveyance or other disposition of “all or substantially all” of the properties or assets of Central and its Subsidiaries taken as a whole. Although there is a limited body of case law interpreting the phrase “substantially all,” there is no precise established definition of the phrase under applicable law. Accordingly, the ability of a



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## Table of Contents

Holder of notes to require Central to repurchase its notes as a result of a sale, lease, transfer, conveyance or other disposition of less than all of the assets of Central and its Subsidiaries taken as a whole to another Person or group may be uncertain.

### **Asset Sales**

Central will not, and will not permit any of its Restricted Subsidiaries to, consummate an Asset Sale unless:

- (1) Central or the Restricted Subsidiary receives consideration at the time of the Asset Sale at least equal to the fair market value of the assets or Equity Interests issued or sold or otherwise disposed of;
- (2) the fair market value (including the fair market value of any non-cash assets transferred or liabilities assumed) is determined by Central's Board of Directors and evidenced by a resolution of the Board of Directors set forth in an officers' certificate delivered to the trustee; and
- (3) at least 75% of the consideration received in the Asset Sale by Central or such Restricted Subsidiary is in the form of cash. For purposes of this provision, each of the following will be deemed to be cash:
  - (a) any liabilities, as shown on Central's most recent consolidated balance sheet, of Central or any Restricted Subsidiary (other than contingent liabilities and liabilities that are by their terms subordinated to the notes or any Subsidiary Guarantee) that are assumed by the transferee of any such assets and are (i) subject to a customary novation agreement that releases Central or such Restricted Subsidiary from further liability with respect to any such liabilities other than accounts payable or (ii) satisfied in full within 60 days of the Asset Sale;
  - (b) any securities, notes or other obligations received by Central or any such Restricted Subsidiary from such transferee in respect of which cash is received by Central or such Restricted Subsidiary within 60 days of the Asset Sale, to the extent of the cash received;
  - (c) in the case of the sale of all of the Equity Interests in any of Central's Restricted Subsidiaries, or the merger of a Restricted Subsidiary with a Person as a result of which Central and its Restricted Subsidiaries do not own any of the Equity Interests in the surviving entity of such merger, any liabilities of the Restricted Subsidiary (other than contingent liabilities and liabilities that are by their terms subordinated to the notes or any Subsidiary Guarantee) for which the Restricted Subsidiary or surviving entity remains liable after the Asset Sale;
  - (d) cash held in escrow as security for any purchase price settlement, for damages in respect of a breach of representations and warranties or covenants or for payment of other contingent obligations in connection with the Asset Sale; and
  - (e) up to \$25 million of non-cash consideration received from any person other than an Affiliate of Central outstanding (not converted to cash) at any time.

Notwithstanding the immediately preceding paragraph, Central and its Restricted Subsidiaries will be permitted to consummate an Asset Sale without complying with such paragraph if:

- (1) Central or the applicable Restricted Subsidiary, as the case may be, receives consideration at the time of such Asset Sale at least equal to the fair market value of the assets or other property sold, issued or otherwise disposed of, as evidenced by a resolution of Central's Board of Directors set forth in an officers' certificate delivered to the trustee, and
- (2) at least 75% of the consideration for such Asset Sale constitutes cash or assets that are not classified as current assets under GAAP and are used or useful in a Permitted Business;

*provided* that any cash received by Central or any of its Restricted Subsidiaries in connection with any Asset Sale permitted to be consummated under this paragraph shall constitute Net Proceeds (to the extent not excluded from the definition of "Net Proceeds") subject to the provisions of the three succeeding paragraphs.

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## Table of Contents

Within 365 days after the receipt of any Net Proceeds from an Asset Sale, Central or the Restricted Subsidiary may apply those Net Proceeds at its option to any one or more of the following:

- (1) to repay Senior Debt and, if the Senior Debt repaid is revolving credit Indebtedness, to correspondingly reduce commitments with respect thereto;
- (2) to acquire all or substantially all of the assets of, or a majority of the Voting Stock of, another Permitted Business;
- (3) to make capital expenditures; or
- (4) to acquire other assets that are not classified as current assets under GAAP and are used or useful in a Permitted Business.

Pending the final application of any Net Proceeds, Central or any Restricted Subsidiary may temporarily reduce revolving credit borrowings or otherwise invest the Net Proceeds in any manner that is not prohibited by the indenture.

Any Net Proceeds from Asset Sales that are not applied or invested as provided in the preceding paragraph will constitute “Excess Proceeds.” Within 30 days after the aggregate amount of Excess Proceeds exceeds \$10.0 million, Central will make an Asset Sale Offer to all Holders of notes and all holders of other Indebtedness that is *pari passu* with the notes containing provisions similar to those set forth in the indenture with respect to offers to purchase or redeem with the proceeds of sales of assets to purchase the maximum principal amount of notes and such other *pari passu* Indebtedness that may be purchased out of the Excess Proceeds. The offer price in any Asset Sale Offer will be equal to 100% of principal amount plus accrued and unpaid interest and Liquidated Damages, if any, to the date of purchase, and will be payable in cash. If any Excess Proceeds remain after consummation of an Asset Sale Offer, Central may use those Excess Proceeds for any purpose not otherwise prohibited by the indenture. If the aggregate principal amount of notes and other *pari passu* Indebtedness tendered into such Asset Sale Offer exceeds the amount of Excess Proceeds, the trustee will select the notes and such other *pari passu* Indebtedness to be purchased on a pro rata basis based upon the aggregate principal amount of each that was properly tendered. Upon completion of each Asset Sale Offer, the amount of Excess Proceeds will be reset at zero.

Central’s Credit Facilities require the consent of the lenders to most asset sales and prohibit the retirement of the notes and other indebtedness that ranks junior to such Senior Debt. Any future credit agreements or other agreements relating to Senior Debt to which Central becomes a party may contain similar provisions or may require prepayment of such Senior Debt with all or a portion of the proceeds of such asset sales. In such case, it is likely that Central would apply the net proceeds to retire Senior Debt or, to the extent permitted under such agreements, acquire assets for use in a Permitted Business.

Central will comply with the requirements of Rule 14e-1 under the Exchange Act and any other securities laws and regulations thereunder to the extent those laws and regulations are applicable in connection with each repurchase of notes pursuant to an Asset Sale Offer. To the extent that the provisions of any securities laws or regulations conflict with the Asset Sale provisions of the indenture, Central will comply with the applicable securities laws and regulations and will not be deemed to have breached its obligations under the Asset Sale provisions of the indenture by virtue of such conflict.

### **Selection and Notice**

If less than all of the notes are to be redeemed at any time, the trustee will select notes for redemption as follows:

- (1) if the notes are listed on any national securities exchange, in compliance with the requirements of the principal national securities exchange on which the notes are listed; or

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## Table of Contents

- (2) if the notes are not listed on any national securities exchange, on a pro rata basis, by lot or by such method as the trustee deems fair and appropriate.

In the event of a redemption pursuant to the provisions described above under “— Optional Redemption,” notices of redemption will be mailed by first class mail at least 30 but not more than 60 days before the redemption date to each Holder of notes to be redeemed at its registered address, except that redemption notices may be mailed more than 60 days prior to a redemption date if the notice is issued in connection with a defeasance of the notes or a satisfaction and discharge of the indenture. Notices of redemption may not be conditional.

If any note is to be redeemed in part only, the notice of redemption that relates to that note will state the portion of the principal amount of that note that is to be redeemed. A new note in principal amount equal to the unredeemed portion of the original note will be issued in the name of the Holder of notes upon cancellation of the original note. No notes can be redeemed in part if less than \$1,000 would remain outstanding.

Notes called for redemption become due on the date fixed for redemption. On and after the redemption date, interest ceases to accrue on notes or portions of them called for redemption.

### **Certain Covenants**

#### ***Restricted Payments***

Central will not, and will not permit any of its Restricted Subsidiaries to, directly or indirectly:

- (1) declare or pay any dividend or make any other payment or distribution on account of Central’s or any of its Restricted Subsidiaries’ Equity Interests (including, without limitation, any payment in connection with any merger or consolidation involving Central or any of its Restricted Subsidiaries) or to the direct or indirect holders of Central’s or any of its Restricted Subsidiaries’ Equity Interests in their capacity as such (other than dividends or distributions payable in Equity Interests (other than Disqualified Stock) of Central or to Central or a Restricted Subsidiary of Central);
- (2) purchase, redeem or otherwise acquire or retire for value (including, without limitation, in connection with any merger or consolidation involving Central) any Equity Interests of Central;
- (3) make any payment on or with respect to, or purchase, redeem, defease or otherwise acquire or retire for value any Indebtedness that is subordinated to the notes or the Subsidiary Guarantees (excluding intercompany Indebtedness between or among Central and its Restricted Subsidiaries), except a payment of interest (including any amount comparable to Liquidated Damages) or principal at the Stated Maturity thereof; or
- (4) make any Restricted Investment (all such payments and other actions set forth in these clauses (1) through (4) above being collectively referred to as “Restricted Payments”),

unless, at the time of and after giving effect to such Restricted Payment:

- (1) no Default or Event of Default has occurred and is continuing or would occur as a consequence of such Restricted Payment; and
- (2) Central would, at the time of such Restricted Payment and after giving pro forma effect thereto as if such Restricted Payment had been made at the beginning of the applicable four-quarter period, have been permitted to incur at least \$1.00 of additional Indebtedness pursuant to the Fixed Charge Coverage Ratio test set forth in the first paragraph of the covenant described below under the caption “— Incurrence of Indebtedness and Issuance of Preferred Stock;” and

- (3) such Restricted Payment, together with the aggregate amount of all other Restricted Payments made by Central and its Restricted Subsidiaries after the date of the indenture (excluding Restricted Payments permitted by clauses (2), (3), (4), (6), (7) and (8) of the next succeeding paragraph), is less than the sum, without duplication, of:
- (a) 50% of the Consolidated Net Income of Central for the period (taken as one accounting period) from the first day of Central's second fiscal quarter of fiscal year 2003 to the end of Central's most recently ended fiscal quarter for which internal financial statements are available at the time of such Restricted Payment (or, if such Consolidated Net Income for such period is a deficit, less 100% of such deficit), *plus*
  - (b) 100% of the aggregate net cash proceeds received by Central since the date of the indenture as a contribution to its common equity capital or from the issue or sale of Equity Interests of Central (other than Disqualified Stock) or from the issue or sale of convertible or exchangeable Disqualified Stock or convertible or exchangeable debt securities of Central that have been converted into or exchanged for such Equity Interests (other than Equity Interests (or Disqualified Stock or debt securities) sold to a Subsidiary of Central), *plus*
  - (c) in the event Central issues Equity Interests of Central in consideration for an acquisition by Central or any of its Restricted Subsidiaries of a Person that becomes a Wholly-Owned Restricted Subsidiary of Central as a result of such acquisition or of assets that are acquired by Central or a Wholly-Owned Restricted Subsidiary of Central, an amount equal to 75% of the Equity Market Value of the Equity Interests of Central so issued as of the closing of the acquisition; *plus*
  - (d) in the event any return of capital is realized in respect of any Restricted Investment that was made after the date of the indenture, the lesser of (i) the cash return of capital with respect to such Restricted Investment (less any direct, out-of-pocket cost of disposition, if any) and (ii) the initial amount of such Restricted Investment less any amounts previously realized under clause (i) with respect to such Restricted Investment; *plus*
  - (e) to the extent that any Subsidiary that was designated as an Unrestricted Subsidiary after the date of the indenture is redesignated as a Restricted Subsidiary, the lesser of (i) the amount of the Investment in the Subsidiary treated as a Restricted Payment at and since the time that the Subsidiary was designated as an Unrestricted Subsidiary, as determined by the last paragraph of this covenant and (ii) the fair market value of the Investment in the Subsidiary as of the date that it is redesignated as a Restricted Subsidiary; *plus*
  - (f) the increase in stockholders' equity resulting from any conversion of any of Central's outstanding Convertible Subordinated Notes; *plus*
  - (g) \$10.0 million.

So long as no Default has occurred and is continuing or would be caused thereby, the preceding provisions will not prohibit:

- (1) the payment of any dividend within 60 days after the date of declaration of the dividend, if at the date of declaration the dividend payment would have complied with the provisions of the indenture;
- (2) the redemption, repurchase, retirement, defeasance or other acquisition of any subordinated Indebtedness of Central or any Guarantor or of any Equity Interests of Central in exchange for, or out of the net cash proceeds of the substantially concurrent sale (other than to a Subsidiary of Central) of, Equity Interests of Central (other than Disqualified Stock); *provided* that the amount of any such net cash proceeds that are utilized for any such redemption, repurchase, retirement, defeasance or other acquisition will be excluded from clause (3)(b) of the preceding paragraph;
- (3) the defeasance, redemption, repurchase or other acquisition of subordinated Indebtedness of Central or any Guarantor in exchange for, or out of the net cash proceeds received from, the substantially concurrent sale of Permitted Refinancing Indebtedness;

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## Table of Contents

- (4) the payment of any dividend by a Restricted Subsidiary of Central to the holders of its Equity Interests on a pro rata basis and the redemption, purchase, cancellation or other retirement of Equity Interests in a Restricted Subsidiary;
- (5) the repurchase, redemption or other acquisition or retirement for value of any Equity Interests of Central or any Restricted Subsidiary of Central held by any member of Central's (or any of its Restricted Subsidiaries') management pursuant to any management equity subscription agreement, stock option agreement, stockholders agreement or similar agreement; *provided that* the aggregate price paid for all such repurchased, redeemed, acquired or retired Equity Interests may not exceed \$1.0 million in any twelve-month period and \$10.0 million in the aggregate;
- (6) the repurchase of Equity Interests of Central or any Restricted Subsidiary of Central deemed to occur upon the exercise of stock options if such Equity Interests represent a portion of the purchase price thereof;
- (7) the redemption of the Convertible Subordinated Notes in accordance with the covenant described below under the caption "— Redemption of Convertible Subordinated Notes;" and
- (8) Restricted Payments in an aggregate amount not to exceed \$10.0 million.

The amount of all Restricted Payments (other than cash) will be the fair market value on the date of the Restricted Payment of the asset(s) or securities proposed to be transferred or issued by Central or such Subsidiary, as the case may be, pursuant to the Restricted Payment. The fair market value of any assets or securities that are required to be valued by this covenant will be determined by Central's Board of Directors whose resolution with respect thereto will be delivered to the trustee. The Board of Directors' determination must be based upon an opinion or appraisal issued by an accounting, appraisal or investment banking firm of national standing if the fair market value exceeds \$5.0 million. Not later than three business days after the date of making any Restricted Payment, Central will deliver to the trustee an officers' certificate stating that such Restricted Payment is permitted and setting forth the basis upon which the calculations required by this "Restricted Payments" covenant were computed, together with a copy of any fairness opinion or appraisal required by the indenture.

### ***Incurrence of Indebtedness and Issuance of Preferred Stock***

Central will not, and will not permit any of its Restricted Subsidiaries to, directly or indirectly, create, incur, issue, assume, guarantee or otherwise become directly or indirectly liable, contingently or otherwise, with respect to (collectively, "incur") any Indebtedness (including Acquired Debt), and Central will not issue Disqualified Stock and will not permit any of its Restricted Subsidiaries to issue any shares of preferred stock; *provided, however*, that Central may incur Indebtedness (including Acquired Debt) or issue Disqualified Stock, and Central's Restricted Subsidiaries that are Guarantors or Foreign Subsidiaries may incur Indebtedness or issue preferred stock, if the Fixed Charge Coverage Ratio for Central's most recently ended four full fiscal quarters for which internal financial statements are available immediately preceding the date on which such additional Indebtedness is incurred or such Disqualified Stock or preferred stock is issued would have been at least 2.0 to 1, determined on a pro forma basis (including a pro forma application of the net proceeds therefrom), as if the additional Indebtedness had been incurred or the preferred stock or Disqualified Stock had been issued, as the case may be, at the beginning of such four-quarter period.

The first paragraph of this covenant will not prohibit the incurrence of any of the following items of Indebtedness (collectively, "Permitted Debt"):

- (1) the incurrence by Central and any of its Restricted Subsidiaries of Indebtedness and letters of credit under Credit Facilities in an aggregate principal amount at any one time outstanding under this clause (1) (with letters of credit being deemed to have a principal amount equal to the maximum potential liability of Central and its Restricted Subsidiaries thereunder) not to exceed the greater of (x) \$225.0 million *less* the aggregate amount of all Net Proceeds of Asset Sales applied by Central or

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## Table of Contents

any of its Subsidiaries since the date of the indenture to repay any term Indebtedness under a Credit Facility or to repay any revolving credit Indebtedness under a Credit Facility and effect a corresponding commitment reduction thereunder pursuant to the covenant described above under the caption “— Repurchase at the Option of the Holders — Asset Sales” or (y) the amount of the Borrowing Base as of the date of such incurrence;

- (2) the incurrence by Central and its Restricted Subsidiaries of Existing Indebtedness;
- (3) the incurrence by Central and the Guarantors of Indebtedness represented by the notes and the related Subsidiary Guarantees to be issued on the date of the indenture and the exchange notes and the related Subsidiary Guarantees to be issued pursuant to the registration rights agreement;
- (4) the incurrence by Central or any of its Restricted Subsidiaries of Permitted Refinancing Indebtedness in exchange for, or the net proceeds of which are used to refund, refinance or replace Indebtedness (other than intercompany Indebtedness) that was permitted by the indenture to be incurred under the first paragraph of this covenant or clauses (2), (3), (4) or (9) of this paragraph;
- (5) the incurrence by Central or any of its Restricted Subsidiaries of intercompany Indebtedness between or among Central and any of its Subsidiaries *provided, however, that*:
  - (a) if Central or any Guarantor is the obligor on such Indebtedness, such Indebtedness must be expressly subordinated to the prior payment in full in cash of all Obligations then due with respect to the notes, in the case of Central, or the Subsidiary Guarantee, in the case of a Guarantor; and
  - (b) (i) any subsequent issuance or transfer of Equity Interests that results in any such Indebtedness being held by a Person other than Central or a Restricted Subsidiary of Central and (ii) any sale or other transfer of any such Indebtedness to a Person that is not either Central or a Restricted Subsidiary of Central; will be deemed, in each case, to constitute an incurrence of such Indebtedness by Central or such Restricted Subsidiary, as the case may be, that was not permitted by this clause (5);
- (6) the incurrence by Central or any of its Restricted Subsidiaries of Hedging Obligations with respect to any Indebtedness that is permitted by the terms of the indenture to be outstanding;
- (7) the guarantee by Central or any of its Restricted Subsidiaries of Indebtedness of Central or a Restricted Subsidiary of Central that was permitted to be incurred by another provision of this covenant;
- (8) the accrual of interest, the accretion or amortization of original issue discount, the payment of interest on any Indebtedness in the form of additional Indebtedness with the same terms, and the payment of dividends on Disqualified Stock in the form of additional shares of the same class of Disqualified Stock will not be deemed to be an incurrence of Indebtedness or an issuance of Disqualified Stock for purposes of this covenant; *provided, in each such case, that the amount thereof is included in Fixed Charges of Central as accrued; and*
- (9) the incurrence by Central or any of its Restricted Subsidiaries of additional Indebtedness in an aggregate principal amount (or accreted value, as applicable) at any time outstanding, including all Permitted Refinancing Indebtedness incurred to refund, refinance or replace any Indebtedness incurred pursuant to this clause (9), not to exceed \$50.0 million.

For purposes of determining compliance with this “Incurrence of Indebtedness and Issuance of Preferred Stock” covenant, in the event that an item of proposed Indebtedness meets the criteria of more than one of the categories of Permitted Debt described in clauses (1) through (9) above, or is entitled to be incurred pursuant to the first paragraph of this covenant, Central will be permitted to classify such item of Indebtedness on the date of its incurrence, or later reclassify all or a portion of such item of Indebtedness, in any manner that complies with this covenant. Indebtedness under the Credit Facilities outstanding on the date on which notes are first issued and authenticated under the indenture will be deemed to have been incurred on such date in reliance on the exception provided by clause (1) of the definition of Permitted Debt.

**No Layering of Debt**

Central will not incur, create, issue, assume, guarantee or otherwise become liable for any Indebtedness that is subordinate or junior in right of payment to any Senior Debt of Central and senior in any respect in right of payment to the notes. No Guarantor will incur, create, issue, assume, guarantee or otherwise become liable for any Indebtedness that is subordinate or junior in right of payment to the Senior Debt of such Guarantor and senior in any respect in right of payment to such Guarantor's Subsidiary Guarantee; *provided, however*, that notwithstanding the foregoing, no Indebtedness of Central or any Guarantor shall be deemed to be contractually subordinated in right of payment to any other Indebtedness of Central or such Guarantor solely by virtue of being unsecured.

**Liens**

Central will not, and will not permit any of its Restricted Subsidiaries to, directly or indirectly, create, incur, assume or suffer to exist any Lien of any kind securing Indebtedness for money borrowed on any asset now owned or hereafter acquired, except Permitted Liens, unless all payments due under the indenture and the notes are secured on an equal and ratable basis with the Indebtedness so secured.

**Dividend and Other Payment Restrictions Affecting Subsidiaries**

Central will not, and will not permit any of its Restricted Subsidiaries to, directly or indirectly, create or permit to exist or become effective any consensual encumbrance or restriction on the ability of any Restricted Subsidiary to:

- (1) pay dividends or make any other distributions on its Capital Stock to Central or any of its Restricted Subsidiaries, or with respect to any other interest or participation in, or measured by, its profits, or pay any indebtedness owed to Central or any of its Restricted Subsidiaries;
- (2) make loans or advances to Central or any of its Restricted Subsidiaries; or
- (3) transfer any of its properties or assets to Central or any of its Restricted Subsidiaries.

However, the preceding restrictions will not apply to encumbrances or restrictions existing under or by reason of:

- (1) agreements governing Existing Indebtedness and the Credit Facilities as in effect on the date of the indenture and any amendments, modifications, restatements, renewals, increases, supplements, refundings, replacements or refinancings of those agreements; *provided* that the amendments, modifications, restatements, renewals, increases, supplements, refundings, replacement or refinancings are no more restrictive, taken as a whole, with respect to such dividend and other payment restrictions than those contained in those agreements on the date of the indenture;
- (2) the indenture, the notes and the Subsidiary Guarantees;
- (3) applicable law;
- (4) any instrument or agreement of a Restricted Subsidiary acquired by Central or any of its Restricted Subsidiaries as in effect at the time of such acquisition (except to the extent such instrument or agreement was entered into or amended or modified to add or increase such encumbrance or restriction in connection with or in contemplation of such acquisition), which encumbrance or restriction is not applicable to Central or any Restricted Subsidiary, or the properties or assets of Central or any Restricted Subsidiary, other than the Restricted Subsidiary, or the property or assets of the Restricted Subsidiary, so acquired; *provided* that, in the case of instruments or agreements governing Acquired Debt, such Acquired Debt would be permitted by the terms of the indenture to be incurred upon consummation of the acquisition;

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## Table of Contents

- (5) any instrument or agreement of a Restricted Subsidiary that has been designated as a Permitted Investment made under clause (8) or (9) of the definition of “Permitted Investments” in accordance with the applicable provisions of the indenture which encumbrance or restriction is not applicable to Central or any Restricted Subsidiary, or the properties or assets of Central or any Restricted Subsidiary, other than the Restricted Subsidiary, or the property or assets of the Restricted Subsidiary, so designated;
- (6) non-assignment and sub-letting provisions in leases, licenses and other agreements that are customary for such agreements and are entered into in the ordinary course of business;
- (7) purchase money obligations for property acquired in the ordinary course of business that impose restrictions on that property of the nature described in clause (3) of the preceding paragraph;
- (8) any agreement for the sale or other disposition of a Restricted Subsidiary or assets of Central or a Restricted Subsidiary that restricts distributions by that Restricted Subsidiary or transfers of such assets pending such sale or other disposition;
- (9) Permitted Refinancing Indebtedness; *provided* that the restrictions contained in the agreements governing such Permitted Refinancing Indebtedness are no more restrictive, taken as a whole, than those contained in the agreements governing the Indebtedness being refinanced;
- (10) Liens securing Indebtedness otherwise permitted to be incurred under the provisions of the covenant described above under the caption “— Liens” that limit the right of the debtor to dispose of the assets subject to such Liens;
- (11) provisions with respect to the disposition or distribution of assets or property in joint venture agreements, asset sale agreements, stock sale agreements and other similar agreements that have been approved by the Board of Directors of Central; and
- (12) restrictions on cash or other deposits or net worth imposed by customers under contracts entered into in the ordinary course of business.

### ***Merger, Consolidation or Sale of Assets***

Central may not, directly or indirectly: (1) consolidate or merge with or into another Person (whether or not Central is the surviving corporation); or (2) sell, assign, transfer, convey or otherwise dispose of all or substantially all of the properties or assets of Central and its Subsidiaries taken as a whole, in one or more related transactions, to another Person; unless:

- (1) either: (a) Central is the surviving corporation; or (b) the Person formed by or surviving any such consolidation or merger (if other than Central) or to which such sale, assignment, transfer, conveyance or other disposition has been made is a corporation organized or existing under the laws of the United States, any state of the United States or the District of Columbia;
- (2) the Person formed by or surviving any such consolidation or merger (if other than Central) or the Person to which such sale, assignment, transfer, conveyance or other disposition has been made assumes all the obligations of Central under the notes, the indenture and the registration rights agreement pursuant to agreements reasonably satisfactory to the trustee;
- (3) immediately after such transaction, no Default or Event of Default exists; and
- (4) Central or the Person formed by or surviving any such consolidation or merger (if other than Central), or to which such sale, assignment, transfer, conveyance or other disposition has been made will, on the date of such transaction after giving pro forma effect thereto and any related financing transactions as if the same had occurred at the beginning of the applicable four-quarter period, be permitted to incur at least \$1.00 of additional Indebtedness pursuant to the Fixed Charge Coverage Ratio test set forth in the first paragraph of the covenant described above under the caption “— Incurrence of Indebtedness and Issuance of Preferred Stock.”



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## **Table of Contents**

In addition, Central may not, directly or indirectly, lease all or substantially all of its properties or assets, in one or more related transactions, to any other Person. This “Merger, Consolidation or Sale of Assets” covenant will not apply to a sale, assignment, transfer, conveyance or other disposition of assets between or among Central and any of its Restricted Subsidiaries that are Guarantors, or to a merger between Central and any Restricted Subsidiary that is a Guarantor.

### ***Transactions with Affiliates***

Central will not, and will not permit any of its Restricted Subsidiaries to, make any payment to, or sell, lease, transfer or otherwise dispose of any of its properties or assets to, or purchase any property or assets from, or enter into or make or amend any transaction, contract, agreement, understanding, loan, advance or guarantee with, or for the benefit of, any Affiliate of Central (each, an “Affiliate Transaction”), unless:

- (1) the Affiliate Transaction is on terms that are no less favorable to Central or the relevant Restricted Subsidiary than those that would have been obtained in a comparable transaction by Central or such Restricted Subsidiary with an unrelated Person; and
- (2) Central delivers to the trustee:
  - (a) with respect to any Affiliate Transaction or series of related Affiliate Transactions involving aggregate consideration in excess of \$5.0 million, a resolution of the Board of Directors of Central set forth in an officers’ certificate certifying that such Affiliate Transaction complies with this covenant and that such Affiliate Transaction has been approved by a majority of the disinterested members of the Board of Directors; and
  - (b) with respect to any Affiliate Transaction or series of related Affiliate Transactions involving aggregate consideration in excess of \$15.0 million, an opinion as to the fairness to Central of such Affiliate Transaction from a financial point of view issued by an accounting, appraisal or investment banking firm of national standing.

The following items will not be deemed to be Affiliate Transactions and, therefore, will not be subject to the provisions of the prior paragraph:

- (1) any employment or consulting agreement entered into by Central or any of its Restricted Subsidiaries in the ordinary course of business of Central or such Restricted Subsidiary;
- (2) transactions between or among Central and/or its Restricted Subsidiaries;
- (3) transactions with a Person (other than an Unrestricted Subsidiary) that is an Affiliate of Central solely because Central owns, directly or through a Subsidiary, an Equity Interest in, or controls, such Person;
- (4) payment of reasonable fees and compensation to, and indemnity provided on behalf of, directors and officers of Central or of any Restricted Subsidiary;
- (5) sales of Equity Interests (other than Disqualified Stock) of Central to Affiliates of Central; and
- (6) Restricted Payments that are permitted by the covenant described above under the caption “— Restricted Payments” other than Restricted Payments that are permitted by reason of clause (4) of the second paragraph of such covenant.

### ***Business Activities***

Central will not, and will not permit any of its Restricted Subsidiaries to, engage in any business activities other than in a Permitted Business.

**Additional Subsidiary Guarantees**

If, after the date of the indenture, Central or any of its Restricted Subsidiaries:

- (1) acquires or creates a Domestic Subsidiary that at any time has total assets of more than \$1,000,000 as reflected on such Domestic Subsidiary's most recent balance sheet as of the date of determination or Consolidated Cash Flow for the most recently ended four fiscal quarters for which internal financial statements are available immediately preceding the date of determination of more than \$500,000;
- (2) has a Foreign Subsidiary that guarantees any Indebtedness of Central or any of its Restricted Subsidiaries (except Foreign Subsidiaries) other than the notes; or
- (3) has a Domestic Subsidiary, including any Domestic Subsidiaries that are not Guarantors on the date of this indenture due to the fact that such Domestic Subsidiary does not meet either of the thresholds set forth in clause (1) above, that at any time exceeds either of the thresholds set forth in clause (1) above,

then that Foreign Subsidiary or Domestic Subsidiary will become a Guarantor and execute a Subsidiary Guarantee and deliver an opinion of counsel satisfactory to the trustee regarding the authorization and enforceability of such Subsidiary Guarantee within 30 days of the date on which it was acquired, created or otherwise becomes subject to this covenant; *provided* that any Restricted Subsidiary designated as a Permitted Investment made under clause (8) or (9) of the definition of "Permitted Investments" in accordance with the applicable provisions of the indenture will not be required to become a Guarantor unless it guarantees other Indebtedness of Central or a Restricted Subsidiary of Central (other than a Foreign Subsidiary guaranteeing the Indebtedness of another Foreign Subsidiary).

**Designation of Restricted and Unrestricted Subsidiaries and Certain Permitted Investments**

The Board of Directors of Central may designate any Restricted Subsidiary to be an Unrestricted Subsidiary or to be a Permitted Investment made under clause (8) or (9) of the definition of "Permitted Investments," if that designation would not cause a Default. If a Restricted Subsidiary is designated as an Unrestricted Subsidiary, the aggregate fair market value of all outstanding Investments owned by Central and its Restricted Subsidiaries in the Subsidiary to be designated will be deemed to be an Investment made as of the time of the designation and will reduce the amount available for Restricted Payments under the first paragraph of the covenant described above under the caption "— Restricted Payments" or, if applicable, the amount available for Permitted Investments under clause (8) or (9) of the definition of "Permitted Investments," as determined by Central. That designation will only be permitted if the Investment would be permitted at that time and if the Restricted Subsidiary otherwise meets the definition of an Unrestricted Subsidiary. If a Restricted Subsidiary is designated as a Permitted Investment under clause (8) and/or (9) of the definition of "Permitted Investments," the aggregate fair market value of all outstanding Investments owned by Central and its Restricted Subsidiaries in the Subsidiary to be designated will be deemed to be an Investment made as of the time of the designation and will reduce the amount available under clause (8) and/or (9) of the definition of "Permitted Investments." Such designation will only be permitted if the Investment would be permitted by clause (8) or (9) of the definition of "Permitted Investments" at that time. Any designation of a Restricted Subsidiary as a Permitted Investment made under clause (8) or (9) of the definition of "Permitted Investments" will be evidenced to the trustee by filing with the trustee a certified copy of the board resolution giving effect to such designation and an officers' certificate certifying that such designation was permitted by this covenant. Upon a Restricted Subsidiary's designation as an Unrestricted Subsidiary or a Permitted Investment in accordance with this covenant, it will cease to be a Guarantor and its Subsidiary Guarantee will be released. The Board of Directors of Central may redesignate any Unrestricted Subsidiary to be a Restricted Subsidiary if the redesignation would not cause a Default. Upon any such redesignation or other designation as a Restricted Subsidiary, such Subsidiary (unless designated as a Permitted Investment made under clause (8) or (9) of the definition of "Permitted Investments") will become a Guarantor and execute a Subsidiary Guarantee as and to the extent required under "— Certain Covenants — Additional Subsidiary Guarantees." Fair market value for purposes of this covenant will be determined by the Board of Directors of Central as specified in the last paragraph of the covenant described under "— Restricted Payments."

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## Table of Contents

### ***Payments for Consent***

Central will not, and will not permit any of its Restricted Subsidiaries to, directly or indirectly, pay or cause to be paid any consideration to or for the benefit of any Holder of notes for or as an inducement to any consent, waiver or amendment of any of the terms or provisions of the indenture or the notes unless such consideration is offered to be paid and is paid to all Holders of the notes that consent, waive or agree to amend in the time frame set forth in the solicitation documents relating to such consent, waiver or agreement.

### ***Redemption of Convertible Subordinated Notes***

Central redeemed all of the outstanding Convertible Subordinated Notes on February 14, 2003. Concurrently with the sale of the old notes, Central mailed a notice of redemption of the Convertible Subordinated Notes that complied with the terms of the indenture governing the Convertible Subordinated Notes and irrevocably deposited the amount sufficient to redeem all outstanding Convertible Subordinated Notes, including any applicable premium and accrued interest to the redemption date with the trustee for the Convertible Notes.

### ***Reports***

Whether or not required by the Commission, so long as any notes are outstanding, Central will furnish to the Holders of notes, within the time periods specified in the Commission's rules and regulations (together with any extensions granted by the Commission):

- (1) all quarterly and annual financial information that would be required to be contained in a filing with the Commission on Forms 10-Q and 10-K if Central were required to file such Forms, including a "Management's Discussion and Analysis of Financial Condition and Results of Operations" and, with respect to the annual information only, a report on the annual financial statements by Central's certified independent accountants; and
- (2) all current reports that would be required to be filed with the Commission on Form 8-K if Central were required to file such reports.

If Central has designated any of its Subsidiaries as Unrestricted Subsidiaries, then the quarterly and annual financial information required by the preceding paragraph will include a reasonably detailed presentation, either on the face of the financial statements or in the footnotes thereto, and in Management's Discussion and Analysis of Financial Condition and Results of Operations, of the financial condition and results of operations of Central and its Restricted Subsidiaries separate from the financial condition and results of operations of the Unrestricted Subsidiaries of Central.

In addition, following the consummation of the exchange offer contemplated by the registration rights agreement, whether or not required by the Commission, Central will file a copy of all of the information and reports referred to in clauses (1) and (2) above with the Commission for public availability (unless the Commission will not accept such a filing) within the time periods specified in the Commission's rules and regulations (together with any extensions granted by the Commission) and make such information available to securities analysts and prospective investors upon request. In addition, Central and the Guarantors have agreed that, for so long as any notes (other than Exchange Notes) remain outstanding, they will furnish to the Holders and to securities analysts and prospective investors, upon their request, the information required to be delivered pursuant to Rule 144A(d)(4) under the Securities Act.

### ***Events of Default and Remedies***

Each of the following is an Event of Default:

- (1) default for 30 days in the payment when due of interest on, or Liquidated Damages with respect to, the notes, whether or not prohibited by the subordination provisions of the indenture;

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## Table of Contents

- (2) default in payment when due of the principal of, or premium, if any, on the notes, whether or not prohibited by the subordination provisions of the indenture;
- (3) failure by Central or any of its Subsidiaries to comply with the provisions described under the captions “— Repurchase at the Option of Holders — Change of Control,” “— Repurchase at the Option of Holders — Asset Sales,” or “— Certain Covenants — Merger, Consolidation or Sale of Assets;”
- (4) failure by Central or any of its Subsidiaries to comply with the provisions described under the captions “— Certain Covenants — Restricted Payments” or “— Certain Covenants — Incurrence of Indebtedness and Issuance of Preferred Stock,” and such failure continues for 30 days;
- (5) failure by Central or any of its Subsidiaries for 60 days after notice by the trustee or Holders of at least 25% in principal amount of the then outstanding notes to comply with any of the other agreements in the indenture;
- (6) default under any mortgage, indenture or instrument under which there may be issued or by which there may be secured or evidenced any Indebtedness for money borrowed by Central or any of its Restricted Subsidiaries (or the payment of which is guaranteed by Central or any of its Restricted Subsidiaries) whether such Indebtedness or guarantee now exists, or is created after the date of the indenture, if that default:
  - (a) is caused by a failure to pay principal of, or interest or premium, if any, on such Indebtedness prior to the expiration of the grace period provided in such Indebtedness on the date of such default (a “Payment Default”); or
  - (b) results in the acceleration of such Indebtedness prior to its express maturity,and, in each case, the principal amount of any such Indebtedness, together with the principal amount of any other such Indebtedness under which there has been a Payment Default or the maturity of which has been so accelerated, aggregates \$15.0 million or more;
- (7) failure by Central or any of its Restricted Subsidiaries to pay final judgments aggregating in excess of \$15.0 million (to the extent not insured), which judgments are not paid, discharged or stayed by court order or by agreement of the parties for a period of 60 days;
- (8) except as permitted by the indenture, any Subsidiary Guarantee shall be held in any judicial proceeding to be unenforceable or invalid or shall cease for any reason to be in full force and effect or any Guarantor, or any Person acting on behalf of any Guarantor, shall deny or disaffirm its obligations under its Subsidiary Guarantee;
- (9) certain events of bankruptcy or insolvency described in the indenture with respect to Central, any Restricted Subsidiary that is a Significant Subsidiary or any group of Restricted Subsidiaries that, taken together, would constitute a Significant Subsidiary; and
- (10) failure of Central to redeem all of its outstanding Convertible Subordinated Notes on or prior to February 28, 2003.

In the case of an Event of Default arising from an event of bankruptcy or insolvency described in clause (9) above, all outstanding notes will become due and payable immediately without further action or notice. If any other Event of Default occurs and is continuing, the trustee or the Holders of at least 25% in principal amount of the then outstanding notes may declare all the notes to be due and payable immediately.

Holders of the notes may not enforce the indenture or the notes except as provided in the indenture. Subject to certain limitations, Holders of a majority in principal amount of the then outstanding notes may direct the trustee in its exercise of any trust or power. The trustee may withhold from Holders of the notes notice of any continuing Default or Event of Default if it determines that withholding notes is in their interest, except a Default or Event of Default relating to the payment of principal (including redemption or purchase price) or interest or Liquidated Damages.

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## Table of Contents

The Holders of a majority in aggregate principal amount of the notes then outstanding by notice to the trustee may on behalf of the Holders of all of the notes waive any existing Default or Event of Default and its consequences under the indenture except a continuing Default or Event of Default in the payment of interest or Liquidated Damages on, or the principal (including redemption or purchase price) of, the notes.

In the case of any Event of Default occurring by reason of any willful action or inaction taken or not taken by or on behalf of Central with the intention of avoiding payment of the premium that Central would have had to pay if Central then had elected to redeem the notes pursuant to the optional redemption provisions of the indenture, an equivalent premium will also become and be immediately due and payable to the extent permitted by law upon the acceleration of the notes. If an Event of Default occurs prior to February 1, 2008, by reason of any willful action (or inaction) taken (or not taken) by or on behalf of Central with the intention of avoiding the prohibition on redemption of the notes prior to February 1, 2008, then the premium specified in the indenture will also become immediately due and payable to the extent permitted by law upon the acceleration of the notes.

At any time after a declaration of acceleration under the indenture, but before a judgment or decree for payment of the money due has been obtained by the trustee, the Holders of a majority in aggregate principal amount of the outstanding notes, by written notice to Central and the trustee, may rescind such declaration and its consequences if: (i) Central has paid or deposited with the trustee a sum sufficient to pay (A) all overdue interest on all notes, (B) all unpaid principal of (and premium, if any, on) any outstanding notes that has become due, other than by such declaration of acceleration, and interest thereon at the rate borne by the notes, (C) to the extent that payment of such interest is lawful, interest upon overdue interest and overdue principal at the rate borne by the notes, and (D) all sums paid or advanced by the trustee under the indenture and the reasonable compensation, expenses, disbursements and advances of the trustee, its agents and counsel; and (ii) all Events of Default, other than the non-payment of amounts of principal of (or premium, if any, on), or interest on, the notes that have become due solely by such declaration of acceleration, have been cured or waived. No such rescission will affect any subsequent default or impair any right consequent thereon.

Central is required to deliver to the trustee annually a statement regarding compliance with the indenture. Upon becoming aware of any Default or Event of Default, Central is required to deliver to the trustee a statement specifying such Default or Event of Default.

### **No Personal Liability of Directors, Officers, Employees and Stockholders**

No director, officer, employee, incorporator or stockholder of Central or any Guarantor, as such, will have any liability for any obligations of Central or the Guarantors under the notes, the indenture, the Subsidiary Guarantees, or for any claim based on, in respect of, or by reason of, such obligations or their creation. Each Holder of notes by accepting a note waives and releases all such liability. The waiver and release are part of the consideration for issuance of the notes. The waiver may not be effective to waive liabilities under the federal securities laws.

### **Legal Defeasance and Covenant Defeasance**

Central may, at its option and at any time, elect to have all of its obligations discharged with respect to the outstanding notes and all obligations of the Guarantors discharged with respect to their Subsidiary Guarantees ("Legal Defeasance") except for:

- (1) the rights of Holders of outstanding notes to receive payments in respect of the principal of, or interest or premium and Liquidated Damages, if any, on such notes when such payments are due from the trust referred to below;
- (2) Central's obligations with respect to the notes concerning issuing temporary notes, registration of notes, mutilated, destroyed, lost or stolen notes and the maintenance of an office or agency for payment and money for security payments held in trust;

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## Table of Contents

- (3) the rights, powers, trusts, duties and immunities of the trustee, and Central's and the Guarantors' obligations in connection therewith; and
- (4) the Legal Defeasance provisions of the indenture.

In addition, Central may, at its option and at any time, elect to have the obligations of Central and the Guarantors released with respect to certain covenants (including its obligation to make Change of Control Offers and Asset Sale Offers) that are described in the indenture ("Covenant Defeasance") and thereafter any omission to comply with those covenants will not constitute a Default or Event of Default with respect to the notes. In the event Covenant Defeasance occurs, certain events (not including non-payment, bankruptcy, receivership, rehabilitation and insolvency events) described under "— Events of Default and Remedies" will no longer constitute an Event of Default with respect to the notes.

In order to exercise either Legal Defeasance or Covenant Defeasance:

- (1) Central must irrevocably deposit with the trustee, in trust, for the benefit of the Holders of the notes, cash in U.S. dollars, non-callable Government Securities, or a combination of cash in U.S. dollars and non-callable Government Securities, in amounts as will be sufficient, in the opinion of a nationally recognized investment bank, appraisal firm or firm of independent public accountants, to pay the principal of, and interest and premium and Liquidated Damages, if any, on the outstanding notes on the stated maturity or on the applicable redemption date, as the case may be, and Central must specify whether the notes are being defeased to maturity or to a particular redemption date;
- (2) in the case of Legal Defeasance, Central has delivered to the trustee an opinion of counsel reasonably acceptable to the trustee confirming that (a) Central has received from, or there has been published by, the Internal Revenue Service a ruling or (b) since the date of the indenture, there has been a change in the applicable federal income tax law, in either case to the effect that, and based thereon such opinion of counsel will confirm that, the Holders of the outstanding notes will not recognize income, gain or loss for federal income tax purposes as a result of such Legal Defeasance and will be subject to federal income tax on the same amounts, in the same manner and at the same times as would have been the case if such Legal Defeasance had not occurred;
- (3) in the case of Covenant Defeasance, Central has delivered to the trustee an opinion of counsel reasonably acceptable to the trustee confirming that the Holders of the outstanding notes will not recognize income, gain or loss for federal income tax purposes as a result of such Covenant Defeasance and will be subject to federal income tax on the same amounts, in the same manner and at the same times as would have been the case if such Covenant Defeasance had not occurred;
- (4) no Default or Event of Default has occurred and is continuing on the date of such deposit and after giving effect thereto;
- (5) such Legal Defeasance or Covenant Defeasance will not result in a breach or violation of, or constitute a default under any material agreement or instrument (other than the indenture) to which Central or any of its Subsidiaries is a party or by which Central or any of its Subsidiaries is bound;
- (6) Central must deliver to the trustee an officers' certificate stating that the deposit was not made by Central with the intent of preferring the Holders of notes over the other creditors of Central with the intent of defeating, hindering, delaying or defrauding creditors of Central or others; and
- (7) Central must deliver to the trustee an officers' certificate and an opinion of counsel, each stating that all conditions precedent relating to the Legal Defeasance or the Covenant Defeasance have been complied with.

## **Amendment, Supplement and Waiver**

Except as provided in the next three succeeding paragraphs, the indenture and the notes may be amended or supplemented with the consent of the Holders of at least a majority in principal amount of the notes then

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## Table of Contents

outstanding (including, without limitation, consents obtained in connection with a purchase of, or tender offer or exchange offer for, notes), and any existing default or compliance with any provision of the indenture or the notes may be waived with the consent of the Holders of a majority in principal amount of the then outstanding notes (including, without limitation, consents obtained in connection with a purchase of, or tender offer or exchange offer for, notes).

Without the consent of each Holder affected, an amendment or waiver may not (with respect to any notes held by a non-consenting Holder):

- (1) reduce the principal amount of notes whose Holders must consent to an amendment, supplement or waiver;
- (2) reduce the principal of or change the fixed maturity of any note or alter the provisions with respect to the redemption of the notes (other than provisions relating to the covenants described above under the caption “— Repurchase at the Option of Holders”);
- (3) reduce the rate of or change the time for payment of interest on any note;
- (4) waive a Default or Event of Default in the payment of principal (including redemption or purchase price) of, or interest or premium, or Liquidated Damages, if any, on the notes (except a rescission of acceleration of the notes by the Holders of at least a majority in aggregate principal amount of the notes and a waiver of the payment default that resulted from such acceleration);
- (5) make any note payable in money other than that stated in the notes;
- (6) make any change in the provisions of the indenture relating to waivers of past Defaults or the rights of Holders of notes to receive payments of principal of, or interest or premium or Liquidated Damages, if any, on the notes;
- (7) waive a redemption payment with respect to any note (other than a payment required by one of the covenants described above under the caption “— Repurchase at the Option of Holders”);
- (8) release any Guarantor from any of its obligations under its Subsidiary Guarantee or the indenture, except in accordance with the terms of the indenture; or
- (9) make any change in the preceding amendment and waiver provisions.

In addition, any amendment to, or waiver of, the provisions of the indenture relating to subordination that adversely affects the rights of the Holders of the notes will require the consent of the Holders of at least 75% in aggregate principal amount of notes then outstanding.

Notwithstanding the preceding, without the consent of any Holder of notes, Central, the Guarantors and the trustee may amend or supplement the indenture or the notes:

- (1) to cure any ambiguity, defect or inconsistency;
- (2) to provide for uncertificated notes in addition to or in place of certificated notes;
- (3) to provide for the assumption of Central’s obligations to Holders of notes in the case of a merger or consolidation or sale of all or substantially all of Central’s assets;
- (4) to provide for additional Subsidiary Guarantees or to limit or eliminate the ability of Central to obtain the release of a Guarantor or a Subsidiary Guarantee;
- (5) to make any change that would provide any additional rights or benefits to the Holders of notes or that does not adversely affect the legal rights under the indenture of any such Holder; or
- (6) to comply with requirements of the Commission in order to effect or maintain the qualification of the indenture under the Trust Indenture Act.

## **Satisfaction and Discharge**

The indenture will be discharged and will cease to be of further effect as to all notes issued thereunder, when:

- (1) either:
  - (a) all notes that have been authenticated, except lost, stolen or destroyed notes that have been replaced or paid and notes for whose payment money has been deposited in trust and thereafter repaid to Central, have been delivered to the trustee for cancellation; or
  - (b) all notes that have not been delivered to the trustee for cancellation have become due and payable by reason of the mailing of a notice of redemption or otherwise or will become due and payable within one year and Central or any Guarantor has irrevocably deposited or caused to be deposited with the trustee as trust funds in trust solely for the benefit of the Holders, cash in U.S. dollars, non-callable Government Securities, or a combination of cash in U.S. dollars and non-callable Government Securities, in amounts as will be sufficient without consideration of any reinvestment of interest, to pay and discharge the entire indebtedness on the notes not delivered to the trustee for cancellation for principal, premium and Liquidated Damages, if any, and accrued interest to the date of maturity or redemption;
- (2) no Default or Event of Default has occurred and is continuing on the date of the deposit or will occur as a result of the deposit and the deposit will not result in a breach or violation of, or constitute a default under, any other instrument to which Central or any Guarantor is a party or by which Central or any Guarantor is bound;
- (3) Central or any Guarantor has paid or caused to be paid all sums payable by it under the indenture; and
- (4) Central has delivered irrevocable instructions to the trustee under the indenture to apply the deposited money toward the payment of the notes at maturity or the redemption date, as the case may be.

In addition, Central must deliver an officers' certificate and an opinion of counsel to the trustee stating that all conditions precedent to satisfaction and discharge have been satisfied.

## **Concerning the Trustee**

If the trustee becomes a creditor of Central or any Guarantor, the indenture limits its right to obtain payment of claims in certain cases, or to realize on certain property received in respect of any such claim as security or otherwise. The trustee will be permitted to engage in other transactions; however, if it acquires any conflicting interest it must eliminate such conflict within 90 days, apply to the Commission for permission to continue or resign.

The Holders of a majority in principal amount of the then outstanding notes will have the right to direct the time, method and place of conducting any proceeding for exercising any remedy available to the trustee, subject to certain exceptions. The indenture provides that in case an Event of Default occurs and is continuing, the trustee will be required, in the exercise of its power, to use the degree of care of a prudent man in the conduct of his own affairs. Subject to such provisions, the trustee will be under no obligation to exercise any of its rights or powers under the indenture at the request of any Holder of notes, unless such Holder has offered to the trustee security and indemnity satisfactory to it against any loss, liability or expense.

## **Book-Entry, Delivery and Form**

The new notes will be represented by one or more notes in registered, global form without interest coupons (collectively, the "Global Notes"). The Global Notes will be deposited upon issuance with the trustee as custodian for The Depository Trust Company ("DTC"), in New York, New York, and registered in the name of



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## Table of Contents

DTC or its nominee, in each case for credit to an account of a direct or indirect participant in DTC as described below.

Except as set forth below, the Global Notes may be transferred, in whole and not in part, only to another nominee of DTC or to a successor of DTC or its nominee. Beneficial interests in the Global Notes may not be exchanged for notes in certificated form except in the limited circumstances described below. See “— Exchange of Global Notes for Certificated Notes.” Except in the limited circumstances described below, owners of beneficial interests in the Global Notes will not be entitled to receive physical delivery of notes in certificated form.

Transfers of beneficial interests in the Global Notes will be subject to the applicable rules and procedures of DTC and its direct or indirect participants (including, if applicable, those of Euroclear and Clearstream), which may change from time to time.

### **Depository Procedures**

The following description of the operations and procedures of DTC, Euroclear and Clearstream is provided solely as a matter of convenience. These operations and procedures are solely within the control of the respective settlement systems and are subject to changes by them. Central takes no responsibility for these operations and procedures and urges investors to contact the system or their participants directly to discuss these matters.

DTC has advised Central that DTC is a limited-purpose trust company created to hold securities for its participating organizations (collectively, the “Participants”) and to facilitate the clearance and settlement of transactions in those securities between Participants through electronic book-entry changes in accounts of its Participants. The Participants include securities brokers and dealers (including the Initial Purchasers), banks, trust companies, clearing corporations and certain other organizations. Access to DTC’s system is also available to other entities such as banks, brokers, dealers and trust companies that clear through or maintain a custodial relationship with a Participant, either directly or indirectly (collectively, the “Indirect Participants”). Persons who are not Participants may beneficially own securities held by or on behalf of DTC only through the Participants or the Indirect Participants. The ownership interests in, and transfers of ownership interests in, each security held by or on behalf of DTC are recorded on the records of the Participants and Indirect Participants.

DTC has also advised Central that, pursuant to procedures established by it:

- (1) upon deposit of the Global Notes, DTC will credit the accounts of Participants designated by the Initial Purchasers with portions of the principal amount of the Global Notes; and
- (2) ownership of these interests in the Global Notes will be shown on, and the transfer of ownership of these interests will be effected only through, records maintained by DTC (with respect to the Participants) or by the Participants and the Indirect Participants (with respect to other owners of beneficial interest in the Global Notes).

Investors in the Global Notes who are Participants in DTC’s system may hold their interests therein directly through DTC. Investors in the Global Notes who are not Participants may hold their interests therein indirectly through organizations (including Euroclear and Clearstream) which are Participants in such system. All interests in a Global Note, including those held through Euroclear or Clearstream, may be subject to the procedures and requirements of DTC. Those interests held through Euroclear or Clearstream may also be subject to the procedures and requirements of such systems. The laws of some states require that certain Persons take physical delivery in definitive form of securities that they own. Consequently, the ability to transfer beneficial interests in a Global Note to such Persons will be limited to that extent. Because DTC can act only on behalf of Participants, which in turn act on behalf of Indirect Participants, the ability of a Person having beneficial interests in a Global Note to pledge such interests to Persons that do not participate in the DTC system, or otherwise take actions in respect of such interests, may be affected by the lack of a physical certificate evidencing such interests.

**Except as described below, owners of interest in the Global Notes will not have notes registered in their names, will not receive physical delivery of notes in certificated form and will not be considered the registered owners or “Holders” thereof under the indenture for any purpose.**

Payments in respect of the principal of, and interest and premium and Liquidated Damages, if any, on a Global Note registered in the name of DTC or its nominee will be payable to DTC in its capacity as the registered Holder under the indenture. Under the terms of the indenture, Central and the trustee will treat the Persons in whose names the notes, including the Global Notes, are registered as the owners of the notes for the purpose of receiving payments and for all other purposes. Consequently, neither Central, the trustee nor any agent of Central or the trustee has or will have any responsibility or liability for:

- (1) any aspect of DTC’s records or any Participant’s or Indirect Participant’s records relating to or payments made on account of beneficial ownership interest in the Global Notes or for maintaining, supervising or reviewing any of DTC’s records or any Participant’s or Indirect Participant’s records relating to the beneficial ownership interests in the Global Notes; or
- (2) any other matter relating to the actions and practices of DTC or any of its Participants or Indirect Participants.

DTC has advised Central that its current practice, upon receipt of any payment in respect of securities such as the notes (including principal and interest), is to credit the accounts of the relevant Participants with the payment on the payment date unless DTC has reason to believe it will not receive payment on such payment date. Each relevant Participant is credited with an amount proportionate to its beneficial ownership of an interest in the principal amount of the relevant security as shown on the records of DTC. Payments by the Participants and the Indirect Participants to the beneficial owners of notes will be governed by standing instructions and customary practices and will be the responsibility of the Participants or the Indirect Participants and will not be the responsibility of DTC, the trustee or Central. Neither Central nor the trustee will be liable for any delay by DTC or any of its Participants in identifying the beneficial owners of the notes, and Central and the trustee may conclusively rely on and will be protected in relying on instructions from DTC or its nominee for all purposes.

Transfers between Participants in DTC will be effected in accordance with DTC’s procedures, and will be settled in same-day funds, and transfers between participants in Euroclear and Clearstream will be effected in accordance with their respective rules and operating procedures.

Cross-market transfers between the Participants in DTC, on the one hand, and Euroclear or Clearstream participants, on the other hand, will be effected through DTC in accordance with DTC’s rules on behalf of Euroclear or Clearstream, as the case may be, by its respective depository; however, such cross-market transactions will require delivery of instructions to Euroclear or Clearstream, as the case may be, by the counterparty in such system in accordance with the rules and procedures and within the established deadlines (Brussels time) of such system. Euroclear or Clearstream, as the case may be, will, if the transaction meets its settlement requirements, deliver instructions to its respective depository to take action to effect final settlement on its behalf by delivering or receiving interests in the relevant Global Note in DTC, and making or receiving payment in accordance with normal procedures for same-day funds settlement applicable to DTC. Euroclear participants and Clearstream participants may not deliver instructions directly to the depositories for Euroclear or Clearstream.

DTC has advised Central that it will take any action permitted to be taken by a Holder of notes only at the direction of one or more Participants to whose account DTC has credited the interests in the Global Notes and only in respect of such portion of the aggregate principal amount of the notes as to which such Participant or Participants has or have given such direction. However, if there is an Event of Default under the notes, DTC reserves the right to exchange the Global Notes for legended notes in certificated form, and to distribute such notes to its Participants.

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## [Table of Contents](#)

Although DTC, Euroclear and Clearstream have agreed to the foregoing procedures to facilitate transfers of interests in the Global Notes among participants in DTC, Euroclear and Clearstream, they are under no obligation to perform or to continue to perform such procedures, and may discontinue such procedures at any time. Neither Central nor the trustee nor any of their respective agents will have any responsibility for the performance by DTC, Euroclear or Clearstream or their respective participants or indirect participants of their respective obligations under the rules and procedures governing their operations.

### **Exchange of Global Notes for Certificated Notes**

A Global Note is exchangeable for definitive notes in registered certificated form (“Certificated Notes”) if:

- (1) DTC (a) notifies Central that it is unwilling or unable to continue as depository for the Global Notes or (b) has ceased to be a clearing agency registered under the Exchange Act and, in either case, Central fails to appoint a successor depository;
- (2) Central, at its option, notifies the trustee in writing that it elects to cause the issuance of the Certificated Notes; or
- (3) there has occurred and is continuing a Default or Event of Default with respect to the notes.

In addition, beneficial interests in a Global Note may be exchanged for Certificated Notes upon prior written notice given to the trustee by or on behalf of DTC in accordance with the indenture. In all cases, Certificated Notes delivered in exchange for any Global Note or beneficial interests in Global Notes will be registered in the names, and issued in any approved denominations, requested by or on behalf of the depository (in accordance with its customary procedures).

### **Exchange of Certificated Notes for Global Notes**

Certificated Notes may not be exchanged for beneficial interests in any Global Note unless the transferor first delivers to the trustee a written certificate (in the form provided in the indenture) to the effect that such transfer will comply with the appropriate transfer restrictions, if any, applicable to such notes.

### **Same Day Settlement and Payment**

Central will make payments in respect of the notes represented by the Global Notes (including principal, premium, if any, interest and Liquidated Damages, if any) by wire transfer of immediately available funds to the accounts specified by the Global Note Holder. Central will make all payments of principal, interest and premium and Liquidated Damages, if any, with respect to Certificated Notes by wire transfer of immediately available funds to the accounts specified by the Holders of the Certificated Notes or, if no such account is specified, by mailing a check to each such Holder’s registered address, but only, in connection with any payment of principal or redemption or purchase price of or premium on any certificated note, upon surrender thereof at the office of the trustee or any paying agent. The notes represented by the Global Notes are expected to be eligible to trade in the PORTAL market and to trade in DTC’s Same-Day Funds Settlement System, and any permitted secondary market trading activity in such notes will, therefore, be required by DTC to be settled in immediately available funds. Central expects that secondary trading in any Certificated Notes will also be settled in immediately available funds.

Because of time zone differences, the securities account of a Euroclear or Clearstream participant purchasing an interest in a Global Note from a Participant in DTC will be credited, and any such crediting will be reported to the relevant Euroclear or Clearstream participant, during the securities settlement processing day (which must be a business day for Euroclear and Clearstream) immediately following the settlement date of DTC. DTC has advised Central that cash received in Euroclear or Clearstream as a result of sales of interests in a Global Note by or through a Euroclear or Clearstream participant to a Participant in DTC will be received with

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## Table of Contents

value on the settlement date of DTC but will be available in the relevant Euroclear or Clearstream cash account only as of the business day for Euroclear or Clearstream following DTC's settlement date.

### **Certain Definitions**

Set forth below are certain defined terms used in the indenture. Reference is made to the indenture for a full disclosure of all such terms, as well as any other capitalized terms used herein for which no definition is provided.

*"Acquired Debt"* means, with respect to any specified Person:

- (1) Indebtedness of any other Person existing at the time such other Person is merged with or into or became a Subsidiary of such specified Person, whether or not such Indebtedness is incurred in connection with, or in contemplation of, such other Person merging with or into, or becoming a Subsidiary of, such specified Person; and
- (2) Indebtedness secured by a Lien encumbering any asset acquired by such specified Person.

*"Affiliate"* of any specified Person means any other Person directly or indirectly controlling or controlled by or under direct or indirect common control with such specified Person. For purposes of this definition, "control," as used with respect to any Person, means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of such Person, whether through the ownership of voting securities, by agreement or otherwise; *provided* that beneficial ownership of 10% or more of the Voting Stock of a Person will be deemed to be control. For purposes of this definition, the terms "controlling," "controlled by" and "under common control with" have correlative meanings.

*"Asset Sale"* means:

- (1) the sale, lease, conveyance or other disposition of any assets or rights, other than sales of inventory in the ordinary course of business consistent with past practices; *provided* that the sale, conveyance or other disposition of all or substantially all of the assets of Central and its Subsidiaries taken as a whole will be governed by the provisions of the indenture described above under the caption "*— Repurchase at the Option of Holders — Change of Control*" and/or the provisions described above under the caption "*— Certain Covenants — Merger, Consolidation or Sale of Assets*" and not by the provisions of the Asset Sale covenant; and
- (2) the issuance of Equity Interests by any of Central's Restricted Subsidiaries or the sale of Equity Interests in any of its Restricted Subsidiaries.

Notwithstanding the preceding, none of the following items will be deemed to be an Asset Sale:

- (1) any single transaction or series of related transactions that involves assets having a fair market value of less than \$2.0 million;
- (2) a transfer of assets between or among Central and its Restricted Subsidiaries,
- (3) an issuance of Equity Interests by a Subsidiary to Central or to another Restricted Subsidiary;
- (4) the sale or lease of equipment, inventory, accounts receivable or other assets in the ordinary course of business;
- (5) the sale or other disposition, without the sale or other disposition of other types of assets as part of the same transaction, of cash or Cash Equivalents or Government Securities; and
- (6) a Restricted Payment or Permitted Investment that is permitted by the covenant described above under the caption "*— Certain Covenants — Restricted Payments.*"

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## Table of Contents

*“Beneficial Owner”* has the meaning assigned to such term in Rule 13d-3 and Rule 13d-5 under the Exchange Act, except that in calculating the beneficial ownership of any particular “person” (as that term is used in Section 13(d)(3) of the Exchange Act), such “person” will be deemed to have beneficial ownership of all securities that such “person” has the right to acquire by conversion or exercise of other securities, whether such right is currently exercisable or is exercisable only upon the occurrence of a subsequent condition. The terms “Beneficially Owns” and “Beneficially Owned” have a corresponding meaning.

*“Board of Directors”* means:

- (1) with respect to a corporation, the board of directors of the corporation;
- (2) with respect to a partnership or limited liability company, the Board of Directors of the general partner of the partnership or managing member of the limited liability company; and
- (3) with respect to any other Person, the board or committee of such Person serving a similar function.

*“Borrowing Base”* means, as of any date, an amount equal to:

- (1) 85% of the face amount of all accounts receivable owned by Central and its Subsidiaries as of the end of the most recent fiscal quarter preceding such date that were not more than 90 days past due; *plus*
- (2) 50% of the book value of all inventory owned by Central and its Subsidiaries as of the end of the most recent fiscal quarter preceding such date.

*“Capital Lease Obligation”* means, at the time any determination is to be made, the amount of the liability in respect of a capital lease that would at that time be required to be capitalized on a balance sheet in accordance with GAAP.

*“Capital Stock”* means:

- (1) in the case of a corporation, corporate stock;
- (2) in the case of an association or business entity, any and all shares, interests, participations, rights or other equivalents (however designated) of corporate stock;
- (3) in the case of a partnership or limited liability company, partnership or membership interests (whether general or limited); and
- (4) any other interest or participation that confers on a Person the right to receive a share of the profits and losses of, or distributions of assets of, the issuing Person.

*“Cash Equivalents”* means:

- (1) United States dollars;
- (2) securities issued or directly and fully guaranteed or insured by the United States government or any agency or instrumentality of the United States government (*provided* that the full faith and credit of the United States is pledged in support of those securities) having maturities of not more than six months from the date of acquisition;
- (3) certificates of deposit and eurodollar time deposits with maturities of six months or less from the date of acquisition, bankers’ acceptances with maturities not exceeding six months and overnight bank deposits, in each case, with any domestic commercial bank having capital and surplus in excess of \$500.0 million and a Thomson Bank Watch Rating of “B” or better;
- (4) repurchase obligations with a term of not more than 30 days for underlying securities of the types described in clauses (2) and (3) above entered into with any financial institution meeting the qualifications specified in clause (3) above;

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## Table of Contents

- (5) commercial paper having the highest rating obtainable from Moody's Investors Service, Inc. or Standard & Poor's Rating Services and in each case maturing within six months after the date of acquisition; and
- (6) money market funds at least 95% of the assets of which constitute Cash Equivalents of the kinds described in clauses (1) through (5) of this definition.

*"Change of Control"* means the occurrence of any of the following:

- (1) the direct or indirect sale, transfer, conveyance or other disposition (other than by way of merger or consolidation), in one or a series of related transactions, of all or substantially all of the properties or assets of Central and its Restricted Subsidiaries taken as a whole to any "person" (as that term is used in Section 13(d)(3) of the Exchange Act) other than a Permitted Holder;
- (2) the adoption of a plan relating to the liquidation or dissolution of Central;
- (3) the consummation of any transaction (including, without limitation, any merger or consolidation) the result of which is that any "person" (as defined above), other than a Permitted Holder, becomes the Beneficial Owner, directly or indirectly, of more than 50% of the Voting Stock of Central, measured by voting power rather than number of shares; or
- (4) the first day on which a majority of the members of the Board of Directors of Central are not Continuing Directors.

*"Consolidated Cash Flow"* means, with respect to any specified Person for any period, the Consolidated Net Income of such Person for such period<sup>plus</sup> (without duplication):

- (1) an amount equal to any extraordinary loss plus any net loss realized by such Person or any of its Restricted Subsidiaries in connection with an Asset Sale, to the extent such losses were deducted in computing such Consolidated Net Income;
- (2) provision for taxes based on income or profits of such Person and its Restricted Subsidiaries for such period, to the extent that such provision for taxes was deducted in computing such Consolidated Net Income;
- (3) consolidated interest expense of such Person and its Restricted Subsidiaries for such period, whether paid or accrued and whether or not capitalized (including, without limitation, amortization of debt issuance costs and original issue discount, non-cash interest payments, the interest component of any deferred payment obligations, the interest component of all payments associated with Capital Lease Obligations, commissions, discounts and other fees and charges incurred in respect of letter of credit or bankers' acceptance financings, and net of the effect of all payments made or received pursuant to Hedging Obligations), to the extent that any such expense was deducted in computing such Consolidated Net Income;
- (4) depreciation, amortization (including amortization of goodwill and other intangibles but excluding amortization of prepaid cash expenses that were paid in a prior period) and other non-cash expenses (excluding any such non-cash expense to the extent that it represents an accrual of or reserve for cash expenses in any future period or amortization of a prepaid cash expense that was paid in a prior period) of such Person and its Restricted Subsidiaries for such period to the extent that such depreciation, amortization and other non-cash expenses were deducted in computing such Consolidated Net Income; and
- (5) if applicable to such calculation, "other charges and unusual items" for the fiscal year ended September 28, 2002 or any fiscal quarter or quarters thereof, set forth in note (3) under the caption "Selected Historical Financial Data," to the extent that such "other charges and unusual items" were deducted in computing such Consolidated Net Income;

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## Table of Contents

*minus* non-cash items increasing such Consolidated Net Income for such period, other than any items that represent the reversal of any accrual of, or cash reserve for, anticipated cash charges in any prior period or the accrual of revenue in the ordinary course of business, in each case, on a consolidated basis and determined in accordance with GAAP.

Notwithstanding the preceding, the provision for taxes based on the income or profits, depreciation and amortization and other non-cash expenses, and net adjustment to Consolidated Cash Flow of a Restricted Subsidiary of Central will be added to Consolidated Net Income to compute Consolidated Cash Flow of Central only to the extent that a corresponding amount would be permitted at the date of determination to be dividended to Central by such Restricted Subsidiary without prior governmental approval (that has not been obtained), and without direct or indirect restriction pursuant to the terms of its charter and all agreements, instruments, judgments, decrees, orders, statutes, rules and governmental regulations applicable to that Restricted Subsidiary or its stockholders.

*“Consolidated Net Income”* means, with respect to any specified Person for any period, the aggregate of the Net Income of such Person and its Restricted Subsidiaries for such period, on a consolidated basis, determined in accordance with GAAP; *provided that*:

- (1) the Net Income (but not loss) of any Person that is not a Restricted Subsidiary or that is accounted for by the equity method of accounting will be included only to the extent of the amount of dividends or distributions paid in cash to the specified Person or a Restricted Subsidiary of the Person;
- (2) the Net Income of any Restricted Subsidiary will be excluded to the extent that the declaration or payment of dividends or similar distributions by that Restricted Subsidiary of that Net Income is not at the date of determination permitted without any prior governmental approval (that has not been obtained) or, directly or indirectly, by operation of the terms of its charter or any agreement, instrument, judgment, decree, order, statute, rule or governmental regulation applicable to that Restricted Subsidiary or its stockholders; and
- (3) the Net Income of any Person acquired in a pooling of interests transaction for any period prior to the date of such acquisition will be excluded.

*“Continuing Directors”* means, as of any date of determination, any member of the Board of Directors of Central who:

- (1) was a member of such Board of Directors on the date of the indenture; or
- (2) was nominated for election or elected to such Board of Directors with the approval of a majority of the Continuing Directors who were members of such Board of Directors at the time of such nomination or election.

*“Convertible Subordinated Notes”* means the 6% Convertible Subordinated Notes due 2003 of Central.

*“Credit Agreement”* means that certain Second Amended and Restated Loan and Security Agreement, dated as of December 12, 2000, as amended to date, by and among Central and certain of its Subsidiaries and Congress Financial Corporation (Western), including any related notes, guarantees, collateral documents, instruments, and agreements executed in connection therewith, and in each case, as amended, restated, modified, refunded, replaced, or refinanced in whole or in part from time to time.

*“Credit Facilities”* means one or more debt facilities (including without limitation the Credit Agreement) or commercial paper facilities, in each case with banks or other institutional lenders providing for revolving credit loans, term loans, receivables financing (including through the sale of receivables to such lenders or to special purpose entities formed to borrow from such lenders against such receivables) or letters of credit, in each case, as amended, amended and restated, supplemented, modified, renewed, refunded, replaced or refinanced from time to time.

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## Table of Contents

*“Default”* means any event that is, or with the passage of time or the giving of notice or both would be, an Event of Default.

*“Designated Senior Debt”* means:

- (1) any Indebtedness outstanding under the Credit Agreement; and
- (2) after payment in full of all Obligations under the Credit Agreement, or upon the consent of the lenders thereunder, any other Senior Debt permitted under the indenture the outstanding principal amount of which is or may be \$15.0 million or more and that has been designated by Central as “Designated Senior Debt.”

*“Disqualified Stock”* means any Capital Stock that, by its terms (or by the terms of any security into which it is convertible, or for which it is exchangeable, in each case at the option of the holder of the Capital Stock), or upon the happening of any event, matures or is mandatorily redeemable, pursuant to a sinking fund obligation or otherwise, or redeemable at the option of the holder of the Capital Stock, in whole or in part, on or prior to the date that is 91 days after the date on which the notes mature. Notwithstanding the preceding sentence, any Capital Stock that would constitute Disqualified Stock solely because the holders of the Capital Stock have the right to require Central to repurchase such Capital Stock upon the occurrence of a change of control or an asset sale will not constitute Disqualified Stock if the terms of such Capital Stock provide that Central may not repurchase or redeem any such Capital Stock pursuant to such provisions unless such repurchase or redemption complies with the covenant described above under the caption “— Certain Covenants — Restricted Payments.”

*“Domestic Subsidiary”* means any Restricted Subsidiary of Central that was formed under the laws of the United States or any state of the United States or the District of Columbia or that guarantees or otherwise provides direct credit support for any Indebtedness of Central.

*“Equity Interests”* means Capital Stock and all warrants, options or other rights to acquire Capital Stock (but excluding any debt security that is convertible into, or exchangeable for, Capital Stock).

*“Equity Market Value”* means with respect to Equity Interests of Central:

- (1) if the Equity Interests are registered under the Exchange Act and listed on a national securities exchange or the Nasdaq National Market, the closing price of the Equity Interests on the date of determination (or if the date of determination is not a business day, the first business day after the date of determination) on the principal national securities exchange or automated quotation system on which the Equity Interests are traded; or
- (2) if clause (1) is not applicable because such Equity Interests are not so registered and listed or if there is no trading in the Equity Interests on the applicable day, the fair market value as determined by Central’s Board of Directors which shall be evidenced by a resolution of the Board of Directors set forth in an officers’ certificate delivered to the trustee and shall be based upon an opinion or appraisal issued by an accounting, appraisal or investment banking firm of national standing if the fair market value exceeds \$5.0 million.

*“Existing Indebtedness”* means Indebtedness of Central and its Subsidiaries (other than Indebtedness under the Credit Facilities and Indebtedness represented by the Convertible Subordinated Notes) in existence on the date of the indenture in an aggregate amount not to exceed \$25.0 million, until such amounts are repaid.

*“Fixed Charge Coverage Ratio”* means with respect to any specified Person for any period, the ratio of the Consolidated Cash Flow of such Person and its Restricted Subsidiaries for such period to the Fixed Charges of such Person and its Restricted Subsidiaries for such period. In the event that the specified Person or any of its Restricted Subsidiaries incurs, assumes, Guarantees, repays, repurchases or redeems any Indebtedness (other than ordinary working capital borrowings) or issues, repurchases or redeems preferred stock subsequent to the



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## Table of Contents

commencement of the period for which the Fixed Charge Coverage Ratio is being calculated and on or prior to the date on which the event for which the calculation of the Fixed Charge Coverage Ratio is made (the “Calculation Date”), then the Fixed Charge Coverage Ratio will be calculated giving pro forma effect to such incurrence, assumption, Guarantee, repayment, repurchase or redemption of Indebtedness, or such issuance, repurchase or redemption of preferred stock, and the use of the proceeds therefrom as if the same had occurred at the beginning of the applicable four-quarter reference period.

In addition, for purposes of calculating the Fixed Charge Coverage Ratio:

- (1) acquisitions that have been made by the specified Person or any of its Restricted Subsidiaries, including through mergers or consolidations and including any related financing transactions, during the four-quarter reference period or subsequent to such reference period and on or prior to the Calculation Date will be given pro forma effect as if they had occurred on the first day of the four-quarter reference period and Consolidated Cash Flow for such reference period will be calculated on a pro forma basis in accordance with clause (2) below, but without giving effect to clause (3) of the proviso set forth in the definition of Consolidated Net Income;
- (2) any pro forma calculation under clause (1) shall be set forth in an officers’ certificate of Central delivered to the trustee, which calculation may include (a) any adjustments that would satisfy the requirements of Regulation S-X under the Securities Act and (b) any other operating expense reductions Central reasonably expects to result from the acquisition transaction, if such expected reductions are (i) set forth in reasonable detail in a plan approved by or resolutions of the Board of Directors, and (ii) limited to operating expenses specified in such plan or resolutions (and, if any such reductions are set forth as a range, the lowest amount of such range) that would otherwise have resulted in the payment of cash within twelve months after the date of consummation of such transaction, net of any operating expenses (other than extraordinary items, non-recurring or temporary charges and other similar one-time expenses associated with such transaction) reasonably expected to be incurred to implement such plan or to obtain goods or services (including without limitation personnel, occupancy and transportation expenses) in replacement of goods and services that are being curtailed or eliminated to effect such expected reductions and that are to be paid in cash during such twelve-month period.
- (3) the Consolidated Cash Flow attributable to discontinued operations, as determined in accordance with GAAP, and operations or businesses disposed of prior to the Calculation Date, will be excluded; and
- (4) the Fixed Charges attributable to discontinued operations, as determined in accordance with GAAP, and operations or businesses disposed of prior to the Calculation Date, will be excluded, but only to the extent that the obligations giving rise to such Fixed Charges will not be obligations of the specified Person or any of its Restricted Subsidiaries following the Calculation Date.

“Fixed Charges” means, with respect to any specified Person for any period, the sum, without duplication, of:

- (1) the consolidated interest expense of such Person and its Restricted Subsidiaries for such period, whether paid or accrued, including, without limitation, original issue discount, non-cash interest payments, the interest component of any deferred payment obligations, the interest component of all payments associated with Capital Lease Obligations, commissions, discounts and other fees and charges incurred in respect of letter of credit or bankers’ acceptance financings, and net of the effect of all payments made or received pursuant to Hedging Obligations; *plus*
- (2) the consolidated interest of such Person and its Restricted Subsidiaries that was capitalized during such period; *plus*
- (3) any interest expense during such period on Indebtedness of another Person that is Guaranteed by such Person or one of its Restricted Subsidiaries or secured by a Lien on assets of such Person or one of its Restricted Subsidiaries, whether or not such Guarantee or Lien is called upon; *plus*

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## Table of Contents

- (4) the product of (a) all dividends paid or accrued during such period, whether or not in cash, on any Disqualified Stock of such Person or any preferred stock of its Restricted Subsidiaries, other than dividends payable solely in Equity Interests (other than Disqualified Stock) of Central or to Central or a Restricted Subsidiary of Central, times (b) a fraction, the numerator of which is one and the denominator of which is one minus the then current combined marginal federal, state and local income tax rate of such Person (taking into account the deductibility of state and local taxes for federal income tax purposes), expressed as a decimal, in each case, on a consolidated basis and in accordance with GAAP.

*"Foreign Subsidiary"* means any Restricted Subsidiary that is not a Domestic Subsidiary.

*"GAAP"* means generally accepted accounting principles set forth in the opinions and pronouncements of the Accounting Principles Board of the American Institute of Certified Public Accountants and statements and pronouncements of the Financial Accounting Standards Board or in such other statements by such other entity as have been approved by a significant segment of the accounting profession, which are in effect from time to time.

*"Guarantee"* means a guarantee other than by endorsement of negotiable instruments for collection in the ordinary course of business, direct or indirect, in any manner including, without limitation, by way of a pledge of assets or through letters of credit or reimbursement agreements in respect thereof, of all or any part of any Indebtedness.

*"Guarantors"* means each of:

- (1) Four Paws Products Ltd., Grant Laboratories, Inc., Kaytee Products, Incorporated, Matthews Redwood & Nursery Supply, Inc., Pennington Seed, Inc., Phaeton Corporation (dba Unicorn Labs), Seeds West, Inc., All-Glass Aquarium Co., Inc., Oceanic Systems, Inc., T.F.H. Publications, Inc., Wellmark International, Norcal Pottery Products, Inc., Pennington Seed Inc. of Nebraska and Gro Tec, Inc.; and
- (2) any other Subsidiary that executes a Subsidiary Guarantee in accordance with the provisions of the indenture;

which Subsidiary Guarantee has not been released, and their respective successors and assigns.

*"Hedging Obligations"* means, with respect to any specified Person, the obligations of such Person under:

- (1) interest rate swap agreements, interest rate cap agreements and interest rate collar agreements; and
- (2) other agreements or arrangements designed to protect such Person against fluctuations in interest rates.

*"Indebtedness"* means, with respect to any specified Person, any indebtedness of such Person, whether or not contingent:

- (1) in respect of borrowed money;
- (2) evidenced by bonds, notes, debentures or similar instruments or letters of credit (or reimbursement agreements in respect thereof);
- (3) in respect of banker's acceptances;
- (4) representing Capital Lease Obligations;
- (5) representing the balance deferred and unpaid of the purchase price of any property, except any such balance that constitutes an accrued expense or trade payable; or
- (6) representing any Hedging Obligations,

if and to the extent any of the preceding items (other than letters of credit and Hedging Obligations) would appear as a liability upon a balance sheet of the specified Person prepared in accordance with GAAP. In addition,

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## Table of Contents

the term “Indebtedness” includes all Indebtedness of others secured by a Lien on any asset of the specified Person (whether or not such Indebtedness is assumed by the specified Person) and, to the extent not otherwise included, the Guarantee by the specified Person of any Indebtedness of any other Person.

The amount of any Indebtedness outstanding as of any date will be:

- (1) the accreted value of the Indebtedness, in the case of any Indebtedness issued with original issue discount;
- (2) the principal amount of the Indebtedness, together with any interest on the Indebtedness that is more than 30 days past due, in the case of any other Indebtedness;
- (3) the lesser of the Indebtedness and the fair market value of the collateral asset, in the case of any Indebtedness of others secured by a Lien on any asset of the specified Person; and
- (4) the lesser of the primary Indebtedness and any stated limit on recourse under the Guarantee, in the case of Indebtedness of others secured by a Guarantee of the specified Person.

“*Investments*” means, with respect to any Person, all direct or indirect investments by such Person in other Persons (including Affiliates) in the forms of loans (including Guarantees or other obligations), advances or capital contributions (excluding commission, travel and similar advances to directors, officers, employees and consultants made in the ordinary course of business), purchases or other acquisitions for consideration of Indebtedness, Equity Interests or other securities, together with all items that are or would be classified as investments on a balance sheet prepared in accordance with GAAP. If Central or any Subsidiary of Central sells or otherwise disposes of any Equity Interests of any direct or indirect Subsidiary of Central such that, after giving effect to any such sale or disposition, such Person is no longer a Subsidiary of Central, Central will be deemed to have made an Investment on the date of any such sale or disposition equal to the fair market value of Central’s Investments in such Subsidiary that were not sold or disposed of in an amount determined as provided in the final paragraph of the covenant described above under the caption “— Certain Covenants — Restricted Payments.” The acquisition by Central or any of its Restricted Subsidiaries of a Person that holds an Investment in a third Person will be deemed to be an Investment by Central or such Restricted Subsidiary in such third Person in an amount equal to the fair market value of the Investments held by the acquired Person in such third Person in an amount determined as provided in the final paragraph of the covenant described above under the caption “— Certain Covenants — Restricted Payments,” if the acquired Person becomes a Restricted Subsidiary as a result of such acquisition and such third Person does not become a Restricted Subsidiary as a result of such acquisition.

“*Lien*” means, with respect to any asset, any mortgage, lien, pledge, charge, security interest or encumbrance of any kind in respect of such asset, whether or not filed, recorded or otherwise perfected under applicable law, including any conditional sale or other title retention agreement, any lease in the nature thereof, any option or other agreement to sell or give a security interest in any asset.

“*Moody’s*” means Moody’s Investors Service and any successor thereto.

“*Net Income*” means, with respect to any specified Person, the net income (loss) of such Person, determined in accordance with GAAP and before any reduction in respect of preferred stock dividends, excluding, however:

- (1) any gain (but not loss), together with any related provision for taxes on such gain (but not loss), realized in connection with: (a) any Asset Sale; or (b) the disposition of any securities by such Person or any of its Restricted Subsidiaries or the extinguishment of any Indebtedness of such Person or any of its Restricted Subsidiaries;
- (2) any extraordinary gain (but not loss other than any loss incurred in connection with the redemption of the Convertible Subordinated Notes), together with any related provision for taxes on such extraordinary gain (but not any such loss);

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## Table of Contents

- (3) the cumulative effect of a change in accounting principles; and
- (4) any non-cash impairment loss determined in accordance with GAAP related to the carrying value of goodwill of Central or its Restricted Subsidiaries reflected in the consolidated financial statements of Central.

**"Net Proceeds"** means the aggregate cash proceeds received by Central or any of its Restricted Subsidiaries in respect of any Asset Sale (including, without limitation, any cash received upon the sale or other disposition of any non-cash consideration received in any Asset Sale), net of (a) the direct costs relating to such Asset Sale, including, without limitation, legal, accounting and financial advisory and investment banking or finders' fees, and sales commissions, and any relocation, severance or separation expenses incurred as a result of the Asset Sale, and costs of environmental investigation and remediation associated with the properties or assets conducted in connection with the Asset Sale, (b) taxes paid or payable as a result of the Asset Sale, in each case, after taking into account any available tax credits or deductions and any tax sharing arrangements, (c) amounts required to be applied to the repayment of Indebtedness, other than Senior Debt secured by a Lien on the asset or assets that were the subject of such Asset Sale, and amounts required to be expended from any reserve established in accordance with GAAP in connection with such Asset Sale, including for pension and other post-employment benefit liabilities, liabilities related to environmental matters and liabilities under any indemnification obligations associated with such Asset Sale, and (d) amounts required to be paid to any Person (other than Central or any Restricted Subsidiary) owning a beneficial interest in the assets that are subject to the Asset Sale.

**"Non-Recourse Debt"** means Indebtedness:

- (1) as to which neither Central nor any of its Restricted Subsidiaries (a) provides credit support of any kind (including any undertaking, agreement or instrument that would constitute Indebtedness) or (b) is directly or indirectly liable as a guarantor or otherwise;
- (2) no default with respect to which (including any rights that the holders of the Indebtedness may have to take enforcement action against an Unrestricted Subsidiary) would permit upon notice, lapse of time or both any holder of any other Indebtedness of Central or any of its Restricted Subsidiaries to declare a default on such other Indebtedness or cause the payment of the Indebtedness to be accelerated or payable prior to its stated maturity; and
- (3) as to which the lenders have been notified in writing that they will not have any recourse to the stock or assets of Central or any of its Restricted Subsidiaries (other than Equity Interests in an Unrestricted Subsidiary).

**"Obligations"** means any principal, interest, penalties, fees, indemnifications, reimbursements, damages and other liabilities payable under the documentation governing any Indebtedness.

**"Permitted Business"** means any business in which Central and its Restricted Subsidiaries were engaged on the date of the indenture, any other business in the garden products industry or the pet products industry, and any business determined in good faith by Central's Board of Directors to be reasonably related or complementary thereto.

**"Permitted Holder"** means (i) William E. Brown, (ii) the spouse or lineal descendants of William E. Brown or (iii) any corporation, limited liability company, partnership, trust or other entity, the controlling equity interests in which are held by or for the benefit of William E. Brown and/or his spouse or lineal descendants.

**"Permitted Investments"** means:

- (1) any Investment in Central or in a Restricted Subsidiary of Central that (except for Foreign Subsidiaries) is a Guarantor;
- (2) any Investment in Cash Equivalents;

- (3) any Investment by Central or any Subsidiary of Central in a Person, if as a result of such Investment:
  - (a) such Person becomes a Restricted Subsidiary of Central; or
  - (b) such Person is merged, consolidated or amalgamated with or into, or transfers or conveys substantially all of its assets to, or is liquidated into, Central or a Restricted Subsidiary of Central;
- (4) any Investment made as a result of the receipt of non-cash consideration from an Asset Sale that was made pursuant to and in compliance with the covenant described above under the caption “— Repurchase at the Option of Holders — Asset Sales”;
- (5) any acquisition of assets solely in exchange for the issuance of Equity Interests (other than Disqualified Stock) of Central;
- (6) any Investments received in compromise of obligations or liabilities, including pursuant to any plan of reorganization or similar arrangement upon the bankruptcy or insolvency of the obligor or the Person subject to the liability so compromised or upon foreclosure on any secured Investment;
- (7) Hedging Obligations;
- (8) other Investments in any Person having an aggregate fair market value (measured on the date each such Investment was made and without giving effect to subsequent changes in value), when taken together with all other Investments made pursuant to this clause (8) since the date of the indenture not to exceed in original amount at any time outstanding 10% of the book value of Central’s tangible assets as of the end of Central’s most recently ended fiscal quarter for which internal financial statements are available at the time of any such Investment;
- (9) only in the event that amounts available for Permitted Investments under the preceding clause (8) have been fully utilized and in addition to any amounts utilized under such clause, other Investments having an aggregate fair market value (measured on the date each such Investment was made and without giving effect to subsequent changes in value), when taken together with all other Investments made pursuant to this clause (9) since the date of the indenture not to exceed in original amount at any time outstanding 10% of the book value of Central’s tangible assets as of the end of Central’s most recently ended fiscal quarter for which internal financial statements are available at the time of such Investment if:
  - (a) after giving pro forma effect to such Investment as if it were made at the beginning of Central’s most recently ended four full fiscal quarters for which internal financial statements are available, Central’s Fixed Charge Coverage Ratio for such period would have been at least 3.0 to 1, excluding from such calculation (i) in the case of an Investment in a Restricted Subsidiary or other entity, the Consolidated Cash Flow attributable to such Investment for such period, and (ii) in the case of any Restricted Subsidiary that is being designated as a Permitted Investment pursuant to this clause (9) in accordance with the covenant entitled “Designation of Restricted and Unrestricted Subsidiaries and Certain Permitted Investments,” the Consolidated Cash Flow attributable to such Restricted Subsidiary for such period, in each case as reasonably determined by Central’s Board of Directors;
  - (b) the rating of the notes by each of Moody’s and S&P at the time such Investment is made is equal to or higher than the respective rating of the notes by each such rating agency on the date of the indenture;
  - (c) no Default or Event of Default has occurred and is continuing; and
  - (d) in respect of each Investment made or deemed made pursuant to this clause (9) in excess of \$2.0 million, Central shall provide notice to the trustee of such Investment by filing with the trustee a certified copy of the board resolution giving effect to such Investment and an officers’ certificate certifying that such Investment complied with the preceding conditions; and

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## Table of Contents

- (10) any Guarantee permitted to be incurred under the covenant described under the caption “— Certain Covenants — Incurrence of Indebtedness and Issuance of Preferred Stock” or any payment pursuant to any such Guarantee.

*“Permitted Junior Securities” means:*

- (1) Equity Interests in Central or any Guarantor or any successor to either of the foregoing; or
- (2) debt securities that are subordinated to all Senior Debt and any debt securities issued in exchange for Senior Debt to substantially the same extent as, or to a greater extent than, the notes and the Subsidiary Guarantees are subordinated to Senior Debt under the indenture.

*“Permitted Liens” means:*

- (1) Liens on assets of Central and its Restricted Subsidiaries securing Senior Debt that was permitted by the terms of the indenture to be incurred;
- (2) Liens in favor of Central and its Restricted Subsidiaries;
- (3) Liens on property of a Person existing at the time such Person is merged with or into or consolidated with Central or any Restricted Subsidiary of Central *provided* that such Liens were in existence prior to the contemplation of such merger or consolidation and do not extend to any assets other than those of the Person merged into or consolidated with Central or the Restricted Subsidiary;
- (4) Liens on property existing at the time of acquisition of the property by Central or any Restricted Subsidiary of Central *provided* that such Liens were in existence prior to the contemplation of such acquisition;
- (5) Liens securing reimbursement obligations with respect to letters of credit and surety or performance bonds issued in the ordinary course of business;
- (6) Liens existing on the date of the indenture;
- (7) Liens on Equity Interests in Unrestricted Subsidiaries that secure Non-Recourse Debt; and
- (8) Liens upon specific items of inventory or other goods and proceeds of any Person securing such Person’s obligations in respect of bankers’ acceptances issued or created for the account of such Person to facilitate the purchase, shipment or storage of such inventory or other goods.

*“Permitted Refinancing Indebtedness” means any Indebtedness of Central or any of its Restricted Subsidiaries issued in exchange for, or the net proceeds of which are used to extend, refinance, renew, replace, defease or refund other Indebtedness of Central or any of its Restricted Subsidiaries (other than intercompany Indebtedness); provided that:*

- (1) the principal amount (or accreted value, if applicable) of such Permitted Refinancing Indebtedness does not exceed the principal amount (or accreted value, if applicable) of the Indebtedness extended, refinanced, renewed, replaced, defeased or refunded (plus all accrued interest on the Indebtedness and the amount of all expenses and premiums incurred in connection therewith, including consent fees);
- (2) such Permitted Refinancing Indebtedness has a final maturity date later than the final maturity date of, and has a Weighted Average Life to Maturity equal to or greater than the Weighted Average Life to Maturity of, the Indebtedness being extended, refinanced, renewed, replaced, defeased or refunded;
- (3) if the Indebtedness being extended, refinanced, renewed, replaced, defeased or refunded is subordinated in right of payment to the notes or the Subsidiary Guarantees, such Permitted Refinancing Indebtedness has a final maturity date later than the final maturity date of the notes, and is subordinated in right of payment to, the notes or the Subsidiary Guarantees on terms at least as favorable to the Holders of notes as those contained in the documentation governing the Indebtedness being extended, refinanced, renewed, replaced, defeased or refunded; and

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## Table of Contents

- (4) such Indebtedness is incurred either by Central, by the Restricted Subsidiary that is the obligor on the Indebtedness being extended, refinanced, renewed, replaced, defeased or refunded or by any intermediate Restricted Subsidiary.

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

*“Public Equity Offering”* means an offer and sale of Capital Stock (other than Disqualified Stock) of Central pursuant to a registration statement that has been declared effective by the Commission pursuant to the Securities Act (other than a registration statement on Form S-8 or otherwise relating to equity securities issuable under any employee benefit plan of Central).

*“Restricted Investment”* means an Investment other than a Permitted Investment.

*“Restricted Subsidiary”* of a Person means any Subsidiary of the referent Person that is not an Unrestricted Subsidiary.

*“S&P”* means Standard & Poor’s Ratings Group and any successor thereto.

*“Senior Debt”* means:

- (1) all Indebtedness of Central or any Guarantor outstanding under the Credit Facilities and all Hedging Obligations with respect thereto;
- (2) any other Indebtedness of Central or any Guarantor permitted to be incurred under the terms of the indenture, unless the instrument under which such Indebtedness is incurred expressly provides that it is subordinated to any Senior Debt or on a parity with or subordinated in right of payment to the notes or any Subsidiary Guarantee; and
- (3) all Obligations with respect to the items listed in the preceding clauses (1) and (2).

Notwithstanding anything to the contrary in the preceding, Senior Debt will not include:

- (1) any liability for federal, state, local or other taxes owed or owing;
- (2) any intercompany Indebtedness of Central or any of its Subsidiaries to Central or any of its Affiliates;
- (3) any trade payables;
- (4) the portion of any Indebtedness that is incurred in violation of the indenture; or
- (5) Indebtedness which, when incurred and without respect to any election under Section 1111(b) of Title 11, United States Code, is without recourse to Central or any Guarantor.

*“Significant Subsidiary”* means any Restricted Subsidiary that would be a “significant subsidiary” as defined in Article 1, Rule 1-02 of Regulation S-X, promulgated pursuant to the Securities Act, as such Regulation is in effect on the date hereof.

*“Stated Maturity”* means, with respect to any installment of interest or principal on any series of Indebtedness, the date on which the payment of interest or principal was scheduled to be paid in the original documentation governing such Indebtedness, and will not include any contingent obligations to repay, redeem or repurchase any such interest or principal prior to the date originally scheduled for the payment thereof.

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## Table of Contents

*“Subsidiary”* means, with respect to any specified Person:

- (1) any corporation, association or other business entity of which more than 50% of the total voting power of shares of Capital Stock entitled (without regard to the occurrence of any contingency) to vote in the election of directors, managers or trustees of the corporation, association or other business entity is at the time owned or controlled, directly or indirectly, by that Person or one or more of the other Subsidiaries of that Person (or a combination thereof); and
- (2) any partnership (a) the sole general partner or the managing general partner of which is such Person or a Subsidiary of such Person or (b) the only general partners of which are that Person or one or more Subsidiaries of that Person (or any combination thereof).

*“Unrestricted Subsidiary”* means any Subsidiary of Central that is designated by the Board of Directors of Central as an Unrestricted Subsidiary pursuant to a Board Resolution, but only to the extent that such Subsidiary:

- (1) has no Indebtedness other than Non-Recourse Debt;
- (2) is not party to any agreement, contract, arrangement or understanding with Central or any Restricted Subsidiary of Central unless the terms of any such agreement, contract, arrangement or understanding are no less favorable to Central or such Restricted Subsidiary than those that might be obtained at the time from Persons who are not Affiliates of Central;
- (3) is a Person with respect to which neither Central nor any of its Restricted Subsidiaries has any direct or indirect obligation (a) to subscribe for additional Equity Interests or (b) to maintain or preserve such Person’s financial condition or to cause such Person to achieve any specified levels of operating results;
- (4) has not guaranteed or otherwise directly or indirectly provided credit support for any Indebtedness of Central or any of its Restricted Subsidiaries; and
- (5) has at least one director on its Board of Directors that is not a director or executive officer of Central or any of its Restricted Subsidiaries and has at least one executive officer that is not a director or executive officer of Central or any of its Restricted Subsidiaries.

Any designation of a Subsidiary of Central as an Unrestricted Subsidiary will be evidenced to the trustee by filing with the trustee a certified copy of the board resolution giving effect to such designation and an officers’ certificate certifying that such designation complied with the preceding conditions and was permitted by the covenant described above under the caption “— Certain Covenants — Restricted Payments.” If, at any time, any Unrestricted Subsidiary would fail to meet the preceding requirements as an Unrestricted Subsidiary, it will thereafter cease to be an Unrestricted Subsidiary for purposes of the indenture and (i) will be deemed to be redesignated as a Restricted Subsidiary and (ii) any Indebtedness of such Subsidiary will be deemed to be incurred by a Restricted Subsidiary of Central as of such date and, if such Indebtedness is not permitted to be incurred as of such date under the covenant described under the caption “— Certain Covenants — Incurrence of Indebtedness and Issuance of Preferred Stock,” Central will be in default of such covenant. The Board of Directors of Central may at any time designate any Unrestricted Subsidiary to be a Restricted Subsidiary; *provided* that such designation will be deemed to be an incurrence of Indebtedness by a Restricted Subsidiary of Central of any outstanding Indebtedness of such Unrestricted Subsidiary and such designation will only be permitted if (1) such Indebtedness is permitted under the covenant described under the caption “— Certain Covenants — Incurrence of Indebtedness and Issuance of Preferred Stock,” calculated on a pro forma basis as if such designation had occurred at the beginning of the four-quarter reference period; and (2) no Default or Event of Default would be in existence following such designation. Upon any such designation as a Restricted Subsidiary, such Subsidiary (unless it is a Restricted Subsidiary designated as a Permitted Investment made under clause (8) or (9) of the definition of “Permitted Investments” in accordance with the applicable provisions of the indenture) will become a Guarantor and execute a Subsidiary Guarantee as and to the extent required under “— Certain Covenants — Additional Subsidiary Guarantees.”



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[Table of Contents](#)

"*Voting Stock*" of any Person as of any date means the Capital Stock of such Person that is at the time entitled to vote in the election of the Board of Directors of such Person.

"*Weighted Average Life to Maturity*" means, when applied to any Indebtedness at any date, the number of years obtained by dividing:

- (1) the sum of the products obtained by multiplying (a) the amount of each then remaining installment, sinking fund, serial maturity or other required payments of principal, including payment at final maturity, in respect of the Indebtedness, by (b) the number of years (calculated to the nearest one-twelfth) that will elapse between such date and the making of such payment; by
- (2) the then outstanding principal amount of such Indebtedness.

"*Wholly-Owned Restricted Subsidiary*" of any specified Person means a Restricted Subsidiary of such Person all of the outstanding Capital Stock or other ownership interests of which (other than directors' qualifying shares) are owned by such Person or by one or more Wholly Owned Restricted Subsidiaries of such Person.

## U.S. FEDERAL INCOME TAX CONSEQUENCES

The following summary describes certain United States federal income tax consequences associated with the exchange of the old notes for the new notes and the purchase, ownership and disposition of the new notes as of the date hereof. Except where noted, it deals only with purchasers that acquired the old notes pursuant to the offering at the initial offering price and who will hold the new notes as capital assets within the meaning of Section 1221 of the Internal Revenue Code of 1986, as amended (the “Code”), and does not apply to certain types of holders subject to special rules, such as dealers in securities or currencies, financial institutions, life insurance companies, persons holding notes as part of a hedging or conversion transaction or a straddle, or persons whose functional currency is not the United States dollar. Furthermore, the discussion below is based upon the provisions of the Code, existing and proposed United States Treasury regulations promulgated thereunder, and current administrative rulings and judicial decisions thereon, all of which are subject to change, possibly on a retroactive basis, which could result in United States federal income tax consequences different from those discussed below.

**Prospective holders of notes are advised to consult with their tax advisors as to the United States federal income tax consequences of the purchase, ownership and disposition of notes in light of their particular circumstances, as well as the effect of any state, local or other tax laws.**

As used in this prospectus, the term “United States holder” means a beneficial owner of a note that is (i) a citizen or resident of the United States for United States federal income tax purposes, (ii) a corporation or partnership (or any entity treated as a corporation or partnership for United States federal income tax purposes) created or organized under the laws of the United States, any state thereof or the District of Columbia, (iii) an estate the income of which is subject to United States federal income tax without regard to its source or (iv) a trust if (x) a court within the United States is able to exercise primary supervision over the administration of the trust and one or more United States persons have the authority to control all substantial decisions of the trust or (y) the trust has a valid election in effect under applicable United States Treasury regulations to be treated as a United States holder. If a partnership (including any entity treated as a partnership for United States federal income tax purposes) is a holder of the notes, the United States federal income tax treatment of a partner in such a partnership will generally depend on the status of the partner and the activities of the partnership. Partners in such a partnership should consult their own tax advisors as to the particular federal income tax consequences applicable to them.

A “non-United States holder” is any beneficial owner of a note that is not a United States holder.

### Exchange Offer

The exchange of an old note for a new note pursuant to the exchange offer should be without United States federal income tax consequences. The new note received for an old note should be treated for United States federal income tax purposes as a continuation of the old note.

### Tax Consequences to United States Holders

Stated interest on a new note generally will be taxable to a United States holder as ordinary income as it accrues or is received in accordance with the United States holder’s method of accounting for United States federal income tax purposes.

Upon the sale, exchange, retirement or other disposition of a new note, a United States holder generally will recognize gain or loss equal to the difference between the amount realized upon the sale, exchange, retirement or other disposition (not including amounts attributable to accrued but unpaid interest, which will be taxable as ordinary income) and such United States holder’s adjusted tax basis in the new note. A United States holder’s adjusted tax basis in a new note will, in general, be the United States holder’s cost therefor, less any principal payments received by such holder. Such gain or loss will generally be capital gain or loss and will be long-term capital gain or loss if the new note has been held for more than one year.

## **Tax Consequences to Non-United States Holders**

Under present United States federal income tax law, subject to the discussion of backup withholding and information reporting below:

(a) payments of interest on the new notes to any non-United States holder will not be subject to United States federal income, branch profits or withholding tax provided that:

- the non-United States holder does not actually or constructively own 10% or more of the total combined voting power of all classes of our stock entitled to vote;
- the non-United States holder is not a bank receiving interest on an extension of credit pursuant to a loan agreement entered into in the ordinary course of its trade or business;
- the non-United States holder is not a controlled foreign corporation that is related to us (directly or indirectly) through stock ownership;
- such interest payments are not effectively connected with a United States trade or business; and
- certain certification requirements are met. Such certification will be satisfied if the beneficial owner of the new note certifies on IRS Form W-8 BEN or a substantially similar substitute form, under penalties of perjury, that it is not a United States person and provides its name and address, and (x) such beneficial owner files such form with the withholding agent or (y) in the case of a new note held through a foreign partnership or intermediary, the beneficial owner and the foreign partnership or intermediary satisfy certification requirements of applicable United States Treasury regulations; and

(b) a non-United States holder will not be subject to United States federal income or branch profits tax on gain realized on the sale, exchange, or retirement or other disposition of a new note, unless (i) the gain is effectively connected with a trade or business carried on by such holder within the United States or, if a treaty applies (and the holder complies with applicable certification and other requirements to claim treaty benefits), is generally attributable to a United States permanent establishment maintained by the holder, or (ii) the holder is an individual who is present in the United States for 183 days or more in the taxable year of disposition and certain other requirements are met.

A new note held by an individual who at the time of death is not a citizen or resident of the United States will not be subject to United States federal estate tax with respect to a new note as a result of such individual's death, provided that (i) the individual does not actually or constructively own 10% or more of the total combined voting power of all classes of our stock entitled to vote and (ii) payments with respect to the new note would not have been effectively connected with the conduct of a United States trade or business.

## **Backup Withholding and Information Reporting**

In general, payments of interest and the proceeds of the sale, exchange, retirement or other disposition of the new notes payable by a United States paying agent or other United States intermediary will be subject to information reporting. In addition, backup withholding will generally apply to these payments if (i) in the case of a United States holder, the holder fails to provide its correct taxpayer identification number, or fails to certify that it is not subject to backup withholding or fails to report all interest and dividends required to be shown on its United States federal income tax returns, or (ii) in the case of a non-United States holder, the holder fails to provide the certification on IRS Form W-8 BEN described above or otherwise does not provide evidence of its exempt status. Certain United States holders (including, among others, corporations) and non-United States holders that comply with certain certification requirements may not be subject to backup withholding. Any amount paid as backup withholding will be creditable against the holder's United States federal income tax liability provided that the required information is timely furnished to the Internal Revenue Service. Holders of new notes should consult their tax advisors as to their qualification for exemption from backup withholding and the procedure for obtaining such an exemption.

## PLAN OF DISTRIBUTION

We are not using any underwriters for this exchange offer. We are bearing the expenses of the exchange.

Each broker-dealer that receives new notes for its own account pursuant to the exchange offer must acknowledge that it will deliver a prospectus in connection with any resale of these new notes. This prospectus, as it may be amended or supplemented from time to time, may be used by a broker-dealer in connection with resales of new notes received in exchange for old notes where the old notes were acquired as a result of market-making activities or other trading activities. We have agreed that, for a period of 180 days after the expiration date, we will make this prospectus, as amended or supplemented, available to any broker-dealer for use in connection with any resale of these old notes.

We will not receive any proceeds from any sale of new notes by broker-dealers or any other persons. New notes received by broker-dealers for their own account pursuant to the exchange offer may be sold from time to time in one or more transactions in the over-the-counter market, in negotiated transactions, through the writing of options on the new notes, or a combination of these methods of resale, at market prices prevailing at the time of resale, at prices related to the prevailing market prices, or negotiated prices. Any resale of new notes may be made directly to purchasers or to or through brokers or dealers who may receive compensation in the form of commissions or concessions from any broker-dealer and/or the purchasers of any new notes. Any broker-dealer that resells new notes that were received by it for its own account pursuant to the exchange offer and any broker-dealer that participates in a distribution of the new notes may be deemed to be an “underwriter” within the meaning of the Securities Act, and any profit on any these resales of new notes and any commissions or concessions received by any of these persons may be deemed to be underwriting compensation under the Securities Act. The letter of transmittal states that, by acknowledging that it will deliver and by delivering a prospectus, a broker-dealer will not be deemed to admit that it is an “underwriter” within the meaning of the Securities Act.

For a period of 180 days after the expiration date, we will promptly send additional copies of this prospectus and any amendment or supplement to this prospectus to any broker-dealer that requests these documents in the letter of transmittal. We have agreed to pay all expenses incident to the exchange offer, other than commissions or concessions of any brokers or dealers and will indemnify the holders of the old notes, including any broker-dealer, against certain liabilities, including liabilities under the Securities Act.

## LEGAL MATTERS

The validity of the new notes was passed upon for us by Orrick, Herrington & Sutcliffe LLP. A copy of the legal opinion rendered by Orrick, Herrington & Sutcliffe LLP was filed as an exhibit to the registration statement containing this prospectus.

## EXPERTS

The financial statements of Central Garden & Pet Company as of September 28, 2002 and September 29, 2001, and for each of the three years in the period ended September 28, 2002, included in this registration statement have been audited by Deloitte & Touche LLP, independent auditors, as stated in their report appearing herein (which report expresses an unqualified opinion and includes an explanatory paragraph relating to a change in accounting principle), and has been so included in reliance upon the report of such firm given upon their authority as experts in accounting and auditing.

## WHERE YOU CAN FIND ADDITIONAL INFORMATION AND INCORPORATION BY REFERENCE

We file annual, quarterly and current reports, proxy statements and other information with the Commission. In this document, we “incorporate by reference” the information that we file with the Commission, which means that we can disclose important information to you by referring to that information. The information incorporated by reference is considered to be part of this prospectus. We incorporate by reference the documents listed below as well as all future filings made with the Commission under Sections 13(a), 13(c), 14 or 15(d) of the Exchange Act, until this offering is completed:

- (a) Our Annual Report on Form 10-K for the fiscal year ended September 28, 2002;
- (b) Our Quarterly Report on Form 10-Q for the quarter ended December 28, 2002; and
- (c) Our Current Reports on Form 8-K filed December 11, 2002, January 14, 2003 and January 31, 2003.

You may request a copy of these filings, at no cost, by writing or telephoning us at the following address:

Central Garden & Pet Company  
3697 Mt. Diablo Blvd.  
Lafayette, CA 94549  
Attention: Investor Relations  
Telephone: 1-925-283-4573

You can also inspect, read and copy these reports, proxy statements and other information at the public reference facilities the Commission maintains at: Room 1024, 450 Fifth Street, N.W., Judiciary Plaza, Washington, D.C. 20549. You can also obtain copies of these materials from the public reference facilities of the Commission at prescribed rates. You can obtain information on the operation of the public reference facilities by calling the Commission at 1-800-SEC-0330. The Commission also maintains a web site (<http://www.sec.gov>) that makes available reports, proxy statements and other information regarding issuers that file electronically with it. In addition, our common stock is listed on the Nasdaq National Market and similar information concerning us can be inspected and copied at the offices of the National Association of Securities Dealers, Inc., 9513 Key West Avenue, Rockville, Maryland 20850.

You should rely only on the information provided in this document or incorporated in this document by reference. We have not authorized anyone to provide you with different information. You should not assume that the information in this document, including any information incorporated herein by reference, is accurate as of any date other than that on the front of the document. Any statement incorporated herein shall be deemed to be modified or superseded for purposes of this prospectus to the extent that a statement contained herein modifies or supersedes such statement. Any statement so modified or superseded shall not be deemed, except as so modified or superseded, to constitute a part of this prospectus.

**INDEX TO CONSOLIDATED FINANCIAL STATEMENTS**

	<b>Page</b>
<b>Central Garden &amp; Pet Company</b>	
Unaudited Condensed Consolidated Balance Sheets, September 28, 2002 and December 28, 2002	F-2
Unaudited Condensed Consolidated Statements of Operations, Three Months Ended December 29, 2001 and December 28, 2002	F-3
Unaudited Condensed Consolidated Statements of Cash Flows, Three Months Ended December 29, 2001 and December 28, 2002	F-4
Notes to Unaudited Condensed Consolidated Financial Statements	F-5
Independent Auditors' Report	F-18
Consolidated Balance Sheets, September 28, 2002 and September 29, 2001	F-19
Consolidated Statements of Operations for Fiscal Years Ended September 28, 2002, September 29, 2001 and September 30, 2000	F-20
Consolidated Statements of Shareholders' Equity for Fiscal Years Ended September 28, 2002, September 29, 2001 and September 30, 2000	F-21
Consolidated Statements of Cash Flows for Fiscal Years Ended September 28, 2002, September 29, 2001 and September 30, 2000	F-22
Notes to Consolidated Financial Statements for Fiscal Years Ended September 28, 2002, September 29, 2001 and September 30, 2000	F-23
F-1	

**CENTRAL GARDEN & PET COMPANY**  
**CONDENSED CONSOLIDATED BALANCE SHEETS**  
(in thousands, except shares)  
(unaudited)

	December 28, 2002	September 28, 2002
<b>ASSETS</b>		
Current assets:		
Cash & cash equivalents	\$ 14,790	\$ 10,884
Accounts receivable (less allowance for doubtful accounts of \$7,597 and \$7,248)	105,843	130,984
Inventories	224,889	193,159
Prepaid expenses and other assets	19,115	26,096
Total current assets	364,637	361,123
Land, buildings, improvements and equipment—net	99,060	100,864
Goodwill	222,489	222,489
Deferred income taxes and other assets	46,791	47,481
Total	\$ 732,977	\$ 731,957
<b>LIABILITIES AND SHAREHOLDERS' EQUITY</b>		
Current liabilities:		
Notes payable	\$ 64,649	\$ 59,975
Accounts payable	95,776	96,796
Accrued expenses	39,392	42,742
Current portion of long-term debt	122,593	7,593
Total current liabilities	322,410	207,106
Long-term debt	29,592	145,331
Other long-term obligations	2,059	2,012
Shareholders' equity:		
Class B stock, \$.01 par value: 1,655,462 shares outstanding at September 28, 2002 and December 28, 2002	16	16
Common stock, \$.01 par value: 31,008,198 and 31,209,373 issued and 17,265,948 and 17,467,123 outstanding at September 28, 2002 and December 28, 2002	312	310
Additional paid-in capital	534,413	532,290
Retained deficit	(10,998)	(10,281)
Treasury stock	(144,827)	(144,827)
Total shareholders' equity	378,916	377,508
Total	\$ 732,977	\$ 731,957

See notes to condensed consolidated financial statements.

**CENTRAL GARDEN & PET COMPANY**  
**CONDENSED CONSOLIDATED STATEMENTS OF OPERATIONS**  
(in thousands, except per share amounts)  
(unaudited)

	Three Months Ended	
	December 28, 2002	December 29, 2001
Net sales	\$ 211,936	\$ 210,659
Cost of goods sold and occupancy	150,718	149,157
Gross profit	61,218	61,502
Selling, general and administrative expenses	59,254	59,621
Income from operations	1,964	1,881
Interest expense	(2,843)	(3,938)
Interest income	26	27
Other income (expense)	(341)	(528)
Loss before income taxes and cumulative effect of accounting change	(1,194)	(2,558)
Income taxes	(477)	(1,049)
Loss before cumulative effect of accounting change	(717)	(1,509)
Cumulative effect of accounting change, net of tax (Note 5)	—	(112,237)
Net loss	\$ (717)	\$ (113,746)
Basic and diluted loss per common equivalent share:		
Before cumulative effect of accounting change	\$ (0.04)	\$ (0.08)
Cumulative effect of accounting change	—	(6.09)
Basic and diluted loss per common equivalent share	\$ (0.04)	\$ (6.17)
Basic and diluted weighted average shares used in the computation of loss per share	19,060	18,446

See notes to condensed consolidated financial statements.



**CENTRAL GARDEN & PET COMPANY**  
**CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS**  
(in thousands)  
(unaudited)

	Three Months Ended	
	December 28, 2002	December 29, 2001
Cash flows from operating activities:		
Net loss	\$ (717)	\$ (113,746)
Adjustments to reconcile net loss to net cash provided by (used in) operating activities:		
Depreciation and amortization	4,501	4,284
Cumulative effect of accounting change	—	146,748
Deferred income taxes	—	(34,511)
Change in assets and liabilities:		
Receivables	25,141	6,443
Inventories	(31,730)	(13,681)
Prepaid expenses and other assets	7,441	2,972
Accounts payable	(1,020)	6,208
Accrued expenses	(3,350)	(5,934)
Other long-term obligations	47	(133)
Net cash provided by (used in) operating activities	313	(1,350)
Cash flows from investing activities:		
Additions to land, buildings, improvements and equipment	(2,467)	(1,920)
Net cash used in investing activities	(2,467)	(1,920)
Cash flows from financing activities:		
Borrowings under lines of credit, net	4,674	747
Repayments of long-term debt	(739)	(77)
Proceeds from issuance of common stock—net	2,125	—
Net cash provided by financing activities	6,060	670
Net increase (decrease) in cash and cash equivalents	3,906	(2,600)
Cash and cash equivalents at beginning of period	10,884	8,292
Cash and cash equivalents at end of period	\$ 14,790	\$ 5,692
Supplemental information:		
Cash paid for interest	\$ 1,125	\$ 2,335
Cash paid for taxes, net of refunds	\$ (8,319)	\$ 48

See notes to condensed consolidated financial statements.

**CENTRAL GARDEN & PET COMPANY**  
**NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS**  
**Three Months Ended December 28, 2002**  
**(unaudited)**

**1. Basis of Presentation**

The condensed consolidated balance sheet as of December 28, 2002, the condensed consolidated statements of operations for the three months ended December 29, 2001 and December 28, 2002 and the condensed consolidated statements of cash flows for the three months ended December 29, 2001 and December 28, 2002 have been prepared by the Company, without audit. In the opinion of management, all adjustments (which include only normal recurring adjustments) considered necessary to present fairly the financial position, results of operations and cash flows of the Company for the periods mentioned above, have been made.

Due to the seasonal nature of the Company's business, the results of operations for the three months ended December 28, 2002 are not indicative of the operating results that may be expected for the year ending September 27, 2003. It is suggested that these interim financial statements be read in conjunction with the annual audited financial statements, accounting policies and financial notes thereto, included in the Company's 2002 Annual Report on Form 10-K which has previously been filed with the Securities and Exchange Commission.

**2. New Accounting Pronouncements**

In June 2001, the Financial Accounting Standards Board ("FASB") issued Statement of Financial Accounting Standards ("SFAS") No. 143, "Accounting for Asset Retirement Obligations," which addresses financial accounting requirements for retirement obligations associated with tangible long-lived assets. The standard applies to legal obligations associated with the retirement of long-lived assets that result from the acquisition, construction, development and (or) normal use of the assets. SFAS No. 143 requires that the fair value of a liability for an asset retirement obligation be recognized in the period in which it is incurred if a reasonable estimate of fair value can be made. The fair value of the liability is added to the carrying amount of the associated asset and this additional carrying amount is depreciated over the life of the asset. The Company has adopted SFAS No. 143 beginning September 29, 2002 (the first quarter of fiscal year 2003). The adoption of SFAS No. 143 did not have a material impact on our consolidated financial statements.

In August 2001, the FASB issued SFAS No. 144, "Accounting for the Impairment or Disposal of Long-Lived Assets," that replaced SFAS No. 121, "Accounting for the Impairment of Long-Lived Assets for Long-Lived Assets to Be Disposed Of." SFAS No. 144 requires that long-lived assets to be disposed of by sale, including those of discontinued operations, be measured at the lower of carrying amount or fair value less cost to sell, whether reported in continuing operations or in discontinued operations. Liabilities for discontinued operations will no longer include amounts for operating losses that have not yet been incurred. SFAS No. 144 also broadens the reporting of discontinued operations to include all components of an entity with operations that can be distinguished from the rest of the entity and that will be eliminated from the ongoing operations of the entity in a disposal transaction. The Company has adopted SFAS No. 144 for its fiscal year beginning September 29, 2002. The adoption of SFAS No. 144 did not have an impact on the financial position, results of operations or cash flows of the Company.

In June 2002, the FASB issued SFAS No. 146, "Accounting for Costs Associated with Exit or Disposal Activities", which addresses accounting for restructuring and similar costs. SFAS No. 146 supersedes previous accounting guidance, principally Emerging Issues Task Force Issue No. 94-3. SFAS No. 146 requires that the liability for costs associated with an exit or disposal activity be recognized when the liability is incurred. Under Issue 94-3, a liability for an exit cost was recognized at the date of the Company's commitment to an exit plan. SFAS No. 146 also establishes that the liability should initially be measured and recorded at fair value.

**CENTRAL GARDEN & PET COMPANY**  
**NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**

Accordingly, SFAS No. 146 may affect the timing of recognizing future restructuring costs as well as the amounts recognized. The Company will adopt the provisions of SFAS No. 146 for any restructuring activities initiated after September 28, 2002.

In December 2002, the FASB issued SFAS No. 148, "Accounting for Stock-Based Compensation—Transition and Disclosure, an amendment of FASB Statement No. 123." SFAS No. 148 amends SFAS No. 123, "Accounting for Stock-Based Compensation," to provide alternative methods of transition for a voluntary change to the fair value based method of accounting for stock-based employee compensation. In addition, SFAS No. 148 amends the disclosure requirements of SFAS No. 123 to require prominent disclosures in both annual and interim financial statements about the method of accounting for stock-based employee compensation and the effect of the method used on reported results. The disclosure provisions of SFAS No. 148 are effective beginning in the quarter ended March 29, 2003 and are not expected to have a material impact on the Company's financial position or results of operations.

**3. Earnings Per Share**

Options to purchase 2,348,741 and 2,706,859 shares of common stock at prices ranging from \$1.30 to \$33.94 per share were outstanding during the three-month periods ended December 28, 2002 and December 29, 2001, respectively, but were not included in the computation of diluted earnings per share because the assumed exercise would have been anti-dilutive in each period. Shares of common stock from the assumed conversion of the company's convertible securities totaling 4,107,143 were also not included in the computation of diluted earnings per share for the three-month periods ended December 28, 2002 and December 29, 2001 because the assumed conversion would have been anti-dilutive.

**CENTRAL GARDEN & PET COMPANY**  
**NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**

**4. Segment Information**

Management has determined that the reportable segments of the Company are Pet Products and Garden Products, based on the level at which the chief operating decision making group reviews the results of operations to make decisions regarding performance assessment and resource allocation.

	Three Months Ended	
	December 28, 2002	December 29, 2001
	(in thousands)	
Net Sales:		
Pet Products	\$ 118,688	\$ 116,795
Garden Products	93,248	93,864
Total net sales	\$ 211,936	\$ 210,659
Income (loss) from operations:		
Pet Products	\$ 9,873	\$ 7,797
Garden Products	(3,221)	(1,534)
Corporate	(4,688)	(4,382)
Total income from operations	1,964	1,881
Interest expense—net	(2,817)	(3,911)
Other income (expense)	(341)	(528)
Income taxes	(477)	(1,049)
Loss before cumulative effect of accounting change	(717)	(1,509)
Cumulative effect of accounting change, net of tax	—	(112,237)
Net loss	\$ (717)	\$ (113,746)
Depreciation and amortization:		
Pet Products	\$ 3,045	\$ 2,733
Garden Products	1,331	1,407
Corporate	125	144
Total depreciation and amortization	\$ 4,501	\$ 4,284
	December 28, 2002	September 28, 2002
	(in thousands)	
Assets:		
Pet Products	\$ 199,654	\$ 201,051
Garden Products	264,145	254,903
Corporate	269,178	276,003
Total assets	\$ 732,977	\$ 731,957
Goodwill (included in corporate assets):		
Pet Products	\$ 117,099	\$ 117,099
Garden Products	105,390	105,390
Total goodwill	\$ 222,489	\$ 222,489

**CENTRAL GARDEN & PET COMPANY**  
**NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**

**5. Cumulative Effect of Accounting Change—Adoption of SFAS No. 142**

During fiscal 2002, management completed its measurement of the goodwill impairment resulting from the adoption of SFAS No. 142, “Goodwill and Other Intangible Assets.” The amount of goodwill impairment upon adoption is reflected as the cumulative effect of an accounting change as of September 30, 2001 in the accompanying condensed consolidated financial statements.

Goodwill balances within the Pet Products and Garden Products segments were tested for impairment as of September 30, 2001. Based on the analysis performed, the Company recorded a non-cash charge to write down goodwill in its Pet Products segment by \$94.8 million (\$70.1 million after tax) and in its Garden Products segment by \$51.9 million (\$42.1 million after tax).

As of June 30, 2002, the Company performed its annual goodwill impairment analysis. Based on the results of that analysis, no additional reduction of goodwill was required during fiscal year 2002.

**6. Contingencies**

*TFH Litigation.* In December 1997, Central acquired all of the stock of TFH Publications, Inc. (“TFH”). In connection with the transaction, Central made a \$10 million loan to the sellers, which was evidenced by a Promissory Note. In September 1998, the prior owners of TFH brought suit against Central and certain executives of Central for damages and relief from their obligations under the Promissory Note, alleging, among other things, that Central’s failure to properly supervise the TFH management team had jeopardized their prospects of achieving certain earnouts. Central believes that these allegations are without merit. Central counterclaimed against the prior owners for enforcement of the Promissory Note, rescission and/or damages and other relief, alleging, among other things, fraud, misrepresentation and breach of fiduciary duty by the prior owners of TFH. These actions, *Herbert R. Axelrod and Evelyn Axelrod v. Central Garden & Pet Company*; *Glenn S. Axelrod*; *Gary Hersch*; *William E. Brown*; *Robert B. Jones*; *Glen Novotny*; and *Neill Hines*, Docket No. MON-L-5100-99, and *TFH Publications, Inc. v. Herbert Axelrod et al.*, Docket No. L-2127-99 (consolidated cases), are in the New Jersey Superior Court. The case is currently in pretrial discovery and is scheduled for trial in Spring of 2003.

During the course of discovery in this action, Central has become aware of certain information which shows that prior to the acquisition of TFH by Central, certain records of TFH were prepared in an inaccurate manner which, among other things, resulted in underpayment of taxes by certain individuals. Those individuals could be liable for back taxes, interest, and penalties. In addition, even though all of the events occurred prior to the acquisition of TFH by Central, there is a possibility that TFH could be liable for penalties for events which occurred under prior management. Central believes that TFH has strong defenses available to the assertion of any penalties against TFH. Central cannot predict whether TFH will be required to pay any such penalties. In the event that TFH were required to pay penalties, Central would seek compensation from the prior owners.

In March 2001, the prior owners of TFH also brought a separate action in federal court seeking to enforce what they alleged was an “arbitration award” made by an accountant concerning the closing balance sheet of TFH. The prior owners contended that the decisions by the accountant concerning the closing balance sheet entitled them to additional monies under the purchase price provisions of the Stock Purchase Agreement. The federal court held that the accountant did not make any monetary award. The federal court entered a judgment enforcing the decisions made by the accountant concerning the closing balance sheet of TFH, but the court did not, and refused to, enter a monetary award. *See Evelyn M. Axelrod, et al. v. Central Garden & Pet Company*, Civil Action No. 01-1262 (MLC) U.S.D.C. of New Jersey. The prior owners have argued in the consolidated civil actions pending in the New Jersey Superior Court that the judgment by the federal court entitles them to additional monies under the purchase price provision of the Stock Purchase Agreement. The New Jersey Superior

**CENTRAL GARDEN & PET COMPANY**  
**NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**

Court has stated that it will not, at this time, enter a monetary award, but that it, like the federal court, will confirm the decisions made by the accountant concerning the closing balance sheet of TFH. Central believes that it has defenses to the claims by the prior owner for additional monies under the purchase price provisions of the Stock Purchase Agreement, and that the prior owners' claims are subject to or will be offset by Central's claims against the prior owners.

Central does not believe that the outcome of the above TFH matters will have a material adverse impact on its operations, financial position, or cash flows.

*Scotts Litigation.* On June 30, 2000, The Scotts Company filed suit against Central to collect the purchase price of certain lawn and garden products previously sold to Central. Scotts filed an amended complaint seeking \$23 million for such products. Central withheld payments to Scotts on the basis of claims it has against Scotts—including amounts due for services and goods previously supplied by Central and not yet paid for by Scotts. This action, *The Scotts Company v. Central Garden & Pet Company*, Docket No. C2 00-755, is in the United States District Court for the Southern District of Ohio, Eastern Division. Central filed its answer and a counter complaint asserting various claims for breaches of contracts. Scotts filed a motion to dismiss certain of Central's claims. On January 11, 2002, the court granted Scotts' motion as to Central's claim for breach of oral contract and promissory estoppel and denied the motion as to Central's claim for fraud. Scotts subsequently filed a motion for summary adjudication of Central's fraud claim. The court granted Scotts' motion.

In early April 2002, the court granted Central's motion for leave to file a further amended counter-complaint asserting an additional claim for breach of oral contract arising from certain credits promised by Scotts in the amount of approximately \$4.0 million owed by subagents. This claim was severed from the rest of the case. In April 2002, trial occurred on the claims and counterclaims of the parties (excluding the oral contract claim recently added to the case). The jury found in favor of Scotts on its breach of contract claim and in favor of Central on its breach of contract counterclaims for non-payment of fees and shipments of product. The net verdict was in favor of Scotts in the amount of \$10.425 million which had previously been recorded as an obligation by the Company. Prior to the jury verdict, the district court had dismissed Scotts' claim for breach of fiduciary duty and a portion of Central's claim for breach of contract. On May 30, 2002, Scotts filed a motion seeking \$7.9 million in prejudgment interest and \$1.7 million in attorneys' fees as well as recovery of unspecified costs. Scotts also asked the Court to set aside \$750,000 of the jury verdict amount awarded to Central. Central has filed a motion seeking a new trial on inventory return claims involving approximately \$10.0 million that the Court had decided against Central as a matter of law during the trial. Central has opposed Scotts' motion and seeks an offset amount of prejudgment interest on its claims such that the net prejudgment interest owed to Scotts would be approximately \$500,000. No hearing date has been set for these motions. Discovery is now taking place regarding Central's remaining claim for breach of oral contract regarding subagents. Trial on that claim is scheduled for October 6, 2003.

On July 7, 2000, Central filed suit against Scotts and Pharmacia Corporation (formerly know as Monsanto Company) seeking damages and injunctive relief as well as restitution for, among other things, breach of contract and violations of the antitrust laws. This action, *Central Garden & Pet Company, a Delaware Corporation v. The Scotts Company, an Ohio corporation; and Pharmacia Corporation, formerly known as Monsanto Company, a Delaware corporation*, Docket No. C 00 2465, is in the United States District Court for the Northern District of California. On October 26, 2000, the federal district court issued an order denying, for the most part, Pharmacia's motion to dismiss Central's federal antitrust claims. Central was given leave to file an amended federal complaint to clarify certain of its allegations. Central filed a first amended complaint on November 14, 2000. The federal district court's October 26 order also ruled that it did not have jurisdiction over Central's state law claims and that such claims should be adjudicated in a state court. On October 31, 2000, Central filed an action entitled *Central Garden & Pet Company v. The Scotts Company and Pharmacia Corporation*, Docket No. C00-04586 in

**CENTRAL GARDEN & PET COMPANY**  
**NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**

Contra Costa Superior Court asserting various state law claims, including the claims previously asserted in the federal action. The state court subsequently stayed this action. Pursuant to a settlement reached with Pharmacia, Central and Pharmacia agreed that all claims and disputes arising from the alliance agreements and all antitrust claims against Pharmacia and Monsanto would be resolved, and the federal action has been dismissed as to Pharmacia and Monsanto. In April 2002, Scotts and Central filed cross-motions in the federal action for summary judgment on the antitrust claims. In May 2002, Scotts also filed a motion for summary judgment in the federal action based on res judicata. The court granted the res judicata motion, did not rule on the antitrust motions, and vacated the trial date. Central is appealing the judgment entered pursuant to the court's order.

Central believes that the reconciliation of all accounts and claims in the above Scotts cases will in the aggregate, not result in additional charges to Central. Further, Central believes it continues to have claims and rights of offset against Scotts and intends to continue to vigorously pursue its claims, including pursuit of post-trial remedies in connection with the suit filed by Scotts. However, Central cannot assure you that the resolution of this litigation will not have a material adverse effect on its results of operations, financial position and/or cash flows.

**Phoenix Fire.** On August 2, 2000, a fire destroyed Central's leased warehouse space in Phoenix, Arizona, and an adjoining warehouse space leased by a third party. On July 31, 2001, the adjoining warehouse tenant filed a lawsuit against Central and other parties in the Superior Court of Arizona, Maricopa County, seeking to recover \$47 million for property damage from the fire. See *Cardinal Health Inc., et al. v. Central Garden & Pet Company, et al*, Civil Case No. CV2001-013152. Local residents have also filed a purported class action lawsuit alleging claims for bodily injury and property damage as a result of the fire. The building owner and several nearby businesses have also now filed lawsuits for property damage and business interruption, which we expect to be consolidated with the tenant and local resident lawsuits. Each of these lawsuits is currently pending in the Superior Court of Arizona, Maricopa County. The Arizona Department of Environmental Quality, after monitoring the cleanup operations and asking Central, the building owner and the adjoining warehouse tenant to assess whether the fire and fire suppression efforts may have caused environmental impacts to soil, groundwater and/or surface water, has now issued a letter stating that Central need take no further action at the site with respect to environmental issues. In early 2001, the EPA requested information relating to the fire. On July 17, 2002, the EPA informed Central that it intended to file a civil administrative complaint seeking penalties of up to \$350,000 for certain alleged post-fire reporting violations. Central and the EPA have recently agreed to a settlement regarding those allegations. The overall amount of the damages to all parties caused by the fire, and the overall amount of damages which Central may sustain as a result of the fire, have not been quantified. At the time of the fire, Central maintained property insurance covering losses to the leased premises, Central's inventory and equipment, and loss of business income. Central also maintained insurance providing \$51 million of coverage (with no deductible) against third party liability. Central believes that this insurance coverage will be available with respect to third party claims against Central if parties other than Central are not found responsible. The precise amount of the damages sustained in the fire, the ultimate determination of the parties responsible and the availability of insurance coverage are likely to depend on the outcome of complex litigation, involving numerous claimants, defendants and insurance companies.

**7. Subsequent Event—Issuance of Senior Subordinated Notes**

On January 30, 2003, the Company completed a private placement of \$150,000,000 aggregate principal amount of 9<sup>1</sup>/<sub>8</sub>% Senior Subordinated Notes due February 1, 2013 (the "Notes"). Additionally, in January 2003, the Company increased the Congress Financial Corporation (Western) credit facility to \$175.0 million. The net proceeds of the offering were approximately \$144.0 million after deducting underwriting discounts and estimated offering expenses. A portion of the net proceeds was used to redeem the Company's outstanding convertible

**CENTRAL GARDEN & PET COMPANY**  
**NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**

notes, including the payment of premium and accrued interest. The balance of the net proceeds, combined with additional borrowings under the Company's credit facility with Congress Financial Corporation (Western), were used to repay all the outstanding borrowings under the Pennington credit facility and two senior secured term loans of All-Glass. In conjunction with these repayments, the Company terminated the Pennington and All-Glass credit facilities. In connection with the issuance of the Notes, certain subsidiaries of the Company have become guarantors of the Notes. Financial information related to these subsidiaries is presented in Note 8.

**8. Consolidating Condensed Financial Information of Guarantor Subsidiaries**

Certain wholly-owned subsidiaries of the Company (as listed below, collectively the "Guarantor Subsidiaries") have guaranteed fully and unconditionally, on a joint and several basis, the obligation to pay principal and interest under the Company's \$150,000,000 9 1/8% Senior Subordinated Notes (the "Notes") issued on January 30, 2003 as discussed in Note 7. Certain subsidiaries and operating divisions are not guarantors of the Notes and have been included in the financial results of the Parent in the information below. Those subsidiaries that are guarantors of the Notes are as follows:

Four Paws Products Ltd.  
Grant Laboratories, Inc.  
Kaytee Products, Incorporated  
Matthews Redwood & Nursery Supply, Inc.  
Pennington Seed, Inc. (including Phaeton Corporation (dba Unicorn Labs), Seeds West, Inc., All-Glass Aquarium Co., Inc. (including Oceanic Systems, Inc.))  
T.F.H. Publications, Inc.  
Wellmark International  
Norcal Pottery Products, Inc.  
Pennington Seed, Inc. of Nebraska  
Gro Tec, Inc.

In lieu of providing separate unaudited financial statements for the Guarantor Subsidiaries, the Company has included the accompanying unaudited consolidating condensed financial statements based on the Company's understanding of the Securities and Exchange Commission's interpretation and application of Rule 3-10 of the Securities and Exchange Commission's Regulation S-X.



**CENTRAL GARDEN & PET COMPANY**  
**NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**

**CONSOLIDATING CONDENSED BALANCE SHEET**

**December 28, 2002**  
**(in thousands)**

	(Unconsolidated)			
	Parent	Guarantor Subsidiaries	Eliminations	Consolidated
<b>ASSETS</b>				
Cash and equivalents	\$ 13,078	\$ 1,712	\$ —	\$ 14,790
Accounts receivable	33,624	83,006	(10,787)	105,843
Inventories	60,310	164,579	—	224,889
Prepays and other assets	14,117	4,998	—	19,115
<b>Total current assets</b>	<b>121,129</b>	<b>254,295</b>	<b>(10,787)</b>	<b>364,637</b>
Land, buildings, improvements and equipment, net	11,430	87,630	—	99,060
Goodwill	222,489	—	—	222,489
Investment in guarantors	213,350	—	(213,350)	—
Deferred income taxes and other assets	34,113	12,678	—	46,791
<b>Total</b>	<b>\$ 602,511</b>	<b>\$ 354,603</b>	<b>\$ (224,137)</b>	<b>\$ 732,977</b>
<b>LIABILITIES</b>				
Notes payable	\$ 29,799	\$ 34,850	\$ —	\$ 64,649
Accounts payable	49,757	56,806	(10,787)	95,776
Accrued expenses and other liabilities	138,584	23,401	—	161,985
<b>Total current liabilities</b>	<b>218,140</b>	<b>115,057</b>	<b>(10,787)</b>	<b>322,410</b>
Long-term debt	5,387	24,205	—	29,592
Deferred income taxes and other long-term obligations	68	1,991	—	2,059
Equity	378,916	213,350	(213,350)	378,916
<b>Total</b>	<b>\$ 602,511</b>	<b>\$ 354,603</b>	<b>\$ (224,137)</b>	<b>\$ 732,977</b>

**CENTRAL GARDEN & PET COMPANY**  
**NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**  
**CONSOLIDATING CONDENSED BALANCE SHEET**  
**September 28, 2002**  
**(in thousands)**

	(Unconsolidated)			
	Parent	Guarantor Subsidiaries	Eliminations	Consolidated
ASSETS				
Cash and equivalents	\$ 10,080	\$ 804	\$ —	\$ 10,884
Accounts receivable	41,002	103,087	(13,105)	130,984
Inventories	52,417	140,742	—	193,159
Prepaid expenses and other assets	21,046	5,050	—	26,096
Total current assets	124,545	249,683	(13,105)	361,123
Land, buildings, improvements and equipment, net	12,191	88,673	—	100,864
Goodwill	222,489	—	—	222,489
Investment in guarantors	212,738	—	(212,738)	—
Deferred income taxes and other assets	35,070	14,347	(1,936)	47,481
Total	\$ 607,033	\$ 352,703	\$ (227,779)	\$ 731,957
LIABILITIES				
Notes payable	\$ 33,992	\$ 25,983	\$ —	\$ 59,975
Accounts payable	52,606	57,295	(13,105)	96,796
Accrued expenses and other liabilities	22,437	27,898	—	50,335
Total current liabilities	109,035	111,176	(13,105)	207,106
Long-term debt	120,387	24,944	—	145,331
Deferred income taxes and other long-term obligations	103	3,845	(1,936)	2,012
Total shareholders' equity	377,508	212,738	(212,738)	377,508
Total	\$ 607,033	\$ 352,703	\$ (227,779)	\$ 731,957

**CENTRAL GARDEN & PET COMPANY**  
**NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**

**CONSOLIDATING CONDENSED STATEMENT OF OPERATIONS**

**Three Months Ended December 28, 2002**  
**(in thousands)**

	(Unconsolidated)			Consolidated
	Parent	Guarantor Subsidiaries	Eliminations	
Net sales	\$ 71,551	\$ 153,658	\$ (13,273)	\$ 211,936
Cost of goods sold and occupancy	52,451	111,788	(13,521)	150,718
Gross profit	19,100	41,870	248	61,218
Selling, general and administrative expenses	21,520	37,734	—	59,254
Income from operations	(2,420)	4,136	248	1,964
Interest—net	(2,425)	(392)	—	(2,817)
Other income (expense)	(638)	297	—	(341)
Income (loss) before income taxes	(5,483)	4,041	248	(1,194)
Income taxes	(2,193)	1,617	99	(477)
Net income (loss) before equity in undistributed income of guarantor subsidiaries	(3,290)	2,424	149	(717)
Equity in undistributed income of guarantor subsidiaries	2,573	—	(2,573)	—
Net income (loss)	\$ (717)	\$ 2,424	\$ (2,424)	\$ (717)

**CENTRAL GARDEN & PET COMPANY**  
**NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**  
**CONSOLIDATING CONDENSED STATEMENT OF OPERATIONS**  
**Three Months Ended December 29, 2001**  
**(in thousands)**

	(Unconsolidated)			Consolidated
	Parent	Guarantor Subsidiaries	Eliminations	
Net sales	\$ 75,012	\$ 148,481	\$ (12,834)	\$ 210,659
Cost of goods sold and occupancy	56,017	105,229	(12,089)	149,157
Gross profit	18,995	43,252	(745)	61,502
Selling, general and administrative expenses	24,584	35,037	—	59,621
Income from operations	(5,589)	8,215	(745)	1,881
Interest—net	(3,240)	(671)	—	(3,911)
Other income (expense)	(528)	—	—	(528)
Income (loss) before income taxes and cumulative effect of accounting change	(9,357)	7,544	(745)	(2,558)
Income taxes	(3,769)	3,018	(298)	(1,049)
Income (loss) before cumulative effect of accounting change	(5,588)	4,526	(447)	(1,509)
Cumulative effect of accounting change, net of tax	(112,237)	—	—	(112,237)
Net income (loss) before equity in undistributed income of guarantor subsidiaries	(117,825)	4,526	(447)	(113,746)
Equity in undistributed income of guarantor subsidiaries	4,079	—	(4,079)	—
Net income (loss)	\$ (113,746)	\$ 4,526	\$ (4,526)	\$ (113,746)

**CENTRAL GARDEN & PET COMPANY**  
**NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**

**CONSOLIDATING CONDENSED STATEMENT OF CASH FLOWS**

**Three Months Ended December 28, 2002**  
**(in thousands)**

	(Unconsolidated)			Consolidated
	Parent	Guarantor Subsidiaries	Eliminations	
Net cash provided (used) by operating activities	\$ 3,471	\$ (3,158)	—	\$ 313
Expenditures for land, buildings, improvements and equipment	(218)	(2,249)	—	(2,467)
Investment in guarantor	1,813	(1,813)	—	—
Net cash used by investing activities	1,595	(4,062)	—	(2,467)
Borrowings (repayments) under lines of credit, net	(4,193)	8,867	—	4,674
Payments on long-term debt	—	(739)	—	(739)
Proceeds from issuance of stock	2,125	—	—	2,125
Net cash provided (used) by financing activities	(2,068)	8,128	—	6,060
Net increase (decrease) in cash and cash equivalents	2,998	908	—	3,906
Cash and cash equivalents at beginning of period	10,080	804	—	10,884
Cash and cash equivalents at end of period	\$ 13,078	\$ 1,712	\$ —	\$ 14,790

**CENTRAL GARDEN & PET COMPANY**  
**NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**  
**CONSOLIDATING CONDENSED STATEMENT OF CASH FLOWS**  
**Three Months Ended December 29, 2001**  
**(in thousands)**

	(Unconsolidated)			Consolidated
	Parent	Guarantor Subsidiaries	Eliminations	
Net cash provided (used) by operating activities	\$ 1,457	\$ (2,807)	\$ —	\$ (1,350)
Expenditures for land, buildings, improvements and equipment	(314)	(1,606)	—	(1,920)
Investment in guarantor	3,144	(3,144)	—	—
Net cash used by investing activities	2,830	(4,750)	—	(1,920)
Borrowings (repayments) under lines of credit, net	(8,156)	8,903	—	747
Payments on long-term debt	—	(77)	—	(77)
Net cash provided (used) by financing activities	(8,156)	8,826	—	670
Net increase (decrease) in cash and cash equivalents	(3,869)	1,269	—	(2,600)
Cash and cash equivalents at beginning of period	7,153	1,139	—	8,292
Cash and cash equivalents at end of period	\$ 3,284	\$ 2,408	\$ —	\$ 5,692

**INDEPENDENT AUDITORS' REPORT**

Board of Directors  
Central Garden & Pet Company  
Lafayette, California

We have audited the accompanying consolidated balance sheets of Central Garden & Pet Company and subsidiaries (the "Company") as of September 28, 2002 and September 29, 2001, and the related consolidated statements of operations, shareholders' equity and cash flows for each of the fiscal years in the three-year period ended September 28, 2002. These financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on these financial statements based on our audits.

We conducted our audits in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

In our opinion, such consolidated financial statements present fairly, in all material respects, the financial position of Central Garden & Pet Company and subsidiaries as of September 28, 2002 and September 29, 2001, and the results of their operations and their cash flows for each of the fiscal years in the three-year period ended September 28, 2002 in conformity with accounting principles generally accepted in the United States of America.

As discussed in Notes 1 and 6 to the consolidated financial statements, the Company changed its method of accounting for goodwill and other intangible assets with the adoption of Statement of Financial Accounting Standards No. 142, "Goodwill and Other Intangible Assets," in fiscal 2002.

/s/ DELOITTE & TOUCHE LLP

December 4, 2002 (January 30, 2003 as to Note 16)  
San Francisco, California

**CENTRAL GARDEN & PET COMPANY**  
**CONSOLIDATED BALANCE SHEETS**

	September 28, 2002	September 29, 2001
	(dollars in thousands)	
ASSETS		
Current assets:		
Cash and cash equivalents	\$ 10,884	\$ 8,292
Accounts receivable, less allowance for doubtful accounts of \$7,597 and \$14,464	130,984	141,791
Inventories	193,159	217,902
Prepaid expenses and other assets	26,096	35,776
Total current assets	361,123	403,761
Land, buildings, improvements and equipment:		
Land	5,381	4,977
Buildings and improvements	62,196	60,421
Transportation equipment	5,753	5,753
Machinery and warehouse equipment	65,634	65,966
Office furniture and equipment	33,466	32,845
Total.	172,430	169,962
Less accumulated depreciation and amortization	71,566	61,164
Land, buildings, improvements and equipment—net	100,864	108,798
Goodwill	222,489	371,987
Deferred income taxes and other assets	47,481	32,080
Total.	\$ 731,957	\$ 916,626
LIABILITIES AND SHAREHOLDERS' EQUITY		
Current liabilities:		
Notes payable	\$ 59,975	\$ 119,423
Accounts payable	96,796	127,884
Accrued expenses	42,742	38,412
Current portion of long-term debt	7,593	7,052
Total current liabilities	207,106	292,771
Long-term debt	145,331	151,623
Deferred income taxes and other long-term obligations	2,012	16,917
Commitments and contingencies	—	—
Shareholders' equity:		
Class B stock	16	16
Common stock	310	305
Additional paid-in capital	532,290	526,410
Retained (deficit) earnings	(10,281)	73,411
Treasury stock	(144,827)	(144,827)
Total shareholders' equity	377,508	455,315
Total	\$ 731,957	\$ 916,626

See notes to consolidated financial statements.



**CENTRAL GARDEN & PET COMPANY**  
**CONSOLIDATED STATEMENTS OF OPERATIONS**

	Fiscal Year Ended		
	September 28, 2002	September 29, 2001	September 30, 2000
	(in thousands, except per share amounts)		
Net sales	\$ 1,077,780	\$ 1,122,999	\$ 1,350,878
Cost of goods sold and occupancy	757,437	811,186	1,037,701
Gross profit	320,343	311,813	313,177
Selling, general and administrative expenses	267,579	297,751	274,077
Other charges	—	—	27,156
Income from operations	52,764	14,062	11,944
Interest expense	(14,745)	(23,247)	(23,140)
Interest income	137	164	589
Other income	5,548	1,631	1,176
Income (loss) before income taxes and cumulative effect of accounting change	43,704	(7,390)	(9,431)
Income taxes	15,159	(247)	4,053
Income (loss) before cumulative effect of accounting change	28,545	(7,143)	(13,484)
Cumulative effect of accounting change, net of tax	(112,237)	—	—
Net loss	\$ (83,692)	\$ (7,143)	\$ (13,484)
Basic income (loss) per common equivalent share:			
Before cumulative effect of accounting change	\$ 1.54	\$ (0.39)	\$ (0.72)
Cumulative effect of accounting change	(6.04)	—	—
Basic loss per common equivalent share	\$ (4.50)	\$ (0.39)	\$ (0.72)
Diluted income (loss) per common equivalent share:			
Before cumulative effect of accounting change	\$ 1.44	\$ (0.39)	\$ (0.72)
Cumulative effect of accounting change	(4.88)	—	—
Diluted loss per common equivalent share	\$ (3.44)	\$ (0.39)	\$ (0.72)
Weighted average shares used in the computation of income (loss) per common equivalent share:			
Basic	18,581	18,402	18,786
Diluted	23,009	18,402	18,786

See notes to consolidated financial statements.

**CENTRAL GARDEN & PET COMPANY**  
**CONSOLIDATED STATEMENTS OF SHAREHOLDERS' EQUITY**

	Class B Stock		Common Stock		Additional Paid-in Capital	Retained Earnings	Treasury Stock		Total
	Shares	Amount	Shares	Amount			Shares	Amount	
	(dollars in thousands)								
Balance, September 25, 1999	1,660,919	\$ 16	30,183,365	\$ 302	\$524,058	\$ 94,038	(10,851,350)	\$(123,123)	\$495,291
Tax benefit from exercise of stock options					14				14
Conversion of Class B stock into common stock	(3,157)	—	3,157	—					—
Issuance of common stock			230,899	2	1,721				1,723
Treasury stock purchases							(2,890,900)	(21,704)	(21,704)
Net loss						(13,484)			(13,484)
Balance, September 30, 2000	1,657,762	16	30,417,421	304	525,793	80,554	(13,742,250)	(144,827)	461,840
Tax benefit from exercise of stock options					95				95
Conversion of Class B stock into common stock	(2,300)	—	2,300	—					—
Issuance of common stock			112,752	1	522				523
Net loss						(7,143)			(7,143)
Balance, September 29, 2001	1,655,462	16	30,532,473	305	526,410	73,411	(13,742,250)	(144,827)	455,315
Tax benefit from exercise of stock options					732				732
Issuance of common stock			475,725	5	5,148				5,153
Net loss						(83,692)			(83,692)
Balance, September 28, 2002	1,655,462	\$ 16	31,008,198	\$ 310	\$532,290	\$(10,281)	(13,742,250)	\$(144,827)	\$377,508

See notes to consolidated financial statements.

**CENTRAL GARDEN & PET COMPANY**  
**CONSOLIDATED STATEMENTS OF CASH FLOWS**

	Fiscal Year Ended		
	September 28, 2002	September 29, 2001	September 30, 2000
	(in thousands)		
Cash flows from operating activities:			
Net loss	\$ (83,692)	\$ (7,143)	\$ (13,484)
Adjustments to reconcile net loss to net cash provided by operating activities:			
Depreciation and amortization	17,616	28,362	26,035
Cumulative effect of accounting change	146,748	—	—
Goodwill impairment charge	2,750	—	15,739
Deferred income taxes	(26,065)	10,251	(7,500)
Loss on sale of land, building and improvements	1,142	312	883
Changes in assets and liabilities:			
Receivables	10,807	13,099	6,712
Inventories	24,743	25,444	15,352
Prepaid expenses and other assets	4,555	(19,106)	(6,265)
Accounts payable	(31,088)	4,900	4,024
Accrued expenses	4,561	5,606	965
Other long-term obligations	736	(22,911)	(2,385)
Net cash provided by operating activities	72,813	38,814	40,076
Cash flows from investing activities:			
Additions to land, buildings, improvements and equipment	(10,907)	(13,888)	(16,663)
Payments to acquire companies, net of cash acquired	—	(18,277)	(34,406)
Net cash used by investing activities	(10,907)	(32,165)	(51,069)
Cash flows from financing activities:			
Borrowings (repayments) under lines of credit, net	(59,448)	(9,816)	29,869
Payments on long-term debt	(5,751)	(12,844)	(1,237)
Proceeds from issuance of long-term debt	—	18,000	—
Payments to reacquire stock	—	—	(21,704)
Proceeds from issuance of stock	5,885	618	1,733
Net cash provided (used) by financing activities	(59,314)	(4,042)	8,661
Net increase (decrease) in cash and cash equivalents	2,592	2,607	(2,332)
Cash and cash equivalents at beginning of year	8,292	5,685	8,017
Cash and cash equivalents at end of year	\$ 10,884	\$ 8,292	\$ 5,685
Supplemental information:			
Cash paid for interest	\$ 15,471	\$ 22,690	\$ 22,822
Cash paid for income taxes—net of refunds	4,340	4,775	12,751
Assets (excluding cash) acquired through purchase of subsidiaries	—	8,282	43,225
Liabilities assumed through purchase of subsidiaries	—	5	38,288
Inventory returned to manufacturer	—	—	75,887

See notes to consolidated financial statements.

**CENTRAL GARDEN & PET COMPANY**  
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS**

**Fiscal Years Ended September 28, 2002,  
September 29, 2001 and September 30, 2000**

**1. Organization and Significant Accounting Policies**

*Organization*—Central Garden & Pet Company, a Delaware corporation, and subsidiaries (the “Company” or “Central”), is a leading marketer and producer of quality branded products for the pet and lawn and garden supplies markets.

*Basis of Consolidation and Presentation*—The consolidated financial statements include the accounts of the Company. The Company’s shares of the earnings of its minority interest in equity-method investees has been recorded under the caption “Other income.” All significant intercompany balances and transactions have been eliminated.

*Use of Estimates*—The preparation of financial statements in conformity with accounting principles generally accepted in the United States of America requires that management make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities as of the date of the financial statements and the reported amounts of revenues and expenses during the reporting period including accounts receivable and inventory valuation and goodwill lives. Actual results could differ from those estimates.

*Revenue Recognition*—Sales are recorded, net of estimated returns, discounts and volume-based rebate incentives, when merchandise is shipped, title passes to the customer and the Company has no further obligations to provide services related to such merchandise. The Company’s current practice on product returns generally is to accept and credit the return of unopened cases of products from customers where the quantity is small, where the product has been misshipped or the product is defective. Sales also include amounts billed directly to customers related to shipping and handling.

*Cost of goods sold and occupancy* consist of costs to acquire or manufacture inventory, certain indirect purchasing, merchandise handling and storage costs, as well as allocations of certain facility costs, including rent, payroll, property taxes, security, utilities, insurance and maintenance.

*Advertising Costs*—The Company expenses the costs of advertising as incurred. Advertising expenses were \$12.9 million, \$14.9 million and \$16.7 million in fiscal 2002, 2001 and 2000, respectively.

*401(k) Plans*—The Company sponsors several 401(k) plans which cover substantially all employees. Expenses recorded for the Company’s matching contributions under these plans were \$553,000, \$860,000 and \$1,030,000 for fiscal years 2002, 2001 and 2000, respectively.

*Other income* in fiscal year 2002 includes \$6 million of life insurance proceeds, partially offset by \$2.8 million in charges related to the write-off of goodwill associated with an unsuccessful equity method investment. The remaining amounts in fiscal years 2002, 2001 and 2000 relate to earnings from equity method investments.

*Income Taxes* are accounted for under the asset and liability method in accordance with Statement of Financial Accounting Standards (“SFAS”) No. 109, “Accounting for Income Taxes.” Deferred income taxes result primarily from bad debt allowances, inventory and goodwill write-downs, depreciation and nondeductible reserves.

*Cash and cash equivalents* include all highly liquid debt instruments purchased with a maturity of three months or less at the date of acquisition.

**CENTRAL GARDEN & PET COMPANY**  
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**

*Inventories*, which primarily consist of garden products and pet supplies finished goods, are stated at the lower of FIFO cost or market. Cost includes certain indirect purchasing, merchandise handling and storage costs including certain salary and data processing costs incurred to acquire or manufacture inventory, costs to unload, process and put away shipments received in order to prepare them to be picked for orders, and certain other overhead costs. The amounts of such costs capitalized to inventory are computed based on an estimate of costs related to the procurement and processing of inventory to prepare it for sale compared to total product purchases.

*Long-lived assets*—The Company reviews its long-lived assets for potential impairment based on a review of projected undiscounted cash flows associated with these assets. Long-lived assets are included in impairment evaluations when events and circumstances exist that indicate the carrying amount of those assets may not be recoverable. Measurement of impairment losses for long-lived assets that the Company expects to hold and use is based on the estimated fair value of the assets.

*Land, buildings, improvements and equipment* are stated at cost. Depreciation is computed by the straight-line method over thirty years for buildings. Improvements are amortized on a straight-line basis over the shorter of the useful life of the asset or the terms of the related leases. Depreciation on equipment is computed by the straight-line and accelerated methods over the estimated useful lives of 3 to 10 years.

*Goodwill* is the excess of the purchase price over the fair value of net assets acquired in business combinations accounted for under the purchase method. Prior to fiscal year 2002, the Company amortized goodwill on a straight-line basis over the periods benefited, ranging from 20 to 40 years. The Company adopted SFAS No. 142 effective September 30, 2001 (the beginning of fiscal year 2002). Upon adoption of SFAS No. 142, the Company stopped the amortization of goodwill, and will perform an annual assessment for potential impairment applying a fair-value based test (see Note 6).

*Fair Value of Financial Instruments*—At September 28, 2002 and September 29, 2001, the carrying amount of cash and cash equivalents, accounts receivable, accounts payable and non convertible debt approximates its fair value. The fair value of the Company's convertible subordinated notes was \$110.5 million and \$97.2 million at September 28, 2002 and September 29, 2001, respectively, which was determined by comparison to quoted market prices.

*Derivative Financial Instruments*—The Company generally does not enter into derivative financial instruments. Prior to October 1, 2000, at which time the Company adopted SFAS 133, "Accounting for Derivative Instruments and Hedging Activities," subsidiaries of the Company had entered into interest rate swap agreements to hedge certain interest rate risks which were accounted for using the settlement basis of accounting. Premiums paid on such interest rate swap agreements were deferred and amortized to interest expense over the life of the underlying hedged instrument, or immediately if the underlying hedged instrument was settled. As interest rates change, the differential between the interest rate received and the interest rate paid under the interest rate swap arrangements was reflected in interest expense quarterly. As of October 1, 2000, the Company has accounted for any remaining interest rate swap agreements in accordance with the provisions of SFAS 133, as amended.

*Purchase commitments*—Seed production and purchase agreements obligate the Company to make future purchases based on estimated yields. These contracts vary in their terms, a portion of which have fixed prices or quantities. At September 28, 2002, estimated annual seed purchase commitments were \$72.5 million for fiscal 2003, \$30.7 million for fiscal 2004, \$21.5 million for fiscal 2005, \$16.1 million for fiscal 2006 and \$3.7 million for fiscal 2007.

**CENTRAL GARDEN & PET COMPANY**  
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**

*Comprehensive income*—SFAS No. 130 requires an enterprise to report, by major components and as a single total, the change in its net assets, during the period from non-owner sources. The Company does not have any items of Other Comprehensive Income, as defined by SFAS No. 130, and thus Net Income is equal to Comprehensive Income.

*New Accounting Pronouncements*—In July 2001, the Financial Accounting Standards Board (“FASB”) issued SFAS No. 142, “Goodwill and Other Intangible Assets.” SFAS No. 142 changes the accounting for goodwill and intangible assets with indefinite lives from an amortization method to an impairment approach. Other intangible assets will continue to be amortized over their estimated useful lives. Amortization of goodwill, including goodwill recorded in prior business combinations, ceased upon the adoption of the standard, which the Company adopted for the fiscal year beginning September 30, 2001. As required by SFAS No. 142, the Company performed its transitional goodwill impairment analysis, and recorded a non-cash charge to write down goodwill in its Garden Products segment of \$51.9 million (\$42.1 million after tax) and in its Pet Products segment of \$94.8 million (\$70.1 million after tax). As of June 30, 2002, the Company performed its annual goodwill impairment analysis. Based on the results of that analysis, no additional reduction of goodwill was required during fiscal year 2002.

The following financial information is presented as if SFAS No. 142 was adopted at the beginning of fiscal year 2000:

	Fiscal Year Ended		
	September 28, 2002	September 29, 2001	September 30, 2000
	(in thousands, except per share amounts)		
Reported net loss	\$ (83,692)	\$ (7,143)	\$ (13,484)
Goodwill amortization—net of tax	—	9,006	8,430
Net income (loss), as adjusted	\$ (83,692)	\$ 1,863	\$ (5,054)
Basic income (loss) per share:			
Reported loss	\$ (4.50)	\$ (0.39)	\$ (0.72)
Goodwill amortization—net of tax	—	0.49	0.45
Basic income (loss) per share	\$ (4.50)	\$ 0.10	\$ (0.27)
Diluted income (loss) per share:			
Reported loss	\$ (3.44)	\$ (0.39)	\$ (0.72)
Goodwill amortization—net of tax	—	0.49	0.45
Diluted income (loss) per share	\$ (3.44)	\$ 0.10	\$ (0.27)

In June 2001, the FASB issued SFAS No. 143, “Accounting for Asset Retirement Obligations,” which addresses financial accounting requirements for retirement obligations associated with tangible long-lived assets. SFAS No. 143 will be effective for our fiscal year 2003. We are evaluating what impact, if any, this standard may have on the consolidated financial statements.

In August 2001, the FASB issued SFAS No. 144, “Accounting for the Impairment or Disposal of Long-Lived Assets,” that replaces SFAS No. 121, “Accounting for the Impairment of Long-Lived Assets and for Long-Lived Assets to Be Disposed Of.” SFAS No. 144 requires that long-lived assets to be disposed of by sale, including those of discontinued operations, be measured at the lower of carrying amount or fair value less cost to sell, whether reported in continuing operations or in discontinued operations. Liabilities for discontinued operations will no longer include amounts for operating losses that have not yet been incurred. SFAS No. 144 also broadens the reporting of discontinued operations to include all components of an entity with operations that

**CENTRAL GARDEN & PET COMPANY**  
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**

can be distinguished from the rest of the entity and that will be eliminated from the ongoing operations of the entity in a disposal transaction. The provisions of SFAS No. 144 are effective for our fiscal year 2003, and are generally to be applied prospectively.

In June 2002, the FASB issued SFAS No. 146, "Accounting for Costs Associated with Exit or Disposal Activities", which addresses accounting for restructuring and similar costs. SFAS No. 146 supersedes previous accounting guidance, principally Emerging Issues Task Force Issue No. 94-3. SFAS No. 146 requires that the liability for costs associated with an exit or disposal activity be recognized when the liability is incurred. Under Issue 94-3, a liability for an exit cost was recognized at the date of the Company's commitment to an exit plan. SFAS No. 146 also establishes that the liability should initially be measured and recorded at fair value. Accordingly, SFAS No. 146 may affect the timing of recognizing future restructuring costs as well as the amounts recognized. The Company will adopt the provisions of SFAS No. 146 for any restructuring activities initiated after September 28, 2002.

**2. Other Charges**

Activity in fiscal 2002, 2001 and 2000 related to other charges was as follows (in millions):

	Cash		Non Cash	
	Severance	Exit Related and Other	Asset Carrying Value Adjustments	Total
Reserve balance September 25, 1999	\$ 0.4	\$ 1.0	\$ 0.0	\$ 1.4
Fiscal 2000 other charges	1.1	8.2	17.9	27.2
Severance paid	(1.1)			(1.1)
Costs paid		(0.1)		(0.1)
Assets carrying value adjustments			(17.9)	(17.9)
Reserve balance September 30, 2000	0.4	9.1	0.0	9.5
Severance paid	(0.4)			(0.4)
Costs paid		(8.8)		(8.8)
Reserve balance September 29, 2001	0.0	0.3	0.0	0.3
Costs paid		(0.3)		(0.3)
Reserve balance September 28, 2002	\$ —	\$ —	\$ —	\$ —

*Fiscal 2000*

In September 2000, the Company recorded \$27.5 million of charges resulting from workforce reductions, employee benefit obligations, facility closures, and asset impairments that were necessary due to the termination of the Company's distribution arrangement with Scotts and other anticipated sales decreases in the Garden Products business. These charges were offset by the reversal of \$0.3 million of certain exit-related costs recorded in connection with the fiscal 1998 restructuring plan for which the Company was no longer obligated.

As a result of the fiscal 2000 and anticipated future distribution related sales decreases in the Garden Products segment, the Company initiated a plan to close 13 distribution centers and reduce its workforce which was completed in fiscal 2001. In connection with this plan, the Company recorded a severance charge of \$1.1 million associated with the termination of 309 employees, primarily in the sales force and distribution centers. Severance of \$0.7 million was paid to 196 employees terminated during fiscal 2000, with the balance paid to employees who were terminated in fiscal 2001. In connection with the facilities closures, \$3.6 million

**CENTRAL GARDEN & PET COMPANY**  
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**

was accrued for estimated lease costs, and \$0.2 million for estimated property tax and facilities maintenance costs, that the Company is obligated to pay for periods subsequent to closure. The Company completed the facility closures in fiscal 2001. The Company also recorded an \$0.8 million impairment charge to reduce certain facility assets to their estimated fair value based on an independent appraisal, and an \$0.8 million provision for estimated uncollectible receivables from customers of the closed facilities.

In addition, as a direct result of the termination of the distribution relationship with Scotts, the Company recorded a charge of \$4.7 million as the Company became obligated to make cash payments which were guaranteed to certain employees in the event of such termination. These payments were made during fiscal 2001.

As a result of the events described above, management reevaluated the recoverability of the intangible assets in the Garden Products segment. Based on an evaluation of estimated future cash flows associated with affected facilities, the Company determined that goodwill and certain trademarks were impaired, and accordingly recorded charges of \$15.7 million and \$0.6 million, respectively, to reduce those assets to estimated fair values.

As of September 29, 2001, reserve balances related to “Other Charges” recorded in fiscal 2000 represented amounts paid in fiscal 2002 for facility exit-related obligations and were included in the consolidated balance sheet within “accrued expenses”. The reserve balances were associated with the \$9.3 million of “Other Charges” recorded in the year ended September 30, 2000 for severance and exit-related obligations. With respect to this amount severance of \$1.1 million and the exit-related costs of \$7.9 million were paid during fiscal years 2001 and 2000.

*Fiscal 1999*

In September 1999, the Company recorded other charges totaling \$2.7 million associated with the expiration of the Solaris Agreement, workforce reductions, facility closures.

Of the \$2.7 million charge, the Company established a \$0.1 million reserve for estimated non-collectible amounts due from distributors involved in the Solaris program, and a \$0.1 million charge for post-closure facility lease obligations of the Company’s facility which warehoused only inventory received under the Solaris Agreement which was closed upon termination of the Solaris Agreement.

The Company initiated a plan for closure of three distribution centers as well as a workforce reduction which was expected to be completed by the end of the second quarter of fiscal 2000. Also included in the \$2.7 million charge was \$1.6 million related to such closures and workforce reductions in the former distribution segment. As part of this plan, the Company recorded a severance charge of \$0.6 million for workforce reductions. The severance charge related to the termination of 113 employees, primarily in the sales force and distribution centers and associated back-office functions. Severance for 51 employees was paid during fiscal 1999. Also related to such closures, a charge of \$0.4 million was recorded for other exit-related costs, consisting primarily of lease costs, property and other facility costs required to be paid subsequent to the termination of operations. In addition, \$0.3 million was required to write off the carrying value of certain facility assets which were no longer to be used and were disposed of during the first half of fiscal 2000. \$0.9 million of the \$1.6 million of other charges related to these closures and workforce reductions recorded in September 1999 was included in accrued expenses as of September 25, 1999. These costs were paid primarily in fiscal 2000, with certain lease obligations paid in fiscal 2001.

The Company initiated a plan to dispose of a building and certain facility assets in the Garden Products segment which had not operated at the level of profitability required by the Company. Also included in the \$2.7 million charge was \$1.2 million required to reduce the \$3.0 million carrying value of the building, which was being held for disposal during fiscal 2002, to its estimated net realizable value in accordance with



**CENTRAL GARDEN & PET COMPANY**  
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**

SFAS No. 121. The charge was based on the comparison of the net carrying cost of this facility and assets compared with current market values, less costs to sell. The operations of this facility are included in the Company's operations for fiscal 2002, and resulted in pretax earnings of approximately \$0.2 million.

**3. Acquisitions**

*Fiscal 2001*

In October 2000, the Company's Pennington subsidiary acquired the Rebel and Lofts lines of grass seed ("Lofts and Rebel") from KRB Seed Company, LLC ("KRB"), for approximately \$8 million in cash. Lofts and Rebel represented a portion of a business which KRB acquired out of bankruptcy. The purchase price approximated the fair market value of the tangible assets acquired. The Company also signed perpetual licensing agreements under which the Company will make royalty payments to KRB over the term of the licensing agreements. The acquisition was accounted for under the purchase method. Royalty payments will be recorded as expense as they are incurred. The results of operations associated with this acquisition have been included in the Company's results of operations since October 2000. Sales of approximately \$16 million attributable to Lofts and Rebel were included in net sales for fiscal 2001.

*Fiscal 2000*

In September 2000, Central's Pennington subsidiary acquired All-Glass Aquarium Co., Inc., a leading manufacturer and marketer of aquariums and related products, based in Franklin, Wisconsin and its Oceanic systems subsidiary in Dallas, Texas for approximately \$10 million, which was recorded as a liability in the Consolidated Balance sheet as of September 30, 2000, and was subsequently paid during the three months ended December 30, 2000. The purchase price exceeded the fair value of net assets acquired by approximately \$10 million, which was recorded as goodwill. The operations of this business have been included in the Company's results of operations since October 1, 2000.

In March 2000, Central acquired the AMDRO® and IMAGE® consumer product lines from American Cyanamid, the agricultural products division of American Home Products Corporation for approximately \$28 million. The purchase price exceeded the fair market value of net assets acquired by approximately \$27 million, which was recorded as goodwill.

In March 2000, Central's Norcal Pottery Products, Inc. subsidiary ("Norcal") acquired White's Pottery, L.P., an importer and distributor of terra cotta pottery products for approximately \$2 million. The purchase price exceeded the fair market value of net assets acquired by approximately \$1 million, which was recorded as goodwill.

In January 2000, Central's Pennington subsidiary acquired Unicorn Laboratories. Unicorn serves the U.S. animal health and lawn and garden industries as a private label and branded manufacturer of lawn, garden and animal health chemical products for approximately \$15 million. The purchase price exceeded the fair market value of net assets acquired by approximately \$14 million, which was recorded as goodwill.

In January 2000, Central's Pennington subsidiary acquired an equity stake in Cedar Works, a manufacturer of bird feeders for approximately \$6 million. The purchase price exceeded the fair market value of net assets acquired by approximately \$4 million, which was recorded as goodwill.

**4. Concentration of Credit Risk and Significant Customers and Suppliers**

*Customer Concentration*—Approximately 48%, 46% and 48% of the Company's net sales for fiscal years 2002, 2001 and 2000, respectively, were derived from sales to the Company's top ten customers. The Company's

**CENTRAL GARDEN & PET COMPANY**  
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**

largest customer accounted for approximately 20%, 21% and 25% of the Company's net sales for fiscal years 2002, 2001 and 2000, respectively. The Company's second largest customer accounted for approximately 7%, 7% and 5% of the Company's net sales for fiscal years 2002, 2001 and 2000, respectively. The Company's third largest customer accounted for approximately 6%, 6% and 5% of the Company's net sales for fiscal years 2002, 2001 and 2000, respectively. The loss of, or significant adverse change in, the relationship between the Company and these three customers could have a material adverse effect on the Company's business and financial results. The loss of or reduction in orders from any significant customer, losses arising from customer disputes regarding shipments, fees, merchandise condition or related matters, or the Company's inability to collect accounts receivable from any major customer could have a material adverse impact on the Company's business and financial results. As of each of September 28, 2002 and September 29, 2001, accounts receivable from the Company's top ten customers comprised 47% of the Company's total accounts receivable, including 15% from the Company's largest customer.

*Supplier Concentration*—While the Company purchases products from over 1,000 different manufacturers and suppliers, approximately 7%, 15% and 19% of the Company's net sales in fiscal years 2002, 2001 and 2000, respectively, were derived from products purchased from the Company's five largest suppliers. The Company believes that approximately 14% of the Company's net sales during fiscal year 2000 were derived from sales of products purchased from Scotts. Scotts discontinued its distribution relationship with the Company as of September 30, 2000.

**5. Allowance for Doubtful Accounts**

The changes in the reserve for doubtful accounts are summarized below (in thousands):

Description	Balances at Beginning of Period	Additions			Balances at End of Period
		Charged to Costs and Expenses	Charged to Other Accounts	Asset Write-Offs	
Year ended September 30, 2000	\$ 6,143	\$ 3,572	\$ 314	\$ 1,979	\$ 8,050
Year ended September 29, 2001	8,050	9,302	—	2,888	14,464
Year ended September 28, 2002	14,464	2,043	—	8,910	7,597

**6. Goodwill**

The changes in the carrying amount of goodwill for the years ended September 28, 2002 and September 29, 2001 are as follows (in thousands):

	Garden Products Segment(1)	Pet Products Segment(1)	Corporate	Total
Balance as of September 30, 2000	\$ 162,419	\$ 216,975	\$ 2,900	\$ 382,294
Amortization recorded	(5,094)	(6,115)	(150)	(11,359)
Adjustments recorded	—	1,052	—	1,052
Balance as of September 29, 2001	157,325	211,912	2,750	371,987
Impairment loss resulting from the cumulative effect of accounting change	(51,935)	(94,813)	—	(146,748)
Impairment losses	—	—	(2,750)	(2,750)
Balance as of September 28, 2002	\$ 105,390	\$ 117,099	\$ —	\$ 222,489

(1) Goodwill balances and goodwill amortization have been included in Corporate for segment reporting purposes in Note 15.

**CENTRAL GARDEN & PET COMPANY**  
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**

Goodwill balances within the Garden Products and Pet Products segments were tested for impairment as of September 30, 2001, the date the Company adopted SFAS 142. As discussed in Note 1, the Company recorded an impairment charge of \$146.7 million to write down goodwill upon adoption of the SFAS No. 142. The Company also performed its annual goodwill impairment analysis within the Garden Products and Pet Products segments on the first day of the Company's fiscal 2002 fourth quarter, using a valuation model based on estimated future operating results and cash flows. This analysis indicated that no additional adjustments were required to the remaining goodwill balances. The impairment loss of \$2,750,000 recorded in fiscal year 2002 was related to the write-off of goodwill associated with an equity method investment unrelated to adoption of SFAS No. 142.

**7. Notes Payable**

In July 2002, the Company extended its primary credit facility with Congress Financial Corporation for two years expiring on July 12, 2004. The extended credit facility provides the Company and certain of its subsidiaries with an aggregate revolving loan commitment of up to \$125.0 million, with availability fluctuating based upon the value of assets eligible for inclusion in the borrowing base under the terms of the credit facility. Due to lower borrowing requirements, the Company reduced the size of the facility from \$200.0 million to \$125.0 million. At September 28, 2002 and September 29, 2001, balances of \$34.0 million and \$83.1 million, respectively, were outstanding under this agreement, bearing interest at a rate based on LIBOR plus 2% (3.8% at September 28, 2002 and 4.7% at September 29, 2001) or the prime rate, at the Company's option. The Company may elect that all or a portion of the credit facility bear interest at a rate equal to: (i) the LIBOR rate for one, two or three months plus 2.00%, or (ii) the prime rate. Beginning with the first reporting period following the September 2002 fiscal year end, the LIBOR margin fluctuates from 1.75% to 3.00%, determined quarterly based on EBITDA for the most recent trailing twelve month period. The remaining available borrowing capacity at September 28, 2002 and September 29, 2001 was \$50.8 million and \$16.8 million, respectively. This line is secured by a significant amount of the Company's assets, contains certain financial covenants requiring maintenance of minimum levels of tangible net worth and EBITDA, places a ceiling on the Company's treasury stock purchases and does not allow the Company to pay dividends. The line also requires the lender's prior written consent to any acquisition of a business permitted under the credit facility.

The Company also has available through its Pennington subsidiary a \$95 million line of credit as of September 28, 2002, which increased from \$85 million in fiscal 2001 and expires on September 30, 2003. As of September 28, 2002 and September 29, 2001, the Company had \$26.0 million and \$31.6 million, respectively, of borrowings under this line of credit facility. The remaining available borrowing capacity at September 28, 2002 and September 29, 2001 was \$52.3 million and \$53.4 million, respectively. Interest related to this line is based on a rate either equal to LIBOR plus 1.375% or the prime rate, at the Company's option. The line of credit contains certain restrictive financial covenants, requiring maintenance of minimum levels of interest coverage, cash flow coverage and net worth and maximum funded debt to EBITDA. The line also does not allow the payment of certain dividends.

The Company also has available through its All-Glass Aquarium subsidiary a \$10 million line of credit, which expires on September 30, 2005. As of September 28, 2002 and September 29, 2001, the Company had \$0.0 and \$4.6 million of borrowings under this line of credit facility, respectively. The remaining available borrowing capacity at September 28, 2002 and September 29, 2001 was \$10.0 million and \$5.4 million, respectively. Interest related to this line is based on a rate equal to the prime rate less 0.5% or LIBOR plus a margin (2.0% at September 28, 2002) which fluctuates from 1.25% to 2.38%, determined quarterly based on EBITDA for the most recent trailing twelve month period. The line of credit is secured by a General Business Security Agreement and contains certain restrictive financial covenants, requiring maintenance of minimum levels of net worth and debt service coverage and maximum funded debt to EBITDA. The line also does not allow the payment of certain dividends.

**CENTRAL GARDEN & PET COMPANY**  
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**

**8. Long-Term Debt**

Long-term debt consists of the following:

	September 28, 2002	September 29, 2001
	(in thousands)	
Convertible subordinated notes, interest at 6% payable semi-annually, principal due November 15, 2003; convertible at the option of the holder into shares of common stock of the Company, at any time prior to redemption or maturity, at a conversion price of \$28.00 per share (equal to a conversion rate of 35.7143 shares per \$1,000 principal amount of notes)	\$ 115,000	\$ 115,000
Promissory note, interest at 7% with annual principal and interest payments of \$5,550,289 through 2004	10,035	14,566
Note payable to bank, interest at floating rates; payable in monthly principal payments of \$60,000 plus interest with unpaid balance due September 30, 2005	13,050	13,775
Industrial development revenue bonds due in semi-annual sinking fund installments of \$140,000 beginning September 1, 2003 for 15 years; bearing interest at floating rates (2% at September 28, 2002), secured by letter of credit collateralized by plant and equipment	4,390	4,390
Note payable to bank, interest at floating rates; payable in monthly principal payments of \$58,000 plus interest with unpaid balance due September 30, 2005	2,100	2,800
Industrial development revenue bonds due in annual sinking fund installments of \$305,000 to \$310,000 through July 2010, bearing interest at floating rates, secured by an unconditional letter of credit	2,475	2,780
Mortgage note payable to bank, interest based on a formula (3.3% at September 28, 2002), principal and interest due in monthly installments through March 2012	1,418	1,520
Industrial development revenue bonds due in annual sinking fund installments of \$300,000 through December 2005, bearing interest at floating rates, secured by an unconditional letter of credit	1,200	1,500
Mortgage note payable to bank, interest at 6.75%; payable in monthly principal and interest installments of \$11,573 with unpaid balance due April 2007	1,279	—
Industrial development revenue bonds due in annual sinking fund installments ranging from \$130,000 to \$195,000 through July 2005, bearing interest at floating rates, secured by an unconditional letter of credit	520	715
Mortgage note payable to bank, interest based on a formula (3.3% at September 28, 2002), principal and interest due in monthly installments through December 2019	943	969
Industrial development revenue bonds due in quarterly sinking fund installments of \$35,000, final principal installment due March 2004, bearing interest at floating rates, secured by an unconditional letter of credit	210	350
Other notes payable	304	310
<b>Total</b>	<b>152,924</b>	<b>158,675</b>
Less current portion of long-term debt	7,593	7,052
<b>Total</b>	<b>\$ 145,331</b>	<b>\$ 151,623</b>

**CENTRAL GARDEN & PET COMPANY**  
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**

Principal repayments on long-term debt are scheduled as follows:

	(in thousands)
Fiscal year:	
2003	\$ 7,593
2004	123,011
2005	13,575
2006	1,136
2007	1,828
Thereafter	5,781
	<hr/>
Total	\$ 152,924
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**9. Commitments and Contingencies**

The Company has operating lease agreements principally for office and warehouse facilities and equipment. Such leases have remaining terms of 1 to 8 years. Rental expense was \$18.8 million, \$19.9 million and \$23.4 million for fiscal years 2002, 2001 and 2000, respectively.

Certain facility leases have renewal options and provide for additional rent based upon increases in the Consumer Price Index.

Aggregate minimum annual payments on non-cancelable operating leases at September 28, 2002 are as follows:

	(in thousands)
Fiscal year:	
2003	\$ 17,216
2004	13,153
2005	9,568
2006	5,349
2007	2,618
Thereafter	5,760
	<hr/>
Total	\$ 53,664
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*The Solaris Agreement*—The Company entered into an agreement effective October 1, 1995 with The Solaris Group (“Solaris”), a strategic business unit of Monsanto Company (subsequently renamed Pharmacia Corporation), the manufacturer of Ortho®, Round-up® and Green Sweep® lawn and garden products (the “Solaris Agreement”). Under the Solaris Agreement, which had a four year term, the Company, in addition to serving as the master agent and master distributor of Solaris products, provided a wide range of value-added services including logistics, order processing and fulfillment, inventory distribution and merchandising. However, Solaris continued to negotiate its sales prices directly with its direct sales accounts. The Solaris Agreement provided for the Company to be reimbursed for costs incurred in connection with services provided to Solaris’ direct sales accounts and to receive payments based on the growth of sales of Solaris products. The Company was also entitled to share with Solaris in the economic benefits of certain cost reductions, to the extent achieved.

In January 1999, Pharmacia sold its Solaris lawn and garden business exclusive of its Roundup® herbicide products for consumer use to The Scotts Company (“Scotts”) and entered into a separate, long-term, exclusive

**CENTRAL GARDEN & PET COMPANY**  
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**

agreement pursuant to which Pharmacia continues to make Roundup herbicide products for consumer use and Scotts markets the products. Beginning October 1, 1999, Scotts began to distribute Ortho® and Roundup® products through a system that involved a combination of distributors, of which we were the largest, as well as through direct sales by Scotts to certain major retailers. In addition, Scotts began to sell Miracle-Gro® directly to certain retailers.

Effective September 30, 2000, Scotts discontinued its distribution relationship with Central. The affected products included Scotts®, Ortho® and Miracle-Gro® products and consumer Roundup® products manufactured by Pharmacia for which Scotts acts as Pharmacia's exclusive sales agent. For Central's fiscal year ended September 30, 2000, the revenue attributable to the affected products was approximately \$176 million.

Due to the termination of the Scotts' distribution relationship, the Company took actions to downsize its lawn and garden distribution operations to reflect anticipated business levels for the fiscal year 2001. As a result, the Company recorded charges of \$27.5 million in the fiscal year ending September 30, 2000. See Note 2, "Other Charges."

*Scotts Litigation.* On June 30, 2000, The Scotts Company filed suit against Central to collect the purchase price of certain lawn and garden products previously sold to Central. Scotts filed an amended complaint seeking \$23 million for such products. Central withheld payments to Scotts on the basis of claims it has against Scotts—including amounts due for services and goods previously supplied by Central and not yet paid for by Scotts. This action, *The Scotts Company v. Central Garden & Pet Company*, Docket No. C2 00-755, is in the United States District Court for the Southern District of Ohio, Eastern Division. Central filed its answer and a counter complaint asserting various claims for breaches of contracts. Scotts filed a motion to dismiss certain of Central's claims. On January 11, 2002, the court granted Scotts' motion as to Central's claim for breach of oral contract and promissory estoppel and denied the motion as to Central's claim for fraud. Scotts subsequently filed a motion for summary adjudication of Central's fraud claim. The court granted Scotts' motion.

In early April 2002, the court granted Central's motion for leave to file a further amended counter-complaint asserting an additional claim for breach of oral contract arising from certain credits promised by Scotts in the amount of approximately \$4.0 million owed by subagents. This claim was severed from the rest of the case. In April 2002, trial occurred on the claims and counterclaims of the parties (excluding the oral contract claim recently added to the case). The jury found in favor of Scotts on its breach of contract claim and in favor of Central on its breach of contract counterclaims for non-payment of fees and shipments of product. The net verdict was in favor of Scotts in the amount of \$10.425 million which had previously been recorded as an obligation by the Company. Prior to the jury verdict, the district court had dismissed Scotts' claim for breach of fiduciary duty and a portion of Central's claim for breach of contract. On May 30, 2002, Scotts filed a motion seeking \$7.9 million in prejudgment interest and \$1.7 million in attorneys' fees as well as recovery of unspecified costs. Scotts also asked the Court to set aside \$750,000 of the jury verdict amount awarded to Central. Central has filed a motion seeking a new trial on inventory return claims involving approximately \$10.0 million that the Court had decided against Central as a matter of law during the trial. Central has opposed Scotts' motion and seeks an offset amount of prejudgment interest on its claims such that the net prejudgment interest owed to Scotts would be approximately \$500,000. No hearing date has been set for these motions. No trial has been scheduled on Central's remaining claim for breach of oral contract regarding subagents.

On July 7, 2000, Central filed suit against Scotts and Pharmacia Corporation (formerly known as Monsanto Company) seeking damages and injunctive relief as well as restitution for, among other things, breach of contract and violations of the antitrust laws. This action, *Central Garden & Pet Company, a Delaware Corporation v. The Scotts Company, an Ohio corporation; and Pharmacia Corporation, formerly known as Monsanto Company, a*

**CENTRAL GARDEN & PET COMPANY**  
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**

*Delaware corporation*, Docket No. C 00 2465, is in the United States District Court for the Northern District of California. On October 26, 2000, the federal district court issued an order denying, for the most part, Pharmacia's motion to dismiss Central's federal antitrust claims. Central was given leave to file an amended federal complaint to clarify certain of its allegations. Central filed a first amended complaint on November 14, 2000. The federal district court's October 26 order also ruled that it did not have jurisdiction over Central's state law claims and that such claims should be adjudicated in a state court. On October 31, 2000, Central filed an action entitled *Central Garden & Pet Company v. The Scotts Company and Pharmacia Corporation*, Docket No. C00-04586 in Contra Costa Superior Court asserting various state law claims, including the claims previously asserted in the federal action. The state court subsequently stayed this action. Pursuant to a settlement reached with Pharmacia, Central and Pharmacia agreed that all claims and disputes arising from the alliance agreements and all antitrust claims against Pharmacia and Monsanto would be resolved, and the federal action has been dismissed as to Pharmacia and Monsanto. In April 2002, Scotts and Central filed cross-motions in the federal action for summary judgment on the antitrust claims. In May 2002, Scotts also filed a motion for summary judgment in the federal action based on res judicata. The court granted the res judicata motion, did not rule on the antitrust motions, and vacated the trial date. Central is appealing the judgment entered pursuant to the court's order.

Central believes that the reconciliation of all accounts and claims in the above cases will in the aggregate, not result in additional charges to Central. Further, Central believes it continues to have claims and rights of offset against Scotts and intends to continue to vigorously pursue its claims, including pursuit of post-trial remedies in connection with the suit filed by Scotts. However, there can be no assurance that the resolution of this litigation will not have a material adverse effect on Central's results of operations, financial position and/or cash flows.

*TFH Litigation.* In December 1997, Central acquired all of the stock of TFH Publications, Inc. ("TFH"). In connection with the transaction, Central made a \$10 million loan to the sellers, which was evidenced by a Promissory Note. In September 1998, the prior owners of TFH brought suit against Central and certain executives of Central for damages and relief from their obligations under the Promissory Note, alleging, among other things, that Central's failure to properly supervise the TFH management team had jeopardized their prospects of achieving certain earnouts. Central believes that these allegations are without merit. Central counterclaimed against the prior owners for enforcement of the Promissory Note, rescission and/or damages and other relief, alleging, among other things, fraud, misrepresentation and breach of fiduciary duty by the prior owners of TFH. These actions, *Herbert R. Axelrod and Evelyn Axelrod v. Central Garden & Pet Company*; *Glen S. Axelrod*; *Gary Hersch*; *William E. Brown*; *Robert B. Jones*; *Glen Novotny*; and *Neill Hines*, Docket No. MON-L-5100-99, and *TFH Publications, Inc. v. Herbert Axelrod et al.*, Docket No. L-2127-99 (consolidated cases), are in the New Jersey Superior Court. The case is currently in pretrial discovery and is scheduled for trial in March 2003.

During the course of discovery in this action, Central has become aware of certain information which shows that prior to the acquisition of TFH by Central, certain records of TFH were prepared in an inaccurate manner which, among other things, resulted in underpayment of taxes by certain individuals. Those individuals could be liable for back taxes, interest, and penalties. In addition, even though all of the events occurred prior to the acquisition of TFH by Central, there is a possibility that TFH could be liable for penalties for events which occurred under prior management. Central believes that TFH has strong defenses available to the assertion of any penalties against TFH. Central cannot predict whether TFH will be required to pay any such penalties. In the event that TFH were required to pay penalties, Central would seek compensation from the prior owners.

In March 2001, the prior owners of TFH also brought a separate action in federal court seeking to enforce what they alleged was an "arbitration award" made by an accountant concerning the closing balance sheet of

**CENTRAL GARDEN & PET COMPANY**  
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**

TFH. The prior owners contended that the decisions by the accountant concerning the closing balance sheet entitled them to additional monies under the purchase price provisions of the Stock Purchase Agreement. The federal court held that the accountant did not make any monetary award. The federal court entered a judgment enforcing the decisions made by the accountant concerning the closing balance sheet of TFH, but the court did not, and refused to, enter a monetary award. See *Evelyn M. Axelrod, et al. v. Central Garden & Pet Company*, Civil Action No. 01-1262 (MLC) U.S.D.C. of New Jersey. The prior owners have argued in the consolidated civil actions pending in the New Jersey Superior Court that the judgment by the federal court entitles them to additional monies under the purchase price provision of the Stock Purchase Agreement. The New Jersey Superior Court has stated that it will not, at this time, enter a monetary award, but that it, like the federal court, will confirm the decisions made by the accountant concerning the closing balance sheet of TFH. Central believes that it has defenses to the claims by the prior owner for additional monies under the purchase price provisions of the Stock Purchase Agreement, and that the prior owners' claims are subject to or will be offset by Central's claims against the prior owners.

Central does not believe that the outcome of the above TFH matters will have a material adverse impact on its operations, financial position, or cash flows.

*Phoenix Fire.* On August 2, 2000, a fire destroyed Central's leased warehouse space in Phoenix, Arizona, and an adjoining warehouse space leased by a third party. On July 31, 2001, the adjoining warehouse tenant filed a lawsuit against Central and other parties in the Superior Court of Arizona, Maricopa County, seeking to recover \$47 million for property damage from the fire. See *Cardinal Health Inc., et al. v. Central Garden & Pet Company, et al*, Civil Case No. CV2001-013152. Local residents have also filed a purported class action lawsuit alleging claims for bodily injury and property damage as a result of the fire. The building owner and several nearby businesses have also now filed lawsuits for property damage and business interruption, which we expect to be consolidated with the tenant and local resident lawsuits. Each of these lawsuits is currently pending in the Superior Court of Arizona, Maricopa County. The Arizona Department of Environmental Quality, after monitoring the cleanup operations and asking Central, the building owner and the adjoining warehouse tenant to assess whether the fire and fire suppression efforts may have caused environmental impacts to soil, groundwater and/or surface water, has now issued a letter stating that Central need take no further action at the site with respect to environmental issues. In early 2001, the EPA requested information relating to the fire. On July 17, 2002, the EPA informed Central that it intended to file a civil administrative complaint seeking penalties of up to \$350,000 for certain alleged post-fire reporting violations. Central has responded to those allegations and believes them to be without merit. The overall amount of the damages to all parties caused by the fire, and the overall amount of damages which Central may sustain as a result of the fire, have not been quantified. At the time of the fire, Central maintained property insurance covering losses to the leased premises, Central's inventory and equipment, and loss of business income. Central also maintained insurance providing \$51 million of coverage (with no deductible) against third party liability. Central believes that this insurance coverage will be available with respect to third party claims against Central if parties other than Central are not found responsible. The precise amount of the damages sustained in the fire, the ultimate determination of the parties responsible and the availability of insurance coverage are likely to depend on the outcome of complex litigation, involving numerous claimants, defendants and insurance companies.



**CENTRAL GARDEN & PET COMPANY**  
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**

**10. Income Taxes**

The provision (benefit) for income taxes consists of the following:

	Fiscal Year Ended		
	September 28, 2002	September 29, 2001	September 30, 2000
	(in thousands)		
Current:			
Federal	\$ 5,636	\$ (9,151)	\$ 9,544
State	1,079	(1,347)	2,009
Total	6,715	(10,498)	11,553
Deferred	(26,065)	10,251	(7,500)
Total	\$ (19,350)	\$ (247)	\$ 4,053

Included in the \$19.4 million benefit recorded in fiscal 2002 is a benefit of \$34.5 million related to the cumulative effect of accounting change recorded during the fiscal year.

A reconciliation of the statutory federal income tax rate with the Company's effective income tax rate is as follows:

	Fiscal Year Ended		
	September 28, 2002	September 29, 2001	September 30, 2000
Statutory rate	35%	35%	35%
State income taxes, net of federal benefit	2.0	0.6	(4.7)
Nondeductible expenses, primarily goodwill	(18.1)	(29.7)	(73.0)
Other	(0.1)	(2.6)	(0.3)
Effective tax rate	18.8%	3.3%	(43.0)%

**CENTRAL GARDEN & PET COMPANY**  
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**

Deferred income taxes reflect the impact of “temporary differences” between amounts of assets and liabilities for financial reporting purposes and such amounts as measured by tax laws. The tax effect of temporary differences and carryforwards which give rise to deferred tax assets and liabilities are as follows:

	September 28, 2002		September 29, 2001	
	Deferred Tax Assets	Deferred Tax Liabilities	Deferred Tax Assets	Deferred Tax Liabilities
	(in thousands)			
<b>Current:</b>				
Allowance for doubtful accounts receivable	\$ 1,873		\$ 4,364	
Inventory write-downs	4,044		5,906	
Prepaid expenses		\$ 2,058		\$ 1,942
Nondeductible reserves	3,147		1,548	
State taxes		1,657		1,616
Other	71		565	
<b>Current</b>	<b>9,135</b>	<b>3,715</b>	<b>12,383</b>	<b>3,558</b>
<b>Noncurrent:</b>				
Depreciation and amortization	13,027			15,927
Joint venture income		584		416
Net operating loss			213	
Other	1,387		490	
<b>Noncurrent</b>	<b>14,414</b>	<b>584</b>	<b>703</b>	<b>16,343</b>
<b>Total</b>	<b>\$ 23,549</b>	<b>\$ 4,299</b>	<b>\$ 13,086</b>	<b>\$ 19,901</b>

#### 11. Shareholders' Equity

At September 28, 2002, there were 80,000,000 shares of common stock (\$0.01 par value) authorized, of which 17,265,948 were outstanding.

At September 28, 2002, there were 3,000,000 shares of Class B stock (\$0.01 par value) authorized, of which 1,655,462 were outstanding. The voting powers, preferences and relative rights of the Class B stock are identical to common stock in all respects except that (i) the holders of common stock are entitled to one vote per share and the holders of Class B stock are entitled to the lesser of ten votes per share or 49% of the total votes cast, (ii) stock dividends on common stock may be paid only in shares of common stock and stock dividends on Class B stock may be paid only in shares of Class B stock and (iii) shares of Class B stock have certain conversion rights and are subject to certain restrictions on ownership and transfer. Each share of Class B stock is convertible into one share of common stock, at the option of the holder. Additional shares of Class B stock may only be issued with majority approval of the holders of the common stock and Class B stock, voting as separate classes.

At September 28, 2002, there were 1,000,000 shares of preferred stock (\$0.01 par value) authorized, of which none were outstanding.

In August 1998, the Company's Board of Directors authorized a program for the Company to repurchase up to \$25 million of common shares. In several subsequent authorizations, the Company's Board of Directors increased such authorization up to \$155 million of common shares as of December 1, 1999. As of September 30, 2000, the Company had repurchased approximately 13.7 million shares of its common stock for an aggregate price of approximately \$143.8 million under this program. There have been no repurchases since September 30, 2000.

**CENTRAL GARDEN & PET COMPANY**  
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**

From 1997 until 2001, the Company maintained an employee discount stock purchase plan for eligible employees. Under such plan, participants could use up to 15% of their annual compensation up to certain dollar limitations, whichever was higher, to purchase, through payroll deductions, the Company's common stock at the end of six-month periods ending June 30 and December 31 of each plan year for 85% of the lower of the beginning or ending stock price for the applicable six-month period of each plan year. The remaining shares authorized under the plan were issued to employees during 2001. The Company does not currently expect to authorize additional shares under the plan.

In 1993, the Company adopted the Omnibus Equity Incentive Plan (the "Plan") which, through September 28, 2002, has provided for the grant of options to key employees and consultants of the Company for the purchase of up to an aggregate of 4.8 million shares of common stock of the Company. The Plan is administered by the Compensation Committee of the Board of Directors, comprised of independent directors only, who determine individual awards to be granted, vesting and exercise of share conditions.

In 1996, the Company adopted the Nonemployee Director Stock Option Plan (the "Director Plan") which provides for the grant of options to nonemployee directors of the Company. In June 2001, the Board of Directors of the Company amended the Director Plan, to increase the number of shares authorized for issuance under the Director Plan to 200,000 shares and to revise the annual awards to provide for an option to purchase \$100,000 of the Company's common stock and a restricted stock grant for \$10,000 of the Company's common stock. In June 2001, the Board granted each nonemployee director an option to purchase 7,000 shares of the Company's common stock and a restricted stock grant for 1,000 shares of common stock outside the Director Plan. In August 2002, the Board granted a new nonemployee director an option to purchase 3,709 shares of the Company's common stock and a restricted stock grant for 371 shares of common stock outside the Director Plan.

Option activity under the Plan, Director Plan and to nonemployee directors outside the Director Plan is as follows:

	Number of Options	Weighted Average Exercise Price
Balance at September 25, 1999	2,909,995	\$ 14.35
Granted (weighted average fair value of \$3.90)	493,170	8.21
Exercised	(48,617)	4.86
Cancelled	(194,600)	14.14
Balance at September 30, 2000	3,159,948	13.55
Granted (weighted average fair value of \$2.95)	576,750	6.85
Exercised	(40,939)	2.75
Cancelled	(801,200)	13.15
Balance at September 29, 2001	2,894,559	12.48
Granted (weighted average fair value of \$3.54)	1,179,488	8.78
Exercised	(462,621)	11.22
Cancelled	(783,260)	14.19
Balance at September 28, 2002	2,828,166	10.66
Exercisable at September 30, 2000	836,579	15.20
Exercisable at September 29, 2001	1,391,644	15.03
Exercisable at September 28, 2002	996,821	14.25

**CENTRAL GARDEN & PET COMPANY**  
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**

Range of Exercise Prices	Options Outstanding September 28, 2002			Options Exercisable September 28, 2002	
	Number of Options Outstanding	Weighted Average Remaining Contractual Life (Years)	Weighted Average Exercise Price	Number of Options Exercisable	Weighted Average Exercise Price
\$ 1.30–\$ 4.99	24,377	2.2	\$1.30	24,377	\$1.30
5.00– 9.99	1,734,832	2.3	7.51	298,337	8.19
10.00– 14.99	572,009	3.9	13.13	234,300	13.36
15.00– 19.99	189,474	1.3	15.94	138,333	15.97
20.00– 24.99	300,000	0.2	21.13	300,000	21.13
25.00– 33.94	7,474	1.4	30.78	1,474	33.94
\$ 1.30–\$33.94	2,828,166	2.3	\$10.66	996,821	\$14.25

*Additional Stock Plan Information*—The Company continues to account for its employee stock-based awards using the intrinsic value method in accordance with Accounting Principles Board No. 25, “Accounting for Stock Issued to Employees,” and its related interpretations.

SFAS No. 123, “Accounting for Stock-Based Compensation,” requires the disclosure of pro forma net earnings and earnings per share had the Company adopted the fair value method as of the beginning of fiscal 1997. These calculations require subjective assumptions, including future stock price volatility and expected time to exercise, which greatly affect the calculated values. The Company’s calculations were made using the Black-Scholes option pricing model with the following weighted average assumptions: expected life of four years from date of grant; stock volatility, 52% in fiscal 2002, 55% in fiscal 2001 and 57% in fiscal 2000; risk free interest rates, 3.09% in fiscal 2002, 3.98% in fiscal 2001 and 5.29% in fiscal 2000; and no dividends during the expected term.

The Company’s calculations are based on a single option valuation approach and forfeitures are recognized as they occur. If the computed fair values of the fiscal 1998 through 2002 awards had been amortized to expense in the consolidated financial statements over the vesting period of the awards, pro forma net earnings would have been as follows:

	Fiscal Year Ended		
	September 28, 2002	September 29, 2001	September 30, 2000
As reported:			
Net loss (in thousands)	\$ (83,692)	\$ (7,143)	\$ (13,484)
Net loss per common equivalent share:			
Basic	\$ (4.50)	\$ (0.39)	\$ (0.72)
Diluted	\$ (3.44)	\$ (0.39)	\$ (0.72)
Pro forma:			
Net loss (in thousands)	\$ (86,355)	\$ (10,987)	\$ (17,738)
Net loss per common equivalent share:			
Basic	\$ (4.65)	\$ (0.60)	\$ (0.94)
Diluted	\$ (3.56)	\$ (0.60)	\$ (0.94)

**CENTRAL GARDEN & PET COMPANY**  
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**

## 12. Earnings Per-Share

The following is a reconciliation of the numerators and denominators of the basic and diluted earnings per-share (EPS) computations:

	Fiscal Year Ended September 28, 2002			Fiscal Year Ended September 29, 2001			Fiscal Year Ended September 30, 2000		
	Loss	Shares	Per Share	Loss	Shares	Per Share	Loss	Shares	Per Share
	(in thousands, except per share amounts)								
Basic EPS:									
Net loss available to common shareholders	\$(83,692)	18,581	\$(4.50)	\$(7,143)	18,402	\$(0.39)	\$(13,484)	18,786	\$(0.72)
Effect of dilutive securities:									
Options to purchase common stock	—	321							
Convertible notes	4,470	4,107							
Diluted EPS:									
Net loss attributed to common shareholders	\$(79,222)	23,009	\$(3.44)	\$(7,143)	18,402	\$(0.39)	\$(13,484)	18,786	\$(0.72)

Shares from the assumed conversion of the Company's convertible securities and exercise of certain options to purchase common stock were not included in the computation of diluted EPS for fiscal 2001 or 2000 as the impact would have been anti-dilutive. Although the assumed conversion of such items was anti-dilutive during fiscal 2002, 4,107,143 of the Company's convertible securities were included in the computation of diluted EPS as required by SFAS No. 128, "Earnings Per Share," which requires net income before the cumulative effect of accounting change to be used for measurement purposes of dilution.

Options to purchase 2,828,166 shares of common stock at prices ranging from \$1.30 to \$33.94 per share were outstanding at September 28, 2002. Of these shares, 848,803 were not included in the computation of diluted earnings per share because the option exercise prices were greater than the average market price of the common shares and, therefore, the effect of including these options would be anti-dilutive. Options to purchase 2,894,559 and 3,159,948 shares of common stock at prices ranging from \$1.30 to \$33.94 per share were outstanding at September 29, 2001 and September 30, 2000, respectively, but were not included in the computation of diluted earnings per share because the assumed exercise would have been anti-dilutive in each period.

**CENTRAL GARDEN & PET COMPANY**  
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**

**13. Quarterly Financial Data—unaudited (dollars and shares in thousands)**

	Fiscal 2002			
	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
Sales	\$ 210,659	\$ 290,693	\$ 335,609	\$ 240,819
Gross profit	61,502	90,900	100,978	66,963
Net income (loss) before cumulative effect of accounting change	(1,509)	10,936	18,367	751
Net income (loss)	(113,746)	10,936	18,367	751
Net income (loss) per common equivalent share before cumulative effect of accounting change:				
Basic	\$ (0.08)	\$ 0.59	\$ 0.99	\$ 0.04
Diluted	\$ (0.08)	\$ 0.53	\$ 0.84	\$ 0.04
Net income (loss) per common equivalent share:				
Basic	\$ (6.17)	\$ 0.59	\$ 0.99	\$ 0.04
Diluted	\$ (6.17)	\$ 0.53	\$ 0.84	\$ 0.04
Weighted average common equivalent shares outstanding:				
Basic	18,446	18,469	18,579	18,820
Diluted	18,446	22,734	23,200	19,141

  

	Fiscal 2001			
	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
Sales	\$ 212,058	\$ 322,807	\$ 341,866	\$ 246,268
Gross profit	58,719	91,569	97,108	64,417
Net income (loss)	(4,413)	2,806	8,153	(13,689)
Net income (loss) per common equivalent share:				
Basic	\$ (0.24)	\$ 0.15	\$ 0.44	\$ (0.74)
Diluted	\$ (0.24)	\$ 0.15	\$ 0.40	\$ (0.74)
Weighted average common equivalent shares outstanding:				
Basic	18,334	18,405	18,433	18,443
Diluted	18,334	18,465	22,598	18,443

**14. Transactions with Related Parties**

During fiscal 2002, 2001 and 2000, subsidiaries of the Company purchased \$2.5 million, \$2.1 million and \$1.9 million, respectively, of products from Bio Plus, Inc., a company that produces granular peanut hulls. As of September 28, 2002 and September 29, 2001, the Company owed Bio Plus, Inc. \$78,053 and \$20,721, respectively, for such purchases. Such amounts were included in accounts payable as of that date. A director and executive officer of the Company is a minority shareholder and a director of Bio Plus, Inc.

**15. Business Segment Data**

Operating segments are defined as components of an enterprise about which separate financial information is available that is evaluated regularly by the chief operating decision maker, or decision making group, in deciding how to allocate resources and in assessing performance. The Company's chief operating decision making group is comprised of the Chief Executive Officer and the lead executives of each of the Company's operating segments. The lead executive for each operating segment is also a member of a Strategy Board that

**CENTRAL GARDEN & PET COMPANY**  
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**

manages the profitability of each respective segment's various product lines and business. The operating segments are managed separately because each segment represents a strategic business unit that offers different products or services. The chief operating decision making group evaluates performance based on profit or loss from operations. The Company's Corporate division is included in the presentation of reportable segment information since certain revenues and expenses of this division are not allocated separately to the two operating segments. Segment assets exclude cash equivalents, short-term investments, deferred taxes and goodwill.

Management has determined that the reportable segments of the Company are Pet Products and Garden Products based on the level at which the chief operating decision making group reviews the results of operations to make decisions regarding performance assessment and resource allocation.

The Pet Products segment consists of Four Paws Products, TFH Publications, Wellmark, Kaytee, Island Aquarium and All-Glass Aquarium. These companies are engaged in the manufacturing, delivery and sale of pet supplies, books and food principally to independent pet distributors and retailers, national specialty pet stores, mass merchants and bookstores. The Pet Products segment is also a distributor of pet supply products. This segment also operates distribution centers in various states. Their products are sold to independent retailers, national retail chains, grocery stores and mass merchants.

The Garden Products segment consists of Pennington Seed, Matthews Four Seasons, Grant's, Norcal Pottery, AMBRANDS and Lilly Miller. Products manufactured or designed and sourced are products found typically in the lawn and garden sections of mass merchandisers, warehouse-type clubs, home improvement centers and nurseries and include grass seed, bird seed, clay pottery, outdoor wooden planters and trellises, ant control and animal repellents. These products are sold directly to retailers and to distributors. The Garden Products segment is also a distributor of lawn and garden products. This segment also operates distribution centers in various states. Their products are sold to independent retailers, national retail chains, grocery stores and mass merchants.

The Corporate division includes expenses associated with corporate functions and projects, certain employee benefits and nonoperating items such as interest income, interest expense, goodwill amortization and impairments, intersegment eliminations, and net other charges of \$27.2 million associated with Garden Products for fiscal 2000.

**CENTRAL GARDEN & PET COMPANY**  
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**

Financial information relating to the Company's business segments for each of the three most recent fiscal years is presented in the table below.

	2002	2001	2000
	(in thousands)		
Net sales:			
Pet Products	\$ 471,077	\$ 476,013	\$ 460,766
Garden Products	606,703	646,986	890,112
Total net sales	\$ 1,077,780	\$ 1,122,999	\$ 1,350,878
Income (loss) from operations before other charges:			
Pet Products	\$ 43,386	\$ 34,846	\$ 32,305
Garden Products	37,257	12,667	31,393
Corporate, eliminations and all other	(27,879)	(33,451)	(24,598)
Total income from operations before other charges	52,764	14,062	39,100
Other charges	—	—	(27,156)
Interest expense	(14,745)	(23,247)	(23,140)
Interest income	137	164	589
Other income	5,548	1,631	1,176
Income taxes	(15,159)	247	(4,053)
Income (loss) before cumulative effect of accounting change	28,545	(7,143)	(13,484)
Cumulative effect of accounting change, net of tax	(112,237)	—	—
Net loss	\$ (83,692)	\$ (7,143)	\$ (13,484)
Assets:			
Pet Products	\$ 201,051	\$ 221,976	\$ 246,978
Garden Products	254,903	289,702	303,234
Corporate, eliminations and all other	276,003	404,948	395,099
Total assets	\$ 731,957	\$ 916,626	\$ 945,311
Depreciation and amortization:			
Pet Products	\$ 11,589	\$ 10,758	\$ 8,002
Garden Products	5,456	6,185	6,410
Corporate	571	11,419	11,623
Total depreciation and amortization	\$ 17,616	\$ 28,362	\$ 26,035
Expenditures for long-lived assets			
Pet Products	\$ 7,043	\$ 7,206	\$ 8,246
Garden Products	2,462	5,111	6,261
Corporate	1,402	1,571	2,156
Total expenditures for long-lived assets	\$ 10,907	\$ 13,888	\$ 16,663

**16. Subsequent Event—Issuance of Senior Subordinated Notes**

On January 30, 2003, the Company completed a private placement of \$150,000,000 aggregate principal amount of 9<sup>1</sup>/<sub>8</sub>% Senior Subordinated Notes due February 1, 2013 (the "Notes"). Additionally, in January 2003, the Company increased the Congress Financial Corporation (Western) credit facility to \$175.0 million. The net proceeds of the offering were approximately \$144.0 million after deducting underwriting discounts and estimated



**CENTRAL GARDEN & PET COMPANY**  
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**

offering expenses. A portion of the net proceeds was used to redeem the Company's outstanding convertible notes, including the payment of premium and accrued interest. The balance of the net proceeds, combined with additional borrowings under the Company's line of credit facility with Congress Financial Corporation (Western), were used to repay all the outstanding borrowings under the Pennington credit facility and two senior secured term loans of All-Glass. In conjunction with these repayments, the Company terminated the Pennington and All-Glass credit facilities. In connection with the issuance of the Notes, certain subsidiaries of the Company have become guarantors of the Notes. Financial information related to these subsidiaries is presented in Note 17.

**17. Consolidating Condensed Financial Information of Guarantor Subsidiaries**

Certain wholly-owned subsidiaries of the Company (as listed below, collectively the "Guarantor Subsidiaries") have guaranteed fully and unconditionally, on a joint and several basis, the obligation to pay principal and interest under the Company's \$150,000,000 9 1/8% Senior Subordinated Notes (the "Notes") issued on January 30, 2003 as discussed in Note 16. Certain subsidiaries and operating divisions are not guarantors of the Notes and have been included in the financial results of the Parent in the information below. Those subsidiaries that are guarantors of the Notes are as follows:

Four Paws Products Ltd.  
Grant Laboratories, Inc.  
Kaytee Products, Incorporated  
Matthews Redwood & Nursery Supply, Inc.  
Pennington Seed, Inc. (including Phaeton Corporation (dba Unicorn Labs), Seeds West, Inc., All-Glass Aquarium Co., Inc. (including Oceanic Systems, Inc.))  
T.F.H. Publications, Inc.  
Wellmark International  
Norcal Pottery Products, Inc.  
Pennington Seed, Inc. of Nebraska  
Gro Tec, Inc.

In lieu of providing separate audited financial statements for the Guarantor Subsidiaries, the Company has included the accompanying audited consolidating condensed financial information based on the Company's understanding of the Securities and Exchange Commission's interpretation and application of Rule 3-10 of the Securities and Exchange Commission's Regulation S-X.

**CENTRAL GARDEN & PET COMPANY**  
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**

**CONSOLIDATING CONDENSED BALANCE SHEET**

**September 28, 2002**  
**(in thousands)**

	(Unconsolidated)			
	Parent	Guarantor Subsidiaries	Eliminations	Consolidated
<b>ASSETS</b>				
Cash and equivalents	\$ 10,080	\$ 804	\$ —	\$ 10,884
Accounts receivable	41,002	103,087	(13,105)	130,984
Inventories	52,417	140,742	—	193,159
Prepaid expenses and other assets	21,046	5,050	—	26,096
<b>Total current assets</b>	<b>124,545</b>	<b>249,683</b>	<b>(13,105)</b>	<b>361,123</b>
Land, buildings, improvements and equipment, net	12,191	88,673	—	100,864
Goodwill	222,489	—	—	222,489
Investment in guarantors	212,738	—	(212,738)	—
Deferred income taxes and other assets	35,070	14,347	(1,936)	47,481
<b>Total</b>	<b>\$ 607,033</b>	<b>\$ 352,703</b>	<b>\$ (227,779)</b>	<b>\$ 731,957</b>
<b>LIABILITIES</b>				
Notes payable	\$ 33,992	\$ 25,983	\$ —	\$ 59,975
Accounts payable	52,606	57,295	(13,105)	96,796
Accrued expenses and other liabilities	22,437	27,898	—	50,335
<b>Total current liabilities</b>	<b>109,035</b>	<b>111,176</b>	<b>(13,105)</b>	<b>207,106</b>
Long-term debt	120,387	24,944	—	145,331
Deferred income taxes and other long-term obligations	103	3,845	(1,936)	2,012
Total shareholders' equity	377,508	212,738	(212,738)	377,508
<b>Total</b>	<b>\$ 607,033</b>	<b>\$ 352,703</b>	<b>\$ (227,779)</b>	<b>\$ 731,957</b>

**CENTRAL GARDEN & PET COMPANY**  
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**  
**CONSOLIDATING CONDENSED BALANCE SHEET**  
**September 29, 2001**  
**(in thousands)**

	(Unconsolidated)			
	Parent	Guarantor Subsidiaries	Eliminations	Consolidated
ASSETS				
Cash and equivalents	\$ 7,153	\$ 1,139	\$ —	\$ 8,292
Accounts receivable	48,965	98,864	(6,038)	141,791
Inventories	65,198	152,704	—	217,902
Prepaid expenses and other assets	29,019	6,757	—	35,776
Total current assets	150,335	259,464	(6,038)	403,761
Land, buildings, improvements and equipment, net	15,040	93,758	—	108,798
Goodwill	371,987	—	—	371,987
Investment in guarantors	207,385	—	(207,385)	—
Deferred income taxes and other assets	18,910	13,170	—	32,080
Total	\$ 763,657	\$ 366,392	\$ (213,423)	\$ 916,626
LIABILITIES				
Notes payable	\$ 83,061	\$ 36,362	\$ —	\$ 119,423
Accounts payable	67,392	66,530	(6,038)	127,884
Accrued expenses and other liabilities	18,868	26,596	—	45,464
Total current liabilities	169,321	129,488	(6,038)	292,771
Long-term debt	125,235	26,388	—	151,623
Deferred income taxes and other long-term obligations	13,786	3,131	—	16,917
Total shareholders' equity	455,315	207,385	(207,385)	455,315
Total	\$ 763,657	\$ 366,392	\$ (213,423)	\$ 916,626

**CENTRAL GARDEN & PET COMPANY**  
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**

**CONSOLIDATING CONDENSED STATEMENT OF OPERATIONS**

**Fiscal Year Ended September 28, 2002**  
**(in thousands)**

	(Unconsolidated)			
	Parent	Guarantor Subsidiaries	Eliminations	Consolidated
Net sales	\$ 373,475	\$ 774,059	\$ (69,754)	\$ 1,077,780
Cost of goods sold and occupancy	285,356	542,040	(69,959)	757,437
Gross profit	88,119	232,019	205	320,343
Selling, general and administrative expenses	104,563	163,016	—	267,579
Income (loss) from operations	(16,444)	69,003	205	52,764
Interest—net	(12,203)	(2,405)	—	(14,608)
Other income (expense)	(2,171)	7,719	—	5,548
Income (loss) before income taxes and cumulative effect of accounting change	(30,818)	74,317	205	43,704
Income taxes	(12,250)	27,327	82	15,159
Income (loss) before cumulative effect of accounting change	(18,568)	46,990	123	28,545
Cumulative effect of accounting change, net of tax	(112,237)	—	—	(112,237)
Net income (loss) before equity in undistributed income of guarantor subsidiaries	(130,805)	46,990	123	(83,692)
Equity in undistributed income of guarantor subsidiaries	47,113	—	(47,113)	—
Net income (loss)	\$ (83,692)	\$ 46,990	\$ (46,990)	\$ (83,692)

**CENTRAL GARDEN & PET COMPANY**  
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**  
**CONSOLIDATING CONDENSED STATEMENT OF OPERATIONS**  
**Fiscal Year Ended September 29, 2001**  
**(in thousands)**

	(Unconsolidated)			Consolidated
	Parent	Guarantor Subsidiaries	Eliminations	
Net sales	\$ 431,138	\$ 751,757	\$ (59,896)	\$ 1,122,999
Cost of goods sold and occupancy	329,958	541,397	(60,169)	811,186
Gross profit	101,180	210,360	273	311,813
Selling, general and administrative expenses	133,364	164,387	—	297,751
Income (loss) from operations	(32,184)	45,973	273	14,062
Interest—net	(17,523)	(5,560)	—	(23,083)
Other income	479	1,152	—	1,631
Income (loss) before income taxes	(49,228)	41,565	273	(7,390)
Income taxes	(16,983)	16,626	110	(247)
Net income (loss) before equity in undistributed income of guarantor subsidiaries	(32,245)	24,939	163	(7,143)
Equity in undistributed income of guarantor subsidiaries	25,102	—	(25,102)	—
Net income (loss)	\$ (7,143)	\$ 24,939	\$ (24,939)	\$ (7,143)

**CENTRAL GARDEN & PET COMPANY**  
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**

**CONSOLIDATING CONDENSED STATEMENT OF OPERATIONS**

**Fiscal Year Ended September 30, 2000**  
**(in thousands)**

	(Unconsolidated)			
	Parent	Guarantor Subsidiaries	Eliminations	Consolidated
Net sales	\$ 726,114	\$ 680,178	\$ (55,414)	\$ 1,350,878
Cost of goods sold and occupancy	612,643	480,509	(55,451)	1,037,701
Gross profit	113,471	199,669	37	313,177
Selling, general and administrative expenses	136,683	137,394	—	274,077
Other charges	(27,156)	—	—	(27,156)
Income (loss) from operations	(50,368)	62,275	37	11,944
Interest—net	(18,782)	(3,769)	—	(22,551)
Other income	1,176	—	—	1,176
Income (loss) before income taxes	(67,974)	58,506	37	(9,431)
Income taxes	(19,364)	23,402	15	4,053
Net income (loss) before equity in undistributed income of guarantor subsidiaries	(48,610)	35,104	22	(13,484)
Equity in undistributed income of guarantor subsidiaries	35,126	—	(35,126)	—
Net income (loss)	\$ (13,484)	\$ 35,104	\$ (35,104)	\$ (13,484)

**CENTRAL GARDEN & PET COMPANY**  
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**

**CONSOLIDATING CONDENSED STATEMENT OF CASH FLOWS**

**Fiscal Year Ended September 28, 2002**  
**(in thousands)**

	(Unconsolidated)			
	Parent	Guarantor Subsidiaries	Eliminations	Consolidated
Net cash provided (used) by operating activities	\$ 11,190	\$ 61,623	\$ —	\$ 72,813
Expenditures for land, buildings, improvements and equipment	(2,186)	(8,721)	—	(10,907)
Investment in guarantor	41,638	(41,638)	—	—
Net cash provided (used) by investing activities	39,452	(50,359)	—	(10,907)
Repayments under lines of credit, net	(49,069)	(10,379)	—	(59,448)
Payments on long-term debt	(4,531)	(1,220)	—	(5,751)
Proceeds from issuance of stock	5,885	—	—	5,885
Net cash used by financing activities	(47,715)	(11,599)	—	(59,314)
Net increase (decrease) in cash and cash equivalents	2,927	(335)	—	2,592
Cash and cash equivalents at beginning of period	7,153	1,139	—	8,292
Cash and cash equivalents at end of period	\$ 10,080	\$ 804	\$ —	\$ 10,884

**CENTRAL GARDEN & PET COMPANY**  
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**  
**CONSOLIDATING CONDENSED STATEMENT OF CASH FLOWS**  
**Fiscal Year Ended September 29, 2001**  
**(in thousands)**

	(Unconsolidated)			
	Parent	Guarantor Subsidiaries	Eliminations	Consolidated
Net cash provided (used) by operating activities	\$ 19,951	\$ 18,863	\$ —	\$ 38,814
Expenditures for land, buildings, improvements and equipment	(579)	(13,309)	—	(13,888)
Payments to acquire companies, net of cash acquired	—	(18,277)	—	(18,277)
Investment in guarantor	19,916	(19,916)	—	—
Net cash provided (used) by investing activities	19,337	(51,502)	—	(32,165)
Borrowings (repayments) under lines of credit, net	(32,014)	22,198	—	(9,816)
Payments on long-term debt	(4,234)	(8,610)	—	(12,844)
Proceeds from issuance of long-term debt	—	18,000	—	18,000
Proceeds from issuance of stock	618	—	—	618
Net cash provided (used) by financing activities	(35,630)	31,588	—	(4,042)
Net increase (decrease) in cash and cash equivalents	3,658	(1,051)	—	2,607
Cash and cash equivalents at beginning of period	3,495	2,190	—	5,685
Cash and cash equivalents at end of period	\$ 7,153	\$ 1,139	\$ —	\$ 8,292



**CENTRAL GARDEN & PET COMPANY**  
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**

**CONSOLIDATING CONDENSED STATEMENT OF CASH FLOWS**  
**Fiscal Year Ended September 30, 2000**  
**(in thousands)**

	(Unconsolidated)			
	Parent	Guarantor Subsidiaries	Eliminations	Consolidated
Net cash provided (used) by operating activities	\$ (41,890)	\$ 81,966	\$ —	\$ 40,076
Expenditures for land, buildings, improvements and equipment	(3,345)	(13,318)	—	(16,663)
Payments to acquire companies, net of cash acquired	(11,405)	(23,001)	—	(34,406)
Investment in guarantor	33,482	(33,482)	—	—
Net cash provided (used) by investing activities	18,732	(69,801)	—	(51,069)
Borrowings (repayments) under lines of credit, net	39,295	(9,426)	—	29,869
Payments on long-term debt	58	(1,295)	—	(1,237)
Payments to reacquire stock	(21,704)	—	—	(21,704)
Proceeds from issuance of stock	1,733	—	—	1,733
Net cash provided (used) by financing activities	19,382	(10,721)	—	8,661
Net increase (decrease) in cash and cash equivalents	(3,776)	1,444	—	(2,332)
Cash and cash equivalents at beginning of period	7,271	746	—	8,017
Cash and cash equivalents at end of period	\$ 3,495	\$ 2,190	\$ —	\$ 5,685



**Offer to Exchange**

9 <sup>1</sup>/<sub>8</sub>% Notes Due February 1, 2013  
Which Have Been Registered Under  
The Securities Act Of 1933  
For  
\$150,000,000 Outstanding Unregistered  
9 <sup>1</sup>/<sub>8</sub>% Notes Due February 1, 2013

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PROSPECTUS

, 2003

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**PART II**  
**INFORMATION NOT REQUIRED IN PROSPECTUS**

**Item 20. Indemnification of Officers and Directors**

Section 145 of the Delaware General Corporation Law (the “DGCL”) allows for the indemnification of officers, directors, and other corporate agents in terms sufficiently broad to indemnify such persons under certain circumstances for liabilities (including reimbursement for expenses incurred) arising under the Securities Act of 1933, as amended (the “Securities Act”). Article XII of the Registrant’s amended and restated certificate of incorporation and Article VI of the Registrant’s bylaws authorize indemnification of the Registrant’s directors, officers, employees and other agents to the extent and under the circumstances permitted by the DGCL.

The Registrant has also entered into agreements with its directors and officers that will require the Registrant, among other things, to indemnify them against certain liabilities that may arise by reason of their status or service as directors or officers to the fullest extent not prohibited by law. The Registrant maintains liability insurance for the benefit of its directors and certain of its officers.

The above discussion of the DGCL and of the Registrant’s amended and restated certificate of incorporation, bylaws and indemnification agreements is not intended to be exhaustive and is qualified in its entirety by such statutes, amended and restated certificate of incorporation, bylaws and indemnification agreements.

**Item 21. Exhibit And Financial Statement Schedules**

(a) Exhibits

<u>Exhibit No.</u>	<u>Description</u>
4.1	Indenture, dated as of January 30, 2003, between Central Garden & Pet Company and Wells Fargo Bank, National Association, as Trustee
4.2	Registration Rights Agreement, dated as of January 30, 2003, between Central Garden & Pet Company and Banc of America Securities LLC <i>et al.</i>
4.3	Form of Note (included in Exhibit 4.1)
5.1	Opinion of Orrick, Herrington & Sutcliffe LLP
12.1	Computation of Ratio of Earnings to Fixed Charges
23.1	Consent of Orrick, Herrington & Sutcliffe LLP (included in Exhibit 5.1)
23.2	Independent Auditors’ Consent
24.1	Power of Attorney (see pages II-3–II-17)
25.1	Statement of Eligibility of Trustee on Form T-1
99.1	Form of Letter of Transmittal
99.2	Form of Notice of Guaranteed Delivery
99.3	Guidelines for Certification of Taxpayer Identification Number on Substitute Form W-9
99.4	Form of Letter to Clients
99.5	Form of Letter to Nominees

(b) Financial Statement Schedules

None.

**Item 22. Undertakings**

The undersigned Registrant hereby undertakes:

(1) To file, during any period in which offers or sales are being made, a post-effective amendment to this registration statement:

(i) To include any prospectus required by Section 10(a)(3) of the Securities Act of 1933;

(ii) To reflect in the prospectus any facts or events arising after the effective date of the registration statement (or the most recent post-effective amendment thereof) which, individually or in the aggregate, represent a fundamental change in the information set forth in the registration statement. Notwithstanding the foregoing, any increase or decrease in volume of securities offered (if the total dollar value of securities offered would not exceed that which was registered) and any deviation from the low or high end of the estimated maximum offering range may be reflected in the form of prospectus filed with the Commission pursuant to Rule 424(b) if, in the aggregate, the changes in volume and price represent no more than a 20 percent change in the maximum aggregate offering price set forth in the "Calculation of Registration Fee" table in the effective registration statement; and

(iii) To include any material information with respect to the plan of distribution not previously disclosed in the registration statement or any material change to such information in the registration statement.

(2) That, for the purpose of determining any liability under the Securities Act of 1933, each such post-effective amendment shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

(3) To remove from registration by means of a post-effective amendment any of the securities being registered which remain unsold at the termination of the offering.

(4) That, for purposes of determining any liability under the Securities Act of 1933, each filing of the Registrant's annual report pursuant to Section 13(a) or Section 15(d) of the Securities Exchange Act of 1934 that is incorporated by reference in the registration statement shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

(5) To respond to requests for information that is incorporated by reference into this prospectus pursuant to Item 4, 10(b), 11, or 13 of this form, within one business day of receipt of such request, and to send the incorporated documents by first class mail or other equally prompt means. This includes information contained in documents filed subsequent to the effective date of the registration statement through the date of responding to the request.

(6) To supply by means of a post-effective amendment all information concerning a transaction, and the company being acquired involved therein, that was not the subject of and included in the registration statement when it became effective.

(7) Insofar as indemnification for liabilities arising under the Securities Act of 1933 may be permitted to directors, officers and controlling persons of the Registrant pursuant to the foregoing provisions or otherwise, the Registrant has been advised that in the opinion of the Securities and Exchange Commission such indemnification is against public policy as expressed in the Act and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by the Registrant of expenses incurred or paid by a director, officer or controlling person of the Registrant in the successful defense of any action, suit or proceeding) is asserted against the Registrant by such director, officer or controlling person in connection with the securities being registered, the Registrant will, unless in the opinion of its counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question whether such indemnification by it is against public policy as expressed in the Act and will be governed by the final adjudication of such issue.

## SIGNATURES

Pursuant to the requirements of the Securities Act, the registrant has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the city of Lafayette, state of California, on March 13, 2003.

CENTRAL GARDEN & PET COMPANY

By: /s/ WILLIAM E. BROWN

**William E. Brown**  
Chairman and Chief Executive Officer

## POWER OF ATTORNEY

KNOW ALL PERSONS BY THESE PRESENTS, that each person whose signature appears below hereby constitutes and appoints William E. Brown, Glenn W. Novotny and Stuart W. Booth jointly and severally, his true and lawful attorneys-in-fact, each with full power of substitution, for him in any and all capacities, to sign any and all amendments (including post-effective amendments) to this Registration Statement or amendment thereto, and to file the same, with all exhibits thereto and all documents in connection therewith, with the Securities and Exchange Commission, hereby ratifying and confirming all that each of said attorneys-in-fact or any of them, or his or their substitute or substitutes, may lawfully do or cause to be done or by virtue hereof.

Pursuant to the requirements of the Securities Act of 1933, this registration statement has been signed by the following persons in the capacities and on the dates indicated.

<u>Name</u>	<u>Title</u>	<u>Date</u>
<u>/s/ WILLIAM E. BROWN</u> <b>William E. Brown</b>	Chairman and Chief Executive Officer ( <i>Principal Executive Officer</i> )	March 13, 2003
<u>/s/ STUART W. BOOTH</u> <b>Stuart W. Booth</b>	Vice President and Chief Financial Officer ( <i>Principal Financial Officer and Principal Accounting Officer</i> )	March 13, 2003
<u>/s/ JOHN B. BALOUSEK</u> <b>John B. Balousek</b>	Director	March 13, 2003
<u>/s/ DAVID N. CHICHESTER</u> <b>David N. Chichester</b>	Director	March 13, 2003
<u>/s/ DANIEL P. HOGAN, JR.</u> <b>Daniel P. Hogan, Jr.</b>	Director	March 13, 2003
<u>/s/ GLENN W. NOVOTNY</u> <b>Glenn W. Novotny</b>	Director	March 13, 2003
<u>/s/ BROOKS M. PENNINGTON III</u> <b>Brooks M. Pennington III</b>	Director	March 13, 2003
<u>/s/ BRUCE A. WESTPHAL</u> <b>Bruce A. Westphal</b>	Director	March 13, 2003

## SIGNATURES

Pursuant to the requirements of the Securities Act, the registrant has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the city of Lafayette, state of California, on March 13, 2003.

FOUR PAWS PRODUCTS LTD.

By: /s/ WILLIAM E. BROWN

**William E. Brown**  
**Chairman of the Board**

## POWER OF ATTORNEY

KNOW ALL PERSONS BY THESE PRESENTS, that each person whose signature appears below hereby constitutes and appoints William E. Brown, Glenn W. Novotny and Stuart W. Booth jointly and severally, his true and lawful attorneys-in-fact, each with full power of substitution, for him in any and all capacities, to sign any and all amendments (including post-effective amendments) to this Registration Statement or amendment thereto, and to file the same, with all exhibits thereto and all documents in connection therewith, with the Securities and Exchange Commission, hereby ratifying and confirming all that each of said attorneys-in-fact or any of them, or his or their substitute or substitutes, may lawfully do or cause to be done or by virtue hereof.

Pursuant to the requirements of the Securities Act of 1933, this registration statement has been signed by the following persons in the capacities and on the dates indicated.

<u>Name</u>	<u>Title</u>	<u>Date</u>
<u>/s/ ALLEN J. SIMON</u> <b>Allen J. Simon</b>	Chief Executive Officer, President and Director ( <i>Principal Executive Officer</i> )	March 13, 2003
<u>/s/ STUART W. BOOTH</u> <b>Stuart W. Booth</b>	Vice President and Chief Financial Officer ( <i>Principal Financial Officer and Principal Accounting Officer</i> )	March 13, 2003
<u>/s/ WILLIAM E. BROWN</u> <b>William E. Brown</b>	Director	March 13, 2003
<u>/s/ GLENN W. NOVOTNY</u> <b>Glenn W. Novotny</b>	Director	March 13, 2003

## SIGNATURES

Pursuant to the requirements of the Securities Act, the registrant has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the city of Lafayette, state of California, on March 13, 2003.

GRANT LABORATORIES, INC.

By: /s/ WILLIAM E. BROWN

**William E. Brown**  
Chairman and Chief Executive Officer

## POWER OF ATTORNEY

KNOW ALL PERSONS BY THESE PRESENTS, that each person whose signature appears below hereby constitutes and appoints William E. Brown, Glenn W. Novotny and Stuart W. Booth jointly and severally, his true and lawful attorneys-in-fact, each with full power of substitution, for him in any and all capacities, to sign any and all amendments (including post-effective amendments) to this Registration Statement or amendment thereto, and to file the same, with all exhibits thereto and all documents in connection therewith, with the Securities and Exchange Commission, hereby ratifying and confirming all that each of said attorneys-in-fact or any of them, or his or their substitute or substitutes, may lawfully do or cause to be done or by virtue hereof.

Pursuant to the requirements of the Securities Act of 1933, this registration statement has been signed by the following persons in the capacities and on the dates indicated.

<u>Name</u>	<u>Title</u>	<u>Date</u>
<u>/s/ WILLIAM E. BROWN</u> <b>William E. Brown</b>	Chairman and Chief Executive Officer ( <i>Principal Executive Officer</i> )	March 13, 2003
<u>/s/ STUART W. BOOTH</u> <b>Stuart W. Booth</b>	Vice President and Chief Financial Officer ( <i>Principal Financial Officer and Principal Accounting Officer</i> )	March 13, 2003
<u>/s/ NEIL PINCUS</u> <b>Neil Pincus</b>	Director	March 13, 2003
<u>/s/ GLENN W. NOVOTNY</u> <b>Glenn W. Novotny</b>	Director	March 13, 2003

## SIGNATURES

Pursuant to the requirements of the Securities Act, the registrant has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the city of Lafayette, state of California, on March 13, 2003.

KAYTEE PRODUCTS, INCORPORATED

By: /s/ WILLIAM E. BROWN

**William E. Brown**  
**Chairman of the Board**

## POWER OF ATTORNEY

KNOW ALL PERSONS BY THESE PRESENTS, that each person whose signature appears below hereby constitutes and appoints William E. Brown, Glenn W. Novotny and Stuart W. Booth jointly and severally, his true and lawful attorneys-in-fact, each with full power of substitution, for him in any and all capacities, to sign any and all amendments (including post-effective amendments) to this Registration Statement or amendment thereto, and to file the same, with all exhibits thereto and all documents in connection therewith, with the Securities and Exchange Commission, hereby ratifying and confirming all that each of said attorneys-in-fact or any of them, or his or their substitute or substitutes, may lawfully do or cause to be done or by virtue hereof.

Pursuant to the requirements of the Securities Act of 1933, this registration statement has been signed by the following persons in the capacities and on the dates indicated.

<u>Name</u>	<u>Title</u>	<u>Date</u>
<u>/s/ RICHARD W. BEST, JR.</u> <b>Richard W. Best, Jr.</b>	President and Director ( <i>Principal Executive Officer</i> )	March 13, 2003
<u>/s/ STACY GEDMAN</u> <b>Stacy Gedman</b>	Chief Financial Officer ( <i>Principal Financial Officer and Principal Accounting Officer</i> )	March 13, 2003
<u>/s/ WILLIAM E. BROWN</u> <b>William E. Brown</b>	Director	March 13, 2003
<u>/s/ STUART W. BOOTH</u> <b>Stuart W. Booth</b>	Director	March 13, 2003
<u>/s/ GLENN W. NOVOTNY</u> <b>Glenn W. Novotny</b>	Director	March 13, 2003



## SIGNATURES

Pursuant to the requirements of the Securities Act, the registrant has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the city of Lafayette, state of California, on March 13, 2003.

MATTHEWS REDWOOD & NURSERY SUPPLY, INC.

By: /s/ WILLIAM E. BROWN

**William E. Brown**  
Chairman and Chief Executive Officer

## POWER OF ATTORNEY

KNOW ALL PERSONS BY THESE PRESENTS, that each person whose signature appears below hereby constitutes and appoints William E. Brown, Glenn W. Novotny and Stuart W. Booth jointly and severally, his true and lawful attorneys-in-fact, each with full power of substitution, for him in any and all capacities, to sign any and all amendments (including post-effective amendments) to this Registration Statement or amendment thereto, and to file the same, with all exhibits thereto and all documents in connection therewith, with the Securities and Exchange Commission, hereby ratifying and confirming all that each of said attorneys-in-fact or any of them, or his or their substitute or substitutes, may lawfully do or cause to be done or by virtue hereof.

Pursuant to the requirements of the Securities Act of 1933, this registration statement has been signed by the following persons in the capacities and on the dates indicated.

<u>Name</u>	<u>Title</u>	<u>Date</u>
<u>/s/ WILLIAM E. BROWN</u> <b>William E. Brown</b>	Chairman and Chief Executive Officer ( <i>Principal Executive Officer</i> )	March 13, 2003
<u>/s/ STUART W. BOOTH</u> <b>Stuart W. Booth</b>	Vice President and Chief Financial Officer ( <i>Principal Financial Officer and Principal Accounting Officer</i> )	March 13, 2003
<u>/s/ ROBERT C. MATTHEWS</u> <b>Robert C. Matthews</b>	Director	March 13, 2003
<u>/s/ GLENN W. NOVOTNY</u> <b>Glenn W. Novotny</b>	Director	March 13, 2003

## SIGNATURES

Pursuant to the requirements of the Securities Act, the registrant has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the city of Lafayette, state of California, on March 13, 2003.

PENNINGTON SEED, INC.

By: /s/ WILLIAM E. BROWN

**William E. Brown**  
**Chairman of the Board**

## POWER OF ATTORNEY

KNOW ALL PERSONS BY THESE PRESENTS, that each person whose signature appears below hereby constitutes and appoints William E. Brown, Glenn W. Novotny and Stuart W. Booth jointly and severally, his true and lawful attorneys-in-fact, each with full power of substitution, for him in any and all capacities, to sign any and all amendments (including post-effective amendments) to this Registration Statement or amendment thereto, and to file the same, with all exhibits thereto and all documents in connection therewith, with the Securities and Exchange Commission, hereby ratifying and confirming all that each of said attorneys-in-fact or any of them, or his or their substitute or substitutes, may lawfully do or cause to be done or by virtue hereof.

Pursuant to the requirements of the Securities Act of 1933, this registration statement has been signed by the following persons in the capacities and on the dates indicated.

<u>Name</u>	<u>Title</u>	<u>Date</u>
<u>/s/ BROOKS M. PENNINGTON III</u> <b>Brooks M. Pennington III</b>	Chief Executive Officer, President and Director ( <i>Principal Executive Officer</i> )	March 13, 2003
<u>/s/ STUART W. BOOTH</u> <b>Stuart W. Booth</b>	Executive Vice President, Chief Financial Officer, Treasurer and Director ( <i>Principal Financial Officer and Principal Accounting Officer</i> )	March 13, 2003
<u>/s/ WILLIAM E. BROWN</u> <b>William E. Brown</b>	Director	March 13, 2003
<u>/s/ W. DAN PENNINGTON</u> <b>W. Dan Pennington</b>	Director	March 13, 2003
<u>/s/ GLENN W. NOVOTNY</u> <b>Glenn W. Novotny</b>	Director	March 13, 2003

## SIGNATURES

Pursuant to the requirements of the Securities Act, the registrant has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the city of Lafayette, state of California, on March 13, 2003.

PHAETON CORPORATION

By: /s/ BROOKS M. PENNINGTON III

**Brooks M. Pennington III**  
**President and Chief Executive Officer**

## POWER OF ATTORNEY

KNOW ALL PERSONS BY THESE PRESENTS, that each person whose signature appears below hereby constitutes and appoints William E. Brown, Glenn W. Novotny and Stuart W. Booth jointly and severally, his true and lawful attorneys-in-fact, each with full power of substitution, for him in any and all capacities, to sign any and all amendments (including post-effective amendments) to this Registration Statement or amendment thereto, and to file the same, with all exhibits thereto and all documents in connection therewith, with the Securities and Exchange Commission, hereby ratifying and confirming all that each of said attorneys-in-fact or any of them, or his or their substitute or substitutes, may lawfully do or cause to be done or by virtue hereof.

Pursuant to the requirements of the Securities Act of 1933, this registration statement has been signed by the following persons in the capacities and on the dates indicated.

<u>Name</u>	<u>Title</u>	<u>Date</u>
<u>/s/ BROOKS M. PENNINGTON III</u> <b>Brooks M. Pennington III</b>	President, Chief Executive Officer and Director ( <i>Principal Executive Officer</i> )	March 13, 2003
<u>/s/ W. DAN PENNINGTON</u> <b>W. Dan Pennington</b>	Executive Vice President, Chief Financial Officer and Director ( <i>Principal Financial Officer and Principal Accounting Officer</i> )	March 13, 2003
<u>/s/ WILLIAM E. BROWN</u> <b>William E. Brown</b>	Director	March 13, 2003

## SIGNATURES

Pursuant to the requirements of the Securities Act, the registrant has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the city of Lafayette, state of California, on March 13, 2003.

SEEDS WEST, INC.

By: /s/ WILLIAM E. BROWN

**William E. Brown**  
**Chairman of the Board**

## POWER OF ATTORNEY

KNOW ALL PERSONS BY THESE PRESENTS, that each person whose signature appears below hereby constitutes and appoints William E. Brown, Glenn W. Novotny and Stuart W. Booth jointly and severally, his true and lawful attorneys-in-fact, each with full power of substitution, for him in any and all capacities, to sign any and all amendments (including post-effective amendments) to this Registration Statement or amendment thereto, and to file the same, with all exhibits thereto and all documents in connection therewith, with the Securities and Exchange Commission, hereby ratifying and confirming all that each of said attorneys-in-fact or any of them, or his or their substitute or substitutes, may lawfully do or cause to be done or by virtue hereof.

Pursuant to the requirements of the Securities Act of 1933, this registration statement has been signed by the following persons in the capacities and on the dates indicated.

<u>Name</u>	<u>Title</u>	<u>Date</u>
<u>/s/ BROOKS M. PENNINGTON III</u> <b>Brooks M. Pennington III</b>	Chief Executive Officer, President and Director ( <i>Principal Executive Officer</i> )	March 13, 2003
<u>/s/ STUART W. BOOTH</u> <b>Stuart W. Booth</b>	Executive Vice President, Chief Financial Officer, Treasurer and Director ( <i>Principal Financial Officer and Principal Accounting Officer</i> )	March 13, 2003
<u>/s/ WILLIAM E. BROWN</u> <b>William E. Brown</b>	Director	March 13, 2003
<u>/s/ W. DAN PENNINGTON</u> <b>W. Dan Pennington</b>	Director	March 13, 2003
<u>/s/ GLENN W. NOVOTNY</u> <b>Glenn W. Novotny</b>	Director	March 13, 2003

## SIGNATURES

Pursuant to the requirements of the Securities Act, the registrant has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the city of Lafayette, state of California, on March 13, 2003.

ALL-GLASS AQUARIUM CO., INC.

By: /s/ GLENN W. NOVOTNY

**Glenn W. Novotny**  
Chief Executive Officer

## POWER OF ATTORNEY

KNOW ALL PERSONS BY THESE PRESENTS, that each person whose signature appears below hereby constitutes and appoints William E. Brown, Glenn W. Novotny and Stuart W. Booth jointly and severally, his true and lawful attorneys-in-fact, each with full power of substitution, for him in any and all capacities, to sign any and all amendments (including post-effective amendments) to this Registration Statement or amendment thereto, and to file the same, with all exhibits thereto and all documents in connection therewith, with the Securities and Exchange Commission, hereby ratifying and confirming all that each of said attorneys-in-fact or any of them, or his or their substitute or substitutes, may lawfully do or cause to be done or by virtue hereof.

Pursuant to the requirements of the Securities Act of 1933, this registration statement has been signed by the following persons in the capacities and on the dates indicated.

<u>Name</u>	<u>Title</u>	<u>Date</u>
<u>/s/ GLENN W. NOVOTNY</u> <b>Glenn W. Novotny</b>	Chief Executive Officer and Director ( <i>Principal Executive Officer</i> )	March 13, 2003
<u>/s/ JOHN A. NEGOVETICH</u> <b>John A. Negovetich</b>	Chief Financial Officer and Director ( <i>Principal Financial Officer and Principal Accounting Officer</i> )	March 13, 2003
<u>/s/ GERALD R. RITZOW</u> <b>Gerald R. Ritzow</b>	Director	March 13, 2003
<u>/s/ MICHAEL A. REED</u> <b>Michael A. Reed</b>	Director	March 13, 2003

## SIGNATURES

Pursuant to the requirements of the Securities Act, the registrant has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the city of Lafayette, state of California, on March 13, 2003.

OCEANIC SYSTEMS, INC.

By: /s/ GLENN W. NOVOTNY

**Glenn W. Novotny**  
Chief Executive Officer

## POWER OF ATTORNEY

KNOW ALL PERSONS BY THESE PRESENTS, that each person whose signature appears below hereby constitutes and appoints William E. Brown, Glenn W. Novotny and Stuart W. Booth jointly and severally, his true and lawful attorneys-in-fact, each with full power of substitution, for him in any and all capacities, to sign any and all amendments (including post-effective amendments) to this Registration Statement or amendment thereto, and to file the same, with all exhibits thereto and all documents in connection therewith, with the Securities and Exchange Commission, hereby ratifying and confirming all that each of said attorneys-in-fact or any of them, or his or their substitute or substitutes, may lawfully do or cause to be done or by virtue hereof.

Pursuant to the requirements of the Securities Act of 1933, this registration statement has been signed by the following persons in the capacities and on the dates indicated.

<u>Name</u>	<u>Title</u>	<u>Date</u>
<u>/s/ GLENN W. NOVOTNY</u> <b>Glenn W. Novotny</b>	Chief Executive Officer and Director ( <i>Principal Executive Officer</i> )	March 13, 2003
<u>/s/ JOHN A. NEGOVETICH</u> <b>John A. Negovetich</b>	Chief Financial Officer ( <i>Principal Financial Officer and Principal Accounting Officer</i> )	March 13, 2003
<u>/s/ GERALD R. RITZOW</u> <b>Gerald R. Ritzow</b>	Director	March 13, 2003

## SIGNATURES

Pursuant to the requirements of the Securities Act, the registrant has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the city of Lafayette, state of California, on March 13, 2003.

T.F.H. PUBLICATIONS, INC.

By: /s/ STUART W. BOOTH

**Stuart W. Booth**  
**Senior Vice President and Secretary**

## POWER OF ATTORNEY

KNOW ALL PERSONS BY THESE PRESENTS, that each person whose signature appears below hereby constitutes and appoints William E. Brown, Glenn W. Novotny and Stuart W. Booth jointly and severally, his true and lawful attorneys-in-fact, each with full power of substitution, for him in any and all capacities, to sign any and all amendments (including post-effective amendments) to this Registration Statement or amendment thereto, and to file the same, with all exhibits thereto and all documents in connection therewith, with the Securities and Exchange Commission, hereby ratifying and confirming all that each of said attorneys-in-fact or any of them, or his or their substitute or substitutes, may lawfully do or cause to be done or by virtue hereof.

Pursuant to the requirements of the Securities Act of 1933, this registration statement has been signed by the following persons in the capacities and on the dates indicated.

<u>Name</u>	<u>Title</u>	<u>Date</u>
<u>/s/ GLEN S. AXELROD</u> <b>Glen S. Axelrod</b>	President, Chief Executive Officer and Director ( <i>Principal Executive Officer</i> )	March 13, 2003
<u>/s/ PHILIP C. MCCARTHY</u> <b>Philip C. McCarthy</b>	Chief Financial Officer ( <i>Principal Financial Officer and Principal Accounting Officer</i> )	March 13, 2003
<u>/s/ WILLIAM E. BROWN</u> <b>William E. Brown</b>	Director	March 13, 2003
<u>/s/ GLENN W. NOVOTNY</u> <b>Glenn W. Novotny</b>	Director	March 13, 2003

## SIGNATURES

Pursuant to the requirements of the Securities Act, the registrant has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the city of Lafayette, state of California, on March 13, 2003.

WELLMARK INTERNATIONAL

By: /s/ WILLIAM E. BROWN

**William E. Brown**  
Chairman and Chief Executive Officer

## POWER OF ATTORNEY

KNOW ALL PERSONS BY THESE PRESENTS, that each person whose signature appears below hereby constitutes and appoints William E. Brown, Glenn W. Novotny and Stuart W. Booth jointly and severally, his true and lawful attorneys-in-fact, each with full power of substitution, for him in any and all capacities, to sign any and all amendments (including post-effective amendments) to this Registration Statement or amendment thereto, and to file the same, with all exhibits thereto and all documents in connection therewith, with the Securities and Exchange Commission, hereby ratifying and confirming all that each of said attorneys-in-fact or any of them, or his or their substitute or substitutes, may lawfully do or cause to be done or by virtue hereof.

Pursuant to the requirements of the Securities Act of 1933, this registration statement has been signed by the following persons in the capacities and on the dates indicated.

<u>Name</u>	<u>Title</u>	<u>Date</u>
<u>/s/ WILLIAM E. BROWN</u> <b>William E. Brown</b>	Chairman and Chief Executive Officer ( <i>Principal Executive Officer</i> )	March 13, 2003
<u>/s/ STUART W. BOOTH</u> <b>Stuart W. Booth</b>	Vice President-Finance and Director ( <i>Principal Financial Officer and Principal Accounting Officer</i> )	March 13, 2003
<u>/s/ GLENN W. NOVOTNY</u> <b>Glenn W. Novotny</b>	Director	March 13, 2003
<u>/s/ KAY M. SCHWICHTENBERG</u> <b>Kay M. Schwichtenberg</b>	Director	March 13, 2003



## SIGNATURES

Pursuant to the requirements of the Securities Act, the registrant has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the city of Lafayette, state of California, on March 13, 2003.

NORCAL POTTERY PRODUCTS, INC.

By: /s/ WILLIAM E. BROWN

**William E. Brown**  
**Chairman of the Board**

## POWER OF ATTORNEY

KNOW ALL PERSONS BY THESE PRESENTS, that each person whose signature appears below hereby constitutes and appoints William E. Brown, Glenn W. Novotny and Stuart W. Booth jointly and severally, his true and lawful attorneys-in-fact, each with full power of substitution, for him in any and all capacities, to sign any and all amendments (including post-effective amendments) to this Registration Statement or amendment thereto, and to file the same, with all exhibits thereto and all documents in connection therewith, with the Securities and Exchange Commission, hereby ratifying and confirming all that each of said attorneys-in-fact or any of them, or his or their substitute or substitutes, may lawfully do or cause to be done or by virtue hereof.

Pursuant to the requirements of the Securities Act of 1933, this registration statement has been signed by the following persons in the capacities and on the dates indicated.

<u>Name</u>	<u>Title</u>	<u>Date</u>
<u>/s/ ARTHUR L. SIMON</u> <b>Arthur L. Simon</b>	President, Chief Executive Officer and Director ( <i>Principal Executive Officer</i> )	March 13, 2003
<u>/s/ STUART W. BOOTH</u> <b>Stuart W. Booth</b>	Vice President, Chief Financial Officer and Director ( <i>Principal Financial Officer and Principal Accounting Officer</i> )	March 13, 2003
<u>/s/ NEIL PINCUS</u> <b>Neil Pincus</b>	Director	March 13, 2003
<u>/s/ GLENN W. NOVOTNY</u> <b>Glenn W. Novotny</b>	Director	March 13, 2003
<u>/s/ WILLIAM E. BROWN</u> <b>William E. Brown</b>	Director	March 13, 2003

## SIGNATURES

Pursuant to the requirements of the Securities Act, the registrant has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the city of Lafayette, state of California, on March 13, 2003.

PENNINGTON SEED, INC. OF NEBRASKA

By: /s/ BROOKS M. PENNINGTON III

**Brooks M. Pennington III**  
**President**

## POWER OF ATTORNEY

KNOW ALL PERSONS BY THESE PRESENTS, that each person whose signature appears below hereby constitutes and appoints William E. Brown, Glenn W. Novotny and Stuart W. Booth jointly and severally, his true and lawful attorneys-in-fact, each with full power of substitution, for him in any and all capacities, to sign any and all amendments (including post-effective amendments) to this Registration Statement or amendment thereto, and to file the same, with all exhibits thereto and all documents in connection therewith, with the Securities and Exchange Commission, hereby ratifying and confirming all that each of said attorneys-in-fact or any of them, or his or their substitute or substitutes, may lawfully do or cause to be done or by virtue hereof.

Pursuant to the requirements of the Securities Act of 1933, this registration statement has been signed by the following persons in the capacities and on the dates indicated.

<u>Name</u>	<u>Title</u>	<u>Date</u>
<u>/s/ BROOKS M. PENNINGTON III</u> <b>Brooks M. Pennington III</b>	President and Director ( <i>Principal Executive Officer</i> )	March 13, 2003
<u>/s/ GRADY GILL</u> <b>Grady Gill</b>	Secretary and Director ( <i>Principal Financial Officer and Principal Accounting Officer</i> )	March 13, 2003
<u>/s/ W. DAN PENNINGTON</u> <b>W. Dan Pennington</b>	Director	March 13, 2003

## SIGNATURES

Pursuant to the requirements of the Securities Act, the registrant has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the city of Lafayette, state of California, on March 13, 2003.

GRO TEC, INC.

By: /s/ BROOKS M. PENNINGTON III

**Brooks M. Pennington III**  
**President**

## POWER OF ATTORNEY

KNOW ALL PERSONS BY THESE PRESENTS, that each person whose signature appears below hereby constitutes and appoints William E. Brown, Glenn W. Novotny and Stuart W. Booth jointly and severally, his true and lawful attorneys-in-fact, each with full power of substitution, for him in any and all capacities, to sign any and all amendments (including post-effective amendments) to this Registration Statement or amendment thereto, and to file the same, with all exhibits thereto and all documents in connection therewith, with the Securities and Exchange Commission, hereby ratifying and confirming all that each of said attorneys-in-fact or any of them, or his or their substitute or substitutes, may lawfully do or cause to be done or by virtue hereof.

Pursuant to the requirements of the Securities Act of 1933, this registration statement has been signed by the following persons in the capacities and on the dates indicated.

<u>Name</u>	<u>Title</u>	<u>Date</u>
<u>/s/ BROOKS M. PENNINGTON III</u> <b>Brooks M. Pennington III</b>	President and Director ( <i>Principal Executive Officer</i> )	March 13, 2003
<u>/s/ GRADY GILL</u> <b>Grady Gill</b>	Secretary and Director ( <i>Principal Financial Officer and Principal Accounting Officer</i> )	March 13, 2003
<u>/s/ W. DAN PENNINGTON</u> <b>W. Dan Pennington</b>	Director	March 13, 2003

**EXHIBIT INDEX**

<b>Exhibit No.</b>	<b>Description</b>
4.1	Indenture, dated as of January 30, 2003, between Central Garden & Pet Company and Wells Fargo Bank, National Association, as Trustee
4.2	Registration Rights Agreement, dated as of January 30, 2003, between Central Garden & Pet Company and Banc of America Securities LLC <i>et al.</i>
4.3	Form of Note (included in Exhibit 4.1)
5.1	Opinion of Orrick, Herrington & Sutcliffe LLP
12.1	Computation of Ratio of Earnings to Fixed Charges
23.1	Consent of Orrick, Herrington & Sutcliffe LLP (included in Exhibit 5.1)
23.2	Independent Auditors' Consent
24.1	Power of Attorney (see pages II-3–II-17)
25.1	Statement of Eligibility of Trustee on Form T-1
99.1	Form of Letter of Transmittal
99.2	Form of Notice of Guaranteed Delivery
99.3	Guidelines for Certification of Taxpayer Identification Number on Substitute Form W-9
99.4	Form of Letter to Clients
99.5	Form of Letter to Nominees

-----

CENTRAL GARDEN & PET COMPANY

and each of the Guarantors named herein

9.125% SENIOR SUBORDINATED NOTES DUE 2013

-----

INDENTURE

Dated as of January 30, 2003

-----

and

Wells Fargo Bank, National Association

as Trustee

-----

CROSS-REFERENCE TABLE\*

<TABLE>

<CAPTION>

Trust Indenture

Act Section

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Indenture Section

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310 (a) (1) .....	7.10
(a) (2) .....	7.10
(a) (3) .....	N.A.
(a) (4) .....	N.A.
(a) (5) .....	7.10
(b) .....	7.10
(c) .....	N.A.
311 (a) .....	7.11
(b) .....	7.11
(c) .....	N.A.
312 (a) .....	2.05
(b) .....	13.03
(c) .....	13.03
313 (a) .....	7.06
(b) (1) .....	N.A.
(b) (2) .....	7.06; 7.07
(c) .....	7.06; 13.02
(d) .....	7.06
314 (a) .....	4.03; 13.02; 13.05
(b) .....	N.A.
(c) (1) .....	13.04
(c) (2) .....	13.04
(c) (3) .....	N.A.
(d) .....	N.A.
(e) .....	13.05
(f) .....	N.A.
315 (a) .....	7.01
(b) .....	7.05, 13.02
(c) .....	7.01
(d) .....	7.01
(e) .....	6.11
316 (a) (last sentence) .....	2.09
(a) (1) (A) .....	6.05
(a) (1) (B) .....	6.04
(a) (2) .....	N.A.
(b) .....	6.07
(c) .....	2.12
317 (a) (1) .....	6.08
(a) (2) .....	6.09
(b) .....	2.04
318 (a) .....	13.01
(b) .....	N.A.
(c) .....	13.01

</TABLE>

N.A. means not applicable.

\* This Cross Reference Table is not part of the Indenture.

# TABLE OF CONTENTS

<TABLE>  
<CAPTION>

<S>	<C>	Page <C>
	ARTICLE 1. DEFINITIONS AND INCORPORATION BY REFERENCE	
Section 1.01	Definitions.....	1
Section 1.02	Other Definitions.....	19
Section 1.03	Incorporation by Reference of Trust Indenture Act.....	20
Section 1.04	Rules of Construction.....	20
	ARTICLE 2. THE NOTES	
Section 2.01	Form and Dating.....	21
Section 2.02	Execution and Authentication.....	21
Section 2.03	Registrar and Paying Agent.....	22
Section 2.04	Paying Agent to Hold Money in Trust.....	22
Section 2.05	Holder Lists.....	22
Section 2.06	Transfer and Exchange.....	22
Section 2.07	Replacement Notes.....	34
Section 2.08	Outstanding Notes.....	34
Section 2.09	Treasury Notes.....	35
Section 2.10	Temporary Notes.....	35
Section 2.11	Cancellation.....	35
Section 2.12	Defaulted Interest.....	35
	ARTICLE 3. REDEMPTION AND PREPAYMENT	
Section 3.01	Notices to Trustee.....	36
Section 3.02	Selection of Notes to Be Redeemed or Purchased.....	36
Section 3.03	Notice of Redemption.....	36
Section 3.04	Effect of Notice of Redemption.....	37
Section 3.05	Deposit of Redemption or Purchase Price.....	37
Section 3.06	Notes Redeemed or Purchased in Part.....	38
Section 3.07	Optional Redemption.....	38
Section 3.08	Mandatory Redemption.....	38
Section 3.09	Offer to Purchase by Application of Excess Proceeds.....	39
	ARTICLE 4. COVENANTS	
Section 4.01	Payment of Notes.....	40
Section 4.02	Maintenance of Office or Agency.....	41
Section 4.03	Reports.....	41
Section 4.04	Compliance Certificate.....	42
Section 4.05	Taxes.....	42
Section 4.06	Stay, Extension and Usury Laws.....	42
Section 4.07	Restricted Payments.....	43
Section 4.08	Dividend and Other Payment Restrictions Affecting Subsidiaries.....	45
Section 4.09	Incurrence of Indebtedness and Issuance of Preferred Stock.....	47
Section 4.10	Asset Sales.....	49

<TABLE>

<S>	<C>	<C>
Section 4.11	Transactions with Affiliates.....	51
Section 4.12	Liens.....	52
Section 4.13	Line of Business.....	52
Section 4.14	Corporate Existence.....	52
Section 4.15	Offer to Repurchase Upon Change of Control.....	52
Section 4.16	No Additional Indebtedness Senior to Notes and Junior to Senior Debt.....	54
Section 4.17	Payments for Consent.....	54
Section 4.18	Additional Subsidiary Guarantees.....	54
Section 4.19	Designation of Restricted and Unrestricted Subsidiaries and Certain Permitted Investments..	55
Section 4.20	Redemption of Convertible Subordinated Notes.....	55

## ARTICLE 5. SUCCESSORS

Section 5.01	Merger, Consolidation, or Sale of Assets.....	55
Section 5.02	Successor Corporation Substituted.....	56

## ARTICLE 6. DEFAULTS AND REMEDIES

Section 6.01	Events of Default.....	57
Section 6.02	Acceleration.....	58
Section 6.03	Other Remedies.....	59
Section 6.04	Waiver of Past Defaults.....	59
Section 6.05	Control by Majority.....	60
Section 6.06	Limitation on Suits.....	60
Section 6.07	Rights of Holders of Notes to Receive Payment.....	61
Section 6.08	Collection Suit by Trustee.....	61
Section 6.09	Trustee May File Proofs of Claim.....	61
Section 6.10	Priorities.....	61
Section 6.11	Undertaking for Costs.....	62

ARTICLE 7.  
TRUSTEE

Section 7.01	Duties of Trustee.....	62
Section 7.02	Rights of Trustee.....	63
Section 7.03	Individual Rights of Trustee.....	64
Section 7.04	Trustee's Disclaimer.....	64
Section 7.05	Notice of Defaults.....	64
Section 7.06	Reports by Trustee to Holders of the Notes.....	64
Section 7.07	Compensation and Indemnity.....	65
Section 7.08	Replacement of Trustee.....	65
Section 7.09	Successor Trustee by Merger, etc.....	66
Section 7.10	Eligibility; Disqualification.....	66
Section 7.11	Preferential Collection of Claims Against Company.....	67

ARTICLE 8.  
LEGAL DEFEASANCE AND COVENANT DEFEASANCE

Section 8.01	Option to Effect Legal Defeasance or Covenant Defeasance.....	67
Section 8.02	Legal Defeasance and Discharge.....	67
Section 8.03	Covenant Defeasance.....	68
Section 8.04	Conditions to Legal or Covenant Defeasance.....	68

</TABLE>

ii

<TABLE>

<S>	<C>	<C>
Section 8.05	Deposited Money and Government Securities to be Held in Trust; Other Miscellaneous Provisions.....	69
Section 8.06	Repayment to Company.....	70
Section 8.07	Reinstatement.....	70

ARTICLE 9.  
AMENDMENT, SUPPLEMENT AND WAIVER

Section 9.01	Without Consent of Holders of Notes.....	70
Section 9.02	With Consent of Holders of Notes.....	71
Section 9.03	Compliance with Trust Indenture Act.....	72
Section 9.04	Revocation and Effect of Consents.....	72
Section 9.05	Notation on or Exchange of Notes.....	73
Section 9.06	Trustee to Sign Amendments, etc.....	73

ARTICLE 10.  
SUBORDINATION

Section 10.01	Agreement to Subordinate.....	73
Section 10.02	Certain Definitions.....	73
Section 10.03	Liquidation; Dissolution; Bankruptcy.....	74
Section 10.04	Default on Designated Senior Debt.....	75
Section 10.05	Occurrence of an Event of Default.....	75
Section 10.06	When Distribution Must Be Paid Over.....	75
Section 10.07	Notice by Company.....	76
Section 10.08	Subrogation.....	76
Section 10.09	Relative Rights.....	76
Section 10.10	Subordination May Not Be Impaired by Company.....	77
Section 10.11	Distribution or Notice to or by Representative.....	77
Section 10.12	Rights of Trustee and Paying Agent.....	77
Section 10.13	Authorization to Effect Subordination.....	77
Section 10.14	Amendments.....	77
Section 10.15	Trustee Not Fiduciary for Holders of Senior Debt.....	78

ARTICLE 11.  
SUBSIDIARY GUARANTEES

Section 11.01	Guarantee.....	78
Section 11.02	Subordination of Subsidiary Guarantee.....	79
Section 11.03	Limitation on Guarantor Liability.....	79
Section 11.04	Execution and Delivery of Subsidiary Guarantee.....	79
Section 11.05	Guarantors May Consolidate, etc., on Certain Terms.....	80
Section 11.06	Release of Guarantors in Certain Circumstances.....	80

ARTICLE 12.  
SATISFACTION AND DISCHARGE

Section 12.01	Satisfaction and Discharge.....	81
Section 12.02	Application of Trust Money.....	82

ARTICLE 13.  
MISCELLANEOUS

Section 13.01	Trust Indenture Act Controls.....	82
Section 13.02	Notices.....	82
Section 13.03	Communication by Holders of Notes with Other Holders of Notes.....	84

</TABLE>

iii

<TABLE>

<S>	<C>	<C>
Section 13.04	Certificate and Opinion as to Conditions Precedent.....	84
Section 13.05	Statements Required in Certificate or Opinion.....	84
Section 13.06	Rules by Trustee and Agents.....	84
Section 13.07	No Personal Liability of Directors, Officers, Employees and Stockholders.....	84
Section 13.08	Governing Law.....	85
Section 13.09	No Adverse Interpretation of Other Agreements.....	85
Section 13.10	Successors.....	85
Section 13.11	Severability.....	85
Section 13.12	Counterpart Originals.....	85
Section 13.13	Table of Contents, Headings, etc.....	85

</TABLE>

EXHIBITS

Exhibit A	FORM OF NOTE
Exhibit B	FORM OF CERTIFICATE OF TRANSFER
Exhibit C	FORM OF CERTIFICATE OF EXCHANGE
Exhibit D	FORM OF CERTIFICATE FROM ACQUIRING INSTITUTIONAL INVESTOR
Exhibit E	FORM OF SUBSIDIARY GUARANTEE
Exhibit F	FORM OF SUPPLEMENTAL INDENTURE

iv

INDENTURE dated as of January 30, 2003 among Central Garden & Pet Company, a Delaware corporation (the "Company"), the Guarantors (as defined) and Wells Fargo Bank, National Association, as trustee (the "Trustee").

The Company, the Guarantors and the Trustee agree as follows for the benefit of each other and for the equal and ratable benefit of the Holders (as defined) of the 9.125% Senior Subordinated Notes due 2013 (the "Notes"):

ARTICLE 1.  
DEFINITIONS AND INCORPORATION  
BY REFERENCE

SECTION 1.01 DEFINITIONS.

"144A Global Note" means a Global Note substantially in the form of Exhibit A hereto bearing the Global Note Legend and the Private Placement Legend and deposited with or on behalf of, and registered in the name of, the Depositary or its nominee that will be issued in a denomination equal to the outstanding principal amount of the Notes sold in reliance on Rule 144A.

"Acquired Debt" means, with respect to any specified Person:

(1) Indebtedness of any other Person existing at the time such other Person is merged with or into or became a Subsidiary of such specified Person, whether or not such Indebtedness is incurred in connection with, or in contemplation of, such other Person merging with or into, or becoming a Subsidiary of, such specified Person; and

(2) Indebtedness secured by a Lien encumbering any asset acquired by such specified Person.

"Additional Notes" means any Notes (other than the Initial Notes) issued under this Indenture in accordance with Sections 2.02 and 4.09 hereof, as part of the same series as the Initial Notes.

"Affiliate" of any specified Person means any other Person directly or indirectly controlling or controlled by or under direct or indirect common control with such specified Person. For purposes of this definition, "control," as used with respect to any Person, means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of such Person, whether through the ownership of voting securities, by agreement or otherwise; provided that beneficial ownership of 10% or more of the



Voting Stock of a Person will be deemed to be control. For purposes of this definition, the terms "controlling," "controlled by" and "under common control with" have correlative meanings.

"Agent" means any Registrar, co-registrar, Paying Agent or additional paying agent.

"Applicable Procedures" means, with respect to any transfer or exchange of or for beneficial interests in any Global Note, the rules and procedures of the Depository, Euroclear and Clearstream that apply to such transfer or exchange.

"Asset Sale" means:

(1) the sale, lease, conveyance or other disposition of any assets or rights, other than sales of inventory in the ordinary course of business consistent with past practices; provided that the sale, conveyance or other disposition of all or substantially all of the assets of the Company and

1

its Subsidiaries taken as a whole will be governed by Section 4.15 and/or Section 5.02 hereof and not by the provisions of Section 4.10 hereof; and

(2) the issuance of Equity Interests by any of the Company's Restricted Subsidiaries or the sale of Equity Interests in any of its Restricted Subsidiaries.

Notwithstanding the preceding, none of the following items will be deemed to be an Asset Sale:

(1) any single transaction or series of related transactions that involves assets having a fair market value of less than \$2.0 million;

(2) a transfer of assets between or among the Company and its Restricted Subsidiaries,

(3) an issuance of Equity Interests by a Subsidiary to the Company or to another Restricted Subsidiary;

(4) the sale or lease of equipment, inventory, accounts receivable or other assets in the ordinary course of business;

(5) the sale or other disposition, without the sale or other disposition of other types of assets as part of the same transaction, of cash or Cash Equivalents or Government Securities; and

(6) a Restricted Payment or Permitted Investment that is permitted by Section 4.07 hereof.

"Bankruptcy Law" means title 11, U.S. Code, as amended from time to time, or any similar federal or state law for the relief of debtors.

"Beneficial Owner" has the meaning assigned to such term in Rule 13d-3 and Rule 13d-5 under the Exchange Act, except that in calculating the beneficial ownership of any particular "person" (as that term is used in Section 13(d)(3) of the Exchange Act), such "person" will be deemed to have beneficial ownership of all securities that such "person" has the right to acquire by conversion or exercise of other securities, whether such right is currently exercisable or is exercisable only upon the occurrence of a subsequent condition. The terms "Beneficially Owns" and "Beneficially Owned" have a corresponding meaning.

"Board of Directors" means:

(1) with respect to a corporation, the board of directors of the corporation;

(2) with respect to a partnership or limited liability company, the Board of Directors of the general partner of the partnership or managing member of the limited liability company; and

(3) with respect to any other Person, the board or committee of such Person serving a similar function.

"Borrowing Base" means, as of any date, an amount equal to:

(1) 85% of the face amount of all accounts receivable owned by the Company and its Subsidiaries as of the end of the most recent fiscal quarter preceding such date that were not more than 90 days past due; plus

(2) 50% of the book value of all inventory owned by the Company and its Subsidiaries as of the end of the most recent fiscal quarter preceding such date.

"Broker-Dealer" has the meaning set forth in the Registration Rights Agreement.

"Business Day" means any day other than a Legal Holiday.

"Capital Lease Obligation" means, at the time any determination is to be made, the amount of the liability in respect of a capital lease that would at such time be required to be capitalized on a balance sheet in accordance with GAAP.

"Capital Stock" means:

- (1) in the case of a corporation, corporate stock;
- (2) in the case of an association or business entity, any and all shares, interests, participations, rights or other equivalents (however designated) of corporate stock;
- (3) in the case of a partnership or limited liability company, partnership or membership interests (whether general or limited); and
- (4) any other interest or participation that confers on a Person the right to receive a share of the profits and losses of, or distributions of assets of, the issuing Person.

"Cash Equivalents" means:

- (1) United States dollars;
- (2) securities issued or directly and fully guaranteed or insured by the United States government or any agency or instrumentality of the United States government (provided that the full faith and credit of the United States is pledged in support of those securities) having maturities of not more than six months from the date of acquisition;
- (3) certificates of deposit and eurodollar time deposits with maturities of six months or less from the date of acquisition, bankers' acceptances with maturities not exceeding six months and overnight bank deposits, in each case, with any domestic commercial bank having capital and surplus in excess of \$500.0 million and a Thomson Bank Watch Rating of "B" or better;
- (4) repurchase obligations with a term of not more than 30 days for underlying securities of the types described in clauses (2) and (3) above entered into with any financial institution meeting the qualifications specified in clause (3) above;
- (5) commercial paper having the highest rating obtainable from Moody's Investors Service, Inc. or Standard & Poor's Rating Services and in each case maturing within six months after the date of acquisition; and
- (6) money market funds at least 95% of the assets of which constitute Cash Equivalents of the kinds described in clauses (1) through (5) of this definition.

"Clearstream" means Clearstream Banking, S.A., or its successors.

"Change of Control" means the occurrence of any of the following:

- (1) the direct or indirect sale, transfer, conveyance or other disposition (other than by way of merger or consolidation), in one or a series of related transactions, of all or substantially all of the properties or assets of the Company and its Restricted Subsidiaries taken as a whole to any "person" (as that term is used in Section 13(d)(3) of the Exchange Act) other than a Permitted Holder;
- (2) the adoption of a plan relating to the liquidation or dissolution of the Company;
- (3) the consummation of any transaction (including, without limitation, any merger or consolidation) the result of which is that any "person" (as defined above), other than a Permitted Holder, becomes the Beneficial Owner, directly or indirectly, of more than 50%

of the Voting Stock of the Company, measured by voting power rather than number of shares; or

(4) the first day on which a majority of the members of the Board of Directors of the Company are not Continuing Directors.

"Company" means Central Garden & Pet Company, and any and all successors thereto.

"Consolidated Cash Flow" means, with respect to any specified Person for any period, the Consolidated Net Income of such Person for such period, plus (without duplication):

(1) an amount equal to any extraordinary loss plus any net loss realized by such Person or any of its Restricted Subsidiaries in connection with an Asset Sale, to the extent such losses were deducted in computing such Consolidated Net Income;

(2) provision for taxes based on income or profits of such Person and its Restricted Subsidiaries for such period, to the extent that such provision for taxes was deducted in computing such Consolidated Net Income;

(3) consolidated interest expense of such Person and its Restricted Subsidiaries for such period, whether paid or accrued and whether or not capitalized (including, without limitation, amortization of debt issuance costs and original issue discount, non-cash interest payments, the interest component of any deferred payment obligations, the interest component of all payments associated with Capital Lease Obligations, commissions, discounts and other fees and charges incurred in respect of letter of credit or bankers' acceptance financings, and net of the effect of all payments made or received pursuant to Hedging Obligations), to the extent that any such expense was deducted in computing such Consolidated Net Income;

(4) depreciation, amortization (including amortization of goodwill and other intangibles but excluding amortization of prepaid cash expenses that were paid in a prior period) and other non-cash expenses (excluding any such non-cash expense to the extent that it represents an accrual of or reserve for cash expenses in any future period or amortization of a prepaid cash expense that was paid in a prior period) of such Person and its Restricted Subsidiaries for such period to the extent that such depreciation, amortization and other non-cash expenses were deducted in computing such Consolidated Net Income; and

4

(5) if applicable to such calculation, "other charges and unusual items" for the fiscal year ended September 28, 2002 or any fiscal quarter or quarters thereof, as set forth in note (3) under the caption "Offering Memorandum Summary -- Summary Consolidated Historical Financial Data," to the extent that such "other charges and unusual items" were deducted in computing such Consolidated Net Income;

minus non-cash items increasing such Consolidated Net Income for such period, other than any items that represent the reversal of any accrual of, or cash reserve for, anticipated cash charges in any prior period or the accrual of revenue in the ordinary course of business, in each case, on a consolidated basis and determined in accordance with GAAP.

Notwithstanding the preceding, the provision for taxes based on the income or profits, depreciation and amortization and other non-cash expenses, and net adjustment to Consolidated Cash Flow of a Restricted Subsidiary of the Company will be added to Consolidated Net Income to compute Consolidated Cash Flow of the Company only to the extent that a corresponding amount would be permitted at the date of determination to be dividended to the Company by such Restricted Subsidiary without prior governmental approval (that has not been obtained), and without direct or indirect restriction pursuant to the terms of its charter and all agreements, instruments, judgments, decrees, orders, statutes, rules and governmental regulations applicable to that Restricted Subsidiary or its stockholders.

"Consolidated Net Income" means, with respect to any specified Person for any period, the aggregate of the Net Income of such Person and its Restricted Subsidiaries for such period, on a consolidated basis, determined in accordance with GAAP; provided that:

(1) the Net Income (but not loss) of any Person that is not a Restricted Subsidiary or that is accounted for by the equity method of accounting will be included only to the extent of the amount of dividends or distributions paid in cash to the specified Person or a Restricted Subsidiary of the Person;

(2) the Net Income of any Restricted Subsidiary will be excluded to the extent that the declaration or payment of dividends or similar distributions by that Restricted Subsidiary of that Net Income is not at the date of determination permitted without any prior governmental approval (that has not been obtained) or, directly or indirectly, by operation of the terms of its charter or any agreement, instrument, judgment, decree, order, statute, rule or governmental regulation applicable to that Restricted Subsidiary or its stockholders; and

(3) the Net Income of any Person acquired in a pooling of interests transaction for any period prior to the date of such acquisition will be excluded.

"Continuing Directors" means, as of any date of determination, any member of the Board of Directors of the Company who:

(1) was a member of such Board of Directors on the date of this Indenture; or

(2) was nominated for election or elected to such Board of Directors with the approval of a majority of the Continuing Directors who were members of such Board of Directors at the time of such nomination or election.

"Convertible Subordinated Notes" means the 6% Convertible Subordinated Notes due 2003 of the Company.

5

"Corporate Trust Office of the Trustee" will be at the address of the Trustee specified in Section 13.02 hereof or such other address as to which the Trustee may give notice to the Company.

"Credit Agreement" means that certain Second Amended and Restated Loan Agreement, dated as of December 12, 2000, as amended, by and among the Company and certain of its Subsidiaries and Congress Financial Corporation (Western), including any related notes, guarantees, collateral documents, instruments, and agreements executed in connection therewith, and in each case, as amended, restated, modified, refunded, replaced, or refinanced in whole or in part from time to time.

"Credit Facilities" means one or more debt facilities (including without limitation the Credit Agreement) or commercial paper facilities, in each case with banks or other institutional lenders providing for revolving credit loans, term loans, receivables financing (including through the sale of receivables to such lenders or to special purpose entities formed to borrow from such lenders against such receivables) or letters of credit, in each case, as amended, amended and restated, supplemented, modified, renewed, refunded, replaced or refinanced from time to time.

"Custodian" means the Trustee, as custodian with respect to the Notes in global form, or any successor entity thereto.

"Default" means any event that is, or with the passage of time or the giving of notice or both would be, an Event of Default.

"Definitive Note" means a certificated Note registered in the name of the Holder thereof and issued in accordance with Section 2.06 hereof, substantially in the form of Exhibit A hereto except that such Note will not bear the Global Note Legend and will not have the "Schedule of Exchanges of Interests in the Global Note" attached thereto.

"Depository" means, with respect to the Notes issuable or issued in whole or in part in global form, the Person specified in Section 2.03 hereof as the Depository with respect to the Notes, and any and all successors thereto appointed as depository hereunder and having become such pursuant to the applicable provision of this Indenture.

"Disqualified Stock" means any Capital Stock that, by its terms (or by the terms of any security into which it is convertible, or for which it is exchangeable, in each case at the option of the holder of the Capital Stock), or upon the happening of any event, matures or is mandatorily redeemable, pursuant to a sinking fund obligation or otherwise, or redeemable at the option of the holder of the Capital Stock, in whole or in part, on or prior to the date that is 91 days after the date on which the Notes mature. Notwithstanding the preceding sentence, any Capital Stock that would constitute Disqualified Stock solely because the holders of the Capital Stock have the right to require the Company to repurchase such Capital Stock upon the occurrence of a change of control or an asset sale will not constitute Disqualified Stock if the terms of such Capital Stock provide that the Company may not repurchase or redeem any such Capital Stock pursuant to such provisions unless such repurchase or redemption complies with Section 4.07 hereof.

"Domestic Subsidiary" means any Restricted Subsidiary of the Company that was formed under the laws of the United States or any state of the United States or the District of Columbia or that guarantees or otherwise provides direct credit support for any Indebtedness of the Company.

"Equity Interests" means Capital Stock and all warrants, options or other rights to acquire Capital Stock (but excluding any debt security that is convertible into, or exchangeable for, Capital Stock).

6

"Equity Market Value" means with respect to Equity Interests of the Company:

(1) if the Equity Interests are registered under the Exchange Act and listed on a national securities exchange or the Nasdaq National Market, the closing price of the Equity Interests on the date of determination (or if the date of determination is not a Business Day, the first Business Day after the date of determination) on the principal national securities exchange or automated quotation system on which the Equity Interests are traded; or

(2) if clause (1) is not applicable because such Equity Interests are not so registered and listed or if there is no trading in the Equity Interests on the applicable day, the fair market value as determined by the Company's Board of Directors which will be evidenced by a resolution of such Board of Directors set forth in an Officers' Certificate delivered to the Trustee and will be based upon an opinion or appraisal issued by an accounting, appraisal or investment banking firm of national standing if the fair market value exceeds \$5.0 million.

"Euroclear" means Euroclear Bank S.A./N.V., or its successors, as operator of the Euroclear system.

"Exchange Act" means the Securities Exchange Act of 1934, as amended.

"Exchange Notes" means the Notes issued in the Exchange Offer pursuant to Section 2.06(f) hereof.

"Exchange Offer" has the meaning set forth in the Registration Rights Agreement.

"Exchange Offer Registration Statement" has the meaning set forth in the Registration Rights Agreement.

"Existing Indebtedness" means Indebtedness of the Company and its Subsidiaries (other than Indebtedness under the Credit Facilities and Indebtedness represented by the Convertible Subordinated Notes) in existence on the date of this Indenture in an aggregate amount not to exceed \$25.0 million, until such amounts are repaid.

"Fixed Charge Coverage Ratio" means with respect to any specified Person for any period, the ratio of the Consolidated Cash Flow of such Person and its Restricted Subsidiaries for such period to the Fixed Charges of such Person and its Restricted Subsidiaries for such period. In the event that the specified Person or any of its Restricted Subsidiaries incurs, assumes, Guarantees, repays, repurchases or redeems any Indebtedness (other than ordinary working capital borrowings) or issues, repurchases or redeems preferred stock subsequent to the commencement of the period for which the Fixed Charge Coverage Ratio is being calculated and on or prior to the date on which the event for which the calculation of the Fixed Charge Coverage Ratio is made (the "Calculation Date"), then the Fixed Charge Coverage Ratio will be calculated giving pro forma effect to such incurrence, assumption, Guarantee, repayment, repurchase or redemption of Indebtedness, or such issuance, repurchase or redemption of preferred stock, and the use of the proceeds therefrom as if the same had occurred at the beginning of the applicable four-quarter reference period.

In addition, for purposes of calculating the Fixed Charge Coverage Ratio:

(1) acquisitions that have been made by the specified Person or any of its Restricted Subsidiaries, including through mergers or consolidations and including any related financing transactions, during the four-quarter reference period or subsequent to such reference period and

7

on or prior to the Calculation Date will be given pro forma effect as if they had occurred on the first day of the four-quarter reference period and Consolidated Cash Flow for such reference period will be

calculated on a pro forma basis in accordance with clause (2) below, but without giving effect to clause (3) of the proviso set forth in the definition of Consolidated Net Income;

(2) any pro forma calculation under clause (1) will be set forth in an Officers' Certificate of the Company delivered to the Trustee, which calculation may include (a) any adjustments that would satisfy the requirements of Regulation S-X under the Securities Act and (b) any other operating expense reductions the Company reasonably expects to result from the acquisition transaction, if such expected reductions are (i) set forth in reasonable detail in a plan approved by or resolutions of the Company's Board of Directors, and (ii) limited to operating expenses specified in such plan or resolutions (and, if any such reductions are set forth as a range, the lowest amount of such range) that would otherwise have resulted in the payment of cash within twelve months after the date of consummation of such transaction, net of any operating expenses (other than extraordinary items, non-recurring or temporary charges and other similar one-time expenses associated with such transaction) reasonably expected to be incurred to implement such plan or to obtain goods or services (including without limitation personnel, occupancy and transportation expenses) in replacement of goods and services that are being curtailed or eliminated to effect such expected reductions and that are to be paid in cash during such twelve-month period.

(3) the Consolidated Cash Flow attributable to discontinued operations, as determined in accordance with GAAP, and operations or businesses disposed of prior to the Calculation Date, will be excluded; and

(4) the Fixed Charges attributable to discontinued operations, as determined in accordance with GAAP, and operations or businesses disposed of prior to the Calculation Date, will be excluded, but only to the extent that the obligations giving rise to such Fixed Charges will not be obligations of the specified Person or any of its Restricted Subsidiaries following the Calculation Date.

"Fixed Charges" means, with respect to any specified Person for any period, the sum, without duplication, of:

(1) the consolidated interest expense of such Person and its Restricted Subsidiaries for such period, whether paid or accrued, including, without limitation, original issue discount, non-cash interest payments, the interest component of any deferred payment obligations, the interest component of all payments associated with Capital Lease Obligations, commissions, discounts and other fees and charges incurred in respect of letter of credit or bankers' acceptance financings, and net of the effect of all payments made or received pursuant to Hedging Obligations; plus

(2) the consolidated interest of such Person and its Restricted Subsidiaries that was capitalized during such period; plus

(3) any interest expense during such period on Indebtedness of another Person that is Guaranteed by such Person or one of its Restricted Subsidiaries or secured by a Lien on assets of such Person or one of its Restricted Subsidiaries, whether or not such Guarantee or Lien is called upon; plus

(4) the product of (a) all dividends paid or accrued during such period, whether or not in cash, on any Disqualified Stock of such Person or any preferred stock of its Restricted

8

Subsidiaries, other than dividends payable solely in Equity Interests (other than Disqualified Stock) of the Company or to the Company or a Restricted Subsidiary of the Company, times (b) a fraction, the numerator of which is one and the denominator of which is one minus the then current combined marginal federal, state and local income tax rate of such Person (taking into account the deductibility of state and local taxes for federal income tax purposes), expressed as a decimal, in each case, on a consolidated basis and in accordance with GAAP.

"Foreign Subsidiary" means any Restricted Subsidiary that is not a Domestic Subsidiary.

"GAAP" means generally accepted accounting principles set forth in the opinions and pronouncements of the Accounting Principles Board of the American Institute of Certified Public Accountants and statements and pronouncements of the Financial Accounting Standards Board or in such other statements by such other entity as have been approved by a significant segment of the accounting profession, which are in effect from time to time.

"Global Notes" means, individually and collectively, each of the Restricted Global Notes and the Unrestricted Global Notes, substantially in the form of Exhibit A hereto issued in accordance with Section 2.01, 2.06(b)(3), 2.06(b)(4), 2.06(d)(2) or 2.06(f) hereof.

"Global Note Legend" means the legend set forth in Section 2.06(g)(2), which is required to be placed on all Global Notes issued under this Indenture.

"Government Securities" means direct obligations of, or obligations guaranteed by, the United States of America, and the payment for which the United States pledges its full faith and credit.

"Guarantee" means a guarantee other than by endorsement of negotiable instruments for collection in the ordinary course of business, direct or indirect, in any manner including, without limitation, by way of a pledge of assets or through letters of credit or reimbursement agreements in respect thereof, of all or any part of any Indebtedness.

"Guarantors" means each of:

(1) Four Paws Products Ltd., Grant Laboratories, Inc., Kaytee Products, Incorporated, Matthews Redwood & Nursery Supply, Inc., Pennington Seed, Inc., Phaeton Corporation (dba Unicorn Labs), Seeds West, Inc., All-Glass Aquarium Co., Inc., Oceanic Systems, Inc., T.F.H. Publications, Inc., Wellmark International, Norcal Pottery Products, Inc., Pennington Seed Inc. of Nebraska and Gro Tech, Inc.; and

(2) any other Subsidiary that executes a Subsidiary Guarantee in accordance with the provisions of this Indenture,

which Subsidiary Guarantee has not been released, and their respective successors and assigns.

"Hedging Obligations" means, with respect to any specified Person, the obligations of such Person under:

(1) interest rate swap agreements, interest rate cap agreements and interest rate collar agreements; and

(2) other agreements or arrangements designed to protect such Person against fluctuations in interest rates.

9

"Holder" means a Person in whose name a Note is registered.

"Indebtedness" means, with respect to any specified Person, any indebtedness of such Person, whether or not contingent:

(1) in respect of borrowed money;

(2) evidenced by bonds, notes, debentures or similar instruments or letters of credit (or reimbursement agreements in respect thereof);

(3) in respect of banker's acceptances;

(4) representing Capital Lease Obligations;

(5) representing the balance deferred and unpaid of the purchase price of any property, except any such balance that constitutes an accrued expense or trade payable; or

(6) representing any Hedging Obligations,

if and to the extent any of the preceding items (other than letters of credit and Hedging Obligations) would appear as a liability upon a balance sheet of the specified Person prepared in accordance with GAAP. In addition, the term "Indebtedness" includes all Indebtedness of others secured by a Lien on any asset of the specified Person (whether or not such Indebtedness is assumed by the specified Person) and, to the extent not otherwise included, the Guarantee by the specified Person of any Indebtedness of any other Person.

The amount of any Indebtedness outstanding as of any date will be:

(1) the accreted value of the Indebtedness, in the case of any Indebtedness issued with original issue discount;

(2) the principal amount of the Indebtedness, together with any interest on the Indebtedness that is more than 30 days past due, in the case of any other Indebtedness;

(3) the lesser of the Indebtedness and the fair market value of the collateral asset, in the case of any Indebtedness of others secured by a Lien on any asset of the specified Person; and

(4) the lesser of the primary Indebtedness and any stated limit on recourse under the Guarantee, in the case of Indebtedness of others secured by a Guarantee of the specified Person.

"Indenture" means this Indenture, as amended or supplemented from time to time.

"Indirect Participant" means a Person who holds a beneficial interest in a Global Note through a Participant.

"Initial Notes" means the first \$150,000,000 aggregate principal amount of Notes issued under this Indenture on the date hereof.

"Institutional Accredited Investor" means an institution that is an "accredited investor" as defined in Rule 501(a)(1), (2), (3) or (7) under the Securities Act, who are not also QIBs.

10

"Investments" means, with respect to any Person, all direct or indirect investments by such Person in other Persons (including Affiliates) in the forms of loans (including Guarantees or other obligations), advances or capital contributions (excluding commission, travel and similar advances to directors, officers, employees and consultants made in the ordinary course of business), purchases or other acquisitions for consideration of Indebtedness, Equity Interests or other securities, together with all items that are or would be classified as investments on a balance sheet prepared in accordance with GAAP. If the Company or any Subsidiary of the Company sells or otherwise disposes of any Equity Interests of any direct or indirect Subsidiary of the Company such that, after giving effect to any such sale or disposition, such Person is no longer a Subsidiary of the Company, the Company will be deemed to have made an Investment on the date of any such sale or disposition equal to the fair market value of the Company's Investments in such Subsidiary that were not sold or disposed of in an amount determined as provided in the final paragraph of Section 4.07 hereof. The acquisition by the Company or any of its Restricted Subsidiaries of a Person that holds an Investment in a third Person will be deemed to be an Investment by the Company or such Restricted Subsidiary in such third Person in an amount equal to the fair market value of the Investments held by the acquired Person in such third Person in an amount determined as provided in the final paragraph of Section 4.07 hereof, if the acquired Person becomes a Restricted Subsidiary as a result of such acquisition and such third Person does not become a Restricted Subsidiary as a result of such acquisition.

"Legal Holiday" means a Saturday, a Sunday or a day on which banking institutions in the City of New York or at a place of payment are authorized by law, regulation or executive order to remain closed. If a payment date is a Legal Holiday at a place of payment, payment may be made at that place on the next succeeding day that is not a Legal Holiday, and no interest will accrue on such payment for the intervening period.

"Letter of Transmittal" means the letter of transmittal to be prepared by the Company and sent to all Holders of the Notes for use by such Holders in connection with the Exchange Offer.

"Lien" means, with respect to any asset, any mortgage, lien, pledge, charge, security interest or encumbrance of any kind in respect of such asset, whether or not filed, recorded or otherwise perfected under applicable law, including any conditional sale or other title retention agreement, any lease in the nature thereof, any option or other agreement to sell or give a security interest in any asset.

"Liquidated Damages" means all liquidated damages then owing pursuant to Section 5 of the Registration Rights Agreement.

"Net Income" means, with respect to any specified Person, the net income (loss) of such Person, determined in accordance with GAAP and before any reduction in respect of preferred stock dividends, excluding, however:

(1) any gain (but not loss), together with any related provision for taxes on such gain (but not loss), realized in connection with:

(a) any Asset Sale; or

(b) the disposition of any securities by such Person or any of its Restricted Subsidiaries or the extinguishment of any Indebtedness of such Person or any of its Restricted Subsidiaries; and

11



(2 ) any extraordinary gain (but not loss other than any loss incurred in connection with the redemption of the Convertible Subordinated Notes), together with any related provision for taxes on such extraordinary gain (but not any such loss);

(3) the cumulative effect of a change in accounting principles; and

(4) any non-cash impairment loss determined in accordance with GAAP related to the carrying value of goodwill of the Company or its Restricted Subsidiaries reflected in the consolidated financial statements of the Company.

"Net Proceeds" means the aggregate cash proceeds received by the Company or any of its Restricted Subsidiaries in respect of any Asset Sale (including, without limitation, any cash received upon the sale or other disposition of any non-cash consideration received in any Asset Sale), net of (a) the direct costs relating to such Asset Sale, including, without limitation, legal, accounting and financial advisory and investment banking or finders' fees, and sales commissions, and any relocation, severance or separation expenses incurred as a result of the Asset Sale, and costs of environmental investigation and remediation associated with the properties or assets conducted in connection with the Asset Sale, (b) taxes paid or payable as a result of the Asset Sale, in each case, after taking into account any available tax credits or deductions and any tax sharing arrangements, (c) amounts required to be applied to the repayment of Indebtedness, other than Senior Debt secured by a Lien on the asset or assets that were the subject of such Asset Sale, and amounts required to be expended from any reserve established in accordance with GAAP in connection with such Asset Sale, including pension and other post-employment benefit liabilities, liabilities related to environmental matters and liabilities under any indemnification obligations associated with such Asset Sale, and (d) amounts required to be paid to any Person (other than the Company or any Restricted Subsidiary) owning a beneficial interest in the assets that are subject to the Asset Sale.

"Non-Recourse Debt" means Indebtedness:

(1) as to which neither the Company nor any of its Restricted Subsidiaries (a) provides credit support of any kind (including any undertaking, agreement or instrument that would constitute Indebtedness) or (b) is directly or indirectly liable as a guarantor or otherwise;

(2) no default with respect to which (including any rights that the holders of the Indebtedness may have to take enforcement action against an Unrestricted Subsidiary) would permit upon notice, lapse of time or both any holder of any other Indebtedness of the Company or any of its Restricted Subsidiaries to declare a default on such other Indebtedness or cause the payment of the Indebtedness to be accelerated or payable prior to its stated maturity; and

(3) as to which the lenders have been notified in writing that they will not have any recourse to the stock or assets of the Company or any of its Restricted Subsidiaries (other than Equity Interests in an Unrestricted Subsidiary).

"Non-U.S. Person" means a Person who is not a U.S. Person.

"Notes" has the meaning assigned to it in the preamble to this Indenture. The Initial Notes and the Additional Notes will be treated as a single class for all purposes under this Indenture, and unless the context otherwise requires, all references to the Notes will include the Initial Notes and any Additional Notes.

12

"Obligations" means any principal, interest, penalties, fees, indemnifications, reimbursements, damages and other liabilities payable under the documentation governing any Indebtedness.

"Offering Memorandum" means the Company's Offering Memorandum, dated January 24, 2003.

"Officer" means, with respect to any Person, the Chairman of the Board, the Chief Executive Officer, the President, the Chief Operating Officer, the Chief Financial Officer, the Treasurer, any Assistant Treasurer, the Controller, the Secretary or any Vice-President of such Person.

"Officers' Certificate" means a certificate signed on behalf of the Company by two Officers of the Company, one of whom must be the principal executive officer, the principal financial officer, the treasurer or the principal accounting officer of the Company, that meets the requirements of Section 13.05 hereof.

"Opinion of Counsel" means an opinion from legal counsel that meets the requirements of Section 13.05 hereof. The counsel may be an employee of or counsel to the Company or any Subsidiary of the Company.

"Participant" means, with respect to the Depositary, Euroclear or Clearstream, a Person who has an account with the Depositary, Euroclear or Clearstream, respectively (and, with respect to DTC, will include Euroclear and Clearstream).

"Permitted Business" means any business in which the Company and its Restricted Subsidiaries were engaged on the date of this Indenture, any other business in the garden products industry or the pet products industry, and any business determined in good faith by the Company's Board of Directors to be reasonably related or complementary thereto.

"Permitted Holder" means (i) William E. Brown, (ii) the spouse or lineal descendants of William E. Brown or (iii) any corporation, limited liability company, partnership, trust or other entity, the controlling equity interests in which are held by or for the benefit of William E. Brown and/or his spouse or lineal descendants.

"Permitted Investments" means:

(1) any Investment in the Company or in a Restricted Subsidiary of the Company that (except for Foreign Subsidiaries) is a Guarantor;

(2) any Investment in Cash Equivalents;

(3) any Investment by the Company or any Subsidiary of the Company in a Person, if as a result of such Investment:

(a) such Person becomes a Restricted Subsidiary of the Company; or

(b) such Person is merged, consolidated or amalgamated with or into, or transfers or conveys substantially all of its assets to, or is liquidated into, the Company or a Restricted Subsidiary of the Company;

(4) any Investment made as a result of the receipt of non-cash consideration from an Asset Sale that was made pursuant to and in compliance with Section 4.10 hereof;

13

(5) any acquisition of assets solely in exchange for the issuance of Equity Interests (other than Disqualified Stock) of the Company;

(6) any Investments received in compromise of obligations or liabilities, including pursuant to any plan of reorganization or similar arrangement upon the bankruptcy or insolvency of the obligor or the Person subject to the liability so compromised or upon foreclosure on any secured Investment;

(7) Hedging Obligations;

(8) other Investments in any Person having an aggregate fair market value (measured on the date each such Investment was made and without giving effect to subsequent changes in value), when taken together with all other Investments made pursuant to this clause (8) since the date of this Indenture not to exceed in original amount at any time outstanding 10% of the book value of the Company's tangible assets as of the end of the Company's most recently ended fiscal quarter for which internal financial statements are available at the time of any such Investment;

(9) only in the event that amounts available for Permitted Investments under the preceding clause (8) have been fully utilized and in addition to any amounts utilized under such clause, other Investments having an aggregate fair market value (measured on the date each such Investment was made and without giving effect to subsequent changes in value), when taken together with all other Investments made pursuant to this clause (9) since the date of this Indenture not to exceed in original amount at any time outstanding 10% of the book value of the Company's tangible assets as of the end of the Company's most recently ended fiscal quarter for which internal financial statements are available at the time of such Investment if:

(a) after giving pro forma effect to such Investment as if it were made at the beginning of the Company's most recently ended four full fiscal quarters for which internal financial statements are available, the Company's Fixed Charge Coverage Ratio for such period would have been at least 3.0 to 1, excluding from such calculation (i) in the case of an Investment

in a Restricted Subsidiary or other entity, the Consolidated Cash Flow attributable to such Investment for such period, and (ii) in the case of any Restricted Subsidiary that is being designated as a Permitted Investment pursuant to this clause (9) in accordance with Section 4.19 hereof, the Consolidated Cash Flow attributable to such Restricted Subsidiary for such period, in each case as reasonably determined by the Company's Board of Directors;

(b) the rating of the Notes by each of Moody's and S&P at the time such Investment is made is equal to or higher than the respective rating of the Notes by each such rating agency on the date of this Indenture;

(c) no Default or Event of Default has occurred and is continuing; and

(d) in respect of each Investment made or deemed made pursuant to this clause (9) in excess of \$2.0 million, the Company will provide notice to the Trustee of such Investment by filing with the Trustee a certified copy of the board resolution giving effect to such Investment and an Officers' Certificate certifying that such Investment complied with the preceding conditions; and

(10) any Guarantee permitted to be incurred under Section 4.09 hereof or any payment pursuant to any such Guarantee.

14

"Permitted Liens" means:

(1) Liens on assets of the Company and its Restricted Subsidiaries securing Senior Debt that was permitted by the terms of this Indenture to be incurred;

(2) Liens in favor of the Company and its Restricted Subsidiaries;

(3) Liens on property of a Person existing at the time such Person is merged with or into or consolidated with the Company or any Restricted Subsidiary of the Company; provided that such Liens were in existence prior to the contemplation of such merger or consolidation and do not extend to any assets other than those of the Person merged into or consolidated with the Company or the Restricted Subsidiary;

(4) Liens on property existing at the time of acquisition of the property by the Company or any Restricted Subsidiary of the Company; provided that such Liens were in existence prior to the contemplation of such acquisition;

(5) Liens securing reimbursement obligations with respect to letters of credit and surety or performance bonds issued in the ordinary course of business;

(6) Liens existing on the date of this Indenture;

(7) Liens on Equity Interests in Unrestricted Subsidiaries that secure Non-Recourse Debt; and

(8) Liens upon specific items of inventory or other goods and proceeds of any Person securing such Person's obligations in respect of bankers' acceptances issued or created for the account of such Person to facilitate the purchase, shipment or storage of such inventory or other goods.

"Permitted Refinancing Indebtedness" means any Indebtedness of the Company or any of its Restricted Subsidiaries issued in exchange for, or the net proceeds of which are used to extend, refinance, renew, replace, defease or refund other Indebtedness of the Company or any of its Restricted Subsidiaries (other than intercompany Indebtedness); provided that:

(1) the principal amount (or accreted value, if applicable) of such Permitted Refinancing Indebtedness does not exceed the principal amount (or accreted value, if applicable) of the Indebtedness extended, refinanced, renewed, replaced, defeased or refunded (plus all accrued interest on the Indebtedness and the amount of all expenses and premiums incurred in connection therewith, including consent fees);

(2) such Permitted Refinancing Indebtedness has a final maturity date later than the final maturity date of, and has a Weighted Average Life to Maturity equal to or greater than the Weighted Average Life to Maturity of, the Indebtedness being extended, refinanced, renewed, replaced, defeased or refunded;

(3) if the Indebtedness being extended, refinanced, renewed, replaced, defeased or refunded is subordinated in right of payment to the Notes or the Subsidiary Guarantees, such Permitted Refinancing Indebtedness has a final maturity date later than the final maturity date of the Notes, and is subordinated in right of payment to, the Notes or the Subsidiary Guarantees on

15

terms at least as favorable to the Holders of the Notes as those contained in the documentation governing the Indebtedness being extended, refinanced, renewed, replaced, defeased or refunded; and

(4) such Indebtedness is incurred either by the Company, by the Restricted Subsidiary that is the obligor on the Indebtedness being extended, refinanced, renewed, replaced, defeased or refunded or by any intermediate Restricted Subsidiary.

"Person" means any individual, corporation, partnership, joint venture, association, joint-stock company, trust, unincorporated organization, limited liability company or government or other entity.

"Private Placement Legend" means the legend set forth in Section 2.06(g)(1) to be placed on all Notes issued under this Indenture except where otherwise permitted by the provisions of this Indenture.

"Public Equity Offering" means an offer and sale of Capital Stock (other than Disqualified Stock) of the Company pursuant to a registration statement that has been declared effective by the Commission pursuant to the Securities Act (other than a registration statement on Form S-8 or otherwise relating to equity securities issuable under any employee benefit plan of the Company).

"QIB" means a "qualified institutional buyer" as defined in Rule 144A.

"Registration Rights Agreement" means the Registration Rights Agreement, dated as of January \_\_, 2003, among the Company, the Guarantors and the other parties named on the signature pages thereof, as such agreement may be amended, modified or supplemented from time to time and, with respect to any Additional Notes, one or more registration rights agreements among the Company, the Guarantors and the other parties thereto, as such agreement(s) may be amended, modified or supplemented from time to time, relating to rights given by the Company to the purchasers of Additional Notes to register such Additional Notes under the Securities Act.

"Regulation S" means Regulation S promulgated under the Securities Act.

"Regulation S Global Note" means a Global Note bearing the Private Placement Legend and deposited with or on behalf of the Depositary and registered in the name of the Depositary or its nominee, issued in a denomination equal to the outstanding principal amount of the Notes initially sold in reliance on Rule 903.

"Responsible Officer," when used with respect to the Trustee, means any officer within the Corporate Trust Administration of the Trustee (or any successor group of the Trustee) or any other officer of the Trustee customarily performing functions similar to those performed by any of the above designated officers and also means, with respect to a particular corporate trust matter, any other officer to whom such matter is referred because of his knowledge of and familiarity with the particular subject and who will have responsibility for the administration of this Indenture.

"Restricted Definitive Note" means a Definitive Note bearing the Private Placement Legend.

"Restricted Global Note" means a Global Note bearing the Private Placement Legend.

"Restricted Investment" means an Investment other than a Permitted Investment.

"Restricted Period" means the 40-day distribution compliance period as defined in Regulation S.

16

"Restricted Subsidiary" of a Person means any Subsidiary of the referent Person that is not an Unrestricted Subsidiary.

"Rule 144" means Rule 144 promulgated under the Securities Act.

"Rule 144A" means Rule 144A promulgated under the Securities Act.

"Rule 903" means Rule 903 promulgated under the Securities Act.

"Rule 904" means Rule 904 promulgated the Securities Act.

"S&P" means Standard & Poor's Ratings Group and any successor thereto.

"SEC" means the Securities and Exchange Commission.

"Securities Act" means the Securities Act of 1933, as amended.

"Shelf Registration Statement" has the meaning set forth in the Registration Rights Agreement.

"Significant Subsidiary" means any Restricted Subsidiary that would be a "significant subsidiary" as defined in Article 1, Rule 1-02 of Regulation S-X, promulgated pursuant to the Securities Act, as such Regulation is in effect on the date of this Indenture.

"Stated Maturity" means, with respect to any installment of interest or principal on any series of Indebtedness, the date on which such payment of interest or principal was scheduled to be paid in the original documentation governing such Indebtedness, and will not include any contingent obligations to repay, redeem or repurchase any such interest or principal prior to the date originally scheduled for the payment thereof.

"Subsidiary" means, with respect to any specified Person:

(1) any corporation, association or other business entity of which more than 50% of the total voting power of shares of Capital Stock entitled (without regard to the occurrence of any contingency) to vote in the election of directors, managers or trustees of the corporation, association or other business entity is at the time owned or controlled, directly or indirectly, by that Person or one or more of the other Subsidiaries of that Person (or a combination thereof); and

(2) any partnership (a) the sole general partner or the managing general partner of which is such Person or a Subsidiary of such Person or (b) the only general partners of which are that Person or one or more Subsidiaries of that Person (or any combination thereof).

"Subsidiary Guarantee" means the Guarantee by each Guarantor of the Company's payment obligations under this Indenture and on the Notes, executed pursuant to the provisions of this Indenture.

"TIA" means the Trust Indenture Act of 1939 (15 U.S.C. Sections 77aaa-77bbb) as in effect on the date on which this Indenture is qualified under the TIA.

"Trustee" means the party named as such in the preamble to this Indenture until a successor replaces it in accordance with the applicable provisions of this Indenture and thereafter means the successor serving hereunder.

17

"Unrestricted Global Note" means a permanent Global Note substantially in the form of Exhibit A attached hereto that bears the Global Note Legend and that has the "Schedule of Exchanges of Interests in the Global Note" attached thereto, and that is deposited with or on behalf of and registered in the name of the Depositary, representing a series of Notes that do not bear the Private Placement Legend.

"Unrestricted Definitive Note" means one or more Definitive Notes that do not bear and are not required to bear the Private Placement Legend.

"Unrestricted Subsidiary" means any Subsidiary of the Company that is designated by the Company's Board of Directors as an Unrestricted Subsidiary pursuant to a resolution of such Board of Directors, but only to the extent that such Subsidiary:

(1) has no Indebtedness other than Non-Recourse Debt;

(2) is not party to any agreement, contract, arrangement or understanding with the Company or any Restricted Subsidiary of the Company unless the terms of any such agreement, contract, arrangement or understanding are no less favorable to the Company or such Restricted Subsidiary than those that might be obtained at the time from Persons who are not Affiliates of the Company;

(3) is a Person with respect to which neither the Company nor any of its Restricted Subsidiaries has any direct or indirect obligation

(a) to subscribe for additional Equity Interests or (b) to maintain or preserve such Person's financial condition or to cause such Person to achieve any specified levels of operating results;

(4) has not guaranteed or otherwise directly or indirectly provided credit support for any Indebtedness of the Company or any of its Restricted Subsidiaries; and

(5) has at least one director on its Board of Directors that is not a director or executive officer of the Company or any of its Restricted Subsidiaries and has at least one executive officer that is not a director or executive officer of the Company or any of its Restricted Subsidiaries.

Any designation of a Subsidiary of the Company as an Unrestricted Subsidiary will be evidenced to the Trustee by filing with the Trustee a certified copy of the Resolution of the Company's Board of Directors giving effect to such designation and an Officers' Certificate certifying that such designation complied with the preceding conditions and was permitted by Section 4.07 hereof. If, at any time, any Unrestricted Subsidiary would fail to meet the preceding requirements as an Unrestricted Subsidiary, it will thereafter cease to be an Unrestricted Subsidiary for purposes of this Indenture and (i) will be deemed to be redesignated as a Restricted Subsidiary and (ii) any Indebtedness of such Subsidiary shall be deemed to be incurred by a Restricted Subsidiary of the Company as of such date and, if such Indebtedness is not permitted to be incurred as of such date under Section 4.09 hereof, the Company will be in default of Section 4.09. The Board of Directors of the Company may at any time designate any Unrestricted Subsidiary to be a Restricted Subsidiary; provided that such designation will be deemed to be an incurrence of Indebtedness by a Restricted Subsidiary of the Company of any outstanding Indebtedness of such Unrestricted Subsidiary and such designation will only be permitted if (1) such Indebtedness is permitted under Section 4.09 hereof, calculated on a pro forma basis as if such designation had occurred at the beginning of the four-quarter reference period; and (2) no Default or Event of Default would be in existence following such designation. Upon any such designation as a Restricted Subsidiary, such Subsidiary (unless it is a Restricted Subsidiary designated as a Permitted Investment made under clause (8) or (9) of the definition of "Permitted Investments" in accordance with

18

the applicable provisions of the Indenture) will become a Guarantor and execute a Subsidiary Guarantee as and to the extent required under Section 4.18 hereof.

"U.S. Person" means a U.S. Person as defined in Rule 902(o) under the Securities Act.

"Voting Stock" of any Person as of any date means the Capital Stock of such Person that is at the time entitled to vote in the election of the Board of Directors of such Person.

"Weighted Average Life to Maturity" means, when applied to any Indebtedness at any date, the number of years obtained by dividing:

(1) the sum of the products obtained by multiplying (x) the amount of each then remaining installment, sinking fund, serial maturity or other required payments of principal, including payment at final maturity, in respect of the Indebtedness, by (y) the number of years (calculated to the nearest one-twelfth) that will elapse between such date and the making of such payment; by

(2) the then outstanding principal amount of such Indebtedness.

"Wholly-Owned Restricted Subsidiary" of any specified Person means a Restricted Subsidiary of such Person all of the outstanding Capital Stock or other ownership interests of which (other than directors' qualifying shares) are owned by such Person or by one or more Wholly Owned Restricted Subsidiaries of such Person.

#### Section 1.02 Other Definitions.

Term	Defined in Section
----	-----
"Affiliate Transaction".....	4.11
"Asset Sale Offer".....	3.09
"Authentication Order".....	2.02
"Change of Control Offer".....	4.15
"Change of Control Payment".....	4.15
"Change of Control Payment Date".....	4.15
"Covenant Defeasance".....	8.03
"Designated Senior Debt".....	10.02
"DTC".....	2.03
"Event of Default".....	6.01

"Excess Proceeds".....	4.10
"incur".....	4.09
"Legal Defeasance".....	8.02
"Mandatory Redemption Date".....	4.20
"Offer Amount".....	3.09
"Offer Period".....	3.09
"Paying Agent".....	2.03
"Permitted Debt".....	4.09
"Permitted Junior Securities".....	10.02
"Purchase Date".....	3.09
"Registrar".....	2.03
"Representative".....	10.02

Term	Defined in Section
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"Restricted Payments".....	4.07
"Senior Debt".....	10.02

#### Section 1.03 Incorporation by Reference of Trust Indenture Act.

Whenever this Indenture refers to a provision of the TIA, the provision is incorporated by reference in and made a part of this Indenture.

The following TIA terms used in this Indenture have the following meanings:

"indenture securities" means the Notes;

"indenture security Holder" means a Holder of a Note;

"indenture to be qualified" means this Indenture;

"indenture trustee" or "institutional trustee" means the Trustee; and

"obligor" on the Notes and the Subsidiary Guarantees means the Company and the Guarantors, respectively, and any successor obligor upon the Notes and the Subsidiary Guarantees, respectively.

All other terms used in this Indenture that are defined by the TIA, defined by TIA reference to another statute or defined by SEC rule under the TIA have the meanings so assigned to them.

#### Section 1.04 Rules of Construction.

Unless the context otherwise requires:

- (1) a term has the meaning assigned to it;
- (2) an accounting term not otherwise defined has the meaning assigned to it in accordance with GAAP;
- (3) "or" is not exclusive;
- (4) words in the singular include the plural, and in the plural include the singular;
- (5) "will" will be interpreted to express a command;
- (6) provisions apply to successive events and transactions; and
- (7) references to sections of or rules under the Securities Act will be deemed to include substitute, replacement of successor sections or rules adopted by the SEC from time to time.

### ARTICLE 2. THE NOTES

#### Section 2.01 Form and Dating.

(a) General. The Notes and the Trustee's certificate of authentication will be substantially in the form of Exhibit A hereto. The Notes may have notations, legends or endorsements required by law, stock exchange rule or usage. Each Note will be dated the date of its authentication. The Notes will be in denominations of \$1,000 and integral multiples thereof. The Notes will be dated the date of their authentication.

The terms and provisions contained in the Notes will constitute, and are hereby expressly made, a part of this Indenture and the Company, the

Guarantors and the Trustee, by their execution and delivery of this Indenture, expressly agree to such terms and provisions and to be bound thereby. However, to the extent any provision of any Note conflicts with the express provisions of this Indenture, the provisions of this Indenture will govern and be controlling.

(b) Global Notes. Notes issued in global form will be substantially in the form of Exhibit A attached hereto (including the Global Note Legend thereon and the "Schedule of Exchanges of Interests in the Global Note" attached thereto). Notes issued in definitive form will be substantially in the form of Exhibit A attached hereto (but without the Global Note Legend thereon and without the "Schedule of Exchanges of Interests in the Global Note" attached thereto). Each Global Note will represent such of the outstanding Notes as are specified therein and each will provide that it represents the aggregate principal amount of outstanding Notes from time to time endorsed thereon and that the aggregate principal amount of outstanding Notes represented thereby may from time to time be reduced or increased, as appropriate, to reflect exchanges and redemptions. Any endorsement of a Global Note to reflect the amount of any increase or decrease in the aggregate principal amount of outstanding Notes represented thereby will be made by the Trustee or the Custodian, at the direction of the Trustee, in accordance with instructions given by the Holder thereof as required by Section 2.06 hereof.

(c) Euroclear and Clearstream Procedures Applicable. The provisions of the "Operating Procedures of the Euroclear System" and "Terms and Conditions Governing Use of Euroclear" and the "General Terms and Conditions of Clearstream Banking" and "Customer Handbook" of Clearstream will be applicable to transfers of beneficial interests in the Regulation S Global Notes that are held by Participants through Euroclear or Clearstream.

#### Section 2.02 Execution and Authentication.

An Officer of the Company must sign the Notes for the Company by manual or facsimile signature.

If an Officer of the Company whose signature is on a Note no longer holds that office at the time a Note is authenticated, the Note will nevertheless be valid.

A Note will not be valid until authenticated by the manual signature of the Trustee. The signature will be conclusive evidence that the Note has been authenticated under this Indenture.

The Trustee will, upon receipt of a written order of the Company signed by one Officer of the Company (an "Authentication Order"), authenticate Notes for original issue up to the aggregate principal amount stated in paragraph 4 of the Notes.

#### 21

The Trustee may appoint an authenticating agent acceptable to the Company to authenticate Notes. An authenticating agent may authenticate Notes whenever the Trustee may do so. Each reference in this Indenture to authentication by the Trustee includes authentication by such agent. An authenticating agent has the same rights as an Agent to deal with Holders or an Affiliate of the Company.

#### Section 2.03 Registrar and Paying Agent.

The Company will maintain an office or agency where Notes may be presented for registration of transfer or for exchange ("Registrar") and an office or agency where Notes may be presented for payment ("Paying Agent"). The Registrar will keep a register of the Notes and of their transfer and exchange. The Company may appoint one or more co-registrars and one or more additional paying agents. The term "Registrar" includes any co-registrar and the term "Paying Agent" includes any additional paying agent. The Company may change any Paying Agent or Registrar without notice to any Holder. The Company will notify the Trustee in writing of the name and address of any Agent not a party to this Indenture. If the Company fails to appoint or maintain another entity as Registrar or Paying Agent, the Trustee will act as such. The Company or any of its Subsidiaries may act as Paying Agent or Registrar.

The Company initially appoints The Depository Trust Company ("DTC") to act as Depositary with respect to the Global Notes.

The Company initially appoints the Trustee to act as the Registrar and Paying Agent and to act as Custodian with respect to the Global Notes.

#### Section 2.04 Paying Agent to Hold Money in Trust.

The Company will require each Paying Agent other than the Trustee to agree in writing that the Paying Agent will hold in trust for the benefit of Holders or the Trustee all money held by the Paying Agent for the payment of principal, premium or Liquidated Damages, if any, or interest on the Notes, and will notify the Trustee of any default by the Company in making any such



payment. While any such default continues, the Trustee may require a Paying Agent to pay all money held by it to the Trustee. The Company at any time may require a Paying Agent to pay all money held by it to the Trustee. Upon payment over to the Trustee, the Paying Agent (if other than the Company or a Subsidiary) will have no further liability for the money. If the Company or a Subsidiary acts as Paying Agent, it will segregate and hold in a separate trust fund for the benefit of the Holders all money held by it as Paying Agent. Upon any bankruptcy or reorganization proceedings relating to the Company, the Trustee will serve as Paying Agent for the Notes.

#### Section 2.05 Holder Lists.

The Trustee will preserve in as current a form as is reasonably practicable the most recent list available to it of the names and addresses of all Holders and will otherwise comply with TIA Section 312(a). If the Trustee is not the Registrar, the Company will furnish to the Trustee at least seven Business Days before each interest payment date and at such other times as the Trustee may request in writing, a list in such form and as of such date as the Trustee may reasonably require of the names and addresses of the Holders of Notes and the Company will otherwise comply with TIA Section 312(a).

#### Section 2.06 Transfer and Exchange.

(a) Transfer and Exchange of Global Notes. A Global Note may not be transferred as a whole except by the Depositary to a nominee of the Depositary, by a nominee of the Depositary to the Depositary or to another nominee of the Depositary, or by the Depositary or any such nominee to a

22

successor Depositary or a nominee of such successor Depositary. All Global Notes will be exchanged by the Company for Definitive Notes if:

(1) the Company delivers to the Trustee notice from the Depositary that it is unwilling or unable to continue to act as Depositary or that it is no longer a clearing agency registered under the Exchange Act and, in either case, a successor Depositary is not appointed by the Company within 120 days after the date of such notice from the Depositary;

(2) the Company in its sole discretion determines that the Global Notes (in whole but not in part) should be exchanged for Definitive Notes and delivers a written notice to such effect to the Trustee; or

(3) there has occurred and is continuing a Default or Event of Default with respect to the Notes and Beneficial Owners holding interests representing an aggregate principal amount of at least 51% of such Notes represented by Global Notes advise the Trustee in writing that the continuation of a book-entry system through the Depositary is no longer in such owner's best interests.

Upon the occurrence of any of the preceding events in (1), (2) or (3) above, Definitive Notes will be issued in such names as the Depositary will instruct the Trustee. Global Notes also may be exchanged or replaced, in whole or in part, as provided in Sections 2.07 and 2.10 hereof. Every Note authenticated and delivered in exchange for, or in lieu of, a Global Note or any portion thereof, pursuant to this Section 2.06 or Section 2.07 or 2.10 hereof, will be authenticated and delivered in the form of, and will be, a Global Note. A Global Note may not be exchanged for another Note other than as provided in this Section 2.06(a), however, beneficial interests in a Global Note may be transferred and exchanged as provided in Section 2.06(b), (c) or (f) hereof.

If a Holder is an Institutional Accredited Investor or a if a Holder is required to do so pursuant to any applicable law or regulation, such Holder may obtain Definitive Notes upon written request in accordance with the Depositary's and the Registrar's procedures and in accordance with this Section 2.06.

(b) Transfer and Exchange of Beneficial Interests in the Global Notes. The transfer and exchange of beneficial interests in the Global Notes will be effected through the Depositary, in accordance with the provisions of this Indenture and the Applicable Procedures. Beneficial interests in the Restricted Global Notes will be subject to restrictions on transfer comparable to those set forth herein to the extent required by the Securities Act. Transfers of beneficial interests in the Global Notes also will require compliance with either subparagraph (1) or (2) below, as applicable, as well as one or more of the other following subparagraphs, as applicable:

(1) Transfer of Beneficial Interests in the Same Global Note. Beneficial interests in any Restricted Global Note may be transferred to Persons who take delivery thereof in the form of a beneficial interest in the same Restricted Global Note in accordance with the transfer restrictions set forth in the Private Placement Legend;

provided, however, that prior to the expiration of the Restricted Period, transfers of beneficial interests in the Regulation S Global Note may not be made to a U.S. Person or for the account or benefit of a U.S. Person (other than an Initial Purchaser). Beneficial interests in any Unrestricted Global Note may be transferred to Persons who take delivery thereof in the form of a beneficial interest in an Unrestricted Global Note. No written orders or instructions will be required to be delivered to the Registrar to effect the transfers described in this Section 2.06(b)(1).

23

(2) All Other Transfers and Exchanges of Beneficial Interests in Global Notes. In connection with all transfers and exchanges of beneficial interests that are not subject to Section 2.06(b)(1) above, the transferor of such beneficial interest must deliver to the Registrar either:

(A) both:

(i) a written order from a Participant or an Indirect Participant given to the Depositary in accordance with the Applicable Procedures directing the Depositary to credit or cause to be credited a beneficial interest in another Global Note in an amount equal to the beneficial interest to be transferred or exchanged; and

(ii) instructions given in accordance with the Applicable Procedures containing information regarding the Participant account to be credited with such increase; or

(B) both:

(i) a written order from a Participant or an Indirect Participant given to the Depositary in accordance with the Applicable Procedures directing the Depositary to cause to be issued a Definitive Note in an amount equal to the beneficial interest to be transferred or exchanged; and

(ii) instructions given by the Depositary to the Registrar containing information regarding the Person in whose name such Definitive Note will be registered to effect the transfer or exchange referred to in (1) above. Upon consummation of the Exchange Offer by the Company in accordance with the Registration Rights Agreement, the requirements of this Section 2.06(b)(2) will be deemed to have been satisfied upon receipt by the Registrar of the instructions contained in the Letter of Transmittal delivered by the Holder of such beneficial interests in the Restricted Global Notes. Upon satisfaction of all of the requirements for transfer or exchange of beneficial interests in Global Notes contained in this Indenture and the Notes or otherwise applicable under the Securities Act, the Trustee will adjust the principal amount of the relevant Global Note(s) pursuant to Section 2.06(h) hereof.

(3) Transfer of Beneficial Interests to Another Restricted Global Note. A beneficial interest in any Restricted Global Note may be transferred to a Person who takes delivery thereof in the form of a beneficial interest in another Restricted Global Note if the transfer complies with the requirements of Section 2.06(b)(2) above and the Registrar receives the following:

(A) if the transferee takes delivery in the form of a beneficial interest in the 144A Global Note, then the transferor will be required to deliver a certificate in the form of Exhibit B hereto, including the certifications in item (1) thereof; and

(B) if the transferee takes delivery in the form of a beneficial interest in the Regulation S Global Note, then the transferor will be required to deliver a certificate in the form of Exhibit B hereto, including the certifications in item (2) thereof.

(4) Transfer and Exchange of Beneficial Interests in a Restricted Global Note for Beneficial Interests in an Unrestricted Global Note. A beneficial interest in any Restricted

24

Global Note may be exchanged by any holder thereof for a beneficial interest in an Unrestricted Global Note or transferred to a Person who takes delivery thereof in the form of a beneficial interest in an

Unrestricted Global Note if the exchange or transfer complies with the requirements of Section 2.06(b) (2) above and:

(A) such exchange or transfer is effected pursuant to the Exchange Offer in accordance with the Registration Rights Agreement and the holder of the beneficial interest to be transferred, in the case of an exchange, or the transferee, in the case of a transfer, certifies in the applicable Letter of Transmittal that it is not (i) a Broker-Dealer, (ii) a Person participating in the distribution of the Exchange Notes or (iii) a Person who is an affiliate (as defined in Rule 144) of the Company;

(B) such transfer is effected pursuant to the Shelf Registration Statement in accordance with the Registration Rights Agreement;

(C) such transfer is effected by a Broker-Dealer pursuant to the Exchange Offer Registration Statement in accordance with the Registration Rights Agreement; or

(D) the Registrar receives the following:

(i) if the holder of such beneficial interest in a Restricted Global Note proposes to exchange such beneficial interest for a beneficial interest in an Unrestricted Global Note, a certificate from such holder in the form of Exhibit C hereto, including the certifications in item (1) (a) thereof; or

(ii) if the holder of such beneficial interest in a Restricted Global Note proposes to transfer such beneficial interest to a Person who will take delivery thereof in the form of a beneficial interest in an Unrestricted Global Note, a certificate from such holder in the form of Exhibit B hereto, including the certifications in item (4) thereof;

and, in each such case set forth in this subparagraph (D), if the Registrar so requests or if the Applicable Procedures so require, an Opinion of Counsel in form reasonably acceptable to the Registrar to the effect that such exchange or transfer is in compliance with the Securities Act and that the restrictions on transfer contained herein and in the Private Placement Legend are no longer required in order to maintain compliance with the Securities Act.

If any such transfer is effected pursuant to subparagraph (B) or (D) above at a time when an Unrestricted Global Note has not yet been issued, the Company will issue and, upon receipt of an Authentication Order in accordance with Section 2.02 hereof, the Trustee will authenticate one or more Unrestricted Global Notes in an aggregate principal amount equal to the aggregate principal amount of beneficial interests transferred pursuant to subparagraph (B) or (D) above.

Beneficial interests in an Unrestricted Global Note cannot be exchanged for, or transferred to Persons who take delivery thereof in the form of, a beneficial interest in a Restricted Global Note.

(c) Transfer or Exchange of Beneficial Interests for Definitive Notes.

(1) Beneficial Interests in Restricted Global Notes to Restricted Definitive Notes. If any holder of a beneficial interest in a Restricted Global Note proposes to exchange such

25

beneficial interest for a Restricted Definitive Note or to transfer such beneficial interest to a Person who takes delivery thereof in the form of a Restricted Definitive Note, then, upon receipt by the Registrar of the following documentation:

(A) if the holder of such beneficial interest in a Restricted Global Note proposes to exchange such beneficial interest for a Restricted Definitive Note, a certificate from such holder in the form of Exhibit C hereto, including the certifications in item (2) (a) thereof;

(B) if such beneficial interest is being transferred to a QIB in accordance with Rule 144A, a certificate to the effect set forth in Exhibit B hereto, including the certifications in item (1) thereof;

(C) if such beneficial interest is being transferred to a

Non-U.S. Person in an offshore transaction in accordance with Rule 903 or Rule 904, a certificate to the effect set forth in Exhibit B hereto, including the certifications in item (2) thereof;

(D) if such beneficial interest is being transferred pursuant to an exemption from the registration requirements of the Securities Act in accordance with Rule 144, a certificate to the effect set forth in Exhibit B hereto, including the certifications in item (3)(a) thereof;

(E) if such beneficial interest is being transferred to an Institutional Accredited Investor in reliance on an exemption from the registration requirements of the Securities Act other than those listed in subparagraphs (B) through (D) above, a certificate to the effect set forth in Exhibit B hereto, including the certifications, certificates and Opinion of Counsel required by item (3) thereof, if applicable;

(F) if such beneficial interest is being transferred to the Company or any of its Subsidiaries, a certificate to the effect set forth in Exhibit B hereto, including the certifications in item (3)(b) thereof; or

(G) if such beneficial interest is being transferred pursuant to an effective registration statement under the Securities Act, a certificate to the effect set forth in Exhibit B hereto, including the certifications in item (3)(c) thereof,

the Trustee will cause the aggregate principal amount of the applicable Global Note to be reduced accordingly pursuant to Section 2.06(h) hereof, and the Company will execute and the Trustee will authenticate and deliver to the Person designated in the instructions a Definitive Note in the appropriate principal amount. Any Definitive Note issued in exchange for a beneficial interest in a Restricted Global Note pursuant to this Section 2.06(c) will be registered in such name or names and in such authorized denomination or denominations as the holder of such beneficial interest will instruct the Registrar through instructions from the Depository and the Participant or Indirect Participant. The Trustee will deliver such Definitive Notes to the Persons in whose names such Notes are so registered. Any Definitive Note issued in exchange for a beneficial interest in a Restricted Global Note pursuant to this Section 2.06(c)(1) will bear the Private Placement Legend and will be subject to all restrictions on transfer contained therein.

(2) Beneficial Interests in Restricted Global Notes to Unrestricted Definitive Notes. A holder of a beneficial interest in a Restricted Global Note may exchange such beneficial interest for an Unrestricted Definitive Note or may transfer such beneficial interest to a Person who takes delivery thereof in the form of an Unrestricted Definitive Note only if:

26

(A) such exchange or transfer is effected pursuant to the Exchange Offer in accordance with the Registration Rights Agreement and the holder of such beneficial interest, in the case of an exchange, or the transferee, in the case of a transfer, certifies in the applicable Letter of Transmittal that it is not (i) a Broker-Dealer, (ii) a Person participating in the distribution of the Exchange Notes or (iii) a Person who is an affiliate (as defined in Rule 144) of the Company;

(B) such transfer is effected pursuant to the Shelf Registration Statement in accordance with the Registration Rights Agreement;

(C) such transfer is effected by a Broker-Dealer pursuant to the Exchange Offer Registration Statement in accordance with the Registration Rights Agreement; or

(D) the Registrar receives the following:

(i) if the holder of such beneficial interest in a Restricted Global Note proposes to exchange such beneficial interest for a Definitive Note that does not bear the Private Placement Legend, a certificate from such holder in the form of Exhibit C hereto, including the certifications in item (1)(b) thereof; or

(ii) if the holder of such beneficial interest in a Restricted Global Note proposes to transfer such beneficial interest to a Person who will take delivery thereof in the form of a Definitive Note that does not bear the Private Placement Legend, a certificate from such holder in the form of Exhibit B hereto, including the certifications in item (4) thereof;

and, in each such case set forth in this subparagraph (D), if the Registrar so requests or if the Applicable Procedures so require, an Opinion of Counsel in form reasonably acceptable to the Registrar to the effect that such exchange or transfer is in compliance with the Securities Act and that the restrictions on transfer contained herein and in the Private Placement Legend are no longer required in order to maintain compliance with the Securities Act.

(3) Beneficial Interests in Unrestricted Global Notes to Unrestricted Definitive Notes. If any holder of a beneficial interest in an Unrestricted Global Note proposes to exchange such beneficial interest for a Definitive Note or to transfer such beneficial interest to a Person who takes delivery thereof in the form of a Definitive Note, then, upon satisfaction of the conditions set forth in Section 2.06(b)(2) hereof, the Trustee will cause the aggregate principal amount of the applicable Global Note to be reduced accordingly pursuant to Section 2.06(h) hereof, and the Company will execute and the Trustee will authenticate and deliver to the Person designated in the instructions a Definitive Note in the appropriate principal amount. Any Definitive Note issued in exchange for a beneficial interest pursuant to this Section 2.06(c)(3) will be registered in such name or names and in such authorized denomination or denominations as the holder of such beneficial interest requests through instructions to the Registrar from or through the Depositary and the Participant or Indirect Participant. The Trustee will deliver such Definitive Notes to the Persons in whose names such Notes are so registered. Any Definitive Note issued in exchange for a beneficial interest pursuant to this Section 2.06(c)(3) will not be required to bear the Private Placement Legend.

(d) Transfer and Exchange of Definitive Notes for Beneficial Interests.

27

(1) Restricted Definitive Notes to Beneficial Interests in Restricted Global Notes. If any Holder of a Restricted Definitive Note proposes to exchange such Note for a beneficial interest in a Restricted Global Note or to transfer such Restricted Definitive Notes to a Person who takes delivery thereof in the form of a beneficial interest in a Restricted Global Note, then, upon receipt by the Registrar of the following documentation:

(A) if the Holder of such Restricted Definitive Note proposes to exchange such Note for a beneficial interest in a Restricted Global Note, a certificate from such Holder in the form of Exhibit C hereto, including the certifications in item (2)(b) thereof;

(B) if such Restricted Definitive Note is being transferred to a QIB in accordance with Rule 144A, a certificate to the effect set forth in Exhibit B hereto, including the certifications in item (1) thereof;

(C) if such Restricted Definitive Note is being transferred to a Non-U.S. Person in an offshore transaction in accordance with Rule 903 or Rule 904, a certificate to the effect set forth in Exhibit B hereto, including the certifications in item (2) thereof;

(D) if such Restricted Definitive Note is being transferred pursuant to an exemption from the registration requirements of the Securities Act in accordance with Rule 144, a certificate to the effect set forth in Exhibit B hereto, including the certifications in item (3)(a) thereof;

(E) if such Restricted Definitive Note is being transferred to an Institutional Accredited Investor in reliance on an exemption from the registration requirements of the Securities Act other than those listed in subparagraphs (B) through (D) above, a certificate to the effect set forth in Exhibit B hereto, including the certifications, certificates and Opinion of Counsel required by item (3) thereof, if applicable;

(F) if such Restricted Definitive Note is being transferred to the Company or any of its Subsidiaries, a certificate to the effect set forth in Exhibit B hereto, including the certifications in item (3)(b) thereof; or

(G) if such Restricted Definitive Note is being transferred pursuant to an effective registration statement under the Securities Act, a certificate to the effect set forth in Exhibit B hereto, including the certifications in item (3)(c) thereof,

the Trustee will cancel the Restricted Definitive Note and increase or cause to be increased the aggregate principal amount of the Restricted Global Note.

(2) Restricted Definitive Notes to Beneficial Interests in Unrestricted Global Notes. A Holder of a Restricted Definitive Note may exchange

such Note for a beneficial interest in an Unrestricted Global Note or transfer such Restricted Definitive Note to a Person who takes delivery thereof in the form of a beneficial interest in an Unrestricted Global Note only if:

(A) such exchange or transfer is effected pursuant to the Exchange Offer in accordance with the Registration Rights Agreement and the Holder, in the case of an exchange, or the transferee, in the case of a transfer, certifies in the applicable Letter of Transmittal that it is not (i) a Broker-Dealer, (ii) a Person participating in the distribution of the Exchange Notes or (iii) a Person who is an affiliate (as defined in Rule 144) of the Company;

28

(B) such transfer is effected pursuant to the Shelf Registration Statement in accordance with the Registration Rights Agreement;

(C) such transfer is effected by a Broker-Dealer pursuant to the Exchange Offer Registration Statement in accordance with the Registration Rights Agreement; or

(D) the Registrar receives the following:

(i) if the Holder of such Definitive Notes proposes to exchange such Notes for a beneficial interest in the Unrestricted Global Note, a certificate from such Holder in the form of Exhibit C hereto, including the certifications in item (1)(c) thereof; or

(ii) if the Holder of such Definitive Notes proposes to transfer such Notes to a Person who will take delivery thereof in the form of a beneficial interest in the Unrestricted Global Note, a certificate from such Holder in the form of Exhibit B hereto, including the certifications in item (4) thereof;

and, in each such case set forth in this subparagraph (D), if the Registrar so requests or if the Applicable Procedures so require, an Opinion of Counsel in form reasonably acceptable to the Registrar to the effect that such exchange or transfer is in compliance with the Securities Act and that the restrictions on transfer contained herein and in the Private Placement Legend are no longer required in order to maintain compliance with the Securities Act.

Upon satisfaction of the conditions of any of the subparagraphs in this Section 2.06(d)(2), the Trustee will cancel the Definitive Notes and increase or cause to be increased the aggregate principal amount of the Unrestricted Global Note.

(3) Unrestricted Definitive Notes to Beneficial Interests in Unrestricted Global Notes. A Holder of an Unrestricted Definitive Note may exchange such Note for a beneficial interest in an Unrestricted Global Note or transfer such Definitive Notes to a Person who takes delivery thereof in the form of a beneficial interest in an Unrestricted Global Note at any time. Upon receipt of a request for such an exchange or transfer, the Trustee will cancel the applicable Unrestricted Definitive Note and increase or cause to be increased the aggregate principal amount of one of the Unrestricted Global Notes.

If any such exchange or transfer from a Definitive Note to a beneficial interest is effected pursuant to subparagraphs (2)(B), (2)(D) or (3) above at a time when an Unrestricted Global Note has not yet been issued, the Company will issue and, upon receipt of an Authentication Order in accordance with Section 2.02 hereof, the Trustee will authenticate one or more Unrestricted Global Notes in an aggregate principal amount equal to the principal amount of Definitive Notes so transferred.

(e) Transfer and Exchange of Definitive Notes for Definitive Notes. Upon request by a Holder of Definitive Notes and such Holder's compliance with the provisions of this Section 2.06(e), the Registrar will register the transfer or exchange of Definitive Notes. Prior to such registration of transfer or exchange, the requesting Holder must present or surrender to the Registrar the Definitive Notes duly endorsed or accompanied by a written instruction of transfer in form satisfactory to the Registrar duly executed by such Holder or by its attorney, duly authorized in writing. In addition, the requesting Holder

29

must provide any additional certifications, documents and information, as applicable, required pursuant to the following provisions of this Section 2.06(e).

(1) Restricted Definitive Notes to Restricted Definitive Notes. Any Restricted Definitive Note may be transferred to and registered in the name

of Persons who take delivery thereof in the form of a Restricted Definitive Note if the Registrar receives the following:

(A) if the transfer is made pursuant to Rule 144A under the Securities Act, then the transferor will be required to deliver a certificate in the form of Exhibit B hereto, including the certifications in item (1) thereof;

(B) if the transfer is made pursuant to Rule 903 or Rule 904, then the transferor will be required to deliver a certificate in the form of Exhibit B hereto, including the certifications in item (2) thereof; and

(C) if the transfer is made pursuant to any other exemption from the registration requirements of the Securities Act, then the transferor will be required to deliver a certificate in the form of Exhibit B hereto, including the certifications, certificates and Opinion of Counsel required by item (3) thereof, if applicable.

(2) Restricted Definitive Notes to Unrestricted Definitive Notes. Any Restricted Definitive Note may be exchanged by the Holder thereof for an Unrestricted Definitive Note or transferred to a Person or Persons who take delivery thereof in the form of an Unrestricted Definitive Note if:

(A) such exchange or transfer is effected pursuant to the Exchange Offer in accordance with the Registration Rights Agreement and the Holder, in the case of an exchange, or the transferee, in the case of a transfer, certifies in the applicable Letter of Transmittal that it is not (i) a Broker-Dealer, (ii) a Person participating in the distribution of the Exchange Notes or (iii) a Person who is an affiliate (as defined in Rule 144) of the Company;

(B) any such transfer is effected pursuant to the Shelf Registration Statement in accordance with the Registration Rights Agreement;

(C) any such transfer is effected by a Broker-Dealer pursuant to the Exchange Offer Registration Statement in accordance with the Registration Rights Agreement; or

(D) the Registrar receives the following:

(i) if the Holder of such Restricted Definitive Notes proposes to exchange such Notes for an Unrestricted Definitive Note, a certificate from such Holder in the form of Exhibit C hereto, including the certifications in item (1)(d) thereof; or

(ii) if the Holder of such Restricted Definitive Notes proposes to transfer such Notes to a Person who will take delivery thereof in the form of an Unrestricted Definitive Note, a certificate from such Holder in the form of Exhibit B hereto, including the certifications in item (4) thereof;

30

and, in each such case set forth in this subparagraph (D), if the Registrar so requests, an Opinion of Counsel in form reasonably acceptable to the Company to the effect that such exchange or transfer is in compliance with the Securities Act and that the restrictions on transfer contained herein and in the Private Placement Legend are no longer required in order to maintain compliance with the Securities Act.

(3) Unrestricted Definitive Notes to Unrestricted Definitive Notes. A Holder of Unrestricted Definitive Notes may transfer such Notes to a Person who takes delivery thereof in the form of an Unrestricted Definitive Note. Upon receipt of a request to register such a transfer, the Registrar will register the Unrestricted Definitive Notes pursuant to the instructions from the Holder thereof.

(f) Exchange Offer. Upon the occurrence of the Exchange Offer in accordance with the Registration Rights Agreement, the Company will issue and, upon receipt of an Authentication Order in accordance with Section 2.02 hereof, the Trustee will authenticate:

(1) one or more Unrestricted Global Notes in an aggregate principal amount equal to the principal amount of the beneficial interests in the Restricted Global Notes tendered into the Exchange Offer by Persons that certify in the applicable Letters of Transmittal that they are not (A) Broker-Dealers, (B) participating in a distribution of the Exchange Notes or (C) affiliates (as defined in Rule 144) of the Company; and

(2) Unrestricted Definitive Notes in an aggregate principal amount equal to the principal amount of the Restricted Definitive Notes accepted

for exchange in the Exchange Offer.

Concurrently with the issuance of such Notes, the Trustee will cause the aggregate principal amount of the applicable Restricted Global Notes to be reduced accordingly, and the Company will execute and the Trustee will authenticate and deliver to the Persons designated by the Holders of Definitive Notes so accepted Unrestricted Definitive Notes in the appropriate principal amount.

(g) Legends. The following legends will appear on the face of all Global Notes and Definitive Notes issued under this Indenture unless specifically stated otherwise in the applicable provisions of this Indenture.

(1) Private Placement Legend.

(A) Except as permitted by subparagraph (B) below, each Global Note and each Definitive Note (and all Notes issued in exchange therefor or substitution thereof) will bear the legend in substantially the following form:

"THE SECURITY (OR ITS PREDECESSOR) EVIDENCED HEREBY WAS ORIGINALLY ISSUED IN A TRANSACTION EXEMPT FROM REGISTRATION UNDER SECTION 5 OF THE UNITED STATES SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), AND THE SECURITY EVIDENCED HEREBY MAY NOT BE OFFERED, SOLD OR OTHERWISE TRANSFERRED IN THE ABSENCE OF SUCH REGISTRATION OR AN APPLICABLE EXEMPTION THEREFROM. EACH PURCHASER OF THE SECURITY EVIDENCED HEREBY IS HEREBY NOTIFIED THAT THE SELLER MAY BE RELYING ON THE EXEMPTION FROM THE PROVISIONS OF SECTION 5 OF THE SECURITIES ACT PROVIDED BY RULE 144A THEREUNDER. THE HOLDER OF THE SECURITY EVIDENCED HEREBY AGREES FOR THE BENEFIT OF THE COMPANY THAT

31

(A) SUCH SECURITY MAY BE RESOLD, PLEDGED OR OTHERWISE TRANSFERRED, ONLY:

(i) (a) TO A PERSON WHO IS A QUALIFIED INSTITUTIONAL BUYER (AS DEFINED IN RULE 144A UNDER THE SECURITIES ACT) IN A TRANSACTION MEETING THE REQUIREMENTS OF RULE 144A, (b) IN A TRANSACTION MEETING THE REQUIREMENTS OF RULE 144 UNDER THE SECURITIES ACT, (c) OUTSIDE THE UNITED STATES TO A FOREIGN PERSON IN A TRANSACTION MEETING THE REQUIREMENTS OF RULE 903 OR RULE 904 OF REGULATION S UNDER THE SECURITIES ACT, (d) TO AN INSTITUTIONAL "ACCREDITED INVESTOR" (AS DEFINED IN RULE 501(a)(1), (2), (3) or (7) OF THE SECURITIES ACT (AN INSTITUTIONAL "ACCREDITED INVESTOR")) THAT, PRIOR TO SUCH TRANSFER, FURNISHES THE TRUSTEE A SIGNED LETTER CONTAINING CERTAIN REPRESENTATIONS AND AGREEMENTS (THE FORM OF WHICH CAN BE OBTAINED FROM THE TRUSTEE) AND, IF SUCH TRANSFER IS IN RESPECT OF AN AGGREGATE PRINCIPAL AMOUNT OF NOTES LESS THAN \$250,000, AN OPINION OF COUNSEL ACCEPTABLE TO THE COMPANY THAT SUCH TRANSFER IS IN COMPLIANCE WITH THE SECURITIES ACT, OR (e) IN ACCORDANCE WITH ANOTHER EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT (AND BASED UPON AN OPINION OF COUNSEL IF THE COMPANY SO REQUESTS),

(ii) TO THE COMPANY OR

(iii) PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT AND, IN EACH CASE, IN ACCORDANCE WITH ANY APPLICABLE SECURITIES LAWS OF ANY STATE OF THE UNITED STATES OR ANY OTHER APPLICABLE JURISDICTION AND

(B) THE HOLDER WILL, AND EACH SUBSEQUENT HOLDER IS REQUIRED TO, NOTIFY ANY PURCHASER FROM IT OF THE SECURITY EVIDENCED HEREBY OF THE RESALE RESTRICTIONS SET FORTH IN (A) ABOVE. NO REPRESENTATION CAN BE MADE AS TO THE AVAILABILITY OF THE EXEMPTION PROVIDED BY RULE 144 FOR RESALE OF THE SECURITY EVIDENCED HEREBY."

(B) Notwithstanding the foregoing, any Global Note or Definitive Note issued pursuant to subparagraphs (b)(4), (c)(2), (c)(3), (d)(2), (d)(3), (e)(2), (e)(3) or (f) of this Section 2.06 (and all Notes issued in exchange therefor or substitution thereof) will not bear the Private Placement Legend.

(2) Global Note Legend. Each Global Note will bear a legend in substantially the following form:

"THIS GLOBAL NOTE IS HELD BY THE DEPOSITARY (AS DEFINED IN THE INDENTURE GOVERNING THIS NOTE) OR ITS NOMINEE IN CUSTODY FOR THE BENEFIT OF THE BENEFICIAL OWNERS HEREOF, AND IS NOT TRANSFERABLE TO ANY PERSON UNDER ANY CIRCUMSTANCES EXCEPT THAT (1) THE TRUSTEE MAY MAKE SUCH NOTATIONS HEREON AS MAY BE REQUIRED PURSUANT TO SECTION 2.06 OF THE INDENTURE, (2) THIS GLOBAL NOTE MAY BE EXCHANGED IN WHOLE BUT NOT IN PART PURSUANT TO SECTION 2.06(a) OF THE INDENTURE, (3) THIS GLOBAL NOTE MAY BE DELIVERED TO THE TRUSTEE FOR CANCELLATION PURSUANT TO SECTION 2.11 OF THE INDENTURE AND (IV) THIS GLOBAL NOTE MAY BE TRANSFERRED TO A SUCCESSOR DEPOSITARY WITH THE PRIOR WRITTEN CONSENT OF THE COMPANY.

32



UNLESS AND UNTIL IT IS EXCHANGED IN WHOLE OR IN PART FOR NOTES IN DEFINITIVE FORM, THIS NOTE MAY NOT BE TRANSFERRED EXCEPT AS A WHOLE BY THE DEPOSITARY TO A NOMINEE OF THE DEPOSITARY OR BY A NOMINEE OF THE DEPOSITARY TO THE DEPOSITARY OR ANOTHER NOMINEE OF THE DEPOSITARY OR BY THE DEPOSITARY OR ANY SUCH NOMINEE TO A SUCCESSOR DEPOSITARY OR A NOMINEE OF SUCH SUCCESSOR DEPOSITARY. UNLESS THIS CERTIFICATE IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITARY TRUST COMPANY (55 WATER STREET, NEW YORK, NEW YORK) ("DTC"), TO THE COMPANY OR ITS AGENT FOR REGISTRATION OF TRANSFER, EXCHANGE OR PAYMENT, AND ANY CERTIFICATE ISSUED IS REGISTERED IN THE NAME OF CEDE & CO. OR SUCH OTHER NAME AS MAY BE REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC (AND ANY PAYMENT IS MADE TO CEDE & CO. OR SUCH OTHER ENTITY AS MAY BE REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC), ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL INASMUCH AS THE REGISTERED OWNER HEREOF, CEDE & CO., HAS AN INTEREST HEREIN."

(h) Cancellation and/or Adjustment of Global Notes. At such time as all beneficial interests in a particular Global Note have been exchanged for Definitive Notes or a particular Global Note has been redeemed, repurchased or canceled in whole and not in part, each such Global Note will be returned to or retained and canceled by the Trustee in accordance with Section 2.11 hereof. At any time prior to such cancellation, if any beneficial interest in a Global Note is exchanged for or transferred to a Person who will take delivery thereof in the form of a beneficial interest in another Global Note or for Definitive Notes, the principal amount of Notes represented by such Global Note will be reduced accordingly and an endorsement will be made on such Global Note by the Trustee or by the Depositary at the direction of the Trustee to reflect such reduction; and if the beneficial interest is being exchanged for or transferred to a Person who will take delivery thereof in the form of a beneficial interest in another Global Note, such other Global Note will be increased accordingly and an endorsement will be made on such Global Note by the Trustee or by the Depositary at the direction of the Trustee to reflect such increase.

(i) General Provisions Relating to Transfers and Exchanges.

(1) To permit registrations of transfers and exchanges, the Company will execute and the Trustee will authenticate Global Notes and Definitive Notes upon receipt of an Authentication Order in accordance with Section 2.02 or at the Registrar's request.

(2) No service charge may be made to a Holder of a Global Note or to a Holder of a Definitive Note for any registration of transfer or exchange, but the Company may require payment of a sum sufficient to cover any transfer tax or similar governmental charge payable in connection therewith (other than any such transfer taxes or similar governmental charge payable upon exchange or transfer pursuant to Sections 2.10, 3.06, 3.09, 4.10, 4.15 and 9.05 hereof).

(3) The Registrar will not be required to register the transfer of or exchange any Note selected for redemption in whole or in part, except the unredeemed portion of any Note being redeemed in part.

(4) All Global Notes and Definitive Notes issued upon any registration of transfer or exchange of Global Notes or Definitive Notes will be the valid obligations of the Company, evidencing the same debt, and entitled to the same benefits under this Indenture, as the Global Notes or Definitive Notes surrendered upon such registration of transfer or exchange.

(5) The Company will not be required:

33

(A) to issue, to register the transfer of or to exchange any Notes during a period beginning at the opening of business 15 days before the day of any selection of Notes for redemption under Section 3.02 hereof and ending at the close of business on the day of selection;

(B) to register the transfer of or to exchange any Note selected for redemption in whole or in part, except the unredeemed portion of any Note being redeemed in part; or

(C) to register the transfer of or to exchange a Note between a record date and the next succeeding interest payment date.

(6) Prior to due presentment for the registration of a transfer of any Note, the Trustee, any Agent and the Company may deem and treat the Person in whose name any Note is registered as the absolute owner of such Note for the purpose of receiving payment of principal of and interest on such Notes and for all other purposes, and none of the Trustee, any Agent or the Company will be affected by notice to the contrary.

(7) The Trustee will authenticate Global Notes and Definitive Notes

in accordance with the provisions of Section 2.02 hereof.

(8) All certifications, certificates and Opinions of Counsel required to be submitted to the Registrar pursuant to this Section 2.06 to effect a registration of transfer or exchange may be submitted by facsimile.

#### Section 2.07 Replacement Notes.

If any mutilated Note is surrendered to the Trustee or the Company and the Trustee receives evidence to its satisfaction of the destruction, loss or theft of any Note, the Company will issue and the Trustee, upon receipt of an Authentication Order, will authenticate a replacement Note if the Trustee's requirements are met. If required by the Trustee or the Company, an indemnity bond must be supplied by the Holder that is sufficient in the judgment of the Trustee and the Company to protect the Company, the Trustee, any Agent and any authenticating agent from any loss that any of them may suffer if a Note is replaced. The Company may charge for its expenses in replacing a Note.

Every replacement Note is an additional obligation of the Company and will be entitled to all of the benefits of this Indenture equally and proportionately with all other Notes duly issued hereunder.

#### Section 2.08 Outstanding Notes.

The Notes outstanding at any time are all the Notes authenticated by the Trustee except for those canceled by it, those delivered to it for cancellation, those reductions in the interest in a Global Note effected by the Trustee in accordance with the provisions hereof, and those described in this Section 2.08 as not outstanding. Except as set forth in Section 2.09 hereof, a Note does not cease to be outstanding because the Company or an Affiliate of the Company holds the Note; however, Notes held by the Company or a Subsidiary of the Company will not be deemed to be outstanding for purposes of Section 3.07(b) hereof.

If a Note is replaced pursuant to Section 2.07 hereof, it ceases to be outstanding unless the Trustee receives proof satisfactory to it that the replaced Note is held by a protected purchaser.

34

If the principal amount of any Note is considered paid under Section 4.01 hereof, it ceases to be outstanding and interest on it ceases to accrue.

If the Paying Agent (other than the Company, a Subsidiary or an Affiliate of any thereof) holds, on a redemption date or maturity date, money sufficient to pay Notes payable on that date, then on and after that date such Notes will be deemed to be no longer outstanding and will cease to accrue interest.

#### Section 2.09 Treasury Notes.

In determining whether the Holders of the required principal amount of Notes have concurred in any direction, waiver or consent, Notes owned by the Company, or by any Person directly or indirectly controlling or controlled by or under direct or indirect common control with the Company, will be considered as though not outstanding, except that for the purposes of determining whether the Trustee will be protected in relying on any such direction, waiver or consent, only Notes that a Responsible Officer of the Trustee knows are so owned will be so disregarded.

#### Section 2.10 Temporary Notes.

Until certificates representing Notes are ready for delivery, the Company may prepare and the Trustee, upon receipt of an Authentication Order, will authenticate temporary Notes. Temporary Notes will be substantially in the form of certificated Notes but may have variations that the Company considers appropriate for temporary Notes and as may be reasonably acceptable to the Trustee. Without unreasonable delay, the Company will prepare and the Trustee will authenticate definitive Notes in exchange for temporary Notes.

Holders of temporary Notes will be entitled to all of the benefits of this Indenture.

#### Section 2.11 Cancellation.

The Company at any time may deliver Notes to the Trustee for cancellation. The Company will require that the Registrar and Paying Agent forward to the Trustee any Notes surrendered to them for registration of transfer, exchange or payment. The Trustee and no one else will cancel all Notes surrendered for registration of transfer, exchange, payment, replacement or cancellation and will dispose of canceled Notes in its customary manner. Certification of the destruction of all canceled Notes will be delivered to the Company. The Company may not issue new Notes to replace Notes that it has paid or that have been delivered to the Trustee for cancellation.

#### Section 2.12 Defaulted Interest.

If the Company defaults in a payment of interest on the Notes, it will pay the defaulted interest in any lawful manner plus, to the extent lawful, interest payable on the defaulted interest, to the Persons who are Holders on a subsequent special record date, in each case at the rate provided in the Notes and in Section 4.01 hereof. The Company will notify the Trustee in writing of the amount of defaulted interest proposed to be paid on each Note and the date of the proposed payment. The Company will fix or cause to be fixed each such special record date and payment date; provided that no such special record date may be less than 10 days prior to the related payment date for such defaulted interest. At least 15 days before the special record date, the Company (or, upon the written request of the Company, the Trustee in the name and at the expense of the Company) will mail or cause to be mailed to Holders a notice that states the special record date, the related payment date and the amount of such interest to be paid.

35

ARTICLE 3.  
REDEMPTION AND PREPAYMENT

Section 3.01 Notices to Trustee.

If the Company elects to redeem Notes pursuant to the optional redemption provisions of Section 3.07 hereof, it must furnish to the Trustee, at least 30 days but not more than 60 days before a redemption date, an Officers' Certificate setting forth:

- (1) the clause of this Indenture pursuant to which the redemption will occur;
- (2) the redemption date;
- (3) the principal amount of Notes to be redeemed; and
- (4) the redemption price.

Section 3.02 Selection of Notes to Be Redeemed or Purchased.

If less than all of the Notes are to be redeemed or purchased in an offer to purchase at any time, the Trustee will select Notes for redemption or purchase as follows:

- (1) if the Notes are listed on any national securities exchange, in compliance with the requirements of the principal national securities exchange on which the Notes are listed; or
- (2) if the Notes are not listed on any national securities exchange, on a pro rata basis, by lot or by such method as the Trustee will deem fair and appropriate.

In the event of partial redemption or purchase by lot, the particular Notes to be redeemed or purchased will be selected, unless otherwise provided herein, not less than 30 nor more than 60 days prior to the redemption or purchase date by the Trustee from the outstanding Notes not previously called for redemption or purchase.

The Trustee will promptly notify the Company in writing of the Notes selected for redemption or purchase and, in the case of any Note selected for partial redemption or purchase, the principal amount thereof to be redeemed or purchased. Notes and portions of Notes selected will be in amounts of \$1,000 or whole multiples of \$1,000; except that if all of the Notes of a Holder are to be redeemed or purchased, the entire outstanding amount of Notes held by such Holder, even if not a multiple of \$1,000, will be redeemed or purchased. Except as provided in the preceding sentence, provisions of this Indenture that apply to Notes called for redemption or purchase also apply to portions of Notes called for redemption or purchase.

Section 3.03 Notice of Redemption.

Subject to the provisions of Section 3.09 hereof, at least 30 days but not more than 60 days before a redemption date, the Company will mail or cause to be mailed, by first class mail, a notice of redemption to each Holder whose Notes are to be redeemed at its registered address, except that redemption notices may be mailed more than 60 days prior to a redemption date if the notice is issued in connection with a defeasance of the Notes or a satisfaction and discharge of this Indenture pursuant to Articles 8 or 12 of this Indenture.

36

The notice will identify the Notes (including applicable CUSIP numbers) to be redeemed and will state:

(1) the redemption date;

(2) the redemption price;

(3) if any Note is being redeemed in part, the portion of the principal amount of such Note to be redeemed and that, after the redemption date upon surrender of such Note, a new Note or Notes in principal amount equal to the unredeemed portion will be issued upon cancellation of the original Note;

(4) the name and address of the Paying Agent;

(5) that Notes called for redemption must be surrendered to the Paying Agent to collect the redemption price;

(6) that, unless the Company defaults in making such redemption payment, interest on Notes called for redemption ceases to accrue on and after the redemption date;

(7) the paragraph of the Notes and/or Section of this Indenture pursuant to which the Notes called for redemption are being redeemed; and

(8) that no representation is made as to the correctness or accuracy of the CUSIP number, if any, listed in such notice or printed on the Notes.

At the Company's request, the Trustee will give the notice of redemption in the Company's name and at its expense; provided, however, that the Company has delivered to the Trustee, at least 45 days prior to the redemption date, an Officers' Certificate requesting that the Trustee give such notice and setting forth the information to be stated in such notice as provided in the preceding paragraph.

#### Section 3.04 Effect of Notice of Redemption.

Once notice of redemption is mailed in accordance with Section 3.03 hereof, Notes called for redemption become irrevocably due and payable on the redemption date at the redemption price. A notice of redemption may not be conditional.

#### Section 3.05 Deposit of Redemption or Purchase Price.

One Business Day prior to the redemption or purchase price date, the Company will deposit with the Trustee or with the Paying Agent money sufficient to pay the redemption or purchase price of and accrued interest and Liquidated Damages, if any, on all Notes to be redeemed or purchased on that date. The Trustee or the Paying Agent will promptly return to the Company any money deposited with the Trustee or the Paying Agent by the Company in excess of the amounts necessary to pay the redemption or purchase price of, and accrued interest and Liquidated Damages, if any, on, all Notes to be redeemed or purchased.

If the Company complies with the provisions of the preceding paragraph, on and after the redemption or purchase date, interest will cease to accrue on the Notes or the portions of Notes called for redemption or purchase. If a Note is redeemed or purchased on or after an interest record date but on or prior to the related interest payment date, then any accrued and unpaid interest will be paid to the Person

37

in whose name such Note was registered at the close of business on such record date. If any Note called for redemption or purchase is not so paid upon surrender for redemption or purchase because of the failure of the Company to comply with the preceding paragraph, interest will be paid on the unpaid principal, from the redemption or purchase date until such principal is paid, and to the extent lawful on any interest not paid on such unpaid principal, in each case at the rate provided in the Notes and in Section 4.01 hereof.

#### Section 3.06 Notes Redeemed or Purchased in Part.

Upon surrender of a Note that is redeemed or purchased in part, the Company will issue and, upon receipt of an Authentication Order, the Trustee will authenticate for the Holder at the expense of the Company a new Note equal in principal amount to the unredeemed or unpurchased portion of the Note surrendered.

#### Section 3.07 Optional Redemption.

(a) At any time prior to February 1, 2006, the Company may on any one or more occasions redeem up to 33% of the aggregate principal amount of Notes issued under this Indenture at a redemption price of 109.125% of the principal amount thereof, plus accrued and unpaid interest and Liquidated Damages, if any, to the redemption date, with the net cash proceeds of one or more Public Equity Offerings; provided that:

(1) at least 67% of the aggregate principal amount of Notes issued under this Indenture remains outstanding immediately after the occurrence of such redemption (excluding Notes held by the Company and its Subsidiaries); and

(2) the redemption must occur within 60 days of the date of the closing of such Public Equity Offering.

(b) Except pursuant to the preceding paragraph, the Notes are not redeemable at the Company's option prior to February 1, 2008.

(c) After February 1, 2008 the Company may redeem all or a part of the Notes upon not less than 30 nor more than 60 days' notice, at the redemption prices (expressed as percentages of principal amount) set forth below plus accrued and unpaid interest and Liquidated Damages, if any, thereon, to the applicable redemption date, if redeemed during the twelve-month period beginning on February 1 of the years indicated below:

Year	Percentage
----	-----
2008.....	104.563%
2009.....	103.042%
2010.....	101.521%
2011 and thereafter.....	100.000%

(d) Any redemption pursuant to this Section 3.07 will be made pursuant to the provisions of Section 3.01 through 3.06 hereof.

#### Section 3.08 Mandatory Redemption.

The Company is not required to make mandatory redemption or sinking fund payments with respect to the Notes.

38

#### Section 3.09 Offer to Purchase by Application of Excess Proceeds.

In the event that, pursuant to Section 4.10 hereof, the Company is required to commence an offer to all Holders to purchase Notes (an "Asset Sale Offer"), it will follow the procedures specified below.

The Asset Sale Offer will be made to all Holders and all holders of other Indebtedness that is pari passu with the Notes containing provisions similar to those set forth in this Indenture with respect to offers to purchase or redeem with the proceeds of sales of assets. The Asset Sale Offer will remain open for a period of at least 20 Business Days following its commencement and not more than 30 Business Days, except to the extent that a longer period is required by applicable law (the "Offer Period"). No later than three Business Days after the termination of the Offer Period (the "Purchase Date"), the Company will apply all Excess Proceeds (the "Offer Amount") to the purchase of Notes and such other pari passu Indebtedness (on a pro rata basis, if applicable) or, if less than the Offer Amount has been tendered, all Notes and other Indebtedness tendered in response to the Asset Sale Offer. Payment for any Notes so purchased will be made in the same manner as interest payments are made.

If the Purchase Date is on or after an interest record date and on or before the related interest payment date, any accrued and unpaid interest, and Liquidated Damages, if any, will be paid to the Person in whose name a Note is registered at the close of business on such record date, and no additional interest will be payable to Holders who tender Notes pursuant to the Asset Sale Offer.

Upon the commencement of an Asset Sale Offer, the Company will send, by first class mail, a notice to the Trustee and each of the Holders, with a copy to the Trustee. The notice will contain all instructions and materials necessary to enable such Holders to tender Notes pursuant to the Asset Sale Offer. The notice, which will govern the terms of the Asset Sale Offer, will state:

(1) that the Asset Sale Offer is being made pursuant to this Section 3.09 and Section 4.10 hereof and the length of time the Asset Sale Offer will remain open;

(2) the Offer Amount, the purchase price and the Purchase Date;

(3) that any Note not tendered or accepted for payment will continue to accrue interest;

(4) that, unless the Company defaults in making such payment, any Note accepted for payment pursuant to the Asset Sale Offer will cease to accrue interest after the Purchase Date;

(5) that Holders electing to have a Note purchased pursuant to an Asset Sale Offer may elect to have Notes purchased in integral multiples of \$1,000 only;

(6) that Holders electing to have a Note purchased pursuant to any Asset Sale Offer will be required to surrender the Note, with the form entitled "Option of Holder to Elect Purchase" on the reverse of the Note completed, or transfer by book-entry transfer, to the Company, a Depositary, if appointed by the Company, or a Paying Agent at the address specified in the notice at least three days before the Purchase Date;

(7) that Holders will be entitled to withdraw their election if the Company, the Depositary or the Paying Agent, as the case may be, receives, not later than the expiration of the Offer Period, a telegram, telex, facsimile transmission or letter setting forth the name of the Holder, the principal amount of the Note the Holder delivered for purchase and a statement that such Holder is withdrawing his election to have such Note purchased;

39

(8) that, if the aggregate principal amount of Notes and other pari passu Indebtedness surrendered by Holders exceeds the Offer Amount, the Company will select the Notes and other pari passu Indebtedness to be purchased on a pro rata basis based on the principal amount of Notes and such other pari passu Indebtedness surrendered (with such adjustments as may be deemed appropriate by the Company so that only Notes in denominations of \$1,000, or integral multiples thereof, will be purchased); and

(9) that Holders whose Notes were purchased only in part will be issued new Notes equal in principal amount to the unpurchased portion of the Notes surrendered (or transferred by book-entry transfer).

On or before the Purchase Date, the Company will, to the extent lawful, accept for payment, on a pro rata basis to the extent necessary, the Offer Amount of Notes or portions thereof tendered pursuant to the Asset Sale Offer, or if less than the Offer Amount has been tendered, all Notes tendered, and will deliver to the Trustee an Officers' Certificate stating that such Notes or portions thereof were accepted for payment by the Company in accordance with the terms of this Section 3.09. The Company, the Depositary or the Paying Agent, as the case may be, will promptly (but in any case not later than five days after the Purchase Date) mail or deliver to each tendering Holder an amount equal to the purchase price of the Notes tendered by such Holder and accepted by the Company for purchase, and the Company will promptly issue a new Note, and the Trustee, upon written request from the Company will authenticate and mail or deliver such new Note to such Holder, in a principal amount equal to any unpurchased portion of the Note surrendered. Any Note not so accepted will be promptly mailed or delivered by the Company to the Holder thereof. The Company will publicly announce the results of the Asset Sale Offer on the Purchase Date.

Other than as specifically provided in this Section 3.09, any purchase pursuant to this Section 3.09 will be made pursuant to the provisions of Sections 3.01 through 3.06 hereof.

#### ARTICLE 4. COVENANTS

##### Section 4.01 Payment of Notes.

The Company will pay or cause to be paid the principal of, premium, if any, and interest and Liquidated Damages, if any, on the Notes on the dates and in the manner provided in the Notes. Principal, premium, if any, and interest and Liquidated Damages, if any will be considered paid on the date due if the Paying Agent, if other than the Company or a Subsidiary thereof, holds as of 10:00 a.m. Eastern Time on the due date money deposited by the Company in immediately available funds and designated for and sufficient to pay all principal, premium, if any, and interest then due. The Company will pay all Liquidated Damages, if any, in the same manner on the dates and in the amounts set forth in the Registration Rights Agreement.

The Company will pay interest (including post-petition interest in any proceeding under any Bankruptcy Law) on overdue principal at the rate equal to 1% per annum in excess of the then applicable interest rate on the Notes to the extent lawful; it will pay interest (including post-petition interest in any proceeding under any Bankruptcy Law) on overdue installments of interest and Liquidated Damages (without regard to any applicable grace period) at the same rate to the extent lawful.

40

##### Section 4.02 Maintenance of Office or Agency.

The Company will maintain in the Borough of Manhattan, the City of New York, an office or agency (which may be an office of the Trustee or an affiliate of the Trustee, Registrar or co-registrar) where Notes may be surrendered for

registration of transfer or for exchange and where notices and demands to or upon the Company in respect of the Notes and this Indenture may be served. The Company will give prompt written notice to the Trustee of the location, and any change in the location, of such office or agency. If at any time the Company fails to maintain any such required office or agency or fails to furnish the Trustee with the address thereof, such presentations, surrenders, notices and demands may be made or served at the Corporate Trust Office of the Trustee.

The Company may also from time to time designate one or more other offices or agencies where the Notes may be presented or surrendered for any or all such purposes and may from time to time rescind such designations; provided, however, that no such designation or rescission will in any manner relieve the Company of its obligation to maintain an office or agency in the Borough of Manhattan, the City of New York for such purposes. The Company will give prompt written notice to the Trustee of any such designation or rescission and of any change in the location of any such other office or agency.

The Company hereby designates the Corporate Trust Office of the Trustee as one such office or agency of the Company in accordance with Section 2.03 hereof.

#### Section 4.03 Reports.

(a) Whether or not required by the rules and regulations of the SEC, so long as any Notes are outstanding, the Company will furnish to the Holders of Notes, within the time periods specified in the SEC's rules and regulations (together with any extensions granted by the SEC):

(1) all quarterly and annual financial information that would be required to be contained in a filing with the SEC on Forms 10-Q and 10-K if the Company were required to file such forms, including a "Management's Discussion and Analysis of Financial Condition and Results of Operations" and, with respect to the annual information only, a report on the annual financial statements by the Company's certified independent accountants; and

(2) all current reports that would be required to be filed with the SEC on Form 8-K if the Company were required to file such reports.

If the Company has designated any of its Subsidiaries as Unrestricted Subsidiaries, then the quarterly and annual financial information required by the preceding paragraph will include a reasonably detailed presentation, either on the face of the financial statements or in the footnotes thereto, and in "Management's Discussion and Analysis of Financial Condition and Results of Operations," of the financial condition and results of operations of the Company and its Restricted Subsidiaries separate from the financial condition and results of operations of the Unrestricted Subsidiaries of the Company.

In addition, following the consummation of the Exchange Offer, whether or not required by the SEC, the Company will file a copy of all of the information and reports referred to in clauses (1) and (2) above with the SEC for public availability (unless the SEC will not accept such a filing) within the time periods specified in the SEC's rules and regulations (together with any extensions granted by the SEC) and make such information available to securities analysts and prospective investors upon request. The Company will at all times comply with TIA Section 314(a).

41

(b) For so long as any Notes (other than Exchange Notes) remain outstanding, the Company and the Guarantors will furnish to the Holders and to securities analysts and prospective investors, upon their request, the information required to be delivered pursuant to Rule 144A(d)(4) under the Securities Act.

#### Section 4.04 Compliance Certificate.

(a) The Company and each Guarantor (to the extent that such Guarantor is so required under the TIA) will deliver to the Trustee, within 90 days after the end of each fiscal year, an Officers' Certificate stating that a review of the activities of the Company and its Subsidiaries during the preceding fiscal year has been made under the supervision of the signing Officers with a view to determining whether the Company has kept, observed, performed and fulfilled its obligations under this Indenture, and further stating, as to each such Officer signing such certificate, that to the best of his or her knowledge the Company has kept, observed, performed and fulfilled each and every covenant contained in this Indenture and is not in default in the performance or observance of any of the terms, provisions and conditions of this Indenture (or, if a Default or Event of Default has occurred, describing all such Defaults or Events of Default of which he or she may have knowledge and what action the Company is taking or proposes to take with respect thereto) and that to the best of his or her knowledge no event has occurred and remains in existence by reason of which payments on account of the principal of or interest, if any, on the Notes is prohibited or if such event has occurred, a description of the event and what action the Company is taking or proposes to take with respect thereto.

(b) So long as not contrary to the then current recommendations of the American Institute of Certified Public Accountants, the year-end financial statements delivered pursuant to Section 4.03(a) above will be accompanied by a written statement of the Company's independent public accountants (who will be a firm of established national reputation) that in making the examination necessary for certification of such financial statements, nothing has come to their attention that would lead them to believe that the Company has violated any provisions of Article 4 or Article 5 hereof or, if any such violation has occurred, specifying the nature and period of existence thereof, it being understood that such accountants will not be liable directly or indirectly to any Person for any failure to obtain knowledge of any such violation.

(c) So long as any of the Notes are outstanding, the Company will deliver to the Trustee, forthwith upon any Officer of the Company becoming aware of any Default or Event of Default, an Officers' Certificate specifying such Default or Event of Default and what action the Company is taking or proposes to take with respect thereto.

#### Section 4.05 Taxes.

The Company will pay, and will cause each of its Subsidiaries to pay, prior to delinquency, all material taxes, assessments, and governmental levies except such as are contested in good faith and by appropriate proceedings or where the failure to effect such payment is not adverse in any material respect to the Holders of the Notes.

#### Section 4.06 Stay, Extension and Usury Laws.

The Company and each of the Guarantors covenants (to the extent that it may lawfully do so) that it will not at any time insist upon, plead, or in any manner whatsoever claim or take the benefit or advantage of, any stay, extension or usury law wherever enacted, now or at any time hereafter in force, that may affect the covenants or the performance of this Indenture; and the Company and each of the Guarantors (to the extent that it may lawfully do so) hereby expressly waives all benefit or advantage of

42

any such law, and covenants that it will not, by resort to any such law, hinder, delay or impede the execution of any power herein granted to the Trustee, but will suffer and permit the execution of every such power as though no such law has been enacted.

#### Section 4.07 Restricted Payments.

(a) The Company will not, and will not permit any of its Restricted Subsidiaries to, directly or indirectly:

(1) declare or pay any dividend or make any other payment or distribution on account of the Company's or any of its Restricted Subsidiaries' Equity Interests (including, without limitation, any payment in connection with any merger or consolidation involving the Company or any of its Restricted Subsidiaries) or to the direct or indirect holders of the Company or any of its Restricted Subsidiaries' Equity Interests in their capacity as such (other than dividends or distributions payable in Equity Interests (other than Disqualified Stock) of the Company or to the Company or a Restricted Subsidiary of the Company);

(2) purchase, redeem or otherwise acquire or retire for value (including, without limitation, in connection with any merger or consolidation involving the Company) any Equity Interests of the Company;

(3) make any payment on or with respect to, or purchase, redeem, defease or otherwise acquire or retire for value any Indebtedness that is subordinated to the Notes or the Subsidiary Guarantees (excluding intercompany Indebtedness between or among the Company and its Restricted Subsidiaries), except a payment of interest (including any amount comparable to Liquidated Damages) or principal at the Stated Maturity thereof; or

(4) make any Restricted Investment (all such payments and other actions set forth in these clauses (1) through (4) above being collectively referred to as "Restricted Payments"),

unless, at the time of and after giving effect to such Restricted Payment:

(1) no Default or Event of Default has occurred and is continuing or would occur as a consequence of such Restricted Payment; and

(2) the Company would, at the time of such Restricted Payment and after giving pro forma effect thereto as if such Restricted Payment had been made at the beginning of the applicable four-quarter period, have been



permitted to incur at least \$1.00 of additional Indebtedness pursuant to the Fixed Charge Coverage Ratio test set forth in the first paragraph of Section 4.09 hereof; and

(3) such Restricted Payment, together with the aggregate amount of all other Restricted Payments made by the Company and its Restricted Subsidiaries after the date of this Indenture (excluding Restricted Payments permitted by clauses (2), (3), (4), (6), (7) and (8) of paragraph (b) below), is less than the sum, without duplication, of:

(A) 50% of the Consolidated Net Income of the Company for the period (taken as one accounting period) from the first day of the Company's second fiscal quarter of fiscal year 2003 to the end of the Company's most recently ended fiscal quarter for which internal financial statements are available at the time of such Restricted

43

Payment (or, if such Consolidated Net Income for such period is a deficit, less 100% of such deficit), plus

(B) 100% of the aggregate net cash proceeds received by the Company since the date of this Indenture as a contribution to its common equity capital or from the issue or sale of Equity Interests of the Company (other than Disqualified Stock) or from the issue or sale of convertible or exchangeable Disqualified Stock or convertible or exchangeable debt securities of the Company that have been converted into or exchanged for such Equity Interests (other than Equity Interests (or Disqualified Stock or debt securities) sold to a Subsidiary of the Company), plus

(C) in the event the Company issues Equity Interests of the Company in consideration for an acquisition by the Company or any of its Restricted Subsidiaries of a Person that becomes a Wholly-Owned Restricted Subsidiary of the Company as a result of such acquisition or of assets that are acquired by the Company or a Wholly-Owned Restricted Subsidiary of the Company, an amount equal to 75% of the Equity Market Value of the Equity Interests of the Company so issued as of the closing of the acquisition; plus

(D) in the event any return of capital is realized in respect of any Restricted Investment that was made after the date of this Indenture, the lesser of (i) the cash return of capital with respect to such Restricted Investment (less any direct, out-of-pocket cost of disposition, if any) and (ii) the initial amount of such Restricted Investment less any amounts previously realized under clause (i) with respect to such Restricted Investment; plus

(E) to the extent that any Subsidiary that was designated as an Unrestricted Subsidiary after the date of this Indenture is redesignated as a Restricted Subsidiary, the lesser of (i) the amount of the Investment in the Subsidiary treated as a Restricted Payment at and since the time that the Subsidiary was designated as an Unrestricted Subsidiary, as determined by the last paragraph of this Section 4.07 and (ii) the fair market value of the Investment in the Subsidiary as of the date that it is redesignated as a Restricted Subsidiary; plus

(F) the increase in stockholders' equity resulting from any conversion of any of the Company's outstanding Convertible Subordinated Notes; plus

(G) \$10.0 million.

(b) So long as no Default has occurred and is continuing or would be caused thereby, the provisions of Section 4.07(a) will not prohibit:

(1) the payment of any dividend within 60 days after the date of declaration of the dividend, if at the date of declaration the dividend payment would have complied with the provisions of this Indenture;

(2) the redemption, repurchase, retirement, defeasance or other acquisition of any subordinated Indebtedness of the Company or any Guarantor or of any Equity Interests of the Company in exchange for, or out of the net cash proceeds of the substantially concurrent sale (other than to a Subsidiary of the Company) of, Equity Interests of the Company (other than Disqualified Stock); provided that the amount of any such net cash proceeds that are utilized for

44

any such redemption, repurchase, retirement, defeasance or other acquisition shall be excluded from clause (3)(B) of the preceding

paragraph;

(3) the defeasance, redemption, repurchase or other acquisition of subordinated Indebtedness of the Company or any Guarantor in exchange for, or out of the net cash proceeds received from, the substantially concurrent sale of Permitted Refinancing Indebtedness;

(4) the payment of any dividend by a Restricted Subsidiary of the Company to the holders of its Equity Interests on a pro rata basis and the redemption, purchase, cancellation or other retirement of Equity Interests in a Restricted Subsidiary;

(5) the repurchase, redemption or other acquisition or retirement for value of any Equity Interests of the Company or any Restricted Subsidiary of the Company held by any member of the Company's (or any of its Restricted Subsidiaries') management pursuant to any management equity subscription agreement, stock option agreement, stockholders agreement or similar agreement; provided that the aggregate price paid for all such repurchased, redeemed, acquired or retired Equity Interests will not exceed \$1.0 million in any twelve-month period and \$10.0 million in the aggregate;

(6) the repurchase of Equity Interests of the Company or any Restricted Subsidiary of the Company deemed to occur upon the exercise of stock options if such Equity Interests represent a portion of the purchase price thereof;

(7) the redemption of the Convertible Subordinated Notes in accordance with Section 4.20 hereof; and

(8) Restricted Payments in an aggregate amount not to exceed \$10.0 million.

The amount of all Restricted Payments (other than cash) will be the fair market value on the date of the Restricted Payment of the asset(s) or securities proposed to be transferred or issued by the Company or such Subsidiary, as the case may be, pursuant to the Restricted Payment. The fair market value of any assets or securities that are required to be valued by this Section 4.07 will be determined by the Company's Board of Directors whose resolution with respect thereto will be delivered to the Trustee. Such determination will be based upon an opinion or appraisal issued by an accounting, appraisal or investment banking firm of national standing if the fair market value exceeds \$5.0 million. Not later than three Business Days after the date of making any Restricted Payment, the Company will deliver to the Trustee an Officers' Certificate stating that such Restricted Payment is permitted and setting forth the basis upon which the calculations required by this Section 4.07 were computed, together with a copy of any fairness opinion or appraisal required by this Indenture.

#### Section 4.08 Dividend and Other Payment Restrictions Affecting Subsidiaries.

(a) The Company will not, and will not permit any of its Restricted Subsidiaries to, directly or indirectly, create or permit to exist or become effective any consensual encumbrance or restriction on the ability of any Restricted Subsidiary to:

(1) pay dividends or make any other distributions on its Capital Stock to the Company or any of its Restricted Subsidiaries, or with respect to any other interest or participation in, or measured by, its profits, or pay any indebtedness owed to the Company or any of its Restricted Subsidiaries;

45

(2) make loans or advances to the Company or any of its Restricted Subsidiaries; or

(3) transfer any of its properties or assets to the Company or any of its Restricted Subsidiaries.

(b) The restrictions in Section 4.08(a) will not apply to encumbrances or restrictions existing under or by reason of:

(1) agreements governing Existing Indebtedness and the Credit Facilities as in effect on the date of this Indenture and any amendments, modifications, restatements, renewals, increases, supplements, refundings, replacements or refinancings of those agreements; provided that the amendments, modifications, restatements, renewals, increases, supplements, refundings, replacement or refinancings are no more restrictive, taken as a whole, with respect to such dividend and other payment restrictions than those contained in those agreements on the date of this Indenture;

(2) this Indenture, the Notes and the Subsidiary Guarantees;

(3) applicable law;

(4) any instrument or agreement of a Restricted Subsidiary acquired by the Company or any of its Restricted Subsidiaries as in effect at the time of such acquisition (except to the extent such instrument or agreement was entered into or amended or modified to add or increase such encumbrance or restriction in connection with or in contemplation of such acquisition), which encumbrance or restriction is not applicable to the Company or any Restricted Subsidiary, or the properties or assets of the Company or any Restricted Subsidiary, other than the Restricted Subsidiary, or the property or assets of the Restricted Subsidiary, so acquired; provided that, in the case of instruments or agreements governing Acquired Debt, such Acquired Debt would be permitted by the terms of this Indenture to be incurred upon consummation of the acquisition;

(5) any instrument or agreement of a Restricted Subsidiary that has been designated as a Permitted Investment made under clause (8) or (9) of the definition of "Permitted Investments" in accordance with the applicable provisions of this Indenture, which encumbrance or restriction is not applicable to the Company or any Restricted Subsidiary, or the properties or assets of the Company or any Restricted Subsidiary, other than the Restricted Subsidiary, or the property or assets of the Restricted Subsidiary, so designated;

(6) non-assignment and sub-letting provisions in leases, licenses and other agreements that are customary for such agreements and are entered into in the ordinary course of business;

(7) purchase money obligations for property acquired in the ordinary course of business that impose restrictions on that property of the nature described in clause (3) of Section 4.08(a);

(8) any agreement for the sale or other disposition of a Restricted Subsidiary or assets of the Company or a Restricted Subsidiary that restricts distributions by that Restricted Subsidiary or transfers of such assets pending such sale or other disposition;

46

(9) Permitted Refinancing Indebtedness; provided that the restrictions contained in the agreements governing such Permitted Refinancing Indebtedness are no more restrictive, taken as a whole, than those contained in the agreements governing the Indebtedness being refinanced;

(10) Liens securing Indebtedness otherwise permitted to be incurred under Section 4.12 hereof that limit the right of the debtor to dispose of the assets subject to such Liens;

(11) provisions with respect to the disposition or distribution of assets or property in joint venture agreements, asset sale agreements, stock sale agreements and other similar agreements that have been approved by the Board of Directors of the Company; and

(12) restrictions on cash or other deposits or net worth imposed by customers under contracts entered into in the ordinary course of business.

#### Section 4.09 Incurrence of Indebtedness and Issuance of Preferred Stock.

(a) The Company will not, and will not permit any of its Restricted Subsidiaries to, directly or indirectly, create, incur, issue, assume, guarantee or otherwise become directly or indirectly liable, contingently or otherwise, with respect to (collectively, "incur") any Indebtedness (including Acquired Debt), and the Company will not issue Disqualified Stock and will not permit any of its Restricted Subsidiaries to issue any shares of preferred stock; provided, however, that the Company may incur Indebtedness (including Acquired Debt) or issue Disqualified Stock, and the Company's Restricted Subsidiaries that are Guarantors or Foreign Subsidiaries may incur Indebtedness or issue preferred stock, if the Fixed Charge Coverage Ratio for the Company's most recently ended four full fiscal quarters for which internal financial statements are available immediately preceding the date on which such additional Indebtedness is incurred or such Disqualified Stock or preferred stock is issued would have been at least 2.0 to 1, determined on a pro forma basis (including a pro forma application of the net proceeds therefrom), as if the additional Indebtedness had been incurred or the preferred stock or Disqualified Stock had been issued, as the case may be, at the beginning of such four-quarter period.

(b) The provisions of Section 4.09(a) will not prohibit the incurrence of any of the following items of Indebtedness (collectively, "Permitted Debt"):

(1) the incurrence by the Company and any of its Restricted Subsidiaries of Indebtedness and letters of credit under Credit Facilities in an aggregate principal amount at any one time outstanding under this clause (1) (with letters of credit being deemed to have a principal amount equal to the maximum potential liability of the Company and its Restricted Subsidiaries thereunder) not to exceed the greater of (x) \$225.0 million

less the aggregate amount of all Net Proceeds of Asset Sales applied by the Company or any of its Subsidiaries since the date of this Indenture to repay any term Indebtedness under a Credit Facility or to repay any revolving credit Indebtedness under a Credit Facility and effect a corresponding commitment reduction thereunder pursuant to Section 4.10 hereof or (y) the amount of the Borrowing Base as of the date of such incurrence;

(2) the incurrence by the Company and its Restricted Subsidiaries of Existing Indebtedness;

(3) the incurrence by the Company and the Guarantors of Indebtedness represented by the Notes and the related Subsidiary Guarantees to be issued on the date of this Indenture and the Exchange Notes and the related Subsidiary Guarantees to be issued pursuant to the Registration Rights Agreement;

47

(4) the incurrence by the Company or any of its Restricted Subsidiaries of Permitted Refinancing Indebtedness in exchange for, or the net proceeds of which are used to refund, refinance or replace Indebtedness (other than intercompany Indebtedness) that was permitted by this Indenture to be incurred under Section 4.09(a) or clauses (2), (3), (4) or (9) of Section 4.09(b);

(5) the incurrence by the Company or any of its Restricted Subsidiaries of intercompany Indebtedness between or among the Company and any of its Subsidiaries; provided, however, that:

(A) if the Company or any Guarantor is the obligor on such Indebtedness, such Indebtedness must be expressly subordinated to the prior payment in full in cash of all Obligations then due with respect to the Notes, in the case of the Company, or the Subsidiary Guarantee, in the case of a Guarantor; and

(B) (i) any subsequent issuance or transfer of Equity Interests that results in any such Indebtedness being held by a Person other than the Company or a Restricted Subsidiary of the Company and (ii) any sale or other transfer of any such Indebtedness to a Person that is not either the Company or a Restricted Subsidiary of the Company; will be deemed, in each case, to constitute an incurrence of such Indebtedness by the Company or such Restricted Subsidiary, as the case may be, that was not permitted by this clause (5);

(6) the incurrence by the Company or any of its Restricted Subsidiaries of Hedging Obligations with respect to any Indebtedness that is permitted by the terms of this Indenture to be outstanding;

(7) the guarantee by the Company or any of its Restricted Subsidiaries of Indebtedness of the Company or a Restricted Subsidiary of the Company that was permitted to be incurred by another provision of this Section 4.09;

(8) the accrual of interest, the accretion or amortization of original issue discount, the payment of interest on any Indebtedness in the form of additional Indebtedness with the same terms, and the payment of dividends on Disqualified Stock in the form of additional shares of the same class of Disqualified Stock will not be deemed to be an incurrence of Indebtedness or an issuance of Disqualified Stock for purposes of this Section 4.09; provided, in each such case, that the amount thereof is included in Fixed Charges of the Company as accrued; and

(9) the incurrence by the Company or any of its Restricted Subsidiaries of additional Indebtedness in an aggregate principal amount (or accreted value, as applicable) at any time outstanding, including all Permitted Refinancing Indebtedness incurred to refund, refinance or replace any Indebtedness incurred pursuant to this clause (9), not to exceed \$50.0 million.

For purposes of determining compliance with this Section 4.09, in the event that an item of proposed Indebtedness meets the criteria of more than one of the categories of Permitted Debt described in clauses (1) through (9) above, or is entitled to be incurred pursuant to Section 4.09(a), the Company will be permitted to reclassify such item of Indebtedness on the date of its incurrence, or later reclassify all or a portion of such item of Indebtedness, in any manner that complies with this Section 4.09. Indebtedness under the Credit Facilities outstanding on the date on which Notes are first issued and authenticated under this Indenture will be deemed to have been incurred on such date in reliance on the exception provided by clause (1) of the definition of Permitted Debt.

48

The Company will not, and will not permit any of its Restricted Subsidiaries to, consummate an Asset Sale unless:

(1) the Company or the Restricted Subsidiary receives consideration at the time of the Asset Sale at least equal to the fair market value of the assets or Equity Interests issued or sold or otherwise disposed of;

(2) the fair market value (including the fair market value of any non-cash assets transferred or liabilities assumed) is determined by the Company's Board of Directors and evidenced by a resolution of the such Board of Directors set forth in an Officers' Certificate delivered to the Trustee; and

(3) at least 75% of the consideration received in the Asset Sale by the Company or such Restricted Subsidiary is in the form of cash. For purposes of this provision, each of the following shall be deemed to be cash:

(A) any liabilities, as shown on the Company's most recent consolidated balance sheet, of the Company or any Restricted Subsidiary (other than contingent liabilities and liabilities that are by their terms subordinated to the Notes or any Subsidiary Guarantee) that are assumed by the transferee of any such assets and are (i) subject to a customary novation agreement that releases the Company or such Restricted Subsidiary from further liability with respect to any such liabilities other than accounts payable or (ii) satisfied in full within 60 days of the Asset Sale;

(B) any securities, notes or other obligations received by the Company or any such Restricted Subsidiary from such transferee in respect of which cash is received by the Company or such Restricted Subsidiary within 60 days of the Asset Sale, to the extent of the cash received;

(C) in the case of the sale of all of the Equity Interests in any of the Company's Restricted Subsidiaries, or the merger of a Restricted Subsidiary with a Person as a result of which the Company and its Restricted Subsidiaries do not own any of the Equity Interests in the surviving entity of such merger, any liabilities of the Restricted Subsidiary (other than contingent liabilities and liabilities that are by their terms subordinated to the Notes or any Subsidiary Guarantee) for which the Restricted Subsidiary or surviving entity remains liable after the Asset Sale;

(D) cash held in escrow as security for any purchase price settlement, for damages in respect of a breach of representations and warranties or covenants or for payment of other contingent obligations in connection with the Asset Sale; and

(E) up to \$25.0 million of non-cash consideration received from any person other than an Affiliate of the Company outstanding (not converted to cash) at any time.

Notwithstanding the immediately preceding paragraph, the Company and its Restricted Subsidiaries will be permitted to consummate an Asset Sale without complying with such paragraph if:

(1) The Company or the applicable Restricted Subsidiary, as the case may be, receives consideration at the time of such Asset Sale at least equal to the fair market value of the assets or

49

other property sold, issued or otherwise disposed of, as evidenced by a resolution of the Board of Directors of the Company set forth in an Officers' Certificate delivered to the Trustee, and

(2) at least 75% of the consideration for such Asset Sale constitutes cash or assets that are not classified as current assets under GAAP and are used or useful in a Permitted Business;

provided that any cash received by the Company or any of its Restricted Subsidiaries in connection with any Asset Sale permitted to be consummated under this paragraph will constitute Net Proceeds (to the extent not excluded from the definition of "Net Proceeds") subject to the provisions of the three succeeding paragraphs.

Within 365 days after the receipt of any Net Proceeds from an Asset Sale, the Company or the Restricted Subsidiary may apply those Net Proceeds at

its option to any one or more of the following:

- (1) to repay Senior Debt and, if the Senior Debt repaid is revolving credit Indebtedness, to correspondingly reduce commitments with respect thereto;
- (2) to acquire all or substantially all of the assets of, or a majority of the Voting Stock of, another Permitted Business;
- (3) to make capital expenditures; or
- (4) to acquire other assets that are not classified as current assets under GAAP and are used or useful in a Permitted Business.

Pending the final application of any Net Proceeds, the Company or any Restricted Subsidiary may temporarily reduce revolving credit borrowings or otherwise invest the Net Proceeds in any manner that is not prohibited by this Indenture.

Any Net Proceeds from Asset Sales that are not applied or invested as provided in the preceding paragraph will constitute "Excess Proceeds." Within 30 days after the aggregate amount of Excess Proceeds exceeds \$10.0 million, the Company will make an Asset Sale Offer to all Holders of Notes and all holders of other Indebtedness that is pari passu with the Notes containing provisions similar to those set forth in this Indenture with respect to offers to purchase or redeem with the proceeds of sales of assets to purchase the maximum principal amount of Notes and such other pari passu Indebtedness that may be purchased out of the Excess Proceeds. The offer price in any Asset Sale Offer will be equal to 100% of principal amount plus accrued and unpaid interest and Liquidated Damages, if any, to the date of purchase, and will be payable in cash. If any Excess Proceeds remain after consummation of an Asset Sale Offer, the Company may use those Excess Proceeds for any purpose not otherwise prohibited by this Indenture. If the aggregate principal amount of Notes and other pari passu Indebtedness tendered into such Asset Sale Offer exceeds the amount of Excess Proceeds, the Trustee will select the Notes and such other pari passu Indebtedness to be purchased on a pro rata basis based upon the aggregate principal amount of each that was properly tendered. Upon completion of each Asset Sale Offer, the amount of Excess Proceeds will be reset at zero.

The Company will comply with the requirements of Rule 14e-1 under the Exchange Act and any other securities laws and regulations thereunder to the extent those laws and regulations are applicable in connection with each repurchase of Notes pursuant to an Asset Sale Offer. To the extent that the provisions of any securities laws or regulations conflict with the provisions of Section 3.09 hereof or this Section 4.10, the Company will not be required to comply with such provisions and will not be deemed to have breached its obligations under such provisions by reason of such noncompliance.

50

#### Section 4.11 Transactions with Affiliates.

(a) The Company will not, and will not permit any of its Restricted Subsidiaries to, make any payment to, or sell, lease, transfer or otherwise dispose of any of its properties or assets to, or purchase any property or assets from, or enter into or make or amend any transaction, contract, agreement, understanding, loan, advance or guarantee with, or for the benefit of, any Affiliate (each an "Affiliate Transaction"), unless:

(1) such Affiliate Transaction is on terms that are no less favorable to the Company or the relevant Restricted Subsidiary than those that would have been obtained in a comparable transaction by the Company or such Restricted Subsidiary with an unrelated Person; and

(2) the Company delivers to the Trustee:

(A) with respect to any Affiliate Transaction or series of related Affiliate Transactions involving aggregate consideration in excess of \$5.0 million, a resolution of the Company's Board of Directors set forth in an Officers' Certificate certifying that such Affiliate Transaction complies with this Section 4.11 and that such Affiliate Transaction has been approved by a majority of the disinterested members of the Company's Board of Directors; and

(B) with respect to any Affiliate Transaction or series of related Affiliate Transactions involving aggregate consideration in excess of \$15.0 million, an opinion as to the fairness to the Company of such Affiliate Transaction from a financial point of view issued by an accounting, appraisal or investment banking firm of national standing.

(b) The following items will not be deemed to be Affiliate Transactions and, therefore, will not be subject to the provisions of Section 4.11(a):

(1) any employment or consulting agreement entered into by the Company or any of its Restricted Subsidiaries in the ordinary course of business of the Company or such Restricted Subsidiary;

(2) transactions between or among the Company and/or its Restricted Subsidiaries;

(3) transactions with a Person (other than an Unrestricted Subsidiary) that is an Affiliate of the Company solely because the Company owns, directly or through a Subsidiary, an Equity Interest in, or controls, such Person;

(4) payment of reasonable fees and compensation to, and indemnity provided on behalf of, directors and officers of the Company or of any Restricted Subsidiary;

(5) sales of Equity Interests (other than Disqualified Stock) of the Company to Affiliates of the Company; and

(6) Restricted Payments that are permitted by Section 4.07 hereof other than Restricted Payments that are permitted by reason of clause (4) of Section 4.07(b).

51

#### Section 4.12 Liens.

The Company will not, and will not permit any of its Restricted Subsidiaries to, directly or indirectly, create, incur, assume or suffer to exist any Lien of any kind securing Indebtedness for money borrowed on any asset now owned or hereafter acquired, except Permitted Liens unless all payments due under this Indenture and the Notes are secured on an equal and ratable basis with the Indebtedness so secured.

#### Section 4.13 Line of Business.

The Company will not, and will not permit any of its Restricted Subsidiaries to, engage in any business activities other than in a Permitted Business.

#### Section 4.14 Corporate Existence.

Subject to Article 5 hereof, the Company will do or cause to be done all things necessary to preserve and keep in full force and effect:

(1) its corporate existence, and the corporate, partnership or other existence of each of its Subsidiaries, in accordance with the respective organizational documents (as the same may be amended from time to time) of the Company or any such Subsidiary; and

(2) the rights (charter and statutory), licenses and franchises of the Company and its Subsidiaries; provided, however, that the Company will not be required to preserve any such right, license or franchise, or the corporate, partnership or other existence of any of its Subsidiaries, if the Board of Directors shall determine that the preservation thereof is no longer desirable in the conduct of the business of the Company and its Subsidiaries, taken as a whole, and that the loss thereof is not adverse in any material respect to the Holders of the Notes.

#### Section 4.15 Offer to Repurchase Upon Change of Control.

(a) Upon the occurrence of a Change of Control, the Company will make an offer (a "Change of Control Offer") to each Holder to repurchase all or any part (equal to \$1,000 or an integral multiple of \$1,000) of each Holder's Notes at a purchase price equal to 101% of the aggregate principal amount thereof plus accrued and unpaid interest and Liquidated Damages on the Notes repurchased, if any, to the date of purchase (the "Change of Control Payment"). Within ten days following any Change of Control, the Company will mail a notice to each Holder describing the transaction or transactions that constitute the Change of Control and stating:

(1) that the Change of Control Offer is being made pursuant to this Section 4.15 and that all Notes tendered will be accepted for payment;

(2) the purchase price and the purchase date, which shall be no later than 30 business days and no later than 60 days from the date such notice is mailed (the "Change of Control Payment Date");

(3) that any Note not tendered will continue to accrue interest;

(4) that, unless the Company defaults in the payment of the Change of Control Payment, all Notes accepted for payment pursuant to the Change of Control Offer will cease to accrue interest after the Change of Control Payment Date;

(5) that Holders electing to have any Notes purchased pursuant to a Change of Control Offer will be required to surrender the Notes, with the form entitled "Option of Holder to Elect Purchase" on the reverse of the Notes completed, to the Paying Agent at the address specified in the notice prior to the close of business on the third Business Day preceding the Change of Control Payment Date;

(6) that Holders will be entitled to withdraw their election if the Paying Agent receives, not later than the close of business on the second Business Day preceding the Change of Control Payment Date, a telegram, telex, facsimile transmission or letter setting forth the name of the Holder, the principal amount of Notes delivered for purchase, and a statement that such Holder is withdrawing his election to have the Notes purchased; and

(7) that Holders whose Notes are being purchased only in part will be issued new Notes equal in principal amount to the unpurchased portion of the Notes surrendered, which unpurchased portion must be equal to \$1,000 in principal amount or an integral multiple thereof.

The Company will comply with the requirements of Rule 14e-1 under the Exchange Act and any other securities laws and regulations thereunder to the extent those laws and regulations are applicable in connection with the repurchase of the Notes as a result of a Change in Control. To the extent that the provisions of any securities laws or regulations conflict with the provisions of Section 3.09 hereof or this Section 4.15, the Company will not be required to comply with such provisions and will not be deemed to have breached its obligations under such provisions by reason of such noncompliance.

(b) On the Change of Control Payment Date, the Company will, to the extent lawful:

(1) accept for payment all Notes or portions thereof properly tendered pursuant to the Change of Control Offer;

(2) deposit with the Paying Agent an amount equal to the Change of Control Payment in respect of all Notes or portions of Notes properly tendered; and

(3) deliver or cause to be delivered to the Trustee the Notes so accepted together with an Officers' Certificate stating the aggregate principal amount of Notes or portions of Notes being purchased by the Company.

The Company will cause the Paying Agent to promptly mail to each Holder of Notes properly tendered the Change of Control Payment for such Notes, and the Trustee will promptly authenticate and mail (or cause to be transferred by book entry) to each Holder a new Note equal in principal amount to any unpurchased portion of the Notes surrendered, if any; provided that each new Note will be in a principal amount of \$1,000 or an integral multiple thereof. The Company will publicly announce the results of the Change of Control Offer on or as soon as practicable after the Change of Control Payment Date.

Prior to complying with any of the provisions of this Section 4.15, but in any event within 90 days following a Change of Control, the Company will either repay all outstanding Senior Debt or obtain the requisite waivers and consents, if any, under all agreements governing outstanding Senior Debt to permit the repurchase of Notes required by this Section 4.15.

(c) Notwithstanding anything to the contrary in this Section 4.15, the Company will not be required to make a Change of Control Offer upon a Change of Control if a third party makes the Change of Control Offer in the manner, at the times and otherwise in compliance with the requirements set forth

in this Section 4.15 and Section 3.09 hereof and purchases all Notes validly tendered and not withdrawn under the Change of Control Offer.

Section 4.16 No Additional Indebtedness Senior to Notes and Junior to Senior Debt.

The Company will not incur, create, issue, assume, guarantee or otherwise become liable for any Indebtedness that is subordinate or junior in right of payment to any Senior Debt of the Company and senior in any respect in right of payment to the Notes. No Guarantor will incur, create, issue, assume, guarantee or otherwise become liable for any Indebtedness that is subordinate or junior in right of payment to the Senior Debt of such Guarantor and senior in any respect in right of payment to such Guarantor's Subsidiary Guarantee; provided, however, that notwithstanding the foregoing, no Indebtedness of the Company or any



Guarantor shall be deemed to be contractually subordinated in right of payment to any other Indebtedness of the Company or such Guarantor solely by virtue of being unsecured.

#### Section 4.17 Payments for Consent.

The Company will not, and will not permit any of its Restricted Subsidiaries to, directly or indirectly, pay or cause to be paid any consideration to or for the benefit of any Holder of Notes for or as an inducement to any consent, waiver or amendment of any of the terms or provisions of this Indenture or the Notes unless such consideration is offered to be paid and is paid to all Holders of the Notes that consent, waive or agree to amend in the time frame set forth in the solicitation documents relating to such consent, waiver or agreement.

#### Section 4.18 Additional Subsidiary Guarantees.

If, after the date of this Indenture, the Company or any of its Restricted Subsidiaries:

(1) acquires or creates a Domestic Subsidiary that at any time has total assets of more than \$1,000,000 as reflected on such Domestic Subsidiary's most recent balance sheet as of the date of determination or Consolidated Cash Flow for the most recently ended four fiscal quarters for which internal financial statements are available immediately preceding the date of determination of more than \$500,000; or

(2) has a Foreign Subsidiary that guarantees any Indebtedness of the Company or any of its Restricted Subsidiaries (except Foreign Subsidiaries) other than the Notes; or

(3) has a Domestic Subsidiary, including any Domestic Subsidiaries that are not Guarantors on the date of this Indenture due to the fact that such Domestic Subsidiary does not meet either of the thresholds set forth in clause (1) above, that at any time exceeds either of the thresholds set forth in clause (1) above,

then that Foreign Subsidiary or Domestic Subsidiary will become a Guarantor and execute a Subsidiary Guarantee and deliver an Opinion of Counsel satisfactory to the Trustee regarding the authorization and enforceability of such Subsidiary Guarantee within 30 days of the date on which it was acquired, created or otherwise becomes subject to this Section 4.18; provided that any Restricted Subsidiary designated as a Permitted Investment made under clause (8) or (9) of the definition of "Permitted Investments" in accordance with the applicable provisions of this Indenture will not be required to become a Guarantor unless it guarantees other Indebtedness of the Company or a Restricted Subsidiary of the Company (other than a Foreign Subsidiary guaranteeing the Indebtedness of another Foreign Subsidiary).

54

#### Section 4.19 Designation of Restricted and Unrestricted Subsidiaries and Certain Permitted Investments.

The Board of Directors of the Company may designate any Restricted Subsidiary to be an Unrestricted Subsidiary or to be a Permitted Investment made under clause (8) or (9) of the definition of "Permitted Investments," if that designation would not cause a Default. If a Restricted Subsidiary is designated as an Unrestricted Subsidiary, the aggregate fair market value of all outstanding Investments owned by the Company and its Restricted Subsidiaries in the Subsidiary to be designated will be deemed to be an Investment made as of the time of the designation and will reduce the amount available for Restricted Payments under the first paragraph of Section 4.07 hereof or, if applicable, the amount available for Permitted Investments under clause (8) or (9) of the definition of "Permitted Investments," as determined by the Company. That designation will only be permitted if the Investment would be permitted at that time and if the Restricted Subsidiary otherwise meets the definition of an Unrestricted Subsidiary. If a Restricted Subsidiary is designated as a Permitted Investment under clause (8) and/or (9) of the definition of "Permitted Investments," the aggregate fair market value of all outstanding Investments owned by the Company and its Restricted Subsidiaries in the Subsidiary to be designated will be deemed to be an Investment made as of the time of the designation and will reduce the amount available under clause (8) and/or (9) of the definition of "Permitted Investments." Such designation will only be permitted if the Investment would be permitted by clause (8) or (9) of the definition of "Permitted Investments" at that time. Any designation of a Restricted Subsidiary as a Permitted Investment made under clause (8) or (9) of the definition of "Permitted Investments" will be evidenced to the Trustee by filing with the Trustee a certified copy of the board resolution giving effect to such designation and an Officers' Certificate certifying that such designation was permitted by this Section 4.19. Upon a Restricted Subsidiary's designation as an Unrestricted Subsidiary or a Permitted Investment in accordance with this Section 4.19, it will cease to be a Guarantor and its Subsidiary Guarantee will be released. The Board of Directors of the Company may

redesignate any Unrestricted Subsidiary to be a Restricted Subsidiary if the redesignation would not cause a Default. Upon any such redesignation or other designation as a Restricted Subsidiary, such Subsidiary (unless designated as a Permitted Investment made under clause (8) or (9) of the definition of "Permitted Investments") will become a Guarantor and execute a Subsidiary Guarantee as and to the extent required under Section 4.18 hereof. Fair market value for purposes of this Section 4.19 will be determined by the Board of Directors as specified in the last paragraph of Section 4.07 hereof.

#### Section 4.20 Redemption of Convertible Subordinated Notes

The Company will redeem all of the outstanding Convertible Subordinated Notes on or prior to February 28, 2003 (the "Mandatory Redemption Date"). Concurrently with the closing of the offering of the Notes, the Company will mail a notice of redemption of the Convertible Subordinated Notes that complies with the terms of the indenture governing the Convertible Subordinated Notes and will irrevocably deposit the amount sufficient to redeem all outstanding Convertible Subordinated Notes, including any applicable premium and accrued interest to the redemption date with the Trustee for the Convertible Notes.

#### ARTICLE 5. SUCCESSORS

#### Section 5.01 Merger, Consolidation, or Sale of Assets.

The Company shall not, directly or indirectly, consolidate or merge with or into another Person (whether or not the Company is the surviving corporation), or sell, assign, transfer, convey or otherwise

55

dispose of all or substantially all of the properties or assets of the Company and its Subsidiaries taken as a whole, in one or more related transactions, to another Person; unless:

(1) either:

(A) the Company is the surviving corporation; or

(B) the Person formed by or surviving any such consolidation or merger (if other than the Company) or to which such sale, assignment, transfer, conveyance or other disposition has been made is a corporation organized or existing under the laws of the United States, any state of the United States or the District of Columbia;

(2) the Person formed by or surviving any such consolidation or merger (if other than the Company) or the Person to which such sale, assignment, transfer, conveyance or other disposition will have been made assumes all the obligations of the Company under the Notes, this Indenture and the Registration Rights Agreement pursuant to agreements reasonably satisfactory to the Trustee;

(3) immediately after such transaction, no Default or Event of Default exists; and

(4) the Company or the Person formed by or surviving any such consolidation or merger (if other than the Company), or to which such sale, assignment, transfer, conveyance or other disposition has been made would, on the date of such transaction after giving pro forma effect thereto and any related financing transactions as if the same had occurred at the beginning of the applicable four-quarter period, be permitted to incur at least \$1.00 of additional Indebtedness pursuant to the Fixed Charge Coverage Ratio test set forth in Section 4.09(a) hereof.

In addition, the Company shall not, directly or indirectly, lease all or substantially all of its properties or assets, in one or more related transactions, to any other Person. This Section 5.01 will not apply to a sale, assignment, transfer, conveyance or other disposition of assets between or among the Company and any of its Restricted Subsidiaries that are Guarantors or to a merger between the Company and any Restricted Subsidiary that is a Guarantor.

#### Section 5.02 Successor Corporation Substituted.

Upon any consolidation or merger, or any sale, assignment, transfer, lease, conveyance or other disposition of all or substantially all of the assets of the Company in a transaction that is subject to, and that complies with the provisions of, Section 5.01 hereof, the successor corporation formed by such consolidation or into or with which the Company is merged or to which such sale, assignment, transfer, lease, conveyance or other disposition is made will succeed to, and be substituted for (so that from and after the date of such consolidation, merger, sale, lease, conveyance or other disposition, the provisions of this Indenture referring to the "Company" will refer instead to

the successor corporation and not to the Company), and may exercise every right and power of the Company under this Indenture with the same effect as if such successor Person had been named as the Company herein; provided, however, that the predecessor Company will not be relieved from the obligation to pay the principal of and interest on the Notes except in the case of a sale of all of the Company's assets in a transaction that is subject to, and that complies with the provisions of, Section 5.01 hereof.

56

ARTICLE 6.  
DEFAULTS AND REMEDIES

Section 6.01 Events of Default.

Each of the following is an Event of Default:

(1) the Company defaults for 30 days in the payment when due of interest on, or Liquidated Damages with respect to, the Notes, whether or not prohibited by the subordination provisions of this Indenture;

(2) the Company defaults in the payment when due (at maturity, upon redemption or otherwise) of the principal of, or premium, if any, on the Notes whether or not prohibited by the subordination provisions of this Indenture;

(3) the Company or any of its Subsidiaries fails to comply with the provisions of Section 4.10, 4.15 or 5.01 hereof;

(4) the Company or any of its Subsidiaries fails to comply with the provisions of Section 4.07 or 4.09 hereof, and such failure continues for 30 days;

(5) the Company or any of its Subsidiaries fails to observe or perform any other covenant, representation, warranty or other agreement in this Indenture or the Notes for 60 days after notice to the Company by the Trustee or the Holders of at least 25% in aggregate principal amount of the Notes then outstanding voting as a single class;

(6) a default occurs under any mortgage, indenture or instrument under which there may be issued or by which there may be secured or evidenced any Indebtedness for money borrowed by the Company or any of its Restricted Subsidiaries (or the payment of which is guaranteed by the Company or any of its Restricted Subsidiaries), whether such Indebtedness or guarantee now exists, or is created after the date of this Indenture, if that default:

(a) is caused by a failure to pay principal of, or interest or premium, if any, on such Indebtedness prior to the expiration of the grace period provided in such Indebtedness on the date of such default (a "Payment Default"); or

(b) results in the acceleration of such Indebtedness prior to its express maturity,

and, in each case, the principal amount of any such Indebtedness, together with the principal amount of any other such Indebtedness under which there has been a Payment Default or the maturity of which has been so accelerated, aggregates \$15.0 million or more;

(7) a final judgment or final judgments for the payment of money are entered by a court or courts of competent jurisdiction against the Company or any Restricted Subsidiary, which judgment or judgments are not paid, discharged or stayed for a period of 60 days; provided that the aggregate of all such undischarged judgments exceeds \$15.0 million (to the extent not insured); and

57

(8) the Company, any Restricted Subsidiary that is a Significant Subsidiary or any group of Restricted Subsidiaries that, taken as a whole, would constitute a Significant Subsidiary pursuant to or within the meaning of Bankruptcy Law:

(A) commences a voluntary case,

(B) consents to the entry of an order for relief against it in an involuntary case,

(C) consents to the appointment of a custodian of it or for all or substantially all of its property,

(D) makes a general assignment for the benefit of its creditors,

or

(E) generally is not paying its debts as they become due; or

(9) a court of competent jurisdiction enters an order or decree under any Bankruptcy Law that:

(A) is for relief against the Company, any Restricted Subsidiary that is a Significant Subsidiary or any group of Restricted Subsidiaries that, taken as a whole, would constitute a Significant Subsidiary in an involuntary case;

(B) appoints a custodian of the Company, any Restricted Subsidiary that is a Significant Subsidiary or any group of Restricted Subsidiaries that, taken as a whole, would constitute a Significant Subsidiary or for all or substantially all of the property of the Company, any Restricted Subsidiary that is a Significant Subsidiary or any group of Restricted Subsidiaries that, taken as a whole, would constitute a Significant Subsidiary; or

(C) orders the liquidation of the Company, any Restricted Subsidiary that is a Significant Subsidiary or any group of Restricted Subsidiaries that, taken as a whole, would constitute a Significant Subsidiary;

and the order or decree remains unstayed and in effect for 60 consecutive days; or

(10) except as permitted by this Indenture, any Subsidiary Guarantee will be held in any judicial proceeding to be unenforceable or invalid or will cease for any reason to be in full force and effect or any Guarantor, or any Person acting on behalf of any Guarantor, will deny or disaffirm its obligations under its Subsidiary Guarantee; and

(11) failure of the Company to redeem all of the outstanding Convertible Subordinated Notes on or prior to February 28, 2003.

#### Section 6.02 Acceleration.

In the case of an Event of Default specified in clause (8) or (9) of Section 6.01 hereof, with respect to the Company, any Restricted Subsidiary that is a Significant Subsidiary or any group of Restricted Subsidiaries that, taken as a whole, would constitute a Significant Subsidiary, all outstanding Notes will become due and payable immediately without further action or notice. If any other Event of

58

Default occurs and is continuing, the Trustee or the Holders of at least 25% in principal amount of the then outstanding Notes may declare all the Notes to be due and payable immediately.

Upon any such declaration, the Notes will become due and payable immediately. The Holders of a majority in aggregate principal amount of the then outstanding Notes by written notice to the Trustee may on behalf of all of the Holders rescind an acceleration and its consequences if the rescission would not conflict with any judgment or decree and if all existing Events of Default (except nonpayment of principal, interest or premium that has become due solely because of the acceleration) have been cured or waived.

If an Event of Default occurs on or after February 1, 2008 by reason of any willful action (or inaction) taken (or not taken) by or on behalf of the Company with the intention of avoiding payment of the premium that the Company would have had to pay if the Company then had elected to redeem the Notes pursuant to Section 3.07 hereof, then, upon acceleration of the Notes, an equivalent premium shall also become and be immediately due and payable, to the extent permitted by law, anything in this Indenture or in the Notes to the contrary notwithstanding. If an Event of Default occurs prior to February 1, 2008 by reason of any willful action (or inaction) taken (or not taken) by or on behalf of the Company with the intention of avoiding the prohibition on redemption of the Notes prior to such date, then, upon acceleration of the Notes, an additional premium will also become and be immediately due and payable in an amount, for each of the years beginning on February 1 of the years set forth below, as set forth below (expressed as a percentage of the principal amount of the Notes on the date of payment that would otherwise be due but for the provisions of this sentence):

YEAR	PERCENTAGE
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2003.....	109.125%
2004.....	108.213%
2005.....	107.300%
2006.....	106.388%

## Section 6.03 Other Remedies.

If an Event of Default occurs and is continuing, the Trustee may pursue any available remedy to collect the payment of principal, premium and Liquidated Damages, if any, and interest on the Notes or to enforce the performance of any provision of the Notes or this Indenture.

The Trustee may maintain a proceeding even if it does not possess any of the Notes or does not produce any of them in the proceeding. A delay or omission by the Trustee or any Holder of a Note in exercising any right or remedy accruing upon an Event of Default will not impair the right or remedy or constitute a waiver of or acquiescence in the Event of Default. All remedies are cumulative to the extent permitted by law.

## Section 6.04 Waiver of Past Defaults.

Holders of not less than a majority in aggregate principal amount of the then outstanding Notes by notice to the Trustee may on behalf of the Holders of all of the Notes waive an existing Default or Event of Default and its consequences hereunder, except a continuing Default or Event of Default in the payment of the principal (including redemption or purchase price) of, premium and Liquidated Damages, if any, or interest on, the Notes (including in connection with an offer to purchase); provided, however, that at any time after a declaration of acceleration under this Indenture, but before a judgment or decree for payment of the money due has been obtained by the Trustee, the Holders of a majority in aggregate

59

principal amount of the outstanding Notes, by written notice to the Company and the Trustee, may rescind such declaration and its consequences if:

(1) the Company has paid or deposited with the Trustee a sum sufficient to pay (A) all overdue interest on all Notes, (B) all unpaid principal of (and premium, if any, on) any outstanding Notes that has become due, other than by such declaration of acceleration, and interest thereon at the rate borne by the Notes, (C) to the extent that payment of such interest is lawful, interest upon overdue interest and overdue principal at the rate borne by the Notes, and (D) all sums paid or advanced by the Trustee under this Indenture and the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel; and

(2) all Events of Default, other than the non-payment of amounts of principal of (or premium, if any, on), or interest on, the Notes that have become due solely by such declaration of acceleration, have been cured or waived.

No such rescission will affect any subsequent default or impair any right consequent thereon.

Upon any such waiver, such Default will cease to exist, and any Event of Default arising therefrom will be deemed to have been cured for every purpose of this Indenture; but no such waiver will extend to any subsequent or other Default or impair any right consequent thereon.

## Section 6.05 Control by Majority.

Holders of a majority in principal amount of the then outstanding Notes may direct the time, method and place of conducting any proceeding for exercising any remedy available to the Trustee or exercising any trust or power conferred on it. However, the Trustee may refuse to follow any direction that conflicts with law or this Indenture that the Trustee determines may be prejudicial to the rights of other Holders of Notes or that may involve the Trustee in personal liability.

## Section 6.06 Limitation on Suits.

A Holder of a Note may pursue a remedy with respect to this Indenture or the Notes only if:

(1) the Holder of a Note gives to the Trustee written notice of a continuing Event of Default;

(2) the Holders of at least 25% in principal amount of the then outstanding Notes make a written request to the Trustee to pursue the remedy;

(3) such Holder of a Note or Holders of Notes offer and, if requested, provide to the Trustee indemnity satisfactory to the Trustee against any loss, liability, claim, damage or expense;

(4) the Trustee does not comply with the request within 60 days after receipt of the request and the offer and, if requested, the provision of indemnity; and

(5) during such 60-day period the Holders of a majority in principal amount of the then outstanding Notes do not give the Trustee a direction inconsistent with the request.

A Holder of a Note may not use this Indenture to prejudice the rights of another Holder of a Note or to obtain a preference or priority over another Holder of a Note.

60

#### Section 6.07 Rights of Holders of Notes to Receive Payment.

Notwithstanding any other provision of this Indenture, the right of any Holder of a Note to receive payment of principal, premium and Liquidated Damages, if any, and interest on the Note, on or after the respective due dates expressed in the Note (including in connection with an offer to purchase), or to bring suit for the enforcement of any such payment on or after such respective dates, will not be impaired or affected without the consent of such Holder.

#### Section 6.08 Collection Suit by Trustee.

If an Event of Default specified in Section 6.01(1) or (2) occurs and is continuing, the Trustee is authorized to recover judgment in its own name and as trustee of an express trust against the Company for the whole amount of principal of, premium and Liquidated Damages, if any, and interest remaining unpaid on the Notes and interest on overdue principal and, to the extent lawful, interest and such further amount as will be sufficient to cover the costs and expenses of collection, including the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel.

#### Section 6.09 Trustee May File Proofs of Claim.

The Trustee is authorized to file such proofs of claim and other papers or documents as may be necessary or advisable in order to have the claims of the Trustee (including any claim for the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel) and the Holders of the Notes allowed in any judicial proceedings relative to the Company (or any other obligor upon the Notes), its creditors or its property and will be entitled and empowered to collect, receive and distribute any money or other property payable or deliverable on any such claims and any custodian in any such judicial proceeding is hereby authorized by each Holder to make such payments to the Trustee, and in the event that the Trustee will consent to the making of such payments directly to the Holders, to pay to the Trustee any amount due to it for the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel, and any other amounts due the Trustee under Section 7.07 hereof. To the extent that the payment of any such compensation, expenses, disbursements and advances of the Trustee, its agents and counsel, and any other amounts due the Trustee under Section 7.07 hereof out of the estate in any such proceeding, will be denied for any reason, payment of the same will be secured by a Lien on, and will be paid out of, any and all distributions, dividends, money, securities and other properties that the Holders may be entitled to receive in such proceeding whether in liquidation or under any plan of reorganization or arrangement or otherwise. Nothing herein contained will be deemed to authorize the Trustee to authorize or consent to or accept or adopt on behalf of any Holder any plan of reorganization, arrangement, adjustment or composition affecting the Notes or the rights of any Holder, or to authorize the Trustee to vote in respect of the claim of any Holder in any such proceeding.

#### Section 6.10 Priorities.

If the Trustee collects any money pursuant to this Article 6, it will pay out the money in the following order:

First: to the Trustee, its agents and attorneys for amounts due under Section 7.07 hereof, including payment of all compensation, expense and liabilities incurred, and all advances made, by the Trustee and the costs and expenses of collection;

Second: to Holders of Notes for amounts due and unpaid on the Notes for principal, premium and Liquidated Damages, if any, and interest, ratably, without preference or priority

61

of any kind, according to the amounts due and payable on the Notes for principal, premium and Liquidated Damages, if any and interest, respectively; and

Third: to the Company or to such party as a court of competent

jurisdiction will direct.

The Trustee may fix a record date and payment date for any payment to Holders of Notes pursuant to this Section 6.10.

#### Section 6.11 Undertaking for Costs.

In any suit for the enforcement of any right or remedy under this Indenture or in any suit against the Trustee for any action taken or omitted by it as a Trustee, a court in its discretion may require the filing by any party litigant in the suit of an undertaking to pay the costs of the suit, and the court in its discretion may assess reasonable costs, including reasonable attorneys' fees and expenses, against any party litigant in the suit, having due regard to the merits and good faith of the claims or defenses made by the party litigant. This Section 6.11 does not apply to a suit by the Trustee, a suit by a Holder of a Note pursuant to Section 6.07 hereof, or a suit by Holders of more than 10% in principal amount of the then outstanding Notes.

### ARTICLE 7. TRUSTEE

#### Section 7.01 Duties of Trustee.

(a) If an Event of Default has occurred and is continuing, the Trustee will exercise such of the rights and powers vested in it by this Indenture, and use the same degree of care and skill in its exercise, as a prudent person would exercise or use under the circumstances in the conduct of such person's own affairs.

(b) Except during the continuance of an Event of Default:

(1) the duties of the Trustee will be determined solely by the express provisions of this Indenture and the Trustee need perform only those duties that are specifically set forth in this Indenture and no others, and no implied covenants or obligations will be read into this Indenture against the Trustee; and

(2) in the absence of bad faith on its part, the Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon certificates or opinions furnished to the Trustee and conforming to the requirements of this Indenture. However, with respect to opinions and certificates specifically required to be furnished to it by any provision hereunder, the Trustee will examine the certificates and opinions to determine whether or not they conform to the requirements of this Indenture (but need not confirm or investigate the accuracy of any mathematical calculations or other facts stated therein).

(c) The Trustee may not be relieved from liabilities for its own negligent action, its own negligent failure to act, or its own willful misconduct, except that:

(1) this paragraph does not limit the effect of paragraph (b) of this Section 7.01;

62

(2) the Trustee will not be liable for any error of judgment made in good faith by a Responsible Officer, unless it is proved that the Trustee was negligent in ascertaining the pertinent facts; and

(3) the Trustee will not be liable with respect to any action it takes or omits to take in good faith in accordance with a direction received by it pursuant to Section 6.05 hereof.

(d) Whether or not therein expressly so provided, every provision of this Indenture that in any way relates to the Trustee is subject to paragraphs (a), (b), and (c) of this Section 7.01.

(e) No provision of this Indenture will require the Trustee to expend or risk its own funds or incur any liability. The Trustee will be under no obligation to exercise any of its rights and powers under this Indenture at the request of any Holders, unless such Holder has offered to the Trustee security and indemnity satisfactory to it against any loss, liability or expense.

(f) The Trustee will not be liable for interest on any money received by it except as the Trustee may agree in writing with the Company. Money held in trust by the Trustee need not be segregated from other funds except to the extent required by law.

#### Section 7.02 Rights of Trustee.

(a) The Trustee may conclusively rely upon any document (whether in its original or facsimile form) believed by it to be genuine and to have been signed or presented by the proper Person. The Trustee need not investigate any fact or

matter stated in the document.

(b) Before the Trustee acts or refrains from acting, it may require an Officers' Certificate or an Opinion of Counsel or both. The Trustee will not be liable for any action it takes or omits to take in good faith in reliance on such Officers' Certificate or Opinion of Counsel. The Trustee may consult with counsel of its own selection and the advice of such counsel or any Opinion of Counsel will be full and complete authorization and protection from liability in respect of any action taken, suffered or omitted by it hereunder in good faith and in reliance thereon.

(c) The Trustee may act through its attorneys and agents and will not be responsible for the misconduct or negligence of any agent appointed with due care.

(d) The Trustee will not be liable for any action it takes or omits to take in good faith that it believes to be authorized or within the rights or powers conferred upon it by this Indenture.

(e) Unless otherwise specifically provided in this Indenture, any demand, request, direction or notice from the Company will be sufficient if signed by an Officer of the Company.

(f) The Trustee will be under no obligation to exercise any of the rights or powers vested in it by this Indenture at the request or direction of any of the Holders unless such Holders have offered to the Trustee reasonable security or indemnity reasonably satisfactory to it against the costs, expenses and liabilities that might be incurred by it in compliance with such request or direction.

(g) The Trustee will not be deemed to have notice of any Default or Event of Default unless a Responsible Officer has actual knowledge thereof or unless written notice of any event that is in fact such a default is received by the Trustee at the Corporate Trust Office of the Trustee, and such notice references the Notes and this Indenture. The Trustee will be deemed to have actual knowledge of the

63

failure of the Company to pay any principal of, or accrued interest or Liquidated Damages on, the Notes when due.

(h) The rights, privileges, protections, immunities and benefits given to the Trustee, including, without limitation, its right to be indemnified, are extended to, and will be enforceable by, the Trustee in each of its capacities hereunder, and each agent, custodian and other Person employed to act hereunder.

(i) The Trustee may request that the Company deliver an Officers' Certificate setting forth the names of individuals and/or titles of officers authorized at such time to take specified actions pursuant to this Indenture, which Officers' Certificate may be signed by any person authorized to sign an Officers' Certificate, including any person specified as so authorized in any such certificate previously delivered and not superseded.

#### Section 7.03 Individual Rights of Trustee.

The Trustee in its individual or any other capacity may become the owner or pledgee of Notes and may otherwise deal with the Company or any Affiliate of the Company with the same rights it would have if it were not Trustee. However, in the event that the Trustee acquires any conflicting interest it must eliminate such conflict within 90 days, apply to the SEC for permission to continue as trustee or resign. Any Agent may do the same with like rights and duties. The Trustee is also subject to Sections 7.10 and 7.11 hereof.

#### Section 7.04 Trustee's Disclaimer.

The Trustee will not be responsible for and makes no representation as to the validity or adequacy of this Indenture or the Notes, it will not be accountable for the Company's use of the proceeds from the Notes or any money paid to the Company or upon the Company's direction under any provision of this Indenture, it will not be responsible for the use or application of any money received by any Paying Agent other than the Trustee, and it will not be responsible for any statement or recital herein or any statement in the Notes or any other document in connection with the sale of the Notes or pursuant to this Indenture other than its certificate of authentication.

#### Section 7.05 Notice of Defaults.

If a Default or Event of Default occurs and is continuing and if it is known to the Trustee, the Trustee will mail to Holders of Notes a notice of the Default or Event of Default within 90 days after it occurs. Except in the case of a Default or Event of Default in payment of principal of, premium (including redemption or purchase price) or Liquidated Damages, if any, or interest on any Note, the Trustee may withhold the notice if and so long as a committee of its



Responsible Officers in good faith determines that withholding the notice is in the interests of the Holders of the Notes.

#### Section 7.06 Reports by Trustee to Holders of the Notes.

(a) Within 60 days after each February 15 beginning with the February 15 following the date of this Indenture, and for so long as Notes remain outstanding, the Trustee will mail to the Holders of the Notes a brief report dated as of such reporting date that complies with TIA Section 313(a) (but if no event described in TIA Section 313(a) has occurred within the twelve months preceding the reporting date, no report need be transmitted). The Trustee also will comply with TIA Section 313(b) (2). The Trustee will also transmit by mail all reports as required by TIA Section 313(c).

64

(b) A copy of each report at the time of its mailing to the Holders of Notes will be mailed by the Trustee to the Company and filed by the Trustee with the SEC and each stock exchange on which the Notes are listed, if any, in accordance with TIA Section 313(d). The Company will promptly notify the Trustee when the Notes are listed on any stock exchange or delisted therefrom.

#### Section 7.07 Compensation and Indemnity.

(a) The Company will pay to the Trustee from time to time reasonable compensation for its acceptance of this Indenture and services hereunder. The Trustee's compensation will not be limited by any law on compensation of a trustee of an express trust. The Company will reimburse the Trustee promptly upon request for all reasonable disbursements, advances and expenses incurred or made by it in addition to the compensation for its services. Such expenses will include the reasonable compensation, disbursements and expenses of the Trustee's agents and counsel.

(b) The Company and the Guarantors, jointly and severally, will indemnify the Trustee against any and all losses, liabilities, claims, damages or expenses incurred by it arising out of or in connection with the acceptance or administration of its duties under this Indenture, including the costs and expenses of enforcing this Indenture against the Company and the Guarantors (including this Section 7.07) and defending itself against any claim (whether asserted by the Company, the Guarantors or any Holder or any other Person) or liability in connection with the exercise or performance of any of its powers or duties hereunder, except to the extent any such loss, liability, claim, damage or expense is determined by a court of competent jurisdiction to have been caused by its own negligence or willful misconduct. The Trustee will notify the Company promptly of any claim for which it may seek indemnity. Failure by the Trustee to so notify the Company will not relieve the Company or any of the Guarantors of their obligations hereunder. The Company or such Guarantor will defend the claim and the Trustee will cooperate in the defense. The Trustee may have separate counsel and the Company will pay the reasonable fees and expenses of such counsel. Neither the Company nor any Guarantor need pay for any settlement made without its consent, which consent will not be unreasonably withheld.

(c) The obligations of the Company and the Guarantors under this Section 7.07 will survive the satisfaction and discharge of this Indenture.

(d) To secure the Company's payment obligations in this Section 7.07, the Trustee will have a Lien prior to the Notes on all money or property held or collected by the Trustee, except that held in trust to pay principal and interest on particular Notes. Such Lien will survive the satisfaction and discharge of this Indenture.

(e) When the Trustee incurs expenses or renders services after an Event of Default specified in Section 6.01(8) or (9) hereof occurs, the expenses and the compensation for the services (including the fees and expenses of its agents and counsel) are intended to constitute expenses of administration under any Bankruptcy Law.

(f) The Trustee will comply with the provisions of TIA Section 313(b) (2) to the extent applicable.

#### Section 7.08 Replacement of Trustee.

(a) A resignation or removal of the Trustee and appointment of a successor Trustee will become effective only upon the successor Trustee's acceptance of appointment as provided in this Section 7.08.

65

(b) The Trustee may resign in writing at any time and be discharged from the trust hereby created by so notifying the Company. The Holders of a majority in principal amount of the then outstanding Notes may remove the Trustee by so notifying the Trustee and the Company in writing. The Company may remove the

Trustee if:

- (1) the Trustee fails to comply with Section 7.10 hereof;
- (2) the Trustee is adjudged a bankrupt or an insolvent or an order for relief is entered with respect to the Trustee under any Bankruptcy Law;
- (3) a custodian or public officer takes charge of the Trustee or its property; or
- (4) the Trustee becomes incapable of acting.

(c) If the Trustee resigns or is removed or if a vacancy exists in the office of Trustee for any reason, the Company will promptly appoint a successor Trustee. Within one year after the successor Trustee takes office, the Holders of a majority in principal amount of the then outstanding Notes may appoint a successor Trustee to replace the successor Trustee appointed by the Company.

(d) If a successor Trustee does not take office within 60 days after the retiring Trustee resigns or is removed, the retiring Trustee, the Company, or the Holders of at least 10% in principal amount of the then outstanding Notes may petition at the expense of the Company any court of competent jurisdiction for the appointment of a successor Trustee.

(e) If the Trustee, after written request by any Holder who has been a Holder for at least six months, fails to comply with Section 7.10 hereof, such Holder may petition any court of competent jurisdiction for the removal of the Trustee and the appointment of a successor Trustee.

(f) A successor Trustee will deliver a written acceptance of its appointment to the retiring Trustee and to the Company. Thereupon, the resignation or removal of the retiring Trustee will become effective, and the successor Trustee will have all the rights, powers and duties of the Trustee under this Indenture. The successor Trustee will mail a notice of its succession to Holders. The retiring Trustee will promptly transfer all property held by it as Trustee to the successor Trustee; provided all sums owing to the Trustee hereunder have been paid and subject to the Lien provided for in Section 7.07 hereof. Notwithstanding replacement of the Trustee pursuant to this Section 7.08, the Company's obligations under Section 7.07 hereof will continue for the benefit of the retiring Trustee.

#### Section 7.09 Successor Trustee by Merger, etc.

If the Trustee consolidates, merges or converts into, or transfers all or substantially all of its corporate trust business to, another corporation, the successor corporation without any further act will be the successor Trustee.

#### Section 7.10 Eligibility; Disqualification.

There will at all times be a Trustee hereunder that is a corporation organized and doing business under the laws of the United States of America or of any state thereof that is authorized under such laws to exercise corporate trustee power, that is subject to supervision or examination by federal or state authorities and that has a combined capital and surplus of at least \$100.0 million as set forth in its most recent published annual report of condition.

66

This Indenture will always have a Trustee who satisfies the requirements of TIA Section 310(a)(1), (2) and (5). The Trustee is subject to TIA Section 310(b).

#### Section 7.11 Preferential Collection of Claims Against Company.

The Trustee is subject to TIA Section 311(a), excluding any creditor relationship listed in TIA Section 311(b). A Trustee who has resigned or been removed will be subject to TIA Section 311(a) to the extent indicated therein.

### ARTICLE 8.

#### LEGAL DEFEASANCE AND COVENANT DEFEASANCE

#### Section 8.01 Option to Effect Legal Defeasance or Covenant Defeasance.

The Company may, at the option of its Board of Directors evidenced by a resolution of such Board of Directors set forth in an Officers' Certificate, at any time, elect to have either Section 8.02 or 8.03 hereof be applied to all outstanding Notes upon compliance with the conditions set forth below in this Article 8.

#### Section 8.02 Legal Defeasance and Discharge.

Upon the Company's exercise under Section 8.01 hereof of the option applicable to this Section 8.02, the Company and each of the Guarantors will, subject to the satisfaction of the conditions set forth in Section 8.04 hereof,

be deemed to have been discharged from their obligations with respect to all outstanding Notes (including the Subsidiary Guarantees) on the date the conditions set forth below are satisfied (hereinafter, "Legal Defeasance"). For this purpose, Legal Defeasance means that the Company and the Guarantors will be deemed to have paid and discharged the entire Indebtedness represented by the outstanding Notes (including the Subsidiary Guarantees), which will thereafter be deemed to be "outstanding" only for the purposes of Section 8.05 hereof and the other Sections of this Indenture referred to in clauses (1) and (2) below, and to have satisfied all their other obligations under such Notes, the Subsidiary Guarantees and this Indenture (and the Trustee, on demand of and at the expense of the Company, will execute proper instruments acknowledging the same), except for the following provisions which will survive until otherwise terminated or discharged hereunder:

(1) the rights of Holders of outstanding Notes to receive payments in respect of the principal of, or interest or premium and Liquidated Damages, if any, on such Notes when such payments are due from the trust referred to in Section 8.04 hereof;

(2) the Company's obligations with respect to such Notes under Article 2 and Section 4.02 hereof;

(3) the rights, powers, trusts, duties and immunities of the Trustee hereunder and the Company's and the Guarantors' obligations in connection therewith; and

(4) this Article 8.

Subject to compliance with this Article 8, the Company may exercise its option under this Section 8.02 notwithstanding the prior exercise of its option under Section 8.03 hereof.

67

#### Section 8.03 Covenant Defeasance.

Upon the Company's exercise under Section 8.01 hereof of the option applicable to this Section 8.03, the Company and the Guarantors will, subject to the satisfaction of the conditions set forth in Section 8.04 hereof, be released from each of their obligations under the covenants contained in Sections 4.03, 4.04, 4.07, 4.08, 4.09, 4.10, 4.11, 4.12, 4.13, 4.15, 4.16, 4.17, 4.18 and 4.19 hereof and clause (4) of Section 5.01 hereof with respect to the outstanding Notes on and after the date the conditions set forth in Section 8.04 hereof are satisfied (hereinafter, "Covenant Defeasance"), and the Notes will thereafter be deemed not "outstanding" for the purposes of any direction, waiver, consent or declaration or act of Holders (and the consequences of any thereof) in connection with such covenants, but will continue to be deemed "outstanding" for all other purposes hereunder (it being understood that such Notes will not be deemed outstanding for accounting purposes). For this purpose, Covenant Defeasance means that, with respect to the outstanding Notes and Subsidiary Guarantees, the Company and the Guarantors may omit to comply with and will have no liability in respect of any term, condition or limitation set forth in any such covenant, whether directly or indirectly, by reason of any reference elsewhere herein to any such covenant or by reason of any reference in any such covenant to any other provision herein or in any other document and such omission to comply will not constitute a Default or an Event of Default under Section 6.01 hereof, but, except as specified above, the remainder of this Indenture and such Notes and Subsidiary Guarantees will be unaffected thereby. In addition, upon the Company's exercise under Section 8.01 hereof of the option applicable to this Section 8.03 hereof, subject to the satisfaction of the conditions set forth in Section 8.04 hereof, Sections 6.01(3) through 6.01(6) hereof will not constitute Events of Default.

#### Section 8.04 Conditions to Legal or Covenant Defeasance.

In order to exercise either Legal Defeasance or Covenant Defeasance under either Section 8.02 or 8.03 hereof:

(1) the Company must irrevocably deposit with the Trustee, in trust, for the benefit of the Holders, cash in United States dollars, non-callable Government Securities, or a combination thereof, in such amounts as will be sufficient, in the opinion of a nationally recognized investment bank, appraisal firm or firm of independent public accountants, to pay the principal of, premium and Liquidated Damages, if any, and interest on the outstanding Notes on the stated date for payment thereof or on the applicable redemption date, as the case may be, and the Company must specify whether the Notes are being defeased to maturity or to a particular redemption date;

(2) in the case of an election under Section 8.02 hereof, the Company has delivered to the Trustee an Opinion of Counsel in the United States reasonably acceptable to the Trustee confirming that:

(A) the Company has received from, or there has been published

by, the Internal Revenue Service a ruling; or

(B) since the date of this Indenture, there has been a change in the applicable federal income tax law,

in either case to the effect that, and based thereon such Opinion of Counsel shall confirm that, the Holders of the outstanding Notes will not recognize income, gain or loss for federal income tax purposes as a result of such Legal Defeasance and will be subject to federal income tax on the same amounts, in the same manner and at the same times as would have been the case if such Legal Defeasance had not occurred;

68

(3) in the case of an election under Section 8.03 hereof, the Company must deliver to the Trustee an Opinion of Counsel in the United States reasonably acceptable to the Trustee confirming that the Holders of the outstanding Notes will not recognize income, gain or loss for federal income tax purposes as a result of such Covenant Defeasance and will be subject to federal income tax on the same amounts, in the same manner and at the same times as would have been the case if such Covenant Defeasance had not occurred;

(4) no Default or Event of Default will have occurred and be continuing on the date of such deposit and after giving effect thereto;

(5) such Legal Defeasance or Covenant Defeasance will not result in a breach or violation of, or constitute a default under, any material agreement or instrument (other than this Indenture) to which the Company or any of its Subsidiaries is a party or by which the Company or any of its Subsidiaries is bound;

(6) the Company must deliver to the Trustee an Officers' Certificate stating that the deposit was not made by the Company with the intent of preferring the Holders of Notes over the other creditors of the Company with the intent of defeating, hindering, delaying or defrauding any other creditors of the Company or others; and

(7) the Company must deliver to the Trustee an Officers' Certificate and an Opinion of Counsel, each stating that all conditions precedent provided for or relating to the Legal Defeasance or the Covenant Defeasance, as applicable, have been complied with.

#### Section 8.05 Deposited Money and Government Securities to be Held in Trust; Other Miscellaneous Provisions.

Subject to Section 8.06 hereof, all money and non-callable Government Securities (including the proceeds thereof) deposited with the Trustee (or other qualifying trustee, collectively for purposes of this Section 8.05, the "Trustee") pursuant to Section 8.04 hereof in respect of the outstanding Notes will be held in trust and applied by the Trustee, in accordance with the provisions of such Notes and this Indenture, to the payment, either directly or through any Paying Agent (including the Company acting as Paying Agent) as the Trustee may determine, to the Holders of such Notes of all sums due and to become due thereon in respect of principal, premium and Liquidated Damages, if any, and interest, but such money need not be segregated from other funds except to the extent required by law.

The Company will pay and indemnify the Trustee against any tax, fee or other charge imposed on or assessed against the cash or non-callable Government Securities deposited pursuant to Section 8.04 hereof or the principal and interest received in respect thereof other than any such tax, fee or other charge which by law is for the account of the Holders of the outstanding Notes.

Notwithstanding anything in this Article 8 to the contrary, the Trustee will deliver or pay to the Company from time to time upon the request of the Company any money or non-callable Government Securities held by it as provided in Section 8.04 hereof which, in the opinion of a nationally recognized firm of independent public accountants expressed in a written certification thereof delivered to the Trustee (which may be the opinion delivered under Section 8.04(1) hereof), are in excess of the amount thereof that would then be required to be deposited to effect an equivalent Legal Defeasance or Covenant Defeasance.

69

#### Section 8.06 Repayment to Company.

Any money deposited with the Trustee or any Paying Agent, or then held by the Company, in trust for the payment of the principal of, premium or Liquidated Damages, if any, or interest on any Note and remaining unclaimed for

two years after such principal, premium or Liquidated Damages, if any, or interest has become due and payable will be paid to the Company on its request or (if then held by the Company) will be discharged from such trust; and the Holder of such Note will thereafter be permitted to look only to the Company for payment thereof, and all liability of the Trustee or such Paying Agent with respect to such trust money, and all liability of the Company as trustee thereof, will thereupon cease; provided, however, that the Trustee or such Paying Agent, before being required to make any such repayment, may at the expense of the Company cause to be published once, in the New York Times and The Wall Street Journal (national edition), notice that such money remains unclaimed and that, after a date specified therein, which will not be less than 30 days from the date of such notification or publication, any unclaimed balance of such money then remaining will be repaid to the Company.

#### Section 8.07 Reinstatement.

If the Trustee or Paying Agent is unable to apply any United States dollars or non-callable Government Securities in accordance with Section 8.02 or 8.03 hereof, as the case may be, by reason of any order or judgment of any court or governmental authority enjoining, restraining or otherwise prohibiting such application, then the Company's and the Guarantors' obligations under this Indenture and the Notes and the Subsidiary Guarantees will be revived and reinstated as though no deposit had occurred pursuant to Section 8.02 or 8.03 hereof until such time as the Trustee or Paying Agent is permitted to apply all such money in accordance with Section 8.02 or 8.03 hereof, as the case may be; provided, however, that, if the Company makes any payment of principal of, premium or Liquidated Damages, if any, or interest on any Note following the reinstatement of its obligations, the Company will be subrogated to the rights of the Holders of such Notes to receive such payment from the money held by the Trustee or Paying Agent.

### ARTICLE 9. AMENDMENT, SUPPLEMENT AND WAIVER

#### Section 9.01 Without Consent of Holders of Notes.

Notwithstanding Section 9.02 hereof, the Company, the Guarantors and the Trustee may amend or supplement this Indenture, the Subsidiary Guarantees or the Notes without the consent of any Holder of a Note:

- (1) to cure any ambiguity, defect or inconsistency;
  - (2) to provide for uncertificated Notes in addition to or in place of certificated Notes or to alter the provisions of Article 2 hereof (including the related definitions) in a manner that does not materially adversely affect any Holder;
  - (3) to provide for the assumption of the Company's or a Guarantor's obligations to the Holders of the Notes by a successor to the Company pursuant to Article 5 or Article 11 hereof;
  - (4) to provide for additional Subsidiary Guarantees or to limit or eliminate the ability of the Company to obtain the release of a Guarantor or a Subsidiary Guarantee.
- 70
- (5) to make any change that would provide any additional rights or benefits to the Holders of the Notes or that does not adversely affect the legal rights hereunder of any Holder of the Note; or
  - (6) to comply with requirements of the SEC in order to effect or maintain the qualification of this Indenture under the TIA.

Upon the request of the Company accompanied by a resolution of its Board of Directors authorizing the execution of any such amended or supplemental Indenture, and upon receipt by the Trustee of the documents described in Section 7.02 hereof, the Trustee will join with the Company and the Guarantors in the execution of any amended or supplemental Indenture authorized or permitted by the terms of this Indenture and to make any further appropriate agreements and stipulations that may be therein contained, but the Trustee will not be obligated to enter into such amended or supplemental Indenture that affects its own rights, duties or immunities under this Indenture or otherwise.

#### Section 9.02 With Consent of Holders of Notes.

Except as provided below in this Section 9.02, the Company and the Trustee may amend or supplement this Indenture (including, without limitation, Sections 3.09, 4.10 and 4.15 hereof), the Subsidiary Guarantees and the Notes with the consent of the Holders of at least a majority in principal amount of the Notes (including, without limitation, Additional Notes, if any) then outstanding voting as a single class (including, without limitation, consents obtained in connection with a tender offer or exchange offer for, or purchase of, the Notes), and, subject to Sections 6.04 and 6.07 hereof, any existing

Default or Event of Default (other than a Default or Event of Default in the payment of the principal of, premium or Liquidated Damages, if any, or interest on the Notes, except a payment default resulting from an acceleration that has been rescinded) or compliance with any provision of this Indenture, the Subsidiary Guarantees or the Notes may be waived with the consent of the Holders of a majority in principal amount of the then outstanding Notes voting as a single class (including consents obtained in connection with a tender offer or exchange offer for, or purchase of, the Notes). In addition, any amendment to, or waiver of, the provisions of Article 10 hereof that adversely affects the rights of the Holders of the Notes will require the consent of the Holders of at least 75% in aggregate principal amount of Notes then outstanding. Section 2.08 hereof will determine which Notes are considered to be "outstanding" for purposes of this Section 9.02.

Upon the request of the Company accompanied by a resolution of its Board of Directors authorizing the execution of any such amended or supplemental Indenture, and upon the filing with the Trustee of evidence satisfactory to the Trustee of the consent of the Holders of Notes as aforesaid, and upon receipt by the Trustee of the documents described in Section 7.02 hereof, the Trustee will join with the Company in the execution of such amended or supplemental Indenture unless such amended or supplemental Indenture directly affects the Trustee's own rights, duties or immunities under this Indenture or otherwise, in which case the Trustee may in its discretion, but will not be obligated to, enter into such amended or supplemental Indenture.

It is not necessary for the consent of the Holders of Notes under this Section 9.02 to approve the particular form of any proposed amendment or waiver, but it is sufficient if such consent approves the substance thereof.

After an amendment, supplement or waiver under this Section 9.02 becomes effective, the Company will mail to the Holders of Notes affected thereby a notice briefly describing the amendment, supplement or waiver. Any failure of the Company to mail such notice, or any defect therein, will not, however, in any way impair or affect the validity of any such amended or supplemental Indenture or

71

waiver. Subject to Sections 6.04 and 6.07 hereof, the Holders of a majority in aggregate principal amount of the Notes then outstanding voting as a single class may waive compliance in a particular instance by the Company with any provision of this Indenture or the Notes. However, without the consent of each Holder affected, an amendment or waiver under this Section 9.02 may not (with respect to any Notes held by a non-consenting Holder):

- (1) reduce the principal amount of Notes whose Holders must consent to an amendment, supplement or waiver;
- (2) reduce the principal of or change the fixed maturity of any Note or alter or waive any of the provisions with respect to the redemption of the Notes (except as provided in Sections 3.09, 4.10 and 4.15);
- (3) reduce the rate of or change the time for payment of interest, including default interest, on any Note;
- (4) waive a Default or Event of Default in the payment of principal (including redemption or purchase price) of or premium or Liquidated Damages, if any, or interest on the Notes (except a rescission of acceleration of the Notes by the Holders of at least a majority in aggregate principal amount of the then outstanding Notes and a waiver of the payment default that resulted from such acceleration);
- (5) make any Note payable in money other than that stated in the Notes;
- (6) make any change in Section 6.04 or 6.07 hereof or in the foregoing amendment and waiver provisions;
- (7) waive a redemption payment with respect to any Note (other than a payment required by Section 3.09, 4.10 or 4.15);
- (8) release any Guarantor from any of its obligations under its Subsidiary Guarantee or this Indenture, except in accordance with the terms of this Indenture; or
- (9) make any change to clauses (1) through (8) above in this Section 9.02.

Section 9.03 Compliance with Trust Indenture Act.

Every amendment or supplement to this Indenture or the Notes will be set forth in a amended or supplemental Indenture that complies with the TIA as then in effect.

#### Section 9.04 Revocation and Effect of Consents.

Until an amendment, supplement or waiver becomes effective, a consent to it by a Holder of a Note is a continuing consent by the Holder of a Note and every subsequent Holder of a Note or portion of a Note that evidences the same debt as the consenting Holder's Note, even if notation of the consent is not made on any Note. However, any such Holder of a Note or subsequent Holder of a Note may revoke the consent as to its Note if the Trustee receives written notice of revocation before the date the waiver, supplement or amendment becomes effective. An amendment, supplement or waiver becomes effective in accordance with its terms and thereafter binds every Holder.

72

#### Section 9.05 Notation on or Exchange of Notes.

The Trustee may place an appropriate notation about an amendment, supplement or waiver on any Note thereafter authenticated. The Company in exchange for all Notes may issue and the Trustee will, upon receipt of an Authentication Order, authenticate new Notes that reflect the amendment, supplement or waiver.

Failure to make the appropriate notation or issue a new Note will not affect the validity and effect of such amendment, supplement or waiver.

#### Section 9.06 Trustee to Sign Amendments, etc.

The Trustee will sign any amended or supplemental Indenture authorized pursuant to this Article 9 if the amendment or supplement does not adversely affect the rights, duties, liabilities or immunities of the Trustee. The Company may not sign an amendment or supplemental Indenture until its Board of Directors approves it. In executing any amended or supplemental indenture, the Trustee will be entitled to receive and (subject to Section 7.01 hereof) will be fully protected in relying upon, in addition to the documents required by Section 13.04 hereof, an Officers' Certificate and an Opinion of Counsel stating that the execution of such amended or supplemental Indenture is authorized or permitted by this Indenture.

### ARTICLE 10. SUBORDINATION

#### Section 10.01 Agreement to Subordinate.

The Company agrees, and each Holder by accepting a Note agrees, that the Indebtedness evidenced by the Notes is subordinated in right of payment, to the extent and in the manner provided in this Article 10, to the prior payment in full of all Senior Debt (whether outstanding on the date hereof or hereafter created, incurred, assumed or guaranteed), and that the subordination is for the benefit of the holders of Senior Debt.

#### Section 10.02 Certain Definitions.

"Designated Senior Debt" means:

- (1) any Indebtedness outstanding under the Credit Agreement; and
- (2) after payment in full of all Obligations under the Credit Agreement, or upon the consent of the lenders thereunder, any other Senior Debt permitted under this Indenture the outstanding principal amount of which is or may be \$15.0 million or more and that has been designated by the Company as "Designated Senior Debt."

"Permitted Junior Securities" means:

- (1) Equity Interests in the Company or any Guarantor or any successor to either of the foregoing; or
- (2) debt securities that are subordinated to all Senior Debt and any debt securities issued in exchange for Senior Debt to substantially the same extent as, or to a greater extent than, the Notes and the Subsidiary Guarantees are subordinated to Senior Debt under this Indenture.

73

"Representative" means the indenture trustee or other trustee, agent or representative for any Senior Debt.

"Senior Debt" means:

- (1) all Indebtedness of the Company or any Guarantor outstanding under the Credit Facilities and all Hedging Obligations with respect thereto;

(2) any other Indebtedness of the Company or any Guarantor permitted to be incurred under the terms of this Indenture, unless the instrument under which such Indebtedness is incurred expressly provides that it is subordinated to any Senior Debt or on a parity with or subordinated in right of payment to the Notes or any Subsidiary Guarantee, and

(3) all Obligations with respect to the items listed in the preceding clauses (1) and (2).

Notwithstanding anything to the contrary in the preceding, Senior Debt shall not include:

(1) any liability for federal, state, local or other taxes owed or owing;

(2) any intercompany Indebtedness of the Company or any of its Subsidiaries to the Company or any of its Affiliates;

(3) any trade payables;

(4) the portion of any Indebtedness that is incurred in violation of this Indenture; or

(5) Indebtedness which, when incurred and without respect to any election under section 1111(b) of title 11, U.S. Code, is without recourse to the Company or any Guarantor.

#### Section 10.03 Liquidation; Dissolution; Bankruptcy.

Upon any distribution to creditors of the Company in a liquidation or dissolution of the Company or in a bankruptcy, reorganization, insolvency, receivership or similar proceeding relating to the Company or its property, in an assignment for the benefit of creditors or any marshaling of the Company's assets and liabilities:

(1) holders of Senior Debt will be entitled to receive payment in full of all Obligations due in respect of such Senior Debt (including interest after the commencement of any bankruptcy proceeding at the rate specified in the applicable Senior Debt) before the Holders of Notes will be entitled to receive any payment with respect to the Notes (except that Holders of Notes may receive and retain Permitted Junior Securities and payments made from any defeasance trust created pursuant to Section 8.01 hereof); and

(2) until all Obligations with respect to Senior Debt (as provided in clause (1) above) are paid in full, any distribution to which Holders would be entitled but for this Article 10 will be made to holders of Senior Debt (except that Holders of Notes may receive and retain Permitted Junior Securities and payments made from any defeasance trust created pursuant to Section 8.01 hereof), as their interests may appear.

A distribution may consist of cash, securities or other property, by set-off or otherwise.

#### Section 10.04 Default on Designated Senior Debt.

(a) The Company may not make any payment or distribution to the Trustee or any Holder in respect of Obligations with respect to the Notes and may not acquire from the Trustee or any Holder any Notes for cash or property (other than Permitted Junior Securities and payments made from any defeasance trust created pursuant to Section 8.01 hereof) until all principal and other Obligations with respect to the Senior Debt have been paid in full if:

(1) payment default on Designated Senior Debt occurs and is continuing beyond any applicable grace period in the agreement, indenture or other document governing such Designated Senior Debt; or

(2) any other default occurs and is continuing on any series of Designated Senior Debt that permits holders of that series of Designated Senior Debt to accelerate its maturity and the Trustee and the Company receive a notice of such default (a "Payment Blockage Notice") from the holders of any Designated Senior Debt (or their Representatives). If the Trustee receives any such Payment Blockage Notice, no subsequent Payment Blockage Notice will be effective for purposes of this Section unless and until (A) at least 360 days have elapsed since the delivery of the immediately prior Payment Blockage Notice and (B) all scheduled payments of principal, premium and Liquidated Damages, if any, and interest on the Notes that have come due have been paid in full in cash.

No nonpayment default that existed or was continuing on the date of delivery of any Payment Blockage Notice to the Trustee may be, or may be made,



the basis for a subsequent Payment Blockage Notice.

(b) The Company may and will resume payments on and distributions in respect of the Notes and may acquire them upon the earlier of:

(1) in the case of a payment default, upon the date upon which such default is cured or waived, and

(2) in the case of a nonpayment default, upon the earlier of the date on which such nonpayment default is cured or waived or 179 days after the date on which the applicable Payment Blockage Notice is received, unless the maturity of any Designated Senior Debt has been accelerated,

if this Article 10 otherwise permits the payment, distribution or acquisition at the time of such payment or acquisition.

#### Section 10.05 Occurrence of an Event of Default.

The Company will promptly notify holders of Senior Debt (or their Representative) upon the occurrence of an Event of Default.

#### Section 10.06 When Distribution Must Be Paid Over.

In the event that the Trustee or any Holder receives any payment of any Obligations with respect to the Notes (other than Permitted Junior Securities and payments made from any defeasance trust created pursuant to Section 8.01 hereof) at a time when the payment is prohibited by this Article 10 and the Trustee or such Holder, as applicable, has actual knowledge that such payment is prohibited by Section

75

10.04 hereof, such payment will be held by the Trustee or such Holder, in trust for the benefit of, and will be paid forthwith over and delivered, upon written request, to, the holders of Senior Debt as their interests may appear or their Representative under the agreement, indenture or other document (if any) pursuant to which Senior Debt may have been issued, as their respective interests may appear, for application to the payment of all Obligations with respect to Senior Debt remaining unpaid to the extent necessary to pay such Obligations in full in accordance with their terms, after giving effect to any concurrent payment or distribution to or for the holders of Senior Debt.

With respect to the holders of Senior Debt, the Trustee undertakes to perform only those obligations on the part of the Trustee as are specifically set forth in this Article 10, and no implied covenants or obligations with respect to the holders of Senior Debt will be read into this Indenture against the Trustee. The Trustee will not be deemed to owe any fiduciary duty to the holders of Senior Debt, and will not be liable to any such holders if the Trustee pays over or distributes to or on behalf of Holders or the Company or any other Person money or assets to which any holders of Senior Debt are then entitled by virtue of this Article 10, except if such payment is made as a result of the willful misconduct or gross negligence of the Trustee.

#### Section 10.07 Notice by Company.

The Company will promptly notify the Trustee and the Paying Agent of any facts known to the Company that would cause a payment of any Obligations with respect to the Notes to violate this Article 10, but failure to give such notice will not affect the subordination of the Notes to the Senior Debt as provided in this Article 10.

#### Section 10.08 Subrogation.

After all Senior Debt is paid in full and until the Notes are paid in full, Holders of Notes will be subrogated (equally and ratably with all other Indebtedness *pari passu* with the Notes) to the rights of holders of Senior Debt to receive distributions applicable to Senior Debt to the extent that distributions otherwise payable to the Holders of Notes have been applied to the payment of Senior Debt. A distribution made under this Article 10 to holders of Senior Debt that otherwise would have been made to Holders of Notes is not, as between the Company and Holders, a payment by the Company on the Notes.

#### Section 10.09 Relative Rights.

This Article 10 defines the relative rights of Holders of Notes and holders of Senior Debt. Nothing in this Indenture will:

(1) impair, as between the Company and Holders of Notes, the obligation of the Company, which is absolute and unconditional, to pay principal of, premium and interest and Liquidated Damages, if any, on the Notes in accordance with their terms;

(2) affect the relative rights of Holders of Notes and creditors of the Company other than their rights in relation to holders of Senior Debt;

or

(3) prevent the Trustee or any Holder of Notes from exercising its available remedies upon a Default or Event of Default, subject to the rights of holders and owners of Senior Debt to receive distributions and payments otherwise payable to Holders of Notes.

If the Company fails because of this Article 10 to pay principal of, premium or interest or Liquidated Damages, if any, on a Note on the due date, the failure is still a Default or Event of Default.

76

#### Section 10.10 Subordination May Not Be Impaired by Company.

No right of any holder of Senior Debt to enforce the subordination of the Indebtedness evidenced by the Notes may be impaired by any act or failure to act by the Company or any Holder or by the failure of the Company or any Holder to comply with this Indenture.

#### Section 10.11 Distribution or Notice to or by Representative.

Whenever a distribution is to be made or a notice given to or by holders of Senior Debt, the distribution may be made and the notice given to or by their Representative.

Upon any payment or distribution of assets of the Company referred to in this Article 10, the Trustee and the Holders of Notes will be entitled to rely upon any order or decree made by any court of competent jurisdiction or upon any certificate of such Representative or of the liquidating trustee or agent or other Person making any distribution to the Trustee or to the Holders of Notes for the purpose of ascertaining the Persons entitled to participate in such distribution, the holders of the Senior Debt and other Indebtedness of the Company, the amount thereof or payable thereon, the amount or amounts paid or distributed thereon and all other facts pertinent thereto or to this Article 10.

#### Section 10.12 Rights of Trustee and Paying Agent.

Notwithstanding the provisions of this Article 10 or any other provision of this Indenture, the Trustee will not be charged with knowledge of the existence of any facts that would prohibit the making of any payment or distribution by the Trustee, and the Trustee and the Paying Agent may continue to make payments on the Notes, unless the Trustee has received at its Corporate Trust Office at least five Business Days prior to the date of such payment written notice of facts that would cause the payment of any Obligations with respect to the Notes to violate this Article 10. Only the Company or a Representative may give the notice. Nothing in this Article 10 will impair the claims of, or payments to, the Trustee under or pursuant to Section 7.07 hereof.

The Trustee in its individual or any other capacity may hold Senior Debt with the same rights it would have if it were not Trustee. Any Agent may do the same with like rights.

#### Section 10.13 Authorization to Effect Subordination.

Each Holder of Notes, by the Holder's acceptance thereof, authorizes and directs the Trustee on such Holder's behalf to take such action as may be necessary or appropriate to effectuate the subordination as provided in this Article 10, and appoints the Trustee to act as such Holder's attorney-in-fact for any and all such purposes. If the Trustee does not file a proper proof of claim or proof of debt in the form required in any proceeding referred to in Section 6.09 hereof at least 30 days before the expiration of the time to file such claim, the Representatives are hereby authorized to file an appropriate claim for and on behalf of the Holders of the Notes.

#### Section 10.14 Amendments.

The provisions of this Article 10 may not be amended or modified without the written consent of the holders of Senior Debt, as required under the agreement, indenture or other document (if any) governing such Senior Debt. In addition, any amendment to, or waiver of, the provisions of this Article 10 that adversely affects the rights of the Holders of the Notes will require the consent of the Holders of at least 75% in aggregate principal amount of Notes then outstanding.

77

#### Section 10.15 Trustee Not Fiduciary for Holders of Senior Debt.

The Trustee will not be deemed to owe any fiduciary duty to the holders of Senior Debt and will not be liable to any such holders if the Trustee will in good faith (and without gross negligence or willful misconduct) mistakenly pay over or distribute to Holders of Notes or to the Company or to any other person

cash, property or securities to which any holders of Senior Debt will be entitled by virtue of this Article 10 or otherwise. With respect to the holders of Senior Debt, the Trustee undertakes to perform or to observe only such of its covenants or obligations as are specifically set forth in this Article 10 and no implied covenants or obligations with respect to holders of Senior Debt will be read into this Indenture against the Trustee.

ARTICLE 11.  
Subsidiary GUARANTEES

Section 11.01 Guarantee.

(a) Subject to this Article 11, each of the Guarantors hereby, jointly and severally, unconditionally guarantees to each Holder of a Note authenticated and delivered by the Trustee and to the Trustee and its successors and assigns, irrespective of the validity and enforceability of this Indenture, the Notes or the obligations of the Company hereunder or thereunder, that:

(1) the principal of, premium and Liquidated Damages, if any, and interest on the Notes will be promptly paid in full when due, whether at maturity, by acceleration, redemption or otherwise, and interest on the overdue principal of and interest on the Notes, if any, if lawful, and all other obligations of the Company to the Holders or the Trustee hereunder or thereunder will be promptly paid in full or performed, all in accordance with the terms hereof and thereof; and

(2) in case of any extension of time of payment or renewal of any Notes or any of such other obligations, that same will be promptly paid in full when due or performed in accordance with the terms of the extension or renewal, whether at stated maturity, by acceleration or otherwise.

Failing payment when due of any amount so guaranteed or any performance so guaranteed for whatever reason, the Guarantors will be jointly and severally obligated to pay the same immediately. Each Guarantor agrees that this is a guarantee of payment and not a guarantee of collection.

(b) The Guarantors hereby agree that their obligations hereunder are unconditional, irrespective of the validity, regularity or enforceability of the Notes or this Indenture, the absence of any action to enforce the same, any waiver or consent by any Holder of the Notes with respect to any provisions hereof or thereof, the recovery of any judgment against the Company, any action to enforce the same or any other circumstance which might otherwise constitute a legal or equitable discharge or defense of a guarantor. Each Guarantor hereby waives diligence, presentment, demand of payment, filing of claims with a court in the event of insolvency or bankruptcy of the Company, any right to require a proceeding first against the Company, protest, notice and all demands whatsoever and covenant that this Subsidiary Guarantee will not be discharged except by complete performance of the obligations contained in the Notes and this Indenture.

(c) If any Holder or the Trustee is required by any court or otherwise to return to the Company, the Guarantors or any custodian, trustee, liquidator or other similar official acting in relation to either the Company or the Guarantors, any amount paid by either to the Trustee or such Holder, this Subsidiary Guarantee, to the extent theretofore discharged, will be reinstated in full force and effect.

78

(d) Each Guarantor agrees that it will not be entitled to any right of subrogation in relation to the Holders in respect of any obligations guaranteed hereby until payment in full of all obligations guaranteed hereby. Each Guarantor further agrees that, as between the Guarantors, on the one hand, and the Holders and the Trustee, on the other hand, (1) the maturity of the obligations guaranteed hereby may be accelerated as provided in Article 6 hereof for the purposes of this Subsidiary Guarantee, notwithstanding any stay, injunction or other prohibition preventing such acceleration in respect of the obligations guaranteed hereby, and (2) in the event of any declaration of acceleration of such obligations as provided in Article 6 hereof, such obligations (whether or not due and payable) will forthwith become due and payable by the Guarantors for the purpose of this Subsidiary Guarantee. The Guarantors will have the right to seek contribution from any non-paying Guarantor so long as the exercise of such right does not impair the rights of the Holders under the Subsidiary Guarantee.

Section 11.02 Subordination of Subsidiary Guarantee.

The Obligations of each Guarantor under its Subsidiary Guarantee pursuant to this Article 11 will be junior and subordinated to the Senior Debt of such Guarantor on the same basis as the Notes are junior and subordinated to Senior Debt of the Company. For the purposes of the foregoing sentence, the Trustee and the Holders will have the right to receive and/or retain payments by any of the Guarantors only at such times as they may receive and/or retain payments in respect of the Notes pursuant to this Indenture, including Article 10 hereof.

### Section 11.03 Limitation on Guarantor Liability.

Each Guarantor, and by its acceptance of Notes, each Holder, hereby confirms that it is the intention of all such parties that the Subsidiary Guarantee of such Guarantor not constitute a fraudulent transfer or conveyance for purposes of Bankruptcy Law, the Uniform Fraudulent Conveyance Act, the Uniform Fraudulent Transfer Act or any similar federal or state law to the extent applicable to any Subsidiary Guarantee. To effectuate the foregoing intention, the Trustee, the Holders and the Guarantors hereby irrevocably agree that the obligations of such Guarantor will, after giving effect to such maximum amount and all other contingent and fixed liabilities of such Guarantor that are relevant under such laws, and after giving effect to any collections from, rights to receive contribution from or payments made by or on behalf of any other Guarantor in respect of the obligations of such other Guarantor under this Article 11, result in the obligations of such Guarantor under its Subsidiary Guarantee not constituting a fraudulent transfer or conveyance.

### Section 11.04 Execution and Delivery of Subsidiary Guarantee.

To evidence its Subsidiary Guarantee set forth in Section 11.01 hereof, each Guarantor hereby agrees that a notation of such Subsidiary Guarantee substantially in the form attached as Exhibit E hereto will be endorsed by an Officer of such Guarantor on each Note authenticated and delivered by the Trustee and that this Indenture will be executed on behalf of such Guarantor by one of its Officers.

Each Guarantor hereby agrees that its Subsidiary Guarantee set forth in Section 11.01 hereof will remain in full force and effect notwithstanding any failure to endorse on each Note a notation of such Subsidiary Guarantee.

If an Officer whose signature is on this Indenture or on the Subsidiary Guarantee no longer holds that office at the time the Trustee authenticates the Note on which a Subsidiary Guarantee is endorsed, the Subsidiary Guarantee will be valid nevertheless.

79

The delivery of any Note by the Trustee, after the authentication thereof hereunder, will constitute due delivery of the Subsidiary Guarantee set forth in this Indenture on behalf of the Guarantors.

In the event that the Company creates or acquires any Domestic Subsidiary after the date of this Indenture, if required by Section 4.18 hereof, the Company will cause such Domestic Subsidiary to comply with the provisions of Section 4.18 hereof and this Article 11, to the extent applicable.

### Section 11.05 Guarantors May Consolidate, etc., on Certain Terms.

Except as otherwise provided in Section 11.06 hereof, no Guarantor may sell or otherwise dispose of all or substantially all of its assets to, or consolidate with or merge with or into (whether or not such Guarantor is the surviving Person) another Person, other than the Company or another Guarantor, unless:

(1) immediately after giving effect to such transaction, no Default or Event of Default exists; and

(2) either:

(a) subject to Section 11.06 hereof, the Person acquiring the property in any such sale or disposition or the Person formed by or surviving any such consolidation or merger unconditionally assumes all the obligations of that Guarantor under this Indenture, its Subsidiary Guarantee and the Registration Rights Agreement, pursuant to a supplemental indenture in form and substance reasonably satisfactory to the Trustee, under the Notes, this Indenture and the Subsidiary Guarantee on the terms set forth herein or therein; or

(b) the Net Proceeds of such sale or other disposition are applied in accordance with the applicable provisions of this Indenture, including without limitation, Section 4.10 hereof.

In case of any such consolidation, merger, sale or conveyance and upon the assumption by the successor Person, by supplemental indenture, executed and delivered to the Trustee and satisfactory in form to the Trustee, of the Subsidiary Guarantee endorsed upon the Notes and the due and punctual performance of all of the covenants and conditions of this Indenture to be performed by the Guarantor, such successor Person will succeed to and be substituted for the Guarantor with the same effect as if it had been named herein as a Guarantor. Such successor Person thereupon may cause to be signed any or all of the Subsidiary Guarantees to be endorsed upon all of the Notes issuable hereunder which theretofore will not have been signed by the Company and delivered to the Trustee. All the Subsidiary Guarantees so issued will in

all respects have the same legal rank and benefit under this Indenture as the Subsidiary Guarantees theretofore and thereafter issued in accordance with the terms of this Indenture as though all of such Subsidiary Guarantees had been issued at the date of the execution hereof.

Except as set forth in Articles 4 and 5 hereof, and notwithstanding clauses (a) and (b) above, nothing contained in this Indenture or in any of the Notes will prevent any consolidation or merger of a Guarantor with or into the Company or another Guarantor, or will prevent any sale or conveyance of the property of a Guarantor as an entirety or substantially as an entirety to the Company or another Guarantor.

#### Section 11.06 Release of Guarantors in Certain Circumstances.

In the event of any sale or other disposition of all or substantially all of the assets of any Guarantor, by way of merger, consolidation or otherwise, a sale or other disposition of the Capital Stock of any Guarantor (if such Guarantor is no longer a Subsidiary of the Company as a result of such sale or

80

other disposition), in any such case to a Person that is not (either before or after giving effect to such transactions) a Subsidiary of the Company, or if the Company designates any Restricted Subsidiary that is a Guarantor as an Unrestricted Subsidiary or if the Company designates a Restricted Subsidiary that is a Guarantor as a Permitted Investment made pursuant to clause (8) or (9) of the definition of "Permitted Investments," then such Guarantor (in the event of a sale or other disposition, by way of merger, consolidation or otherwise of the capital stock of such Guarantor), the corporation acquiring the property (in the event of a sale or other disposition of all or substantially all of the assets of such Guarantor) or the Guarantor that is designated as a Permitted Investment will be released and relieved of any obligations under its Subsidiary Guarantee; provided that such sale or other disposition does not violate the applicable provisions of this Indenture, including without limitation Section 4.10 hereof or that such designation does not violate Section 4.07 hereof. Upon delivery by the Company to the Trustee of an Officers' Certificate and an Opinion of Counsel to the effect that such sale or other disposition was made by the Company in accordance with the provisions of this Indenture, including without limitation Section 4.10 hereof, the Trustee will execute any documents reasonably required in order to evidence the release of any Guarantor from its obligations under its Subsidiary Guarantee.

Any Guarantor not released from its obligations under its Subsidiary Guarantee will remain liable for the full amount of principal of and interest on the Notes and for the other obligations of any Guarantor under this Indenture as provided in this Article 11.

#### ARTICLE 12. SATISFACTION AND DISCHARGE

##### Section 12.01 Satisfaction and Discharge.

This Indenture will be discharged and will cease to be of further effect as to all Notes issued hereunder, when:

(1) either:

(a) all Notes that have been authenticated (except lost, stolen or destroyed Notes that have been replaced or paid and Notes for whose payment money has theretofore been deposited in trust and thereafter repaid to the Company) have been delivered to the Trustee for cancellation; or

(b) all Notes that have not been delivered to the Trustee for cancellation have become due and payable by reason of the mailing of a notice of redemption or otherwise or will become due and payable within one year and the Company or any Guarantor has irrevocably deposited or caused to be deposited with the Trustee as trust funds in trust solely for the benefit of the Holders, cash in U.S. dollars, non-callable Government Securities, or a combination thereof, in such amounts as will be sufficient without consideration of any reinvestment of interest, to pay and discharge the entire indebtedness on the Notes not delivered to the Trustee for cancellation for principal, premium and Liquidated Damages, if any, and accrued interest to the date of maturity or redemption;

(2) no Default or Event of Default has occurred and is continuing on the date of such deposit or will occur as a result of such deposit and such deposit will not result in a breach or violation of, or constitute a default under, any other instrument to which the Company or any Guarantor is a party or by which the Company or any Guarantor is bound;

(3) the Company or any Guarantor has paid or caused to be paid all sums payable by it under this Indenture; and

(4) the Company has delivered irrevocable instructions to the Trustee under this Indenture to apply the deposited money toward the payment of the Notes at maturity or the redemption date, as the case may be.

In addition, the Company must deliver an Officers' Certificate and an Opinion of Counsel to the Trustee stating that all conditions precedent to satisfaction and discharge have been satisfied.

Notwithstanding the satisfaction and discharge of this Indenture, if money has been deposited with the Trustee pursuant to subclause (b) of clause (1) of this Section 12.01, the provisions of Section 12.02 and Section 8.06 will survive. In addition, nothing in this Section 12.01 will be deemed to discharge those provisions of Section 7.07 hereof, that, by their terms, survive the satisfaction and discharge of this Indenture.

#### Section 12.02 Application of Trust Money.

Subject to the provisions of Section 8.06 hereof, all money deposited with the Trustee pursuant to Section 12.01 hereof will be held in trust and applied by it, in accordance with the provisions of the Notes and this Indenture, to the payment, either directly or through any Paying Agent (including the Company acting as its own Paying Agent) as the Trustee may determine, to the Persons entitled thereto, of the principal (and premium, if any) and interest for whose payment such money has been deposited with the Trustee; but such money need not be segregated from other funds except to the extent required by law.

If the Trustee or Paying Agent is unable to apply any money or Government Securities in accordance with Section 12.01 hereof by reason of any legal proceeding or by reason of any order or judgment of any court or governmental authority enjoining, restraining or otherwise prohibiting such application, the Company's and any Guarantor's obligations under this Indenture and the Notes will be revived and reinstated as though no deposit had occurred pursuant to Section 12.01 hereof; provided that if the Company has made any payment of principal of, premium, if any, or interest on any Notes because of the reinstatement of its obligations, the Company will be subrogated to the rights of the Holders of such Notes to receive such payment from the money or Government Securities held by the Trustee or Paying Agent.

#### ARTICLE 13. MISCELLANEOUS

##### Section 13.01 Trust Indenture Act Controls.

If any provision of this Indenture limits, qualifies or conflicts with the duties imposed by TIA Section 318(c), the imposed duties will control.

##### Section 13.02 Notices.

Any notice or communication by the Company, any Guarantor or the Trustee to the others is duly given if in writing and delivered in Person or mailed by first class mail (registered or certified, return receipt requested), telex, telecopier or overnight air courier guaranteeing next day delivery, to the others' address:

If to the Company and/or any Guarantor:

Central Garden & Pet Company  
3697 Mt. Diablo Blvd., Suite 310  
Lafayette, CA 94549

Facsimile: (925) 283-4984  
Attention: Chief Executive Officer

With a copy to:

Orrick, Herrington & Sutcliffe LLP  
Old Federal Reserve Bank Building  
400 Sansome Street  
San Francisco, CA 94111

Facsimile: (415) 773-5759  
Attention: John F. Seegal

If to the Trustee:  
Wells Fargo Bank, National Association  
707 Wilshire Blvd., 17th Floor  
Los Angeles, CA 90017  
Telecopier No.: (213) 614-3355  
Attention: Corporate Trust Administration

The Company, any Guarantor or the Trustee, by notice to the others may designate additional or different addresses for subsequent notices or communications.

All notices and communications (other than those sent to Holders) will be deemed to have been duly given: at the time delivered by hand, if personally delivered; five Business Days after being deposited in the mail, postage prepaid, if mailed; when answered back, if telexed; when receipt acknowledged, if telecopied; and the next Business Day after timely delivery to the courier, if sent by overnight air courier guaranteeing next day delivery.

Any notice or communication to a Holder will be mailed by first class mail, certified or registered, return receipt requested, or by overnight air courier guaranteeing next day delivery to its address shown on the register kept by the Registrar. Any notice or communication will also be so mailed to any Person described in TIA Section 313(c), to the extent required by the TIA. Failure to mail a notice or communication to a Holder or any defect in it will not affect its sufficiency with respect to other Holders.

If a notice or communication is mailed in the manner provided above within the time prescribed, it is duly given, whether or not the addressee receives it.

If the Company mails a notice or communication to Holders, it will mail a copy to the Trustee and each Agent at the same time.

83

#### Section 13.03 Communication by Holders of Notes with Other Holders of Notes.

Holders may communicate pursuant to TIA Section 312(b) with other Holders with respect to their rights under this Indenture or the Notes. The Company, the Trustee, the Registrar and anyone else shall have the protection of TIA Section 312(c).

#### Section 13.04 Certificate and Opinion as to Conditions Precedent.

Upon any request or application by the Company to the Trustee to take any action under this Indenture, the Company will furnish to the Trustee:

(1) an Officers' Certificate in form and substance reasonably satisfactory to the Trustee (which must include the statements set forth in Section 13.05 hereof) stating that, in the opinion of the signers, all conditions precedent and covenants, if any, provided for in this Indenture relating to the proposed action have been satisfied; and

(2) an Opinion of Counsel in form and substance reasonably satisfactory to the Trustee (which must include the statements set forth in Section 13.05 hereof) stating that, in the opinion of such counsel, all such conditions precedent and covenants have been satisfied.

#### Section 13.05 Statements Required in Certificate or Opinion.

Each certificate or opinion with respect to compliance with a condition or covenant provided for in this Indenture (other than a certificate provided pursuant to TIA Section 314(a)(4)) must comply with the provisions of TIA Section 314(e) and must include:

(1) a statement that the Person making such certificate or opinion has read such covenant or condition;

(2) a brief statement as to the nature and scope of the examination or investigation upon which the statements or opinions contained in such certificate or opinion are based;

(3) a statement that, in the opinion of such Person, he or she has made such examination or investigation as is necessary to enable him or her to express an informed opinion as to whether or not such covenant or condition has been satisfied; and

(4) a statement as to whether or not, in the opinion of such Person, such condition or covenant has been satisfied.

#### Section 13.06 Rules by Trustee and Agents.

The Trustee may make reasonable rules for action by or at a meeting of Holders. The Registrar or Paying Agent may make reasonable rules and set reasonable requirements for its functions.

Section 13.07 No Personal Liability of Directors, Officers, Employees and Stockholders.

No past, present or future director, officer, employee, incorporator or stockholder of the Company or any Guarantor, as such, will have any liability for any obligations of the Company or the Guarantors under the Notes, this Indenture, the Subsidiary Guarantees or for any claim based on, in respect of, or by reason of, such obligations or their creation. Each Holder of Notes by accepting a Note waives and

84

releases all such liability. The waiver and release are part of the consideration for issuance of the Notes. The waiver may not be effective to waive liabilities under the federal securities laws.

Section 13.08 Governing Law.

THE INTERNAL LAW OF THE STATE OF NEW YORK WILL GOVERN AND BE USED TO CONSTRUCT THIS INDENTURE, THE NOTES AND THE SUBSIDIARY GUARANTEES WITHOUT GIVING EFFECT TO APPLICABLE PRINCIPLES OF CONFLICTS OF LAW TO THE EXTENT THAT THE APPLICATION OF THE LAWS OF ANOTHER JURISDICTION WOULD BE REQUIRED THEREBY.

Section 13.09 No Adverse Interpretation of Other Agreements.

This Indenture may not be used to interpret any other indenture, loan or debt agreement of the Company or its Subsidiaries or of any other Person. Any such indenture, loan or debt agreement may not be used to interpret this Indenture.

Section 13.10 Successors.

All agreements of the Company in this Indenture and the Notes will bind its successors. All agreements of the Trustee in this Indenture will bind its successors. All agreements of each Guarantor in this Indenture will bind its successors, except as otherwise provided in Section 11.06 hereof.

Section 13.11 Severability.

In case any provision in this Indenture or in the Notes is invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions will not in any way be affected or impaired thereby.

Section 13.12 Counterpart Originals.

The parties may sign any number of copies of this Indenture. Each signed copy will be an original, but all of them together represent the same agreement.

Section 13.13 Table of Contents, Headings, etc.

The Table of Contents, Cross-Reference Table and Headings of the Articles and Sections of this Indenture have been inserted for convenience of reference only, are not to be considered a part of this Indenture and will in no way modify or restrict any of the terms or provisions hereof.

[Signatures on following pages]

85

SIGNATURES

Dated as of January 30, 2003

CENTRAL GARDEN & PET COMPANY

By: /s/ WILLIAM E. BROWN

-----  
Name: William E. Brown  
Title: Chairman and Chief Executive  
Officer

FOUR PAWS PRODUCTS LTD.

By: /s/ WILLIAM E. BROWN

-----  
Name: William E. Brown



Title: Chairman

KAYTEE PRODUCTS, INCORPORATED

By: /s/ WILLIAM E. BROWN

-----  
Name: William E. Brown  
Title: Chairman

PENNINGTON SEED, INC.

By: /s/ WILLIAM E. BROWN

-----  
Name: William E. Brown  
Title: Chairman

ALL-GLASS AQUARIUM CO., INC.

By: /s/ GLENN W. NOVOTNY

-----  
Name: Glenn W. Novotny  
Title: Chief Executive Officer

S-1

T.F.H. PUBLICATIONS, INC.

By: /s/ GLEN S. AXELROD

-----  
Name: Glen S. Axelrod  
Title: President and Chief Executive  
Officer

WELLMARK INTERNATIONAL

By: /s/ WILLIAM E. BROWN

-----  
Name: William E. Brown  
Title: Chairman and Chief Executive  
Officer

NORCAL POTTERY PRODUCTS, INC.

By: /s/ WILLIAM E. BROWN

-----  
Name: William E. Brown  
Title: Chairman

PENNINGTON SEED, INC., OF NEBRASKA

By: /s/ BROOKS M. PENNINGTON III

-----  
Name: Brooks M. Pennington III  
Title: President

GRO TEC, INC.

By: /s/ BROOKS M. PENNINGTON III

-----  
Name: Brooks M. Pennington III  
Title: President

GRANT LABORATORIES, INC.

By: /s/ WILLIAM E. BROWN

-----  
Name: William E. Brown  
Title: Chairman and Chief Executive  
Officer

S-2

MATTHEWS REDWOOD & NURSERY SUPPLY, INC.

By: /s/ WILLIAM E. BROWN

-----  
Name: William E. Brown  
Title: Chairman and Chief Executive

Officer

PHAETON CORPORATION

By: /s/ BROOKS M. PENNINGTON III

-----  
Name: Brooks M. Pennington III  
Title: Chief Executive Officer and  
President

SEEDS WEST, INC.

By: /s/ WILLIAM E. BROWN

-----  
Name: William E. Brown  
Title: Chairman

OCEANIC SYSTEMS, INC.

By: /s/ GLENN W. NOVOTNY

-----  
Name: Glenn W. Novotny  
Title: Chief Executive Officer

WELLS FARGO BANK, NATIONAL ASSOCIATION,

By: /s/ JEANIE MAR

-----  
Name: Jeanie Mar  
Title: Vice President

S-3

SCHEDULE I

SCHEDULE OF GUARANTORS

The following schedule lists each Guarantor under the Indenture as of the date of the Indenture:

Four Paws Products Ltd.  
Kaytee Products, Incorporated  
Pennington Seed, Inc.  
All-Glass Aquarium Co., Inc.  
T.F.H. Publications, Inc.  
Wellmark International  
Norcal Pottery Products, Inc.  
Pennington Seed, Inc. of Nebraska  
Gro Tec, Inc.  
Grant Laboratories, Inc.  
Matthews Redwood & Nursery Supply, Inc.  
Phaeton Corporation  
Seeds West, Inc.  
Oceanic Systems, Inc.

I-1

EXHIBIT A

[Face of Note]

-----  
CUSIP/CINS \_\_\_\_\_

9.125% Senior Subordinated Notes due 2013

No. \_\_\_\_\_

\$ \_\_\_\_\_

CENTRAL GARDEN & PET COMPANY

promises to pay to CEDE & CO. or registered assigns, the principal sum of

\_\_\_\_\_  
Dollars on February 1, 2013.

Interest Payment Dates: February 1 and August 1

Record Dates: January 15 and July 15

Dated: January 30, 2003

CENTRAL GARDEN & PET COMPANY

By: \_\_\_\_\_  
Name:  
Title:

This is one of the Notes referred to  
in the within-mentioned Indenture:

WELLS FARGO BANK,  
NATIONAL ASSOCIATION,  
as Trustee

By: \_\_\_\_\_  
Authorized Signatory

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A-1

[Back of Note]  
\_\_\_\_% Senior Subordinated Notes due 2013

[Insert the Global Note Legend, if applicable pursuant to the provisions of the  
Indenture]

[Insert the Private Placement Legend, if applicable pursuant to the provisions  
of the Indenture]

Capitalized terms used herein have the meanings assigned to them in the  
Indenture referred to below unless otherwise indicated.

(1) INTEREST. Central Garden & Pet Company, a Delaware corporation (the "Company"), promises to pay interest on the principal amount of this Note at 9.125% per annum from January 30, 2003 until maturity and will pay the Liquidated Damages, if any, payable pursuant to Section 5 of the Registration Rights Agreement referred to below. The Company will pay interest and Liquidated Damages, if any, semi-annually in arrears on February 1 and August 1 of each year, or if any such day is not a Business Day, on the next succeeding Business Day (each, an "Interest Payment Date"). Interest on the Notes will accrue from the most recent date to which interest has been paid or, if no interest has been paid, from the date of issuance; provided that if there is no existing Default in the payment of interest, and if this Note is authenticated between a record date referred to on the face hereof and the next succeeding Interest Payment Date, interest will accrue from such next succeeding Interest Payment Date; provided, further, that the first Interest Payment Date will be the first of February 1 or August 1 to occur after the date of issuance, unless such February 1 or August 1 occurs within one calendar month of such date of issuance, in which case the first Interest Payment Date will be the second of February 1 or August 1 to occur after the date of issuance. The Company will pay interest (including post-petition interest in any proceeding under any Bankruptcy Law) on overdue principal at a rate that is 1% per annum in excess of the rate then in effect; it will pay interest (including post-petition interest in any proceeding under any Bankruptcy Law) on overdue installments of interest and Liquidated Damages, if any, (without regard to any applicable grace periods) at the same rate to the extent lawful. Interest will be computed on the basis of a 360-day year of twelve 30-day months.

(2) METHOD OF PAYMENT. The Company will pay interest on the Notes (except defaulted interest) and Liquidated Damages, if any, to the Persons who are registered Holders of Notes at the close of business on the January 15 or July 15 next preceding the Interest Payment Date, even if such Notes are canceled after such record date and on or before such Interest Payment Date, except as provided in Section 2.12 of the Indenture with respect to defaulted interest. The Notes will be payable as to principal, premium and Liquidated Damages, if any, and interest at the office or agency of the Company maintained for such purpose within or without the City and State of New York, or, at the option of the Company, payment of interest and Liquidated Damages, if any, may be made by check mailed to the Holders at their addresses set forth in the register of Holders; provided that payment by wire transfer of immediately available funds will be required with respect to principal of and interest, premium and Liquidated Damages, if any, on, all Global Notes and any other Notes if any Holder of \$1.0 million or more in aggregate principal amount of such Notes has provided wire transfer instructions to the Company or the Paying Agent for that purpose. Such payment will be in such coin or currency of the United States of

America as at the time of payment is legal tender for payment of public and private debts.

(3) PAYING AGENT AND REGISTRAR. Initially, Wells Fargo Bank, National Association, the Trustee under the Indenture, will act as Paying Agent and Registrar. The

A-2

Company may change any Paying Agent or Registrar without notice to any Holder. The Company or any of its Subsidiaries may act in any such capacity.

(4) INDENTURE. The Company issued the Notes under an Indenture dated as of January 30, 2003 (the "Indenture") among the Company, the Guarantors and the Trustee. The terms of the Notes include those stated in the Indenture and those made part of the Indenture by reference to the Trust Indenture Act of 1939, as amended (15 U.S. Code Sections 77aaa-77bbbb). The Notes are subject to all such terms, and Holders are referred to the Indenture and such Act for a statement of such terms. To the extent any provision of this Note conflicts with the express provisions of the Indenture, the provisions of the Indenture will govern and be controlling. The Notes are obligations of the Company unlimited in aggregate principal amount.

(5) OPTIONAL REDEMPTION.

(a) Except as set forth in subparagraph (b) of this Paragraph 5, the Company will not have the option to redeem the Notes prior to February 1, 2008. Thereafter, the Company will have the option to redeem the Notes, in whole or in part, upon not less than 30 nor more than 60 days' notice, at the redemption prices (expressed as percentages of principal amount) set forth below plus accrued and unpaid interest and Liquidated Damages, if any, thereon to the applicable redemption date, if redeemed during the twelve-month period beginning on February 1 of the years indicated below:

Year	Percentage
----	-----
2008.....	104.563%
2009.....	103.042%
2010.....	101.521%
2011 and thereafter.....	100.000%

(b) Notwithstanding the provisions of subparagraph (a) of this Paragraph 5, at any time prior to February 1, 2006, the Company may redeem Notes with the net proceeds of a Public Equity Offering at a redemption price equal to 109.125% of the aggregate principal amount thereof; provided that at least 67% in aggregate principal amount of the Notes issued under the Indenture remains outstanding immediately after the occurrence of such redemption and that such redemption occurs within 60 days of the date of the closing of such Public Equity Offering.

(6) MANDATORY REDEMPTION.

The Company will not be required to make mandatory redemption or sinking fund payments with respect to the Notes.

(7) REPURCHASE AT OPTION OF HOLDER.

(a) If there is a Change of Control, the Company will be required to make an offer (a "Change of Control Offer") to repurchase all or any part (equal to \$1,000 or an integral multiple thereof) of each Holder's Notes at a purchase price equal to 101% of the aggregate principal amount thereof plus accrued and unpaid interest and Liquidated Damages thereon, if any, to the date of purchase (the "Change of Control Payment"). Within 10 days following any Change of Control, the Company will mail a notice to each Holder setting forth the procedures governing the Change of Control Offer as required by the Indenture.

A-3

(b) If the Company or a Restricted Subsidiary consummates any Asset Sale, within 30 days of each date on which the aggregate amount of Excess Proceeds exceeds \$10.0 million, the Company will commence an offer to all Holders of Notes and all holders of other Indebtedness that is pari passu with the Notes containing provisions similar to those set forth in the Indenture with respect to offers to purchase or redeem with the proceeds of sales of assets (an "Asset Sale Offer") pursuant to Section 3.09 of the Indenture to purchase the maximum principal amount of Notes (including any Additional Notes) and other pari passu Indebtedness that may be purchased out of the Excess Proceeds at an offer price in cash in an amount equal to 100% of the principal amount thereof plus accrued and unpaid interest and Liquidated Damages thereon, if any, to the date fixed

for the closing of such offer, in accordance with the procedures set forth in the Indenture. To the extent that the aggregate amount of Notes (including any Additional Notes) and other pari passu Indebtedness tendered pursuant to an Asset Sale Offer is less than the Excess Proceeds, the Company (or such Restricted Subsidiary) may use such deficiency for any purpose not otherwise prohibited by the Indenture. If the aggregate principal amount of Notes and other pari passu Indebtedness surrendered by holders thereof exceeds the amount of Excess Proceeds, the Trustee will select the Notes and other pari passu Indebtedness to be purchased on a pro rata basis. Holders of Notes that are the subject of an offer to purchase will receive an Asset Sale Offer from the Company prior to any related purchase date and may elect to have such Notes purchased by completing the form entitled "Option of Holder to Elect Purchase" on the reverse of the Notes.

(8) NOTICE OF REDEMPTION. Notice of redemption will be mailed at least 30 days but not more than 60 days before the redemption date to each Holder whose Notes are to be redeemed at its registered address. Notes in denominations larger than \$1,000 may be redeemed in part but only in whole multiples of \$1,000, unless all of the Notes held by a Holder are to be redeemed. On and after the redemption date interest ceases to accrue on Notes or portions thereof called for redemption.

(9) DENOMINATIONS, TRANSFER, EXCHANGE. The Notes are in registered form without coupons in denominations of \$1,000 and integral multiples of \$1,000. The transfer of Notes may be registered and Notes may be exchanged as provided in the Indenture. The Registrar and the Trustee may require a Holder, among other things, to furnish appropriate endorsements and transfer documents and the Company may require a Holder to pay any taxes and fees required by law or permitted by the Indenture. The Company need not exchange or register the transfer of any Note or portion of a Note selected for redemption, except for the unredeemed portion of any Note being redeemed in part. Also, the Company need not exchange or register the transfer of any Notes for a period of 15 days before a selection of Notes to be redeemed or during the period between a record date and the corresponding Interest Payment Date.

(10) PERSONS DEEMED OWNERS. The registered Holder of a Note may be treated as its owner for all purposes.

(11) AMENDMENT, SUPPLEMENT AND WAIVER. Subject to certain exceptions, the Indenture, the Subsidiary Guarantees or the Notes may be amended or supplemented with the consent of the Holders of at least a majority in principal amount of the then outstanding Notes and Additional Notes, if any, voting as a single class, and any existing default or compliance with any provision of the Indenture, the Subsidiary Guarantees or the Notes may be waived with the consent of the Holders of a majority in principal amount of the then outstanding Notes and Additional Notes, if any, voting as a single class. Without the consent of any Holder of a Note, the Indenture, the Subsidiary Guarantees or the Notes may be amended or supplemented to cure any ambiguity, defect or inconsistency, to provide for uncertificated Notes in addition to or in

A-4

place of certificated Notes or to alter the provisions of Article 2 of the Indenture (including the related definitions) in a manner that does not materially adversely affect any Holder, to provide for the assumption of the Company's or any Guarantor's obligations to the Holders of the Notes in case of a merger or consolidation, to provide for additional Subsidiary Guarantees or to limit or eliminate the ability of the Company to obtain the release of a Guarantor or a Subsidiary Guarantee, to make any change that would provide any additional rights or benefits to the Holders of the Notes or that does not adversely affect the legal rights under the Indenture of any such Holder, or to comply with the requirements of the SEC in order to effect or maintain the qualification of the Indenture under the Trust Indenture Act.

(12) DEFAULTS AND REMEDIES. Events of Default include: (i) the Company defaults for 30 days in the payment when due of interest on, or Liquidated Damages with respect to, the Notes whether or not prohibited by the subordination provisions of the Indenture; (ii) the Company defaults in the payment when due (at maturity, upon redemption or otherwise) of the principal of, or premium, if any, on the Notes, whether or not prohibited by the subordination provisions of the Indenture; (iii) the Company or any of its Subsidiaries fails to comply with the provisions of Section 4.10, 4.15 or 5.01 of the Indenture; (iv) the Company or any of its Subsidiaries fails to comply with the provisions of Section 4.07 or 4.09 of the Indenture, and such failure continues for 30 days; (v) the Company or any of its Subsidiaries fails to observe or perform any other covenant, representation, warranty or other agreement in the Indenture or the Notes for 60 days after notice to the Company by the Trustee or the Holders of at least 25% in aggregate principal amount of the Notes then outstanding voting as a single class; (vi) default under certain other agreements

relating to Indebtedness of the Company which default results in the acceleration of such Indebtedness prior to its express maturity; (vii) certain final judgments against the Company or any Restricted Subsidiary for the payment of money that remain undischarged for a period of 60 days; (viii) certain events of bankruptcy or insolvency with respect to the Company, any Restricted Subsidiary that is a Significant Subsidiary or any group of Restricted Subsidiaries that, taken as a whole, would constitute a Significant Subsidiary; (ix) except as permitted by the Indenture, any Subsidiary Guarantee will be held in any judicial proceeding to be unenforceable or invalid or will cease for any reason to be in full force and effect or any Guarantor or any Person acting on its behalf will deny or disaffirm its obligations under such Guarantor's Subsidiary Guarantee and (x) failure of the Company to redeem all of the outstanding Convertible Subordinated Notes on or prior to February 28, 2003. If any Event of Default occurs and is continuing, the Trustee or the Holders of at least 25% in principal amount of the then outstanding Notes may declare all the Notes to be due and payable. Notwithstanding the foregoing, in the case of an Event of Default arising from certain events of bankruptcy or insolvency, all outstanding Notes will become due and payable without further action or notice. Holders may not enforce the Indenture or the Notes except as provided in the Indenture. Subject to certain limitations, Holders of a majority in principal amount of the then outstanding Notes may direct the Trustee in its exercise of any trust or power. The Trustee may withhold from Holders of the Notes notice of any continuing Default or Event of Default (except a Default or Event of Default relating to the payment of principal or interest or Liquidated Damages) if it determines that withholding notice is in their interest. The Holders of a majority in aggregate principal amount of the Notes then outstanding by notice to the Trustee may on behalf of the Holders of all of the Notes waive any existing Default or Event of Default and its consequences under the Indenture except a continuing Default or Event of Default in the payment of interest or Liquidated Damages on, or the principal of, the Notes; provided, however, that at any time after a declaration of acceleration under the Indenture, but before a judgment or decree for payment of the money due has been obtained by the Trustee, the Holders of a majority in aggregate principal amount of the outstanding Notes, by written notice to the Company and the Trustee, may rescind such declaration and its consequences given certain circumstances as provided in the Indenture.

A-5

The Company is required to deliver to the Trustee annually a statement regarding compliance with the Indenture, and the Company is required upon becoming aware of any Default or Event of Default, to deliver to the Trustee a statement specifying such Default or Event of Default.

(13) SUBORDINATION. Payment of principal, interest and premium and Liquidated Damages, if any, on the Notes is subordinated to the prior payment of Senior Debt on the terms provided in the Indenture.

(14) TRUSTEE DEALINGS WITH COMPANY. The Trustee, in its individual or any other capacity, may make loans to, accept deposits from, and perform services for the Company or its Affiliates, and may otherwise deal with the Company or its Affiliates, as if it were not the Trustee.

(15) NO RECOURSE AGAINST OTHERS. A director, officer, employee, incorporator or stockholder, of the Company or any of the Guarantors, as such, will not have any liability for any obligations of the Company or such Guarantor under the Notes, the Subsidiary Guarantees or the Indenture or for any claim based on, in respect of, or by reason of, such obligations or their creation. Each Holder by accepting a Note waives and releases all such liability. The waiver and release are part of the consideration for the issuance of the Notes.

(16) AUTHENTICATION. This Note will not be valid until authenticated by the manual signature of the Trustee or an authenticating agent.

(17) ABBREVIATIONS. Customary abbreviations may be used in the name of a Holder or an assignee, such as: TEN COM (= tenants in common), TEN ENT (= tenants by the entireties), JT TEN (= joint tenants with right of survivorship and not as tenants in common), CUST (= Custodian), and U/G/M/A (= Uniform Gifts to Minors Act).

(18) ADDITIONAL RIGHTS OF HOLDERS OF RESTRICTED GLOBAL NOTES AND RESTRICTED DEFINITIVE NOTES. In addition to the rights provided to Holders of Notes under the Indenture, Holders of Restricted Global Notes and Restricted Definitive Notes will have all the rights set forth in the Registration Rights Agreement dated as of January 30, 2003, between the Company, the Guarantors and the other parties named on the signature pages thereof or, in the case of Additional Notes, Holders of Restricted Global Notes and Restricted Definitive Notes will have the rights set forth in one or more registration rights agreements, if any, among the Company, the Guarantors and the other parties thereto, relating to rights given by the Company and the Guarantors to the purchasers of any Additional Notes

(collectively, the "Registration Rights Agreement").

(19) CUSIP NUMBERS. Pursuant to a recommendation promulgated by the Committee on Uniform Security Identification Procedures, the Company has caused CUSIP numbers to be printed on the Notes and the Trustee may use CUSIP numbers in notices of redemption as a convenience to Holders. No representation is made as to the accuracy of such numbers either as printed on the Notes or as contained in any notice of redemption and reliance may be placed only on the other identification numbers placed thereon.

The Company will furnish to any Holder upon written request and without charge a copy of the Indenture and/or the Registration Rights Agreement. Requests may be made to:

Central Garden & Pet Company  
3697 Mt. Diablo Blvd., Suite 310

A-6

Lafayette, CA 94549

Attention: Chief Executive Officer

A-7

#### ASSIGNMENT FORM

To assign this Note, fill in the form below:

(I) or (we) assign and transfer this Note to: \_\_\_\_\_  
(Insert assignee's legal name)

\_\_\_\_\_  
(Insert assignee's soc. sec. or tax I.D. no.)

\_\_\_\_\_  
(Print or type assignee's name, address and zip code)

and irrevocably appoint \_\_\_\_\_  
to transfer this Note on the books of the Company. The agent may substitute  
another to act for him.

Date: \_\_\_\_\_

Your Signature: \_\_\_\_\_  
(Sign exactly as your name appears  
on the face of this Note)

Signature Guarantee\*: \_\_\_\_\_

\* Participant in a recognized Signature Guarantee Medallion Program (or other signature guarantor acceptable to the Trustee).

A-8

#### OPTION OF HOLDER TO ELECT PURCHASE

If you want to elect to have this Note purchased by the Company pursuant to Section 4.10 or 4.15 of the Indenture, check the appropriate box below:

☒ Section 4.10

☒ Section 4.15

If you want to elect to have only part of the Note purchased by the Company pursuant to Section 4.10 or Section 4.15 of the Indenture, state the amount you elect to have purchased:

\$ \_\_\_\_\_

Date: \_\_\_\_\_

Your Signature: \_\_\_\_\_

(Sign exactly as your name appears  
on the face of this Note)

Tax Identification No.: \_\_\_\_\_

Signature Guarantee\*: \_\_\_\_\_

\* Participant in a recognized Signature Guarantee Medallion Program (or other signature guarantor acceptable to the Trustee).

A-9

#### SCHEDULE OF EXCHANGES OF INTERESTS IN THE GLOBAL NOTE\*

The following exchanges of a part of this Global Note for an interest in another Global Note or for a Definitive Note, or exchanges of a part of another Global Note or Definitive Note for an interest in this Global Note, have been made:

<TABLE>  
<CAPTION>

Date of Exchange	Amount of decrease in Principal Amount of this Global Note	Amount of increase in Principal Amount of this Global Note	Principal Amount of this Global Note following such decrease (or increase)	Signature of authorized officer of Trustee or Custodian
-----	-----	-----	-----	-----
<S>	<C>	<C>	<C>	<C>

</TABLE>

\* This schedule should be included only if the Note is issued in global form.

A-10

#### EXHIBIT B

#### FORM OF CERTIFICATE OF TRANSFER

Central Garden & Pet Company  
3697 Mt. Diablo Blvd., Suite 310  
Lafayette, CA 94549  
Attention: Chief Executive Officer

Wells Fargo Bank, National Association  
707 Wilshire Blvd., 17th Floor  
Los Angeles, CA 90017  
Attention: Corporate Trust Administration

Re: % Senior Subordinated Notes due 2013

Reference is hereby made to the Indenture, dated as of \_\_\_\_\_, 2003 (the "Indenture"), among Central Garden & Pet Company, as issuer (the "Company"), the Guarantors named on the signature pages thereto and Wells Fargo Bank, National Association, as trustee. Capitalized terms used but not defined herein will have the meanings given to them in the Indenture.

\_\_\_\_\_, (the "Transferor") owns and proposes to transfer the Note[s] or interest in such Note[s] specified in Annex A hereto, in the principal amount of \$\_\_\_\_\_ in such Note[s] or interests (the "Transfer"), to \_\_\_\_\_ (the "Transferee"), as further specified in Annex A hereto. In connection with the Transfer, the Transferor hereby certifies that:

[CHECK ALL THAT APPLY]

1. ☐ Check if Transferee will take delivery of a beneficial interest in the 144A Global Note or a Definitive Note Pursuant to Rule 144A. The Transfer is being effected pursuant to and in accordance with Rule 144A under the Securities Act of 1933, as amended (the "Securities Act"), and, accordingly, the Transferor hereby further certifies that the beneficial interest or Definitive Note is being transferred to a Person that the Transferor reasonably believed and believes is purchasing the beneficial interest or Definitive Note for its own account, or for one or more accounts with respect to which such Person exercises sole investment discretion, and such Person and each such account is a "qualified institutional buyer" within the meaning of Rule 144A in a transaction meeting the requirements of Rule 144A and such Transfer is in compliance with any applicable blue sky securities laws of any state of the United States. Upon consummation of the proposed Transfer in accordance with the terms of the Indenture, the transferred beneficial interest or Definitive Note will be subject to the restrictions on transfer enumerated in the Private Placement



Legend printed on the 144A Global Note and/or the Definitive Note and in the Indenture and the Securities Act.

2. ☐ Check if Transferee will take delivery of a beneficial interest in the Regulation S Global Note or a Definitive Note pursuant to Regulation S. The Transfer is being effected pursuant to and in accordance with Rule 903 or Rule 904 under the Securities Act and, accordingly, the Transferor hereby further certifies that (i) the Transfer is not being made to a Person in the United States and (x) at the time the buy order was originated, the Transferee was outside the United States or such Transferor and any Person acting on its behalf reasonably believed and believes that the Transferee was outside the United States or (y) the transaction was executed in, on or through the facilities of a designated offshore securities market and neither such Transferor nor any Person acting on its behalf knows that the transaction was prearranged with a buyer in the United States, (ii) no directed selling efforts have been made in contravention of the requirements of Rule 903(b) or Rule 904(b) of Regulation S under the Securities Act and (iii) the transaction is not part of a plan or scheme to evade the registration

B-1

requirements of the Securities Act. Upon consummation of the proposed transfer in accordance with the terms of the Indenture, the transferred beneficial interest or Definitive Note will be subject to the restrictions on Transfer enumerated in the Private Placement Legend printed on the Regulation S Global Note and/or the Definitive Note and in the Indenture and the Securities Act.

3. ☐ Check and complete if Transferee will take delivery of a beneficial interest in the Restricted Global Note or a Definitive Note pursuant to any provision of the Securities Act other than Rule 144A or Regulation S. The Transfer is being effected in compliance with the transfer restrictions applicable to beneficial interests in Restricted Global Notes and Restricted Definitive Notes and pursuant to and in accordance with the Securities Act and any applicable blue sky securities laws of any state of the United States, and accordingly the Transferor hereby further certifies that (check one):

(a) ☐ such Transfer is being effected pursuant to and in accordance with Rule 144 under the Securities Act;

or

(b) ☐ such Transfer is being effected to the Company;

or

(c) ☐ such Transfer is being effected pursuant to an effective registration statement under the Securities Act and in compliance with the prospectus delivery requirements of the Securities Act;

or

(d) ☐ such Transfer is being effected to an Institutional Accredited Investor and pursuant to an exemption from the registration requirements of the Securities Act other than Rule 144A, Rule 144 or Rule 904 under the Securities Act, and the Transferor hereby further certifies that it has not engaged in any general solicitation within the meaning of Regulation D under the Securities Act and the Transfer complies with the transfer restrictions applicable to Restricted Definitive Notes and the requirements of the exemption claimed, which certification is supported by (1) a certificate executed by the Transferee in the form of Exhibit D to the Indenture and (2) if such Transfer is in respect of a principal amount of Notes at the time of transfer of less than \$250,000, an Opinion of Counsel provided by the Transferor or the Transferee (a copy of which the Transferor has attached to this certification), to the effect that such Transfer is in compliance with the Securities Act. Upon consummation of the proposed transfer in accordance with the terms of the Indenture, the transferred Definitive Note will be subject to the restrictions on transfer enumerated in the Private Placement Legend printed on the Definitive Notes and in the Indenture and the Securities Act.

4. ☐ Check if Transferee will take delivery of a beneficial interest in an Unrestricted Global Note or of an Unrestricted Definitive Note.

(a) ☐ Check if Transfer is pursuant to Rule 144. (i) The Transfer is being effected pursuant to and in accordance with Rule 144 under the Securities Act and in compliance with the transfer restrictions contained in the Indenture and any applicable blue sky securities laws of any state of the United States and (ii) the restrictions on transfer contained in the Indenture and the Private Placement Legend are not required in order to maintain compliance with the Securities Act. Upon consummation of the proposed Transfer in accordance with the terms of the Indenture, the transferred beneficial interest or

B-2

Definitive Note will no longer be subject to the restrictions on transfer enumerated in the Private Placement Legend printed on the Restricted Global Notes, on Restricted Definitive Notes and in the Indenture.

(b) ☐ Check if Transfer is Pursuant to Regulation S. (i) The Transfer is being effected pursuant to and in accordance with Rule 903 or Rule 904 under the Securities Act and in compliance with the transfer restrictions contained in the Indenture and any applicable blue sky securities laws of any state of the United States and (ii) the restrictions on transfer contained in the Indenture and the Private Placement Legend are not required in order to maintain compliance with the Securities Act. Upon consummation of the proposed Transfer in accordance with the terms of the Indenture, the transferred beneficial interest or Definitive Note will no longer be subject to the restrictions on transfer enumerated in the Private Placement Legend printed on the Restricted Global Notes, on Restricted Definitive Notes and in the Indenture.

(c) ☐ Check if Transfer is Pursuant to Other Exemption. (i) The Transfer is being effected pursuant to and in compliance with an exemption from the registration requirements of the Securities Act other than Rule 144, Rule 903 or Rule 904 under the Securities Act and in compliance with the transfer restrictions contained in the Indenture and any applicable blue sky securities laws of any state of the United States and (ii) the restrictions on transfer contained in the Indenture and the Private Placement Legend are not required in order to maintain compliance with the Securities Act. Upon consummation of the proposed Transfer in accordance with the terms of the Indenture, the transferred beneficial interest or Definitive Note will not be subject to the restrictions on transfer enumerated in the Private Placement Legend printed on the Restricted Global Notes or Restricted Definitive Notes and in the Indenture.

This certificate and the statements contained herein are made for your benefit and the benefit of the Company.

-----  
[Insert Name of Transferor]

By: \_\_\_\_\_

Name:

Title:

Dated: \_\_\_\_\_

B-3

#### ANNEX A TO CERTIFICATE OF TRANSFER

1. The Transferor owns and proposes to transfer the following:

[CHECK ONE OF (a) OR (b)]

(a) ☐ a beneficial interest in the:

(i) ☐ 144A Global Note (CUSIP \_\_\_\_\_), or

(ii) ☐ Regulation S Global Note (CUSIP \_\_\_\_\_), or

(b) ☐ a Restricted Definitive Note.

2. After the Transfer the Transferee will hold:

[CHECK ONE]

(a) ☐ a beneficial interest in the:

(i) ☐ 144A Global Note (CUSIP \_\_\_\_\_), or

(ii) ☐ Regulation S Global Note (CUSIP \_\_\_\_\_), or

(iii) ☐ Unrestricted Global Note (CUSIP \_\_\_\_\_); or

(b) ☐ a Restricted Definitive Note; or

(c) ☐ an Unrestricted Definitive Note,

in accordance with the terms of the Indenture.

B-4

## FORM OF CERTIFICATE OF EXCHANGE

Central Garden & Pet Company  
 3697 Mt. Diablo Blvd., Suite 310  
 Lafayette, CA 94549  
 Attention: Chief Executive Officer

Wells Fargo Bank, National Association  
 707 Wilshire Blvd., 17th Floor  
 Los Angeles, CA 90017  
 Attention: Corporate Trust Administration

Re: % Senior Subordinated Notes due 2013

(CUSIP \_\_\_\_\_)

Reference is hereby made to the Indenture, dated as of \_\_\_\_\_, 2003 (the "Indenture"), among Central Garden & Pet Company, as issuer (the "Company"), the Guarantors named on the signature pages thereto and Wells Fargo Bank, National Association, as Trustee. Capitalized terms used but not defined herein will have the meanings given to them in the Indenture.

\_\_\_\_\_, (the "Owner") owns and proposes to exchange the Note[s] or interest in such Note[s] specified herein, in the principal amount of \$\_\_\_\_\_ in such Note[s] or interests (the "Exchange"). In connection with the Exchange, the Owner hereby certifies that:

1. Exchange of Restricted Definitive Notes or Beneficial Interests in a Restricted Global Note for Unrestricted Definitive Notes or Beneficial Interests in an Unrestricted Global Note

(a) ☐ Check if Exchange is from beneficial interest in a Restricted Global Note to beneficial interest in an Unrestricted Global Note. In connection with the Exchange of the Owner's beneficial interest in a Restricted Global Note for a beneficial interest in an Unrestricted Global Note in an equal principal amount, the Owner hereby certifies (i) the beneficial interest is being acquired for the Owner's own account without transfer, (ii) such Exchange has been effected in compliance with the transfer restrictions applicable to the Global Notes and pursuant to and in accordance with the Securities Act of 1933, as amended (the "Securities Act"), (iii) the restrictions on transfer contained in the Indenture and the Private Placement Legend are not required in order to maintain compliance with the Securities Act and (iv) the beneficial interest in an Unrestricted Global Note is being acquired in compliance with any applicable blue sky securities laws of any state of the United States.

(b) ☐ Check if Exchange is from beneficial interest in a Restricted Global Note to Unrestricted Definitive Note. In connection with the Exchange of the Owner's beneficial interest in a Restricted Global Note for an Unrestricted Definitive Note, the Owner hereby certifies (i) the Definitive Note is being acquired for the Owner's own account without transfer, (ii) such Exchange has been effected in compliance with the transfer restrictions applicable to the Restricted Global Notes and pursuant to and in accordance with the Securities Act, (iii) the restrictions on transfer contained in the Indenture and the Private Placement Legend are not required in order to maintain compliance with the Securities Act and (iv) the Definitive Note is being acquired in compliance with any applicable blue sky securities laws of any state of the United States.

(c) ☐ Check if Exchange is from Restricted Definitive Note to beneficial interest in an Unrestricted Global Note. In connection with the Owner's Exchange of a Restricted Definitive Note for a beneficial interest in an Unrestricted Global Note, the Owner hereby certifies (i) the beneficial interest is being acquired for the Owner's own account without transfer, (ii) such Exchange has been effected in

C-1

compliance with the transfer restrictions applicable to Restricted Definitive Notes and pursuant to and in accordance with the Securities Act, (iii) the restrictions on transfer contained in the Indenture and the Private Placement Legend are not required in order to maintain compliance with the Securities Act and (iv) the beneficial interest is being acquired in compliance with any applicable blue sky securities laws of any state of the United States.

(d) ☐ Check if Exchange is from Restricted Definitive Note to Unrestricted Definitive Note. In connection with the Owner's Exchange of a Restricted Definitive Note for an Unrestricted Definitive Note, the Owner hereby certifies (i) the Unrestricted Definitive Note is being acquired for the Owner's own account without transfer, (ii) such Exchange has been effected in compliance with the transfer restrictions applicable to Restricted Definitive Notes and pursuant to and in accordance with the Securities Act, (iii) the restrictions on transfer contained in the Indenture and the Private Placement Legend are not

required in order to maintain compliance with the Securities Act and (iv) the Unrestricted Definitive Note is being acquired in compliance with any applicable blue sky securities laws of any state of the United States.

2. Exchange of Restricted Definitive Notes or Beneficial Interests in Restricted Global Notes for Restricted Definitive Notes or Beneficial Interests in Restricted Global Notes

(a) ☐ Check if Exchange is from beneficial interest in a Restricted Global Note to Restricted Definitive Note. In connection with the Exchange of the Owner's beneficial interest in a Restricted Global Note for a Restricted Definitive Note with an equal principal amount, the Owner hereby certifies that the Restricted Definitive Note is being acquired for the Owner's own account without transfer. Upon consummation of the proposed Exchange in accordance with the terms of the Indenture, the Restricted Definitive Note issued will continue to be subject to the restrictions on transfer enumerated in the Private Placement Legend printed on the Restricted Definitive Note and in the Indenture and the Securities Act.

(b) ☐ Check if Exchange is from Restricted Definitive Note to beneficial interest in a Restricted Global Note. In connection with the Exchange of the Owner's Restricted Definitive Note for a beneficial interest in the [CHECK ONE] 144A Global Note, Regulation S Global Note, with an equal principal amount, the Owner hereby certifies (i) the beneficial interest is being acquired for the Owner's own account without transfer and (ii) such Exchange has been effected in compliance with the transfer restrictions applicable to the Restricted Global Notes and pursuant to and in accordance with the Securities Act, and in compliance with any applicable blue sky securities laws of any state of the United States. Upon consummation of the proposed Exchange in accordance with the terms of the Indenture, the beneficial interest issued will be subject to the restrictions on transfer enumerated in the Private Placement Legend printed on the relevant Restricted Global Note and in the Indenture and the Securities Act.

This certificate and the statements contained herein are made for your benefit and the benefit of the Company.

-----  
[Insert Name of Transferor]

By: \_\_\_\_\_

Name:

Title:

C-2

Dated: \_\_\_\_\_

C-3

EXHIBIT D

FORM OF CERTIFICATE FROM  
ACQUIRING INSTITUTIONAL ACCREDITED INVESTOR

Central Garden & Pet Company  
3697 Mt. Diablo Blvd., Suite 310  
Lafayette, CA 94549  
Attention: Chief Executive Officer

Wells Fargo Bank, National Association  
707 Wilshire Blvd., 17th Floor  
Los Angeles, CA 90017  
Attention: Corporate Trust Administration

Re: % Senior Subordinated Notes due 2013

Reference is hereby made to the Indenture, dated as of \_\_\_\_\_, 2003 (the "Indenture"), among Central Garden & Pet Company, as issuer (the "Company"), the guarantors named on the signature pages thereto and Wells Fargo Bank, National Association, as trustee. Capitalized terms used but not defined herein will have the meanings given to them in the Indenture.

In connection with our proposed purchase of \$\_\_\_\_\_ aggregate principal amount of a Definitive Note, we confirm that:

1. We understand that any subsequent transfer of the Notes or any interest therein is subject to certain restrictions and conditions set forth in the Indenture and the undersigned agrees to be bound by, and not to resell, pledge or otherwise transfer the Notes or any interest therein except in

compliance with, such restrictions and conditions and the Securities Act of 1933, as amended (the "Securities Act").

2. We understand that the offer and sale of the Notes have not been registered under the Securities Act, and that the Notes and any interest therein may not be offered or sold except as permitted in the following sentence. We agree, on our own behalf and on behalf of any accounts for which we are acting as hereinafter stated, that if we should sell the Notes or any interest therein, we will do so only (A) to the Company or any subsidiary thereof, (B) in accordance with Rule 144A under the Securities Act to a "qualified institutional buyer" (as defined therein), (C) to an institutional "accredited investor" (as defined below) that, prior to such transfer, furnishes (or has furnished on its behalf by a U.S. broker-dealer) to you and to the Company a signed letter substantially in the form of this letter and, if such transfer is in respect of a principal amount of Notes, at the time of transfer of less than \$250,000, an Opinion of Counsel in form reasonably acceptable to the Company to the effect that such transfer is in compliance with the Securities Act, (D) outside the United States in accordance with Rule 904 under the Securities Act, (E) pursuant to the provisions of Rule 144(k) under the Securities Act or (F) pursuant to an effective registration statement under the Securities Act, and we further agree to provide to any Person purchasing the Definitive Note or beneficial interest in a Global Note from us in a transaction meeting the requirements of clauses (A) through (E) of this paragraph a notice advising such purchaser that resales thereof are restricted as stated herein.

D-1

3. We understand that, on any proposed resale of the Notes or beneficial interest therein, we will be required to furnish to you and the Company such certifications, legal opinions and other information as you and the Company may reasonably require to confirm that the proposed sale complies with the foregoing restrictions. We further understand that the Notes purchased by us will bear a legend to the foregoing effect.

4. We are an institutional "accredited investor" (as defined in Rule 501(a)(1), (2), (3) or (7) of Regulation D under the Securities Act) and have such knowledge and experience in financial and business matters as to be capable of evaluating the merits and risks of our investment in the Notes, and we and any accounts for which we are acting are each able to bear the economic risk of our or its investment.

5. We are acquiring the Notes purchased by us for our own account or for one or more accounts (each of which is an institutional "accredited investor") as to each of which we exercise sole investment discretion.

You and the Company are entitled to rely upon this letter and are irrevocably authorized to produce this letter or a copy hereof to any interested party in any administrative or legal proceedings or official inquiry with respect to the matters covered hereby.

-----  
[Insert Name of Accredited Investor]

By: \_\_\_\_\_

Name:

Title:

Dated: \_\_\_\_\_

D-2

EXHIBIT E

#### FORM OF SUBSIDIARY GUARANTEE

For value received, each Guarantor (which term includes any successor Person under the Indenture) has, jointly and severally, unconditionally guaranteed, to the extent set forth in the Indenture and subject to the provisions in the Indenture dated as of \_\_\_\_\_, 2003 (the "Indenture") among Central Garden & Pet Company, (the "Company"), the Guarantors listed on Schedule I thereto and Wells Fargo Bank, National Association, as trustee (the "Trustee"), (a) the due and punctual payment of the principal of, premium and Liquidated Damages, if any, and interest on the Notes (as defined in the Indenture), whether at maturity, by acceleration, redemption or otherwise, the due and punctual payment of interest on overdue principal of and interest on the Notes, if any, if lawful, and the due and punctual performance of all other obligations of the Company to the Holders or the Trustee all in accordance with the terms of the Indenture and (b) in case of any extension of time of payment or renewal of any Notes or any of such other obligations, that the same will be

promptly paid in full when due or performed in accordance with the terms of the extension or renewal, whether at stated maturity, by acceleration or otherwise. The obligations of the Guarantors to the Holders of Notes and to the Trustee pursuant to the Subsidiary Guarantee and the Indenture are expressly set forth in Article 11 of the Indenture and reference is hereby made to the Indenture for the precise terms of the Subsidiary Guarantee. Each Holder of a Note, by accepting the same, (a) agrees to and shall be bound by such provisions, (b) authorizes and directs the Trustee, on behalf of such Holder, to take such action as may be necessary or appropriate to effectuate the subordination as provided in the Indenture and (c) appoints the Trustee attorney-in-fact of such Holder for such purpose; provided, however, that the Indebtedness evidenced by this Subsidiary Guarantee shall cease to be so subordinated and subject in right of payment upon any defeasance of this Note in accordance with the provisions of the Indenture.

[NAME OF GUARANTOR(S)]

By:

-----  
Name:

Title:

E-1

EXHIBIT C

FORM OF SUPPLEMENTAL INDENTURE  
TO BE DELIVERED BY SUBSEQUENT GUARANTORS

SUPPLEMENTAL INDENTURE (this "Supplemental Indenture"), dated as of \_\_\_\_\_, 200\_\_, among \_\_\_\_\_ (the "Guaranteeing Subsidiary"), a subsidiary of Central Garden & Pet Company (or its permitted successor), a Delaware corporation (the "Company"), the Company, the other Guarantors (as defined in the Indenture referred to herein) and Wells Fargo Bank, National Association, as trustee under the indenture referred to below (the "Trustee").

W I T N E S S E T H

WHEREAS, the Company has heretofore executed and delivered to the Trustee an indenture (the "Indenture"), dated as of \_\_\_\_\_, 2003, providing for the issuance of \_\_\_\_% Senior Subordinated Notes due 2013 (the "Notes");

WHEREAS, the Indenture provides that under certain circumstances the Guaranteeing Subsidiary will execute and deliver to the Trustee a supplemental indenture pursuant to which the Guaranteeing Subsidiary will unconditionally guarantee all of the Company's Obligations under the Notes and the Indenture on the terms and conditions set forth herein (the "Subsidiary Guarantee"); and

WHEREAS, pursuant to Section 9.01 of the Indenture, the Trustee is authorized to execute and deliver this Supplemental Indenture.

NOW THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the receipt of which is hereby acknowledged, the Guaranteeing Subsidiary and the Trustee mutually covenant and agree for the equal and ratable benefit of the Holders of the Notes as follows:

1. CAPITALIZED TERMS. Capitalized terms used herein without definition will have the meanings assigned to them in the Indenture.

2. AGREEMENT TO GUARANTEE. The Guaranteeing Subsidiary hereby agrees to provide an unconditional Guarantee on the terms and subject to the conditions set forth in the Subsidiary Guarantee and in the Indenture, including but limited to Article 11 thereof.

3. EXECUTION AND DELIVERY. Each Guaranteeing Subsidiary agrees that the Subsidiary Guarantee will remain in full force and effect notwithstanding any failure to endorse on each Note a notation of such Subsidiary Guarantee.

4. NO RECOURSE AGAINST OTHERS. No past, present or future director, officer, employee, incorporator, stockholder or agent of the Guaranteeing Subsidiary, as such, will have any liability for any obligations of the Company or any Guaranteeing Subsidiary under the Notes, any Subsidiary Guarantees, the Indenture or this Supplemental Indenture or for any claim based on, in respect of, or by reason of, such obligations or their creation. Each Holder of the Notes by accepting a Note waives and releases all such liability. The waiver and release are part of the consideration for issuance of the Notes. Such waiver may not be effective to waive liabilities under the federal securities laws and it is the view of the SEC that such a waiver is against public policy.

5. NEW YORK LAW TO GOVERN. THE INTERNAL LAW OF THE STATE OF NEW YORK WILL GOVERN AND BE USED TO CONSTRUE THIS SUPPLEMENTAL INDENTURE

## EXHIBIT E

BUT WITHOUT GIVING EFFECT TO APPLICABLE PRINCIPLES OF CONFLICTS OF LAW TO THE EXTENT THAT THE APPLICATION OF THE LAWS OF ANOTHER JURISDICTION WOULD BE REQUIRED THEREBY.

6. COUNTERPARTS. The parties may sign any number of copies of this Supplemental Indenture. Each signed copy will be an original, but all of them together represent the same agreement.

7. EFFECT OF HEADINGS. The Section headings herein are for convenience only and will not affect the construction hereof.

8. THE TRUSTEE. The Trustee will not be responsible in any manner whatsoever for or in respect of the validity or sufficiency of this Supplemental Indenture or for or in respect of the recitals contained herein, all of which recitals are made solely by the Guaranteeing Subsidiary and the Company.

E-2

## EXHIBIT E

IN WITNESS WHEREOF, the parties hereto have caused this Supplemental Indenture to be duly executed, all as of the date first above written.

Dated: \_\_\_\_\_, 20\_\_

[GUARANTEEING SUBSIDIARY]

By: \_\_\_\_\_  
Name:  
Title:

CENTRAL GARDEN & PET COMPANY

By: \_\_\_\_\_  
Name:  
Title:

[EXISTING GUARANTORS]

By: \_\_\_\_\_  
Name:  
Title:

WELLS FARGO BANK, NATIONAL ASSOCIATION,  
as Trustee

By: \_\_\_\_\_  
Authorized Signatory

E-3

REGISTRATION RIGHTS AGREEMENT

by and among

Central Garden & Pet Company

The parties listed as guarantors hereto

and

Banc of America Securities LLC  
CIBC World Markets Corp.  
SunTrust Capital Markets, Inc.  
Jefferies & Company, Inc.

Dated as of January 30, 2003

REGISTRATION RIGHTS AGREEMENT

This Registration Rights Agreement (this "Agreement") is made and entered into as of January 30, 2003, by and among Central Garden & Pet Company, a Delaware corporation (the "Company"), the guarantors listed on Schedule I attached hereto (each a "Guarantor" and, collectively, the "Guarantors"), and Banc of America Securities LLC, CIBC World Markets Corp., SunTrust Capital Markets, Inc. and Jefferies & Company, Inc. (each an "Initial Purchaser" and, collectively, the "Initial Purchasers"), each of whom has agreed to purchase the Company's 9.125% Senior Subordinated Notes due 2013 (the "Initial Notes") pursuant to the Purchase Agreement (as defined below).

This Agreement is made pursuant to the Purchase Agreement, dated January 24, 2003 (the "Purchase Agreement"), by and among the Company and the Initial Purchasers (i) for the benefit of each Initial Purchaser and (ii) for the benefit of the holders from time to time of the Notes (including you and each other Initial Purchaser). In order to induce the Initial Purchasers to purchase the Initial Notes, the Company has agreed to provide the registration rights set forth in this Agreement. The execution and delivery of this Agreement is a condition to the obligations of the Initial Purchasers set forth in Section 5(i) of the Purchase Agreement.

The parties hereby agree as follows:

SECTION 1. DEFINITIONS

As used in this Agreement, the following capitalized terms shall have the following meanings:

Additional Interest Payment Date: With respect to the Initial Notes, each Interest Payment Date.

Broker-Dealer: Any broker or dealer registered under the Exchange Act.

Closing Date: The date of this Agreement.

Commission: The Securities and Exchange Commission.

Consummate: A Registered Exchange Offer shall be deemed "Consummated" for purposes of this Agreement upon the occurrence of (i) the filing and effectiveness under the Securities Act of the Exchange Offer Registration Statement relating to the Exchange Notes to be issued in the Exchange Offer, (ii) the maintenance of such Registration Statement continuously effective and the keeping of the Exchange Offer open for a period not less than the minimum period required pursuant to Section 3(b) hereof, and (iii) the delivery by the Company to the Registrar under the Indenture of Exchange Notes in the same aggregate principal amount as the aggregate principal amount of Initial Notes that were tendered by Holders thereof pursuant to the Exchange Offer.

Effectiveness Target Date: As defined in Section 5.

Exchange Act: The Securities Exchange Act of 1934, as amended.

Exchange Notes: The 9.125% Senior Subordinated Notes due 2013, of the same series under the Indenture as the Initial Notes, to be issued to Holders in exchange for Transfer Restricted Securities pursuant to this Agreement.

Exchange Offer: The registration by the Company under the Securities Act of the Exchange Notes pursuant to a Registration Statement pursuant to which the Company offers the Holders of all



outstanding Transfer Restricted Securities the opportunity to exchange all such outstanding Transfer Restricted Securities held by such Holders for Exchange Notes in an aggregate principal amount equal to the aggregate principal amount of the Transfer Restricted Securities tendered in such exchange offer by such Holders.

Exchange Offer Registration Statement: The Registration Statement relating to the Exchange Offer, including the related Prospectus.

Exempt Resales: The transactions in which the Initial Purchasers propose to sell the Initial Notes (i) to certain "qualified institutional buyers," as such term is defined in Rule 144A under the Securities Act and (ii) pursuant to Regulation S under the Securities Act.

Holders: As defined in Section 2(b) hereof.

Indemnified Holder: As defined in Section 8(a) hereof.

Indenture: The Indenture, dated as of January 30, 2003, among the Company, the Guarantors and Wells Fargo Bank, National Association, as trustee (the "Trustee"), pursuant to which the Notes are to be issued, as such Indenture is amended or supplemented from time to time in accordance with the terms thereof.

Initial Purchaser: As defined in the preamble hereto.

Initial Notes: The 9.125% Senior Subordinated Notes due 2013, of the same series under the Indenture as the Exchange Notes, for so long as such securities constitute Transfer Restricted Securities.

Initial Placement: The issuance and sale by the Company of the Initial Notes to the Initial Purchasers pursuant to the Purchase Agreement.

Interest Payment Date: As defined in the Indenture and the Notes.

NASD: National Association of Securities Dealers, Inc.

Notes: The Initial Notes and the Exchange Notes.

Person: An individual, partnership, corporation, trust or unincorporated organization, or a government or agency or political subdivision thereof.

Prospectus: The prospectus included in a Registration Statement, as amended or supplemented by any prospectus supplement and by all other amendments thereto, including post-effective amendments, and all material incorporated by reference into such Prospectus.

Record Holder: With respect to any Damages Payment Date relating to the Notes, each Person who is a Holder of Notes on the record date with respect to the Interest Payment Date on which such Damages Payment Date shall occur.

Registration Default: As defined in Section 5 hereof.

Registration Statement: Any registration statement of the Company relating to (a) an offering of Exchange Notes pursuant to an Exchange Offer or (b) the registration for resale of Transfer Restricted Securities pursuant to the Shelf Registration Statement, which is filed pursuant to the provisions of this Agreement, in each case, including the Prospectus included therein, all amendments

and supplements thereto (including post-effective amendments) and all exhibits and material incorporated by reference therein.

Regulation S: Regulation S promulgated under the Securities Act.

Securities Act: The Securities Act of 1933, as amended.

Shelf Filing Deadline: As defined in Section 4 hereof.

Shelf Registration Statement: As defined in Section 4 hereof.

Trust Indenture Act: The Trust Indenture Act of 1939 (15 U.S.C. Section 77aaa 77bbb) as in effect on the date of the Indenture.

Transfer Restricted Securities: Each Note, until the earliest to occur of (a) the date on which such Note is exchanged in the Exchange Offer and entitled to be resold to the public by the Holder thereof without

complying with the prospectus delivery requirements of the Securities Act, (b) the date on which such Note has been effectively registered under the Securities Act and disposed of in accordance with a Shelf Registration Statement and (c) the date on which such Note is distributed to the public pursuant to Rule 144 under the Securities Act or by a Broker-Dealer pursuant to the "Plan of Distribution" contemplated by the Exchange Offer Registration Statement (including delivery of the Prospectus contained therein).

Underwritten Registration or Underwritten Offering: A registration in which securities of the Company are sold to an underwriter for reoffering to the public.

## SECTION 2. SECURITIES SUBJECT TO THIS AGREEMENT

(a) Transfer Restricted Securities. The securities entitled to the benefits of this Agreement are the Transfer Restricted Securities.

(b) Holders of Transfer Restricted Securities. A Person is deemed to be a holder of Transfer Restricted Securities (each, a "Holder") whenever such Person owns Transfer Restricted Securities.

## SECTION 3. REGISTERED EXCHANGE OFFER

(a) Unless the Exchange Offer shall not be permissible under applicable law or Commission policy (after the procedures set forth in Section 6(a) below have been complied with), the Company and the Guarantors shall (i) cause to be filed with the Commission as soon as practicable after the Closing Date, but in no event later than 90 days after the Closing Date, a Registration Statement under the Securities Act relating to the Exchange Notes and the Exchange Offer, (ii) use their best efforts to cause such Registration Statement to become effective at the earliest possible time, but in no event later than 180 days after the Closing Date, (iii) in connection with the foregoing, file (A) all pre-effective amendments to such Registration Statement as may be necessary in order to cause such Registration Statement to become effective, (B) if applicable, a post-effective amendment to such Registration Statement pursuant to Rule 430A under the Securities Act and (C) cause all necessary filings in connection with the registration and qualification of the Exchange Notes to be made under the Blue Sky laws of such jurisdictions as are necessary to permit Consummation of the Exchange Offer; provided, however, that in no event shall the Company be obligated to (Y) qualify as a foreign corporation or as a dealer in securities in any jurisdiction where it would not otherwise be required to do so and (Z) file any general consent to service of process in any jurisdiction where it is not as of the date hereof so subject, and (iv) upon the effectiveness of such Registration Statement, commence the Exchange Offer. The Exchange Offer shall be on the appropriate form permitting registration of the Exchange Notes to be offered in exchange for

3

the Transfer Restricted Securities and to permit resales of Notes held by Broker-Dealers as contemplated by Section 3(c) below.

(b) The Company and the Guarantors shall cause the Exchange Offer Registration Statement to be effective continuously and shall keep the Exchange Offer open for a period of not less than the minimum period required under applicable federal and state securities laws to Consummate the Exchange Offer; provided, however, that in no event shall such period be less than 30 days after the date notice of the Exchange Offer is mailed to the Holders. The Company shall cause the Exchange Offer to comply with all applicable federal and state securities laws. No securities other than the Notes shall be included in the Exchange Offer Registration Statement. The Company shall use its best efforts to cause the Exchange Offer to be Consummated on the earliest practicable date after the Exchange Offer Registration Statement has become effective, but in no event later than 30 business days after the date on which the Exchange Offer Registration Statement was declared effective by the Commission, or longer if required by applicable federal securities laws.

(c) The Company and the Guarantors shall indicate in a "Plan of Distribution" section contained in the Prospectus forming a part of the Exchange Offer Registration Statement that any Broker-Dealer who holds Initial Notes that are Transfer Restricted Securities and that were acquired for its own account as a result of market-making activities or other trading activities (other than Transfer Restricted Securities acquired directly from the Company), may exchange such Initial Notes pursuant to the Exchange Offer; however, such Broker-Dealer may be deemed to be an "underwriter" within the meaning of the Securities Act and must, therefore, deliver a prospectus meeting the requirements of the Securities Act in connection with any resales of the Exchange Notes received by such Broker-Dealer in the Exchange Offer, which prospectus delivery requirement may be satisfied by the delivery by such Broker-Dealer of the Prospectus contained in the Exchange Offer Registration Statement. Such "Plan of Distribution" section shall also contain all other information with respect to such resales by Broker-Dealers that the Commission may require in order to permit such resales pursuant thereto, but such "Plan of Distribution" shall not

name any such Broker-Dealer or disclose the amount of Notes held by any such Broker-Dealer except to the extent required by the Commission as a result of a change in policy after the date of this Agreement.

The Company and the Guarantors shall use their best efforts to keep the Exchange Offer Registration Statement continuously effective, supplemented and amended as required by the provisions of Section 6(c) below to the extent necessary to ensure that it is available for resales of Notes acquired by Broker-Dealers for their own accounts as a result of market-making activities or other trading activities, and to ensure that it conforms with the requirements of this Agreement, the Securities Act and the policies, rules and regulations of the Commission as announced from time to time, for a period ending on the earlier of (i) 180 days from the date on which the Exchange Offer Registration Statement is declared effective and (ii) the date on which a Broker-Dealer is no longer required to deliver a prospectus in connection with market-making or other trading activities.

The Company and the Guarantors shall provide sufficient copies of the latest version of such Prospectus to Broker-Dealers promptly upon request at any time during such 180-day (or shorter as provided in the foregoing sentence) period in order to facilitate such resales.

#### SECTION 4. SHELF REGISTRATION

(a) Shelf Registration. If (i) the Company is not required to file an Exchange Offer Registration Statement or permitted to consummate the Exchange Offer because the Exchange Offer is not permitted by applicable law or Commission policy (after the procedures set forth in Section 6(a) below have been complied with) or (ii) any Holder of Transfer Restricted Securities notifies the Company prior to the 20th day following the date of the Consummation of the Exchange Offer that (A) such Holder is prohibited by applicable law or Commission policy from participating in the Exchange Offer, or (B) such Holder may not resell the Exchange Notes acquired by it in the Exchange Offer to the public without delivering a prospectus and that the

4

Prospectus contained in the Exchange Offer Registration Statement is not appropriate or available for such resales by such Holder, or (C) such Holder is a Broker-Dealer and holds Initial Notes acquired directly from the Company or one of its affiliates, then, upon such Holder's request, the Company and the Guarantors shall

(x) use their best efforts to cause to be filed a shelf registration statement pursuant to Rule 415 under the Securities Act, which may be an amendment to the Exchange Offer Registration Statement (in either event, the "Shelf Registration Statement") on or prior to 60 days after the earlier to occur of (1) the date on which the Company determines that it is not required to file the Exchange Offer Registration Statement or permitted to Consummate the Exchange Offer because the Exchange Offer is not permitted and (2) the date on which the Company receives notice from a Holder of Transfer Restricted Securities as contemplated by clause (ii) above (60 days after such earlier date being the "Shelf Filing Deadline"), which Shelf Registration Statement shall provide for resales of all Transfer Restricted Securities the Holders of which shall have provided the information required pursuant to Section 4(b) hereof; and

(y) use their best efforts to cause such Shelf Registration Statement to be declared effective by the Commission on or before the 180th day after the Shelf Filing Deadline.

The Company and the Guarantors shall use their best efforts to keep such Shelf Registration Statement continuously effective, supplemented and amended as required by the provisions of Sections 6(b) and (c) hereof to the extent necessary to ensure that it is available for resales of Notes by the Holders of Transfer Restricted Securities entitled to the benefit of this Section 4(a), and to ensure that it conforms with the requirements of this Agreement, the Securities Act and the policies, rules and regulations of the Commission as announced from time to time, for a period of at least two years following the effective date of such Shelf Registration Statement (or shorter period that will terminate when all the Notes covered by such Shelf Registration Statement have been sold pursuant to such Shelf Registration Statement).

(b) Provision by Holders of Certain Information in Connection with the Shelf Registration Statement. No Holder of Transfer Restricted Securities may include any of its Transfer Restricted Securities in any Shelf Registration Statement pursuant to this Agreement unless and until such Holder furnishes to the Company in writing, within 20 business days after receipt of a request therefor, such information as the Company may reasonably request for use in connection with any Shelf Registration Statement or Prospectus or preliminary Prospectus included therein. Each Holder as to which any Shelf Registration Statement is being effected agrees to furnish promptly to the Company all information required to be disclosed in order to make the information previously furnished to the Company by such Holder not materially misleading.

## SECTION 5. LIQUIDATED DAMAGES

If (i) any of the Registration Statements required by this Agreement is not filed with the Commission on or prior to the date specified for such filing in this Agreement, (ii) any of such Registration Statements has not been declared effective by the Commission on or prior to the date specified for such effectiveness in this Agreement (the "Effectiveness Target Date"), (iii) the Exchange Offer has not been Consummated within 30 business days after the Effectiveness Target Date with respect to the Exchange Offer Registration Statement or (iv) any Registration Statement required by this Agreement is filed and declared effective but shall thereafter cease to be effective or fail to be usable for its intended purpose without being succeeded immediately by a successor Registration Statement or a post-effective amendment to such Registration Statement that cures such failure and that is itself immediately declared effective (each such event referred to in clauses (i) through (iv), a "Registration Default"), the Company and the Guarantors hereby jointly and severally agree to pay to each Holder of Transfer Restricted Securities affected thereby liquidated damages in an amount equal to \$.05 per week per \$1,000 in principal amount of Transfer Restricted Securities held by such Holder for each week or portion thereof that the Registration Default continues for the first 90-day period immediately following the occurrence of such Registration Default. The amount of the liquidated damages shall increase by an additional \$.05 per week per \$1,000 in principal amount of Transfer Restricted

5

Securities with respect to each subsequent 90-day period until all Registration Defaults have been cured, up to a maximum amount of liquidated damages of \$.50 per week per \$1,000 in principal amount of Transfer Restricted Securities. Following the cure of all Registration Defaults relating to any particular Transfer Restricted Securities, liquidated damages payable with respect to the Transfer Restricted Securities as a result of such clause (i), (ii), (iii) or (iv), as applicable, shall cease.

All obligations of the Company and the Guarantors set forth in the preceding paragraph that are outstanding with respect to any Transfer Restricted Security at the time such security ceases to be a Transfer Restricted Security shall survive until such time as all such obligations with respect to such Note shall have been satisfied in full.

## SECTION 6. REGISTRATION PROCEDURES

(a) Exchange Offer Registration Statement. In connection with the Exchange Offer, the Company and the Guarantors shall comply with all of the provisions of Section 6(c) below, shall use their best efforts to effect such exchange to permit the sale of Transfer Restricted Securities being sold in accordance with the intended method or methods of distribution thereof, and shall comply with all of the following provisions:

(i) If in the reasonable opinion of counsel to the Company there is a question as to whether the Exchange Offer is permitted by applicable law, the Company and the Guarantors hereby agree to seek a no-action letter or other favorable decision from the Commission allowing the Company and the Guarantors to Consummate an Exchange Offer for such Initial Notes. The Company and the Guarantors each hereby agrees to pursue the issuance of such a decision to the Commission staff level but shall not be required to take commercially unreasonable action to obtain such favorable decision or to effect a change of Commission policy. The Company and the Guarantors each hereby agrees, however, to (A) participate in telephonic conferences with the Commission, (B) deliver to the Commission staff an analysis prepared by counsel to the Company setting forth the legal bases, if any, upon which such counsel has concluded that such an Exchange Offer should be permitted and (C) diligently pursue a favorable resolution by the Commission staff of such submission.

(ii) As a condition to its participation in the Exchange Offer pursuant to the terms of this Agreement, each Holder of Transfer Restricted Securities shall furnish, upon the request of the Company, prior to the Consummation thereof, a written representation to the Company (which may be contained in the letter of transmittal contemplated by the Exchange Offer Registration Statement) to the effect that (A) it is not an affiliate of the Company, (B) it is not engaged in, and does not intend to engage in, and has no arrangement or understanding with any person to participate in, a distribution of the Exchange Notes to be issued in the Exchange Offer and (C) it is acquiring the Exchange Notes in its ordinary course of business. In addition, all such Holders of Transfer Restricted Securities shall otherwise cooperate in the Company's preparations for the Exchange Offer. Each Holder hereby acknowledges and agrees that any Broker-Dealer and any such Holder using the Exchange Offer to participate in a distribution of the securities to be acquired in the Exchange Offer (1) could not under Commission policy as in effect on the date of this Agreement rely on the position of the Commission enunciated in Morgan Stanley and Co., Inc. (available June 5, 1991) and Exxon Capital Holdings Corporation (available May 13, 1988), as interpreted in the Commission's letter to Shearman & Sterling dated July 2, 1993, and similar no-action letters (which

may include any no-action letter obtained pursuant to clause (i) above), and (2) must comply with the registration and prospectus delivery requirements of the Securities Act in connection with a secondary resale transaction and that such a secondary resale transaction should be covered by an effective registration statement containing the selling security holder information required by Item 507 or 508, as applicable, of Regulation S-K if the resales are of Exchange Notes obtained by such Holder in exchange for Initial Notes acquired by such Holder directly from the Company.

(b) Shelf Registration Statement. In connection with the Shelf Registration Statement, the Company and the Guarantors shall comply with all the provisions of Section 6(c) below and shall use their best

6

efforts to effect such registration to permit the sale of the Transfer Restricted Securities being sold in accordance with the intended method or methods of distribution thereof, and pursuant thereto the Company will as expeditiously as possible prepare and file with the Commission a Registration Statement relating to the registration on any appropriate form under the Securities Act, which form shall be available for the sale of the Transfer Restricted Securities in accordance with the intended method or methods of distribution thereof.

(c) General Provisions. In connection with any Registration Statement and any Prospectus required by this Agreement to permit the sale or resale of Transfer Restricted Securities (including, without limitation, any Registration Statement and the related Prospectus required to permit resales of Notes by Broker-Dealers), the Company and the Guarantors shall:

(i) use their best efforts to keep such Registration Statement continuously effective and provide all requisite financial statements (including, if required by the Securities Act or any regulation thereunder, financial statements of the Guarantors) for the period specified in Section 3 or 4 of this Agreement, as applicable; upon the occurrence of any event that would cause any such Registration Statement or the Prospectus contained therein (A) to contain a material misstatement or omission or (B) not to be effective and usable for resale of Transfer Restricted Securities during the period required by this Agreement, the Company shall file promptly an appropriate amendment to such Registration Statement, in the case of clause (A), correcting any such misstatement or omission, and, in the case of either clause (A) or (B), use its best efforts to cause such amendment to be declared effective and such Registration Statement and the related Prospectus to become usable for their intended purpose(s) as soon as practicable thereafter;

(ii) prepare and file with the Commission such amendments and post-effective amendments to the Registration Statement as may be necessary to keep the Registration Statement effective for the applicable period set forth in Section 3 or 4 hereof, as applicable, or such shorter period as will terminate when all Transfer Restricted Securities covered by such Registration Statement have been sold; cause the Prospectus to be supplemented by any required Prospectus supplement, and as so supplemented to be filed pursuant to Rule 424 under the Securities Act, and to comply fully with the applicable provisions of Rules 424 and 430A under the Securities Act in a timely manner; and comply with the provisions of the Securities Act with respect to the disposition of all securities covered by such Registration Statement during the applicable period in accordance with the intended method or methods of distribution by the sellers thereof set forth in such Registration Statement or supplement to the Prospectus;

(iii) advise the underwriter(s), if any, and selling Holders promptly and, if requested by such Persons, to confirm such advice in writing, (A) when the Prospectus or any Prospectus supplement or post-effective amendment has been filed, and, with respect to any Registration Statement or any post-effective amendment thereto, when the same has become effective, (B) of any request by the Commission for amendments to the Registration Statement or amendments or supplements to the Prospectus or for additional information relating thereto, (C) of the issuance by the Commission of any stop order suspending the effectiveness of the Registration Statement under the Securities Act or of the suspension by any state securities commission of the qualification of the Transfer Restricted Securities for offering or sale in any jurisdiction, or the initiation of any proceeding for any of the preceding purposes, (D) of the existence of any fact or the happening of any event that makes any statement of a material fact made in the Registration Statement, the Prospectus, any amendment or supplement thereto, or any document incorporated by reference therein untrue, or that requires the making of any additions to or changes in the Registration Statement or the Prospectus in order to make the statements therein not misleading. If at any time the Commission shall issue any stop order suspending the effectiveness of the Registration Statement, or any state securities commission or other regulatory authority shall issue an order suspending the qualification or exemption from qualification of the Transfer Restricted Securities under state securities or Blue Sky laws, the Company and the Guarantors shall use their reasonable efforts to obtain the withdrawal or lifting of such order at the earliest possible time;

(iv) furnish without charge to each of the Initial Purchasers, each selling Holder named in any Registration Statement, and each of the underwriter(s), if any, before filing with the

7

Commission, copies of any Registration Statement or any Prospectus included therein or any amendments or supplements to any such Registration Statement or Prospectus (including all documents incorporated by reference after the initial filing of such Registration Statement), which documents will be subject to the review of such Holders and underwriter(s) in connection with such sale, if any, for a period of at least five business days, and the Company will not file any such Registration Statement or Prospectus or any amendment or supplement to any such Registration Statement or Prospectus (including all such documents incorporated by reference) to which an Initial Purchaser of Transfer Restricted Securities covered by such Registration Statement or the underwriter(s), if any, shall reasonably object in writing within five business days after the receipt thereof (such objection to be deemed timely made upon confirmation of telecopy transmission within such period). The objection of an Initial Purchaser or underwriter, if any, shall be deemed to be reasonable if such Registration Statement, amendment, Prospectus or supplement, as applicable, as proposed to be filed, contains a material misstatement or omission;

(v) promptly prior to the filing of any document that is to be incorporated by reference into a Registration Statement or Prospectus, provide copies of such document, to the extent practicable without violating the Company's legal duties under U.S. securities laws, to the Initial Purchasers, each selling Holder named in any Registration Statement, and to the underwriter(s), if any, make the Company's representatives available and representatives of the Guarantors for discussion of such document and other customary due diligence matters, and include such information in such document prior to the filing thereof as such selling Holders or underwriter(s), if any, reasonably may request;

(vi) make available at reasonable times for inspection by the Initial Purchasers, any managing underwriter participating in any disposition pursuant to such Registration Statement and any attorney or accountant retained by such Initial Purchasers or any of the underwriter(s), all financial and other records, pertinent corporate documents and properties of the Company and the Guarantors and cause the Company's and the Guarantors' officers, directors and employees to supply all information reasonably requested by any such Holder, underwriter, attorney or accountant in connection with such Registration Statement subsequent to the filing thereof and prior to its effectiveness;

(vii) if requested by any selling Holders or the underwriter(s), if any, promptly incorporate in any Registration Statement or Prospectus, pursuant to a supplement or post-effective amendment if necessary, such information as such selling Holders and underwriter(s), if any, may reasonably request to have included therein, including, without limitation, information relating to the "Plan of Distribution" of the Transfer Restricted Securities, information with respect to the principal amount of Transfer Restricted Securities being sold to such underwriter(s), the purchase price being paid therefor and any other terms of the offering of the Transfer Restricted Securities to be sold in such offering; and make all required filings of such Prospectus supplement or post-effective amendment as soon as practicable after the Company is notified of the matters to be incorporated in such Prospectus supplement or post-effective amendment;

(viii) cause the Transfer Restricted Securities covered by the Registration Statement to be rated with the appropriate rating agencies, if so requested by the Holders of a majority in aggregate principal amount of Notes covered thereby or the underwriter(s), if any;

(ix) furnish to each selling Holder and each of the underwriter(s), if any, without charge, at least one copy of the Registration Statement, as first filed with the Commission, and of each amendment thereto, including financial statements and schedules, all documents incorporated by reference therein and all exhibits (including exhibits incorporated therein by reference);

(x) deliver to each selling Holder and each of the underwriter(s), if any, without charge, as many copies of the Prospectus (including each preliminary prospectus) and any amendment or supplement thereto as such Persons reasonably may request; the Company and the Guarantors hereby consent to the use of the Prospectus and any amendment or supplement thereto by each of the selling Holders and each

8

of the underwriter(s), if any, in connection with the offering and the sale of the Transfer Restricted Securities covered by the Prospectus or any amendment or

supplement thereto;

(xi) enter into, and cause the Guarantors to enter into, such agreements (including an underwriting agreement), and make, and cause the Guarantors to make, such representations and warranties, and take all such other actions in connection therewith in order to expedite or facilitate the disposition of the Transfer Restricted Securities pursuant to any Shelf Registration Statement contemplated by this Agreement, all to such extent as may be reasonably requested by any Initial Purchaser or by any Holder of at least 20% in aggregate principal amount of the Transfer Restricted Securities to be sold under such Shelf Registration Statement or underwriter in connection with any sale or resale pursuant to any Registration Statement contemplated by this Agreement; and whether or not an underwriting agreement is entered into and whether or not the registration is an Underwritten Registration, the Company and the Guarantors shall:

(A) furnish to each Initial Purchaser, each selling Holder and each underwriter, if any, in such substance and scope as they may request and as are customarily made by issuers to underwriters in primary underwritten offerings, upon the date of the Consummation of the Exchange Offer and, if applicable, the effectiveness of the Shelf Registration Statement:

(1) a certificate, dated the date of Consummation of the Exchange Offer or the date of effectiveness of the Shelf Registration Statement, as the case may be, signed by (y) the President or any Vice President and (z) a principal financial or accounting officer of each of the Company and the Guarantors, confirming, as of the date thereof, the matters set forth in paragraphs (i), (ii) and (iii) of Section 5 (e) of the Purchase Agreement and such other matters as such parties may reasonably request;

(2) an opinion, dated the date of Consummation of the Exchange Offer or the date of effectiveness of the Shelf Registration Statement, as the case may be, of counsel for the Company and the Guarantors, covering the matters set forth in paragraph (c) of Section 5 of the Purchase Agreement and such other securities law matters as are customarily addressed in legal opinions in transactions pursuant to shelf registration statements, and in any event including a statement to the effect that such counsel has participated in conferences with officers and other representatives of the Company, representatives of the independent public accountants for the Company, the Initial Purchasers' representatives and the Initial Purchasers' counsel in connection with the preparation of such Registration Statement and the related Prospectus and have considered the matters required to be stated therein and the statements contained therein, although such counsel has not independently verified the accuracy, completeness or fairness of such statements; and that such counsel advises that, on the basis of the foregoing (relying as to materiality to a large extent upon facts provided to such counsel by officers and other representatives of the Company and without independent check or verification), no facts came to such counsel's attention that caused such counsel to believe that the applicable Registration Statement, at the time such Registration Statement or any post-effective amendment thereto became effective, and, in the case of the Exchange Offer Registration Statement, as of the date of Consummation, contained an untrue statement of a material fact or omitted to state a material fact required to be stated therein or necessary to make the statements therein not misleading, or that the Prospectus contained in such Registration Statement as of its date and, in the case of the opinion dated the date of Consummation of the Exchange Offer, as of the date of Consummation, contained an untrue statement of a material fact or omitted to state a material fact necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading. Without limiting the foregoing, such counsel may state further that such counsel assumes no responsibility for, and has not independently verified, the accuracy, completeness or fairness of the financial statements, notes and schedules and other financial data included in any Registration Statement contemplated by this Agreement or the related Prospectus; and

(3) a customary comfort letter, dated as of the date of Consummation of the Exchange Offer or the date of effectiveness of the Shelf Registration Statement, as the case may be, from the Company's independent accountants, in the customary form and covering matters of the type customarily covered in comfort letters by underwriters in connection with primary underwritten offerings, and affirming the matters set forth in the comfort

letters delivered pursuant to Section 5(a) of the Purchase Agreement, without exception;

(B) set forth in full or incorporate by reference in the underwriting agreement, if any, the indemnification provisions and procedures of Section 8 hereof with respect to all parties to be indemnified pursuant to said Section; and

(C) deliver such other documents and certificates as may be reasonably requested by such parties to evidence compliance with clause (A) above and with any customary conditions contained in the underwriting agreement or other agreement entered into by the Company or the Guarantors pursuant to this clause (xi), if any.

If at any time the representations and warranties of the Company and the Guarantors contemplated in clause (A)(1) above cease to be true and correct, the Company or the Guarantors shall so advise the Initial Purchasers and the underwriter(s), if any, and each selling Holder promptly and, if requested by such Persons, shall confirm such advice in writing;

(xii) prior to any public offering of Transfer Restricted Securities, cooperate with, and cause the Guarantors to cooperate with, the selling Holders, the underwriter(s), if any, and their respective counsel in connection with the registration and qualification of the Transfer Restricted Securities under the securities or Blue Sky laws of such jurisdictions as the selling Holders or underwriter(s) may request and do any and all other acts or things necessary or advisable to enable the disposition in such jurisdictions of the Transfer Restricted Securities covered by the Shelf Registration Statement; provided, however, that neither the Company nor the Guarantors shall be required to register or qualify as a foreign corporation where it is not then so qualified or to take any action that would subject it to the service of process in suits or to taxation, other than as to matters and transactions relating to the Registration Statement, in any jurisdiction where it is not then so subject;

(xiii) shall issue, upon the request of any Holder of Initial Notes covered by the Shelf Registration Statement, Exchange Notes, having an aggregate principal amount equal to the aggregate principal amount of Initial Notes surrendered to the Company by such Holder in exchange therefor or being sold by such Holder; such Exchange Notes to be registered in the name of such Holder or in the name of the purchaser(s) of such Notes, as the case may be; in return, the Initial Notes held by such Holder shall be surrendered to the Company for cancellation;

(xiv) cooperate with, and cause the Guarantors to cooperate with, the selling Holders and the underwriter(s), if any, to facilitate the timely preparation and delivery of certificates representing Transfer Restricted Securities to be sold and not bearing any restrictive legends; and enable such Transfer Restricted Securities to be in such denominations and registered in such names as the Holders or the underwriter(s), if any, may request at least two business days prior to any sale of Transfer Restricted Securities made by such underwriter(s);

(xv) use their best efforts to cause the Transfer Restricted Securities covered by the Registration Statement to be registered with or approved by such other governmental agencies or authorities as may be necessary to enable the seller or sellers thereof or the underwriter(s), if any, to consummate the disposition of such Transfer Restricted Securities, subject to the proviso contained in clause (xii) above;

(xvi) if any fact or event contemplated by clause (c)(iii)(D) above shall exist or have occurred, prepare a supplement or post-effective amendment to the Registration Statement or related

10

Prospectus or any document incorporated therein by reference or file any other required document so that, as thereafter delivered to the purchasers of Transfer Restricted Securities, the Prospectus will not contain an untrue statement of a material fact or omit to state any material fact necessary to make the statements therein not misleading;

(xvii) provide a CUSIP number for all Transfer Restricted Securities not later than the effective date of the Registration Statement and provide the Trustee under the Indenture with printed certificates for the Transfer Restricted Securities which are in a form eligible for deposit with the Depositary Trust Company;

(xviii) cooperate and assist in any filings required to be made with the NASD and in the performance of any due diligence investigation by any underwriter (including any "qualified independent underwriter") that is required to be retained in accordance with the rules and regulations of the NASD, and use their reasonable best efforts to cause such Registration Statement to become effective and approved by such governmental agencies or authorities as may be necessary to enable the Holders selling Transfer Restricted Securities to



consummate the disposition of such Transfer Restricted Securities;

(xix) otherwise use their best efforts to comply with all applicable rules and regulations of the Commission, and make generally available to its security holders, as soon as practicable, a consolidated earnings statement meeting the requirements of Rule 158 (which need not be audited) for the twelve-month period (A) commencing at the end of any fiscal quarter in which Transfer Restricted Securities are sold to underwriters in a firm or best efforts Underwritten Offering or (B) if not sold to underwriters in such an offering, beginning with the first month of the Company's first fiscal quarter commencing after the effective date of the Registration Statement;

(xx) cause the Indenture to be qualified under the Trust Indenture Act not later than the effective date of the first Registration Statement required by this Agreement, and, in connection therewith, cooperate, and cause the Guarantors to cooperate with, the Trustee and the Holders of Notes to effect such changes to the Indenture as may be required for such Indenture to be so qualified in accordance with the terms of the Trust Indenture Act; and to execute, and cause the Guarantors to execute, and use their best efforts to cause the Trustee to execute, all documents that may be required to effect such changes and all other forms and documents required to be filed with the Commission to enable such Indenture to be so qualified in a timely manner; and

(xxi) provide promptly to each Holder upon request each document filed with the Commission pursuant to the requirements of Section 13 and Section 15 of the Exchange Act.

Each Holder agrees by acquisition of a Transfer Restricted Security that, upon receipt of any notice from the Company of the existence of any fact of the kind described in Section 6(c)(iii)(D) hereof, such Holder will forthwith discontinue disposition of Transfer Restricted Securities pursuant to the applicable Registration Statement until such Holder's receipt of the copies of the supplemented or amended Prospectus contemplated by Section 6(c)(xvi) hereof, or until it is advised in writing (the "Advice") by the Company that the use of the Prospectus may be resumed, and has received copies of any additional or supplemental filings that are incorporated by reference in the Prospectus. If so directed by the Company, each Holder will deliver to the Company (at the Company's expense) all copies, other than permanent file copies then in such Holder's possession, of the Prospectus covering such Transfer Restricted Securities that was current at the time of receipt of such notice. In the event the Company shall give any such notice, the time period regarding the effectiveness of such Registration Statement set forth in Section 3 or 4 hereof, as applicable, shall be extended by the number of days during the period from and including the date of the giving of such notice pursuant to Section 6(c)(iii)(D) hereof to and including the date when each selling Holder covered by such Registration Statement shall have received the copies of the supplemented or amended Prospectus contemplated by Section 6(c)(xvi) hereof or shall have received the Advice; however, no such extension shall be taken into account in determining whether Additional Interest is due pursuant to Section 5 hereof or the amount of such Additional

11

Interest, it being agreed that the Company's option to suspend use of a Registration Statement pursuant to this paragraph shall be treated as a Registration Default for purposes of Section 5.

#### SECTION 7. REGISTRATION EXPENSES

(a) All expenses incident to the Company's or the Guarantors' performance of or compliance with this Agreement will be borne by the Company or the Guarantors, regardless of whether a Registration Statement becomes effective, including without limitation: (i) all registration and filing fees and expenses (including filings made by any Initial Purchaser or Holder with the NASD (and, if applicable, the fees and expenses of any "qualified independent underwriter" and its counsel that may be required by the rules and regulations of the NASD)); (ii) all fees and expenses of compliance with federal securities and state Blue Sky or securities laws; (iii) all expenses of printing (including printing certificates for the Exchange Notes to be issued in the Exchange Offer and printing of Prospectuses), messenger and delivery services and telephone; (iv) all fees and disbursements of counsel for the Company, the Guarantors and, subject to Section 7(b) below, the Holders of Transfer Restricted Securities; (v) all application and filing fees in connection with listing the Exchange Notes on a national securities exchange or automated quotation system pursuant to the requirements thereof; and (vi) all fees and disbursements of independent certified public accountants of the Company and the Guarantors (including the expenses of any special audit and comfort letters required by or incident to such performance).

The Company will, in any event, bear its and the Guarantors' internal expenses (including, without limitation, all salaries and expenses of its officers and employees performing legal or accounting duties), the expenses of any annual audit and the fees and expenses of any Person, including special experts, retained by the Company or the Guarantors.

(b) In connection with any Registration Statement required by this Agreement (including, without limitation, the Exchange Offer Registration Statement and the Shelf Registration Statement), the Company and the Guarantors will reimburse the Initial Purchasers and the Holders of Transfer Restricted Securities being tendered in the Exchange Offer and/or resold pursuant to the "Plan of Distribution" contained in the Exchange Offer Registration Statement or registered pursuant to the Shelf Registration Statement, as applicable, for the reasonable fees and disbursements of not more than one counsel, who shall be Latham & Watkins LLP or such other counsel reasonably acceptable to the Company as may be chosen by the Holders of a majority in principal amount of the Transfer Restricted Securities for whose benefit such Registration Statement is being prepared.

#### SECTION 8. INDEMNIFICATION

(a) The Company agrees and the Guarantors, jointly and severally, agree to indemnify and hold harmless (i) each Holder and (ii) each person, if any, who controls (within the meaning of Section 15 of the Securities Act or Section 20 of the Exchange Act) any Holder (any of the persons referred to in this clause (ii) being hereinafter referred to as a "controlling person") and (iii) the respective officers, directors, partners, employees, representatives and agents of any Holder or any controlling person (any person referred to in clause (i), (ii) or (iii) may hereinafter be referred to as an "Indemnified Holder"), to the fullest extent lawful, from and against any and all losses, claims, damages, liabilities, judgments, actions and expenses (including without limitation and as incurred, reimbursement of all reasonable costs of investigating, preparing, pursuing, settling, compromising, paying or defending any claim or action, or any investigation or proceeding by any governmental agency or body, commenced or threatened, including the reasonable fees and expenses of counsel to any Indemnified Holder), joint or several, directly or indirectly caused by, related to, based upon, arising out of or in connection with any untrue statement or alleged untrue statement of a material fact contained in any Registration Statement or Prospectus (or any amendment or supplement thereto), or any omission or alleged omission to state therein a material fact required to be stated therein or necessary to make the statements therein not misleading, except insofar as such losses, claims, damages, liabilities or expenses are caused by an untrue statement or omission or alleged untrue statement or omission that is made in reliance

12

upon and in conformity with information relating to any of the Holders furnished in writing to the Company by any of the Holders expressly for use therein. This indemnity agreement shall be in addition to any liability which the Company or any of the Guarantors may otherwise have.

In case any action or proceeding (including any governmental or regulatory investigation or proceeding) shall be brought or asserted against any of the Indemnified Holders with respect to which indemnity may be sought against the Company or the Guarantors, such Indemnified Holder (or the Indemnified Holder controlled by such controlling person) shall promptly notify the Company and the Guarantors in writing (provided, that the failure to give such notice shall not relieve the Company or the Guarantors of their respective obligations pursuant to this Agreement except to the extent the Company or the Guarantor is directly prejudiced as a proximate result of such failure). Such Indemnified Holder shall have the right to employ its own counsel in any such action and the fees and expenses of such counsel shall be paid, as incurred, by the Company and the Guarantors (regardless of whether it is ultimately determined that an Indemnified Holder is not entitled to indemnification hereunder). The Company and the Guarantors shall not, in connection with any one such action or proceeding or separate but substantially similar or related actions or proceedings in the same jurisdiction arising out of the same general allegations or circumstances, be liable for the reasonable fees and expenses of more than one separate firm of attorneys (in addition to any local counsel) at any time for such Indemnified Holders, which firm shall be designated by the Holders. The Company shall be liable for any settlement of any such action or proceeding effected with the Company's prior written consent, which consent shall not be withheld unreasonably, and the Company agrees to indemnify and hold harmless any Indemnified Holder from and against any loss, claim, damage, liability or expense by reason of any settlement of any action effected with the written consent of the Company. The Company shall not, without the prior written consent of each Indemnified Holder, settle or compromise or consent to the entry of judgment in or otherwise seek to terminate any pending or threatened action, claim, litigation or proceeding in respect of which indemnification or contribution may be sought hereunder (whether or not any Indemnified Holder is a party thereto), unless such settlement, compromise, consent or termination includes an unconditional release of each Indemnified Holder from all liability arising out of such action, claim, litigation or proceeding.

(b) Each Holder of Transfer Restricted Securities agrees, severally and not jointly, to indemnify and hold harmless the Company and the Guarantors and their respective directors, officers of the Company who sign a Registration Statement, and any person controlling (within the meaning of Section 15 of the

Securities Act or Section 20 of the Exchange Act) the Company or any Guarantor, and the respective officers, directors, partners, employees, representatives and agents of each such person, to the same extent as the foregoing indemnity from the Company and the Guarantors to each of the Indemnified Holders, but only with respect to claims and actions based on information relating to such Holder furnished in writing by such Holder expressly for use in any Registration Statement. In case any action or proceeding shall be brought against the Company or any Guarantor or their directors or officers or any such controlling person in respect of which indemnity may be sought against a Holder of Transfer Restricted Securities, such Holder shall have the rights and duties given the Company and the Company and the Guarantors or their directors or officers or such controlling person shall have the rights and duties given to each Holder by the preceding paragraph. In no event shall the liability of any selling Holder hereunder be greater in amount than the dollar amount of the proceeds received by such Holder upon the sale of the Securities giving rise to such indemnification obligation.

(c) If the indemnification provided for in this Section 8 is unavailable to an indemnified party under Section 8(a) or Section 8(b) hereof (other than by reason of exceptions provided in those Sections) in respect of any losses, claims, damages, liabilities, judgments, actions or expenses referred to therein, then each applicable indemnifying party, in lieu of indemnifying such indemnified party, shall contribute to the amount paid or payable by such indemnified party as a result of such losses, claims, damages, liabilities or expenses in such proportion as is appropriate to reflect the relative benefits received by the Company and the Guarantors, on the one hand, and the Holders, on the other hand, from the Initial Placement (which in the case of the Company shall be deemed to be equal to the total net proceeds from the Initial Placement as set forth on the cover page of the Offering Memorandum), the amount of Liquidated Damages which did not become payable

13

as a result of the filing of the Registration Statement resulting in such losses, claims, damages, liabilities, judgments actions or expenses, and such Registration Statement, or if such allocation is not permitted by applicable law, the relative fault of the Company and the Guarantors on the one hand, and of the Indemnified Holder, on the other hand, in connection with the statements or omissions which resulted in such losses, claims, damages, liabilities or expenses, as well as any other relevant equitable considerations. The relative fault of the Company and the Guarantors on the one hand and of the Indemnified Holder on the other shall be determined by reference to, among other things, whether the untrue or alleged untrue statement of a material fact or the omission or alleged omission to state a material fact relates to information supplied by the Company or the Guarantors or by the Indemnified Holder and the parties' relative intent, knowledge, access to information and opportunity to correct or prevent such statement or omission. The amount paid or payable by a party as a result of the losses, claims, damages, liabilities and expenses referred to above shall be deemed to include, subject to the limitations set forth in the second paragraph of Section 8(a), any legal or other fees or expenses reasonably incurred by such party in connection with investigating or defending any action or claim.

The Company, the Guarantors and each Holder of Transfer Restricted Securities agree that it would not be just and equitable if contribution pursuant to this Section 8(c) were determined by pro rata allocation (even if the Holders were treated as one entity for such purpose) or by any other method of allocation which does not take account of the equitable considerations referred to in the immediately preceding paragraph. The amount paid or payable by an indemnified party as a result of the losses, claims, damages, liabilities or expenses referred to in the immediately preceding paragraph shall be deemed to include, subject to the limitations set forth above, any legal or other expenses reasonably incurred by such indemnified party in connection with investigating or defending any such action or claim. Notwithstanding the provisions of this Section 8, none of the Holders (and its related Indemnified Holders) shall be required to contribute, in the aggregate, any amount in excess of the amount by which the total discount received by such Holder with respect to the Initial Notes exceeds the amount of any damages which such Holder has otherwise been required to pay by reason of such untrue or alleged untrue statement or omission or alleged omission. No person guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Securities Act) shall be entitled to contribution from any person who was not guilty of such fraudulent misrepresentation. The Holders' obligations to contribute pursuant to this Section 8(c) are several in proportion to the respective principal amount of Initial Notes held by each of the Holders hereunder and not joint.

#### SECTION 9. RULE 144A

The Company hereby agrees with each Holder, for so long as any Transfer Restricted Securities remain outstanding, to make available to any Holder or beneficial owner of Transfer Restricted Securities in connection with any sale thereof and any prospective purchaser of such Transfer Restricted Securities from such Holder or beneficial owner, the information required by

Rule 144A(d)(4) under the Securities Act in order to permit resales of such Transfer Restricted Securities pursuant to Rule 144A.

#### SECTION 10. PARTICIPATION IN UNDERWRITTEN REGISTRATIONS

No Holder may participate in any Underwritten Registration hereunder unless such Holder (a) agrees to sell such Holder's Transfer Restricted Securities on the basis provided in any underwriting arrangements approved by the Persons entitled hereunder to approve such arrangements and (b) completes and executes all reasonable questionnaires, powers of attorney, indemnities, underwriting agreements, lock-up letters and other documents required under the terms of such underwriting arrangements.

#### SECTION 11. SELECTION OF UNDERWRITERS

The Holders of Transfer Restricted Securities covered by the Shelf Registration Statement who desire to do so may sell such Transfer Restricted Securities in an Underwritten Offering. In any such Underwritten Offering, the investment banker or investment bankers and manager or managers that will administer the offering will be selected by the Holders of a majority in aggregate principal amount of the

14

Transfer Restricted Securities included in such offering; provided, that such investment bankers and managers must be reasonably satisfactory to the Company.

#### SECTION 12. MISCELLANEOUS

(a) Remedies. The Company and the Guarantors each hereby agrees that monetary damages would not be adequate compensation for any loss incurred by reason of a breach by it of the provisions of this Agreement and hereby agree to waive the defense in any action for specific performance that a remedy at law would be adequate.

(b) No Inconsistent Agreements. The Company will not, and will cause the Guarantors not to, on or after the date of this Agreement enter into any agreement with respect to its securities that is inconsistent with the rights granted to the Holders in this Agreement or otherwise conflicts with the provisions hereof. Neither the Company nor the Guarantors is currently bound by any effective agreement granting any registration rights with respect to its securities to any Person. The rights granted to the Holders hereunder do not in any way conflict with and are not inconsistent with the rights granted to the holders of the Company's securities under any agreement in effect on the date hereof.

(c) Adjustments Affecting the Notes. The Company will not take any action, or permit any change to occur, with respect to the Notes that would materially and adversely affect the ability of the Holders to Consummate any Exchange Offer.

(d) Amendments and Waivers. The provisions of this Agreement may not be amended, modified or supplemented, and waivers or consents to or departures from the provisions hereof may not be given unless the Company has obtained the written consent of Holders of a majority of the outstanding principal amount of Transfer Restricted Securities. Notwithstanding the foregoing, a waiver or consent to departure from the provisions hereof that relates exclusively to the rights of Holders whose securities are being tendered pursuant to the Exchange Offer and that does not affect directly or indirectly the rights of other Holders whose securities are not being tendered pursuant to such Exchange Offer may be given by the Holders of a majority of the outstanding principal amount of Transfer Restricted Securities being tendered or registered; provided that, with respect to any matter that directly or indirectly affects the rights of any Initial Purchaser hereunder, the Company shall obtain the written consent of each such Initial Purchaser with respect to which such amendment, qualification, supplement, waiver, consent or departure is to be effective.

(e) Notices. All notices and other communications provided for or permitted hereunder shall be made in writing by hand-delivery, first-class mail (registered or certified, return receipt requested), telex, telecopier, or air courier guaranteeing overnight delivery:

(i) if to a Holder, at the address set forth on the records of the Registrar under the Indenture, with a copy to the Registrar under the Indenture; and

(ii) if to the Company or the Guarantors:

Central Garden & Pet Company  
3697 Mt. Diablo Blvd., Suite 310  
Lafayette, CA 94549  
Telecopier No.: (925) 283-4984  
Attention: Chief Executive Officer

With a copy to:

Orrick, Herrington & Sutcliffe LLP  
 Old Federal Reserve Bank Building  
 400 Sansome Street  
 San Francisco, CA 94111  
 Telecopier No.: (415) 773-5759  
 Attention: John F. Seegal

All such notices and communications shall be deemed to have been duly given: at the time delivered by hand, if personally delivered; five business days after being deposited in the mail, postage prepaid, if mailed; when answered back, if telexed; when receipt acknowledged, if telecopied; and on the next business day, if timely delivered to an air courier guaranteeing overnight delivery.

Copies of all such notices, demands or other communications shall be concurrently delivered by the Person giving the same to the Trustee at the address specified in the Indenture.

(f) Successors and Assigns. This Agreement shall inure to the benefit of and be binding upon the successors and assigns of each of the parties, including without limitation and without the need for an express assignment, subsequent Holders of Transfer Restricted Securities; provided, however, that this Agreement shall not inure to the benefit of or be binding upon a successor or assign of a Holder unless and to the extent such successor or assign acquired Transfer Restricted Securities from such Holder.

(g) Counterparts. This Agreement may be executed in any number of counterparts and by the parties hereto in separate counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same agreement.

(h) Headings. The headings in this Agreement are for convenience of reference only and shall not limit or otherwise affect the meaning hereof.

(i) GOVERNING LAW. THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK, WITHOUT REGARD TO THE CONFLICT OF LAW RULES THEREOF.

(j) Severability. In the event that any one or more of the provisions contained herein, or the application thereof in any circumstance, is held invalid, illegal or unenforceable, the validity, legality and enforceability of any such provision in every other respect and of the remaining provisions contained herein shall not be affected or impaired thereby.

(k) Entire Agreement. This Agreement together with the Purchase Agreement, the DTC Agreement, the Notes, the Guarantees and the Indenture (each as defined in the Purchase Agreement) is intended by the parties as a final expression of their agreement and intended to be a complete and exclusive statement of the agreement and understanding of the parties hereto in respect of the subject matter contained herein. There are no restrictions, promises, warranties or undertakings, other than those set forth or referred to herein with respect to the registration rights granted by the Company with respect to the Transfer Restricted Securities. This Agreement supersedes all prior agreements and understandings between the parties with respect to such subject matter.

[Signature Page Follows]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.

CENTRAL GARDEN & PET COMPANY

By: /s/ WILLIAM E. BROWN

-----  
 Name: William E. Brown  
 Title: Chairman and Chief Executive Officer

FOUR PAWS PRODUCTS LTD.

By: /s/ WILLIAM E. BROWN

-----  
 Name: William E. Brown  
 Title: Chairman

KAYTEE PRODUCTS, INCORPORATED

By: /s/ WILLIAM E. BROWN

-----  
Name: William E. Brown  
Title: Chairman

PENNINGTON SEED, INC.

By: /s/ WILLIAM E. BROWN

-----  
Name: William E. Brown  
Title: Chairman

ALL-GLASS AQUARIUM CO., INC.

By: /s/ GLENN W. NOVOTNY

-----  
Name: Glenn W. Novotny  
Title: Chief Executive Officer

S-1

Signature Page to Registration Rights Agreement

T.F.H. PUBLICATIONS, INC.

By: /s/ GLEN S. AXELROD

-----  
Name: Glen S. Axelrod  
Title: President and Chief Executive Officer

WELLMARK INTERNATIONAL

By: /s/ WILLIAM E. BROWN

-----  
Name: William E. Brown  
Title: Chairman and Chief Executive Officer

NORCAL POTTERY PRODUCTS, INC.

By: /s/ WILLIAM E. BROWN

-----  
Name: William E. Brown  
Title: Chairman

PENNINGTON SEED, INC., OF NEBRASKA

By: /s/ BROOKS M. PENNINGTON III

-----  
Name: Brooks M. Pennington III  
Title: President

GRO TEC, INC.

By: /s/ BROOKS M. PENNINGTON III

-----  
Name: Brooks M. Pennington III  
Title: President

GRANT LABORATORIES, INC.

By: /s/ WILLIAM E. BROWN

-----  
Name: William E. Brown  
Title: Chairman and Chief Executive Officer

S-2

Signature Page to Registration Rights Agreement

MATTHEWS REDWOOD & NURSERY SUPPLY, INC.

By: /s/ WILLIAM E. BROWN

-----  
Name: William E. Brown  
Title: Chairman and Chief Executive Officer

PHAETON CORPORATION

By: /s/ BROOKS M. PENNINGTON III

-----  
Name: Brooks M. Pennington III  
Title: Chief Executive Officer and President

SEEDS WEST, INC.

By: /s/ WILLIAM E. BROWN

-----  
Name: William E. Brown  
Title: Chairman

OCEANIC SYSTEMS, INC.

By: /s/ GLENN W. NOVOTNY

-----  
Name: Glenn W. Novotny  
Title: Chief Executive Officer

S-3

Signature Page to Registration Rights Agreement

The foregoing Registration Rights Agreement is hereby confirmed  
and accepted as of the date first above written.

BANC OF AMERICA SECURITIES LLC  
CIBC WORLD MARKETS CORP.  
SUNTRUST CAPITAL MARKETS, INC.  
JEFFERIES & COMPANY, INC.

By: BANC OF AMERICA SECURITIES LLC

By: /s/ BRUCE R. THOMPSON

-----  
Name: Bruce R. Thompson  
Title: Managing Director

S-4

Signature Page to Registration Rights Agreement

SCHEDULE I

GUARANTORS

Four Paws Products Ltd.  
Kaytee Products, Incorporated  
Pennington Seed, Inc.  
All-Glass Aquarium Co., Inc.  
T.F.H. Publications, Inc.  
Wellmark International  
Norcal Pottery Products, Inc.  
Pennington Seed, Inc. of Nebraska  
Gro Tec, Inc.  
Grant Laboratories, Inc.  
Matthews Redwood & Nursery Supply, Inc.  
Phaeton Corporation  
Seeds West, Inc.  
Oceanic Systems, Inc.

SCHEDULE I

March 13, 2003

Central Garden & Pet Company  
3697 Mt. Diablo Boulevard  
Lafayette, CA 94549

Re: Central Garden & Pet Company  
Registration Statement on Form S-4

Ladies and Gentlemen:

We have acted as counsel for Central Garden & Pet Company, a Delaware corporation (the "Company"), and certain subsidiary guarantors (the "Subsidiary Guarantors") in connection with the registration of \$150,000,000 aggregate principal amount of the Company's 9 1/8% Senior Subordinated Notes due February 1, 2013 (the "Exchange Notes") and related guarantees (the "Guarantees"). The Exchange Notes are to be issued pursuant to an exchange offer (the "Exchange Offer") in exchange for a like principal amount of the issued and outstanding \$150,000,000 aggregate principal amount of the Company's 9 1/8% Senior Subordinated Notes due February 1, 2013 (the "Original Notes"). The Exchange Notes will be issued under the Indenture, dated as of January 30, 2003 (the "Indenture"), among the Company, the Subsidiary Guarantors and Wells Fargo Bank, National Association, as trustee thereunder (the "Trustee"), as contemplated by the Registration Rights Agreement, dated as of January 30, 2003 (the "Registration Rights Agreement"), by and among the Company, the Subsidiary Guarantors and Banc of America Securities LLC, as representative for the initial purchasers of the Original Notes.

This opinion is furnished to you in accordance with the requirements of Item 601(b)(5) of Regulation S-K under the Securities Act of 1933, as amended (the "Act").

In arriving at the opinions expressed herein, we have examined and relied on the following documents:

- (a) the Company's certificate of incorporation, as amended to the date hereof (the "Certificate of Incorporation"), the bylaws of the Company, as amended to the date hereof (the "Bylaws"), the resolutions of the Company's Board of Directors adopted on January 13, 2003 relating to the issuance and exchange of the Exchange Notes pursuant to the Exchange Offer, and the unanimous written consent of the Pricing Committee of the Company's Board of Directors dated January 24, 2003 adopting resolutions relating to the interest rate, maturity date, pricing and certain other terms of the Exchange Notes and the unanimous written consents dated January 21, 2003 of the Board of Directors of each of the Subsidiary Guarantors adopting resolutions relating to the Indenture, the Registration Rights Agreement and the Guarantees;



- (b) the Registration Statement on Form S-4 relating to the Exchange Notes to be filed with the Securities and Exchange Commission (the "Commission") on the date hereof under the Act (the "Registration Statement");
- (c) an executed copy of the Indenture;
- (d) an executed copy of the Registration Rights Agreement;
- (e) the Form T-1 of the Trustee filed as an exhibit to the Registration Statement; and
- (f) a specimen of the form of the Exchange Notes.

In addition, we have examined such other instruments, documents and records as we have deemed relevant and necessary as a basis for our opinion hereinafter expressed.

#### Opinions

Based on the foregoing and subject to the assumptions, qualifications and exceptions stated below, we are of the opinion that when the Registration Statement becomes effective and the Indenture has been qualified under the Trust Indenture Act of 1939, as amended, and the Exchange Notes (in the form examined by us) have been duly executed and authenticated in accordance with the terms of the Indenture and have been delivered upon consummation of the Exchange Offer against receipt of Original Notes surrendered in exchange therefor in accordance with the terms of the Exchange Offer, the Exchange Notes and the Guarantees will constitute valid and binding obligations of the Company and the Subsidiary Guarantors, as applicable, and the holders of the Exchange Notes will be entitled to the benefits of the Indenture.

#### Assumptions and Qualifications

In rendering this opinion, we have, with your permission, assumed the following: (a) the authenticity of original documents and the genuineness of all signatures; (b) the conformity to the originals of all documents submitted to us as copies; and (c) the truth, accuracy and completeness of the information, factual matters, representations and warranties contained in the records, documents, instruments and certificates we have reviewed.

Our opinion that the Exchange Notes and the Guarantees are valid and binding obligations is qualified as to (i) the effect of bankruptcy, insolvency, liquidation, receivership, moratorium, reorganization, fraudulent conveyance or similar laws relating to or affecting the rights of creditors generally; and (ii) general principles of equity, including, without limitation, concepts of materiality, reasonableness, good faith, fair dealing, and the rules governing the availability of specific performance or injunctive relief, whether enforcement is sought in a proceeding in equity or at law.

We express no opinion as to laws other than the laws of the State of New York and the general corporate laws of the State of Delaware.

We hereby consent to the filing of this opinion with the Commission as an exhibit to the Registration Statement. We also consent to the reference to our firm under the caption "Legal Matters" in the prospectus included in the Registration Statement. In giving this consent, we do not thereby admit that we are included in the category of persons whose consent is required under Section 7 of the Act or the rules and regulations of the Commission.

Very truly yours,

/s/ ORRICK, HERRINGTON & SUTCLIFFE LLP

ORRICK, HERRINGTON & SUTCLIFFE LLP

**CENTRAL GARDEN & PET COMPANY**  
**COMPUTATION OF RATIOS OF EARNINGS TO FIXED CHARGES**  
(dollars in thousands)

	September 30, 2000	September 29, 2001	September 28, 2002	December 29, 2001	December 28, 2002
Income (loss) before income taxes and cumulative effect of accounting change	(\$ 10,607)	(\$ 9,021)	\$ 44,156	(\$ 2,030)	(\$ 853)
Fixed charges (1)	24,841	24,863	15,689	4,168	3,016
Total earnings and fixed charges	14,234	15,842	59,845	2,138	2,163
Fixed charges (1)	\$ 24,841	\$ 24,863	\$ 15,689	\$ 4,168	\$ 3,016
Ratio of earnings to fixed charges	0.57	0.64	3.81	0.51	0.72

- (1) Fixed charges consist of interest expense incurred and the portion of rental expense under operating leases deemed by the Company to be representative of the interest factor.

**INDEPENDENT AUDITORS' CONSENT**

We consent to the inclusion in this Registration Statement of Central Garden & Pet Company on Form S-4 of our report dated December 4, 2002, (January 30, 2003 as to Note 16), (which report expresses an unqualified opinion and includes an explanatory paragraph relating to a change in accounting principle), and to the reference to us under the heading "Experts" in the Prospectus, which is part of this Registration Statement.

/s/ DELOITTE & TOUCHE LLP  
San Francisco, California  
March 14, 2003

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

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**FORM T-1****STATEMENT OF ELIGIBILITY  
UNDER THE TRUST INDENTURE ACT OF 1939 OF A  
CORPORATION DESIGNATED TO ACT AS TRUSTEE**

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**CHECK IF AN APPLICATION TO DETERMINE ELIGIBILITY OF A TRUSTEE PURSUANT TO SECTION 305(b)  
(2)**

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**WELLS FARGO BANK, NATIONAL ASSOCIATION**(Exact name of trustee as specified in its charter)

---

**Not Applicable**  
(Jurisdiction of incorporation  
or organization if not a U.S. national bank)

**94-1347393**  
(I.R.S. Employer  
Identification No.)

**420 Montgomery Street**  
**San Francisco, CA**  
(Address of principal executive offices)

**94163**  
(Zip Code)

---

**Wells Fargo & Company**  
**Law Department, Trust Section**  
**MAC N9305-172**  
**Sixth and Marquette, 17<sup>th</sup> Floor**  
**Minneapolis, MN 55479**  
(agent for services)

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**CENTRAL GARDEN & PET COMPANY**

(Exact name of obligor as specified in its charter)

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

**68-0275553**  
(I.R.S. Employer  
Identification No.)

**3697 MT DIABLO BLVD., SUITE 300**  
**LAFAYETTE, CALIFORNIA**  
(Address of principal executive offices)

**94549**  
(Zip code)

---

**9 1/8% Senior Subordinated Notes due 2013**  
(Title of the indenture securities)

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Item 1. General Information. Furnish the following information as to the trustee:

- (a) Name and address of each examining or supervising authority to which it is subject.

Comptroller of the Currency,  
Treasury Department  
Washington, D.C. 20230

Federal Deposit Insurance Corporation  
Washington, D.C. 20429

Federal Reserve Bank of San Francisco  
San Francisco, CA 94120

- (b) Whether it is authorized to exercise corporate trust powers.

The trustee is authorized to exercise corporate trust powers.

Item 2. Affiliations with Obligor. If the obligor is an affiliate of the trustee, describe each such affiliation.

None with respect to the trustee.

No responses are included for Items 3-14 of this Form T-1 because the obligor is not in default as provided under Item 13.

Item 15. Foreign Trustee. Not applicable.

Item 16. List of Exhibits. List below all exhibits filed as a part of this Statement of Eligibility.  
Wells Fargo Bank incorporates by reference into this Form T-1 exhibits attached hereto.

Exhibit 1. A copy of the Articles of Association of the trustee now in effect. \*

Exhibit 2. A copy of the Comptroller of the Currency Certificate of Corporate Existence for Wells Fargo Bank, National Association, dated November 28, 2001. \*

Exhibit 3. A copy of the authorization of the trustee to exercise corporate trust powers. A copy of the Comptroller of the Currency Certificate of Corporate Existence (with Fiduciary Powers) for Wells Fargo Bank, National Association, dated November 28, 2001. \*

Exhibit 4. Copy of By-laws of the trustee as now in effect. \*

Exhibit 5. Not applicable.

Exhibit 6. The consents of United States institutional trustees required by Section 321(b) of the Act.

Exhibit 7. Attached is a copy of the latest report of condition of the trustee published pursuant to law or the requirements of its supervising or examining authority.

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Exhibit 8. Not applicable.

Exhibit 9. Not applicable.

\* Incorporated by reference to exhibit number 25 filed with registration statement number 333-87398.

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SIGNATURE

Pursuant to the requirements of the Trust Indenture Act of 1939, as amended, the trustee, Wells Fargo Bank, National Association, a national banking association organized and existing under the laws of the United States of America, has duly caused this statement of eligibility to be signed on its behalf by the undersigned, thereunto duly authorized, all in the City of Los Angeles and State of California on the day of 14<sup>th</sup> of February, 2003.

WELLS FARGO BANK, NATIONAL ASSOCIATION

/s/ JEANIE MAR

---

Name:	Jeanie Mar
Title:	Vice President



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**Exhibit 6**

February 14, 2003

Securities and Exchange Commission  
Washington, D.C. 20549

Gentlemen:

In accordance with Section 321(b) of the Trust Indenture Act of 1939, as amended, the undersigned hereby consents that reports of examination of the undersigned made by Federal, State, Territorial, or District authorities authorized to make such examination may be furnished by such authorities to the Securities and Exchange Commission upon its request thereof.

Very truly yours,

WELLS FARGO BANK, NATIONAL ASSOCIATION

/s/ JEANIE MAR

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Jeanie Mar  
Vice President

**Exhibit 7**

## Consolidated Report of Condition of

Wells Fargo Bank National Association  
of 420 Montgomery Street, San Francisco, CA 94163  
And Foreign and Domestic Subsidiaries,

at the close of business September 30, 2002, filed in accordance with 12 U.S.C. §161 for National Banks.

Dollar Amounts  
In Millions

<b>ASSETS</b>	
Cash and balances due from depository institutions:	
Noninterest-bearing balances and currency and coin	\$ 8,221
Interest-bearing balances	4,188
Securities:	
Held-to-maturity securities	0
Available-for-sale securities	5,844
Federal funds sold and securities purchased under agreements to resell:	
Federal funds sold in domestic offices	2,148
Securities purchased under agreements to resell	7
Loans and lease financing receivables:	
Loans and leases held for sale	22,302
Loans and leases, net of unearned income	94,512
LESS: Allowance for loan and lease losses	1,331
Loans and leases, net of unearned income and allowance	93,181
Trading Assets	6,152
Premises and fixed assets (including capitalized leases)	1,616
Other real estate owned	70
Investments in unconsolidated subsidiaries and associated companies	256
Customers' liability to this bank on acceptances outstanding	42
Intangible assets	
Goodwill	5,356
Other intangible assets	4,966
Other assets	11,512
<b>Total assets</b>	<b>\$ 165,861</b>
<b>LIABILITIES</b>	
Deposits:	
In domestic offices	\$ 87,329
Noninterest-bearing	26,595
Interest-bearing	60,734
In foreign offices, Edge and Agreement subsidiaries, and IBFs	16,057
Noninterest-bearing	4
Interest-bearing	16,053
Federal funds purchased and securities sold under agreements to repurchase:	
Federal funds purchased in domestic offices	17,958
Securities sold under agreements to repurchase	469

	Dollar Amounts In Millions
Trading liabilities	6,096
Other borrowed money	
(includes mortgage indebtedness and obligations under capitalized leases)	8,528
Bank's liability on acceptances executed and outstanding	42
Subordinated notes and debentures	4,884
Other liabilities	7,364
<b>Total liabilities</b>	<b>\$ 148,727</b>
Minority interest in consolidated subsidiaries	33
<b>EQUITY CAPITAL</b>	
Perpetual preferred stock and related surplus	0
Common stock	520
Surplus (exclude all surplus related to preferred stock)	13,272
Retained earnings	3,096
Accumulated other comprehensive income	213
Other equity capital components	0
<b>Total equity capital</b>	<b>17,101</b>
<b>Total liabilities, minority interest, and equity capital</b>	<b>\$ 165,861</b>

I, James E. Hanson, Vice President of the above-named bank do hereby declare that this Report of Condition has been prepared in conformance with the instructions issued by the appropriate Federal regulatory authority and is true to the best of my knowledge and belief.

James E. Hanson  
Vice President

We, the undersigned directors, attest to the correctness of this Report of Condition and declare that it has been examined by us and to the best of our knowledge and belief has been prepared in conformance with the instructions issued by the appropriate Federal regulatory authority and is true and correct.

Carrie L. Tolsted  
Howard Atkins  
Clyde W. Ostler

Directors

**Central Garden & Pet Company**

**LETTER OF TRANSMITTAL**

**Offer to Exchange**

**9 <sup>1</sup>/<sub>8</sub>% Senior Subordinated Notes Due February 1, 2013**

**Which Have Been Registered Under**

**the Securities Act of 1933**

**for**

**Any and All Outstanding Unregistered**

**9 <sup>1</sup>/<sub>8</sub>% Senior Subordinated Notes Due February 1, 2013**

**Pursuant to the Prospectus**

**Dated \_\_\_\_\_, 2003**

**THE EXCHANGE OFFER AND WITHDRAWAL RIGHTS WILL EXPIRE AT 5:00 P.M., NEW YORK CITY TIME ON \_\_\_\_\_, \_\_\_\_\_, 2003,  
UNLESS EXTENDED (THE "EXPIRATION DATE").**

*Deliver to the Exchange Agent:*

**Wells Fargo Bank, N.A.**

*By Registered or Certified Mail, Overnight Delivery or by Hand:*

Wells Fargo Bank, N.A.  
707 Wilshire Blvd., 17th Floor  
Los Angeles, CA 90017  
Attention: Corporate Trust Department

*By Facsimile for Eligible Institutions:*

(213) 614-3355  
Attention: Corporate Trust Department

*Confirm by Telephone:*

(213) 614-3349

**Delivery of this Letter of Transmittal to the Exchange Agent at an address other than as set forth above or transmission via a facsimile transmission to a number other than as set forth above will not constitute a valid delivery.**

THE INSTRUCTIONS CONTAINED HEREIN SHOULD BE READ CAREFULLY BEFORE THIS LETTER OF TRANSMITTAL IS COMPLETED.

HOLDERS WHO WISH TO BE ELIGIBLE TO RECEIVE NEW NOTES FOR THEIR OLD NOTES PURSUANT TO THE EXCHANGE OFFER MUST VALIDLY TENDER (AND NOT WITHDRAW) THEIR OLD NOTES TO THE EXCHANGE AGENT PRIOR TO THE EXPIRATION DATE.

The undersigned acknowledges receipt of the prospectus dated \_\_\_\_\_, 2003 (the "Prospectus") of Central Garden & Pet Company (the "Company"), and this letter of transmittal (the "Letter of Transmittal"), which together describe the Company's offer (the "Exchange Offer") to exchange its 9 <sup>1</sup>/<sub>8</sub>% Senior Subordinated Notes due February 1, 2013 (the "New Notes"), which have been registered under the Securities Act of 1933, as amended (the "Securities Act"), for its outstanding 9 <sup>1</sup>/<sub>8</sub>% Senior Subordinated Notes due February 1, 2013 issued on January 30, 2003 (the "Old Notes") from the holders thereof.

---

The terms of the New Notes are identical in all material respects (including principal amount, interest rate and maturity) to the terms of the Old Notes for which they may be exchanged pursuant to the Exchange Offer, except that the New Notes are freely transferable by holders thereof (except as provided herein or in the Prospectus).

The Company reserves the right, at any time or from time to time, to extend the Exchange Offer at its sole discretion, in which event the term “Expiration Date” shall mean the latest time and date to which the Exchange Offer is extended. The Company shall notify the holders of the Old Notes of any extension by means of a press release or other public announcement prior to 9:00 a.m., New York City time, on the next business day after the previously scheduled Expiration Date.

This Letter of Transmittal is to be completed by a holder of Old Notes either if certificates are to be forwarded herewith or if a tender of certificates for Old Notes, if available, is to be made by book-entry transfer to the account maintained by the Exchange Agent at The Depository Trust Company (“DTC”) pursuant to the procedures set forth in “The Exchange Offer—Procedures for Tendering” section of the Prospectus. Holders of Old Notes whose certificates are not readily available so they can meet the Expiration Date deadline, or who are unable to deliver their certificates or confirmation of the book-entry tender of their Old Notes into the Exchange Agent’s account at DTC (a “Book-Entry Confirmation”) and all other documents required by this Letter of Transmittal to the Exchange Agent on or prior to the Expiration Date, must tender their Old Notes according to the guaranteed delivery procedures set forth in “The Exchange Offer—Guaranteed Delivery Procedures” section of the Prospectus. See Instruction 1 herein.

**Delivery of documents to DTC does not constitute delivery to the Exchange Agent.**

Capitalized terms used but not defined herein shall have the same meaning given them in the Prospectus.

CONTACT YOUR BANK OR BROKER TO ASSIST YOU IN COMPLETING THIS FORM. THE INSTRUCTIONS INCLUDED WITH THIS LETTER OF TRANSMITTAL MUST BE FOLLOWED. QUESTIONS AND REQUESTS FOR ASSISTANCE OR FOR ADDITIONAL COPIES OF THE PROSPECTUS AND THIS LETTER OF TRANSMITTAL MAY BE DIRECTED TO THE EXCHANGE AGENT.

**PLEASE READ THIS ENTIRE LETTER OF TRANSMITTAL AND THE PROSPECTUS CAREFULLY BEFORE COMPLETING THE SPACES BELOW.**

Holders who wish to accept the Exchange Offer and tender their Old Notes must complete this Letter of Transmittal in its entirety.

The undersigned has checked the appropriate boxes below and signed this Letter of Transmittal to indicate the action the undersigned desires to take with respect to the Exchange Offer.

List below the Old Notes to which this Letter of Transmittal relates. If the space provided below is inadequate, the certificate numbers and aggregate principal amounts should be listed on a separate signed schedule affixed hereto.

**DESCRIPTION OF OLD NOTES TENDERED**

Name(s) and Address(es) of Registered Holder(s) Exactly as Name(s) Appear(s) on Old Notes (Please Fill In, If Blank)	9 1/8% Senior Subordinated Notes due February 1, 2013	Certificate Number(s)*	Aggregate Principal Amount of Old Notes	Amount of Old Notes Tendered (If Less Than All Tendered)**

\* Need not be completed by book-entry holders.

\*\* Old Notes may be tendered in whole or in part in denominations of \$1,000 and any integral multiples thereof. All Old Notes held shall be deemed tendered unless otherwise specified in this column.

Holders of Old Notes whose Old Notes are not immediately available or who cannot deliver their Old Notes and all other required documents to the Exchange Agent on or prior to the Expiration Date or who cannot complete the procedures for book-entry transfer on a timely basis, must tender their Old Notes according to the guaranteed delivery procedures set forth in the Prospectus.

Unless the context otherwise requires, the term “holder” for purposes of this Letter of Transmittal means any person in whose name Old Notes are registered or any other person who has obtained a properly completed bond power from the registered holder or any person whose Old Notes are held of record by The Depository Trust Company (“DTC”).

- ☐ **Check here and enclose a photocopy of the Notice of Guaranteed Delivery if tendered Old Notes are being delivered pursuant to a Notice of Guaranteed Delivery previously sent to the Exchange Agent and complete the following:**

Name of Registered Holders(s) \_\_\_\_\_

Name of Institution which guaranteed delivery \_\_\_\_\_

Date of execution of Notice of Guaranteed Delivery \_\_\_\_\_

If Delivered by Book-Entry Transfer:

Name of Tendering Institution \_\_\_\_\_

DTC Account Number \_\_\_\_\_

Transaction Code Number \_\_\_\_\_

- ☐ **Check here if New Notes are to be delivered to person other than person signing this Letter of Transmittal:**

Name \_\_\_\_\_

Address \_\_\_\_\_

- ☐ **Check here if New Notes are to be delivered to address different from that listed elsewhere in this Letter of Transmittal:**

Name \_\_\_\_\_

Address \_\_\_\_\_

- ☐ **Check here if you are a broker-dealer who acquired the Old Notes for your own account as a result of market making or other trading activities (a “participating broker-dealer”) and wish to receive 10 additional copies of the Prospectus and 10 copies of any amendments or supplements thereto:**

Name \_\_\_\_\_

Address \_\_\_\_\_

If the undersigned is not a broker-dealer, the undersigned represents that it is not engaged in, and does not intend to engage in, a distribution of New Notes. If the undersigned is a broker-dealer holding Old Notes acquired for its own account as a result of market-making activities or other trading activities, it will deliver a prospectus meeting the requirements of the Securities Act in connection with any resale of New Notes received in respect of such Old Notes pursuant to the Exchange Offer; however, by so acknowledging and by delivering a prospectus, the undersigned will not be deemed to admit that it is an “underwriter” within the meaning of the Securities Act. A broker-dealer may not participate in the Exchange Offer with respect to Old Notes acquired other than as a result of market-making activities or other trading activities. Any holder who is an “affiliate” of the Company or who has an arrangement or understanding with respect to the distribution of the New Notes to be acquired pursuant to the Exchange Offer, or any broker-dealer who purchased Old Notes from the Company to resell pursuant to Rule 144A under the Securities Act or any other available exemption under the Securities Act must comply with the registration and prospectus delivery requirements under the Securities Act.

**PLEASE READ THE ACCOMPANYING INSTRUCTIONS CAREFULLY**

Ladies and Gentlemen:

The undersigned hereby tenders to Central Garden & Pet Company, a Delaware corporation (the “Company”), the above described aggregate principal amount of the Company’s 9 1/8% Senior Subordinated Notes due February 1, 2013 (the “Old Notes”) in exchange for like 9/8% Senior Subordinated Notes due February 1, 2013 (the “New Notes”) which have been registered under the Securities Act of 1933, as amended (the “Securities Act”), upon the terms and subject to the conditions set forth in the Prospectus dated \_\_\_\_\_, 2003 (as the same may be amended or supplemented from time to time, the “Prospectus”), receipt of which is hereby acknowledged, and in this Letter of Transmittal (which, together with the Prospectus, constitute the “Exchange Offer”).

Subject to and effective upon the acceptance for exchange of all or any portion of the Old Notes tendered in accordance with the terms and conditions of the Exchange Offer (including, if the Exchange Offer is extended or amended, the terms and conditions of any such extension or amendment), the undersigned hereby exchanges, assigns and transfers to or upon the order of the Company all right, title and interest in and to such Old Notes as are being tendered in accordance herewith. The undersigned hereby irrevocably constitutes and appoints the Exchange Agent as its true and lawful agent and attorney-in-fact (with full knowledge that the Exchange Agent is also acting as agent of the Company in connection with the Exchange Offer) to cause the Old Notes to be assigned, transferred and exchanged.

The undersigned hereby represents and warrants that it has full power and authority to tender, exchange, sell, assign and transfer the Old Notes and to acquire New Notes issuable upon the exchange of such tendered Old Notes, and that, when the same are accepted for exchange, the Company will acquire good, marketable and unencumbered title thereto, free and clear of all liens, restrictions, charges and encumbrances, and not subject to any adverse claim. The undersigned also warrants that it will, upon request, execute and deliver any additional documents deemed by the Exchange Agent or the Company to be necessary or desirable to complete the exchange, assignment and transfer of the Old Notes or transfer ownership of such Old Notes on the account books maintained by the book-entry transfer facility. The undersigned further agrees that acceptance of any and all validly tendered Old Notes by the Company and the issuance of the New Notes in exchange therefor shall constitute full performance by the Company of its obligations under the Registration Rights Agreement dated January 30, 2003, by and among the Company, the parties listed as guarantors thereto and the initial purchasers of the Old Notes (the “Registration Rights Agreement”) and that the Company will have no further obligations or liabilities thereunder. The undersigned will comply with its obligations under the Registration Rights Agreement. The undersigned has read and agrees to all of the terms of the Exchange Offer.

If any tendered Old Notes are not exchanged pursuant to the Exchange Offer for any reason, the Old Notes not exchanged will be returned or, in the case of Old Notes tendered by book-entry transfer, such Old Notes will be credited to an account maintained at DTC, without expense to the tendering holder, promptly following the expiration or termination of the Exchange Offer.

The undersigned understands that tenders of Old Notes pursuant to any one of the procedures described in “The Exchange Offer—Procedures for Tendering” in the Prospectus and in the instructions herein will, upon the Company’s acceptance for exchange of such tendered Old Notes, constitute a binding agreement between the undersigned and the Company upon the terms and subject to the conditions of the Exchange Offer. The undersigned recognizes that, under certain circumstances set forth in the Prospectus, the Company may not be required to accept for exchange any of the Old Notes tendered by the undersigned.

By tendering Old Notes and executing this Letter of Transmittal, the undersigned hereby represents and agrees that:

- (i) the undersigned is not an “affiliate” of the Company (as defined in Rule 405 under the Securities Act);
- (ii) any New Notes to be received by the undersigned are being acquired in the ordinary course of its business and the undersigned received the Old Notes being tendered for exchange in the ordinary course of its business; and
- (iii) if the undersigned is not a broker-dealer, the undersigned or the person receiving the New Notes is not engaged in, does not intend to engage in and has no arrangement or understanding with any person to engage in a distribution (within the meaning of the Securities Act) of New Notes to be received in the Exchange Offer.



If any holder of Old Notes is an affiliate of the Company or is engaged in or intends to engage in or has any arrangement or understanding with respect to the distribution of the New Notes to be acquired pursuant to the Exchange Offer, such holder (i) may not rely on certain interpretive letters issued by the staff of the Division of Corporation Finance of the Securities and Exchange Commission to third parties relating to exchange offers and (ii) must comply with the registration and prospectus delivery requirements of the Securities Act in connection with any resale transaction.

By tendering Old Notes pursuant to the Exchange Offer, a holder of Old Notes who is a broker-dealer represents and agrees that (a) such Old Notes held by the broker-dealer are held only as a nominee, or (b) such Old Notes were acquired by such broker-dealer for its own account as a result of market-making activities or other trading activities and it will deliver a Prospectus meeting the requirements of the Securities Act in connection with any resale of such New Notes (provided that, by so acknowledging and by delivering a Prospectus, such broker-dealer will not be deemed to admit that it is an "underwriter" within the meaning of the Securities Act).

The Company has agreed that, subject to the provisions of the Registration Rights Agreement, the Prospectus may be used by a broker-dealer who acquired Old Notes for its own account as a result of market-making or other trading activities (a "Participating Broker-Dealer") in connection with resales of New Notes received in exchange for such Old Notes, for a period ending 180 days after the Expiration Date (subject to extension under certain limited circumstances described in the Prospectus) or, if earlier, when all such New Notes have been disposed of by such Participating Broker-Dealer. However, a Participating Broker-Dealer who intends to use the Prospectus in connection with the resale of New Notes received in exchange for Old Notes pursuant to the Exchange Offer must notify the Company, or cause the Company to be notified, on or prior to the Expiration Date, that it is a Participating Broker-Dealer. Such notice may be given in the space provided herein for that purpose or may be delivered to the Exchange Agent at the address set forth on the cover page of this Letter of Transmittal. In that regard, each Participating Broker-Dealer, by tendering such Old Notes, agrees that, upon receipt of notice from the Company of the occurrence of any event or the discovery of any fact which makes any statement contained or incorporated by reference in the Prospectus untrue in any material respect or which causes the Prospectus to omit to state a material fact necessary in order to make the statements contained or incorporated by reference therein, in light of the circumstances under which they were made, not misleading or of the occurrence of certain other events specified in the Registration Rights Agreement, such Participating Broker-Dealer will suspend the sale of New Notes pursuant to the Prospectus until the Company has amended or supplemented the Prospectus to correct such misstatement or omission and has furnished copies of the amended or supplemented Prospectus to the Participating Broker-Dealer or the Company has given notice that the sale of the New Notes may be resumed, as the case may be. If the Company gives such notice to suspend the sale of the New Notes, it shall extend the 180-day period referred to above during which Participating Broker-Dealers are entitled to use the Prospectus in connection with the resale of New Notes by the number of days during the period from and including the date of the giving of such notice to and including the date when Participating Broker-Dealers shall have received copies of the supplemented or amended Prospectus necessary to permit resales of the New Notes or to and including the date on which the Company has given notice that the sale of New Notes may be resumed, as the case may be.

The undersigned will, upon request, execute and deliver any additional documents deemed by the Company to be necessary or desirable to complete the sale, assignment and transfer of the Old Notes tendered hereby. All authority herein conferred or agreed to be conferred in this Letter of Transmittal shall survive the death or incapacity of the undersigned and any obligation of the undersigned hereunder shall be binding upon the heirs, executors, administrators, personal representatives, trustees in bankruptcy, legal representatives, successors and assigns of the undersigned. Except as stated in the Prospectus, this tender is irrevocable.

**The undersigned, by completing the section titled "Description of Old Notes Tendered" above and signing this letter, will be deemed to be tendering the Old Notes in the amount set forth in such section.**

Unless otherwise indicated herein in the box entitled "Special Issuance Instructions" below, the undersigned hereby directs that the New Notes be issued in the name(s) of the undersigned or, in the case of a book-entry transfer of Old Notes, the undersigned hereby directs that such New Notes be credited to the DTC account of the DTC participant in whose name the Old Notes are registered. Unless otherwise indicated under "Special Delivery Instructions," please deliver certificates evidencing New Notes to the undersigned at the address shown below the undersigned's signature.

---

**TENDERING HOLDER(S) SIGN HERE**

(Please Complete Substitute Form W-9 Below)

Must be signed by the registered holder(s) exactly as the name(s) appear(s) on the certificate(s) for the Old Notes being tendered or on a security position listing or by any person(s) authorized to become the registered holder(s) by endorsements and documents transmitted herewith (including such opinions of counsel, certifications and other information as may be required by the Company or the Exchange Agent to comply with the restrictions on transfer applicable to the Old Notes). If signature is by an attorney-in-fact, executor, administrator, trustee, guardian, officer of a corporation or another acting in a fiduciary capacity or representative capacity, please set forth the signer's full title. See Instruction 3.

---

**(Signature(s) of Holder(s))**

Date \_\_\_\_\_

Name(s) \_\_\_\_\_

**(Please Print)**

Capacity (full title) \_\_\_\_\_

Address \_\_\_\_\_

**(Include Zip Code)**

Area Code and Telephone Number \_\_\_\_\_

Tax Identification or Social Security Number(s) \_\_\_\_\_

**GUARANTEE OF SIGNATURE(S)****(If Required—See Instruction 3)**

Authorized Signature \_\_\_\_\_

Dated \_\_\_\_\_

Name \_\_\_\_\_

Capacity or Title \_\_\_\_\_

Name of Firm \_\_\_\_\_

Address \_\_\_\_\_

**(Include Zip Code)**

Area Code and Telephone Number \_\_\_\_\_

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**SPECIAL ISSUANCE INSTRUCTIONS**  
**(See Instructions 3 and 4)**

To be completed by ONLY if the New Notes and/or any non-tendered or non-exchanged Old Notes are to be issued in the name of someone other than the holder of the Old Notes whose name(s) appear(s) above.

Issue:

☐ New Notes to:

☐ Non-tendered or non-exchanged Old Notes to:

Name \_\_\_\_\_

(Please Print)

Address \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

(Include Zip Code)

\_\_\_\_\_

(Taxpayer Identification or Social Security Number)

\_\_\_\_\_

(Telephone Number, with Area Code)

**SPECIAL DELIVERY INSTRUCTIONS**  
**(See Instructions 3 and 4)**

To be completed ONLY if the New Notes and/or non-tendered or non-exchanged Old Notes are to be sent to someone other than the registered holder of the Old Notes whose name(s) appear(s) above, or to such registered holder(s) at an address other than that shown above.

Issue:

☐ New Notes to:

☐ Non-tendered or non-exchanged Old Notes to:

Name \_\_\_\_\_

(Please Print)

Address \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

(Include Zip Code)

\_\_\_\_\_

(Taxpayer Identification or Social Security Number)

\_\_\_\_\_

(Telephone Number, with Area Code)

**SEE INSTRUCTIONS**

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## INSTRUCTIONS

### Forming Part of the Terms and Conditions of the Exchange Offer

1. *Delivery of This Letter of Transmittal and Notes; Guaranteed Delivery Procedures.* A holder of Old Notes may tender the same by (i) properly completing and signing this Letter of Transmittal or a facsimile hereof (all references in the Prospectus to the Letter of Transmittal shall be deemed to include a facsimile thereof) and delivering the same, together with the certificate or certificates, if applicable, representing the Old Notes being tendered, and any required signature guarantees and any other documents required by this Letter of Transmittal, to the Exchange Agent at its address set forth above on or prior to the Expiration Date, or (ii) complying with the procedure for book-entry transfer described below, or (iii) complying with the guaranteed delivery procedures described below.

Holders of Old Notes may tender Old Notes by book-entry transfer by crediting the Old Notes to the Exchange Agent's account at DTC in accordance with DTC's Automated Tender Offer Program ("ATOP") and by complying with applicable ATOP procedures with respect to the Exchange Offer. DTC participants that are accepting the Exchange Offer should transmit their acceptance to DTC, which will edit and verify the acceptance and execute a book-entry delivery to the Exchange Agent's account at DTC. DTC will then send a computer-generated message (an "Agent's Message") to the Exchange Agent for its acceptance in which the holder of the Old Notes acknowledges and agrees to be bound by the terms of, and makes the representations and warranties contained in, this Letter of Transmittal, the DTC participant confirms on behalf of itself and the beneficial owners of such Old Notes all provisions of this Letter of Transmittal (including any representations and warranties) applicable to it and such beneficial owner as fully as if it had completed the information required herein and executed and transmitted this Letter of Transmittal to the Exchange Agent. Delivery of the Agent's Message by DTC will satisfy the terms of the Exchange Offer as to execution and delivery of a Letter of Transmittal by the participant identified in the Agent's Message. DTC participants may also accept the Exchange Offer by submitting a Notice of Guaranteed Delivery through ATOP.

**The method of delivery of this Letter of Transmittal, the Old Notes and any other required documents is at the election and risk of the holder, and except as otherwise provided below, the delivery will be deemed made only when actually received or confirmed by the Exchange Agent. Rather than mail these items, the Company recommends that holders use an overnight or hand delivery service. If delivery is by mail, it is suggested that certified or registered mail with return receipt requested, properly insured, be used. In all cases, sufficient time should be allowed to permit timely delivery. NO OLD NOTES OR LETTERS OF TRANSMITTAL SHOULD BE SENT TO THE COMPANY. Holders may request their respective brokers, dealers, commercial banks, trust companies or other nominees to effect the above transactions for them.**

Holders whose Old Notes are not immediately available or who cannot deliver their Old Notes and all other required documents to the Exchange Agent on or prior to the Expiration Date or who cannot complete the procedures for book-entry transfer on a timely basis must tender their Old Notes pursuant to the guaranteed delivery procedures set forth in the Prospectus. Pursuant to such procedure: (i) such tender must be made by or through an Eligible Institution (as defined below); (ii) prior to the Expiration Date, the Exchange Agent must have received from such Eligible Institution a properly completed and duly executed notice of guaranteed delivery, by facsimile transmission, mail or hand delivery, setting forth the name and address of the holder, the principal amount of Old Notes tendered, stating that the tender is being made thereby, and guaranteeing that, within three (3) New York Stock Exchange trading days after the Expiration Date, this Letter of Transmittal, or facsimile of this Letter of Transmittal, duly executed, together with a book-entry confirmation, and any other documents required by this Letter of Transmittal will be deposited by the Eligible Institution with the Exchange Agent; and (iii) the properly completed and executed Letter of Transmittal, or facsimile thereof, as well as a book-entry confirmation, and all other documents required by this Letter of Transmittal, must be received by the Exchange Agent within three (3) New York Stock Exchange trading days after the Expiration Date.

No alternative, conditional, irregular or contingent tenders will be accepted. All tendering holders, by execution of this Letter of Transmittal (or facsimile thereof), shall waive any right to receive notice of the acceptance of the Old Notes for exchange.

2. *Partial Tenders And Withdrawal Rights.* If less than the entire principal amount of Old Notes, as the case may be, evidenced by a submitted certificate is tendered, the tendering holder must fill in the aggregate principal amount of Old Notes tendered in the box entitled "Description of Old Notes Tendered." Old Notes may be tendered in whole or in part in denominations of \$1,000 and integral multiples thereof. A newly issued certificate for the Old Notes submitted but not tendered will be sent to such holder as soon as practicable after the Expiration Date. All Old Notes delivered to the Exchange Agent will be deemed to have been tendered unless otherwise clearly indicated.

If not yet accepted, a tender pursuant to the Exchange Offer may be withdrawn prior to the Expiration Date.

To be effective with respect to the tender of Old Notes, a written notice, which may be by telegram, telex, facsimile transmission or letter of withdrawal, must be received by the Exchange Agent at the address for the Exchange Agent set forth above. Any notice of withdrawal must (i) specify the name of the person who tendered the Old Notes to be withdrawn; (ii) identify the Old Notes to be withdrawn including the certificate number or numbers and principal amount of such Old Notes; and (iii) be signed by the holder in the same manner as the original signature on this Letter of Transmittal (including any required signature guarantees) or be accompanied by documents of transfer sufficient to have the trustee with respect to the Old Notes register the transfer of the Old Notes into the name of the person withdrawing the tender. If Old Notes have been tendered pursuant to the procedure for book-entry transfer, any notice of withdrawal must specify the name and number of the account at DTC to be credited with the withdrawn Old Notes and otherwise comply with DTC procedures. All questions as to the validity of notices of withdrawals, including time of receipt, will be determined by the Company, and such determination will be final and binding on all parties.

Any Old Notes so withdrawn will be deemed not to have been validly tendered for exchange for purposes of the Exchange Offer. Any Old Notes which have been tendered for exchange but which are not exchanged for any reason will be returned to the holder thereof without cost to such holder (or, in the case of Old Notes tendered by book-entry transfer into the Exchange Agent's account at DTC pursuant to the book-entry transfer procedures described above, such Old Notes will be credited to an account with DTC for Old Notes as soon as practicable after withdrawal, rejection of tender or termination of the Exchange Offer). Properly withdrawn Old Notes may be retendered by following one of the procedures described under the caption "The Exchange Offer—Procedures for Tendering" in the Prospectus at any time prior to the Expiration Date.

3. *Signature on this Letter of Transmittal; Written Instruments and Endorsements; Guarantee of Signatures.* If this Letter of Transmittal is signed by the registered holder(s) of the Old Notes tendered hereby, the signature must correspond with the name(s) as written on the face of the certificates without alteration, enlargement or any change whatsoever.

If any of the Old Notes tendered hereby are owned of record by two or more joint owners, all such owners must sign this Letter of Transmittal.

If a number of Old Notes registered in different names are tendered, it will be necessary to complete, sign and submit as many separate copies of this Letter of Transmittal as there are different registrations of Old Notes.

When this Letter of Transmittal is signed by the registered holder or holders (which term, for the purposes described herein, shall include the book-entry transfer facility whose name appears on a security listing as the owner of the Old Notes) of Old Notes listed and tendered hereby, no endorsements of certificates or separate written instruments of transfer or exchange are required.

Signatures on this Letter of Transmittal or a notice of withdrawal must be guaranteed by a member firm of a registered national securities exchange or of the National Association of Securities Dealers, Inc., a commercial bank or trust company having an office or correspondent in the United States or another "eligible guarantor institution" within the meaning of Rule 17Ad-15 under the Securities Exchange Act of 1934, as amended (each, an "Eligible Institution"), unless the Old Notes tendered pursuant thereto are tendered: (i) by a registered holder who has not completed the box entitled "Special Issuance Instructions" or "Special Delivery Instructions" on this Letter of Transmittal; or (ii) for the account of an Eligible Institution.

If this Letter of Transmittal is signed by a person other than the registered holder or holders of the Old Notes listed, such Old Notes must be endorsed by the registered holder with the signature guaranteed by an eligible institution or accompanied by proper documentation of transfer or exchange, in satisfactory form as determined by the Company in its sole discretion, and signed by the registered holder with the signature guaranteed by an Eligible Institution.

If this Letter of Transmittal, any certificates or separate written instruments of transfer or exchange are signed by trustees, executors, administrators, guardians, attorneys-in-fact, officers of corporations or others acting in a fiduciary or representative capacity, such persons should so indicate when signing, and, unless waived by the Company, proper evidence satisfactory to the Company of their authority to so act must be submitted with this Letter of Transmittal.

4. *Special Issuance and Delivery Instructions.* Tendering holders should indicate, as applicable, the name and address to which the New Notes or certificates for Old Notes not exchanged are to be issued or sent, if different from the name and address of the person signing this Letter of Transmittal. In the case of issuance in a different name, the tax identification number of the person named must also be indicated. Holders tendering Old Notes by book-entry transfer may request that Old Notes not exchanged be credited to such account maintained at the book-entry transfer facility as such holder may designate.

5. *Transfer Taxes.* Holders who tender their Old Notes for exchange will not be obligated to pay any transfer taxes in connection therewith, except that holders who instruct the Company to register New Notes in the name of, or request that Old Notes not tendered or not accepted in the Exchange Offer be returned to, a person other than the registered tendering holder will be responsible for the payment of any applicable transfer tax thereon. If satisfactory evidence of payment of such transfer taxes or exception therefrom is not submitted herewith, the amount of such transfer taxes will be billed directly to such tendering holder, and the Exchange Agent will retain possession of an amount of New Notes with a face amount at least equal to the amount of such transfer taxes due by such tendering holder pending receipt by the Exchange Agent of the amount of such taxes.

6. *Waiver of Conditions.* The Company reserves the absolute right to waive, in whole or in part, any of the conditions to the Exchange Offer set forth in the Prospectus.

7. *Mutilated, Lost, Destroyed or Stolen Certificates.* Any holder whose Old Notes have been mutilated, lost, stolen or destroyed, should contact the Exchange Agent at the address indicated below for further instructions.

8. *Determination of Validity.* The Company will determine, in its sole discretion, all questions as to the form of documents, validity, eligibility (including time of receipt) and acceptance for exchange of any tender of Old Notes, which determination shall be final and binding on all parties. The Company reserves the absolute right to reject any and all tenders determined by it not to be in proper form or the acceptance of which, or exchange for which, may, in the view of counsel to the Company, be unlawful. The Company also reserves the absolute right, subject to applicable law, to waive any of the conditions of the Exchange Offer set forth in the Prospectus under the caption "The Exchange Offer" or any conditions or irregularity in any tender of Old Notes of any particular holder whether or not similar conditions or irregularities are waived in the case of other holders.

The Company's interpretation of the terms and conditions of the Exchange Offer (including this Letter of Transmittal and the instructions hereto) will be final and binding. No tender of Old Notes will be deemed to have been validly made until all irregularities with respect to such tender have been cured or waived. Although the Company intends to notify holders of defects or irregularities with respect to tenders of Old Notes, neither the Company, any employees, agents, affiliates or assigns of the Company, the Exchange Agent, nor any other person shall be under any duty to give notification of any irregularities in tenders or incur any liability for failure to give such notification.

9. *Backup Withholding; Substitute Form W-9.* U.S. federal income tax law generally requires a holder whose tendered notes are accepted for exchange to provide the Exchange Agent with such holder's correct taxpayer identification number ("TIN") on Substitute Form W-9 below. If the Exchange Agent is not provided with the correct TIN or an adequate

basis for an exemption from backup withholding, on the Substitute Form W-9, backup withholding may apply with respect to the exchange in an amount equal to 30% of the amount of the exchange.

Certain holders that are considered exempt recipients (including, among others, corporations, financial institutions and certain foreign persons) may not be subject to backup withholding. Such holders should nevertheless complete the attached Substitute Form W-9 below, and write "exempt" on the face thereof, to avoid possible erroneous backup withholding. A foreign person may qualify as an exempt recipient by submitting a properly completed IRS Form W-8BEN, signed under penalties of perjury, attesting to that holder's exempt status. Please consult the enclosed "Guidelines for Certification of Taxpayer Identification Number on Substitute Form W-9" for additional instructions.

The box in Part 1 of the Substitute Form W-9 may be checked if the tendering holder has not been issued a TIN and has applied for a TIN or intends to apply for a TIN in the near future. If the box in Part 1 is checked, the holder must also complete the Certificate of Awaiting Taxpayer Identification Number below. Notwithstanding that the box in Part 1 is checked and the Certificate of Awaiting Taxpayer Identification Number is completed, the Exchange Agent will withhold 30% of the amount of the exchange unless a properly certified TIN is provided to the Exchange Agent prior to the exchange.

Backup withholding is not an additional U.S. federal income tax. Rather, the U.S. federal income tax liability of a person subject to backup withholding will be reduced by the amount of tax withheld. If withholding results in an overpayment of taxes, a refund may be obtained.

10. *Questions, Requests for Assistance and Additional Copies.* Questions and requests for assistance may be directed to the Exchange Agent at its address and telephone number set forth on the front of this Letter of Transmittal. Additional copies of the Prospectus, the Notice of Guaranteed Delivery and the Letter of Transmittal may be obtained from the Exchange Agent or from your broker, dealer, commercial bank, company or other nominee.

11. *No Conditional Tenders.* No alternative, conditional, irregular or contingent tenders will be accepted. All tendering holders of Old Notes, by execution of this Letter of Transmittal, shall waive any right to receive notice of the acceptance of their Old Notes for exchange.

Neither the Company, the Exchange Agent nor any other person is obligated to give notice of any defect or irregularity with respect to any tender of Old Notes nor shall any of them incur any liability for failure to give any such notice.

**Important: This Letter of Transmittal or a facsimile or copy thereof (together with certificates of Old Notes or confirmation of book-entry transfer and all other required documents) or a Notice of Guaranteed Delivery must be received by the Exchange Agent on or prior to the Expiration Date.**

TO BE COMPLETED BY ALL TENDERING NOTEHOLDERS  
(SEE INSTRUCTION 9)

PAYOR'S NAME: WELLS FARGO BANK, N.A.

SUBSTITUTE  
Form **W-9**  
Department of the  
Treasury  
Internal Revenue Service

Part 1 – PLEASE PROVIDE YOUR TIN AT  
THE BOX AT RIGHT AND CERTIFY BY SIGNING AND  
DATING BELOW

\_\_\_\_\_  
Social Security Number

or

\_\_\_\_\_  
Employer Identification Number

Payor's Request  
for Taxpayer  
Identification  
Number (TIN)  
and Certification

\_\_\_\_\_  
Awaiting TIN ☐

Part 2 – *Certification*—Under the penalties of perjury, I certify that:

- (1) the number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me),
- (2) I am not subject to backup withholding either because (i) I am exempt from backup withholding, (ii) I have not been notified by the Internal Revenue Service ("IRS") that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (iii) the IRS has notified me that I am no longer subject to backup withholding, and
- (3) any other information provided on this form is true and correct.

You must cross out item (2) above if you have been notified by the IRS that you are subject to backup withholding because of underreporting interest or dividends on your tax return and you have not been notified by the IRS that you are no longer subject to backup withholding.

SIGNATURE \_\_\_\_\_

DATE \_\_\_\_\_

ADDRESS \_\_\_\_\_

NOTE: Failure to complete and return this form may result in backup withholding of 30% of the amount of the exchange. Please review the enclosed Guidelines for Certification of Taxpayer Identification Number on Substitute Form W-9 for additional details.

YOU MUST COMPLETE THE FOLLOWING CERTIFICATE IF YOU CHECKED THE BOX IN PART 1  
OF THE SUBSTITUTE FORM W-9

CERTIFICATE OF AWAITING TAXPAYER IDENTIFICATION NUMBER

I certify under penalties of perjury that a taxpayer identification number has not been issued to me, and either (1) I have mailed or delivered an application to receive a taxpayer identification number to the appropriate Internal Revenue Service Center or Social Security Administration Office or (2) I intend to mail or deliver an application in the near future. I understand that if I do not provide a taxpayer identification number by the time of the exchange, 30% of the amount of the exchange shall be retained and remitted to the Internal Revenue Service as backup withholding.

SIGNATURE \_\_\_\_\_

DATE \_\_\_\_\_



**Central Garden & Pet Company**  
**NOTICE OF GUARANTEED DELIVERY**

**for Tender of**  
**All Outstanding**  
**9 1/8% Senior Subordinated Notes Due February 1, 2013**  
**in exchange for**  
**Registered**  
**9 1/8% Senior Subordinated Notes Due February 1, 2013**

This Notice of Guaranteed Delivery, or one substantially equivalent to this form, must be used to accept the Exchange Offer (as defined below) if (i) certificates for the Company's (as defined below) 9 1/8% Senior Subordinated Notes due February 1, 2013 (the "Old Notes") are not immediately available, (ii) Old Notes, the Letter of Transmittal and all other required documents cannot be delivered to Wells Fargo Bank, N.A., as Exchange Agent (the "Exchange Agent") on or prior to the Expiration Date (as defined in the Prospectus referred to below) or (iii) the procedures for delivery by book-entry transfer cannot be completed on or prior to the Expiration Date. This Notice of Guaranteed Delivery may be delivered by hand, overnight courier or mail, or transmitted by facsimile transmission, to the Exchange Agent. See "The Exchange Offer—Procedures for Tendering" in the Prospectus.

**The Exchange Offer will expire at 5:00 p.m., New York City time, on \_\_\_\_\_, \_\_\_\_\_, 2003, unless extended (the "Expiration Date"). Old Notes tendered in the exchange offer may be withdrawn at any time before 5:00 p.m., New York City time, on the Expiration Date.**

*The Exchange Agent for the Exchange Offer is:*

**Wells Fargo Bank, N.A.**

*By registered or certified mail, overnight delivery or by hand:*

**Wells Fargo Bank, N.A.**  
 707 Wilshire Blvd, 17th Floor  
 Los Angeles, CA 90017  
 Attention: Corporate Trust Department

*By facsimile (eligible institutions only):*

Fax: (213) 614-3355  
 Attention: Corporate Trust Department

*Confirm by telephone:*

(213) 614-3349

**Delivery of this Notice of Guaranteed Delivery to an address other than as set forth above or transmission of this notice of guaranteed delivery via facsimile to a number other than as set forth above will not constitute a valid delivery.**

**This Notice of Guaranteed Delivery is not to be used to guarantee signatures. If a signature on a Letter of Transmittal is required to be guaranteed by an "Eligible Institution" under the instructions thereto, such signature guarantee must appear in the applicable space provided in the signature box on the Letter of Transmittal.**

Ladies and Gentlemen:

The undersigned hereby tenders to Central Garden & Pet Company, a Delaware corporation (the "Company"), upon the terms and subject to the conditions set forth in the Prospectus dated \_\_\_\_\_, 2003 (as the same may be amended or supplemented from time to time, the "Prospectus"), and the related Letter of Transmittal (which together constitute the "Exchange Offer"), receipt of which is hereby acknowledged, the aggregate amount of Old Notes set forth below pursuant to the guaranteed delivery procedures set forth in the Prospectus under the caption "The Exchange Offer—Procedures for Tendering."

All authority herein conferred or agreed to be conferred by this Notice of Guaranteed Delivery shall survive the death of incapacity of the undersigned and every obligation of the undersigned under this Notice of Guaranteed Delivery shall be binding upon the heirs, personal representatives, executors, administrators, successors, assigns, trustees in bankruptcy and other legal representatives of the undersigned.

The undersigned hereby tenders the Old Notes listed below:

Title of Series	Certificate Number(s) (if known) of Old Notes or Account Number at The Depository Trust Company	Aggregate Principal Amount Represented	Aggregate Principal Amount Tendered
9 1/8% Senior Subordinated Notes due February 1, 2013			

**PLEASE SIGN AND COMPLETE**

Name(s) of Registered Holder(s): \_\_\_\_\_

\_\_\_\_\_

Address(es): \_\_\_\_\_

\_\_\_\_\_

Area Code and Telephone Number(s): \_\_\_\_\_

Signature(s) of Registered Holder(s) or Authorized Signatory: \_\_\_\_\_

Date: \_\_\_\_\_

**THE GUARANTEE ON THE REVERSE SIDE MUST BE COMPLETED**

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**PLEASE SIGN AND COMPLETE**

This Notice of Guaranteed Delivery must be signed by the holder(s) of Old Notes exactly as its (their) name(s) appear on certificates for Old Notes or on a security position listing as the owner of Old Notes, or by person(s) authorized to become holder(s) by endorsements and documents transmitted with this Notice of Guaranteed Delivery. If signature is by a trustee, executor, administrator, guardian, attorney-in-fact, officer or other person acting in a fiduciary or representative capacity, such person must provide the following information.

**PLEASE PRINT NAME(S) AND ADDRESS(ES)**

NAME(S): \_\_\_\_\_

\_\_\_\_\_

CAPACITY: \_\_\_\_\_

ADDRESS(ES): \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Do not send Old Notes with this form. Notes should be sent to the Exchange Agent together with a properly completed and duly executed Letter of Transmittal.

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**GUARANTEE**  
**(Not to be used for signature guarantee)**

The undersigned, a firm or other entity identified in Rule 17Ad-15 under the Securities Exchange Act of 1934, as amended, as an "eligible guarantor institution," including (as such terms are defined therein): (i) a bank; (ii) a broker, dealer, municipal securities broker, municipal securities dealer, government securities broker, government securities dealer; (iii) a credit union; (iv) a national securities exchange, registered securities association or clearing agency; or (v) a savings association that is a participant in a Securities Transfer Association recognized program (each of the foregoing being referred to as an "Eligible Institution"), hereby guarantees to deliver to the Exchange Agent, at its address set forth above, either the Old Notes tendered hereby in proper form for transfer together with one or more properly completed and duly executed Letter(s) of Transmittal (or facsimile thereof), or confirmation of the book-entry transfer of such Old Notes to the Exchange Agent's account at The Depository Trust Company ("DTC"), pursuant to the procedures for book-entry transfer set forth in the Prospectus, together with, in either case, any other required documents within three business days after the date of execution of this Notice of Guaranteed Delivery.

The undersigned acknowledges that it must deliver the Letter(s) of Transmittal and the Old Notes tendered hereby to the Exchange Agent within the time period set forth above and that failure to do so could result in a financial loss to the undersigned.

Name of Firm: \_\_\_\_\_

Authorized Signature: \_\_\_\_\_

Title: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

(Zip Code)

Area Code and Telephone Number: \_\_\_\_\_

Date: \_\_\_\_\_

**DO NOT SEND CERTIFICATES FOR OLD NOTES WITH THIS NOTICE OF GUARANTEED DELIVERY. ACTUAL SURRENDER OF CERTIFICATES FOR OLD NOTES MUST BE MADE PURSUANT TO, AND BE ACCOMPANIED BY, A PROPERLY COMPLETED AND DULY EXECUTED LETTER OF TRANSMITTAL AND ANY OTHER REQUIRED DOCUMENTS.**

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## INSTRUCTIONS FOR NOTICE OF GUARANTEED DELIVERY

1. *Delivery of this Notice of Guaranteed Delivery.* A properly completed and duly executed copy of this notice of guaranteed delivery (or facsimile hereof or an agent's message and notice of guaranteed delivery in lieu hereof) and any other documents required by this notice of guaranteed delivery with respect to the Old Notes must be received by the Exchange Agent at its address listed herein before the Expiration Date of the Exchange Offer. **The method of delivery of this Notice of Guaranteed Delivery and any other required documents to the Exchange Agent is at the election and sole risk of the holder, and the delivery will be deemed made only when actually received by the Exchange Agent.** If delivery is by mail, registered mail with return receipt requested, properly insured, is recommended. As an alternative to delivery by mail, the holders may wish to consider using an overnight or hand delivery service. In all cases, sufficient time should be allowed to assure timely delivery.

2. *Signatures on this Notice of Guaranteed Delivery.* If this Notice of Guaranteed Delivery (or facsimile hereof) is signed by the registered holder(s) of the Old Notes referred to herein, the signature(s) must correspond exactly with the name(s) written on the face of the Old Notes without alteration, enlargement, or any change whatsoever. If this notice of guaranteed delivery (or facsimile hereof) is signed by a participant of DTC whose name appears on a security position listing as the owner of the Old Notes, the signature must correspond with the name shown on the security position listing as the owner of the Old Notes.

If this Notice of Guaranteed Delivery (or facsimile hereof) is signed by a person other than the registered holder(s) of any Old Notes listed or a participant of DTC, this notice of guaranteed delivery must be accompanied by appropriate bond powers, signed as the name(s) of the registered holder(s) appear(s) on the Old Notes or signed as the name(s) of the participant shown on DTC's security position listing.

If this Notice of Guaranteed Delivery (or facsimile hereof) is signed by a trustee, executor, administrator, guardian, attorney-in-fact, officer of a corporation, or other person acting in a fiduciary or representative capacity, such person should so indicate when signing and submit with the letter of transmittal evidence satisfactory to the Exchange Agent of such person's authority to act.

3. *Requests for Assistance or Additional Copies.* Questions and requests for assistance and requests for additional copies of the prospectus and this Notice of Guaranteed Delivery may be directed to the Exchange Agent at the address listed on the cover page hereof. Holders may also contact their broker-dealer, commercial bank, trust company, or other nominee for assistance concerning the Exchange Offer.

GUIDELINES FOR CERTIFICATION OF TAXPAYER IDENTIFICATION  
NUMBER ON SUBSTITUTE FORM W-9

**Guidelines for Determining the Proper Identification Number for the Payee (You) to Give the Payer.** — Social security numbers have nine digits separated by two hyphens: i.e., 000-00-0000. Employee identification numbers have nine digits separated by only one hyphen: i.e., 00-0000000. The table below will help determine the number to give the payer. All “Section” references are to the Internal Revenue Code of 1986, as amended. “IRS” is the Internal Revenue Service.

For this type of account:	Give the social security number of —
1. Individual	The individual
2. Two or more individuals (joint account)	The actual owner of the account or, if combined funds, the first individual on the account <sup>1</sup>
3. Custodian account of a minor (Uniform Gift to Minors Act)	The minor <sup>2</sup>
4. a. The usual revocable savings trust account (grantor is also trustee)	The grantor-trustee <sup>1</sup>
b. So-called trust account that is not a legal or valid trust under state law	The actual owner <sup>1</sup>
5. Sole proprietorship	The owner <sup>3</sup>
6. A valid trust, estate, or pension trust	The legal entity <sup>4</sup>
7. Corporate	The corporation
8. Association, club, religious, charitable, educational, or other tax-exempt organization account	The organization
9. Partnership	The partnership
10. A broker or registered nominee	The broker or nominee
11. Account with the Department of Agriculture in the name of a public entity (such as a state or local government, school district, or prison) that receives agricultural program payments	The public entity

- <sup>1</sup> List first and circle the name of the person whose number you furnish. If only one person on a joint account has a social security number, that person’s number must be furnished.
- <sup>2</sup> Circle the minor’s name and furnish the minor’s social security number.
- <sup>3</sup> You must show your individual name, but you may also enter your business or “doing business as” name. You may use either your social security number or your employer identification number (if you have one).
- <sup>4</sup> List first and circle the name of the legal trust, estate, or pension trust. (Do not furnish the taxpayer identification number of the personal representative or trustee unless the legal entity itself is not designated in the account title.)

**NOTE:** *If no name is circled when there is more than one name, the number will be considered to be that of the first name listed.*

**Obtaining a Number**

If you don’t have a taxpayer identification number or you don’t know your number, obtain Form SS-5, Application for a Social Security Card, or Form SS-4, Application for Employer Identification Number, at the local office of the Social Security Administration or the IRS, or by calling 1 (800) TAX-FORM, and apply for a number.

**Payees Exempt from Backup Withholding**

*Payees specifically exempted from backup withholding on all dividend and interest payments and on broker transactions include the following:*

- A corporation.
- A financial institution.
- An organization exempt from tax under Section 501(a), an individual retirement account (IRA), or a custodial account under Section 403(b)(7), if the account satisfies the requirements of Section 401(f)(2).
- The United States or a state thereof, the District of Columbia, a possession of the United States, or a political subdivision or wholly-owned agency or instrumentality of any one or more of the foregoing.
- An international organization or any agency or instrumentality thereof.
- A foreign government and any political subdivision, agency or instrumentality thereof.
- A registered dealer in securities or commodities registered in the United States, the District of Columbia, or a possession of the United States.
- A real estate investment trust.
- A common trust fund operated by a bank under Section 584(a).
- An entity registered at all times during the tax year under the Investment Company Act of 1940.
- A foreign central bank of issue.
- An exempt charitable remainder trust, or a non-exempt trust described in section 4947(a)(1).

*Payments of dividends and patronage dividends not generally subject to backup withholding include the following:*

- Payments to nonresident aliens subject to withholding under Section 1441.
- Payments to partnerships not engaged in a trade or business in the United States and which have at least one nonresident alien partner.
- Payments of patronage dividends not paid in money.
- Payments made by certain foreign organizations.
- Section 404(k) payments made by an ESOP.

*Payments of interest generally exempt from backup withholding include:*

- Payments of interest on obligations issued by individuals. NOTE: You may be subject to backup withholding if this interest is \$600 or more and you have not provided your correct taxpayer identification number to the payer.
- Payments of tax-exempt interest (including exempt-interest dividends under Section 852).
- Payments described in Section 6049(b)(5) to nonresident aliens.
- Payments on tax-free covenant bonds under Section 1451.
- Payments made by certain foreign organizations.
- Payments made to a nominee.

**Exempt payees described above must file Form W-9 or a substitute form W-9 to avoid possible erroneous backup withholding.** To file this form with the payer, furnish your Taxpayer Identification Number, write “EXEMPT” across the face of the form, and return it to the payer.

Certain payments, other than payments of interest, dividends, and patronage dividends, that are exempt from information reporting are also exempt from backup withholding. For details, see sections 6041, 6041A(a), 6042, 6044, 6045, 6050A and 6050N and the regulations thereunder.

**Privacy Act Notice.** — Section 6109 requires you to provide your correct taxpayer identification number to payers, who must report the payments to the IRS. The IRS uses the number for identification purposes and may also provide this information to various government agencies for tax enforcement or litigation purposes. Payers must be given the numbers whether or not recipients are required to file tax returns. Payers must generally withhold 31% of taxable interest, dividend, and certain other payments to a payee who does not furnish a taxpayer identification number to payer. Certain penalties may also apply.

**Penalties**

- (1) **Penalty For Failure to Furnish Taxpayer Identification Number.** — If you fail to furnish your taxpayer identification number to a payer, you are subject to a penalty of \$50 for each such failure unless your failure is due to reasonable cause and not to willful neglect.
- (2) **Civil Penalty for False Information With Respect to Withholding.** — If you make a false statement with no reasonable basis which results in no backup withholding, you are subject to a \$500 penalty.
- (3) **Criminal Penalty for Falsifying Information.** — Willfully falsifying certifications or affirmations may subject you to criminal penalties including fines and/or imprisonment.
- (4) **Misuse of Taxpayer Identification Numbers.** — If the payer discloses or uses taxpayer identification numbers in violation of Federal law, the payer may be subject to civil and criminal penalties.

FOR ADDITIONAL INFORMATION CONTACT YOUR TAX CONSULTANT OR THE INTERNAL REVENUE SERVICE.

**Central Garden & Pet Company**  
**Offer to Exchange**  
**9 1/8% Senior Subordinated Notes Due February 1, 2013**  
**Which Have Been Registered Under**  
**the Securities Act of 1933**  
**for Any and All Outstanding**  
**Unregistered**  
**9 1/8% Senior Subordinated Notes Due February 1, 2013**

**The Exchange Offer will expire at 5:00 p.m., New York City time, on \_\_\_\_\_, \_\_\_\_\_, 2003, unless extended (the "Expiration Date"). Old Notes tendered in the exchange offer may be withdrawn at any time before 5:00 p.m., New York City time, on the Expiration Date.**

To Our Clients:

We are enclosing herewith a Prospectus (the "Prospectus"), dated \_\_\_\_\_, 2003 of Central Garden & Pet Company, a Delaware corporation (the "Company"), and a related Letter of Transmittal (which together constitute the "Exchange Offer") relating to the offer by the Company to exchange its 9 1/8% Senior Subordinated Notes due February 1, 2013 (the "New Notes"), pursuant to an offering registered under the Securities Act of 1933, as amended (the "Securities Act"), for an amount of its issued and outstanding 9 1/8% Senior Subordinated Notes due February 1, 2013 (the "Old Notes"), upon the terms and subject to the conditions set forth in the Exchange Offer.

The Exchange Offer is not conditioned upon any minimum number of Old Notes being tendered.

We are the holder of record of your Old Notes and/or a participant of The Depository Trust Company ("DTC"), the book-entry depository and transfer facility for the Old Notes. A tender of such Old Notes can be made only by us as the record holder and DTC participant and pursuant to your instructions.

We request instructions as to whether you wish to tender any or all of the Old Notes held by us for your account pursuant to the terms and conditions of the Exchange Offer. We also request that you confirm that we may on your behalf make the representations contained in the Letter of Transmittal.

Your instructions to us should be forwarded as promptly as practicable in order to permit us to tender Old Notes on your behalf in accordance with the provisions of the Exchange Offer. The Exchange Offer will expire at 5:00 p.m., New York City Time, on \_\_\_\_\_, 2003, unless extended (the "Expiration Date"). Old Notes tendered pursuant to the Exchange Offer may be withdrawn, subject to the procedures described in the Prospectus, at any time prior to the Expiration Date.

If you wish to have us tender any or all of your Old Notes held by us for your account or benefit, please so instruct us by completing, executing and returning to us the instruction form that appears below. The accompanying Letter of Transmittal is furnished to you for information purposes only and may not be used by you to tender Old Notes held by us and registered in our name for your account or benefit.

Pursuant to the Letter of Transmittal, each holder of Old Notes will represent to the Company that:

- (i) the holder is not an "affiliate" of the Company (as defined in Rule 405 under the Securities Act);
- (ii) any New Notes to be received by the holder are being acquired in the ordinary course of its business and each holder received the Old Notes being tendered for exchange in the ordinary course of its business;



- 
- (iii) if the holder is not a broker-dealer, the holder is not engaged in, does not intend to engage in and has no arrangement or understanding with any person to engage in a distribution (within the meaning of the Securities Act) of New Notes to be received in the Exchange Offer; and
  - (iv) the holder is not a broker-dealer tendering Old Notes acquired directly from the Company.

If the tendering holder is a broker-dealer, it represents and agrees, consistent with certain interpretive letters relating to exchange offers issued by the staff of the Division of Corporation Finance of the Securities and Exchange Commission to third parties, that:

- (a) such Old Notes held by the broker-dealer are held only as a nominee; or
- (b) such Old Notes were acquired by such broker-dealer for its own account as a result of market-making activities or other trading activities and it will deliver a Prospectus (as amended or supplemented from time to time) meeting the requirements of the Securities Act in connection with any resale of such New Notes (provided that, by so acknowledging and by delivering a Prospectus, such broker-dealer will not be deemed to admit that it is an “underwriter” within the meaning of the Securities Act).

Very truly yours,

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**Instruction to Registered Holder and  
Book-Entry Transfer Participant From Owner of  
Central Garden & Pet Company**

**9 1/8% Senior Subordinated Notes Due February 1, 2013**

To Registered Holder and/or Participant of The Depository Trust Company:

The undersigned hereby acknowledges receipt of the Prospectus dated \_\_\_\_\_, 2003 (the "Prospectus") of Central Garden & Pet Company, a Delaware corporation (the "Company"), and the accompanying Letter of Transmittal (the "Letter of Transmittal"), that together constitute the Company's offer (the "Exchange Offer"). Capitalized terms used but not defined herein have the meanings ascribed to them in the Prospectus.

This will instruct you, the registered holder and/or book-entry transfer facility participant, as to the action to be taken by you relating to the Exchange Offer with respect to the Old Notes held by you for the account of the undersigned.

The aggregate amount of the Old Notes held by you for the account of the undersigned is (fill in amount):

\$\_\_\_\_\_ of the 9 1/8% Senior Subordinated Notes due February 1, 2013.

With respect to the Exchange Offer, the undersigned hereby instructs you (check appropriate box):

- ☐ To TENDER all Old Notes held by you for the account of the undersigned.
- ☐ To TENDER the following Old Notes held by you for the account of the undersigned (insert amount of Old Notes to be tendered, (if any):  
\$\_\_\_\_\_ of the 9 1/8% Senior Subordinated Notes due February 1, 2013.
- ☐ NOT to TENDER any Old Notes held by you for the account of the undersigned.

If no box is checked, a signed and returned instruction to book-entry transfer participant will be deemed to instruct you to tender all old notes held by you for the account of the undersigned.

If the undersigned instructs you to tender the Old Notes held by you for the account of the undersigned, it is understood that you are authorized to make, on behalf of the undersigned (and the undersigned, by its signature below, hereby makes to you), the representation and warranties contained in the Letter of Transmittal that are to be made with respect to the undersigned as a beneficial owner, including but not limited to the representations, that pursuant to the Letter of Transmittal, each holder of Old Notes will represent to the Company that:

- (i) the holder is not an "affiliate" of the Company (as defined in Rule 405 under the Securities Act);
- (ii) any New Notes to be received by the holder are being acquired in the ordinary course of its business and each holder received the Old Notes being tendered for exchange in the ordinary course of its business;

- (iii) if the holder is not a broker-dealer, the holder is not engaged in, does not intend to engage in and has no arrangement or understanding with any person to engage in a distribution (within the meaning of the Securities Act) of New Notes to be received in the Exchange Offer; and
- (iv) the holder is not a broker-dealer tendering Old Notes acquired directly from the Company.

If the tendering holder is a broker-dealer, it represents and agrees, consistent with certain interpretive letters relating to exchange offers issued by the staff of the Division of Corporation Finance of the Securities and Exchange Commission to third parties, that:

- (a) such Old Notes held by the broker-dealer are held only as a nominee; or
- (b) such Old Notes were acquired by such broker-dealer for its own account as a result of market-making activities or other trading activities and it will deliver a Prospectus (as amended or supplemented from time to time) meeting the requirements of the Securities Act in connection with any resale of such New Notes (provided that, by so acknowledging and by delivering a Prospectus, such broker-dealer will not be deemed to admit that it is an “underwriter” within the meaning of the Securities Act).

**SIGN HERE**

Name of beneficial owner(s): \_\_\_\_\_

Signature(s): \_\_\_\_\_

Name(s) (please print): \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Telephone Number: \_\_\_\_\_

Taxpayer Identification or Social Security Number: \_\_\_\_\_

Date: \_\_\_\_\_

**Central Garden & Pet Company**  
**Offer to Exchange**  
**9 1/8% Senior Subordinated Notes Due February 1, 2013**  
**Which Have Been Registered**  
**Under the Securities Act of 1933**  
**for**  
**Any and All Outstanding Unregistered**  
**9 1/8% Senior Subordinated Notes Due February 1, 2013**

To Registered Holders and Depository  
Trust Company Participants:

We are enclosing herewith the material listed below relating to the offer by Central Garden & Pet Company (the “Company”), a Delaware corporation, to exchange its 9 1/8% Senior Subordinated Notes due February 1, 2013 (the “New Notes”), pursuant to an offering registered under the Securities Act of 1933, as amended (the “Securities Act”), for a like amount of the issued and outstanding 9 1/8% Senior Subordinated Notes due February 1, 2013 of the Company (the “Old Notes”) issued in a private placement, upon the terms and subject to the conditions set forth in the Company’s Prospectus, dated \_\_\_\_\_, 2003, and the related Letter of Transmittal (which together constitute the “Exchange Offer”).

Enclosed herewith are copies of the following documents:

1. Prospectus dated \_\_\_\_\_, 2003, (the “Prospectus”);
2. Letter of Transmittal;
3. Notice of Guaranteed Delivery;
4. Instruction to Registered Holder and/or Book-Entry Transfer participant from the beneficial owner (the “Owner”); and
5. Letter which may be sent to your clients for whose account you hold Old Notes in your name or in the name of your nominee, to accompany the instruction form referred to above, for obtaining such client’s instruction with regard to the Exchange Offer.

**We urge you to contact your clients promptly. Please note that the Exchange Offer will expire at 5:00 p.m., New York City time, on \_\_\_\_\_, \_\_\_\_\_, 2003, unless extended.**

The Exchange Offer is not conditioned upon any minimum number of Old Notes being tendered.

In all cases, exchanges of Old Notes for New Notes accepted for exchange pursuant to the Exchange Offer will be made only after timely receipt by the Exchange Agent of (a) certificates representing such Old Notes or a confirmation of a book-entry transfer of such Old Notes, as the case may be, (b) the Letter of Transmittal (or a facsimile thereof) promptly completed and duly executed with any required signature guarantees, and (c) any other documents required by the Letter of Transmittal.

Holders who wish to tender their Old Notes and (a) whose Old Notes are not immediately available, (b) who cannot deliver their Old Notes, the Letter of Transmittal or any other required documents to the Exchange Agent prior to the Expiration Date or (c) who cannot complete the procedure for book-entry transfer on a timely basis, may tender their Old Notes by following the guaranteed delivery procedures described in the Prospectus under “The Exchange Offer—Guaranteed Delivery Procedures.”

To tender Old Notes, certificates for Old Notes, a duly executed and properly completed Letter of Transmittal or a facsimile thereof, together with any other required documents, must be received by the Exchange Agent as provided in the Prospectus and the Letter of Transmittal.

Pursuant to the Letter of Transmittal, each holder of Old Notes will represent to the Company that:

- (i) the holder is not an “affiliate” of the Company (as defined in Rule 405 under the Securities Act);
- (ii) any New Notes to be received by the holder are being acquired in the ordinary course of its business and each holder received the Old Notes being tendered for exchange in the ordinary course of its business;
- (iii) if the holder is not a broker-dealer, the holder is not engaged in, does not intend to engage in and has no arrangement or understanding with any person to engage in a distribution (within the meaning of the Securities Act) of New Notes to be received in the Exchange Offer; and
- (iv) the holder is not a broker-dealer tendering Old Notes acquired directly from the Company.

If the tendering holder is a broker-dealer, it represents and agrees, consistent with certain interpretive letters relating to exchange offers issued by the staff of the Division of Corporation Finance of the Securities and Exchange Commission to third parties, that:

- (a) such Old Notes held by the broker-dealer are held only as a nominee; or
- (b) such Old Notes were acquired by such broker-dealer for its own account as a result of market-making activities or other trading activities and it will deliver a Prospectus (as amended or supplemented from time to time) meeting the requirements of the Securities Act in connection with any resale of such New Notes (provided that, by so acknowledging and by delivering a Prospectus, such broker-dealer will not be deemed to admit that it is an “underwriter” within the meaning of the Securities Act).

The enclosed Instruction to Registered Holder and/or Book-Entry Transfer Participant from Owner contains an authorization by the beneficial owners of the Old Notes for you to make the foregoing representations.

The Company will not pay any fee or commission to any broker or dealer or to any other persons (other than the Exchange Agent) in connection with the solicitation of tenders of Old Notes pursuant to the Exchange Offer. The Company will pay or cause to be paid any transfer taxes payable on the transfer of Old Notes to it, except as otherwise provided in Instruction 5 of the enclosed Letter of Transmittal.

Additional copies of the enclosed material may be obtained from the undersigned.

Very truly yours,

WELLS FARGO BANK, N.A.

NOTHING CONTAINED HEREIN OR IN THE ENCLOSED DOCUMENTS SHALL CONSTITUTE YOU THE AGENT OF CENTRAL GARDEN & PET COMPANY OR WELLS FARGO BANK, N.A. OR AUTHORIZE YOU TO USE ANY DOCUMENT OR MAKE ANY STATEMENT ON THEIR BEHALF IN CONNECTION WITH THE EXCHANGE OFFER OTHER THAN THE DOCUMENTS ENCLOSED HERewith AND THE STATEMENTS CONTAINED THEREIN.