

SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549  
FORM 10-K

(Mark One)

ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(D) OF THE  
SECURITIES EXCHANGE ACT OF 1934 [FEE REQUIRED]  
For the fiscal year ended September 26, 1998

OR

TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(D) OF THE  
SECURITIES EXCHANGE ACT OF 1934 [NO FEE REQUIRED]  
For the transition period from to

Commission File No. 0-14616

J & J SNACK FOODS CORP.  
(Exact name of registrant as specified in its charter)

New Jersey  
(State or other jurisdiction  
of incorporation or organization)

22-1935537  
(I.R.S. Employer  
Identification No.)

6000 Central Highway  
Pennsauken, New Jersey  
(Address of principal executive offices)

08109  
(Zip Code)

Registrant's telephone number, including area code: (609-665-9533)

Securities registered pursuant to Section 12(b) of the Act:

Common Stock, par value: None (Title of each class)	None (Name of each exchange on which registered)
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Securities registered pursuant to Section 12(g) of the Act: None

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

Indicate by check mark if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K is not contained herein, and will not be contained, to the best of the registrant's knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendment to this Form 10-K .

As of November 30, 1998, the latest practicable date, 9,036,833 shares of the Registrant's common stock were issued and outstanding. The aggregate market value of shares held by non-affiliates of the Registrant on such date was \$121,823,319, based on the last price on that date of \$20.4375 per share, which is an average of bid and asked prices.

DOCUMENTS INCORPORATED BY REFERENCE

The Registrant's 1998 Annual Report to Shareholders for the fiscal year ended September 26, 1998 and Proxy Statement for its Annual Meeting of Shareholders to be held on February 11, 1999 are incorporated herein by reference into Parts I, II, III and IV as set forth herein.

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PART I

Item 1. Business

General

J & J Snack Foods Corp. (the "Company" or "J & J") manufactures nutritional snack foods which it markets nationally to the food service and retail supermarket industries. Its principal snack food products are soft pretzels marketed principally under the brand name SUPERPRETZEL. J & J believes it is the largest manufacturer of soft pretzels in the United States. The Company also markets frozen carbonated beverages to the food service industry under the brand names ICEE and ARCTIC BLAST in the United States, Mexico and Canada. Other snack products include Italian ice and frozen juice treats and desserts, churros (a Hispanic pastry), funnel cake, popcorn and bakery products.

The Company's sales are made primarily to food service customers including snack bar and food stand locations in leading chain, department, discount, warehouse club and convenience stores; malls and shopping centers; fast food outlets; stadiums and sports arenas; leisure and theme parks; movie theatres; independent retailers; and schools, colleges and other institutions. The Company's retail supermarket customers are primarily supermarket chains. The Company sells direct to the public through its chains of specialty snack food retail outlets, BAVARIAN PRETZEL BAKERY and PRETZEL GOURMET, located primarily in the Mid-Atlantic States.

The Company was incorporated in 1971 under the laws of the State of New Jersey.

## Products

### Soft Pretzels

The Company's soft pretzels are sold under many brand names; some of which are: SUPERPRETZEL, MR. TWISTER, SOFT PRETZEL BITES, SOFTSTIX, SOFT PRETZEL BUNS, HOT KNOTS, DUTCH TWIST, TEXAS TWIST and SANDWICH TWIST and; to a lesser extent, under private labels. The Company sells its soft pretzels to the food service and the retail supermarket industries and direct to the public through BAVARIAN PRETZEL BAKERY and PRETZEL GOURMET, its chains of specialty snack food retail outlets. The Company's soft pretzels qualify under USDA regulations as the nutritional equivalent of bread for purposes of the USDA school lunch program, thereby enabling a participating school to obtain partial reimbursement of the cost of the Company's soft pretzels from the USDA. Soft pretzel sales amounted to 35% and 40% of the Company's revenue in fiscals 1998 and 1997, respectively.

The Company's soft pretzels are manufactured according to a proprietary formula. Soft pretzels, approximately 2-1/2 ounces in weight, and jumbo or king size soft pretzels, approximately 5-1/2 ounces in weight, are shaped and formed by the Company's proprietary twister machines. These soft pretzel tying machines are automated, high speed machines for twisting dough into the traditional pretzel shape. Soft pretzel nuggets, mini one ounce soft pretzels and soft pretzels in customized shapes and sizes and with fillings are extruded or shaped by hand. Soft pretzels,

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after processing, are primarily quick-frozen in either raw or baked form and packaged for delivery.

The Company's food service marketing program includes supplying ovens, mobil merchandisers, display cases, warmers and similar merchandising equipment to the retailer to prepare and promote the sale of soft pretzels. Some of this equipment is proprietary, including combination warmer and display cases that reconstitute frozen soft pretzels while displaying them, thus eliminating the need for an oven. The Company retains ownership of the equipment placed in customer locations and, as a result, customers are not required to make an investment in equipment.

### Frozen Carbonated Beverages

The Company markets, through its direct sales force, frozen carbonated beverages to the food service industry under the names ICEE and ARCTIC BLAST in the United States, Mexico and Canada. The Company sells direct to the public through BAVARIAN PRETZEL BAKERY and PRETZEL GOURMET, its chains of specialty snack food retail outlets. Frozen carbonated beverage sales amounted to 29% of revenue in fiscal 1998 and 20% of revenue in fiscal 1997. Under the Company's marketing program, it installs frozen carbonated beverage dispensers at customer locations and thereafter services the machines, arranges to supply customers with ingredients required for production of the frozen carbonated beverages, and supports customer retail sales efforts with in-store promotions and point-of-sale materials. In most cases, the Company retains ownership of its dispensers and, as a result, customers are not required to make an investment in equipment or arrange for the ingredients and supplies necessary to produce and market the frozen carbonated beverages.

Each new customer location requires a frozen carbonated beverage dispenser supplied by the Company or by the customer. Company supplied dispensers are purchased from outside vendors, built new or rebuilt by the Company at an approximate cost of \$5,500 each. The following shows the number of Company owned and customer owned frozen carbonated beverage dispensers at customer locations at the dates indicated:

	Company Owned	Customer Owned	Total
September 28, 1996	7,823	901	8,724
September 27, 1997	8,546	711	9,257
September 26, 1998	16,520	223	16,743

As a result of the acquisition of National Icee Corporation on December 8, 1997, the Company has the rights to market and distribute frozen carbonated beverages under the name ICEE to all of the Continental United States, except for portions of eleven states.

#### Frozen Juice Treats and Desserts

The Company's frozen juice treats and desserts are marketed under the FROSTAR, SHAPE-UPS, MAZZONE'S, MAMA TISH'S and LUIGI'S brand names to the food service and to the retail supermarket

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industries. Frozen juice treat and dessert sales were 15% and 19% of the Company's revenue in fiscal years 1998 and 1997, respectively.

The Company's SHAPE-UPS and MAZZONE frozen juice bars are manufactured from an apple or pear juice base to which water, sweeteners, coloring (in some cases) and flavorings are added. The juice bars contain two to three ounces of apple or pear juice and the minimum daily requirement of vitamin C, and qualify as reimbursable items under the USDA school lunch program. The juice bars are produced in various flavors and are packaged in a sealed push-up paper container referred to as the Milliken M-pak, which the Company believes has certain sanitary and safety advantages.

The FROSTAR product line includes frozen juice and other frozen desserts on a stick and in a cup. The juice bar and FROSTAR products are sold primarily to the school portion of the food service industry.

LUIGI'S Real Italian Ice and MAMA TISH'S Italian Ice and Sorbets are sold to the foodservice and to the retail supermarket industries. They are manufactured from water, sweeteners and fruit juice concentrates in various flavors and are packaged in plastic cups for retail supermarket and foodservice and in four and eight ounce squeeze up tubes for foodservice.

#### Churros

The Company sells frozen churros under the TIO PEPE'S brand name to both the food service and retail supermarket industries, primarily in the Western and Southwestern United States. Churro sales were 4% and 5% of the Company's sales in fiscal 1998 and 1997, respectively. Churros are Hispanic donuts in stick form which the Company produces in several sizes according to a proprietary formula. The churros are deep fried, frozen and packaged. At food service point-of-sale they are reheated and topped with a cinnamon sugar mixture. The Company also sells fruit and creme filled churros. The Company supplies churro merchandising equipment similar to that used for its soft pretzels.

#### Baked Goods

The Company has a contract and private label bakery business which manufactures cookies, muffins and other baked goods for third parties. In addition, the Company produces and markets these products under its own brand names, including DANISH MILL and PRETZELCOOKIE. Baked goods sales amounted to 9% and 8% of the Company's sales in fiscals 1998 and 1997, respectively.

## Other Products

The Company also markets to the food service industry and direct to the public other products including soft drinks, funnel cakes sold under the FUNNEL CAKE FACTORY brand name, popcorn sold under the AIRPOPT brand name, as well as smaller amounts of various other food products. In addition, J & J manufactures and markets machines and machine parts for sale primarily to other food and beverage companies.

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## Customers

The Company sells its products to two principal customer groups: food service and retail supermarkets. The primary products sold to the food service group are soft pretzels, frozen carbonated beverages, frozen juice treats and desserts, churros and baked goods. The primary products sold to the retail supermarket industry are soft pretzels and Italian ice. Additionally, the Company sells soft pretzels, frozen carbonated beverages and various other food products direct to the public through BAVARIAN PRETZEL BAKERY and PRETZEL GOURMET, its chains of specialty snack food retail outlets.

The Company's customers in the food service industry include snack bars and food stands in chain, department and discount stores such as KMart, Walmart, Bradlees, Caldor and Target; malls and shopping centers; fast food outlets; stadiums and sports arenas; leisure and theme parks such as Disneyland, Walt Disney World, Opryland, Universal Studios, Sea World, Six Flags, Hershey Park and Busch Gardens; convenience stores such as 7-Eleven, Circle K, AM/PM, White Hen Pantry and Wawa; movie theatres; warehouse club stores such as Sam's Club, Price Costco and B.J.'s; schools, colleges and other institutions; and independent retailers such as Hot Sam. Food service concessionaires purchasing soft pretzels and other products from the Company for use in sports arenas and for institutional meal services include ARAMARK, Ogden, Service America, Sportservice, Marriott and Volume Services. Machines and machine parts are sold to other food and beverage companies. Within the food service industry, the Company's products are purchased by the consumer primarily for consumption at the point-of-sale.

The Company sells its products to over 90% of supermarkets in the United States. Products sold to retail supermarket customers are primarily soft pretzel products, including SUPERPRETZEL, LUIGI'S Real Italian Ice and MAMA TISH'S Italian Ice and sorbets and various secondary brands. Within the retail supermarket industry, the Company's frozen and prepackaged products are purchased by the consumer for consumption at home.

## Marketing and Distribution

The Company has developed a national marketing program for its products. For food service customers, this marketing program includes providing ovens, mobile merchandisers, display cases, warmers, frozen carbonated beverage dispensers and other merchandising equipment for the individual customer's requirements and point-of-sale materials as well as participating in trade shows and in-store demonstrations. The Company's ongoing advertising and promotional campaigns for its retail supermarket products include trade shows, newspaper advertisements with coupons, in-store demonstrations, billboards and, periodically, television advertisements.

The Company's products are sold through a network of about 180 food brokers and over 1,000 independent sales distributors and the Company's own direct sales force. The Company maintains frozen warehouse and distribution facilities in Pennsauken, New Jersey; Vernon (Los Angeles) California; Scranton, Pittsburgh,

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Hatfield and Lancaster, Pennsylvania; and Solon, Ohio. Frozen carbonated beverages are distributed from 97 warehouse and distribution facilities located in 41 states, Mexico and Canada

which allow the Company to directly service its customers in the surrounding areas. The Company's products are shipped in refrigerated and other vehicles from the Company's manufacturing and warehouse facilities on a fleet of Company operated tractor-trailers, trucks and vans, as well as by independent carriers.

#### Seasonality

The Company's sales are seasonal because frozen carbonated beverage sales and Italian ice sales are generally higher during the warmer months and sales of the Company's retail stores are generally higher in the Company's first quarter during the holiday shopping season.

#### Trademarks and Patents

The Company has numerous trademarks, the most important of which are SUPERPRETZEL, DUTCH TWIST, TEXAS TWIST, MR. TWISTER, SOFT PRETZEL BITES and SOFTSTIX for its soft pretzel products; FROSTAR, SHAPE-UPS, MAZZONE'S, MAMA TISH'S and LUIGI'S for its frozen juice treats and desserts; TIO PEPE'S for its churros; ARCTIC BLAST for its frozen carbonated beverages; FUNNEL CAKE FACTORY for its funnel cake products, PRIDE O' THE FARM for its cookies, muffins and other baked goods; and TANGO WHIP for its whipped fruit drinks. The trademarks, when renewed and continuously used, have an indefinite term and are considered important to the Company as a means of identifying its products.

The Company markets frozen carbonated beverages under the trademark ICEE in all of the Continental United States, except for portions of eleven states, and in Mexico and Canada. Additionally, the Company has the international rights to the trademark ICEE.

The Company has four patents related to frozen carbonated beverage dispensers, including a countertop unit. One expires in 2005 and three expire in 2006. The Company also has two process patents for dessert products which expire in 2010 and 2012.

#### Supplies

The Company's manufactured products are produced from raw materials which are readily available from numerous sources. With the exception of the Company's soft pretzel twisting equipment and funnel cake production equipment, which are made for J & J by independent third parties, and certain specialized packaging equipment, the Company's manufacturing equipment is readily available from various sources. Syrup for frozen carbonated beverages is purchased from the Coca Cola Company, the Pepsi Cola Company, and Western Syrup Company. Cups, straws and lids are readily available from various suppliers. Parts for frozen carbonated beverage dispensing machines are manufactured internally and purchased from other sources. Frozen carbonated beverage dispensers are purchased from IMI Cornelius, Inc.

#### Competition

Snack food and baked goods markets are highly competitive. The Company's principal products compete against similar and different food products manufactured and sold by numerous other companies, some of which are substantially larger and have greater resources than the Company. As the soft pretzel, frozen juice treat and dessert, baked goods and related markets grow, additional competitors and new competing products may enter the markets. Competitive factors in these markets include product quality, customer service, taste, price, identity and brand name awareness, method of distribution and sales promotions.

The Company believes it is the only national distributor of soft pretzels. However, there are numerous regional and local manufacturers of food service and retail supermarket soft pretzels. Competition is also increasing in that there are several chains of retail pretzel stores which have been aggressively expanding over the past several years. These chains compete with the Company's products.

In Frozen Carbonated Beverages the Company competes directly with other frozen carbonated beverage companies. These include several companies which have the right to use the ICEE name in portions of eleven states. There are many other regional frozen carbonated beverage competitors throughout the country and one large retail chain which uses its own frozen carbonated beverage brand.

The Company competes with large soft drink manufacturers for counter and floor space for its frozen carbonated beverage dispensing machines at retail locations and with products which are more widely known than the ICEE and ARCTIC BLAST frozen carbonated beverages.

The Company competes with a number of other companies in the frozen juice treat and dessert and baked goods markets.

#### Divestitures

During the third quarter of fiscal year 1995, the Company sold its syrup and flavor manufacturing subsidiary, Western Syrup Company, to an unrelated third party for cash and notes. The sale of Western did not have a material impact on the Company's operations or financial position.

#### Employees

The Company had approximately 1,900 full and part time employees as of September 26, 1998. Certain production and distribution employees at the Pennsauken plant are covered by a collective bargaining agreement which expires in September 1999. The Company considers its employee relations to be good.

#### Year 2000

The Year 2000 ("Y2K") issue is the result of computer programs using a two-digit format, as opposed to four digits, to indicate the year. Such computer systems will be unable to

interpret dates beyond the year 1999, which could cause a system failure or other computer errors, leading to disruptions in operations.

In 1997 the Company commenced a program to evaluate and determine the potential impact of Y2K issues on its operations and the need to modify or replace its existing computer systems. The scope of the program encompassed all phases of the operational activities of the Company and its subsidiaries. In 1998 the program was expanded to develop an action plan for the resolution of problem issues. The process of resolving problem issues is anticipated to be completed by the third calendar quarter of 1999. The Company has identified the following areas to be critical for Y2K compliance: financial and informational systems, manufacturing applications, third-party relationships, and what was deemed to include environmental areas of concern to include HVAC, telephone and communication environments, and security systems.

The Company is currently monitoring all of its software vendors to determine the compliance status of purchased applications. This is an ongoing process that is scheduled for completion by the second calendar quarter of 1999. The Company currently has been implementing enhanced financial and informational application systems. The software product is Y2K compliant and will satisfy the majority of the informational processing requirements when fully implemented. This process is in the final stages of implementation and it is anticipated to be fully completed early in 1999. Additionally, the Company is negotiating to purchase a new, and fully Y2K compliant, financial reporting system to enhance our future ability to manage, control and report on the operation of the business. It is anticipated that this system will be in place by mid 1999. In the manufacturing area, the Company is in the process of identifying areas of exposure. The third party relationship area has been addressed by directly contacting major trading partners. Most of the parties who have so far responded to our inquiries indicate that they will be Y2K compliant no later than the end of 1999.

The Company has been utilizing outside consultants to augment the efforts of its internal staff to address the Y2K problem. It is anticipated that there will be an ongoing need to utilize these services through the first half of 1999. Specific areas of activity include the Y2K monitoring process and additional application programming effort. The balance of 1998 and the first half of 1999 will be devoted to the completion and testing of the software applications and testing of the environmental areas.

The Company does not anticipate that Y2K compliance costs will be significantly higher than its normal management information systems operating costs.

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## Item 2. Properties

The Company's primary east coast manufacturing facility is located in Pennsauken, New Jersey in a 70,000 square foot building on a two acre lot. Soft pretzels and churros are manufactured at this company-owned facility which also serves as the Company's corporate headquarters. This facility operates at approximately 80% of capacity. The Company leases a 101,200 square foot building adjacent to its manufacturing facility in Pennsauken, New Jersey through March 2012. The Company has constructed a large freezer within this facility for warehousing and distribution purposes. The warehouse has a utilization rate of 60-90% depending on product demand. The Company also leases through September 1999 16,000 square feet of office and warehouse space located next to the Pennsauken, New Jersey plant.

The Company owns a 150,000 square foot building on eight acres in Bellmawr, New Jersey. Approximately 30% of the facility is leased to a third party. The remainder is used by the Company to manufacture some of its products including funnel cake and pretzels.

The Company's primary west coast manufacturing facility is located in Vernon (Los Angeles), California. It consists of a 137,000 square foot facility in which soft pretzels, churros and various lines of baked goods are produced and warehoused. Included in the 137,000 square foot facility is a 30,000 square foot freezer used for warehousing and distribution purposes which was constructed in 1996. The facility is leased through November 2010. The Company leases an additional 15,000 square feet of warehouse space, adjacent to its manufacturing facility, through May 2002. The manufacturing facility operates at approximately 60% of capacity.

The Company owns a 52,700 square foot building located on five acres in Chicago Heights, Illinois which is leased to a third party.

The Company owns a 46,000 square foot frozen juice treat and dessert manufacturing facility located on three acres in Scranton, Pennsylvania. The facility, which was expanded from 26,000 square feet in 1998, operates at less than 50% of capacity.

The Company leases a 29,635 square foot soft pretzel manufacturing facility located in Hatfield, Pennsylvania. The lease runs through June 2017. The facility operates at approximately two thirds of capacity.

The Company leases a 19,200 square foot soft pretzel manufacturing facility located in Carrollton, Texas. The lease runs through April 2004. The facility operates at less than 50% of capacity.

The Company's Bavarian Pretzel Bakery headquarters and warehouse and distribution facilities are located in a 11,000 square foot owned building in Lancaster, Pennsylvania.

The Company owns a 25,000 square foot facility located on 11 acres in Hatfield, Pennsylvania which is leased to a third party.



The Company also leases 99 warehouse and distribution facilities.

Item 3. Legal Proceedings

The Company has no material pending legal proceedings, other than ordinary routine litigation incidental to the business, to which the Company or any of its subsidiaries is a party or of which any of their property is subject.

Item 4. Submission Of Matters To A Vote Of Security Holders

None.

EXECUTIVE OFFICERS OF THE REGISTRANT

The following is a list of the executive officers of the Company and their principal past occupations or employment. All such persons serve at the pleasure of the Board of Directors and have been elected to serve until the Annual Meeting of Shareholders on February 11, 1999 or until their successors are duly elected.

Name	Age	Position
Gerald B. Shreiber	57	Chairman of the Board, President, Chief Executive Officer and Director
Dennis G. Moore	43	Senior Vice President, Chief Financial Officer, Secretary, Treasurer and Director
Robert M. Radano	49	Senior Vice President, Sales, Chief Operating Officer and Director
Robyn Shreiber Cook	38	Senior Vice President
Dan Fachner	38	President of The ICEE Company Subsidiary

Gerald B. Shreiber is the founder of the Company and has served as its Chairman of the Board, President, and Chief Executive Officer since its inception in 1971. His term as a

director expires in 2000.

Dennis G. Moore joined the Company in 1984. He served in various controllership functions prior to becoming the Chief Financial Officer in June 1992. His term as a director expires in 2002.

Robert M. Radano joined the Company in 1972 and in May 1996 was named Chief Operating Officer of the Company. Prior to becoming Chief Operating Officer, he was Senior Vice President, Sales responsible for national foodservice sales of J & J. His term as a director expires in 2001.

Robyn Shreiber Cook joined the Company in 1982 and in February 1996 was named Senior Vice President, West with operating and sales responsibilities for the Company's West Coast foodservice and bakery business. Prior to becoming Senior Vice President, West she was responsible for Western region food service sales.

Dan Fachner has been an employee of ICEE-USA Corp., which was acquired by the Company in May 1987, since 1979. He was named Senior Vice President of The ICEE Company in April 1994 and became President in May 1997.

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## PART II

### Item 5. Market For Registrant's Common Stock And Related Stockholder Matters

The Company's common stock is traded on the over-the-counter market on the NASDAQ National Market System under the symbol JJSF. The following table sets forth the high and low final sale price quotations as reported by NASDAQ for the common stock for each quarter of the years ended September 27, 1997 and September 26, 1998.

	High	Low
Fiscal 1997		
First quarter ended December 28, 1996	14-1/8	10-5/8
Second quarter ended March 29, 1997	14-1/8	10-1/2
Third quarter ended June 28, 1997	16-1/8	11-1/4
Fourth quarter ended September 27, 1997	17-1/4	14-1/2
Fiscal 1998		
First quarter ended December 30, 1997	17-3/8	13-1/2
Second quarter ended March 28, 1998	19-1/2	12-1/2
Third quarter ended June 27, 1998	20-3/4	17-7/8
Fourth quarter ended September 26, 1998	22-1/4	14-3/4

On November 30, 1998, there were 9,036,833 shares of common stock outstanding. Those shares were held by approximately 2,200 beneficial shareholders and shareholders of record.

The Company has never paid a cash dividend on its common stock and does not anticipate paying cash dividends in the foreseeable future.

### Item 6. Selected Financial Data

The information set forth under the caption "Financial Highlights" of the 1998 Annual Report to Shareholders is incorporated herein by reference.

### Item 7. Management's Discussion And Analysis Of Financial Condition And Results Of Operations

The information set forth under the caption "Management's Discussion and Analysis of Financial Condition and Results of

Operations" of the 1998 Annual Report to Shareholders is incorporated herein by reference.

Item 7a. Quantitative And Qualitative Disclosures  
About Market Risk

The following is the Company's quantitative and qualitative analysis of its financial market risk:

Interest Rate Sensitivity

The table below provides information about the Company's derivative financial instruments and other financial instruments as of September 26, 1998 that are sensitive to changes in

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interest rates. These instruments include debt obligations and interest rate swaps. For debt obligations, the table presents principal cash flows and related weighted-average interest rates by expected maturity dates. For interest rate swaps, the table presents notional amounts and weighted-average interest rates by expected (contractual) maturity dates. The notional amounts are used to calculate the contractual payments to be exchanged under the swap contract. Weighted-average variable rates are based on implied forward rates in the yield curve at the reporting date.

	Expected Maturity Date (\$ in thousands)					There- after	Total	Fair Value
	1999	2000	2001	2002	2003			
<b>Liabilities</b>								
<b>Long-term debt</b>								
Fixed rate	\$ 423	\$ 382	\$ 317	\$ 131	\$ 369	\$5,000	\$ 6,622	\$ 6,622
Average interest rate	8.34%	8.54%	8.48%	8.50%	9.27%	7.25%	7.59%	
Variable rate	\$8,000	\$8,000	\$24,000	\$8,000	\$2,000	-	\$50,000	\$50,000
Average interest rate	5.89%	5.89%	5.78%	5.89%	5.89%	-	5.84%	
<b>Interest Rate Swaps</b>								
<b>Receive</b>								
variable/ pay fixed	\$8,000	\$8,000	\$ 8,000	\$8,000	\$2,000	\$ -	\$34,000	\$ 1,400
Average pay rate	6.11%	6.11%	6.11%	6.11%	6.11%	-	6.11%	
Average receive rate	5.39%	5.39%	5.39%	5.39%	5.39%	-	5.39%	

Interest Rate Risk

The Company holds long-term debt with variable interest rates indexed to LIBOR, which exposes it to the risk of increased interest costs if interest rates rise. To reduce the risk related to unfavorable interest rate movements, the Company enters into interest rate swap contracts to pay a fixed rate and receive a variable rate that is indexed to LIBOR. The ratio of the swap notional amount to the principal amount of variable rate debt issued changes periodically based on the Company's ongoing assessment of the future trend in interest rate movements. At September 26, 1998, this ratio was 68 percent and no change in the ratio is expected at the current time. The percentage of variable rate debt fixed under interest rate swap contracts is expected to decrease as scheduled debt payments are made.

Foreign Exchange Rate Risk

The Company has not entered into any forward exchange contracts to hedge its foreign currency rate risk as of September 26, 1998 because it does not believe its foreign exchange exposure is significant.

Item 8. Financial Statements And Supplementary Data

The following consolidated financial statements of the Company set forth in the 1998 Annual Report to Shareholders are incorporated herein by reference:

Consolidated Balance Sheets as of September 26, 1998 and September 27, 1997  
Consolidated Statements of Earnings for the fiscal years ended September 26, 1998, September 27, 1997 and September 28, 1996  
Consolidated Statement of Stockholders' Equity for the

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three fiscal years ended September 26, 1998  
Consolidated Statements of Cash Flows for the fiscal years ended September 26, 1998, September 27, 1997 and September 28, 1996  
Notes to Consolidated Financial Statements  
Report of Independent Certified Public Accountants

Item 9. Changes In And Disagreements With Accountants On Accounting And Financial Disclosure

None.

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PART III

Item 10. Directors And Executive Officers Of The Registrant

Information concerning directors, appearing under the captions "Information Concerning Nominee For Election To Board" and "Information Concerning Continuing Directors And Executive Officers" in the Company's Proxy Statement filed with the Securities and Exchange Commission in connection with the Annual Meeting of Shareholders to be held on February 11, 1999, is incorporated herein by reference. Information concerning the executive officers is included on page 10 following Item 4 in Part I hereof.

Item 11. Executive Compensation

Information concerning executive compensation appearing in the Company's Proxy Statement under the caption "Management Remuneration" is incorporated herein by reference.

Item 12. Security Ownership Of Certain Beneficial Owners And Management

Information concerning the security ownership of certain beneficial owners and management appearing in the Company's Proxy Statement under the caption "Principal Shareholders" is incorporated herein by reference.

Item 13. Certain Relationships And Related Transactions

Not applicable.

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PART IV

Item 14. Exhibits, Financial Statement Schedules And Reports On Form 8-K

(a) Financial Statements

The following are incorporated by reference in Part II of this report:

Report of Independent Certified Public Accountants Consolidated Balance Sheets as of September 26, 1998 and September 27, 1997  
Consolidated Statements of Earnings for the fiscal years ended September 26, 1998, September 27, 1997 and September 28, 1996  
Consolidated Statement of Stockholders' Equity for the three fiscal years ended September 26, 1998  
Consolidated Statements of Cash Flows for the fiscal years ended September 26, 1998, September 27, 1997 and September 28, 1996  
Notes to Consolidated Financial Statements

Financial Statement Schedule

The following are included in Part IV of this report:

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Report of Independent Certified Public Accountants on Schedule Schedule:	18
II. Valuation and Qualifying Accounts	19

All other schedules are omitted either because they are not applicable or because the information required is contained in the financial statements or notes thereto.

Exhibits

- 3.1 Amended and Restated Certificate of Incorporation filed February 28, 1990. (Incorporated by reference from the Company's Form 10-Q dated May 4, 1990.)

- 3.2 Amended and Restated Bylaws adopted May 15, 1990. (Incorporated by reference from the Company's Form 10-Q dated August 3, 1990.)
- 4.1 New Jersey Economic Development Authority Economic Development Revenue Bonds Trust Indenture dated as of December 1, 1991. (Incorporated by reference from the Company's 10-K dated December 18, 1992.)
- 4.2 Credit Agreement dated as of December 5, 1997 by and among J & J Snack Foods Corp. and Certain of its Subsidiaries, as borrowers, Mellon Bank, N.A. and Corestates Bank, N.A., as lenders, and Mellon Bank, N.A. as Administrative Agent (Page 20).
- 10.1 Proprietary Exclusive Manufacturing Agreement dated

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July 17, 1984 between J & J Snack Foods Corp. and Wisco Industries, Inc. (Incorporated by reference from the Company's Form S-1 dated February 4, 1986, file no. 33-2296.)

- 10.2\* J & J Snack Foods Corp. Stock Option Plan. (Incorporated by reference from the Company's Form S-8 dated July 24, 1992, file no. 33-50036.)
- 10.3\* J & J Snack Foods Corp. 401(K) Profit Sharing Plan, As Amended, Effective January 1, 1989. Incorporated by reference from the Company's 10-K dated December 18, 1992.)
- 10.4\* First, Second and Third Amendments to the J & J Snack Foods Corp. 401(k) Profit Sharing Plan. (Incorporated by reference from the Company's 10-K dated December 19, 1996).
- 10.6 Lease dated September 24, 1991 between J & J Snack Foods Corp. of New Jersey and A & H Bloom Construction Co. for the 101,200 square foot building next to the Company's manufacturing facility in Pennsauken, New Jersey. (Incorporated by reference from the Company's Form 10-K dated December 17, 1991).
- 10.7 Lease dated August 29, 1995 between J & J Snack Foods Corp. and 5353 Downey Associates Ltd for the lease of the Vernon, CA facility. (Incorporated by reference from the Company's Form 10-K dated December 21, 1995).
- 10.8\* J & J Snack Foods Corp. Employee Stock Purchase Plan (Incorporated by reference from the Company's Form S-8 dated May 16, 1996).
- 13.1 Company's 1998 Annual Report to Shareholders (except for the captions and information thereof expressly incorporated by reference in this Form 10-K, the Annual Report to Shareholders is provided solely for the information of the Securities and Exchange Commission and is not deemed "filed" as part of the Form 10-K.) (Page 115.)
- 22.1 Subsidiaries of J & J Snack Foods Corp. (Page 148.)
- 24.1 Consent of Independent Certified Public Accountants. (Page 149.)

\*Compensatory Plan

(b)Reports on Form 8-K

No reports on Form 8-K have been filed by the Company during the last quarter of the period covered by this report.

## SIGNATURES

Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, the Registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized.

J & J SNACK FOODS CORP.

December 21, 1998

By /s/ Gerald B. Shreiber  
Gerald B. Shreiber,  
Chairman of the Board,  
President, Chief Executive  
Officer and Director

Pursuant to the requirements of the Securities Exchange Act of 1934, this report has been signed below by the following persons on behalf of the Registrant and in the capacities and on the dates indicated.

December 21, 1998

/s/ Robert M. Radano  
Robert M. Radano, Senior Vice  
President, Sales, Chief Operating  
Officer and Director

December 21, 1998

/s/ Dennis G. Moore  
Dennis G. Moore, Senior Vice  
President, Chief Financial  
Officer and Director

December 21, 1998

/s/ Stephen N. Frankel  
Stephen N. Frankel, Director

December 21, 1998

/s/ Peter G. Stanley  
Peter G. Stanley, Director

December 21, 1998

/s/ Leonard M. Lodish  
Leonard M. Lodish, Director

REPORT OF INDEPENDENT CERTIFIED PUBLIC  
ACCOUNTANTS ON SCHEDULE

Board of Directors  
J & J Snack Foods Corp.

In connection with our audit of the consolidated financial statements of J & J Snack Foods Corp. and Subsidiaries referred to in our report dated November 3, 1998 which is included in the

Annual Report to Shareholders and incorporated by reference in Part II of this form, we have also audited Schedule II for each of the three years in the period ended September 26, 1998. In our opinion, this schedule presents fairly, in all material respects, the information required to be set forth therein.

GRANT THORNTON LLP

Philadelphia, Pennsylvania  
November 3, 1998

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SCHEDULE II - VALUATION AND QUALIFYING ACCOUNTS

Year	Description	Opening balance	Charged to expense	Deductions	Closing balance
1998	Allowance for doubtful accounts	\$392,000	\$250,000	\$ 45,000(1)	\$597,000
1997	Allowance for doubtful accounts	257,000	252,000	117,000(1)	392,000
1996	Allowance for doubtful accounts	271,000	64,000	78,000(1)	257,000

(1) Write-off uncollectible accounts receivable.





EXHIBIT 4.2 Credit Agreement dated as of December 5, 1997 by and among J & J Snack Foods Corp. and Certain of its Subsidiaries, as borrowers, Mellon Bank, N.A. and Corestates Bank, N.A., as lenders, and Mellon Bank, N.A. as Administrative Agent

CREDIT AGREEMENT  
dated as of December 5, 1997  
by and among

J & J SNACK FOODS CORP. and  
CERTAIN OF ITS SUBSIDIARIES, AS BORROWERS,  
MELLON BANK, N.A. and CORESTATES BANK, N.A., AS LENDERS,  
and MELLON BANK, N.A., AS ADMINISTRATIVE AGENT

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Exhibits

A-1	RC Note	DBR to Provide
A-2	Term Note	DBR to Provide
B	Borrowing Notice	DBR to Provide
C	Prepayment Notice	DBR to Provide
D	LIBO Rate Selection Notice	DBR to Provide
E	Officer's Certificate	DBR to Provide
F	Assignment and Acceptance	DBR to Provide
G	Joinder Supplement	DBR to Provide

Schedules		
1.1	Lender's Commitments	Banks to Provide
4.1(a)	Jurisdictions	BRCM to Provide
4.1(n)	Property Owned or Leased	BRCM to Provide
4.1(p)	ERISA Matters	BRCM to Provide
5.10	Joining Subsidiaries as Borrower	DBR to Provide
7.1	Remaining Indebtedness	BRCM to Provide
7.2	Permitted Liens	BRCM to Provide
7.4	Acquisitions Conditions	DBR to Provide
7.5	Anticipated Transfer	BRCM to Provide

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#### CREDIT AGREEMENT

THIS CREDIT AGREEMENT, dated as of December 5, 1997, by and among J & J SNACK FOODS CORP., a New Jersey corporation (together with its successors, "J & J"), the Subsidiaries of J & J referred to on the signature pages hereto and such other Subsidiaries of J & J which may from time to time become Borrowers hereunder in accordance with the provisions hereof (collectively with J & J, the "Borrowers"), MELLON BANK, N.A., a national banking association (together with its successors and assigns, "Mellon") and CORESTATES BANK, N.A., a national banking association (together with its successors and assigns "CoreStates"; and CoreStates and Mellon, together with other lender parties hereto from time to time pursuant to Section 12.9 below and their successors and assigns, the "Lenders"), MELLON BANK, N.A., a national banking association, as Administrative Agent for itself and for the Lenders hereunder (in such capacity, together with its successors and assigns in such capacity, the "Administrative Agent"). Certain terms used herein are defined in Article 11 below.

#### W I T N E S S E T H T H A T

WHEREAS, J & J, ICEE USA CORP., a Delaware corporation, a Subsidiary of J & J and a Borrower hereunder ("IUC"), and COCA-COLA FINANCIAL CORPORATION, a Delaware corporation ("CCFC") entered into an Assignment and Sale Agreement dated October 20, 1997 (the "Assignment") whereby CCFC will sell to IUC and IUC will purchase from CCFC a Zero Coupon Convertible Subordinated Note (the "NIC Note") due December 23, 1999, in the principal amount of \$1,609,359.00 issued by National ICEE Corporation ("NIC") together with related rights as set forth in the Assignment; and

WHEREAS, J & J and IUC intend to exercise certain rights acquired under the Assignment in order to acquire all of

the outstanding capital stock of NIC; and

WHEREAS, J & J has requested that the Lenders extend the Loans to the Borrowers for the purposes described herein; and

WHEREAS, the Lenders have agreed to extend the Loans to the Borrowers on the terms and conditions described herein.

NOW, THEREFORE, in consideration of the premises and of the mutual covenants herein contained and intending to be legally bound hereby, the parties hereto hereby agree as follows.

## ARTICLE 1

### CREDIT FACILITY

#### 1.1 COMMITMENT TO LEND.

(a) Term Loan. Upon the terms and subject to the conditions of this Agreement, each Lender agrees to make, on the Closing Date, a Loan (a "Term Loan") to the Borrowers in the amount of such Lender's Term Loan Commitment. The total amount of the Term Loan Commitment of all Lenders on the Agreement Date is \$40,000,000.00.

(b) Revolving Credit Loans. Upon the terms and subject to the conditions of this Agreement, each Lender agrees to make, from time to time during the period from and including the Closing Date to but excluding the RC Maturity Date, one or more Loans ("RC Loans") to the Borrowers in an aggregate unpaid principal amount not exceeding at any time such Lender's RC Commitment at such time; provided, however, that the Borrowers shall not request, and the Lenders shall have no obligation to make, any RC Loans at any time in excess of the Available RC Commitment. The total amount of the RC Commitment of all Lenders on the Agreement Date is \$30,000,000.00.

#### 1.2 JOINT AND SEVERAL OBLIGATIONS.

WHETHER OR NOT EXPRESSLY STATED HEREIN OR IN ANY OTHER LOAN DOCUMENT, ALL OBLIGATIONS OF THE BORROWERS (OR OF ANY BORROWER) HEREUNDER AND UNDER EACH OTHER LOAN DOCUMENT (WHETHER IN CONNECTION WITH LOANS OR OTHER OBLIGATIONS) ARE JOINT AND SEVERAL OBLIGATIONS OF ALL BORROWERS.

#### 1.3 MANNER OF BORROWING.

(a) Notice of Borrowing. J & J (on behalf of the Borrowers) shall give the Administrative Agent notice (which shall be irrevocable), in the case of Prime Rate Loans, no later than 12:00 p.m. (Philadelphia, Pennsylvania time) on the Business Day for the making of such Loans and, in the case of LIBO Rate Loans, 12:00 p.m. (Philadelphia, Pennsylvania, time) three Business Days before the requested date for the making of such Loans. Each such notice shall be in the form of Exhibit B hereto and shall specify (i) whether the requested Loans are to be Term Loans or RC Loans, (ii) the requested date for the making of such Loans which date shall be a Business Day, (iii) the Type or Types of Loans requested and (iv) the amount of each such Type of Loan, which amount shall be \$1,000,000.00 or any integral multiple of \$500,000.00 in excess thereof (except that in the case of RC Loans, the amount of the requested Loan may be less if the amount requested is equal to the total Available RC Commitment). Upon receipt of any such notice, the Administrative Agent shall

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promptly notify each applicable Lender of the contents thereof and of the amount and Type of each Loan to be made by such Lender on the requested date specified therein.

(b) Funding by Lenders. Not later than 3:00 p.m. (Philadelphia, Pennsylvania time) on each requested date for the

making of Loans, each Lender shall make available to the Administrative Agent, in Dollars and in funds immediately available to the Administrative Agent at the office designated by the Administrative Agent, the Loans to be made by such Lender on such date, provided however that if a Lender does not receive timely notice from the Administrative Agent as set forth in paragraph (a) above, such Lender shall fund the required amount promptly upon receipt of such notice. The obligations of the Lenders hereunder are several; accordingly, any Lender's failure to make any Loan to be made by it on the requested date therefor shall not relieve any other Lender of its obligation to make any Loan to be made by it on such date, but the latter shall not be liable for the former's failure.

(c) Permitted Assumption as to Funding. Unless the Administrative Agent shall have received notice from a Lender prior to 12:00 p.m. (Philadelphia, Pennsylvania time) on the requested date for the making of any Loan that such Lender will not make available to the Administrative Agent the Loan requested to be made by it on such date, the Administrative Agent may assume that such Lender has made such Loan available. The Administrative Agent in its sole discretion and in reliance upon such assumption, may make available to the Borrowers on the requested date a corresponding amount on behalf of such Lender. If and to the extent such Lender shall not have made available to the Administrative Agent the Loans requested to be made by such Lender on such date and the Administrative Agent shall have so made available to the Borrowers a corresponding amount on behalf of such Lender, (i) such Lender shall, on demand, pay to the Administrative Agent such corresponding amount together with interest thereon, for each day from the date such amount shall have been so made available by the Administrative Agent to the Borrowers until the date such amount shall have been paid in full to the Administrative Agent, at the Federal Funds Rate until (and including) the third Business Day after demand is made and thereafter at the Prime Rate, and (ii) the Administrative Agent shall be entitled to all interest payable by Borrowers on such amount for the period commencing on the date such amount was advanced by the Administrative Agent to but not including the date on which such amount is received by the Administrative Agent from such Lender. Moreover, any Lender that shall have failed to make available the required amount shall not be entitled to vote on such matters as Lenders or Required Lenders are otherwise entitled to vote on or consent to or approve under this Agreement and the other Loan Documents until such amount with interest is paid in full to the Administrative Agent by such Lender. Without limiting any obligations of any Lender pursuant to this paragraph (c), if such Lender does not pay such corresponding amount

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promptly upon the Administrative Agent's demand therefor, the Administrative Agent shall notify J & J (on behalf of the Borrowers) and the Borrowers shall promptly repay such corresponding amount to the Administrative Agent together with accrued interest thereon at the applicable rate or rates on such Loans.

(d) Disbursements of Funds to Borrowers. All amounts made available to the Administrative Agent in accordance with paragraph (b) above shall be disbursed by the Administrative Agent promptly but in any event not later than 4:00 p.m. (Philadelphia, Pennsylvania time) on the requested date therefor in Dollars, in funds immediately available to the Borrowers by crediting such amount to an account of J & J at the Administrative Agent's Domestic Lending Office or in such other manner as may be agreed to by J & J and the Administrative Agent.

#### 1.4 SCHEDULED REPAYMENTS.

(a) Term Loans. The Term Loans shall mature and become due and payable and shall be repaid by the Borrowers in monthly installments, payable on successive Monthly Payment Dates commencing on January 30, 1998, and ending on the Term Loan

Maturity Date (whether or not such date would otherwise be a Monthly Payment Date). Each such installment shall be in an amount equal to \$666,666.67, provided that the final installment shall be in an amount equal to the aggregate amount of the Term Loans then outstanding.

(b) RC Loans. The aggregate outstanding principal amount of the RC Loans shall mature and become due and payable, and shall be repaid by the Borrowers, on the RC Maturity Date.

#### 1.5 VOLUNTARY PREPAYMENTS.

(a) Optional Prepayments. The Borrowers may, at any time and from time to time, prepay the Loans in whole or in part, without premium or penalty (but with any payment required under Section 2.4 (Breakage)), except that any optional partial prepayment (other than a prepayment of all outstanding RC Loans) shall be in an aggregate principal amount of \$500,000.00 or any integral multiple of \$250,000.00 in excess thereof. Amounts to be so prepaid shall irrevocably be due and payable on the date specified in the applicable notice of prepayment delivered pursuant to paragraph (b) of this Section 1.5 together with interest thereon as provided in Section 1.8 (Interest) and together with any payment required under Section 2.4 (Breakage).

(b) Application and Timing of Prepayments.

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(i) Notice. The Borrowers shall give the Administrative Agent notice of each prepayment of Loans, which notice, in the case of a prepayment of Prime Rate Loans, shall be given no later than 1:00 p.m. (Philadelphia, Pennsylvania time) one (1) Business Day before and, in the case of a prepayment of LIBO Rate Loans, no later than 12:00 P.M. (Philadelphia, Pennsylvania, time) three (3) Business Days before, the date of such prepayment. Each such notice of prepayment shall be in the form of Exhibit C hereto and shall specify (i) the date such prepayment is to be made and (ii) whether the Loans to be prepaid are Term Loans or RC Loans, and (iii) the amount and Type and, in the case of any LIBO Rate Loan, the last day of the applicable Interest Period for the Loan to be prepaid. Upon receipt of any such notice, the Administrative Agent shall promptly notify each applicable Lender of the contents thereof.

(ii) Timing and Application of Voluntary Prepayments. Any voluntary prepayments pursuant to paragraph (a) of this Section 1.5 shall be applied in the following order unless otherwise directed by the Borrowers:

(A) First, prepayments shall be applied against any amounts due and payable in respect of the Loan Obligations.

(B) Second, prepayments shall be applied against the RC Loans but with no corresponding reduction in the amount of the RC Commitment unless otherwise specified by J & J (on behalf of the Borrowers).

(C) Third, prepayments shall be applied against the Term Loans, applied to each of the respective remaining installments thereof in inverse order of their maturity.

Any excess shall be applied to any other amounts owing in respect of the Loan Obligations and, if all such Loan Obligations have been then paid in full, then any excess amount shall be returned to J & J (on behalf of the Borrowers) or as otherwise required by applicable Law.

(c) Certain Provisions Respecting Prepayments Generally. Prepayments shall be subject to the interest payment provisions, as applicable, set forth in Section 1.8 and the

breakage indemnity provisions, as applicable, set forth in Section 2.4 below.

#### 1.6 PAYMENTS BY THE BORROWERS IN GENERAL.

(a) Time, Place and Manner. All payments due to the Administrative Agent under the Loan Documents shall be made to the Administrative Agent at the office designated by the

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Administrative Agent on the signature pages hereto or to such other Person or at such other address as the Administrative Agent may designate by written notice to J & J on behalf of the Borrowers. All payments due to any Lender under the Loan Documents, whether made to the Administrative Agent or directly to a Lender, shall be made for the account of, in the case of payments in respect of LIBO Rate Loans, such Lender's Eurodollar Lending Office and, in the case of all other payments, such Lender's Domestic Lending Office. Except as otherwise set forth in this Agreement, a payment shall not be deemed to have been made on any day unless such payment has been received by the required Person, at the required place of payment, in Dollars in funds immediately available to such Person, no later than 1:00 p.m. (Philadelphia, Pennsylvania time) on such day; provided, however, that the failure of the Borrowers to make any such payment by such time shall not constitute a Default hereunder so long as such payment is received no later than 3:00 p.m. (Philadelphia, Pennsylvania time) on such day, but any such payment received later than 1:00 p.m. (Philadelphia, Pennsylvania time) on such day shall be deemed to have been made on the next Business Day for the purpose of calculating interest on the amount paid, provided further, that any such payment made with the proceeds of Loans shall be deemed to have been made on the date of the making of such Loans, so long as such proceeds are immediately so applied and are not otherwise disbursed to the Borrowers.

(b) No Reductions. All payments due to the Administrative Agent or any Lender under this Agreement and the other Loan Documents, shall be made by the Borrowers without any reduction or deduction whatsoever, including any reduction or deduction for any charge, set-off, holdback, recoupment or counterclaim (whether sounding in tort, contract or otherwise).

(c) Authorization to Charge Accounts. The Borrowers hereby authorize each Lender Party, each participant and each Affiliate of each Lender Party if and to the extent any amount payable by the Borrowers under the Loan Documents (whether payable to such Person or to any other Lender Party) is not otherwise paid when due, to charge such amount against any or all of the demand deposit or other accounts of any Borrower with such Person (whether maintained at a branch or office located within or without the United States), with the Borrowers remaining jointly and severally liable for any deficiency. The Person so charging any such account shall give the relevant Borrower prompt notice thereof, but any failure to give or delay in giving such notice shall not affect such Person's right to effect such charge. Such charging of accounts shall be subject to the provisions of Section 12.18 hereof.

(d) Extension of Payment Dates if Not a Business Day. Whenever any payment to the Administrative Agent or any Lender under the Loan Documents would otherwise be due (except by reason of acceleration) on a day that is not a Business Day, such

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payments shall instead be due on the next succeeding Business Day

unless, in the case of a payment of the principal of LIBO Rate Loans, such extension would cause payment to be due in the next succeeding calendar month, in which case such due date shall be advanced to the next preceding Eurodollar Business Day. If the due date for any payment under the Loan Documents is extended (whether by operation of any Loan Document, applicable Law or otherwise), such payment shall bear interest for such extended time at the rate of interest applicable hereunder.

(e) Disbursement of Payments to Lenders. The Administrative Agent shall promptly distribute to each applicable Lender Party its ratable share of each payment received by the Administrative Agent under the Loan Documents for the account of such Lender Party by crediting an account of such Lender Party at the Administrative Agent's office or by wire transfer to an account of such Lender Party at an office of any other commercial bank located in the United States or at any Federal Reserve Bank designated by such Person. Unless the Administrative Agent shall have received notice from J & J (on behalf of the Borrowers) prior to the date on which any payment is due to any Lender Parties under the Loan Documents that the Borrowers will not make such payment in full, the Administrative Agent may assume that the Borrowers have made such payment in full to the Administrative Agent on such date and the Administrative Agent, in its sole discretion may, in reliance upon such assumption, cause to be distributed to each applicable Lender Party on such due date, a corresponding amount with respect to the amount then due to such Person. If and to the extent that the Borrowers shall not have so made such payment in full to the Administrative Agent, and the Administrative Agent shall have so distributed to such Lender or Lenders a corresponding amount, such Lender Parties shall, on demand, repay to the Administrative Agent the amount so distributed together with interest thereon, for each day from the date such amount is distributed to such Lender Party until the date the such Person repays such amount to the Administrative Agent, at the Federal Funds Rate until (and including) the third Business Day after demand is made and thereafter at the Prime Rate. Moreover, any Lender Party that shall have failed to make available the required amount shall not be entitled to vote on such matters as Lenders or Required Lenders are otherwise entitled to vote on or consent to or approve under this Agreement and the other Loan Documents until such amount with interest is paid in full to the Administrative Agent by such Lender. Nothing in this Section 1.6 shall relieve the Borrowers from any payment obligations.

(f) Breakage Costs on LIBO Rate Loans. Any repayment or prepayment of a LIBO Rate Loan made on a day other than the last day of the applicable Interest Period therefor shall be subject to payments in respect of breakage costs as required to be paid in respect thereof pursuant to Section 2.4 below.

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#### 1.7 REDUCTIONS OF RC COMMITMENT.

(a) Optional Reductions. The Borrowers may reduce the RC Commitment by giving the Administrative Agent notice (which shall be irrevocable) thereof no later than 11:00 a.m. (Philadelphia, Pennsylvania, time) on the third Business Day before the requested date of such reduction, provided, that each partial reduction thereof shall be in an amount equal to \$5,000,000.00 or any integral multiple of \$1,000,000.00 in excess thereof and, provided, further, that no reduction shall reduce the RC Commitment to an amount less than the aggregate of the principal amount of all RC Loans outstanding on such date (after giving effect to any repayment or prepayment of RC Loans made on or prior to such date). Upon receipt of any such notice, the Administrative Agent shall promptly notify each Lender of the contents thereof and the amount (based on a pro rata reduction to each Lender's RC Commitment) to which such Lender's RC Commitment is to be reduced.



(b) No Reinstatement of RC Commitment. All reductions of the RC Commitment are permanent and the RC Commitment cannot be restored without the written consent of all Lenders.

## 1.8 INTEREST.

(a) Interest Rates in General. Subject to the terms and conditions of this Agreement, each Loan, at the option of the Borrowers, shall bear interest on the outstanding principal amount thereof until paid in full at a rate per annum equal to (i) the Prime Rate as in effect from time to time or (ii) the applicable LIBO Rate for a specified Interest Period plus in the case of clause (ii) the Applicable Margin.

(b) Election of LIBO Rate. Unless otherwise designated by the Borrowers as a LIBO Rate Loan in accordance with this paragraph (b), each Loan shall be deemed to be a Prime Rate Loan as more fully set forth below.

(i) Prime Rate Unless Otherwise Designated. Prime Rate Loans shall continue as Prime Rate Loans unless and until such Loans are converted into Loans of another Type. LIBO Rate Loans for any Interest Period shall continue as Loans of such Type until the end of the then current Interest Period therefor, at which time they shall be automatically converted into Prime Rate Loans unless J & J (on behalf of the Borrowers) shall have given the Administrative Agent notice in accordance with clause (ii) below requesting that such Loans continue as LIBO Rate Loans for another Interest Period of a specified duration.

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(ii) Election of LIBO Rate. To elect a LIBO Rate, J & J (on behalf of the Borrowers) shall give the Administrative Agent notice (which shall be irrevocable) no later than 12:00 p.m. (Philadelphia, Pennsylvania, time) three (3) Eurodollar Business Days before the requested date of the funding, conversion or continuation which date shall be a Eurodollar Business Day. Each such notice shall be in the form of Exhibit D hereto and shall specify (A) the requested date of such funding, conversion or continuation, (B) whether the subject Loan is a new advance or an existing Loan that is to be converted or continued, (C) in the case of any LIBO Rate Loan being continued, the last day of the current Interest Period, (D) whether such Loan is to be a Term Loan, or an RC Loan and (E) the amount of, and the desired Interest Period for, the Loan subject to such LIBO Rate election, provided that the Borrowers shall not be entitled to select an Interest Period for any Loan which shall end on a date later than the Maturity Date applicable to such Loan. Upon receipt of any such notice, the Administrative Agent shall promptly notify each applicable Lender of the contents thereof.

(iii) LIBO Rate Suspended During Event of Default. Notwithstanding anything to the contrary contained in clauses (i) or (ii) of this paragraph (b), so long as an Event of Default shall have occurred and be continuing, the Administrative Agent may (and, at the request of the Required Lenders, shall) notify J & J (on behalf of the Borrowers) that Loans may only be converted into or continued upon the expiration of the applicable current Interest Period therefor as Prime Rate Loans or Loans of such specified Types as shall be acceptable to the Required Lenders. Thereafter, until no Event of Default shall continue to exist, Loans may not be converted into or continued as Loans of any Type other than Prime Rate Loans or one or more of such specified Types.

(iv) Limitation on Types of Loans. Notwithstanding anything to the contrary contained in this Agreement, the Borrowers shall borrow, prepay, convert and continue Loans in a manner such that (A) unless otherwise agreed

to by the Administrative Agent, the aggregate principal amount of LIBO Rate Loans of the same Type shall, at all times, be not less than \$1,000,000.00 and (B) there shall be, at any one time, no more than the number of Interest Periods specified below in effect for each Loan:

?????	Maximum No. of Interest Periods	Loan
	five (5)	RC Loans
	three (3)	Term Loan

(v) Flexibility as to Source. Each Lender may fund LIBO Rate Loans from any source that such Lender deems

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(in its sole discretion) appropriate without loss of any rights hereunder.

(c) Interest Payment Dates. Interest shall be payable, (i) in the case of Prime Rate Loans, monthly in arrears on each Monthly Payment Date, (ii) in the case of LIBO Rate Loans, on the last day of each applicable Interest Period (and, in the case of any LIBO Rate Loan having an Interest Period longer than three months, on each three month anniversary of the first day of such Interest Period) and (iii) in the case of any Loan, when such Loan shall be due (whether at maturity, upon mandatory prepayment, by reason of notice of prepayment or acceleration or otherwise) or converted, but only to the extent then accrued on the amount then so due or converted.

(d) Default Rate. At any time that an Event of Default shall have occurred and shall be continuing, any amount payable hereunder and under each other Loan Document shall bear interest (whether before or after judgment), payable on demand, at a rate per annum equal to the applicable Default Rate.

#### 1.9 FEES.

(a) Commitment Fees. The Borrowers shall pay to the Administrative Agent, for the account of each Lender, a commitment fee calculated at a rate per annum equal to 0.25% on the daily unused amount of such Lender's RC Commitment for each day from and including the Closing Date to but excluding the RC Maturity Date. The commitment fee shall be payable in arrears (i) on successive Quarterly Payment Dates beginning with the first Quarterly Payment Date after the Closing Date, (ii) on the date of any reduction of the RC Commitment (to the extent accrued and unpaid on the amount of such reduction) and (iii) on the RC Maturity Date.

(b) Other Fees. The Borrowers shall pay to the Administrative Agent for the sole account of the Administrative Agent, an annual Administrative Agent's fee as have been or may be agreed to in writing by the Borrowers or any of them and the Administrative Agent in connection with this Agreement and the transactions contemplated by this Agreement.

1.10 COMPUTATION OF INTEREST AND FEES. Interest and commitment fees shall be computed on the basis of a year of 360 days and paid for the actual number of days elapsed. Interest and commitment fees for any period shall be calculated from and including the first day thereof to but excluding the last day thereof.

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1.11 PROMISSORY NOTES; RECORDS OF ACCOUNT. Each Lender's Loans and the Borrowers' joint and several obligations to repay such Loans with interest in accordance with the terms of this Agreement shall be evidenced by this Agreement, the Register and other records of the Administrative Agent and such Lender and, in the case of Term Loans, a single Term Note payable to the order of such Lender, and in the case of RC Loans, a single RC Note payable to the order of such Lender. The records of each Lender shall be prima facie evidence of such Lender's Loans and, in each case, of accrued interest thereon and all payments made in respect thereto. In the event that there is any dispute concerning the amount of any such obligations, the amount of each Lender's Commitment with respect to RC Loans and Term Loans and the amount of outstanding Loan Obligations of each and every Type shall at all times be ascertained from the records of the Administrative Agent, including the Register, all of which shall be conclusive absent manifest error.

1.12 PRO RATA TREATMENT. Except to the extent otherwise provided herein, (a) Term Loans shall be made by, and principal, interest and fees in respect thereof shall be paid or repaid to, the Lenders pro rata in accordance with their respective Commitments and interest in Term Loans; and (b) RC Loans shall be made by, and principal, interest and fees in respect thereof shall be paid or repaid to, the Lenders pro rata in accordance with their respective RC Commitments and interest in RC Loans.

#### 1.13 TAXES ON PAYMENTS.

(a) Taxes Payable by the Borrowers. If any Tax is required to be withheld or deducted from, or is otherwise payable by the Borrowers in connection with, any payment due to the Administrative Agent or any Lender that is not a "United States Person" (as such term is defined in Section 7701(a)(30) of the Code), the Borrowers (i) shall, if required, withhold or deduct the amount of such Tax from such payment and, in any case, pay such Tax to the appropriate taxing authority in accordance with applicable Law and (ii) except in the case of any Bank Tax, shall pay to such Lender or the Administrative Agent such additional amounts as may be necessary so that the net amount received by such Person with respect to such payment, after withholding or deducting all Taxes required to be withheld or deducted, is equal to the full amount payable hereunder. If any Tax is withheld or deducted from, or is otherwise payable by the Borrowers in connection with, any payment due to any Lender or the Administrative Agent hereunder, the Borrowers shall furnish to such Person the original or a certified copy of a receipt (if any) for such Tax from the applicable taxing authority or other evidence of payment thereof satisfactory to such Person within 30 days after the date of such payment (or, if such receipt shall

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not have been made available by such taxing authority within such time, the Borrowers shall use reasonable efforts to promptly obtain and furnish such receipt). If the Borrowers fail to pay any such Taxes when due to the appropriate taxing authority or fail to remit to any Lender or the Administrative Agent the required receipts or other evidence of payment thereof satisfactory to such Person, the Borrowers shall indemnify such Person for any Taxes, interest, penalties or additions to Tax that may become payable by such Person as a result of any such failure.

(b) Taxes Payable by any Lender or the Administrative Agent. The Borrowers shall, promptly upon request by any Lender or the Administrative Agent that is not a United States Person, pay to such Person an amount equal to (i) all Taxes (other than

Bank Taxes and without duplication of amounts paid pursuant to the preceding paragraph (a)) payable by such Person with respect to any payment due to such Person hereunder and (ii) all Taxes (other than Bank Taxes) payable by such Person as a result of payments made by the Borrowers (whether made to a taxing authority or to such Person pursuant to the preceding paragraph (a) or this paragraph (b)).

(c) Credits and Deductions. If any Lender or the Administrative Agent is, in its sole opinion, able to apply for any refund, offset, credit, deduction or other reduction in Taxes by reason of any payment made by the Borrowers under the preceding paragraphs (a) or (b), such Lender or the Administrative Agent, as the case may be, shall use reasonable efforts to obtain such refund, offset, credit, deduction or other reduction and, upon receipt thereof, will pay to the Borrowers such amount, not exceeding the increased amount paid by the Borrowers, as is equal to the net after-tax value to such Lender or the Administrative Agent, in its sole opinion, of such part of such refund, offset, credit, deduction or other reduction as it considers to be allocable to such payment by the Borrowers, having regard to all of such Person's dealings giving rise to similar refunds, offsets, credits, deductions or other reductions in relation to the same tax period and to the cost of obtaining the same; provided, however, that if such Person has made a payment to the Borrowers pursuant to this paragraph (c) and the applicable refund, offset, credit, deduction or other reduction in Tax is subsequently disallowed, the Borrowers shall, promptly upon request by the Administrative Agent or such Lender refund to such Person that portion of such payment determined by such Person, in its sole opinion, relating to such disallowance; and provided, further that (i) the Administrative Agent or such Lender, as the case may be, shall not be obligated to disclose to the Borrowers any information regarding its Tax affairs or computations and (ii) nothing in this paragraph (c) shall interfere with the right of such Person to arrange its Tax affairs as it deems appropriate.

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(d) Exemption from U.S. Withholding Taxes. Each Lender that is not a United States Person shall submit to the Borrowers and the Administrative Agent, on or before the fifth day prior to the first Monthly Payment Date occurring after the Closing Date (or, in the case of a Person that is not a United States Person and that became a Lender by assignment, promptly upon such assignment), two duly completed and signed copies of either (A) Form 1001 of the United States Internal Revenue Service entitling such Lender to a complete exemption from withholding on all amounts to be received by such Lender pursuant to this Agreement and the Loans, (B) Form 4224 of the United States Internal Revenue Service relating to all amounts to be received by such Lender pursuant to this Agreement and the Loans or (C) in the case of a Lender Party that is claiming an exemption from United States withholding tax under Section 871(h) or 881(c) of the Internal Revenue Code with respect to payments of "portfolio interest" two accurate and complete signed original Forms W-8 (or any successor form prescribed by the Internal Revenue Service, certifying that such Lender Party is exempt from or is entitled to a reduced rate of United States withholding tax on payments under this Agreement or the Notes) and, if such Lender Party delivers such Forms W-8 (or successor form), two signed certificates that such Lender Party is not (1) a "bank" for purposes of Section 881(c) of the Internal Revenue Code, (2) is not a 10% shareholder (within the meaning of Section 871(h)(3)(B) of the Internal Revenue Code) of any Borrower and (3) is not a controlled foreign corporation related to any Borrower (within the meaning of Section 864(d)(4) of the Internal Revenue Code), as appropriate, Each such Lender shall, from time to time after submitting either such form, submit to the Borrowers and the Administrative Agent such additional duly completed and signed copies of one or the other such forms (or any successor forms as shall be adopted from time to time by the relevant United States taxing authorities) as may be (A)

requested in writing by the Borrowers or the Administrative Agent and (B) appropriate under the circumstances and under then current United States law or regulations to avoid or reduce United States withholding taxes on payments in respect of all amounts to be received by such Lender pursuant to this Agreement or the Loans. Upon the request of the Borrowers or the Administrative Agent, each Lender that is a United States Person shall submit to the Borrowers and the Administrative Agent a certificate to the effect that it is a United States Person.

(e) Obligations under this Section 1.13 shall survive payment of the Loans.

#### 1.14 REGISTERED NOTES AND LOANS.

(a) Request for Registration. Any Lender may request the Borrowers (through the Administrative Agent), and the Borrowers agree thereupon, to register such Loans as provided in Section 1.14(c) and to issue such Lender's Note(s), evidencing

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such Loans, or to exchange such Note(s) for new Note(s), registered as provided in Section 1.14(c) (each, a "Registered Note"). A Registered Note may not be exchanged for a Note that is not in registered form. A Registered Note shall be deemed to be and shall be a Note for all purposes of this Agreement and the other Loan Documents.

(b) Delivery of Tax Forms. Each Non-U.S. Lender that requests or holds a Registered Note pursuant to Section 1.14(a) or registers its Loans pursuant to Section 1.14(a) (a "Registered Lender") (or, if such Registered Lender is not the beneficial owner thereof, such beneficial owner) shall deliver to J & J (on behalf of the Borrowers) (with a copy to the Administrative Agent) prior to or at the time such Non-U.S. Lender becomes a Registered Lender, the applicable form described in Section 1.13(d) (or such successor and related forms as may from time to time be adopted by the relevant taxing authorities of the United States) together with an annual certificate stating that such Registered Lender or beneficial owner, as the case may be, is not a "bank" within the meaning of Section 881(c)(3)(A) of the Code and is not otherwise described in Section 881(c)(3) of the Code. Each Registered Lender or beneficial owner, as the case may be, shall promptly notify J & J (on behalf of the Borrowers) (with a copy to the Administrative Agent) if at any time such Registered Lender or beneficial owner, as the case may be, determines that it is no longer in a position to provide such previously delivered certificate to the Borrowers (or any other form of certification adopted by the relevant taxing authorities of the United States for such purposes).

(c) Registration of Loans. The Administrative Agent, acting, for this purpose, as agent of the Borrowers, shall, upon request of any Registered Lender, enter in the Register the name, address and taxpayer identification number (if provided) of the Registered Lender or beneficial owner, as the case may be. In addition to the requirements of Section 12.9 (Successors and Assigns), a Registered Note and the Loans evidenced thereby (or such Loans pending delivery of such Registered Note) or any other Loans registered pursuant to Section 1.14(a) above may be assigned or otherwise transferred in whole or in part only by registration of such assignment or transfer of such Registered Note and/or the Loans so registered on the Register (and each such Registered Note shall expressly so provide). Any assignment or transfer of all or part of such Loans and such Registered Note shall be registered on the Register only upon compliance with the provisions of Section 12.9 and, in the case of Registered Notes, surrender for registration of assignment or transfer of the Registered Note evidencing such Loans, duly endorsed by (or accompanied by a written instrument of assignment or transfer fully executed by) the Registered Lender thereof, and thereupon one or more new Registered Notes in the same aggregate principal amount shall be issued to the designated assignee(s) or transferee(s) and, if less than all of such Registered Notes is

thereby being assigned or transferred, the assignor or transferor.

## ARTICLE 2

### YIELD PROTECTION AND BREAKAGE INDEMNITY

2.1 MANDATORY SUSPENSION AND CONVERSION OF LIBO RATE LOANS.  
Any Lender's obligations to make, continue or convert into LIBO Rate Loans of any Type shall be suspended, all such Lender's outstanding Loans of such Type shall be converted into Prime Rate Loans on the last day of their applicable Interest Periods (or, in the case of clause (c) below, on the last day such Lender may

lawfully continue to maintain Loans of such Type if earlier, or, in the case of clause (d) below, on the day determined by such Lender to be the last Business Day before the effective date of the applicable restriction), and all pending requests for the making or continuation of or conversion into Loans of such Type by such Lender shall be deemed requests for Prime Rate Loans, if:

(a) on or prior to the date required for the determination of a LIBO Rate for any Interest Period, the Administrative Agent determines that for any reason appropriate information is not available to it for purposes of determining the LIBO Rate for such Interest Period;

(b) on or prior to the first day of any Interest Period for a LIBO Rate Loan, the Required Lenders have informed the Administrative Agent of their determination that the LIBO Rate as determined by the Administrative Agent for such Interest Period would not accurately reflect the cost to such Lenders of making, continuing or converting into a LIBO Rate Loan for such Interest Period;

(c) at any time such Lender determines that any Regulatory Change makes it unlawful or impracticable for such Lender or its applicable Eurodollar Lending Office to make, continue or convert into a LIBO Rate Loan of such Type, or to comply with its obligations hereunder in respect thereof; or

(d) such Lender notifies the Administrative Agent of its determination that (i) by reason of any Regulatory Change, such Lender or its applicable Eurodollar Lending Office is restricted, directly or indirectly, in the amount that it may hold of (A) a category of liabilities that includes deposits by reference to which, or on the basis of which, the interest rate applicable to LIBO Rate Loans of such Type is directly or indirectly determined or (B) the category of assets that includes LIBO Rate Loans of such Type and (ii) in connection therewith, such Lender has elected not to make available hereunder LIBO Rate Loans of such Type.

If, as a result of this Section 2.1, any Loan of any Lender that would otherwise be made or maintained as or converted into a LIBO Rate Loan for any Interest Period is instead made or maintained as or converted into a Prime Rate Loan, then, unless the corresponding Loan of each of the other Lenders is also to be

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made or maintained as or converted into a Prime Rate Loan, such Loan shall be treated as being a LIBO Rate Loan of such Type for such Interest Period for all purposes of this Agreement (including the timing, application and proration among the Lenders of interest payments, conversions and prepayments) except for the calculation of the interest rate borne by such Loan. The Administrative Agent shall promptly notify J & J (on behalf of the Borrowers) and each Lender of the existence or occurrence of any condition or circumstance specified in clause (a) or (b) above, and each Lender shall promptly notify J & J (on behalf of the Borrowers) and the Administrative Agent of the existence, occurrence or termination of any condition or circumstance specified in clause (c) or (d) above applicable to such Lender's Loans, but the failure by the Administrative Agent or such Lender to give any such notice shall not affect such Lender's rights hereunder.

2.2 REGULATORY CHANGES. If in the determination of any Lender (a) any Regulatory Change shall directly or indirectly

(i) reduce the amount of any sum received or receivable by such Lender with respect to any LIBO Rate Loan or the return to be earned by such Lender on any LIBO Rate Loan,

(ii) impose a cost on such Lender or any Affiliate of such Lender that is attributable to the making or maintaining of, or such Lender's commitment to make or acquire, any LIBO Rate Loan,

(iii) require such Lender or any Affiliate of such Lender to make any payment on or calculated by reference to any amount received by such Lender in respect of its LIBO Rate Loans or its obligations to make LIBO Rate Loans or

(iv) reduce, or have the effect of reducing, the rate of return on any capital such Lender or any Affiliate of such Lender is required to maintain on account of any LIBO Rate Loan or such Lender's commitment to make any LIBO Rate Loan.

and (b) such reduction, increased cost or payment shall not be fully compensated for by an adjustment in the applicable rates of interest payable under the Loan Documents, then the Borrowers shall pay to such Lender such additional amounts as such Lender determines will fully compensate it for such reduction, increased cost or payment. Such additional amounts shall be payable, in the case of those applicable to prior periods, within 15 Business Days after request for such payment by such Lender, accompanied by the certificate described in Section 2.5 and, in the case of those applicable to future periods, on the dates specified, or determined in accordance with a method specified, by such Lender, provided that the Borrowers shall not be liable for any amount payable with respect to any period more than 90 days before the

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date of such request or certificate, or, if earlier the retroactive effective date of the Regulatory Change if such Regulatory Change occurs during such 90-day period.

2.3 CAPITAL AND RESERVE REQUIREMENTS. If, in the determination of any Lender, such Lender or any Affiliate thereof is required, under applicable Law (including Regulation D), or interpretations, directives, requests and governmental or regulatory guidelines (whether or not having the force of law), to maintain capital or deposit any reserve on account of any Loan, or any commitment to make any Loan then, upon request by such Lender, the Borrowers shall pay to such Lender such additional amounts as such Person determines will fully compensate it for any reduction in the rate of return on the capital that such Lender or such Affiliate thereof is so required to maintain. Such additional amounts shall be payable, in the case of those applicable to prior periods, within 15 Business Days after request by such Lender for such payment accompanied by the certificate described in Section 2.5 (provided that the Borrowers shall not be liable for any amount payable with respect to any period more than 90 days before the date of such request or certificate, or, if earlier, the retroactive effective date of such determination if made during such 90-day period), and, in the case of those relating to future periods, on the dates specified, or determined in accordance with a method specified, by such Lender.

2.4 BREAKAGE. The Borrowers shall pay to each Lender, upon request, such amount as such Lender reasonably determines is necessary to compensate it for any loss, cost or expense incurred by it as a result of (a) any payment, prepayment or conversion of a LIBO Rate Loan on a date other than the last day of an Interest Period for such LIBO Rate Loan or (b) a LIBO Rate Loan for any reason not being made or converted, or any payment of principal thereof or interest thereon not being made, on the date therefor determined in accordance with the applicable provisions of this Agreement. At the election of such Lender, and without limiting the generality of the foregoing, but without duplication, such compensation on account of losses may include an amount equal to the excess of (i) the interest that would have been received from the Borrowers under this Agreement during the remainder of the applicable Interest Period over (ii) the interest component of the return that such Lender determines it could have obtained had it placed such amount on deposit in the interbank Dollar market for a period equal to such remaining portion of the Interest Period.



2.5 DETERMINATIONS. In making the determinations contemplated by this Article 2, each Lender shall make such estimates, assumptions, allocations and the like that such Person

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in good faith determines to be appropriate, and such Person's selection thereof in accordance with this Section 2.5, and the determinations made by such Person on the basis thereof, shall be final, binding and conclusive upon the Borrowers, except, in the case of such determinations, for manifest errors. Each Lender shall furnish to the Borrowers, at the time of any request for compensation under Section 2.2 or 2.3, a certificate outlining in reasonable detail the computation of any amounts claimed by it under this Article 2 and the assumptions underlying such computations, which shall include a statement of an officer of such Person certifying that such request for compensation is being made pursuant to a policy adopted by such Person to seek such compensation generally from customers similar to the Borrowers and having similar provisions in agreements with such Person.

2.6 REPLACEMENT OF LENDERS. If any Lender requests compensation pursuant to Sections 1.13 (Taxes on Payments), 2.2 (Regulatory Changes) or 2.3 (Capital and Reserve Requirements), or such Lender's obligation to make or continue Loans as LIBO Rate Loans shall be suspended pursuant to Section 2.1 (Mandatory Suspension and Conversion of LIBO Rate Loans) or such Lender has defaulted on its obligations to make or participate in Loans pursuant to Section 1.3 (Manner of Borrowing), J & J (on behalf of the Borrowers), upon three Business Days' notice, may require that such Lender transfer all of its right, title and interest under this Agreement, such Lender's Notes, if any, and the other Loan Documents to any Eligible Institution identified by J & J (on behalf of the Borrowers) subject to

(a) the consent of the Administrative Agent (which consent shall not be unreasonably withheld),

(b) satisfaction of the other conditions specified in Section 12.9 below (Successors and Assigns),

(c) the agreement of the proposed transferee to assume all of the obligations of such Lender hereunder and under the other Loan Documents for consideration equal to the outstanding principal amount of such Lender's Loans, interest thereon to the date of such transfer, and all other amounts payable hereunder to such Lender to the date of transfer,

(d) such transferor Lender shall have been paid on or prior to the date of such transfer all fees and other amounts payable to such transferor hereunder including those amounts payable under said Sections 1.13, 2.2 or 2.3, as applicable (and including any fees accrued hereunder and any amounts that would be payable under Section 2.4 (Breakage) as if all of such Lender's Loans were being prepaid in full on such date) or arrangements satisfactory to the transferor Lender shall have been made for such payments, and

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(e) satisfaction of the condition that if the Lender being replaced has requested compensation pursuant to Sections 1.13, 2.2 or 2.3, the proposed transferee's aggregate requested compensation, if any, pursuant to Sections 1.13, 2.2 or 2.3 with respect to such replaced Lender's Loans is lower than that of the

Lender replaced.

Without prejudice to the survival of any other agreement of the Borrowers hereunder, the agreements of the Borrowers contained in Sections 1.13 (Taxes on Payments), 2.2 (Regulatory Changes), 2.3 (Capital and Reserve Requirements), 2.4 (Breakage), 12.12 (Indemnification) and 12.13 (Expenses) (without duplication of any payments made to such Lender by the Borrowers or the proposed transferee) shall survive for the benefit of any Lender replaced under this Section 2.6 with respect to the time prior to such replacement.

2.7 CHANGE OF LENDING OFFICE. Each Lender agrees that, upon the occurrence of any event giving rise to the operation of Sections 1.13 (Taxes on Payments), 2.1 (Mandatory Suspension and Conversion of LIBO Rate Loans), 2.2 (Regulatory Changes) or 2.3 (Capital and Reserve Requirements) with respect to such Lender, it will, if requested by the Borrowers, use reasonable efforts (subject to overall policy considerations of such Lender) to designate another lending office for any Loans affected by such event, provided that such designation is made on such terms that such Lender and its lending office suffer no material economic, legal or regulatory disadvantage, with the object of avoiding the consequence of the event giving rise to the operation of any such Section. Nothing in this Section 2.7 shall affect or postpone any of the obligations of the Borrowers or the right of any Lender provided in Section 1.13 (Taxes on Payments), 2.1 (Mandatory Suspension and Conversion of LIBO Rate Loans), 2.2 (Regulatory Changes) or 2.3 (Capital and Reserve Requirements).

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### ARTICLE 3

#### CONDITIONS TO EFFECTIVENESS OF AGREEMENT AND FUNDINGS

3.1 CONDITIONS TO EFFECTIVENESS OF AGREEMENT AND INITIAL FUNDING. The effectiveness of this Agreement and the obligation of the Lenders to make the initial Loans hereunder are subject to the fulfillment of the following conditions on or before December 31, 1997, (unless such date is extended in writing by the Required Lenders in their sole discretion), in each case to the satisfaction of each Lender.

(a) Secretary's Certificates. The Borrowers shall have delivered, or caused to be delivered, a certificate of the Secretary or an Assistant Secretary of each of the Borrowers, with specimen signatures of the authorized signatories to the Loan Documents, and to which shall be attached copies of the following: articles or certificate of incorporation, bylaws, resolutions and, if any, shareholder agreements.

(b) Good Standing Certificates. The Borrowers shall have delivered, or caused to be delivered, a good standing or subsistence certificate, as the case may be, issued as of a recent date with respect to each Borrower, (i) issued by the

Secretary of State or other appropriate official of the jurisdiction of formation of such Person and (ii) issued by the Secretary of State of the State of California with respect to IUC and, if any such certificate is dated more than ten (10) days prior to the Closing Date, a confirmation (which may be provided by a reputable corporate service) of the information in such certificate.

(c) The Notes. The Borrowers shall have delivered to the Administrative Agent for distribution to each of the Lenders the Notes referred to in Section 1.11.

(d) Lien Searches. The Administrative Agent and CoreStates shall have received such Uniform Commercial Code, tax, and judgment lien searches of the Borrowers with respect to such jurisdictions so the Lender Parties reasonably require, each, in such form, as of such date and with such content as are acceptable to the Lenders.

(e) Purchase of NIC. The Borrowers shall have provided the Lenders with evidence satisfactory to the Lenders that the Assignment is in full force and effect and J & J and IUC have acquired (or with funding hereunder, will acquire) the NIC Note and related rights from CCFC. Borrower's representations herein, with respect thereto, provided that no Lender has knowledge to the contrary, shall constitute sufficient evidence for purposes of the preceding sentence. There shall be no impediment, legal or otherwise, to the acquisition of the capital stock of NIC by J & J, IUC or their Affiliates.

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(f) Opinions of Counsel. The Borrowers shall have delivered favorable opinions of counsel, dated as of the Closing Date, from Blank, Rome, Comisky & McCauley, counsel to the Borrowers, as to such matters as the Lenders may reasonably request, in form and substance satisfactory to the Lenders.

(g) Consents and Approvals. All corporate, governmental, judicial and third party consents and approvals necessary in connection with this Agreement and the other Loan Documents, the Assignment and the related transactions shall have been obtained and, as applicable, become final orders (without imposition of any conditions that are not acceptable to the Lenders) and shall remain in full force and effect and certified copies thereof shall have been delivered to the Lenders.

(h) Financial Statements; Projections.

(i) Financial Statements. The Borrowers shall have delivered, or caused to be delivered, to the Lenders prior to the Closing Date a consolidated income statement of J & J and its consolidated Subsidiaries for the period ending on September 27, 1997, and a consolidated balance sheet of J & J and its consolidated Subsidiaries as of September 27, 1997, each of which statements shall be (1) in form acceptable to the Lenders, (2) accompanied by explanatory notes acceptable to the Lenders, and (3) certified by the chief financial officer of J & J to fairly present the financial condition and results of operations as at the date, or for the period, indicated.

(ii) Projections. J & J on behalf of the Borrowers shall have delivered to each Lender projections respecting the consolidated financial condition and results of operations of J & J and its consolidated Subsidiaries for the period through the end of fiscal year 2002, which projections shall be in reasonable detail, shall reflect the consummation of the transactions contemplated hereby and the Transaction Documents, including the making of the initial Loans, and shall be accompanied by a written statement of the assumptions and estimates underlying

such projections.

(i) Officer's Compliance Certificate. J & J, on behalf of the Borrowers, shall have delivered an Officer's Compliance Certificate, dated as of the Closing Date, as to the truth of the representations and warranties herein and in the other Loan Documents and the absence of any Default (in each case, both before and after giving effect to the initial Loans).

(j) Repayment of Predecessor Indebtedness. The Borrowers shall have delivered to the Lenders evidence that,

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prior to or substantially simultaneously with the making of the initial Loans, (i) all Indebtedness of the Borrowers other than that expressly permitted under Section 7.1 (Indebtedness) below will be repaid, (ii) all commitments to lend in respect of such Indebtedness shall have been effectively terminated, and (iii) all collateral held in connection therewith shall have been released (or undertakings to release such collateral upon receipt of specified funds shall have been duly made) and UCC-3 termination statements and all other documents necessary in the determination of the Lenders to effectively terminate of record all security interests related to such Indebtedness shall have been duly executed by the proper parties and shall have been delivered to the Administrative Agent (or undertakings to do so upon receipt of specified funds shall have been furnished to the Administrative Agent).

(k) Insurance. The Borrowers shall have delivered to the Administrative Agent evidence of the insurance required by Section 5.8 below.

(l) Fees and Expenses. The Borrowers shall have paid the fees required to be paid to the Administrative Agent and the Lenders on or before the Closing Date and the fees and disbursements of counsel for the Lenders in connection with the negotiation, preparation, execution and delivery of the Loan Documents and the making of the initial Loans.

### 3.2 CONDITIONS TO EACH LOAN.

(a) Conditions. The obligation of the Lenders to make any Loans, including the initial Loans are subject to fulfillment of each of the following conditions, in each case, unless otherwise specified, to the satisfaction of the Administrative Agent:

(i) Absence of Default. There shall not, either prior to or after giving effect to each such Loan, exist an Event of Default or a Default.

(ii) Borrowing Notice. In connection with any request for Loans, the Administrative Agent shall have received a borrowing notice as required by Section 1.3 above.

(iii) Truth of Representations. The representations and warranties of the Borrowers made in this Agreement and each other Loan Document shall be true and correct in all material respects as of the date each such Loan is made (both immediately prior to and after giving effect to said Loan) as if made on and as of such date.

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(iv) No Violations of Law. Neither the making of, nor use of proceeds of, such Loans shall conflict with, or cause any Borrower to violate any Law.

(v) Additional Information. The Lenders shall have received such additional information and documentation as the Lenders may reasonably request.

(b) Deemed Representation and Warranty. The request for, and acceptance of, any Loan by any Borrowers shall be deemed a representation and warranty by the Borrowers that the conditions specified in clauses (i), (iii) and (iv) of the preceding paragraph (a) have been satisfied.

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#### ARTICLE 4

##### REPRESENTATIONS AND WARRANTIES

4.1 REPRESENTATIONS. The Borrowers hereby jointly and severally represent and warrant to each Lender Party as follows:

(a) Status of Borrowers. Each Borrower is a corporation duly organized, validly existing and in good standing under the laws of its jurisdiction of organization. Each Borrower has the power and authority to own its property and to transact the business in which it is engaged or presently proposes to engage. Each Borrower is duly qualified to do business as a foreign corporation and is in good standing in all jurisdictions in which the ownership of its properties or the nature of its activities or both makes such qualification necessary or advisable, except for any failures to maintain such qualifications which, individually or in the aggregate, could not

have a Material Adverse Effect. Schedule 4.1(a) hereto sets forth for each Borrower, as of the Closing Date, the jurisdiction of its organization. Each direct and indirect Subsidiary of J & J except for ICEE-Canada, Inc. and ICEE de Mexico, S.A. De C.V. is a Borrower hereunder and is designated as such on the signature pages hereto (or, after the Closing Date, on signature pages of a Joinder Supplement hereto).

(b) Capitalization of Borrowers. The outstanding equity of each Borrower has been duly authorized and validly issued. All capital stock is fully paid and nonassessable. J & J owns directly or indirectly through other Borrowers, all of the capital stock of each other Borrower. There are no options, warrants, calls, or similar rights relating to equity of the Borrowers.

(c) Authorization, Execution and Binding Effect of Loan Documents. Each Borrower has the power and authority to execute, deliver, perform, and take all actions contemplated by, each Loan Document to which it is a party, and all such action has been duly and validly authorized by all necessary corporate proceedings on its part. This Agreement and each other Loan Document has been duly and validly executed and delivered by each Borrower listed on the signature pages hereto or thereto, as the case may be. This Agreement and each other Loan Document constitutes the legal, valid and binding obligation of each Borrower purporting to be a party hereto or thereto, as the case may be, enforceable against such Person in accordance with its terms, except as the enforceability hereof of thereof may be limited by bankruptcy, insolvency or other similar laws of general application affecting the enforcement of creditors' rights or by general principles of equity limiting the availability of equitable remedies.

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(d) Governmental Approvals and Filings; Absence of Conflicts. No approval, order, consent, authorization, exemption or other action by, or filing, recording or registration with, or notice to, any Governmental Authority or other Person is necessary in connection with, the execution and delivery of any Loan Document by any Borrower, or in connection with the performance of the terms hereof or thereof by such Person. No Borrower is subject to any Law which purports to restrict or regulate its ability to borrow money, obtain credit or provide a guarantee or other form of credit support as a consequence of the nature of the business conducted by such Borrower. Neither the execution and delivery of this Agreement or any other Loan Document by any Borrower, nor the performance of or compliance with the terms and conditions hereof or thereof (including the execution, delivery and performance of the Transaction Documents) by any Borrower does or will

(i) violate or conflict with any Law or any judgment, decree, or order of a court or Governmental Authority or any settlement agreement,

(ii) violate, conflict with or result in a breach of any term or condition of, or constitute a default under, or cause an acceleration of, or result in the creation or imposition of any Lien upon any of property of any Borrower under or in connection with,

(x) its articles or certificate of incorporation or, bylaws, (or other constituent documents),

(y) any agreement or instrument creating, evidencing or securing any Indebtedness to which any Borrower is a party or by which it or any of its properties (now owned or hereafter acquired) may be subject or bound, or

(z) any other agreement or instrument or arrangement to which it is a party or by which it or any of its properties (now owned or hereafter

acquired) may be subject or bound,

except, in the case of the foregoing clauses (y) and (z), for matters that, individually or in the aggregate, could not have a Material Adverse Effect, or (iii) result in a Limitation on any Licenses applicable to the operations or properties of any Borrower.

No approval, order, consent of, authorization, exemption or other action by, or filing, recording or registration with, or notice to, any Governmental Authority or other Person is necessary in connection with the transactions contemplated in the Transaction Documents except such consents as have been obtained and are in full force and effect.

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(e) Financial Statements. J & J has heretofore furnished to the Administrative Agent and each Lender consolidated balance sheets of J & J and its consolidated Subsidiaries as of September 28, 1996, and the related consolidated statements of income, cash flows and changes in stockholders' equity for the fiscal years then ended, as examined and reported on by independent certified public accountants for J & J, who delivered an unqualified opinion in respect thereof. Such financial statements (including the notes thereto) present fairly the financial condition of J & J and its consolidated Subsidiaries as of the end of each such fiscal year and the results of their operations and their cash flows for the fiscal years then ended, all in conformity with GAAP. J & J has heretofore furnished to the Administrative Agent and each Lender interim consolidated balance sheets of J & J and its consolidated Subsidiaries as of the first three fiscal quarters of the fiscal year beginning September 29, 1996, together with the related consolidated statements of income, cash flows and changes in stockholders' equity for the applicable fiscal periods ending on each such date. Such financial statements (including the notes thereto), as well as those financial statements delivered pursuant to paragraph (h) of Section 3.1 above, present fairly the financial condition of J & J and its consolidated Subsidiaries as of the date specified and the results of their operations and their cash flows for the fiscal periods specified, all in conformity with GAAP, subject to normal and recurring year-end audit adjustments, except that such financial statements do not contain all of the footnote disclosures required by GAAP.

There are no material liabilities of the Borrowers except as disclosed on such financial statements. Schedule 7.1 hereto sets forth, as of the Closing Date, all Indebtedness (and commitments for Indebtedness) of the Borrowers.

(f) Projections. The projections delivered pursuant to paragraph (h) of Section 3.1 above and the assumptions and estimates referred to therein, as of the Closing Date, are reasonable, are made in good faith, are consistent with the Loan Documents and represent the Borrowers' best judgment as to such matters. Nothing has come to the attention of any Borrower which would lead such Borrower to believe that such projections will not be attained or exceeded provided, however, that nothing contained in this paragraph (f) shall constitute a representation or warranty that such future financial performance or results of operations will in fact be achieved.

(g) Absence of Material Adverse Change. Since September 28, 1996, there has been no material adverse change in the business, operations, condition (financial or otherwise), properties or prospects of the Borrowers taken as a whole or the industry served by the Borrowers.

(h) Title to Property. Each Borrower has good and marketable title to all property owned or purported to be owned by it, including but not limited to all property reflected in the

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most recent balance sheets delivered to the Lenders pursuant to this Agreement subject to no Liens except Permitted Liens. Schedule 7.2 hereto sets forth, as of the Closing Date, all Liens on property of the Borrowers.

(i) Solvency. The present fair saleable value of the assets of the Borrowers, taken as a whole, after giving effect to all the transactions contemplated by the Loan Documents and the funding of the Loans hereunder exceeds the amount that will be required to be paid on or in respect of the existing debts and other liabilities (including contingent liabilities) of Borrowers, taken as a whole, as they mature. J & J does not intend to, nor does J & J believe that it will, incur debts beyond its ability to pay such debts as they mature (taking into account the timing and amounts of cash to be received by J & J, and of amounts to be payable on or in respect of debt of J & J).

The property of each Borrower does not constitute unreasonably small capital for such Borrower to carry out its business as now conducted and as proposed to be conducted including the capital needs of such Borrower. The cash available to each Borrower after taking into account all other anticipated uses of the cash of such Borrower, is anticipated to be sufficient to pay all such amounts on or in respect of debt of such Borrower when such amounts are required to be paid.

(j) Accurate and Complete Disclosure. The information heretofore, contemporaneously or hereafter provided in writing by or on behalf of any Borrower to any Lender Party pursuant to or in connection with this Agreement or any other Loan Document is or will be (as the case may be) true and accurate in all material respects on the date as of which such information is dated (or, if not dated, when received by such Lender Party) and does not or will not (as the case may be) omit to state any material fact necessary to make such information not misleading at such time in light of the circumstances in which it was provided.

(k) Legal and Administrative Proceedings. There is no action, suit, litigation or proceeding pending, or to the knowledge of the Borrowers, threatened nor, to the knowledge of the Borrowers, is there any investigation pending or threatened, in any court or before any arbitrator or Governmental Authority respecting or relating to any Borrowers (or any officer or director thereof) or any property of any Borrowers that, individually or in the aggregate, (i) could have a material adverse effect on the business, condition (financial or otherwise), operations, properties or prospects of the Borrowers taken as a whole or (ii) could materially adversely affect the Lenders' rights and remedies hereunder or under the other Loan Documents, this Agreement or other Loan Documents or the ability of the Borrowers to perform their obligations hereunder or thereunder.

(l) Absence of Violations and Conflicts. No Borrower is in violation of, in default under, or is subject to any

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contingent liability on account of any violation of or conflict with: (i) any Law; (ii) its articles or certificate of incorporation or bylaws; or (iii) any financing agreement or other instrument or arrangement to which it is a party or by which it or any of its properties (now owned or hereafter acquired) may be subject or bound, except, with respect to clauses (i) or (iii) above for matters that, individually or in the aggregate, could not have a Material Adverse Effect.

(m) Operations.

(i) Except where the failure to possess the same, either individually or in the aggregate, could not have a Material Adverse Effect, each Borrower possesses all Licenses



necessary to operate its business as now operated and as presently proposed to be operated. No Borrower is in material violation of the terms of its Licenses.

(ii) Except for Limitations which, individually or in the aggregate, could not reasonably be expected to have a Material Adverse Effect, there is no threatened or pending Limitation of any material License relating to the operation of any of Borrowers' businesses.

(iii) No Borrower is subject to any claim, litigation, proceeding or other action or, to any Borrower's knowledge, investigation relating to a claim or action by any Governmental Authority.

(n) Properties. Schedule 4.1(n) identifies all properties owned or leased by any Borrower as of the Closing Date. As of the Closing Date, all leases relating to such leased properties are in full force and effect subject to no material default. Such leases comply with the provisions of Section 7.7 below.

(o) Intellectual Property. Each Borrower owns, or is licensed or otherwise has the right to use, all the patents, trademarks, service marks, names (trade, service, fictitious or otherwise), copyrights, technology (including computer programs and software), processes, data bases and other rights (collectively, "intellectual property"), free from burdensome restrictions, necessary to own and operate its properties and to carry on its business as presently conducted and presently planned to be conducted without conflict with the rights of others. No Borrower is in material violation of the rights of others with respect to any intellectual property.

(p) Employee Benefits/ERISA.

(i) The Borrowers and the members of their Controlled Groups maintain only those Defined Benefit Pension Plans, Defined Contribution Plans and other Plans listed on Schedule 4.1(p) attached hereto.

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Neither the Borrowers nor any members of their Controlled Groups contribute to any Multiemployer Plans.

(ii) To the extent the Borrowers or any members of their Controlled Groups maintain then, each Defined Benefit Pension Plan and Defined Contribution Plan, as most recently amended, including amendments to any trust agreement, group annuity, or insurance contracts, or other governing instrument, is the subject of a favorable determination letter by the Internal Revenue Service with respect to its qualification under S401(a) of the Code.

(iii) All Plans comply, both in form and in operation, with the requirements of the Code and ERISA.

(iv) There is not now, and has not been, any material violation of the Code or ERISA with respect to the filing of applicable reports, documents, and notices regarding any Plan with the Secretary of Labor, the Secretary of the Treasury, the PBGC or any other governmental entity or the furnishing of such documents to the participants or beneficiaries of any Plan. Borrowers have furnished to the Lenders copies of the most recent annual report, audited financial statements, and other reports filed with the Secretary of Labor, the Secretary of the Treasury, the PBGC or any other governmental entity with respect to each Plan.

(v) To the extent that any Borrower or any member of their Controlled Group maintains them, all

Pension Plans, as of the date hereof, meet the minimum funding standards of S412 of the Code and S302 of ERISA without regard to any funding waiver. Borrowers and the members of their Controlled Group have, as of the date hereof, made all contributions or payments to or under Pension Plans, if any, required by the terms of any such Plan or any contract or agreement.

(vi) No material liability to the PBGC has been, or is expected by any Borrower or any member of its Controlled Group to be, incurred by the Borrower or any member of its Controlled Group.

(vii) No Defined Benefit Pension Plan if any has any Amount of Unfunded Benefit Liabilities except as listed on Schedule 4.1(p) which, in the aggregate, do not exceed \$100,000.00.

(viii) No trust was established in connection with any Defined Benefit Pension Plan pursuant to S4049 of ERISA (as in effect on December

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17, 1987) and no liabilities (whether or not such liability is being litigated) have been asserted against any borrower or any member of its Controlled Group in connection with any such Defined Benefit Pension Plan by the PBGC or by a trustee appointed pursuant to S4042(b) or (c) of ERISA, and no lien has been attached and no person has threatened to attach a lien on any property of any Borrower or any member of its Controlled Group as a result of any failure to comply with the Code or ERISA.

(ix) No Prohibited Transaction has occurred with respect to any Plan.

(x) No Reportable Event has occurred with respect to any Defined Benefit Plan.

(xi) No Borrower or any member of its Controlled Group has any unfunded liabilities of unfunded and uninsured "employee welfare benefit plans" (as defined in S3(1) of ERISA).

(xii) There is not now, and has not been, any COBRA Violation with respect to any Plan to which such continuation coverage requirements apply which has a material adverse effect, directly or indirectly, on the financial condition of any of the Borrowers.

(xiii) Borrowers and the members of their Controlled Group have not established any irrevocable trusts the assets of which remain subject to the general creditors of Borrowers and/or members of their Controlled Group (sometimes referred to as "rabbi trusts").

(q) Environmental Matters.

(i) Each Borrower and each of its respective Environmental Affiliates is and has been, in full compliance with all applicable Environmental Laws, except for matters which, individually or in the aggregate, could not have a Material Adverse Effect. There are no circumstances that may prevent or interfere with such full compliance now or in the future.

(ii) Each Borrower and each of its respective Environmental Affiliates have all Environmental Approvals necessary or desirable for the ownership and operation of their respective properties, facilities and businesses as presently owned and operated and as presently proposed to be owned and operated, in the

the aggregate, could not have a Material Adverse Effect.

(iii) There is no Environmental Claim pending or to the knowledge of any Borrower after due inquiry, threatened, and there are no past or present acts, omissions, events or circumstances (including but not limited to any dumping, leaching, deposition, removal, abandonment, escape, emission, discharge or release of any Environmental Concern Material at, on or under any facility or property now or previously owned, operated or leased by any Borrower or any Environmental Affiliates of Borrowers) that could form the basis of any Environmental Claim against any Borrower or any such Environmental Affiliates, except for matters which, if adversely decided, individually or in the aggregate, could not have a Material Adverse Effect.

(iv) No facility or property now or previously owned, operated or leased by any Borrower or any of their respective Environmental Affiliates is an Environmental Cleanup Site. No Borrower and none of their respective Environmental Affiliates has directly transported or disposed of or arranged for the transportation or disposal of any Environmental Concern Materials to any Environmental Cleanup Site. No Lien exists, and, to the Borrowers' knowledge after due inquiry, no condition exists which could result in the filing of a Lien, against any property of any Borrower or any Subsidiary of any Borrower or any of their respective Environmental Affiliates, under any Environmental Law.

(r) Margin Regulations. No proceeds of any Loan hereunder will be used for the purpose of purchasing or carrying any "margin stock," as such term is used in Regulations G and U of the Board of Governors of the Federal Reserve System, as amended from time to time, or to extend credit to others for the purpose of purchasing or carrying any "margin stock". Neither the making of any Loan nor any use of proceeds of the foregoing will violate or conflict with the provisions of Regulation G, T, U or X of the Board of Governors of the Federal Reserve System, as amended from time to time.

(s) Regulation O. No director, executive officer or principal shareholder of any Borrower is a "director," "executive officer" or "principal shareholder" of any Lender, as such terms are used in Regulation O of the Board of Governors of the Federal Reserve System, as amended.

(t) Certain Documents and Transactions. Each of the Transaction Documents are in full force and effect and no amendments, modifications or supplements have been made to any such documents as the same were delivered to the Lenders pursuant

to Article 3 above except such amendments, modifications or supplements to Transaction Documents as could not reasonably be expected to have an adverse effect on any Borrower (including the condition (financial or otherwise), properties or prospects of such Borrower), the Loan Documents or any Lender Parties. There exists no default under any such agreements. The Assignment is in full force and effect and, upon the initial funding of the Loans in accordance with the wire transfer instructions delivered by the Borrowers to the Administrative Agent upon the execution

hereof, IUC will have acquired the NIC Note and related rights from CCFC. There are no impediments, legal or otherwise, to the acquisition of the capital stock of NIC by J & J, IUC or their Affiliates.

(u) Labor Matters. There are no existing, or, to the best of Borrowers' knowledge, threatened or contemplated, strikes, slowdowns, picketing or work stoppages by any employees against any Borrower, any lockouts by any Borrower of any of its employees or any labor trouble or other occurrence, event or condition of a similar character which individually or in the aggregate, could have a Material Adverse Effect.

4.2 REPRESENTATIONS AND WARRANTIES ABSOLUTE. The representations and warranties of the Borrowers set forth in this Article 4 are unaffected by any prior or subsequent investigation by, or knowledge of, the Administrative Agent or any Lender.

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## ARTICLE 5

### AFFIRMATIVE COVENANTS

So long as any Loan Obligation shall remain unpaid or any Lender shall have any Commitment under this Agreement, each of the Borrowers shall comply with the following covenants.

#### 5.1 REPORTING REQUIREMENTS.

(a) Annual Financial Statements. As soon as practicable, and in any event within 90 days after the close of each fiscal year of J & J, J & J (on behalf of the Borrowers) shall furnish to the Administrative Agent and each Lender, audited consolidated and consolidating statements of income, cash flows and changes in stockholders' equity of the Borrowers for such fiscal year and a consolidated and consolidating balance sheet of the Borrowers as of the close of such fiscal year, setting forth the appropriate footnotes, all in reasonable detail, setting forth in comparative form the corresponding figures for the preceding fiscal year. Such financial statements shall be accompanied by an unqualified opinion in form and substance satisfactory to the Lenders of independent certified public accountants of recognized national standing selected by the Borrowers and satisfactory to the Lenders.

(b) Quarterly Financial Statements. As soon as

practicable, and in any event within 45 days after the close of each fiscal quarter of each fiscal year of J & J, J & J, on behalf of the Borrowers, shall furnish to the Administrative Agent and each Lender, consolidated statements of income, cash flows and changes in stockholders' equity of the Borrowers for such fiscal quarter and the applicable year to date period, and a consolidated balance sheet of the Borrowers as of the close of such fiscal quarter, all in reasonable detail, setting forth in comparative form the corresponding figures for the same periods or as of the same date during the preceding fiscal year (except for the balance sheets, which shall set forth in comparative form the corresponding balance sheets as of the prior fiscal year end). Such financial statements shall be certified by the chief financial officer or other Responsible Officer of J & J, as presenting fairly the financial position of the subject entities as of the end of such fiscal quarter and year-to-date period, and the results of their operations and their cash flows and changes in stockholders' equity for such fiscal quarter and year-to-date period, in conformity with GAAP, subject to normal and recurring year-end audit adjustments.

(c) Quarterly Compliance Certificates. J & J, on behalf of the Borrowers, shall deliver to the Administrative Agent and each Lender, an Officer's Compliance Certificate concurrently with the delivery of the financial statements referred to in paragraph (a) of this Section 5.1 (with respect to

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the fiscal year) and paragraph (b) of this Section 5.1 (with respect to the first three fiscal quarters). Each such Officer's Compliance Certificate shall include among other things referred to therein the calculations necessary to demonstrate the Borrowers' compliance with the covenants set forth in Article 6 hereof.

(d) Other Information To Be Delivered Annually. J & J, on behalf of the Borrowers, shall deliver to the Administrative Agent and each Lender, the following: (i) annually, within one hundred twenty (120) days of the end of J & J's fiscal year, an accountants' management letter respecting J & J and its Subsidiaries, provided by independent certified public accountants satisfactory to the Administrative Agent, and (ii) annually, no later than ninety (90) days prior to the commencement of each fiscal year of J & J's, an annual budget respecting J & J and its Subsidiaries, setting forth in reasonable detail, expected sources and uses of funds, for the fiscal year then beginning in form and substance satisfactory to the Administrative Agent.

(e) SEC Filings and Other Disclosure. Promptly upon their becoming available to any Borrower but no later than ten Business Days after the same are filed with the Securities Exchange Commission or any securities exchange, J & J, on behalf of the Borrowers, shall deliver to the Administrative Agent and each Lender, a copy of (i) all regular or special reports, registration statements and amendments to the foregoing which any Borrower or any of its Affiliates shall file with the Securities and Exchange Commission or any securities exchange, (ii) all reports, proxy statements, financial statements and other information distributed by any Borrower or any of its Affiliates to its stockholders, bondholders or the financial community generally, and (iii) all accountants' management letters (not otherwise delivered pursuant to the preceding paragraph (d)) and all other reports submitted by accountants in connection with any audit of any Borrower.

(f) Notice of Certain Events. Promptly upon any Borrower becoming aware of any of the following, such Borrower or J & J, on behalf of the Borrowers, shall give the Administrative Agent notice thereof, together with a written statement setting forth the details thereof and any action with respect thereto taken or proposed to be taken by any Borrower:

(i) Loss of Licenses. Any actual Limitation (other than in the ordinary course of business) or any

threatened Limitation (to the extent that it individually or in the aggregate with all other actual or threatened Limitations is material) of any License relating to the operation of any Borrower's business;

(ii) Default. Any Event of Default or Default;

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(iii) Material Adverse Change. Any material adverse change in the business, operations or condition (financial or otherwise), or prospects of any Borrower;

(iv) Litigation. Any pending or threatened action, suit, proceeding or investigation by or before any Governmental Authority against or affecting any Borrower (or any officer or director thereof) or any property of any Borrower which, if determined adversely could have a Material Adverse Effect;

(v) Breach or Termination of Certain Agreements. Any breach, claimed breach, termination or purported or threatened termination (including a copy of any notice of termination) of any Transaction Document which could have a Material Adverse Effect.

(vi) ERISA. To the extent applicable to the Borrowers or any member of their Controlled Group,

(A) any taxes, penalties, interest charges and other financial obligations in excess of \$100,000.00 that have been assessed or otherwise imposed, or which any Borrower has reason to believe may be assessed or otherwise imposed in excess of \$100,000.00, against any Borrower or any member of its Controlled Group by the Internal Revenue Service, the PBGC, the Department of Labor or any other governmental entity with respect to any Plan or Multiemployer Plan;

(B) any application for a waiver by a Borrower or any member of its Controlled Group of the minimum funding standard under S412 of the Code with respect to a Pension Plan;

(C) the adoption of any Plan, including but not limited to a Defined Benefit Pension Plan, or any obligation to contribute to any Multiemployer Plan by a Borrower or any member of its Controlled Group;

(D) any Prohibited Transaction with respect to a Plan.

(E) (1) that any Reportable Event has or will occur with respect to any Defined Benefit Pension Plan maintained by any Borrower or any member of its Controlled Group, (2) that any Defined Benefit Pension Plan maintained by any Borrower or any member of its Controlled Group is to be terminated in "distress termination" (within the meaning of S4041(c) of ERISA), (3) that the PBGC has instituted or will institute proceedings

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under Title IV of ERISA to terminate any Defined Benefit Pension Plan maintained by any Borrower or any member of its Controlled Group, (4) that any Borrower has incurred Withdrawal Liability from a

Multiemployer Plan maintained by it or any member of its Controlled Group, (5) that any Multiemployer Plan to which any Borrower or any member of its Controlled Group has made contributions is or will be in Reorganization, or (6) that any other condition exists with respect to a Defined Benefit Pension Plan or Multiemployer Plan which presents a material risk of termination of any such Plan, Borrowers will furnish a statement to the Lenders setting forth the details of such Reportable Event, distress termination, termination proceedings, Withdrawal Liability, Reorganization or condition, and the action that Borrowers propose to take with respect thereto, together with a copy of any notice of such Reportable Event or distress termination given to the PBGC, or a copy of any notice of termination proceedings, Withdrawal Liability or Reorganization received by such Borrower or any member of its Controlled Group.

(F) any default by Borrower or any member of its Controlled Group (as defined in S4219(c)(5) of ERISA) with respect to payments to a Multiemployer Plan required by reason of its withdrawal (as defined in S4203 or S4205 of ERISA).

(G) any action brought against Borrower or any member of its Controlled Group under S502 of ERISA with respect to its failure to comply with S519 of ERISA.

(vii) Environmental. Any Environmental Claim pending or threatened against any Borrower or any of its Environmental Affiliates, or any past or present acts, omissions, events or circumstances (including but not limited to any dumping, leaching, deposition, removal, abandonment, escape, emission, discharge or release of any Environmental Concern Material at, on or under any facility or property now or previously owned, operated or leased by any Borrower or any of its Environmental Affiliates) that could form the basis of such Environmental Claim.

(g) Other ERISA Information. The Borrowers shall deliver to the Administrative Agent, copies of the following:

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(A) Promptly after the filing thereof with the Secretary of Labor, the Secretary of the Treasury, the PBGC or any other governmental entity, copies of each annual report, each audited financial statement and any other report so filed with respect to each Plan.

(B) As soon as possible (and in any event within five days) after the receipt by any Borrower or any member of its Controlled Group of a demand letter from the PBGC notifying any Borrower or any member of its Controlled Group of the final decision finding liability and the date by which such liability must be paid, Borrowers will furnish to the Lenders a copy of such letter together with a statement to the Lenders setting forth the action which Borrowers propose to take with respect thereto.

(C) Borrowers will furnish to the Lenders as soon as possible after receipt thereof a copy of any notice that any Borrower or any member of its Controlled Group receives from the PBGC, the

Internal Revenue Service, the Department of Labor or any other governmental entity or the sponsor of any Multiemployer Plan that sets forth or proposes any action to be taken or determination made by the PBGC, the Internal Revenue Service, the Department of Labor or any other governmental entity or the sponsor of any Multiemployer Plan with respect to any Plan.

(h) Other Information. In addition, the Borrowers will promptly furnish to the Administrative Agent such other information as any Lender Party, through the Administrative Agent, may reasonably request including information submitted by the Borrowers to any Governmental Authority, and the Administrative Agent will furnish such information to the requesting Lender Party.

5.2 MAINTENANCE OF EXISTENCE. Each Borrower shall preserve and maintain its corporate existence and good standing in the jurisdiction of its organization. Each Borrower shall qualify and remain qualified as a foreign corporation in each jurisdiction in which such qualification is required. Nothing contained in this Section 5.2, however, shall prevent any Borrower from merging into any other Borrower as long as such transaction does not result in the dissolution of J & J.

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5.3 CONDUCT OF BUSINESS AND MAINTENANCE OF LICENSES AND OTHER PROPERTY.

(a) Type of Business. Each Borrower shall continue to engage in the business of the same general type as conducted by the Borrowers on the Closing Date and not engage in any other type of business without the consent of the Required Lenders. Each Borrower shall maintain in effect all Licenses necessary or appropriate to operate its businesses.

(b) Maintenance of Property. Each Borrower shall maintain, keep and preserve all of its property necessary or useful in the proper conduct of its business in good working order and condition, ordinary wear and tear excepted. Without limiting the generality of the foregoing, each Borrower shall maintain in full force and effect each lease and other material agreement used or useful in its business, subject to no material default except where the loss of, or default under, such lease or other agreement (i) could not individually or in the aggregate reasonably be expected to have a Material Adverse Effect or (ii) is not otherwise prohibited by the terms of this Agreement.

5.4 MAINTENANCE OF RECORDS; FISCAL YEAR. Each Borrower shall keep adequate records and books of account, in which complete entries will be made in accordance with historical practice and GAAP, reflecting all financial transactions of the Borrowers. Each Borrower shall maintain a fiscal year end of the last Saturday in September.

5.5 COMPLIANCE WITH LAWS. Each Borrower shall comply (and maintain procedures to assure compliance) in all material respects with all applicable Laws (including Environmental Laws) and all judgments, decrees or orders of any court or Governmental Authority and all settlement agreements.

5.6 ERISA.



(a) Each Borrower will, and will cause each member of its Controlled Group, to comply in all material respects with the provisions of ERISA and the Code with respect to any Plan both in form and in operation.

(b) Each Borrower will cause to be made all contributions required to avoid any Accumulated Funding Deficiency, whether or not waived, with respect to any Pension Plan.

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(c) No Borrower will adopt or permit the adoption by any member of its Controlled Group of any Defined Benefit Pension Plan which would result in any Amount of Unfunded Benefit Liabilities in excess of \$100,000.00.

(d) No Borrower will acquire, or permit the acquisition by any member of its Controlled Group of, any trade or business which has incurred either directly or indirectly any Amount of Unfunded Benefit Liabilities under any Defined Benefit Pension Plan in excess of \$100,000.00.

(e) The Borrowers will not permit with respect to any Plan, any Prohibited Transaction or Prohibited Transactions under ERISA or the Code resulting in liability of any Borrower or any member of its Controlled Group which together with any other liabilities subject to this paragraph (e) would in the aggregate be in excess of \$100,000.00.

(f) No Borrower will withdraw, or permit any member of its Controlled Group to withdraw, from any Multiemployer Plan to which any of them may hereafter contribute if the Withdrawal Liability which would thereupon be incurred would have a Material Adverse Effect.

(g) No Borrower will permit any unfunded liabilities of unfunded and uninsured "employee welfare benefit plans" (as defined in S3(1) of ERISA) of any Borrower and of any member of its Controlled Group in excess of \$100,000.00 in the aggregate with all other liabilities subject to this paragraph (g).

(h) No Borrower will, or will permit any member of its Controlled Group to, cause or suffer to exist a COBRA Violation with respect to any Plan to which such continuation coverage requirements apply if the violation(s) could result in a liability in excess of \$100,000.00 in the aggregate.

5.7 RIGHT OF INSPECTION. Each Borrower shall, at any reasonable time and from time to time, and upon reasonable advance notice (but no advance notice shall be required if a Default or an Event of Default shall then exist), permit the Administrative Agent or any Lender or any agent or representative thereof, to examine and make copies and abstracts from the records and books of account of, and visit and inspect the properties of, any Borrower, and to discuss the affairs, finances and accounts of such Borrower with any of its officers, directors and independent accountants.

5.8 INSURANCE. Each Borrower shall maintain with financially sound and reputable insurers, insurance with respect to its properties and business and against such liabilities,

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casualties and contingencies and of such types and in such amounts as are customary in the case of Persons engaged in the same or similar businesses or having similar properties similarly situated, including insurance covering its respective properties, buildings, machinery, equipment, tools, furniture, fixtures and operations, and public liability, as well as business interruption. The Borrowers shall have the Administrative Agent named to receive certificates evidencing such insurance annually at least thirty days prior to the anniversary date of such insurance policies and any other time requested by the Administrative Agent.

5.9 PAYMENT OF TAXES AND OTHER CHARGES. Each Borrower shall

(a) on or prior to the date on which penalties attach thereto and file all tax returns, pay all taxes, assessments and other governmental charges imposed upon it or any of its properties; and

(b) on or prior to the date when due, pay all lawful claims of materialmen, mechanics, carriers, warehousemen, landlords and other like Persons and all other lawful claims which, in each case if unpaid, might result in the creation of a Lien upon any of its properties, provided that unless and until foreclosure, distraint, levy, sale or similar proceedings shall have been commenced, such Borrower need not pay or discharge any such tax, assessment, charge or claim so long as (x) the validity thereof is being contested in good faith and by appropriate proceedings diligently conducted and (y) such reserves or other appropriate provisions as may be required by GAAP shall have been made therefor.

#### 5.10 SUBSIDIARIES TO BE BORROWERS.

Each Borrower shall cause all of its Subsidiaries at all times to be Borrowers hereunder (by signing Joinder Supplements hereto, executing Notes or allonges thereto and taking such other action as the Administrative Agent may reasonably request). Without limiting the generality of the foregoing, when the Borrowers are required, in connection with an Acquisition or otherwise, to cause one or more (direct or indirect) Subsidiaries of J & J (each, a "Joining Subsidiary") to become Borrowers hereunder, then the Borrowers and each such Joining Subsidiary shall take the actions set forth on Schedule 5.10, in the case of the formation of a new Subsidiary, promptly upon such formation, and in the case of the Acquisition of an entity which shall become a Subsidiary, no later than the date of the consummation of the relevant Acquisition.

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5.11 TRANSACTIONS WITH AFFILIATES. Each Borrower shall effect all transactions with Affiliates (including with ICEE-Canada, Inc. and ICEE de Mexico, S.A. de C.V., but excluding transactions with other Borrowers) on a basis at least as favorable to such Borrower as would at the time be obtainable for a comparable transaction on an arm's length dealing with an unrelated third party.

5.12 CAPITAL STOCK. All of the capital stock of each Borrower (other than J & J) shall be owned at all times, directly or indirectly, by J & J, subject to no Liens.

5.13 USE OF PROCEEDS. The Borrowers will apply the proceeds of the Term Loans only (i) to acquire the NIC Note and all of the

capital stock of NIC and (ii) to pay off certain existing Indebtedness. The Borrowers will apply the proceeds of the RC Loans only (i) to fund working capital and Capital Expenditure needs, subject to the other limitations set forth in this Agreement, and (ii) to fund future Acquisitions and the transaction costs associated therewith.

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## ARTICLE 6

### FINANCIAL COVENANTS

6.1 CERTAIN FINANCIAL COVENANTS. So long as any Loan Obligations shall remain unpaid or any Lender has any Commitment under this Agreement, the Borrowers shall comply with the following financial covenants.

(a) Fixed Charge Coverage Ratio. The Fixed Charge Coverage Ratio shall be not less than 1.3 at any time.

(b) Consolidated Net Worth. Tangible Net Worth of the Borrowers, on a consolidated basis, at any date of determination after the Agreement Date shall be not less than the sum of

(i) The greater of (a) Fifty Five Million Dollars (\$55,000,000.00), or (b) Seventy Nine Million Dollars (\$79,000,000.00) minus the value of the intangible assets added by reason of the acquisition of the capital stock of NIC,

plus

(ii) 50% of the cumulative amount of Net Income (which shall not be reduced by the amount of any net loss for any fiscal quarter) of the Borrowers, on a consolidated basis, for the period commencing on the first day of the fiscal quarter in which the Agreement Date occurs through the last day of the fiscal quarter ending on, or most recently prior to, such date of determination.

(c) Total Funded Indebtedness/EBITDA. The Total Funded Indebtedness/EBITDA shall be not greater than the ratios set forth below during the periods indicated below:

Period	Ratio
Closing Date through June 26, 1999	3.50
June 27, 1999 and thereafter	3.00

(d) Leverage Ratio. The Leverage Ratio shall be not greater than 2.0 at any time.

6.2 CALCULATION OF FINANCIAL COVENANTS. The financial covenants set forth in this Article 6 shall be maintained continuously and shall be tested at the end of each fiscal quarter and at such other times as may be required by the terms of this Agreement.

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## ARTICLE 7

### NEGATIVE COVENANTS

So long as any Loan Obligations shall remain unpaid or any Lender shall have any Commitment under this Agreement, each of the Borrowers shall comply with the following covenants.

7.1 INDEBTEDNESS. No Borrower shall at any time, create, incur, assume or suffer to exist any Indebtedness (including any Guaranties, Capitalized Leases or Assumed Indebtedness), except:

(a) Indebtedness to the Lender Parties pursuant to this Agreement and the other Loan Documents;

(b) Indebtedness constituting intercompany (i.e. inter-Borrower) loans and advances;

(c) Obligations of J & J under Interest Rate Hedging Agreements;

(d) Indebtedness existing on the Closing Date acceptable to the Lenders and described on Schedule 7.1 hereto, which sets forth certain Indebtedness in a principal amount not exceeding \$5,100,000.00; and any extensions, renewals, refinancing of the same so long as such extensions, renewals and refinancing (i) are in a principal amount no greater than the amount the Indebtedness so extended, renewed or refinanced, (ii) have maturity dates (and amortization schedules) no earlier than the debt being refinanced, (iii) are incurred pursuant to agreements or instruments which do not prohibit the Indebtedness created pursuant to the Loan Documents or otherwise conflict with the terms of the Loan Documents or contain terms and conditions which are more onerous than the terms and conditions in the existing agreements and instruments, and (iv) are not made at a time that a Default or Event of Default has occurred and is continuing or would be caused thereby;

(e) Guaranties and similar contingent obligations relating to underlying Indebtedness not exceeding \$300,000.00 in any fiscal year;

(f) Indebtedness owed to sellers or Assumed Indebtedness in each case, incurred in connection with Acquisitions otherwise permitted under Section 7.4 hereof, provided that such Indebtedness not exceed in the aggregate \$3,000,000.00 during the term of this Agreement;

(g) Purchase money Indebtedness not otherwise permitted by clause (f) above not exceeding \$1,000,000.00 in the aggregate during the term of this Agreement; and

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(h) Indebtedness, not otherwise permitted by clauses (a) through (g), not exceeding \$1,000,000.00 incurred in any one fiscal year.

7.2 LIENS. No Borrower shall at any time create, incur, assume or suffer to exist any Lien on any of its assets (now owned or hereafter acquired), except for the following ("Permitted Liens"):

(a) Liens acceptable to the Lenders and existing on the Closing Date securing obligations existing on the Closing Date, which Liens and obligations are listed on Schedule 7.2 hereto (and any extension, renewal and replacement Liens upon the same property theretofore subject to a listed Lien, provided that (i) the amount secured by each Lien constituting such an extension, renewal or replacement Lien shall not exceed the amount secured by the corresponding Lien theretofore existing and (ii) such replacement Liens are incurred pursuant to agreements or instruments which do not prohibit the Indebtedness created pursuant to the Loan Documents, prohibit the Borrowers from granting any Lien to the Lender Parties, or otherwise conflict with the terms of the Loan Documents);

(b) Liens arising from taxes, assessments, charges or claims described in Section 5.9 hereof to the extent permitted by said Section 5.9;

(c) Liens in respect of property or assets of the Borrowers imposed by law which were incurred in the ordinary course of business, such as carriers', warehousemen's and mechanics' Liens, statutory landlord's Liens, and other similar Liens arising in the ordinary course of business, and (i) which do not in the aggregate materially detract from the value of such property or assets or materially impair the use thereof in the operation of the business of the Borrowers taken as a whole or (ii) which are being contested in good faith by appropriate proceedings, which proceedings have the effect of preventing the forfeiture or sale of the property or asset subject to such lien and that adequate reserves have been set aside on the applicable Borrower's books to protect against an adverse result;

(d) Liens arising from judgments, decrees or attachments and Liens securing appeal bonds arising from judgments, in each case in circumstances not constituting an Event of Default under Section 8.1(f);

(e) Liens (other than any Lien imposed by ERISA) incurred or deposits made in the ordinary course of business in connection with workers' compensation, unemployment insurance and other types of social security, or to secure the performance of tenders, statutory obligations, surety and appeal bonds, bids, leases, government contracts, performance and return-of-money

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bonds and other similar obligations incurred in the ordinary course of business (exclusive of obligations in respect of the payment for borrowed money);

(f) easements, rights-of-way, restrictions, minor defects or irregularities in title to real property and other similar charges or encumbrances on real property not interfering in any material respect with the ordinary conduct of the business of the Borrowers taken as a whole or the value or salability of the assets so encumbered or affecting their use for their intended purposes;

(g) Liens securing Assumed Indebtedness permitted

under Section 7.1(f), provided that such Liens are limited to the assets being acquired in connection with the Acquisition giving rise to such Assumed Indebtedness; and

(h) Liens securing purchase money Indebtedness permitted under Section 7.1(g) provided that such Liens are limited to the assets purchased with such purchase money Indebtedness.

"Permitted Liens" shall in no event include any Lien imposed by, or required to be granted pursuant to, ERISA or any Environmental Law.

7.3 LOANS, ADVANCES AND INVESTMENTS. No Borrower shall at any time (i) make or suffer to exist any loan or advance to, or (ii) purchase, acquire or own (beneficially or of record) any stock, bonds, notes or securities of, or any partnership interest (whether general or limited) in, or any other interest in, or (iii) make any capital contribution to, or other investment in (collectively, "Investments") any other Person, except:

(a) receivables owing to such Borrower arising from provision of services or sales of inventory under usual and customary terms in the ordinary course of business;

(b) loans or advances from one Borrower to another;

(c) the capital stock or other ownership interests in other Borrowers;

(d) Cash Equivalent Investments;

(e) Acquisitions permitted under Section 7.4 (Acquisitions, Etc.) below;

(f) Investments existing on the Closing Date in an amount not greater than \$4,000,000.00;

(g) Investments in businesses or ventures in the same or related line of business as the Borrowers, not exceeding

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\$500,000.00 in the aggregate during the term of this Agreement; and

(h) Loans or advances not exceeding \$1,000,000.00 in the aggregate during the term of this Agreement.

The "amount" of any Investment referred to in this Section 7.3 shall mean the sum of the following (without duplication): the amount of cash paid for or contributed to such Investment; the fair market value of any equity or assets constituting consideration for or contributed to such Investment; and any commitment to pay, contribute, incur, or become liable for any of the foregoing.

7.4 ACQUISITIONS, ETC. No Borrower shall engage in any Acquisition (other than an acquisition of assets in the ordinary course of business) except:

(a) A Borrower may merge with or into another Borrower, provided that (i) if J & J is a party to the merger, it is the surviving entity and (ii) no Event of Default or Default shall occur and be continuing before or after giving effect to such transaction;

(b) J & J, IUC or any of their Affiliates may acquire the NIC Note and all of the capital stock of NIC for an Acquisition Cost of not more than \$56,000,000.00, provided that upon such acquisition NIC becomes a Borrower hereunder pursuant to Section 5.10 hereof; and

(c) So long as no Default or Event of Default has occurred or would exist after giving effect to such Acquisition, any Borrower may make an Acquisition not covered by clauses (a) or (b) of this Section 7.4, provided, however, that (i) the Acquisition Cost of all Acquisitions made pursuant to this paragraph (c) does not exceed \$5,000,000.00 in the aggregate during the term of this Agreement, (ii) such Acquisition is of an enterprise in the same line of business as any of the Borrowers are now in, and (iii) the "Acquisition Conditions" set forth on Schedule 7.4 hereto shall have been satisfied.

7.5 DISPOSITIONS. No Borrower shall sell, convey, assign, lease as lessor, transfer, abandon or otherwise dispose of (collectively, for purposes of this Section 7.5, "transfer"), voluntarily or involuntarily, any of its assets, except:

(a) A Borrower may sell inventory in the ordinary course of business;

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(b) A Borrower may dispose of equipment which is obsolete or no longer useful in its business or otherwise replaced with equipment having similar value and use;

(c) A Borrower may transfer its properties to J & J so long as no Event of Default or Default shall exist either before or after giving effect to such transfer;

(d) Anticipated transfers identified on Schedule 7.5; and

(e) Borrowers may transfer its property having an aggregate fair market value not to exceed \$2,500,000.00 during the term of this Agreement.

7.6 ISSUANCE OF SUBSIDIARY STOCK OR OTHER OWNERSHIP INTERESTS. The Borrowers shall not create, acquire, dispose of, or change any interest in any Subsidiary except as follows:

(a) Subsidiaries of Borrowers (or any interest therein) may be created or acquired in connection with an Acquisition to the extent permitted under Section 7.4 above (Acquisitions, Etc.); and

(b) Subsidiaries of Borrowers (or any interest therein) may be created or acquired in connection with an Investment to the extent permitted under Section 7.3 above (Loans, Advances and Investments);

provided, however, that any such Subsidiaries so created or acquired shall become "Borrowers" hereunder and corresponding parties to the other Loan Documents within thirty (30) days thereafter.

7.7 LEASES. The Borrowers shall not at any time, enter into or suffer to remain in effect any lease, as lessee, of any property, except:

(a) Leases (including subleases) between Borrowers;

(b) Capitalized Leases to the extent permitted under Section 7.1 above;

(c) Leases existing on the date hereof; and

(d) Other leases which are not Capitalized Leases or Synthetic Leases, provided that such leases entered into any fiscal year not increase net aggregate rental payable in any lease year, thereafter by more than \$1,500,000.00, and provided further that all such leases entered into at any

time during the term of this Agreement not increase net aggregate rental payable in any lease year by more than \$3,000,000.00.

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7.8 DIVIDENDS AND RELATED DISTRIBUTIONS. J & J shall not (a) declare or pay any dividends, (b) purchase, redeem, retire or otherwise acquire for value any of its capital stock now or hereafter outstanding, (c) make any distribution of assets to its stockholders as such whether in cash, assets or obligations of J & J, (d) allocate or otherwise set apart any sum for the payment of any dividend or distribution on, or for the purchase, redemption or retirement of, any shares of its capital stock, or (e) make any other distribution by return of capital or otherwise in respect of any shares of its capital stock, unless J & J could have taken such action in the last completed fiscal quarter and still remained in compliance with all of the financial covenants set forth in Article 6 hereof.

7.9 CONSOLIDATED TAX RETURN. No Borrower shall (a) file or consent to the filing of any consolidated income tax return with any Person other than other Borrowers, or (b) become party to any tax sharing or tax allocation agreement with any other Person.

7.10 LIMITATIONS ON MODIFICATION OF CERTAIN DOCUMENTS. No Borrower shall amend, modify or supplement its articles or certificate of incorporation, bylaws, or other constituent documents (i) if a Material Adverse Effect could result from such amendment, modification or supplement or (ii) if such amendment, modification or waiver could reasonably be expected to materially adversely affect the rights or interests of the Administrative Agent or the Lenders.

7.11 LIMITATION ON CERTAIN RESTRICTIVE PROVISIONS. No Borrower shall enter into, or remain a party to, any agreement or instrument which would impose any restriction: (a) on the right of such Person from time to time to declare and pay dividends or take similar actions with respect to capital stock owned by such Person or pay any Indebtedness, obligations or liabilities from time to time owed to another Borrower; or (b) that would prohibit the grant of any Lien upon any of its properties (now owned or hereafter acquired) to secure any Indebtedness; or (c) would prohibit, or require the consent of any Person to, any amendment, modification or supplement to any of the Loan Documents except: (i) restrictions set forth in the Loan Documents; and (ii) legal restrictions of general applicability.

7.12 LIMITATIONS ON MERGERS, ETC. No Borrower shall merge or consolidate with or into any Person, except (a) mergers of any

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Borrower with J & J where J & J is the survivor, (b) mergers of any other Borrower with any other Borrower; (c) any merger pursuant to an Acquisition permitted under Section 7.4 above (Acquisitions, Etc.); or (d) any merger pursuant to a transfer permitted under Section 7.5 above (Dispositions).



7.13 AVOIDANCE OF OTHER CONFLICTS. No Borrower shall violate or conflict with, be in default under, or be or remain subject to any liability (contingent or otherwise) on account of any violation or conflict with (a) its articles or certificate of incorporation, bylaws or other constituent documents, or (b) any agreement or instrument to which it is party or by which any of its properties (now owned or hereafter acquired) may be subject or bound, except, with respect to clause (b), for matters that could not, individually or in the aggregate, have a Material Adverse Effect.

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## ARTICLE 8

### DEFAULTS

8.1 "EVENTS OF DEFAULT." An Event of Default means any one of the following events (whatever the reason for such Event of Default, whether it shall be voluntary or involuntary and whether it shall be by action or inaction, by operation of law, pursuant to a court order or any rule or regulation of any Governmental Authority or otherwise):

(a) Failure to Pay Principal or Reimburse Drawings. The Borrowers shall fail to make any payment of the principal of any Loan on the date when the same shall become due and payable, whether at stated maturity or at a date fixed for any installment or prepayment thereof or otherwise.

(b) Failure to Pay Interest, Fees and Other Amounts. The Borrowers shall fail to make any payment of interest on any Loan or shall fail to pay any fees or any other amounts owing hereunder or under any other Loan Documents (other than as specified in paragraph (a) above) on the dates when such interest, fees or other amounts shall become due and payable.

(c) Covenant Defaults. (i) There shall occur a default in the due performance or observance of any term, covenant or agreement to be performed or observed pursuant to any

of Sections 5.7, 5.10, 5.12 or 5.13 or any Section of Article 6 or any Section of Article 7.

(ii) There shall occur any default in the due performance or observance of any term, covenant or agreement to be performed or observed pursuant to the provisions of this Agreement (other than as provided in paragraph (a) or paragraph (b) above or subparagraph (i) of this paragraph (c)) and, if capable of being remedied, such default shall continue unremedied for thirty (30) days after any Borrower becomes aware, or should in the exercise of reasonable diligence have become aware, of such default.

(d) Misrepresentation. Any representation or warranty made or deemed made by any Borrower in or pursuant to or in connection with any Loan Document shall prove to have been false or misleading in any material respect as of the time when made or deemed made.

(e) Cross-Defaults. (i) Any Borrower shall fail to pay, in accordance with its terms and when due and payable, any Indebtedness (other than Indebtedness referred in paragraph (a) above) under, or arising out of any Interest Rate Hedging Agreement or an agreement or instrument (or group or series of related agreements or instruments) which evidences outstanding Indebtedness in excess of \$500,000.00; (ii) the maturity of any such Indebtedness shall, in whole or in part, have been

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accelerated, or any such Indebtedness shall, in whole or in part, have been required to be prepaid or purchased prior to the stated maturity thereof; (iii) any event shall have occurred and be continuing that permits any holder or holders of such Indebtedness, any trustee or agent acting on behalf of such holder or holders or any other Person to accelerate the maturity thereof or require any prepayment or repurchase thereof; or (iv) a default by any Borrower shall be continuing under any other instrument or agreement (whether or not relating to Indebtedness) binding upon such Person, except a default that, together with all other such defaults under this clause (iv), could not have a Material Adverse Effect.

(f) Judgments and Executions. One or more judgments for the payment of money shall have been entered against any Borrower or Borrowers which judgment or judgments, to the extent not paid or fully covered by insurance, exceed \$500,000.00 in the aggregate, and such judgment or judgments shall have remained undischarged and unstayed for a period of 30 consecutive days; or one or more writs or warrants of attachment, garnishment, execution, distraint or similar process or any attachment (prejudgment or otherwise) of assets exceeding in value the aggregate amount of \$500,000.00 shall have been issued against any Borrower or Borrowers or any of its or their respective properties.

(g) Invalidity or Noncompliance With Loan Documents. Any of the Borrowers shall fail to perform any of its obligations under any of the Loan Documents (after taking into account any applicable cure period set forth in such agreements), or the validity of this Agreement or any of the other Loan Documents, or the subordination provisions of any other instrument or document intended by the parties hereto to benefit the Lender Parties, shall have been challenged or disaffirmed by or on behalf of any of the Borrowers, or any of the Loan Documents shall cease to be in full force and effect (other than pursuant to its terms) or, other than as a direct result of any action or inaction of a Lender Party.

(h) Environmental. Any one or more of the events or conditions set forth in the following clauses (i) or (ii) shall have occurred with respect to any Borrower or any of their Environmental Affiliates, and the Required Lenders shall determine in good faith (which determination shall be conclusive) that such event(s) or condition(s), individually or in the aggregate, could have a Material Adverse Effect: (i) any past or

present violation of any Environmental Law by such Person which has not been cured to the satisfaction of the Required Lenders, or (ii) the existence of any pending or threatened Environmental Claim against any such Person, or the existence of any past or present acts, omissions, events or circumstances that could form the basis of any Environmental Claim against any such Person.

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(i) Subsidiaries as Borrowers. Any direct or indirect Subsidiary of J & J shall fail to be, or shall cease to be, or fail to become, a Borrower hereunder.

(j) Insolvency, Bankruptcy, Etc. Any Borrower shall make an assignment for the benefit of creditors or a composition with creditors, shall generally not be paying its debts as they mature, shall admit its inability to pay its debts as they mature, shall file a petition in bankruptcy, shall be adjudicated insolvent or bankrupt, shall petition or apply to any tribunal for the appointment of any receiver, custodian, liquidator or trustee of or for it or any substantial part of its property or assets, shall commence any proceeding relating to it under any bankruptcy, reorganization, arrangement, readjustment of debt, receivership, dissolution or liquidation law or statute of any jurisdiction, whether now or hereafter in effect; or there shall be commenced against such Borrower, any such proceeding and the same shall not be dismissed within thirty (30) days or an order, judgment or decree approving the petition in any such proceeding shall be entered against such Borrower; or any Borrower shall by any act or failure to act indicate its consent to, approval of or acquiescence in, any such proceeding or any appointment of any receiver, custodian, liquidator or trustee of or for it or for any substantial part of its property or assets, or shall suffer the appointment of any receiver, liquidator or trustee, or shall take any corporate action for the purpose of effecting any of the foregoing; or any court of competent jurisdiction shall assume jurisdiction with respect to any such proceeding and the same shall not be dismissed within thirty (30) days or a receiver or a trustee or other officer or representative of a court or of creditors, or any court, governmental office or agency, shall, under color of legal authority, take and hold possession of any substantial part of the property or assets of such Borrower and shall not have relinquished possession within thirty (30) days, or such Borrower shall have concealed, removed, or permitted to be concealed or removed, any part of its property, with intent to hinder, delay or defraud its creditors, or any of them, or any Borrower shall have suffered or permitted, while insolvent, any creditor to obtain a Lien upon any of its property through legal proceedings or distraint.

## 8.2 CONSEQUENCES OF AN EVENT OF DEFAULT.

(a) Events of Default in General. If an Event of Default (other than one specified in paragraph (j) of Section 8.1 (Insolvency, Bankruptcy, Etc.) hereof) shall occur and be continuing or shall exist, then, in addition to all other rights and remedies which the Administrative Agent or any other Lender Party may have hereunder or under any other Loan Document, at law, in equity or otherwise, the Lenders shall be under no further obligation to make Loans and the Administrative Agent may, (and upon the written request of the Required Lenders,

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shall), by notice to J & J (on behalf of the Borrowers), from time to time do any or all of the following:

(i) Declare the Commitments terminated, whereupon the Commitments will terminate and any fees hereunder shall be immediately due and payable without presentment, demand, protest or further notice of any kind, all of which are hereby waived, and an action therefor shall immediately accrue.

(ii) Declare the unpaid principal amount of the Loans, interest accrued thereon and all other Loan Obligations to be immediately due and payable without presentment, demand, protest or further notice of any kind, all of which are hereby waived, and an action therefor shall immediately accrue.

(iii) Exercise such other remedies as may be available to the Lender Parties under applicable Law.

(b) Automatic Acceleration; Certain Bankruptcy-Related Events. If an Event of Default specified in paragraph (j) of Section 8.1 (Insolvency, Bankruptcy, Etc.) hereof shall occur or exist, then, in addition to all other rights and remedies which any Lender Party may have hereunder or under any other Loan Document, at law, in equity or otherwise, the Commitments shall automatically terminate and the Lenders shall be under no further obligation to make Loans, and the unpaid principal amount of the Loans, interest accrued thereon and all other Loan Obligations shall become immediately due and payable without presentment, demand, protest or notice of any kind, all of which are hereby waived, and an action therefor shall immediately accrue, and in addition, the Administrative Agent may, and upon the written request of the Required Lenders, shall exercise such other remedies as may be available to the Lender Parties under applicable Law.

(c) Equitable Remedies. It is agreed that, in addition to all other rights hereunder or under Law, the Administrative Agent shall have the right to institute proceedings in equity or other appropriate proceedings for the specific performance of any covenant or agreement made in any of the Loan Documents or for an injunction against the violation of any of the terms of any of the Loan Documents or in aid of the exercise of any power granted in any of the Loan Documents or by Law or otherwise.

8.3 APPLICATION OF PROCEEDS. After the occurrence of an Event of Default and acceleration of the Loans, any amounts received on account of Loan Obligations shall be applied by the Administrative Agent in the following order:

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First, to payment of that portion of the Loan Obligations constituting fees, indemnities, expenses and other amounts due to the Administrative Agent in its capacity as such;

Second, to payment of that portion of the Loan Obligations constituting fees, indemnities (other than those paid pursuant to the preceding clause First) due to the Lender Parties, ratably among them in proportion to the amounts described in this clause Second due to them;

Third, to payment of that portion of the Loan Obligations constituting accrued and unpaid interest on Loans, ratably among the Lender Parties in proportion to the respective amounts described in this clause Third due to them;

Fourth, to payment of that portion of the Loan Obligations constituting unpaid principal of the Loans ratably among the Lender Parties in proportion to the respective amounts described in this clause Fourth due to them;

Fifth, to payment of all other Loan Obligations, ratably among the Lender Parties in proportion to the respective amounts described in this clause Fifth due to

them; and

Finally, the balance, if any, after all of the Loan Obligations have been indefeasibly paid in full, to J & J (on behalf of the Borrowers) or as otherwise required by Law.

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## ARTICLE 9

### THE ADMINISTRATIVE AGENT

9.1 APPOINTMENT. Subject to the provisions of the second sentence of Section 9.9 below, each Lender hereby irrevocably appoints Mellon to act as Administrative Agent for such Lender under this Agreement and the other Loan Documents. Each Lender hereby irrevocably authorizes the Administrative Agent to take such action on behalf of such Lender under the provisions of this Agreement and the other Loan Documents, and to exercise such powers and to perform such duties, as are expressly delegated to or required of the Administrative Agent by the terms hereof or thereof, together with such powers as are reasonably incidental thereto. Mellon hereby agrees to act as Administrative Agent on behalf of the Lenders on the terms and conditions set forth in this Agreement and the other Loan Documents, subject to its right to resign as provided in Section 9.9 hereof. Each Lender hereby irrevocably authorizes the Administrative Agent to execute and deliver each of the Loan Documents and to accept delivery of such of the other Loan Documents as may not require execution by the Administrative Agent. Each Lender agrees that the rights and remedies granted to the Administrative Agent under the Loan Documents shall be exercised exclusively by the Administrative Agent (or a Person designated by the Administrative Agent), and that no Lender shall have any right individually to exercise any such right or remedy, except to the extent, if any, expressly provided herein or therein.

9.2 GENERAL NATURE OF ADMINISTRATIVE AGENT'S DUTIES. Notwithstanding anything to the contrary elsewhere in this Agreement or in any other Loan Document:

(a) The Administrative Agent shall have no duties or responsibilities except those expressly set forth in this Agreement and the other Loan Documents, and no implied duties or responsibilities on the part of the Administrative

Agent shall be read into this Agreement or any other Loan Document or shall otherwise exist.

(b) The duties and responsibilities of the Administrative Agent under this Agreement and the other Loan Documents shall be mechanical and administrative in nature, and the Administrative Agent shall not have a fiduciary relationship with respect to any Lender.

(c) The Administrative Agent's relationship with and to the Lenders is governed exclusively by the terms of this Agreement and the other Loan Documents. The Administrative Agent does not assume, and shall not at any time be deemed

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to have, any relationship of agency or trust with or for, any Lender or any other Person or (except only as expressly provided in this Agreement and the other Loan Documents) any other duty or responsibility to such Lender or other Person.

(d) The Administrative Agent shall be under no obligation to take any action hereunder or under any other Loan Document if the Administrative Agent believes in good faith that taking such action may conflict with any Law or any provision of this Agreement or any other Loan Document, or may require the Administrative Agent to qualify to do business in any jurisdiction where it is not then so qualified.

(e) The authority of the Administrative Agent to request information from the Borrowers or take any other voluntary action hereunder shall impose no duty of any kind on the Administrative Agent to make such request or take any such action.

(f) The Administrative Agent shall have no duty to inquire whether any Interest Rate Hedging Agreement conforms to the terms and limitations of this Agreement and shall have no duty to inquire as to whether the Borrowers maintain any Interest Rate Hedging Agreements.

9.3 EXERCISE OF POWERS. The Administrative Agent shall take any action of the type specified in this Agreement or any other Loan Document as being within the Administrative Agent's rights, powers or discretion in accordance with directions from the Required Lenders (or as otherwise provided in the Loan Documents). In the absence of such direction, the Administrative Agent shall have the authority (but under no circumstances shall be obligated), in its sole discretion, to take any such action, except to the extent that this Agreement or such other Loan Document expressly requires the direction or consent of the Required Lenders (or all of the Lenders, or some other Person or group of Persons), in which case the Administrative Agent shall not take such action absent such direction or consent. Any action or inaction pursuant to such direction, discretion or consent shall be binding on each Lender (whether or not it so consented). The Administrative Agent shall not have any liability to any Person as a result of any action or inaction in conformity with this Section 9.3.

9.4 GENERAL EXCULPATORY PROVISIONS. Notwithstanding anything to the contrary elsewhere in this Agreement or any other Loan Document:

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(a) The Administrative Agent shall not be liable for any action taken or omitted to be taken by it under or in connection with this Agreement or any other Loan Document, except only for direct (as opposed to consequential or other) damages suffered by a Person and only to the extent that such Person proves that such damages were caused by the Administrative Agent's own gross negligence or willful misconduct.

(b) The Administrative Agent shall not be responsible for (i) the execution, delivery, effectiveness, enforceability, genuineness, validity or adequacy of any Loan Document, (ii) any recital, representation, warranty, document, certificate, report or statement in, provided for in, or received under or in connection with, any Loan Document, or (iii) any failure of any Borrower or, any Lender to perform any of their respective obligations under any Loan Document.

(c) The Administrative Agent shall not be under any obligation to ascertain, inquire or give any notice relating to (i) the performance or observance of any of the terms or conditions of this Agreement or any other Loan Document on the part of any Borrower, (ii) the business, operations, condition (financial or otherwise) or prospects of any Borrower or any other Person (even if the Administrative Agent knows or should know that some event or condition exists or fails to exist), or (iii) except to the extent set forth in Section 9.5(f) below, the existence of any Event of Default or Default.

(d) The Administrative Agent shall not be under any obligation, either initially or on a continuing basis, to provide any Lender Party with any notices, reports or information of any nature, whether in its possession presently or hereafter, whether obtained under or in connection with this Agreement or otherwise, except for such notices, reports and other information expressly required by this Agreement or any other Loan Document to be furnished by the Administrative Agent to such Lender Party.

#### 9.5 ADMINISTRATION BY THE ADMINISTRATIVE AGENT.

(a) The Administrative Agent may rely upon any notice or other communication of any nature (written or oral, including but not limited to telephone conversations, whether or not such notice or other communication is made in a manner permitted or required by this Agreement or any other Loan Document) purportedly made by or on behalf of the proper party or parties, and the Administrative Agent shall not have any duty to verify the identity or authority of any Person giving such notice or other communication.

(b) The Administrative Agent may consult with legal counsel (including in-house counsel for the Administrative Agent or in-house or other counsel for any Borrower), independent

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public accountants and any other experts selected by it from time to time, and the Administrative Agent shall not be liable for any action taken or omitted to be taken in good faith by it in accordance with the advice of such counsel, accountants or experts.

(c) The Administrative Agent may conclusively rely upon the truth of the statements and the correctness of the opinions expressed in any certificates or opinions furnished to the Administrative Agent in accordance with the requirements of this Agreement or any other Loan Document. Whenever the Administrative Agent shall deem it necessary or desirable that a matter be proved or established with respect to any Borrower or Lender Party, such matter may be established by a certificate of such Borrower or Lender Party, as the case may be, and the Administrative Agent may conclusively rely upon such certificate (unless other evidence with respect to such matter is

specifically prescribed in this Agreement or another Loan Document).

(d) The Administrative Agent may fail or refuse to take any action unless it shall be directed by the Required Lenders (or all of the Lenders, or some other Person or group of Persons, if this Agreement or another Loan Document so expressly requires) to take such action and it shall be indemnified to its satisfaction from time to time against any and all amounts, liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements of any kind or nature which may be imposed on, incurred by or asserted against the Administrative Agent by reason of taking or continuing to take any such action.

(e) The Administrative Agent may perform any of its duties under this Agreement or any other Loan Document by or through agents or attorneys-in-fact. The Administrative Agent shall not be responsible for the negligence or misconduct of any agents or attorneys-in-fact selected by it with reasonable care.

(f) The Administrative Agent shall not be deemed to have any knowledge or notice of the occurrence of any Event of Default or Default unless the Administrative Agent has received notice from a Lender Party or a Borrower referring to this Agreement, describing such Event of Default or Default, and stating that such notice is a "notice of default." If the Administrative Agent receives such a notice, the Administrative Agent shall give prompt notice thereof to each Lender Party.

9.6 LENDER PARTIES NOT RELYING ON ADMINISTRATIVE AGENT OR OTHER LENDERS. Each Lender Party acknowledges as follows: (a) neither the Administrative Agent nor any other Lender Party has made any representations or warranties to it, and no act taken hereafter by the Administrative Agent or any other Lender Party

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shall be deemed to constitute any representation or warranty by the Administrative Agent or such other Lender Party to it; (b) it has, independently and without reliance upon the Administrative Agent or any other Lender Party, and based upon such documents and information as it has deemed appropriate, made its own credit and legal analysis and decision to enter into this Agreement and the other Loan Documents; and (c) it will, independently and without reliance upon the Administrative Agent or any other Lender Party, and based upon such documents and information as it shall deem appropriate at the time, make its own decisions to take or not take action under or in connection with this Agreement and the other Loan Documents.

9.7 INDEMNIFICATION. Each Lender agrees to reimburse and indemnify the Administrative Agent and its directors, officers, employees and agents (to the extent not reimbursed by a Borrower and without limitation of the obligations of the Borrowers to do so), in proportion to the Lenders' respective pro rata share of (without duplication) the Commitment and the Loans, from and against any and all amounts, losses, liabilities, claims, damages, expenses, obligations, penalties, actions, judgments, suits, costs or disbursements of any kind or nature (including the fees and disbursements of counsel for the Administrative Agent or such other Person in connection with any investigative, administrative or judicial proceeding commenced or threatened, whether or not the Administrative Agent or such other Person shall be designated a party thereto) that may at any time be imposed on, incurred by or asserted against the Administrative Agent or such other Person as a result of, or arising out of, or in any way related to or by reason of, this Agreement, any other Loan Document, any Acquisition or any other transaction from time to time contemplated hereby or thereby, or any transaction actually or proposed to be financed in whole or in part, directly or indirectly, with the proceeds of any Loan, provided that no



Lender shall be liable for any portion of such amounts, losses, liabilities, claims, damages, expenses, obligations, penalties, actions, judgments, suits, costs or disbursements that such Lender Party proves were the result of the gross negligence or willful misconduct of the Administrative Agent or such other Person. Payments under this Section 9.7 shall be due and payable on demand.

9.8 REGISTER. The Administrative Agent shall maintain at its address referred to in Section 12.1 a copy of each Assignment and Acceptance delivered to and accepted by it and a register for the recordation of the names and addresses of the Lenders and the Commitment of, and principal amount of the Loans and stated interest thereon owing to, each Lender from time to time (the "Register"). The entries in the Register shall be conclusive and binding for all purposes, absent manifest error, and the

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Borrowers, the Administrative Agent and the Lenders may treat each Person whose name is recorded in the Register as a Lender hereunder for all purposes of this Agreement. The Register shall be available for inspection by J & J on behalf of the Borrowers or any Lender at any reasonable time and from time to time upon reasonable prior notice.

9.9 SUCCESSOR ADMINISTRATIVE AGENT. The Administrative Agent may resign at any time by giving 30 days' prior written notice thereof to the other Lender Parties and J & J on behalf of the Borrowers. The Administrative Agent may be removed by the Required Lenders at any time for cause by such Required Lenders giving 30 days' prior written notice thereof to the Administrative Agent, the other Lender Parties and J & J on behalf of the Borrowers. Upon any such resignation or removal, the Required Lenders shall have the right to appoint a successor Administrative Agent with (so long as no Default or Event of Default shall have occurred and then be continuing) the consent of J & J on behalf of the Borrowers whose consent shall not be unreasonably withheld or delayed. If no successor Administrative Agent shall have been so appointed and consented to, and shall have accepted such appointment, within 30 days after such notice of resignation or removal, then CoreStates shall have the right to become the successor Administrative Agent by giving written notice thereof to J & J and the Lenders and if CoreStates declines to become successor Administrative Agent or fails to give such notice within thirty five (35) days after the retiring Administrative Agent's notice of resignation or removal, then the retiring Administrative Agent may (but shall not be required to) appoint a successor Administrative Agent. Each successor Administrative Agent shall be a Lender if any Lender shall at the time be willing to become the successor Administrative Agent, and if no Lender shall then be so willing, then such successor Administrative Agent shall be an Eligible Institution. Upon the acceptance by a successor Administrative Agent of its appointment as Administrative Agent hereunder, such successor Administrative Agent shall thereupon succeed to and become vested with all the properties, rights, powers, privileges and duties of the former Administrative Agent in its capacity as such, without further act, deed or conveyance. Upon the effective date of resignation or removal of a retiring Administrative Agent, such Administrative Agent shall be discharged from its duties under this Agreement and the other Loan Documents, but the provisions of this Agreement shall inure to its benefit as to any actions taken or omitted by it while it was Administrative Agent under this Agreement. If and so long as no successor Administrative Agent shall have been appointed, then any notice or other communication required or permitted to be given by the Administrative Agent shall be sufficiently given if given by the Required Lenders, all notices or other communications required or permitted to be given to the Administrative Agent shall be given to each Lender, and all payments to be made to the Administrative

Agent shall be made directly to the Borrowers or Lender Party for whose account such payment is made.

9.10 ADDITIONAL ADMINISTRATIVE AGENTS. If the Administrative Agent shall from time to time deem it necessary or advisable, for its own protection in the performance of its duties hereunder or in the interest of the Lender Parties, the Administrative Agent and the Borrowers shall execute and deliver a supplemental agreement and all other instruments and agreements necessary or advisable, in the opinion of the Administrative Agent, to constitute one or more other Persons designated by the Administrative Agent, to act as co-Administrative Agent, with such powers of the Administrative Agent as may be provided in such supplemental agreement, and to vest in such other Person as such co-agent or separate agent, as the case may be, any properties, rights, powers, privileges and duties of the Administrative Agent under this Agreement or any other Loan Document.

9.11 CALCULATIONS. The Administrative Agent shall not be liable for any calculation, apportionment or distribution of payments made by it in good faith and without gross negligence or willful misconduct. If such calculation, apportionment or distribution is subsequently determined to have been made in error, the sole recourse of any Lender Party to whom payment was due but not made shall be to recover from the other Lender Parties any payment in excess of the amount to which they are determined to be entitled or, if the amount due was not paid by the appropriate Borrower, to recover such amount from the appropriate Borrower.

9.12 ADMINISTRATIVE AGENT IN ITS INDIVIDUAL CAPACITY. With respect to its Commitment hereunder and the Loan Obligations owing to it, the Administrative Agent shall have the same rights and powers under this Agreement and each other Loan Document as any other Lender and may exercise the same as though it were not the Administrative Agent, and the terms "Lender", "Holder of Notes" and like terms shall include the Administrative Agent in its individual capacity as such. The Administrative Agent and its Affiliates may, without liability to account, make loans to, accept deposits from, acquire debt or equity interests in, act as trustee under indentures of, enter into Interest Rate Hedging Agreements with, serve as "Administrative Agent" for other financing vehicles, issue letters of credit on behalf of, and engage in any other business with, (a) any Borrower or any stockholder, Subsidiary or Affiliate of any Borrower, or (b) any other Person, whether such other Person may be engaged in any conflict or dispute with any Borrower or any Lender Party or

otherwise, as though the Administrative Agent were not the Administrative Agent hereunder.

ARTICLE 10

SPECIAL INTER-BORROWER PROVISIONS

10.1 CERTAIN BORROWER ACKNOWLEDGEMENTS.

(a) Each Borrower acknowledges that it will enjoy significant benefits from the business conducted by the other Borrowers because of, inter alia, their combined ability to bargain with other Persons including without limitation their ability to receive the credit facilities on favorable terms granted by this Agreement and other Loan Documents which would not have been available to an individual Borrower acting alone. Each Borrower has determined that it is in its best interest to procure credit facilities which each Borrower may utilize directly and which receive the credit support of the other Borrowers as contemplated by this Agreement and the other Loan Documents.

(b) The Lenders have advised the Borrowers that they are unwilling to enter into this Agreement and the other Loan Documents and make available the credit facilities extended hereby to any Borrower unless each Borrower agrees, among other things, to be jointly and severally liable for the due and proper payment of the obligations of each other Borrower under this Agreement and other Loan Documents. Each Borrower has determined that it is in its best interest and in pursuit of its purposes that it so induce the Lenders to extend credit pursuant to this Agreement and the other documents executed in connection herewith (i) because of the desirability to each Borrower of the credit facilities, the interest rates and the modes of borrowing

available hereunder, (ii) because each Borrower may engage in transactions jointly with other Borrowers and (iii) because each Borrower may require, from time to time, access to funds under this Agreement for the purposes herein set forth.

(c) Each Borrower has determined that it has and, after giving effect to the transactions contemplated by this Agreement and the other Loan Documents (including, without limitation, the inter-Borrower arrangement set forth in this Article 10 will have, assets having a fair saleable value in excess of the amount required to pay its probable liability on its existing debts as they fall due for payment and that the sum of its debts is not and will not then be greater than all of its property at a fair valuation, that such Borrower has, and will have, access to adequate capital for the conduct of its business and the ability to pay its debts from time to time incurred in connection therewith as such debts mature and that the value of the benefits to be derived by such Borrower from the access to funds under this Agreement (including, without limitation, the inter-Borrower arrangement set forth in this Article 10) is reasonably equivalent to the obligations undertaken pursuant hereto.

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#### 10.2 CERTAIN INTER-BORROWER AGREEMENTS.

(a) Subject to paragraph (b) below, each Borrower as indemnitor shall indemnify the other Borrowers as indemnitees for all Loan Obligations incurred by the indemnitee Borrowers for Loans advanced to the indemnitor Borrower.

(b) The rights and obligations of the Borrowers pursuant to paragraph (a) above shall be subordinated in all respects to the rights of the Administrative Agent and the other Lender Parties with respect to the Loan Obligations and, accordingly, each Borrower agrees that it shall not make any payment or receive any payment pursuant to the preceding paragraph (a) at any time a Default has occurred and is continuing or would be caused thereby. Each Borrower agrees that in the event it receives any payment described by or in violation of this paragraph (b), it shall accept such payment as agent of the Administrative Agent, for the benefit of the Lender Parties, and hold the same in trust on behalf of and for the benefit of the Administrative Agent, for the benefit of the Lender Parties.

10.3 RECORDS. J & J (on behalf of each Borrower) shall maintain records specifying (a) all Loan Obligations incurred by each Borrower, (b) the date of such incurrence, (c) the date and amount of any payments made in respect of such Loan Obligations and (d) all inter-Borrower obligations pursuant to paragraph 10.2 above. J & J shall make copies of such records available to the Administrative Agent, upon request.

ARTICLE 11

DEFINITIONS; CONSTRUCTION

11.1 CERTAIN DEFINITIONS. As used in this Agreement, the following terms have the following meanings, (terms defined in the singular to have a correlative meaning when used in the plural) unless the context hereof otherwise clearly requires:

"Accumulated Funding Deficiency" has the meaning given to such term in S4001(a)(18) of ERISA.

"Acquisition" means any acquisition by one or more of the Borrowers, directly or indirectly, whether in one transaction or in a series of related transactions (and whether by merger, consolidation, acquisition of assets or otherwise) of all or any substantial portion of the ownership interests in or assets of any separate business enterprise.

"Acquisition Cost" means, with respect to any Acquisition, the value in Dollars of the total consideration paid or payable (whether immediate or deferred and whether in cash, equity or other assets) by any of the Borrowers for or in respect of the ownership interests or assets being acquired in such Acquisition.

"Administrative Agent" has the meaning ascribed to such term in the preamble of this Agreement.

"Affiliate" of a Person means (a) any other Person which directly or indirectly controls, or is controlled by, or is under common control with, such Person, (b) any director or officer (or, in the case of a Person which is not a corporation, any individual having analogous powers) of such Person or of a Person who is an Affiliate of such Person, and (c) any individual related to such Person or Affiliate by consanguinity or adoption within the third degree. For purposes of the preceding sentence, "control" of a Person means (a) 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 contract or otherwise and (b) in any case shall include direct or indirect ownership (beneficially or of record) of, or direct or indirect power to vote, 5% or more of the outstanding shares of any class of capital stock of such Person (or in the case of a Person that is not a corporation, 5% or more of any class of equity interest).

"Agreement" means this Credit Agreement as the same may be amended, modified, restated or supplemented from time to time in accordance with its terms.

"Agreement Date" means the date first-above written.

"Amount of Unfunded Benefit Liabilities" has the meaning given to such term in S4001(a)(18) of ERISA.

"Applicable Margin" means a marginal rate of interest which is added to the LIBO Rate to determine the effective rate of interest on LIBO Rate Loans. Until the Officer's Compliance Certificate for the fiscal year ended December 31, 1997 is delivered to the Administrative Agent and Lenders pursuant to Section 5.1 above, the Applicable Margin for LIBO Rate Loans

shall be 0.50%. Thereafter, the Applicable Margin shall be determined in the following manner:

For any LIBO Rate Loans, the Applicable Margin shall be the percentage amount set forth below under the caption

"Applicable Margin" opposite the relevant Total Funded Indebtedness/EBITDA Ratio:	
Total Funded	Applicable Margin

for

Indebtedness/EBITDA Ratio LIBO Rate Loans

below 2.50	0.50%
> 2.50 < 2.75	0.75%
> 2.75 < 3.00	1.00%
> 3.00	1.25%

The Applicable Margin shall be adjusted five Business Days after receipt of the annual or quarterly Officer's Compliance Certificate, delivered pursuant to Section 5.1. At any time that such annual or quarterly Officer's Compliance Certificate is required to be delivered pursuant to said Section 5.1 and is not so delivered, then the Applicable Margin shall be the highest rate specified above until the Officer's Compliance Certificate is so delivered.

"Assignment" has the meaning ascribed to such term in the recitals hereof.

"Assignment and Acceptance" shall have the meaning ascribed to such term in Section 12.9.

"Assumed Indebtedness" means Indebtedness incurred by a Person which is not a Borrower and which (a) is existing at the time such Person (or assets of such Person) is acquired by a Borrower and (b) is assumed by a Borrower in connection with such Acquisition, other than Indebtedness incurred by the original obligor in connection with, or in contemplation of, such Acquisition.

"Available RC Commitment" means, as of any date, the difference obtained by subtracting (a) minus (b) where (a) is the amount of the RC Commitment on such date and (b) is the aggregate outstanding principal amount of all RC Loans on such date.

"Bank Tax" means (i) any Tax based on or measured by net income of a Lender Party, any franchise Tax and any doing business Tax imposed upon any Lender Party by any jurisdiction (or any political subdivision thereof) in which such Lender Party or any lending office of a Lender Party is located and (ii) for the purposes of Section 1.13, any other Tax imposed by a jurisdiction other than the United States or a political subdivision thereof that would not have been imposed but for a present or former connection between such Lender Party or lending office (as the case may be) and such jurisdiction.

"Borrowers" has the meaning ascribed to such term in the preamble hereto. It is the intent of the parties (and a covenant of the Borrowers herein) that each Person which is now or hereafter becomes a direct or indirect Subsidiary of J & J shall at all times after becoming a Subsidiary of J & J be a "Borrower" pursuant to the terms of this Agreement.

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"Business Day" means any day other than a Saturday, Sunday, public holiday under the laws of the Commonwealth of Pennsylvania, or other day on which banking institutions are authorized or obligated to close in the city in which the Administrative Agent's Domestic Lending Office is located provided, however, that whether or not expressly stated in this Agreement or other Loan Documents, when "Business Day" is used with respect to any LIBO Rate Loan, such Business Day must also be a Eurodollar Business Day.

"Capital Expenditures", with respect to any Person, means, for any period, all expenditures (whether paid in cash or accrued as liabilities) of such Person during such period which are, or should be, classified as capital expenditures in accordance with GAAP.

"Capitalized Lease" means at any time any lease which is, or should be, capitalized on the balance sheet of the lessee at such time in accordance with GAAP.

"Capitalized Lease Obligation" of any Person at any time means the aggregate amount which is, or should be, reported as a liability on the balance sheet of such Person at such time as lessee under a Capitalized Lease in accordance with GAAP.

"Cash Equivalent Investments" means any of the following: (i) full faith and credit obligations of the United States of America, or fully guaranteed as to interest and principal by the full faith and credit of the United States of America, maturing in not more than one year from the date such

investment is made; (ii) time deposits and certificates of deposit having a final maturity of not more than one year after the date of issuance thereof of any commercial bank incorporated under the laws of the United States of America or any state thereof or the District of Columbia, which bank is a member of the Federal Reserve System and has a combined capital and surplus of not less than \$1,000,000.00 and with a senior unsecured debt credit rating of at least "A" by Moody's Investors Service, Inc. or "A" by Standard & Poor's Ratings Services; (iii) commercial paper of companies, banks, trust companies or national banking associations (in each case excluding J & J and its Affiliates) incorporated or doing business under the laws of the United States or one of the States thereof, in each case having a remaining term until maturity of not more than 180 days from the date such investment is made and rated at least P-1 by Moody's Investors Service, Inc. or at least A-1 by Standard & Poor's Ratings Services; and (iv) repurchase agreements with any financial institution having combined capital and surplus of not less than \$1,000,000.00 with a term of not more than seven days for underlying securities of the type referred to in clause (i) above.

"Cash Flow", with respect to any Person, for any period, means (a) Net Income of such Person plus (b) each of the following to the extent deducted in determining Net Income: (i) depreciation expense, and (ii) amortization expense in each case for such period.

"CCFC" has the meaning ascribed to such term in the recitals hereof.

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"CERCLA" means the Comprehensive Environmental Response, Compensation and Liability Act, as amended, and any successor statute of similar import, and regulations thereunder, in each case as in effect from time to time.

"CERCLIS" means the Comprehensive Environmental Response, Compensation and Liability Information System List, as the same may be amended from time to time.

"Closing Date" means the date that the initial Loans are made hereunder.

"COBRA Violation" means any violation of the "continuation coverage requirements" of "group health plans" of former S162(k) of the Code (as in effect for tax years beginning on or before December 31, 1988) and of S4980B of the Code (as in effect for tax years beginning on or after January 1, 1989) and Part 6 of Subtitle B of Title I of ERISA.

"Code" means the Internal Revenue Code of 1986, as amended, and any successor statute of similar import, and regulations thereunder, in each case as in effect from time to time, and the Treasury regulations thereunder.

"Collateral" means (a) the cash collateral account, if any, in respect of Letters of Credit from time to time and (b) the collateral subject to, or purported to be subject to, the Liens of the Pledge Agreement, from time to time.

"Commitment" means, with respect to any Lender, the obligation of such Lender to make Loans pursuant to the terms of this Agreement. "Commitment" means, with respect to all Lender Parties, the sum of each Lender Party's Commitment.

"Controlled Group" means a group of employers, of which any Borrower is a member and which group constitutes:

(a) A controlled group of corporations (as defined in S414(b) of the Code);

(b) Trades or businesses (whether or not incorporated) which are under common control (as defined in S414(c) of the Code);

(c) Trades or businesses (whether or not incorporated) which constitute an affiliated service group (as defined in S414(m) of the Code); or

(d) Any other entity required to be aggregated with any Borrower pursuant to S414(o) of the Code.

"CoreStates" has the meaning ascribed to such term in the preamble hereof.

"Default" means any event or condition which with notice, passage of time or both, would constitute an Event of Default.

"Default Rate" means, with respect to any amounts payable hereunder or under the other Loan Documents, a rate equal to the sum of (a) two percent (2%) per annum plus (b) the interest rate otherwise in effect with respect to such amounts or, if no such rate is otherwise in effect with respect to such

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amounts, a rate equal to the sum of (i) the Prime Rate plus (ii) two percent (2%).

"Defined Benefit Pension Plan" means a defined benefit plan (other than a Multiemployer Plan) as defined in S3(35) of ERISA which is maintained by any Borrower or any member of its Controlled Group.

"Defined Contribution Plan" means an individual account plan (other than a Multiemployer Plan) as defined in S3(34) of ERISA which is maintained by any Borrower or any member of its Controlled Group.

"Dollar," "Dollars" and the symbol "\$" means lawful money of the United States of America.

"Domestic Lending Office" means, with respect to any Lender (i) the office designated as such on the signature page hereof, or (ii) the branch or office of such Lender designated, from time to time, by such Lender in a notice to the Administrative Agent and J & J.

"EBITDA" means Net Income before (a) Interest Expense, (b) income taxes, (c) depreciation and (d) amortization.

"Eligible Institution" means (i) a Lender; (ii) an Affiliate of a Lender; (iii) a commercial bank organized under the laws of the United States, or any State thereof, and having a combined capital and surplus of at least \$1,000,000,000.00; (iv) a savings and loan association or savings bank organized under the laws of the United States, or any State thereof, and having a combined capital and surplus of at least \$1,000,000,000.00; (v) a commercial bank organized under the laws of any other country that is a member of the Organization for Economic Cooperation and Development or has concluded special lending arrangements with the International Monetary Fund associated with its General Arrangements to Borrow or under the laws of a political subdivision of any such country, and having a combined capital and surplus of at least \$1,000,000,000.00, so long as such bank is acting through a branch or agency located in the United States; and (vi) a finance company, insurance company or other financial institution or fund (whether a corporation, partnership, trust or other entity) that is engaged in making, purchasing or otherwise investing in commercial loans in the ordinary course of its business and having a combined capital and surplus or total assets of at least \$500,000,000.00 and (vii) with respect to any Lender that is a fund, any other fund with assets in excess of \$100,000,000.00 that invests in bank loans and is managed by the same investment advisor as such Lender; provided, however, that neither any Borrower nor any Affiliate of a Borrower shall qualify as an Eligible Institution under this definition.

"Environmental Affiliate" means, with respect to any Person, any other Person whose liability (contingent or otherwise) for any Environmental Claim such Person has retained, assumed or otherwise is liable for (by Law, agreement or otherwise).

"Environmental Approvals" means any approval, order, consent, authorization, certificate, license, permit or validation of, or exemption or other action by, or filing,

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recording or registration with, any Governmental Authority pursuant to or required under any Environmental Law.



"Environmental Claim" means, with respect to any Person, any action, suit, proceeding, investigation, notice, claim, complaint, demand, request for information or other communication (written or oral) by any other Person (including but not limited to any Governmental Authority, citizens' group or present or former employee of such Person) alleging, asserting or claiming any actual or potential (a) violation of any Environmental Law, (b) liability under any Environmental Law or (c) liability for investigatory costs, cleanup costs, governmental response costs, natural resources damages, property damages, personal injuries, fines or penalties arising out of, based on or resulting from the presence, or release into the environment, of any Environmental Concern Materials at any location, whether or not owned by such Person.

"Environmental Cleanup Site" means any location which is listed or proposed for listing on the National Priorities List (as established under CERCLA), on CERCLIS or on any similar state list of sites requiring investigation or cleanup, or which is the subject of any pending or threatened action, suit, proceeding or investigation related to or arising from any alleged violation of any Environmental Law.

"Environmental Concern Materials" means (a) any flammable substance, explosive, radioactive material, hazardous material, hazardous waste, toxic substance, solid waste, pollutant, contaminant or any related material, raw material, substance, product or by-product of any substance specified in or regulated or otherwise affected by any Environmental Law (including but not limited to any "hazardous substance" as defined in CERCLA or any similar state Law), (b) any toxic chemical or other substance from or related to industrial, commercial or institutional activities, and (c) asbestos, gasoline, diesel fuel, motor oil, waste and used oil, heating oil and other petroleum products or compounds, polychlorinated biphenyls, radon and urea formaldehyde.

"Environmental Law" means any Law, whether now existing or subsequently enacted or amended, relating to (a) pollution or protection of the environment, including natural resources, (b) exposure of Persons, including but not limited to employees, to Environmental Concern Materials, (c) protection of the public health or welfare from the effects of products, by-products, wastes, emissions, discharges or releases of Environmental Concern Materials or (d) regulation of the manufacture, use or introduction into commerce of Environmental Concern Materials including their manufacture, formulation, packaging, labeling, distribution, transportation, handling, storage or disposal. "Environmental Law" shall also include any Environmental Approval and the terms and conditions thereof.

"ERISA" means the Employee Retirement Income Security Act of 1974, as amended from time to time, and the regulations thereunder.

"Eurodollar Business Day" means any Business Day on which dealings in Dollar deposits are carried on in the London

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interbank market and on which commercial banks are open for domestic and international business (include dealings in Dollar deposits) in London, England.

"Eurodollar Lending Office" means, with respect to any Lender, the branch or office of such Lender designated by such Person on the signature page hereof or in a notice to the Administrative Agent and J & J.

"Event of Default" means any of the Events of Default described in Section 8.1 hereof.

"Federal Funds Rate" for any day means the rate per annum determined by the Administrative Agent (which determination shall be conclusive) to be the rate per annum announced by the Federal Reserve Bank of New York on such day as being the weighted average of the rates on overnight Federal funds transactions arranged by federal funds brokers on the previous trading day, or, if such Federal Reserve Bank does not announce such rate on any day, the rate for the last day on which such rate was announced.

"Fixed Charge Coverage Ratio" means, as of any date of determination, the result of:

(a) Cash Flow of the Borrowers, on a consolidated

basis, for the four fiscal quarters ending on, or most recently prior to, such date of determination

divided by

(b) current maturities of long term debt as determined in accordance with GAAP.

"GAAP" has the meaning set forth in Section 11.3 hereof.

"Governmental Authority" means any government or political subdivision or any agency, authority, bureau, central bank, commission, department or instrumentality of either, or any court, tribunal, grand jury or arbitrator, in each case whether foreign or domestic.

"Guaranty" means, with respect to any Person (a "Guarantor"), any contractual or other obligation, contingent or otherwise, of such Person to pay any Indebtedness or other obligation of any other Person or to otherwise protect the holder of any such Indebtedness or other obligation against loss (whether such obligation arises by agreement to pay, to keep well, to purchase assets, goods, securities or services or otherwise) provided, however, that the term "Guaranty" shall not include an endorsement for collection or deposit in the ordinary course of business. The term, "Guaranty," when used as a verb has the correlative meaning.

"Indebtedness" of any Person means (without duplication):

(a) all obligations on account of money borrowed by, or credit extended to or on behalf of, or for or on account of deposits with or advances to, such Person;

(b) all obligations of such Person evidenced by bonds, debentures, notes or similar instruments;

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(c) all obligations of such Person for the deferred purchase price of property or services;

(d) all obligations secured by a Lien on property owned by such Person (whether or not assumed) provided, however, for purposes of determining the amount of such Indebtedness under this clause (d), the amount of any such non-recourse Indebtedness shall be limited to the lesser of (i) the fair market value of the asset subject to such Lien and (ii) the amount of such Indebtedness;

(e) all obligations of such Person under Capitalized Leases (without regard to any limitation of the rights and remedies of the holder of such Lien or the lessor under such Capitalized Lease to repossession or sale of such property);

(f) the face amount of all letters of credit issued for the account of such Person and, without duplication, the unreimbursed amount of all drafts drawn thereunder, and all other obligations of such Person associated with such letters of credit or draws thereon;

(g) all obligations of such Person with respect to acceptances or similar obligations issued for the account of such Person;

(h) all obligations of such Person under a product financing or similar arrangement described in paragraph 8 of FASB Statement of Accounting Standards No. 49 or any similar requirement of GAAP;

(i) all obligations of such Person under any Interest Rate Hedging Agreement or any currency protection agreement, currency future, option or swap or other currency hedge agreement;

(j) all Guaranties of such Person; and

(k) all obligations of such Person under, or in respect of, any Synthetic Leases.

Indebtedness shall not include accounts payable to trade creditors arising out of purchases of goods or services in the ordinary course of business, provided that (i) such accounts payable are payable on usual and customary trade terms, and (ii) such accounts payable are not overdue by more than 60 days according to the original terms of sale except (if no

foreclosure, distraint, levy, sale or similar proceeding shall have been commenced) where such payments are being contested in good faith by appropriate proceedings diligently conducted and subject to such reserves or other appropriate provisions as may be required by GAAP.

"Indemnified Parties" means, collectively, the Lender Parties and their respective Affiliates and (without duplication) the directors, trustees, officers, employees, attorneys and agents of each of the foregoing.

"Interest Expense" means, for any Person, for any period, the sum (without duplication) of (a) all interest accrued (or accreted) on Indebtedness of such Person during such period whether or not actually paid (excluding any obligations under any Synthetic Leases) plus (b) the net amount accrued under any

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Interest Rate Hedging Agreements (or less the net amount receivable thereunder) during such period.

"Interest Period" means with respect to any LIBO Rate Loan, (a) initially, the period commencing on the borrowing or conversion date, as the case may be, and ending one, two, three or six months thereafter as selected by the Borrowers pursuant to Section 1.8 above and (b) thereafter, each period commencing on the day after the last day of the preceding Interest Period and ending one, two, three or six months thereafter, as selected by the Borrower pursuant to Section 1.8 above provided, however, if any such Interest Period would otherwise end on a day which is not a Eurodollar Business Day, such Interest Period shall be extended to the next succeeding Eurodollar Business Day unless the result of such extension would be to carry such Interest Period into another calendar month in which event such Interest Period shall end on the immediately preceding Eurodollar Business Day and provided, further, if any such Interest Period begins on a day for which there is no numerically corresponding day in the calendar month at the end of such Interest Period (as may be the case with an Interest Period commencing at the end of a calendar month) the Interest Period shall end on the last Eurodollar Business Day of the relevant calendar month.

"Interest Rate Hedging Agreement" means any rate swap, cap or collar agreement with a term as may be acceptable to the Lenders to which any or all of the Borrowers are party and which is on terms and conditions satisfactory to the Lenders.

"Investments" has the meaning set forth in Section 7.3 hereof.

"IUC" has the meaning ascribed to it in the recitals hereof.

"J & J" has the meaning ascribed to such term in the preamble of this Agreement.

"Joinder Effective Date" means the date that any Joining Subsidiary becomes a Borrower hereunder pursuant to Section 5.10.

"Joinder Supplement" has the meaning set forth in Schedule 5.10 hereto.

"Joining Subsidiary" has the meaning set forth in Section 5.10 hereof.

"Law" means any law (including common law), constitution, statute, treaty, convention, regulation, rule, ordinance, order, injunction, writ, decree or award of any Governmental Authority.

"Lender" has the meaning ascribed to such term in the preamble hereto.

"Lender Parties" means, collectively, the Lenders and the Administrative Agent.

"Leverage Ratio" means as of any date of determination the ratio of total liabilities (as determined in accordance with GAAP) divided by Tangible Net Worth.

"LIBO Rate" means the rate per annum determined by the Administrative Agent by dividing (the resulting quotient to be rounded upward to the nearest 1/100 of 1%) (a) the rate of interest (which shall be the same for each day in such Interest

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Period) determined in good faith by the Administrative Agent (which determination shall be conclusive) to be the average of the rates per annum for deposits in Dollars offered to major money center banks in the London interbank market at approximately 11:00 a.m., London time, two Eurodollar Business Days prior to the first day of the applicable Interest Period for delivery on the first day of such Interest Period in similar amounts and maturities as the proposed LIBO Rate Loan by (b) a number equal to 1.0 minus the Reserve Percentage. "Reserve Percentage" for any day means the percentage (expressed as a decimal, rounded upward to the nearest 1/100 of 1%), as determined in good faith by the Administrative Agent (which determination shall be conclusive), which is in effect on such day as prescribed by the Board of Governors of the Federal Reserve System representing the maximum reserve requirement (including supplemental, marginal and emergency reserve requirements) with respect to eurocurrency funding (currently referred to as "Eurocurrency liabilities") of a member bank in such System. The LIBO Rate shall be adjusted automatically as of the effective date of each change in the Reserve Percentage.

"LIBO Rate Loan" means a Loan bearing interest at the per annum rate of the LIBO Rate plus Applicable Margin.

"Licenses" means any and all licenses, permits, franchises, rights to conduct business, approvals by a Governmental Authority or otherwise, consents, qualifications, operating authority, and/or any other authorizations.

"Lien" means any mortgage, deed of trust, pledge, lien, security interest, charge or other encumbrance or security arrangement of any nature whatsoever, including any conditional sale or title retention arrangement, and any assignment, deposit arrangement or lease intended as, or having the effect of, security.

"Limitation" means a revocation, suspension, termination, impairment, probation, limitation, non-renewal, forfeiture, declaration of ineligibility, and/or loss of any other rights.

"Loans" means, collectively, the Term Loans and the RC Loans. "Loan" means any of the Loans.

"Loan Documents" means this Agreement, the Notes, each Joinder Supplement and all other agreements and instruments executed in connection herewith or therewith, in each case as the same may be amended, modified or supplemented from time to time.

"Loan Obligations" means all obligations, from time to time, of any Borrower to any Lender Party or other Indemnified Party under, or arising out of, this Agreement or any Loan Document whether such obligations are direct or indirect, absolute or contingent, due or to become due, now or hereafter arising, (specifically including obligations arising or accruing after the commencement of any bankruptcy, insolvency, or similar proceeding with respect to any Borrower, or which would have accrued but for the commencement of such proceeding even if the claim is not allowed in such proceeding under applicable law).

"Material Adverse Effect" means (a) a material adverse effect on the business, operations, condition (financial or

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otherwise), properties or prospects of J & J or of any other Borrowers, or (b) an adverse effect on the legality, validity, binding effect or enforceability of any Loan Document, or the ability of the Administrative Agent or any Lender Party to enforce any rights or remedies under or in connection with any Loan Document.

"Maturity Date" means the later of the RC Maturity Date or the Term Loan Maturity Date, or, as the context may require, the applicable maturity date for a specified Loan.

"Mellon" has the meaning ascribed to such term in the preamble hereof.

"Monthly Payment Date" means the last Business Day of each month.

"J & J Group" has the meaning ascribed to such term in Section 6.1 hereof.

"Multiemployer Plan" means such term in S4001(a)(3) of

ERISA.

"Net Income" means, with respect to any Person, for any period the net earnings (or loss) after taxes of such Person for such period less extraordinary gains, plus extraordinary non-cash losses.

"NIC" has the meaning ascribed to such term in the recitals hereof.

"NIC Note" has the meaning ascribed to such term in the recitals hereof.

"Non-U.S. Lender" means any Lender that is not a United States Person.

"Notes" means, collectively, the Term Notes and the RC Notes. A "Note" means any of the Notes.

"Officer's Compliance Certificate" means a certificate, as of a specified date, of the chief financial officer or controller of J & J in substantially the form of Exhibit E hereto as to each of the following: (a) the absence of any Event of Default or Default on such date, (b) the truth of the representations and warranties herein and in the other Loan Documents as of such date, and (c) with the financial covenants set forth in Article 6 and the financial limitations set forth in Sections 7.1(d) and 7.4(c).

"PBGC" means the Pension Benefit Guaranty Corporation or any entity succeeding to any or all of its functions under ERISA.

"Pension Plan" means a pension plan (as defined in S3(2) of ERISA) which is subject to Part 3 of Subtitle B of Title I of ERISA or subject to S412 of the Code and maintained by any Borrower or any member of its Controlled Group.

"Permitted Liens" has the meaning set forth in Section 7.2 above.

"Person" means an individual, corporation, partnership, trust, unincorporated association, limited liability company, joint venture, joint-stock company, Governmental Authority or any other entity.

"Plan" means an employee benefit plan (other than a Multiemployer Plan) as defined in S3(3) of ERISA which is either (1) maintained by any Borrower or any member of its Controlled

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Group, or (2) maintained pursuant to a collective bargaining agreement or any other arrangement under which more than one employer makes contributions and to which any Borrower or any member of its Controlled Group is then making or accruing an obligation to make contributions or has ever been obligated to make contributions.

"Premises" has the meaning set forth in Section 12.12 hereof.

"Prime Rate" means the greater of (A) the interest rate per annum announced from time to time by the Administrative Agent as its prime rate or (B) the Federal Funds Rate plus .50%. The Prime Rate may be greater or less than other interest rates charged by the Administrative Agent to other borrowers.

"Prime Rate Loan" means any Loan bearing interest at the Prime Rate.

"Prohibited Transaction" has the meaning given to such term in S406 of ERISA or S4975(c) of the Code.

"Quarterly Payment Date" means the last Business Day of each December, March, June and September.

"RC Commitment" means, with respect to any Lender, (a) the amount set forth opposite such Lender's name under the heading "RC Commitment" on Schedule 1.1 hereto or, in the case of a Lender that becomes a Lender pursuant to an assignment, the amount of the assignor's RC Commitment assigned to such Lender, in either case as the same may be reduced from time to time pursuant to Section 1.7 above or increased or reduced from time to time pursuant to assignments in accordance with Section 12.9 below, or (b) as the context may require, the obligation of such Lender to make RC Loans in an aggregate unpaid principal amount not exceeding such amount; and "RC Commitment" means with respect to all Lenders, the sum of each Lender's RC Commitment.

"RC Loans" has the meaning ascribed to such term in Section 1.1 (b) hereof.

"RC Maturity Date" means December 31, 2000.

"RC Note" means each promissory note of the Borrowers

issued to a Lender relating to such Lender's RC Loans and RC Commitments substantially in the form of Exhibit A-1 hereto, together with any allonges thereto, from time to time, and any promissory note issued in substitution therefor pursuant to the terms hereof, together with all extensions, renewals, refinancings or refundings thereof in whole or part, in each case as the same may be amended, modified, restated or supplemented from time to time.

"Register" has the meaning ascribed to such term in Section 9.8 hereof.

"Registered Lender" has the meaning ascribed to such term in Section 1.14 hereof.

"Registered Note" has the meaning ascribed to such term in Section 1.14 hereof.

"Regulatory Change" means any applicable law, interpretation, directive, request or guideline (whether or not having the force of law), or any change therein or in the administration or enforcement thereof, that becomes effective or

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is implemented or first required or expected to be complied with after the Agreement Date (including any applicable law that shall have become such as the result of any act or omission of the Borrowers or any of their Affiliates, without regard to when such applicable law shall have been enacted or implemented), whether the same is (a) the result of an enactment by a government or any agency or political subdivision thereof, a determination of a court or regulatory authority or otherwise or (b) enacted, adopted, issued or proposed before or after the Agreement Date, including any such that imposes, increases or modifies any Tax, reserve requirement, insurance charge, special deposit requirement, assessment or capital adequacy requirement, but excluding any such that imposes, increases or modifies any Bank Tax.

"Rental Expense" means, with respect to any Person for any period, the aggregate rental obligations of such Person, payable in respect of any leases (including Synthetic Leases but excluding Capitalized Leases) during such period, but in any case including obligations for taxes, insurance, maintenance and similar costs which the lessee is obligated to pay under the terms of such leases and which are attributable to the leases for such period (whether such amounts are accrued or paid during such period).

"Reorganization" has the meaning ascribed to such term in ERISA.

"Reportable Event" has the meaning ascribed to such term in S4043(b) of ERISA.

"Required Lenders" means, as of any date, Lenders otherwise eligible to vote pursuant to the terms of this Agreement holding, in the aggregate, at least 51% of the aggregate outstanding Loans and available Commitments so eligible to vote; provided that "Required Lenders" must include Mellon and/or CoreStates as long as either remains a Lender.

"Responsible Officer" of a Person means the President, the Secretary, the Chief Executive Officer, any Vice President, the Controller, the Treasurer or the Chief Financial Officer of such Person.

"Subsidiary" of a Person at any time means:

(a) any corporation of which a majority (by number of shares or number of votes) of any class of outstanding capital stock normally entitled to vote for the election of one or more directors (regardless of any contingency which does or may suspend or dilute the voting rights of such class) is at such time owned directly or indirectly, beneficially or of record, by such Person or one or more Subsidiaries of such Person;

(b) any trust of which a majority of the beneficial interest is at such time owned directly or indirectly, beneficially or of record, by such Person or one or more Subsidiaries of such Person;

(c) any partnership, limited liability company, joint venture or other entity of which ownership interests having ordinary voting power to elect a majority of the board of directors or other Persons

performing similar functions are at such time owned directly or indirectly, beneficially or of record, by, or which is otherwise controlled directly, indirectly or through one or more intermediaries by, such Person or one or more Subsidiaries of such Person; or

(d) any entity which is consolidated with such Person for financial reporting purposes.

"Synthetic Lease" means any lease (other than a Capitalized Lease) wherein the lessee is treated (or purported to be treated) as the owner of the leased property for income tax purposes.

"Tangible Net Worth" of a Person as of a certain date means the value of such Person's tangible assets less liabilities all as of such date, as determined in accordance with GAAP.

"Tax" means any federal, state, local or foreign tax assessment or other governmental charge or levy (including any withholding tax) upon a Person or upon its assets, revenues, income or profits.

"Term Loan Commitment" means, (a) with respect to any Lender, (i) at any time prior to the Closing Date, (A) the amount set forth opposite such Lender's name under the heading "Term Loan Commitment" on Schedule 1.1 hereto or, in the case of a Lender that becomes a Lender pursuant to an assignment, the amount of the assignor's Term Loan Commitment assigned to such Lender, in either case as the same may be increased or reduced from time to time pursuant to assignments in accordance with Section 12.9 or (B) as the context may require, the obligation of such Lender to make Term Loans in an aggregate unpaid principal amount not exceeding such amount, and (ii) thereafter, zero; and (b) with respect to all Lenders, the sum of each Lender's Term Loan Commitment.

"Term Loan Maturity Date" means December 31, 2002, provided that (a) if J & J, IUC or any of their Affiliates fail to purchase all of the capital stock of NIC by December 31, 1997, then "Term Loan Maturity Date" shall mean such date, or (b) if the Assignment is terminated prior to the date referred to in clause (a) without J & J, IUC or any of their Affiliates having acquired all of the capital stock of NIC, then "Term Loan Maturity Date" shall mean the date on which the Assignment is terminated.

"Term Loans" has the meaning ascribed to such term in Section 1.1(a) hereof.

"Term Note" means each promissory note of the Borrowers issued to a Lender relating to such Lender's Term Loans and Term Loan Commitment substantially in the form of Exhibit A-2 hereto, together with any allonges thereto from time to time and any promissory note issued in substitution therefor pursuant to the terms hereof, together with all extensions, renewals, refinancings or refundings thereof in whole or part, in each case as the same may be amended, modified, restated or supplemented from time to time.

"Third Party Claims" has the meaning set forth in Section 12.12 hereof.

"Total Funded Indebtedness" means the aggregate amount of consolidated Indebtedness (including the current portion thereof) of J & J and its Subsidiaries (including all Indebtedness consisting of Capitalized Lease Obligations, Synthetic Leases, Guaranties and letter of credit reimbursement obligations).

"Total Funded Indebtedness/EBITDA Ratio" means, as of any date of determination, the ratio of (a) Total Funded Indebtedness as of such date of determination, divided by (b) EBITDA for the four fiscal quarters ended on, or most recently prior to, such date of determination.

"Transaction Documents " means each of the material documents as may exist from time to time with such changes thereto as are permitted by the terms of this Agreement respecting (i) the purchase of the NIC Note, (ii) the consummation of the transactions contemplated in the Assignment, (iii) the acquisition by J & J, IUC or their Affiliates of the capital stock of NIC, and (iv) related matters.

"Type" means with respect to Loans, any of the following, each of which shall be deemed to be a different "Type" of Loan: Prime Rate Loans, LIBO Rate Loans having a one-month Interest Period commencing on a specified date, LIBO Rate Loans having a two-month Interest Period commencing on a specified date, LIBO Rate Loans having a three-month Interest Period commencing on a specified date, and LIBO Rate Loans having a six-month Interest Period commencing on a specified date.

"United States Person" has the meaning ascribed to such term in Section 1.13 hereof.

"Withdrawal Liability" has the meaning given to such term in S4201 of ERISA.

11.2 CONSTRUCTION. In this Agreement and each other Loan Document, unless the context otherwise clearly requires,

(a) references to the plural include the singular, the singular the plural and the part the whole;

(b) "or" has the inclusive meaning represented by the phrase "and/or;"

(c) the terms "property" and "assets" each include all properties and assets of any kind or nature, tangible or intangible, real, personal or mixed, now existing or hereafter acquired;

(d) the words "hereof," "herein" and "hereunder" (and similar terms) in this Agreement or any other Loan Document refer to this Agreement or such other Loan Document, as the case may be, as a whole and not to any particular provision of this Agreement or such other Loan Document;

(e) the words "includes" and "including" (and similar terms) in this Agreement or any other Loan Document mean

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"includes, without limitation" and "including, without limitation," respectively whether or not stated; and

(f) references to "determination" (and similar terms) by any Lender Party include good faith estimates by such Lender Party (in the case of quantitative determinations) and good faith beliefs by such Lender Party (in the case of qualitative determinations).

No doctrine of construction of ambiguities in agreements or instruments against the interests of the party controlling the drafting thereof shall apply to this Agreement or any other Loan Document. The section and other headings contained in this Agreement and in each other Loan Document, and any tables of contents contained herein or therein, are for reference purposes only and shall not affect the construction or interpretation of this Agreement or such other Loan Document in any respect. Whenever this Agreement requires the delivery of financial projections, it is understood that the projections shall be made in good faith, consistent with the Loan Documents and based on J & J's reasonable judgment as to the anticipated financial performance and results of operations. However, any such financial projections shall not constitute a representation or warranty that such future financial performance or results of operations will in fact be achieved.

11.3 ACCOUNTING PRINCIPLES.

(a) As used herein, "GAAP" shall mean generally accepted accounting principles (other than as set forth herein as



to consolidation) in the United States, applied on a basis consistent with the principles used in preparing the financial statements of J & J and its consolidated Subsidiaries as of December 31, 1996 and for the fiscal year then ended. When the word "consolidated" is used in this Agreement, it shall be used in a manner consistent with generally accepted accounting principles in the United States except that such principles relating to what entities shall be consolidated shall be superseded by any terms of this Agreement which designate what entities shall be consolidated for purposes relating hereto.

(b) Except as otherwise provided in this Agreement, all computations and determinations as to accounting or financial matters shall be made, and all financial statements to be delivered pursuant to this Agreement shall be prepared, in accordance with GAAP and all accounting or financial terms shall have the meanings ascribed to such terms by GAAP.

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## ARTICLE 12

### MISCELLANEOUS

12.1 NOTICES. Unless otherwise expressly provided under this Agreement all notices, requests, demands, directions and other communications (collectively "notices") given to or made upon any party under the provisions of this Agreement (and unless otherwise specified, in each other Loan Document) shall be by telephone (immediately confirmed in writing) or in writing (including facsimile communication) and if in writing shall be delivered by hand, nationally recognized overnight courier or U.S. mail or sent by facsimile to the respective parties at the addresses and numbers set forth under their respective names on the signature pages of this Agreement or in accordance with any subsequent unrevoked written direction from any party to the others. All notices shall, except as otherwise expressly provided in this Agreement, be effective (a) in the case of facsimile, when received, (b) in the case of hand-delivered notice, when hand delivered, (c) in the case of telephone, when telephoned, provided, however, that in order to be effective unless otherwise expressly provided, telephonic notices must be confirmed in writing no later than the next day by letter or facsimile, (d) if given by U.S. mail, the day after such communication is deposited in the mails with overnight first class postage prepaid, return receipt requested, and (e) if given by any other means (including by air courier), when delivered; provided, further, that notices to the Administrative Agent shall not be effective until received. Any Lender giving any notice to the Borrowers shall simultaneously send a copy of such notice to the Administrative Agent, and the Administrative Agent shall promptly notify the other Lenders of the receipt by it of any such notice. Except as otherwise provided in this Agreement, in the event of a discrepancy between any telephonic or written notice, the written notice shall control.

12.2 PRIOR UNDERSTANDINGS; ENTIRE AGREEMENT. This Agreement and the other Loan Documents supersede all prior and contemporaneous understandings and agreements, whether written or oral, among the parties hereto relating to the transactions provided for herein and therein except as expressly provided otherwise (e.g., certain fee agreements and fee arrangements with the Administrative Agent). This Agreement and the other Loan Documents represent the entire agreement between the parties to this Agreement with respect to the transactions contemplated hereby or thereby and, except as expressly provided herein or in

the other Loan Documents, shall not be affected by reference to any other documents.

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12.3 SEVERABILITY. Every provision of this Agreement and each of the other Loan Documents is intended to be severable, and if any term or provision of this Agreement or any of the other Loan Documents shall be invalid, illegal or unenforceable for any reason, the validity, legality and enforceability of the remaining provisions shall not be affected or impaired thereby, and any invalidity, illegality or unenforceability in any jurisdiction shall not affect the validity, legality or enforceability of any such term or provision in any other jurisdiction. If any provision of this Agreement shall be held invalid or unenforceable in whole or in part in any jurisdiction, this Agreement shall, as to such jurisdiction, be deemed amended to modify or delete, as necessary, the offending provision or provisions and to alter the bounds thereof in order to render it or them valid and enforceable to the maximum extent permitted by applicable Law, without in any manner affecting the validity or enforceability of such provision or provisions in any other jurisdiction or the remaining provisions hereof in any jurisdiction.

12.4 DESCRIPTIVE HEADINGS. The descriptive headings of the several sections of this Agreement are inserted for convenience only and shall not affect the meaning or construction of any of the provisions of this Agreement.

12.5 GOVERNING LAW. This Agreement and the rights and obligations of the parties under this Agreement and under the other Loan Documents shall be construed in accordance with and shall be governed by the laws of the State of New Jersey.

12.6 NON-MERGER OF REMEDIES. The covenants and obligations of the Borrowers and the rights and remedies of the Administrative Agent and other Lender Parties hereunder and under the other Loan Documents shall not merge with or be extinguished by the entry of a judgment hereunder or thereunder, and such covenants, obligations, rights and remedies shall survive any entry of a judgment until payment in full of the Loan Obligations and termination of the Commitment. All obligations under the Loan Documents shall continue to apply with respect to and during the collection of amounts due under the Loan Documents or the proof and allowability of any claim arising under this Agreement or any other Loan Document, whether in bankruptcy or receivership proceedings or otherwise, and in any workout, restructuring or in connection with the protection, preservation, exercise or enforcement of any of the terms of this Agreement or of any rights under this Agreement or under any other Loan Document or in connection with any foreclosure, collection or bankruptcy proceedings. Without limiting the generality of the foregoing,

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post-judgment interest rate shall be the interest rate provided in paragraph (d) of Section 1.8 (Default Rate) above.

12.7 NO IMPLIED WAIVER; CUMULATIVE REMEDIES. No course of

dealing and no delay or failure of the Administrative Agent or any other Lender Party in exercising any right, power or privilege under this Agreement or any other Loan Document shall affect any other or future exercise thereof or exercise of any other right, power or privilege; nor shall any single or partial exercise of any such right, power or privilege or any abandonment or discontinuance of steps to enforce such a right, power or privilege preclude any further exercise thereof or of any other right, power or privilege. The rights and remedies of the Administrative Agent and the other Lender Parties under this Agreement and any other Loan Document are cumulative and not exclusive of any rights or remedies which the Administrative Agent or any other Lender Party would otherwise have hereunder or thereunder, at law, in equity or otherwise. Any waiver of a specific default made in accordance with Section 12.8 below shall be effective only as to such specific default and shall not apply to any subsequent default.

12.8 AMENDMENTS; WAIVERS. Any term, covenant, agreement or condition of any Loan Document to which the Lenders (or the Administrative Agent) are party may be amended, and any right under the Loan Documents may be waived, if, but only if, such amendment or waiver is in writing and is signed by the Required Lenders (or by the Administrative Agent at the direction of the Required Lenders); provided, however, if the rights and duties of the Administrative Agent are affected thereby, such amendment or waiver must be executed by the Administrative Agent; and provided, further, that no such amendment or waiver shall be effective unless in writing and signed by each Lender referred to below, if it would

(a) increase such Lender's Commitment or the outstanding amount of such Lender's Loans, or

(b) extend the maturity of any Loan held by such Lender, or the time of any scheduled principal payment of any Loan of such Lender;

(c) decrease the rate of interest or amount of fees due to such Lender or decrease the principal amount in respect of any Loan of such Lender or extend the time of payment of interest or fees due to such Lender, provided that the written consent of the Required Lenders, rather than the consent of all Lenders, shall be sufficient to waive imposition of the Default Rate,

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(d) change the number of Lenders which are required to consent to any proposed action under this Agreement before such action may be taken under this Agreement if such change could cause such Lender to lose its right to participate in such consent;

and provided, further, that no such amendment or waiver shall be effective unless in writing and signed by all the Lenders if it would

(i) amend the definition of "Required Lenders" or

(ii) release any Borrower of its Loan Obligations;

provided, however, the Administrative Agent may, without the consent of any Person, release any Borrower as a court of competent jurisdiction may direct, and provided further that for purposes of determining whether "all Lenders", "the Required Lenders" or "any Lender" has consented to any amendment or waiver, no effect shall be given to the determination of any Lender who has lost its right to vote pursuant to Sections 1.3(c), 1.3(e)(ii), or 1.6(e). Further, the Administrative Agent and the Lenders may amend or modify the provisions of Article 9 hereof (except for Section 9.9

(Successor Administrative Agent) and Article 10 hereof) without the need for any consent or approval from the Borrowers, it being acknowledged that the Borrowers are not third party beneficiaries of the provisions of said Article 9 (except for Section 9.9 (Successor Administrative Agent) and (y) without the consent of any Lenders, the Administrative Agent may enter into amendments and modifications to this Agreement and the other Loan Documents as necessary or desirable to cure any ambiguities herein or therein or to add additional Borrowers or add collateral.

#### 12.9 SUCCESSORS AND ASSIGNS

(a) Assignments by the Borrowers. Without the prior written consent of all of the Lenders, no Borrower may assign any of its rights or delegate any of its duties or obligations under this Agreement or any other Loan Document.

(b) Participations. Any Lender may sell participations to one or more Eligible Institutions of all or a portion of its rights and obligations under this Agreement (including, without limitation, all or a portion of its Commitment); provided, however, that, with respect to any Lender, (i) such Lender's obligations under this Agreement shall remain unchanged, (ii) such Lender shall remain solely responsible to the other parties to this Agreement for the performance of such obligations, (iii) all amounts payable by the Borrowers under this Agreement shall be determined as if such transferor Lender had not sold such participation and no participant shall be entitled to receive any greater amount pursuant to this Agreement

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than the transferor Lender would have been entitled to receive in respect of the amount of the participation transferred by such transferor Lender to such participant had no such transfer occurred, (iv) such participant shall agree to be bound by the provisions of this Agreement and the other Loan Documents, and (v) the Borrowers, the Administrative Agent and the other Lenders shall continue to deal solely and directly with such transferor Lender in connection with such Lender's rights and obligations under this Agreement, and such Lender shall retain the sole rights and responsibility vis-a-vis the Borrowers to enforce the obligations of the Borrowers relating to the Loans including the right to approve any amendment, modification or waiver of any provision of this Agreement (except that such Lender may give its participants the right to direct such Lender to approve or disapprove any amendment, modification or waiver which would require such Lender's consent under clause (a) (b), (c), of the preceding Section 12.8).

(c) Assignments by Lenders. Each Lender may assign to one or more Eligible Institutions all or a portion of its interest, rights and obligations under this Agreement (including all or a portion of its Commitment) and the other Loan Documents; provided, however, that with respect to any assignment, (i) unless the assignee is (prior to the effective time of the assignment) an existing Lender or an Affiliate of an existing Lender, the Administrative Agent and, if no Event of Default has occurred and is continuing, J & J (on behalf of the Borrowers) must give their prior written consent to such assignment (which consent shall not be unreasonably withheld), (ii) the parties to each such assignment shall execute and deliver to the Administrative Agent and, unless an Event of Default has occurred and is continuing, J & J (on behalf of the Borrowers), for their acceptance, an Assignment and Acceptance Agreement in substantially the form attached hereto as Exhibit F (an "Assignment and Acceptance"), together with (A) any Note subject to such assignment, and (B) a processing and recordation fee of \$3,500.00. The parties hereto agree that to the extent that the consent of Borrowers is required by the preceding sentence, Borrowers shall be deemed to have acted reasonably if Borrowers withhold consent to a proposed assignment to an assignee who would be a non-U.S. Lender.

"Partial assignment" as used in clauses (iii) and (iv) above means any assignment of a Lender's rights and obligations

hereunder except an assignment of all of such Lender's rights and obligations such that after the assignment such Lender shall have no Commitment and no interest in any Loans hereunder. Upon compliance with clauses (i) through (iv) above, from and after the effective date specified in the relevant Assignment and Acceptance, (1) the assignee shall be a party to this Agreement and the other Loan Documents and to the extent provided in such Assignment and Acceptance, have the rights and obligations of a Lender under this Agreement and under the other Loan Documents and (2) the assigning Lender shall, to the extent provided in

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such Assignment and Acceptance, be released from its obligations under this Agreement and the other Loan Documents.

(d) Procedures Respecting Assignment. Upon their receipt of an Assignment and Acceptance executed by the assignor and the assignee, subject to the conditions set forth in the preceding paragraph (c), the Administrative Agent and (unless an Event of Default shall have occurred and be continuing) J & J (on behalf of the Borrowers) shall accept such Assignment and Acceptance. Within thirty (30) days after such Assignment and Acceptance is signed and accepted by all parties and made effective, the Borrowers, at their own expense, shall execute and deliver to the Administrative Agent new Notes in exchange for the surrendered Notes, each to the order of such assignee in an amount equal to its portion of the Commitment and Loans, assigned to it pursuant to such Assignment and Acceptance and new Notes to the order of the assigning Lender in an amount equal to the Commitment and Loans retained by it. Such Notes shall be in an aggregate principal amount equal to the aggregate principal amount of such surrendered Notes, shall be dated the date of such surrendered Notes (each assignee shall confirm in the Assignment and Acceptance that, notwithstanding the date of the new Notes made in favor of such assignee, such assignee shall have no right to, or interest in, any fees or interest which shall have accrued on the Loans prior to the effective date of the Assignment and Acceptance). Cancelled or replaced Notes shall be returned to the Borrowers upon the execution of such new Notes.

(e) Assignments to Federal Reserve Bank. Notwithstanding any of the terms of this Section 12.9, without the consent of the Administrative Agent and the Borrowers, any Lender may assign all or any portion of its rights to payments in connection with this Agreement to a Federal Reserve Bank as collateral in accordance with Regulation A of the Board of Governors of the Federal Reserve System. Such assignment shall not affect any other rights or any obligations of the assigning Lender

12.10 COUNTERPARTS; PHOTOCOPIED OR TELECOPIED SIGNATURE PAGES. Any Loan Document may be executed in one or more counterparts, each of which shall constitute an original, but all of which together shall constitute one and the same instrument. Delivery of a photocopy or telecopy of an executed counterpart of a signature page to any Loan Document shall be as effective as delivery of a manually executed counterpart of such Loan Document.

12.11 MAXIMUM LAWFUL INTEREST RATE. Notwithstanding any provision contained in this Agreement or the Notes or any other Loan Document, the total liability of the Borrowers for payment of interest pursuant to this Agreement and the Notes shall not

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exceed the maximum amount of such interest permitted by Law to be

charged, collected, or received from the Borrowers, and if any payment by the Borrowers includes interest in excess of such a maximum amount, each Lender shall apply such excess to the reduction of the unpaid principal amount due pursuant to this Agreement and the Notes, or if none is due, to the other Loan Obligations, if any, and then such excess shall be refunded to J & J (on behalf of the Borrowers).

#### 12.12 INDEMNIFICATION.

(a) Whether or not any fundings are made under this Agreement, the Borrowers jointly and severally shall unconditionally upon demand, pay or reimburse the Administrative Agent and other Lender Parties for, and indemnify and save the Administrative Agent, the other Lender Parties and their respective Affiliates, officers, directors, employees, agents, attorneys, shareholders and consultants (collectively, "Indemnitees") harmless from and against, any and all losses, liabilities, claims, damages, expenses, obligations, penalties, actions, judgments, suits, costs or disbursements of any kind or nature whatsoever (including the fees and disbursements of counsel for such Indemnitee in connection with any investigative, administrative or judicial proceeding commenced or threatened, whether or not such Indemnitee shall be designated a party thereto) that may at any time be imposed on, asserted against or incurred by such Indemnitee as a result of, or arising out of, or in any way related to or by reason of, this Agreement or any other Loan Document, any Acquisition or transaction from time to time contemplated hereby or by any other Loan Document, or any transaction actually or proposed to be financed in whole or in part or directly or indirectly with the proceeds of any Loan, any transaction contemplated by the Transaction Documents but excluding any such losses, liabilities, claims, damages, expenses, obligations, penalties, actions, judgments, suits, costs or disbursements that the Borrower proves were the result solely of the gross negligence or willful misconduct of such Indemnitee, as finally determined by a court of competent jurisdiction. If and to the extent that the foregoing obligations of the Borrowers under this paragraph (a), or any other indemnification obligation of the Borrowers hereunder or under any other Loan Document are unenforceable for any reason, the Borrowers hereby agree, jointly and severally, to make the maximum contribution to the payment and satisfaction of such obligations which is permissible under applicable Law.

(b) Without limiting the generality of the foregoing, the Borrowers jointly and severally hereby indemnify and agree to defend and hold harmless each Indemnitee, from and against any and all claims, actions, causes of action, liabilities, penalties, fines, damages, judgments, losses, suits, expenses, legal or administrative proceedings, interest, costs and expenses

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(including court costs and attorneys', consultants' and experts' fees) arising out of or in any way relating to: (i) the use, handling, management, production, treatment, processing, storage, transfer, transportation, disposal, release or threat of release of any Environmental Concern Material by or on behalf of, any Borrower or any of its Environmental Affiliates; (ii) the presence of Environmental Concern Materials on, about, beneath or arising from any premises owned or occupied by any Borrower or any of its Environmental Affiliates (herein collectively, the "Premises"); (iii) the failure of any Borrower or Environmental Affiliate of a Borrower or any occupant of any Premises to comply with the Environmental Laws; (iv) any Borrower's breach of any of the representations, warranties and covenants contained herein or in any Loan Documents; (v) Regulatory Actions (as hereinafter defined) and Third Party Claims (as hereinafter defined); or (vi) the imposition or recording of a Lien against any Premises in connection with any release at, on or from any Premises or any activities undertaken on or occurring at any Premises, or arising from such Premises or pursuant to any Environmental Law. The Borrowers' indemnity and defense obligations under this section

shall include, whether foreseeable or unforeseeable, any and all costs related to any remedial action. "Regulatory Action" means any notice of violation, citation, complaint, request for information, order, directive, compliance schedule, notice of claim, consent decree, action, litigation or proceeding brought or instituted by any governmental authority under or in connection with any Environmental Law involving any Borrower or any occupant of any of the Premises or involving any of the Premises or any activities undertaken on or occurring at any Premises. "Third Party Claims" means claims by a party (other than a party to this Agreement and other than Regulatory Actions) based on negligence, trespass, strict liability, nuisance, toxic tort or detriment to human health or welfare due to Environmental Concern Materials on, about, beneath or arising from any Premises or in any way related to any alleged violation of any Environmental Laws or any activities undertaken on or occurring at any Premises.

(c) The indemnities contained herein shall survive repayment of the Loan Obligations, termination of the Commitment and satisfaction, release, and discharge of the Loan Documents, whether through full payment of the Loans, foreclosure, deed in lieu of foreclosure or otherwise.

(d) The foregoing amounts are in addition to any other amounts which may be due and payable to the Administrative Agent and/or the Lenders under this Agreement. A certification by the Administrative Agent or a Lender hereunder of the amount of liabilities, losses, costs, expenses, claims and/or charges shall be conclusive, absent manifest error.

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Whether or not there shall be any funding hereunder, the Borrowers agree, jointly and severally, to pay promptly or cause to be paid promptly and to hold harmless

(i) the Administrative Agent (and after an Event of Default, and for the period in which the same shall continue, each Lender Party) against liability for the payment of all reasonable out-of-pocket costs and expenses (including but not limited to reasonable fees and expenses of counsel, including local counsel, auditors, consulting engineers, appraisers, and all other professional, accounting, evaluation and consulting costs) incurred by it from time to time arising from or relating to (1) the negotiation, preparation, execution and delivery of this Agreement and the other Loan Documents, (2) the administration and performance of this Agreement and the other Loan Documents, and (3) any requested amendments, modifications, supplements, waivers or consents (whether or not ultimately entered into or granted) to this Agreement or any other Loan Document;

(ii) the Administrative Agent (and, with respect to clause (2) of this paragraph (ii) after an Event of Default, and for the period in which the same shall continue, each Lender Party) against liability for the payment of all reasonable out-of-pocket costs and expenses (including but not limited to reasonable fees and expenses of counsel, including local counsel, auditors, consulting engineers, appraisers, and all other professional, accounting, evaluation and consulting costs) incurred by it from time to time arising from or relating to the enforcement or preservation of rights under, or administration of, this Agreement or any other Loan Document (including but not limited to any such costs or expenses arising from or relating to (1) collection or enforcement of an outstanding Loan, Obligation, and (2) any litigation, proceeding, dispute, work-out, restructuring or rescheduling related in any way to this Agreement or

the other Loan Documents); and

(iii) each Lender Party against liability for all stamp, document, transfer, recording, filing, registration, search, sales and excise fees and taxes and all similar impositions now or hereafter determined by any Lender Party to be payable in connection with this Agreement or any other Loan Documents.

12.14 MAXIMUM AMOUNT OF JOINT AND SEVERAL LIABILITY. To the extent that applicable Law otherwise would render the full amount of the joint and several obligations of any Subsidiary of J & J hereunder and under the other Loan Documents invalid or

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unenforceable, such Borrower's obligations hereunder and under the other Loan Documents shall be limited to the maximum amount which does not result in such invalidity or unenforceability, provided, however, that each Borrower's obligations hereunder and under the other Loan Documents shall be presumptively valid and enforceable to their fullest extent in accordance with the terms hereof or thereof, as if this Section 12.14 were not a part of this Agreement.

#### 12.15 AUTHORIZATION OF J & J BY OTHER BORROWERS.

(a) Each of the Borrowers hereby irrevocably authorizes J & J to give notices, make requests, make payments, receive payments and notices, give receipts and execute agreements, make agreements or take any other action whatever on behalf of such Borrower under and with respect to any Loan Document and each Borrower shall be bound thereby. This authorization is coupled with an interest and shall be irrevocable, and the Administrative Agent and each Lender Party may rely on any notice, request, information supplied by J & J and every document executed by J & J, agreement made by J & J or other action taken by J & J in respect of the Borrowers or any thereof as if the same were supplied, made or taken by any or all Borrowers. Without limiting the generality of the foregoing, the failure of one or more Borrowers to join in the execution of any writing in connection herewith shall not, unless the context clearly requires, relieve any such Borrower from obligations in respect of such writing.

(b) The Borrowers acknowledge that the credit provided hereunder is on terms more favorable than any Borrower acting alone would receive and that each Borrower benefits indirectly from all Loans and Letters of Credit hereunder. J & J and, subject only to the terms of the preceding paragraph (a), each of the other Borrowers, shall be jointly and severally liable for all Loan Obligations, regardless of, inter alia, which Borrower requested (or received the proceeds of) a particular Loan.

12.16 CERTAIN WAIVERS BY BORROWERS. Each Borrower hereby waives promptness, diligence, notice of acceptance and any other notice with respect to any of the Loan Obligations and any requirement that any Lender Party exhaust any right or take any action against any other Borrower or any other Person or any collateral or other direct or indirect security for any of the Loan Obligations. Without limiting the generality of the foregoing, each Borrower acknowledges and agrees that the Administrative Agent or other Lender Party may commence an action against such Borrower whether or not any action is brought against any other Borrower or against any collateral and it shall be no defense to any action brought against any Borrower that the

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Lender Parties have failed to bring an action against any other Borrower or any Collateral.

12.17 SET-OFF. The Borrowers hereby agree that, to the fullest extent permitted by Law, if any Loan Obligation shall be due and payable (by acceleration or otherwise), each Lender Party shall have the right, without notice to any Borrower, to set-off against and to appropriate and apply to such Loan Obligation any indebtedness, liability or obligation of any nature owing to any Borrower by such Lender Party, including but not limited to all deposits now or hereafter maintained by any Borrower with such Lender Party. Such right shall exist whether or not such Lender Party or any other Person shall have given notice or made any demand to any Borrower or any other Person. The Borrowers hereby agree that, to the fullest extent permitted by Law, any participant and any Affiliate of any Lender Party or any participant shall have the same rights of set-off as a Lender Party as provided in this Section 12.17. The rights provided by this Section 12.17 are in addition to all other rights of set-off and banker's lien and all other rights and remedies which any Lender Party (or any such participant, or Affiliate) may otherwise have under this Agreement, any other Loan Document, at law or in equity, or otherwise.

12.18 SHARING OF COLLECTIONS. The Lender Parties hereby agree among themselves that if any Lender Party shall receive (by voluntary payment, realization upon security, charging of accounts, set-off or from any other source) any amount on account of the Loan Obligations in greater proportion than any such amount received by any other Lender Party (based on the relative amount of each such Lender Party's interest in the Loan Obligations), then the Lender Party receiving such proportionately greater payment shall notify each other Lender Party and the Administrative Agent of such receipt, and equitable adjustment will be made in the manner stated in this Section 12.18 so that, in effect, all such excess amounts will be shared ratably among all of the Lender Parties. The Lender Party receiving such excess amount shall purchase (which it shall be deemed to have done simultaneously upon the receipt of such excess amount) for cash from the other Lender Parties a participation in the applicable Loan Obligations owed to such other Lender Parties in such amount as shall result in a ratable sharing by all Lender Parties of such excess amount (and to such extent the receiving Lender Party shall be a participant). If all or any portion of such excess amount is thereafter recovered from the Lender Party making such purchase, such purchase shall be rescinded and the purchase price restored to the extent of such recovery, together with interest or other amounts, if any, required by Law to be paid by the Lender Party making such purchase. The Borrowers hereby consent to and confirm the

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foregoing arrangements. Each participant shall be bound by this Section 12.18 as fully as if it were a Lender hereunder.

12.19 OTHER LOAN DOCUMENTS. Each Lender acknowledges that on signing this Agreement it is bound by the terms of the Loan Documents.

12.20 CERTAIN BORROWER ACKNOWLEDGEMENTS. Each Borrower hereby acknowledges that neither the Administrative Agent nor any other Lender Party has any fiduciary relationship with, or any fiduciary duty to any Borrower arising out of or in connection with this Agreement or any of the other Loan Documents and the relationship between the Administrative Agent and the other Lender Parties, on the one hand, and the Borrower, on the other hand, in connection herewith or therewith is solely that of

debtor and creditor.

12.21 CONSENT TO JURISDICTION, SERVICE AND VENUE; WAIVER OF JURY TRIAL.

(a) Consent to Jurisdiction. For the purpose of enforcing payment and performance of the Loan Documents, including, any payment under the Notes and performance of other obligations under the Loan Documents, or in any other matter relating to, or arising out of, the Loan Documents, each of the Borrowers hereby consents to the jurisdiction and venue of the courts of the Commonwealth of Pennsylvania or of any federal court located in such state, waive personal service of any and all process upon it and consents that all such service of process be made by certified or registered mail directed to J & J (on behalf of the applicable Borrowers) at the address provided for in Section 12.1 and service so made shall be deemed to be completed upon actual receipt or execution of a receipt by any Person at such address. Each of the Borrowers hereby waives the right to contest the jurisdiction and venue of the courts located in the Commonwealth of Pennsylvania on the ground of inconvenience or otherwise and, further, waives any right to bring any action or proceeding against (a) the Administrative Agent in any court outside the Commonwealth of Pennsylvania, or (b) any other Lender other than in a state within the United States designated by such Lender. The provisions of this Section 12.21 shall not limit or otherwise affect the right of the Administrative Agent or any other Lender Party to institute and conduct an action in any other appropriate manner, jurisdiction or court.

(b) WAIVER OF JURY TRIAL; DAMAGES. NEITHER ANY LENDER PARTY NOR ANY BORROWER, NOR ANY ASSIGNEE, SUCCESSOR, HEIR OR PERSONAL REPRESENTATIVE OF THE FOREGOING SHALL SEEK A JURY TRIAL IN ANY PROCEEDING BASED UPON OR ARISING OUT OF THIS AGREEMENT, OR ANY OTHER LOAN DOCUMENT, OR INVOLVING ANY COLLATERAL OR ANY GUARANTY RELATING TO THE INDEBTEDNESS HEREUNDER OR THE RELATIONSHIP BETWEEN OR AMONG SUCH PERSONS OR ANY OF THEM. NO SUCH PERSON WILL SEEK TO CONSOLIDATE ANY SUCH ACTION WITH ANY

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OTHER ACTION IN WHICH A JURY TRIAL CANNOT BE OR HAS NOT BEEN WAIVED. EXCEPT AS PROHIBITED BY LAW, EACH PARTY TO THIS AGREEMENT WAIVES ANY RIGHTS IT MAY HAVE TO CLAIM OR RECOVER IN ANY LITIGATION REFERRED TO IN THIS SECTION 12.21 ANY SPECIAL, EXEMPLARY, PUNITIVE OR CONSEQUENTIAL DAMAGES OR ANY DAMAGES OTHER THAN, OR IN ADDITION TO, ACTUAL DAMAGES. EACH PARTY TO THIS AGREEMENT (i) CERTIFIES THAT NEITHER THE ADMINISTRATIVE AGENT NOR ANY LENDER PARTY NOR ANY REPRESENTATIVE, OR ATTORNEY OF THE ADMINISTRATIVE AGENT OR ANY LENDER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT THE ADMINISTRATIVE AGENT OR SUCH LENDER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVERS AND (ii) ACKNOWLEDGES THAT IT HAS BEEN INDUCED TO ENTER INTO THIS AGREEMENT AND EACH OTHER LOAN DOCUMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS PARAGRAPH (b) OF SECTION 12.21. THE PROVISIONS OF THIS SECTION 12.21 HAVE BEEN FULLY DISCLOSED TO THE PARTIES AND THE PROVISIONS SHALL BE SUBJECT TO NO EXCEPTIONS. NO PARTY HAS IN ANY WAY AGREED WITH OR REPRESENTED TO ANY OTHER PARTY THAT THE PROVISIONS OF THIS SECTION 12.21 WILL NOT BE FULLY ENFORCED IN ALL INSTANCES.

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

J & J SNACK FOODS CORP.	ADDRESS FOR BORROWERS
J & J SNACK FOODS INVESTMENT CORP.	6000 Central Highway
J & J SNACK FOODS CORP. OF NEW JERSEY	Pennsauken, New Jersey 08109
J & J SNACK FOODS CORP. OF CALIFORNIA	
J & J SNACK FOODS CORP./MIDWEST	Telephone: (609) 665-9533
J & J SNACK FOODS CORP./MIA	Facsimile: (609) 488-7587
ICEE-USA CORP.	
J & J SNACK FOODS CORP. OF PENNSYLVANIA	With a copy to:
MAZZONE ENTERPRISES, INC.	Fred A. Ruttenberg, Esquire
J & J SNACK FOODS TRANSPORT CORP.	Blank, Rome, Comisky & McCauley
BAKERS BEST SNACK FOOD CORP.	210 Lake Drive East
PRETZELS, INC.	Cherry Hill, New Jersey 08002
J & J SNACK FOODS SALES CORP.	
SNACK FOODS ACQUISITION CORP.	
J & J RESTAURANT GROUP, INC.	
J & J SNACK FOODS SALES CORP. OF TEXAS	
AMERICAN SNACK FOODS CORP.	

By:  
Name: Dennis G. Moore  
Title: Vice President

MELLON BANK, N.A.  
as Administrative Agent and Lender

Street Address:  
AIM 199-5220  
Mellon Independence Center  
701 Market Street  
Philadelphia, Pennsylvania 19106

By:  
Name:  
Title:

Mailing Address:  
AIM 199-5220  
Post Office Box 7899  
Philadelphia, Pennsylvania 19101-7899  
Attention: Linda Sigler,  
Loan Administration  
Telephone: (215) 553-4583  
Facsimile: (215) 553-4789

With a copy to:  
Plymouth Meeting Executive Campus  
610 W. Germantown Pike, Suite 200  
Plymouth Meeting, Pennsylvania 19462  
Attention: Marita Carb  
Telephone: (610) 941-5328

Facsimile: (610)  
CORESTATES BANK, N.A.  
as Administrative Agent and Lender

600 Cuthbert Boulevard  
Haddon Township, New Jersey 08108

By:

Name:  
Title:

Attention: Alan B. Herman

Telephone: (609) 858-7608  
Facsimile: (609) 858-7622

J & J SNACK FOODS CORP.

1998 ANNUAL REPORT

TO SHAREHOLDERS

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Positioned to Welcome a New Era of Growth  
1998 Annual Report

6000 Central Highway, Pennsauken, NJ 08109. (609) 665-9533  
[www.jjsnack.com](http://www.jjsnack.com)

Profile

J&J Snack Foods Corp. is a manufacturer, marketer and distributor of an expanding variety of nutritional, popularly priced, branded snack foods and beverages for the food service and retail supermarket industries. The Company is listed on the NASDAQ exchange as "JJSF," and serves both national and international markets.

Our growing portfolio of products includes soft pretzels; frozen carbonated beverages; frozen juice bars and desserts; churros, a cinnamon pastry; funnel cakes; cookies and bakery goods; and other snack foods and drinks. Consumers can enjoy these tasty products in a variety of settings, including:

- \* Snack bars and food stands in leading chain, department, discount and convenience stores
- \* Malls and shopping centers
- \* Fast food outlets
- \* Stadiums and sports arenas
- \* Leisure and theme parks
- \* Movie theatres
- \* Schools and colleges
- \* Business and industry and other institutions
- \* Supermarkets and warehouse club stores

As we prepare for the future, J&J Snack Foods Corp. plans to continue expanding its unique product offerings and market niches, capitalizing on new opportunities wherever they may be found.

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## Financial Highlights

	Fiscal year ended in September (In thousands except per share data)				
	1998	1997	1996	1995	1994
Net Sales	\$ 262,390	\$ 220,318	\$ 186,018	\$ 185,362	\$ 174,425
Net Earnings	\$ 11,850	\$ 8,159	\$ 5,843	\$ 5,804	\$ 8,532
Total Assets	\$ 213,261	\$ 136,827	\$ 123,128	\$ 123,309	\$ 127,366
Long-Term Debt	\$ 48,199	\$ 5,028	\$ 5,010	\$ 5,011	\$ 5,028
Stockholders' Equity	\$ 119,681	\$ 105,904	\$ 96,708	\$ 96,084	\$ 100,545
Common Share Data					
Earnings Per Diluted Share	\$ 1.26	\$ .91	\$ .65	\$ .61	\$ .82
Earnings Per Basic Share	\$ 1.32	\$ .93	\$ .65	\$ .62	\$ .84
Book Value Per Share	\$ 13.25	\$ 11.97	\$ 11.05	\$ 10.53	\$ 10.17
Common Shares Outstanding At Year End	9,036	8,850	8,749	9,126	9,889

## Letter from the President

"Give me your tired, your poor, your huddled masses, yearning to breathe free. . ." so began poet Emma Lazarus' famous sonnet that was eventually displayed and made famous with the Statue of Liberty.

We took some creative liberty by placing two of our famous brands, a SUPERPRETZEL soft pretzel and an ICEE drink, in her gentle but strong hands. Historical and patriotic monuments aside, both our Company and these product lines stand as testaments to opportunities and success stories found only in America.

We had a good year in fiscal '98. No. . .we had a VERY good year and we are extremely proud of our people and their performance.

## 1998 Results in Brief

We achieved record sales and earnings for fiscal 1998. For the 27th consecutive year we increased sales from the prior year. In fiscal '98:

- \* Sales increased 19% to \$262,390,000 from \$220,318,000
- \* Net income rose 45% to \$11,850,000 from \$8,159,000
- \* EPS climbed 38% to \$1.26 from \$.91

And, we continued the growth momentum that we established and have been sustaining the past few years with further expansion of both our products and markets.

## "The Thinker" - Visions of Tomorrow

I can't speak for Rodin or what "The Thinker" was contemplating, but I can assure you that my thoughts and those of our management team constantly revolve around our efforts to grow our business and increase shareholder value. This past year's performance was due in large part to strategies and decisions developed over the years which were carefully and decisively implemented.

## Developing and Growing our Niches

Soft pretzel sales again posted an increase in fiscal 1998, led by our flagship brand, SUPERPRETZEL. Soft pretzel consumption opportunities and menu positioning ideas continue to be created and developed by our Food Service and Retail Supermarket divisions. Traditional markets and occasions of incidence are being expanded by a variety of newly developed soft pretzel products and eating suggestions. This includes filled soft pretzel sticks as appetizers, soft pretzel buns and rolls being tested by restaurants, and Pretzel Gourmet Express, a line of gourmet upscale soft pretzel products for business and college campus dining. An exciting and aggressive marketing program to grow our supermarket soft pretzel business featuring television and billboard advertising is being tested in select markets beginning in fiscal 1999.

Our West Coast Bakery had an excellent year posting increased sales and sharp improvements in manufacturing efficiency. Churros and funnel cake sales also had strong sales gains and further developed their markets and geography.

Not all was "cool" in J&J land. Like Rodin's "The Thinker", we need to "think harder and better" in connection with our Scranton plant and frozen dessert lines, including LUIGI'S and MAMA TISH'S Italian ices and SHAPE-UPS frozen desserts. Sales and profits were impacted this past year due in part to delays and start-up problems in connection with the expansion of our plant.

#### ICEE - The Vision and Opportunity

Our frozen beverage division now known as The ICEE Company had another excellent year. Sales grew a whopping 75% with a significant part of the increase coming from the acquisition of National ICEE in December 1997. While the acquisition represented a key and significant step to growing the ICEE brand nationwide, equally important, we were able to consolidate and integrate the combined entities quickly and efficiently to maximize operations.

Our vision and strategy for the frozen beverage business mirrors, in large part, a similar vision and strategy experienced in our soft pretzel business. We acquired ICEE-USA in May 1987 - an unprofitable company with sales of \$13 million selling, at the time, only in the West. Our vision - a national company with the dominant brand that would someday be sold coast-to-coast (internationally too) and complement our snack food products. Now, further enhanced with a strategic alliance with Coca-Cola, the world's leading soft drink company, we are excited with the opportunities to maximize our ICEE frozen beverage business.

Looking ahead to fiscal 1999, we believe we are well positioned to continue our plans in this land of opportunity. Twenty-seven years ago, I bought the assets of a bankrupt soft pretzel company with just eight employees and only \$400,000 in sales. And along the way, we acquired other troubled businesses and defunct product lines also in need of a new opportunity or another chance. "Give me your tired, your poor, your huddled masses. . ." - only in America. We remain committed and dedicated to growing our business and extremely enthused with the opportunity!

Sincerely,

Gerald B. Shreiber  
President and Chairman  
December 1, 1998

#### Soft Pretzles: Building on Monumental Success

When a product has one good year, it's a success. When it has several good years, it's a phenomenon. And when it records more than 25 great years, it becomes nothing less than an institution.

That's the story of SUPERPRETZEL, America's Favorite Soft Pretzel.

Thanks to the enduring strength of SUPERPRETZEL, our flagship brand, J&J Snack Foods is the largest manufacturer of soft pretzels in the world. In fiscal 1998, our Food Service division increased soft pretzel sales by 5%.

With a brand that's part of the American landscape, we're well positioned to lead the soft pretzel category into the next millennium.

#### Sold Wherever Appetites are Found

We're proud to say that SUPERPRETZELS are sold just about everywhere. They're available at tens of thousands of high-traffic snack bars across the country in malls and shopping centers, chain stores, convenience stores, stadiums and sports arenas, amusement, leisure and theme parks, schools and colleges, movie theatres, business and industry cafeterias, fast food outlets, supermarkets and warehouse club stores.

#### The Anatomy of a Pretzel Sale

The eye catches a glimpse of a brightly colored merchandiser that displays warm, soft pretzels. The senses are stimulated. The appetite is engaged. The brain agrees. The hand reacts. A sale is made.

This scenario, repeated hundreds of thousands of times each day, is the key

to the success of SUPERPRETZEL soft pretzels. It's a matter of being in the right place at the right time - with the right product and promotion. And in fiscal 1998, we were in more of the right places than ever, having ramped up our merchandising initiatives at several major accounts to gain a larger share of their consumer snack purchases. One result: At a key account, our innovative custom display cases boosted sales by an impressive 22%.

#### Making Soft Pretzel History in Schools

SUPERPRETZEL soft pretzels are a real lesson in how to provide both nutrition and fun to America's schoolchildren. For nutrition, they satisfy bread requirements for U.S.D.A. approved school lunch and breakfast programs, making them a natural fit for both menu and a la carte sales. For fun, they provide a delicious treat that kids love.

To make SUPERPRETZEL even more fun, J&J has created special promotions that help boost the holiday spirit in schools. These promotions include specialty-shaped SUPERPRETZEL soft pretzels, such as snowmen and shamrocks, in conjunction with our frozen desserts. It's a combination that delights school food service directors and students alike.

#### "What's the Pretzel du Jour?"

With today's busy lifestyles, Americans are dining out more than ever. And J&J is there.

Our diverse family of soft pretzel products is gaining popularity with customers at more and more restaurants nationwide, thanks in part to an aggressive, channel-specific marketing program. This program includes a print advertising campaign that gives restaurateurs new ideas on how to add our shaped, flavored and filled varieties to their menus.

J&J also continues to innovate with new restaurant-oriented products like Gourmet Soft Pretzel Buns, a delicious alternative to an ordinary hot dog bun that adds an exciting twist to an all-American favorite. We've teamed up with a leading hot dog chain to launch this new value-added menu item at all their locations.

#### Merchandising our Success

In the food service business, great products aren't enough. You've got to merchandise, merchandise, merchandise. J&J has become one of the industry's most respected providers of merchandising and branded programs, offering a wide variety of point-of-sale materials, display cases and specialty mobile merchandisers. These items, which prominently display our eye-catching SUPERPRETZEL graphics, provide food service customers with everything they need to highlight our products - even in non-traditional locations.

One of our growing branded programs is the upscale PRETZEL GOURMET EXPRESS (PGX), which targets colleges, businesses, theme parks, stadiums and arenas. PGX is becoming a hit with customers because it provides a complete package that includes proprietary merchandising equipment and point-of-sale materials. Best of all, it features our premium line of delicious raw and baked flavored soft pretzels. Simply irresistible.

#### Supermarket. SUPERPRETZEL. Super Challenge.

In the supermarket, our SUPERPRETZEL brand continues to lead its category, with a commanding 74% market share. However, the supermarket freezer case where our products are sold continues to be a challenging environment, with our soft pretzel sales declining by 11% in fiscal 1998. This was largely due to the discontinuation of underperforming product lines as well as increased competition in the hot snacks/appetizers category. We are increasing our consumer driven marketing activities to reverse the trend in this important category, including television and billboard advertising in select markets beginning in fiscal 1999.

SUPERPRETZEL SOFTSTIX, which combine SUPERPRETZEL soft pretzel sticks with KRAFT\* cheese filling, experienced a substantial turnaround, with a 13% sales gain. This can be attributed to both increased sales and distribution as well as a successful co-branding agreement with KRAFT.

In addition, we redesigned both the supermarket and warehouse club SUPERPRETZEL packages to highlight the consumer benefits of convenience and ease of preparation. This redesign and update is part of a total marketing strategy that is being launched at the start of fiscal 1999. We look forward to generating good news in the months ahead.

(\*KRAFT and the KRAFT logo are registered trademarks owned and licensed by



#### Going and Growing Where the Traffic Is

Our chain of BAVARIAN PRETZEL BAKERY and PRETZEL GOURMET retail stores, operated by the J&J Restaurant Group, delivered an 8% sales gain during fiscal 1998. Located in regional malls primarily in the Mid-Atlantic states, the chain benefited from a combination of the addition of co-branded products and improved operating performance. During the year we closed several poorly performing stores which will have a positive impact in fiscal 1999.

#### Frozen Carbonated Beverages (FCB): The People's Choice

ICEE: Now One Company, Indivisible

It's official: From New York to California, from the Arctic regions of Canada to the tropics of Mexico, The ICEE Company is the source for the popular and refreshing line of ICEE products. In December 1997, we acquired National ICEE Corporation which had distributed ICEE frozen carbonated beverages and products throughout the eastern half of the country, while our subsidiary, ICEE-USA, distributed in the western United States.

And now we are one.

The ICEE Company now sells the ICEE brand in over 90% of the U.S. as well as Canada and Mexico and in addition, sells ARCTIC BLAST and other brands in select markets. Plans are developing for international market expansion as well. Thanks to an ICEE-smooth consolidation effort, we achieved a soaring sales increase of 72% in beverage sales alone for the fiscal year.

#### ICEE - A "Too Cool" Brand

Consumers can't get enough of our refreshing ICEE drinks, which are served from proprietary dispensing equipment and can be enjoyed with a straw or a spoon. They're an ultra-satisfying treat that people of all ages enjoy year-round. ICEE beverages are now available at over 17,000 food service locations nationally, many of which also sell our SUPERPRETZEL soft pretzels and other snack foods.

More locations are being added all the time. During fiscal 1998, we installed several new major account outlets, and began testing in a number of fast food chains across the country. We pledge not to stop until there's an ICEE in the chilly hands of every consumer.

#### ICEE and Coca-Cola\*: Partners For Growth

This past year ICEE joined Coca-Cola in an exciting new venture that offers great potential in the frozen beverage category for both of these all-American favorites. We've entered into a long-term marketing agreement that combines ICEE's operational and service system expertise with the marketing power of Coca-Cola. In the years ahead, we'll be leveraging this agreement to expand our business with new selling opportunities for frozen beverages featuring ICEE and Coca-Cola.

(\*Coca-Cola" is a trademark of The Coca-Cola Company.)

#### Focused on the Fundamentals

The ICEE Company is more than just great tasting beverages and exciting brand names. Behind the scenes, there's a modern infrastructure that maintains our equipment in peak condition, and keeps our trade customers satisfied.

To stay the best in the business, we've expanded and relocated our training facility. This technical service center, known as FCB University, provides comprehensive training and education to keep pace with our planned growth.

In addition, we continue to invest in our centralized Customer Service Center, which supports our branches and service technicians by providing state-of-the-art "Service Excellence" to our 17,000+ and growing customer base.

We continue to improve on the performance and reliability of our beverage dispensing equipment. This, together with specialized, unique distribution systems, will help The ICEE Company remain the leader in the frozen beverage industry.

#### Frozen Desserts: Ringing in the New

### Building for the Future

In fiscal 1998, we completed a major modernization and expansion of our Italian ice and frozen dessert plant in Scranton, Pennsylvania. This facility, which was expanded in part to accommodate the MAMA TISH'S acquisition of a year ago, has more than doubled its production capacity. And today, modernization has resulted in measurable product quality improvements that add value to our brands.

### Two Category Leaders Get New Images

Combined retail supermarket sales of LUIGI'S and MAMA TISH'S Italian ices grew by 3% in fiscal 1998, led by an increase of 9% for the LUIGI'S brand. These two brands continue to lead the category as two of the top selling Italian ice product lines in the highly competitive supermarket freezer case.

To increase consumer visibility, we updated the LUIGI'S box with bold contemporary graphics, and re-positioned MAMA TISH'S as MAMA TISH'S FRUTTUOSSO SORBETTO - an upscale image to match its premium quality. Both brands offer consumers a refreshing, anytime taste treat.

### The Squeeze is on in Food Service

Our Food Service division sells frozen dessert products under the brand names of LUIGI'S, SHAPE-UPS, MAMA TISH'S, FROSTAR and SNAPPLE\* ICE. Overall sales experienced a decline of 12% for fiscal year 1998 due to decreased sales to several key customers. While these results are disappointing, we continue to aggressively pursue every opportunity to boost Food Service sales in the future.

As part of our sales building efforts, we introduced new items to the Food Service market, particularly convenience stores, including ICEE Squeeze-up Tubes which capture the fizz and taste of a traditional ICEE drink and extend the brand's equity and awareness.

(SNAPPLE is a registered trademark of Snapple Beverage Corp.)

### SHAPE-UPS Go to School

Our SHAPE-UPS frozen juice bars continue to score high marks with America's schoolchildren and are welcomed by school food service directors since they carry the U.S.D.A. approved Child Nutrition (CN) Label.

To keep SHAPE-UPS shipping out, we recently introduced bright and colorful new packaging, along with new creative promotions targeted to school food service directors.

### Other Snacks: Building Bridges to New Markets

Our other niche snack foods, including churros, funnel cakes, cookies and other baked goods, also had a good year. Sales grew in all four of these product lines.

### West Coast Bakery Rides a Wave of Good News

The surf was up - way up - at our Los Angeles based West Coast Bakery. Sales increased an awesome 30% and through production improvements, manufacturing efficiency was riding high, too.

These results are attributable to a number of factors. We grew our frozen cookie dough business, expanded our contract private label products, including organically certified baked goods, extended the variety of offerings in our industrial ingredient business, and built a stronger presence in the gift pack market with our cookie lines.

Things are also looking good for MRS. GOODCOOKIE, a frozen ready-to-bake cookie line that we introduced to limited markets late last year. In fiscal 1998 we refined and expanded our program and were encouraged by the sales results. Watch for national expansion in the years ahead.

### Churros - From Sea to Shining Sea

Through our geographic expansion efforts, more and more consumers are discovering what people in the West and Southwest have known for years: TIO PEPE'S churros are a sweet treat anywhere.

These crispy, cinnamon-sugared, doughnut-like snacks of Hispanic origin are growing in popularity and gaining in sales. And even long-time fans are discovering the versatility of churros through our delicious new fruit-filled varieties. As a result, Food Service churros sales grew by 8% this year. Much of this growth was due to the introduction of TIO PEPE'S fruit-

filled churros to school menus, where they provide both bread and fruit requirements for U.S.D.A. approved school lunch and breakfast programs. Retail churros experienced significant growth both in existing and newly entered geographic markets.

#### Making Fun with Funnel Cakes

You can't have a funnel cake without "fun." And more people than ever are having fun with THE FUNNEL CAKE FACTORY funnel cakes, sold through our Food Service division.

These tempting treats are available as frozen pre-cooked, pre-shaped funnel cakes as well as a make-your-own dry mix. They're a huge hit at theme and amusement parks, and are gaining popularity as a restaurant dessert item as a result of our innovative menu ideas.

We recently reformulated our funnel cakes to meet two bread requirements for U.S.D.A. approved school lunch and breakfast programs. As a result, they're being added to numerous school menus around the country.

It all adds up to a sales increase of 34% in fiscal 1998 - and results like that are great fun for J&J Snack Foods.

Here in America, brand names have the opportunity and power to become icons, recognized and enjoyed by millions. J&J Snack Foods is proud that our many brands continue to grow in popularity, taking their place on the great landscape of American popular culture.

#### Management's Discussion and Analysis of Financial Condition and Results of Operations

In addition to historical information, this discussion and analysis contains forward-looking statements. The forward-looking statements contained herein are subject to certain risks and uncertainties that could cause actual results to differ materially from those projected in the forward-looking statements. Important factors that might cause such a difference include, but are not limited to, those discussed in the "Management's Discussion and Analysis of Financial Condition and Results of Operations." Readers are cautioned not to place undue reliance on these forward-looking statements, which reflect management's analysis only as of the date hereof. The Company undertakes no obligation to publicly revise or update these forward-looking statements to reflect events or circumstances that arise after the date hereof.

#### Results of Operations

##### Fiscal 1998 Compared to Fiscal 1997

Net sales increased \$42,072,000 or 19% to \$262,390,000 in fiscal 1998 from \$220,318,000 in fiscal 1997. Approximately \$31,000,000 of the increase in sales for the year resulted from the December 1997 acquisition of National ICEE Corporation.

Sales to food service customers increased \$1,534,000 or 2% to \$103,470,000 in fiscal 1998. Soft pretzel sales to the food service market increased 5% to \$60,589,000. Churro sales increased 8% to \$11,195,000. Frozen juice bar and dessert sales decreased 12% to \$24,746,000 primarily due to lower sales to three customers.

Sales of products to retail supermarkets decreased \$1,708,000 or 4% to \$38,594,000 in fiscal 1998. Total soft pretzel sales to retail supermarkets were \$21,849,000, a decrease of 11% from fiscal 1997. Sales of our flagship brand SUPERPRETZEL soft pretzels, excluding SOFTSTIX and CINNAMON RAISIN MINI'S, decreased 5% to \$17,298,000. SOFTSTIX sales increased \$268,000 or 13% to \$2,286,000 from the previous year. Sales of Italian ice increased \$485,000 or 3% to \$15,038,000 in 1998 from \$14,553,000 in 1997; sales were impacted by limited production output during the expansion and modernization of the Company's Italian ice and frozen dessert plant in Scranton, PA.

Frozen carbonated beverage and related product sales increased \$35,884,000 or 75% to \$83,799,000 in fiscal 1998. Beverage sales alone increased 72% to \$75,191,000 for the year, including approximately \$31,000,000 attributable to the December 1997 acquisition of National ICEE Corporation.

Bakery sales increased \$5,351,000 or 30% to \$23,307,000 in fiscal 1998 due primarily to increased product sales to one customer. Sales of our Bavarian Pretzel Bakery increased 8% to \$13,220,000 for the year.

Gross profit on sales increased to 52% of sales in 1998 from 49% of sales in 1997. The gross profit percentage increase is primarily attributable to higher gross profit percentages of the acquired National ICEE Corporation business and lower flour costs, net of higher manufacturing costs of approximately \$1,300,000 incurred during the startup of operations in the third and fourth quarters at the Company's expanded Italian ice and frozen dessert plant in Scranton, PA.

Total operating expenses increased \$18,598,000 to \$115,117,000 in fiscal 1998 but as a percentage of sales were 44% in both 1998 and 1997. Marketing and distribution expenses were 30% and 9% of sales, respectively, in both fiscal 1998 and 1997. Administrative expenses decreased to 4% of sales in fiscal 1998 from 5% in fiscal 1997 due primarily to lower litigation costs in fiscal 1998.

Operating income increased \$8,821,000 or 76% to \$20,461,000 in fiscal 1998.

Interest expense increased \$2,602,000 to \$3,033,000 in fiscal 1998 due to the purchase and assumption and subsequent refinancing of the debt of National ICEE Corporation.

Sundry income increased by \$696,000 in fiscal 1998 from \$112,000 in fiscal 1997 due to the successful settlement of certain litigation. In 1998, Sundry income was offset by \$525,000 in write offs and accruals for the closing of unprofitable Bavarian Pretzel Bakery retail stores.

The effective income tax rate increased to 37% in fiscal 1998 from 32% in fiscal 1997. The lower rate in fiscal 1997 is due primarily to adjustments relating to settlements of federal tax matters.

Net earnings increased \$3,691,000 or 45% in fiscal 1998 to \$11,850,000.

#### Fiscal 1997 Compared to Fiscal 1996

Net sales increased \$34,300,000 or 18% to \$220,318,000 in fiscal 1997 from \$186,018,000 in fiscal 1996. Excluding sales of acquired businesses, net sales increased \$16,395,000 or 9% for the year.

Sales to food service customers increased \$15,432,000 or 18% to \$101,936,000 in fiscal 1997. Excluding sales of acquired businesses, sales to food service customers increased \$2,675,000 or 3% for the year. Soft pretzel sales to the food service market increased 5% to \$57,668,000. Excluding sales of acquired businesses, food service soft pretzel sales decreased \$636,000 or 1% from last year. Two customers accounted for approximately \$2,500,000 of lower pretzel sales in 1997 compared to 1996. Churro sales increased 3% to \$10,403,000. Frozen juice bar and dessert sales increased 76% to \$28,210,000. Approximately 75% of the juice bar and dessert sales increase resulted from sales of acquired businesses.

Sales of products to retail supermarkets increased \$3,384,000 or 9% to \$40,302,000 in fiscal 1997. Total soft pretzel sales to retail supermarkets were \$24,504,000, an increase of 3% from fiscal 1996. Excluding sales of an acquired business, sales to retail supermarkets decreased 2% or \$919,000 for the year. Sales of our flagship SUPERPRETZEL brand soft pretzels, excluding SOFTSTIX and CINNAMON RAISIN MINI'S, decreased 7% to \$18,157,000. SOFTSTIX sales decreased \$701,000 or 26% to \$2,018,000 from the previous year. Sales of Italian ice increased \$2,335,000 or 19% to \$14,553,000 in 1997 from \$12,218,000 in 1996 due to sales of Mama Tish's International Foods which was acquired during the second quarter. Excluding sales of Mama Tish's, Italian ice sales were down 4% for the year.

Frozen carbonated beverage and related product sales increased \$3,558,000 or 8% to \$47,915,000 in fiscal 1997. Beverage sales alone increased 4% to \$43,594,000 for the year. Excluding last year's pricing adjustment to one customer and an unusually high sales of promotional cups to another customer, beverage sales increased 7%.

Bakery sales increased \$10,225,000 or 132% to \$17,956,000 in fiscal 1997 due to increased product sales to one customer. Sales of our Bavarian Pretzel Bakery increased 16% to \$12,209,000 for the year. Excluding sales from an acquired business, Bavarian Pretzel Bakery sales increased 8% or \$856,000 for the year.

Gross profit on sales was 49% of sales in both 1997 and 1996.

Total operating expenses increased \$12,449,000 to \$96,519,000 in fiscal 1997 but as a percentage of sales decreased to 44% from 45% in fiscal 1996. Marketing expenses as a percentage of sales dropped to 30% in 1997 from 32% in 1996. This decline was due primarily to overhead efficiencies resulting from higher sales levels. Distribution expenses were 9% of sales

in 1997 and 1996. Administrative expenses increased to 5% of sales in 1997 from 4% in 1996 due to increased litigation costs.

Operating income increased \$3,692,000 or 46% to \$11,640,000 in fiscal 1997.

Investment income decreased \$796,000 or 56% in fiscal year 1997 due to a sharply lower level of investable funds which were used to pay for acquisitions. Interest expense increased \$66,000 or 18% due to short-term borrowings.

The effective income tax rate was 32% in 1997 and 35% in 1996. The lower rate in 1997 is primarily due to adjustments relating to settlements of federal tax matters.

Net earnings increased \$2,316,000 or 40% in fiscal 1997 to \$8,159,000.

#### Acquisitions, Liquidity and Capital Resources

In December 1997, the Company acquired the common stock of National ICEE Corporation. National ICEE Corporation, with annual sales of approximately \$40 million, markets and distributes frozen carbonated beverages primarily in the eastern half of the United States. The Company has incurred approximately \$50 million of debt to complete the acquisition. The following are the unaudited pro forma results of operations for the fiscal years 1998, 1997 and 1996 assuming the above had occurred at the beginning of that fiscal year:

	1998	1997	1996
Sales	\$268,390,000	\$259,952,000	\$222,964,000
Net Earnings	\$11,346,000	\$8,645,000	\$7,036,000
Earnings per diluted share	\$1.21	\$.96	\$.78

In January 1997, the Company acquired the assets of Mama Tish's International Foods by assuming certain liabilities. Mama Tish's is a manufacturer and distributor of Italian ices, sorbets and other frozen juice products with annual sales of approximately \$15 million.

In November 1996, the Company acquired all of the common stock of Pretzels, Inc. for cash. Trading as TEXAS TWIST, Pretzels, Inc. is a soft pretzel manufacturer selling to both the food service and retail supermarket industries.

In October 1996, the Company acquired the assets of Bakers Best Snack Food Corp. for cash. Bakers Best is a manufacturer of soft pretzels selling to both the food service and retail supermarket industries.

In May 1996, the Company acquired the assets of Mazzone Enterprises, Inc. for cash and by assuming certain of its liabilities. Mazzone Enterprises is a manufacturer and distributor of Italian ices and other specialty frozen desserts.

In April 1996, the Company acquired the assets of Pretzel Gourmet Corp. for cash. Pretzel Gourmet is a chain of retail stores specializing in freshly baked hand-rolled soft pretzels.

The Company's current cash and marketable securities balances and cash expected to be provided by future operations are its primary sources of liquidity. The Company believes that these sources, along with its borrowing capacity, are sufficient to fund future growth and expansion.

The devaluation of the Mexican peso caused reductions of \$285,000, \$53,000 and \$235,000 in stockholders' equity for the 1998, 1997 and 1996 fiscal years, respectively, because of the revaluation of the net assets of the Company's Mexican frozen carbonated beverage subsidiary. In 1998, sales of the Mexican subsidiary were \$2,170,000.

Under various share repurchase programs authorized by the Board of Directors, the Company purchased and retired 433,000 shares of its common stock at a cost of \$5,029,000 in fiscal year 1996. Under the most recent share repurchase authorization, 712,000 shares remain to be repurchased.

An unsecured general-purpose bank line of credit totalling \$30,000,000 is available to the Company. Borrowings under the bank line of credit were \$16,000,000 at September 26, 1998.

The Financial Accounting Standards Board ("FASB") has issued Statement of Financial Accounting Standards ("SFAS") No. 128, "Earnings Per Share" ("EPS"), which is effective for financial statements issued after December 31, 1997. The new standard eliminates primary and fully diluted EPS and instead requires presentation of basic and diluted EPS in conjunction with the disclosure of the methodology used in computing such EPS. Basic EPS

excludes dilution and is computed by dividing income available to common shareholders by the weighted-average common shares outstanding during the period. Diluted EPS takes into consideration the potential dilution that could occur if securities or other contracts to issue common stock were exercised and converted into common stock. The Company adopted this new standard in its financial statements for the second quarter of this fiscal year. The effect of adopting this new standard is not material.

In June 1997, the FASB issued SFAS No. 130, "Reporting Comprehensive Income," which is effective for years beginning after December 15, 1997. This new standard requires entities presenting a complete set of financial statements to include details of comprehensive income. Comprehensive income consists of net income or loss for the current period and income, expenses, gains and losses that bypass the income statement and are reported directly in a separate component of equity. The effect of adopting this new standard is not expected to be material.

In June 1997, the FASB issued SFAS No. 131, "Disclosures about Segments of an Enterprise and Related Information," which is effective for all periods beginning after December 15, 1997. SFAS No. 131 requires that public business enterprises report certain information about operating segments in complete sets of financial statements of the enterprise and in condensed financial statements of interim periods issued to shareholders. It also requires that public business enterprises report certain information about their products and services, the geographic areas in which they operate, and their major customers. The effect of adopting this new standard is not expected to be material.

#### Fiscal 1998 Compared to Fiscal 1997

Trade receivables increased \$9,301,000 or 40% to \$32,683,000 in 1998, and inventories increased \$2,912,000 or 22% to \$16,447,000 in 1998 from 1997 primarily because of higher sales levels attributable to the acquisition of National ICEE Corporation.

Other receivables decreased \$371,000 to \$1,705,000 in 1998 due to reimbursement received from the Company's insurance carrier on settlement of legal matters.

Property, plant and equipment increased \$48,216,000 to \$212,564,000 primarily because of expenditures for dispensers required for the expansion of the frozen carbonated beverage business, for ovens and portable merchandisers required for the expansion of the food service business and for the expansion and upgrading of production and warehousing capability at the Company's manufacturing facilities. Additionally, property, plant and equipment from the National ICEE Corporation acquisition accounted for approximately one-half of the overall increase.

Goodwill, trademarks and rights, net of accumulated amortization increased \$30,412,000 to \$51,871,000 due to goodwill acquired in the National ICEE Corporation acquisition.

Accounts payable and accrued liabilities increased \$10,169,000 in 1998 from \$21,967,000 in 1997 due primarily to the acquisition of National ICEE Corporation and higher sales levels.

Current maturities of long-term debt increased by \$8,407,000 to \$8,423,000 and long-term debt, less current maturities increased by \$43,171,000 to \$48,199,000 due to borrowings to fund the acquisition of National ICEE Corporation and the subsequent refinancing of its debt.

Deferred income decreased \$97,000 to \$435,000 primarily as a result of the reduction in the Company's guarantees related to the sale of its Hawaiian ICEE operations.

Deferred Income Taxes increased by \$1,007,000 to \$4,387,000 in 1998 which related to depreciation of property, plant and equipment.

Common stock increased \$2,212,000 in 1998 to \$39,120,000 primarily because of the exercise of incentive stock options.

Net cash provided by operating activities increased \$16,808,000 to \$37,179,000 in 1998 primarily due to increases in net earnings, depreciation and amortization of fixed assets, amortization of intangibles and deferred costs and accounts payable and accrued liabilities.

Net cash used in investing activities increased \$14,659,000 to \$45,132,000 in 1998 primarily due to purchases of property, plant and equipment which increased by \$12,222,000 in 1998. Expenditures increased for dispensers for the expansion of the frozen carbonated beverage business and for the expansion and modernization of the Company's Italian ice and frozen dessert

plant in Scranton, PA.

Net cash provided by financing activities of \$9,756,000 in 1998 compared to \$956,000 in 1997. The increase was due to a net increase in borrowings to fund the acquisition of National ICEE Corporation and the subsequent refinancing of its debt.

#### Fiscal 1997 Compared to Fiscal 1996

The combined balance of cash and cash equivalents and marketable securities decreased \$10,363,000 from \$11,764,000 in 1996 to \$1,401,000 in 1997 primarily because of the use of cash for acquisitions.

Trade receivables increased \$6,105,000 or 35% to \$23,382,000 in 1997, and inventories increased \$2,259,000 or 20% to \$13,535,000 in 1997 from 1996 primarily because of higher sales levels.

Other receivables increased \$1,151,000 to \$2,076,000 in 1997 due to an increase in reimbursements due from the Company's insurance carrier.

Property, plant and equipment increased \$22,248,000 primarily because of expenditures for dispensers required for the expansion of the frozen carbonated beverage business, for ovens and portable merchandisers required for the expansion of the food service business and for the expansion and upgrading of production and warehousing capability at the Company's manufacturing facilities. Additionally, property, plant and equipment from acquisitions accounted for approximately one-third of the overall increase.

Goodwill, trademarks and rights, net of accumulated amortization increased \$12,133,000 to \$21,459,000 primarily because of goodwill and restrictive covenants acquired in the Bakers Best Snack Foods Corp., Pretzels, Inc. and Mama Tish's International Foods acquisitions. Long-term investments decreased \$6,652,000 to \$3,835,000 primarily because proceeds from sales of these investments were used for acquisitions. Sundry assets increased by \$181,000 from 1996 primarily because of an increase in funding of various long-term merchandising agreements.

Accounts payable and accrued liabilities increased \$4,535,000 in 1997 from \$17,432,000 in 1996 due primarily to higher sales levels.

Deferred income decreased \$35,000 primarily as a result of the reduction in the Company's guarantees related to the sale of its Hawaiian ICEE operations.

Common stock increased \$1,090,000 in 1997 to \$36,908,000 primarily because of the exercise of incentive stock options.

Net cash provided by operating activities decreased \$1,509,000 to \$20,371,000 in 1997 from \$21,880,000 in 1996 primarily because of an increase in accounts receivable.

Net cash used in investing activities increased \$13,311,000 to \$30,473,000 in 1997 from \$17,162,000 in 1996 primarily because of payments for purchases of companies, net of cash acquired and debt assumed and higher capital expenditures. Capital expenditures increased by \$5,101,000 in 1997 from 1996 because of increased expenditures for dispensers for the expansion of the frozen carbonated beverage business.

There was net cash provided by financing activities of \$956,000 in 1997 compared to a net use of \$4,867,000 in 1996. The use in 1996 was for the Company's repurchase of common stock.

#### Consolidated Statements of Earnings

	Fiscal year ended		
	September 26, 1998	September 27, 1997	September 28, 1996
Net sales	\$ 262,390,000	\$ 220,318,000	\$ 186,018,000
Cost of goods sold	126,812,000	112,159,000	94,000,000
Gross profit	135,578,000	108,159,000	92,018,000
Operating expenses			
Marketing	77,385,000	65,231,000	58,604,000
Distribution	24,846,000	19,197,000	17,264,000
Administrative	10,072,000	10,326,000	7,309,000
Amortization of intangibles and deferred costs	2,814,000	1,765,000	893,000

	115,117,000	96,519,000	84,070,000
Operating income	20,461,000	11,640,000	7,948,000
Other income (deductions)			
Investment income	573,000	630,000	1,426,000
Interest expense	(3,033,000)	(431,000)	(365,000)
Sundry	808,000	112,000	34,000
	(1,652,000)	311,000	1,095,000
Earnings before income taxes	18,809,000	11,951,000	9,043,000
Income taxes	6,959,000	3,792,000	3,200,000
NET EARNINGS	\$ 11,850,00	\$ 8,159,000	\$ 5,843,000
Earnings per diluted share	\$1.26	\$ .91	\$ .65
Weighted average number of diluted shares	9,368,000	8,985,000	9,016,000
Earnings per basic share	\$1.32	\$ .93	\$ .65
Weighted average number of basic shares	8,947,000	8,781,000	8,940,000

The accompanying notes are an integral part of these statements.

#### Consolidated Balance Sheets

	Fiscal year ended	
	September 26, 1998	September 27, 1997
Assets		
Current Assets		
Cash and cash equivalents	\$ 3,204,000	\$ 1,401,000
Receivables		
Trade, less allowance of \$597,000 and \$392,000, respectively	32,683,000	23,382,000
Other	1,705,000	2,076,000
Inventories	16,447,000	13,535,000
Prepaid expenses and deposits	1,104,000	853,000
Total current assets	55,143,000	41,247,000
Property, Plant and Equipment, at cost	212,564,000	164,348,000
Less accumulated depreciation and amortization	112,444,000	97,126,000
	100,120,000	67,222,000
Other Assets		
Goodwill, trademarks and rights, less accumulated amortization of \$9,712,000 and \$6,883,000, respectively	51,871,000	21,459,000
Long-term investment securities available for sale	—	495,000
Long-term investment securities held to maturity	3,127,000	3,340,000
Sundry	3,000,000	3,064,000
	57,998,000	8,358,000
	\$ 213,261,000	\$ 136,827,000
Liabilities and Stockholders' Equity		
Current Liabilities		
Current maturities of long-term debt	\$ 8,423,000	\$ 16,000
Accounts payable	23,222,000	13,315,000
Accrued liabilities	8,914,000	8,652,000
Total current liabilities	40,559,000	21,983,000
Long-Term Debt, less current maturities	48,199,000	5,028,000
Deferred Income	435,000	532,000
Deferred Income Taxes	4,387,000	3,380,000
Commitments	—	—
Stockholders' Equity		



Capital stock		
Preferred, \$1 par value; authorized, 5,000,000 shares; none issued	-	-
Common, no par value; authorized, 25,000,000 shares; issued and outstanding, 9,036,000 and 8,850,000, respectively	39,120,000	36,908,000
Foreign currency translation adjustment	(1,694,000)	(1,409,000)
Retained earnings	82,255,000	70,405,000
	119,681,000	105,904,000
	\$ 213,261,000	\$ 136,827,000

The accompanying notes are an integral part of these statements.

#### Consolidated Statement of Changes in Stockholders' Equity

	Common Stock Shares	Common Stock Amount	Foreign Currency Translation Adjustment	Retained Earnings	Total
Balance at					
Oct. 1, 1995	9,126,000	\$40,802,000	\$(1,121,000)	\$56,403,000	\$ 96,084,000
Issuance of common stock upon exercise of stock options	56,000	199,000	-	-	199,000
Adjustments to common stock for acquisition	-	(154,000)	-	-	(154,000)
Foreign currency translation adjustment	-	-	(235,000)	-	(235,000)
Repurchase of common stock	(433,000)	(5,029,000)	-	-	(5,029,000)
Net earnings for the fiscal year ended September 28, 1996	-	-	-	5,843,000	5,843,000
Balance at					
Sep. 28, 1996	8,749,000	35,818,000	(1,356,000)	62,246,000	96,708,000
Issuance of common stock upon exercise of stock options	84,000	945,000	-	-	945,000
Issuance of common stock for employee stock purchase plan	17,000	145,000	-	-	145,000
Foreign currency translation adjustment	-	-	(53,000)	-	(53,000)
Net earnings for the fiscal year ended September 27, 1997	-	-	-	8,159,000	8,159,000
Balance at					
Sep. 27, 1997	8,850,000	36,908,000	(1,409,000)	70,405,000	105,904,000
Issuance of common stock upon exercise of stock options	171,000	2,017,000	-	-	2,017,000
Issuance of common stock for employee stock purchase plan	15,000	195,000	-	-	195,000
Foreign currency translation adjustment	-	-	(285,000)	-	(285,000)
Net earnings for the fiscal year ended September 26, 1998	-	-	-	11,850,000	11,850,000
Balance at					
Sep. 26, 1998	9,036,000	\$39,120,000	\$(1,694,000)	\$82,255,000	\$119,681,000

The accompanying notes are an integral part of this statement.

Consolidated Statements of Cash Flows

	September 26, 1998	Fiscal year ended September 27, 1997	September 28, 1996
<b>Operating activities:</b>			
Net earnings	\$11,850,000	\$ 8,159,000	\$ 5,843,000
Adjustments to reconcile net earnings to net cash provided by operating activities:			
Depreciation and amortization of fixed assets	21,807,000	17,090,000	15,613,000
Amortization of intangibles and deferred costs	3,352,000	2,180,000	1,262,000
Losses (gains) from disposals of property and equipment	306,000	(26,000)	44,000
Increase (decrease) in deferred income taxes	1,007,000	(23,000)	(1,600,000)
Other adjustments	23,000	14,000	(24,000)
Changes in assets and liabilities, net of effects from purchase of companies:			
Increase in accounts receivable	(6,378,000)	(6,615,000)	(488,000)
Decrease (increase) in inventories	958,000	(1,008,000)	(30,000)
(Increase) decrease in prepaid expenses	(71,000)	174,000	572,000
Increase in accounts payable and accrued liabilities	4,325,000	426,000	688,000
Net cash provided by operating activities	37,179,000	20,371,000	21,880,000
<b>Investing activities:</b>			
Purchases of property, plant and equipment	(31,803,000)	(19,581,000)	(14,480,000)
Payments for purchases of companies, net of cash acquired and debt assumed	(14,813,000)	(18,601,000)	(2,739,000)
Proceeds from investments held to maturity	190,000	6,146,000	575,000
Payments for investments held to maturity	-	-	(2,750,000)
Proceeds from investments available for sale	495,000	1,710,000	7,133,000
Payments for investments available for sale	-	-	(4,578,000)
Proceeds from disposals of property and equipment	1,000,000	273,000	191,000
Other	(201,000)	(420,000)	(514,000)
Net cash used in investing activities	(45,132,000)	(30,473,000)	(17,162,000)
<b>Financing activities:</b>			
Proceeds from borrowings	56,150,000	35,000	-
Proceeds from issuance of common stock	2,125,000	930,000	183,000
Payments to repurchase common stock	-	-	(5,029,000)
Payments of long-term debt	(48,519,000)	(9,000)	(21,000)
Net cash provided by (used in) financing activities	9,756,000	956,000	(4,867,000)
Net increase (decrease)			

in cash and cash equivalents	1,803,000	(9,146,000)	(149,000)
Cash and cash equivalents at beginning of year	1,401,000	10,547,000	10,696,000
Cash and cash equivalents at end of year	\$ 3,204,000	\$ 1,401,000	\$ 10,547,000

The accompanying notes are an integral part of these statements.

## Notes to Consolidated Financial Statements

### Note A - Summary of Significant Accounting Policies

J&J Snack Foods Corp. and Subsidiaries (the Company) manufactures, markets and distributes a variety of nutritional snack foods and beverages to the food service and retail supermarket industries. A summary of the significant accounting policies consistently applied in the preparation of the accompanying consolidated financial statements follows.

#### 1. Principles of Consolidation

The consolidated financial statements include the accounts of J&J Snack Foods Corp. and its wholly-owned subsidiaries. Intercompany balances and transactions have been eliminated in the consolidated financial statements.

#### 2. Revenue Recognition

The Company recognizes revenue when its product is shipped. The Company sells service contracts covering frozen carbonated beverage machines sold. The terms of coverage range between 12 and 48 months. The Company records deferred income on service contracts which is amortized by the straight-line method over the term of the contracts.

#### 3. Foreign Currency

Assets and liabilities in foreign currencies are translated into U.S. dollars at the rate of exchange prevailing at the balance sheet date. Revenues and expenses are translated at the average rate of exchange for the period. The cumulative translation adjustment is recorded as a separate component of stockholders' equity.

#### 4. Use of Estimates

In preparing financial statements in conformity with generally accepted accounting principles, management is required to make estimates and assumptions that affect the reported amounts of assets and liabilities, the disclosure of contingent assets and liabilities at the date of the financial statements, and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates.

#### 5. Cash Equivalents

Cash equivalents are short-term, highly liquid investments with original maturities of three months or less.

#### 6. Concentrations of Credit Risk

Concentrations of credit risk with respect to trade receivables are limited due to the dispersion of the Company's customers over different industries and geographies.

#### 7. Inventories

Inventories are valued at the lower of cost (determined by the first-in, first-out method) or market.

#### 8. Depreciation and Amortization

Depreciation of equipment and buildings is provided for by the straight-line and accelerated methods over the assets' estimated useful lives. Amortization of improvements is provided for by the straight-line method over the term of the lease or the assets' estimated useful life, whichever is shorter. Goodwill, trademarks and rights arising from acquisitions are amortized by the straight-line method over periods ranging from 5 to 30 years. Management reviews the realization of goodwill based upon past and expected performance of individual acquired businesses. In fiscal year 1997, the Company adopted a new standard issued by the Financial Accounting Standards Board ("FASB"), Statement of Financial Accounting Standards ("SFAS") No. 121, "Accounting for the Impairment of Long-Lived Assets and for Long-Lived Assets to Be Disposed Of," which provides guidance on when to recognize and how to measure impairment losses of long-lived assets and certain identifiable intangibles and how to value long-lived assets to be disposed of. There was no material impact as a result of the adoption of SFAS No. 121 on the financial position and results of operations of the Company.

#### 9. Fair Value of Financial Instruments

Financial instruments consist primarily of cash and cash equivalents, investments and long-term debt. Based on the borrowing rates currently available to the Company, long-term debt approximates fair value at September 26, 1998 and September 27, 1997.

#### 10. Income Taxes

The Company accounts for its income taxes under the liability method. Under the liability method, deferred tax assets and liabilities are determined based on the difference between the financial statement and tax bases of assets and liabilities as measured by the enacted tax rates which will be in effect when these differences reverse. Deferred tax expense is the result of changes in deferred tax assets and J&J liabilities. The principal types of differences between assets and liabilities for financial statement and tax return purposes are vacation accruals, insurance accruals, deferred income and accumulated depreciation.

#### 11. Earnings Per Common Share

Earnings per common share are based on the weighted average number of common shares outstanding, including common stock equivalents (stock options).

The Company adopted a new standard issued by the FASB, SFAS No. 128, "Earnings Per Share" ("EPS") in its fiscal 1998 second quarter financial statements. The new standard eliminates primary and fully diluted EPS and instead requires presentation of basic and diluted EPS in conjunction with the disclosure of the methodology used in computing such EPS. Basic EPS excludes dilution and is computed by dividing income available to common shareholders by the weighted-average common shares outstanding during the period. Diluted EPS takes into consideration the potential dilution that could occur if securities or other contracts to issue common stock were exercised and converted into common stock. The effect of adopting this new standard was not material.

#### 12. Accounting for Stock-Based Compensation

In fiscal 1997, the Company adopted a new standard issued by the FASB, SFAS No. 123, "Accounting for Stock-Based Compensation," which contains a fair value-based method for valuing stock-based compensation that entities may use, which measures compensation cost at the grant date based on the fair value of the award. Compensation is then recognized over the service period, which is usually the vesting period. The Company has chosen an alternative, permitted by the standard, to continue accounting for employee stock options and similar equity instruments under Accounting Principles Board ("APB") Opinion No. 25, "Accounting for Stock Issued to Employees."

#### 13. Advertising Costs

Advertising costs are expensed as incurred. Total advertising expense was \$4,128,000, \$3,892,000, and \$4,119,000 for the fiscal years 1998, 1997 and 1996, respectively.

#### 14. Interest Rate Risk Management

As part of its risk management activities, the Company uses interest rate swaps to modify the interest rate characteristics of certain long-term debt. The Company holds no other derivatives or similar instruments. The derivatives contracts are designated as hedges when acquired. They are expected to be effective economic hedges and have high correlation with the items being hedged at inception and throughout the hedge period. The variable interest rate of a swap contract is referenced to the same index as the variable interest rate of the debt being hedged.

Interest rate swaps are accounted for using the accrual method, with an adjustment to interest expense in the income statement. The effects of swap positions are included in financing activities in the Statement of Cash Flows. Interest receivable or payable under the swap contracts is included in Receivables or Accounts Payable. Unrealized gains and losses on the swaps are not recognized in the balance sheet. Realized gains and losses from disposition or settlement of swap contracts are deferred on the balance sheet and amortized to interest expense over the appropriate period.

If the hedged item is settled or terminated, deferred and/or unrecognized gains or losses on the hedging instrument on that date are recognized as an adjustment to the gain or loss on disposition or termination of the related hedged item. Future accruals on the swap and subsequent gains and losses on the swap or forward contract are included in income in the period they occur.

#### 15. Recent Accounting Pronouncements

In June 1997, the FASB issued SFAS No. 130, "Reporting Comprehensive Income," which is effective for years beginning after December 15, 1997.

This new standard requires entities presenting a complete set of financial statements to include details of comprehensive income. Comprehensive income consists of net income or loss for the current period and income, expenses, gains and losses that bypass the income statement and are reported directly in a separate component of equity. The effect of adopting this new standard is not expected to have a material impact on financial statement presentation.

In June 1997, the FASB issued SFAS No. 131, "Disclosures about Segments of an Enterprise and Related Information," which is effective for all periods beginning after December 15, 1997. SFAS No. 131 requires that public business enterprises report certain information about operating segments in complete sets of financial statements of the enterprise and in condensed financial statements of interim periods issued to shareholders. It also requires that public business enterprises report certain information about their products and services, the geographic areas in which they operate, and their major customers.

#### Note B - Acquisition

In December 1997, the Company acquired the common stock of National ICEE Corporation. National ICEE Corporation, with annual sales of approximately \$40 million, markets and distributes frozen carbonated beverages primarily in the eastern half of the United States. The Company incurred approximately \$50 million of debt to complete the acquisition. The following are the unaudited pro forma results of operations for the fiscal years 1998, 1997 and 1996 assuming the above had occurred at the beginning of that fiscal year:

	1998	1997	1996
Sales	\$268,390,000	\$259,952,000	\$222,964,000
Net Earnings	\$11,346,000	\$8,645,000	\$7,036,000
Earnings per. diluted share	\$1.21	\$.96	\$.78

In January 1997, the Company acquired the assets of Mama Tish's International Foods by assuming certain of its liabilities. Mama Tish's is a manufacturer and distributor of Italian ices, sorbets and other frozen juice products.

In November 1996, the Company acquired all of the common stock of Pretzels, Inc. for cash. Trading as TEXAS TWIST, Pretzels, Inc. is a soft pretzel manufacturer selling to both the food service and retail supermarket industries.

In October 1996, the Company acquired the assets of Bakers Best Snack Food Corp. for cash. Bakers Best is a manufacturer of soft pretzels selling to both the food service and retail supermarket industries.

The acquisitions were accounted for under the purchase method of accounting, and the operations are included in the consolidated financial statements from the respective acquisition dates.

#### Note C - Credit Arrangements

To fund the acquisition of National ICEE Corporation in December 1997, and to retire most of its debt, the Company incurred the following debt:

\$40,000,000 unsecured term note, at an interest rate of 6.61% fixed through swap agreements, with 60 monthly principal payments of \$666,667 plus interest beginning January 8, 1998. At September 26, 1998, \$8,000,000 of the note was classified under current maturities of long-term debt. At September 26, 1998, the principal balance of the note was \$34,000,000. (See Note H.)

\$10,000,000 borrowing under a \$30,000,000 unsecured general-purpose bank line of credit. Interest payments on the balance borrowed under the line are due monthly. The interest rate on the outstanding borrowings under the line was 6.54% at September 26, 1998. Borrowings under the credit line were \$16,000,000 at September 26, 1998. (See Note H.)

#### Note D - Investment Securities

The Company classifies its investments in securities in one of three categories: held to maturity, trading and available for sale. Debt securities that the Company has the positive intent and ability to hold to maturity are classified as held to maturity and are reported at amortized cost. As the Company does not engage in securities trading, the balance of its debt securities and any equity securities are classified as available

for sale. Net unrealized gains and losses on such securities, net of income tax, are reported as a separate component of stockholders' equity and excluded from the determination of net income.

Proceeds from sales of securities classified as available for sale were \$495,000, \$1,710,000 and \$7,133,000 for fiscal years 1998, 1997 and 1996, respectively. The Company uses the specific identification method to determine the cost of securities sold. No material gains or losses were realized on sales of investment securities.

The amortized cost, gross unrealized gains and losses, and fair market values of the Company's investment securities held to maturity at September 26, 1998 are summarized as follows:

	Amortized Cost	Gross Unrealized Gains	Gross Unrealized Losses	Fair Market Value
Corporate debt securities	\$ 947,000	\$ 38,000	\$ -	\$ 985,000
Municipal government securities	1,680,000	28,000	-	1,708,000
Other debt securities	500,000	-	-	500,000
	\$3,127,000	\$ 66,000	\$ -	\$ 3,193,000

The amortized cost, gross unrealized gains and losses, and fair market values of the Company's investment securities available for sale and held to maturity at September 27, 1997 are summarized as follows:

	Amortized Cost	Gross Unrealized Gains	Gross Unrealized Losses	Fair Market Value
Available for sale				
Corporate debt securities	\$ 495,000	\$ -	\$ -	\$ 495,000
Held to maturity				
Corporate debt securities	\$ 970,000	\$ 19,000	\$ -	\$ 989,000
Municipal government securities	1,870,000	3,000	(8,000)	1,865,000
Other debt securities	500,000	-	-	500,000
	\$3,340,000	\$ 22,000	\$ (8,000)	\$3,354,000

The following table lists the maturities of investment securities classified as held to maturity at September 26, 1998:

	Amortized Cost	Fair Market Value
Due after one year through five years	\$ 3,127,000	\$ 3,193,000
Due after five years	-	-
	\$ 3,127,000	\$ 3,193,000

#### Note E - Inventories

Inventories consist of the following:

	September 26, 1998	September 27, 1997
Finished goods	\$ 8,054,000	\$ 7,108,000
Raw materials	2,190,000	1,789,000
Packaging materials	2,239,000	2,262,000
Equipment parts and other	3,964,000	2,376,000
	\$ 16,447,000	\$ 13,535,000

#### Note F - Property, Plant and Equipment

Property, plant and equipment consist of the following:

	September 26, 1998	September 27, 1997	Estimated Useful Lives
Land	\$ 839,000	\$ 819,000	-
Buildings	5,432,000	5,340,000	15-39.5 years
Plant machinery and equipment	60,275,000	51,891,000	5-10 years
Marketing equipment	126,653,000	90,988,000	5 years

Transportation equipment	2,149,000	1,856,000	5 years
Office equipment	5,446,000	4,792,000	3-5 years
Improvements	10,616,000	7,837,000	5-20 years
Construction in progress	1,154,000	825,000	-
	\$212,564,000	\$164,348,000	

#### Note G - Accrued Liabilities

Included in accrued liabilities is accrued compensation of \$4,297,000 and \$3,275,000 as of September 26, 1998 and September 27, 1997, respectively.

#### Note H - Long-Term Debt

Long-term debt consists of the following:

	September 26, 1998	September 27, 1997
\$40,000,000 unsecured term note, with 60 monthly principal payments of \$666,667 plus 6.61% interest beginning January 8, 1998 (subject to financial covenants)	\$ 34,000,000	\$ -
\$30,000,000 unsecured general-purpose bank credit line, with interest rate tied to LIBOR with interest payments due monthly (subject to financial covenants)	16,000,000	-
7.25% redeemable economic development revenue bonds payable December 2005; interest payable semiannually (subject to financial covenants)	5,000,000	5,000,000
Other	1,622,000	44,000
	56,622,000	5,044,000
Less current maturities	8,423,000	16,000
	\$ 48,199,000	\$ 5,028,000

Annual principal payments of long-term debt as of September 26, 1998 are as follows:

1999	\$ 8,423,000
2000	8,382,000
2001	24,317,000
2002	8,131,000
2003	2,369,000
2004 and thereafter	5,000,000
	\$ 56,622,000

#### Note I - Deferred Income

##### 1. Sale of ICEE Operations in Hawaii

Deferred income consists of the Company's unrecognized gain on the sale of its ICEE operations in Hawaii to the former President of ICEE-USA Corp. in July 1994 for \$1,100,000 in cash. Under the terms of the sale, the Company has guaranteed the payment of a bank note by the purchaser, ICEE of Hawaii, Inc., through the issuance of a letter of credit. The Company's guarantee is collateralized by the assets of ICEE of Hawaii, Inc. The Company recognizes gain on the sale as the principal due on the bank note is reduced through payments by ICEE of Hawaii, Inc. The Company recognized gains of \$94,000, \$76,000 and \$83,000 for the fiscal years ended 1998, 1997 and 1996, respectively.

##### 2. Service Contracts

During the years ended September 26, 1998 and September 27, 1997, the Company sold \$509,000 and \$296,000, respectively, of service contracts related to its frozen carbonated beverage machines. At September 26, 1998, deferred income on service contracts was \$199,000, of which \$173,000 is reflected as short-term and included in accrued liabilities on the consolidated balance sheet. Service contract income of \$578,000 and \$179,000 was recognized for the fiscal years ended 1998 and 1997, respectively.

#### Note J - Income Taxes

Income tax expense is as follows:

	Fiscal year ended		
	September 26, 1998	September 27, 1997	September 28, 1996
Current (Benefit)			
U.S. Federal	\$ 5,389,000	\$ 3,381,000	\$ 4,538,000
Foreign	38,000	40,000	(31,000)

State	525,000	394,000	293,000
	5,952,000	3,815,000	4,800,000
Deferred (Benefit)			
U.S. Federal	913,000	(3,000)	(1,552,000)
Foreign	7,000	(23,000)	-
State	87,000	3,000	(48,000)
	1,007,000	(23,000)	(1,600,000)
	\$ 6,959,000	\$ 3,792,000	\$ 3,200,000

The provisions for income taxes differ from the amounts computed by applying the federal income tax rate of approximately 34% to earnings before income taxes for the following reasons:

	Fiscal year ended		
	September 26, 1998	September 27, 1997	September 28, 1996
Income taxes at statutory rates	\$ 6,395,000	\$ 4,063,000	\$ 3,075,000
Increase (decrease) in taxes resulting from:			
State income taxes, net of federal income tax benefit	404,000	267,000	193,000
Nontaxable income	(55,000)	(120,000)	(343,000)
Other net	215,000	(418,000)	275,000
	\$ 6,959,000	\$ 3,792,000	\$ 3,200,000

Deferred tax assets and liabilities consist of the following:

	September 26, 1998	September 27, 1997
Deferred tax assets		
Vacation accrual	\$ 298,000	\$ 296,000
Insurance accrual	515,000	404,000
Deferred income	206,000	272,000
Other, net	458,000	537,000
	1,477,000	1,509,000
Deferred tax liabilities		
Depreciation of property and equipment	5,628,000	4,237,000
Other, net	236,000	652,000
	5,864,000	4,889,000
	\$ 4,387,000	\$ 3,380,000

#### Note K - Earnings Per Share

The Company adopted the provisions of SFAS No. 128, "Earnings Per Share" ("EPS"), which eliminates primary and fully diluted EPS and requires presentation of basic and diluted EPS in conjunction with the disclosure of the methodology used in computing such EPS. Basic EPS excludes dilution and is computed by dividing income available to common shareholders by the weighted-average common shares outstanding during the period. Diluted EPS takes into account the potential dilution that could occur if securities or other contracts to issue common stock were exercised and converted into common stock. EPS calculations for 1997 and 1996 have been restated to reflect the adoption of SFAS No. 128.

The Company's calculation of EPS in accordance with SFAS No. 128, "Earnings Per Share," is as follows:

	Fiscal Year Ended September 26, 1998		
	Income (Numerator)	Shares (Denominator)	Per Share. Amount
Earnings Per Basic Share			
Net Income available to common stockholders	\$11,850,000	8,947,000	\$1.32
Effect of Dilutive Securities Options	-	421,000	(.06)
Earnings Per Diluted Share			
Net Income available to common stockholders plus			



assumed conversions            \$11,850,000        9,368,000        \$1.26

Fiscal Year Ended September 27, 1997  
Income            Shares            Per Share.  
(Numerator)    (Denominator)    Amount

Earnings Per Basic Share			
Net Income available to common stockholders	\$ 8,159,000	8,781,000	\$ .93
Effect of Dilutive Securities Options	-	204,000	(.02)
Earnings Per Diluted Share			
Net Income available to common stockholders plus assumed conversions	\$ 8,159,000	8,985,000	\$ .91

Fiscal Year Ended September 28, 1996  
Income            Shares            Per Share  
(Numerator)    (Denominator)    Amount

Earnings Per Basic Share			
Net Income available to common stockholders	\$ 5,843,000	8,940,000	\$ .65
Effect of Dilutive Securities Options	-	76,000	-
Earnings Per Diluted Share			
Net Income available to common stockholders plus assumed conversions	\$ 5,843,000	9,016,000	\$ .65

#### Note L - Commitments

##### 1. Lease Commitments

The following is a summary of approximate future minimum rental commitments for noncancelable operating leases with terms of more than one year as of September 26, 1998:

	Plants and Offices	Equipment	Total
1999	\$ 3,727,000	\$ 3,153,000	\$ 6,880,000
2000	3,117,000	2,595,000	5,712,000
2001	2,548,000	1,728,000	4,276,000
2002	2,332,000	479,000	2,811,000
2003	2,029,000	223,000	2,252,000
2004 and thereafter	11,256,000	103,000	11,359,000
	\$ 25,009,000	\$ 8,281,000	\$ 33,290,000

Total rent expense was \$7,766,000, \$6,002,000 and \$5,748,000 for fiscal years 1998, 1997 and 1996, respectively.

##### 2. Other Commitments

The Company is a party to litigation which management currently believes will not have a material adverse effect on the Company's financial condition or results of operations.

#### Note M - Capital Stock

Under share repurchase programs authorized by the Board of Directors, 712,000 shares remain to be repurchased.

#### Note N - Stock Options

The Company has a Stock Option Plan (the "Plan"). Pursuant to the Plan, stock options may be granted to officers and key employees of the Company which qualify as incentive stock options as well as stock options which are nonqualified. The exercise price of incentive stock options is at least the fair market value of the common stock on the date of grant. The exercise price for nonqualified options is determined by a committee of the Board of Directors. The options are generally exercisable after three years and expire no later than ten years from date of grant. There were 1,500,000 shares reserved under the Plan; options for 472,000 shares remain

unissued as of September 26, 1998.

The Company has a nonqualified stock option plan for nonemployee directors and the Chief Executive Officer of the Company whereby a total of 340,000 shares of common stock may be issued. Under this plan, each nonemployee director is granted options to purchase 3,000 shares of common stock, and the Chief Executive Officer is granted options to purchase 25,000 shares annually. The option price is equal to the fair market value of the common stock at the date of grant, and the options expire ten years after date of grant. Other nonqualified options have been issued to the Chief Executive Officer, directors and certain employees.

The Company has adopted only the disclosure provisions of SFAS No. 123, "Accounting for Stock-Based Compensation." It applies APB Opinion No. 25 and related interpretations in accounting for its plans and does not recognize compensation expense for its stock-based compensation plans. Had compensation cost for the plans been determined based on the fair value of the options at the grant date consistent with SFAS No. 123, the Company's net earnings and earnings per common share would have been reduced to the pro forma amounts indicated below:

	Fiscal year ended		
	September 26, 1998	September 27, 1997	September 28, 1996
Net Earnings:			
As reported	\$ 11,850,000	\$ 8,159,000	\$ 5,843,000
Pro forma	11,112,000	7,697,000	5,786,000
Earnings Per Common Share:			
As reported	\$1.26	\$.91	\$.65
Pro forma	1.18	.86	.64

These pro forma amounts may not be representative of future disclosures because they do not take into effect pro forma compensation expense related to grants before October 1, 1995. The fair value of these options is estimated on the date of grant using the Black-Scholes option pricing model with the following weighted-average assumptions for grants in fiscal 1998, 1997 and 1996, respectively; expected volatility of 30% for all years; risk-free interest rates of 5.12%, 6.71% and 6.45%; and expected lives ranging between 4.5 and 10 years for all years.

A summary of the status of the Company's option plans as of fiscal years 1998, 1997 and 1996 and the changes during the years ended on those dates is represented below:

	Incentive Stock Options		Nonqualified Stock Options	
	Stock Options Out- standing	Weighted- Average Exercise Price	Stock Options Out- standing	Weighted- Average Exercise Price
Balance, October 1, 1995	642,812	\$11.42	326,000	\$ 9.88
Granted	292,826	\$10.00	34,000	\$12.25
Exercised	(21,000)	\$ 8.71	(45,000)	\$ 2.50
Cancelled	(169,145)	\$12.03	-	-
Balance, September 28, 1996	745,493	\$10.97	315,000	\$11.27
Granted	267,743	\$11.53	34,000	\$12.75
Exercised	(84,200)	\$ 9.38	-	-
Cancelled	(52,650)	\$11.15	-	-
Balance, September 27, 1997	876,386	\$11.26	349,000	\$11.41
Granted	223,396	\$15.77	34,000	\$19.25
Exercised	(150,949)	\$12.56	(22,500)	\$ 6.63
Cancelled	(52,500)	\$11.40	-	-
Balance, September 26, 1998	896,333	\$12.18	360,500	\$12.41
Exercisable Options, September 26, 1998	274,113		326,500	

The weighted-average fair value of incentive options granted during fiscal years ended September 26, 1998, September 27, 1997 and September 28, 1996 was \$5.31, \$4.24 and \$3.62, respectively. The weighted-average fair value of nonqualified stock options granted during fiscal years ended September 26, 1998, September 27, 1997 and September 28, 1996 was \$10.56, \$5.97 and \$5.70, respectively.

The following table summarizes information about incentive stock options outstanding at September 26, 1998:

Range of Exercise Prices	Options Outstanding			Options Exercisable	
	Number Outstanding at September 26, 1998	Weighted-Average Remaining Contractual Life	Weighted-Average Exercise Price	Number at September 26, 1998	Weighted-Average Exercise Price
\$ 7.25-\$10.75	202,981	2.6 years	\$ 9.43	34,900	\$ 7.86
\$11.00-\$16.38	693,352	3.2 years	\$12.98	239,213	\$11.82
	896,333			274,113	

The following table summarizes information about nonqualified options outstanding at September 26, 1998:

Range of Exercise Prices	Options Outstanding			Options Exercisable	
	Number Outstanding at September 26, 1998	Weighted-Average Remaining Contractual Life	Weighted-Average Exercise Price	Number at September 26, 1998	Weighted-Average Exercise Price
\$ 7.25-\$10.75	44,500	3.1 years	\$ 9.92	44,500	\$ 9.92
\$11.00-\$13.63	282,000	4.7 years	\$11.98	282,000	\$11.98
\$19.25	34,000	9.6 years	\$19.25	-	-
	360,500			326,500	

#### Note O - 401(k) Profit-Sharing Plan

The Company maintains a 401(k) profit-sharing plan for its employees. Under this plan, the Company may make discretionary profit-sharing and matching 401(k) contributions. Contributions of \$512,000, \$404,000 and \$313,000 were made in fiscal years 1998, 1997 and 1996, respectively.

#### Note P - Major Customer Information

One customer accounted for 10% of the Company's sales in each of the fiscal years 1998 and 1997.

#### Note Q - Cash Flow Information

The following is supplemental cash flow information:

	Fiscal year ended		
	September 26, 1998	September 27, 1997	September 28, 1996
Cash paid for:			
Interest	\$ 2,870,000	\$ 431,000	\$ 367,000
Income taxes	6,461,000	4,469,000	3,077,000

#### Report of Independent Certified Public Accountants

Shareholders and Board of Directors  
J & J SNACK FOODS CORP.

We have audited the accompanying consolidated balance sheets of J&J Snack Foods Corp. and Subsidiaries as of September 26, 1998 and September 27, 1997, and the related consolidated statements of earnings, changes in stockholders' equity and cash flows for each of the fiscal years in the three-year period ended September 26, 1998. 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 generally accepted auditing standards. 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, the financial statements referred to above present fairly, in all material respects, the consolidated financial position of J&J Snack Foods Corp. and Subsidiaries as of September 26, 1998 and September 27, 1997, and the consolidated results of their operations and their consolidated cash flows for each of the fiscal years in the three-year period ended September 26, 1998 in conformity with generally accepted accounting principles.

Corporate Information

Directors

Gerald B. Shreiber  
Chairman of the Board,  
President and Chief Executive Officer

Dennis G. Moore  
Senior Vice President, Chief Financial Officer,  
Secretary and Treasurer

Robert M. Radano  
Senior Vice President and  
Chief Operating Officer

Stephen N. Frankel  
President,  
Stephen N. Frankel Realtor, Inc.

Peter G. Stanley  
Consultant

Leonard M. Lodish, Ph.D.  
Samuel R. Harrell Professor,  
Marketing Department of the  
Wharton School,  
University of Pennsylvania

Officers

Gerald B. Shreiber  
Chairman of the Board,  
President and Chief Executive Officer

Dennis G. Moore  
Senior Vice President,  
Chief Financial Officer,  
Secretary and Treasurer

Robert M. Radano  
Senior Vice President and  
Chief Operating Officer

Robyn Shreiber Cook  
Senior Vice President, West

Paul L. Hirschman  
Vice President, Information Systems

Officers of Subsidiary Companies

J&J SNACK FOODS CORP. OF NEW JERSEY

John Duckett  
Vice President, Service & Assembly

Anthony P. Harrison II  
Vice President, Quality Control and Research & Development

John P. Heim  
Vice President, Engineering & Manufacturing

Michael Karaban  
Vice President, Marketing

H. Robert Long  
Vice President, Distribution

Craig S. Parker  
Vice President, School Food Service & Branded Concepts

Milton L. Segal

Vice President, Purchasing

Steven J. Taylor  
Vice President, Sales

J&J SNACK FOODS CORP. OF CALIFORNIA

Don Smith  
Vice President, Research and Development

MIA PRODUCTS  
T.J. Couzens  
Vice President/General Manager

THE ICEE COMPANY

Dan Fachner  
President of The ICEE Company

Kent Galloway  
Vice President and Chief Financial Officer

Joe Boulanger  
Vice President/General Manager  
Western Zone

Lou Fiorentino  
Vice President/General Manager  
Eastern Zone

Rick Naylor  
Vice President/General Manager  
Central Zone

Rod Sexton  
Vice President of Service Operations

ICEE DE MEXICO, S.A. DE C.V.

Andres Gonzalez  
Vice President

PRETZELS, INC.  
Gary Powell  
President

Quarterly Common Stock Data

Fiscal 1998	Market Price	
	High	Low
1st Quarter	17 3/8	13 1/2
2nd Quarter	19 1/2	12 1/2
3rd Quarter	20 3/4	17 7/8
4th Quarter	22 1/4	14 3/4

Fiscal 1997		
1st Quarter	14 1/8	10 5/8
2nd Quarter	14 1/8	10 1/2
3rd Quarter	16 1/8	11 1/4
4th Quarter	17 1/4	14 1/2

Stock Listing

The common stock of J&J Snack Foods Corp. is traded on the over-the-counter market on the NASDAQ National Market System with the symbol JJSF.

Transfer Agent and Registrar  
American Stock Transfer & Trust Company  
6201 15th Avenue  
Brooklyn, NY 11219

Independent Accountants  
Grant Thornton LLP

Counsel  
Blank, Rome, Comisky & McCauley LLP

Annual Meeting

The Annual Meeting of Shareholders is scheduled for Thursday, February 11, 1999 at 10:00 a.m. at the Hilton at Cherry Hill, 2349 W. Marlton Pike, Cherry Hill, New Jersey.

Form 10-K

Copies of the Company's Annual Report to the Securities and Exchange Commission on Form 10-K may be obtained without charge by writing to: J&J Snack Foods Corp., 6000 Central Highway, Pennsauken, NJ 08109  
Attention: Dennis G. Moore

Web Site

[www.jjsnack.com](http://www.jjsnack.com)

EXHIBIT 22.1 - SUBSIDIARIES OF J & J SNACK FOODS CORP.

	Place of Incorporation
J & J Snack Foods Investment Corp.	Delaware
The ICEE Company	Delaware
J & J Snack Foods Corp. of New Jersey	New Jersey
J & J Snack Foods Corp. of California	California
J & J Snack Foods Corp./Midwest	Illinois
J & J Snack Foods Corp./Mia	Pennsylvania
J & J Snack Foods Corp. of Pennsylvania	Pennsylvania
J & J Snack Foods Sales Corp.	New Jersey
J & J Snack Foods Sales Corp. of Texas	Texas
J & J Snack Foods Transport Corp.	New Jersey
Trotter Soft Pretzels, Inc.	Pennsylvania
ICEE-Canada, Inc.	Canada
ICEE de Mexico, S.A. De C.V.	Mexico
J & J Restaurant Group, Inc.	Pennsylvania
Mazzone Enterprises, Inc.	Illinois
Bakers Best Snack Food Corp.	Pennsylvania
Pretzels, Inc.	Texas

CONSENT OF INDEPENDENT CERTIFIED PUBLIC ACCOUNTANTS

We have issued our reports dated November 3, 1998 accompanying the consolidated financial statements and schedules incorporated by reference or included in the Annual Report of J & J Snack Foods Corp. and Subsidiaries on Form 10-K for the year ended September 26, 1998. We hereby consent to the incorporation by reference of said reports in the Registration Statement of J & J Snack Foods Corp. and Subsidiaries on Forms S-8 (File No. 333-03833, effective May 16, 1996, File No. 33-87532, effective December 16, 1994 and File No. 33-50036, effective July 24, 1992).

GRANT THORNTON LLP

Philadelphia, Pennsylvania  
December 21, 1998



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