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October 20, 2010

VIA ELECTRONIC FILING – PART 2

Renée Jenkins
Secretary
Public Utilities Commission of Ohio
180 East Broad Street
Columbus, Ohio 43215-3973

Re: PUCO Case No. 10-2330-GA-AIS, *In the Matter of the Joint Application of Brainard Gas Corporation, Northeast Ohio Natural Gas Corporation and Orwell Natural Gas Company for Approval of Long Term Financing Arrangements and for Expedited Consideration*

Dear Ms. Jenkins:

Enclosed, as a supplement to the Joint Application filed in this docket on October 9, 2010, is the draft Note Purchase Agreement dated October 18, 2010. I request that this document be filed in this proceeding as Exhibit A to the Joint Application.

Please contact the undersigned with any questions regarding this submittal.

Very truly yours,

Andrew J. Sonderman

AJS/gri
Attachment
cc: Thomas J. Smith

Section 9.6. Books and Records. The Obligors will, and will cause each of their respective Subsidiaries to, maintain proper books of record and account in conformity with GAAP and all applicable requirements of any Governmental Authority having legal or regulatory jurisdiction over such Obligors or such Subsidiary, as the case may be.

Section 9.7. Further Assurances; Power of Authority. At any time and from time to time, upon the reasonable request of the Required Holders, the Obligors shall make, execute and deliver to the holders, and where appropriate shall cause to be recorded or filed, and from time to time thereafter to be re-recorded and refiled, at such time and in such offices and places as shall be deemed desirable by the holders, any and all such further Collateral Documents, certificates and other documents and instruments, and take all such further actions, in each case, as the holders in their sole but reasonable discretion may consider necessary or desirable in order to effectuate, complete, perfect, continue or preserve the obligations of the Obligors hereunder or under the other Financing Agreements and the Liens created hereby and thereby. The Obligors hereby appoints the Purchaser, and any of its officers, directors, employees and authorized agents, with full power of substitution, upon any failure by the Obligors to take or cause to be taken any action described in the preceding sentence, to make, execute, record, file, re-record or refile any and each such Collateral Document, instrument, certificate and document for and in the name of the Obligors. The power of attorney granted pursuant to this Section 9.7(a) is coupled with an interest and shall be irrevocable until all of the Obligations are indefeasibly paid in full.

Section 9.8. Additional Obligors. Each Obligor will promptly cause each Subsidiary of such Obligor to become a party to this Agreement by a joinder agreement reasonably satisfactory to the holders and to become a Guarantor hereunder and, in addition, each Obligor shall cause each Subsidiary of such Obligor to grant liens on all the property and assets of such Subsidiary to secure the obligations of such Subsidiary hereunder and under the other Financing Agreements, in each case, as promptly as practicable after such Subsidiary has been acquired or formed by such Obligor. Notwithstanding the foregoing, no such Subsidiary shall be obligated to become a Guarantor hereunder nor to pledge or secure any of its assets or properties to secure Obligations under the Financing Agreements if such guarantee and/or granting of liens, as the case may be, is prohibited by applicable law, rule, regulation or ruling. In such event, the holder shall be entitled to promptly receive from independent counsel for the Obligors a legal opinion, reasonably satisfactory in form and substance to the holders, to the effect that such Subsidiary is so prohibited with a description, in reasonable detail, of the legal or regulatory prohibition applicable thereto. If such legal or regulatory prohibition ever ceases to exist, the Obligors shall remain obligated to effectuate the transactions contemplated by the first sentence of this Section 9.7(b).

Section 9.9. Additional Real Property; Leased Locations. (a) In the event that, subsequent to the date of Closing, any Obligor acquires (i) a fee ownership in Real Property or (ii) a leasehold interest with respect to any Real Property, it shall at the time of such acquisition (or such later date as is agreed by the Required Holders and in any event not later than 30 days after such acquisition or such later date as may be agreed upon by the Required Holders in the case of a leasehold interest) provide to the holders a Mortgage and all other Collateral Documents reasonably requested by the Required Holders granting the holders a Lien on any

such Real Property, together with environmental audits, mortgage title insurance commitment, real property surveys (unless waived by the Required Holders), local counsel opinion(s) and, if reasonably required by the Required Holders, supplemental casualty insurance and flood insurance, and such other documents, instruments or agreements reasonably requested by the Required Holders, in each case, in form and substance reasonably satisfactory to the Required Holders.

(b) In the event that, subsequent to the date of Closing, any Obligor leases any Real Property at which Collateral with a value in excess of $500,000 is kept, it shall simultaneously (or such later date as is agreed by the Required Holders and in any event not later than 30 days after such acquisition) upon entering into such lease provide to the holders of the Notes a copy of such lease and a landlord's agreement or bailee letter, as applicable, from the landlord of any leased property or bailee with respect to any warehouse, processor converter facility or other location where Collateral in excess of $500,000 will be stored or located, which agreement or letter shall be reasonably satisfactory in form and substance to the Required Holders.

Section 9.10. Cash Management. After the occurrence and during the continuance of an Event of Default has occurred, the Obligors shall:

(a) establish and maintain all of their deposit, securities, commodity and similar accounts (other than any payroll account so long as such payroll account is a zero balance account and withholding tax and fiduciary accounts) (each, a *"Blocked Account"*) with depositories, securities intermediaries or commodities intermediaries that (together with the Obligors, as applicable) have executed and delivered to the Purchaser, Control Agreements, in form and substance reasonably acceptable to the Purchasers;

(b) deposit promptly, and in any event no later than ten Business Days after the date of receipt thereof, all cash, checks, drafts or other similar items of payment relating to or constituting payments made in respect of any and all accounts and other Collateral into Blocked Accounts; and

(c) at the request of the Required Holders, the Parent will, and will cause each Restricted Subsidiary to, cause all payments constituting proceeds of accounts or other Collateral to be directed into lockbox accounts under agreements in form and substance reasonably satisfactory to the Required Holders.

SECTION 10. NEGATIVE COVENANTS.

The Obligors, jointly and severally, covenant that so long as any of the Notes are outstanding:

Section 10.1. Indebtedness. The Obligors shall not, and shall not permit any Restricted Subsidiary to, create, assume, incur or in any manner become or remain liable in respect to, any Indebtedness, except for:

(i) the Obligations of the Obligors under the Financing Agreements,

(ii) Indebtedness incurred under Capitalized Leases and purchase money obligations in an aggregate amount not to exceed $500,000 at any one time outstanding,

(iii) the Indebtedness of the Obligors outstanding as of September 30, 2010 and set forth in Schedule 5.15 hereto,

(iv) Indebtedness between Obligors or between Obligors and any Restricted Subsidiary; and

(v) Indebtedness in connection with a Permitted Acquisition;

(vi) additional Indebtedness of the Obligors, *provided* that such Indebtedness is otherwise permitted hereunder including, without limitation, under Sections 10.2, 10.3 and 10.4 hereof.

Section 10.2. Guaranties. The Obligors shall not, and shall not permit any Restricted Subsidiary to, directly or indirectly Guaranty the Indebtedness or obligation of any other Person, except for (i) guarantees of Indebtedness for Capitalized Leases and purchase money obligations to the extent permitted under Section 10.1(ii), (ii) guarantees of the Obligations under the Financing Agreements, (iii) guarantees of Indebtedness outstanding as of September 30, 2010 and set forth on Schedule 5.15, and (iv) guarantees resulting from endorsement of negotiable instruments for collection in the ordinary course of business.

Section 10.3. Creation of Encumbrances; Contractual Restrictions. (a) The Obligors will not, and will not permit any Restricted Subsidiary to, create, assume, incur or suffer to exist or allow to be created, assumed or incurred or suffered to exist any Lien upon any of its properties, now owned or hereafter acquired, nor acquire nor agree to acquire any kind of property subject to an Encumbrance, *provided, however,* that the foregoing restrictions shall not prevent such Obligors and such Restricted Subsidiaries from:

(i) creating Liens pursuant to the Collateral Documents in favor of or for the benefit of the holders to secure repayment of the Obligations;

(ii) creating Liens in favor of lessors under Capitalized Leases or to secure purchase money Indebtedness permitted hereunder, including, without limitation, under Section 10.1(ii); *provided,* that any such Lien be limited solely to assets being leased or acquired;

(iii) permitting or incurring Liens for taxes or assessments or governmental charges or levies on any of the properties of an Obligor or Restricted Subsidiary if such taxes, assessments, governmental charges or levies shall not at the time be due and payable or can thereafter be paid without penalty or are being contested in good faith by appropriate proceedings and with respect to which such Obligor or Restricted Subsidiary has created reserves which are determined by such Obligor or Restricted Subsidiary to be adequate by the application of GAAP consistently applied;

(iv) making pledges or deposits to secure an Obligor's or Restricted Subsidiary's obligations under workmen's compensation laws or similar legislation;

(v) incurring Liens arising out of judgments or awards against an Obligor or Restricted Subsidiary with respect to which it is currently engaged in proceedings for review or appeal and with respect to which it shall have secured a stay of execution pending such proceedings for review or appeal;

(vi) in the ordinary course of business, granting security interests in favor of lessors of personal property, which property is the subject of a true lease between such lessor and such Person;

(vii) permitting Liens consisting of zoning restrictions, easements, restrictions on the use of real property and other matters of record or minor irregularities in titles thereto which do not, in the reasonable discretion of the Required Holders, impair the value of such property in a material amount; and

(viii) any Lien incurred or deposits to secure the performance of surety bonds incurred in the ordinary course of business consistent with past practice, *provided* that such Liens shall cover only the Obligor's or Restricted Subsidiary's interests in and relating to the contract underlying the transaction for which such surety bonds were issued.

Each Encumbrance of the type listed in items (i) through (viii) inclusive immediately above is a *"Permitted Encumbrance."*

(b) In addition to the foregoing restrictions on creation of Liens, the Obligors shall not, and shall not permit any Restricted Subsidiary to, at any time directly or indirectly enter into or assume any agreement (other than this Agreement and the other Financing Agreements), or adopt any charter or other governing document provision, prohibiting the creation or assumption of any Lien upon any of the property or assets of the Obligors and the Restricted Subsidiaries, with the exception of negative pledge provisions included in Capital Lease and purchase money financing agreements which restrict Liens on the equipment being leased or financed under such agreements.

Section 10.4. Financial Ratios. (a) Commencing with the fiscal quarter of the Obligors ending December 31, 2010, the Obligors shall not allow the Obligor Coverage Ratio, determined as of the end of each fiscal quarter of the Obligors for the four fiscal quarters then ending, to be less than 2.0 to 1.0.

(b) Commencing with the fiscal quarter of the Parent ending December 31, 2010, the Obligors shall not allow the Consolidated Coverage Ratio, determined as of the end of each fiscal quarter of the Parent for the four fiscal quarters then ending, to be less than 2.0 to 1.0.

(c) The Obligors shall not at any time permit Obligor Indebtedness to exceed 60% of Obligor Capitalization.

(d) The Obligors shall not at any time permit Consolidated Indebtedness to exceed 60% of Consolidated Capitalization.

Section 10.5. Restrictions on Dividends and Distributions. The Obligors shall not, and shall not permit any Restricted Subsidiary to, make any dividend, distribution, redemption or repurchase (collectively, a **"Restricted Payment"**) with respect to the shares of capital stock or pursuant to any option, or put agreement (other than dividends and distributions which, in each case, consist solely of shares of capital stock) if, (i) at the time of such Restricted Payment, an Event of Default or Default has occurred and is continuing or would be caused by such Restricted Payment, or (ii) with respect to the Obligors (other than the Parent), the Restricted Payment would cause the aggregate amount of all Restricted Payments in any fiscal year of the Obligors to exceed sixty percent (60%) of the Obligor Net Income for such fiscal year.

Section 10.6. Disposition of Assets. The Obligors shall not, and shall not permit any Restricted Subsidiary to, sell, convey, assign, lease, abandon or otherwise transfer or dispose of, voluntarily or involuntarily, any of its properties or assets, whether tangible or intangible, real or personal, including without limitation, sales, assignments, discounts or other dispositions of Accounts, contract rights, Chattel Paper, Equipment or General Intangibles, with or without recourse, and sale/leaseback transactions, except for:

(i) sales of Inventory in the ordinary course of business;

(ii) sales, assignments, transfers or leases in the ordinary course of business of assets (other than Real Property subject to the Mortgages), which are no longer necessary or required in the conduct of any such Obligor's or Restricted Subsidiary's business;

(iii) sales, transfers or leases of assets in the ordinary course of business which are replaced by substitute assets acquired or leased by such Obligor or Restricted Subsidiary; *provided, however,* that such substitute assets shall be subject to a first and prior lien and security interest in favor of the holders to the extent they are not subject to a Lien in favor of the seller or lessor of such assets to the extent permitted hereunder;

(iv) sales, transfers or leases of any Real Property which is not encumbered by a Mortgage, so long as the value of such assets disposed of during the term of the Notes does not exceed $500,000; and

(v) sales, transfers or other dispositions which, in the aggregate, over each rolling twelve month period, do not exceed 1% of Obligor Total Assets.

Section 10.7. Line of Business. The Parent will not and will not permit any Subsidiary to engage in any business if, as a result, the general nature of the business in which the Parent and its Subsidiaries, taken as a whole, would then be engaged would be substantially changed from the general nature of the business in which the Parent and its Subsidiaries, taken as a whole, are engaged on the date of this Agreement (as described in the Memorandum) or the business of other regulated utilities in general.

Section 10.8. ERISA. At any time permit any Plan of any Obligor or any Subsidiary to (a) engage in any "prohibited transaction" as such term is defined in Section 4975 of the Internal Revenue Code of 1986, as amended, (b) incur any "accumulated funding deficiency" as such term is defined in Section 302 of ERISA, whether or not waived, or (c) be terminated in a manner which could result in the imposition of a lien on the property of such Obligor or any Subsidiary pursuant to Section 4068 of ERISA.

Section 10.9. Mergers and Consolidations; Acquisitions. (a) The Obligors will not, and will not permit any of their Subsidiaries to, merge with or consolidate into any other Person or permit any Person to consolidate with or merge into an Obligor or a Subsidiary, *provided* that so long as no Default or Event of Default has occurred and is continuing or would result therefrom:

(i) any Subsidiary (other than an Obligor) of the Parent may merge with or consolidate into, (x) any Obligor so long as in any merger or consolidation involving an Obligor, such Obligor shall be the surviving or continuing corporation, (y) any Restricted Subsidiary so long as in any merger or consolidation involving a Restricted Subsidiary, such Restricted Subsidiary shall be the surviving or continuing corporation, or (z) any other Wholly-Owned Subsidiary so long as the Wholly-Owned Subsidiary shall be the surviving or continuing corporation; and

(ii) any Obligor may merge with or consolidate into any other Obligor so long as in any merger or consolidation involving the Parent, the Parent shall be the surviving or continuing corporation, and provided that in any merger or consolidation pursuant to this clause (ii) which involves an Issuer and an Obligor other than an Issuer, if the Issuer is not the surviving or continuing corporation, then (1) the surviving or continuing corporation shall have executed and delivered to each holder of any Notes its assumption of the due and punctual performance and observance of each obligation, covenant and condition of this Agreement, the Notes and the other Financing Agreements to which such Issuer is a party (and such surviving or continuing corporation shall thereafter be referred to as an "Issuer" under the Financing Agreements for all purposes), (2) the surviving or continuing corporation shall have caused to be delivered to each holder of any Notes an opinion of nationally recognized independent counsel, or other independent counsel reasonably satisfactory to the Required Holders, to the effect that all agreements or instruments effecting such assumption are enforceable in accordance with their terms and (3) each of the Guarantors and Individual Guarantor at such time shall have confirmed and ratified in writing each of the Guarantee Agreement and Individual Guarantee Agreement, respectively.

(b) The Obligors will not, and will not permit any of their Subsidiaries to purchase or lease or otherwise acquire all or a substantial part of the assets, capital stock or membership interests of any other Person, except for Permitted Acquisitions.

Section 10.10. Loans and Advances. Except for (i) loans or advances to employees which do not exceed in the aggregate $25,000 at any one time outstanding, (ii) loans or advances permitted under and subject to Section 10.1(iv), (iii) investments permitted pursuant to

Section 10.11, and (iv) other loans or advances by the Parent or any Unrestricted Subsidiary to another Person (other than an Obligor) which do not exceed in the aggregate $5,000,000 at any one time outstanding (*provided*, that any loans or advances made by the Parent to another Person (other than an Obligor or Unrestricted Subsidiary) in excess of $200,000 shall be evidenced by a promissory note and subject to the Collateral Documents), each Obligor and each Subsidiary is prohibited from making loans or advances to any Person, except in its capacity as trustee or manager or manager of any pension, profit sharing or retirement plan for its employees.

Section 10.11. Investments. The Obligors shall not, and shall not permit any Subsidiary to, at any time purchase, acquire or own any stock, bonds, notes, or securities of, or any partnership interest (whether general or limited) in, or any other interest in, or make any capital contribution to, any other Person, or become a joint venture partner in any joint venture, or agree, become or remain liable to do any of the foregoing, except for:

(i) debt securities having a maturity of not more than one year issued or guaranteed by the United States government or by an agency or instrumentality thereof;

(ii) certificates of deposit, bankers acceptances and time deposits, which in each case mature within one year from the date of purchase thereof;

(iii) commercial paper maturing in 270 days or less from the date of issuance which, at the time of acquisition by such Obligor or Subsidiary is accorded the highest rating by Standard and Poor's Rating Group, a division of McGraw-Hill, Inc. or Moody's Investors Service, Inc.;

(iv) direct obligations of the United States of America or any agency or instrumentality of the United States of America, the payment or guarantee of which constitutes a full faith and credit obligation of the United States of America, in each case maturing in 12 months or less from the date of acquisition;

(v) existing investments in Subsidiaries and Affiliates on the date of Closing and set forth on Schedule 5.4;

(vi) loans and advances permitted pursuant to Section 10.10;

(vii) Permitted Acquisitions; and

(viii) other investments by the Parent or any Unrestricted Subsidiary in another Person (other than an Obligor) which do not exceed in the aggregate $5,000,000 at any one time outstanding (*provided*, that any investments made by the Parent to another Person (other than an Obligor or Unrestricted Subsidiary) in excess of $200,000 shall be evidenced by an agreement or other instrument and subject to the Collateral Documents).

Section 10.12. Transactions with Affiliates. The Obligors shall not, and shall not permit any Subsidiary to, enter into or carry out any material transaction (including, without limitation, purchasing property or services or selling properly or services) with an Affiliate unless such

transaction: (i) is not otherwise prohibited by this Agreement or any of the other Financing Agreements, (ii) is entered into the ordinary course of such Obligor's or such Subsidiary's business and upon fair and reasonable arm's-length terms and conditions, and (iii) is in accordance with all applicable laws, rules and regulations.

Section 10.13. Amendment of Organizational Documents. Without twenty (20) days prior written notice to the holders, each Obligor shall not amend such Obligor's certificate of incorporation, by-laws, certificate of limited partnership agreement, certificate of formation, limited liability company agreement or other organizational document of such Obligor, and if such amendment would be adverse to the holders as determined by the holders in good faith, obtaining the holders' prior written consent.

Section 10.14. Terrorism Sanctions Regulations. The Obligors will not and will not permit any Subsidiary to (a) become a Person described or designated in the Specially Designated Nationals and Blocked Persons List of the Office of Foreign Assets Control or in Section 1 of the Anti-Terrorism Order or (b) engage in any dealings or transactions with any such Person.

Section 10.15. Most Favored Lender Status. In the event that an Obligor shall at any time after the date of the Closing enter into, assume or otherwise become bound by or obligated under any agreement creating or evidencing Indebtedness of such Obligor in excess of $1,000,000 in principal amount (a **"Reference Agreement"**) containing one or more covenants (whether in the form of a covenant or event of default) which are of the general nature of the covenants set forth in Section 10 of this Agreement or in any way relate to the financial condition or performance of an Obligor or measure any balance sheet or income statement condition or performance (any such covenant being referred to as an **"Additional Covenant"**), the terms of this Agreement shall, without any further action on the part of the Obligors any of the holders of the Notes, be deemed to be amended automatically to include each Additional Covenant contained in such Reference Agreement. The Obligors further covenant to promptly execute and deliver at their expense (including, without limitation, the fees and expenses of counsel for the holders of the Notes) an amendment to this Agreement in form and substance satisfactory to the Required Holders evidencing the amendment of this Agreement to include such Additional Covenants, provided that the execution and delivery of such amendment shall not be a precondition to the effectiveness of such amendment as provided for in this Section 10.15, but shall merely be for the convenience of the parties hereto.

SECTION 11. EVENTS OF DEFAULT.

An **"Event of Default"** shall exist if any of the following conditions or events shall occur and be continuing:

(a) an Issuer defaults in the payment of any principal or Make-Whole Amount, if any, on any Note when the same becomes due and payable, whether at maturity or at a date fixed for prepayment or by declaration or otherwise; or

(b) an Issuer defaults in the payment of any interest on any Note for more than five Business Days after the same becomes due and payable; or

(c) an Issuer defaults in the performance of or compliance with any term contained in Section 7.1(d) or Section 10; or

(d) an Obligor defaults in the performance of or compliance with any term contained herein or in any of the other Financing Agreements (other than those referred to in Sections 11(a), (b) and (c)) and such default is not remedied within 30 days after the earlier of (i) a Responsible Officer obtaining actual knowledge of such default and (ii) the Parent receiving written notice of such default from any holder of a Note (any such written notice to be identified as a "notice of default" and to refer specifically to this Section 11(d)); or

(e) any representation or warranty made in writing by or on behalf of an Obligor or by any officer of an Obligor in any Financing Agreement or in any writing furnished in connection with the transactions contemplated hereby proves to have been false or incorrect in any material respect on the date as of which made; or

(f) (i) the Parent or any Subsidiary is in default (as principal or as guarantor or other surety) in the payment of any principal of or premium or make-whole amount or interest on any Indebtedness that is outstanding in an aggregate principal amount of at least $1,000,000 beyond any period of grace provided with respect thereto, or (ii) the Parent or any Subsidiary is in default in the performance of or compliance with any term of any evidence of any Indebtedness in an aggregate outstanding principal amount of at least $1,000,000 or of any mortgage, indenture or other agreement relating thereto or any other condition exists, and as a consequence of such default or condition such Indebtedness has become, or has been declared (or one or more Persons are entitled to declare such Indebtedness to be), due and payable before its stated maturity or before its regularly scheduled dates of payment, or (iii) as a consequence of the occurrence or continuation of any event or condition (other than the passage of time or the right of the holder of Indebtedness to convert such Indebtedness into equity interests), (x) the Parent or any Subsidiary has become obligated to purchase or repay Indebtedness before its regular maturity or before its regularly scheduled dates of payment in an aggregate outstanding principal amount of at least $1,000,000, or (y) one or more Persons have the right to require the Parent or any Subsidiary so to purchase or repay such Indebtedness; or

(g) the Parent or any Subsidiary (i) is generally not paying, or admits in writing its inability to pay, its debts as they become due, (ii) files, or consents by answer or otherwise to the filing against it of, a petition for relief or reorganization or arrangement or any other petition in bankruptcy, for liquidation or to take advantage of any bankruptcy, insolvency, reorganization, moratorium or other similar law of any jurisdiction, (iii) makes an assignment for the benefit of its creditors, (iv) consents to the appointment of a custodian, receiver, trustee or other officer with similar powers with respect to it or with respect to any substantial part of its property, (v) is adjudicated as

insolvent or to be liquidated, or (vi) takes corporate or other action for the purpose of any of the foregoing; or

(h) a court or Governmental Authority of competent jurisdiction enters an order appointing, without consent by the Parent or any of its Subsidiaries, a custodian, receiver, trustee or other officer with similar powers with respect to it or with respect to any substantial part of its property, or constituting an order for relief or approving a petition for relief or reorganization or any other petition in bankruptcy or for liquidation or to take advantage of any bankruptcy or insolvency law of any jurisdiction, or ordering the dissolution, winding-up or liquidation of the Parent or any of its Subsidiaries, or any such petition shall be filed against the Parent or any of its Subsidiaries and such petition shall not be dismissed within 60 days; or

(i) a final judgment or judgments for the payment of money aggregating in excess of $1,000,000 are rendered against one or more of the Parent or any of its Subsidiaries and which judgments are not, within 60 days after entry thereof, bonded, discharged or stayed pending appeal, or are not discharged within 60 days after the expiration of such stay; or

(j) if (i) any Plan shall fail to satisfy the minimum funding standards of ERISA or the Code for any plan year or part thereof or a waiver of such standards or extension of any amortization period is sought or granted under section 412 of the Code, (ii) a notice of intent to terminate any Plan shall have been or is reasonably expected to be filed with the PBGC or the PBGC shall have instituted proceedings under ERISA section 4042 to terminate or appoint a trustee to administer any Plan or the PBGC shall have notified the Parent or any ERISA Affiliate that a Plan may become a subject of any such proceedings, (iii) the aggregate "amount of unfunded benefit liabilities" (within the meaning of section 4001(a)(18) of ERISA) under all Plans, determined in accordance with Title IV of ERISA, shall exceed $1,000,000, (iv) the Parent or any ERISA Affiliate shall have incurred or is reasonably expected to incur any liability pursuant to Title I or IV of ERISA or the penalty or excise tax provisions of the Code relating to employee benefit plans, (v) the Parent or any ERISA Affiliate withdraws from any Multiemployer Plan, or (vi) the Parent or any Subsidiary establishes or amends any employee welfare benefit plan that provides post-employment welfare benefits in a manner that would increase the liability of the Parent or any Subsidiary thereunder; and any such event or events described in clauses (i) through (vi) above, either individually or together with any other such event or events, could reasonably be expected to have a Material Adverse Effect; or

(k) any Change of Control shall occur; or

(l) any change in any Obligor's condition or affairs (financial or otherwise) occurs or exists which in the holders' opinion has a Material Adverse Effect; or

(m) any Financing Agreement or any Guaranty purported to be created pursuant thereto or any Lien purported to be granted thereby shall cease to be in full force

and effect for any reason whatsoever including, without limitation, a determination by a Governmental Authority or court that such Financing Agreement or such Lien or Guaranty purported to be created or granted pursuant thereto is invalid, void or unenforceable or any Obligor which is party to any Financing Agreement shall contest or deny the validity or enforceability thereof or any obligation thereunder.

As used in Section 11(j), the terms **"employee benefit plan"** and **"employee welfare benefit plan"** shall have the respective meanings assigned to such terms in section 3 of ERISA. For the avoidance of doubt, Section 11(a) through 11(m) above shall not apply in any way to the Individual Guarantor or the Individual Guarantee Agreemetn

SECTION 12. REMEDIES ON DEFAULT, ETC.

Section 12.1. Acceleration. (a) If an Event of Default with respect to an Obligor described in Section 11(g) or (h) has occurred, all the Notes then outstanding shall automatically become immediately due and payable.

(b) If any other Event of Default has occurred and is continuing, the Required Holders may at any time at their option, by notice or notices to an Obligor, declare all the Notes then outstanding to be immediately due and payable.

(c) If any Event of Default described in Section 11(a) or (b) has occurred and is continuing, any holder or holders of Notes at the time outstanding affected by such Event of Default may at any time, at its or their option, by notice or notices to the Parent, declare all the Notes held by it or them to be immediately due and payable.

Upon any Notes becoming due and payable under this Section 12.1, whether automatically or by declaration, such Notes will forthwith mature and the entire unpaid principal amount of such Notes, plus (x) all accrued and unpaid interest thereon (including, but not limited to, interest accrued thereon at the Default Rate) and (y) the Make-Whole Amount determined in respect of such principal amount (to the full extent permitted by applicable law), shall all be immediately due and payable, in each and every case without presentment, demand, protest or further notice, all of which are hereby waived. The Obligors acknowledge, and the parties hereto agree, that each holder of a Note has the right to maintain its investment in the Notes free from repayment by the Obligors (except as herein specifically provided for) and that the provision for payment of a Make-Whole Amount by the Obligors in the event that the Notes are prepaid or are accelerated as a result of an Event of Default, is intended to provide compensation for the deprivation of such right under such circumstances.

Section 12.2. Other Remedies. If any Default or Event of Default has occurred and is continuing, and irrespective of whether any Notes have become or have been declared immediately due and payable under Section 12.1, the holder of any Note at the time outstanding may proceed to protect and enforce the rights of such holder by an action at law, suit in equity or other appropriate proceeding, whether for the specific performance of any agreement contained in any Financing Agreement, or for an injunction against a violation of any of the terms hereof or thereof, or in aid of the exercise of any power granted hereby or thereby or by law or otherwise.

Section 12.3. Rescission. At any time after any Notes have been declared due and payable pursuant to Section 12.1(b) or (c), the Required Holders, by written notice to the Parent, may rescind and annul any such declaration and its consequences if (a) the Issuers have paid all overdue interest on the Notes, all principal of and Make-Whole Amount, if any, on any Notes that are due and payable and are unpaid other than by reason of such declaration, and all interest on such overdue principal and Make-Whole Amount, if any, and (to the extent permitted by applicable law) any overdue interest in respect of the Notes, at the Default Rate, (b) neither an Obligor nor any other Person shall have paid any amounts which have become due solely by reason of such declaration, (c) all Events of Default and Defaults, other than non-payment of amounts that have become due solely by reason of such declaration, have been cured or have been waived pursuant to Section 17, and (d) no judgment or decree has been entered for the payment of any monies due pursuant hereto or to the Notes. No rescission and annulment under this Section 12.3 will extend to or affect any subsequent Event of Default or Default or impair any right consequent thereon.

Section 12.4. No Waivers or Election of Remedies, Expenses, Etc. No course of dealing and no delay on the part of any holder of any Note in exercising any right, power or remedy shall operate as a waiver thereof or otherwise prejudice such holder's rights, powers or remedies. No right, power or remedy conferred by this Agreement or by any Note or in any other Financing Agreement or in the Individual Guarantee Agreement upon any holder thereof shall be exclusive of any other right, power or remedy referred to herein or therein or now or hereafter available at law, in equity, by statute or otherwise. Without limiting the obligations of the Obligors under Section 15, the Obligors will pay to the holder of each Note on demand such further amount as shall be sufficient to cover all costs and expenses of such holder incurred in any enforcement or collection under this Section 12, including, without limitation, reasonable attorneys' fees, expenses and disbursements.

SECTION 13. REGISTRATION; EXCHANGE; SUBSTITUTION OF NOTES.

Section 13.1. Registration of Notes. The Parent shall keep at its principal executive office a register for the registration and registration of transfers of Notes. The name and address of each holder of one or more Notes, each transfer thereof and the name and address of each transferee of one or more Notes shall be registered in such register. Prior to due presentment for registration of transfer, the Person in whose name any Note shall be registered shall be deemed and treated as the owner and holder thereof for all purposes hereof, and the Parent shall not be affected by any notice or knowledge to the contrary. The Parent shall give to any holder of a Note that is an Institutional Investor promptly upon request therefor, a complete and correct copy of the names and addresses of all registered holders of Notes.

Section 13.2. Transfer and Exchange of Notes. Upon surrender of any Note to the Parent at the address and to the attention of the designated officer (all as specified in Section 18(iii)), for registration of transfer or exchange (and in the case of a surrender for registration of transfer accompanied by a written instrument of transfer duly executed by the registered holder of such Note or such holder's attorney duly authorized in writing and accompanied by the relevant name, address and other information for notices of each transferee of such Note or part thereof), within ten Business Days thereafter, the Issuers shall execute and

deliver, at the Parent's expense (except as provided below), one or more new Notes (as requested by the holder thereof) in exchange therefor, in an aggregate principal amount equal to the unpaid principal amount of the surrendered Note. Each such new Note shall be payable to such Person as such holder may request and shall be substantially in the form of Exhibit 1. Each such new Note shall be dated and bear interest from the date to which interest shall have been paid on the surrendered Note or dated the date of the surrendered Note if no interest shall have been paid thereon. The Issuers may require payment of a sum sufficient to cover any stamp tax or governmental charge imposed in respect of any such transfer of Notes. Notes shall not be transferred in denominations of less than $1,000,000, provided that if necessary to enable the registration of transfer by a holder of its entire holding of Notes, one Note may be in a denomination of less than $1,000,000. Any transferee, by its acceptance of a Note registered in its name (or the name of its nominee), shall be deemed to have made the representation set forth in Section 6.2.

Section 13.3. Replacement of Notes. Upon receipt by an Obligor at the address and to the attention of the designated officer (all as specified in Section 18(iii)) of evidence reasonably satisfactory to it of the ownership of and the loss, theft, destruction or mutilation of any Note (which evidence shall be, in the case of an Institutional Investor, notice from such Institutional Investor of such ownership and such loss, theft, destruction or mutilation), and

(a) in the case of loss, theft or destruction, of indemnity reasonably satisfactory to it (provided that if the holder of such Note is, or is a nominee for, an original Purchaser or another holder of a Note with a minimum net worth of at least $20,000,000 or a Qualified Institutional Buyer, such Person's own unsecured agreement of indemnity shall be deemed to be satisfactory), or

(b) in the case of mutilation, upon surrender and cancellation thereof,

within ten Business Days thereafter, the Issuers at their own expense shall execute and deliver, in lieu thereof, a new Note, dated and bearing interest from the date to which interest shall have been paid on such lost, stolen, destroyed or mutilated Note or dated the date of such lost, stolen, destroyed or mutilated Note if no interest shall have been paid thereon.

SECTION 14. PAYMENTS ON NOTES.

Section 14.1. Place of Payment. Subject to Section 14.2, payments of principal, Make-Whole Amount, if any, and interest becoming due and payable on the Notes shall be made in [City], [State] at the principal office of [ ] in such jurisdiction. The Issuers may at any time, by notice to each holder of a Note, change the place of payment of the Notes so long as such place of payment shall be either the principal office of the Parent in such jurisdiction or the principal office of a bank or trust company in such jurisdiction.

Section 14.2. Home Office Payment. So long as any Purchaser or its nominee shall be the holder of any Note, and notwithstanding anything contained in Section 14.1 or in such Note to the contrary, the Issuers will pay all sums becoming due on such Note for principal, Make-Whole Amount, if any, and interest by the method and at the address specified for such purpose

below such Purchaser's name in Schedule A, or by such other method or at such other address as such Purchaser shall have from time to time specified to the Issuers in writing for such purpose, without the presentation or surrender of such Note or the making of any notation thereon, except that upon written request of the Issuers made concurrently with or reasonably promptly after payment or prepayment in full of any Note, such Purchaser shall surrender such Note for cancellation, reasonably promptly after any such request, to the Parent at its principal executive office or at the place of payment most recently designated by the Parent pursuant to Section 14.1. Prior to any sale or other disposition of any Note held by a Purchaser or its nominee, such Purchaser will, at its election, either endorse thereon the amount of principal paid thereon and the last date to which interest has been paid thereon or surrender such Note to the Issuers in exchange for a new Note or Notes pursuant to Section 13.2. The Issuers will afford the benefits of this Section 14.2 to any Institutional Investor that is the direct or indirect transferee of any Note purchased by a Purchaser under this Agreement and that has made the same agreement relating to such Note as the Purchaser have made in this Section 14.2.

SECTION 15. EXPENSES, INDEMNITY, ETC.

Section 15.1. Transaction Expenses. Whether or not the transactions contemplated hereby and by the other Financing Agreement and the Individual Guarantee Agreement are consummated, the Obligors will pay all costs and expenses (including reasonable attorneys' fees of a special counsel and, if reasonably required by the Purchaser, local or other counsel) incurred by the Purchaser and each other holder of a Note in connection with such transactions and in connection with any amendments, waivers or consents under or in respect of this Agreement or the Notes or the other Financing Agreements and the Individual Guarantee Agreement (whether or not such amendment, waiver or consent becomes effective), including, without limitation: (a) the costs and expenses incurred in enforcing or defending (or determining whether or how to enforce or defend) any rights under any Financing Agreement and the Individual Guarantee Agreement or in responding to any subpoena or other legal process or informal investigative demand issued in connection with any Financing Agreement and the Individual Guarantee Agreement or the Notes, or by reason of being a holder of any Note, (b) the costs and expenses, including financial advisors' fees, incurred in connection with the insolvency or bankruptcy of the Parent or any Subsidiary or the Individual Guarantor or in connection with any work-out or restructuring of the transactions contemplated hereby and by the Notes or the other Financing Agreements and the Individual Guarantee Agreement and (c) the costs and expenses incurred in connection with the initial filing of this Agreement and all related documents and financial information with the SVO *provided,* that such costs and expenses under this clause (c) shall not exceed $3,000. The Issuers will pay, and will save the Purchaser and each other holder of a Note harmless from, all claims in respect of any fees, costs or expenses, if any, of brokers and finders (other than those, if any, retained by a Purchaser or other holder in connection with its purchase of the Notes).

Section 15.2. Survival. The obligations of the Issuers under this Section 15 will survive the payment or transfer of any Note, the enforcement, amendment or waiver of any provision of any Financing Agreement and the Individual Guarantee Agreement or the Notes, and the termination of any Financing Agreement and the Individual Guarantee Agreement.

Section 15.3. Environmental Indemnity. The Obligors shall indemnify, defend (at trial and appellate levels) save and keep the holder, its directors, board members, officers, employees and agents (**"Holder Environment Indemnitees"**) harmless from and against any and all liability, demands, claims, actions, or causes of action, assessments, losses, fines, penalties, costs (including, without limitation, any investigatory, removal or remedial costs), damages and expenses asserted against any Holder Environmental Indemnitees (including without limitation reasonable attorneys', consultants' and witnesses' fees incurred by an Obligor or a holder in the defense thereof) incurred as a result of: (a) any generation, transportation, storage, treatment or disposal of any Hazardous Material which occurred or is alleged to have occurred with regard to Hazardous Material generated, manufactured, sold, transported, handled, stored, treated, recycled, reclaimed or reused by an Obligor, a Subsidiary or its agents; (b) any spills, discharges, leaks, emissions, injections, escapes, dumping, releases or threatened releases of any Hazardous Material at or upon the Collateral; (c) any air emissions related to the Collateral and (d) any violation of, or any obligation arising in connection with, any Environmental Law.

Section 15.4. Gross-Up Provision. Each of the Obligors specifically acknowledges and agrees that all payments of all amounts under the Notes and all other Financing Agreements shall be free and clear of, and without deduction or withholding for, or on account of, any present or future tax or withholding amount, except to the extent such tax, withheld amount or deduction is required by law. In any such case, the Obligors, jointly and severally, agree, to pay to the holders such amount as shall be required so that every payment received by the holders will not, after giving effect to any such tax, withholding or deduction, be less than the amount due and payable to the holders in respect of the Notes and the other Financing Agreements.

SECTION 16. SURVIVAL OF REPRESENTATIONS AND WARRANTIES; ENTIRE AGREEMENT.

All representations and warranties contained in any Financing Agreement and in the Individual Guarantee Agreement shall survive the execution and delivery of any Financing Agreement and in the Individual Guarantee Agreement, the purchase or transfer by any Purchaser of any Note or portion thereof or interest therein and the payment of any Note, and may be relied upon by any subsequent holder of a Note, regardless of any investigation made at any time by or on behalf of such Purchaser or any other holder of a Note. All statements contained in any certificate or other instrument delivered by or on behalf of an Obligor or the Individual Guarantor pursuant to any Financing Agreement or the Individual Guarantee Agreement shall be deemed representations and warranties of such Obligor or the Individual Guarantor under a Financing Agreement or the Individual Guarantee Agreement. Subject to the preceding sentence, the Financing Agreements and the Individual Guarantee Agreement embody the entire agreement and understanding between the Purchaser and the Obligors and the Individual Guarantor and supersede all prior agreements and understandings relating to the subject matter hereof.

SECTION 17. AMENDMENT AND WAIVER.

Section 17.1. Requirements. This Agreement and the Notes may be amended, and the observance of any term hereof or of the Notes may be waived (either retroactively or prospectively), with (and only with) the written consent of the Parent and the Required Holders,

except that (a) no amendment or waiver of any of the provisions of Section 1, 2, 3, 4, 5, 6 or 21 hereof, or any defined term (as it is used therein), will be effective as to any Purchaser unless consented to by such Purchaser in writing, and (b) no such amendment or waiver may, without the written consent of the holder of each Note at the time outstanding affected thereby, (i) subject to the provisions of Section 12 relating to acceleration or rescission, change the amount or time of any prepayment or payment of principal of, or reduce the rate or change the time of payment or method of computation of interest or of the Make-Whole Amount on, the Notes, (ii) change the percentage of the principal amount of the Notes the holders of which are required to consent to any such amendment or waiver, or (iii) amend any of Sections 8, 11(a), 11(b), 12, 17 or 20.

Section 17.2. Solicitation of Holders of Notes.

(a) *Solicitation.* The Obligors will provide each holder of the Notes (irrespective of the amount of Notes then owned by it) with sufficient information, sufficiently far in advance of the date a decision is required, to enable such holder to make an informed and considered decision with respect to any proposed amendment, waiver or consent in respect of any of the provisions hereof or of the Notes. The Obligors will deliver executed or true and correct copies of each amendment, waiver or consent effected pursuant to the provisions of this Section 17 to each holder of outstanding Notes promptly following the date on which it is executed and delivered by, or receives the consent or approval of, the requisite holders of Notes.

(b) *Payment.* The Obligors will not directly or indirectly pay or cause to be paid any remuneration, whether by way of supplemental or additional interest, fee or otherwise, or grant any security or provide other credit support, to any holder of Notes as consideration for or as an inducement to the entering into by any holder of Notes of any waiver or amendment of any of the terms and provisions hereof unless such remuneration is concurrently paid, or security is concurrently granted or other credit support concurrently provided, on the same terms, ratably to each holder of Notes then outstanding even if such holder did not consent to such waiver or amendment.

Section 17.3. Binding Effect, Etc. Any amendment or waiver consented to as provided in this Section 17 applies equally to all holders of Notes and is binding upon them and upon each future holder of any Note and upon the Obligors without regard to whether such Note has been marked to indicate such amendment or waiver. No such amendment or waiver will extend to or affect any obligation, covenant, agreement, Default or Event of Default not expressly amended or waived or impair any right consequent thereon. No course of dealing between an Obligor and the holder of any Note nor any delay in exercising any rights hereunder or under any Note shall operate as a waiver of any rights of any holder of such Note. As used in any Financing Agreement or the Individual Guarantee Agreement, the term "this Agreement" and references thereto shall mean such Financing Agreement or the Individual Guarantee Agreement as it may from time to time be amended or supplemented.

Section 17.4. Notes Held by Parent, Etc. Solely for the purpose of determining whether the holders of the requisite percentage of the aggregate principal amount of Notes then outstanding approved or consented to any amendment, waiver or consent to be given under this Agreement or the Notes, or have directed the taking of any action provided herein or in the Notes

to be taken upon the direction of the holders of a specified percentage of the aggregate principal amount of Notes then outstanding, Notes directly or indirectly owned by the Parent, any Obligor, the Individual Guarantor or any of its Affiliates shall be deemed not to be outstanding.

SECTION 18. NOTICES.

All notices, communications and deliveries provided for hereunder shall be in writing and sent (a) by telecopy if the sender on the same day sends a confirming copy of such notice by a recognized overnight delivery service (charges prepaid), or (b) by registered or certified mail with return receipt requested (postage prepaid), or (c) by a recognized overnight delivery service (with charges prepaid). Any such notice must be sent:

(i) if to any Purchaser or its nominee, to such Purchaser or nominee at the address specified for such communications in Schedule A, or at such other address as such Purchaser or nominee shall have specified to the Parent in writing,

(ii) if to any other holder of any Note, to such holder at such address as such other holder shall have specified to the Parent in writing, or

(iii) if to an Obligor, to the Parent at its address set forth at the beginning hereof to the attention of Thomas J. Smith, Chief Financial Officer, or at such other address as the Parent shall have specified to the holder of each Note in writing, or

(iv) if to the Individual Guarantor, at 8500 Station Street, Suite 113, Mentor, Ohio 44060.

Notices under this Section 18 will be deemed given only when actually received.

SECTION 19. REPRODUCTION OF DOCUMENTS.

The Financing Agreements and the Individual Guarantee Agreement and all documents relating thereto, including, without limitation, (a) consents, waivers and modifications that may hereafter be executed, (b) documents received by any Purchaser at the Closing (except the Notes themselves), and (c) financial statements, certificates and other information previously or hereafter furnished to any Purchaser, may be reproduced by such Purchaser by any photographic, photostatic, electronic, digital, or other similar process and such Purchaser may destroy any original document so reproduced. The Obligors and the Individual Guarantor agree and stipulate that, to the extent permitted by applicable law, any such reproduction shall be admissible in evidence as the original itself in any judicial or administrative proceeding (whether or not the original is in existence and whether or not such reproduction was made by such Purchaser in the regular course of business) and any enlargement, facsimile or further reproduction of such reproduction shall likewise be admissible in evidence. This Section 19 shall not prohibit an Obligor or the Individual Guarantor or any other holder of Notes from contesting any such reproduction to the same extent that it could contest the original, or from introducing evidence to demonstrate the inaccuracy of any such reproduction.

SECTION 20. CONFIDENTIAL INFORMATION.

For the purposes of this Section 20, "Confidential Information" means information delivered to any Purchaser by or on behalf of the Parent or any Subsidiary in connection with the transactions contemplated by or otherwise pursuant to any Financing Agreement that is proprietary in nature and that was clearly marked or labeled or otherwise adequately identified when received by such Purchaser as being confidential information of the Parent or such Subsidiary, provided that such term does not include information that (a) was publicly known or otherwise known to such Purchaser prior to the time of such disclosure, (b) subsequently becomes publicly known through no act or omission by such Purchaser or any person acting on such Purchaser's behalf, (c) otherwise becomes known to such Purchaser other than through disclosure by the Parent or any Subsidiary or (d) constitutes financial statements delivered to such Purchaser under Section 7.1 that are otherwise publicly available. The Purchaser will maintain the confidentiality of such Confidential Information in accordance with procedures adopted by such Purchaser in good faith to protect confidential information of third parties delivered to such Purchaser, provided that such Purchaser may deliver or disclose Confidential Information to (i) its directors, officers, employees, agents, attorneys, trustees and affiliates (to the extent such disclosure reasonably relates to the administration of the investment represented by its Notes), (ii) its financial advisors and other professional advisors who agree to hold confidential the Confidential Information substantially in accordance with the terms of this Section 20, (iii) any other holder of any Note, (iv) any Institutional Investor to which it sells or offers to sell such Note or any part thereof or any participation therein (if such Person has agreed in writing prior to its receipt of such Confidential Information to be bound by the provisions of this Section 20), (v) any Person from which it offers to purchase any security of the Parent (if such Person has agreed in writing prior to its receipt of such Confidential Information to be bound by the provisions of this Section 20), (vi) any federal or state regulatory authority having jurisdiction over such Purchaser, (vii) the NAIC or the SVO or, in each case, any similar organization, or any nationally recognized rating agency that requires access to information about such Purchaser's investment portfolio, or (viii) any other Person to which such delivery or disclosure may be necessary or appropriate (w) to effect compliance with any law, rule, regulation or order applicable to such Purchaser, (x) in response to any subpoena or other legal process, (y) in connection with any litigation to which such Purchaser is a party or (z) if an Event of Default has occurred and is continuing, to the extent such Purchaser may reasonably determine such delivery and disclosure to be necessary or appropriate in the enforcement or for the protection of the rights and remedies under such Purchaser's Notes and the Financing Agreements. Each holder of a Note, by its acceptance of a Note, will be deemed to have agreed to be bound by and to be entitled to the benefits of this Section 20 as though it were a party to a Financing Agreement. On reasonable request by the Parent in connection with the delivery to any holder of a Note of information required to be delivered to such holder under a Financing Agreement or requested by such holder (other than a holder that is a party to this Agreement or its nominee), such holder will enter into an agreement with the Parent embodying the provisions of this Section 20.

SECTION 21. SUBSTITUTION OF PURCHASER.

The Purchaser shall have the right to substitute any one of its Affiliates as the purchaser of the Notes that it has agreed to purchase hereunder, by written notice to the Parent, which notice shall be signed by both such Purchaser and such Affiliate, shall contain such Affiliate's agreement to be bound by this Agreement and shall contain a confirmation by such Affiliate of the accuracy with respect to it of the representations set forth in Section 6. Upon receipt of such notice, any reference to such Purchaser in a Financing Agreement (other than in this Section 21), shall be deemed to refer to such Affiliate in lieu of such original Purchaser. In the event that such Affiliate is so substituted as a Purchaser hereunder and such Affiliate thereafter transfers to such original Purchaser all of the Notes then held by such Affiliate, upon receipt by the Parent of notice of such transfer, any reference to such Affiliate as a "Purchaser" in this Agreement (other than in this Section 21), shall no longer be deemed to refer to such Affiliate, but shall refer to such original Purchaser, and such original Purchaser shall again have all the rights of an original holder of the Notes under this Agreement.

SECTION 22. GUARANTEE AGREEMENT.

Section 22.1. Guarantee. (a) Each Guarantor, jointly and severally, hereby irrevocably, absolutely and unconditionally guarantees to the holders from time to time of the Notes: (a) the full and prompt payment on demand of the principal of all of the Notes and of the interest thereon at the rate therein stipulated (including, without limitation, to the extent legally enforceable, interest on any overdue principal, Make-Whole Amount, if any, and interest at the rates specified in the Notes and interest accruing or becoming owing both prior to and subsequent to the commencement of any bankruptcy, reorganization or similar proceeding involving an Obligor) and the Make-Whole Amount, if any, and all other amounts owing to the holders from time to time under the Notes and the Financing Agreements when and as the same shall become due and payable, whether by lapse of time, upon redemption or prepayment, by extension or by acceleration or declaration, or otherwise, (b) the full and prompt performance and observance by the Obligors of each and all of the covenants and agreements required to be performed or observed by such Persons under the terms of the Financing Agreements, and (c) payment, upon demand by any holder of the Notes, of all costs and expenses, legal or otherwise (including reasonable attorneys fees) and such expenses, if any, as shall have been expended or incurred in the protection or enforcement of any right or privilege under the Financing Agreements or this Guarantee Agreement or in any consultation or action in connection therewith, and in each and every case irrespective of the validity, regularity, or enforcement of any of the Financing Agreements or any of the terms thereof or of any other like circumstance or circumstances (all of the obligations described in the foregoing clause (a), clause (b) and clause (c) being referred to herein as the *"Guaranteed Obligations"*). The guaranty of the Guaranteed Obligations herein provided for is a guaranty of the immediate and timely payment of the principal, interest and Make-Whole Amount, if any, on the Notes as and when the same are due and payable and shall not be deemed to be a guaranty only of the collectability of such payments and that in consequence thereof each holder of the Notes may sue any Guarantor directly upon such Guaranteed Obligations. Each Guarantor agrees as a primary obligation to indemnify each Noteholder from time to time on demand from and against any loss incurred by it as a result of any Financing Agreement being or becoming void, voidable or

unenforceable for any reason whatsoever, whether or not known to such Noteholder, the amount of such loss being the amount which such Noteholder would otherwise have been entitled to recover from the Guarantor.

(b) **Principal Obligor**. The obligations of each Guarantor hereunder shall be deemed to be undertaken as principal obligor and not merely as surety.

(c) **Continuing Obligations**. The obligations of the Guarantors hereunder shall be continuing obligations notwithstanding any settlement of account or other matter or thing whatsoever and, in particular but without limitation, shall not be considered satisfied by any intermediate payment or satisfaction of all or any of the Issuers' obligations under or in respect of any Note and shall continue in full force and effect until all sums due from the Issuers in respect of the Notes and the Financing Agreements have been paid and all other obligations of the Issuers thereunder or in respect thereof have been satisfied, in full.

Section 22.2. Obligation Absolute and Unconditional; Termination; Limitations. (a) This Guarantee Agreement shall be absolute and unconditional and shall remain in full force and effect until the entire principal, interest, Make-Whole Amount (if any) on the Notes and all other sums due pursuant to the Financing Agreements shall have been fully, finally and indefeasibly paid and such Guaranteed Obligations shall not be affected, modified or impaired upon the happening from time to time of any event or condition, including without limitation any of the following, whether or not with notice to or the consent of any Guarantor:

(i) the power or authority or the lack of power or authority of the Issuers to issue the Notes or of the Issuers to execute and deliver the Financing Agreements, and irrespective of the validity of the Notes, or the Financing Agreements or of any defense whatsoever that the Issuers may or might have to the payment of the Notes (including, without limitation, principal, interest or Make-Whole Amount, if any) or to the performance or observance of any of the provisions or conditions of the Financing Agreements, or the existence or continuance of any Issuer as a legal entity;

(ii) any failure to present the Notes for payment or to demand payment thereof, or to give any Guarantor or any Issuer notice of dishonor for non-payment of the Notes, when and as the same may become due and payable, or notice of any failure on the part of any Issuer to do any act or thing or to perform or to keep any covenant or agreement by either of them to be done, kept or performed under the terms of the Notes or any Financing Agreement;

(iii) additional money to any Issuer, any extension of the obligation of the Notes, either indefinitely or for any period of time, or any other modification in the obligation of the Notes or of any Financing Agreement or any Issuer thereon, or in connection therewith, or any sale, release, substitution or exchange of any security;

(iv) any act or failure to act with regard to the Notes or any Financing Agreement or anything which might vary the risk of any Guarantor (including, without

limitation, any release or substitution of any one or more of the endorsers or guarantors of the Guaranteed Obligations);

(v) any action taken under any Financing Agreement in the exercise of any right or power thereby conferred or any failure or omission on the part of any holder of any Note to first enforce any right or security given under any Financing Agreement or any failure or omission on the part of any holder of any of the Notes to first enforce any right against any Issuer or any other Guarantor;

(vi) the waiver, compromise, settlement, release or termination of any or all of the obligations, covenants or agreements of any Issuer contained in any Financing Agreement, or of any other Guarantor contained in any Financing Agreement, or of the payment, performance or observance thereof;

(vii) the failure to give notice to any Obligor of the occurrence of any Default or Event of Default under the terms and provisions of this Agreement;

(viii) the extension of the time for payment of any principal of, or interest (or Make-Whole Amount or any other amount, if any), on any Note owing or payable on such Note or of the time of or for performance of any obligations, covenants or agreements under or arising out of any Financing Agreement or the extension or the renewal of any thereof;

(ix) the modification or amendment (whether material or otherwise) of any obligation, covenant or agreement set forth in any Financing Agreement;

(x) any failure, omission, delay or lack on the part of the holders of the Notes to enforce, assert or exercise any right, power or remedy conferred on the holders of the Notes in any Financing Agreement, or any other act or acts on the part of the holders from time to time of the Notes;

(xi) the voluntary or involuntary liquidation, dissolution, sale or other disposition of all or substantially all the assets, marshaling of assets and liabilities, receivership, insolvency, bankruptcy, assignment for the benefit of creditors, reorganization or arrangement under bankruptcy or similar laws, composition with creditors or readjustment of, or other similar procedures affecting any Obligor or any of the assets of any of them, or any allegation or contest of the validity of any Financing Agreement or the disaffirmance of any Financing Agreement in any such proceeding (it being understood that the obligations of each Guarantor under this Guarantee Agreement shall continue to be effective or be reinstated, as the case may be, if at any time any payment made with respect to the Notes is rescinded or must otherwise be restored or returned by any holder of the Notes upon the insolvency, bankruptcy or reorganization of an Obligor, all as though such payment had not been made);

(xii) any event or action that would, in the absence of this clause, result in the release or discharge by operation of law of an Obligor from the performance or

observance of any obligation, covenant or agreement contained in this Guarantee Agreement;

(xiii) the invalidity or unenforceability of any Financing Agreement;

(xiv) the invalidity or unenforceability of the obligations of any Guarantor under this Guarantee Agreement, the absence of any action to enforce such obligations of any Guarantor, any waiver or consent by any Guarantor with respect to any of the provisions hereof or any other circumstances which might otherwise constitute a discharge or defense by any Guarantor, including, without limitation, any failure or delay in the enforcement of the obligations of any Guarantor with respect to this Guarantee Agreement or of notice thereof; or any suit or other action brought by any shareholder or creditor of, or by, any Guarantor or any other Person, for any reason, including, without limitation, any suit or action in any way attacking or involving any issue, matter or thing in respect of any Financing Agreement;

(xv) the default or failure of any Guarantor fully to perform any of its covenants or obligations set forth in any Financing Agreement;

(xvi) the impossibility or illegality of performance on the part of an Obligor or any other Person of its obligations in any Financing Agreement;

(xvii) in respect of any Obligor or any other Person, any change of circumstances, whether or not foreseen or foreseeable, whether or not imputable to any Obligor or any other Person, or other impossibility of performance through fire, explosion, accident, labor disturbance, floods droughts, embargoes, wars (whether or not declared), civil commotions, acts of God or the public enemy, delays or failure of suppliers or carriers, inability to obtain materials, action of any regulatory body or agency, change of law or any other causes affecting performance, or other force majeure, whether or not beyond the control of any Obligor or any other Person and whether or not of the kind hereinbefore specified;

(xviii) any attachment, claim, demand, charge, lien, order, process, encumbrance or any other happening or event or reason, similar or dissimilar to the foregoing, or any withholding or diminution at the source, by reason of any taxes, assessments, expenses, indebtedness, obligations or liabilities of any character, foreseen or unforeseen, and whether or not valid, incurred by or against any Person, or any claims, demands, charges or liens of any nature, foreseen or unforeseen, incurred by any Person, or against any sums payable under this Guarantee Agreement, so that such sums would be rendered inadequate or would be unavailable to make the payments herein provided;

(xix) the failure of any Guarantor to receive any benefit or consideration from or as a result of its execution, delivery and performance of this Guarantee Agreement;

(xx) any sale, exchange, release or surrender of any property at any time pledged or granted as security in respect of the Guaranteed Obligations, whether so

pledged or granted by any Guarantor or another guarantor of the obligations of the Issuers under the Financing Agreements; or

(xxi) any other circumstance which might otherwise constitute a defense available to, or a discharge of, any Guarantor in respect of the obligations of any Guarantor under this Guarantee Agreement;

provided that the specific enumeration of the above-mentioned acts, failures or omissions shall not be deemed to exclude any other acts, failures or omissions, though not specifically mentioned above, it being the purpose and intent of this paragraph that the obligations of each Guarantor hereunder shall be absolute and unconditional to the extent herein specified and shall not be discharged, impaired or varied except by the full, final and indefeasible payment to the holders thereof of the principal of, interest on and Make-Whole Amount, if any, and any other amounts due in respect of the Notes, and then only to the extent of such payments. Without limiting any of the other terms or provisions hereof, it is understood and agreed that in order to hold any Guarantor liable hereunder, there shall be no obligation on the part of any holder of any Note to resort, in any manner or form, for payment, to an Issuer, to any other Person or to the properties or estates of any of the foregoing. All rights of the holder of any Note pursuant thereto or to this Guarantee Agreement may be transferred or assigned at any time or from time to time and shall be considered to be transferred or assigned upon the transfer of such Note whether with or without the consent of or notice to any Guarantor or any Issuer. Without limiting the foregoing, it is understood that repeated and successive demands may be made and recoveries may be had hereunder as and when, from time to time, the Issuers shall default under the terms of the Financing Agreements and that notwithstanding recovery hereunder for or in respect of any given default or defaults by the Issuers under the Financing Agreements shall remain in full force and effect and shall apply to each and every subsequent default.

(b) To the fullest extent permitted by law, each Guarantor does hereby expressly waive:

(i) all of the matters specified in clause (a) of this Section 22.2 and any notices in respect thereof;

(ii) notice of acceptance of this Guarantee Agreement;

(iii) notice of any purchase or acceptance of the Notes under this Agreement, or the creation, existence or acquisition of any of the Guaranteed Obligations;

(iv) notice of the amount of the Guaranteed Obligations; and

(v) any stay (except in connection with a pending appeal), valuation, appraisal, redemption or extension law now or at any time hereafter in force that, but for this waiver, might be applicable to any sale of property of any Guarantor made under any judgment, order or decree based on this Guarantee Agreement, and each Guarantor covenants that it will not at any time insist upon or plead, or in any manner claim or take the benefit or advantage of any such law.

(c) Each of the rights and remedies granted under this Guarantee Agreement to each holder in respect of the Notes held by such holder may be exercised by such holder without notice to, or the consent of or any other action by, any other holder. Each holder may proceed to protect and enforce this Guarantee Agreement by making the payment hereunder on demand, by suit or suits or proceedings in equity, at law or in bankruptcy, and whether for the specific performance of any covenant or agreement contained herein or in execution or aid of any power herein granted; or for the recovery of judgment for the obligations hereby guarantied or for the enforcement of any other proper, legal or equitable remedy available under applicable law.

(d) In addition to and not in limitation of the obligations of the Guarantors hereunder, each Guarantor specifically acknowledges and agrees to the terms and provisions of the Individual Guaranty Agreement and specifically agrees, confirms and ratifies all of its obligations hereunder regardless of any of the terms or provisions of the Individual Guaranty Agreement or any alteration, modification, release or waiver thereof or release of any collateral therefor and acknowledges and agrees that the rights and the remedies of the holders against each Guarantor hereunder are in addition to, and in no way impaired by, the Individual Guarantee Agreement under any circumstances.

(e) If any holder shall have instituted any proceeding to enforce any right or remedy under this Guarantee Agreement or under any Note held by such holder and such proceeding shall have been discontinued or abandoned for any reason, or shall have been determined adversely to such holder, then and in every such case each such holder shall, except as may be limited or affected by any determination in such proceeding, be restored severally and respectively to its respective former position hereunder and thereunder, and thereafter the rights and remedies of such holders shall continue as though no such proceeding had been instituted.

(f) Any term or provision of this Guarantee Agreement, or the Financing Agreements or of the Notes notwithstanding, if any U.S. federal or state fraudulent conveyance laws are determined by a court of competent jurisdiction to be applicable to the obligations of a Guarantor hereunder, such Guarantor's obligations hereunder shall be limited to the maximum aggregate amount of the obligations that would not render such Guarantor's obligations subject to avoidance under applicable U.S. federal or state fraudulent conveyance laws.

Section 22.3. Subrogation Payments Held In Trust. To the extent of any payments made under this Guarantee Agreement, each Guarantor shall be subrogated to the rights of the holder of the Notes receiving such payments, but each Guarantor covenants and agrees that such right of subrogation shall be subordinate in right of payment to the rights of any holders of the Notes for which full payment has not been made or provided for and, to that end, the Guarantor agrees not to claim or enforce any such right of subrogation or any right of setoff or any other right which may arise on account of any payment made by the Guarantor in accordance with the provisions of this Guarantee Agreement unless and until all of the Guaranteed Obligations (other than those arising by subrogation as aforesaid) owned by Persons other than the Guarantor and all other sums due or payable under this Guarantee Agreement have been fully paid and discharged or payment therefor has been provided.

Section 22.4. Preference. Each Guarantor agrees that to the extent any Obligor or any other Person makes any payment on the Guaranteed Obligations, which payment or any part thereof is subsequently invalidated, voided, declared to be fraudulent or preferential, set aside, or is required to be repaid to a trustee, receiver or any other Person under any bankruptcy code, common law, or equitable cause, then and to the extent of such payment, the obligation or the part thereof intended to be satisfied shall be revived and continued in full force and effect with respect to such Guarantor's obligations hereunder, as if said payment had not been made. The liability of each Guarantor hereunder shall not be reduced or discharged, in whole or in part, by any payment to any holder of the Notes from any source that is thereafter paid, returned or refunded in whole or in part by reason of the assertion of a claim of any kind relating thereto, including, but not limited to, any claim for breach of contract, breach of warranty, preference, illegality, invalidity or fraud asserted by any account debtor or by any other Person.

Section 22.5. Marshaling. None of the holders of the Notes shall be under any obligation (a) to marshal any assets in favor of any Guarantor or in payment of any or all of the liabilities of the Issuers under or in respect of the Notes or the obligation of any Guarantor hereunder or (b) to pursue any other remedy that any Guarantor may or may not be able to pursue itself and that may lighten such Guarantor's burden, any right to which such Guarantor hereby expressly waives.

SECTION 23. RELEASE OF SECURITY INTERESTS OR GUARANTOR.

Upon the proposed sale or other disposition of any Collateral to any Person (other than an Affiliate) that is permitted by this Agreement or to which the Required Holders have otherwise consented, or the sale or other disposition of all of the equity interests of a Guarantor to any Person (other than an Affiliate) that is permitted by this Agreement or to which the Required Holders have otherwise consented, for which the Obligors desire to obtain a security interest release or a release of the Guarantor from the holders of Notes, the Obligors shall deliver an Officer's Certificate (i) stating that the Collateral or the equity interests subject to such disposition is/are being sold or otherwise disposed of in compliance with the terms hereof, (ii) specifying the Collateral or equity interests being sold or otherwise disposed of in the proposed transaction, and (iii) stating that no Default or Event of Default has occurred and is continuing or would result from such release. Upon the receipt of such Officer's Certificate, the holders of the Notes will, at the Obligors' expense, so long as the Required Holders have no reason to believe that the facts stated in such Officer's Certificate are not true and correct, execute and deliver such releases of the holders' security interest in such Collateral or such Guarantor from the Guarantee Agreement, as may be reasonably requested by the Obligors.

SECTION 24. MISCELLANEOUS.

Section 24.1. Successors and Assigns. All covenants and other agreements contained in this Agreement by or on behalf of any of the parties hereto bind and inure to the benefit of their respective successors and assigns (including, without limitation, any subsequent holder of a Note) whether so expressed or not.

Section 24.2. Payments Due on Non-Business Days. Anything in this Agreement or the Notes to the contrary notwithstanding (but without limiting the requirement in Section 8.4 that the notice of any optional prepayment specify a Business Day as the date fixed for such prepayment), any payment of principal of or Make-Whole Amount or interest on any Note that is due on a date other than a Business Day shall be made on the next succeeding Business Day without including the additional days elapsed in the computation of the interest payable on such next succeeding Business Day; *provided* that if the maturity date of any Note is a date other than a Business Day, the payment otherwise due on such maturity date shall be made on the next succeeding Business Day and shall include the additional days elapsed in the computation of interest payable on such next succeeding Business Day.

Section 24.3. Accounting Terms. All accounting terms used herein which are not expressly defined in this Agreement have the meanings respectively given to them in accordance with GAAP. Except as otherwise specifically provided herein, (i) all computations made pursuant to this Agreement shall be made in accordance with GAAP, and (ii) all financial statements shall be prepared in accordance with GAAP. For purposes of determining compliance with the financial covenants contained in this Agreement or any other Financing Agreement, any election by the Parent or any Subsidiary to measure an item of Indebtedness using fair value (as permitted by Statement of Financial Accounting Standards No. 159 or any similar accounting standard) shall be disregarded and such determination shall be made as if such election had not been made.

Section 24.4. Severability. Any provision of this Agreement that is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall (to the full extent permitted by law) not invalidate or render unenforceable such provision in any other jurisdiction.

Section 24.5. Construction, Etc. Each covenant contained herein shall be construed (absent express provision to the contrary) as being independent of each other covenant contained herein, so that compliance with any one covenant shall not (absent such an express contrary provision) be deemed to excuse compliance with any other covenant. Where any provision herein refers to action to be taken by any Person, or which such Person is prohibited from taking, such provision shall be applicable whether such action is taken directly or indirectly by such Person.

For the avoidance of doubt, all Schedules and Exhibits attached to this Agreement shall be deemed to be a part hereof.

Section 24.6. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be an original but all of which together shall constitute one instrument. Each counterpart may consist of a number of copies hereof, each signed by less than all, but together signed by all, of the parties hereto.

Section 24.7. Governing Law. This Agreement shall be construed and enforced in accordance with, and the rights of the parties shall be governed by, the law of the State of Ohio

excluding choice-of-law principles of the law of such State that would permit the application of the laws of a jurisdiction other than such State.

Section 24.8. Jurisdiction and Process; Waiver of Jury Trial. (a) Each Obligor and the Individual Guarantor irrevocably submits to the non-exclusive jurisdiction of any [_____] State or federal court sitting in the [_____], over any suit, action or proceeding arising out of or relating to any Financing Agreement. To the fullest extent permitted by applicable law, each Obligor and the Individual Guarantor irrevocably waives and agrees not to assert, by way of motion, as a defense or otherwise, any claim that it is not subject to the jurisdiction of any such court, any objection that it may now or hereafter have to the laying of the venue of any such suit, action or proceeding brought in any such court and any claim that any such suit, action or proceeding brought in any such court has been brought in an inconvenient forum.

(b) Each Obligor and the Individual Guarantor consent to process being served by or on behalf of any holder of Notes in any suit, action or proceeding of the nature referred to in Section 24.8(a) by mailing a copy thereof by registered or certified mail (or any substantially similar form of mail), postage prepaid, return receipt requested, to it at its address specified in Section 18 or at such other address of which such holder shall then have been notified pursuant to said Section. Each Obligor and the Individual Guarantor agree that such service upon receipt (i) shall be deemed in every respect effective service of process upon it in any such suit, action or proceeding and (ii) shall, to the fullest extent permitted by applicable law, be taken and held to be valid personal service upon and personal delivery to it. Notices hereunder shall be conclusively presumed received as evidenced by a delivery receipt furnished by the United States Postal Service or any reputable commercial delivery service.

(c) Nothing in this Section 24.8 shall affect the right of any holder of a Note to serve process in any manner permitted by law, or limit any right that the holders of any of the Notes may have to bring proceedings against any Obligor or the Individual Guarantor in the courts of any appropriate jurisdiction or to enforce in any lawful manner a judgment obtained in one jurisdiction in any other jurisdiction.

(d) THE PARTIES HERETO HEREBY WAIVE TRIAL BY JURY IN ANY ACTION BROUGHT ON OR WITH RESPECT TO THE FINANCING AGREEMENTS, THE INDIVIDUAL GUARANTEE AGREEMENT OR ANY OTHER DOCUMENT EXECUTED IN CONNECTION HEREWITH OR THEREWITH.

* * * * *

If you are in agreement with the foregoing, please sign the form of agreement on a counterpart of this Agreement and return it to the Obligors, whereupon this Agreement shall become a binding agreement between you and the Obligors.

Very truly yours,

[NAMES OF OBLIGORS AND RICHARD M. OSBORNE, INDIVIDUALLY AND AS TRUSTEE UNDER THE TRUST AGREEMENT DATED JANUARY 13, 1995]

By _____
[Title]

This Agreement is hereby accepted and agreed to as of the date thereof.

[SUN LIFE ASSURANCE COMPANY OF CANADA]

[NAME AND ADDRESS OF ISSUERS]

INFORMATION RELATING TO PURCHASER

NAME AND ADDRESS OF PURCHASER	PRINCIPAL AMOUNT OF NOTES TO BE PURCHASED
Sun Life Assurance Company of Canada	$[__],000,000

(1) All payments by wire transfer of immediately available funds to:

with sufficient information to identify the source and application of such funds.

(2) All notices of payments and written confirmations of such wire transfers:

(3) All other communications:

DEFINED TERMS

As used herein, the following terms have the respective meanings set forth below or set forth in the Section hereof following such term:

"Acquisition" means any transaction or series of transactions by which a Person acquires, either directly or through an Affiliate or otherwise, (a) any or all of the equity interests of any class of any other Person or (b) a substantial portion of the assets, or a division, line of business or publication of any other Person.

"Affiliate" means, at any time, and with respect to any Person, any other Person that at such time directly or indirectly through one or more intermediaries Controls, or is Controlled by, or is under common Control with, such first Person, and, with respect to the Parent, shall include any Person beneficially owning or holding, directly or indirectly, 10% or more of any class of voting or equity interests of the Parent or any Subsidiary or any corporation of which the Parent and its Subsidiaries beneficially own or hold, in the aggregate, directly or indirectly, 10% or more of any class of voting or equity interests. As used in this definition, **"Control"** means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities, by contract or otherwise. Unless the context otherwise clearly requires, any reference to an "Affiliate" is a reference to an Affiliate of the Parent.

"Anti-Terrorism Order" means Executive Order No. 13224 of September 24, 2001, Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit or Support Terrorism, 66 U.S. Fed. Reg. 49, 079 (2001), as amended.

"Business Day" means (a) for the purposes of Section 8.6 only, any day other than a Saturday, a Sunday or a day on which commercial banks in New York City are required or authorized to be closed, and (b) for the purposes of any other provision of this Agreement, any day other than a Saturday, a Sunday or a day on which commercial banks in New York, New York or Cleveland, Ohio are required or authorized to be closed.

"Capitalized Lease" means any lease of property by any Person which, in accordance with GAAP, would be treated as a capital item on the balance sheet of such person.

"Casualty Event" shall mean any act or occurrence of any kind or nature resulting in damage, disappearance, loss or destruction to any property of the Obligors and Restricted Subsidiaries.

"Change of Control" means (a) any Person (other than, with the Purchaser's prior written consent which consent shall not be unreasonably withheld, the Individual Guarantor) or group of Persons acting in concert directly or indirectly acquires (whether in a single transaction or a series of transactions) more than 50% of the ownership interests having ordinary voting power for the election of directors (or the individuals performing similar functions) of the Parent, or (b) the occurrence of any event (whether in one or more transactions) which results in the transfer of control of an Obligor such that the Parent fails to own, directly or indirectly and with

full right to direct voting of such shares, all the ownership interests of each Obligor, or (c) any merger, consolidation or sale of substantially all of the property or assets of any Obligor. For purposes of this definition, "control of an Obligor" means the power, direct or indirect, to vote 51% or more of the ownership interests having ordinary voting power for the election of directors (or the individuals performing similar functions) of any Obligor.

"Chattel Paper" means chattel paper, as that term is defined in the UCC, held by the Borrower, whether now owned or existing or hereafter created or acquired.

"Closing" is defined in Section 3.

"Code" means the Internal Revenue Code of 1986, as amended from time to time, and the rules and regulations promulgated thereunder from time to time.

"Collateral" means collectively the real and personal property in which an Obligor has granted to or will in the future grant to or for the benefit of the holders a security interest or other lien to secure the payment of the Obligations and the Obligors' prompt and complete performance under the Financing Agreements.

"Collateral Documents" shall mean, collectively, the Security Agreement, Pledge Agreement, Mortgages, Control Agreements, and other security documents as may be executed and delivered by any Obligor from time to time in accordance with the transactions contemplated by the terms of the Financing Agreements, as such agreements may be amended, restated, supplemented or otherwise modified from time to time in accordance with the terms thereof.

"Condemnation Event" shall mean any condemnation or seizure or other taking by a public or quasi-public authority of any property of the Obligors and Restricted Subsidiaries.

"Confidential Information" is defined in Section 20.

"Consolidated Capitalization" means the sum of (i) consolidated net worth of the Parent and its Subsidiaries determined on a consolidated basis in accordance with GAAP, *plus* (ii) Consolidated Indebtedness.

"Consolidated Coverage Ratio" means, for any period, the ratio of (i) Consolidated EBIT to (ii) gross interest expense of the Parent and its Subsidiaries determined on a consolidated basis in accordance with GAAP.

"Consolidated EBIT" means, for any period, the sum of Consolidated Net Income, *plus* (to the extent deducted in computing Consolidated Net Income) the sum of interest expense and any provision for federal, state and local income taxes, each of the foregoing determined on a consolidated basis for the Parent and its Subsidiaries in accordance with GAAP, but excluding from such calculation extraordinary non-operating income and any gain from any non-recurring transactions.

"Consolidated Indebtedness" means, as of any date, the aggregate unpaid principal amount of all Indebtedness of the Parent and its Subsidiaries determined on a consolidated basis.

"Consolidated Net Income" means, for the relevant accounting period of the Parent, all ordinary income and ordinary gains *less* all ordinary expenses and ordinary losses from operations of the Parent and its Subsidiaries, determined on a consolidated basis in accordance with GAAP.

"Consolidated Total Assets" means the assets of the Parent and its Subsidiaries determined on a consolidated basis in accordance with GAAP.

"Control Agreement" means a tri-party deposit account, securities account or commodities account control agreement by and among the Obligors, as applicable, the Purchaser and the depository, securities intermediary or commodities intermediary, each in form and substance reasonably satisfactory in all respects to the Purchaser and in any event providing to the Purchaser "control" of such deposit account, securities or commodities account within the meaning of Articles 8 and 9 of the UCC, and each as may be amended, restated, joined, supplemented or otherwise modified from time to time in accordance with the terms thereof.

"Default" means an event or condition the occurrence or existence of which would, with the lapse of time or the giving of notice or both, become an Event of Default.

"Default Rate" means that rate of interest that is the greater of (i) coupon plus 2.00% per annum above the rate of interest stated in clause (a) of the first paragraph of the Notes or (ii) 2.00% over the rate of interest publicly announced by [name of reference bank] in [city, state] as its "base" or "prime" rate.

"Development" means Great Plains Land Development Company Ltd., an Ohio corporation.

"Dollars" or *"$"* means the legal tender of the United States of America.

"Electronic Delivery" is defined in Section 7.1(a).

"Environmental Laws" means any and all federal, state, local, and foreign statutes, laws, regulations, ordinances, rules, judgments, orders, decrees, permits, concessions, grants, franchises, licenses, agreements or governmental restrictions relating to pollution and the protection of the environment or the release of any materials into the environment, including but not limited to those related to Hazardous Materials.

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

"ERISA Affiliate" means any trade or business (whether or not incorporated) that is treated as a single employer together with the Parent under section 414 of the Code.

"Event of Default" is defined in Section 11.

"Financing Agreements" shall mean this Agreement, the Notes, the Guarantee Agreement, the Collateral Documents and any and all agreements among the Obligors and the Purchaser or for the benefit of the Purchaser relating to the obligations of the Obligors hereunder and under the Notes, Collateral Documents and Guarantee Agreement, in each case, as amended and modified.

"GAAP" means generally accepted accounting principles as in effect from time to time in the United States of America.

"General Intangibles" means all general intangibles, as that term is defined in the UCC, of the Borrower, whether now owned or hereafter acquired or created.

"Governmental Authority" means

(a) the government of

(i) the United States of America or any State or other political subdivision thereof, or

(ii) any other jurisdiction in which the Parent or any Subsidiary conducts all or any part of its business, or which asserts jurisdiction over any properties of the Parent or any Subsidiary, or

(b) any entity exercising executive, legislative, judicial, regulatory or administrative functions of, or pertaining to, any such government.

"Guarantee Agreement" shall mean the obligations of the Guarantors pursuant to Section 22 of this Agreement and/or any joinder agreement hereto (as provided in Section 9.8).

"Guarantors" is defined in the first paragraph of this Agreement and shall also include any other Person becoming a Guarantor pursuant to Section 9.8.

"Guaranty" means, with respect to any Person, any obligation (except the endorsement in the ordinary course of business of negotiable instruments for deposit or collection) of such Person guaranteeing or in effect guaranteeing any indebtedness, dividend or other obligation of any other Person in any manner, whether directly or indirectly, including (without limitation) obligations incurred through an agreement, contingent or otherwise, by such Person:

(a) to purchase such indebtedness or obligation or any property constituting security therefor;

(b) to advance or supply funds (i) for the purchase or payment of such indebtedness or obligation, or (ii) to maintain any working capital or other balance sheet

condition or any income statement condition of any other Person or otherwise to advance or make available funds for the purchase or payment of such indebtedness or obligation;

(c) to lease properties or to purchase properties or services primarily for the purpose of assuring the owner of such indebtedness or obligation of the ability of any other Person to make payment of the indebtedness or obligation; or

(d) otherwise to assure the owner of such indebtedness or obligation against loss in respect thereof.

In any computation of the indebtedness or other liabilities of the obligor under any Guaranty, the indebtedness or other obligations that are the subject of such Guaranty shall be assumed to be direct obligations of such obligor.

"Hazardous Material" means any and all pollutants, toxic or hazardous wastes or other substances that might pose a hazard to health and safety, the removal of which may be required or the generation, manufacture, refining, production, processing, treatment, storage, handling, transportation, transfer, use, disposal, release, discharge, spillage, seepage or filtration of which is or shall be restricted, prohibited or penalized by any applicable law including, but not limited to, asbestos, urea formaldehyde foam insulation, polychlorinated biphenyls, petroleum, petroleum products, lead based paint, radon gas or similar restricted, prohibited or penalized substances.

"holder" means, with respect to any Note the Person in whose name such Note is registered in the register maintained by the Parent pursuant to Section 13.1.

"Indebtedness" with respect to any Person means, at any time, without duplication,

(a) its liabilities for borrowed money and its redemption obligations in respect of mandatorily redeemable Preferred Stock;

(b) its liabilities for the deferred purchase price of property acquired by such Person (excluding accounts payable arising in the ordinary course of business but including all liabilities created or arising under any conditional sale or other title retention agreement with respect to any such property);

(c) all liabilities appearing on its balance sheet in accordance with GAAP in respect of Capitalized Leases;

(d) all liabilities for borrowed money secured by any Lien with respect to any property owned by such Person (whether or not it has assumed or otherwise become liable for such liabilities);

(e) all its liabilities in respect of letters of credit or instruments serving a similar function issued or accepted for its account by banks and other financial institutions (whether or not representing obligations for borrowed money); and

(f) any Guaranty of such Person with respect to liabilities of a type described in any of clauses (a) through (f) hereof.

Indebtedness of any Person shall include all obligations of such Person of the character described in clauses (a) through (f) to the extent such Person remains legally liable in respect thereof notwithstanding that any such obligation is deemed to be extinguished under GAAP.

"Individual Guarantee Agreement" shall mean the Individual Guarantee Agreement of Richard M. Osborne, individually and as Trustee of the Richard M. Osborne Trust under Restated Trust Agreement dated January 13, 1995, substantially in the form of Exhibit 2 hereto, as amended or modified.

"Individual Guarantor" shall mean Richard M. Osborne, individually and as Trustee of the Richard M. Osborne Trust under Restated Trust Agreement dated January 13, 1995.

"Institutional Investor" means (a) any Purchaser of a Note, (b) any holder of a Note holding (together with one or more of its affiliates) more than 10% of the aggregate principal amount of the Notes then outstanding, (c) any bank, trust company, savings and loan association or other financial institution, any pension plan, any investment company, any insurance company, any broker or dealer, or any other similar financial institution or entity, regardless of legal form, and (d) any Related Fund of any holder of any Note.

"Inventory" means all inventory, as that term is defined in the UCC, of the Obligors, whether now owned or existing or hereafter created or acquired.

"Issuers" is defined in the first paragraph of this Agreement.

"Lien" means, with respect to any Person, any mortgage, lien, pledge, charge, security interest or other encumbrance, or any interest or title of any vendor, lessor, lender or other secured party to or of such Person under any conditional sale or other title retention agreement or Capital Lease, upon or with respect to any property or asset of such Person (including in the case of stock, stockholder agreements, voting trust agreements and all similar arrangements).

"Loss Event" shall mean any Casualty Event or Condemnation Event.

"Make-Whole Amount" is defined in Section 8.6.

"Material" means material in relation to the business, operations, affairs, financial condition, assets, properties, or prospects of the Parent and its Subsidiaries taken as a whole.

"Material Adverse Effect" means a material adverse effect on (a) the business, operations, affairs, financial condition, assets or properties of the Parent and its Subsidiaries taken as a whole, or (b) the ability of any Obligor to perform its obligations under the Financing Agreements, or (c) the validity or enforceability of the Financing Agreements.

"Merger Agreement" means that certain [Agreement and Plan of Merger], dated as of [Date], by and among [NEO and Development] pursuant to which Development will merge with and into NEO, with NEO as the surviving corporation.

"Memorandum" is defined in Section 5.3.

"Mortgage" means each of the mortgages, leasehold mortgages, deeds of trust, leasehold deeds of trust, deeds to secure debt, leasehold deeds to secure debt or other real estate security documents delivered by the Obligors to the Purchaser, as each such agreement may be amended, restated, joined, supplemented or otherwise modified from time to time in accordance with the terms thereof.

"Multiemployer Plan" means any Plan that is a "multiemployer plan" (as such term is defined in section 4001(a)(3) of ERISA).

"NAIC" means the National Association of Insurance Commissioners or any successor thereto.

"Notes" is defined in Section 1.

"Obligations" means collectively, (i) all unpaid principal, Make-Whole Amount and accrued and unpaid interest with respect to the Notes, (ii) all accrued and unpaid fees, (iii) any other amounts due hereunder or under the Notes or any of the other Financing Agreements including all reimbursements, indemnities, costs, expenses, prepayment premiums, yield protection obligations, break-funding costs and other obligations of an Obligor to the holders or any indemnified party hereunder and thereunder, and (iv) all reasonable out-of-pocket costs and expenses incurred by the holders in connection with this Agreement, the other Financing Agreements, including but not limited to the reasonable fees and expenses of the holders' counsel which the Obligors are responsible to pay pursuant to the terms of this Agreement and the other Financing Agreements.

"Obligor Capitalization" means the sum of (i) consolidated net worth of the Obligors determined on a consolidated basis in accordance with GAAP (excluding from such calculation the consolidated net worth attributed to Subsidiaries that are not Obligors), plus (ii) Obligor Indebtedness.

"Obligor Coverage Ratio" means, for any period, the ratio of (i) Obligor EBIT to (ii) gross interest expense of the Obligors determined on a consolidated basis in accordance with GAAP.

"Obligor EBIT" means, for any period, the sum of Obligor Net Income, *plus* (to the extent deducted in computing Obligor Net Income) the sum of interest expense and any provision for federal, state and local income taxes, each of the foregoing determined on a consolidated basis for the Obligors in accordance with GAAP, but excluding from such calculation extraordinary non-operating income and any gain from any non-recurring transactions.

"Obligor Indebtedness" means, as of any date, the aggregate unpaid principal amount of all Indebtedness of the Obligors determined on a consolidated basis.

"Obligor Net Income" means, for the relevant accounting period of the Obligors, all ordinary income and ordinary gains *less* all ordinary expenses and ordinary losses from operations of the Obligors, determined on a consolidated basis in accordance with GAAP, but excluding from such calculation the income (or loss) of any Person (other than an Obligor) in which any Obligor has an ownership interest, except to the extent that any such income has been actually received by such Obligor in the form of cash dividends or similar cash distributions.

"Obligors" means, collectively, the Issuers and the Guarantors and, individually, any Issuer and any Guarantor, but does not include the Individual Guarantor.

"Obligor Total Assets" means the assets of the Obligors determined on a consolidated basis in accordance with GAAP, but excluding from such calculation the assets attributed to Subsidiaries that are not Obligors.

"Officer's Certificate" means a certificate of a Senior Financial Officer or of any other officer of the relevant Obligor whose responsibilities extend to the subject matter of such certificate.

"PBGC" means the Pension Benefit Guaranty Corporation referred to and defined in ERISA or any successor thereto.

"Perfection Certificate" means that certain Perfection Certificate dated as of the Closing Date, executed by the Obligors in favor of the Purchaser, in form and substance reasonably satisfactory to the Purchaser.

"Permitted Acquisition" means any Acquisition by any Obligor or Subsidiary if the sum of all amounts and other consideration payable in connection with all Acquisitions during the term of the Notes shall not exceed 10% of Consolidated Total Assets; *provided, however*, that if the sum of all amounts and other consideration payable in connection with all Acquisitions during the term of the Notes shall exceed 5% of Consolidated Total Assets, then each of the following conditions shall have been satisfied:

(i) the holders shall have received at least ten (1) days' prior written notice of such proposed Acquisition, which notice shall include a reasonably detailed description of such proposed Acquisition;

(ii) at or prior to the closing of any Acquisition, if possible, the holders will be granted a first priority perfected Lien (subject to Permitted Encumbrances) in all assets acquired pursuant thereto in accordance with Section 9.8;

(iii) Concurrently with delivery of the notice referred to in clause (i) above, the Obligors shall have delivered to the holders, in form and substance reasonably satisfactory to them an Officer's Certificate of a Senior Financial Officer of the Parent to

the effect that each Obligor will be solvent upon the consummation of the Acquisition (as determined in accordance with Section 5.20(a) and (b);

(iv) on or prior to the date of such Acquisition, the holders shall have received, copies of the acquisition agreement and related agreements and instruments; and

(v) at the time of such Acquisition and after giving effect thereto, no Default or Event of Default has occurred and is continuing.

"Permitted Encumbrances" has the meaning set forth in Section 10.3(a).

"Person" means an individual, partnership, corporation, limited liability company, association, trust, unincorporated organization, business entity or Governmental Authority.

"Plan" means an "employee benefit plan" (as defined in section 3(3) of ERISA) subject to Title I of ERISA that is or, within the preceding five years, has been established or maintained, or to which contributions are or, within the preceding five years, have been made or required to be made, by the Parent or any ERISA Affiliate or with respect to which the Parent or any ERISA Affiliate may have any liability.

"Pledge Agreement" shall mean the Pledge Agreement of the Obligors in substantially the form set forth in Exhibit [__] hereto, and all amendments, modifications, substitutions and replacements thereto and thereof.

"Pledged Stock" means original stock certificates evidencing the issued and outstanding shares of capital stock of each Obligor (other than the Parent) and each Restricted Subsidiary, pledged in favor of the Purchaser under the Pledge Agreement.

"Preferred Stock" means any class of capital stock of a Person that is preferred over any other class of capital stock (or similar equity interests) of such Person as to the payment of dividends or the payment of any amount upon liquidation or dissolution of such Person.

"property" or **"properties"** means, unless otherwise specifically limited, real or personal property of any kind, tangible or intangible, choate or inchoate.

"PTE" is defined in Section 6.2(a).

"Purchaser" is defined in the first paragraph of this Agreement.

"Qualified Institutional Buyer" means any Person who is a "qualified institutional buyer" within the meaning of such term as set forth in Rule 144A(a)(1) under the Securities Act.

"Real Property" means the real property and improvements thereto including without limitation that real property described on Schedule 5.19 attached hereto which the Obligors currently own or lease, and any other real property hereafter acquired or leased by the Obligors.

"Related Fund" means, with respect to any holder of any Note, any fund or entity that (i) invests in Securities or bank loans, and (ii) is advised or managed by such holder, the same investment advisor as such holder or by an affiliate of such holder or such investment advisor.

"Required Holders" means, at any time, the holders of more than 50% in principal amount of the Notes at the time outstanding (exclusive of Notes then owned by the Parent or any of its Affiliates).

"Responsible Officer" means any Senior Financial Officer and any other executive officer of the relevant Obligor with responsibility for the administration of the relevant portion of this Agreement or the relevant Financing Agreement.

"Restricted Subsidiary" means any Obligor (other than the Parent) and any other Subsidiary (other than a Subsidiary which is not required under Section 9.8 to join this Agreement as a Guarantor and grant liens on its assets and properties to secure its Obligations thereunder). As of the date of Closing, "Restricted Subsidiary" does not mean or include Energy West, Incorporated or any of its Subsidiaries.

"SEC" shall mean the Securities and Exchange Commission of the United States, or any successor thereto.

"Securities" or **"Security"** shall have the meaning specified in Section 2(1) of the Securities Act.

"Securities Act" means the Securities Act of 1933, as amended from time to time, and the rules and regulations promulgated thereunder from time to time in effect.

"Senior Financial Officer" means the chief financial officer, principal accounting officer, treasurer or comptroller of the relevant Obligor.

"Security Agreement" means the Security Agreement, dated as of the date hereof, by the Obligors in favor of the Purchaser, as such agreement may be amended, restated, joined, supplemented or otherwise modified from time to time in accordance with the terms thereof.

"Subsidiary" means, as to any Person, any other Person in which such first Person or one or more of its Subsidiaries or such first Person and one or more of its Subsidiaries owns sufficient equity or voting interests to enable it or them (as a group) ordinarily, in the absence of contingencies, to elect a majority of the directors (or Persons performing similar functions) of such second Person, and any partnership or joint venture if more than a 50% interest in the profits or capital thereof is owned by such first Person or one or more of its Subsidiaries or such first Person and one or more of its Subsidiaries (unless such partnership or joint venture can and does ordinarily take major business actions without the prior approval of such Person or one or more of its Subsidiaries). Unless the context otherwise clearly requires, any reference to a "Subsidiary" is a reference to a Subsidiary of the Parent.

"SVO" means the Securities Valuation Office of the NAIC or any successor to such Office.

"Title Company" is defined in Section 4.16.

"UCC" is defined in the Security Agreement.

"Unrestricted Subsidiary" means a Subsidiary which is not a Restricted Subsidiary.

"USA Patriot Act" means United States Public Law 107-56, Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT ACT) Act of 2001, as amended from time to time, and the rules and regulations promulgated thereunder from time to time in effect.

"Wholly-Owned Subsidiary" means, at any time, any Subsidiary one hundred percent of all of the equity interests (except directors' qualifying shares) and voting interests of which are owned by any one or more of the Parent and the Parent's other Wholly-Owned Subsidiaries at such time.

[FORM OF NOTE]

NORTHEAST OHIO NATURAL GAS CORP.
ORWELL NATURAL GAS COMPANY
BRAINARD GAS CORP.

[____]% SENIOR SECURED GUARANTEED NOTE DUE JUNE 1, 2017

No. [_____] [Date]
$17,700,000 PPN[_____]

FOR VALUE RECEIVED, the undersigned, NORTHEAST OHIO NATURAL GAS CORP., a corporation organized and existing under the laws of the State of Ohio, ORWELL NATURAL GAS CO., a corporation organized and existing under the laws of the State of Ohio, and BRAINARD GAS CORP., a corporation organized and existing under the laws of the State of Ohio (the aforementioned, collectively, being referred to as the **"Issuers"**), hereby jointly and severally promise to pay to SUN LIFE ASSURANCE COMPANY OF CANADA, or registered assigns, the principal sum of US$17,700,000 DOLLARS (or so much thereof as shall not have been prepaid) on June 1, 2017, with interest (compounded semiannually and computed on the basis of a 360-day year of twelve 30-day months) (a) on the unpaid balance hereof at the rate of [____]% per annum from the date hereof, payable monthly, on the [____] day of each month in each year, and at maturity commencing with the [____] day of the month next succeeding the date hereof, until the principal hereof shall have become due and payable, and (b) to the extent permitted by law, on any overdue payment of interest and, during the continuance of an Event of Default, on such unpaid balance and on any overdue payment of any Make-Whole Amount, at a rate per annum from time to time equal to the greater of (i) [coupon plus 2.00%] or (ii) 2.00% over the rate of interest publicly announced by [name of reference bank] from time to time in [city, state] as its "base" or "prime" rate, payable semiannually as aforesaid (or, at the option of the registered holder hereof, on demand).

Payments of principal of, interest on and any Make-Whole Amount with respect to this Note are to be made in lawful money of the United States of America at [_____] or at such other place as the Issuers shall have designated by written notice to the holder of this Note as provided in the Note Purchase Agreement referred to below.

This Note is one of a series of Senior Secured Guaranteed Notes (herein called the **"Notes"**) issued pursuant to the Note Purchase Agreement, dated as of November __, 2010 (as from time to time amended, the **"Note Purchase Agreement"**), between the Issuers, the other Obligors named therein, the Individual Guarantor and the Purchaser named therein and is entitled to the benefits thereof. Each holder of this Note will be deemed, by its acceptance hereof, to have (i) agreed to the confidentiality provisions set forth in Section 20 of the Note Purchase Agreement and (ii) made the representation set forth in Section 6.2 of the Note Purchase Agreement. Unless otherwise indicated, capitalized terms used in this Note shall have the respective meanings ascribed to such terms in the Note Purchase Agreement.

This Note and the obligations of the Issuers hereunder and the obligations of the Issuers under the Financing Agreements are guaranteed pursuant to the Guarantee Agreement of the Guarantors and pursuant to the Individual Guarantee Agreement of the Individual Guarantor and the obligations of the Obligors under the Financing Agreements, including, this Note, are secured by the Collateral Documents, all in accordance with and pursuant to the terms and provisions of the Financing Agreements.

This Note is a registered Note and, as provided in the Note Purchase Agreement, upon surrender of this Note for registration of transfer accompanied by a written instrument of transfer duly executed, by the registered holder hereof or such holder's attorney duly authorized in writing, a new Note for a like principal amount will be issued to, and registered in the name of, the transferee. Prior to due presentment for registration of transfer, the Issuers may treat the person in whose name this Note is registered as the owner hereof for the purpose of receiving payment and for all other purposes, and the Issuers will not be affected by any notice to the contrary.

The Issuers will make required prepayments of principal on the dates and in the amounts specified in the Note Purchase Agreement. This Note is also subject to optional prepayment, in whole or from time to time in part, at the times and on the terms specified in the Note Purchase Agreement, but not otherwise.

If an Event of Default occurs and is continuing, the principal of this Note may be declared or otherwise become due and payable in the manner, at the price (including any applicable Make-Whole Amount) and with the effect provided in the Note Purchase Agreement.

This Note shall be construed and enforced in accordance with, and the rights of the Issuers and the holder of this Note shall be governed by, the law of the State of Ohio excluding choice-of-law principles of the law of such State that would permit the application of the laws of a jurisdiction other than such State.

NORTHEAST OHIO NATURAL GAS CORP.
ORWELL NATURAL GAS COMPANY

By _____
[Title]

FORM OF OPINION OF SPECIAL COUNSEL TO THE OBLIGORS

Matters To Be Covered in Opinion of Special Counsel to the Obligors

1. Each of the Parent and its Subsidiaries being duly incorporated, validly existing and in good standing and having requisite corporate power and authority to issue and sell the Notes and to execute and deliver the documents.

2. Each of the Parent and its Subsidiaries being duly qualified and in good standing as a foreign corporation in appropriate jurisdictions.

3. Due authorization and execution of the documents and such documents being legal, valid, binding and enforceable.

4. No conflicts with charter documents, laws or other agreements.

5. All consents and regulatory approvals and filings required to issue and sell the Notes and to execute, deliver and perform the documents having been obtained.

6. No litigation questioning validity of documents.

7. The Notes not requiring registration under the Securities Act of 1933, as amended; no need to qualify an indenture under the Trust Indenture Act of 1939, as amended.

8. No violation of Regulations T, U or X of the Federal Reserve Board.

9. No Obligor is an "investment company", or a company "controlled" by an "investment company", under the Investment Company Act of 1940, as amended.

10. Creation and perfection of Liens of the Collateral Documents.

FORM OF OPINION OF SPECIAL COUNSEL TO THE PURCHASER

[To Be Provided on a Case by Case Basis]

This foregoing document was electronically filed with the Public Utilities

Commission of Ohio Docketing Information System on

10/22/2010 4:47:16 PM

in

Case No(s). 10-2330-GA-AIS

Summary: Exhibit Exhibit A (Part 1 Filed 10.20.10)- draft note purchase agreement, as a supplement to the joint application filed in this docket on October 9, 2010 (Submitted as 2 parts for the purposes of Electronic filing) electronically filed by Mr. Andrew J Sonderman on behalf of Orwell Natural Gas Company and Northeast Ohio Natural Gas Corporation and Brainard Gas Corporation. electronically filed by Mr. Andrew J Sonderman on behalf of Northeast Ohio Natural Gas Corporation and Brainard Gas Corporation and Orwell Natural Gas Company