

# EXHIBIT D

## AGREEMENT AMONG LENDERS AND AGENT

This AGREEMENT AMONG LENDERS AND AGENT, dated as of July 14, 2008 (this "Agreement"), is entered into by and among Silver Point Finance, LLC ("Silver Point"), as Administrative Agent (under, and as defined in, the Credit Agreement referred to below), SP Eurofresh LLC ("SP Eurofresh"), as Lessor (under, and as defined in, the Capital Lease referred to below, the "Capital Lessor"), Silver Point, as Collateral Agent (under, and as defined in the Collateral Agency Agreement referred to below, the "Capital Lease Collateral Agent"), and together with Capital Lessor, the "Capital Lease Secured Parties"), Wells Fargo Foothill, LLC ("WFF" and, together with its successors and assigns, but in each case only to the extent holding Revolving Exposure (as referred to below) or Note Obligations (as defined in Section 8(a)), a "First Out Lender" and collectively, the "First Out Lenders"), SPCP Group LLC ("Last Out Lender", and together with its respective successors and assigns, but in each case, only to the extent holding Tranche A Term Loans or Tranche B Term Loans, the "Last Out Lenders").

### RECITALS

**WHEREAS**, Last Out Lender and Administrative Agent, are party to that certain Credit and Guaranty Agreement, dated as of March 25, 2008 (the "Credit Agreement") (all capitalized terms used but not otherwise defined herein shall have the meanings ascribed thereto in the Credit Agreement);

**WHEREAS**, Capital Lessor is party to that certain Lease Agreement (SP Eurofresh LLC) with Eurofresh, Inc. (the "Company"), as lessee, dated as of March 25, 2008 (the "Capital Lease");

**WHEREAS**, Silver Point is party to that certain Collateral Agency Agreement with Capital Lessor, dated as of March 25, 2008 (the "Collateral Agency Agreement");

**WHEREAS**, First Out Lender has agreed to become a party to the Credit Agreement, subject to the terms hereof.

**NOW, THEREFORE**, in consideration of the provisions herein contained, the parties agree as follows:

**Section 1. Interest Payments.** Notwithstanding anything to the contrary in the Credit Agreement, Last Out Lender and the First Out Lender (collectively, the "Credit Agreement Lenders") and Administrative Agent agree that all payments of interest (each, an "Interest Payment") on the unpaid principal amount of any First Out Lender's Loans (such "First Out Lender's Unpaid Principal") accrued pursuant to Section 2.7(a) of the Credit Agreement and delivered by the Company (or by any Guarantor or other Person on behalf of the Company) to Administrative Agent's Account for the account of the Lenders shall be allocated and paid as follows:

(a) to such First Out Lender for interest bearing on such First Out Lender's Unpaid Principal from the date made through repayment (the interest accrued on First Out Lender Loans in accordance with this Section 1(a), the "First Out Lender Interest"), in an amount equal to:

(i) if a Base Rate Loan, (x) such First Out Lender's Unpaid Principal multiplied by (y) the First Out Base Rate plus the First Out Lender Applicable Margin (as defined below) plus during the continuance of an Event of Default, the First Out Lender Default Rate (as defined below); or

(ii) if a LIBOR Rate Loan, (x) the First Out Lender's Unpaid Principal multiplied by (y) the First Out LIBOR Rate plus the First Out Lender Applicable Margin plus during the continuance of an Event of Default, the First Out Lender Default Rate; and

(b) all remaining amounts of such Interest Payment to the Last Out Lenders in proportion to their respective Last Out Lender Pro Rata Shares as additional interest.

(c) For the purposes hereof, (i) the "First Out Lender Applicable Margin" shall mean (A) with respect to Revolving Loans that are LIBOR Rate Loans, a rate per annum equal to three and three fourths percent (3.75%), and (B) with respect to Revolving Loans that are Base Rate Loans, a rate per annum equal to two and three fourths percent (2.75%); (ii) the "First Out Lender Default Rate" shall mean a rate per annum equal to two percent (2.0%); and (iii) the "Last Out Lender Pro Rata Share" shall mean, with respect to each Last Out Lender, the percentage obtained by dividing (A) an amount equal to the sum of the Tranche A Term Loan Exposure and Tranche B Term Loan Exposure of that Lender by (B) an amount equal to the sum of the aggregate Tranche A Term Loan Exposure and Tranche B Term Loan Exposure of the Last Out Lenders.

(d) For purposes hereof, "First Out LIBOR Rate" means, for any Interest Rate Determination Date with respect to an Interest Period for a LIBOR Rate Loan, the rate per annum obtained by dividing (and rounding upward to the next whole multiple of one-sixteenth of one percent (1/16 of 1%)) (i) (a) the rate per annum (rounded to the nearest one-hundredth of one percent (1/100 of 1%)) equal to the rate determined by Administrative Agent to be the offered rate which appears on Reuters Screen LIBOR01 Page for deposits (for delivery on the first day of such period) with a term equivalent to such period in Dollars, determined as of approximately 11:00 a.m. (London, England time) on such Interest Rate Determination Date, or (b) in the event the rate referenced in the preceding clause (a) does not appear on such page or service or if such page or service shall cease to be available, the rate per annum (rounded to the nearest one-hundredth of one percent (1/100 of 1%)) equal to the rate determined by Administrative Agent to be the offered rate on such other page or other service which displays an average British Bankers Association Interest Settlement Rate for deposits (for delivery on the first day of such period) with a term equivalent to such period in Dollars, determined as of approximately 11:00 a.m. (London, England time) on such Interest Rate Determination Date, or (c) in the event the rates referenced in the preceding clauses (a) and (b) are not available, the rate per annum (rounded to the nearest one-hundredth of one percent (1/100 of 1%)) equal to the offered quotation rate to first class banks in the London interbank market for deposits (for

delivery on the first day of the relevant period) in Dollars of amounts in same day funds comparable to the principal amount of the applicable Loan, for which the Adjusted LIBOR Rate is then being determined with maturities comparable to such period as of approximately 11:00 a.m. (London, England time) on such Interest Rate Determination Date as determined by Administrative Agent in accordance with its customary practices, by (ii) an amount equal to (a) one, minus (b) the Applicable Reserve Requirement.

(e) For purposes hereof, “First Out Base Rate” means, for any day, the higher of (i) the Prime Rate, and (ii) the Federal Funds Effective Rate from time to time plus three percent (3.0%). Any change in the First Out Base Rate due to a change in the Prime Rate or the Federal Funds Effective Rate shall be effective on the effective day of such change in the Prime Rate or the Federal Funds Effective Rate, respectively.

## **Section 2. L/Cs.**

(a) L/C Fees. Notwithstanding anything to the contrary in the Credit Agreement, Credit Agreement Lenders and Administrative Agent agree that all payments of letter of credit fees pursuant to Section 2.10(a)(ii) of the Credit Agreement (each, an “L/C Fee Payment”) and delivered by the Company (or by any Guarantor or other Person on behalf of the Company) to Administrative Agent’s Account for the account of the Lenders shall be allocated and paid as follows:

(i) to such First Out Lender for letter of credit fees equal to (1) the interest rate applicable to First Out Lender’s Revolving Loans that are LIBOR Rate Loans (including both the First Out LIBOR Rate (determined for an Interest Period of one month as of the first Business Day of such month) and First Out Lender Applicable Margin components thereof and after giving effect to any First Out Lender Default Rate thereon at such time), times (2) the average aggregate daily maximum amount available to be drawn under all such Letters of Credit (regardless of whether any conditions for drawing could then be met and determined as of the closing of business on any date of determination), less the credit, if any, referred to in the second sentence of Section 2.10(a)(ii) of the Credit Agreement; and

(ii) all remaining amounts of such L/C Fee Payments to the Last Out Lenders in proportion to their respective Last Out Lender Pro Rata Shares as an additional fee.

(b) Rights and Remedies. Administrative Agent acknowledges and agrees that all of the Administrative Agent’s rights and remedies as the arranger for the issuance of any Letters of Credit under the Credit Agreement shall inure to the benefit of Wells Fargo Foothill, LLC to the extent Wells Fargo Foothill, LLC has arranged for the issuance of any such Letter of Credit.

**Section 3. Payments During Event of Default.** Notwithstanding anything to the contrary in the Credit Agreement, if an Event of Default shall have occurred and not otherwise been waived pursuant to the terms of Section 5 hereof, any payments received by Last

Out Lenders in their capacity as such (“EoD Payments”) while the Loans or Note Obligations owing to the First Out Lenders have not been Paid in Full (as defined in Section 6 below) shall be paid over by each Last Out Lender to the Administrative Agent for payment to the First Out Lenders (1) first, to pay any outstanding principal and accrued unpaid interest on account of the Note in an aggregate amount equal to the lesser of (i) the EoD Payments received by such Last Out Lender and (ii) the aggregate outstanding principal amount and accrued unpaid interest on account of the Note, and (2) thereafter in proportion to the Unpaid Principal of their respective Loans in an aggregate amount equal to the lesser of (i) the EoD Payments (after application of any amounts paid pursuant to clause (1)) received by such Last Out Lender and (ii) such Last Out Lender’s Pro Rata Share of the amount by which such Obligations owing to First Out Lenders are not Paid in Full. As payments by the Last Out Lenders to the First Out Lenders required pursuant to clause (2) of this Section 3 are received by the First Out Lenders, the First Out Lenders shall automatically and irrevocably assign to the Last Out Lenders, ratably in accordance with the Last Out Lenders’ contribution to such payment, an interest in the First Out Lenders’ Revolving Loans (and the corresponding Revolving Commitments) in the aggregate principal amount and accrued and unpaid First Out Lender Interest equal to the aggregate amount of such payment received by the First Out Lenders pursuant to this Section 3, such assignment being made together with all rights, remedies and collateral related to such Revolving Loans. Each such assignment shall be without recourse to the First Out Lenders and without representation or warranty by the First Out Lenders. Each such assignment shall be complete for all purposes upon receipt by the First Out Lenders of a payment under this Section and shall not require further documentation or action by either the First Out Lenders or the Last Out Lenders. Upon request of the Last Out Lenders following any such assignment, First Out Lenders will provide customary evidence of such assignment reasonably acceptable to First Out Lenders and Last Out Lenders, all at the expense of Last Out Lenders. Last Out Lenders agree that until First Out Lenders have been Paid in Full from any source, Last Out Lenders shall not have any right to separately enforce the Revolving Loans assigned to them or any collateral therefore. For avoidance of doubt and by way of example, the rights of Last Out Lenders in respect of any such assigned Revolving Loans will be similar to the rights of a subrogee.

#### **Section 4. Application of Prepayments and Proceeds of Collateral.**

(a) The Last Out Lenders and the First Out Lenders intend that other than during the continuance of an Event of Default, (1) no payments (voluntary, mandatory or otherwise) shall be made under the Credit Agreement until the Note has been Paid in Full, and (2) thereafter, each voluntary and mandatory prepayment of outstanding principal amounts of the Loans made under Section 2.12 or 2.13 of the Credit Agreement or any other provision of the Credit Agreement (each such voluntary or mandatory prepayment of principal, a “Prepayment”) be applied in the following priority:

(i) *first*, to the payment of outstanding principal amount of Revolving Loans held by the First Out Lenders until an aggregate of \$5,000,000 in principal amount of Revolving Loans, or such lesser amount outstanding at such time of Prepayment, together with accrued but unpaid First Out Lender Interest thereon, shall have been prepaid from all Prepayments or purchased by the Last Out Lenders as a result of the application of the provisions of Section 4(b), with a permanent reduction in Revolving Commitments to the extent necessary to cause all permanent reductions in Revolving Commitments (together

with Revolving Commitments assumed by the Last Out Lenders as a result of the application of the provisions of Section 4(b) to equal \$5,000,000;

(ii) *second*, to the payment of outstanding Term Loans on a pro rata basis (in accordance with the outstanding principal amounts thereof) or Revolving Loans, in each case held by the Last Out Lenders, until an aggregate of \$12,400,000 of principal amount of Term Loans and Revolving Loans held by the Last Out Lenders (together with interest, expenses, Prepayment Premium and Make-Whole Amount then due, owing and unpaid in connection therewith) shall have been prepaid from all Prepayments under the Credit Agreement;

(iii) *third*, to the payment of outstanding Revolving Loans held by the First Out Lenders until no Revolving Loans held by the First Out Lenders remain outstanding, with such corresponding Revolving Commitments being permanently reduced to the full extent thereof;

(iv) *fourth*, to the Administrative Agent as additional cash collateral for Letter of Credit Usage in an amount equal to the difference between (x) the Letter of Credit Usage at such time and (y) the amount of Cash collateral then held by Administrative Agent securing the L/C Funding Support at such time; and

(v) *thereafter*, to the payment of outstanding Term Loans on a pro rata basis (in accordance with the outstanding principal amounts thereof) and Revolving Loans, in each case held by the Last Out Lenders, with such corresponding Revolving Commitments being permanently reduced to the full extent thereof.

(b) Unless otherwise agreed to by the Requisite First Out Lenders, if the Last Out Lenders receive any Prepayment prior to the satisfaction in full of Section 4(a)(i) (each such Prepayment, an "Early Prepayment"), then promptly following such Early Prepayment, the Last Out Lenders shall (in proportion to the amount of such Early Prepayment received by each such Last Out Lender):

(i) (A) purchase from the First Out Lenders Revolving Loans, together with accrued but unpaid First Out Lender Interest thereon, in accordance with the outstanding principal amounts thereof, with an aggregate outstanding principal amount equal to the lesser of (x) the amount of such Early Prepayment and (y) the amount necessary to result in the satisfaction in full of Section 4(a)(i) and (B) assume from the First Out Lenders the corresponding Revolving Commitments; and

(ii) assume from the First Out Lenders Revolving Commitments equal to the lesser of (x) the excess of (A) the amount of such Early Prepayment over (B) the amount of such Early Prepayment applied in accordance with Section 4(b)(i) and (y) the amount necessary to result in the satisfaction in full of Section 4(a)(i).

(c) Unless otherwise agreed to by the Requisite First Out Lenders, if the Last Out Lenders receive any Prepayment other than Prepayments permitted by Section 4(a)(ii) prior to the satisfaction in full of Section 4(a)(iii) (each such Prepayment, also an “Early Prepayment”), then promptly following such Early Prepayment, the Last Out Lenders shall (in proportion to the amount of such Early Prepayment received by each such Last Out Lender):

(i) (A) purchase from the First Out Lenders Revolving Loans, together with accrued but unpaid First Out Lender Interest thereon, in accordance with the outstanding principal amounts thereof, with an aggregate outstanding principal amount equal to the lesser of (x) the amount of such Early Prepayment and (y) the amount necessary to result in the satisfaction in full of Section 4(a)(iii) and (B) assume from the First Out Lenders the corresponding Revolving Commitments; and

(ii) assume from the First Out Lenders Revolving Commitments equal to the lesser of (x) the excess of (A) the amount of such Early Prepayment over (B) the amount of such Early Prepayment applied in accordance with Section 4(c)(i) and (y) the amount necessary to result in the satisfaction in full of Section 4(a)(iii).

(d) Any purchase of Revolving Loans or assumption of Revolving Commitments made under Section 4.1(b) or 4.1(c) shall be (i) for a purchase price equal to 100% of the principal amount of, and accrued but unpaid First Out Lender Interest on, the Revolving Loans being purchased as of the date of purchase and (ii) consummated in accordance with the terms of Section 10.6(c) of the Credit Agreement.

(e) Notwithstanding anything to the contrary in the Credit Agreement, the Credit Agreement Lenders and Administrative Agent agree that all voluntary prepayments and mandatory payments of each First Out Lender’s Loans made pursuant to Section 2.12 and Section 2.13 of the Credit Agreement or any other provision of the Credit Agreement (each, a “Covered Prepayment”) and delivered by the Company (or by any Guarantor or other Person on behalf of the Company) to Administrative Agent’s Account for the account of the Lenders shall be allocated and paid as follows:

(i) the portion of such prepayment constituting interest (including default interest) accrued on such First Out Lender’s Loans shall be allocated and paid in accordance with the terms of Section 1;

(ii) the portion of such prepayment constituting outstanding principal of such First Out Lender’s Loans, to such First Out Lender; and

(iii) the portion of such prepayment constituting the Prepayment Premium or Make-Whole Amount, if any, to the Last Out Lenders in proportion to their respective Last Out Lender Pro Rata Shares.

(f) Notwithstanding the purchase or assumption by any Last Out Lender of Revolving Loans, Revolving Commitments, or Note Obligations pursuant to any

section of this Agreement, such Last Out Lender shall not be deemed to be a First Out Lender for purposes of this Agreement, and Last Out Lenders shall not constitute a Holder (as defined in the Note) for purposes of the definition of Majority Holders (as defined in the Note).

### **Section 5. Voting and Other Rights.**

(a) In addition to the restrictions and conditions set forth in Section 10.5 of the Credit Agreement (except as expressly set forth herein), Last Out Lenders shall not agree, without the prior written consent of First Out Lenders, to any amendment, modification, termination or waiver of (whether before or after an Event of Default), or consent to any departure by any Credit Party therefrom (including during any dissolution, winding up, liquidation, readjustment proceeding, reorganization proceeding or other similar proceedings relating to the Company or any Guarantor (or substantially all of its respective property) whether voluntary or involuntary, partial or complete, and whether in bankruptcy, insolvency or receivership, or upon an assignment for the benefit of creditors, or any other marshalling of the assets and liabilities of such entity (an “Insolvency Proceeding”)), in respect of: (i) Sections 2.2, 2.3, 2.9, 2.11, 2.12, 2.13, 2.14, 2.15, 2.16, 6.1, 6.2, 6.4, 6.7, 6.8, 6.11 (solely with respect to the accrual of management fees to Johan van den Berg pursuant to such Section 6.11 of the Credit Agreement), 6.17, 6.19, 8.1(a), 8.1(c) and 8.1(e) (solely, in the case of Sections 8.1(c) and 8.1(e) of the Credit Agreement, with respect to the sections of the Credit Agreement referred to in this Section 5.1(a)(i)), 8.1(f), 8.1(g), 8.1(m), 8.1(p), 9.6, 9.7 (with respect to the appointment of a successor Administrative Agent or Collateral Agent), or 10.6(c) of the Credit Agreement (or in respect of any definitions used in such Sections), (ii) Section 3.2(a)(iv) (with respect to an Event of Default arising from a breach of any of the sections of the Credit Agreement specified in Section 5(a)(i) hereof) of the Credit Agreement, (iii) Section 5.6 of the Security Agreement, or (iv) the subordination of the Liens securing the Loans held by First Out Lender to any other Liens in favor of any other Person.

(b) Unless otherwise agreed to by the Requisite First Out Lenders, if the Last Out Lenders receive any Prepayment or distribution of a payment made under the Capital Lease after agreeing, without the prior written consent of First Out Lenders, to any waiver of an Event of Default (each such Prepayment or distribution, a “Post-Waiver Prepayment”), then promptly following such Post-Waiver Prepayment, the Last Out Lenders shall (in proportion to the amount of such Post-Waiver Prepayment received by each such Last Out Lender) (1) apply such Post-Waiver Prepayment to the payment of any outstanding principal and accrued unpaid principal on account of the Note, and (2) after the Note has been Paid in Full:

(i) (A) purchase from the First Out Lenders Revolving Loans, together with accrued but unpaid First Out Lender Interest thereon, in accordance with the outstanding principal amounts thereof, with an aggregate outstanding principal amount equal to the lesser of (x) the amount of such Post-Waiver Prepayment and (y) the amount of all outstanding Revolving Loans held by First Out Lenders and (B) assume from the First Out Lenders the corresponding Revolving Commitments; and

(ii) assume from the First Out Lenders Revolving Commitments equal to the lesser of (x) the excess of (A) the amount of



such Post-Waiver Prepayment over (B) the amount of such Post-Waiver Prepayment applied in accordance with Section 5(b)(i) and (y) the amount of all outstanding Revolving Commitments held by First Out Lenders.

**Section 6. Payment in Full; Reinstatement.**

(a) If any post-petition interest accruing with respect to Obligations or Note Obligations is received by Last Out Lenders in their capacity as such (“Permitted Adequate Protection Payments”) and the Obligations and Note Obligations owing to First Out Lenders have not been Paid in Full, then each Last Out Lender shall pay over to First Out Lenders an aggregate amount equal to the lesser of (i) the Permitted Adequate Protection Payments received by such Last Out Lender and (ii) such Last Out Lender’s Pro Rata Share of the amount by which such Obligations and Note Obligations owing to First Out Lenders have not been Paid in Full.

(b) For purposes of this Agreement, the term “Paid in Full” means, with respect to any First Out Lender’s Loan or Note, the: (i) payment in full in cash of the Unpaid Principal of, and First Out Lender Interest on, such First Out Lender’s Loans and all expenses, costs and other charges with respect to such First Out Lender’s Loans (including First Out Lender interest, expenses, costs and other charges accrued or accruing on or after the commencement of any case under the Bankruptcy Code or similar law affecting creditors’ rights generally, but only to the extent either (x) allowed in such case or proceeding or (y) disallowed or not allowable or deemed unenforceable in such case or proceeding in accordance with Section 506(b) of the Bankruptcy Code or similar bankruptcy law (except for expenses, costs and other charges disallowed by final, non-appealable order as not “reasonable” under Section 506(b) of the Bankruptcy Code or similar bankruptcy law)) and all Note Obligations of such First Out Lender; (ii) termination or expiration of all Revolving Commitments of such First Out Lender, if any; and (iii) termination or cash collateralization of all outstanding Letters of Credit of such First Out Lender.

(c) In the event the Administrative Agent or any Lender is required by final, non-appealable order by a court of competent jurisdiction to return any payments received by it in respect of the Obligations or Note Obligations to which such payment had been applied, such Obligations or Note Obligations shall be reinstated and shall not be deemed to have been Paid in Full. If after Obligations and Note Obligations owing to First Out Lenders have been Paid in Full, any such First Out Lender must disgorge any payments made to it on such Obligations or Note Obligations, this Agreement and the relative rights and priorities provided in it will be reinstated as to all disgorged payments as though the payments had not been made, and the Last Out Lenders will immediately pay the First Out Lenders all payments received on account of the Obligations to the Last Out Lenders or as a result of distributions of payments received under the Capital Lease to the extent that any such payments would have been prohibited under this Agreement. As payments by the Last Out Lenders to the First Out Lenders required pursuant to this Section 6 are received by the First Out Lenders, the First Out Lenders shall automatically and irrevocably assign to the Last Out Lenders, ratably in accordance with the Last Out Lenders’ contribution to such payment, an interest in the First Out Lenders’ Revolving Loans and Notes in the aggregate principal amount and accrued and unpaid First Out Lender Interest or interest, as the case may be, equal to the aggregate amount of such payment received by the First Out Lenders pursuant to this Section 6 in respect of the Last Out Lenders’ Obligations and Note Obligations, such assignment being made together with all rights, remedies

and collateral related thereto. Each such assignment shall be without recourse to the First Out Lenders and without representation or warranty by the First Out Lenders. Each such assignment shall be complete for all purposes upon receipt by the First Out Lenders of a payment under this Section and shall not require further documentation or action by either the First Out Lenders or the Last Out Lenders. Upon request of the Last Out Lenders following any such assignment, First Out Lenders will provide customary evidence of such assignment reasonably acceptable to First Out Lenders and Last Out Lenders, all at the expense of Last Out Lenders. Last Out Lenders agree that until First Out Lenders have been Paid in Full from any source, Last Out Lenders shall not have any right to separately enforce the Revolving Loans or Notes assigned to them or any collateral therefor. For avoidance of doubt and by way of example, the rights of Last Out Lenders in respect of any such assigned Revolving Loans or Notes will be similar to the rights of a subrogee.

(d) In the event that any payment is made by Last Out Lenders pursuant to Section 6(a) the proceeds of which are used to cash collateralize outstanding Letters of Credit, such proceeds (to the extent not required to be paid over to First Out Lenders on account of any outstanding Obligations or Note Obligations owing them) shall be repaid to Last Out Lenders at the time such Letter of Credit is cancelled or expires.

#### **Section 7. Bankruptcy Provisions.**

(a) Administrative Agent, Capital Lease Secured Parties, and Last Out Lenders each agree that they will not, without the prior written consent of the First Out Lenders, commence, or join with any other creditor of the Company or any Guarantor in commencing, any Insolvency Proceeding.

(b) Except as expressly set forth herein, in the event of any Insolvency Proceeding, the Obligations and Note Obligations to the First Out Lenders shall first be Paid in Full before any Last Out Lender shall be entitled to receive and to retain any payment or distribution in respect of the Obligations owing it in such capacity or in its capacity of equity owner of SP Eurofresh, and, in order to implement the foregoing, all payments and distributions of any kind or character in respect of the Obligations and distributions from SP Eurofresh to which the Last Out Lenders would be entitled if such Obligations and distributions were not subordinated pursuant to this Agreement shall be made directly to the First Out Lenders until the Obligations and Note Obligations owing them in such capacity have been Paid in Full. As payments by the Last Out Lenders to the First Out Lenders required pursuant to this Section 7(b) are received by the First Out Lenders, the First Out Lenders shall automatically and irrevocably assign to the Last Out Lenders, ratably in accordance with the Last Out Lenders' contribution to such payment, an interest in the First Out Lenders' Revolving Loans or Notes, as the case may be, in the aggregate principal amount and accrued and unpaid First Out Lender Interest or interest, as the case may be, equal to the aggregate amount of such payment received by the First Out Lenders pursuant to this Section 7(b), such assignment being made together with all rights, remedies and collateral related to such Revolving Loans or Notes. Each such assignment shall be without recourse to the First Out Lenders and without representation or warranty by the First Out Lenders. Each such assignment shall be complete for all purposes upon receipt by the First Out Lenders of a payment under this Section and shall not require further documentation or action by either the First Out Lenders or the Last Out Lenders. Upon request of the Last Out Lenders following any such assignment, First Out Lenders will provide customary evidence of

such assignment reasonably acceptable to First Out Lenders and Last Out Lenders, all at the expense of Last Out Lenders. Last Out Lenders agree that until First Out Lenders have been Paid in Full from any source, Last Out Lenders shall not have any right to separately enforce the Revolving Loans or Notes assigned to them or any collateral therefor. For avoidance of doubt and by way of example, the rights of Last Out Lenders in respect of any such assigned Revolving Loans and Notes will be similar to the rights of a subrogee.

(c) In the event of any Insolvency Proceeding prior to the date on which the Obligations and Note Obligations of the First Out Lenders have been Paid in Full, Administrative Agent and Last Out Lenders agree that (i) each Last Out Lender shall not consent to any sale, use or other disposition of Collateral (including any cash Collateral) or consent to any new financing secured by Liens over any of the Collateral, without the prior written consent of Requisite First Out Lenders, (ii) each Last Out Lender shall object to any such new financing or use or other disposition of Collateral (including any cash Collateral) unless consented to in writing by Requisite First Out Lenders, and (iii) each Lender shall retain its rights to vote its secured or unsecured claim in such case or other proceeding, and to object to, support, accept or reject any plan of reorganization or similar dispositive plan of restructuring. “Requisite First Out Lenders” means the First Out Lenders holding more than 50% of the aggregate Revolving Exposure and outstanding principal amount of the Notes.

#### **Section 8. Purchase Option; Purchase Obligation.**

(a) Within each ten (10) Business Day period after the occurrence of each Purchase Option Event (as defined below), Last Out Lenders shall have the right upon written notice to the Administrative Agent and the First Out Lenders (a “Purchase Notice”) during such period to purchase from First Out Lenders all (but not less than all) of the right, title, and interest of First Out Lenders in and to (i) all Obligations owing to First Out Lenders under the Credit Agreement and other Credit Documents (the “Credit Agreement Purchase Obligations”) and (ii) all Obligations (as defined in the Note, the “Note Obligations”) owing to First Out Lenders in their capacity as Holders (as defined in the Note, the “Holders”) under the Note (as defined in the Capital Lease, the “Note”) and other Basic Documents (as defined in the Note, the “Basic Documents”) under the Note (the “Note Purchase Obligations”, and together with the Credit Agreement Purchase Obligations, the “Purchase Obligations”). Within three (3) Business Days after the occurrence of each Purchase Option Event, each Last Out Lender will notify the Administrative Agent in writing if such Last Out Lender is exercising its right to so purchase the Purchase Obligations (each such Last Out Lender, a “Purchaser”). Each Purchaser will participate on a Pro Rata Basis under this Section 8(a). For purposes of this Section 8 and Section 9, Pro Rata Basis shall mean, with respect to all purchases hereunder, relating to a Last Out Lender, the percentage obtained by dividing the Tranche A Term Loan Exposure plus the Tranche B Term Loan Exposure of the Purchaser by the aggregate Tranche A Term Loan Exposure and Tranche B Term Loan Exposure of all Purchasers. The Purchase Notice, if given, shall be irrevocable and each First Out Lender that receives a Purchase Notice shall be deemed to be a “Seller” hereunder. Failure to provide a Purchase Notice for any Purchase Option Event shall not affect the Last Out Lenders’ right hereunder upon the occurrence of any subsequent Purchase Option Event.

(b) On the date specified by Administrative Agent in the Purchase Notice (which shall not be more than five (5) Business Days after the receipt by Sellers of the

Purchase Notice), Purchasers shall purchase from the Sellers and Sellers shall sell to Purchasers the Purchase Obligations. On the date of such purchase and sale, each Purchaser shall pay to Sellers on a Pro Rata Basis an aggregate purchase price equal to the sum of (i) in the case of the Note Purchase Obligations then outstanding, 100% of the principal amount of, and accrued interest owing to First Out Lenders in their capacity as Holders outstanding on, the Note Purchase Obligations on the date of purchase, plus (ii) in the case of Credit Agreement Purchase Obligations then outstanding (other than Letters of Credit), 100% of the principal amount of, and accrued First Out Lender Interest outstanding on, such Loans on the date of purchase, plus (iii) in the case of each outstanding Letter of Credit that is not replaced by the Last Out Lenders (or otherwise) and then outstanding and included in the Purchased Obligations, the amount set forth in paragraphs (c) and (d) of this Section below (all amounts payable under clause (iii), collectively, the “Acquired L/C Obligations”);

(c) Such purchase price will be payable in cash on the date of purchase against transfer of the Purchase Obligations to Last Out Lenders; provided that the purchase price in respect of any outstanding Letter of Credit that is not replaced by the Last Out Lenders (or otherwise) and remains undrawn on the date of purchase will be payable as and when such letter of credit is drawn (i) first from the cash collateral account described in paragraph (d) below, until the amounts contained therein have been exhausted, and (ii) thereafter directly by Purchasers, on a Pro Rata Basis; and

(d) Such purchase price will be accompanied by a deposit of cash collateral under the dominion and control of First Out Lenders or their designee in an amount equal to 101% of the aggregate undrawn amount that remains available to draw under the outstanding letters of credit as security for the Purchasers’ purchase of the Acquired L/C Obligations, subject to the agreement that if any such letter of credit (i) is cancelled and returned to the issuer thereof or reduced, (ii) expires in accordance with its terms or (iii) is drawn in its full face amount, First Out Lenders or their designee holding such cash collateral will promptly return to each Purchaser, on a Pro Rata Basis, an aggregate amount equal to the excess, if any, of (i) the amount deposited as cash collateral in respect of such Letter of Credit, over (ii) the amount equal to 100% of the reimbursement obligation outstanding in respect of such Letter of Credit as and when such letter of credit is reduced, cancelled, expires or is drawn, as the case may be, plus accrued interest thereon, and all other Obligations (other than unasserted contingent Obligations) relating to such Letter of Credit that are outstanding as and when such Letter of Credit is cancelled, expires or is drawn, as the case may be.

(e) Such purchase price shall be remitted by wire transfer in federal funds to such bank account of Sellers as Sellers may designate in writing to the Administrative Agent for such purpose. Interest owed to Sellers shall be calculated to but excluding the Business Day on which such purchase and sale shall occur if the amounts so paid by Purchasers to the bank account designated by Sellers are received in such bank account prior to 2:00 p.m., New York City time, and interest shall be calculated to and including such Business Day if the amounts so paid by Purchasers to the bank account designated by Sellers are received in such bank account later than 2:00 p.m., New York City time.

(f) Such purchase and sale shall be expressly made without representation or warranty of any kind by Sellers and without recourse to Sellers, except that each Seller shall represent and warrant that: (i) it is the legal and beneficial owner of the

Purchase Obligations, (ii) the Purchase Obligations are free and clear of any lien, encumbrance or other adverse claim against title, (iii) it has full power and authority, and has taken all action necessary, to execute and deliver the documents necessary to effect such purchase and sale and to consummate the transactions contemplated thereby, and (iv) the purchase price represents all amounts due and owing to such Seller under (1) the Credit Agreement and the other Credit Documents and (2) Note and other Basic Documents, in each case, as reflected on such Seller's books and records.

(g) In the event of such purchase and sale, each First Out Lender shall (i) to the extent that rights and Obligations under the Credit Agreement have been purchased and sold, relinquish its rights (other than any rights which survive the termination under Section 10.9 of the Credit Agreement as in effect on the date hereof) and (ii) to the extent that rights and Note Obligations under the Note have been purchased and sold, relinquish its rights (other than any rights which survive the termination under Section 15(f) of the Note as in effect on the date hereof).

(h) For purposes of this Section 8, the term "Purchase Option Event" means (1) the occurrence of an Event of Default under the Credit Agreement or the failure of First Out Lenders to agree to any amendment, modification, termination or waiver of the Credit Agreement or other Credit Documents, or consent to any departure by any Credit Party therefrom with respect to which the agreement of First Out Lenders is required under Section 5 hereof or Section 10.5 of the Credit Agreement or (2) the failure of the First Out Lenders in their capacity as Holders to agree to any amendment, modification, termination or waiver of the Note or other Basic Documents, or consent to any departure by any party therefrom. Administrative Agent will determine in its reasonable discretion when a Purchase Option Event exists and will provide prompt notice thereof to the Last Out Lenders.

**Section 9. Right of First Refusal.** So long as the Last Out Lenders party hereto on the date hereof and their Affiliates hold Loans representing more than 50% of the aggregate Tranche A Term Loan Exposure and Tranche B Term Loan Exposure of all Lenders,

(a) Any First Out Lender may, subject to compliance with this Section 9, Section 10.6 of the Credit Agreement, and Sections 11 and 13 of the Note, as applicable, and subject to any prospective participant, transferee or assignee becoming a party to this Agreement and agreeing, in form and substance reasonably acceptable to the Last Out Lenders, to purchase such Loans, Note or Revolving Commitment, as applicable, subject to the terms and conditions of this Agreement, participate or otherwise transfer or assign any or all of its right, interest and title in and to its Loans, Note or Revolving Commitments, as applicable, to any third person at any time (in any such case a "First Out Sale").

(b) Prior to making any First Out Sale, such First Out Lender shall offer Last Out Lenders, by notice to the Administrative Agent, a right of first refusal to purchase the portion of the interest so offered for First Out Sale on the same terms offered to the prospective transferee, assignee or participant in connection with the applicable First Out Sale contemplated by this Section 9.

(c) In the event that such First Out Lender offers any such right of first refusal to Last Out Lenders, Last Out Lenders promptly shall accept or reject such right of first

refusal (and shall in any event, notify the Administrative Agent of such acceptance or refusal within three (3) Business Days of receipt of notice of such offer), and, if accepted, promptly shall close the purchase of the portion of the right, title and interest of the First Out Lenders so offered to Last Out Lenders at par (or such lesser amount as is set forth in the terms and conditions of the First Out Sale), and in any event within ten (10) Business Days of the written offer thereof by First Out Lenders to Last Out Lenders, failing which such First Out Lender shall be free to consummate such First Out Sale to any such third person without restriction other than as set forth in the Credit Agreement, Note and paragraph (e) below, as applicable, and subject to any prospective participant, transferee or assignee becoming a party to this Agreement and agreeing, in form and substance reasonably acceptable to the Last Out Lenders, to purchase such Loans, Note or Revolving Commitment, as applicable, subject to the terms and conditions of this Agreement. Any purchase by the Last Out Lenders pursuant to this Section 9(a) shall be on a Pro Rata Basis among Last Out Lenders electing to accept such offer.

(d) Anything in this Agreement to the contrary notwithstanding, each First Out Lender may sell, pledge, transfer or assign additional participation interests in the Note, its Loans or the Revolving Commitments (each a “Subject Transfer”) without any of the foregoing restrictions (other than those set forth in the proviso below) in connection with (y) transfers or assignments (i) by such First Out Lender of its interests to any other Affiliate of such First Out Lender, or (ii) in connection with a transfer or assignment of all or a substantial part of the loan portfolio of such First Out Lender, or (z) any assignment to a collection or similar agency; provided however, (i) in the case of Subject Transfer which is the subject of subclause (y) above, the restriction set forth in paragraph (e) below shall apply to such Subject Transfer, (ii) in the case of Subject Transfer which is the subject of subclause (z) above, the restriction set forth in paragraph (b) above granting Last Out Lenders the foregoing right of first refusal shall apply to such Subject Transfer) and (iii) the prospective participant, transferee or assignee in such Subject Transfer shall become a party to this Agreement and agree, in form and substance reasonably acceptable to the Last Out Lenders, to purchase the Loans, Note or Revolving Commitment, as applicable, subject of such Subject Transfer subject to the terms and conditions of this Agreement.

(e) Any First Out Sale (other than one made to any Last Out Lenders) shall be made subject to Last Out Lenders’ rights to acquire such portion of the right, title and interest of the First Out Lenders in and to the Obligations, the Revolving Commitments, the Credit Documents, the Note Obligations, Note, and Basic Documents, as applicable, subject to the apportionment of payments set forth in this Agreement.

**Section 10. No Amendments; Confirmation.** The agreements contained herein shall not constitute, and are not intended to be, an amendment to the Credit Agreement, and all provisions of the Credit Agreement are and shall remain in full force and effect.

**Section 11. Miscellaneous.**

(a) Indemnity. Each Last Out Lender and First Out Lender (each, an “Indemnitor”) agrees to indemnify the Administrative Agent and its officers, partners, directors, trustees, employees, representatives and agents (each, an “Indemnitee Agent Party”) from and against any and all Indemnified Liabilities (as defined below), IN ALL CASES, WHETHER OR NOT CAUSED BY OR ARISING, IN WHOLE OR IN PART, OUT OF THE

COMPARATIVE, CONTRIBUTORY, OR SOLE NEGLIGENCE OF SUCH ADMINISTRATIVE AGENT; provided, no Indemnitor shall be liable for any portion of such Indemnified Liabilities resulting from such Indemnitee Agent Party's gross negligence or willful misconduct as determined by a court of competent jurisdiction in a final, nonappealable order. If any indemnity furnished to any Indemnitee Agent Party for any purpose shall, in the opinion of such Indemnitee Agent Party, be insufficient or become impaired, such Indemnitee Agent Party may call for additional indemnity and cease, or not commence, to do the acts indemnified against until such additional indemnity is furnished; provided, in no event shall this sentence require any Indemnitor to indemnify any Indemnitee Agent Party against any Indemnified Liability in excess of such Indemnitor's Pro Rata Share thereof; and provided further, this sentence shall not be deemed to require any Indemnitor to indemnify any Indemnitee Agent Party against any Indemnified Liability described in the proviso in the immediately preceding sentence. For the purposes of this Agreement, "Indemnified Liabilities" means, collectively, any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses (including counsel fees and disbursements) or disbursements of any kind or nature whatsoever which may be imposed on, incurred by or asserted against such Indemnitee Agent Party in exercising its powers, rights and remedies or performing its duties hereunder or under the other Credit Documents or otherwise in its capacity as such Indemnitee Agent Party in any way relating to or arising out of this Agreement.

(b) Waivers and Amendments; Non-Contractual Remedies; Preservation of Remedies. This Agreement may be amended, superseded, canceled, renewed or extended, and the terms hereof may be waived, only by a written instrument signed by the parties hereto or, in the case of a waiver, by the party waiving compliance. No delay on the part of any party on exercising any right, power or privilege hereunder shall operate as a waiver thereof, nor shall any waiver on the part of any party of any right, power or privilege, nor any single or partial exercise of any such right, power or privilege, preclude any further exercise thereof or the exercise of any other such right, power or privilege. The rights and remedies herein provided are cumulative and are not exclusive of any rights or remedies that any party may otherwise have at law or in equity.

(c) Entire Agreement; Assignment. This Agreement (i) constitutes the entire agreement between the parties with respect to the subject matter hereof and supersedes all other prior agreements and understandings, both written and oral, between the parties with respect to the subject matter hereof and (ii) may be assigned by operation of law or otherwise, provided that, as a condition to any assignment, any assignee of a Loan held by any First Out Lender or any Last Out Lender (other than an affiliate authorized by a party hereto to be bound to the terms hereof) shall execute and deliver to the other parties hereto an agreement to be bound by the provisions of this Agreement. In furtherance of the foregoing, Administrative Agent agrees that it shall not unreasonably withhold, condition or delay its consent to the assignment of any Loans and related interests held by First Out Lender under the Credit Agreement and shall consent to any such assignment to any Affiliate of First Out Lender or to any fund that invests in commercial loans and that is managed or advised by First Out Lender or by an Affiliate of First Out Lender provided that such assignment complies with the terms and conditions of the Credit Agreement. Notwithstanding anything contained in the Credit Agreement or any Credit Document to the contrary, no Last Out Lender will assign, grant a participation in or otherwise transfer or assign any of its right, interest and title in and to any of its Loans or Commitments to any third person at any time unless such third person delivers to the

First Out Lenders an agreement, in form and substance reasonably satisfactory to the First Out Lenders, whereby such third person agrees to be bound by the provisions of this Agreement as a "Last Out Lender".

(d) Validity. The invalidity or unenforceability in any respect of any provision of this Agreement shall not affect the validity or enforceability of such provision in any other respect or of any other provisions of this Agreement, each of which shall remain in full force and effect.

(e) Notices. All notices, requests, demands and other communications under this Agreement must be in writing and will be deemed to have been duly given or made as follows: (i) if sent by registered or certified mail in the United States return receipt requested, upon receipt; (ii) if sent by reputable overnight air courier two business days after mailing; (iii) if sent by facsimile transmission, with a copy mailed on the same day in the manner provided in (i) or (ii) above, when transmitted and receipt is confirmed by telephone; or (iv) if otherwise actually personally delivered, when delivered, and shall be delivered as follows:

If to First Out Lender:

WELLS FARGO FOOTHILL, LLC  
2450 Colorado Avenue  
Suite 3000 West  
Santa Monica, California 90404  
Attn: Business Finance Division Manager  
Telephone No.: (310) 453-7413  
Facsimile No.: (310) 453-7200

If to the Last Out Lenders:

c/o Silver Point Finance, LLC  
Silver Point Capital  
2 Greenwich Plaza  
Greenwich, CT 06830  
Attn: Richard Madigan, Portfolio Manager  
Telephone No.: (203) 542-4229  
Facsimile No.: (203) 542-4329

(f) Governing Law. This Agreement shall be governed by, and shall be construed and enforced in accordance with, the laws of the State of New York.

(g) **WAIVER OF JURY TRIAL.** **THE PARTIES HERETO AGREE THAT THEY HEREBY IRREVOCABLY WAIVE AND AGREE TO CAUSE THEIR RESPECTIVE AFFILIATES TO WAIVE, THE RIGHT TO TRIAL BY JURY IN ANY ACTION TO ENFORCE OR INTERPRET THE PROVISIONS OF THIS AGREEMENT.**



(h) Descriptive Headings. The descriptive headings herein are inserted for convenience of reference only and are not intended to be part of or to affect the meaning or interpretation of this Agreement.

(i) Counterparts. This Agreement may be executed in any number of counterparts, each of which when so executed and delivered shall be deemed an original, but all such counterparts together shall constitute but one and the same instrument. Delivery of an executed counterpart of this Agreement by facsimile or other electronic means shall be equally effective as delivery of the original executed counterpart of this Agreement. Any party delivering an executed counterpart of this Agreement by facsimile or other electronic means shall also deliver an original executed counterpart of this Agreement but the failure to deliver an original executed counterpart shall not affect the validity, enforceability or binding effect of this Agreement.

(j) Termination. Subject to the last sentence of the definition of the term “Paid in Full,” this Agreement shall terminate when all Obligations of First Out Lender have been Paid in Full.


(k) Costs and Attorneys’ Fees. In the event it becomes necessary for First Out Lender or any Last Out Lender to commence or become a party to any proceeding or action to enforce the provisions of this Agreement, the court or body before which the same shall be tried shall award to the prevailing party all costs and expenses thereof, including reasonable attorneys’ fees, the usual and customary and lawfully recoverable court costs, and all other expenses in connection therewith.

(l) Interpretation. The term “including” shall mean “including, without limitation.” The words “hereof”, “herein”, “hereto” and “hereunder” and words of similar import, when used in this Agreement, shall refer to this Agreement as a whole and not to any particular provision of this Agreement.

**[Remainder of page intentionally left blank]**

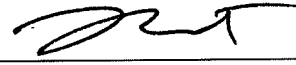
IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first written above.

**WELLS FARGO FOOTHILL, LLC,**  
as First Out Lender

By:   
Name: **ERIK R. SAWYER**  
Title: **SVP**

**SILVER POINT FINANCE, LLC,**  
as Administrative Agent

By: \_\_\_\_\_



Name:

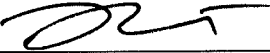
Title: **Authorized Signature**

**Richard Petrilli**

**CFO**


Signature Page to Agreement Among Lenders and Agent (continued)

**SPCP GROUP LLC,**  
as Last Out Lender

By:   
Name: **Authorized Signature**  
Title: **Richard Petrilli**  
**CFO**

Signature Page to Agreement Among Lenders and Agent (continued)

**SP EUROFRESH LLC,**  
as Capital Lessor

By:  \_\_\_\_\_


Name:

Title: **Authorized Signature**

**Richard Petrilli**

**CFO**

**SILVER POINT FINANCE, LLC,**  
as Capital Lease Collateral Agent

By:  \_\_\_\_\_

Name:

Title: **Authorized Signature**

**Richard Petrilli**

**CFO**

Signature Page to Agreement Among Lenders and Agent (continued)