

5-22-98 R

08-11-1998

1 SHEET

OMB No. 0651-0011 (exp. 4/94)



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To the Honorable Commissioner c

100790119

attached original documents or copy thereof

1. Name of conveying party(ies):
Petco International, Inc.
84 Teed Drive
Randolph, Massachusetts 02368

Rec 8-7-98

- Individual(s)
- General Partnership
- Corporation-State Massachusetts
- Other

- Association
- Limited Partnership

Additional name(s) of conveying party(ies) attached? Yes No

3. Nature of conveyance:

- Assignment
- Security Agreement
- Other
- Merge
- Change of Name

Execution Date: May 4, 1998

2. Name and address of receiving party(ies)

Name: Marlborough Capital Investment
Fund III, L.P.

Internal Address:

Street Address: 9 Newbury Street

City: Boston State: MA ZIP: 02116

- Individual(s) citizenship
- Association
- General Partnership
- Limited Partnership AUG 7
- Corporation-State
- Other

If assignee is not domiciled in the United States, a domestic representative designation is attached: N/A Yes No

(Designations must be a separate document from assignment)
Additional name(s) & address(es) attached? Yes No See Schedule A

4. Application number(s) or patent number(s):

A. Trademark Application No.(s)

B. Trademark Registration No.(s)

| | |
|-----------|----------|
| 2144,717 | 7-323930 |
| 2142,667 | 1,882142 |
| 75/324037 | 1,773006 |

Additional numbers attached? Yes No

5. Name and address of party to whom correspondence concerning document should be mailed:

Name: W. Brewster Lee, Esq.

Internal Address: Choate, Hall & Stewart

Street Address: Exchange Place
53 State Street

City: Boston State: MA ZIP: 02109

6. Total number of applications and registrations involved: 6

7. Total fee (37 CFR 3.41).....\$ 240 E

- Enclosed
- Authorized to be charged to deposit account

8. Deposit account number:

03-172

(Attach duplicate copy of this page if paying by deposit account)

05/27/1998 SSMITH 00000070 2144717

DO NOT USE THIS SPACE

01 FC:481 40.00 OP
02 FC:482 125.00 OP

9. Statement and signature.

To the best of my knowledge and belief, the foregoing information is true and correct and any attached copy is a true copy of the original document.

W. Brewster Lee
Name of Person Signing

W. Brewster Lee
Signature

5/21/98
Date

Total number of pages including cover sheet, attachments, and this document: 34

Schedule A

Additional Receiving Parties

Marlborough Capital Investment Fund IIIB, L.P.
9 Newbury Street
Boston, Massachusetts 02116

A Delaware limited partnership

IBJS Capital Corporation
1 State Street
New York, New York 10004

A Delaware corporation

ds1/410238

SECURITY AGREEMENT

THIS AGREEMENT, dated the 4th day of May, 1998, is by and among FETCO INTERNATIONAL, INC., having its principal place of business and chief executive office at 84 Teed Drive, Randolph, Massachusetts 02368 (the "Debtor"), MARLBOROUGH CAPITAL INVESTMENT FUND III, L.P., MARLBOROUGH CAPITAL INVESTMENT FUND IIIB, L.P. and IBJS CAPITAL CORPORATION (the "Institutional Investors") (the Institutional Investors and the other holders of the Secured Obligations (as hereinafter defined) are sometimes collectively referred to herein as the "Secured Parties" and each as a "Secured Party").

WITNESSETH:

WHEREAS, pursuant to those certain Securities Purchase Agreements dated the date hereof (as amended, modified or supplemented from time to time, the "Securities Purchase Agreements") (capitalized terms used herein without definition having the respective meanings ascribed to them in the Securities Purchase Agreements, unless the context clearly requires otherwise), among the Debtor and the Institutional Investors named therein, the Institutional Investors has agreed to purchase, in addition to certain other securities, the Notes (as defined in the Securities Purchase Agreements) issued by the Debtor and guaranteed by the Holding Company, all as further provided in the Securities Purchase Agreements; and

WHEREAS, the obligation of the Institutional Investors to purchase any such securities is subject to the condition, among others, that the Debtor execute and deliver this Agreement and grant the Liens hereinafter described;

NOW, THEREFORE, for good and valuable consideration, receipt of which is hereby acknowledged, it is hereby agreed as follows:

1. Security Interest. As security for the Secured Obligations described in section 2 hereof, the Debtor hereby mortgages, pledges and grants and assigns as collateral to the Secured Parties, and creates for the benefit of the Secured Parties a continuing security interest in and Lien on, all of the tangible and intangible personal property and fixtures of the Debtor (but none of its obligations with respect thereto), including, without limitation, the property described below, whether now owned or existing, or hereafter acquired or arising, wherever located, together with any and all additions, accessions and attachments thereto and substitutions, replacements, proceeds (including, without limitation, insurance proceeds) and products thereof (hereinafter referred to collectively as the "Collateral"):

- (a) all inventory, goods, merchandise, raw materials, parts, components, assemblies, supplies, goods or work in process, finished goods and other tangible

personal property held by the Debtor for processing, sale or lease or furnished or to be furnished by the Debtor under contracts of service or to be used or consumed in the Debtor's business (the foregoing items in this clause (a) being sometimes herein referred to collectively as "Inventory");

(b) all accounts, accounts receivable, notes, drafts and acceptances of the Debtor, all rights to receive the payment of money under contracts, franchises, licenses, permits and other agreements, documents or instruments (whether or not earned by performance) or otherwise of the Debtor, and all rights of the Debtor to receive payments from any other source (the foregoing items in this clause (b) being sometimes herein referred to collectively as "Accounts Receivable"), together with all rights of the Debtor in the goods and services which have given rise thereto, including, without limitation, returned or repossessed goods and unpaid sellers' rights of rescission, replevin, reclamation and rights to stoppage in transit;

(c) all of the Debtor's equipment, machinery, fixtures, furniture, furnishings, computers and related equipment, office equipment and supplies, tools, jigs, dies, manufacturing implements, forklifts, trucks, trailers, railcars, barges and other vehicles (the foregoing items in this clause (c) being sometimes herein referred to collectively as "Equipment");

(d) all of the Debtor's general intangibles (including goodwill) and other intangible property and all rights thereunder, including, without limitation, all of the following:

(i) all trademarks, trademark applications and registrations and trade names, together with the goodwill appurtenant thereto, owned, held (whether pursuant to a license or otherwise), used or to be used, in whole or in part, in conducting the Debtor's business (the "Trademarks");

(ii) all patents and patent applications of the Debtor, including, without limitation, the inventions and improvements described and claimed therein (the "Patents");

(iii) all copyrights and applications for registration of copyrights of the Debtor and all rights in literary property (the "Copyrights");

(iv) all reissues, divisions, continuations, renewals, extensions and continuations-in-part of any Trademarks, Patents and/or Copyrights; all income, royalties, damages and payments now or hereafter due and/or payable with respect to any Trademarks, Patents and/or Copyrights, including, without limitation, damages and payments for past or future infringements thereof; all rights (but no obligation) to sue for past, present and future infringements of any Trademarks, Patents and/or Copyrights or

bring interference proceedings with respect thereto; and all rights corresponding to any Trademarks, Patents and/or Copyrights throughout the world;

(v) all rights and interests of the Debtor pertaining to common law and statutory trademark, service marks, trade names, slogans, labels, trade secrets, patents, copyrights, corporate names, company names, business names, fictitious business names, trademark or service mark registrations, designs, logos, trade styles, applications for trademark registration and any other indicia of origin;

(vi) all operating methods, formulas, processes, know-how and the like of the Debtor (the foregoing items in clauses (i) through (vi), inclusive, being sometimes herein referred to collectively as the "Intellectual Property Collateral");

(e) all shares of capital stock and other ownership interests in any Subsidiary of the Debtor or in any other Person, including all interests in any general or limited partnership, any joint venture or any limited liability company or partnership; and all options, warrants and similar rights to acquire such capital stock or such interests (the foregoing items in this clause (e) being sometimes herein referred to as the "Pledged Stock");

(f) all rights to receive profits or surplus or other dividends or distributions (including, without limitation, income, return of capital or liquidating distributions) from any Subsidiary of the Debtor (the foregoing items in this clause (f) being sometimes herein referred to collectively as the "Pledged Rights");

(g) all Indebtedness from time to time owing to the Debtor by any Subsidiary of the Debtor or by any other Person, together with all security held by the Debtor with respect to such Indebtedness (the foregoing items in this clause (g) being sometimes herein referred to collectively as the "Pledged Indebtedness") (the Pledged Stock, the Pledged Rights and the Pledged Indebtedness are sometimes hereinafter referred to collectively as the "Pledged Securities");

(h) all contracts, contract rights, leases (including leases of personal property, whether the Debtor is the lessor or the lessee thereunder), franchises, licenses, permits and other agreements and all rights thereunder of the Debtor;

(i) all rights granted by others which permit the Debtor to manufacture, distribute, sell or market items of property;

(j) all chattel paper, documents, documents of title, records, negotiable and non-negotiable instruments, hedge contracts and forward purchase contracts of the Debtor;

(k) all property or collateral granted by third party obligors to, or held by, the Debtor with respect to any Accounts Receivable, Pledged Securities, documents, chattel paper, instruments, leases and other items of Collateral and all liens, rights, remedies, privileges, guarantees and other security for any of the foregoing;

(l) all books and records, including, without limitation, books of account and ledgers of every kind and nature, all electronically recorded data (including all computer programs, discs, tapes, electronic data processing media and software used in maintaining the Debtor's books and records), all files and correspondence and all receptacles and containers for the foregoing; all computer software, designs, models, know-how, trade secrets, rights in proprietary information, formulas, customer lists, backlogs, orders, royalties, sales material, documents, goodwill, inventions and processes of the Debtor;

(m) all judgments, causes of action and claims, whether or not inchoate, of the Debtor;

(n) all cash, funds and investments, including that maintained in any account (including any collateral account or deposit account) at any bank or financial institution, and all rights with respect thereto;

(o) all tax refunds and abatements of every kind and nature, and all rights and claims related thereto;

(p) all insurance policies (and all rights thereunder) which insure against any loss or damage to any other Collateral;

(q) all other property, assets and items of value of every kind and nature, tangible or intangible, absolute or contingent, legal or equitable; and

(r) all proceeds including, without limitation, insurance proceeds, and products of the items of Collateral heretofore described.

Notwithstanding the foregoing, the term "Collateral" shall not include any licenses or similar contracts which the Debtor holds as licensee, the assignment of which is prohibited by their terms, provided that the Debtor agrees to use its best efforts to obtain all necessary consents to permit the same to be subject to the Liens created hereby and to constitute Collateral hereunder and, until such consents are obtained, the Debtor shall hold all such licenses or similar contracts and all payments thereunder and all proceeds thereby in trust for the Secured Parties.

2. Secured Obligations. The Liens hereby granted shall secure the due and punctual payment and performance of the following liabilities and obligations (each, a "Secured Obligation" and collectively, the "Secured Obligations") when and as the same

shall become due and payable, as the same may be amended, modified and supplemented from time to time:

(a) the due and punctual payment of the principal of and premium (including, without limitation, the Default Premium), if any, and interest on (including any interest accruing after the commencement of any action or proceeding under the federal bankruptcy laws, as now or hereafter constituted, or any other applicable domestic or foreign federal or state bankruptcy, insolvency or other similar law, and any other interest that would have accrued but for the commencement of such proceeding, whether or not any such interest is allowed as an enforceable claim in any such proceeding) and fees and other amounts payable with respect to the Notes (or any of them); and

(b) the due and punctual payment and performance of any and all other indebtedness and obligations of the Debtor and its Affiliates related to the Notes (or any of them) arising under the Securities Purchase Agreements, any of the other Operative Documents and/or under any other related agreement, document or instrument, all as amended, modified or supplemented from time to time, including, without limitation, the payment of all amounts required to be paid under sections 21 and 22 of the Securities Purchase Agreements or under any other provision of any of the Operative Documents relating to indemnification, reimbursement of expenses and the like.

3. Special Warranties and Covenants of the Debtor. The Debtor hereby represents and warrants to and covenants and agrees with the Secured Parties that:

(a) The Debtor is the owner of and has good and marketable title to the Collateral free from any Liens, other than (i) the Liens arising hereunder and under the other Security Documents and (ii) Liens permitted under section 14.9 of the Securities Purchase Agreements, and the Debtor will defend the Collateral against all claims and demands of all Persons at any time claiming the same or any interest therein.

(b) The address shown at the beginning of this Agreement is the chief executive office and principal place of business of the Debtor and the location of all records concerning that portion of Collateral consisting of Accounts Receivable and other general intangibles. The Debtor's only additional places of business and the only additional locations of any Collateral (including Collateral located or stored at warehouses) are listed in Exhibit 3(b) attached hereto (which list includes legal descriptions of all real property sufficient for fixture filings). Except as set forth on Exhibit 3(b) attached hereto, during the five years ended on the date hereof, neither the Debtor nor any of its predecessors-in-interest has conducted any business or sold any goods under any name (including any fictitious business or trade name) other than its legal name which is correctly set forth at the beginning of this Agreement. The Debtor will not change its chief executive office or

principal place of business; or any other place of business, or the location of any Collateral (including, without limitation, the records relating thereto), or make any change in its legal name, or conduct business operations under any fictitious business or trade name (other than any names specified on Exhibit 3(b) attached hereto), without, in each such case (i) giving at least 30 days' prior written notice thereof to the Secured Parties and (ii) executing, delivering, filing and recording all necessary financing statements (or amendments thereto) or other instruments and documents in order to maintain the validity, enforceability, priority and perfection of the Liens arising hereunder and under the other Security Documents. The Debtor's federal taxpayer identification number is correctly specified on Exhibit 3(b) attached hereto.

(c) Except as explicitly permitted by the Securities Purchase Agreements, (i) the Debtor will not sell or otherwise dispose of any of the Collateral or any interest therein (other than sales of Inventory in the ordinary course of business consistent with prudent business practice) and (ii) the Debtor will not create, assume, incur or suffer to exist any Lien of any kind (whether senior, pari passu or subordinate) on the Collateral (including any restrictions on transfer of any Pledged Securities), other than (x) those arising hereunder and under the other Security Documents, (y) those permitted under section 14.9 of the Securities Purchase Agreements, and (z) restrictions on transfer of the Pledged Securities imposed by applicable securities laws.

(d) The Debtor will keep the Collateral, including, without limitation, all Inventory and Equipment, in good repair, working order and condition and adequately insured at all times in accordance with the provisions of the Securities Purchase Agreements and the other Operative Documents. Each insurance policy pertaining to any of the Collateral shall be in form and substance and shall have such limits and deductibles as shall be reasonably satisfactory to the Required Secured Parties (as defined in section 7) and, without limiting the generality of the foregoing, shall:

(i) name the Secured Parties as loss payees (in the case of property insurance) and additional insureds (in the case of liability insurance) pursuant to a so-called standard mortgagee clause and shall contain the so-called agreed upon replacement cost endorsement and waiver of subrogation;

(ii) provide that no action of the Debtor or any of its Subsidiaries or any tenant or subtenant shall void such policy as to the Secured Parties;

(iii) provide that the Secured Parties shall be notified (and the Debtor shall notify the Secured Parties) of any expiration, cancellation or material amendment of such policy at least 30 days in advance of the

effective date thereof and, if applicable, provide that the Secured Parties shall have the right to cure any deficiency resulting in the same;

(iv) provide that the Secured Parties shall receive (and the Debtor shall cause the Secured Parties to receive) annually certificates of insurance (or other appropriate documentation) demonstrating compliance by the Debtor with all provisions of the Operative Documents relating to insurance matters; and

(v) be issued by an insurance company or insurance companies licensed to do business in the jurisdiction in which the Collateral is located.

Certified copies of all such insurance policies relating to the Collateral shall be delivered to the Secured Parties upon request by the Required Secured Parties but no more frequently than once a year unless an Event of Default has occurred and is continuing. In the event of any damage or destruction to the Collateral, the Debtor shall give prompt written notice to the Secured Parties and if in the Debtor's business judgment, it is practicable and commercially reasonable to do so, shall promptly commence and diligently continue to completion the repair and restoration of the Collateral so damaged or destroyed so as to reconstruct the Collateral in a good and workmanlike manner and in full compliance with all legal requirements and the provisions of this Agreement and the other Operative Documents, free and clear from all Liens, other than (x) the Liens arising hereunder and under the other Security Documents and (y) the Liens permitted under section 14.9 of the Securities Purchase Agreements. The Debtor shall not adjust, compromise or settle any claim for insurance proceeds in excess of \$100,000 without the prior written consent of the Required Secured Parties. Subject to the terms of the Securities Purchase Agreements and so long as no Event of Default shall have occurred and be continuing, the Debtor may apply the proceeds of any insurance to the repair and restoration of any of the Collateral which was the subject of the loss, provided that (i) the cost of repair and restoration shall not exceed \$250,000, (ii) the Debtor continues to be the sole owner of the Collateral subject to the Liens arising hereunder and permitted under the other Security Documents, (iii) the contemplated repair and restoration shall reconstruct the Collateral to substantially its previous condition within 12 months from the date of the damage or destruction to the Collateral, (iv) all sums necessary to effect the repair and restoration over and above any available insurance proceeds shall be at the sole cost and expense of the Debtor, (v) at the request of the Required Secured Parties, the Debtor shall deposit all available proceeds (including insurance proceeds) together with the additional sums referred to in clause (iv) in an escrow account upon terms and conditions satisfactory to the Required Secured Parties and (vi) at all times during any repair and restoration the Debtor shall, at its sole cost and expense, maintain workers' compensation and public liability insurance in amounts reasonably satisfactory to the Required Secured Parties and in accordance with the provisions of this section 3(d). If at

any time the Required Secured Parties determine that the foregoing conditions have not been or cannot be satisfied, then the Required Secured Parties may apply the proceeds of insurance to the prepayment of the Secured Obligations in such order of priority as the Required Secured Parties shall determine. Any insurance proceeds that are received at a time when an Event of Default shall have occurred and be continuing may be applied by the Required Secured Parties to the repayment of the Secured Obligations in such order of priority as the Required Secured Parties shall determine. If the Debtor fails to provide insurance as required by this Agreement or any of the other Operative Documents, the Required Secured Parties may, at their option, provide such insurance, and the Debtor will on demand pay to the Secured Parties upon receipt of invoice therefor the amount of any disbursement made by the Secured Parties for such purpose (and any unreimbursed amounts shall constitute Secured Obligations for all purposes hereof).

(e) To the extent required by the Securities Purchase Agreements, the Debtor will pay and discharge promptly as they become due and payable all taxes, assessments and other governmental charges or levies imposed upon it or its income or upon any of its properties, real, personal or mixed, or upon any part thereof, including, without limitation, the Collateral or any part of the Collateral, as well as all claims of any kind (including claims for labor, materials and supplies) which if unpaid might by law become a Lien or charge upon its property.

(f) The Debtor will, without the necessity of any request by the Required Secured Parties, promptly make, execute, acknowledge and deliver and file and record in all proper offices and places, including, without limitation, the U.S. Patent and Trademark Office and the U.S. Copyright Office, such financing statements, continuation statements, certificates, collateral agreements and other agreements, documents or instruments as may be necessary to perfect or from time to time renew the Liens arising hereunder and under the other Security Documents, including, without limitation, those that may be necessary to perfect such Liens in any additional Collateral hereafter acquired by the Debtor or in any replacements or proceeds thereof, and the Debtor will take all such action as may be deemed necessary by the Required Secured Parties to carry out the intent and purposes of the Security Documents or for assuring and confirming to the Secured Parties the grant and perfection of the Liens in the Collateral, including, without limitation, the Intellectual Property Collateral. To the extent permitted by law, the Debtor authorizes and appoints (such appointment being coupled with an interest and irrevocable) the Required Secured Parties to execute such financing statements, continuation statements, certificates, collateral agreements and other agreements, documents and instruments in its stead, with full power of substitution, as the Debtor's attorneys-in-fact. To the extent permitted by law, the Debtor further agrees that a carbon, photographic or other reproduction of a

security agreement, financing statement or continuation statement is sufficient as a financing statement or continuation statement.

(g) The Debtor agrees that if any warehouse receipt or receipt in the nature of a warehouse receipt is issued with respect to any of the Inventory (or any other Collateral), such receipt shall not be "negotiable" (as such term is used in the Uniform Commercial Code as in effect in any relevant jurisdiction or under other relevant law). If, notwithstanding the foregoing, any negotiable warehouse receipts or other negotiable documents are issued with respect to any of the Inventory (or any other Collateral), all such instruments shall be held in trust for the Secured Parties and shall be immediately endorsed to the order of the Secured Parties and delivered to the Secured Parties to be held by the Secured Parties as Collateral hereunder. In addition, the Debtor has notified (and from time to time hereafter will notify) all warehousemen, bailees, agents, processors and other similar Persons of the Lien created pursuant to the Security Documents and, following the occurrence and during the continuance of an Event of Default, will cause each such Person to hold all Collateral for the account of, and subject to the instructions of, the Secured Parties. As of the date hereof, (i) no warehouse receipt or receipt in the nature of a warehouse receipt has been issued with respect to any of the Inventory (or any other Collateral) and (ii) none of the Inventory (or any other Collateral) is in the possession of any warehouseman, bailee, agent, processor and/or other similar Person.

(h) Except in the ordinary course of business or as otherwise explicitly permitted by the Securities Purchase Agreements, without the prior written consent of the Required Secured Parties, the Debtor shall not amend or modify, or waive any of its rights under or with respect to, any of the Accounts Receivable, if the effect thereof would be to reduce the amount payable to the Debtor thereunder, to extend the time of payment thereof, to waive any default by any account debtor or other obligor thereunder, or to waive or impair any remedies of the Debtor or the Secured Parties under or with respect thereto. The Debtor will promptly notify the Secured Parties of any request by any other Person for any material credit or adjustment with respect to any Accounts Receivable other than in the ordinary course of business. Upon the occurrence and during the continuance of any Event of Default, the Required Secured Parties may notify or may require the Debtor to notify (and after any such notification the Debtor shall cause) all Persons obligated on the Accounts Receivable to make payment directly to (or in accordance with the instructions of) the Required Secured Parties. From and after the occurrence and during the continuance of any Event of Default, (i) all sums collected or received and all property recovered or possessed by the Debtor in respect of any of the Collateral, including, without limitation, all sums received in respect of any of the Accounts Receivable shall be received and held by the Debtor in trust for the Secured Parties and shall be segregated from other assets and funds of the Debtor and upon the request of the Required Secured Parties shall be immediately delivered to the Secured Parties (or otherwise in accordance with the instructions

of the Required Secured Parties) for application to the payment of the Secured Obligations in such order of priority as the Required Secured Parties shall determine and (ii) the Debtor, upon the request of the Required Secured Parties, shall institute depository, lockbox and other similar credit procedures providing for the direct receipt of such sums.

(i) The Debtor will specifically assign to the Secured Parties all material federal government contracts and will cooperate with the Secured Parties in giving notice of such assignment pursuant to the Federal Assignment of Claims Act. The Debtor will cooperate with the Required Secured Parties in providing such further information with respect to material contracts with any governmental authority as the Required Secured Parties may request and will provide such instruments of further assurance with respect to such contracts as the Required Secured Parties may request. As of the date hereof, no contract of the Debtor with any such governmental authority is material to the Debtor. The Debtor will notify the Secured Parties at such time as any such contract shall become material to the Debtor.

(j) The Debtor hereby constitutes and appoints the Required Secured Parties its true and lawful attorneys, with full power of substitution, upon the occurrence and during the continuance of any Event of Default, in the name of the Debtor or otherwise, at the expense of the Debtor and without notice to or demand upon the Debtor, to act, require, demand, receive, compound and give acquittance for any and all monies and claims for monies due or to become due to the Debtor, to endorse any checks or other instruments or orders in connection therewith and to file any claims or take any action or institute any proceedings which the Required Secured Parties may deem to be necessary or advisable to protect the interests of the Secured Parties, which appointment is coupled with an interest and is irrevocable. Without limiting the generality of the foregoing, upon the occurrence and during the continuance of any Event of Default, the Required Secured Parties shall have full power: (i) to demand, collect, receive payment of, receipt for, settle, compromise or adjust, and give discharges and releases in respect of any of the Collateral, including, without limitation, any Pledged Securities and/or any Accounts Receivable; (ii) to commence and prosecute any suits, actions or proceedings at law or in equity in any court of competent jurisdiction to collect and/or to enforce any other rights in respect of any of the Collateral, including, without limitation, any Pledged Securities and/or any Accounts Receivable; (iii) to defend any suit, action or proceeding brought against the Debtor with respect to any of the Collateral, including, without limitation, any Pledged Securities and/or any Account Receivable; (iv) to settle, compromise or adjust any suit, action or proceeding described in clause (ii) or (iii) above, and, in connection therewith, to give such discharges or releases as the Required Secured Parties may deem appropriate; (v) to endorse checks, notes, drafts, acceptances, money orders, bills of lading, warehouse receipts or other instruments or documents, including, without limitation, those relating to any of the Pledged

Securities and/or those evidencing or securing the Accounts Receivable or any of them; (vi) to receive, open and dispose of all mail addressed to the Debtor and to notify the post office authorities to change the address of delivery of mail addressed to the Debtor to such address as the Required Secured Parties may designate; (vii) to act as attorney for the Debtor in obtaining, adjusting, settling and canceling any insurance and endorsing any drafts and retaining any amounts collected or received under any policies of insurance; (viii) to discharge any taxes, assessments or other governmental charges or levies or any other Liens to which any Collateral is at any time subject and (ix) generally to sell, assign, transfer, pledge, make any agreement in respect of or otherwise deal with the Collateral as fully and completely as though the Secured Parties were the absolute owners thereof for all purposes. The Debtor agrees to reimburse each Secured Party on demand for any payments made or expenses incurred by such Secured Party pursuant to the foregoing authorization upon receipt of an invoice therefor and any unreimbursed amounts shall constitute Secured Obligations for all purposes hereof.

(k) The powers conferred on the Secured Parties by this Agreement and the other Security Documents are solely to protect the interests of the Secured Parties and shall not impose any duty upon the Secured Parties (or any of them) to exercise any such power, and if the Secured Parties (or any of them) shall exercise any such power, such exercise shall not relieve the Debtor of any Default or Event of Default, and the Secured Parties shall be accountable only for amounts actually received as a result thereof. The Secured Parties shall be under no obligation to take steps necessary to preserve the rights in or value of or to collect any sums due in respect of any Collateral against any other Person but may do so at their option. Without limiting the generality of the foregoing, the Secured Parties shall have no duty or liability with respect to any claim or claims regarding the Debtor's ownership or purported ownership, or rights or purported rights arising from, the Pledged Securities or the Intellectual Property Collateral (or any portion thereof) or any use, license, or sublicense thereof, whether arising out of any past, current or future event, circumstance, act or omission or otherwise. All of such duties and liabilities shall be exclusively the obligation of the Debtor. All expenses incurred in connection with the application, protection, maintenance, renewal or preservation of any of the Collateral, including, without limitation, the Intellectual Property Collateral, shall be borne by the Debtor.

(l) The Debtor shall defend, indemnify and hold harmless each Secured Party for any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses, or disbursements (including reasonable attorneys' fees) of any kind whatsoever which may be imposed on, incurred by or asserted against such Secured Party in connection with or in any way arising out of or relating to the Collateral or this Agreement, except to the extent the same is finally determined by a court of competent jurisdiction to have arisen solely and directly as a result of the willful misconduct or bad faith of such Secured Party.

(m) It is the intention of the parties hereto that none of the Collateral shall become fixtures and the Debtor shall take all reasonable action or actions as may be necessary to prevent any of the Collateral from becoming fixtures. The Debtor will, if requested by the Required Secured Parties, use its best efforts to obtain waivers of Lien, in form and substance satisfactory to the Required Secured Parties, from each Person (including lessors) having any interest in the real property on which any of the Collateral is or is to be located.

(n) All of the Debtor's Inventory has been, and, from and after the date hereof, will be produced in compliance with all applicable laws, including, without limitation, the Fair Labor Standards Act, as amended.

(o) Upon notice thereof, the Debtor will promptly notify the Secured Parties of any material loss or damage to any Collateral or any request by any other Person for any material credit or adjustment with respect to any Accounts Receivable other than in the ordinary course of business.

4. Special Provisions Concerning Intellectual Property Collateral. Without limiting the generality of the other provisions of this Agreement:

(a) The Debtor hereby represents and warrants to and covenants and agrees with the Secured Parties that:

(i) a true and complete list of all Trademarks, Patents and Copyrights currently owned, held (whether pursuant to a license or otherwise) or used by the Debtor, in whole or in part, in conducting its business is set forth in Exhibit 4(a)(i) attached hereto, and such exhibit correctly sets forth the information specified therein;

(ii) each and every Trademark in use is subsisting; each and every Trademark, Patent and Copyright is valid and enforceable; and, to the best of the Debtor's knowledge, there is no infringement or unauthorized use of any of the Trademarks, Patents or Copyrights, in whole or in part;

(iii) no claim has been made or has been initiated by any third party within the six-year period prior to the date hereof that the use of any of the Trademarks or Copyrights or the practice of any of the Patents does or may violate the rights of any other Person, and the Debtor is not aware of any basis for any such claim to be asserted;

(iv) except as set forth on Exhibit 4(a)(i) attached hereto, the Debtor is the sole and exclusive owner of the entire and unencumbered right, title and interest in and to each of the Trademarks, Patents and Copyrights, free and clear of any Lien, express or implied, other than the

Liens created by the Security Documents, and, to the best knowledge of the Debtor, no other Person has any license or other right with respect to any of the Trademarks, Patents, Copyrights or any other Intellectual Property Collateral; and

(v) each of the Debtor and its predecessors in interest has used proper statutory notice in connection with its use of the Trademarks, and has marked its products with all applicable patent numbers, except to the extent that a failure to have done so has not resulted in, and would not reasonably be expected to result in, a Material Adverse Change.

(b) If the Debtor shall create or obtain rights to any Trademarks, Patents or Copyrights (or any other Intellectual Property Collateral) in addition to those set forth on Exhibit 4(a)(i) attached hereto, the provisions of this Agreement shall automatically apply thereto and the Debtor shall take such action as the Required Secured Parties may request to more fully evidence the same. The Debtor shall promptly notify the Secured Parties in writing of any new patent application or grant or trademark or copyright application or registration in which the Debtor has an ownership interest.

(c) The Debtor (i) authorizes the Required Secured Parties, without any further action by the Debtor, to amend Exhibit 4(a)(i) to reference any Trademark, Patent or Copyright (or any other Intellectual Property Collateral) acquired by the Debtor after the date hereof or to delete any reference to any right, title or interest in any Trademark or Patent or Copyright (or any other Intellectual Property Collateral) in which the Debtor no longer has or claims any right, title or interest; (ii) will promptly (but in any event within five days after becoming aware thereof) notify the Secured Parties of the institution of, or any adverse determination in, any proceeding in the U.S. Patent and Trademark Office, U.S. Copyright Office or in any federal, state or foreign court or agency regarding the Debtor's claim of ownership, or the enforceability or validity of any of the Intellectual Property Collateral, or of any other event that does or could reasonably be expected to materially adversely affect the value of any of the Intellectual Property Collateral, the ability of the Debtor or the Secured Parties to dispose of any of the same or the rights and remedies of the Secured Parties in relation thereto; (iii) will promptly notify the Secured Parties of any suspected infringement of any of the Intellectual Property Collateral by any third party that does or would reasonably be expected to materially adversely affect the value of any of the Intellectual Property Collateral, the ability of the Debtor or the Secured Parties to dispose of any of the same or the rights and remedies of the Secured Parties in relation thereto, or of any claim by any third party that the Debtor is infringing upon the intellectual property rights of such third party; (iv) concurrently with the filing of any patent application or application for registration of any trademark or copyright, will execute, deliver and record in all appropriate registers and offices, an appropriate form of a collateral security agreement evidencing the Secured

Parties' security interest therein; and (v) will diligently keep accurate and complete records respecting the Intellectual Property Collateral.

(d) The Debtor shall, as appropriate and commercially reasonable, (i) make and diligently prosecute federal application on any existing or future registerable but unregistered Trademarks or Copyrights or unpatented but patentable inventions, (ii) preserve, maintain and renew all of the Intellectual Property Collateral and rights and interests related thereto, including, without limitation, by payment of all taxes, annuities, issue and maintenance fees and by the use of all proper statutory notices, designations and patent numbers and (iii) initiate and diligently prosecute in its own name, for its own benefit and at its own expense, such suits, proceedings or other actions for infringement, or other damage or opposition, cancellation, concurrent use or interference proceedings as are necessary to protect any of the Trademarks, Patents or Copyrights or other Intellectual Property Collateral; provided that no such suit, proceeding or other action shall be settled or voluntarily dismissed, nor shall any party be released or excused from any claims or liability for infringement, unless, in the reasonable judgment of the Debtor, to do so is in the best interests of the Debtor and is not disadvantageous in any material respect to the Secured Parties.

(e) Without limiting the generality of the other provisions of this Agreement and the other Operative Documents and in addition to all other rights and remedies of the Secured Parties hereunder and thereunder and referred to herein and therein, the Debtor hereby assigns to the Secured Parties (such assignment to be conditioned and effective upon the occurrence and during the continuance of any Event of Default) all of its right, title and interest in and to all and any of the Intellectual Property Collateral, including, without limitation, each Patent, Trademark and Copyright, now owned or hereafter acquired by the Debtor, and all of the goodwill of the business of the Debtor symbolized by the same and all interest of the Debtor in and to any cause of action related thereto, and the Debtor hereby grants to the Required Secured Parties an absolute power of attorney (which grant is coupled with an interest and is irrevocable) to sign, upon the occurrence and during the continuance of any Event of Default, any document which may be necessary or required by the U.S. Patent and Trademark Office, the U.S. Copyright Office or by any other office or authority in order to further evidence (and to effect and to record) the foregoing assignment. The Debtor further agrees that, upon the occurrence and during the continuance of any Event of Default, the Required Secured Parties may take any or all of the following actions: (i) declare the entire right, title and interest of the Debtor in and to the Intellectual Property Collateral vested in the Secured Parties, in which event such right, title and interest shall immediately vest in the Secured Parties; (ii) take and use and/or sell the Intellectual Property Collateral (or any portion thereof) and carry on the business and use the assets of the Debtor in connection with which the Intellectual Property Collateral (or any portion thereof) has been used; (iii) bring suit to enforce the Trademarks, Patents and/or Copyrights or any of the

other Intellectual Property Collateral and/or any licenses thereunder or other rights with respect thereto; (iv) direct the Debtor to refrain, in which event the Debtor shall refrain, from using the Intellectual Property Collateral (or any portion thereof) in any manner whatsoever, directly or indirectly and (v) direct the Debtor to execute, in which event the Debtor shall execute, such other and further documents that the Required Secured Parties may request to further confirm the provisions hereof and to further evidence the foregoing assignment. Upon request of the Required Secured Parties, the Debtor also shall make available to the Secured Parties, to the extent within the Debtor's power and authority, such individuals then in the Debtor's employ to assist in the production, advertisement and sale of the products and services sold under the Trademarks, Copyrights and Patents or any of the other Intellectual Property Collateral, such individuals to be available to perform their prior functions on the Secured Parties' behalf and to be compensated at the expense of the Debtor.

5. Special Provisions Concerning the Pledged Securities. Without limiting the generality of the other provisions of this Agreement, the Debtor hereby represents and warrants to and covenants and agrees with the Secured Parties as follows:

(a) A true and complete list of all Pledged Securities is attached as Exhibit 5(a) hereto and all information set forth thereon is true, correct and complete. As of the date hereof, the Debtor does not own any other securities or other items that would constitute Pledged Securities. If any shares of capital stock, promissory notes or other securities issued by any Subsidiary of the Debtor or issued by any other Person are acquired by the Debtor after the date hereof, the same shall without further action constitute Pledged Securities and shall be deposited and pledged (together with all necessary stock or bond powers and endorsements) with the Secured Parties simultaneously with such acquisition. The Required Secured Parties may at any time transfer into the names of the Secured Parties (or the name or names of their nominees), as pledgees, any Pledged Securities. Any Pledged Securities which are not evidenced by a certificate or other instrument will be registered within five days of the issuance thereof in the names of the Secured Parties, as pledgees, on the records of the issuer thereof, all in form and substance satisfactory to the Required Secured Parties. All Pledged Indebtedness owed by any Subsidiary or other Affiliate of the Debtor shall be on open account and shall not be evidenced by any note or other instrument, unless the Required Secured Parties shall request otherwise, in which event a note or other instrument evidencing such Pledged Indebtedness shall be deposited and pledged with the Secured Parties within five days of such request.

(b) Unless an Event of Default shall have occurred and be continuing, (i) the Debtor shall be entitled, to the extent permitted by the Securities Purchase Agreements and the other Operative Documents, to receive all payments, dividends and distributions on or with respect to the Pledged Securities (except for any such payment, dividend or distribution that constitutes additional Pledged

Securities, in which case the same shall be deposited and pledged with the Secured Parties at the time such payment, dividend or distribution is made) and (ii) the Debtor shall be entitled to vote or consent with respect to the Pledged Securities in any manner not inconsistent with the terms of the Securities Purchase Agreements and the other Operative Documents.

(c) Upon the occurrence and during the continuance of an Event of Default, (i) all payments, dividends and distributions on or with respect to the Pledged Securities shall be deposited and pledged (together with all necessary endorsements) with the Secured Parties (or otherwise in accordance with the instructions of the Required Secured Parties) at the time such payment, dividend or distribution is made and (ii) as permitted by applicable law, the Secured Parties shall be entitled, at the election of the Required Secured Parties, to have any or all of the Pledged Securities transferred into their names (or the name or names of their nominees) and (whether or not any of the Pledged Securities has been transferred into the name or names of the Secured Parties or the name or names of their nominees) to vote or consent or take any other action with respect to the Pledged Securities and to exercise any and all other incidents of ownership thereof, including, without limitation, all rights of payment, conversion, exchange, subscription or any other rights, privileges or options pertaining to any of the Pledged Securities, as if the Secured Parties were the absolute owners thereof, all without liability except to account for amounts actually received; provided that the Secured Parties shall have no duty to exercise any of the aforesaid rights, privileges or options and shall not be responsible for any failure to do so or delay in so doing.

(d) Without limiting the provisions of clause (c) above, upon the occurrence and during the continuance of an Event of Default, at the election of the Required Secured Parties, the Secured Parties shall be entitled (whether or not any of the Pledged Securities has been transferred into the name or names of the Secured Parties or the name or names of their nominees) to vote any or all of the Pledged Securities and give all consents, waivers and ratifications in respect thereof, and the Debtor hereby irrevocably constitutes and appoints the Required Secured Parties the proxy and attorney-in-fact of the Debtor, with full power of substitution, to do so. The foregoing proxy and appointment of the Required Secured Parties as attorney-in-fact for the Debtor are irrevocable, are coupled with an interest and, notwithstanding any provision of applicable corporate or other law to the contrary, shall continue in full force and effect until this Agreement has terminated by its express terms.

(e) Notwithstanding the foregoing, the Debtor shall not be obligated to deliver any of the Pledged Securities to the Secured Parties so long as the same are held by the Senior Lender and the Senior Lender shall have furnished to the Secured Parties an agreement of the kind referred to in the last paragraph of section 1.

6. Events of Default. The Debtor shall be in default under this Agreement if any one or more of the following events (each an "Event of Default") shall occur (whatever the reason for such Event of Default and whether it shall be voluntary or involuntary or be effected by operation of law or pursuant to any judgment, decree or order of any court or any order, rule or regulation of any administrative or governmental body), that is to say:

(a) if default shall be made in the performance or observance of any covenant, agreement or condition contained in sections 3(a), 3(b), or 3(c) or 3(d) of this Agreement;

(b) if default shall be made in the performance or observance of any other of the covenants, agreements or conditions contained in this Agreement and such default shall have continued for a period of 30 days after the earlier of (i) the Debtor's obtaining actual knowledge of such default or (ii) the Debtor's receipt of written notice of such default;

(c) if any representation or warranty made by or on behalf of the Debtor in this Agreement or in any agreement, document or instrument delivered under or pursuant to any provision hereof shall prove to have been false or incorrect in any material respect on the date as of which made; or

(d) if any other Event of Default as defined in the Securities Purchase Agreements shall occur.

7. Rights and Remedies; Required Secured Parties.

(a) Upon the occurrence and during the continuance of any Event of Default, the Secured Parties shall have the following rights and remedies:

(i) all rights and remedies provided by law, including, without limitation, those provided by the Uniform Commercial Code;

(ii) all rights and remedies provided in this Agreement; and

(iii) all rights and remedies provided in the Securities Purchase Agreements, the other Operative Documents or in any other agreement, document or instrument pertaining to any of the Secured Obligations.

(b) Notwithstanding anything to the contrary set forth herein, the Required Holders of the Notes (exclusive of any Notes then owned by the Debtor or any of its Affiliates) (the Required Holders of the Notes, as a group, being herein referred to as the "Required Secured Parties") shall have the right to exercise (whether before or after the occurrence of any Event of Default) on behalf of and for the benefit of all of the Secured Parties, all of the rights and

remedies of the Secured Parties relating to the Collateral which arise under or are referred to in this Agreement (including the exercise of any power of attorney granted herein and the right to enforce this Agreement, by judicial proceedings or otherwise, to foreclose the Liens created hereby, to take possession of and to sell the Collateral (or any part thereof), and/or to direct the time, method and place of conducting any proceeding for any such remedy or exercising any such right) and all such rights and remedies may only be exercised by the Required Secured Parties or by a duly authorized representative (or representatives) appointed by the Required Secured Parties.

8. Right to Dispose of Collateral, etc.

(a) Without limiting the scope of section 7 hereof, upon the occurrence and during the continuance of any Event of Default, the Required Secured Parties shall have the right and power to take possession of all or any part of the Collateral and, in addition thereto, the right to enter upon any premises on which all or any part of the Collateral may be situated and remove the same therefrom and the Required Secured Parties may sell, resell, assign and deliver, or otherwise dispose of any or all of the Collateral, for cash and/or credit, in one or more parcels, at any exchange or broker's board, or at public or private sale and upon such terms and at such place or places and at such time or times and to such Persons (including, without limitation, the Secured Parties (or any of them)), to the extent permitted by law, as the Required Secured Parties deem expedient, all without demand for performance by the Debtor or any notice or advertisement whatsoever except as may be explicitly required by this Agreement or by law. The Required Secured Parties may require the Debtor to make all or any part of the Collateral (to the extent the same is moveable) available to the Required Secured Parties at a place to be designated by the Required Secured Parties which is reasonably convenient to the Required Secured Parties and the Debtor. Unless the Collateral threatens to decline speedily in value or is of a type customarily sold on a recognized market, the Required Secured Parties will give the Debtor at least ten (10) days' prior written notice of the time and place of any public sale thereof or of the time after which any private sale or any other intended disposition thereof is to be made. Any such notice shall be deemed to meet any requirement hereunder or under any applicable law (including the Uniform Commercial Code) that reasonable notification be given of the time and place of such sale or other disposition. After deducting all costs and expenses of collection, storage, custody preparation for sale, sale or other disposition and delivery (including legal costs and reasonable attorneys' fees) and all other charges against the Collateral, the residue of the proceeds of any such sale or disposition shall be applied to the payment of the Secured Obligations in such order of priority as the Required Secured Parties shall determine and, unless otherwise provided by law or by a court of competent jurisdiction, any surplus shall be returned to the Debtor or to any Person lawfully entitled thereto (including, if applicable, any subordinated creditors of the Debtor). In the event the proceeds of

any sale, lease or other disposition of the Collateral hereunder are insufficient to pay all of the Secured Obligations in full in cash or cash equivalents, the Debtor will be liable for the deficiency, including interest thereon at a rate per annum equal to 2.00% above the highest non-default rate borne by any of the Secured Obligations until paid, and the cost and expenses of collection of such deficiency, including, without limitation, reasonable attorneys' fees, expenses and disbursements. Without limiting the generality of the foregoing or the scope of section 7 hereof, upon the occurrence and during the continuance of any Event of Default, any amount owing by the Secured Parties (or any of them) to the Debtor may, without regard to the value of the Collateral, be offset and applied toward the payment of the Secured Obligations as aforesaid, whether or not the Secured Obligations, or any part thereof, shall be then due.

(b) The Debtor recognizes that the Secured Parties may be unable to effect a public sale of all or a part of any Pledged Securities by reason of certain prohibitions contained in the Securities Act of 1933, as amended, but may be compelled to resort to one or more private sales to a restricted group of purchasers, each of whom will be obligated to agree, among other things, to acquire any such Pledged Securities for its own account, for investment and not with a view to the distribution or resale thereof. The Debtor acknowledges that private sales so made may be at prices and upon other terms less favorable to the seller than if any such Pledged Securities were sold at public sales, and that the Secured Parties have no obligation to delay sale of any such Pledged Securities for the period of time necessary to permit such Pledged Securities to be registered for public sale under the Securities Act of 1933, as amended.

9. Right to Use the Collateral, etc. Without limiting the scope of section 7 hereof, upon the occurrence and during the continuance of any Event of Default, but subject to the provisions of the Uniform Commercial Code or other mandatory provisions of applicable law, the Required Secured Parties shall have the right and power to take possession of all or any part of the Collateral, and to exclude the Debtor and all Persons claiming under the Debtor wholly or partly therefrom, and thereafter to hold, store, and/or use, operate, manage and control the same. Upon any such taking of possession, the Required Secured Parties, from time to time, at the Debtor's expense, may (but shall not be obligated to) make all such repairs, replacements, alterations and improvements to any of the Collateral and may manage and control the Collateral and carry on the business and exercise all rights and powers of the Debtor in respect thereto as the Required Secured Parties shall deem best, including, without limitation, the right to enter into any and all such agreements with respect to the use of the Collateral or any part thereof as the Required Secured Parties may see fit (including, without limitation, licensing agreements related to the Intellectual Property Collateral); and the Required Secured Parties shall be entitled to collect and receive all rents, issues, profits, fees, revenues and other income of the same and every part thereof. Such rents, issues, profits, fees, revenues and other income shall be applied to pay the expenses of so holding, storing, using, operating, managing and controlling the Collateral, and of conducting any business related thereto,

and of all maintenance, repairs, replacements, alterations, additions and improvements, and to make all payments which the Secured Parties (or any of them) may be required or may elect to make, if any, for taxes, assessments, insurance and other charges upon the Collateral or any part thereof, and all other payments which the Secured Parties (or any of them) may be required or authorized to make under any provision of this Agreement or any of the other Operative Documents (including legal costs and reasonable attorneys' fees). The remainder of such rents, issues, profits, fees, revenues and other income shall be applied to the payment of the Secured Obligations in such order of priority as the Required Secured Parties shall determine and, unless otherwise provided by law or by a court of competent jurisdiction, any surplus shall be returned to the Debtor or to any Person lawfully entitled thereto (including, if applicable, any subordinated creditors of the Debtor). Without limiting the generality of the foregoing (and without derogating from any other provision in this Agreement or any of the other Operative Documents), the Required Secured Parties shall have the right to have (and the Debtor hereby consents to the same) a trustee, liquidator, receiver or similar official appointed (regardless of the value of the Collateral, the presence or absence of any misfeasance or malfeasance on the part of the Debtor or any other fact or circumstance which otherwise would provide a defense to such appointment) to enforce the rights and remedies of the Secured Parties hereunder or under any of the other Operative Documents, including, without limitation, (a) to take possession of and to manage, protect and preserve the Collateral and all other properties of the Debtor, (b) to continue the operation of the business of the Debtor, (c) to sell, transfer, assign or otherwise dispose of the Collateral (or any portion thereof) and (d) to collect all rents, issues, profits, fees, revenues and other income and proceeds thereof and apply the same to the payment of all expenses and other charges of such receivership, including the compensation of any such official, and to the payment of the Secured Obligations as aforesaid. If the Required Secured Parties shall request, or shall apply or petition for, the appointment of or taking possession by any such trustee, liquidator, receiver or other similar official, the Debtor will promptly evidence its consent thereto and will fully cooperate with any such official.

10. Waivers, Remedies Cumulative, etc.

(a) The Debtor hereby waives presentment, demand, notice, protest and, except as is otherwise explicitly provided herein, all other demands and notices in connection with this Agreement or the enforcement of any of the rights and remedies of the Secured Parties hereunder or in connection with any Secured Obligations or any Collateral; consents to and waives notice of the granting of renewals, extensions of time for payment or other indulgences to the Debtor or any other Person (including any account debtor in respect of any Account Receivable), or the substitution, release or surrender of any Collateral, the addition or release of Persons primarily or secondarily liable on any Secured Obligation (or any Account Receivable or other Collateral), the acceptance of partial payments on any Secured Obligation (or any Account Receivable or other Collateral) and/or the settlement or compromise thereof. To the extent permitted by law, the Debtor also hereby waives any rights and/or defenses the Debtor may have under any

anti-deficiency laws or other laws limiting, qualifying or discharging the Secured Obligations and/or any of the remedies of the Secured Parties against the Debtor. The Debtor further waives, to the extent permitted by law: (i) any right it may have under any applicable law (including the constitution of any jurisdiction in which any of the Collateral may be located and the Constitution of the United States of America) to notice (other than any requirement of notice explicitly provided herein) or to a judicial hearing prior to the exercise of any right or remedy provided by this Agreement or any of the other Operative Documents and any right to set aside or invalidate any sale duly consummated in accordance with the foregoing provisions hereof on the grounds (if such be the case) that the sale was consummated without a prior judicial hearing; (ii) any right to damages occasioned by any exercise by the Secured Parties (or any of them) of any right or remedy hereunder or referred to herein, including any damages arising as a result of any taking of possession of the Collateral; (iii) all other requirements as to the time, place and terms of sale or other requirements with respect to the enforcement of the Secured Parties' rights hereunder; and (iv) all rights of redemption, appraisal, valuation, stay, extension or moratorium now or hereafter in force under any applicable law. The Secured Parties shall not be required to marshal any Collateral (or any part thereof) or to resort to the Collateral (or any part thereof) in any particular order. To the extent permitted by law, the Debtor hereby agrees it will not invoke any right it may have under any law to require the marshaling of Collateral or any other right under any law which might cause delay in or impede the enforcement of the rights of the Secured Parties under any of the Security Documents or any of the other Operative Documents, and the Debtor hereby irrevocably waives the benefits of all such laws. Any sale of, or the grant of options to purchase, or any other realization upon, any Collateral shall operate to divest all right, title, interest, claim and demand, either at law or in equity, of the Debtor therein and thereto, and shall be a perpetual bar both at law and in equity against the Debtor and against any and all Persons claiming or attempting to claim the Collateral so sold, optioned or realized upon, or any part thereof, from, through and under the Debtor.

(b) The Debtor hereby covenants and agrees with the Secured Parties that there will not be any restriction imposed by the Organizational Documents of any issuer of any of the Pledged Securities or by any other agreement, document or instrument which will in any way affect or impair any pledge of Pledged Securities hereunder or the exercise by the Secured Parties of any right granted hereunder, including, without limitation, the right of the Secured Parties to dispose of the Pledged Securities in accordance with the terms hereof. The Debtor further covenants and agrees that it will, and will cause each issuer of any Pledged Securities to, take all necessary action to prevent any such restriction from arising at any time in the future. The Debtor hereby agrees that it will take any further action which the Required Secured Parties may reasonably request in order that the Secured Parties may obtain and enjoy the full rights and benefits granted to the Secured Parties by this Agreement free of any such restrictions.

(c) To the extent permitted by law, the obligations of the Debtor under this Agreement shall remain in full force and effect without regard to, and shall not be impaired by (i) any bankruptcy, insolvency, reorganization, arrangement, readjustment, composition, liquidation or the like of the Debtor, or of any other Person; (ii) any exercise or nonexercise, or any waiver, by the Secured Parties (or any of them), of any right, remedy, power or privilege under or in respect of any of the Secured Obligations or any of the Collateral or any other security therefor; (iii) any amendment to or modification of this Agreement or any of the other Operative Documents; or (iv) the taking of additional security for or any guarantee of any of the Secured Obligations or the release or discharge or termination of any security or guarantee for any of the Secured Obligations; and whether or not the Debtor shall have notice or knowledge of any of the foregoing.

(d) No remedy conferred herein or in any of the other Operative Documents upon the Secured Parties is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or under any of the other Operative Documents or now or hereafter existing at law or in equity or by statute or otherwise. No course of dealing between the Debtor or any Affiliate of the Debtor and the Secured Parties and no delay in exercising any rights hereunder or under any of the other Operative Documents shall operate as a waiver of any right of the Secured Parties. No waiver by the Secured Parties of any default shall be effective unless made in writing and otherwise in accordance with the terms of section 19 of the Securities Purchase Agreements and no such waiver shall extend to or affect any obligation not expressly waived or impair any right consequent thereon.

(e) The Debtor's waivers set forth in this Agreement (including, without limitation, those set forth in this section 10) have been made voluntarily, intelligently and knowingly and after the Debtor has been apprised and counseled by its attorneys as to the nature thereof and its possible alternative rights.

11. Termination. This Agreement and the Liens on the Collateral created hereby shall terminate when all of the Secured Obligations have been paid and finally discharged in full in cash (and all commitments of the Secured Parties (or any of them) to lend any additional amounts to the Debtor or any of its Affiliates shall have been terminated).

12. Reinstatement. Notwithstanding the provisions of section 11 to the contrary and notwithstanding anything else to the contrary contained herein, this Agreement shall continue to be effective or be reinstated, as the case may be, if at any time any amount received by any Secured Party in respect of the Collateral or in respect of the Secured Obligations is rescinded, annulled or must otherwise be restored or returned by any Secured Party upon the insolvency, bankruptcy, dissolution, liquidation or reorganization of the Debtor or any of its Affiliates or any guarantor of all or any part of

the Secured Obligations, or upon the appointment of an intervenor, receiver or conservator of, or trustee or similar official for, the Debtor or any such Affiliate or guarantor, or any substantial part of their respective properties or assets, or otherwise, all as though such payment had not been made.

13. Consents, Approvals, etc. Upon the exercise by the Required Secured Parties of any power, right, privilege or remedy pursuant to this Agreement or any of the other Operative Documents which requires any consent, approval, registration, qualification or authorization of, or declaration or filing with, or other action by, any other Person, including, without limitation, any governmental authority or instrumentality, the Debtor will execute and deliver, or will cause the execution and delivery of, all such agreements, documents, applications, certificates, instruments and other documents and papers and will take, or will cause to be taken, such other action that may be required to obtain such consent, approval, registration, qualification or authorization of or other action by such other Person and/or that may be reasonably requested by the Required Secured Parties in connection therewith.

14. Certain Definitions In addition to the descriptions contained in section 1 hereof, the items of Collateral referred to therein shall have all of the meanings ascribed to them in the Uniform Commercial Code of The Commonwealth of Massachusetts (or of any other applicable jurisdiction) as in effect from time to time.

15. Amendments. All amendments of this Agreement and all waivers of compliance herewith shall be in writing and shall be effected in compliance with the provisions of section 19 of the Securities Purchase Agreements.

16. Communications. All communications provided for herein shall be mailed by certified mail (return receipt requested) at the addresses referred to and shall be effective at the time specified in section 23 of the Securities Purchase Agreements.

17. Successors and Assigns. This Agreement shall bind and inure to the benefit of and be enforceable by the Secured Parties and the Debtor, successors to the Debtor and the successors and assigns of the Secured Parties, and, in addition, shall inure to the benefit of and be enforceable by each holder from time to time of any of the Notes who, upon acceptance of any Notes, shall, without further action, be entitled to enforce the provisions and enjoy the benefits hereof and thereof, whether or not an express assignment to such holder of rights hereunder and thereunder has been made.

18. Governing Law; Jurisdiction; Waiver of Jury Trial. This Agreement, including the validity hereof and the rights and obligations of the parties hereunder, and all amendments and supplements hereof and all waivers and consents hereunder, shall be construed in accordance with and governed by the domestic substantive laws of The Commonwealth of Massachusetts without giving effect to any choice of law or conflicts of law provision or rule that would cause the application of the domestic substantive laws of any other jurisdiction. The Debtor, to the extent that it may lawfully do so, hereby

consents to service of process, and to be sued, in The Commonwealth of Massachusetts and consents to the jurisdiction of the courts of The Commonwealth of Massachusetts and the United States District Court for the District of Massachusetts, as well as to the jurisdiction of all courts to which an appeal may be taken from such courts, for the purpose of any suit, action or other proceeding arising out of any of its obligations hereunder and under the other Operative Documents or with respect to the transactions contemplated hereby or thereby, and expressly waives any and all objections it may have as to venue in any such courts. The Debtor further agrees that a summons and complaint commencing an action or proceeding in any of such courts shall be properly served and shall confer personal jurisdiction if served personally or by certified mail to it in accordance with section 16 or as otherwise provided under the laws of The Commonwealth of Massachusetts. Notwithstanding the foregoing, the Debtor agrees that nothing contained in this section 18 shall preclude the institution of any such suit, action or other proceeding in any jurisdiction other than The Commonwealth of Massachusetts. THE DEBTOR IRREVOCABLY WAIVES ALL RIGHT TO A TRIAL BY JURY IN ANY SUIT, ACTION OR OTHER PROCEEDING INSTITUTED BY OR AGAINST IT IN RESPECT OF ITS OBLIGATIONS HEREUNDER AND UNDER ANY OF THE OTHER OPERATIVE DOCUMENTS AND THE TRANSACTIONS CONTEMPLATED HEREBY AND BY THE OTHER OPERATIVE DOCUMENTS.

19. Miscellaneous. The headings in this Agreement are for purposes of reference only and shall not limit or otherwise affect the meaning hereof. This Agreement (together with the other Operative Documents) embodies the entire agreement and understanding between the Secured Parties and the Debtor and supersedes all prior agreements and understandings relating to the subject matter hereof. Each covenant contained herein and in each of the other Operative Documents shall be construed (absent an express provision to the contrary) as being independent of each other covenant contained herein and therein, so that compliance with any one covenant shall not (absent such an express contrary provision) be deemed to excuse compliance with any other covenant. If any provision in this Agreement or in any of the other Operative Documents refers to any action taken or 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, whether or not expressly specified in such provision. In case any provision in this Agreement or in any of the other Operative Documents shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions hereof and thereof shall not in any way be affected or impaired thereby. This Agreement may be executed in any number of counterparts and by the parties hereto on separate counterparts but all such counterparts shall together constitute but one and the same instrument.

[The remainder of this page is left blank intentionally.]

IN WITNESS WHEREOF, the Debtor and the Institutional Investors has executed this Agreement as a sealed instrument as of the date first above written.

FETCO INTERNATIONAL, INC.

By  (Title)
President

MARLBOROUGH CAPITAL
INVESTMENT FUND III, L.P.

By: Marlborough Capital Partners III, L.L.C.,
its General Partner

By: _____
(Title)

MARLBOROUGH CAPITAL
INVESTMENT FUND IIIB, L.P.

By: Marlborough Capital Partners III, L.L.C.,
its General Partner

By: _____
(Title)

IBJS CAPITAL CORPORATION

By _____
(Title)

IN WITNESS WHEREOF, the Debtor and the Institutional Investors has executed this Agreement as a sealed instrument as of the date first above written.

FETCO INTERNATIONAL, INC.

By _____
(Title)

MARLBOROUGH CAPITAL
INVESTMENT FUND III, L.P.

By: Marlborough Capital Partners III, L.L.C., its
General Partner

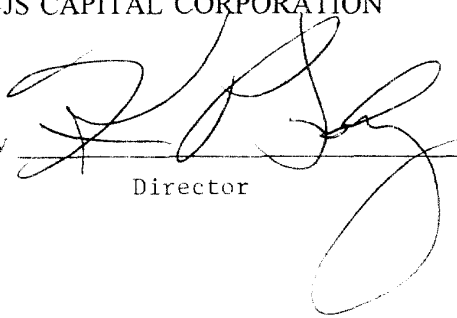
By: Margaret L. Lannon
General Partner (Title)

MARLBOROUGH CAPITAL
INVESTMENT FUND IIIB, L.P.

By: Marlborough Capital Partners III, L.L.C., its
General Partner

By: Margaret L. Lannon
General Partner (Title)

IBJS CAPITAL CORPORATION

By 
Director (Title)

Suffolk
Massachusetts)
) ss.

May 4, 1998

On this 4th day of May, 1998, before me appeared
Peter J. Escobar, President of
Fetco International, Inc., to me known and known by me to be the party executing the
foregoing instrument on behalf of Fetco International, Inc., and [he/she] acknowledged
said instrument by [him/her] executed to be [his/her] free act and deed and the free act
and deed of Fetco International, Inc.

[Signature]
Notary Public
My commission expires: _____

_____)
_____) ss. _____, 1998

On this ____ day of _____, 1998, before me appeared
_____ of
Marlborough Capital Investment Fund III, L.P., to me known and known by me to be the
party executing the foregoing instrument on behalf of Marlborough Capital Investment
Fund III, L.P., and [he/she] acknowledged said instrument by [him/her] executed to be
[his/her] free act and deed and the free act and deed of Marlborough Capital Investment
Fund III, L.P.

Notary Public
My commission expires: _____

_____)
_____) ss. _____, 1998

On this ____ day of _____, 1998, before me appeared
_____ of
Marlborough Capital Investment Fund IIIB, L.P., to me known and known by me to be
the party executing the foregoing instrument on behalf of Marlborough Capital Investment
Fund IIIB, L.P., and [he/she] acknowledged said instrument by [him/her] executed to be
[his/her] free act and deed and the free act and deed of Marlborough Capital Investment
Fund IIIB, L.P.

Notary Public
My commission expires: _____

_____))
_____) ss April __, 1998

On this ____ day of April, 1998, before me appeared _____,
_____ of Fetco International, Inc., to me known and
known by me to be the party executing the foregoing instrument on behalf of Fetco
International, Inc., and [he/she] acknowledged said instrument by [him/her] executed to be
[his/her] free act and deed and the free act and deed of Fetco International, Inc.

Notary Public
My commission expires: _____

County of Suffolk)
Commonwealth of) ss. May
Massachusetts) ~~April~~ 4, 1998
May

On this 4th day of ~~April~~, 1998, before me appeared Margaret L. Lanoix _____,
General Partner _____ of Marlborough Capital Investment Fund III,
L.P., to me known and known by me to be the party executing the foregoing instrument on
behalf of Marlborough Capital Investment Fund III, L.P., and [he/she] acknowledged said
instrument by [him/her] executed to be [his/her] free act and deed and the free act and deed
of Marlborough Capital Investment Fund III, L.P.

Jana Lee Bellis
Notary Public
My commission expires: ~~My Commission Expires Nov 16, 2001~~

County of Suffolk)
Commonwealth of) ss. May
Massachusetts) ~~April~~ 4, 1998
May

On this 4th day of ~~April~~, 1998, before me appeared Margaret L. Lanoix _____,
General Partner _____ of Marlborough Capital Investment Fund IIIB,
L.P., to me known and known by me to be the party executing the foregoing instrument on
behalf of Marlborough Capital Investment Fund IIIB, L.P., and [he/she] acknowledged said
instrument by [him/her] executed to be [his/her] free act and deed and the free act and deed
of Marlborough Capital Investment Fund IIIB, L.P.

Jana Lee Bellis
Notary Public
My commission expires: ~~My Commission Expires Nov 16, 2001~~

County of Suffolk)
Commonwealth of) ss.
Massachusetts May

May
~~April~~ 4, 1998

On this 4th day of ~~April~~, 1998, before me appeared Kevin P. Falvey,
Director of IBJS Capital Corporation, to me known and
known by me to be the party executing the foregoing instrument on behalf of IBJS Capital
Corporation, and [he/she] acknowledged said instrument by [him/her] executed to be [his/her]
free act and deed and the free act and deed of IBJS Capital Corporation.

Jana Lee Bellis
Notary Public My Commission Expires Nov 16, 2001
My commission expires: _____

Exhibit 3(b)

Security Agreement
Petco International, Inc.

Places of Business
Location of Collateral; Names

1. (a) Additional Places of Business

NY Showroom - 225 Fifth Avenue, Suite 312, New York, NY 10010

Petco International, Inc. (Thailand Branch)
A.I. Nond Building, 4/F Suite 403,
70/7 Tivanond Road, Nondhaburi
Bangkok 11000
Thailand

Petco International, Inc. (Hong Kong Branch)
Room 402, Austin Tower
22 Austin Avenue
Tsim Sha Tsui,
Kowloon
Hong Kong

(b) Additional Locations of Collateral

EGI Warehouse, Inc.
56 Oak Hill Way
P.O. Box 3278
Brockton, MA 02404-327

Phoenix Warehouse of California, L.L.C.
24620 South Main Street
Carson, CA 90745

Romar Transportation Systems
90 Western Avenue
Allston, MA 02134

2. Names (including all fictitious business and trade names)

Not Applicable

3. Federal Taxpayer I.D. No.

04-2536163

Exhibit 4(a)(i)

Intellectual Property1. Trademarks

| <u>Trademarks, Trademark Applications, Trade Names and Service Marks/Applications</u> | <u>Registration/Serial Number</u> | <u>Registration/Filing Date</u> | <u>Nature of Interest (e/g/ owner, licensee)</u> |
|---|---------------------------------------|-------------------------------------|--|
| Studio Eighty Four | 2144,717 | March 17, 1998 | Owner |
| Studio Eighty Four | 2142,667 | March 10, 1998 | Owner |
| Beacon Hill | 75/24037 | July 14, 1997 | Owner |
| Comici Milano | 7-323930 | July 14, 1997 | Owner |
| Fetco | 1,882142 | March 7, 1995 | Owner |
| Children's Corner | 1,773006 | May 25, 1993 | Owner |

2. Patents

| <u>Patents/Patent Applications</u> | <u>Registration/Serial Number</u> | <u>Issue/Filing Date</u> | <u>Nature of Interest (e.g., owner, licensee)</u> |
|--|---------------------------------------|------------------------------|---|
| SoHo Suspension | 29/084396 | March 13, 1998 | Owner |
| Triple Screen | 29/084359 | March 13, 1998 | Owner |

3. Copyrights

N/A

Exhibit 5(a)

Pledged Stock of the Subsidiaries of the Debtor

1. 2 shares of [] stock of Fetco International (HK) Ltd. Stock is held by individuals as agents for Fetco International, Inc.

One share is in the name of Kenneth A. McCord, Jr. (will be transferred to a new agent)

One share is in the name of Peter J. Pescatore

[] shares of [] stock of Fetco International Thailand Ltd. is held in the name of Fetco International, Inc.

J:\MALM\NEPART\NE\FETCO\DOCS\SECURITY.EGH



UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
 ASSISTANT SECRETARY AND COMMISSIONER
 OF PATENTS AND TRADEMARKS
 Washington, D.C. 20231

JULY 26, 1998

PTAS

CHOATE, HALL & STEWART
 W. BREWSTER LEE, ESQ.
 EXCHANGE PLACE
 53 STATE STREET
 BOSTON, MA 02109



100721042A

8-7-98

UNITED STATES PATENT AND TRADEMARK OFFICE
 NOTICE OF NON-RECORDATION OF DOCUMENT

DOCUMENT ID NO.: 100721042

THE ENCLOSED DOCUMENT HAS BEEN EXAMINED AND FOUND NON-RECORDABLE BY THE ASSIGNMENT DIVISION OF THE U.S. PATENT AND TRADEMARK OFFICE. THE REASON(S) FOR NON-RECORDATION ARE STATED BELOW. DOCUMENTS BEING RESUBMITTED FOR RECORDATION MUST BE ACCOMPANIED BY A NEW COVER SHEET REFLECTING THE CORRECT INFORMATION TO BE RECORDED AND THE DOCUMENT ID NUMBER REFERENCED ABOVE.

THE ORIGINAL DATE OF FILING OF THIS ASSIGNMENT DOCUMENT WILL BE MAINTAINED IF RESUBMITTED WITH THE APPROPRIATE CORRECTION(S) WITHIN 30 DAYS FROM THE DATE OF THIS NOTICE AS OUTLINED UNDER 37 CFR 3.51. THE RESUBMITTED DOCUMENT MUST INCLUDE A STAMP WITH THE OFFICIAL DATE OF RECEIPT UNDER 37 CFR 3. APPLICANTS MAY USE THE CERTIFIED PROCEDURES UNDER 37 CFR 1.8 OR 1.10 FOR RESUBMISSION OF THE RETURNED PAPERS, IF THEY DESIRE TO HAVE THE BENEFIT OF THE DATE OF DEPOSIT IN THE UNITED STATES POSTAL SERVICE.

SEND DOCUMENTS TO: U.S. PATENT AND TRADEMARK OFFICE, ASSIGNMENT DIVISION, BOX ASSIGNMENTS, CG-4, 1213 JEFFERSON DAVIS HWY, SUITE 320, WASHINGTON, D.C. 20231. IF YOU HAVE ANY QUESTIONS REGARDING THIS NOTICE, YOU MAY CONTACT THE INDIVIDUAL WHOSE NAME APPEARS ON THIS NOTICE AT 703-308-9723.

1. THE SCHEDULE HAVE 8 NUMBERS LISTED, BUT IN BOX 6 ON THE COVER SHEET, "6" IS INDICATED. PLEASE LIST THE SIX NUMBERS TO BE RECORDED IN BOX 4A AND/OR 4B ON THIS COVER SHEET. (DELETE THE PHRASE "SEE SCHEDULE B" FROM BOX 4 SO THE NUMBERS CAN BE TYPED THERE). WHEN RESPONDING, RETURN ALL THE ATTACHED PAPERS INCLUDING THIS NON RECORDATION NOTICE.

DIANE RUSSELE, PARALEGAL
 ASSIGNMENT DIVISION
 OFFICE OF PUBLIC RECORDS

CHOATE, HALL & STEWART

A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS

EXCHANGE PLACE

53 STATE STREET

BOSTON, MASSACHUSETTS 02109-2891

TELEPHONE (617) 248-5000

FACSIMILE (617) 248-4000

TELEX 49615860

August 6, 1998

EXPRESS MAIL

U.S. Patent and Trademark Office
Assignment Division
Box Assignments, CG-4
1213 Jefferson Davis Hwy
Suite 320
Washington, DC 20231

Re: 100721042

Ladies and Gentlemen:

With this letter we are returning the enclosed for recordation. The requested changes have been made.

Please feel free to call me at (617) 248-5000 x5585 if you have any questions or need any additional information.

Thank you for your assistance.

Very truly yours,



Carolyn J. Hunt
Assistant to W. Brewster Lee

WBL/cjh/ds1/426481
Enclosure