

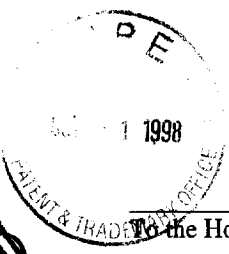
10-14-1998



BT

100849274

88-1-01 DELL  
MED 10-1-98



To the Honorable Commissioner of Patents and Trademarks:

Please record the attached original documents or copy thereof.

- 1. Name of conveying party:  
Arterial Vascular Engineering, Inc.
- 2. Name and address of receiving party:  
Royal Bank of Canada, as Administrative Agent  
One Liberty Plaza, 5th Floor  
New York, NY 10006-1404
- 3. Nature of conveyance:  
Security Agreement

Execution Date: September 30, 1998

4. Registration numbers:

<u>Trademark</u>	<u>Registration Date</u>	<u>Registration Number</u>	<u>Application Number</u>	<u>Application Date</u>
AVE Arterial Vascular Engineering	05/19/98	2,180,107	75/239717	02/04/97
MICRO STENT	06/17/97	2,071,249	75/029003	12/06/95
GFX	03/10/98	2,142,261	75/214138	12/13/96
BRIDGE			75/354338	09/09/97

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

Christina Chang  
 Legal Assistant  
 O'Melveny & Myers LLP  
 400 South Hope Street  
 Los Angeles, CA 90017

- 6. Total number of applications and registrations involved: four (4)
- 7. Total fee: \$140.00
- 8. Deposit Account Number:  
N/A

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.

Christina WH Chang  
Name of Person Signing

Signature

10/1/98

Date

TOTAL NUMBER OF PAGES COMPRISING COVER SHEET: 1

10/13/1998 TT0N11 0000014E 2180107

01 FC:481  
02 FC:482

40.00 OP  
100.00 OP

LA1:820865

TRADEMARK  
REEL: 1798 FRAME: 0924

## GRANT OF TRADEMARK SECURITY INTEREST

**WHEREAS, ARTERIAL VASCULAR ENGINEERING, INC.**, a Delaware corporation ("**Grantor**"), owns and uses in its business, and will in the future adopt and so use, various intangible assets, including the Trademark Collateral (as defined below); and

**WHEREAS**, Arterial Vascular Engineering, a Delaware corporation ("**Company**"), has entered into a Credit Agreement dated as of September 30, 1998 (said Credit Agreement, as it may heretofore have been and as it may hereafter be amended, supplemented or otherwise modified from time to time, being the "**Credit Agreement**") with the financial institutions named therein (collectively, together with their respective successors and assigns party to the Credit Agreement from time to time, the "**Lenders**"), DLJ Capital Funding, Inc., as Syndication Agent, Paribas, as Documentation Agent, and Royal Bank of Canada, as Administrative Agent (in such capacity, "**Secured Party**"), pursuant to which Lenders have made certain commitments, subject to the terms and conditions set forth in the Credit Agreement, to extend certain credit facilities to Company; and

**WHEREAS**, Company may from time to time enter, or may from time to time have entered, into one or more Interest Rate Agreements (collectively, the "**Lender Interest Rate Agreements**") with one or more Lenders (in such capacity, collectively, "**Lender Counterparties**"); and

**WHEREAS**, pursuant to the terms of a Security Agreement dated as of September 30, 1998 (as amended, supplemented or otherwise modified from time to time, the "**Security Agreement**"), among Grantor, Secured Party and the other grantors named therein, Grantor has agreed to create in favor of Secured Party a secured and protected interest in, and Secured Party has agreed to become a secured creditor with respect to, the Trademark Collateral;

**NOW, THEREFORE**, for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, subject to the terms and conditions of the Security Agreement, Grantor hereby grants to Secured Party a security interest in all of Grantor's right, title and interest in and to the following, in each case whether now or hereafter existing or in which Grantor now has or hereafter acquires an interest and wherever the same may be located (the "**Trademark Collateral**"):

(i) all right, title and interest (including rights acquired pursuant to a license or otherwise but only to the extent permitted by agreements governing such license or other use) in and to all trademarks, service marks, designs, logos, indicia, tradenames, trade dress, corporate names, company names, business names, fictitious business names, trade styles and/or other source and/or business identifiers and applications pertaining thereto, owned by such Grantor, or hereafter adopted and used, in its business (including, without limitation, the trademarks specifically identified in Schedule A) (collectively, the "**Trademarks**"), all registrations that have been or may hereafter be issued or applied for thereon in the United States and any state thereof (including, without limitation, the registrations and applications specifically identified in Schedule A) (the "**Trademark Registrations**"), all common law and other rights (but in no event any of the obligations) in and to the Trademarks in the United States and any state thereof (the "**Trademark Rights**"), and all goodwill of such Grantor's business

symbolized by the Trademarks and associated therewith (the “**Associated Goodwill**”); and

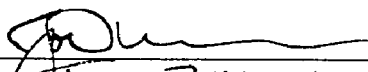
(ii) all proceeds, products, rents and profits of or from any and all of the foregoing Trademark Collateral and, to the extent not otherwise included, all payments under insurance (whether or not Secured Party is the loss payee thereof), or any indemnity, warranty or guaranty, payable by reason of loss or damage to or otherwise with respect to any of the foregoing Trademark Collateral. For purposes of this Grant of Trademark Security Interest, the term “**proceeds**” includes whatever is receivable or received when Trademark Collateral or proceeds are sold, exchanged, collected or otherwise disposed of, whether such disposition is voluntary or involuntary.

Notwithstanding anything herein to the contrary, in no event shall the Trademark Collateral include, and Grantor shall be not deemed to have granted a security interest in, any of Grantor’s rights or interests in any license, contract or agreement to which Grantor is a party or any of its rights or interests thereunder to the extent, but only to the extent, that such a grant would, under the terms of such license, contract or agreement or otherwise, result in a breach of the terms of, or constitute a default under any license, contract or agreement to which Grantor is a party; provided, that immediately upon the ineffectiveness, lapse or termination of any such provision, the Trademark Collateral shall include, and Grantor shall be deemed to have granted a security interest in, all such rights and interests as if such provision had never been in effect.

Grantor does hereby further acknowledge and affirm that the rights and remedies of Secured Party with respect to the security interest in the Trademark Collateral granted hereby are more fully set forth in the Security Agreement, the terms and provisions of which are incorporated by reference herein as if fully set forth herein.

IN WITNESS WHEREOF, Grantor has caused this Grant of Trademark Security Interest to be duly executed and delivered by its officer thereunto duly authorized as of the 30th day of September, 1998.

ARTERIAL VASCULAR ENGINEERING, INC.

By:   
Name: John D Miller  
Title: CEO

**SCHEDULE A**  
**TO**  
**GRANT OF TRADEMARK SECURITY INTEREST**  
**(ALL ARTERIAL VASCULAR ENGINEERING, INC.)**

<b>Description</b>	<b>Registration #</b>	<b>Reg. Date</b>
AVE Arterial Vascular Engineering	2,180,107	05/19/98
MICRO STENT	2,071,249	06/17/97
GFX	2,142,261	03/10/98

**U.S. TRADEMARK APPLICATION**  
**(ARTERIAL VASCULAR ENGINEERING, INC.)**

<b>Description</b>	<b>Application #</b>	<b>App. Date</b>
BRIDGE	75/354,338	09/09/97

## SECURITY AGREEMENT

This **SECURITY AGREEMENT** (this "**Agreement**") is dated as of September 30, 1998 and entered into by and between **ARTERIAL VASCULAR ENGINEERING, INC.**, a Delaware corporation ("**Company**"), each of **THE UNDERSIGNED DIRECT AND INDIRECT SUBSIDIARIES** of Company (each of such undersigned Subsidiaries being a "**Subsidiary Grantor**" and collectively "**Subsidiary Grantors**", and each of Company and Subsidiary Grantors being a "**Grantor**" and collectively "**Grantors**"; provided that after the Closing Date, "**Grantors**" shall include any Additional Grantors (as hereinafter defined)) and **ROYAL BANK OF CANADA**, as Administrative Agent, for the benefit of Agents, Issuing Lenders, Swing Line Lender and Lenders party to the Credit Agreement referred to below and any Interest Rate Exchangers (as hereinafter defined)(in such agent capacity for all such parties, the "Secured Party" herein).

### PRELIMINARY STATEMENTS

A. Secured Party, Agents and Lenders have entered into a Credit Agreement dated as of September 30, 1998 (said Credit Agreement, as it may hereafter be amended, supplemented or otherwise modified from time to time, being the "**Credit Agreement**", the terms defined therein and not otherwise defined herein being used herein as therein defined) with Company pursuant to which Agents have undertaken certain obligations and Lenders have made certain commitments, subject to the terms and conditions set forth in the Credit Agreement, to extend certain credit facilities to Company.

B. Company may from time to time enter, or may from time to time have entered, into one or more Interest Rate Agreements with one or more Lenders (collectively, the "**Lender Interest Rate Agreements**") (such Lenders in such capacity, collectively, "**Interest Rate Exchangers**") in accordance with the terms of the Credit Agreement, and it is desired that the obligations of Company under the Lender Interest Rate Agreements, including, without limitation, the obligation of Company to make payments thereunder in the event of early termination thereof (all such obligations being the "**Interest Rate Obligations**"), together with all obligations of Company under the Credit Agreement and the other Loan Documents, be secured hereunder.

C. Subsidiary Grantors have executed and delivered that certain Subsidiary Guaranty dated as of September 30, 1998 (said Subsidiary Guaranty, as it may hereafter be amended, restated, supplemented or otherwise modified from time to time, being the "**Subsidiary Guaranty**") in favor of Secured Party for the benefit of Lenders, Issuing Lenders, Swing Line Lender and Interest Rate Exchangers, pursuant to which each Subsidiary Grantor has guaranteed the prompt payment and performance when due of all obligations of Company under the Credit Agreement and all obligations of Company under the Lender Interest Rate Agreements, including, without limitation, the obligation of Company to make payments thereunder in the event of early termination thereof.

D. It is a condition precedent to the initial extensions of credit by Lenders under the Credit Agreement that Grantors shall have granted the security interests and undertaken the obligations contemplated by this Agreement.

**NOW, THEREFORE**, in consideration of the premises and in order to induce Lenders to make Loans and other extensions of credit under the Credit Agreement (including, without limitation, the issuance of Letters of Credit or the purchase of participations therein) and to induce the Agents to undertake their obligations and Interest Rate Exchangers to enter into the Lender Interest Rate Agreements, and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, each Grantor hereby agrees with Secured Party as follows:

**SECTION 1. Grant of Security.** Each Grantor hereby assigns to Secured Party, and hereby grants to Secured Party a security interest in, all of such Grantor's right, title and interest in and to the following, in each case whether now or hereafter existing or in which such Grantor now has or hereafter acquires an interest and wherever the same may be located (the "**Collateral**"):

(a) all equipment in all of its forms, all parts thereof and all accessions thereto (any and all such equipment, parts and accessions being the "**Equipment**");

(b) all inventory in all of its forms (including, but not limited to, (i) all goods held by such Grantor for sale or lease or to be furnished under contracts of service or so leased or furnished, (ii) all raw materials, work in process, finished goods, and materials used or consumed in the manufacture, packing, shipping, advertising, selling, leasing, furnishing or production of such inventory or otherwise used or consumed in such Grantor's business, (iii) all goods in which such Grantor has an interest in mass or a joint or other interest or right of any kind and (iv) all goods which are returned to or repossessed by such Grantor, and all accessions thereto and products thereof (all such inventory, accessions and products being the "**Inventory**") and all negotiable documents of title (including, without limitation, warehouse receipts, dock receipts and bills of lading) issued by any Person covering any Inventory (any such negotiable document of title being a "**Negotiable Document of Title**");

(c) all accounts, contract rights, chattel paper, documents, instruments, general intangibles and other rights and obligations of any kind owned by or owing to such Grantor and all rights in, to and under all security agreements, leases and other contracts securing or otherwise relating to any such accounts, contract rights, chattel paper, documents, instruments, general intangibles or other obligations (any and all such accounts, contract rights, chattel paper, documents, instruments, general intangibles and other obligations being the "**Accounts**", and any and all such security agreements, leases and other contracts being the "**Related Contracts**");

(d) the agreements to which any Grantor is party, as each such agreement may be amended, restated, supplemented or otherwise modified from time to time (said agreements, as so amended, restated, supplemented or otherwise modified, being referred to herein individually as an "**Assigned Agreement**" and collectively as the "**Assigned Agreements**"), including, without limitation, (i) all rights of such Grantor to receive moneys due or to become due under or pursuant to the Assigned Agreements, (ii) all rights of such Grantor to receive proceeds of any insurance, indemnity, warranty or guaranty with respect to the Assigned Agreements, (iii) all claims of such Grantor for damages arising out of any breach of or default under the Assigned Agreements, and (iv) all rights of such Grantor to terminate, amend, supplement, modify or exercise rights or options under the Assigned Agreements, to perform thereunder and to compel performance and otherwise exercise all remedies thereunder;

(e) all deposit accounts, including, without limitation, the deposit accounts listed on Schedule 1(e) annexed hereto and all other deposit accounts maintained with Secured Party;

(f) the “**Intellectual Property Collateral**”, which term means:

(i) all right, title and interest (including rights acquired pursuant to a license or otherwise but only to the extent permitted by agreements governing such license or other use) in and to all trademarks, service marks, designs, logos, indicia, tradenames, trade dress, corporate names, company names, business names, fictitious business names, trade styles and/or other source and/or business identifiers and applications pertaining thereto, owned by such Grantor, or hereafter adopted and used, in its business (including, without limitation, the trademarks specifically identified in Schedule 1(f)(i), as the same may be amended pursuant hereto from time to time) (collectively, the “**Trademarks**”), all registrations that have been or may hereafter be issued or applied for thereon in the United States and any state thereof (including, without limitation, the registrations and applications specifically identified in Schedule 1(f)(i), as the same may be amended pursuant hereto from time to time) (the “**Trademark Registrations**”), all common law and other rights (but in no event any of the obligations) in and to the Trademarks in the United States and any state thereof (the “**Trademark Rights**”), and all goodwill of such Grantor’s business symbolized by the Trademarks and associated therewith (the “**Associated Goodwill**”):

all right, title and interest (including rights acquired pursuant to a license or otherwise but only to the extent permitted by agreements governing such license or other use) in and to all patents and patent applications and rights and interests in patents and patent applications under any domestic or foreign law that are presently, or in the future may be, owned or held by such Grantor and all patents and patent applications and right, title and interests in patents and patent applications under any domestic law that are presently, or in the future may be, owned by such Grantor in whole or in part (including, without limitation, the patents and patent applications listed in Schedule 1(f)(ii), as the same may be amended pursuant hereto from time to time), all rights (but not obligations) corresponding thereto (including, without limitation, the right (but not the obligation), exercisable only upon the occurrence and during the continuation of an Event of Default, to sue for past, present and future infringements in the name of such Grantor or in the name of Secured Party or Lenders), and all re-issues, divisions, continuations, renewals, extensions and continuations-in-part thereof (all of the foregoing being collectively referred to as the “**Patents**”); it being understood that the rights and interests included in the Intellectual Property Collateral hereby shall include, without limitation, all rights and interests pursuant to licensing or other contracts in favor of such Grantor pertaining to patent applications and patents presently or in the future owned or used by third parties but, in the case of third parties which are not Affiliates of such Grantor, only to the extent permitted by such licensing or other contracts and, if not so permitted, only with the consent of such third parties; and

(ii) all right, title and interest (including rights acquired pursuant to a license or otherwise but only to the extent permitted by agreements governing such license or



other use) under copyright in various published and unpublished works of authorship including, without limitation, computer programs, computer data bases, other computer software, layouts, trade dress, drawings, designs, writings, and formulas owned by Grantor (including, without limitation, the works listed on Schedule 1(f)(iii), as the same may be amended pursuant hereto from time to time) (collectively, the “**Copyrights**”), all copyright registrations issued to such Grantor and applications for copyright registration that have been or may hereafter be issued or applied for thereon by Grantor in the United States and any state thereof (including, without limitation, the registrations listed on Schedule 1(f)(iii), as the same may be amended pursuant hereto from time to time) (collectively, the “**Copyright Registrations**”), all common law and other rights in and to the Copyrights in the United States and any state thereof, including all copyright licenses (but with respect to such copyright licenses, only to the extent permitted by such licensing arrangements) (the “**Copyright Rights**”), including, without limitation, each of the Copyrights, rights, titles and interests in and to the Copyrights and works protectable by copyright, which are presently, or in the future may be, owned, created (as a work for hire for the benefit of such Grantor), authored (as a work for hire for the benefit of such Grantor), or acquired by such Grantor, in whole or in part, and all Copyright Rights with respect thereto and all Copyright Registrations therefor, heretofore or hereafter granted or applied for, and all renewals and extensions thereof, throughout the world, including all proceeds thereof (such as, by way of example and not by limitation, license royalties and proceeds of infringement suits), the right (but not the obligation) to renew and extend such Copyright Registrations and Copyright Rights and to register works protectable by copyright and the right (but not the obligation) to sue for past, present and future infringements of the Copyrights and Copyright Rights;

(iv) all information used or useful or arising from the business including all goodwill, trade secrets, trade secret rights, know-how, customer lists, processes of production, ideas, confidential business information, techniques, processes, formulas, and all other proprietary information;

(g) to the extent not included in any other paragraph of this Section 1, all other general intangibles (including, without limitation, tax refunds, rights to payment or performance, *choses in action* and judgments taken on any rights or claims included in the Collateral);

(h) all plant fixtures, business fixtures and other fixtures and storage and office facilities, and all accessions thereto and products thereof;

(i) all books, records, ledger cards, files, correspondence, computer programs, tapes, disks and related data processing software that at any time evidence or contain information relating to any of the Collateral or are otherwise necessary or helpful in the collection thereof or realization thereupon; and

(j) all investment property (as defined in the Uniform Commercial Code as currently in effect in the State of New York (the “UCC”)) of Grantor, and any securities accounts (as defined in the UCC) held in the name of Grantor and any security entitlements (as defined in the UCC) held therein;

(k) all proceeds, products, rents and profits of or from any and all of the foregoing Collateral and, to the extent not otherwise included, all payments under insurance (whether or not Secured Party is the loss payee thereof), or any indemnity, warranty or guaranty, payable by reason of loss or damage to or otherwise with respect to any of the foregoing Collateral. For purposes of this Agreement, the term “proceeds” includes whatever is receivable or received when Collateral or proceeds are sold, exchanged, collected or otherwise disposed of, whether such disposition is voluntary or involuntary.

Notwithstanding the foregoing provisions of this Section 1, the grant of a security interest as provided herein shall not extend to, and the term “Collateral” shall not include: (i) any accounts, contracts, licenses or other general intangibles of Grantor, or any permits, instruments or chattel paper of Grantor, if and to the extent such account, contract, license, general intangible, permit, instruments or chattel paper contains restrictions on assignments and the creation of Liens, or under which such an assignment or Lien would cause a default to occur under such account, contract, license, general intangible, permit, instrument or chattel paper (other than to the extent that any such term would be rendered ineffective pursuant to Section 9-318(4) of the Uniform Commercial Code of any relevant jurisdiction or any other applicable law (including the Bankruptcy Code) or principles of equity), provided, that immediately upon the ineffectiveness, lapse or termination of any such provision, the Collateral shall include, and such Grantor shall be deemed to have granted a security interest in, all such rights and interests as if such provision had never been in effect; (ii) motor vehicles or other vehicles owned or leased by Grantor; (iii) the lease of real property by Grantor as lessee or sublessee not required to be subject to a Mortgage under the Credit Agreement; or (iv) copyrights, Trademarks, Patents and similar Intellectual Property interests held under the laws of countries other than the United States of America other than as set forth on the Exhibit hereto (collectively, “Security Agreements Excluded Collateral”).

**SECTION 2. Security for Obligations.** This Agreement and the security interest granted hereunder secure, and the Collateral assigned by each Grantor is collateral security for, the prompt payment or performance in full when due, whether at stated maturity, by required prepayment, declaration, acceleration, demand or otherwise (including, without limitation, the payment of amounts that would become due but for the operation of the automatic stay under Section 362(a) of the Bankruptcy Code, 11 U.S.C. §362(a)), of all Secured Obligations with respect to such Grantor. “**Secured Obligations**” means:

(a) with respect to Company, all obligations and liabilities of every nature of Company to any Agent, Lender, Issuing Lender, Swing Line Lender or Interest Rate Exchanger now or hereafter existing under or arising out of or in connection with the Credit Agreement and the other Loan Documents and any Lender Interest Rate Agreement, and

(b) with respect to each Subsidiary Grantor and Additional Grantor, all obligations and liabilities of every nature of such Grantors now or hereafter existing under or arising out of or in connection with the Subsidiary Guaranty;

in each case together with all extensions or renewals thereof, whether for principal, interest (including, without limitation, interest that, but for the filing of a petition in bankruptcy with respect to Company or any Grantor, would accrue on such obligations, whether or not a claim is allowed against Company or such Grantor for such interest in the related bankruptcy proceeding), reimbursement of amounts drawn under Letters of Credit, payments for early termination of Lender Interest Rate Agreements, fees, expenses, indemnities or otherwise, whether voluntary or

involuntary, direct or indirect, absolute or contingent, liquidated or unliquidated, whether or not jointly owed with others, and whether or not from time to time decreased or extinguished and later increased, created or incurred, and all or any portion of such obligations or liabilities that are paid, to the extent all or any part of such payment is avoided or recovered directly or indirectly from Secured Party or any Lender or Interest Rate Exchanger as a preference, fraudulent transfer or otherwise and all obligations of every nature of Grantors now or hereafter existing under this Agreement.

**SECTION 3. Grantors Remain Liable.** Anything contained herein to the contrary notwithstanding, (a) each Grantor shall remain liable under any contracts and agreements included in the Collateral, to the extent set forth therein, to perform all of its duties and obligations thereunder to the same extent as if this Agreement had not been executed, (b) the exercise by Secured Party of any of its rights hereunder shall not release any Grantor from any of its duties or obligations under the contracts and agreements included in the Collateral, and (c) Secured Party shall not have any obligation or liability under any contracts and agreements included in the Collateral by reason of this Agreement, nor shall Secured Party be obligated to perform any of the obligations or duties of any Grantor thereunder or to take any action to collect or enforce any claim for payment assigned hereunder.

**SECTION 4. Representations and Warranties.** Each Grantor represents and warrants as follows:

(a) **Ownership of Collateral.** Except as expressly permitted by the Credit Agreement and for the security interest created by this Agreement, such Grantor owns the Collateral in which it purports to grant a security interest free and clear of any Lien. Except as expressly permitted by the Credit Agreement and such as may have been filed in favor of Secured Party relating to this Agreement, no effective financing statement or other instrument similar in effect covering all or any part of the Collateral is on file in any filing or recording office.

(b) **Locations of Equipment and Inventory.** All of the Equipment and Inventory is, as of the date hereof, located at the places specified in Schedule 4(b) annexed hereto.

(c) **Negotiable Documents of Title.** No Negotiable Documents of Title are outstanding with respect to any of the Inventory (other than in respect of (i) Inventory with an aggregate value not in excess of \$1,000,000 or (ii) Inventory which, in the ordinary course of business, is in transit either (A) from a supplier to any Grantor, (B) between the locations specified in Schedule 4(b) hereto, or (C) to customers of any Grantor).

(d) **Office Locations.** The chief executive office, or, if such Grantor has no chief executive office, its principal place of business, and the office where Grantor keeps its records regarding the Accounts and all originals of all chattel paper that evidence Accounts are, and have been for the four month period preceding the date hereof, (or if such grantor was formed in last 4 months, since such Grantor was formed) located at the locations set forth on Schedule 4(d) annexed hereto.

(e) **Names.** No Grantor has in the past done, and no Grantor now does, business under any other name (including any trade-name or fictitious business name) except the names listed in Schedule 4(e) annexed hereto.

(f) Delivery of Certain Collateral. All notes and other instruments (excluding checks) included in the Collateral have been delivered to Secured Party duly endorsed and accompanied by duly executed instruments of transfer or assignment in blank.

(g) Intellectual Property Collateral.

(i) A true and complete list of all Trademark Registrations and Trademark applications owned, held (whether pursuant to a license or otherwise) or used by such Grantor, in whole or in part, is set forth in Schedule 1(f)(i);

(ii) a true and complete list of all Patents owned, held (whether pursuant to a license or otherwise) or used by such Grantor, in whole or in part, is set forth in Schedule 1(f)(ii);

(iii) a true and complete list of all Copyright Registrations and applications for Copyright Registrations held (whether pursuant to a license or otherwise) by such Grantor, in whole or in part, is set forth in Schedule 1(f)(iii);

(iv) after reasonable inquiry, such Grantor is not aware of any pending or threatened claim by any third party that any of the Intellectual Property Collateral owned, held or used by such Grantor is invalid or unenforceable; and

(v) no effective security interest or other Lien covering all or any part of the Intellectual Property Collateral is on file in the United States Patent and Trademark Office or the United States Copyright Office.

(h) Perfection. The security interests in the Collateral granted to Secured Party for the ratable benefit of the Lenders and Interest Rate Exchangers hereunder constitute valid security interests in the Collateral, securing the payment of the Secured Obligations. Upon the filing of UCC financing statements naming the applicable Grantor as "debtor", naming Secured Party as "secured party" and describing the Collateral in the filing offices set forth on Schedule 4(h) annexed hereto, and in the case of the Intellectual Property Collateral, in addition, the filing of a Grant of Trademark Security Interest, substantially in the form of Exhibit I and a Grant of Patent Security Interest, substantially in the form of Exhibit II, with the United States Patent and Trademark Office and the filing of a Grant of Copyright Security Interest, substantially in the form of Exhibit III, with the United States Copyright Office, the security interests in the Collateral granted to Secured Party for the ratable benefit of the Lenders and Interest Rate Exchangers will, to the extent a security interest in the Collateral may be perfected by filing UCC financing statements and, in the case of the Intellectual Property Collateral, in addition to the filing of such UCC Financing Statements, by the filing of a Grant of Trademark Security Interest and Grant of Patent Security Interest with the United States Patent and Trademark Office and a Grant of Copyright Security Interest with the United States Copyright Office, constitute perfected security interests therein prior to all other Liens (except for Permitted Encumbrances), and all filings and other actions necessary or desirable to perfect and protect such security interest have been duly made or taken.

#### **SECTION 5. Further Assurances.**

(a) Each Grantor agrees that from time to time, at the expense of Grantors, such Grantor will promptly execute and deliver all further instruments and documents, and take

all further action, that may be necessary or desirable, or that Secured Party may reasonably request, in order to perfect and protect any security interest granted or purported to be granted hereby or to enable Secured Party to exercise and enforce its rights and remedies hereunder with respect to any Collateral. Without limiting the generality of the foregoing, each Grantor will: (i) mark conspicuously each item of chattel paper included in the Accounts, and at the request of Secured Party, each of its records pertaining to the Collateral, with a legend, in form and substance satisfactory to Secured Party, indicating that such Collateral is subject to the security interest granted hereby, (ii) at the request of Secured Party, deliver and pledge to Secured Party hereunder all promissory notes and other instruments (including checks) and all original counterparts of chattel paper constituting Collateral, duly endorsed and accompanied by duly executed instruments of transfer or assignment, all in form and substance satisfactory to Secured Party, (iii) take all such further action and execute and file such financing or continuation statements, or amendments thereto, and such other instruments or notices, as may be necessary or desirable, or as Secured Party may request, in order to perfect and preserve the security interests granted or purported to be granted hereby (including, without limitation, giving Secured Party control (as defined in section 8-106 of the Uniform Commercial Code as currently in effect in the State of New York (the "UCC")) over any Pledged Collateral that is investment property or uncertificated securities (each as defined in the UCC) in order to perfect Secured Party's interest in such Pledged Collateral in accordance with the UCC), (iv) promptly after the acquisition by Grantor of any item of Equipment constituting Collateral which is covered by a certificate of title under a statute of any jurisdiction under the law of which indication of a security interest on such certificate is required as a condition of perfection thereof, execute and file with the registrar of motor vehicles or other appropriate authority in such jurisdiction an application or other document requesting the notation or other indication of the security interest created hereunder on such certificate of title, (v) at any reasonable time during normal business hours of such Grantor, upon no fewer than two Business Days prior request by Secured Party, exhibit the Collateral to and allow inspection of the Collateral by Secured Party, or persons designated by Secured Party, and (vi) at Secured Party's reasonable request, appear in and defend any action or proceeding that may materially impair Grantor's title to or Secured Party's security interest in all or any part of the Collateral.

(b) Without limiting the generality of the foregoing clause (a) and except with respect to any Security Agreement Excluded Collateral, if any Grantor shall hereafter obtain rights to any new Intellectual Property Collateral or become entitled to the benefit of (i) any Patent or any improvement or renewal of any Patent; or (ii) any Copyright Registration, application for Registration or renewals or extension of any Copyright Registration; or (iii) any Trademark Registration or application for a Trademark Registration, then in any such case, the provisions of this Agreement shall automatically apply thereto. Each Grantor shall promptly notify Secured Party in writing of any of the foregoing rights acquired by such Grantor after the date hereof. Promptly after the filing of an application for any (1) Trademark Registration; (2) Patent; or (3) Copyright Registration, each Grantor shall execute and deliver to Secured Party and record in all places where this Agreement is recorded a Security Agreement Supplement, substantially in the form of Exhibit IV, pursuant to which such Grantor shall grant to Secured Party a security interest to the extent of its interest in such Intellectual Property Collateral.

(c) Each Grantor hereby authorizes Secured Party to file one or more financing or continuation statements, and amendments thereto, relative to all or any part of the Collateral without the signature of any Grantor. Each Grantor agrees that a carbon, photographic or other reproduction of this Agreement or of a financing statement signed by such Grantor shall be

sufficient as a financing statement and may be filed as a financing statement in any and all jurisdictions.

(d) Each Grantor hereby authorizes Secured Party to modify this Agreement without obtaining such Grantor's approval of or signature to such modification by amending Schedules 1(f)(i), 1(f)(ii), and 1(f)(iii), as applicable, to include reference to any right, title or interest in any existing Intellectual Property Collateral or any Intellectual Property Collateral acquired or developed by any Grantor after the execution hereof or to delete any reference to any right, title or interest in any Intellectual Property Collateral in which any Grantor no longer has or claims any right, title or interest.

(e) Each Grantor will furnish to Secured Party from time to time statements and schedules further identifying and describing the Collateral and such other reports in connection with the Collateral as Secured Party may reasonably request, all in reasonable detail.

**SECTION 6. Certain Covenants of Grantors.** Each Grantor shall:

(a) not use or permit any Collateral to be used unlawfully or in violation of any provision of this Agreement or any applicable statute, regulation or ordinance or any policy of insurance covering the Collateral;

(b) notify Secured Party of any change in such Grantor's name, identity or corporate structure within 15 days of such change;

(c) give Secured Party five days' prior written notice of any change in such Grantor's chief place of business, chief executive office or residence or the office where such Grantor keeps its records regarding the Accounts and all originals of all chattel paper that evidence Accounts;

(d) if Secured Party gives value to enable such Grantor to acquire rights in or the use of any Collateral, use such value for such purposes; and

(e) pay promptly when due all property and other taxes, assessments and governmental charges or levies imposed upon, and all claims (including claims for labor, materials and supplies) against, the Collateral, except to the extent the validity thereof is being contested in good faith; provided that such Grantor shall in any event pay such taxes, assessments, charges, levies or claims not later than five days prior to the date of any proposed sale under any judgement, writ or warrant of attachment entered or filed against such Grantor or any of the Collateral as a result of the failure to make such payment.

**SECTION 7. Special Covenants With Respect to Equipment and Inventory.** Each Grantor shall:

(a) keep the Equipment and Inventory owned by such Grantor in the jurisdictions therefor specified on Schedule 4(b) annexed hereto or in such other jurisdictions which such Grantor shall have disclosed to Secured Party within 15 days of the removal of such Collateral to such other jurisdiction; provided that all action on the part of such Grantor that may be necessary or desirable, or that Secured Party may reasonably request, in order to perfect and protect any security interest granted or purported to be granted hereby, or to enable Secured Party to exercise and enforce its rights and remedies hereunder, with respect to such Equipment and

Inventory shall have been taken or can and will promptly be taken (including any actions required to continue perfection of an existing security interest in such Collateral in such new jurisdiction);

(b) cause the Equipment owned by such Grantor to be maintained and preserved in the same condition, repair and working order as when new, ordinary wear and tear excepted, and in accordance with such Grantor's past practices, and shall forthwith make or cause to be made all repairs, replacements and other improvements in connection therewith that, in the good faith determination of such Grantor, are necessary or desirable to such end. Each Grantor shall promptly furnish to Secured Party a statement respecting any material loss or damage to any of the Equipment owned by such Grantor;

(c) keep correct and accurate records of the Inventory owned by such Grantor, itemizing and describing the kind, type and quantity of Inventory, such Grantor's cost therefor and (where applicable) the current list prices for the Inventory;

(d) if any Inventory is in possession or control of any of such Grantor's agents or processors, if the aggregate book value of all such Inventory exceeds \$1,000,000, and in any event upon the occurrence of an Event of Default (as defined in the Credit Agreement) or the occurrence of an Early Termination Date (as defined in a Master Agreement or an Interest Rate Swap Agreement or Interest Rate and Currency Exchange Agreement, each of such Agreements in the form prepared by the International Swap and Derivatives Association Inc. or a similar event under any similar swap agreement) under any Lender Interest Rate Agreement (either such occurrence being an "Event of Default" for purposes of this Agreement), instruct such agent or processor to hold all such Inventory for the account of Secured Party and subject to the instructions of Secured Party; and

(e) promptly upon the issuance and delivery to such Grantor of any Negotiable Document of Title (other than any one or more Negotiable Documents of Title covering (i) Inventory with an aggregate value not in excess of \$1,000,000 or (ii) Inventory which, in the ordinary course of business, is in transit either (A) from a supplier to such Grantor, (B) between the locations specified in Schedule 4(b) hereto, or (C) to customers of such Grantor), deliver such Negotiable Document of Title to Secured Party.

**SECTION 8. Insurance.** Each Grantor shall, at its own expense, maintain insurance with respect to the Equipment and Inventory in accordance with the terms of the Credit Agreement.

**SECTION 9. Special Covenants with respect to Accounts and Related Contracts.**

(a) Each Grantor shall keep its chief place of business and chief executive office and the office where it keeps its records concerning the Accounts and Related Contracts, and all originals of all chattel paper that evidence Accounts, in the jurisdictions therefor specified in Section 4 or, in such other jurisdictions which such Grantor shall have disclosed to Secured Party within 15 days of the removal to such other jurisdiction; provided that all action on the part of such Grantor that may be necessary or desirable, or that Secured Party may reasonably request, in order to perfect and protect any security interest granted or purported to be granted hereby, or to enable Secured Party to exercise and enforce its rights and remedies hereunder, with respect to such Accounts and Related Contracts shall have been taken or can and will promptly be taken (including any actions required to continue perfection of an existing security interest in such

Collateral in such new jurisdiction). Each Grantor will hold and preserve such records and chattel paper and will permit representatives of Secured Party at any time during normal business hours upon no fewer than two Business Days' prior written notice to inspect and make abstracts from such records and chattel paper, and each Grantor agrees to render to Secured Party, at such Grantor's cost and expense, such clerical and other assistance as may be reasonably requested with regard thereto. Promptly upon the request of Secured Party, each Grantor shall deliver to Secured Party complete and correct copies of each Related Contract.

(b) Each Grantor shall, at its own expense, maintain (i) complete records of each Account, including records of all payments received, credits granted and merchandise returned, and (ii) all documentation relating thereto.

(c) Except as otherwise provided in this subsection (c), each Grantor shall continue to collect, at its own expense, all amounts due or to become due to such Grantor under the Accounts and Related Contracts. In connection with such collections, each Grantor may take (and from the occurrence and continuation of an Event of Default, at Secured Party's direction, shall take) such action as may be necessary or advisable to enforce collection of amounts due or to become due under the Accounts; provided, however, that Secured Party shall have the right at any time, upon the occurrence and during the continuation of an Event of Default or a Potential Event of Default and upon written notice to such Grantor of its intention to do so, to notify the account debtors or obligors under any Accounts of the assignment of such Accounts to Secured Party and to direct such account debtors or obligors to make payment of all amounts due or to become due to such Grantor thereunder directly to Secured Party, to notify each Person maintaining a lockbox or similar arrangement to which account debtors or obligors under any Accounts have been directed to make payment to remit all amounts representing collections on checks and other payment items from time to time sent to or deposited in such lockbox or other arrangement directly to Secured Party and, upon such notification and at the expense of Grantors, to enforce collection of any such Accounts and to adjust, settle or compromise the amount or payment thereof, in the same manner and to the same extent as such Grantor might have done. After receipt by such Grantor of the notice from Secured Party referred to in the proviso to the preceding sentence, (i) all amounts and proceeds (including checks and other instruments) received by such Grantor in respect of the Accounts and the Related Contracts shall be received in trust for the benefit of Secured Party hereunder, shall be segregated from other funds of such Grantor and shall be forthwith paid over or delivered to Secured Party in the same form as so received (with any necessary endorsement) to be held as cash Collateral and applied as provided by Section 18, and (ii) such Grantor shall not adjust, settle or compromise the amount or payment of any Account, or release wholly or partly any account debtor or obligor thereof, or allow any credit or discount thereon.

#### **SECTION 10. Special Provisions With Respect to the Assigned Agreements.**

(a) Each Grantor shall at its expense:

(i) perform and observe all material terms and provisions of the Assigned Agreements to be performed or observed by it, maintain the Assigned Agreements in full force and effect, enforce the Assigned Agreements in accordance with their terms, and take all such action to such end as may be from time to time reasonably requested by Secured Party; and



(ii) furnish to Secured Party, promptly upon receipt thereof, copies of all notices, requests and other documents received by Grantor under or pursuant to the Assigned Agreements, and from time to time (A) furnish to Secured Party such information and reports regarding the Assigned Agreements as Secured Party may reasonably request and (B) upon request of Secured Party make to the other parties under such Assigned Agreements such demands and requests for information and reports or for action as Grantor is entitled to make under the Assigned Agreements.

(b) From and after the occurrence and during the continuance of an Event of Default, no Grantor shall:

(i) cancel or terminate any of the Assigned Agreements or consent to or accept any cancellation or termination thereof;

(ii) amend or otherwise modify the Assigned Agreements or give any consent, waiver or approval thereunder;

(iii) waive any default under or breach of the Assigned Agreements;

(iv) consent to or permit or accept any prepayment of amounts to become due under or in connection with the Assigned Agreements, except as expressly provided therein; or

(v) take any other action in connection with the Assigned Agreements,

in each case to the extent that such action would materially impair the value of the interest or rights of such Grantor thereunder or that would materially impair the interest or rights of Secured Party.

**SECTION 11. Deposit Accounts.** Upon the occurrence and during the continuation of an Event of Default, Secured Party may exercise dominion and control over, and refuse to permit further withdrawals (whether of money, securities, instruments or other property) from any deposit accounts maintained with Secured Party constituting part of the Collateral.

**SECTION 12. Special Provisions With Respect to the Intellectual Property Collateral.**

(a) Each Grantor shall:

(i) diligently keep reasonable records respecting the Intellectual Property Collateral and at all times keep at least one complete set of its records concerning such Collateral at its chief executive office or principal place of business;

(ii) hereafter use best efforts so as not to permit the inclusion in any contract to which it hereafter becomes a party of any provision that could or might in any way impair or prevent the creation of a security interest in, or the assignment of, such Grantor's rights and interests in any property included within the definitions of any Intellectual Property Collateral acquired under such contracts;

(iii) take any and all reasonable steps to protect the secrecy of all trade secrets relating to the products and services sold or delivered under or in connection with

the Intellectual Property Collateral, including, without limitation, where appropriate entering into confidentiality agreements with employees and labeling and restricting access to secret information and documents;

(iv) use proper statutory notice in connection with its use of any of the Intellectual Property Collateral;

(v) use a commercially appropriate standard of quality (which may be consistent with such Grantor's past practices) in the manufacture, sale and delivery of products and services sold or delivered under or in connection with the Trademarks; and

(vi) furnish to Secured Party from time to time at Secured Party's reasonable request statements and schedules further identifying and describing any Intellectual Property Collateral and such other reports in connection with such Collateral, all in reasonable detail.

(b) Except as otherwise provided in this Section 12, each Grantor shall continue to collect, at its own expense, all amounts due or to become due to such Grantor in respect of the Intellectual Property Collateral or any portion thereof. In connection with such collections, each Grantor may take (and, from and after the occurrence and during the continuation of and Event of Default at Secured Party's reasonable direction, shall take) such action as may be reasonably necessary or advisable to enforce collection of such amounts; provided, Secured Party shall have the right at any time, upon the occurrence and during the continuation of an Event of Default and upon written notice to such Grantor of its intention to do so, to notify the obligors with respect to any such amounts of the existence of the security interest created hereby and to direct such obligors to make payment of all such amounts directly to Secured Party, and, upon such notification and at the expense of such Grantor, to enforce collection of any such amounts and to adjust, settle or compromise the amount or payment thereof, in the same manner and to the same extent as such Grantor might have done. After receipt by any Grantor of the notice from Secured Party referred to in the proviso to the preceding sentence and during the continuation of any Event of Default, (i) all amounts and proceeds (including checks and other instruments) received by each Grantor in respect of amounts due to such Grantor in respect of the Intellectual Property Collateral or any portion thereof shall be received in trust for the benefit of Secured Party hereunder, shall be segregated from other funds of such Grantor and shall be forthwith paid over or delivered to Secured Party in the same form as so received (with any necessary endorsement) to be held as cash Collateral and applied as provided by Section 19, and (ii) such Grantor shall not adjust, settle or compromise the amount or payment of any such amount or release wholly or partly any obligor with respect thereto or allow any credit or discount thereon.

(c) Each Grantor shall have the duty diligently, through counsel reasonably acceptable to Secured Party, to prosecute, file and/or make, unless and until such Grantor, in its commercially reasonable judgment, decides otherwise, (i) any application relating to any of the Intellectual Property Collateral owned, held or used by such Grantor and identified on Schedules 1(f)(i), 1(f)(ii) or 1(f)(iii), as applicable, that is pending as of the date of this Agreement, (ii) any Copyright Registration on any existing or future unregistered but copyrightable works (except for works of nominal commercial value or with respect to which such Grantor has determined in the exercise of its commercially reasonable judgment that it shall not seek registration), (iii) application on any future patentable but unpatented innovation or invention comprising

Intellectual Property Collateral, and (iv) any Trademark opposition and cancellation proceedings, renew Trademark Registrations and Copyright Registrations and do any and all acts which are necessary or desirable to preserve and maintain all rights in all Intellectual Property Collateral. Any expenses incurred in connection therewith shall be borne solely by Grantors. Subject to the foregoing, each Grantor shall give Secured Party prior written notice of any abandonment of any Intellectual Property Collateral or any pending patent application or any Patent.

(d) Except as provided herein, each Grantor shall have the right to commence and prosecute in its own name, as real party in interest, for its own benefit and at its own expense, such suits, proceedings or other actions for infringement, unfair competition, dilution, misappropriation or other damage, or reexamination or reissue proceedings as are necessary to protect the Intellectual Property Collateral. Secured Party shall provide, at such Grantor's expense, all reasonable and necessary cooperation in connection with any such suit, proceeding or action including, without limitation, joining as a necessary party. Each Grantor shall promptly, following its becoming aware thereof, notify Secured Party of the institution of, or of any adverse determination in, any proceeding (whether in the United States Patent and Trademark Office, the United States Copyright Office or any federal, state, local or foreign court) or regarding such Grantor's ownership, right to use, or interest in any Intellectual Property Collateral. Each Grantor shall provide to Secured Party any information with respect thereto requested by Secured Party.

(e) In addition to, and not by way of limitation of, the granting of a security interest in the Collateral pursuant hereto, each Grantor, effective upon the occurrence and during the continuation of an Event of Default, hereby assigns, transfers and conveys to Secured Party the nonexclusive right and license to use all trademarks, tradenames, copyrights, patents or technical processes (including, without limitation, the Intellectual Property Collateral) owned or used by such Grantor that relate to the Collateral and any other collateral granted by such Grantor as security for the Secured Obligations, together with any goodwill associated therewith, all to the extent necessary to enable Secured Party to realize on the Collateral in accordance with this Agreement and to enable any transferee or assignee of the Collateral to enjoy the benefits of the Collateral. This right shall inure to the benefit of all successors, assigns and transferees of Secured Party and its successors, assigns and transferees, whether by voluntary conveyance, operation of law, assignment, transfer, foreclosure, deed in lieu of foreclosure or otherwise. Such right and license shall be granted free of charge, without requirement that any monetary payment whatsoever be made to such Grantor. In addition, each Grantor hereby grants to Secured Party and its employees, representatives and agents the right to visit such Grantor's and any of its Affiliate's or subcontractor's plants, facilities and other places of business that are utilized in connection with the manufacture, production, inspection, storage or sale of products and services sold or delivered under any of the Intellectual Property Collateral (or which were so utilized during the prior six month period), and to inspect the quality control and all other records relating thereto upon reasonable advance written notice to such Grantor and at reasonable dates and times during normal business hours and as often as may be reasonably requested. If and to the extent that any Grantor is permitted to license the Intellectual Property Collateral, Secured Party shall promptly enter into a non-disturbance agreement or other similar arrangement, at such Grantor's request and expense, with such Grantor and any licensee of any Intellectual Property Collateral permitted hereunder in form and substance reasonably satisfactory to Secured Party pursuant to which (i) Secured Party shall agree not to disturb or interfere with such licensee's rights under its license agreement with such Grantor so long as such licensee is not in default thereunder, and (ii) such licensee shall acknowledge and agree that the Intellectual Property Collateral licensed to it is

subject to the security interest created in favor of Secured Party and the other terms of this Agreement.

**SECTION 13. Transfers and Other Liens.** No Grantor shall:

- (a) sell, assign (by operation of law or otherwise) or otherwise dispose of any of the Collateral, except as permitted by the Credit Agreement; or
- (b) except for the security interest created by this Agreement and Permitted Encumbrances, create or suffer to exist any Lien upon or with respect to any of the Collateral to secure the indebtedness or other obligations of any Person.

**SECTION 14. Secured Party Appointed Attorney-in-Fact.** Each Grantor hereby irrevocably appoints Secured Party as such Grantor's attorney-in-fact, with full authority in the place and stead of such Grantor and in the name of Grantor, Secured Party or otherwise, from time to time in Secured Party's discretion to take any action and to execute any instrument that Secured Party may deem necessary or advisable to accomplish the purposes of this Agreement, including without limitation:

- (a) to obtain and adjust insurance required to be maintained by such Grantor or paid to Secured Party pursuant to Section 8;
- (b) to ask for, demand, collect, sue for, recover, compound, receive and give acquittance and receipts for moneys due and to become due under or in respect of any of the Collateral;
- (c) to receive, endorse and collect any drafts or other instruments, documents and chattel paper in connection with clauses (a) and (b) above;
- (d) to file any claims or take any action or institute any proceedings that Secured Party may deem necessary or desirable for the collection of any of the Collateral or otherwise to enforce the rights of Secured Party with respect to any of the Collateral;
- (e) to pay or discharge taxes or Liens (other than Liens permitted under this Agreement or the Credit Agreement) levied or placed upon or threatened against the Collateral, the legality or validity thereof and the amounts necessary to discharge the same to be determined by Secured Party in its sole discretion, any such payments made by Secured Party to become obligations of such Grantor to Secured Party, due and payable immediately without demand;
- (f) to sign and endorse any invoices, freight or express bills, bills of lading, storage or warehouse receipts, drafts against debtors, assignments, verifications and notices in connection with Accounts and other documents relating to the Collateral; and
- (g) generally to sell, transfer, pledge, make any agreement with respect to or otherwise deal with any of the Collateral as fully and completely as though Secured Party were the absolute owner thereof for all purposes, and to do, at Secured Party's option and Grantors' expense, at any time or from time to time, all acts and things that Secured Party deems necessary to protect, preserve or realize upon the Collateral and Secured Party's security interest therein in order to effect the intent of this Agreement, all as fully and effectively as such Grantor might do.

Notwithstanding anything to the contrary in this Section 14, Secured Party's authority as Pledgor's attorney-in-fact shall be exercisable only after the occurrence and during the continuance of an Event of Default, except with respect to any actions necessary or advisable to perfect Secured Party's security interest in the Collateral.

**SECTION 15. Secured Party May Perform.** If any Grantor fails to perform any agreement contained herein, Secured Party may itself perform, or cause performance of, such agreement, and the expenses of Secured Party incurred in connection therewith shall be payable by such Grantor under Section 20(b).

**SECTION 16. Standard of Care.** The powers conferred on Secured Party hereunder are solely to protect its interest in the Collateral and shall not impose any duty upon it to exercise any such powers. Except for the exercise of reasonable care in the custody of any Collateral in its possession and the accounting for moneys actually received by it hereunder, Secured Party shall have no duty as to any Collateral or as to the taking of any necessary steps to preserve rights against prior parties or any other rights pertaining to any Collateral. Secured Party shall be deemed to have exercised reasonable care in the custody and preservation of Collateral in its possession if such Collateral is accorded treatment substantially equal to that which Secured Party accords its own property.

**SECTION 17. Remedies.** If any Event of Default shall have occurred and be continuing, Secured Party may exercise in respect of the Collateral, in addition to all other rights and remedies provided for herein or otherwise available to it, all the rights and remedies of a secured party on default under the Uniform Commercial Code as in effect in any relevant jurisdiction (the "**Code**") (whether or not the Code applies to the affected Collateral), and also may (a) require each Grantor to, and each Grantor hereby agrees that it will at its expense and upon request of Secured Party forthwith, assemble all or part of the Collateral as directed by Secured Party and make it available to Secured Party at a place to be designated by Secured Party that is reasonably convenient to both parties, (b) enter onto the property where any Collateral is located and take possession thereof with or without judicial process, (c) prior to the disposition of the Collateral, store, process, repair or recondition the Collateral or otherwise prepare the Collateral for disposition in any manner to the extent Secured Party deems appropriate, (d) take possession of any Grantor's premises or place custodians in exclusive control thereof, remain on such premises and use the same and any of such Grantor's equipment for the purpose of completing any work in process, taking any actions described in the preceding clause (c) and collecting any Secured Obligation, and (e) without notice except as specified below, sell the Collateral or any part thereof in one or more parcels at public or private sale, at any of Secured Party's offices or elsewhere, for cash, on credit or for future delivery, at such time or times and at such price or prices and upon such other terms as are commercially reasonable. Secured Party or any Lender or Interest Rate Exchanger may be the purchaser of any or all of the Collateral at any such sale and Secured Party, as agent for and representative of Agents, Lenders, Issuing Lenders, Swing Line Lender and Interest Rate Exchangers (but not any Agent or Agents, Lender or Lenders, Issuing Lender or Issuing Lenders, Swing Line Lender or Interest Rate Exchanger or Interest Rate Exchangers in its or their respective individual capacities unless Requisite Obligees (as defined in Section 22(a)) shall otherwise agree in writing), shall be entitled, for the purpose of bidding and making settlement or payment of the purchase price for all or any portion of the Collateral sold at any such public sale, to use and apply any of the Secured Obligations as a credit on account of the purchase price for any Collateral payable by Secured Party at such sale. Each purchaser at any such sale shall hold the property sold absolutely free from any claim or right on

the part of any Grantor, and each Grantor hereby waives (to the extent permitted by applicable law) all rights of redemption, stay and/or appraisal which it now has or may at any time in the future have under any rule of law or statute now existing or hereafter enacted. Each Grantor agrees that, to the extent notice of sale shall be required by law, at least ten days' notice to such Grantor of the time and place of any public sale or the time after which any private sale is to be made shall constitute reasonable notification. Secured Party shall not be obligated to make any sale of Collateral regardless of notice of sale having been given. Secured Party may adjourn any public or private sale from time to time by announcement at the time and place fixed therefor, and such sale may, without further notice, be made at the time and place to which it was so adjourned, provided, however, that if a sale is postponed for more than 60 days, Secured Party shall re-notice Pledgor of any subsequent sale of the affected Pledged Collateral in accordance with the second-preceding sentence hereof. Each Grantor hereby waives any claims against Secured Party to the extent arising by reason of the fact that the price at which any Collateral may have been sold at such a private sale was less than the price which might have been obtained at a public sale, even if Secured Party accepts the first offer received and does not offer such Collateral to more than one offeree, provided, however, that the price at which any Collateral shall be sold at any public or private sale shall be commercially reasonable. If the proceeds of any sale or other disposition of the Collateral are insufficient to pay all the Secured Obligations, Grantors shall be jointly and severally liable for the deficiency and the fees of any attorneys employed by Secured Party to collect such deficiency.

#### **SECTION 18. Additional Remedies for Intellectual Property Collateral.**

(a) Anything contained herein to the contrary notwithstanding, upon the occurrence and during the continuation of an Event of Default, (i) Secured Party shall have the right (but not the obligation) to bring suit, in the name of any Grantor, Secured Party or otherwise, to enforce any Intellectual Property Collateral, in which event such Grantor shall, at the request of Secured Party, do any and all lawful acts and execute any and all documents required by Secured Party in aid of such enforcement and such Grantor shall promptly, upon demand, reimburse and indemnify Secured Party as provided in Sections 10.2 and 10.3 of the Credit Agreement and Section 20 hereof, as applicable, in connection with the exercise of its rights under this Section, and, to the extent that Secured Party shall elect not to bring suit to enforce any Intellectual Property Collateral as provided in this Section, each Grantor agrees to use all reasonable measures, whether by action, suit, proceeding or otherwise, to prevent the infringement of any of the Intellectual Property Collateral by others and for that purpose agrees to use its commercially reasonable judgement in maintaining any action, suit or proceeding against any Person so infringing reasonably necessary to prevent such infringement; (ii) upon written demand from Secured Party, each Grantor shall execute and deliver to Secured Party an assignment or assignments of the Intellectual Property Collateral and such other documents as are necessary or appropriate to carry out the intent and purposes of this Agreement; (iii) each Grantor agrees that such an assignment and/or recording shall be applied to reduce the Secured Obligations outstanding only to the extent that Secured Party (or any Lender) receives cash proceeds in respect of the sale of, or other realization upon, the Intellectual Property Collateral; and (iv) within five Business Days after written notice from Secured Party, each Grantor shall make available to Secured Party, to the extent within such Grantor's power and authority, such personnel in such Grantor's employ on the date of such Event of Default as Secured Party may reasonably designate, by name, title or job responsibility, to permit such Grantor to continue, directly or indirectly, to produce, advertise and sell the products and services sold or delivered by such Grantor under or in connection with the Trademarks, Trademark Registrations and

Trademark Rights, such persons to be available to perform their prior functions on Secured Party's behalf and to be compensated by Secured Party at such Grantor's expense on a per diem, pro-rata basis consistent with the salary and benefit structure applicable to each as of the date of such Event of Default.

(b) If (i) an Event of Default shall have occurred and, by reason of cure, waiver, modification, amendment or otherwise, no longer be continuing, (ii) no other Event of Default shall have occurred and be continuing, (iii) an assignment to Secured Party of any rights, title and interests in and to the Intellectual Property Collateral shall have been previously made, and (iv) the Secured Obligations shall not have become immediately due and payable, upon the written request of any Grantor, Secured Party shall promptly execute and deliver to such Grantor such assignments as may be necessary to reassign to such Grantor any such rights, title and interests as may have been assigned to Secured Party as aforesaid, subject to any disposition thereof that may have been made by Secured Party; provided, after giving effect to such reassignment, Secured Party's security interest granted pursuant hereto, as well as all other rights and remedies of Secured Party granted hereunder, shall continue to be in full force and effect; and provided further, the rights, title and interests so reassigned shall be free and clear of all Liens other than Liens (if any) encumbering such rights, title and interest at the time of their assignment to Secured Party and Permitted Encumbrances.

**SECTION 19. Application of Proceeds.** Except as expressly provided elsewhere in this Agreement, all proceeds received by Secured Party in respect of any sale of, collection from, or other realization upon all or any part of the Collateral shall be applied as provided in subsection 2.4D of the Credit Agreement.

**SECTION 20. Indemnity and Expenses.**

(a) Grantors jointly and severally agree to indemnify Secured Party, each Lender and each Interest Rate Exchanger from and against any and all claims, losses and liabilities in any way relating to, growing out of or resulting from this Agreement and the transactions contemplated hereby (including, without limitation, enforcement of this Agreement), except to the extent such claims, losses or liabilities result solely from Secured Party's or such Lender's or Interest Rate Exchanger's gross negligence or willful misconduct as finally determined by a court of competent jurisdiction.

(b) Grantors jointly and severally agree to pay to Secured Party upon demand the amount of any and all costs and expenses, including the reasonable fees and expenses of its counsel and of any experts and agents, that Secured Party may incur in connection with (i) the administration of this Agreement, (ii) the custody, preservation, use or operation of, or the sale of, collection from, or other realization upon, any of the Collateral, (iii) the exercise or enforcement of any of the rights of Secured Party hereunder, or (iv) the failure by any Grantor to perform or observe any of the provisions hereof.

(c) The obligations of Grantors in this Section 20 shall survive the termination of this Agreement and the discharge of Grantors' other obligations under this Agreement, the Lender Interest Rate Agreements, the Credit Agreement and the other Loan Documents.

**SECTION 21. Continuing Security Interest; Transfer of Loans.** This Agreement shall create a continuing security interest in the Collateral and shall (a) remain in full force and effect until the payment in full of the Secured Obligations, the cancellation or

termination of the Commitments and the cancellation or expiration of all outstanding Letters of Credit, (b) be binding upon Grantors, their respective successors and assigns, and (c) inure, together with the rights and remedies of Secured Party hereunder, to the benefit of Secured Party and its successors, transferees and assigns. Without limiting the generality of the foregoing clause (c), but subject to the provisions of subsection 10.1 of the Credit Agreement, any Lender may assign or otherwise transfer any Loans held by it to any other Person, and such other Person shall thereupon become vested with all the benefits in respect thereof granted to Lenders herein or otherwise. Upon the payment in full of all Secured Obligations, the cancellation or termination of the Commitments and the cancellation or expiration of all outstanding Letters of Credit, the security interest granted hereby shall terminate and all rights to the Collateral shall revert to the applicable Grantor. Upon any such termination Secured Party will, at Grantors' expense, execute and deliver to Grantors such documents as Grantors shall reasonably request to evidence or effect such termination, and Grantor shall be entitled to the return, promptly upon its request and at its expense, of such Collateral which shall previously have been delivered to Secured Party as shall not have been sold or otherwise applied pursuant to the terms hereof.

## **SECTION 22. Secured Party as Agent.**

(a) Secured Party has been appointed to act as Secured Party hereunder by Lenders and, by their acceptance of the benefits hereof, Interest Rate Exchangers. Secured Party shall be obligated, and shall have the right hereunder, to make demands, to give notices, to exercise or refrain from exercising any rights, and to take or refrain from taking any action (including, without limitation, the release or substitution of Collateral), solely in accordance with this Agreement and the Credit Agreement; provided that Secured Party shall exercise, or refrain from exercising, any remedies provided for in Section 17 in accordance with the instructions of (i) Requisite Lenders or (ii) after payment in full of all Obligations under the Credit Agreement and the other Loan Documents and subject to the payment of agreed fees, the holders of a majority of the aggregate notional amount (or, with respect to any Lender Interest Rate Agreement that has been terminated in accordance with its terms, the amount then due and payable (exclusive of expenses and similar payments but including any early termination payments then due) under such Lender Interest Rate Agreement) under all Lender Interest Rate Agreements (Requisite Lenders or, if applicable, such holders being referred to herein as "**Requisite Obligees**"). In furtherance of the foregoing provisions of this Section 22(a), each Interest Rate Exchanger, by its acceptance of the benefits hereof, agrees that it shall have no right individually to realize upon any of the Collateral hereunder, it being understood and agreed by such Interest Rate Exchanger that all rights and remedies hereunder may be exercised solely by Secured Party for the benefit of Lenders and Interest Rate Exchangers in accordance with the terms of this Section 22(a).

(b) Written notice of resignation by Administrative Agent pursuant to subsection 9.5 of the Credit Agreement shall also constitute notice of resignation as Secured Party under this Agreement; removal of Administrative Agent pursuant to subsection 9.5 of the Credit Agreement shall also constitute removal as Secured Party under this Agreement; and appointment of a successor Administrative Agent pursuant to subsection 9.5 of the Credit Agreement shall also constitute appointment of a successor Secured Party under this Agreement. Upon the acceptance of any appointment as Administrative Agent under subsection 9.5 of the Credit Agreement by a successor Administrative Agent, that successor Administrative Agent shall thereupon succeed to and become vested with all the rights, powers, privileges and duties of the retiring or removed Secured Party under this Agreement, and the retiring or removed Secured Party under this



Agreement shall promptly (i) transfer to such successor Secured Party all sums, securities and other items of Collateral held hereunder, together with all records and other documents necessary or appropriate in connection with the performance of the duties of the successor Secured Party under this Agreement, and (ii) execute and deliver to such successor Secured Party such amendments to financing statements, and take such other actions, as may be necessary or appropriate in connection with the assignment to such successor Secured Party of the security interests created hereunder, whereupon such retiring or removed Secured Party shall be discharged from its duties and obligations under this Agreement. After any retiring or removed Administrative Agent's resignation or removal hereunder as Secured Party, the provisions of this Agreement shall inure to its benefit as to any actions taken or omitted to be taken by it under this Agreement while it was Secured Party hereunder.

**SECTION 23. Additional Grantors.** The initial Subsidiary Grantors hereunder shall be such of the Subsidiaries of Company as are signatories hereto on the date hereof. From time to time subsequent to the date hereof, additional Subsidiaries of Company may become parties hereto as additional Grantors (each an "**Additional Grantor**"), by executing an acknowledgement to this Agreement substantially in the form of Exhibit V annexed hereto. Upon delivery of any such acknowledgement to Administrative Agent and Secured Party, notice of which is hereby waived by Grantors, each such Additional Grantor shall be a Grantor and shall be as fully a party hereto as if such Additional Grantor were an original signatory hereto. Each Grantor expressly agrees that its obligations arising hereunder shall not be affected or diminished by the addition or release of any other Grantor hereunder, nor by any election of Administrative Agent not to cause any Subsidiary of Company to become an Additional Grantor hereunder. This Agreement shall be fully effective as to any Grantor that is or becomes a party hereto regardless of whether any other Person becomes or fails to become or ceases to be a Grantor hereunder.

**SECTION 24. Amendments; Etc.** No amendment, modification, termination or waiver of any provision of this Agreement, and no consent to any departure by any Grantor therefrom, shall in any event be effective unless the same shall be in writing and signed by Secured Party and, in the case of any such amendment or modification, by Grantors; provided that any amendment hereto pursuant to Section 23 shall be effective upon execution by any Additional Grantor, and Grantors hereby waive any requirement of notice of or consent to any such amendment. Any such waiver or consent shall be effective only in the specific instance and for the specific purpose for which it was given.

**SECTION 25. Notices.** Any notice or other communication herein required or permitted to be given shall be in writing and may be personally served, telexed or sent by telefacsimile or United States mail or courier service and shall be deemed to have been given when delivered in person or by courier service, upon receipt of telefacsimile or telex, or three Business Days after depositing it in the United States mail with postage prepaid and properly addressed. For the purposes hereof, the address of each party hereto shall be as provided in subsection 10.8 of the Credit Agreement or as set forth under such party's name on the signature pages hereof or such other address as shall be designated by such party in a written notice delivered to the other parties hereto.

**SECTION 26. Failure or Indulgence Not Waiver; Remedies Cumulative.** No failure or delay on the part of Secured Party in the exercise of any power, right or privilege hereunder shall impair such power, right or privilege or be construed to be a waiver of any default or acquiescence therein, nor shall any single or partial exercise of any such power, right or privilege preclude any other or further exercise thereof or of any other power, right or privilege.

All rights and remedies existing under this Agreement are cumulative to, and not exclusive of, any rights or remedies otherwise available.

**SECTION 27. Severability.** In case any provision in or obligation under this Agreement shall be invalid, illegal or unenforceable in any jurisdiction, the validity, legality and enforceability of the remaining provisions or obligations, or of such provision or obligation in any other jurisdiction, shall not in any way be affected or impaired thereby.

**SECTION 28. Headings.** Section and subsection headings in this Agreement are included herein for convenience of reference only and shall not constitute a part of this Agreement for any other purpose or be given any substantive effect.

**SECTION 29. Governing Law; Terms.** THIS AGREEMENT AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES HEREUNDER SHALL BE GOVERNED BY, AND SHALL BE CONSTRUED AND ENFORCED IN ACCORDANCE WITH, THE INTERNAL LAWS OF THE STATE OF NEW YORK (INCLUDING WITHOUT LIMITATION SECTION 5-1401 OF THE GENERAL OBLIGATIONS LAW OF THE STATE OF NEW YORK), WITHOUT REGARD TO CONFLICTS OF LAWS PRINCIPLES, EXCEPT TO THE EXTENT THAT THE CODE PROVIDES THAT THE PERFECTION OF THE SECURITY INTEREST HEREUNDER, OR REMEDIES HEREUNDER, IN RESPECT OF ANY PARTICULAR COLLATERAL ARE GOVERNED BY THE LAWS OF A JURISDICTION OTHER THAN THE STATE OF NEW YORK. Unless otherwise defined herein or in the Credit Agreement, terms used in Articles 8 and 9 of the Uniform Commercial Code in the State of New York are used herein as therein defined. The rules of construction set forth in subsection 1.3 of the Credit Agreement shall be applicable to this Agreement *mutatis mutandis*.

**SECTION 30. Consent to Jurisdiction and Service of Process.** ALL JUDICIAL PROCEEDINGS BROUGHT AGAINST ANY GRANTOR ARISING OUT OF OR RELATING TO THIS AGREEMENT, OR ANY OBLIGATIONS HEREUNDER, MAY BE BROUGHT IN ANY STATE OR FEDERAL COURT OF COMPETENT JURISDICTION IN THE STATE AND COUNTY OF NEW YORK. BY EXECUTING AND DELIVERING THIS AGREEMENT, EACH GRANTOR, FOR ITSELF AND IN CONNECTION WITH ITS PROPERTIES, IRREVOCABLY (I) ACCEPTS GENERALLY AND UNCONDITIONALLY THE NONEXCLUSIVE JURISDICTION AND VENUE OF SUCH COURTS; (II) WAIVES ANY DEFENSE OF *FORUM NON CONVENIENS*; (III) AGREES THAT SERVICE OF ALL PROCESS IN ANY SUCH PROCEEDING IN ANY SUCH COURT MAY BE MADE BY REGISTERED OR CERTIFIED MAIL, RETURN RECEIPT REQUESTED, TO SUCH GRANTOR AT ITS ADDRESS PROVIDED IN ACCORDANCE WITH SECTION 25; (IV) AGREES THAT SERVICE AS PROVIDED IN CLAUSE (III) ABOVE IS SUFFICIENT TO CONFER PERSONAL JURISDICTION OVER SUCH GRANTOR IN ANY SUCH PROCEEDING IN ANY SUCH COURT, AND OTHERWISE CONSTITUTES EFFECTIVE AND BINDING SERVICE IN EVERY RESPECT; (V) AGREES THAT SECURED PARTY RETAINS THE RIGHT TO SERVE PROCESS IN ANY OTHER MANNER PERMITTED BY LAW OR TO BRING PROCEEDINGS AGAINST SUCH GRANTOR IN THE COURTS OF ANY OTHER JURISDICTION; AND (VI) AGREES THAT THE PROVISIONS OF THIS SECTION 30 RELATING TO JURISDICTION AND VENUE SHALL BE BINDING AND ENFORCEABLE TO THE FULLEST EXTENT PERMISSIBLE UNDER NEW YORK GENERAL OBLIGATIONS LAW SECTION 5-1402 OR OTHERWISE.


**SECTION 31. Waiver of Jury Trial. GRANTORS AND SECURED PARTY HEREBY AGREE TO WAIVE THEIR RESPECTIVE RIGHTS TO A JURY TRIAL OF ANY CLAIM OR CAUSE OF ACTION BASED UPON OR ARISING OUT OF THIS AGREEMENT.** The scope of this waiver is intended to be all-encompassing of any and all disputes that may be filed in any court and that relate to the subject matter of this transaction, including without limitation contract claims, tort claims, breach of duty claims, and all other common law and statutory claims. Each Grantor and Secured Party acknowledge that this waiver is a material inducement for Grantors and Secured Party to enter into a business relationship, that Grantors and Secured Party have already relied on this waiver in entering into this Agreement and that each will continue to rely on this waiver in their related future dealings. Each Grantor and Secured Party further warrant and represent that each has reviewed this waiver with its legal counsel, and that each knowingly and voluntarily waives its jury trial rights following consultation with legal counsel. **THIS WAIVER IS IRREVOCABLE, MEANING THAT IT MAY NOT BE MODIFIED EITHER ORALLY OR IN WRITING (OTHER THAN BY A MUTUAL WRITTEN WAIVER SPECIFICALLY REFERRING TO THIS SECTION 32 AND EXECUTED BY EACH OF THE PARTIES HERETO), AND THIS WAIVER SHALL APPLY TO ANY SUBSEQUENT AMENDMENTS, RENEWALS, SUPPLEMENTS OR MODIFICATIONS TO THIS AGREEMENT.** In the event of litigation, this Agreement may be filed as a written consent to a trial by the court.

**SECTION 32. Counterparts.** This Agreement may be executed in one or more counterparts and by different parties hereto in separate 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; signature pages may be detached from multiple separate counterparts and attached to a single counterpart so that all signature pages are physically attached to the same document.

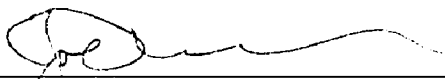
[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, Grantor and Secured Party have caused this Agreement to be duly executed and delivered by their respective officers thereunto duly authorized as of the date first written above.

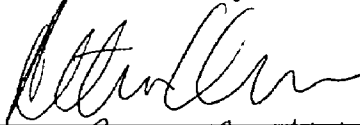
**ARTERIAL VASCULAR ENGINEERING, INC.**

By:   
Name: JOHN D MILLER  
Title: CEO

**Each of the entities listed on Schedule A annexed hereto**

By:   
on behalf of each of the entities listed on Schedule A annexed hereto  
Name: JOHN D MILLER  
Title: CEO

**ROYAL BANK OF CANADA, as Administrative Agent, as Secured Party**

By:   
Name: ATHAR KHAN  
Title: SENIOR MANAGER

**SCHEDULE A**  
**TO**  
**SECURITY AGREEMENT**

**Name:**

**Notice for each Subsidiary Grantor:**

AVE Massachusetts, Inc.

c/o Arterial Vascular Engineering, Inc.  
3576 Unocal Place  
Santa Rosa, California 95403

AVE Manufacturing, Inc.

c/o Arterial Vascular Engineering, Inc.  
3576 Unocal Place  
Santa Rosa, California 95403

Proprietary Extrusion Technologies, Inc.

c/o Arterial Vascular Engineering, Inc.  
3576 Unocal Place  
Santa Rosa, California 95403

**SCHEDULE 1(f)(i)**

**U.S. REGISTERED TRADEMARKS**

**(ALL ARTERIAL VASCULAR ENGINEERING, INC.)**

<b>Description</b>	<b>Registration #</b>	<b>Reg. Date</b>
AVE Arterial Vascular Engineering	2,180,107	05/19/98
MICRO STENT	2,071,249	06/17/97
GFX	2,142,261	03/10/98

**U.S. TRADEMARK APPLICATION**

**(ARTERIAL VASCULAR ENGINEERING, INC.)**

<b>Description</b>	<b>Application #</b>	<b>App. Date</b>
BRIDGE	75/354,338	09/09/97

**SCHEDULE 1(f)(ii)**

**U.S. PATENTS ISSUED**

**(ALL ARTERIAL VASCULAR ENGINEERING, INC.)**

<b>Patent #</b>	<b>Issue Date</b>	<b>Title</b>
5,292,331	03/08/94	Endovascular Support Device and Method
5,674,278	10/07/97	Endovascular Support Device and Method
5,800,509	09/01/98	Endovascular Support Device and Method
5,810,868	09/22/98	Stent for Improved Transluminal Deployment
5,817,152	10/06/98	Connected Stent Apparatus

**SCHEDULE 1(f)(ii)**

**U.S. PATENT APPLICATIONS**

**(ALL ARTERIAL VASCULAR ENGINEERING, INC.)**

<b>Serial Number</b>	<b>Filing Date</b>
08/624,692	03/25/96
08/986,285	12/06/97
08/465,842	06/06/95
08/471,738	06/06/95
08/846/405	04/30/97
09/126,236	07/30/98
08/478/192	06/07/95
09/092,623	06/05/98
08/562,138	11/22/95
08/568,543	12/07/95
08/852,307	05/07/97
08/620,878	03/22/96
08/870,149	06/05/97
08/732,767	10/21/96
09/081,525	05/19/98
08/937,130	09/24/97
09/038,479	02/25/98
09/053,145	03/31/98
09/086,781	05/28/98
09/100,416	06/20/98
09/139,285	08/24/98



**SCHEDULE 1(f)(iii)**

**U.S. COPYRIGHTS AND COPYRIGHT REGISTRATIONS**

None

**SCHEDULE 4(b)**

**LOCATIONS OF EQUIPMENT AND INVENTORY**

**Arterial Vascular Engineering, Inc.:**

3576 Unocal Place  
Santa Rosa, California 95403

3540 Unocal Place  
Santa Rosa, California 95403

5341-5347 Skylane Boulevard  
Santa Rosa, California 95403

5355 Skylane Boulevard  
Santa Rosa, California 95403

7975 Cameron Way, Buildings 100 and 300  
Windsor, California 95492

2330A Circadian (1201 Corporate Center Parkway)  
Santa Rosa, California 95407

3286 Airway Drive  
Santa Rosa, California 95403

7975 Cameron Drive, Building 200  
Santa Rosa, California 95492

**AVE Massachusetts, Inc.:**

129 Concord Road, Buildings 1,2,3 and 4  
Billerica, Massachusetts

**AVE Manufacturing, Inc.:**

None

**Proprietary Extrusion Technologies, Inc.:**

None

**SCHEDULE 4(d)**  
**OFFICE LOCATIONS**

**Arterial Vascular Engineering, Inc.**

**Chief Executive Office and Location of Records Regarding Accounts and Chattel Paper:**

3576 Unocal Place  
Santa Rosa, California 95403

**AVE Massachusetts, Inc.**

**Chief Executive Office:**

3576 Unocal Place  
Santa Rosa, California 95403

**Location of Records Regarding Accounts and Chattel Paper:**

129 Concord Road, Buildings, 1,2,3 and 4  
Billerica, Massachusetts 01821

**AVE Manufacturing, Inc.:**

**Chief Executive Office and Location of Records Regarding Accounts and Chattel Paper:**

3576 Unocal Place  
Santa Rosa, California 95403

**Proprietary Extrusion Technologies, Inc.:**

**Chief Executive Office and Location of Records Regarding Accounts and Chattel Paper:**

3576 Unocal Place  
Santa Rosa, California 95403

**SCHEDULE 4(e)**

**UNREGISTERED TRADE NAMES (ARTERIAL VASCULAR ENGINEERING, INC. ONLY)**

AVE

Peripheral AVE

AVE, Inc.

**SCHEDULE 4(h)**

**FILING OFFICES**

**Arterial Vascular Engineering, Inc.:**

California Secretary of State

Delaware Secretary of State

Fulton County, Georgia Clerk's Office

Florida Department of State

**AVE Massachusetts, Inc.:**

California Secretary of State

Delaware Secretary of State

Massachusetts Secretary of State

Clerk of Middlesex County, Northern District

Clerk of Town of Billerica

**AVE Manufacturing, Inc.:**

California Secretary of State

**Proprietary Extrusion Technologies, Inc.:**

California Secretary of State

**[FORM OF GRANT OF TRADEMARK SECURITY INTEREST]**

**GRANT OF TRADEMARK SECURITY INTEREST**

**WHEREAS**, [NAME OF GRANTOR], a \_\_\_\_\_ corporation ("**Grantor**"), owns and uses in its business, and will in the future adopt and so use, various intangible assets, including the Trademark Collateral (as defined below); and

**WHEREAS**, Arterial Vascular Engineering, a Delaware corporation ("**Company**"), has entered into a Credit Agreement dated as of September 30, 1998 (said Credit Agreement, as it may heretofore have been and as it may hereafter be amended, supplemented or otherwise modified from time to time, being the "**Credit Agreement**") with the financial institutions named therein (collectively, together with their respective successors and assigns party to the Credit Agreement from time to time, the "**Lenders**"), DLJ Capital Funding, Inc., as Syndication Agent, Paribas, as Documentation Agent, and Royal Bank of Canada, as Administrative Agent (in such capacity, "**Secured Party**"), pursuant to which Lenders have made certain commitments, subject to the terms and conditions set forth in the Credit Agreement, to extend certain credit facilities to Company; and

**WHEREAS**, Company may from time to time enter, or may from time to time have entered, into one or more Interest Rate Agreements (collectively, the "**Lender Interest Rate Agreements**") with one or more Lenders (in such capacity, collectively, "**Lender Counterparties**"); and

[Insert if Grantor is a Subsidiary:] [**WHEREAS**, Grantor has executed and delivered that certain Subsidiary Guaranty dated as of September 30, 1998 (said Subsidiary Guaranty, as it may hereafter be amended, supplemented or otherwise modified from time to time, being the "**Guaranty**") in favor of Secured Party for the benefit of Lenders and any Lender Counterparties, pursuant to which Grantor has guaranteed the prompt payment and performance when due of all obligations of Company under the Credit Agreement and the other Loan Documents and all obligations of Company under the Lender Interest Rate Agreements, including without limitation the obligation of Company to make payments thereunder in the event of early termination thereof; and]

**WHEREAS**, pursuant to the terms of a Security Agreement dated as of September 30, 1998 (as amended, supplemented or otherwise modified from time to time, the "**Security Agreement**"), among Grantor, Secured Party and the other grantors named therein, Grantor has agreed to create in favor of Secured Party a secured and protected interest in, and Secured Party has agreed to become a secured creditor with respect to, the Trademark Collateral;

**NOW, THEREFORE**, for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, subject to the terms and conditions of the Security Agreement, Grantor hereby grants to Secured Party a security interest in all of Grantor's right, title and interest in and to the following, in each case whether now or hereafter existing or in which Grantor now has or hereafter acquires an interest and wherever the same may be located (the "**Trademark Collateral**");

(iii) all right, title and interest (including rights acquired pursuant to a license or otherwise but only to the extent permitted by agreements governing such license or other use) in and to all trademarks, service marks, designs, logos, indicia, tradenames, trade dress, corporate names, company names, business names, fictitious business names, trade styles and/or other source and/or business identifiers and applications pertaining thereto, owned by such Grantor, or hereafter adopted and used, in its business (including, without limitation, the trademarks specifically identified in Schedule A) (collectively, the “**Trademarks**”), all registrations that have been or may hereafter be issued or applied for thereon in the United States and any state thereof (including, without limitation, the registrations and applications specifically identified in Schedule A) (the “**Trademark Registrations**”), all common law and other rights (but in no event any of the obligations) in and to the Trademarks in the United States and any state thereof (the “**Trademark Rights**”), and all goodwill of such Grantor’s business symbolized by the Trademarks and associated therewith (the “**Associated Goodwill**”); and

(iv) all proceeds, products, rents and profits of or from any and all of the foregoing Trademark Collateral and, to the extent not otherwise included, all payments under insurance (whether or not Secured Party is the loss payee thereof), or any indemnity, warranty or guaranty, payable by reason of loss or damage to or otherwise with respect to any of the foregoing Trademark Collateral. For purposes of this Grant of Trademark Security Interest, the term “**proceeds**” includes whatever is receivable or received when Trademark Collateral or proceeds are sold, exchanged, collected or otherwise disposed of, whether such disposition is voluntary or involuntary.

Notwithstanding anything herein to the contrary, in no event shall the Trademark Collateral include, and Grantor shall be not deemed to have granted a security interest in, any of Grantor’s rights or interests in any license, contract or agreement to which Grantor is a party or any of its rights or interests thereunder to the extent, but only to the extent, that such a grant would, under the terms of such license, contract or agreement or otherwise, result in a breach of the terms of, or constitute a default under any license, contract or agreement to which Grantor is a party; provided, that immediately upon the ineffectiveness, lapse or termination of any such provision, the Trademark Collateral shall include, and Grantor shall be deemed to have granted a security interest in, all such rights and interests as if such provision had never been in effect.

Grantor does hereby further acknowledge and affirm that the rights and remedies of Secured Party with respect to the security interest in the Trademark Collateral granted hereby are more fully set forth in the Security Agreement, the terms and provisions of which are incorporated by reference herein as if fully set forth herein.

**IN WITNESS WHEREOF**, Grantor has caused this Grant of Trademark Security Interest to be duly executed and delivered by its officer thereunto duly authorized as of the 30th day of September, 1998.

**[NAME OF GRANTOR]**

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

Name: \_\_\_\_\_

Title: \_\_\_\_\_



**SCHEDULE A  
TO  
GRANT OF TRADEMARK SECURITY INTEREST**

<u>Registered Owner</u>	United States Trademark <u>Description</u>	Registration <u>Number</u>	Registration <u>Date</u>
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[FORM OF GRANT OF PATENT SECURITY INTEREST]

**GRANT OF PATENT SECURITY INTEREST**

**WHEREAS, [NAME OF GRANTOR],** a \_\_\_\_\_ corporation ("**Grantor**"), owns and uses in its business, and will in the future adopt and so use, various intangible assets, including the Patent Collateral (as defined below); and

**WHEREAS, Arterial Vascular Engineering, a Delaware corporation ("**Company**"),** has entered into a Credit Agreement dated as of September 30, 1998 (said Credit Agreement, as it may heretofore have been and as it may hereafter be amended, supplemented or otherwise modified from time to time, being the "**Credit Agreement**") with the financial institutions named therein (collectively, together with their respective successors and assigns party to the Credit Agreement from time to time, the "**Lenders**"), DLJ Capital Funding, Inc., as Syndication Agent, Paribas, as Documentation Agent, and Royal Bank of Canada, as Administrative Agent (in such capacity, "**Secured Party**") and as syndication agent and arranger, pursuant to which Lenders have made certain commitments, subject to the terms and conditions set forth in the Credit Agreement, to extend certain credit facilities to Company; and

**WHEREAS, Company** may from time to time enter, or may from time to time have entered, into one or more Interest Rate Agreements (collectively, the "**Lender Interest Rate Agreements**") with one or more Lenders (in such capacity, collectively, "**Lender Counterparties**"); and

[Insert if Grantor is a Subsidiary:] [**WHEREAS, Grantor** has executed and delivered that certain Subsidiary Guaranty dated as of September 30, 1998 (said Subsidiary Guaranty, as it may hereafter be amended, supplemented or otherwise modified from time to time, being the "**Guaranty**") in favor of Secured Party for the benefit of Lenders and any Lender Counterparties, pursuant to which Grantor has guaranteed the prompt payment and performance when due of all obligations of Company under the Credit Agreement and the other Loan Documents and all obligations of Company under the Lender Interest Rate Agreements, including without limitation the obligation of Company to make payments thereunder in the event of early termination thereof; and]

**WHEREAS, pursuant to the terms of a Security Agreement dated as of September 30, 1998 (as amended, supplemented or otherwise modified from time to time, the "**Security Agreement**"),** among Grantor, Secured Party and the other grantors named therein, Grantor has agreed to create in favor of Secured Party a secured and protected interest in, and Secured Party has agreed to become a secured creditor with respect to, the Patent Collateral;

**NOW, THEREFORE,** for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, subject to the terms and conditions of the Security Agreement, Grantor hereby grants to Secured Party a security interest in all of Grantor's right, title and interest in and to the following, in each case whether now or hereafter existing or in which Grantor now has or hereafter acquires an interest and wherever the same may be located (the "**Patent Collateral**");

(v) all right, title and interest (including rights acquired pursuant to a license or otherwise but only to the extent permitted by agreements governing such license or other use) in and to all patents and patent applications and rights and interests in patents and patent applications under any domestic law that are presently, or in the future may be, owned or held by such Grantor and all patents and patent applications and rights, title and interests in patents and patent applications under any domestic law that are presently, or in the future may be, owned by such Grantor in whole or in part (including, without limitation, the patents and patent applications listed in Schedule A), all rights (but not obligations) corresponding thereto to sue for past, present and future infringements and all re-issues, divisions, continuations, renewals, extensions and continuations-in-part thereof (all of the foregoing being collectively referred to as the “**Patents**”); and

(vi) all proceeds, products, rents and profits of or from any and all of the foregoing Patent Collateral and, to the extent not otherwise included, all payments under insurance (whether or not Secured Party is the loss payee thereof), or any indemnity, warranty or guaranty, payable by reason of loss or damage to or otherwise with respect to any of the foregoing Patent Collateral. For purposes of this Grant of Patent Security Interest, the term “**proceeds**” includes whatever is receivable or received when Patent Collateral or proceeds are sold, exchanged, collected or otherwise disposed of, whether such disposition is voluntary or involuntary.

Notwithstanding anything herein to the contrary, in no event shall the Patent Collateral include, and Grantor shall be not deemed to have granted a security interest in, any of Grantor’s rights or interests in any license, contract or agreement to which Grantor is a party or any of its rights or interests thereunder to the extent, but only to the extent, that such a grant would, under the terms of such license, contract or agreement or otherwise, result in a breach of the terms of, or constitute a default under any license, contract or agreement to which Grantor is a party; provided, that immediately upon the ineffectiveness, lapse or termination of any such provision, the Patent Collateral shall include, and Grantor shall be deemed to have granted a security interest in, all such rights and interests as if such provision had never been in effect.

Grantor does hereby further acknowledge and affirm that the rights and remedies of Secured Party with respect to the security interest in the Patent Collateral granted hereby are more fully set forth in the Security Agreement, the terms and provisions of which are incorporated by reference herein as if fully set forth herein.

[The remainder of this page intentionally left blank.]

IN WITNESS WHEREOF, Grantor has caused this Grant of Patent Security Interest to be duly executed and delivered by its officer thereunto duly authorized as of the 30th day of September, 1998.

**[NAME OF GRANTOR]**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**SCHEDULE A  
TO  
GRANT OF PATENT SECURITY INTEREST**

**Patents Issued:**

<u>Patent No.</u>	<u>Issue Date</u>	<u>Invention</u>	<u>Inventor</u>
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**Patents Pending:**

<u>Applicant's Name</u>	<u>Date Filed</u>	<u>Application Number</u>	<u>Invention</u>	<u>Inventor</u>
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**[FORM OF GRANT OF COPYRIGHT SECURITY INTEREST]**

**GRANT OF COPYRIGHT SECURITY INTEREST**

**WHEREAS, [NAME OF GRANTOR],** a \_\_\_\_\_ corporation ("**Grantor**"), owns and uses in its business, and will in the future adopt and so use, various intangible assets, including the Copyright Collateral (as defined below); and

**WHEREAS, Arterial Vascular Engineering, a Delaware corporation ("Company"),** has entered into a Credit Agreement dated as of September 30, 1998 (said Credit Agreement, as it may heretofore have been and as it may hereafter be amended, supplemented or otherwise modified from time to time, being the "**Credit Agreement**") with the financial institutions named therein (collectively, together with their respective successors and assigns party to the Credit Agreement from time to time, the "**Lenders**"), DLJ Capital Funding, Inc., as Syndication Agent, Paribas, as Documentation Agent, and Royal Bank of Canada, as Administrative Agent (in such capacity, "**Secured Party**") and as syndication agent and arranger, pursuant to which Lenders have made certain commitments, subject to the terms and conditions set forth in the Credit Agreement, to extend certain credit facilities to Company; and

**WHEREAS, Company** may from time to time enter, or may from time to time have entered, into one or more Interest Rate Agreements (collectively, the "**Lender Interest Rate Agreements**") with one or more Lenders (in such capacity, collectively, "**Lender Counterparties**"); and

[Insert if Grantor is a Subsidiary:] **[WHEREAS, Grantor** has executed and delivered that certain Subsidiary Guaranty dated as of September 30, 1998 (said Subsidiary Guaranty, as it may hereafter be amended, supplemented or otherwise modified from time to time, being the "**Guaranty**") in favor of Secured Party for the benefit of Lenders and any Lender Counterparties, pursuant to which Grantor has guaranteed the prompt payment and performance when due of all obligations of Company under the Credit Agreement and the other Loan Documents and all obligations of Company under the Lender Interest Rate Agreements, including without limitation the obligation of Company to make payments thereunder in the event of early termination thereof; and]

**WHEREAS, pursuant to the terms of a Security Agreement dated as of September 30, 1998 (as amended, supplemented or otherwise modified from time to time, the "Security Agreement"), among Grantor, Secured Party and the other grantors named therein, Grantor has agreed to create in favor of Secured Party a secured and protected interest in, and Secured Party has agreed to become a secured creditor with respect to, the Copyright Collateral;**

**NOW, THEREFORE, for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, subject to the terms and conditions of the Security Agreement, Grantor hereby grants to Secured Party a security interest in all of Grantor's right, title and interest in and to the following, in each case whether now or hereafter existing or in which Grantor now has or hereafter acquires an interest and wherever the same may be located (the "Copyright Collateral"):**

(i) all right, title and interest (including rights acquired pursuant to a license or otherwise but only to the extent permitted by agreements governing such license or other use) under copyright in various published and unpublished works of authorship including, without limitation, computer programs, computer data bases, other computer software layouts, trade dress, drawings, designs, writings, and formulas (including, without limitation, the works listed on Schedule A, as the same may be amended pursuant hereto from time to time) (collectively, the “**Copyrights**”), all copyright registrations issued to Grantor and applications for copyright registration that have been or may hereafter be issued or applied for thereon in the United States and any state thereof (including, without limitation, the registrations listed on Schedule A, as the same may be amended pursuant hereto from time to time) (collectively, the “**Copyright Registrations**”), all common law and other rights in and to the Copyrights in the United States and any state thereof including all copyright licenses (but with respect to such copyright licenses, only to the extent permitted by such licensing arrangements) (the “**Copyright Rights**”), including, without limitation, each of the Copyrights, rights, titles and interests in and to the Copyrights and works protectable by copyright, which are presently, or in the future may be, owned, created (as a work for hire for the benefit of Grantor), authored (as a work for hire for the benefit of Grantor), or acquired by Grantor, in whole or in part, and all Copyright Rights with respect thereto and all Copyright Registrations therefor, heretofore or hereafter granted or applied for, and all renewals and extensions thereof, throughout the world, including all proceeds thereof (such as, by way of example and not by limitation, license royalties and proceeds of infringement suits), the right (but not the obligation) to renew and extend such Copyright Registrations and Copyright Rights and to register works protectable by copyright and the right (but not the obligation) to sue in the name of such Grantor or in the name of Secured Party or Lenders for past, present and future infringements of the Copyrights and Copyright Rights; and

(ii) all proceeds, products, rents and profits of or from any and all of the foregoing Copyright Collateral and, to the extent not otherwise included, all payments under insurance (whether or not Secured Party is the loss payee thereof), or any indemnity, warranty or guaranty, payable by reason of loss or damage to or otherwise with respect to any of the foregoing Copyright Collateral. For purposes of this Grant of Copyright Security Interest, the term “**proceeds**” includes whatever is receivable or received when Copyright Collateral or proceeds are sold, exchanged, collected or otherwise disposed of, whether such disposition is voluntary or involuntary.

Notwithstanding anything herein to the contrary, in no event shall the Copyright Collateral include, and Grantor shall be not deemed to have granted a security interest in, any of Grantor’s rights or interests in any license, contract or agreement to which Grantor is a party or any of its rights or interests thereunder to the extent, but only to the extent, that such a grant would, under the terms of such license, contract or agreement or otherwise, result in a breach of the terms of, or

constitute a default under any license, contract or agreement to which Grantor is a party; provided, that immediately upon the ineffectiveness, lapse or termination of any such provision, the Copyright Collateral shall include, and Grantor shall be deemed to have granted a security interest in, all such rights and interests as if such provision had never been in effect.

Grantor does hereby further acknowledge and affirm that the rights and remedies of Secured Party with respect to the security interest in the Copyright Collateral granted hereby are more fully set forth in the Security Agreement, the terms and provisions of which are incorporated by reference herein as if fully set forth herein.

[The remainder of this page intentionally left blank.]



**IN WITNESS WHEREOF**, Grantor has caused this Grant of Copyright Security Interest to be duly executed and delivered by its officer thereunto duly authorized as of the 30th day of September, 1998.

**[NAME OF GRANTOR]**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**SCHEDULE A  
TO  
GRANT OF COPYRIGHT SECURITY INTEREST**

**U.S. Copyrights:**

Title            Registration No.        Date of Issue    Registered Owner

**Pending U.S. Copyright Registrations & Applications:**

Title    Reference No.    Date of Application    Copyright Claimant

**SECURITY AGREEMENT SUPPLEMENT**

This SECURITY AGREEMENT SUPPLEMENT, dated \_\_\_\_\_, \_\_\_\_ is delivered pursuant to the Security Agreement, dated as of September 30, 1998 (as it may be from time to time amended, modified or supplemented, the "Security Agreement"), among Arterial Vascular Engineering, Inc., the other Grantors named therein, and Royal Bank of Canada, as Secured Party. Capitalized terms used herein not otherwise defined herein shall have the meanings ascribed thereto in the Security Agreement.

Subject to the terms and conditions of the Security Agreement, Grantor hereby grants to Secured Party a security interest in all of Grantor's right, title and interest in and to the Intellectual Property Collateral listed on Supplemental Schedule [1(f)(i)] [1(f)(ii)] [1(f)(iii)] attached hereto, in each case whether now or hereafter existing or in which Grantor now has or hereafter acquires an interest and wherever the same may be located. All such Intellectual Property Collateral shall be deemed to be part of the Collateral and hereafter subject to each of the terms and conditions of the Security Agreement.

IN WITNESS WHEREOF, Grantor has caused this Supplement to be duly executed and delivered by its duly authorized officer as of \_\_\_\_\_.

**[GRANTOR]**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**[FORM OF ACKNOWLEDGEMENT]**

This ACKNOWLEDGEMENT, dated \_\_\_\_\_, \_\_\_\_\_, is delivered pursuant to Section 23 of the Security Agreement referred to below. The undersigned hereby agrees that this Acknowledgement may be attached to the Security Agreement, dated as of September 30, 1998 (as it may be from time to time amended, modified or supplemented, the "Security Agreement"; capitalized terms used herein not otherwise defined herein shall have the meanings ascribed therein), among Arterial Vascular Engineering, Inc., the other Grantors named therein, and Royal Bank of Canada, as Secured Party, that the undersigned by executing and delivering this Acknowledgement hereby becomes a Grantor under the Security Agreement in accordance with Section 24 thereof and agrees to be bound by all of the terms thereof, and that the Patents, Trademarks, Trademark Registrations, Copyrights and Copyright Registrations described on this Acknowledgement shall be deemed to be part of the and shall become part of the Collateral and shall secure all Secured Obligations.

**[NAME OF ADDITIONAL GRANTOR]**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**U.S. Trademarks:**

<u>Registered Owner</u>	<u>Trademark Description</u>	<u>Registration Number</u>	<u>Registration Date</u>
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**U.S. Patents Issued:**

Patent No.

Issue Date

Invention

Inventor

**U.S. Patents Pending:**

Applicant's  
Name

Date  
Filed

Application  
Number

Invention

Inventor

**U.S. Copyrights:**

Copyright                      Registration No.                      Date of Issue                      Registered Owner

**Pending U.S. Copyrights:**

Copyright                      Reference No.                      Date of Application                      Copyright Claimant