

06-17-1999

ET

Docket No.:

6964-24541



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Tab settings

101067420

To the Honorable Commissioner of Patents and Trademarks, Please return the attached original documents or copy thereof.

msd 6-3-99

1. Name of conveying party(ies):
Technology Builders, Inc.
 Suite 1090
 400 Interstate Parkway
 Atlanta, Georgia 30339

Individual(s) Association
 General Partnership Limited Partnership
 Corporation-State **Georgia**
 Other _____

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

2. Name and address of receiving party(ies):
 Name: **Oberlin Capital, L.P.**
 Internal Address: _____
 Street Address: **702 Oberlin Road, #150**
 City: **Raleigh** State: **N.C** ZIP: **27605**

Individual(s) citizenship _____
 Association _____
 General Partnership _____
 Limited Partnerst _____
 Corporation-State _____
 Other _____

If assignee is not domiciled in t
 designation is attached: Yes No
 (Designations must be a separate document from Assignment)
 Additional name(s) & address(es) attached? Yes No

3. Nature of conveyance:
 Assignment Merger
 Security Agreement Change of Name
 Other _____

Execution Date: _____

4. Application number(s) or registration numbers(s):
 A. Trademark Application No.(s)
 75/297,360; 75/297,363;
 75/297,361; 75/297,364;
 75/297,362; 75/297,365

Additional numbers attached? Yes No

B. Trademark Registration No.(s)

5. Name and address of party to whom correspondence concerning document should be mailed:
 Name: **MORRIS, MANNING & MARTIN, L.L.P.**
 Internal Address: _____
 Street Address: **1600 Atlanta Financial Center**
3343 Peachtree Rd, NE
 City: **Atlanta** State: **GA** ZIP: **30326**

6. Total number of applications and registrations involved: **6**

7. Total fee (37 CFR 3.41): \$ **165.00**
 Enclosed
 Authorized to be charged to deposit account

8. Deposit account number: _____

06/17/1999 DNGUYEN 00000064 75297360
 01 FC:481 40.00 OP
 02 FC:482 125.00 OP

DO NOT USE THIS SPACE

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.

David M. Lockman *David M. Lockman* **3/26/99**
 Name of Person Signing Signature Date

Total number of pages including cover sheet, attachments, and document: **6**

TRADEMARK

LOAN AND SECURITY AGREEMENT

THIS LOAN AND SECURITY AGREEMENT (the "Agreement"), dated as of the 24th day of March, 1999, is made and entered into on the terms and conditions hereinafter set forth, by and among TECHNOLOGY BUILDERS, INC., a Georgia corporation ("Borrower") and OBERLIN CAPITAL, L.P., a Delaware limited partnership (the "Lender").

RECITALS:

WHEREAS, Borrower has requested that Lender make available to Borrower a loan in the aggregate principal amount of up to \$1,500,000 (the "Loan") on the terms and conditions hereinafter set forth, and for the purposes hereinafter set forth; and

WHEREAS, in order to induce Lender to make the Loan to Borrower, Borrower has made certain representations to Lender and has agreed to issue and sell to Lender a warrant to purchase shares of Borrower's common stock; and

WHEREAS, Lender, in reliance upon the representations and inducements of Borrower, has agreed to make the Loan upon the terms and conditions hereinafter set forth.

NOW, THEREFORE, in consideration of the agreement of Lender to make the Loan, the mutual covenants and agreements hereinafter set forth, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Borrower and Lender hereby agree as follows:

ARTICLE I

DEBENTURE AND WARRANT

1.01 Authorization of Debenture and Warrant. Borrower has authorized the issue and sale of (a) its Senior Subordinated Debenture dated of even date herewith, in the aggregate principal amount of up to \$1,500,000 (the "Debenture"), which shall be in substantially the form attached hereto as Exhibit A, and (b) a Stock Purchase Warrant (the "Warrant"), which shall be in substantially the form attached hereto as Exhibit B. For purposes of IRC Treasury Regulations Section 1.1273-2(h), the aggregate fair market value of the Warrant shall be deemed to be \$12,500. Borrower and Lender agree to use the foregoing fair market value for U.S. federal tax purposes with respect to the transactions contemplated by this Agreement (unless otherwise required by final determination by the Internal Revenue Service or a court of competent jurisdiction); provided, however, that the fair market value of the Warrant for purposes of financial reporting shall be in accordance with generally accepted accounting principles consistently applied ("GAAP"). Schedule A sets forth the name and address of Lender, the principal amount of Lender's Loan, the Warrant issued and sold to Lender, and the fair market value of the Warrant issued and sold to Lender.

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1.02 Description of Debenture. The Debenture shall be dated the date of issue, to mature on the "Maturity Date" (as defined in the Debenture), and shall bear interest from the date of issue at the rate of twelve and one-half percent (12.5%) per annum to maturity, payable monthly in arrears on the last day of each month (with the first such interest payment being due on March 31, 1999) and at maturity, and to bear interest on overdue principal (including any overdue prepayment of principal) and premium, if any, and on any overdue installment of interest at the rate of eighteen percent (18%) per annum after maturity, whether by acceleration or otherwise, until paid. Interest on the Debenture shall be computed on the basis of a 360-day year with twelve (12) equal monthly installments. The Debenture is subject to prepayment or redemption prior to its expressed maturity date on the terms and conditions and in the amounts set forth in the Debenture; provided, however, that any prepayment shall be no less than \$200,000 or the remaining aggregate principal balance outstanding on the Debenture, if less than \$200,000.

1.03 Sale and Purchase of Debenture and Warrant.

(a) Closing. Subject to the terms and conditions hereof and on the basis of the representations and warranties hereinafter set forth, Borrower agrees to issue and sell to Lender and Lender agrees to purchase from Borrower upon the purchase and sale of the Debenture and Warrant hereunder (the "Closing"), (i) a Debenture in the aggregate principal amount set forth beside Lender's name on Schedule A at a price of 100% of the principal amount thereof, and (ii) the Warrant, which shall entitle Lender to purchase shares of Borrower's Common Stock as set forth beside Lender's name on Schedule A (the "Warrant Shares"). Lender shall make no additional payment for the Warrant.

(b) Delivery. Delivery of the Debenture and the Warrant will be made at the office of Borrower's counsel against payment therefor by federal funds wire transfer to Borrower's account in immediately available funds and to the accounts and in the amounts in accordance with Borrower's written instructions, on the date hereof, or such later date as Borrower and Lender shall agree (the "Closing Date"). The Debenture and the Warrant delivered to Lender on the Closing Date will be delivered to Lender in the form of a single Debenture and a single Warrant for the full amount of such purchase by Lender (unless different denominations are specified by Lender, each registered in Lender's name or in the name of such nominee as Lender may specify and, with appropriate insertions) all as Lender may specify at least twenty-four (24) hours prior to the date fixed for delivery.

1.04 Closing Fee. Borrower agrees to pay to Lender on or before the Closing Date a closing fee in an aggregate amount equal to \$30,000 ("Closing Fee"), which Closing Fee once paid shall be fully earned by Lender and non-refundable. Borrower, however, shall be entitled to a credit against such Closing Fee equal to the amount of any application fee actually paid to Lender incident to acceptance by Borrower of the Lender's commitment letter with respect to the Loan.

ARTICLE II

SECURITY; SUBORDINATION

2.01 Security. The Secured Obligations (as hereinafter defined) are and shall continue to be secured as follows:

Borrower hereby grants, assigns and pledges to the Lender a security interest in the following described property and interests in property, together with all proceeds thereof (collectively, "the Collateral"):

(a) Equipment. All machinery and equipment, all data processing and office equipment, all computer equipment, hardware and firmware, all furniture, fixtures, appliances and all other goods of every type and description, whether now owned or hereafter acquired and wherever located, together with all parts, accessories and attachments and all replacements thereof and additions thereto; and

(b) Inventory. All inventory and goods of Borrower, whether held for lease, sale or furnishing under contracts of service, all agreements for lease of same and rentals therefrom, whether now in existence or owned or hereafter acquired and wherever located; and

(c) General Intangibles. All rights, interests, choses in action, causes of action, claims and all other intangible property of Borrower of every kind and nature, in each instance whether now owned or hereafter acquired, including, but not limited to, all corporate and business records; all loans, royalties, and other obligations receivable; all trade secrets, inventions, designs, patents, patent applications, registered or unregistered service marks, trade names, trademarks, copyrights and the goodwill associated therewith and incorporated therein, and all registrations and applications for registration related thereto; goodwill, licenses, permits, franchises, customer lists and credit files; all customer and supplier contracts, firm sale orders, rights under license and franchise agreements, and other contracts and contract rights; all right, title and interest under leases, subleases, licenses and concessions and other agreements relating to real or personal property and any security agreements relating thereto; all rights to indemnification; all proceeds of insurance of which Borrower is beneficiary; all letters of credit, guarantees, liens, security interests and other security held by or granted to Borrower; and all other intangible property, whether or not similar to the foregoing; all products and all books and records related to any of the foregoing; and

(d) Accounts, Chattel Paper, Instruments, Securities and Documents. All Borrower's accounts, accounts receivable, chattel paper, instruments, shares of stock and other securities, and documents, whether now in existence or owned or hereafter acquired, entered into, created or arising, and wherever located; and

(e) Other Property. All property or interests in any other property now owned or hereafter acquired by Borrower.

This Agreement and any other instruments, documents or agreements now or hereafter securing the Secured Obligations are collectively referred to in this Agreement as the "Security Instruments." The Security Instruments, together with the Debenture, and any and all amendments and modifications thereof, are individually referred to in this Agreement as a "Loan Document" and collectively referred to as the "Loan Documents".

2.02 Secured Obligations. Without limiting any of the provisions thereof, the Security Instruments shall secure:

(a) The full and timely payment of the indebtedness evidenced by the Debenture, together with interest thereon, and any extensions, modifications, consolidations, and/or renewals thereof, and any notes given in payment thereof;

(b) The full and prompt performance of all of the obligations of Borrower to Lender under the Loan Documents to which Borrower is a party; and

(c) The full and prompt payment of all court costs, and other reasonable expenses and costs of whatever kind incident to the collection of the indebtedness evidenced by the Debenture, the enforcement or protection of the security interests of the Security Instruments or the exercise by Lender of any rights or remedies of Lender with respect to the indebtedness evidenced by the Debenture, including, without limitation reasonable attorneys' fees incurred by Lender, all of which Borrower agrees to pay to Lender upon demand.

All of the foregoing indebtedness and other obligations are collectively referred to in this Agreement as the "Secured Obligations".

2.03 Subordination. Notwithstanding anything to the contrary in this Agreement or in the Debenture, the indebtedness evidenced by the Debenture, including principal and interest, shall be subordinate and junior to the prior payment of the indebtedness of Borrower for borrowed money described in Section 2.03 of the Disclosure Schedule delivered by Borrower to the Lender in connection with this Agreement (the "Disclosure Schedule"), together with all obligations (whether to the same lender or otherwise) issued in refinancings, renewal, deferral, extension, refunding, amendment or modification (but not any increase to an amount greater than \$3,750,000) of any such indebtedness (collectively, the "Senior Indebtedness"). Nothing in this Agreement shall be deemed to preclude payments of principal and interest or other amounts pursuant to the Secured Obligations to the extent that no event of default has occurred with respect to the Senior Indebtedness such that the Senior Indebtedness has become due in full.

2.04 Liquidation, etc. (a) Upon any distribution of assets of Borrower in connection with any dissolution, winding up, liquidation or reorganization of Borrower (whether in bankruptcy, insolvency, or receivership proceedings or upon an assignment for the benefit of creditors or otherwise), the holders of all Senior Indebtedness shall first be entitled to receive payment in full of the principal thereof, premium, if any, and interest due thereon, and all costs and expenses (including reasonable attorneys' fees) related thereto, before the holder of the Debenture shall be entitled to receive any payment on account of the principal of or interest on or

any other amount owing with respect to the Debenture (other than payment in shares of capital stock of Borrower as reorganized or readjusted, or securities of Borrower or any other corporation provided for by a plan of reorganization or readjustment, which stock and securities are subordinated to the payment of all Senior Indebtedness and securities received in lieu thereof that may at the time be outstanding). Under the circumstances provided in this Agreement, the holders of the Senior Indebtedness shall have the right to receive and collect any distributions made with respect to the Debenture until such time as the Senior Indebtedness is paid in full, and shall have the further right to take such actions as may be deemed necessary or required to so receive and collect such distributions including making or filing any proofs of claim relating thereto.

(b) Without in any way modifying the provisions of this Article II or affecting the subordination effected hereby if such notice is not given, Borrower shall give prompt written notice to the Lender of any dissolution, winding up, liquidation or reorganization of Borrower (whether in bankruptcy, insolvency or receivership proceedings or upon an assignment for the benefit of creditors or otherwise).

2.05 Subrogation. Upon the prior payment in full of all Senior Indebtedness, Lender shall be subrogated to the rights of the holders of the Senior Indebtedness to receive payments or distributions of assets of Borrower applicable to the Senior Indebtedness until all amounts owing on the Debenture shall be paid in full, and for the purpose of such subrogation, no payments or distributions to Lender otherwise payable or distributable to the holders of Senior Indebtedness shall, as between Borrower, its creditors (other than the holders of Senior Indebtedness) and Lender, be deemed to be payment by Borrower to or on account of the Debenture, it being understood that the provisions of this Article II are and are intended solely for the purpose of defining the relative rights of Lender, on the one hand, and the holders of the Senior Indebtedness, on the other hand.

2.06 Borrower's Obligations Not Impaired. (a) Nothing contained in this Article II or in the Debenture is intended to or shall impair, as between Borrower and Lender, the obligation of Borrower, which is absolute and unconditional, to pay Lender the principal of and interest on the Debenture as and when the same shall become due and payable in accordance with the terms of the Debenture or is intended to or shall affect the relative rights of Lender other than with respect to the holders of the Senior Indebtedness, nor, except as expressly provided in this Article II shall anything in this Agreement or therein prevent Lender from exercising all remedies otherwise permitted by applicable law upon the occurrence of an Event of Default under this Agreement or under the Debenture.

(b) If any payment or distribution shall be received in respect of the Debenture in contravention of the terms of this Article II, such payment or distribution shall be held in trust for the holders of the Senior Indebtedness, and shall be immediately delivered to such holders in the same form as received.

2.07 Further Assurances. If reasonably requested by Borrower or a holder of Senior Indebtedness, Lender hereby agrees to negotiate in good faith with such holder of Senior

Indebtedness the terms and conditions of a subordination or intercreditor agreement that would supersede (but shall not be more restrictive than) the provisions for subordination set forth in this Agreement.

ARTICLE III

WARRANTIES

Except as set forth in the Disclosure Schedule, Borrower hereby represents and warrants to Lender as follows:

3.01 Corporate Status. Borrower is a corporation duly organized, validly existing and in good standing under the laws of its state of incorporation, and has the corporate power to own and operate its properties, to carry on its business as now conducted and to enter into and to perform its obligations under this Agreement, the other Loan Documents to which it is a party, and the Warrant. Except as set forth in Section 3.01 of the Disclosure Schedule, Borrower is duly qualified to do business and is in good standing in each state in which a failure to be so qualified would have a materially adverse effect on Borrower's financial position or its ability to conduct its business in the manner now conducted ("Material Adverse Effect").

3.02 Subsidiaries. Borrower has no subsidiaries and has no direct or indirect ownership interests in any other entity.

3.03 Authorization. Borrower has full legal right, power and authority to enter into and perform its obligations under the Loan Documents and Warrant. The execution and delivery of this Agreement, the borrowing hereunder, the execution and delivery of each Loan Document to which Borrower is a party and of the Warrant, and the performance by Borrower of its obligations hereunder and/or thereunder are within its corporate powers and have been duly authorized by all necessary corporate action properly taken, have received all necessary governmental approvals, if any were required, and do not and will not contravene or conflict with any provision of law, any applicable judgment, ordinance, regulation or order of any court or governmental agency, the Articles of Incorporation or Bylaws of Borrower or any agreement binding upon it or its properties. The officer(s) executing this Agreement, the Debenture, the Warrant and all of the other Loan Documents to which Borrower is a party, is (are) duly authorized to act on behalf of Borrower.

3.04 Validity and Binding Effect. This Agreement, the other Loan Documents, and the Warrant are the legal, valid and binding obligations of Borrower enforceable in accordance with their terms, subject to the effect of bankruptcy, insolvency, reorganization, moratorium or other similar laws now or hereafter in effect generally affecting creditors' rights and to the effect on enforceability of certain remedies of rules of law governing specific performance, injunctive relief and other equitable remedies.

3.05 No Consent Required. The execution, delivery and performance of the Loan Documents and the Warrant by Borrower do not require the consent or approval of or the giving

of notice to any person or entity, other than the approval of the Board of Directors of Borrower and such other consents or approvals as have or shall have been obtained as of the Closing.

3.06 Other Transactions. Except as set forth in Section 3.06 of the Disclosure Schedule, there are no outstanding loans, liens, pledges, security interests, agreements or other facilities upon which Borrower is obligated or by which Borrower is bound that will in any way permit any third person to have or obtain priority over Lender as to any of the Collateral.

3.07 Capitalization. As of the date hereof, and upon consummation of the transactions contemplated by the Loan Documents on the Closing Date, Borrower will have a total authorized capitalization consisting of: (i) Fifteen Million Five Hundred Thousand (15,500,000) shares of Common Stock, no par value per share (the "Common Stock"), of which Three Million Six Hundred Thousand (3,600,000) shares will be issued and outstanding; and (ii) Five Million Five Hundred Seventy-Six Thousand (5,576,000) shares of Preferred Stock, \$0.735294 par value per share (the "Preferred Stock"), of which Five Million Five Hundred Seventy-Six Thousand (5,576,000) shares will be issued and outstanding. The Company has reserved a sufficient number of shares of Common Stock for issuance upon exercise of the Warrant. A complete list of all outstanding shares of Common Stock and Preferred Stock and warrants, options and other rights to purchase or otherwise acquire Common Stock or other securities or instruments exchangeable for or convertible into Common Stock and the names in which they are or will be registered is set forth in Section 3.07 of the Disclosure Schedule. All the outstanding shares of capital stock of Borrower have been duly authorized, are validly issued and are fully paid and nonassessable. The shares of Common Stock issuable upon exercise of the Warrant, upon issuance, will have been duly authorized, will be validly issued and will be fully paid and nonassessable. The Debenture, the Warrant, and all outstanding shares of capital stock of the Borrower have been offered, issued, sold and delivered by Borrower in compliance with applicable federal and state securities laws. Except as set forth in Section 3.07 of the Disclosure Schedule, there are no options, warrants or rights to acquire shares of the capital stock or other securities of Borrower authorized, issued or outstanding, nor is Borrower obligated in any other manner to issue shares of its capital stock or other securities, and there are no restrictions on the transfer of shares of capital stock of Borrower other than those imposed by applicable state and federal securities laws. Except as set forth in Section 3.07 of the Disclosure Schedule, no holder of any security of Borrower is entitled to preemptive or similar statutory or contractual rights, either arising pursuant to any agreement or instrument to which Borrower is a party or that are otherwise binding upon Borrower with respect to the issuance of any capital stock, debt instruments or other securities of Borrower.

3.08 Places of Business. The records with respect to all tangible and intangible personal property constituting Collateral are maintained at the principal office of Borrower at the address set forth in Section 3.08 of the Disclosure Schedule.

3.09 Litigation. There are no actions, suits or proceedings pending, or, to the knowledge of Borrower, threatened, against or affecting Borrower or involving the validity or enforceability of any of the Loan Documents or the priority of the liens thereof, at law or in equity, or before any governmental or administrative agency, except actions, suits and

proceedings that are fully covered by insurance and that, if adversely determined, would not impair the ability of Borrower to perform each and every one of its obligations under and by virtue of the Loan Documents; and Borrower is not in default with respect to any order, writ, injunction, decree or demand of any court or any governmental authority.

3.10 Financial Statements. The (a) unaudited consolidated balance sheets of Borrower as December 31, 1998, and the related consolidated statements of income, changes in stockholders' equity, and cash flow for the fiscal year then ended, and (b) unaudited consolidated balance sheet of Borrower as at January 31, 1999, and the related unaudited consolidated statements of income for the fiscal period then ended, heretofore delivered to Lender have been prepared on the basis of GAAP, and fairly present the financial condition of Borrower as of the date(s) thereof subject, in the case of interim financial statements, to normal recurring year-end adjustments and the absence of notes. No materially adverse change has occurred in the financial condition of Borrower since the date(s) thereof, and no additional borrowings have been made by Borrower since the date(s) thereof.

3.11 No Defaults. Consummation of the transactions hereby contemplated and the performance of the obligations of Borrower under and by virtue of the Loan Documents and the Warrant will not result in any breach of, or constitute a default under, the Articles of Incorporation or Bylaws of Borrower or any mortgage, security deed or agreement, deed of trust, lease, loan or credit agreement, partnership agreement, license, franchise or any other material instrument or agreement to which Borrower is a party or by which Borrower or its properties may be bound or affected.

3.12 Compliance With Law. Borrower has obtained all licenses, permits and governmental approvals and authorizations necessary or proper in order to conduct its business and affairs as heretofore conducted and as hereafter intended to be conducted except where the failure to obtain such approvals or authorizations would not, individually or in the aggregate, have a Material Adverse Effect. Borrower is in material compliance with all laws, regulations, decrees and orders applicable to it (including, but not limited to, laws, regulations, decrees and orders relating to environmental, occupational and health standards and controls, antitrust, monopoly, restraint of trade or unfair competition) and any noncompliance, in the aggregate, cannot reasonably be expected to have an adverse effect on its business, operations, property or financial condition and will not adversely affect its ability to perform its obligations under the Loan Documents or the Warrant.

3.13 Taxes. Except as set forth in Section 3.13 of the Disclosure Schedule, Borrower has filed or caused to be filed all tax returns that are required to be filed (except for returns that have been appropriately extended), and has paid all taxes shown to be due and payable on said returns and all other taxes, impositions, assessments, fees or other charges imposed on it by any governmental authority, agency or instrumentality, prior to any delinquency with respect thereto (other than taxes, impositions, assessments, fees and charges currently being contested in good faith by appropriate proceedings, for which appropriate amounts have been reserved), except where the failure to file any such return or to pay any such tax would not have a Material Adverse Affect. No tax liens have been filed against Borrower or any of its property. All taxes

imposed by law in connection with the issuance, sale and delivery of the Debenture and the Warrant shall have been fully paid and all laws imposing such taxes shall have been fully complied with, prior to the Closing.

3.14 Collateral. Borrower has all necessary right, power and authority to grant to the Lender a valid and enforceable security interest in the Collateral. The Lender's security interest in such Collateral constitutes a valid lien upon and security interest in such Collateral, and, except for (i) liens disclosed in Schedule 3.14 of the Disclosure Schedule, and (ii) liens arising by operation of law in the ordinary course of Borrower's business and that do not impair, in the aggregate, the Lender's rights or priority in such Collateral, no other person or entity has any right, title, interest, security interest, claim or lien with respect thereto.

3.15 Certain Transactions. Except as disclosed in Schedule 3.15 of the Disclosure Schedule, Borrower is not indebted, directly or indirectly, to any of its officers or directors or to their spouses or children; none of said officers or directors or any members of their immediate families are indebted to Borrower or have any direct or indirect ownership interest in any firm or corporation with which Borrower is affiliated or with which Borrower has a business relationship, or any firm or corporation that competes with Borrower, except that officers and/or directors of Borrower may own no more than one percent (1%) of the outstanding stock of publicly traded companies that compete with Borrower. No officer or director or any member of their immediate families, is, directly or indirectly, interested in any material contract with Borrower, and Borrower is not a guarantor or indemnitor of any indebtedness.

3.16 Title to Property. Borrower does not own any real property and leases only the real property disclosed in Schedule 3.16 of the Disclosure Schedule. As of the date hereof Borrower has good and marketable title to all of the personal property used in its business, free and clear of any and all claims, liens, encumbrances, equities and restrictions of every kind and nature whatsoever, except for such claims, liens, encumbrances, equities and restrictions as are not in the aggregate material to the business, operations or financial condition of Borrower.

3.17 Intellectual Property.

(a) Section 3.17(a) of the Disclosure Schedule sets forth a complete list and a brief description of all domestic and foreign patents, patent and know-how licenses, trade names, trademark and service mark registrations, common-law trademarks, copyright registrations, copyrights and applications for any of the foregoing currently used by the Borrower (the "Intellectual Property"). The parties expressly agree that the term Intellectual Property shall not include Third-Party Software, as defined in Section 3.17.2 below. Except as set forth in Section 3.17(a) of the Disclosure Schedule, the Borrower owns all right, title and interest in and to, or holds valid licenses from third parties for, all of the Intellectual Property. Section 3.17(a) of the Disclosure Schedule also indicates whether any of the Intellectual Property was acquired by assignment to the Borrower or is used by the Borrower under authority of a license. No employees or contractors of the Borrower, past or present, claim or have claimed any interest in the Intellectual Property and no basis for any such claim exists.

(b) Except as otherwise set forth in Section 3.17(b) of the Disclosure Schedule, with respect to the Intellectual Property listed thereon:

(i) the Intellectual Property and all rights appurtenant thereto are free and clear of any and all Liens;

(ii) no transfer, conveyance, sale or assignment has been made by the Borrower of any part of any item constituting part of the Intellectual Property or any rights appurtenant thereto, and no license, franchise or other agreement with respect to the Intellectual Property has been entered into by Borrower with a third party (other than licenses granted by the Borrower in the ordinary course of its business, forms of which licenses have been provided to Investors);

(iii) except for common law copyrights, each item constituting part of the Intellectual Property which is owned by the Borrower has been duly and validly registered with, filed in or issued by, as the case may be, the United States Patent and Trademark Office or the United States Copyright Office, and such registrations, filings and issuances remain in full force and effect, and there have been no failures in complying with such requirements, and no copyrights, patents or trademarks have lapsed or been cancelled or abandoned;

(iv) the Intellectual Property constitutes all intellectual property necessary for the Borrower to carry on its business as presently conducted and as contemplated in the reasonably foreseeable future;

(v) the registrations and applications to register the Intellectual Property in each of the countries in which the Intellectual Property is registered are valid and subsisting in all respects and have been properly maintained and the Borrower has otherwise taken all reasonable measures required under all applicable laws to maintain and protect the Intellectual Property; and

(vi) neither any of the Intellectual Property nor any use of the Intellectual Property, nor the operations of the Borrower, infringes upon or violates any trademark, enforceable in the United States, any trade secret, or any copyright or United States patent rights of any third party, and to the Borrower's knowledge, none of the Intellectual Property nor any use thereof nor the operations of the Borrower infringes upon any patent rights of any third party arising under the laws of any country outside of the United States.

(c) There are no pending or, to the knowledge of the Borrower, threatened proceedings, litigation or other adverse claims affecting, or with respect to, the Intellectual Property. To the knowledge of the Borrower, no person or entity is infringing the Borrower's rights with respect to the Intellectual Property. To the knowledge of the Borrower, none of the operations, processes or products of the Borrower infringe or violate the rights of any third party. The Borrower has not received any charge, complaint, claim or notice alleging any such infringement or violation.

(d) There are no claims pending or, to the knowledge of the Borrower, threatened to the effect that any shareholder, director, employee or agent of the Borrower has, with respect to his or her activities to date, violated any terms or conditions of his or her employment contract with any third party, disclosed or utilized any trade secrets or proprietary information of such third party, or interfered in the employment relationship between such third party and any of its employees, and to the knowledge of the Borrower, no basis for any such action exists.

(e) Borrower is the lawful and exclusive owner of its confidential business information (as defined in this Agreement), free and clear of any claim, right, trademark, patent or copyright protection of any third party, other than liens set forth on the Disclosure Schedule. As used in this Agreement, "confidential business information" includes technical and nontechnical data related to patterns, plans, methods, techniques, drawings, finances, customer lists, suppliers, products, pricing and cost information, designs, processes, procedures, formulas, research data owned or used by Borrower or marketing studies conducted by Borrower, all of which Borrower considers to be commercially important and competitively sensitive and which generally have not been disclosed to third parties other than customers in the ordinary course of business, but does not include Third-Party Software. Borrower follows such procedures as are necessary to protect Borrower's trade secrets and proprietary rights in intellectual property of all kinds.

3.17.1 Borrower Software Assets.

(i) Section 3.17.1 of the Disclosure Schedule accurately identifies and describes all software products and/or software technology developed, marketed, supported, owned, sold, licensed, leased, under development or otherwise used in connection with the businesses of the Borrower (except Third-Party Software, as hereinafter defined) ("Borrower Software Assets"), and lists all registrations and applications to register the Borrower Software Assets for any purpose, including copyright and patent.

(ii) The Borrower, except as indicated on the Section 3.17.1 of the Disclosure Schedule, possesses the exclusive worldwide right, title, interest and ownership, free and clear of any royalty payments or security interests, claims, contract rights, licenses, liens, leases or encumbrances whatsoever, in and to the Borrower Software Assets, and to all use, reproduction, modification, marketing and licensing rights, copyrights, U.S. patent rights, U.S. trade names, U.S. trademarks and trade secrets relating thereto, and, except as provided in standard end-user licenses used in the ordinary course of business, there are no agreements providing any party the right to use, copy, license, sell, convert, modify or distribute the Borrower Software Assets or relating to or affecting the Borrower Software Assets in any respect. The Borrower Software Assets are original works of authorship created and developed solely by the Borrower within the meaning of applicable law.

(iii) The Borrower Software Assets including, without limitation, the source codes thereof, constitute trade secrets of the Borrower, as the case may be, and have not been disclosed by the Borrower or anyone authorized by either of them to any person under any

circumstance which would destroy their status as trade secrets. The Borrower Software Assets have not been disclosed on an unauthorized basis to any third party. There is no pending challenge received by the Borrower to the validity of the Borrower Software Assets or source codes thereof as valid and enforceable trade secrets of the Borrower, as the case may be. The Borrower has taken all steps and actions necessary and appropriate under all applicable laws, of any country, to establish and preserve the Borrower Software Assets and source codes included in the Borrower Software Assets as trade secrets and to establish and preserve the copyright and patent rights therein.

(iv) There has been no publication by the Borrower or any person authorized by the Borrower of any of the Borrower Software Assets in a manner which would preclude the protection afforded copyrighted material under the Copyright Laws of the United States or the laws of any country in which the Borrower Software Assets are distributed by the Borrower or its authorized distributors.

(v) No person or entity other than the Borrower is in possession of or has the right to possession of any of the Borrower Software Assets, including, without limitation, the source codes included in the Borrower Software Assets (other than licenses granted by the Borrower in the ordinary course of its business, forms of which licenses have been provided to the Lender).

(vi) None of the Borrower Software Assets infringes any U.S. patent, or any copyright, trade secret, U.S. trademark or any other intellectual property rights, privacy rights or similar rights of any third party, nor has any claim (whether or not embodied in an action, past or present) of such infringement been threatened or asserted, and no such claim is pending against the Borrower. To the Borrower's knowledge, neither the Borrower Software Assets nor any portion or use thereof infringes any patent rights or trademark rights arising outside of the United States, nor has any claim (whether or not embodied in an action, past or present) of such infringement been threatened or asserted, and no such claim is pending against the Borrower.

(vii) All employees, independent contractors and other persons who have had access to the Borrower Software Assets or who have participated in the development or creation of any of the Borrower Software Assets were U.S. citizens at all times during such activities and have signed appropriate non-disclosure and confidentiality agreements and work-for-hire agreements in the case of independent contractors, sufficient to protect the Borrower Software Assets from unauthorized disclosure and sufficient to transfer and assign any rights of any such persons in the Borrower Software Assets to the Borrower, as the case may be. There has been no unauthorized access to the Borrower Software Assets or any of them by any third party.

3.17.2 Third-Party Software.

(i) Section 3.17.2 of the Disclosure Schedule accurately identifies and describes all software products and/or software technology ever distributed, marketed, supported, licensed, leased, or otherwise provided to third parties by Borrower in connection with its

business operations which is not currently owned by the Borrower or was not owned by the Borrower at the time it was provided to a third party by the Borrower excluding shrink wrap software used by the Borrower for internal use only (collectively, the "Third-Party Software"). Such section further sets forth the identity of the party which licensed such Third-Party Software to the Borrower and the agreement pursuant to which such license was granted (collectively, the "Third-Party Agreements"). Such schedule further lists all registrations and applications to register the Third-Party Software which Borrower has made in any jurisdiction for any purpose, including copyright and patent.

(ii) The Borrower, except as indicated on the Section 3.17.2 of the Disclosure Schedule, possesses or possessed all right, title and interests necessary to allow the Borrower to distribute, license or otherwise provide the Third-Party Software to third parties in the manner in which it has carried out such acts in the past and in the manner in which it currently distributes, licenses or otherwise provides such software to third parties.

(iii) To its knowledge, none of the Third-Party Software, nor any portion or use thereof, nor any distribution of such software by Borrower as permitted pursuant to the Third-Party Agreements, infringes any patent, or any copyright, trade secret, trademark or other intellectual property rights, privacy rights or similar rights of any third party, nor has any claim (whether or not embodied in an action, past or present) of such infringement been threatened or asserted, and no such claim is pending against any third party.

(iv) The Borrower is not in violation of any term or provision of the Third-Party Agreements, nor has any event, act or omission occurred that, with the passage of time or giving of notice would be a violation or default in any material respect under any such Agreement. Except as indicated on Section 3.17.2 of the Disclosure Schedule, each of the Third-Party Agreements is a valid and binding obligation of the Borrower and is in full force and effect. There is no violation by the other party thereto of any material term or provision of any of the Third-Party Agreements and there have been no threatened cancellations thereof or outstanding material disputes thereunder. The Borrower has heretofore made available to each Investor for examination true, complete and correct copies of the Third-Party Agreements.

3.18 Investment Company Act. Borrower is not an "investment company" or a company "controlled" by an "investment company" within the meaning of the Investment Company Act of 1940, as amended.

3.19 Margin Requirements. Without expanding the limited uses of proceeds of the Loan set forth in Section 4.03 of this Agreement, Borrower agrees that Borrower shall not use any of the funds advanced under the Loan for the purpose of acquiring or carrying "margin stock" for the purposes of Regulations G, T, X or U of the Federal Reserve Board.

3.20 Solvency. Following Lender's payment of the purchase price for the Debenture and the Warrant, Borrower will be solvent as of the date of this Agreement. For purposes of this Section 3.20, "solvent" shall mean that Borrower: (i) has capital sufficient to carry on its business and transactions and all business and transactions in which it is about to engage, (ii) is

able to pay its debts as they mature, and (iii) owns assets having present fair salable value greater than the amount required to pay its debts.

3.21 Environmental Compliance. Borrower has duly complied in all material respects with, and its properties are owned and operated in all material respects in compliance with all federal, state and local environmental laws and regulations. There have been no citations, notices or orders of noncompliance issued to Borrower or relating to its business or properties. Borrower has obtained all federal, state and local licenses, certificates or permits required by such environmental laws and regulations relating to Borrower and its properties except where the failure to obtain any such licenses, certificates or permits, would not have a Material Adverse Effect.

3.22 OSHA Compliance. Borrower is in compliance with the Federal Occupational Safety and Health Act, as amended, and all regulations thereunder, except where failure to comply would not have a Material Adverse Effect.

3.23 ERISA Compliance. With respect to the Employee Retirement Income Security Act of 1974, as amended from time to time, and the regulations promulgated and rulings issued thereunder ("ERISA"):

(a) Plans. Section 3.23 of the Disclosure Schedule sets forth any and all "employee benefit plans" maintained by or on behalf of Borrower or any ERISA Affiliates as defined in Section 3(3) of ERISA (a "Plan"), including, but not limited to, any defined benefit pension plan, profit sharing plan, money purchase pension plan, savings or thrift plan, stock bonus plan, employee stock ownership plan, Multiemployer Plan, or any plan, fund, program, arrangement or practice providing for medical (including post-retirement medical), hospitalization, accident, sickness, disability, or life insurance benefits. For purposes of this Agreement, "ERISA Affiliate" shall mean each trade or business (whether or not incorporated) which, together with Borrower, is treated as a single employer under Section 414(b), (c), (m) or (o) of the Internal Revenue Code of 1986, as amended from time to time, and the regulations promulgated and the rulings issued thereunder (the "Code"); and "Multiemployer Plan" shall mean a "multiemployer plan" as defined in Section 4001(a)(3) of ERISA. Neither Borrower nor any ERISA Affiliate maintains or contributes to, or has maintained or contributed to, any defined benefit pension plan or Multiemployer Plan.

(b) Compliance. Each Plan has at all times been maintained, by its terms and in operation, in accordance in all material respects with all applicable laws, and no fact that might constitute grounds for the involuntary termination of the Plan, or for the appointment by the appropriate United States District Court of a trustee to administer the Plan, exists at the time of execution of this Agreement.

(c) Liabilities. Except for liabilities and expenses which become payable and are timely paid pursuant to the terms and usual operations of the Plans, Borrower is not currently and, to the best of its knowledge, will not become subject to any material liability (including withdrawal liability), tax or penalty whatsoever to any person whomsoever with respect to any

Plan including, but not limited to, any material tax, penalty or liability arising under Title I or Title IV of ERISA or Chapter 43 of the Code.

(d) Funding. Borrower and each ERISA Affiliate has made full and timely payment of all amounts (i) required to be contributed under the terms of each Plan and applicable law and (ii) required to be paid as expenses of each Plan, except where the failure to make any such payment would not have a Material Adverse Effect. No Plan or Plans have an "amount of unfunded benefit liabilities" (as defined in Section 4001 (a)(18) of ERISA) which, in the aggregate, exceeds \$5,000.

3.24 Small Business Concern. Borrower, together with its "affiliates" (as that term is defined in 13 C.F.R. Section 121.103), if any, is a "Small Business" within the meaning of 15 U.S.C. Section 662(5), that is Section 103(5) of the Small Business Investment Act of 1958, as amended (the "SBIC Act"), and the regulations thereunder, including 13 C.F.R. Section 107.710, and meets the applicable size eligibility criteria set forth in 13 C.F.R. Section 121.301(c)(1) or the industry standard covering the industry in which Borrower is primarily engaged as set forth in 13 C.F.R. Section 121.301(c)(2). Neither Borrower nor any of its subsidiaries presently engages in any activities for which a small business investment company is prohibited from providing funds by the SBIC Act and the regulations thereunder, including 13 C.F.R. Section 107.

3.25 Statements Not False or Misleading. Borrower has fully advised Lender of all matters involving Borrower's financial condition, operations, properties or industry that management of Borrower reasonably expects might have a materially adverse effect on Borrower. No representation or warranty given as of the date hereof by Borrower contained in this Agreement or any schedule attached hereto or any statement in any document, certificate or other instrument furnished or to be furnished to Lender pursuant hereto, taken as a whole, contains or will (as of the Closing) contain any untrue statement of a material fact, or omits or will (as of the Closing) omit to state any material fact that is necessary in order to make the statements contained therein not misleading.

3.26 Offering. Subject in part to the truth and accuracy of the Lender's representations set forth in this Agreement and the Warrant, the offer, sale and issuance of the Debenture and the Warrant and the offer, sale and issuance of securities upon exercise of the Warrant are exempt from the registration requirements of the Securities Act of 1933, amended (the "Securities Act"), and applicable state securities laws.

3.27 Chief Executive Office. The chief executive office of Borrower is located at the address set forth beside Borrower's name in Section 9.09 of this Agreement.

3.28 Year 2000. To the best of Borrower's knowledge, any third-party hardware, software or firmware distributed by Borrower or any subsidiary of Borrower or used by Borrower or any subsidiary to provide services or to process its own information will not cease normal operation, or provide incorrect results, because of failure to accurately identify and/or process date/time data (including but not limited to, calculating, comparing, and sequencing)

from, into, and between the twentieth and twenty-first centuries, and the years 1999 and 2000 and leap year calculations. Software owned or developed by Borrower or any subsidiary of Borrower or used by Borrower or any subsidiary to provide services or to process its own information ("Borrower's Software") will not cease normal operation or provide incorrect results, because of failure to accurately identify and/or process date/time data (including but not limited to, calculating, comparing, and sequencing) from, into, and between the twentieth and twenty-first centuries, and the years 1999 and 2000 and leap year calculations when either (A) used as a standalone application, or (B) integrated into or otherwise used in conjunction with the third-party hardware, software, firmware and data ("Third-Party Products") with which such Borrower's Software was designed or intended by Borrower or any subsidiary to operate at the time such Borrower's Software was (i) developed for internal use or (ii) provided to customers of Borrower or any subsidiary of Borrower or tested by Borrower or any subsidiary for such customers, whichever is later. Notwithstanding the foregoing, Borrower shall not be considered to be in breach of the representation and warranty in the immediately preceding sentence to the extent such failure of such Borrower Software to comply with such representation and warranty is attributable to (x) a failure by any Third-Party Product to accurately process date/time data (including but not limited to, calculating, comparing, and sequencing) from into and between the twentieth and twenty-first centuries, and the years 1999 and 2000 and leap year calculations; or (y) any modification of the Borrower Software by a Borrower (or subsidiary) customer following the provision of such Borrower Software to such customer or the testing of the Borrower Software by Borrower (or a subsidiary) for such customer, whichever is later.

3.29 Survival. The representations and warranties of Borrower contained in this Agreement shall survive until the Secured Obligations are indefeasibly repaid and satisfied in full.

ARTICLE IV

LENDER'S REPRESENTATIONS AND WARRANTIES

Lender hereby represents and warrants to Borrower as follows:

4.01 Purchase for Own Account. Lender is purchasing the Warrant for Lender's own account and not with a present view towards the distribution of the Warrant or the shares subject thereto (the "Warrant Shares," and collectively with the Warrant, the "Securities"). Notwithstanding anything in this Section 4.01 to the contrary, by making the foregoing representation, Lender does not agree to hold the Securities for any minimum or other specific term and reserves the right to dispose of the Securities at any time in accordance with or pursuant to a registration statement or an exemption from registration under the Securities Act and any applicable state securities laws.

4.02 Information. Lender has been furnished all materials relating to the business, finances and operations of Borrower and materials relating to the offer and sale of the Warrant which have been requested by Borrower. Lender has been afforded the opportunity to ask questions of Borrower and has received what Lender believes to be satisfactory answers to any

such inquiries. Neither such inquiries nor any due diligence investigation conducted by Lender or its counsel or any of its representatives shall modify, amend or affect Lender's right to rely on Borrower's representations and warranties contained in Article III hereof.

4.03 Authorization; Enforcement. Lender has the requisite power and authority to enter into and perform its obligations under this Agreement and to purchase the Warrant in accordance with the terms hereof. This Agreement has been duly and validly authorized, executed and delivered on behalf of Lender and is a valid and binding agreement of Lender enforceable against Lender in accordance with its terms, subject to applicable bankruptcy, insolvency, reorganization, moratorium, fraudulent transfer and other laws affecting creditors' rights and remedies generally and to general principles of equity (regardless of whether enforcement is sought in a proceeding at law or in equity).

4.04 Transfer or Resale. Lender understands that (i) the Securities have not been and are not being registered under the Securities Act or any state securities laws, and may not be transferred unless (a) subsequently registered thereunder, or (b) Lender shall have delivered to Borrower an opinion of counsel reasonably acceptable to Borrower (which opinion shall be in form, substance and scope customary for opinions of counsel in comparable transactions) to the effect that the Securities to be sold or transferred may be sold or transferred under an exemption from such registration, or (c) sold under Rule 144 promulgated under the Securities Act (or a successor rule), or (d) sold or transferred to an affiliate of Lender pursuant to an exemption under the Securities Act; and (ii) neither Borrower nor any other person or entity is under any obligation to register such Securities under the Securities Act or any state securities laws to comply with the terms and conditions of any exemption thereunder.

4.05 Legends. Lender understands that until such time as the Warrant Shares have been registered under the Securities Act or otherwise sold by Lender under Rule 144, the certificates for the Warrant Shares shall bear a restrictive legend in substantially the following form:

THE SHARES REPRESENTED BY THIS CERTIFICATE HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "ACT"), OR ANY APPLICABLE STATE SECURITIES LAW AND MAY NOT BE OFFERED, SOLD OR TRANSFERRED UNTIL (I) A REGISTRATION STATEMENT UNDER THE ACT AND ANY APPLICABLE STATE SECURITIES LAWS SHALL HAVE BECOME EFFECTIVE WITH REGARD THERETO, OR (II) IN THE OPINION OF COUNSEL ACCEPTABLE TO THE COMPANY, REGISTRATION UNDER THE ACT AND APPLICABLE STATE SECURITIES LAWS IS NOT REQUIRED IN CONNECTION WITH SUCH PROPOSED TRANSFER.

THE SHARES SUBJECT TO THIS CERTIFICATE ARE SUBJECT TO RESTRICTIONS ON TRANSFER PURSUANT TO THE TERMS OF THAT STOCK PURCHASE WARRANT DATED AS OF MARCH 24, 1999, AND ISSUED BY THE COMPANY. COPIES OF THE STOCK PURCHASE WARRANT MAY BE OBTAINED FROM THE COMPANY'S SECRETARY.

4.06 Accredited Investor Status. Lender is an "Accredited Investor" as that term is defined in Rule 501(a) of Regulation D promulgated under the Securities Act.

4.07 General Solicitation. To Lender's knowledge, without any independent investigation, Lender was not solicited by means of a "general solicitation," as such term is defined in Regulation D with respect to any of the Securities being offered hereby.

ARTICLE V

COVENANTS AND AGREEMENTS

5.01 Payment of Secured Obligations. Borrower shall pay the indebtedness evidenced by the Debenture according to the terms thereof, and shall timely pay or perform, as the case may be, all the other Secured Obligations and the Senior Indebtedness.

5.02 Transfer of Collateral. Borrower will not sell, exchange, lease, negotiate, pledge, assign or otherwise dispose of the Collateral to anyone other than Lender and will not permit any lien, security interest or other encumbrance to attach to the Collateral, except (i) with regard to the Senior Indebtedness, (ii) purchase money security interests or leasehold interests on property acquired by Borrower in an amount not to exceed the purchase price therefor; (iii) Borrower may sell or lease inventory in the ordinary course of business, and (iv) Borrower may sell or otherwise dispose of obsolete or retired equipment in the ordinary course of business.

5.03 Use of Proceeds, Restrictions on Activities.

(a) Neither Borrower nor any of its subsidiaries will engage in any activities or use directly or indirectly the proceeds from the Loan for any purpose for which a small business investment company is prohibited from providing funds by the SBIC Act and the regulations promulgated thereunder, including 13 C.F.R. Section 107.

(b) Borrower will use the proceeds from the Loan for the purposes and in the amounts set forth in Section 5.03 of the Disclosure Schedule. Upon Lender's request, Borrower will deliver within ninety (90) days of the Closing to Lender a written report, certified as correct by Borrower's chief executive officer or chief financial officer, verifying the purposes and the amounts for which proceeds from the Loan have been disbursed. Borrower will supply to Lender such information and documents as Lender reasonably requests with respect to use of proceeds and will permit Lender to have reasonable access to any and all records and information and personnel of Borrower as Lender reasonably deems necessary to verify how proceeds have been or are being used and to assure that the proceeds have been used for the purposes specified.

(c) Borrower will not, without obtaining the prior written consent of the Lender, change within one year of the Closing hereunder Borrower's business activity from that currently conducted to a business activity for which a small business investment company is prohibited from providing funds by the SBIC Act and the regulations promulgated thereunder. Borrower

agrees that any such changes in its business activity without such prior written consent of the Lender will at the Lender's sole option constitute an event of default under the Debenture (an "Activity Event of Default"). If an Activity Event of Default occurs, the Lender shall have the right to demand immediate repayment of the Debenture with interest to the date of repayment, and Borrower will immediately make such payment within three (3) days of receipt of a demand. The payment remedy is in addition to any and all other rights and remedies against Borrower and others to which Lender may be entitled.

5.04 Further Assurances. Borrower will take all actions reasonably requested by the Lender to create and maintain for the benefit of the Lender valid liens upon, security titles to and/or perfected security interests in any collateral security described in Section 2.01 or the Security Instruments and all other security for the Secured Obligations now or hereafter held by or for Lender, including, without limitation, the execution, delivery, filing and recordation of UCC-1 Financing Statements and Assignments or Security Interests in United States Trademarks and Patents, each in a form reasonably satisfactory to the Lender. Without limiting the foregoing, Borrower agrees to execute such further instruments (including financing statements and continuation statements) as may be required or permitted by any law relating to notices of, or affidavits in connection with, the perfection of the Lender's security interests, and to cooperate with Lender in the filing or recording and renewal thereof.

5.05 Limitations on Debt and Obligations. Borrower shall not issue, assume, guarantee or otherwise become liable or permit to exist any indebtedness except (i) the Senior Indebtedness; (ii) the indebtedness incurred pursuant to the Debenture; (iii) accounts payable and other trade payables incurred in the ordinary course of business; (iv) obligations of Borrower pursuant to capitalized leases and/or purchase money financing of equipment not exceeding \$200,000 in the aggregate, or (v) indebtedness that refinances secured indebtedness under clause (i) above, provided that the collateral for such new indebtedness is the collateral from the refinanced secured indebtedness and the aggregate principal amount of such indebtedness does not exceed \$3,750,000.

5.06 Financial Statements and Reports. Until such time as the Loan and Warrant are no longer outstanding, Borrower shall furnish to Lender (i) within ninety (90) days after the end of each fiscal year of Borrower, an audited balance sheet of Borrower as of the close of such fiscal year, an audited income statement of Borrower for such fiscal year, and audited statements of cash flows for Borrower for such fiscal year, all in reasonable detail, prepared in accordance with GAAP, and in such form as has customarily been prepared by Borrower; (ii) within thirty (30) days of the end of each calendar month, balance sheets of Borrower as of the close of such month and an income statement of Borrower for such month, all in reasonable detail, and prepared on the basis of accounting principles consistently applied, together with a certificate of Borrower's Chief Executive Officer and/or Chief Financial Officer confirming Borrower's compliance (or lack thereof) with all the terms and conditions of the Loan Documents; and (iii) with reasonable promptness, such other financial data as Lender may reasonably request from time to time.

5.07 Maintenance of Books and Records, Inspection. Borrower shall maintain its books, accounts and records on the basis of accounting principles consistently applied, and permit a representative of Lender, at Lender's expense and upon two (2) business days' prior written notice, to visit and inspect any of its properties (including, but not limited to, the Collateral), corporate books and financial records, and to discuss its accounts, affairs and finances with Borrower or the principal officers of Borrower during business hours, and without interruption of Borrower's business, all at such times as Lender may reasonably request.

5.08 Insurance. Without limiting any of the requirements of any of the other Loan Documents, Borrower shall maintain, in amounts customary for entities engaged in comparable business activities, life, fire, liability and other forms of insurance on its properties (including, but not limited to, the Collateral now or hereafter securing payment and performance of the Secured Obligations), against such hazards, with such insurance companies and in at least such amounts as are customary in Borrower's business. At the request of Lender, Borrower will deliver forthwith a certificate specifying the details of such insurance in effect and that Lender is a loss payee with respect to any such insurance applicable to Collateral.

5.09 Taxes and Assessments. Borrower shall (a) file all tax returns and appropriate schedules thereto that are required to be filed under applicable law, prior to the date of delinquency, (b) pay and discharge all taxes, assessments and governmental charges or levies imposed upon Borrower, upon its income and profits or upon any properties belonging to it, prior to the date on which penalties attach thereto, and (c) pay all taxes, assessments and governmental charges or levies that, if unpaid, might become a lien or charge upon any of its properties; provided, however, that Borrower in good faith may contest any such tax, assessments and governmental charge or levy described in the foregoing clauses (b) and (c) so long as adequate reserves are maintained with respect thereto.

5.10 Corporate Existence. Borrower shall maintain its corporate existence and good standing in the state of its incorporation and its qualification and good standing as a foreign corporation in each jurisdiction in which such qualification is required by applicable law.

5.11 Compliance with Law and Agreements. Borrower shall maintain its business operations and property owned or used in connection therewith in compliance in all material respects with (i) all applicable federal, state and local laws, regulations and ordinances governing such business operations and the use and ownership of such property, and (ii) all agreements, licenses, franchises, indentures, mortgages and deeds of trust to which Borrower is a party or by which Borrower or any of its properties is bound. Without limiting the foregoing, Borrower shall pay all of its indebtedness promptly in accordance with the terms thereof.

5.12 Notice of Default. Borrower shall give written notice to Lender of the occurrence of any Event of Default (as defined below) under this Agreement or any event of default under any other Loan Document or the Warrant promptly upon the occurrence thereof.

5.13 Notice of Litigation. Borrower shall give notice, in writing, to Lender of (i) any actions, suits or proceedings instituted by any persons whomsoever against Borrower that could

materially adversely affect any of the assets of Borrower, and (ii) any dispute between Borrower on the one hand and any governmental regulatory body on the other hand, which dispute might interfere with the normal operations of Borrower; provided, however, that Lender shall not disclose any such information to any third party other than Lender's counsel except to the extent compelled by legal process or law or otherwise authorized by Borrower.

5.14 Informational Covenant. Borrower will furnish or cause to be furnished to the U.S. Small Business Administration (the "SBA") upon request of Lender information required by the SBA concerning the economic impact of Lender's investment, including but not limited to information concerning federal, state, and local income taxes paid, number of employees, gross revenues, source of revenue growth, after tax profit or loss, and federal, state and employee income tax withholding. Borrower will furnish annually all information required on the appropriate SBA forms. Borrower will also furnish or cause to be furnished to the SBA such other information regarding the business, affairs and condition of Borrower as the SBA may from time to time reasonably request. Borrower will permit SBA examiners to inspect the books and any of the properties or assets of Borrower and its subsidiaries and to discuss Borrower's business with senior management employees at such reasonable times as the SBA may from time to time request.

5.15 ERISA Plan. If Borrower has in effect, or hereafter institutes, a pension plan that is subject to the requirements of ERISA, then the following covenants shall be applicable during such period as any such plan (a "Pension Plan") shall be in effect: (i) throughout the existence of the Pension Plan, Borrower's contributions under the Pension Plan will meet the minimum funding standards required by ERISA and Borrower will not institute a distress termination of the Pension Plan, and (ii) Borrower will send to Lender a copy of any notice of a reportable event (as defined in ERISA) required by ERISA to be filed with the Labor Department or the Pension Benefit Guaranty Corporation, at the time that such notice is so filed.

5.16 Observer Rights. One representative designated by Lender will have the right to attend, at Lender's expense (except for Lender's costs and expenses of air travel and transportation to the site of the meeting, which costs and expenses will be reimbursed and/or paid by Borrower), all meetings of Borrower's Board of Directors and all committees of Borrower's Board of Directors and participate in a nonvoting capacity and, in this respect, Borrower shall give the designated representative copies of all notices, written consents and other materials provided to directors in preparation for or as part of such meetings or otherwise at such times as such notices or written consents are provided to the Board of Directors.

5.17 Restricted Payments. Except as set forth in Section 5.17 of the Disclosure Schedule, Borrower will not declare, set aside, or pay or make any "Restricted Payments" (as hereinafter defined) without obtaining Lender's prior written consent; provided, however, that Borrower may declare, set aside, or pay or make dividends or distributions on Borrower's preferred stock outstanding as of the date of this Agreement so long as such payment is in accordance with the Company's Amended and Restated Articles of Incorporation, as amended, as of the date hereof. As used in this Agreement, "Restricted Payment" means (i) any dividend or other distribution on any shares of Borrower's capital stock (except dividends payable solely

in shares of its capital stock) or (ii) any payment on account of the purchase, redemption, retirement or acquisition of (a) any shares of Borrower's capital stock (except shares acquired upon the conversion thereof into other shares of its capital stock) or (b) any option, warrant or other right to acquire shares of Borrower's capital stock.

5.18 Intentionally Deleted.

5.19 Investments. Borrower will not, and will not permit any subsidiary to, make any investments (including acquisitions) outside the ordinary course of business for Borrower or any subsidiary, without the prior written consent of the Lender, except that Borrower may:

(a) Make investments in direct obligations of the United States of America, or any agency or instrumentality of the United States of America, the payment or guaranty of which constitutes a full faith and credit obligation of the United States of America, in either case maturing in twelve months or less from the date of acquisition thereof;

(b) Make investments in certificates of deposit maturing within one year from the date of origin, issued by a bank or trust company organized under the laws of the United States or any state thereof, having capital, surplus and undivided profits aggregating at least \$100,000,000 and whose long-term certificates of deposit are, at the time of acquisition thereof, rated AA or better by Standard & Poor's Corporation or AA or better by Moody's Investors Service, Inc.;

(c) Make investments in commercial paper maturing in two hundred seventy (270) days or less from the date of issuance which, at the time of acquisition by Borrower or any subsidiary is accorded the highest rating by Standard & Poor's Corporation, Moody's Investors Service, Inc. or another nationally recognized credit rating agency of similar standing; and

(d) Create receivables arising from the sale of goods and services in the ordinary course of business of Borrower and its subsidiaries.

5.20 Mergers, Consolidations and Sales of Assets.

(a) Without the Lender's prior written consent, Borrower will not, and will not permit any subsidiary to (1) consolidate with or be a party to a merger or share exchange with any other corporation or (2) sell, lease or otherwise dispose of all or any substantial part (as defined in paragraph (d) of this Section 5.20) of the assets of Borrower and its subsidiaries; provided, however, that:

(i) any subsidiary may merge or consolidate with and into Borrower or any wholly owned subsidiary so long as in any merger or consolidation involving Borrower, Borrower shall be the surviving or continuing corporation; and

(ii) any subsidiary may sell, lease or otherwise dispose of all or any substantial part of its assets to Borrower or any wholly owned subsidiary.

(b) Without the Lender's prior written consent, Borrower will not permit any subsidiary to issue or sell any shares of stock of any class (including as "stock" for the purposes of this Section 5.20, any warrants, rights or options to purchase or otherwise acquire stock or other securities exchangeable for or convertible into stock) of such subsidiary to any person other than Borrower or a wholly owned subsidiary.

(c) Except as described in Section 5.20 of the Disclosure Schedule, Borrower will not, without the Lender's prior written consent, sell, transfer or otherwise dispose of any shares of stock in any subsidiary, and will not permit any subsidiary to sell, transfer or otherwise dispose of (except to Borrower or a wholly owned subsidiary) any shares of stock or any indebtedness of any other subsidiary, unless:

(i) simultaneously with such sale, transfer or disposition, all shares of stock and all indebtedness of such subsidiary at the time owned by Borrower and by every other subsidiary shall be sold, transferred or disposed of as an entirety;

(ii) the Board of Directors of Borrower shall have determined, as evidenced by a resolution thereof, that the retention of such stock and indebtedness is no longer in the best interests of Borrower;

(iii) such stock and indebtedness are sold, transferred or otherwise disposed of to Borrower for a cash consideration and on terms reasonably deemed by the Board of Directors to be adequate and satisfactory;

(iv) the subsidiary being disposed of shall not have any continuing investment in Borrower or any other subsidiary not being simultaneously disposed of; and

(v) such sale or other disposition does not involve a substantial part (as hereinafter defined) of the assets of Borrower and its subsidiaries.

(d) As used in this Section 5.20, a sale, lease or other disposition of assets shall be deemed to be a "substantial part" of the assets of Borrower and its subsidiaries only if the book value of such assets, when added to the book value of all other assets sold, leased or otherwise disposed of by Borrower and its subsidiaries (other than in the ordinary course of business) during the same twelve-month period ending on the date of such sale, lease or other disposition, exceeds 10% of the consolidated net tangible assets of Borrower and its subsidiaries determined as of the end of the immediately preceding fiscal year.

5.21 Transactions with Affiliates. Except as set forth on Section 5.21 of the Disclosure Schedule:

(a) Borrower will not, and will not permit any subsidiary to, enter into or be a party to any transaction or arrangement with any officer, director or affiliate (including, without limitation, the purchase from, sale to or exchange of property with, or the rendering of any

service by or for, any affiliate), except in the ordinary course of and pursuant to the reasonable requirements of Borrower's or such subsidiary's business and upon fair and reasonable terms no less favorable to Borrower or such subsidiary than would obtain in a comparable arm's-length transaction with a person other than an affiliate, in each case as determined in good faith by a majority of the disinterested directors of Borrower (as the term "disinterested" is used in Section 144 of the Delaware General Corporation Law).

(b) Borrower will not, and will not permit any subsidiary to, make any payments on or with respect to any indebtedness of Borrower to any shareholder of Borrower, or any family member of any such shareholder, or repurchase or retire any such indebtedness, so long as the Loan and the Warrant shall be outstanding.

5.22 Change in Control. Except as set forth in Section 5.22 of the Disclosure Schedule, Borrower will not, without the Lender's prior written approval, permit to occur any (a) transaction, or series of related transactions, in which any person or entity that is not a shareholder on the date hereof acquires securities representing greater than 40% of the voting power with respect to Borrower's capital stock; or (b) change in the composition of Borrower's Board of Directors in connection with any series of related transactions such that a majority of the Board shall not have served previously as directors of Borrower or have been elected by such previous directors.

5.23 Changes in Equity, No Impairment of Warrant. Except as set forth in Section 5.23 of the Disclosure Schedule, Borrower will not, so long as the Loan or Warrant remain outstanding:

(a) without the prior written consent of the Lender, amend or repeal any provision of or add any provision to, Borrower's Articles of Incorporation or Bylaws which could in any way materially affect Borrower's obligations to Lender under this Agreement, any of the Loan Documents or the Warrant;

(b) without the prior written consent of the Lender, reclassify any Common Stock into shares having any preference or priority as to dividends, voting or assets superior to the Common Stock;

(c) establish or suffer to exist a par value for the Common Stock that results in the shares issuable upon exercise of the Warrant being issued or issuable at less than the par value per share of such Common Stock; or

(d) avoid or seek to avoid the observance or performance of any of the terms to be observed or performed under the Warrant, and Borrower will at all times in good faith assist in the carrying out of all of the provisions of the Warrant and in the taking of all such action as may be necessary or appropriate in order to protect the rights of the holders of the Warrant against impairment.

5.24 Life Insurance for Nicholas C. Kavadellas. Borrower shall obtain and maintain and pay when due all premiums on life insurance not less than \$1,500,000 on the life of Nicholas C. Kavadellas collaterally assigned to the Lender pursuant to the Collateral Assignment of Life Insurance substantially in the form attached hereto as Exhibit F ("Collateral Assignment").

5.25 Chief Executive Office. Borrower will not move its chief executive office until it shall have (i) given to the Lender not less than thirty (30) days prior written notice of its intention to do so, clearly describing the new location and providing such other additional information as the Lender may reasonably request; and (ii) taken all action reasonably satisfactory to the Lender to maintain the security interest of the Lender in the Collateral at all times fully perfected in full force and effect.

5.26 Change of Name. Borrower shall not change its legal name until it shall have (i) given the Lender at least thirty (30) days prior written notice of its intention to do so, clearly describing such new name and providing such additional information as the Lender may reasonably request; and (ii) taken all action requested by the Lender to maintain the security interest of the Lender in the Collateral fully perfected and in full force and effect.

5.27 Modification of Terms; Collection. Except in the ordinary course of business consistent with past practices, Borrower shall not rescind or cancel any indebtedness evidenced by any receivable or under any contract, or modify in any material respect any term thereof, or make any material adjustment with respect thereto, or extend or renew the same, or compromise or settle any material dispute, claim, suit or legal proceeding relating thereto without the prior written consent of the Lender. Borrower will in accordance with reasonable business practices cause to be collected from account debtors receivables or third parties under any contract, as and when due any and all amounts owing under or on account of such receivables or contracts.

5.28 Trademarks. Borrower will maintain and will not divest itself of any trademark listed in Section 3.17(a) of the Disclosure Schedule material to its business without the prior written consent of the Lender. Borrower will promptly notify the Lender of any infringement of any of Borrower's trademarks by any third party known to Borrower. Borrower will use its trademarks in interstate or foreign commerce during the terms of this Agreement in a manner sufficient to preserve such trademarks; provided, however, that Borrower will be under no obligation to preserve any trademark if Borrower determines in its reasonable business judgment that the preservation of the trademark is not desirable in the conduct of its business. If any trademark registration issues to Borrower after the date of this Agreement, within thirty (30) days of receipt of such certificate, Borrower will deliver to the Lender a copy of such certificate and an assignment for security in the trademark, in form reasonably satisfactory to the Lender. In the event Borrower fails to take any action to maintain any trademark of Borrower, the Lender may, in the Lender's sole discretion and at Borrower's sole expense, take such action as is reasonably necessary to maintain any such trademark of Borrower.

5.29 Patents. Borrower will maintain and will not divest itself of any patent listed in Section 3.17(a) of the Disclosure Schedule material to its business without the prior written

consent of the Lender. Borrower will notify the Lender promptly of any infringement of any of Borrower's patents by any third party known to Borrower. If any patent issues after the date of this Agreement to Borrower, within thirty (30) days of receipt of such certificate, Borrower will deliver to the Lender a copy of such certificate an assignment for security in the patent in form reasonably satisfactory to the Lender. In the event Borrower fails to take any action to maintain any patent of Borrower, the Lender may, in the Lender's sole discretion and at Borrower's sole expense, take such action as is reasonably necessary to maintain any such patent of Borrower.

5.30 Copyrights. Borrower will maintain and will not divest itself of any copyright listed in Section 3.17(a) of the Disclosure Schedule material to its business without the prior written consent of the Lender. Borrower will notify the Lender promptly of any infringement of any of Borrower's copyrights by any third party known to Borrower. Borrower shall cause all of its computer software, the licensing of which results in receivables and/or any significant release thereof (including, without limitation, any release with a number immediately preceding or following the decimal point different from any prior release) to be registered with the United States Copyright Office prior to general release to Borrower's customers. Immediately upon the filing by Borrower of an application for such copyright, Borrower will deliver to the Lender a copy of such application and an assignment for security in the copyright in form reasonably satisfactory to the Lender. In the event Borrower fails to take any action to maintain any copyright of Borrower, the Lender may, in the Lender's sole discretion and at Borrower's sole expense, take such action as is reasonably necessary to maintain any such copyright of Borrower.

ARTICLE VI

CONDITIONS TO CLOSING

The obligation of Lender to purchase and pay for the Debenture on the Closing Date shall be subject to the fulfillment on or before the Closing Date of each of the following conditions.

6.01 Representations and Warranties. The representations and warranties of Borrower contained in this Agreement, in the Disclosure Schedule, and in any other schedule hereto or any document or instrument delivered to Lender or their respective representatives hereunder, shall have been true and correct when made and shall be true and correct as of the Closing Date as if made on such date, except to the extent such representations and warranties expressly relate to a specific date. Borrower shall have duly performed all of the covenants and agreements to be performed by it hereunder on or prior to the Closing Date.

6.02 Satisfactory Proceedings. All proceedings taken in connection with the transactions contemplated by this Agreement, and all documents necessary to the consummation thereof, shall be satisfactory in form and substance to Lender and Lender's counsel.

6.03 Required Consents. Any consents or approvals required to be obtained from any third party, including any holder of indebtedness or any outstanding security of Borrower, and any amendments of agreements which shall be necessary to permit the consummation of the transactions contemplated hereby on the Closing Date, shall have been obtained and all such

consents or amendments shall be satisfactory in form and substance to Lender and Lender's counsel.

6.04 Conditions of Lender's Obligations. Lender shall have received the following documents, in form and substance satisfactory to Lender in its sole discretion:

(a) Corporate Documents. A copy of the Articles of Incorporation of Borrower, as amended and restated, certified by the Secretary of State of Georgia, and certificates of good standing from the secretaries of state of each state where Borrower conducts business, all as of a recent date.

(b) Officer's Certificate. A certificate of the President and Chief Executive Officer of Borrower to the effect set forth in Exhibit C hereto.

(c) Opinion of Counsel. The opinion of counsel to Borrower, in form reasonably satisfactory to Lender, substantially in the form of Exhibit D hereto.

(d) Secretary's Certificate. A certificate of the Secretary, or an Assistant Secretary of Borrower to the effect set forth in Exhibit E hereto.

(e) Debenture. The Debenture, duly completed and executed.

(f) Stock Purchase Warrant. The Warrant duly completed and executed.

(g) UCC-1 Financial Statements; Assignments of Security Interests. Financing Statements on Form UCC-1 and Assignments of Security Interests, each in a form reasonably satisfactory for filing with applicable governmental authorities duly completed and executed by Borrower, securing the rights of the Lender to the Collateral.

(h) SBA Documentation. SBA Form 480 (Size Status Declaration) and SBA Form 652 (Assurance of Compliance), which have been completed and executed by Borrower, and SBA Form 1031 (portfolio Finance Report), Part A and Part B of which have been completed by Borrower.

(i) Collateral Assignment. The Collateral Assignment, duly completed and acknowledged by the insurer, together with the life insurance policy on the life of Nicholas C. Kavadellas thereby assigned.

(j) Payment of Closing Fee. Evidence that the Closing Fee has been or is being paid in full.

(k) Senior Indebtedness. Copies of the documentation evidencing and securing the Senior Indebtedness.

(l) Intercreditor Agreement. An intercreditor agreement with Silicon Valley Bank, duly completed and executed, in a form reasonably satisfactory to the Lender.

(m) Miscellaneous. Such other documents as the Lender may reasonably request.

ARTICLE VII

DEFAULT AND REMEDIES

7.01 Events of Default. The occurrence of any of the following shall constitute an Event of Default hereunder:

(a) Default in the payment of the principal of or interest on the indebtedness evidenced by the Debenture in accordance with the terms of the Debenture, which default is not cured within ten (10) business days;

(b) Any material misrepresentation by Borrower as to any matter hereunder or under any of the other Loan Documents, or delivery by Borrower of any schedule, statement, resolution, report, certificate, notice or writing to Lender that is untrue in any material respect on the date as of which the facts set forth therein are stated or certified;

(c) Failure of Borrower to perform any of its obligations under this Agreement, any of the Security Instruments or any of the other Loan Documents or the Warrant;

(d) Borrower's (i) admission in writing its inability to pay its debts generally as they become due; or (ii) assignment for the benefit of creditors or petition or application to any tribunal for the appointment of a custodian, receiver or trustee for it or a substantial part of its assets; or (iii) voluntary commencement of any proceeding under any bankruptcy, reorganization, arrangement, readjustment of debt, dissolution or liquidation law or statute of any jurisdiction, whether now or hereafter in effect, or the involuntary commencement of any such proceeding that is not dismissed within ninety (90) days; or (iv) suffering to exist any such petition or application or any such proceeding against it in which an order for relief is entered or an adjudication or appointment is made; or (v) indication, by any act or omission, of its consent to, approval of or acquiescence in any such petition, application, proceeding or order for relief or the appointment of a custodian, receiver or trustee for it or a substantial part of its assets, or (vi) permitting any such custodianship, receivership or trusteeship to continue undischarged for a period of ninety (90) days or more,

(e) Borrower's liquidation, dissolution, partition or termination;

(f) A default or event of default under any of the other Loan Documents that, if subject to a cure right, is not cured within any applicable cure period;

(g) Borrower's default in the timely payment or performance of any obligation now or hereafter owed to Lender, after the expiration of any applicable cure period, in connection with any indebtedness of Borrower now or hereafter owed to Lender other than the Loan;

(h) (i) Borrower's default in the timely payment or performance of the Senior Indebtedness or any principal of or premium or interest on any other debt owed by Borrower (other than the Loan), which is outstanding in a principal amount of at least \$50,000 in the aggregate, when the same becomes due and payable (whether by scheduled maturity, acceleration, demand or otherwise), if such failure shall continue after any cure period applicable thereto; or (ii) the occurrence of any other event or condition under any agreement or instrument relating to any such indebtedness that continues after any applicable cure period, if the effect of such event or condition is to accelerate or permit the acceleration of such indebtedness; or (iii) the acceleration of any such indebtedness or otherwise declaration to be due and payable prior to the stated maturity thereof of any such indebtedness; or (iv) requirement that any such indebtedness be prepaid, redeemed, purchased or defeased prior to the stated maturity thereof.

With respect to any Event of Default described above that is capable of being cured and that does not already provide its own cure procedure (a "Curable Default"), the occurrence of such Curable Default shall not constitute an Event of Default hereunder if such Curable Default is fully cured and/or corrected within thirty (30) days (ten (10) days, if such Curable Default may be cured by payment of a sum of money) of notice thereof to Borrower.

7.02 Acceleration of Maturity, Remedies. Upon the occurrence of any Event of Default described in Section 6.01, the Secured Obligations shall be immediately due and payable in full; and the Lender at any time thereafter may at its option accelerate the maturity of the Secured Obligations. Upon the occurrence of any such Event of Default and the acceleration of the maturity of the Secured Obligations, the Lender shall have the following rights and remedies:

(a) All of the rights and remedies of a secured party under the Uniform Commercial Code of the State of North Carolina, or under other applicable law, all of which rights and remedies shall be cumulative, and none of which shall be exclusive, to the extent permitted by law, in addition to any other rights and remedies contained in this Agreement, the Debenture or the Warrant.

(b) The right to: (i) enter upon the premises of Borrower, or any other place or places where the Collateral is located and kept, through self-help and without judicial process, without first obtaining a final judgment or giving Borrower notice and opportunity for a hearing on the validity of Lenders' claims and without any obligation to pay rent to Borrower, and remove the Collateral therefrom to the premises of Lender or any agent of Lender, for such time as Lender may desire, in order to effectively collect or liquidate the Collateral, and/or (ii) require Borrower to assemble the Collateral and make it available to Lender at a place to be designated by Lender in its sole discretion.

(c) The right to sell or otherwise dispose of all or any Collateral in its then condition, or after any further manufacturing or processing thereof, at public or private sale or sales, with

such notice as may be required by law, in lots or in bulk, for cash or on credit, all as Lender, in its sole discretion may deem advisable; such sales may be adjourned from time to time with or without notice. Lender shall have the right to conduct such sales on Borrower's premises or elsewhere and shall have the right to use Borrower's premises without charge for such sales for such time or times as Lender may see fit. Lender is hereby granted a license or other right to use, without charge, Borrower's labels, patents, copyrights, rights of use of any name, trade secrets, trade names, trademarks, service marks and advertising matter, or any property of a similar nature, as it pertains to the Collateral, in advertising for sale and selling any Collateral and Borrower's rights under all licenses and all franchise agreements shall inure to Lenders' benefit. Lender shall have the right to sell, lease or otherwise dispose of the Collateral, or any part thereof, for cash, credit or any combination thereof, and Lender may purchase all or any part of the Collateral at public or, if permitted by applicable law, private sale and, in lieu of actual payment of such purchase price, may set off the amount of such price against the Secured Obligations. The proceeds realized from the sale of any Collateral shall be applied first to costs, expenses and attorneys' fees and expenses incurred by Lender for collection and for acquisition, completion, protection, removal, storage, sale and delivery of the Collateral; second to interest due upon any of the Secured Obligations; third to the principal of the Secured Obligations. If any deficiency shall arise, Borrower shall remain liable to Lender therefor.

(d) Any notice required to be given by Lender of a sale, lease, other disposition of the Collateral or any other intended action by Lender, given to Borrower in the manner set forth in Section 9.10 below ten (10) days prior to such proposed action, shall constitute commercially reasonable and fair notice thereof to Borrower.

(e) Upon and during the continuance of an Event of Default, Borrower irrevocably designates, makes, constitutes, and appoints the Lender (and all persons designated by the Lender) as Borrower's true and lawful attorney, and the Lender may, without notice to Borrower and at such time or times thereafter as the Lender, in its sole discretion, may determine, in Borrower's or Lenders' name(s): (i) demand payment of accounts; (ii) enforce payment of accounts by legal proceedings or otherwise; (iii) exercise all of Borrower's rights and remedies with respect to the collection of accounts; (iv) settle, adjust, compromise, extend or renew accounts; (v) settle, adjust or compromise any legal proceedings brought to collect accounts; (vi) if permitted by applicable law, sell or assign accounts and other Collateral upon such terms, for such amounts and at such time or times as the Lender deems advisable; (vii) discharge and release accounts and other Collateral; (viii) prepare, file and sign Borrower's name on a proof of claim in bankruptcy or similar document against any account debtor and exercise Borrower's rights to vote with respect thereto in such bankruptcy case; (ix) prepare, file and sign Borrower's name on any notice of lien, assignment or satisfaction of lien or similar document in connection with accounts and other Collateral; (x) do all acts and things necessary, in the Lender's sole discretion, to fulfill Borrower's obligations under this Agreement; (xi) endorse the name of Borrower upon any of the items of payment or proceeds thereof and deposit the same to the account of the Lender on account of the Secured Obligations; (xii) endorse the name of Borrower upon any chattel paper, document, instrument, invoice, freight bill, bill of lading, or similar document or agreement relating to the accounts, inventory and other Collateral; (xiii) use Borrower's stationery and sign the name of Borrower to verifications of such accounts and

notices thereof to account debtors; and (xiv) use the information recorded on or contained in any data processing equipment and computer hardware and software relating to the Collateral to which Borrower has access.

7.03 Remedies Cumulative, No Waiver. No right, power or remedy conferred upon or reserved to Lender by this Agreement or any of the other Loan Documents is intended to be exclusive of any other right, power or remedy, but each and every such right, power and remedy shall be cumulative and concurrent and shall be in addition to any other right, power and remedy given hereunder, under any of the other Loan Documents or now or hereafter existing at law, in equity or by statute. No delay or omission by Lender to exercise any right, power or remedy accruing upon the occurrence of any Event of Default shall exhaust or impair any such right, power or remedy or shall be construed to be a waiver of any such Event of Default or an acquiescence therein, and every right, power and remedy given by this Agreement and the other Loan Documents to Lender may be exercised from time to time and as often as may be deemed expedient by Lender.

7.04 Proceeds of Remedies. Any or all proceeds resulting from the exercise of any or all of the foregoing remedies shall be applied as set forth in the Loan Document(s) providing the remedy or remedies exercised; if none is specified, or if the remedy is provided by this Agreement, then as follows:

First, to the costs and expenses, including reasonable attorneys' fees, incurred by Lender in connection with the exercise of its remedies;

Second, to the expenses of curing the default that has occurred, in the event that Lender, in its reasonable discretion, incurs expenses to cure the default that has occurred;

Third, to the payment of the Secured Obligations, including but not limited to the payment of the principal of and interest on the indebtedness evidenced by the Debenture, in such order of priority as Lender shall determine in its sole discretion; and

Fourth, the remainder, if any, to Borrower or to any other person lawfully thereunto entitled.

ARTICLE VIII

TERMINATION

This Agreement shall remain in full force and effect until the Maturity Date (as defined in the Debenture), or the indefeasible repayment in full of the Debenture, whichever is later; provided, however, the Borrower's obligations pursuant to Section 5.06, 5.14, 5.16, 5.20, 5.22, and 5.23 of this Agreement will continue until such time as the Warrant is no longer outstanding.

ARTICLE IX

MISCELLANEOUS

9.01 Performance By Lender. If Borrower shall default in the payment, performance or observance of any covenant, term or condition of this Agreement, the Lender may, at its option, pay, perform or observe the same, and all payments made or costs or expenses incurred by the Lender in connection therewith (including but not limited to reasonable attorneys' fees), with interest thereon at the highest default rate provided in the Debenture (but not exceeding the maximum contract rate from time to time allowed by applicable law), shall be immediately repaid to the Lender by Borrower and shall constitute a part of the Secured Obligations and be secured hereby until fully repaid. The Lender, in its reasonable discretion, shall determine the necessity for any such actions and of the amounts to be paid.

9.02 Successors and Assigns Included in Parties. Whenever in this Agreement one of the parties hereto is named or referred to, the heirs, legal representatives, successors, successors-in-title and assigns of such parties shall be included, and all covenants and agreements contained in this Agreement by or on behalf of Borrower or by or on behalf of Lender shall bind and inure to the benefit of their heirs, legal representatives, successors, successors-in-title and assigns, whether so expressed or not.

9.03 Costs and Expenses. Borrower agrees to pay all costs and expenses incurred by Lender in connection with the making of the Loan that is the subject of this Agreement, including but not limited to filing fees, recording taxes and reasonable attorneys' fees, promptly upon demand of Lender. Borrower further agrees to pay all premiums for insurance required to be maintained pursuant to the terms of the Loan Documents and all of the out-of-pocket costs and expenses incurred by Lender in connection with the collection of the Secured Indebtedness upon an Event of Default, including but not limited to reasonable attorneys' fees, promptly upon demand of Lender.

9.04 Assignment. The Debenture, this Agreement and the other Loan Documents and the Warrant (subject to compliance with applicable securities laws) may be endorsed, assigned and/or transferred in whole or in part by Lender upon written notice to Borrower, and any such holder and/or assignee of the same shall succeed to and be possessed of the rights and powers of Lender under all of the same to the extent transferred and assigned. Notwithstanding the foregoing, the Debenture may be transferred, at Lender's option, to one or more persons, in whole or in part, so long as such transferees (a) are members, partners, shareholders or affiliates of Lender, or members, partners or shareholders of any of the foregoing; (b) agree to hold the Debenture subject to all the terms hereof; and (c) shall appoint Lender as its sole agent for exercising the rights of such transferees hereunder, excepting the right to collect amounts due on the Debenture (or part thereof) held by such transferee, which collection rights may be exercised by any transferee. Borrower shall not assign any of its rights or delegate any of its duties hereunder or under any of the other Loan Documents without the prior express written consent of the Lender.

9.05 Time of the Essence. Time is of the essence with respect to each and every covenant, agreement and obligation of Borrower hereunder and under all of the other Loan Documents.

9.06 Severability. If any provision(s) of this Agreement or the application thereof to any person or circumstance shall be invalid or unenforceable to any extent, the remainder of this Agreement and the application of such provisions to other persons or circumstances shall not be affected thereby and shall be enforced to the greatest extent permitted by law.

9.07 Interest and Loan Charges Not to Exceed Maximum Allowed by Law. Anything in this Agreement, the Debenture, the Security Instruments or any of the other Loan Documents to the contrary notwithstanding, in no event whatsoever, whether by reason of advancement of proceeds of the Loan, acceleration of the maturity of the unpaid balance of the Secured Indebtedness, acceptance or exercise of the Warrant, or otherwise, shall the interest and loan charges agreed to be paid to Lender for the use of the money advanced or to be advanced hereunder exceed the maximum amounts collectible under applicable laws in effect from time to time. It is understood and agreed by the parties that, if for any reason whatsoever the interest or loan charges paid or contracted to be paid by Borrower in respect of the indebtedness evidenced by the Debenture shall exceed the maximum amounts collectible under applicable laws in effect from time to time, then ipso facto, the obligation to pay such interest and/or loan charges shall be reduced to the maximum amounts collectible under applicable laws in effect from time to time, and any amounts collected by Lender that exceed such maximum amounts shall be applied to the reduction of the principal balance of the Secured Indebtedness and/or refunded to Borrower so that at no time shall the interest or loan charges paid or payable in respect of the Secured Indebtedness exceed the maximum amounts permitted from time to time by applicable law.

9.08 Article and Section Headings, Defined Terms. Numbered and titled article and section headings and defined terms are for convenience only and shall not be construed as amplifying or limiting any of the provisions of this Agreement.

9.09 Notices. Any and all notices, elections or demands permitted or required to be made under this Agreement shall be in writing, signed by the party giving such notice, election or demand and shall be delivered personally, telecopied, telexed, or sent by certified mail or nationally recognized courier service (such as Federal Express), to the other party at the address set forth below, or at such other address as may be supplied in writing and of which receipt has been acknowledged in writing. The date of personal delivery, telecopy or telex or one business day after delivery to such courier service or two business days after mailing, as the case may be, shall be the date of such notice, election or demand. For the purposes of this Agreement:

The address of
Lender is: Oberlin Capital, L.P.
702 Oberlin Road
Suite 150
Raleigh, North Carolina 27605
Attention: Robert G. Shepley

with a copy (which shall not constitute notice) to:

Kilpatrick Stockton LLP
4101 Lake Boone Trail
Suite 400
Raleigh, North Carolina 27607 27102
Attention: James F. Verdonik

The address of Borrower is:

Technology Builders, Inc.
400 Interstate North Parkway, Suite 1090
Atlanta, Georgia 30339
Attention: Nicholas C. Kavadellas, President and
Chief Executive Officer

with a copy (which shall not constitute notice) to:

Morris, Manning & Martin, L.L.P.
1600 Atlanta Financial Center
3343 Peachtree Road, N.E.
Atlanta, Georgia 30326
Attention: Rosemarie A. Thurston, Esq.

9.10 Entire Agreement. This Agreement and the other written agreements between Borrower and Lender represent the entire agreement between the parties concerning the subject matter hereof, and all oral discussions and prior agreements are merged in this Agreement.

9.11 Miscellaneous. This Agreement shall be construed and enforced under the laws of the State of North Carolina without respect to the principles of the choice of law or the conflicts of laws. No amendment or modification hereof shall be effective except in a writing executed by each of the parties hereto.

APPENDIX

Trademark Registration Application No.:

75/297,360

75/297,361

75/297,362

75/297363

75/297364

75/297365

BERLIN CAPITAL, L.P.

PHONE NO. : 336 725 1155
MILWAUKEE STUCK

Mar. 19 1999 03:56PM P2
0002

IN WITNESS WHEREOF, the parties hereto have executed this Agreement, or have caused this Agreement to be executed by their duly authorized officers, as of the day and year first above written.

LENDER:

OBERLIN CAPITAL, L.P.

By: Oberlin Capital Partners, LLC, General Partner

By: Robert G. Shepley, Jr.
Robert G. Shepley, Jr.
President of the General Partner

BORROWER:

TECHNOLOGY BUILDERS, INC.

By: _____
Nicholas C. Kavadellas
President

IN WITNESS WHEREOF, the parties hereto have executed this Agreement, or have caused this Agreement to be executed by their duly authorized officers, as of the day and year first above written.

LENDER:

OBERLIN CAPITAL, L.P.

By: Oberlin Capital Partners, LLC, General Partner

By: _____
Robert G. Shepley, Jr.
President of the General Partner

BORROWER:

TECHNOLOGY BUILDERS, INC.

By: Nicholas C. Kavadellas
Nicholas C. Kavadellas
President

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