

ATTY DOCKET NO. 657160173011



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Tab settings

6.13.00

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

1. Name of conveying party(ies): Electrolux LLC

Individual(s)                       Association  
 General Partnership               Limited Partnership  
 Corporation - State  
 Other Delaware Limited Liability Company

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

2. Name and address of receiving party(ies):

Name: First Source Financial LLP

Internal Address: c/o First Source Financial, Inc.

Street Address: 2850 West Golf Road, 5th Floor

City: Rolling Meadows State: IL ZIP: 60008

Individual(s) citizenship \_\_\_\_\_  
 Association \_\_\_\_\_  
 General Partnership \_\_\_\_\_  
 Limited Partnership \_\_\_\_\_  
 Corporation - State \_\_\_\_\_  
 Other Illinois Registered Limited Liability Partnership

If assignee is not domiciled in the United States, a domestic representative 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 Amended and Restated Agreement (Trademark)

Execution Date: June 1, 2000

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

A. Trademark Application No.(s)  
75/194863

Additional numbers attached?  Yes  No

B. Trademark Registration No.(s)  
195691    248774    284377    562427

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

Name: Scott W. Burt, Esq.

Internal Address: Jones Day Reavis & Pogue

Street Address: 2727 North Harwood Street

City: Dallas State: TX ZIP: 75201

6. Total Number of applications and registrations involved: 20

7. Total fee (37 CFR 3.41).....\$ 515.00  
 Enclosed  
 Authorized to be charged to deposit account  
 Any deficiencies or overpayments are authorized to be charged or credited to the deposit account

8. Deposit account number:  
50-0566  
 (Attach duplicate copy of this page if paying by deposit account)

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.*

Michelle McMullen                      Michelle McMullen                      June 13, 2000  
 Name of Person Signing                      Signature                      Date

Total number of pages including cover sheet, attachments and document: 23

07/13/2000 DNGIYEN 00000242 75194863

01 FC:481  
02 FC:482

40.00 DP  
175.00 DP

Express Mail Label No. EL415079011US  
 Date of Deposit: June 13, 2000

CERTIFICATE UNDER 37 CFR 1.10 BY "EXPRESS MAIL"

I hereby certify that this cover sheet, attachments, document, and fee are being deposited with United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR 1.10 on the date indicated below and are addressed to the Commissioner of Patents and Trademarks, Box Assignment, Washington, D. C. 20231

Michelle McMullen  
 Signature  
Michelle McMullen  
 (type or print name of person certifying)

4. Additional Application number(s) or registration number(s):

A. Trademark Application No.(s)

B. Trademark Registration No.(s)

908002	921377	933368	992918
995587	1617477	266455	545686
686520	690868	738077	1372058
1816681	1894567	1509008	

Additional numbers attached?  Yes  No

## AMENDED AND RESTATED AGREEMENT (Trademark)

THIS AMENDED AND RESTATED AGREEMENT (Trademark), dated as of June <sup>15</sup>/<sub>15</sub> 2000 (as amended, restated, supplemented or otherwise modified from time to time, this "Agreement"), is by and between ELECTROLUX LLC, a Delaware limited liability company, formerly known as ELX Holdings, L.L.C. (the "Debtor"), and FIRST SOURCE FINANCIAL LLP, an Illinois registered limited liability partnership ("FSFP"), in its capacity as agent (together with its successors and assigns, the "Agent") for the lender under the Note described below.

### RECITALS

(A) The Debtor and FSFP, for itself, as a lender and as agent for all lenders entered into that certain Secured Credit Agreement, dated as of April 29, 1998 (as amended, restated, supplemented or otherwise modified from time to time, the "Secured Credit Agreement").

(B) Pursuant to the Secured Credit Agreement, the Debtor executed and delivered to FSFP that certain SRT Loan Note, dated April 29, 1998, in the original principal amount of \$40,000,000 (as amended, restated, supplemented or otherwise modified from time to time to the date hereof, the "Existing SRT Loan Note").

(C) As security for the loans made by the lenders pursuant to the Secured Credit Agreement, including the loans evidenced by the Existing SRT Loan Note, the Debtor executed and delivered to FSFP, in its capacity as agent for all lenders under the Secured Credit Agreement, an Agreement (Trademark), dated as of April 29, 1998 (as amended, restated, supplemented or otherwise modified from time to time to the date hereof, the "Existing Trademark Security Agreement"), pursuant to which the Debtor granted to FSFP, in its capacity as agent for all lenders under the Secured Credit Agreement, a security interest in and lien on certain trademark collateral.

(D) The Existing Trademark Security Agreement was recorded in the United States Patent and Trademark Office on May 6, 1998, at Reel 1722, Frame 0363.

(E) The Debtor and the Agent desire to amend and restate the Existing Trademark Security Agreement, such that the Collateral (as defined below) only secures the Amended and Restated SRT Loan Note of even date herewith, in the original principal amount of \$34,000,000 (as amended, restated, supplemented or otherwise modified from time to time, the "Note"), executed by the Debtor and payable to FSFP (the Agent and FSFP, in its individual capacity as lender under the Note, together with its successors and assigns, the "Secured Party"), which Note amends and restates the Existing SRT Loan Note.

### AGREEMENT

NOW, THEREFORE, in consideration of the premises set forth herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Debtor hereby agrees with the Agent for the benefit of the Secured Party, as follows:

# ARTICLE 1

## Grant of Security Interest

### Section 1.1 Assignment and Grant of Security Interest

. The Debtor hereby assigns to, and pledges and grants to the Agent, for the benefit of the Secured Party, a security interest in, the entire right, title and interest of the Debtor, in and to the Collateral.

### Section 1.2 Security for Obligations

. This Agreement creates an enforceable first priority security interest in the Collateral, securing the payment and performance of any and all obligations now or hereafter existing of the Debtor under the Note, including any extensions, modifications, substitutions, amendments and renewals thereof, whether for principal, interest, fees, expenses, indemnification or otherwise) (all such obligations of the Debtor being the "Obligations"). Without limiting the generality of the foregoing, this Agreement secures the payment of all amounts which constitute part of the Obligations and would be owed by the Debtor to the Secured Party under the Note, but for the fact that they are unenforceable or not allowable due to the existence of a bankruptcy, reorganization or similar proceeding under any Debtor Relief Law involving the Debtor (including all such amounts which would become due or would be secured but for the filing of any petition in bankruptcy, or the commencement of any insolvency, reorganization or like proceeding of the Debtor or any other Person under any Debtor Relief Law). Notwithstanding anything herein to the contrary, in any action or proceeding involving any state corporate law, or any state or federal bankruptcy, insolvency, reorganization or other law affecting the rights of creditors generally if the Security Interest granted by the Debtor herein shall be held void, invalid or unenforceable, or subordinated to the liens or claims of any other creditors, on account of the amount of the Obligations secured by such Security Interest then, the amount of the Obligations secured by such Security Interest shall, without any action by the Debtor, the Agent, the Secured Party or any other Persons, be automatically limited and reduced to the highest amount that is valid and enforceable and not subordinated to the claims of other creditors as determined in such action or proceeding.

### Section 1.3 Validity and Priority of Security Interest

. The Security Interest shall at all times be valid, perfected, continuing and binding and enforceable against the Debtor and all other Persons, in accordance with the terms hereof, as security for the Obligations, and the Collateral shall not at any time be subject to any other Lien.

### Section 1.4 Maintenance of Status of Security Interest, Collateral and Rights.

(a) Required Action. The Debtor shall take all action that may be necessary and that the Agent or the Secured Party may request, so as at all times (i) to maintain the validity, perfection, enforceability and priority of the Security Interest in the Collateral in conformity with the requirements of Section 1.3, and (ii) to protect and preserve, and to enable the exercise or enforcement of, the rights of the Agent and the Secured Party hereunder, including (A) immediately discharging all other Liens, and (B) executing and delivering financing or

continuation statements, instruments of pledge, notices and instructions in each case in form and substance satisfactory to the Agent and the Secured Party.

(b) Protection of Collateral. Except as permitted under the Note, the Debtor shall protect, preserve, renew and maintain, in each case in a manner consistent with responsible business and legal practices, all rights of the Debtor in the Collateral. To the maximum extent permitted by applicable law, the Agent and the Secured Party shall have the right, without taking title to any Collateral, to bring suit to enforce its Security Interest in any or all of the Collateral, in which event the Debtor shall, at the request of the Agent or the Secured Party, do any and all lawful acts and execute any and all proper documents required by the Agent or the Secured Party in aid of such enforcement. All costs, reasonable expenses and other moneys advanced by the Agent or the Secured Party in connection with the foregoing shall, whether or not there are, then outstanding any amounts under the Note, be treated as Obligations.

(c) Authorized Action. Each of the Agent and the Secured Party is hereby authorized to file one or more continuation statements, and during the continuance of a Default or an Event of Default, financing statements, amendments thereto and instruments of pledge, notices and instructions without the signature of or in the name of the Debtor when permitted by applicable law. A carbon, photographic or other reproduction of this Agreement or of any financing statement filed in connection with this Agreement shall be sufficient as a financing statement where permitted by applicable law.

#### Section 1.5 Debtor Remains Obligated; Agent and Secured Party Not Obligated

. The grant by the Debtor to the Agent of the Security Interest shall not relieve the Debtor from the performance of any term, covenant, condition or agreement on its part to be performed or observed (including by virtue of the exercise by the Agent or the Secured Party of any of its rights hereunder), or from any liability to any Person, under or in respect of any of the Collateral or impose any obligation on the Agent or the Secured Party or impose any liability on the Agent or the Secured Party for any act or omission on the part of the Debtor relative thereto.

#### Section 1.6 Termination.

(a) Upon full and final payment of all amounts owing under the Note, (i) this Agreement shall terminate and be of no further force and effect (except as provided in Section 1.6(b)) and all rights to the Collateral shall revert to the Debtor, and (ii) the Agent will, at the Debtor's expense, execute and deliver to the Debtor such documents as the Debtor shall reasonably request to evidence such termination.

(b) The Debtor agrees that, to the extent permitted by applicable law, if at any time all or any part of any payment theretofore applied by the Secured Party to any of the Obligations is or must be rescinded or returned by any Person for any reason whatsoever (including the insolvency, bankruptcy or reorganization of the Debtor or any other Person), such Obligations shall, for the purposes of this Agreement, to the extent that such payment is or must be rescinded or returned, be deemed to have continued in existence, notwithstanding such application by the Secured Party, and the Security Interest granted hereunder shall continue to be effective or be

reinstated, as the case may be, as to such Obligations, all as though such application by the Secured Party had not been made.

## ARTICLE 2

### Representations and Warranties

The Debtor represents and warrants as follows:

#### Section 2.1 Authorization; Enforceability; Required Consents; Absence of Conflicts

. The Debtor has the legal power, and has taken all necessary legal action to authorize it, to execute, deliver and perform in accordance with its terms this Agreement and to execute and deliver all financing statements and other filings contemplated hereby. This Agreement has been duly executed and delivered by the Debtor and is the legal, valid and binding obligation of the Debtor, enforceable in accordance with its terms subject to (i) equitable principles generally and (ii) Debtor Relief Laws (insofar as such Laws relate to the bankruptcy, insolvency or similar event of the Debtor). The execution, delivery and performance in accordance with its terms by the Debtor of this Agreement does not and (absent any change in any Law) will not (a) require any consent or approval not already obtained, including any consent or approval of any holder of an equity interest in the Debtor, (b) violate or conflict with its organizational documents, or (c) violate or conflict with, result in a breach of, constitute a default under, or result in or require the creation of any Lien (other than the Security Interest) upon any assets of the Debtor under any contract or agreement or applicable laws.

#### Section 2.2 Rights of Debtor

. The Debtor is the legal and beneficial owner of the Collateral free and clear of any Lien, except for the Security Interest. No effective financing statement or other instrument similar in effect naming the Debtor as "debtor" covering all, or any part of the Collateral is on file in any recording office, except such as may have been filed in favor of the Agent relating to this Agreement.

#### Section 2.3 Perfection

. This Agreement creates in favor of the Agent valid and perfected security interests in the Collateral and such security interests will be a first priority security interest in the Collateral; provided that additional actions may be required with respect to the perfection of proceeds of the Collateral held on the date hereof.

#### Section 2.4 Registrations

. Annex A-1 sets forth a true and complete list of all Registrations in the United States Patent and Trademark Office and related state filings owned by the Debtor as of the date hereof with respect to the Collateral.

#### Section 2.5 Location of Books and Records

. All of the Debtor's books and records are located at the premises shown on Schedule I hereto as the location of the Debtor's chief executive office.

Section 2.6 Trade Names

. Schedule II hereto lists all trade names by which the Debtor is now known or was previously known.

ARTICLE 3  
Covenants

Section 3.1 Chief Executive Office

. The Debtor shall maintain its chief executive office and the office where its books and records are kept only at the location specified on Schedule I hereto.

Section 3.2 Preservation of Existence and Preservation of Enforceability

. The Debtor shall, so long as any of the Obligations remain outstanding, take all reasonable action and obtain all Necessary Authorizations reasonably required so that its obligations under this Agreement will at all times be legal, valid and binding and enforceable in accordance with its terms, subject to (i) equitable principles generally and (ii) Debtor Relief Laws (insofar as such Laws relate to the bankruptcy, insolvency or similar event of the Debtor).

Section 3.3 No Disposition of Collateral

. The Debtor shall not sell, transfer or otherwise dispose of any of the Collateral or any interest therein or grant any license thereunder.

Section 3.4 Additional Property

. If after the date hereof, the Debtor uses or acquires any interest in any Registration which is within the definition of "Collateral" or modification, reformulation or other alteration to any Registration relating to the Collateral, the Debtor shall execute and deliver to the Agent all documents and instruments the Agent or the Secured Party may reasonably require to grant to the Agent a perfected first priority Lien therein and to subject all of such interest to this Agreement, including but not limited to any new, supplementary or additional filings.

Section 3.5 Name Change

. The Debtor shall furnish or cause to be furnished to the Agent and the Secured Party notice in writing as soon as possible and in any event no later than 30 days prior to the occurrence from time to time of any change in the name of the Debtor or the name under or by which it conducts its business, and take all action required by the Agent and the Secured Party to maintain and preserve the Security Interest in favor of the Agent in the Collateral, free and clear of any other Lien whatsoever.

Section 3.6 Covenants Regarding Trademarks

. The Debtor shall not, and shall not permit any of its licensees to (a) fail to maintain as in the past the quality of products and services offered under all of the Collateral, or (b) adopt or use any trademark which is confusingly similar or a colorable imitation of any of the Collateral except in compliance with applicable law. The Debtor shall not, nor shall any of the Debtor's agents, employees, designees or licensees, file an application for the registration of any Collateral with the United States Patent and Trademark Office, or any similar office or agency in any other country or any political subdivision thereof, unless the Debtor promptly informs the Agent and the Secured Party, and, upon request of the Agent or the Secured Party, executes and delivers any and all agreements, instruments, documents and papers as the Agent or the Secured



Party may request to evidence the Agent's Security Interest in such Collateral and the Goodwill and general intangibles of the Debtor relating thereto or represented thereby.

## ARTICLE 4

### Event of Default

Upon the occurrence and during the continuance of an Event of Default:

#### Section 4.1 Application of Proceeds

. All cash proceeds received by the Agent upon any sale of, collection of, or other realization upon, all or any part of the Collateral shall be applied as follows:

First: To the payment of all reasonable out-of-pocket costs and expenses incurred in connection with the sale of, collection of or other realization upon Collateral, including reasonable attorneys' fees and disbursements;

Second: To the payment of the Obligations in such order and in such manner as Secured Party determines; and

Third: To the extent of the balance (if any) of such proceeds, to the payment to the Debtor or other Person legally entitled thereto.

#### Section 4.2 Remedies

(a) If an Event of Default has occurred and is continuing, the Agent may exercise in respect of the Collateral, in addition to other rights and remedies provided for herein or otherwise available to it, all the rights and remedies of a secured party on default under the UCC (whether or not the Uniform Commercial Code applies to the affected Collateral), and also may (i) require the Debtor to, and the Debtor hereby agrees that it will at its expense and upon request of the Agent or the Secured Party forthwith, assemble all or part of the Collateral (to the extent capable of being assembled) as directed by the Agent or the Secured Party and make it available to the Agent or the Secured Party at a place to be designated by the Agent or the Secured Party, which is reasonably convenient to both parties or (ii) without notice, except as specified below, sell the Collateral or any portion thereof in one or more parcels at public or private sale, at any of the Agent's offices or elsewhere, for cash, on credit or for future delivery, and upon such other terms as the Agent or the Secured Party may deem commercially reasonable. The Debtor agrees that, to the extent notice of sale shall be required by applicable law, ten days' written notice to the Debtor of the time and place of any public sale or the time after which any private sale is to be made shall constitute reasonable notification, provided that ten days' written notice does not violate any applicable law. The Agent shall not be obligated to make any sale of Collateral regardless of notice of sale having been given. The Agent may adjourn any public or private sale from time to time by announcement at the time and place fixed therefor, and such sale may, without further notice, be made at the time and place to which it was so adjourned. The Agent may be the purchaser at any sale of the Collateral and pay all or any part of the purchase price thereof by cancelling part or all of the Obligations.

(b) If an Event of Default has occurred and is continuing, the Agent may obtain the appointment of a receiver of the Collateral.

(c) If an Event of Default has occurred and is continuing, the Agent may without notice to the Debtor and at such time or times as the Agent or the Secured Party in its reasonable discretion may determine, exercise any or all of the Debtor's rights in, to and under, or in any way connected with or related to, any or all of the Collateral in accordance with Section 6.4, including (i) enforcing the performance of, and exercising any or all of the Debtor's rights with respect to the Collateral, in each case by legal proceedings or otherwise and (ii) settling, adjusting, compromising, extending, renewing, discharging and releasing any or all of, and any legal proceedings brought with respect to any or all of, the Debtor's rights with respect to the Collateral.

(d) If an Event of Default has occurred and is continuing, the Agent or the Secured Party may exercise any other right or remedy available to it under the Note or applicable laws.

(e) In any sale of any of the Collateral after an Event of Default that has occurred and is continuing, the Agent is authorized to comply with any limitation or restriction in connection with such sale as counsel may advise the Agent is necessary in order to avoid any violation of applicable law (including compliance with such procedures as may restrict the number of prospective bidders or purchasers, require that such prospective bidders and purchasers have certain qualifications, and restrict such prospective bidders and purchasers to Persons who will represent and agree that they are purchasing for their own account or investment and not with a view to the distribution or resale of such Collateral), or in order to obtain any required approval of the sale or of the purchase by any Tribunal, and the Debtor further agrees that such compliance shall not result in such sale being considered or deemed not to have been made in a commercially reasonable manner, nor shall the Agent or the Secured Party be liable or accountable to the Debtor for any discount allowed solely by reason of the fact that such Collateral was sold in compliance with any such limitation or restriction.

(f) Upon written demand of the Agent or the Secured Party, after an Event of Default has occurred and is continuing the Debtor shall execute and deliver to the Agent an assignment or assignments of the Collateral and such other documents as are reasonably necessary to carry out the intent and purposes of this Agreement.

(g) For the purpose of enabling the Agent and the Secured Party to exercise rights and remedies under this Section 4.2 at such time as the Agent or the Secured Party shall be lawfully entitled to exercise such rights and remedies, and for no other purpose, the Debtor hereby grants to the Agent and the Secured Party, an irrevocable, non-exclusive license (exercisable without payment of royalty or other compensation to the Debtor) to use, assign, license or sublicense any of the Collateral now owned or hereafter acquired by the Debtor, wherever the same may be located, including in such license reasonable access to all media in which any of the licensed items may be recorded or stored and to all computer programs used for the compilation or printout thereof.

ARTICLE 5  
Interpretation

Section 5.1 Definitional Provision.

(a) Certain Terms Defined by Reference. The terms “collateral”, “inventory”, “rights”, and “security interest” shall have the meanings ascribed thereto in the UCC, or, when capitalized, the meanings specified in subsection (b) below.

(b) Other Defined Terms. For purposes of this Agreement:

“Agreement” means this Agreement, including all schedules, annexes and exhibits hereto.

“Collateral” means the Debtor’s rights, title and interests, (whatever they may be) in each of the following, in each case whether now or hereafter existing or now owned or hereafter acquired by the Debtor and whether or not the same is subject to Article 9 of the UCC, and wherever the same may be located, but only to the extent such assets are not presently encumbered:

- (i) the Trademarks and Goodwill;
- (ii) all registrations issued or applied for (now or hereafter) with respect to the Trademarks and renewals thereof in the United States and any state thereof (the “Registrations”);
- (iii) any renewal, modification, reissue, re-examination certificate, extension or the like with respect to the Trademarks;
- (iv) all rights to use the Trademarks as trade names or assumed names in all aspects of its business;
- (v) all product and packaging trade dress (excluding product configuration and design) associated with the Trademarks;
- (vi) all related internet domain names, including those set forth on Annex A-2 hereto;
- (vii) all licensing records and other files necessary to maintain and enforce the Registrations;
- (viii) all licenses, sublicenses or user or other agreements granted in favor of or from the Debtor with respect to any of the foregoing to the extent assignable without violation thereof, together with any Goodwill connected with or symbolized by any such licenses and agreements and the right to prepare for sale and sell any and all inventory of the Debtor now or hereafter covered by such licenses and agreements;

(ix) all common law rights to the foregoing, the right to recover for all past, present and future infringements of the foregoing, all claims (implied, express or otherwise) against any third party which allege infringement with respect to the foregoing, and all other rights of any kind whatsoever accruing under the foregoing or pertaining to the foregoing; and

(x) all proceeds and products of the foregoing. The inclusion of “proceeds” of Collateral in the definition of “Collateral” shall not be deemed a consent by the Agent or the Secured Party to any sale or other disposition of any Collateral not otherwise specifically permitted by the terms hereof or by the Note.

“Debtor Relief Laws” means any applicable liquidation, conservatorship, bankruptcy, moratorium, rearrangement, insolvency, reorganization or similar debtor relief Laws affecting the rights of creditors generally from time to time in effect.

“Default” means an Event of Default and/or any of the events specified in the Note, regardless of whether there shall have occurred any passage of time or giving of notice that would be necessary in order to constitute such event an Event of Default.

“Event of Default” means any of the events of default specified in the Note, provided that any requirement for notice or lapse of time has been satisfied.

“Goodwill” means the goodwill of the businesses connected with the use of (or associated with) and symbolized by the Trademarks, but not any other goodwill.

“Governmental Approval” means any authorization, consent, approval, license or exemption of, registration or filing with, or report or notice to, any Tribunal.

“Information” means data, certificates, reports, statements (including financial statements), documents and other information in form (including electronic media) reasonably acceptable to the Agent and the Secured Party.

“Law” means any statute, law, ordinance, regulation, rule, order, writ, injunction, or decree of any Tribunal.

“Lien” means, with respect to any property, any mortgage, lien, pledge, collateral assignment, hypothecation, charge, security interest, title retention agreement, levy, execution, seizure, attachment, garnishment or other similar encumbrance of any kind in respect of such property, whether or not choate, vested or perfected.

“Necessary Authorization” means any right, franchise, license, permit, consent, approval or authorization from, or any filing or registration with, any Tribunal or any Person necessary to enable the Debtor to maintain and operate its business and properties, including the Collateral.

“Person” means an individual, corporation, partnership, limited liability company, trust or unincorporated organization, or a government or agency or political subdivision thereof.

“Security Interest” means the continuing security interest of the Agent in the Collateral intended to be effected by the terms of this Agreement or any financing and continuation statements or other filings contemplated hereby.

“Trademarks” means all trademarks, trade names and service marks described on Annex A-1 hereto, and all registrations and applications for registration related to the foregoing.

“Tribunal” means any (a) state, commonwealth, federal, foreign, territorial, or other court or government body, subdivision, agency, department, commission, board, bureau, or instrumentality of a governmental or other regulatory or public body or authority or (b) private arbitration board or panel.

“UCC” means Article 9 of the Uniform Commercial Code as in effect from time to time in the State of Illinois.

(c) Other Definitional Provisions.

(i) Except as otherwise specified herein, all references herein (A) to any Person shall be deemed to include such Person’s successors and assigns, (B) to any applicable law referred to herein shall be deemed references to such applicable law as the same may have been or may be amended or supplemented from time to time and (C) to this Agreement or other agreement defined or referred to herein shall be deemed a reference to this Agreement or other agreement as the terms thereof may have been or may be amended, supplemented, waived or otherwise modified from time to time.

(ii) Whenever the context so requires, the neuter gender includes the masculine or feminine, the masculine gender includes the feminine, and the singular number includes the plural, and vice versa.

(iii) Except as otherwise indicated, any reference herein to the “Collateral”, the “Obligations” or any other collective or plural term shall be deemed to be a reference to each and every item included within the category described by such collective or plural term, so that a reference to the “Collateral” or the “Obligations” shall be deemed a reference to any or all of the Collateral or the Obligations, as the case may be.

(iv) Capitalized Terms not otherwise defined herein have the meaning specified in the Note, and, to the extent of any conflict, terms as defined in the Note shall control (provided, that a more expansive or explanatory definition shall not be deemed a conflict).

Section 5.2 Power of Attorney

. Each power of attorney, license and other authorization in favor of the Agent or any other Person granted by or pursuant to this Agreement shall be deemed to be irrevocable and coupled with an interest.

## ARTICLE 6

### Miscellaneous

#### Section 6.1 Expenses of Debtor's Agreements and Duties

. The Agent and the Secured Party shall not be liable for the costs and expenses of the Debtor arising out of the Debtor's performance or observance of the terms, conditions, covenants and agreements to be observed or performed by the Debtor under this Agreement.

#### Section 6.2 Agent's and Secured Party's Right to Perform on Debtor's Behalf

. If the Debtor shall fail to observe or perform any of the terms, conditions, covenants and agreements to be observed or performed by it under this Agreement, the Agent or the Secured Party may (but shall not be obligated to) do the same or cause it to be done or performed or observed, either in its name or in the name and on behalf of the Debtor, and in the event that the Debtor shall have failed to observe or perform any of the terms, conditions, covenants and agreements to be observed or performed by it under this Agreement, then the Debtor hereby authorizes the Agent and the Secured Party to do so, and the Debtor hereby appoints the Agent, the Secured Party, and any other Person the Agent or the Secured Party may designate, as the Debtor's attorney-in-fact (exercisable during the continuance of an Event of Default) to do, or cause to be done, in the name, place and stead of the Debtor in any way in which the Debtor itself could do, or cause to be done, any or all things necessary to observe or perform the terms, conditions, covenants and agreements to be observed or performed by the Debtor under this Agreement. In addition, the Debtor hereby irrevocably appoints the Agent and the Secured Party as the Debtor's attorney-in-fact (exercisable during the continuance of an Event of Default) to execute and deliver in the Debtor's name and stead to any purchaser at any sale held under Section 4.2 hereof any and all documents and instruments of assignment, transfer and conveyance necessary or appropriate to transfer to such purchaser the Collateral sold at such sale. This appointment as attorney-in-fact shall terminate upon the termination of this Agreement.

#### Section 6.3 Agent's Right to Use Agents

. The Agent may exercise its rights under this Agreement through an agent or other designee.

#### Section 6.4 Limitation of Agent's and Secured Party's Obligations With Respect to Collateral.

(a) Except for (i) exercising reasonable care in respect of Collateral held by the Agent or the Secured Party and (ii) accounting for moneys actually received by it hereunder, neither the Agent nor the Secured Party shall have any duty or liability to protect or preserve any Collateral or to preserve rights pertaining thereto, except to the extent of any gross negligence or willful misconduct of the Agent or the Secured Party.

(b) Nothing contained in this Agreement shall be construed as requiring or obligating the Agent or the Secured Party, and neither the Agent nor the Secured Party shall be required or obligated, to (i) present or file any claim or notice or take any action, with respect to any

Collateral or in connection therewith or (ii) notify the Debtor of any decline in the value of any Collateral.

Section 6.5 Rights of Agent under UCC and applicable law

. The Agent shall have, with respect to the Collateral, in addition to all of its rights under this Agreement, (a) the rights of a secured party under the UCC, whether or not the UCC would otherwise apply to the collateral in question, and (b) the rights of a secured party under all other applicable laws.

Section 6.6 Waivers of Rights Inhibiting Enforcement

. To the extent not prohibited by applicable law, the Debtor waives all rights of redemption, appraisalment, or marshalling of assets.

Section 6.7 Notices and Deliveries.

(a) Manner of Delivery. All notices and other communications provided for hereunder shall be in writing (except in those cases where giving notice by telephone is expressly permitted) and shall be deemed to have been given on the date personally delivered or sent by telecopy (answer back received), or three days after deposit in the mail, designated as certified mail, return receipt requested, postage prepaid, or one day after being entrusted to a reputable commercial overnight delivery service, addressed to the party to which such notice is directed at its address determined as provided in this Section 6.7.

(b) Addresses. All notices, communications and materials to be given or delivered pursuant to this Agreement shall be given or delivered at the following respective addresses and telecopier and telephone numbers and to the attention of the following individuals or departments:

(i) if to the Debtor, to it at:

5956 Sherry Lane  
Suite 1500  
Dallas, Texas 75225  
Attention: Joseph P. Urso  
Telephone: (214) 361-4300  
Telecopy: (214) 378-4053

(ii) if to the Agent, to it at:

c/o First Source Financial, Inc.  
2850 West Golf Road, 5<sup>th</sup> Floor  
Rolling Meadows, Illinois 60008  
Telephone: (847) 734-2000  
Telecopy: (847) 734-7920

or a such other address or, telecopier or telephone number or to the attention of such other individual or department as the party to which such information pertains may hereafter specify by giving written notice to the other.

Section 6.8 Rights and Remedies Cumulative

. Each of the Agent's and Secured Party's rights and remedies under this Agreement shall be in addition to all of its other rights and remedies under this Agreement and applicable law, and nothing herein shall be construed as limiting any such rights or remedies.

Section 6.9 Amendments; Waivers

. Any term, covenant, agreement or condition of this Agreement may be amended, and any right under this Agreement may be waived, if, but only if, such amendment or waiver is in writing and is signed by the Agent and the Secured Party and, in the case of an amendment, by the Debtor. Unless otherwise specified in such waiver, a waiver of any right under this Agreement shall be effective only in the specific instance and for the specific purpose for which given. No election not to exercise, failure to exercise or delay in exercising any right, nor any course of dealing or performance, shall operate as a waiver of any right of the Agent or the Secured Party under this Agreement or applicable law, nor shall any single or partial exercise of any such right preclude any other or further exercise thereof or the exercise of any other right of the Agent or the Secured Party under this Agreement or applicable law.

Section 6.10 GOVERNING LAW

. **THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE INTERNAL LAWS OF THE STATE OF ILLINOIS (WITHOUT REFERENCE TO PRINCIPLES OF CONFLICTS OF LAWS) AND THE UNITED STATES OF AMERICA, EXCEPT TO THE EXTENT THAT THE VALIDITY OR PERFECTION OF THE SECURITY INTEREST HEREUNDER, OR REMEDIES HEREUNDER, IN RESPECT OF ANY PARTICULAR COLLATERAL ARE REQUIRED TO BE GOVERNED BY THE LAWS OF A JURISDICTION OTHER THAN THE STATE OF ILLINOIS.**

Section 6.11 WAIVER OF JURY TRIAL

. **THE AGENT AND THE DEBTOR HEREBY WAIVE, TO THE MAXIMUM EXTENT PERMITTED BY LAW, ALL RIGHT TO TRIAL BY JURY IN ANY JUDICIAL PROCEEDINGS INVOLVING, DIRECTLY OR INDIRECTLY, ANY MATTER IN TORT, CONTRACT OR OTHERWISE) IN ANY WAY ARISING OUT OF OR RELATED TO, THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY.**

Section 6.12 Consent to Jurisdiction; Waiver of Immunities.

(a) The Debtor and the Agent each hereby irrevocably submits to the nonexclusive jurisdiction of any United States Federal or Illinois State courts sitting in Illinois, in any action or proceeding arising out of or relating to this Agreement, and the Debtor and the Agent hereby



irrevocably waives any objection it may now or hereafter have as to the venue of any such suit, action or proceeding brought in such court or that such court is an inconvenient forum.

(b) Nothing in this section shall limit the right of the Debtor, the Agent or the Secured Party to bring any action or proceeding against any other party or its property in the courts of any other jurisdictions.

#### Section 6.13 Severability

. Any provision of this Agreement which is for any reason prohibited or found or held invalid or unenforceable by any court or governmental agency shall be ineffective to the extent of such prohibition or invalidity or unenforceability, without invalidating the remaining provisions hereof in such jurisdiction or affecting the validity or enforceability of such provision in any other jurisdiction.

#### Section 6.14 Counterparts

. This Agreement may be executed in any number of counterparts, each of which when so executed and delivered shall be deemed to be an original, but all such counterparts together shall constitute but one and the same instrument.

#### Section 6.15 Successors and Assigns

. All of the provisions of this Agreement shall be binding and inure to the benefit of the parties hereto and their respective successors and assigns.

#### Section 6.16 Amendment and Restatement

. This Agreement is an amendment and restatement of the Existing Trademark Security Agreement. All terms and provisions of this Agreement supersede in their entirety the Existing Trademark Security Agreement. All Liens covering the Collateral, or any part thereof, granted by the Debtor in connection with the Existing Trademark Security Agreement shall remain valid, binding and enforceable Liens against the Debtor.

#### Section 6.17 Obligations Not Affected

. To the fullest extent permitted by applicable law, the obligations of the Debtor under this Agreement shall remain in full force and effect without regard to, and shall not be impaired or affected by:

(a) any amendment or modification or addition or supplement to the Note or any instrument delivered in connection therewith or any assignment or transfer thereof;

(b) any exercise, non-exercise, or waiver by the Agent or the Secured Party of any right, remedy, power or privilege under or in respect of, or any release of any guaranty or the Collateral or any part thereof provided pursuant to, this Agreement or the Note;

(c) any waiver, consent, extension, indulgence or other action or inaction in respect of this Agreement, the Note or any assignment or transfer of any thereof; or

(d) any bankruptcy, insolvency, reorganization, arrangement, readjustment, composition, liquidation or the like of the Debtor or any other Person, whether or not the Debtor shall have notice or knowledge of any of the foregoing.

Section 6.18 **ENTIRE AGREEMENT.** THIS WRITTEN AGREEMENT TOGETHER WITH THE NOTE, REPRESENT THE FINAL AGREEMENT BETWEEN THE PARTIES AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS, OR SUBSEQUENT ORAL AGREEMENTS OF THE PARTIES. THERE ARE NO UNWRITTEN ORAL ARGUMENTS BETWEEN THE PARTIES.

Section 6.19 Nonrecourse Obligation. Notwithstanding anything contained herein to the contrary, the Debtor shall be liable for payment of the Obligations only to the extent of its interest in the Collateral, and Agent and Secured Party agree to look solely to the Collateral. No action shall be brought against the Debtor, its managers, its members, or their successors or assigns, nor shall a claim be presented against the estate of the Debtor, its managers, its members or their successors or assigns, for recovery of any portion of the Obligations, except in connection with any actions to preserve, enforce and/or foreclose the liens, estates, assignments, rights and security interests now or at any time hereafter securing the payment of the Obligations. No deficiency judgment shall be sought or rendered against the Debtor, its managers, its members, or their successors or assigns in any foreclosure, enforcement or confirmation action or after any sale of the Collateral securing the Obligations.

Section 6.20 Purchase Agreement. This Agreement is subject to the rights, obligations and duties contained in a certain Agreement of Purchase by and between Aktiebolaget Electrolux and Debtor, dated May 8, 2000 (the "Purchase Agreement"). In the event of a conflict between this Agreement and the Purchase Agreement, the terms and conditions of the Purchase Agreement shall govern. Any foreclosure of the Collateral shall in no way limit or effect the rights granted to Debtor pursuant to Licenses granted under the Purchase Agreement.

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

DEBTOR:

ELECTROLUX LLC

By: E-Lux Holdings, L.L.C., its Managing  
Member

By: E-Luxco, Inc., its Managing Member

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

Name: Joseph P. Urso

Title: President

AGENT:

FIRST SOURCE FINANCIAL LLP

By: First Source Financial, Inc., a  
Delaware corporation, its  
Agent/Manager

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

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

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

*RM Coso*  
Robert M. Coso  
SVP

Registered Trademarks

<u>Country</u>	<u>Trademark</u>	<u>Registration No.</u>	<u>Registration/ Renewal Date</u>
United States	Electrolux	195691	renewed 03/03/85
United States	Electrolux	248774	renewed 10/30/88
United States	Electrolux	284377	renewed 06/23/91
United States	Electrolux	562427	renewed 07/29/92
United States	Electrolux	908002	renewed 02/16/91
United States	Electrolux	921377	renewed 10/05/91
United States	Electrolux	933368	renewed 05/02/92
United States	Electrolux	992918	renewed 09/10/94
United States	Electrolux	995587	renewed 10/15/94
United States	Electrolux	1617477	registered 10/16/90
United States	Electrolux (Stylized)	266455	renewed 01/21/90
United States	Electrolux (Stylized)	545686	renewed 07/24/91
United States	Electrolux (Stylized)	686520	renewed 10/13/79
United States	Electrolux (Stylized)	690868	renewed 01/05/80
United States	Electrolux (Stylized)	738077	renewed 09/25/82
United States	Electrolux and Design	1372058	registered 11/26/85
United States	Little Lux	1816681	registered 01/18/94
United States	Little Lux II	1894567	registered 05/16/95
United States	Prolux	1509008	registered 10/18/88

Pending Trademark Applications

<u>Country</u>	<u>Trademark</u>	<u>Serial No.</u>	<u>Registration Date</u>
United States	ELUX	75/194863	filed 11/07/96
Philippines	Electrolux	55042	filed 11/09/84

Trade Names

Electrolux LLC

Domain Names

ELECTROLUX-CANADA.COM  
ELECTROLUX-USA.COM  
ELECTROLUX-USA.NET  
ELECTROLUX-VACUUM.COM  
ELECTROLUX-VACCUMS.COM  
ELECTROLUXVACUUM.COM  
ELECTROLUXVACCUMS.COM  
BUYELECTROLUX.COM  
ELECTROLUXBAGS.COM  
ELECTROLUXCA.COM  
ELECTROLUXCANADA.COM  
ELECTROLUXFLORIDAMIAMI.COM  
ELECTROLUXNY.COM  
ELECTROLUXUSA.COM  
ELECTROLUX-ONLINE.COM  
ELECTROLUX-ONLINE.NET  
ELECTROLUX-ONLINE.ORG  
ELECTROLUXONLINE.COM  
ELECTROLUXONLINE.NET  
ELECTROLUXONLINE.ORG  
ELECTROLUXONTARIO.COM  
ELECTROLUXSERVICE.ORG  
ELECTROLUXSERVICE.NET  
ELECTROLUXSERVICE.COM  
ELUX.COM

Schedule I

Chief Executive Office  
of Debtor

5956 Sherry Lane  
Suite 1500  
Dallas, Texas 75225