

03-09-2001

FORM PTO 1618A
Expires 6/30/99
OMB 0651-0027

U.S. Department of Commerce
Patent and Trademark Office
TRADEMARK



101631913

**RECORDATION FORM COVER SHEET
TRADEMARKS ONLY**

TO: The Commissioner of TRADEMARKS and Trademarks: Please record the attached original document(s) or copy(ies).

Submission Type 2-26-01

New

Resubmission (Non-Recordation)
Document ID# _____

Correction of PTO Error
Reel # _____ Frame # _____

Corrective Document
Reel # _____ Frame # _____

Conveyance Type

Assignment License

Security Agreement Nunc Pro Tunc Assignment
Effective Month Day Year

Merger

Change of Name

Other _____

Conveying Party(ies) Mark if additional names of conveying parties attached

Name Execution Date Month Day Year

Formerly

Individual General Partnership Limited Partnership Corporation Association

Other

Citizenship/State of Incorporation/Organization

Receiving Party Mark if additional names of receiving parties attached

Name

DBA/AKA/TA

Composed of

Address (line 1)

Address (line 2)

Address (line 3)
City State/Country Zip Code

Individual General Partnership Limited Partnership If document to be recorded is an assignment and the receiving party is not domiciled in the United states, an appointment of a domestic representative should be attached. (Designation must be a separate document from Assignment.)

Corporation Association

Other

Citizenship/State of Incorporation/Organization

03/08/2001 DBYRNE 00000208 1382352

FOR OFFICE USE ONLY

240E

01 FC:481 40.00 DP
02 FC:482 200.00 DP

Public burden reporting for this collection of information is estimated to average approximately 30 minutes per Cover Sheet to be recorded, including time for reviewing the document and gathering the data needed to complete the Cover Sheet. Send comments regarding this burden estimate to the U.S. TRADEMARK and Trademark office, Chief Information Officer, Washington, D.C. 20231 and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Paperwork Reduction Project (0651-0027), Washington, D.C. 20503. See OMB Information Collection Budget Package 0651-0027, TRADEMARK and Trademark Assignment Practice. DO NOT SEND REQUESTS TO RECORD ASSIGNMENT DOCUMENTS TO THIS ADDRESS.

**Mail documents to be recorded with required cover sheet(s) information to:
Commissioner of TRADEMARKS and Trademarks, Box Assignments, Washington, D.C. 20231**

**TRADEMARK
REEL: 002247 FRAME: 0153**

Domestic Representative Name and Address

Enter for the first Receiving Party only.

Name

Address (line 1)

Address (line 2)

Address (line 3)

Address (line 4)

Correspondent Name and Address

Area Code and Telephone Number

Name

Address (line 1)

Address (line 2)

Address (line 3)

Address (line 4)

Pages Enter the total number of pages of the attached conveyance document including any attachments. #

TRADEMARK Application Number(s) or Registration Number(s) Mark if additional numbers attached

Enter either the Trademark Application Number or the Registration Number (DO NOT ENTER BOTH numbers for the same property).

Trademark Application Number(s)			See Exhibit A attached	Registration Number(s)		
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="checkbox"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="checkbox"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="checkbox"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

Number of Properties Enter the total number of properties involved. #

Fee Amount Fee Amount for Properties Listed (37 CFR 3.41): \$

Method of Payment: Enclosed Deposit Account
Deposit Account
(Enter for payment by deposit account or if additional fees can be charged to the account.)

Deposit Account Number: #
Authorization to charge additional fees: Yes No

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. Charges to deposit account are authorized, as indicated herein.


George Humphrey 
Name of Person Signing Signature Date

EXHIBIT A

REGISTERED U.S. TRADEMARKS

<u>Country</u>	<u>Mark</u>	<u>Class</u>	<u>Number</u>	<u>Status</u>
USA	PRO-TEC	20	1382352	Registered*
USA	SED PAC	9	1425588	Registered
USA	B.A.S.K.	1	1298281	Registered
USA	BIO SCOOP	8	1275870	Registered
USA	ZORBITROL	5	1293847	Registered
USA	ZORBILOPE	16	1281525	Registered
USA	ZORBICIDE	5	1293846	Registered
USA	GENTLE-LET	10	2088059	Registered
USA	SYNCARE	10	1453089	Registered

* Owned by Pro-Tec Containers, Inc, a subsidiary of Futura Medical Corporation.

SECURITY AGREEMENT

THIS SECURITY AGREEMENT (as from time to time amended, modified or supplemented, this "Agreement") dated as of January 31, 2001 is made by **FUTURA MEDICAL CORPORATION**, a Delaware corporation (together with its permitted successors and assigns, "Grantor"), whose address is 380 Stevens Avenue, Suite 212, Solana Beach, California 92075, to **THE GOVERNOR AND COMPANY OF THE BANK OF SCOTLAND**, incorporated by act of parliament in Scotland, as lender (in such capacity, and together with its successors and assigns, the "Lender") under the Facility Letter (as defined below).

PRELIMINARY STATEMENTS

A. In accordance with that certain Facility Letter, dated September 30, 2000, by Medisys PLC, a Scottish public limited company ("Medisys"), and Lender, as amended and restated by that certain Letter, dated December, 2000, among Lender, Medisys and Hypoguard USA, Inc., a Delaware corporation ("Hypoguard", and together with Medisys, the "Borrowers") (collectively, as amended from time to time, the "Facility Letter"), which Facility Letter provides for a Revolving Credit Facility (as defined in the Facility Letter) not to exceed £20,000,000, the U.S. affiliates of Medisys are required to provide certain security to Lender.

B. The Grantor is an affiliate of the Borrowers.

C. In satisfaction of conditions precedent to the obligations of the Lender under the Facility Letter, the Grantor has agreed to enter into this Agreement to secure, among other things, the obligations of the Borrowers under the Facility Letter.

NOW, THEREFORE, in consideration of the premises and in order to induce the Lender to enter into and extend credit pursuant to the Facility Letter, the Grantor hereby agrees as follows:

SECTION 1. Defined Terms; Interpretation.

1.01 Defined Terms.

(a) The capitalized terms used in this Agreement which are defined in the Facility Letter and not otherwise defined in this Agreement have, as used in this Agreement, the respective meanings provided for in the Facility Letter, as applicable.

(b) Unless otherwise defined herein or in the Facility Letter, as applicable, terms defined in Article 9 of the UCC are used herein as therein defined.

(c) As used in this Agreement, the following terms shall have the following meanings:

"*Agreement*" has the meaning specified in the Introduction.

"Borrowers" has the meaning specified in the Preliminary Statements.

"Collateral" has the meaning specified in Section 3.

"Equipment" means all *"equipment"* (as defined in the UCC) wherever located, now or hereafter existing and all parts thereof and all accessions thereto.

"Event of Default" has the meaning specified in the Facility Letter.

"Facility Letter" has the meaning specified in the Preliminary Statements.

"Financing Documents" means the Facility Letter, the Security Documents, and any other agreement, deed, document or letter setting out the terms of or constituting any indebtedness of any Obligor to the Lender together with any documents ancillary or relating to all or any of them.

"GAAP" means United States generally accepted accounting principles, consistently applied.

"Grantor" has the meaning specified in the Introduction.

"Grantor Guaranty" means the Guaranty dated as of the date of this Agreement executed by the Grantor in favor of the Lender.

"Group" has the meaning set forth in the Facility Letter.

"Hypoguard" has the meaning specified in the Preliminary Statements.

"Inventory" means all *"inventory"* (as defined in the UCC) in all of its forms, wherever located, now or hereafter existing and whether acquired by purchase, merger or otherwise, including (a) all goods held for sale or lease or to be furnished under contracts of service or so leased or furnished and (b) all raw materials, work in process, all finished goods and all materials and supplies used, consumed or to be used or consumed in the manufacture, packing, shipping, advertising, selling, leasing or production of such inventory including (whether or not included in such UCC definition) goods in which the Grantor has an interest in mass or joint or other interest or right of any kind and goods that are returned to or repossessed by the Grantor and all accessions thereto and products thereof and all documents of title therefor.

"Lender" has the meaning specified in the Introduction.

"Medisys" has the meaning specified in the Preliminary Statements.

"Obligor" means any member of the Group which has or which will have any liability (actual or contingent) and whether alone or jointly with any other person and whether as principal debtor, cautioner, guarantor or surety or otherwise (or as the equivalent obligor under the laws of any jurisdiction) to the Lender for the payment or repayment of any amounts outstanding or capable of becoming outstanding under the Financing Documents.

"Parent Pledge Agreement" means the Pledge Agreement dated as of the date hereof executed by Medisys USA, Inc., a Delaware corporation, which is the direct parent of Grantor, in favor of the Lender, pledging all of the shares of Grantor to the Lender.

"Patents" has the meaning specified in Section 3.

"Payment Intangibles" means all general intangibles under which the account debtor's principal obligation is a monetary obligation.

"Perfection Certificate" means a certificate substantially in the form of Exhibit A hereto, completed and supplemented with the schedules and attachments contemplated thereby to the satisfaction of the Lender, and duly executed by an officer of the Grantor.

"Permitted Collateral Liens" means (a) the Security Interests, (b) liens for taxes not yet delinquent or which are being contested in good faith by appropriate proceedings; provided that adequate reserves with respect thereto are being maintained on the books of the Grantor in conformity with GAAP, (c) liens (other than liens in favor of landlords or taxing entities) in favor of carriers', warehouseman's, mechanics', materialmen's, repairmen's or other like liens arising in the ordinary course of business and not overdue for a period of more than sixty (60) days or which are being contested in good faith by appropriate proceedings, (d) liens in favor of landlords of Grantor, provided that all such liens must be subordinated to Lender's Security Interests, (e) liens in favor of landlords of Grantor existing on the date of this Agreement, provided that such liens are subordinated to Lender's Security Interests within 90 days of the date of this Agreement, (f) liens securing equipment acquired in the ordinary course of business under equipment leases or vendor-financed purchases, provided (i) that Grantor is current in the payment of all amounts owed under such leases or purchase money financings, and (ii) the aggregate retail value of all such equipment leased or financed does not exceed \$250,000, and (g) nonconsensual liens and rights of financial institutions in checking, savings, money market and similar accounts opened and maintained by Grantor in the ordinary course of business.

"Proceeds" means all proceeds of, and all other profits, rentals or receipts, in whatever form, arising from the collection, sale, lease, exchange, assignment, licensing or other disposition of, or realization upon, Collateral, including all claims of the Grantor against third parties for loss of, damage to or destruction of, or for proceeds payable under, or unearned premiums with respect to, policies of insurance in respect of, any Collateral, and any condemnation or requisition payments with respect to any Collateral, in each case whether now existing or hereafter arising.

“Receivables” means all *“accounts”*, *“chattel paper”*, *“instruments”*, *“documents”*, *“general intangibles”* (as each such term is defined in the UCC) and other obligations of any kind, now or hereafter existing, whether or not arising out of or in connection with the sale or lease of goods or the rendering of services, and all rights now or hereafter existing in and to all security agreements, leases, and other contracts securing or otherwise relating to any such accounts, contract rights, chattel paper, instruments, documents, general intangibles or obligations (all such leases, security agreements and other contracts being the “Related Contracts”).

“Related Contracts” has the meaning specified in the definition of *“Receivables”* pursuant to this Section 1.01.

“Secured Liabilities” means all present and future obligations and liabilities (whether actual or contingent and whether owed jointly or severally or as principal debtor, cautioner, guarantor, surety or otherwise or as the equivalent obligor under the laws of any jurisdiction) of each Obligor, including the Grantor hereunder, to the Lender under all or any of the Financing Documents together with:

- (i) all costs, charges and expenses incurred by the Lender in connection with the protection, preservation or enforcement of its rights under the Financing Documents;
- (ii) any refinancing, novation, refunding, deferral or extension of or increase in any of those obligations or liabilities;
- (iii) any further advances which may be made by the Lender to any Obligor under any agreement expressed to be supplemental to any of the Financing Documents and all interest, fees and costs in connection therewith;
- (iv) any claim for damages or restitution in the event of rescission of any of those obligations or liabilities or otherwise in connection with the Financing Documents;
- (v) any claim against any Obligor flowing from the recovery by an Obligor of a payment or discharge in respect of any of those obligations or liabilities on grounds of preference or otherwise; and
- (vi) any amounts which would be included in any of the foregoing but for any discharge, non-provability, unenforceability or non-allowability of the same in any insolvency or other proceedings.

“Security Documents” means each of the documents executed by all or any member of the Group from time to time (including the Facility Letter, the Grantor Guaranty, the Parent Pledge Agreement, and the other Security Documents (as defined in the Facility Letter) in order to provide the Lender with security for any obligations of any person to the Lender or to guarantee such obligations.

“*Security Interests*” means the security interests granted pursuant to Section 3, as well as all other security interests created or assigned as additional Collateral for the Secured Liabilities pursuant to the provisions of this Agreement.

“*Trademarks*” has the meaning specified in Section 3.

“*UCC*” means the Uniform Commercial Code in effect from time to time in the State of California; *provided* that if by reason of mandatory provisions of law, the perfection or the effect of perfection or non-perfection of the Security Interest in any Collateral is governed by the Uniform Commercial Code as in effect in a jurisdiction other than the State of California, “UCC” means the Uniform Commercial Code as in effect in such other jurisdiction for purposes of the provisions hereof relating to such perfection or effect of perfection or non-perfection.

1.02 Interpretation.

(a) In this Agreement, unless a clear contrary intention appears:

(i) the singular number includes the plural number and *vice versa*;

(ii) reference to any gender includes each other gender;

(iii) the words “herein,” “hereof” and “hereunder” and other words of similar import refer to this Agreement as a whole and not to any particular Section or other subdivision;

(iv) reference to any person includes such person’s successors and assigns but, if applicable, only if such successors and assigns are permitted by this Agreement, and reference to a person in a particular capacity excludes such person in any other capacity or individually, *provided* that nothing in this Clause (iv) of Section 1.02 is intended to authorize any assignment not otherwise permitted by this Agreement;

(v) reference to any agreement (including this Agreement), document or instrument means such agreement, document or instrument as amended, supplemented, modified or extended and in effect from time to time in accordance with the terms thereof and, if applicable, the terms hereof, and references to any note includes any note issued in renewal, rearrangement, reinstatement, enlargement, amendment, modification, extension, substitution or replacement therefor;

(vi) unless the context indicates otherwise, reference to any Section, Clause, Schedule or Exhibit means such Section or Clause hereof or such Schedule or Exhibit hereto;

(vii) the word “including” (and with correlative meaning “include”) means including, without limiting the generality of any description preceding such term;

(viii) with respect to the determination of any period of time, the word “from” means “from and including” and the word “to” means “to but excluding”; and

(ix) reference to any law, ordinance, statute, code, rule, regulation, interpretation or judgment means such law, ordinance, statute, code, rule, regulation, interpretation or judgment as amended, modified, codified or reenacted, in whole or in part, and in effect from time to time.

(b) The Section headings herein are for convenience only and shall not affect the construction hereof.

(c) No provision of this Agreement shall be interpreted or construed against any person solely because that person or its legal representative drafted such provision.

SECTION 2. Representations and Warranties.

The Grantor represents and warrants as follows:

(a) All of the Inventory and Equipment are located at the places specified in paragraph 2(c) of Exhibit A attached hereto. The chief place of business and chief executive office of the Grantor is located at the address first specified above for the Grantor. The Grantor’s state of incorporation is Delaware, and Grantor agrees to provide written notice to Lender prior to any change to its state of incorporation and specifying the new state of incorporation. The office where the Grantor keeps its records concerning the Receivables, and all originals of all chattel paper which evidence Receivables, is located at the address first specified above for the Grantor. None of the Receivables is evidenced by a promissory note or other instrument.

(b) The Grantor owns the Collateral free and clear of any lien, security interest, charge or encumbrance except for the Security Interest and Permitted Collateral Liens. No effective financing statement or other instrument similar in effect 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 Lender relating to this Agreement or relating to Permitted Collateral Liens. The Grantor has no trade name.

(c) Except as set forth on the Perfection Certificate, the Grantor has exclusive possession and control of the Equipment and Inventory.

(d) This Agreement creates a valid and perfected first priority security interest in the Collateral (except with respect to Permitted Collateral Liens), securing the payment of the

Secured Liabilities, and all filings and other actions necessary or desirable to perfect and protect such security interest have been duly taken.

(e) No authorization, approval or other action by, and no notice to or filing with, any governmental authority or regulatory body is required either (i) for the grant by the Grantor of the security interest granted hereby or for the execution, delivery or performance of this Agreement by the Grantor or (ii) for the perfection of or the exercise by the Lender of its rights and remedies hereunder, other than the filing of financing statements in the office of the Secretary of State of the State of California.

(f) All Inventory has been manufactured and produced in compliance with the Fair Labor Standards Act, 29 U.S.C. § 215(a) (1982), as from time to time amended.

(g) The Grantor is "located" (as such term is defined and used in the UCC) at its chief executive office specified in the Perfection Certificate.

(h) Grantor represents and warrants that:

(i) It is a corporation duly organized, validly existing and in good standing under the laws of its jurisdiction of formation, qualified to do business in all jurisdictions in which the nature of the business conducted by it makes such qualification necessary and where failure so to qualify would not have a material adverse effect on its financial condition, operations, prospects or business.

(ii) It is not in violation of any applicable law, which violations, individually or in the aggregate, would affect its performance of any obligation under this Agreement. There is no litigation before any court or governmental authority now pending or (to its knowledge after reasonable inquiry) threatened against it which, if adversely determined, could reasonably be expected to have a material adverse effect on its financial condition, operations, prospects or business as a whole, or ability to perform all its obligations under this Agreement.

(iii) It is the holder of all governmental approvals, permits and licenses required to permit it to enter into and perform its obligations under this Agreement.

(iv) None of the execution and delivery of this Agreement, the consummation of the transactions contemplated in this Agreement, or compliance with the terms and provisions of this Agreement will conflict with or result in a breach of, or require any consent under, its charter or bylaws, or any applicable law, or any agreement or instrument to which it is

a party or by which it is bound or to which it or any of its respective assets are subject, or constitute a default under any such agreement or instrument.

(v) It has all necessary power and authority to execute, deliver and perform its respective obligations under this Agreement; and its execution, delivery and performance of this Agreement has been duly authorized by all necessary action on its part; and this Agreement has been duly and validly executed and delivered by it and constitutes its legal, valid and binding obligation, enforceable in accordance with its terms, except as the enforceability thereof may be limited by bankruptcy, insolvency, reorganization or moratorium or other similar laws relating to the enforcement of creditors' rights generally and by general equitable principles.

SECTION 3. The Security Interests.

(a) In order to secure the full and punctual payment of the Secured Liabilities in accordance with the terms thereof, and to secure the performance of all of the obligations of the Grantor hereunder, the Grantor hereby grants and assigns to the Lender a continuing security interest in and to all right, title and interest of the Grantor in all of the following property, whether now owned or existing or hereafter acquired or arising and regardless of where located (all being collectively referred to as the "Collateral"):

- (i) Equipment;
- (ii) Inventory;
- (iii) Receivables;
- (iv) Related Contracts;
- (v) Payment Intangibles;

(vi) all cash, cash equivalents, all bank and deposit accounts and deposits (including any demand, time, savings, passbook or similar account maintained with a bank), all rights to payment or performance under letters of credit, any claim arising in tort which arose in the Grantor's business, and to the extent assignable or transferable by the Grantor, all computer programs and all supporting information provided in connection with a transaction relating to such programs, all computer programs embedded in tangible personal property and any supporting information provided in connection with such tangible personal property if (A) the program is associated with the tangible personal property in such a manner that it customarily is considered part of the tangible personal

property or (B) by becoming the owner of the tangible personal property, a person acquires a right to use the program in connection with the tangible personal property;

(vii) notwithstanding the fact that the Patents (as defined below) may be included in the definition of Receivables, all letters patent of the United States or any other country, all registrations and recordings thereof, and all applications for letters patent of the United States or any other country, including all national and multinational statutory invention registrations, patents (including letters patent; patent registrations and patent applications and any other patents which may issue on such application) including, without limitation, all those listed in Exhibit B hereto and including all reissues, continuations or extensions thereof and all rights therein provided by law, multinational treaties or conventions, (any and all of the foregoing property being collectively called the "Patents");

(viii) notwithstanding the fact that the Trademarks (as defined below) may be included in the definition of Receivables, all trademarks, trade names, service marks, trade dress, logos, including all good will associated therewith, whether or not registered, all registrations and recordings thereof, and all applications in connection therewith, including registrations and applications in the United States Patent and Trademark Office or in any similar office or agency of the United States, any state thereof or any other country throughout the world or any political subdivision thereof, including, without limitation, all those listed in Exhibit B hereto and including all reissues, extensions or renewals thereof, and all written agreements granting any right to use any trademark or trademark registration and all rights therein provided by multinational treaties or conventions (any and all of the foregoing property being collectively called the "Trademarks"); and

(ix) All Proceeds of or substitutions for all or any of the Collateral described in Clauses (i), (ii), (iii), (iv), (v), (vi), (vii), and (viii) of this Section 3(a).

(b) The Security Interests are granted as security only and shall not subject the Lender to, or transfer or in any way affect or modify, any obligation or liability of the Grantor with respect to any of the Collateral or any transaction in connection therewith.

(c) The inclusion of Proceeds in this Agreement does not authorize the Grantor to sell, dispose of or otherwise use the Collateral in any manner not specifically authorized hereby or by the Facility Letter.

(d) The inclusion of Proceeds in this Agreement shall not prevent the Grantor from utilizing the proceeds of any insurance paid in respect of the Collateral to the extent such utilization is authorized pursuant to the Facility Letter.

SECTION 4. Further Assurances; Covenants.

(a) (i) The Grantor will maintain (A) the location of its places of business and its chief executive office and (B) the locations where it keeps or holds any Collateral or records relating thereto at (1) the applicable locations described in the Perfection Certificate, (2) other locations within States in which all required financing statements have been filed and all other actions have been taken to perfect the Security Interests or (3) at locations within other States if, prior to such relocation, the Grantor shall have given the Lender not less than ten (10) days notice thereof and, if requested by the Lender, an opinion of counsel with respect thereto in accordance with Section 4(k); *provided* that, if such opinion of counsel is delivered solely with respect to the relocation of Collateral, such opinion shall be limited to the perfection of the Security Interests in the Collateral so relocated. Except as provided in the immediately preceding sentence, the Grantor shall not change the location of any Collateral if such change would cause the Security Interests in such Collateral to lapse or cease to be perfected.

(ii) The Grantor will not change its name, identity or corporate structure in any manner unless it shall have given the Lender not less than forty-five (45) days prior notice thereof and delivered an opinion of counsel with respect thereto in accordance with Section 4(k).

(b) The Grantor will, from time to time, at its expense, execute, deliver, file and record any statement, assignment, instrument, document, agreement or other paper and take any other action (including any filings of financing or continuation statements under the UCC) that from time to time may be necessary or desirable, or that the Lender may reasonably request, in order to create, preserve, upgrade in rank (to the extent required hereby), perfect, confirm or validate the Security Interests or to enable the Lender to obtain the full benefits of this Agreement, or to enable the Lender to exercise and enforce any of its rights, powers and remedies hereunder with respect to any of the Collateral. To the extent permitted by law, the Grantor hereby authorizes the Lender to execute and file financing statements or continuation statements without the Grantor's signature appearing thereon. The Grantor agrees that a carbon, photographic or other reproduction of this Agreement or of a financing statement is sufficient as a financing statement. The Grantor shall pay the costs of, or out-of-pocket costs incidental to, any recording or filing of any financing or continuation statements concerning the Collateral.

(c) If any Collateral is at any time located on property leased by the Grantor or in the possession or control of any warehouseman, bailee or any of the Grantor's agents or processors, the Grantor shall, (i) notify such landlord, warehouseman, bailee, agent or processor of the Security Interests created hereby and use commercially reasonable efforts to obtain lien waivers from the landlord of any such leased property and any such warehouseman or bailee and (ii) at the request of Lender, instruct any such warehouseman, bailee, agent or processor to hold all such Collateral for the Lender's account subject to the Lender's instructions. Moreover, Grantor agrees to provide to Lender a report, on the 1st day of each calendar month during the term of this Agreement and until such time as Grantor has obtained all lien waivers required by

this Agreement, describing in detail Grantor's progress in obtaining lien waivers required by this Agreement from (a) all landlords that are leasing property to Grantor, and (b) all warehousemen, bailees, agents and processors that are in possession of or control any Collateral.

(d) The Grantor shall keep full and accurate books and records relating to the Collateral, and stamp or otherwise mark such books and records in such manner as the Lender may request in order to reflect the Security Interests.

(e) The Grantor will immediately deliver and pledge to the Lender each instrument evidencing any Collateral to the Lender, appropriately endorsed to the Lender, *provided* that so long as no Event of Default shall have occurred and be continuing, the Grantor may retain for collection in the ordinary course any instruments received by it in the ordinary course of business and the Lender shall, promptly upon request of the Grantor, make appropriate arrangements for making any such other instrument pledged by the Grantor available to it for purposes of presentation, collection or renewal (any such arrangement to be effected, to the extent deemed appropriate to the Lender, against a trust receipt or other like document).

(f) The Grantor shall use its commercially reasonable efforts to cause to be collected from the obligors on the Receivables, as and when due, any and all amounts owing under or on account of the Receivables (including Receivables which are delinquent, such Receivables to be collected in accordance with lawful collection procedures) and apply forthwith upon receipt thereof all such amounts as are so collected to the outstanding balance of such Receivables, except that, unless an Event of Default has occurred and is continuing and the Lender is exercising its rights hereunder to collect Receivables, the Grantor may allow in the ordinary course of business as adjustments to amounts owing under its Receivables (i) an extension or renewal of the time or times of payment, or settlement for less than the total unpaid balance, which the Grantor finds appropriate in accordance with sound business judgment, (ii) a refund or credit due as a result of returned or damaged merchandise, and (iii) warranty credits covering labor with respect to merchandise, all in accordance with the Grantor's ordinary course of business consistent with its historical collection practices. The costs and expenses (including reasonable attorney's fees) of collection, whether incurred by the Grantor or the Lender, shall be borne by the Grantor.

(g) Upon the occurrence and during the continuance of any Event of Default, upon the request of the Lender, the Grantor will promptly notify (and the Grantor hereby authorizes the Lender so to notify) each account debtor or other obligor on each Receivable that such Collateral has been assigned to the Lender hereunder, and that any payments due or to become due in respect of such Collateral are to be made directly to the Lender or its designee.

(h) Without the prior written consent of the Lender, the Grantor will not (i) sell, lease, exchange, assign or otherwise dispose of, or grant any option with respect to, any Collateral, except in the ordinary course of business, and in the case of any such sale or exchange, the Security Interests created hereby in such item (but not in any Proceeds arising from such sale

or exchange) shall cease immediately without any further action on the part of the Lender; or
(ii) create, incur or suffer to exist any lien, security interest or other encumbrance with respect to any Collateral, except for the Permitted Collateral Liens.

(i) The Grantor will maintain insurance on the Collateral in accordance with customary practices for persons engaged in the same business.

(j) The Grantor will, promptly upon request, provide to the Lender all information and evidence it may request concerning the Collateral, and in particular the Receivables, to enable the Lender to enforce the provisions of this Agreement.

(k) If requested by the Lender, prior to each date on which the Grantor proposes to take any action contemplated by Section 4(a)(i) or (ii), the Grantor shall, at its cost and expense, cause to be delivered to the Lender an opinion of counsel satisfactory in form and substance to the Lender, to the effect that all financing statements and amendments or supplements thereto, continuation statements and other documents required to be recorded or filed in order to perfect and protect the Security Interests for a period, specified in such opinion, continuing until a date not earlier than eighteen months from the date of such opinion, against all creditors of and purchasers from the Grantor have been filed in each filing office necessary for such purpose and that all filing fees and taxes, if any, payable in connection with such filings have been paid in full.

(l) From time to time upon request by the Lender upon and during the continuance of any Event of Default, the Grantor shall, at its cost and expense, cause to be delivered to the Lender an opinion of counsel satisfactory to the Lender as to such matters relating to the Collateral and the Security Interests contemplated hereby as the Lender may reasonably request.

SECTION 5. Events of Default; Remedies upon Events of Default.

5.01 Events of Default, Etc.

(a) If any Event of Default has occurred and is continuing, the Lender may exercise all rights and remedies of a secured party under the UCC (to the extent permitted by law, whether or not in effect in the jurisdiction where such rights and remedies are asserted) and, in addition, the Lender may, without being required to give any notice, except as herein provided or as may be required by mandatory provisions of law (i) notify all obligors under the Related Contracts or under the Receivables to make all payments to the Lender and apply such monies, and other cash, if any, then held by it as Collateral as specified in Section 5.03 and (ii) if there shall be no such monies, or cash or if such monies or cash shall be insufficient to pay all the Secured Liabilities in full, sell the Collateral or any part thereof at public or private sale, for cash, upon credit or for future delivery, and at such price or prices as the Lender may deem satisfactory to the extent allowed by law. The Lender may be the purchaser of any or all of the Collateral so

sold at any public sale (or, if the Collateral is of a type customarily sold in a recognized market or is of a type which is the subject of widely distributed standard price quotations, at any private sale) and thereafter hold the same, absolutely, free from any right or claim of whatsoever kind. The Grantor will execute and deliver such documents and take such other action as the Lender deems necessary or advisable in order that any such sale may be made in compliance with law. Upon any such sale the Lender shall have the right to deliver, assign and transfer to the purchaser thereof the Collateral so sold. Each purchaser at any such sale shall hold the Collateral so sold to it absolutely free from any claim or right of whatsoever kind, including any equity or right of redemption of the Grantor, and Grantor, to the extent permitted by law, hereby specifically waives all rights of redemption, stay or appraisal which it has or may have under any law now existing or hereafter adopted. The notice (if any) of such sale required by this Section 5.01 shall (A) in case of a public sale, state the time and place fixed for such sale, and (B) in the case of a private sale, state the day after which such sale may be consummated. Any such public sale shall be held at such time or times within ordinary business hours and at such place or places as the Lender may fix in the notice of such sale, *provided* that the Lender shall give the Grantor not less than ten (10) days' prior written notice of the time and place of any sale or other intended disposition of any of the Collateral, except any Collateral which is perishable or threatens to decline speedily in value or is of a type customarily sold on a recognized market. The Grantor agrees that such notice constitutes "reasonable notification" within the meaning of Section 9.504 of the UCC. At any such sale the Collateral may be sold in one lot as an entirety or in separate parcels, as the Lender may determine. The Lender shall not be obligated to make any such sale pursuant to any such notice. The Lender may, without notice or publication, adjourn any public or private sale or cause the same to be adjourned from time to time by announcement at the time and place fixed for the sale, and such sale may be made at any time or place to which the same may be so adjourned. In case of any sale of all or any part of the Collateral on credit or for future delivery, the Collateral so sold may be retained by the Lender until the selling price is paid by the purchaser thereof, but the Lender shall not incur any liability in case of the failure of such purchaser to take up and pay for the Collateral so sold and, in case of any such failure, such Collateral may again be sold upon like notice. The Lender, instead of exercising the power of sale herein conferred upon it, may proceed by a suit or suits at law or in equity to foreclose the Security Interests and sell the Collateral, or any portion thereof, under a judgment or decree of a court or courts of competent jurisdiction.

(b) For the purpose of enforcing any and all rights and remedies under this Agreement the Lender may (i) require the Grantor to, and the Grantor agrees that it will, at its expense, forthwith assemble all or any part of the Collateral as directed by the Lender and make it available at a place designated by the Lender which is, in its opinion, reasonably convenient to the Lender, whether at the premises of the Grantor or otherwise, (ii) to the extent permitted by applicable law, enter, with or without process of law and without breach of the peace, any premises where any of the Collateral is or may be located, and without charge or liability to it seize and remove such Collateral from such premises, (iii) have access to and use the books and records of the Grantor relating to the Collateral, and (iv) prior to the disposition of the Collateral, store or transfer it without charge in or by means of any storage or transportation facility owned

or leased by the Grantor, process, repair or recondition it or otherwise prepare it for disposition in any manner and to the extent the Lender deems appropriate and, in connection with such preparation and disposition, use, without charge, any trademark, trade name, copyright, patent or technical process used by the Grantor.

5.02 Deficiency. Without limiting the obligations of the Grantor to pay the Secured Liabilities, if the Proceeds of sale, collection or other realization of or upon the Collateral pursuant to Section 5.01 hereof are insufficient to cover the costs and expenses of such realization and the payment in full of the Secured Liabilities, the Grantor shall remain liable for any deficiency.

5.03 Application of Proceeds. Except as otherwise herein expressly provided or as otherwise required by law, the Proceeds of any collection, sale or other realization of all or any part of the Collateral pursuant hereto, and any other cash at the time held by the Lender under this Section 5, shall be applied by the Lender in its sole discretion.

5.04 Related Contracts. The Grantor hereby irrevocably authorizes and empowers the Lender, in the Lender's sole discretion, if an Event of Default has occurred and is continuing, to assert, either directly or on behalf of the Grantor any claims the Grantor may have, from time to time, against any other party to the Related Contracts or to otherwise exercise any right or remedy of the Grantor under the Related Contracts (including the right to enforce directly against any party to a Related Contract all of the Grantor's rights thereunder, to make all demands and give all notices and make all requests required or permitted to be made by the Grantor under the Related Contracts) as the Lender may deem proper.

5.05 Costs and Expenses. In the event that the Grantor fails to comply with the provisions of the Facility Letter, this Agreement or any other Financing Document to which it is a party, such that the value of any Collateral or the validity, perfection, rank or value of any Security Interest is thereby diminished or potentially diminished or put at risk, the Lender may, but shall not be required to, effect such compliance on behalf of the Grantor, and the Grantor, shall reimburse the Lender for the costs thereof on demand. All insurance expenses and all expenses of protecting, storing, warehousing, appraising, insuring, handling, maintaining, and shipping the Collateral, any and all excise, property, sales, and use taxes imposed by any state, federal, or local authority on any of the Collateral, or in respect of periodic appraisals and inspections of the Collateral to the extent the same may be requested by the Lender from time to time, or in respect of the sale or other disposition thereof, shall be borne and paid by the Grantor; and if the Grantor fails to promptly pay any portion thereof when due, the Lender may, at its option, but shall not be required to, pay the same and charge the Grantor's account therefor, and the Grantor, agrees to reimburse the Lender therefor on demand. All sums so paid or incurred by the Lender for any of the foregoing and any and all other sums for which the Grantor may become liable hereunder and all costs and expenses (including attorneys' fees, legal expenses and court costs) reasonably incurred by the Lender in enforcing or protecting the Security Interests or any of their rights or remedies under this Agreement, shall, together with interest thereon until paid at

the lesser of (a) the Default Rate, and (b) the maximum non-usurious rate of interest permitted by applicable law, be additional Secured Liabilities hereunder.

5.06 Attorney-in-Fact.

The Grantor hereby irrevocably appoints the Lender its true and lawful attorney, with full power of substitution, in the name of the Grantor, the Lender, or otherwise, for the sole use and benefit of the Lender, but at the expense of the Grantor, to the extent permitted by law to exercise, at any time and from time to time while an Event of Default has occurred and is continuing, all or any of the following powers with respect to all or any of the Collateral:

(a) to demand, sue for, collect, receive and give acquittance for any and all monies due or to become due thereon or by virtue thereof, including to assert and collect all claims and assert all rights of the Grantor with respect to all Receivables and under the Related Contracts;

(b) to settle, compromise, compound, prosecute or defend any action or proceeding with respect thereto;

(c) to sell, transfer, assign or otherwise deal in or with the same or the proceeds or avails thereof, as fully and effectually as if the Lender were the absolute owner thereof; and

(d) to extend the time of payment of any or all thereof and to make any allowance and other adjustments with reference thereto.

SECTION 6. Lender.

6.01 Limitation on Duty of Lender in Respect of Collateral.

The powers conferred on the Lender hereunder are solely to protect its interest in the Collateral and shall not impose any duty upon it to exercise any such powers. Except for reasonable care in the custody of any Collateral in its possession and the accounting for moneys actually received by it hereunder, the Lender shall have no duty as to any Collateral or as to the taking of any necessary steps to preserve rights against prior parties or any other rights pertaining to any Collateral. The Lender shall be deemed to have exercised reasonable care in the custody and preservation of the Collateral in its possession if the Collateral is accorded treatment substantially equal to that which the Lender accords its own property, it being understood that the Lender shall not be liable or responsible for any loss or damage to any of the Collateral, or for any diminution in the value thereof, by reason of the act or omission of any warehouseman, carrier, forwarding agency, consignee or other bailee selected by the Lender in good faith.

6.02 Concerning the Lender.

In furtherance and not in derogation of the rights, privileges and immunities of the Lender set forth in the Facility Letter:

(a) The Lender is authorized to take all such action as is provided to be taken by it as Lender hereunder and all other action reasonably incidental thereto. As to any matters not expressly provided for herein (including the timing and methods of realization upon the Collateral) the Lender shall act or refrain from acting in accordance with its discretion.

(b) The Lender shall not be responsible for the existence, genuineness or value of any of the Collateral or for the validity, perfection, priority or enforceability of the Security Interests in any of the Collateral, whether impaired by operation of law or by reason of any action or omission to act on its part hereunder. The Lender shall have no duty to ascertain or inquire as to the performance or observance of any of the terms of this Agreement by the Grantor.

6.03 Appointment of Lenders and Attorneys-in-Fact. **THE LENDER MAY EMPLOY AGENTS AND ATTORNEYS-IN-FACT IN CONNECTION HERewith AND SHALL NOT BE RESPONSIBLE FOR THE NEGLIGENCE OR MISCONDUCT (EXCEPT FOR GROSS NEGLIGENCE OR WILLFUL MISCONDUCT) OF ANY SUCH AGENTS OR ATTORNEYS-IN-FACT SELECTED BY IT IN GOOD FAITH.** Without limiting the foregoing, at any time or times, in order to comply with any legal requirement in any jurisdiction, the Lender may appoint another bank or trust company or one or more other persons, either to act as co-agent or co-agents, jointly with the Lender, or to act as separate agent or agents on behalf of the Lender with such power and authority as may be necessary for the effectual operation of the provisions hereof and may be specified in the instrument of appointment.

SECTION 7. Miscellaneous.

7.01 No Waiver. No failure on the part of the Lender to exercise, and no course of dealing with respect to, and no delay in exercising, any right, power or remedy hereunder shall operate as a waiver thereof; nor shall any single or partial exercise by the Lender of any right, power or remedy hereunder operate as a waiver thereof; nor shall any single or partial exercise by the Lender of any right, power or remedy hereunder preclude any other or further exercise thereof or the exercise of any other right, power or remedy. The remedies herein are cumulative and are not exclusive of any remedies provided by law.

7.02. Addresses for Notices. All notices and other communications provided for hereunder shall be in writing and addressed to the Grantor at the address at the beginning of this Agreement and to any party to the Facility Letter and other Financing Documents at the address provided for such party in the applicable Financing Document, or as to any party at such other

address as shall be designated by such party in a written notice to each other party complying as to delivery with the terms of Clause 12 of the Facility Letter.

7.03. Expenses. The Grantor agrees to reimburse the Lender for all costs and expenses of the Lender, (including the reasonable fees and expenses of legal counsel) in connection with (a) any Event of Default and any enforcement or collection proceeding resulting therefrom, including all manner of participation in or other involvement with (i) performance by the Lender of any obligations of the Grantor in respect of the Collateral that the Grantor has failed or refused to perform, (ii) bankruptcy, insolvency, receivership, foreclosure, winding up or liquidation proceedings, or any actual or attempted sale, or any exchange, enforcement, collection, compromise or settlement in respect of any of the Collateral, and for the care of the Collateral and defending or asserting rights and claims of the Lender in respect thereof, by litigation or otherwise, (iii) judicial or regulatory proceedings and (iv) workout, restructuring or other negotiations or proceedings (whether or not the workout, restructuring or transaction contemplated thereby is consummated) and (b) the enforcement of this Section 7.03, and all such costs and expenses shall be Secured Liabilities entitled to the benefits of the Collateral security provided pursuant to Section 3 hereof. The Grantor agrees to pay interest on any sums payable to the Lender under this Agreement that are not paid when due at the lesser of (1) the Default Rate, and (2) a rate per annum equal to the highest rate allowed by law.

7.04. Amendments, Etc. The terms of this Agreement may be waived, altered or amended only by an instrument in writing duly executed by the Grantor and the Lender. Any such amendment or waiver shall be binding upon the Lender, each holder of any of the Secured Liabilities and the Grantor.

7.05 Certain Documents. If any agreement, certificate or other writing, or any action taken or to be taken, is by the terms of this Agreement required to be satisfactory to the Lender, the determination of such satisfaction shall be made by the Lender or such Lender in its sole and exclusive judgment.

7.06 Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the respective successors and assigns of the Grantor, the Lender and each holder of any of the Secured Liabilities; *provided*, however, that the Grantor shall not assign or transfer its rights or obligations under this Agreement without the prior written consent of the Lender. Any assignment in violation of this Section 7.06 shall be void and without force or effect. In the event of an assignment of all or any of the Secured Liabilities, the rights hereunder, to the extent applicable to the indebtedness so assigned, may be transferred with such indebtedness. This Agreement shall be binding on the Grantor and its successors and assigns.

7.07 Marshaling of Assets. All rights to marshaling of assets of the Grantor, including any such right with respect to the Collateral, are hereby waived by the Grantor.

7.08 Severability. If any provision hereof is invalid and unenforceable in any jurisdiction, then, to the fullest extent permitted by law, (a) the other provisions hereof shall remain in full force and effect in such jurisdiction and shall be liberally construed in favor of the Lender in order to carry out the intentions of the parties to this Agreement as nearly as may be possible and (b) the invalidity or unenforceability of any provision of this Agreement in any jurisdiction shall not affect the validity or enforceability of such provision in any other jurisdiction.

7.09 Waivers. The Grantor hereby expressly waives, to the extent permitted by applicable law (a) notice of the acceptance by the Lender of this Agreement, (b) notice of the existence or creation or non-payment of all or any of the Secured Liabilities, (c) presentment, demand, notice of dishonor, protest, intent to accelerate, acceleration and all other notices whatsoever, and (d) all diligence in collection or protection of or realization upon the Secured Liabilities or any thereof, any obligation hereunder, or any security for or guaranty of any of the foregoing.

7.10 Rescission and Releases. The Grantor agrees that, if at any time all or any part of any payment theretofore applied by the Lender to any of the Secured Liabilities is or must be rescinded or returned by the Lender for any reason whatsoever (including the insolvency, bankruptcy or reorganization of the Grantor or any of its affiliates), such Secured Liabilities 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 Lender, and the security interest granted under this Agreement shall continue to be effective or be reinstated, as the case may be, as to such Secured Liabilities, all as though such application by the Lender had not been made.

7.11 Appraisals. The Grantor agrees that at any time and from time to time, at the expense of the Grantor, the Grantor, at the request of the Lender, shall deliver to the Lender an appraisal of the Collateral, in form and substance satisfactory to the Lender.

7.12 Survival of Representations and Warranties. All representations and warranties contained in this Agreement or made in writing by or on behalf of the Grantor in connection herewith shall survive the execution and delivery of this Agreement and repayment of the Secured Liabilities. Any investigation by the Lender shall not diminish in any respect whatsoever its rights to rely on such representations and warranties.

7.13 Security Interest Absolute. All rights of the Lender and the Security Interests, and all obligations of the Grantor hereunder, shall be absolute and unconditional, irrespective of:

- (a) any lack of validity or enforceability of the Facility Letter, the other Financing Documents or any other agreement or instrument relating thereto;

(b) any change in the time, manner, or place of payment of, or in any other term of, all or any of the Secured Liabilities or any other amendment or waiver of or any consent to any departure from the Facility Letter or the other Financing Documents;

(c) any exchange, release or non-perfection of any other collateral, or any release or amendment or waiver of or consent to departure from any guaranty, for all or any of the Secured Liabilities; or

(d) any other circumstances which might otherwise constitute a defense available to, or a discharge of, the Obligors or a third party grantor of a security interest.

7.14 Submission to Jurisdiction. (a) ANY LEGAL ACTION OR PROCEEDING WITH RESPECT TO THIS AGREEMENT AND THE OTHER FINANCING DOCUMENTS MAY BE BROUGHT IN THE COURTS OF THE STATE OF CALIFORNIA OR THE UNITED STATES LOCATED IN CALIFORNIA AND, BY EXECUTION AND DELIVERY OF THIS AGREEMENT, THE GRANTOR HEREBY IRREVOCABLY ACCEPTS FOR ITSELF AND IN RESPECT OF ITS PROPERTY, UNCONDITIONALLY, THE JURISDICTION OF THE AFORESAID COURTS WITH RESPECT TO ANY SUCH ACTION OR PROCEEDING. THE GRANTOR FURTHER IRREVOCABLY CONSENTS TO THE SERVICE OF PROCESS OUT OF ANY OF THE AFOREMENTIONED COURTS IN ANY SUCH ACTION OR PROCEEDING BY THE MAILING OF COPIES THEREOF BY REGISTERED OR CERTIFIED MAIL, POSTAGE PREPAID, TO IT PURSUANT TO SECTION 7.02 HEREOF, SUCH SERVICE TO BECOME EFFECTIVE THIRTY (30) DAYS AFTER SUCH MAILING. NOTHING HEREIN SHALL AFFECT THE RIGHT OF THE LENDER TO SERVE PROCESS IN ANY OTHER MANNER PERMITTED BY LAW OR TO COMMENCE LEGAL PROCEEDINGS OR OTHERWISE PROCEED AGAINST THE GRANTOR IN ANY OTHER JURISDICTION.

(b) THE GRANTOR HEREBY IRREVOCABLY WAIVES ANY OBJECTION WHICH IT MAY NOW OR HEREAFTER HAVE TO THE LAYING OF VENUE OF ANY OF THE AFORESAID ACTIONS OR PROCEEDINGS ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT BROUGHT IN THE COURTS REFERRED TO IN CLAUSE (a) OF THIS SECTION 7.14 AND HEREBY FURTHER IRREVOCABLY WAIVES AND AGREES NOT TO PLEAD OR CLAIM IN ANY SUCH COURT THAT ANY SUCH ACTION OR PROCEEDING BROUGHT IN ANY SUCH COURT HAS BEEN BROUGHT IN AN INCONVENIENT FORUM.

7.15. Waiver of Jury Trial. THE GRANTOR AND THE LENDER HEREBY WAIVE, TO THE EXTENT PERMITTED BY APPLICABLE LAW ANY RIGHT TO A TRIAL BY JURY IN ANY ACTION OR PROCEEDING TO ENFORCE OR DEFEND ANY RIGHTS UNDER THIS AGREEMENT OR UNDER ANY AMENDMENT, INSTRUMENT, DOCUMENT OR AGREEMENT DELIVERED OR WHICH MAY IN

THE FUTURE BE DELIVERED IN CONNECTION HERewith OR ARISING FROM OR RELATING TO ANY BANKING RELATIONSHIP EXISTING IN CONNECTION WITH THIS AGREEMENT, AND AGREES, TO THE EXTENT PERMITTED BY APPLICABLE LAW, THAT ANY SUCH ACTION OR PROCEEDING SHALL BE TRIED BEFORE A COURT AND NOT BEFORE A JURY.

7.16 Final Agreement of the Parties. THIS AGREEMENT (INCLUDING THE EXHIBITS HERETO), THE FACILITY LETTER AND THE OTHER FINANCING DOCUMENTS CONSTITUTE AND REPRESENT THE FINAL AGREEMENT BETWEEN THE PARTIES RELATING TO THE SUBJECT MATTER HEREOF AND THEREOF AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS OR SUBSEQUENT ORAL AGREEMENTS OF THE PARTIES. THERE ARE NO UNWRITTEN ORAL AGREEMENTS BETWEEN THE LENDER, ON ONE HAND, AND THE GRANTOR, THE BORROWERS AND THE OTHER OBLIGORS, ON THE OTHER HAND.

7.17 Limitation by Law. All the provisions of this Agreement are to be limited to the extent necessary so that they will not render this Agreement invalid, unenforceable, in whole or in part, or not entitled to be recorded, registered or filed under the provisions of any applicable law.

7.18 Counterparts. This Agreement may be executed in any number of counterparts, all of which taken together shall constitute one and the same instrument and either of the parties hereto may execute this Agreement by signing any such counterpart.

7.19 Governing Law. THIS AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAW OF THE STATE OF CALIFORNIA EXCEPT AS REQUIRED BY MANDATORY PROVISIONS OF LAW AND EXCEPT TO THE EXTENT THAT THE VALIDITY OR PERFECTION OF THE SECURITY INTERESTS, OR REMEDIES HEREUNDER, IN RESPECT OF ANY PARTICULAR COLLATERAL ARE GOVERNED BY THE LAWS OF A JURISDICTION OTHER THAN THE STATE OF CALIFORNIA.

IN WITNESS WHEREOF, the Grantor has caused this Agreement to be duly executed by its authorized officer as of the day and year first above written.

FUTURA MEDICAL CORPORATION, a
Delaware corporation

By:



Harold R. Callicoat, President

**EXHIBIT A to
Security Agreement**

PERFECTION CERTIFICATE

The undersigned, the President of **FUTURA MEDICAL CORPORATION**, a Delaware corporation (the "Grantor"), hereby certifies with reference to the Security Agreement dated as of January 31, 2001 by the Grantor to **THE GOVERNOR AND COMPANY OF THE BANK OF SCOTLAND**, incorporated by act of parliament in Scotland, as Lender (terms defined therein being used herein as therein defined), to the Lender as follows:

1. Names. (a) The exact corporate name of the Grantor as it appears in its certificates or articles of incorporation as of the date hereof is as follows:

FUTURA MEDICAL CORPORATION

(b) The following is a list of all other names (including trade names or similar appellations) used by the Grantor or any of its divisions or other business units at any time since January 31, 1996:

- Lukens Medical Corporation, a Delaware corporation
- Lukens Medical Corporation, a New Mexico corporation (merged into)
- Syncare, Inc. (merged into)
- Medical Profiles, Inc. (asset purchase)
- LMC Acquisition Corp. (merged into)
- Lukens Medical Products Private Ltd. (India)
- Techsynt-Lukens SA (Brazil-dormant)
- Somar-Lukens, S.A. de C.V. (Mexico-dormant)

2. Current Location. (a) The chief executive office of the Grantor is located at the following address:

Street Address:

380 Stevens Avenue, Suite 212, Solana Beach, California 92075

Mailing Address:

380 Stevens Avenue, Suite 212, Solana Beach, California 92075

(b) The following are all the locations where the Grantor maintains any books or records relating to any Collateral (if more than two locations, please attach additional pages including all addresses):

Street Address:

(c) The following are all the locations where the Grantor maintains any Inventory and Equipment (if more than two locations, please attach additional pages including all addresses):

Street Address:

380 Stevens Avenue, Suite 212, Solana Beach, California 92075
3820 Academy Parkway North N.E., Albuquerque, New Mexico 87109
12743 Merriman Road, Livonia, Michigan 48150
Plot #7, Cepz, Kakkanad, Cochin, India
679-6 Peung Chon 3 Dong, Kang Seo Tu, Seoul, Korea (Korea Unipia Company Limited)
13824 Yorba Avenue, Chino, California 91710 (STC Plastics)
[Austin, Texas]
[Tennessee]
[Piedras Negras, Mexico]

3. Filings. A duly signed financing statements on Form UCC-1 in substantially the form of Schedules A-1 hereto is to be filed in the Uniform Commercial Code filing office in each jurisdiction identified in paragraph 2 hereof.

EXECUTED this 31st day of January, 2001.

By: _____
Name: _____
Title: _____

FORM UCC-1

(Attached)

NATIONAL FINANCING STATEMENT (FORM UCC1) (TRANS) (REV. 12/18/95)

THIS SPACE FOR USE OF FILING OFFICER

FINANCING STATEMENT — FOLLOW INSTRUCTIONS CAREFULLY
 This Financial Statement is presented for filing pursuant to the Uniform Commercial Code and will remain effective, with certain exceptions, for 5 years from the date of filing.

A. NAME AND TEL. # OF CONTACT AT FILER (optional)	B. FILING OFFICE ACCT. # (optional)
C. RETURN COPY TO: (Name and Mailing Address)	
<input type="checkbox"/> Andrews & Kurth L.L.P. 4200 Chase Tower 600 Travis Houston, Texas 77002 <input type="checkbox"/> Attention: George Humphrey	
D. OPTIONAL DESIGNATION (if applicable):	LESSOR/LESSEE
	CONSIGNOR/CONSIGNEE
	NON-UCC FILING

1. DEBTOR'S EXACT FULL LEGAL NAME - insert only one debtor name (1a or 1b)

1a. ENTITY'S NAME			
FUTURA MEDICAL CORPORATION, a Delaware Corporation			
OR 1b. INDIVIDUAL'S LAST NAME	FIRST NAME	MIDDLE NAME	SUFFIX
1c. MAILING ADDRESS		CITY	STATE
380 Stevens Avenue, Suite 212		Solano Beach	CA
		COUNTRY	POSTAL CODE
		USA	92075
1d. S.S. OR TAX I.D.#	OPTIONAL ADD'NL INFO RE ENTITY DEBTOR	1e. TYPE OF ENTITY	1f. ENTITY'S STATE OR COUNTRY OF ORGANIZATION
			Delaware
			1g. ENTITY'S ORGANIZATION I.D.#, if any
			<input type="checkbox"/> NONE

2. ADDITIONAL DEBTOR'S EXACT FULL LEGAL NAME - insert only one debtor name (2a or 2b)

2a. ENTITY'S NAME			
OR 2b. INDIVIDUAL'S LAST NAME			
2c. MAILING ADDRESS		CITY	STATE
2d. S.S. OR TAX I.D.#		OPTIONAL ADD'NL INFO RE ENTITY DEBTOR	2e. TYPE OF ENTITY
			2f. ENTITY'S STATE OR COUNTRY OF ORGANIZATION
		2g. ENTITY'S ORGANIZATION I.D.#, if any	
		<input type="checkbox"/> NONE	

3. SECURED PARTY'S (ORIGINAL S/P or ITS TOTAL ASSIGNEE) EXACT FULL LEGAL NAME - insert only one secured party name (3a or 3b)

3a. ENTITY'S NAME			
THE GOVERNOR AND COMPANY OF THE BANK OF SCOTLAND, incorporated by act of parliament in Scotland			
OR 3b. INDIVIDUAL'S LAST NAME	FIRST NAME	MIDDLE NAME	SUFFIX
3c. MAILING ADDRESS		CITY	STATE
38 Albyn Place		Aberdeen	Scotland
		COUNTRY	POSTAL CODE
			AB101ZS

4. This FINANCING STATEMENT covers the following types or items of property:
 All items of personalty, Equipment, Inventory, Receivables and other property described in the Schedule of Collateral, attached hereto and incorporated herein by this reference, whether now owned or existing or hereafter acquired or arising and regardless of where located, and all proceeds thereof.

5. CHECK This FINANCING STATEMENT is signed by the Secured Party instead of the Debtor to perfect a security interest	7. If filed in Florida (check one)
BOX (a) in collateral already subject to a security interest in another jurisdiction when it was brought into this state, or when the [if applicable] debtor's location was changed to this state, or (b) in accordance with other statutory provisions [additional data may be required]	<input type="checkbox"/> Documentary stamp tax paid <input type="checkbox"/> Documentary stamp tax not applicable

6. REQUIRED SIGNATURES	8. <input type="checkbox"/> This FINANCING STATEMENT is to be filed [for record] (or recorded) in the REAL ESTATE RECORDS Attach Addendum [if applicable]
See Schedule 1 attached hereto	9. Check to REQUEST SEARCH CERTIFICATE(S) on Debtor(s) [ADDITIONAL FEE] (optional)
	<input type="checkbox"/> All Debtors <input type="checkbox"/> Debtor 1 <input type="checkbox"/> Debtor 2

Secured Party: **THE GOVERNOR AND COMPANY OF THE BANK OF SCOTLAND**, incorporated by act of parliament in Scotland

Debtor: **FUTURA MEDICAL CORPORATION**, a Delaware Corporation

Item No. 4:

**SCHEDULE OF COLLATERAL AMONG
FUTURA MEDICAL CORPORATION,
AS DEBTOR, AND
THE GOVERNOR AND COMPANY OF THE BANK OF SCOTLAND,
AS SECURED PARTY**

A. This Financing Statement covers all right, title and interest of the Debtor in and to all of the following property, whether now owned or existing or hereafter acquired or arising and regardless of where located (all being collectively referred to as the "Collateral"):

- (i) Equipment;
- (ii) Inventory;
- (iii) Receivables;
- (iv) Related Contracts;
- (v) Payment Intangibles;

(vi) all cash, cash equivalents, all bank and deposit accounts and deposits (including any demand, time, savings, passbook or similar account maintained with a bank), all rights to payment or performance under letters of credit, any claim arising in tort which arose in the Grantor's business, and to the extent assignable or transferable by the Grantor, all computer programs and all supporting information provided in connection with a transaction relating to such programs, all computer programs embedded in tangible personal property and any supporting information provided in connection with such tangible personal property if (A) the program is associated with the tangible personal property in such a manner that it customarily is considered part of the tangible personal property or (B) by becoming the owner of the tangible personal property, a person acquires a right to use the program in connection with the tangible personal property;

(vii) notwithstanding the fact that the Patents (as defined below) may be included in the definition of Receivables, all letters patent of the United States or any other country, all registrations and recordings thereof, and all applications for letters patent of the United States or any other country, including all national and multinational statutory invention

UCC-1 Financing Statement (cont'd)

Secured Party: **THE GOVERNOR AND COMPANY OF THE BANK OF SCOTLAND**, incorporated by act of parliament in Scotland

Debtor: **FUTURA MEDICAL CORPORATION**, a Delaware Corporation

registrations, patents (including letters patent; patent registrations and patent applications and any other patents which may issue on such application) including, without limitation, all those listed in Exhibit A hereto and including all reissues, continuations or extensions thereof and all rights therein provided by law, multinational treaties or conventions, (any and all of the foregoing property being collectively called the "Patents");

(viii) notwithstanding the fact that the Trademarks (as defined below) may be included in the definition of Receivables, all trademarks, trade names, service marks, trade dress, logos, including all good will associated therewith, whether or not registered, all registrations and recordings thereof, and all applications in connection therewith, including registrations and applications in the United States Patent and Trademark Office or in any similar office or agency of the United States, any state thereof or any other country throughout the world or any political subdivision thereof, including, without limitation, all those listed in Exhibit A hereto and including all reissues, extensions or renewals thereof, and all written agreements granting any right to use any trademark or trademark registration and all rights therein provided by multinational treaties or conventions (any and all of the foregoing property being collectively called the "Trademarks"); and

(ix) all Proceeds of or substitutions for all or any of the Collateral described in Clauses (i), (ii), (iii), (iv), (v), (vi), (vii), and (viii) above.

B. Unless otherwise defined in this Financing Statement, terms defined in Article 9 of the UCC are used in this Financing Statement as therein defined.

C. As used in this Financing Statement, the following terms shall have the following meanings:

"Equipment" means all "equipment" (as defined in the UCC) wherever located, now or hereafter existing and all parts thereof and all accessions thereto.

"Inventory" means all "inventory" (as defined in the UCC) in all of its forms, wherever located, now or hereafter existing and whether acquired by purchase, merger or otherwise, including (a) all goods held for sale or lease or to be furnished under contracts of service or so leased or furnished and (b) all raw materials, work in process, all finished goods and all materials and supplies used, consumed or to be used or consumed in the manufacture, packing, shipping, advertising, selling, leasing or production of such inventory including (whether or not included in such UCC definition) goods in which the Debtor has an interest in mass or joint or other interest or right of any kind and goods that are returned to or repossessed by the Debtor and all accessions

UCC-1 Financing Statement (cont'd)

Secured Party: **THE GOVERNOR AND COMPANY OF THE BANK OF SCOTLAND**, incorporated by act of parliament in Scotland

Debtor: **FUTURA MEDICAL CORPORATION**, a Delaware Corporation

thereto and products thereof and all documents of title therefor.

"Payment Intangibles" means all general intangibles under which the account debtor's principal obligation is a monetary obligation.

"Proceeds" means all proceeds of, and all other profits, rentals or receipts, in whatever form, arising from the collection, sale, lease, exchange, assignment, licensing or other disposition of, or realization upon, Collateral, including all claims of the Debtor against third parties for loss of, damage to or destruction of, or for proceeds payable under, or unearned premiums with respect to, policies of insurance in respect of, any Collateral, and any condemnation or requisition payments with respect to any Collateral, in each case whether now existing or hereafter arising.

"Receivables" means all *"accounts"*, *"chattel paper"*, *"instruments"*, *"documents"*, *"general intangibles"* (as each such term is defined in the UCC) and other obligations of any kind, now or hereafter existing, whether or not arising out of or in connection with the sale or lease of goods or the rendering of services, and all rights now or hereafter existing in and to all security agreements, leases, and other contracts securing or otherwise relating to any such accounts, contract rights, chattel paper, instruments, documents, general intangibles or obligations (all such leases, security agreements and other contracts being the "Related Contracts").

"Related Contracts" has the meaning specified in the definition of *"Receivables"* in this Schedule of Collateral.

"UCC" means the Uniform Commercial Code in effect from time to time in the State of California; *provided* that if by reason of mandatory provisions of law, the perfection or the effect of perfection or non-perfection of the Security Interest in any Collateral is governed by the Uniform Commercial Code as in effect in a jurisdiction other than the State of California, "UCC" means the Uniform Commercial Code as in effect in such other jurisdiction for purposes of the provisions hereof relating to such perfection or effect of perfection or non-perfection.

Secured Party: **THE GOVERNOR AND COMPANY OF THE BANK OF SCOTLAND**, incorporated by act of parliament in ScotlandDebtor: **FUTURA MEDICAL CORPORATION**, a Delaware Corporation

**EXHIBIT A TO
SCHEDULE OF COLLATERAL
PATENTS AND TRADEMARKS**

PATENTS**Disposable Hypodermic Syringe and Needle Combination Having Retractable Accident Preventing Sheath**

<u>Country</u>	<u>Number</u>	<u>Status</u>	<u>Issue Date</u>
USA	4,702,738	Granted	27 October 1987
Canada	1,268,679	Granted	8 May 1990
USA	4,801,295	Granted	31 January 1989

Blood Collector Cylinder with Needle Ejector

<u>Country</u>	<u>Number</u>	<u>Status</u>	<u>Issue Date</u>
USA	4,907,600	Granted	13 March 1990
USA	4,993,426	Granted	19 February 1991
Canada	1,310,241	Granted	17 November 1992
Australia	615,400	Granted	19 July 1989
Brazil	PI8907570-6	Pending	-
Europe	0430978	Granted	28 June 1985
Ireland	61,468	Granted	27 October 1994

UCC-1 Financing Statement (cont'd)

Secured Party: **THE GOVERNOR AND COMPANY OF THE BANK OF SCOTLAND**, incorporated by act of parliament in Scotland

Debtor: **FUTURA MEDICAL CORPORATION**, a Delaware Corporation

<u>Country</u>	<u>Number</u>	<u>Status</u>	<u>Issue Date</u>
Japan	508246/1989	Pending	-
South Korea	90-700609	Pending	-
Spain	2,015,739	Granted	27 June 1990

Disposable Container for Syringes

<u>Country</u>	<u>Number</u>	<u>Status</u>	<u>Issue Date</u>
USA	4,828,107	Granted	9 May 1989
Canada	1,304,054	Granted	23 June 1992

Other

Patent Number

5,669,891

5,514,116

5,509,912

5,487,728

UCC-1 Financing Statement (cont'd)

Secured Party: **THE GOVERNOR AND COMPANY OF THE BANK OF SCOTLAND**, incorporated by act of parliament in Scotland

Debtor: **FUTURA MEDICAL CORPORATION**, a Delaware Corporation

DESIGNS

Infectious Waste Container for Use in Hospitals and Other Health Care Facilities

<u>Country</u>	<u>Number</u>	<u>Status</u>	<u>Issue Date</u>
USA	D279,417	Registered	25 June 1985

Lockable Holder for Containers

<u>Country</u>	<u>Number</u>	<u>Status</u>	<u>Issue Date</u>
USA	D284,547	Registered	8 July 1986

Needle Remover

<u>Country</u>	<u>Number</u>	<u>Status</u>	<u>Issue Date</u>
USA	D327,573	Registered	7 July 1992

TRADE MARKS

<u>Country</u>	<u>Mark</u>	<u>Class</u>	<u>Number</u>	<u>Status</u>
USA	PRO-TEC	20	1382352	Registered*
USA	SED PAC	9	1425588	Registered
USA	B.A.S.K.	1	1298281	Registered

UCC-1 Financing Statement (cont'd)

Secured Party: **THE GOVERNOR AND COMPANY OF THE BANK OF SCOTLAND**, incorporated by act of parliament in Scotland

Debtor: **FUTURA MEDICAL CORPORATION**, a Delaware Corporation

<u>Country</u>	<u>Mark</u>	<u>Class</u>	<u>Number</u>	<u>Status</u>
USA	BIO SCOOP	8	1275870	Registered
USA	ZORBITROL	5	1293847	Registered
USA	ZORBILOPE	16	1281525	Registered
USA	ZORBICIDE	5	1293846	Registered
USA	GENTLE-LET	10	2088059	Registered
USA	SYNCARE	10	1453089	Registered

* Owned by Pro-Tec Containers, Inc, a subsidiary of Futura Medical Corporation.

UCC-1 Financing Statement (cont'd)

Secured Party: **THE GOVERNOR AND COMPANY OF THE BANK OF SCOTLAND**, incorporated by act of parliament
in Scotland

Debtor: **FUTURA MEDICAL CORPORATION**, a Delaware Corporation

SCHEDULE 1

Item No. 6

Dated: _____

DEBTOR:

FUTURA MEDICAL CORPORATION,
a Delaware Corporation

By: _____

Name: Harold R. Callicoa

Title: President

**EXHIBIT B to
Security Agreement**

PATENTS AND TRADEMARKS

PATENTS

Disposable Hypodermic Syringe and Needle Combination Having Retractable Accident Preventing Sheath

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USA	ZORBITROL	5	1293847	Registered
USA	ZORBILOPE	16	1281525	Registered
USA	ZORBICIDE	5	1293846	Registered
USA	GENTLE-LET	10	2088059	Registered
USA	SYNCARE	10	1453089	Registered

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