05-09-2001

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FORM PTO-1594
(Rev 5-93)

U.S. DEPARTMENT OF COMMERCE
Patent and Trademark Office

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

1. Name of conveying party(ies):

AMERICAN UNDERWATER PRODUCTS

Individual(s) citizenship:
Association:
General Partnership:
Limited Partnership:
Corporation – State: CALIFORNIA
Other:

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

3. Nature of Conveyance:

[ ] Assignment [ ] Merger
[X] Security Agreement [ ] Change of Name
[ ] Other

Execution Date: April 2, 2001

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

Name: COMERICA BANK-CALIFORNIA
Address: 75 E. TRIMBLE ROAD
City: SAN JOSE CA Zip: 95131

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

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 [x] No

RECEIVED 2001 MAY -2 PM 2:40 ASSIGNMENT SERVICES DIVISION

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

A. Trademark Application No.(s)

B. Trademark Registration No.(s)

1,617,448	1,904,915	2,100,573
2,187,978	2,194,127	2,201,896
1,619,612	2,099,870	2,141,377
1,152,213	1,611,125	1,612,156
1,654,782	1,154,802	2,079,615
2,345,126	2,109,625	

Additional numbers attached? [ ] Yes [x] No

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

Name: Erin O'Brien
Internal Address: **GRAY CARY WARE & FREIDENRICH**
400 Hamilton Avenue
Palo Alto, California 94301

6 Total number of applications and registrations involved: **17**

7. Total fee (37 CFR 3.41) . . . . . **$ 440.00**
[x] Enclosed
[ ] Authorized to be charged to deposit account

8. Deposit account number: _____

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

05/09/2001 GTON11 00000006 1617448
01 FC:481 40.00 OP
02 FC:482 400.00 OP

DO NOT USE THIS SPACE

9. Statement and signature.

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

Erin O'Brien — Erin O'Brien — May 1, 2001
Name of Person Signing — Signature — Date

Total number of pages comprising cover sheet: [57]

Mail Documents to be recorded with required cover sheet information to:
U.S. Patent and Trademark Office, Office of Public Records
1213 Jefferson Davis Highway, 3rd Floor
Arlington, VA 22202

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1030642-909600

Comerica

REVOLVING CREDIT LOAN & SECURITY AGREEMENT (ACCOUNTS AND INVENTORY)

OBLIGOR#	NOTE #	AGREEMENT DATE
CREDIT LIMIT	INTEREST RATE	OFFICE NO./INITIALS

This Revolving Credit Loan and Security Agreement is made and entered into on April 2, 2001, by and among American Underwater Products, d/b/a Oceanic, a California corporation ("Oceanic"), Pelagic Pressure Systems, a California corporation ("Pelagic"), Hollis Industries, Inc., d/b/a Romi Enterprises, a California corporation ("Hollis"), and Ocean Pulse, Inc., d/b/a Aeris, a California corporation ("Aeris," and together with Oceanic, Pelagic, and Hollis, each a "Borrower," and jointly and severally, individually and collectively, "Borrowers") and Comerica Bank-California, a California banking corporation ("Bank"). Except as otherwise defined herein, initially capitalized terms used in this Agreement have the meanings assigned to them in Appendix A attached hereto.

Subject to the terms and conditions of, and in reliance upon the representations and warranties made in, this Agreement and the other Loan Documents, Bank shall make the Loans to Borrowers in an aggregate amount up to $9,913,000 as set forth below.

In consideration of the mutual covenants and conditions hereof, the parties agree as follows:

1. AMOUNT AND TERMS OF CREDIT

1.1 Revolving Line of Credit Commitment.

1.1.1 **Revolving Line of Credit.** Subject to the terms and conditions of this Agreement, from time to time from the Closing Date to the Business Day immediately prior to the Maturity Date, Bank shall, upon Borrowers' request in accordance with this Agreement, make advances (each a "Revolving Loan," and collectively, the "Revolving Loans") to one or more Borrowers in an aggregate amount outstanding not to exceed at any one time the Maximum Revolving Amount, the proceeds of which shall be used by Borrowers only for working capital and the issuance of Letters of Credit (as defined below). Subject to the terms and conditions of this Agreement including the provisions of the LIBOR Addendum, amounts hereunder may be repaid and reborrowed at any time prior to the Maturity Date. Borrowers may prepay all or part of the outstanding Revolving Advances without premium or penalty.

1.1.2 **Revolving Loan Sublimits.** Notwithstanding anything contained in subsection 1.1.1 to the contrary, the aggregate outstanding amount of all Revolving Loans made to each individual Borrower hereunder shall not exceed any one time *the lesser of* (a) the Borrower Sublimit Amount applicable to that Borrower set forth on Table 1 below, or (b) the Maximum Revolving Amount *minus* the outstanding amount of all Revolving Loans made to each other Borrower hereunder.

Table 1

Borrower Name	Borrower Sublimit Amount
American Underwater Products, d/b/a Oceanic	$4,000,000
Pelagic Pressure Systems	$5,000,000
Hollis Industries, Inc., d/b/a Romi Enterprises	$1,000,000
Ocean Pulse, Inc., d/b/a Aeris	$1,000,000

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REEL: 002290 FRAME: 0121

1.1.3 **Requests for Revolving Loans.** Each request for a Revolving Loan shall be received by Bank no later than 2:00 p.m. Pacific time on the date on which the requested Revolving Loan is to be made, in form and substance satisfactory to Bank, specifying the amount of the Revolving Loan requested with respect to each Borrower and demonstrating to the satisfaction of Bank that Borrowers are entitled to borrow the amount of the Revolving Loan(s) being requested. Revolving Loans may be repaid and reborrowed, subject to the terms and conditions hereof including the provisions of the LIBOR Addendum, provided that the outstanding principal amount of all Revolving Loans, together with all accrued and unpaid interest thereon, shall be due and payable in full on the Maturity Date.

1.1.4 **Letter of Credit Usage and Sublimit.** Subject to availability of Revolving Loans and subject to the terms and conditions of this Agreement, from time to time from the Closing Date to the Business Day immediately prior to the Maturity Date, Bank shall issue for the account of one or more Borrowers such standby and commercial letters of credit (each a "Letter of Credit," and collectively, the "Letters of Credit") as Borrowers may request, which requests shall be made by delivering to Bank a duly executed letter of credit application on Bank's standard form; provided, however, that the outstanding and undrawn amounts under all such Letters of Credit (i) shall not at any time exceed $500,000 in the aggregate (the "Letter of Credit Sublimit") and (ii) shall be deemed to constitute Revolving Loans for the purpose of calculating the availability of (a) Revolving Loans to all Borrowers under the Maximum Revolving Amount and (b) Revolving Loans made to each individual Borrower under applicable Borrower Sublimit Amount for that Borrower pursuant to subsection 1.1.2, above. Unless agreed to in writing by Bank, no Letter of Credit shall have an expiration date that is later than the Maturity Date. All Letters of Credit shall be in form and substance acceptable to Bank in its sole discretion and shall be subject to the terms and conditions of Bank's form application and letter of credit agreement and such other agreements as are required by Bank. Borrowers shall pay all usual issuance and other fees that Bank notifies Borrowers that will be charged to them for issuing and processing Letters of Credit for Borrowers.

1.1.5 **Overadvances.** If at any time for any reason, the amount of Obligations owed by Borrowers to Bank pursuant to subsections 1.1.1 and 1.1.4 of this Agreement is greater than the (a) the Maximum Revolving Amount or (b) the Borrower Sublimit Amount applicable to each Borrower under subsection 1.1.2, Borrowers shall immediately pay to Bank, in cash, the amount of such excess.

1.1.6 **Revolving Note.** The interest rate, payment terms, maturity date and certain other terms of the Revolving Loans shall be contained in a promissory note dated the date of this Agreement, as such may be amended or replaced from time to time.

1.2 **Converting Non-Revolving Equipment Line of Credit Commitment.**

1.2.1 **Converting Non-Revolving Equipment Line of Credit.** Subject to the terms and conditions of this Agreement, from time to time from the Closing Date to the Business Day immediately prior to the Maturity Date, Bank shall, upon Borrowers' request in accordance with this Agreement, make advances (each a "Converting Non-Revolving Loan," and collectively, the "Converting Non-Revolving Loans") to Borrowers in an aggregate amount not to exceed $500,000, the proceeds of which shall be used by Borrowers only for the acquisition of Equipment. Subject to all of the limitations, terms and conditions contained herein or in the promissory note representing the Converting Non-Revolving Loans, Borrowers may, from time to time through the Maturity Date, borrow, repay any outstanding borrowings in part or in whole subject to the terms and conditions hereof including the provisions of the LIBOR Addendum, but may not reborrow any amount of the Converting Non-Revolving Loans so repaid. From and after the Maturity Date any amounts repaid may not be reborrowed.

1.2.2 **Requests for Converting Non-Revolving Equipment Advances.** Each request for a Converting Non-Revolving Loan made for Equipment acquisitions hereunder shall be in form and substance satisfactory to Bank, and shall be irrevocable upon receipt by Bank. Each such notice shall be received by Bank no later than 2:00 p.m. Pacific time on the date on which the requested Converting Non-Revolving Loan is to be made. The notice shall include a copy of the invoice for the Equipment to be financed. Converting Non-Revolving Loans shall only be used to purchase Equipment approved by Bank

from time to time, and shall be limited to 85% of the invoice amount for such Equipment approved by Bank, less any taxes, shipping and freight charges or discounts, warranty charges, installation expenses and other soft costs.

1.2.3 **Conversion of Non-Revolving Equipment Loans.** From time to time the Converting Non- Revolving Loans shall be converted to term loans as follows:

(1) On the date that is 12 months from the Closing Date, the then outstanding amount of all Converting Non-Revolving Loans shall be converted to a term loan payable in not more than 48 equal principal payments, due on the last day of each month, plus interest;

(2) On the Maturity Date, the then outstanding amount of all Converting Non-Revolving Loans shall be converted to a term loan payable in not more than 48 equal principal payments, due on the last day of each month, plus interest; and

(3) Notwithstanding anything contained in the forgoing to the contrary, the entire remaining outstanding principal amount of all Converting Non-Revolving Loans, together with all accrued and unpaid interest thereon, shall in any event be due and payable in full on May 31, 2007.

Subject to the terms and conditions of this Agreement including the provisions of any promissory note(s) LIBOR Addendum(s) entered into in connection with any conversion of Converting Non-Revolving Loans into a term loan(s) in accordance with the forgoing, Borrowers may prepay all or part of the outstanding amount of any such into term loan(s) without premium or penalty.

1.2.4 **Converting Non-Revolving Note.** The interest rate, payment terms, maturity date and certain other terms of the Converting Non-Revolving Loans and each term loan conversion thereof in accordance with subsection 1.2.3 hereof shall be contained in a promissory note dated the date of this Agreement, as such may be amended or replaced from time to time.

1.3 **Term Loan Commitment.**

1.3.1 **Term Loan.** Subject to the terms and conditions of this Agreement, Bank shall make available to Borrowers a term loan (the "Term Loan") on the Closing Date in the amount of $913,000, the proceeds of which shall be used only for capital expenditures.

1.3.2 **Term Loan Note.** The interest rate, payment terms, maturity date and certain other terms of the Term Loan shall be contained in a promissory note dated the date of this Agreement, as such may be amended or replaced from time to time.

1.3.3 **Term Loan Maturity.** Notwithstanding anything contained in the forgoing to the contrary, the entire remaining outstanding principal amount of the Term Loan, together with all accrued and unpaid interest thereon, shall in any event be due and payable in full on May 31, 2005.

1.4 **Loan Fees.** In addition to any other amounts due or to become due under this Agreement concurrent with the execution hereof, Borrowers shall pay to Bank the following fees:

1.4.1 **Revolving Credit Commitment Fee.** In connection with the extension of the Revolving Loans, a fully earned and non-refundable fee of $42,500, payable on the last day of each month commencing on April 30, 2001, in 12 equal payments of $3,541.67 each.

1.4.2 **Equipment Line Commitment Fee.** In connection with the extension of the Converting Non-Revolving Loans, on the Closing Date, a fully earned and non-refundable fee of $2,500.

1.4.3 **Annual Facility Fee.** Commencing on the first anniversary of the Closing Date, an annual facility fee in an amount equal to 0.25% of the Maximum Revolving Amount, payable on the last day of each month commencing on April 30, 2002, in 12 equal payments of $1,770.84 each.

1.4.4 **Documentation Fee, Costs and Expenses.** In addition to any other amounts due, or to become due, concurrently with the execution hereof, Borrowers agree to pay to Bank a documentation fee in the amount of $1,000 and all other costs and expenses incurred by Bank in the preparation of this Agreement, the other Loan Documents and the perfection of any security interest granted to Bank by Borrowers.

1.5 **Default Rate.** Notwithstanding anything to the contrary set forth herein, upon the occurrence and during the continuation of any Event of Default, all Obligations outstanding under this Agreement shall bear interest in accordance with subsection 9.1.5 of this Agreement.

1.6 **Bank's Books and Records.** The amount and date of each Loan hereunder, the amount from time to time outstanding, the applicable interest rate in respect of each Loan, and the amount and date of any repayment hereunder, shall be noted on Bank's books and records, which shall be conclusive evidence thereof, absent manifest error; provided, however, any failure by Bank to make any such notation, or any error in any such notation, shall not relieve Borrowers of their obligations to pay to Bank all amounts owing to Bank under or pursuant to this Agreement and each of the other Loan Documents, in each case, when due in accordance with the terms hereof or thereof.

1.7 **Payment Procedures.** All sums payable by Borrowers to Bank under or pursuant to this Agreement, or any other Loan Document, whether principal, interest, or otherwise, shall be paid, when due, directly to Bank at the office of Bank identified on the signature page of this Agreement, or at such other office of Bank as Bank may designate in writing to Borrowers from time to time, in immediately available United States funds, and without setoff, deduction or counterclaim. Bank may, in its discretion, charge any and all deposit or other accounts (including, without limitation, any account evidenced by a certificate of deposit or time deposit) of Borrowers maintained with Bank for all or any part of any Obligations then due and payable; provided, however, that such authorization shall not affect Borrowers' obligations to pay all Obligations, when due, whether or not any such account balances maintained by Borrowers with Bank are insufficient to pay any amounts then due.

1.8 **Payments on Non-Business Day.** Whenever any payment to Bank under the Loan Documents would otherwise be due (except by reason of acceleration) on a date that is not a Business Day, such payment shall instead be due on the next Business Day, and additional fees or interest, as the case may be, shall accrue and be payable for the period of such extension.

1.9 **Receipt of Payments by Bank.** Any payment by Borrowers of any of the Obligations made by mail will be deemed tendered and received by Bank only upon actual receipt thereof by Bank at the address designated for such payment, whether or not Bank has authorized payment by mail or in any other manner, and such payment shall not be deemed to have been made in a timely manner unless actually received by Bank on or before the date due for such payment, time being of the essence. Borrowers expressly assume all risks of loss or liability resulting from non-delivery or delay of delivery of any item of payment transmitted by mail or in any other manner. Acceptance by Bank of any payment in an amount less than the amount then due shall be deemed an acceptance on account only, and any failure to pay the entire amount then due shall constitute and continue to be an Event of Default hereunder, and at any time thereafter, and until the entire amount then due has been paid in full, Bank shall be entitled to exercise any and all rights and remedies conferred upon and otherwise available to Bank hereunder or any of the other Loan Documents upon the occurrence and during the continuance of any such Event of Default. Prior to the occurrence of any Event of Default hereunder, Borrowers shall have the right to direct the application of any and all payments made to Bank by Borrowers hereunder to the respective Obligations. Borrowers waive the right to direct the application of any and all payments received by Bank from and on behalf of Borrowers at any time or times after the occurrence and during the continuation of any Event of Default hereunder. Borrowers further agree that after the occurrence and during the

continuation of any Event of Default hereunder, or prior to the occurrence of any Event of Default hereunder if Borrowers have failed to direct such application, Bank shall have the continuing exclusive right to apply and to reapply any and all payments received by Bank at any time or times hereafter, whether as voluntary payments, proceeds from any Collateral, offsets, or otherwise, against the Obligations in such order and in such manner as Bank may, in its sole discretion, deem advisable, notwithstanding any entry by Bank upon any of its books and records. Borrowers hereby expressly agree that, to the extent that Bank receives any payment or benefit of or otherwise upon any of the Obligations, and such payment or benefit, or any part thereof, is subsequently invalidated, declared to be fraudulent or preferential, set aside, or required to be repaid to a trustee, receiver, or any other party under any provision of the Bankruptcy Code or under any other state or federal law, common law, or equitable cause, then to the extent of such payment or benefit, the Obligations, or part thereof, intended to be satisfied shall be revived and continued in full force and effect as if such payment or benefit had not been made by Borrowers or received by Bank, and, further, any such repayment by Bank shall be added to and be deemed to be part of the Obligations.

2. CREATION OF SECURITY INTEREST

2.1 **Grant of Security Interest.** The Borrowers hereby grant to Bank a continuing security interest in all presently existing and hereafter acquired or arising Collateral in order to secure prompt repayment of any and all Obligations and in order to secure prompt performance by each Borrower of each of its covenants and duties under the Loan Documents. Bank's security interests in the Collateral shall attach to all Collateral without further act on the part of Bank or any Borrower. Such security interest constitutes a valid, first priority security interest in the presently existing Collateral, and shall constitute a valid, first priority security interest in Collateral acquired after the date hereof, in each case, (a) to the extent that a security interest in such Collateral can be perfected by the filing of a financing statement, or, (b) in the case of Collateral consisting of money, Instruments, Documents, Chattel Paper consisting of tangible chattel paper or Investment Property consisting of certificated securities, to the extent that Bank takes possession of such Collateral, or, (c) in the case of Collateral consisting of Investment Property other than certificated securities, Deposit Accounts, Letter of Credit Rights (except as perfected by filing in connection with the related Collateral), or Chattel Paper consisting of electronic chattel paper, to the extent that Bank has control of or over such Collateral, or (d) in the case of Intellectual Property Collateral consisting of Copyrights, Patents and Trademarks, to the extent that a security interest in such Intellectual Property Collateral can be perfected by the filing of a financing statement and by the filing with the United States Patent and Trademark office with respect to the Patents and Trademarks and with the Register of Copyrights with respect to the Copyrights such documents as are necessary to perfect the security interests created hereunder. Borrowers acknowledge and agree that Bank may place a "hold" on any Deposit Account pledged as Collateral to secure the Obligations. Notwithstanding termination of this Agreement, Bank's security interest in the Collateral shall remain in effect for so long as any Obligations are outstanding or any loan facility is in place.

2.2 **Negotiable Collateral.** In the event that any Collateral, including proceeds, is evidenced by or consists of Negotiable Collateral, Borrowers, immediately upon the request of Bank, shall (a) endorse or assign such Negotiable Collateral to Bank, (b) deliver physical possession of such Negotiable Collateral to Bank, and (c) mark conspicuously all of its records pertaining to such Negotiable Collateral with a legend, in form and substance satisfactory to Bank (and in the case of Negotiable Collateral consisting of Chattel Paper that is tangible chattel paper, immediately mark all such Chattel Paper with a conspicuous legend in form and substance satisfactory to Bank), indicating that the Negotiable Collateral is subject to the security interest granted hereby.

2.3 **Delivery of Additional Documentation Required.** At any time at the request of Bank, Borrowers shall execute and deliver to Bank all financing statements, continuation financing statements, fixture filings, security agreements, pledges, assignments, endorsements of certificates of title, applications for title, affidavits, reports, notices, schedules of accounts, letters of authority and other documents that Bank may reasonably request, in form satisfactory to Bank, to perfect and continue perfected Bank's security interests in the Collateral and in order to fully consummate all of the transactions contemplated under the Loan Documents.

2.4 **Right to Inspect.** Bank (through any of its officers, employees, or agents) shall have the right, upon reasonable prior notice, from time to time during Borrowers' usual business hours (or at any time and without notice required if an Event of Default has occurred and is continuing) but no more than once a year (unless an Event of Default has occurred and is continuing), to inspect Borrowers' Books and to make copies thereof and to check, test, and appraise the Collateral in order to verify Borrowers' financial condition or the amount, condition of, or any other matter relating to, the Collateral.

2.5 **Bailees and Other Third Parties in Possession.** In the event that any Collateral is in the possession of a third party, Borrowers shall join with Bank in notifying such third party of Bank's security interest and obtaining an acknowledgment from such third party that it is holding such Collateral for the benefit of Bank.

2.6 **Control Agreements.** Borrowers shall cooperate with Bank in obtaining a control agreement in form and substance satisfactory to Bank with respect to all Deposit Accounts, electronic Chattel Paper, Investment Property, and Letter of Credit Rights.

3. CONDITIONS PRECEDENT

3.1 **Conditions Precedent to Initial Loans.** The obligation of Bank to make the initial Loan or issue the initial Letter of Credit is subject to the fulfillment, to the satisfaction of Bank, of each of the following conditions on or before the Closing Date:

3.1.1 **Promissory Notes.** Bank shall have received each original, executed promissory note required under Article 1 of this Agreement, in form and substance satisfactory to Bank.

3.1.2 **Pledge Agreement(s).** Bank shall have received each original executed pledge agreement(s), together with the original certificates evidencing the Stock of Oceanic UK pledged to Bank thereunder and undated stock powers with respect thereto, duly executed in blank, each in form and substance satisfactory to Bank.

3.1.3 **Guarantees.** Bank shall have received each original, executed continuing guaranty of the Obligations of Borrowers in favor of Bank executed by each Guarantor, in each case in form and substance satisfactory to Bank.

3.1.4 **Financing Statement(s).** Bank shall have received original, executed financing statement(s) executed by Borrowers and any grantor of a security interest, in each case in form and substance satisfactory to Bank.

3.1.5 **Search Results.** Bank shall have received Uniform Commercial Code and other public record searches with respect to Borrowers and any grantor of a security interest, in each case in form and substance satisfactory to Bank.

3.1.6 **Due Diligence.** Bank shall have completed its due diligence requirements with respect to Borrowers and each Guarantor, including audits, financial and legal survey, the results of which in each case shall be satisfactory to Bank in its sole discretion.

3.1.7 **Intellectual Property.** Borrowers shall have delivered to Bank a complete list of each Copyright, Patent and Trademark owned by any Borrower and that has been registered or filed with any applicable agency for the filing or recordation of such rights.

3.1.8 **Insurance.** Borrowers shall have delivered to Bank satisfactory evidence of insurance coverage in form, substance, amounts, covering risks and issued by companies satisfactory to Bank, including, where required by Bank, certified copies of the policies of insurance therefor, together with endorsements thereto, and where required by Bank, with a Banks Loss Payable Endorsement in favor of Bank as an additional loss payee thereunder, in form, substance, amount and covering risks satisfactory to

Bank, and specifying that the insurer shall give Bank at least 30 days prior written notice of the cancellation of any such policies of insurance for any reason.

3.1.9 **Organizational Documents.** Borrowers shall have delivered to Bank copies of the charter/articles of incorporation or similar document as the case may be, of each Borrower and each Guarantor that is not a natural person, in each case in form and substance satisfactory to Bank.

3.1.10 **Authorizations.** Certified copies of all action taken by Borrowers and any Guarantor that is not a natural person to authorize the execution, delivery and performance of the Loan Documents.

3.1.11 **Good Standing.** Satisfactory evidence of good standing from the state in which each Borrower and any Guarantor that is not a natural person is organized and in each state in which it is required to be qualified to do business.

3.1.12 **Executed Agreement.** Bank shall have received an original of this Agreement, duly executed by Borrowers.

3.1.13 **Payment of All Fees and Expenses.** Bank shall have received payment of all fees payable on the Closing Date in accordance with the provisions of Article 1 hereof, together with all Bank expenses owing on the Closing Date.

3.1.14 **Collateral Audits and Appraisals.** Receipt of (a) satisfactory results of Bank's audits of Borrowers' Accounts and Inventory reflecting a liquidation rate with respect to Borrowers' Inventory of not less than 40%, and (b) an appraisal of Borrowers' Equipment reflecting a minimum fair sale value of not less than $913,000, performed by an appraiser and in accordance with procedures satisfactory to Bank in its sole discretion.

3.1.15 **Material Adverse Change.** No event that has resulted or could result in a Material Adverse Change shall have occurred, as determined by Bank in its sole discretion.

3.1.16 **Additional Documents.** Bank shall have received all such other agreements, instruments and documents as Bank may reasonably deem necessary or desirable.

3.2 **Conditions Precedent to All Loans.** The following shall be conditions precedent to the obligation of Bank to make each Loan or issue each Letter of Credit hereunder:

3.2.1 **Borrowing Request.** With respect to each Loan or other extension of credit hereunder, Bank shall have received a request for borrowing that complies with the applicable provisions of Article 1 hereof, and, with respect to each Letter of Credit, Bank shall have received an application for such Letter of Credit that complies with the applicable provisions of Article 1 hereof.

3.2.2 **Representations and Warranties.** Each of the representations and warranties contained in this Agreement and the other Loan Documents shall be true and correct in all respects on and as of the date of such Loan or other extension of credit, as though made on and as of such date (except to the extent that such representations and warranties relate solely to an earlier date).

3.2.3 **Defaults.** No Event of Default shall occur, or shall have occurred and be continuing, on the date of such extension of credit, nor shall either result from the making thereof.

4. REPRESENTATIONS AND WARRANTIES OF BORROWERS

In order to induce Bank to enter into this Agreement and to make Loans or issue Letters of Credit, Borrowers make the following representations and warranties to Bank which shall be true, correct, and

complete in all respects as of the Closing Date and at, and as of, the date of the making of each Loan or issuance of each Letter of Credit made thereafter (except to the extent that such representations and warranties relate solely to an earlier date):

4.1 **Existence and Rights.** Each Borrower is a corporation, duly organized and existing and in good standing under the laws of the state of California, which shall survive at least five years beyond the maturity of any Loans hereunder. Each Borrower is authorized and in good standing to do business in the state of its incorporation; each Borrower has the appropriate powers and adequate authority, rights and franchises to own its property and to carry on its business as now conducted, and is duly qualified and in good standing in each state in which the character of the properties owned by it therein or the conduct of its business makes such qualification necessary; and each Borrower has the power and adequate authority to execute, deliver and perform this Agreement and the other Loan Documents. Each Borrower has no investment in any other business entity unless specified in writing to Bank.

4.2 **Agreement Authorized.** The execution, delivery and performance of this Agreement and the Loan Documents are duly authorized by each Borrower, and do not require any registration with, consent or approval of, or notice to, or other action with or by, any governmental body or other regulatory authority; are not in contravention of or in conflict with any law or regulation or any term or provision of each Borrower's charter/articles of incorporation, by-laws, or similar document as the case may be, and this Agreement and each of the other Loan Documents is a valid, binding and legally enforceable obligation of each Borrower in accordance with its terms; subject only to bankruptcy, insolvency or similar laws affecting creditors rights generally.

4.3 **No Conflict.** The execution, delivery and performance of this Agreement and the Loan Documents are not in contravention of or in conflict with, and do not result in a breach or constitute a default under any agreement, contract, indenture, instrument or undertaking to which any Borrower is a party or by which it or any of its property may be bound or affected, except to the extent that certain intellectual property agreements or equipment financing agreements prohibit the assignment of the rights thereunder to a third party without the licensor's or other party's consent and this Agreement or any other Loan Document constitutes an assignment, and do not cause any Lien, charge or other encumbrance to be created or imposed upon any such property by reason thereof, in each case that could result in a Material Adverse Change. No Borrower is in default under any agreement, contract, indenture, instrument or undertaking to which that Borrower is a party or by which it may be bound, which default could result in a Material Adverse Change.

4.4 **Litigation.** There is no litigation or other proceeding pending or threatened against or affecting any Borrower which if determined adversely to that Borrower or its interest could result in a Material Adverse Change, and no Borrower is in default with respect to any order, writ, injunction, decree or demand of any court or other governmental or regulatory authority.

4.5 **No Material Adverse Change in Financial Statement.** All consolidated financial statements related to Borrowers that have been delivered by Borrowers to Bank fairly present in all material respects each Borrowers' consolidated financial condition as of the date thereof and Borrowers' consolidated results of operations for the period then ended. Said statements and all other statements and data submitted in writing by Borrowers to Bank in connection with this request for credit are true and correct, and each said balance sheet and profit and loss statement fairly presents the financial condition of Borrowers as of the date thereof and the results of the operations of Borrowers for the period covered thereby, and has been prepared in accordance with GAAP. No Borrower has knowledge of any liabilities, contingent or otherwise, at such date not reflected in said balance sheet (other than any contingent or other liability that is not required to be reflected in such balance sheet in accordance with GAAP and that if reflected on such balance sheet could constitute a Material Adverse Change), and no Borrower has entered into any special commitments or substantial contracts that are not reflected in said balance sheet or that have resulted or could result in a Material Adverse Change. There has not been a Material Adverse Change in the consolidated financial condition of any Borrower since the date of the most recent of such financial statements submitted to Bank on or about the date of this Agreement.

4.6 **Title to Assets.** Borrower has the power and authority to transfer the Collateral, and Borrower has good and indefeasible title to the Collateral, free and clear of any Liens or restrictions, except for Permitted Liens.

4.7 **Name; Location of Chief Executive Office; Form and Location of Organization.** No Borrower has done business under any name other than that specified on Schedule 4.7 and set forth on the signature page hereof . The chief executive office of each Borrower is located at the address and the Federal Employer Identification Number is that set forth in Schedule 4.7 to this Agreement. Each Borrower's form of organization and the state in which it has been organized is set forth on Schedule 4.7.

4.8 **Subsidiaries.** Except as set forth in Schedule 4.8, and as otherwise permitted by this Agreement, each Borrower does not own any Stock, partnership interest or other equity securities of any Person that is a Subsidiary.

4.9 **Tax Status.** Each Borrower has filed or caused to be filed all tax returns required to be filed by each such Borrower, and has no liability for any delinquent state, local or federal taxes, and, if any Borrower has contracted with any government agency, such Borrower has no liability for renegotiation of profits.

4.10 **Copyrights, Patents, Trademarks.** Each Borrower, as of the date hereof:

4.10.1 Possesses all necessary Copyrights, Patents, Trademarks, trade names and licenses to conduct its business as now operated; and

4.10.2 There is not any known conflict of such Copyrights, Patents, Trademarks, trade names and licenses with the valid Copyrights, Patents, Trademarks, trade names and license rights of any other Person that could result in a Material Adverse Change.

4.11 **Regulatory Compliance.** No Borrower is an "investment company" or a company "controlled" by an "investment company" within the meaning of the Investment Company Act of 1940. No Borrower is engaged principally, or as one of its important activities, in the business of extending credit for the purpose of purchasing or carrying margin stock (within the meaning of Regulations T, U and X of the Board of Governors of the Federal Reserve System). Each Borrower has complied with all the provisions of the Federal Fair Labor Standards Act. No Borrower has violated any statutes, laws, ordinances or rules applicable to it, violation of which could result in a Material Adverse Change.

4.12 **ERISA.** All defined benefit pension plans as defined in the Employees Retirement Income Security Act of 1974, as amended ("ERISA"), of Borrower meet, as of the date hereof, the minimum funding standards of Section 302 of ERISA. No Reportable Event or Prohibited Transaction as defined in ERISA has occurred with respect to any such plan, or any other failure by Borrower to comply with ERISA that is reasonably likely to result in Borrower's incurring any liability that could result in a Material Adverse Change.

4.13 **Solvency, Payment of Debts.** Each Borrower is solvent and able to pay its debts (including trade debts) as they mature. No transfer of property is being made by any Borrower and no obligation is being incurred by any Borrower in connection with the transactions contemplated by this Agreement or the other Loan Documents with the intent to hinder, delay, or defraud either present or future creditors of that Borrower.

4.14 **Full Disclosure.** No representation, warranty or other statement made by any Borrower in any certificate or written statement furnished to Bank contains any untrue statement of a material fact or omits to state a material fact necessary in order to make the statements contained in such certificates or statements not misleading.

4.15 **Enforceability; Priority of Security Interest.** (i) This Agreement creates a security interest which is enforceable against the Collateral in which each Borrower now has rights and will create a security interest which is enforceable against the Collateral in which such Borrower hereafter acquires rights at the time such Borrower acquires any such rights, and (ii) Bank has a perfected security interest (to the fullest extent perfection can be obtained by filing, notification to third parties, possession or control as requested by Bank from time to time in accordance with the provisions of Article 2, Article 3, Section 5.12, Section 5.15.2, Section 6.2, and Section 9.2 of this Agreement) and a first priority security interest in the Collateral in which each Borrower now has rights (subject only to Permitted Liens), and will have a perfected and first priority security interest (to the fullest extent perfection can be obtained by filing, notification to third parties, possession or control) in the Collateral in which each Borrower hereafter acquires rights at the time such Borrower acquires any such rights (subject only to Permitted Liens), in each case securing the payment and performance of the Obligations.

4.16 **Other financing Statements.** Other than financing statements in favor of Bank and financing statements filed in connection with Permitted Liens, no effective financing statement naming any Borrower as debtor, assignor, grantor, mortgagor, pledgor or the like and covering all or any part of the Collateral is on file in any filing or recording office in any jurisdiction.

4.17 **Bona Fide Accounts.** The Accounts are bona fide existing obligations created by the sale and delivery of Inventory or the rendition of services to account debtors in the ordinary course of Borrowers' business, unconditionally owed to Borrowers without defenses, disputes, offsets, counterclaims, or rights of return or cancellation. The property giving rise to such Accounts has been delivered to the account debtor, or to the account debtor's agent for immediate shipment to and unconditional acceptance by the account debtor. No Borrower has received notice of actual or imminent bankruptcy, insolvency, or material impairment of the financial condition of any account debtor regarding any Account.

4.18 **Merchantable Inventory.** All Inventory is in all material respects of good and merchantable quality, free from all material defects.

4.19 **Environmental Representations.** No Borrower has received any notice of any violation of any Environmental Law(s); and Borrower is not a party to any litigation or administrative proceeding, nor, so far as is known by any Borrower, is any litigation or administrative proceeding threatened against any Borrower which, in any case, (i) asserts or alleges that such Borrower violated any Environmental Law(s), (ii) asserts or alleges that such Borrower is required to clean up, remove, or take any other remedial or response action due to the disposal, depositing, discharge, leaking or other release of any hazardous materials, or (iii) asserts or alleges that such Borrower is required to pay all or a portion of any past, present or future clean-up, removal or other remedial or response action which arises out of or is related to the disposal, depositing, discharge, leaking or other release of any hazardous materials by such Borrower, and which, either singularly or in the aggregate, could constitute a Material Adverse Change.

4.19.1 **Existing Conditions.** To the best of Borrowers' knowledge, there are no conditions existing currently which could subject any Borrower to damages, penalties, injunctive relief or clean-up costs under any applicable Environmental Law(s), or which require, or are likely to require, clean-up, removal, remedial action or other response pursuant to any applicable Environmental Law(s) by any Borrower, and which, in any case, either singularly or in aggregate, could constitute a Material Adverse Change.

4.19.2 **Existing Orders.** No Borrower is subject to any judgment, decree, order or citation related to or arising out of any applicable Environmental Law(s), which, either singularly or in the aggregate, could constitute a Material Adverse Change; and, to the best of Borrowers' knowledge, no Borrower has been named or listed as a potentially responsible party by any governmental body or agency in any matter arising under any applicable Environmental Law(s).

4.19.3 **Permits.** Borrowers have all material permits, licenses and approvals required under applicable Environmental Laws, where the failure to so obtain or maintain any such permits, licenses or approvals could constitute a Material Adverse Change.

4.20 **Intellectual Property Collateral.** Borrowers are the sole owner of the Intellectual Property Collateral, except for non-exclusive licenses granted by any Borrower to its customers or to any other Borrower in the ordinary course of business. Each of the Patents is valid and enforceable, and no part of the Intellectual Property Collateral has been judged invalid or unenforceable, in whole or in part, and no claim has been made that any part of the Intellectual Property Collateral violates the rights of any third party.

5. AFFIRMATIVE COVENANTS OF BORROWERS

Each Borrower agrees that until the full and final payment of the Obligations and so long as Bank has any obligation to extend credit to any Borrower, and unless Bank shall otherwise consent in writing, each Borrower shall do each of the following:

5.1 **Rights and Facilities.** Maintain and preserve all rights, franchises, qualifications, licenses, approvals and other authority adequate for the conduct of its business; maintain its properties, equipment and facilities in good order and repair; conduct its business in an orderly manner without voluntary interruption and maintain and preserve its legal existence.

5.2 **Use of Proceeds.** Use the proceeds of the Loans only for purposes specified in Article 1 hereof.

5.3 **Insurance.** Maintain insurance coverage on its physical assets and against other business risks in such amounts and of such types as are customarily carried by companies similar in size and nature (including, without limitation, loss of rent and/or business interruption insurance and boiler and machinery insurance), and in the event of acquisition of additional property, real or personal, or of the incurrence of additional risks of any nature, increase such insurance coverage in such manner and to such extent as prudent business judgment and present practice would dictate; and in the case of all policies covering property subject to Collateral Documents or property in which the Bank shall have a security interest of any kind whatsoever, other than those policies protecting against casualty liabilities to strangers, all such insurance policies shall provide that the loss payable thereunder shall be payable to Borrowers (or other Person providing Collateral pursuant hereto) and Bank, with mortgagee's clauses in favor of and satisfactory to Bank for all such policies, and such policies shall also provide that they may not be canceled or changed without 30 days' prior written notice to Bank. Upon the request of Bank, all of said policies, or copies thereof, including all endorsements thereon and those required hereunder, shall be deposited with Bank.

5.4 **Taxes and Other Liabilities.** Pay and discharge, before the same become delinquent and before penalties accrue thereon, all taxes, assessments and governmental charges upon or against it or any of its properties, and all its other liabilities at any time existing, except to the extent and so long as: (a) the same are being contested in good faith and by appropriate proceedings in such manner as not to cause any materially adverse effect upon its financial condition or the loss of any right of redemption from any sale thereunder; and (b) Borrowers shall have set aside on its books reserves (segregated to the extent required by GAAP) deemed by it to be adequate with respect thereto.

5.5 **Records and Reports.** Maintain a standard and modern system of accounting in accordance with GAAP; permit Bank's representatives to have access to, and to examine its properties, books and records at all reasonable times and upon reasonable notice during normal business hours; and furnish Bank:

5.5.1 **Quarterly Financial Statements.** As soon as available, and in any event within 45 days after the close of each quarter of each fiscal year of Borrowers, a consolidated and consolidating

balance sheet, profit and loss statement and reconciliation of each Borrower's, and of each Guarantor that is not a natural person, capital balance accounts as of the close of such period and covering operations for the portion of such Borrowers' or such Guarantor's fiscal year ending on the last day of such period, all in reasonable detail and reasonably acceptable to Bank, stating in comparative form the figures for the corresponding date and period in the preceding fiscal year, prepared in accordance with GAAP by Borrowers and certified by an appropriate officer of Borrowers, subject, however, to year-end adjustments.

5.5.2 **Annual Financial Statement.** As soon as available, and in any event within 120 days after and as of the close of each fiscal year of Borrower, a consolidated and consolidating report of audit of each Borrower and each Guarantor that is not a natural person, all in reasonable detail and reasonably acceptable to Bank, stating in comparative form the figures for the corresponding date and period in the preceding fiscal year, audited by an independent certified public accountant selected by Borrower and reasonably acceptable to Bank, in accordance with GAAP with the unqualified opinion of such accountant satisfactory to Bank;

5.5.3 **Audit Reports.** Promptly after the receipt thereof by Borrowers, copies of any detailed audit reports submitted to Borrowers by independent accountants in connection with each annual or interim audit of the accounts of Borrower and any Guarantor that is not a natural person performed by such accountants;

5.5.4 **Compliance Certificate.** Within 45 days after the end of each quarter and fiscal year of Borrowers, a certificate of an authorized officer of Borrowers, stating that Borrowers have performed and observed each and every covenant contained in this Agreement to be performed by them and that no event has occurred and no condition then exists which constitutes an event of default hereunder or would constitute such an event of default upon the lapse of time or upon the giving of notice and the lapse of time specified herein; or, if any such event has occurred or any such condition exists, specifying the nature thereof in the form of Exhibit 5.5.4 attached hereto;

5.5.5 **Accounts Receivable and Accounts Payable Agings.** Within 45 days of each month, deliver to Bank; (a) a detailed aging, by debtor and total, of the Accounts reconciled to the applicable general ledger of Borrowers and (b) a detailed aging, by vendor and total, of all accounts payable, reconciled to the applicable Borrowers' general ledger and setting forth the amount of any book overdraft or the amount of checks issued but not sent. All the foregoing shall be in a form and with such detail as Bank may request from time to time.

5.5.6 **Guarantors' Financial Statements.** Cause each Guarantor that is a natural person to submit to Bank such Guarantor's financial statement, confirmed as to its correctness by Guarantor's signature, either on Bank's form, attached hereto as Exhibit 5.5.6, or prepared by an independent certified public accountant within 120 days of the end of each fiscal year of Borrower and a completed copy of such Guarantor's federal income tax return for the previous calendar year, no later than 45 days after filing of same with the Internal Revenue Service together with each form K-1 filed on behalf of such Guarantor.

5.5.7 **Other Information.** Such other information relating to the affairs of Borrower as Bank may reasonably request from time to time.

5.6 **ERISA.** Cause all defined benefit pension plans, as defined in ERISA, of Borrower to, at all times, meet the minimum funding standards of Section 302 of ERISA, and ensure that no Reportable Event or Prohibited Transaction, as defined in ERISA, shall occur with respect to any such plan that is reasonably likely to result in Borrower's incurring any liability that could result in a Material Adverse Change.

5.7 **Laws.** At all times comply with, or cause to be complied with, all laws, statues, rules, regulations, orders and directions of any governmental authority having jurisdiction over Borrower or Borrower's business, violation of which could result in a Material Adverse Change.

5.8 **Compliance with GAAP.** All information used in and the calculation of Borrower's compliance with all financial covenants hereunder shall be based on and in accordance with GAAP.

5.9 **Operating Accounts.** Maintain all primary depository and operating accounts and banking relationship with Bank. Maintain, or cause to be maintained, on deposit with Bank, non-interest bearing demand deposit balances sufficient to compensate Bank for all services provided to Borrower by Bank. All deposit balances shall be calculated after reduction for the reserve requirement of the Federal Reserve Board and uncollected funds. Any deficiencies therein shall be charged directly to Borrower on a monthly basis.

5.10 **Notices.** Promptly notify Bank in writing of (i) the occurrence of any Event of Default hereunder or any event that, upon notice or upon notice and the lapse of time specified herein, would be an Event of Default under this Agreement or under any other Loan Document; (ii) all litigation affecting Borrower where the amount is $100,000 or more; any substantial dispute which may exist between Borrower and any governmental regulatory body or law enforcement authority; any change in Borrower's name or principal place of business; or any other matter which has resulted or could result in a Material Adverse Change.

5.11 **Audits.** Permit representatives of Bank to conduct audits of Borrower's books and records relating to the Accounts, Inventory and other Collateral and make extracts therefrom, with results satisfactory to Bank, provided that Bank shall use its best efforts to not interfere with the conduct of Borrower's business, and to the extent possible to arrange for verification of the Accounts directly with the account debtors obligated thereon or otherwise, all under reasonable procedures acceptable to Bank and at Borrower's sole expense; provided, further, that, prior to an Event of Default, Borrower shall not be responsible for the expense of more than one such audit, in any fiscal year.

5.12 **Location of Inventory and Equipment.** Keep the Inventory and Equipment only at the locations identified on Schedule 5.12; provided, however, that Borrower may amend Schedule 5.12 so long as such amendment occurs by written notice to Bank not less than 30 days prior to the date on which the Inventory or Equipment is moved to such new location, so long as such new location is within the continental United States, and so long as, at the time of such written notification, Borrower provides any financing statements or fixture filings necessary to perfect and continue perfected Bank security interests in such assets and also provides to Bank a collateral access agreement in form and substance satisfactory to Bank.

5.13 **Preservation of Inventory.** To do all acts necessary to maintain, preserve, and protect the Inventory, keep all Inventory in good and marketable condition and repair, free from all material defects except for Inventory for which adequate reserves have been made, and not to cause any waste or unusual or unreasonable depreciation thereof.

5.14 **Environmental Covenants.** Comply in all material respects with all applicable Environmental Laws, and maintain all material permits, licenses and approvals required under applicable Environmental Laws, where the failure to do so could constitute a Material Adverse Change. Promptly notify Bank, in writing, as soon as any Borrower becomes aware of any condition or circumstance which makes any of the environmental representations or warranties set forth in this Agreement incomplete, incorrect or inaccurate in any material respect as of any date; and promptly provide to Bank, immediately upon receipt thereof, copies of any material correspondence, notice, pleading, citation, indictment, complaint, order, decree, or other document from any source asserting or alleging a violation of any Environmental Laws by any Borrower, or of any circumstance or condition which requires or may require, a financial contribution by any Borrower, or a clean-up, removal, remedial action or other response by or on behalf of any Borrower, under applicable Environmental Law(s), or which seeks damages or civil, criminal, or punitive penalties from any Borrower, or any violation or alleged violation of Environmental Law(s).

5.15 **Registration and Reporting of Intellectual Property Rights.**

5.15.1 Register or cause to be registered on an expedited basis (to the extent not already registered) with the United States Patent and Trademark Office or the United States Copyright Office, as applicable: (i) those intellectual property rights listed on each of Exhibit A, Exhibit B, and Exhibit C to this Agreement, within 30 days of the date hereof, (ii) all material registerable intellectual property rights such Borrower has developed as of the date of this Agreement but heretofore failed to register, within 30 days of the date of this Agreement, and (iii) those additional material intellectual property rights developed or acquired by any Borrower from time to time in connection with any product, prior to the sale or licensing of such product to any third party, and prior to any Borrower's use of such product (including without limitation major revisions or additions to the intellectual property rights listed on Exhibits A, B and C). Borrowers shall give Bank notice of all such applications or registrations. As used in this Section 5.15, "material" intellectual property rights shall mean, as of any date of determination, any rights in Intellectual Property that constitute in excess of 5% of any Borrower's annualized gross sales as of such date or with respect to which the loss of such intellectual property rights could otherwise result in a Material Adverse Change.

5.15.2 Execute and deliver such additional instruments and documents from time to time as Bank shall reasonably request to perfect Bank's security interest in the Intellectual Property Collateral.

5.15.3 Take all commercially reasonable actions to protect, defend and maintain the validity and enforceability of the Trademarks, Patents and Copyrights and use its best efforts to detect infringements of the Trademarks, Patents and Copyrights and promptly advise Bank in writing of material infringements detected. Not allow any material Trademarks, Patents or Copyrights to be abandoned, forfeited or dedicated to the public without the written consent of Bank, which shall not be unreasonably withheld.

5.15.4 Within thirty 30 days of the filing of any application or registration of any Copyright, Patent or Trademark or the occurrence of any material change in or conflict with respect to any Borrower's Intellectual Property Collateral, including but not limited to any subsequent ownership right of any Borrower in or to any Copyright, Patent or Trademark not specified in Exhibits A, B, and C to this Agreement, deliver to Bank a report, signed by Borrowers and in form reasonably acceptable to Bank, listing any such applications or registrations that any Borrower has made or filed in respect of any such Copyrights, Patents or Trademarks and the status of any such outstanding applications or registrations, or describing any such material change in or conflict with respect to any Borrower's Intellectual Property Collateral.

5.15.5 That Bank may audit Borrower's Intellectual Property Collateral to confirm compliance with this Section 5.15, provided such audit may not occur more often than once per year, unless an Event of Default has occurred and is continuing. Bank shall have the right, but not the obligation, to take, at Borrower's sole expense, any actions that Borrower is required under this Section 5.15 to take but which Borrower fails to take, after 15 days' notice to Borrower. Borrower shall reimburse and indemnify Bank for all reasonable costs and reasonable expenses incurred in the reasonable exercise of its rights under this Section 5.15.

5.16 **Authorization and Request of Intellectual Property Filings.** Each Borrower hereby authorizes and requests that the Register of Copyrights and the Commissioner of Patents and Trademarks record this security agreement.

6. NEGATIVE COVENANTS OF BORROWER

Each Borrower agrees that until the full and final payment of the Obligations and so long as Bank has any obligation to extend credit to any Borrower, and unless Bank shall otherwise consent in writing, Borrowers shall not do any of the following:

6.1 **Type of Business; Management; Change of Control.** Make any substantial change in the character of its business; make any change in its executive management; or permit the current shareholders to decrease their ownership in any Borrower; provided, however, that under exigent

circumstances, with the exception of Mr. Robert R. Hollis, Borrower may change a member of its executive management or permit an exiting shareholder to decrease their ownership in any Borrower, subject, however, to the subsequent consent and agreement of Bank to any such management change or decrease in ownership.

6.2 **Change of Name.** Change its legal name, trade names, trade styles or trade dress, or add any new trade names or trade styles or trade dress unless (i) any such Borrower gives Bank 30 days' prior written notice thereof, and (ii) such Borrower executes and delivers such additional agreements, instruments and documents as Bank shall reasonably require to maintain Bank's perfected security interests in the Collateral. Anything contained in the forgoing to the contrary notwithstanding, each Borrower may change trade names, styles and dress from time to time in accordance with its Branding Standards, consistently applied so long as any such change does not and could not result in a Material Adverse Change.

6.3 **Change of State of Incorporation.** Change its state of incorporation or formation.

6.4 **Outside Indebtedness.** Create, incur, assume or permit to exist any indebtedness for borrowed moneys other than those obligations being refinanced by Bank and other than Permitted Indebtedness and amounts owing to Wells Fargo Bank by Borrowers that are repaid in full with the proceeds of the Term Loan on the Closing Date, or sell or transfer, either with or without recourse, any accounts or notes receivable or any moneys due or to become due.

6.5 **Liens and Encumbrances.** Create, incur, permit to exist, or assume any mortgage, pledge, encumbrance, Lien or charge of any kind upon any asset now owned or hereafter acquired by it, other than liens for taxes not delinquent and liens in Bank's favor and other than liens agreed to in writing by Bank and other than Permitted Liens and liens in favor of Wells Fargo Bank that will be terminated in connection with the repayment in full of all amounts owing to Wells Fargo Bank with the proceeds of the Term Loan on the Closing Date.

6.6 **Loans, Investments; Secondary Liabilities.** Except for Permitted Investments, directly or indirectly make any loans or advances to any Person, or directly or indirectly make any capital contribution to, or acquire, own or make any investment in the securities of, any Person; directly or indirectly guarantee or otherwise become liable upon the obligation of any Person, except for (a) guaranties in favor of and satisfactory to Bank, (b) endorsements of negotiable instruments for deposit or collection in the ordinary and normal course of its business as now conducted and any guaranties arising in connection with any currency agreements or interest rate agreements permitted under clause (h) of the definition of Permitted Investments.

6.7 **Acquisition or Sale of Business; Merger or Consolidation.** Purchase or otherwise acquire the assets or business of any person or other entity; or liquidate, dissolve, merge or consolidate, or commence any proceedings therefor; or sell any assets; or sell, lease, assign, or transfer any substantial part of its business or fixed assets, or any property or other assets necessary for the continuance of its business as now conducted, including without limitation the selling of any property or other asset accompanied by the leasing back of the same, other than (a) transfers of Inventory in the ordinary course of Borrowers' business; (b) transfers of non-exclusive licenses and similar arrangements for the use of the property of any Borrower or its Subsidiaries; (c) transfers of surplus, worn-out or obsolete Equipment or (d) the Permitted Transaction.

6.8 **Distributions; Dividends.** Make any distribution or declare or pay any dividend on any of its Stock now outstanding or hereafter issued or purchase, redeem or retire any of such Stock other than in dividends or distributions payable in Borrowers' Stock, except for the redemption, repurchase or acquisition of Borrowers' Stock from officers, directors, employees or consultants of any Borrower upon termination of their employment with or rendering of service to such Borrower; provided, however, that after giving effect to such redemption, repurchase or acquisition, Borrowers shall be in full compliance with the terms of this Agreement.

6.9 **Subordinated Liabilities.** Make any payments of interest or principal on any Subordinated Debt, or amend any provision contained in any documentation relating to the Subordinated Debt without Bank's prior written consent.

6.10 **Transactions with Subsidiaries and Affiliates.** Directly or indirectly enter into or permit to exist any material transaction with any Subsidiary or Affiliate of any Borrower except for transactions that are in the ordinary course of such Borrower's business, upon fair and reasonable terms that are no less favorable to such Borrower than would be obtained in an arm's length transaction with a non-affiliated Person.

6.11 **Prepayment of Indebtedness.** Prepay any Indebtedness (or take any actions, which impose an obligation to prepay), except, subject to the terms hereof or thereof, (a) the Obligations and (b) all amounts owing to Wells Fargo Bank by Borrowers that are repaid in full with the proceeds of the Term Loan on the Closing Date.

6.12 **Pension Plans.** Except in compliance with this Agreement, enter into, maintain, or make contribution to, directly or indirectly, any pension plan that is subject to ERISA.

6.13 **Subordination of Indebtedness.** Subordinate any indebtedness due to it from any Person to indebtedness of other creditors of such Person; provided, however, that nothing in the forgoing shall be deemed to prohibit the extension of trade terms to any Account debtor of any Borrower in accordance with the ordinary course of such Borrower's business and consistent with its past practices.

6.14 **No Further Negative Pledges.** Enter into or become subject to any agreement (other than this Agreement or the Loan Documents) (a) prohibiting the guaranteeing by any Borrower of any obligations, (b) prohibiting the creation or assumption of any lien or encumbrance upon the properties or assets of any Borrower whether now owned or hereafter acquired, or (c) requiring an obligation to become secured (or further secured) if another obligation is secured or further secured.

6.15 **Accounts Receivable.** Sell or assign any Account, account receivable, note or trade acceptance, except to Bank.

6.16 **Intellectual Property Agreements.** Borrower shall not permit the inclusion in any material contract to which it becomes a party of any provisions that could or might in any way prevent the creation of a security interest in Borrower's rights and interests in any property included within the definition of the Intellectual Property Collateral acquired under such contracts.

7. FINANCIAL COVENANTS

Each Borrower agrees that until the full and final payment of the Obligations and so long as Bank has any obligation to extend credit to Borrowers, and unless Bank shall otherwise consent in writing, Borrowers shall not fail to comply with the following:

7.1 **Minimum Cash Flow Coverage Ratio.** Maintain as of the end of each quarter a consolidated Cash Flow Coverage Ratio equal to at least 1.50:1.00. Calculations to determine compliance with this Section 7.1 shall be computed for the 12 month period ending on the last day of the applicable quarter.

7.2 **Maximum Total Debt to Effective Tangible Net Worth.** Maintain at all times a consolidated ratio of Debt to Effective Tangible Net Worth of not greater than the following during each of the respective periods:

Period	Amount
From January 1 through September 30 of each calendar year	3.25:1.00
From October 1 through December 31 of each calendar year	2.75:1.00

7.3 **Minimum Trading Capital.** Maintain a consolidated trading capital, defined as the sum of (a) Borrowers' cash *plus* accounts receivable *plus* inventory *minus* (b) Funded Revolving Debt of not greater than the following during each of the respective periods:

Period	Amount
From February 1 through April 30 of each calendar year	$7,000,000
From May 1 through January 31 of each calendar year	$7,700,000

7.4 **Foreign Asset Ratio.** Maintain at all times a consolidated ratio of Foreign Assets to Total Assets of not greater than .25:1.00.

7.5 **Capital Expenditures.** Make or incur obligations for fixed or capital assets, which includes purchase money indebtedness or capital lease obligations in excess of $1,000,000 from the date hereof until December 31, 2001, or $1,000,000 in any 12 month period thereafter.

8. EVENTS OF DEFAULT

The occurrence of any of the following events of default ("Events of Default") shall, at Bank's option, terminate Bank's commitment to lend and make all sums of principal and interest then remaining unpaid on all Borrowers' indebtedness to Bank immediately due and payable, all without demand, presentment or notice, all of which are hereby expressly waived:

8.1 **Failure to Pay.** Failure to pay any principal, interest or other sums due to Bank under this Agreement or any other Loan Document or the failure of any Guarantor to pay, when due, any indebtedness, obligation or liability whatsoever of any such Guarantor to Bank, in each case within 10 days of the due date thereof.

8.2 **Breach of Representations and Warranties, Affirmative, Negative or Financial Covenants.** Failure of Borrowers or any Guarantor to observe or perform any term or condition set forth in Articles 6 or 7 hereof.

8.3 **Breach of Other Covenants.** Failure of Borrowers or any Guarantor to observe or perform any other term or condition of this Agreement (other than those terms and conditions described in Sections 8.1 and 8.2 hereof), and such failure continues for 30 days after the earlier of (a) Borrowers' or such Guarantor's discovery of such failure and (b) Bank's dispatch of notice to such Borrowers or such Guarantor of such failure.

8.4 **Breach of Warranty.** Any of Borrowers' or any Guarantor's representations or warranties made herein or in any statement or certificate at any time given in writing pursuant hereto or in connection herewith shall be false or misleading in any material respect, or if any such representation, warranty, statement or certification is withdrawn.

8.5 **Breach Under any Other Loan Document.** Any default or event of default, as the case may be, in the observance or performance by any Borrower, any Guarantor or any other Person (excluding Bank) of any term or condition of any other Loan Document or any other document, instrument or agreement with or in favor of Bank entered into by or binding upon any Borrower, any Guarantor or any such other Person, and the continuation thereof beyond any applicable period of grace or cure provided with respect thereto.

8.6 **Default under Agreements with Other Persons.** Any default by any Borrower or any Guarantor in the payment of any Indebtedness (other than Indebtedness owing to Bank) in an aggregate amount in excess of $100,000, or in the observance or performance of any conditions, covenants or agreements related or given with respect thereto or any other agreement, the failure to perform under which could constitute a Material Adverse Change and, in each such case, continuation thereof beyond any applicable grace or cure period with respect thereto, except to the extent that certain intellectual property agreements or equipment financing agreements prohibit the assignment of the rights thereunder to a third party without the licensor's or other party's consent and this Agreement or any other Loan Document constitutes an assignment; provided, however, that any such default could not constitute a Material Adverse Change.

8.7 **Judgments.** One or more judgments or decrees for the payment of money in excess of the sum of $250,000, in the aggregate, or any writ or warrant of attachment or similar process is entered, filed or rendered against any Borrower or any Guarantor, and such judgment(s) or decree(s) shall remain unvacated, unbonded or unstayed, by appeal or otherwise, for a period of 45 consecutive days after the date of entry.

8.8 **Ownership.** If there shall be (a) any voluntary change in the management, ownership or control of any Borrower or any Guarantor, by any reason, which could constitute a Material Adverse Change, or (b) any change in the management, ownership or control of any Borrower or any Guarantor, whether by reason of the incapacity, death, resignation, termination or otherwise of Mr. Robert R. Hollis.

8.9 **ERISA Compliance.** Failure by any Borrower or any Guarantor, to meet the minimum funding requirements under ERISA with respect to any pension plan established or maintained by it; the occurrence of any "reportable event", as defined in ERISA, which could constitute grounds for termination by the PBGC of any pension plan or for the appointment by the appropriate United States District Court of a trustee to administer such pension plan, and such reportable event is not corrected and such determination is not revoked within thirty (30) days after notice thereof has been given to the plan administrator or such Borrower, any such Guarantor, as the case may be; or the institution of any proceedings by the PBGC to terminate any such pension plan or to appoint a trustee by the appropriate United States District Court to administer any such pension plan.

8.10 **Insolvency; Receiver or Trustee.** Any Borrower or any Guarantor shall become insolvent; or admit its inability to pay its debts as they mature; or make an assignment for the benefit of creditors; or applies for, consents to or acquiesces in the appointment of a trustee, receiver liquidator, conservator or custodian for it or for a substantial part of its property or business.

8.11 **Bankruptcy.** Bankruptcy, insolvency, reorganization or liquidation proceedings or other proceedings for relief under any bankruptcy law or any law for the relief of debtors shall be instituted by or against any Borrower or any Guarantor and, if instituted against it, shall not be dismissed within 30 days thereafter.

8.12 **Security Interest.** This Agreement or any other Loan Document ceases to be in full force and effect (including the failure of this Agreement or any other Loan Document to create a valid and perfected security interest or lien on the Collateral, to the fullest extent perfection can be obtained by filing, notification to third parties, possession or control as requested by Bank from time to time in accordance with the provisions of Article 2, Article 3, Section 5.12, Section 5.15.2, Section 6.2, and Section 9.2 of this Agreement) at any time and for any reason.

8.13 **Revocation of Guarantee or Subordination Agreement.** Any guarantee or subordination agreement required hereunder is breached or becomes ineffective, or any Guarantor or any subordinated creditor disavows or attempts to revoke or terminate such guarantee or subordination agreement, or any Guarantor that is a natural person shall die.

8.14 **Cessation of Business.** Any Borrower or any Guarantor that is not a natural person shall voluntarily suspend its business.

8.15 **Material Adverse Change.** Any change which, in the opinion of Bank, has resulted or could result in a Material Adverse Change.

8.16 **Attachments.** If any material portion of any Borrower's or any Guarantor's properties or assets is attached, seized, subjected to a writ or distress warrant, or is levied upon, or comes into the possession of any third Person and such attachment, seizure, writ or distress warrant or levy has not been removed, discharged or rescinded within 10 days, or if any Borrower or any Guarantor is enjoined, restrained, or in any way prevented by court order from continuing to conduct all or any material part of its business affairs, or if a judgment or other claim becomes a lien or encumbrance upon any material portion of such Borrower's or such Guarantor's assets, or if a notice of lien, levy, or assessment is filed of record with respect to any Borrower's or Guarantor's assets by the United States Government, or any department, agency, or instrumentality thereof, or by any state, county, municipal, or governmental agency, and the same is not paid within 10 days after such Borrower or such Guarantor receives notice thereof, provided that none of the foregoing shall constitute an Event of Default where such action or event is stayed or an adequate bond has been posted pending a good faith contest by such Borrower or such Guarantor (provided that no credit extensions will be required to be made during such cure period).

8.17 **Other Defaults.** Any Borrower or any Guarantor shall commit or do or fail to commit or do any act or thing which would constitute an event of default under any of the terms of any other agreement, document or instrument executed or to be executed by it concerning the obligation to pay money in an aggregate amount in excess of $100,000, except to the extent that certain intellectual property agreements or equipment financing agreements prohibit the assignment of the rights thereunder to a third party without the licensor's or other party's consent and this Agreement or any other Loan Document constitutes an assignment; provided, however, that in any event such default could not constitute a Material Adverse Change.

9. BANK'S RIGHTS AND REMEDIES

9.1 **Rights and Remedies.** Upon the occurrence and during the continuation of an Event of Default, Bank may, at its election, without notice of its election and without demand, do any one or more of the following, all of which are authorized by Borrowers:

9.1.1 Declare all Obligations, whether evidenced by this Agreement, by any of the other Loan Documents, or otherwise, immediately due and payable; provided, however, that upon the occurrence of an Event of Default described in Section 8.11, all Obligations shall become immediately due and payable without any action by Bank;

9.1.2 Cease advancing money or extending credit to or for the benefit of Borrowers under this Agreement, under any of the other Loan Documents, or under any other agreement between Borrowers and Bank; provided, however, that Bank shall have no duty to make advances while any Event of Default exists notwithstanding any cure period provided for herein;

9.1.3 Terminate this Agreement and any of the other Loan Documents as to any future liability or obligation of Bank, but without affecting Bank's rights and security interests in the Collateral and without affecting the Obligations;

9.1.4 Demand that Borrowers (i) deposit cash with Bank in an amount equal to the amount of any Letters of Credit remaining undrawn, as collateral security for the repayment of any future drawings under such Letters of Credit, and Borrowers shall forthwith deposit and pay such amounts, and (ii) pay in advance all Letters of Credit fees scheduled to be paid or payable over the remaining term of the Letters of Credit;

9.1.5 Increase the rate of interest applicable to all Obligations outstanding under this Agreement to a rate equal to the then applicable interest rate *plus* 3%, which interest, in any case, shall be payable upon demand;

9.1.6 Settle or adjust disputes and claims directly with account debtors for amounts, upon terms and in whatever order that Bank reasonably considers advisable;

9.1.7 Without notice to or demand upon Borrowers or any Guarantor, make such payments and do such acts as Bank considers necessary or reasonable to protect its security interest in the Collateral. Borrowers agree to assemble the Collateral if Bank so requires, and to deliver or make available to Bank all or any portion of the Collateral and any and all certificates of title and other documents relating thereto as Bank may designate. Borrowers authorize Bank to enter the premises where the Collateral is located, to take and maintain possession of the Collateral, or any part of it, and to pay, purchase, contest, or compromise any encumbrance, charge, or lien which in Bank's determination appears to be prior or superior to its security interest and to pay all expenses incurred in connection therewith. With respect to any of Borrowers' owned premises, Borrowers hereby grant Bank a license to enter into possession of such premises and to occupy the same, without charge, in order to exercise any of Bank's rights or remedies provided herein, at law, in equity, or otherwise;

9.1.8 Without notice to Borrowers, set off and apply to the Obligations any and all (i) balances and deposits of Borrowers held by Bank, or (ii) indebtedness at any time owing to or for the credit or the account of any Borrower held by Bank;

9.1.9 Ship, reclaim, recover, store, finish, maintain, repair, prepare for sale, advertise for sale, and sell (in the manner provided for herein) the Collateral. Bank is hereby granted a license or other right, solely pursuant to the provisions of this Section 9.1, to use, without charge, Borrowers' labels, patents, copyrights, rights of use of any name, trade secrets, trade names, trademarks, service marks, and advertising matter, or any property of a similar nature, as it pertains to the Collateral, in completing production of, advertising for sale, and selling any Collateral and, in connection with Bank's exercise of its rights under this Section 9.1, Borrowers' rights under all licenses and all franchise agreements shall inure to Bank's benefit;

9.1.10 Sell the Collateral at either a public or private sale, or both, by way of one or more contracts or transactions, for cash or on terms, in such manner and at such places (including Borrowers' premises) as Bank determines is commercially reasonable, and apply any proceeds to the Obligations in whatever manner or order Bank deems appropriate; provided, however, that Bank shall have no obligation to clean-up or otherwise prepare the Collateral for sale;

9.1.11 Bank may credit bid and purchase at any public sale, or at any private sale as permitted by law;

9.1.12 in addition to any other rights, relief or remedies afforded Bank, to the extent permitted by applicable law without notice or consent and completely without regard to the adequacy of any security for the Obligations, Bank may have a receiver appointed as a matter of right, who may be an employee of Bank and may serve without bond, and all fees of such receiver and his or her attorney shall become part of the Obligations secured by this Agreement and payable from the disposition of the Collateral, payable upon demand with interest at the rate applicable to Loans hereunder until repaid, and such receiver, in addition to any other rights to which he shall be entitled, shall be authorized to sell,

foreclose or conduct a complete foreclosure on all Collateral contemplated by this Agreement for the benefit of Bank, pursuant to provisions of applicable law; and

9.1.13 Any deficiency that exists after disposition of the Collateral as provided above shall be paid immediately by Borrowers.

9.2 **Power of Attorney.** Each Borrower hereby irrevocably makes, constitutes, and appoints Bank (and any of Bank's designated officers, employees or agents) as Borrower's true and lawful attorney to, upon the occurrence and during the continuance of an Event of Default: (a) send requests for verification of Accounts or notify account debtors of Bank's security interest in the Accounts; (b) endorse Borrower's name on any checks or other forms of payment or security that may come into Bank's possession; (c) sign Borrower's name on any invoice or bill of lading relating to any Account, drafts against account debtors, schedules and assignments of Accounts, verifications of Accounts, and notices to account debtors; (d) dispose of any Collateral; (e) make, settle, and adjust all claims under and decisions with respect to Borrower's policies of insurance; (f) settle and adjust disputes and claims respecting the accounts directly with account debtors, for amounts and upon terms which Bank determines to be reasonable; and (g) to file, in its sole discretion, one or more financing or continuation statements and amendments thereto, relative to any of the Collateral without the signature of Borrower where permitted by law; (h) to modify or amend, in its sole discretion, without first obtaining Borrower's approval of or signature to such modification or amendment, Exhibits A, B, and C to this Agreement, as appropriate, to include reference to any right, title or interest in any Copyrights, Patents or Trademarks acquired by Borrower after the execution hereof or to delete any reference to any right, title or interest in any Copyrights, Patents or Trademarks in which Borrower no longer has or claims to have any right, title or interest; and (i) to transfer the Intellectual Property Collateral into the name of Bank or a third party to the extent permitted under the Code; provided, however, that Bank or any of its designees or attorneys-in-fact may exercise such power of attorney to sign the name of Borrower on any of the documents described in Section 2.3, and to do any and all things necessary in the name and on behalf of Borrower in order to perfect, or continue the perfection of, Bank's security interests in the Collateral, regardless of whether an Event of Default has occurred or is continuing. Each Borrower agrees that neither Bank, nor any of its designees or attorneys-in-fact, will be liable for any act of commission or omission, or for any error of judgment or mistake of fact or law with respect to the exercise of the power of attorney granted under this Section 9.2, other than as a result of its or their gross negligence or willful misconduct. The appointment of Bank as attorney in fact for each Borrower and each and every one of Bank's rights and powers granted under this Section 9.2, being coupled with an interest, shall be irrevocable until all of the Obligations have been indefeasibly paid in full, Bank's obligation to provide advances hereunder has been terminated, and all Borrowers' duties hereunder have been performed in full.

9.3 **Accounts Collection.** At any time during the term of this Agreement, Bank may notify any Person owing funds to Borrowers of Bank's security interest in such funds and verify the amount of such Account. Borrowers shall collect all amounts owing to Borrowers for Bank, receive in trust all payments as Bank's trustee, and immediately deliver such payments to Bank in their original form as received from the account debtor, with proper endorsements for deposit.

9.4 **Payment of Expenses by Bank.** If Borrowers fail to pay any amounts or furnish any required proof of payment due to third persons or entities, as required under the terms of this Agreement, then Bank may do any or all of the following after reasonable notice to Borrowers: (a) make payment of the same or any part thereof; (b) set up such reserves under the Revolving Facility as Bank deems necessary to protect Bank from the exposure created by such failure; or (c) obtain and maintain insurance policies of the type discussed in Section 5.3 hereof, and take any action with respect to such policies as Bank deems prudent. Any amounts so paid or deposited by Bank shall be immediately due and payable, and shall bear interest at the rate applicable to the Loans from time to time, and shall be secured by the Collateral. Any payments made by Bank shall not constitute an agreement by Bank to make similar payments in the future or a waiver by Bank of any Event of Default under this Agreement.

9.5 **No Obligation to Pursue Others.** Bank shall have no obligation to attempt to satisfy the Obligations by collecting them from any third Person which may be liable for them or any portion thereof, and Bank may release, modify or waive any collateral provided by any other Person as security for the Obligations or any portion thereof, all without affecting Bank's rights against Borrowers. Each Borrower waives any right it may have to require Bank to pursue any third Person for any of the Obligations.

9.6 **Compliance with Other Laws.** Bank may comply with any applicable state or federal law requirements in connection with a disposition of the Collateral, and Bank's compliance therewith will not be considered to adversely affect the commercial reasonableness of any sale of the Collateral.

9.7 **Warranties.** Bank may sell the Collateral without giving any warranties as to the Collateral. Bank may specifically disclaim any warranties of title or the like. This procedure will not be considered to adversely affect the commercial reasonableness of any sale of the Collateral.

9.8 **Sales on Credit.** If Bank sells any of the Collateral upon credit, Borrowers will be credited only with payments actually made by the purchaser, received by Bank and applied to the indebtedness of the purchaser. In the event that the purchaser fails to pay for the Collateral, Bank may resell the Collateral and Borrowers will be credited with the proceeds of such sale.

9.9 **No Marshaling.** Bank shall be under no obligation to marshal any assets in favor of Borrowers, or against or in payment of the Obligations or any other obligation owned to Bank by Borrowers or any other Person.

9.10 **Government Consents.** Upon the exercise by Bank of any power, right, privilege, or remedy pursuant to this Agreement which requires any consent, approval, registration, qualification, or authorization of any federal, state, local or other governmental authority, each Borrower agrees to execute and deliver, or will cause the execution and delivery of, all applications, certificates, instruments, assignments, and other documents and papers that Bank or any purchaser of the Collateral may be required to obtain for such governmental consent, approval, registration, qualification, or authorization.

9.11 **Bank's Liability for Collateral.** So long as Bank complies with its obligations under the Code, Bank shall not in any way or manner be liable or responsible for: (a) the safekeeping of the Collateral; (b) any loss or damage thereto occurring or arising in any manner or fashion from any cause; (c) any diminution in the value thereof; or (d) any act or default of any carrier, warehouseman, bailee, forwarding agency, or other person whomsoever. All risk of loss, damage or destruction of the Collateral shall be borne by Borrowers.

9.12 **Waiver of Defaults.** No Event of Default shall be waived by Bank except in a written instrument specifying the scope and terms of such waiver and signed by an authorized officer of Bank, and such waiver and shall be effective only for the specific time(s) and purpose(s) given. No single or partial exercise of any right, power or privilege hereunder, nor any delay in the exercise thereof, shall preclude other or further exercise of Bank's rights. No waiver of any Event of Default shall extend to any other or further Event of Default. No forbearance on the part of Bank in enforcing any of Bank's rights or remedies hereunder or any of the other Loan Documents shall constitute a waiver of any of its rights or remedies. Each Borrower expressly agrees that this Section may not be waived or modified by Bank by course of performance, estoppel or otherwise.

9.13 **Remedies Cumulative.** Bank's rights and remedies under this Agreement, the Loan Documents, and all other agreements shall be cumulative and not alternative. Bank shall have all other rights, powers and remedies not inconsistent herewith as provided under the Code, by law, or in equity against Borrowers or any other person, including but not limited to Bank's rights of setoff or banker's lien. No exercise by Bank of one right or remedy shall be deemed an election, and no waiver by Bank of any Event of Default on Borrowers' part shall be deemed a continuing waiver. No delay by Bank shall constitute a waiver, election, or acquiescence by it. No waiver by Bank shall be effective unless made in a

written document signed on behalf of Bank and then shall be effective only in the specific instance and for the specific purpose for which it was given.

9.14 **Demand; Protest.** Each Borrower waives demand, protest, notice of protest, notice of default or dishonor, notice of payment and nonpayment, notice of any default, nonpayment at maturity, release, compromise, settlement, extension, or renewal of accounts, documents, instruments, chattel paper, and guarantees at any time held by Bank on which any Borrower may in any way be liable.

10. MISCELLANEOUS PROVISIONS

10.1 **Other Loan(s).** Any loan made by Bank to any Borrower prior to or after the date of this Agreement and other obligations outstanding from Borrowers to Bank are subject to the terms and conditions of this Agreement unless otherwise agreed in writing by Borrowers and Bank. The interest rate, payments of principal and interest and other the terms contained in any note(s) evidencing any such prior loan(s) shall remain in full force and effect, and each Borrower ratifies and reaffirms the continuing effectiveness of any such prior note(s) and agrees to continue to make payments in accordance with the terms thereof.

10.2 **Failure or Indulgence Not Waiver.** No failure or delay on the part of Bank or any holder of notes issued hereunder, in the exercise of any power, right or privilege hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any such power, right or privilege preclude other or further exercise thereof or of any other right, power or privilege. All rights and remedies existing under this Agreement or any note (s) issued in connection with a Loan that Bank may make hereunder, are cumulative to, and not exclusive of, any rights or remedies otherwise available.

10.3 **Amendment and Waiver.** At all times during the effectiveness of this Agreement or any other Loan Document, (a) no waiver of any provision of this Agreement or any Loan Document, nor consent to any departure by Borrowers, therefrom, shall in any event be effective unless the same shall be in writing and signed by Bank, and (b) no amendment or modification of any provision of this Agreement or any other Loan Document shall in any event be effective unless the same shall be in writing and signed by Borrowers and Bank, and then in each case any such waiver, consent, amendment or modification shall be effective only in the specific instance(s) and for the specific time(s) and purpose(s) for which given.

10.4 **Construction, Interpretation.**

10.4.1 Neither this Agreement nor any uncertainty or ambiguity herein shall be construed or resolved against Bank or Borrowers, whether under any rule of construction or otherwise. On the contrary, this Agreement has been reviewed by all parties and shall be construed and interpreted according to the ordinary meaning of the words used so as to fairly accomplish the purposes and intentions of all parties hereto.

10.4.2 Unless the context of this Agreement clearly requires otherwise, references to the plural include the singular, references to the singular include the plural, the term "including" is not limiting, and the term "or" has, except where otherwise indicated, the inclusive meaning represented by the phrase "and/or." The words "hereof," "herein," "hereby," "hereunder," and similar terms in this Agreement refer to this Agreement as a whole and not to any particular provision of this Agreement. An Event of Default shall "continue" or be "continuing" until such Event of Default has been waived in writing by Bank. Section, subsection, clause, schedule, and exhibit references are to this Agreement unless otherwise specified. Any reference in this Agreement or in the Loan Documents to this Agreement or any of the Loan Documents shall include all alterations, amendments, changes, extensions, modifications, renewals, replacements, substitutions, and supplements, thereto and thereof, as applicable. All accounting terms shall have the meanings applied under GAAP unless otherwise specified. All section titles appear as a matter of convenience only and shall not affect the interpretation of this Agreement.

10.4.3 Each covenant hereunder shall be given independent effect so that if a particular action or condition is not permitted by any such covenant, the fact that it would be permitted by an exception to, or would be otherwise within the limitations of, another covenant shall not avoid the occurrence of any Event of Default.

10.5 **Cumulative Effect, Conflict of Terms.** The provisions of the other Loan Documents are hereby made cumulative with the provisions of this Agreement. Except as otherwise provided in any of the other Loan Documents by specific reference to the applicable provision of this Agreement, if any provision contained in this Agreement is in direct conflict with, or inconsistent with, any provision in any of the other Loan Documents, the provision contained in this Agreement shall govern and control.

10.6 **Counterparts; Entire Agreement.** This Agreement may be executed by the parties hereto in several counterparts, each of which shall be deemed to be an original and all of which shall constitute together but one and the same agreement. This Agreement, together with the other Loan Documents constitute the entire understanding among the parties hereto with respect to the subject matter hereof and supersedes any prior agreements, written or oral, with respect thereto.

10.7 **Bank's Expenses and Attorney's Fees.** If, at any time or times regardless of whether an Event of Default then exists, Bank pays or incurs legal or accounting expenses or any other costs or expenses in connection with (a) the negotiation and preparation of this Agreement or any of the other Loan Documents, any amendment of or modification of this Agreement or any of the other Loan Documents, (b) the administration of this Agreement or any of the other Loan Documents and the transactions or the Collateral contemplated hereby and thereby, (c) any litigation, contest, dispute, suit, proceeding or action (whether instituted by Bank, Borrowers, or any other person) in any way relating to the Collateral, this Agreement or any of the other Loan Documents or Borrowers' affairs, (d) any attempt to enforce any rights of Bank against Borrowers, any Guarantor, or any other person which may be obligated to Bank by virtue of this Agreement or any of the other Loan Documents, whether or not suit is filed, or (e) any attempt to inspect, verify, protect, preserve, restore, collect, sell, liquidate or otherwise dispose of or realize upon the Collateral, then all such legal and accounting expenses (including all reasonable attorneys' fees) together with all other costs and expenses of Bank shall be payable by Borrowers without demand after notice, and Borrowers shall promptly pay all such amounts payable to Bank under this Section 10.7, and all such amounts shall be secured by the Collateral and shall bear interest from the date of such notice until paid in full at the rate applicable to the Loans from time to time. If suit is brought to enforce any provision of this Agreement, the prevailing party shall be entitled to recover its reasonable attorneys' fees and court costs in addition to any other remedy or recovery awarded by the court.

10.8 **Taxes and Fees.** Should any tax (other than a tax based upon the net income of Bank) or recording or filing fee become payable in respect of this Agreement or any of the Loan Documents, any of the Collateral, or any amendment, modification or supplement hereof or thereof, Borrowers agree to pay such taxes (or reimburse Bank therefor), together with any interest or penalties thereon, and agree to hold Bank harmless with respect thereto.

10.9 **Successors and Assigns; Participation.** This Agreement shall bind and inure to the benefit of the respective successors and assigns of each of the parties; provided, however, that Borrowers may not assign this Agreement or any rights or duties hereunder without Bank's prior written consent and any prohibited assignment shall be absolutely void. No consent to an assignment by Bank shall release Borrowers from the Obligations. Bank may assign this Agreement and its rights and duties hereunder and no consent or approval by Borrowers is required in connection with any such assignment. Bank reserves the right to sell, assign, transfer, negotiate, or grant participations in all or any part of, or any interest in Bank's rights and benefits hereunder. In connection with any such assignment or participation, Bank may disclose all documents and information which Bank now or hereafter may have relating to Borrowers or Guarantors or their respective financial condition and business activities. To the extent that Bank assigns its rights and obligations hereunder to a third Person, Bank thereafter shall be released from such assigned obligations to Borrowers and such assignment shall effect a novation between Borrowers and such third Person.

10.10 **Applicable Law.** This Agreement, the other Loan Documents and any and all other agreements and instruments required by Bank in connection therewith shall be governed by and construed according to the internal laws of the state of California, except to the extent that the Code provides for the application of the laws of another state and except to the extent expressed to the contrary in any of the Loan Documents. Whenever possible, each provision of this Agreement shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Agreement shall be prohibited by or invalid under applicable law, such provision shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Agreement.

10.11 **Notices.** All notices and other communications provided for herein or in any document contemplated hereby, given hereunder or required by law to be given, shall be in writing (unless expressly provided to the contrary). If personally delivered, such notices shall be effective when delivered, and in the case of mailing, such notices shall be effective 2 Business Days after sending by first class mail, postage prepaid, in each case addressed to the parties as set forth on the signature page of this Agreement, or to such other address as a party shall have designated to the other in writing in accordance with this Section. The giving of at least 5 days' notice before Bank shall take any action described in any notice shall conclusively be deemed reasonable for all purposes; provided, that this shall not be deemed to require Bank to give such 5 days' notice, or any notice, if not specifically required to do so in this Agreement.

10.12 **Further Action.** Borrowers shall, from time to time, upon written request of Bank, promptly make, execute, acknowledge and deliver, or cause to be made, executed, acknowledged and delivered, all such further and additional instruments, and promptly take all such further action as may be required to carry out the intent and purpose of this Agreement and the other Loan Documents, and to provide for the Loans under and payment of the Notes, according to the intent and purpose herein and therein expressed.

10.13 **Severability.** In case any one or more of the obligations of Borrowers under this Agreement, any Note, or any of the other Loan Documents shall be invalid, illegal or unenforceable in any jurisdiction, the validity, legality and enforceability of the remaining obligations of Borrowers shall not in any way be affected or impaired thereby, and such invalidity, illegality or unenforceability in one jurisdiction shall not affect the validity, legality or enforceability of the obligations of Borrowers under this Agreement, the Notes or any of the other Loan Documents in any other jurisdiction.

10.14 **Reliance on and Survival of Various Provisions.** All terms, covenants, agreements, representations and warranties of Borrowers made herein or in any of the Loan Documents, or in any certificate, report, financial statement or other document furnished by or on behalf of Borrowers in connection with this Agreement or any of the Loan Documents, shall be deemed to have been relied upon by Bank, notwithstanding any investigation heretofore or hereafter made by Bank or on Bank's behalf, and those covenants and agreements of Borrowers set forth in this Agreement (together with any other indemnities of Borrowers contained elsewhere in this Agreement or in any of the Loan Documents) shall survive the termination of this Agreement and the repayment in full of the Indebtedness.

10.15 **Effective Upon Execution.** This Agreement shall become effective upon the execution hereof by Bank and Borrowers and shall remain effective until the Indebtedness under this Agreement and each of the Notes shall have been repaid and discharged in full and no commitment to extend any credit hereunder (whether optional or obligatory) remains outstanding.

10.16 **Confidentiality.** In handling any confidential information, Bank shall exercise the same degree of care that it exercises with respect to its own proprietary information of the same types to maintain the confidentiality of any non-public information thereby received or received pursuant to this Agreement, except that disclosure of such information may be made: (a) to the subsidiaries or Affiliates of Bank in connection with their present or prospective business relations with Borrowers; (b) to prospective transferees or purchasers of any interest in the Loans, provided that they have entered into a comparable confidentiality agreement in favor of Borrowers and have delivered a copy to Borrowers; (c) as required by law, regulations, rule or order, subpoena, judicial order or similar order; (d) as may be required in

connection with the examination, audit or similar investigation of Bank; and, (e) as Bank may deem appropriate in connection with the exercise of any remedies hereunder. Confidential information hereunder shall not include information that either: (i) is in the public domain or in the knowledge or possession of Bank when disclosed to Bank, or becomes part of the public domain after disclosure to Bank through no fault of Bank; or, (ii) is disclosed to Bank by a third party, provided Bank does not have actual knowledge that such third party is prohibited from disclosing such information.

10.17 **Time of the Essence.** Time is hereby declared to be of the essence of this Agreement and of every part hereof.

10.18 **WAIVER OF JURY TRIAL.** EACH OF THE UNDERSIGNED BORROWERS AND BANK ACKNOWLEDGE THAT THE RIGHT TO TRIAL BY JURY IS A CONSTITUTIONAL ONE, BUT THAT IT MAY BE WAIVED, EACH PARTY, AFTER CONSULTING (OR HAVING HAD THE OPPORTUNITY TO CONSULT) WITH COUNSEL OF THEIR CHOICE, KNOWINGLY AND VOLUNTARILY, AND FOR THEIR MUTUAL BENEFIT, WAIVES ANY RIGHT TO TRIAL BY JURY IN THE EVENT OF LITIGATION REGARDING THE PERFORMANCE OR ENFORCEMENT OF, OR IN ANY WAY RELATED TO, THIS AGREEMENT OR THE INDEBTEDNESS. IN THE EVENT OF LITIGATION, A COPY OF THIS AGREEMENT MAY BE FILED AS WRITTEN CONSENT TO A TRIAL BY THE COURT

10.19 **Suretyship Waivers and Consents.** Each Borrower agrees that it is jointly and severally, directly, and primarily liable to Bank for payment in full of the Obligations and that such liability is independent of the duties, obligations and liabilities of the other Borrower. The Loan Documents are a primary and original obligation of each Borrower, are not the creation of a surety relationship, and are an absolute, unconditional, and continuing promise of payment and performance which shall remain in full force and effect without respect to future changes in conditions, including any change of law or any invalidity or irregularity with respect to the Loan Documents. Each Borrower acknowledges that the obligations of such Borrower undertaken herein might be construed to consist, at least in part, of the guaranty of obligations of persons or entities other than such Borrower (including any other Borrower party hereto) and, in full recognition of that fact, each Borrower consents and agrees that Bank may, at any time and from time to time, without notice or demand, whether before or after any actual or purported termination, repudiation, or revocation of this Agreement by any one or more Borrowers, and without affecting the enforceability or continuing effectiveness hereof as to each Borrower: (a) supplement, restate, modify, amend, increase, decrease, extend, renew, accelerate, or otherwise change the time for payment or the terms of the Obligations or any part thereof, including any increase or decrease of the rate(s) of interest thereon; (b) supplement restate, modify, amend, increase, decrease or waive, or enter into or give any agreement, approval, or consent with respect to, the Obligations or any part thereof, or any of the Loan Documents or any additional security or guaranties, or any condition covenant, default, remedy, right, representation or term thereof or thereunder; (c) accept new or additional instruments, documents or agreements in exchange for or relative to any of the Loan Documents or the Obligations or any part thereof; (d) accept partial payments on the Obligations; (e) receive and hold additional security or guaranties for the Obligations or any part thereof; (f) release, reconvey, terminate, waive, abandon, fail to perfect, subordinate, exchange, substitute, transfer, or enforce any security or guaranties, and apply any security and direct the order or manner of sale thereof as Bank in its sole and absolute discretion may determine; (g) release any Person from any personal liability with respect to the Obligations or any part thereof; (h) settle, release on terms satisfactory to Bank or by operation of applicable laws, or otherwise liquidate or enforce any Obligations and any security therefor or guaranty thereof in any manner, consent to the transfer of any security and bid and purchase at any sale; or (i) consent to the merger, change, or any other restructuring or termination of the corporate or partnership existence of any Borrower or any other Person, and correspondingly restructure the Obligations, and any such merger, change, restructuring, or termination shall not affect the liability of any Borrower or the continuing effectiveness hereof, or the enforceability hereof with respect to all or any part of the Obligations.

10.19.1 Upon the occurrence and during the continuance of any Event of Default, Bank may enforce this Agreement independently as to each Borrower and independently of any other remedy or security Bank at any time may have or hold in connection with the Obligations, and it shall not be

necessary for Bank to marshal assets in favor of any Borrower or any other Person or to proceed upon or against or exhaust any security or remedy before proceeding to enforce this Agreement. Each Borrower expressly waives any right to require Bank to marshal assets in favor of any Borrower or any other Person or to proceed against any other Borrower or any Collateral provided by any Person, and agrees that Bank may proceed against Borrowers or any Collateral in such order as it shall determine in its sole and absolute discretion.

10.19.2 Bank may file a separate action or actions against any Borrower, whether action is brought or prosecuted with respect to any security or against any other person, or whether any other person is joined in any such action or actions. Each Borrower agrees that Bank and any Borrower and any Affiliate of any Borrower may deal with each other in connection with the Obligations or otherwise, or alter any contracts or agreements now or hereafter existing between any of them, in any manner whatsoever, all without in any way altering or affecting the continuing efficacy of this Agreement.

10.19.3 Bank's hereunder shall be reinstated and revived, and the enforceability of this Agreement shall continue, with respect to any amount at any time paid on account of the Obligations which thereafter shall be required to be restored or returned by Bank, all as though such amount had not been paid. The rights of Bank created or granted herein and the enforceability of this Agreement at all times shall remain effective to cover the full amount of all the Obligations even though the Obligations, including any part thereof or any other security or guaranty therefor, may be or hereafter may become invalid or otherwise unenforceable as against any Borrower and whether or not any other Borrower shall have any personal liability with respect thereto.

10.19.4 To the maximum extent permitted by applicable law and to the extent that a Borrower is deemed a guarantor, each Borrower expressly waives any and all defenses now or hereafter arising or asserted by reason of (a) any disability or other defense of any other Borrower with respect to the Obligations, (b) the unenforceability or invalidity of any security or guaranty for the Obligations or lack of perfection or continuing perfection or failure of priority of any security for the Obligations, (c) the cessation for any cause whatsoever of the liability of any other Borrower (other than by reason of the full payment and performance of all Obligations), (d) any failure of the to marshal assets in favor Bank of any Borrower or any other person, (e) any failure of Bank to give notice of sale or other disposition of collateral to any Borrower or any other Person or any defect in any notice that may be given in connection with any sale or disposition of collateral, (f) any failure of Bank to comply with applicable law in connection with the sale or other disposition of any collateral or other security for any Obligation, including any failure of Bank to conduct a commercially reasonable sale or other disposition of any collateral or other security for any Obligation, (g) any act or omission of Bank or others that directly or indirectly results in or aids the discharge or release of any Borrower or the Obligations or any security or guaranty therefor by operation of law or otherwise, (h) any law which provides that the obligation of a surety or guarantor must neither be larger in amount nor in other respects more burdensome than that of the principal or which reduces a surety's or guarantor's obligation in proportion to the principal obligation, (i) any failure of Bank to file or enforce a claim in any bankruptcy or other proceeding with respect to any Person, (j) the election by Bank of the application or non-application of Section 1111(b)(2) of the Bankruptcy Code, (k) any extension of credit or the grant of any lien under Section 364 of the Bankruptcy Code, (1) any use of cash collateral under Section 363 of the Bankruptcy Code, (m) any agreement or stipulation with respect to the provision of adequate protection in any bankruptcy proceeding of any Person, (n) the avoidance of any lien in favor of Bank for any reason, or (o) any action taken by Bank that is authorized by this section or any other provision of any Loan Document. Until such time as all of the Obligations have been fully, finally, and indefeasibly paid in full in cash: (i) each Borrower hereby waives and postpones any right of subrogation it has or may have as against any other Borrower respect to the Obligations; and (ii) in addition, each borrower also hereby waives and postpones any right to proceed or to seek recourse against or with respect to any property or asset of any other Borrower. Each borrower expressly waives all setoffs and counterclaims and all presentments, demands for payment or performance, notices of nonpayment or nonperformance, protests, notices of protest, notices of dishonor and all other notices or demands of any kind or nature whatsoever with respect to the Obligations, and all notices of acceptance of this Agreement or of the existence, creation or incurring of new or additional Obligations.

10.19.5 In the event that all or any part of the Obligations at any time are secured by any one or more deeds of trust or mortgages or other instruments creating or granting liens on any interests in real property, each Borrower authorizes Bank, upon the occurrence of and during the continuance of any Event of Default, at its sole option, without notice or demand and without affecting the obligations of any Borrower, the enforceability of this Agreement, or the validity or enforceability of any Liens of Bank, to foreclose any or all of such deeds of trust or mortgages or other instruments by judicial or nonjudicial sale.

10.19.6 Without limiting the generality of any other waiver or other provision set forth in this Agreement, each Borrower waives all rights and defenses that such Borrower may have because the Obligations are secured by Real Property. This means, among other things:

(1) Bank may collect from any Borrower without first foreclosing on any real or personal property collateral pledged by any other Borrower to secure the Obligations.

(2) If Bank forecloses on any Real Property collateral pledged by any Borrower:

(a) the amount of the debt may be reduced only by the price for which that collateral is sold at the foreclosure sale, even if the collateral is worth more than the sale price.

(b) Bank may collect from any Borrower even if Bank, by foreclosing on the Real Property collateral, has destroyed any right that Borrower may have to collect from any other Borrower.

This is an unconditional and irrevocable waiver of any rights and defenses each Borrower may have because the Obligations are secured by Real Property. These rights and defenses include, but are not limited to, any rights or defenses based upon Section 580a, 580b, 580d, or 726 of the Code of Civil Procedure.

10.19.7 To the fullest extent permitted by applicable law, to the extent that a Borrower is deemed a guarantor, each Borrower expressly waives any defenses to the enforcement of this Agreement or any rights of Bank created or granted hereby or to the recovery by Bank against any Borrower or any other Person liable therefor of any deficiency after a judicial or nonjudicial foreclosure or sale, even though such a foreclosure or sale may impair the subrogation rights of Borrowers and may preclude Borrowers from obtaining reimbursement or contribution from other Borrowers. To the fullest extent permitted by applicable law, each Borrower expressly waives any suretyship defenses or benefits that it otherwise might or would have under applicable law. WITHOUT LIMITING THE GENERALITY OF ANY OTHER WAIVER OR OTHER PROVISION SET FORTH IN THIS SECTION, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, EACH BORROWER WAIVES ALL RIGHTS AND DEFENSES ARISING OUT OF AN ELECTION OF REMEDIES BY BANK, EVEN THOUGH THAT ELECTION OF REMEDIES, SUCH AS A NONJUDICIAL FORECLOSURE WITH RESPECT TO SECURITY FOR THE OBLIGATIONS, HAS DESTROYED SUCH BORROWER'S RIGHTS OF SUBROGATION AND REIMBURSEMENT AGAINST THE OTHER BORROWERS BY THE OPERATION LAW, INCLUDING BUT NOT LIMITED TO SECTION 580d OF THE CODE OF CIVIL PROCEDURE, OR OTHERWISE.

10.19.8 Borrowers and each of them warrant and agree that each of the waivers and consents set forth herein are made after consultation with legal counsel and with full knowledge of their significance and consequences, with the understanding that events giving rise to any defense or right waived may diminish, destroy or otherwise adversely affect rights which Borrowers otherwise may have against any other Borrower, Bank or others, or against Collateral. If any of the waivers or consents herein are determined to be contrary to any applicable law or public policy, such waivers and consents shall be effective to the maximum extent permitted by law.

[Signature page follows.]

This Agreement is duly executed on behalf of each of the parties hereto by duly authorized officers as of the date first above written.

COMERICA BANK-CALIFORNIA,
a California banking corporation

By: _____
Name: VANESSA GOLD
Title: Vice President

AMERICAN UNDERWATER PRODUCTS,
d/b/a Oceanic, a California corporation

By: _____
Name: Robert R. Hollis
Title: Chairman & Chiefr Executive Officer

PELAGIC PRESSURE SYSTEMS,
a California corporation

By: _____
Name: Robert R. Hollis
Title: Chairman $ Executive Officer

HOLLIS INDUSTRIES, INC., d/b/a Romi
Enterprises, a California corporation

By: _____
Name: Robert R. Hollis
Title: Chairman & Chief Executive Officer

OCEAN PULSE, INC., d/b/a Aeris,
a California corporation

By: _____
Name: Robert R. Hollis
Title: Chairman & Chief Executive Officer

Address for Notices:

75 East Trimble Road
San Jose, California 95131
Attn: Credit Manager
Fax number: (408) 556-5097

Address for Notices:

2002 Davis Street
San Leandro, CA 94577
Attn: Robert R. Hollis, CEO
Fax number: (510) 569-5404

APPENDIX A

GENERAL DEFINITIONS

When used in the Loan and Security Agreement dated as of April 2, 2001, by and among Comerica Bank-California, a California banking corporation and American Underwater Products, d/b/a Oceanic, a California corporation, Pelagic Pressure Systems, a California corporation, Hollis Industries, Inc., d/b/a Romi Enterprises, a California corporation, and Ocean Pulse, Inc., d/b/a Aeris, a California corporation, the following terms shall have the following meanings (terms defined in the singular to have the same meaning when used in the plural and vice versa):

Accounts – all presently existing and hereafter arising accounts, accounts receivable, contract rights and other forms of monetary obligations and receivables (including healthcare receivables) owing to any Borrower, and any credit insurance, guaranties, or security therefor, irrespective of whether earned by performance.

Affiliate - shall mean, when used with respect to any Person, any other Person which, directly or indirectly, controls or is controlled by or is under common control with such Person. For purposes of this definition, "control" (including, with correlative meanings, the terms "controlled by" and "under common control with"), with respect to any Person, shall mean possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such Person, whether through the ownership of voting securities, by contract or otherwise.

Affiliate Receivables - shall mean, as of any time of determination, any amounts in respect of loans or advances owing to any Borrower from any of its Affiliates at such time.

Agreement – the Loan and Security Agreement referred to in the first sentence of this Appendix A, all Schedules and Exhibits thereto, and this Appendix A.

Bankruptcy Code - the United States Bankruptcy Code (11 U.S.C. § 101 et seq.), as amended, and any successor statute.

Base Rate - shall mean that variable rate of interest so announced by Bank at its headquarters office in San Jose, California as its "Base Rate" from time to time which serves as the basis upon which effective rates of interest are calculated for those loans making reference thereto, and which rate may not be the lowest rate of interest charged by Bank to any of its customers.

Borrower's Books - means all of each Borrower's books and records including: ledgers; records indicating, summarizing, or evidencing such Borrower's properties or assets (including the Collateral) or liabilities; all information relating to such Borrower's business operations or financial condition; and all computer programs, disk or tape files, printouts, runs, or other computer prepared information.

Borrower Sublimit Amount – means the maximum amount of all Revolving Loans permitted for each Borrower in accordance with subsection 1.1.2 of this Agreement.

Branding Standards – means each Borrower's written branding standards and policies for the trade names, trade styles and trade dress of its products, current copies of which have been

provided to Bank from time to time promptly after any change to such branding standards and policies.

Business Day - any day that is not a Saturday, Sunday, or other day on which banks in the State of California, Arizona, Colorado or Washington are authorized or required to close.

Cash Flow Coverage Ratio - shall mean the ratio, as of any applicable period of determination, the numerator of which is Net Income *plus* depreciation *plus* amortization *plus* (or *minus*, as applicable) the increase (or decrease) in the deferred tax liability *minus* cash dividends, and the denominator of which is the current portion of long term debt *plus* the current portion of capital lease payments for the same period of determination.

Chattel Paper - all chattel paper (including tangible chattel paper and electronic chattel paper) (as such terms are defined in the Code).

Closing Date - the date of the making of the initial Loan under the Agreement.

Code - the California Uniform Commercial Code, as amended or supplemented from time to time, including revised Division 9 of the Uniform Commercial Code-Secured Transactions, added by Stats. 1999, c.991 (S.B. 45), §35, operative July 1, 2001. Any and all terms used in the Agreement which are defined in the UCC shall be construed and defined in accordance with the meaning and definition ascribed to such terms under the UCC, unless otherwise defined herein.

Collateral - all of each Borrower's right, title, and interest in and to each of the following:

(a) the Accounts,

(b) Borrower's Books,

(c) the Deposit Accounts,

(d) the Equipment,

(e) the General Intangibles,

(f) the Inventory,

(g) the Investment Property,

(h) the Letter of Credit Rights,

(i) the Negotiable Collateral,

(j) the Supporting Obligations,

(k) the Intellectual Property Collateral,

(l) any money, or other assets of any Borrower that now or hereafter come into the possession, custody, or control of Bank, and

(m) the proceeds and products, whether tangible or intangible, of any of the foregoing, including proceeds of insurance covering any or all of the Collateral, and any and all Accounts, Borrower's Books, Deposit Accounts Equipment, General Intangibles, Inventory,

Investment Property, Letter of Credit Rights, Negotiable Collateral, Real Property, Supporting Obligations, money, deposit accounts, or other tangible or intangible property received or receivable from the sale, exchange, collection, lease, license, use or other disposition of any of the foregoing, or any portion thereof or interest therein, and the proceeds thereof.

Copyrights - any and all copyright rights, copyright applications, copyright registrations and like protections in each work or authorship and derivative work thereof, whether published or unpublished and whether or not the same also constitutes a trade secret, now or hereafter existing, created, acquired or held, including without limitation the copyrights and copyright applications set forth on Exhibit A to this Agreement.

Debt - shall mean, as of any applicable date of determination, all items of indebtedness, obligation or liability of a Person, whether matured or unmatured, liquidated or unliquidated, direct or indirect, absolute or contingent, joint or several, that should be classified as liabilities in accordance with GAAP. In the case of each Borrower, the term "Debt" shall include, without limitation, the Obligations.

Deposit Account - any demand, time, savings, passbook or similar account now or hereafter maintained by or for the benefit of any Borrower with an organization that is engaged in the business of banking including a bank, savings bank, savings and loan association, credit union and trust companies, and all funds and amounts therein, whether or not restricted or designated for a particular purpose.

Documents - any and all documents and documents of title, including documents of title, bills of lading, dock warrants, dock receipts, warehouse receipts and other documents of any Borrower, whether or not negotiable, and includes all other documents which purport to be issued by a bailee or agent and purport to cover goods in any bailee's or agent's possession which are either identified or are fungible portions of an identified mass, including such documents of title made available to any such Borrower for the purpose of ultimate sale or exchange of goods or for the purpose of loading, unloading, storing, shipping, transshipping, manufacturing, processing or otherwise dealing with goods in a manner preliminary to their sale or exchange, in each case whether now existing or hereafter acquired.

Effective Tangible Net Worth – shall mean, with respect to any Person and as of any applicable date of determination, Tangible Net Worth *plus* Subordinated Debt.

Environmental Law(s) - means all laws, codes, ordinances, rules, regulations, orders, decrees and directives issued by any federal, state, local, foreign or other governmental or quasi-governmental authority or body (or any agency, instrumentality or political subdivision thereof) pertaining to the environment or to any hazardous materials or wastes, toxic substances, flammable, explosive or radioactive materials, asbestos, and/or other similar materials.

Equipment - all of each Borrower's machinery, machine tools, apparatus, motors, equipment, fittings, furniture, furnishings, fixtures, vehicles (including motor vehicles and trailers), tools, parts, goods (including software imbedded in such goods) and other tangible personal property (other than Inventory) of every kind and description used in such Borrower's operations or owned by such Borrower or in which such Borrower has an interest, whether now owned or hereafter acquired by such Borrower and wherever located, and all parts, accessories, and special tools, and all increases and accessions thereto and substitutions and replacements therefor.

Funded Revolving Debt – shall mean, with respect to any Borrower and as of any applicable date of determination, all Obligations of such Borrower under the Revolving Loans plus all Letter of Credit obligations of such Borrower.

Foreign Assets - shall mean, with respect to any Person and as of any applicable date of determination, net book value of all assets of such Person, after all appropriate deductions in accordance with GAAP (including, without limitation, reserves for doubtful receivables, obsolescence, depreciation and amortization) located in any country other than the United States, including without limitation any ownership interest in any Subsidiary or Affiliate that is not located in the United States.

GAAP - generally accepted accounting principles as in effect from time to time in the United States, consistently applied.

General Intangibles - all of each Borrower's present and future general intangibles and other personal property (including payment intangibles, electronic Chattel Paper, contract rights, rights arising under common law, statutes, or regulations, choses or things in action, goodwill, patents, trade names, trademarks, servicemarks, copyrights, blueprints, drawings, plans, diagrams, schematics, purchase orders, customer lists, monies due or recoverable from pension funds, route lists, rights to payment and other rights under any royalty or licensing agreements, infringement claims, software, information contained on computer disks or tapes, literature, reports, catalogs, deposit accounts, insurance premium rebates, tax refunds, and tax refund claims), other than goods, Accounts, and Negotiable Collateral.

Guarantor – means, jointly and severally, individually and collectively, Robert R. Hollis, an individual and Oceanic-International, Inc., a Hawaiian corporation, together with each other Person that from time to time enters into a continuing guaranty of the obligations of Borrowers to Bank.

Indebtedness – all (a) obligations of Borrowers for borrowed money, (b) obligations of Borrowers evidenced by bonds, debentures, notes, or other similar instruments and all reimbursement or other obligations of Borrowers in respect of letters of credit, bankers acceptances, interest rate swaps, or other financial products, (c) obligations of Borrowers under capital leases, (d) obligations or liabilities of others secured by a Lien on any property or asset of Borrowers, irrespective of whether such obligation or liability is assumed, and (e) any obligation of Borrowers guaranteeing or intended to guarantee (whether guaranteed, endorsed, co-made, discounted, or sold with recourse to Borrowers) any indebtedness, lease, dividend, letter of credit, or other obligation of any other Person.

Intellectual Property Collateral - all of Borrower's right, title, and interest in and to the following:

(a) Copyrights, Trademarks and Patents;

(b) Any and all trade secrets, and any and all intellectual property rights in computer software and computer software products now or hereafter existing, created, acquired or held;

(c) Any and all design rights which may be available to Borrower now or hereafter existing, created, acquired or held;

(d) Any and all claims for damages by way of past, present and future infringement of any of the rights included above, with the right, but not the obligation, to sue for and collect such damages for said use or infringement of the intellectual property rights identified above;

(e) All licenses or other rights to use any of the Copyrights, Patents or Trademarks, and all license fees and royalties arising from such use to the extent permitted by such license or rights;

(f) All amendments, renewals and extensions of any of the Copyrights, Trademarks or Patents; and

(g) All proceeds and products of the foregoing, including without limitation all payments under insurance or any indemnity or warranty payable in respect of any of the foregoing.

Insolvency Proceeding - any proceeding commenced by or against any Person under any provision of the Bankruptcy Code or under any other bankruptcy or insolvency law, including assignments for the benefit of creditors, formal or informal moratoria, compositions, extension generally with its creditors, or proceedings seeking reorganization, arrangement, or other relief.

Instruments - any and all negotiable instruments, and every other writing which evidences a right to the payment of a monetary obligation, in each case whether now existing or hereafter acquired.

Inventory - all of each Borrower's goods (including software imbedded in such goods), merchandise and other personal property which are held for sale or lease, including those held for display or demonstration or out on lease or consignment or to be furnished under a contract of service or are raw materials, work in process or materials used or consumed, or to be used or consumed in such Borrower's business, and shall include any returns or repossessions thereof and all property rights, patents, copyrights, trademarks, plans, drawings, diagrams, schematics, assembly and display materials relating thereto.

Investment Property - any and all of each Borrower's presently existing and hereafter acquired investment property (as defined in the Code).

Letter of Credit Rights - any and all of each Borrower's presently existing and hereafter acquired letter of credit rights (as defined in the Code).

LIBOR Addendum – the LIBOR Addendum attached to each applicable promissory note evidencing the Loans.

Lien - any lien or security interest arising from a mortgage, deed of trust, encumbrance, pledge, hypothecation, assignment, deposit arrangement, security agreement, adverse claim or charge, conditional sale or trust receipt, or from a lease, consignment, or bailment for security purposes and any agreement to grant any lien or security interest, and also including reservations, exceptions, encroachments, easements, rights-of-way, covenants, conditions, restrictions, leases, and other title exceptions and encumbrances affecting Real Property.

Loan Documents – the Agreement, all promissory note(s) executed by Borrowers in favor of Bank, any security agreements, guaranties, mortgages, deeds of trust, environmental agreements, executed by Borrowers with or in favor of Bank, and any other instruments, documents, or agreements entered into, now or in the future by Borrowers in connection therewith.

Loans - all loans and advances of any kind made by Bank to Borrowers pursuant to the Agreement.

Material Adverse Change - a material adverse effect on (a) the business, prospects, operations, results of operations, assets, liabilities or condition (financial or otherwise) of any Borrower, or any Subsidiary or Affiliate of any Borrower, or any Guarantor, (b) the ability of any Borrower, or any Subsidiary or Affiliate of any Borrower, or any Guarantor, to perform its obligations under the Loan Documents to which it is a party or of Bank to enforce the Obligations

or realize upon the Collateral, (c) the value of the Collateral or the amount that Bank would be likely to receive (after giving consideration to delays in payment and costs of enforcement) in the liquidation of such Collateral (d) the validity or enforceability of this Agreement, the other Loan Documents, or the rights and remedies of Bank hereunder or thereunder, or (e) the priority of Bank's liens with respect to the Collateral.

Maturity Date – May 31, 2003.

Maximum Revolving Amount - $8,500,0000.

Negotiable Collateral - all of each Borrower's present and future letters of credit, advises of credit, certificates of deposit, notes, drafts, money, Instruments, Documents, and tangible Chattel Paper.

Net Income - shall mean the net income (or loss) of a Person for any applicable period of determination, determined in accordance with GAAP, but excluding, in any event:

(a) Any gains or losses on the sale or other disposition, not in the ordinary course of business, of investments or fixed or capital assets, and any taxes on the excluded gains and any tax deductions or credits on account on any excluded losses; and,

(b) In the case of any Borrower, net earnings of any Person in which such Borrower has an ownership interest, unless such net earnings shall have actually been received by such Borrower in the form of cash distributions.

Oceanic UK – means Oceanic (SW) Limited UK, a company organized under the laws of the United Kingdom.

Obligations - all Loans, advances, debt, principal, interest, fees, expenses, costs and other amounts owed to Bank by Borrowers pursuant to this Agreement or any other agreement, together with all guaranties, covenants and duties owing by Borrowers to Bank of any kind or description, whether direct or indirect, absolute or contingent, due or to become due, now existing or hereafter arising, including any interest, fees, expenses, costs and other amounts owed to Bank that but for the provisions of the Bankruptcy Code would have accrued after the commencement of any Insolvency Proceeding and including any debt, liability, or obligation owing from Borrowers to others that Bank may have obtained by assignment or otherwise.

Patents - all patents, patent rights, patent applications and like protections including without limitation improvements, divisions, continuations, renewals, reissues, extensions and continuations-in-part of the same, including without limitation the patents and patent applications set forth on Exhibit B to this Agreement.

Permitted Indebtedness – all (a) Indebtedness of Borrowers in favor of Bank arising under this Agreement or any other Loan Document; (b) Indebtedness existing on the Closing Date and disclosed in Schedule P-1; (c) current unsecured trade, utility or non-extraordinary accounts payable arising in the ordinary course of business; (d) purchase money indebtedness incurred for the purpose of purchasing or acquiring fixed assets, so long as the amount of such purchase money indebtedness incurred by Borrowers does not exceed $100,000 in the aggregate, for any fiscal year of Borrowers; (e) Indebtedness with respect to capital lease obligations or that is secured by a lien described in clause (c) of the defined term "Permitted Liens," provided such Indebtedness does not exceed the lesser of the cost or fair market value of the Equipment financed with such Indebtedness; and (f) Subordinated Debt.

Permitted Investments – all (a) investments existing on the Closing Date disclosed in Schedule P-2; and (b) investments in (i) marketable direct obligations issued or unconditionally guaranteed by the United States of America or any agency or any State thereof maturing within one (1) year from the date of acquisition thereof, (ii) commercial paper maturing no more than one (1) year from the date of creation thereof and currently having the highest rating obtainable from either Standard & Poor's Corporation or Moody's Investors Service, (iii) certificates of deposit maturing no more than one (1) year from the date of investment therein issued by Bank and (iv) Bank's money market accounts, (c) investments permitted by each Borrower's investment policy, as amended from time to time, provided that such investment policy and any such amendment thereto has been approved in writing by Bank; (d) extensions of credit in the nature of accounts receivable or notes receivable arising from the sale or lease of goods or services in the ordinary course of business; (e) investments consisting of the endorsement of negotiable instruments for deposit or collection or similar transactions in the ordinary course of business; (f) investments (including debt obligations) received in connection with the bankruptcy or reorganization of customers or suppliers and in settlement of delinquent obligations of, and other disputes with, customers or suppliers arising in the ordinary course of business; (g) investments consisting of (1) compensation of employees, officers and directors of each Borrower so long as the Board of Directors of that Borrower determines that such compensation is in the best interests of that Borrower; (2) travel advances, employee relocation loans and other employee loans and advances in the ordinary course of business (including guaranties of relocation loans made to employees) in the aggregate outstanding amount not to exceed One Hundred Thousand Dollars $100,000; (3) loans to employees, officers, or directors relating to the purchase of equity securities of any Borrower in the aggregate outstanding amount not to exceed One Hundred Thousand Dollars $100,000; and (4) other loans to officers and employees approved by the Board of Directors that, together with the relocation loans and guaranties of relocation loans described in sub-clause (2) hereof, do not in the aggregate exceed $50,000; and (h) investments pursuant to or arising under currency agreements or interest rate agreements entered into in the ordinary course of business.

Permitted Liens – any: (a) Any Liens existing on the Closing Date and disclosed in Schedule P-3 or arising under this Agreement or the other Loan Documents; (b) Liens for taxes, fees, assessments or other governmental charges or levies, either not delinquent or being contested in good faith by appropriate proceedings, provided the same have no priority over any of Bank's security interests; (c) Liens (i) upon or in any Equipment acquired or held by any Borrower or any of its Subsidiaries to secure the purchase price of such Equipment or indebtedness incurred solely for the purpose of financing the acquisition of such Equipment, or (ii) existing on such Equipment at the time of its acquisition, provided that the Lien is confined solely to the Equipment so acquired and improvements and additions thereto, and the proceeds of such Equipment to the extent that the acquisition of such Equipment is permitted under Section 7.5; (d) Liens incurred in connection with the extension, renewal or refinancing of the indebtedness secured by Liens of the type described in clauses (a) through (c) above, provided that any extension, renewal or replacement Lien shall be limited to the property encumbered by the existing Lien and the principal amount of the indebtedness being extended, renewed or refinanced does not increase.

Permitted Transaction – means the creation of and transfer of assets of one or more Borrower's into a holding company that shall act as the parent company for the Foreign Assets of Borrowers, on terms and conditions, under formation and transfer agreements, and in such amounts as in each case are satisfactory to Bank in its sole credit judgment, and in connection with which any such holding company shall enter into such documents, instruments and agreements with or in favor of Bank as are requested by Bank in its sole discretion.

Person - any individual, sole proprietorship, partnership, limited liability company, joint venture, trust, unincorporated organization, association, corporation, institution, public benefit corporation, firm, joint stock company, estate, entity or governmental agency.

Real Property - means any estates or interests in real property now owned or hereafter acquired by any Borrower.

Stock - means all shares, options, warrants, interests, participations, or other equivalents (regardless of how designated) of or in a corporation or equivalent entity, whether voting or nonvoting, including common stock, preferred stock, or any other "equity security" (as such term is defined in Rule 3a11-1 of the General Rules and Regulations promulgated by the SEC under the Securities Exchange Act of 1934).

Subordinated Debt - means any debt incurred by any Borrower that is subordinated to the debt owing by Borrowers to Bank on terms reasonably acceptable to Bank (and identified as being such by Borrowers and Bank).

Subsidiary - of a Person means any corporation, partnership, limited liability company, or other entity in which (i) any general partnership interest or (ii) more than 50% of the Stock of which by the terms thereof having ordinary voting power to elect the Board of Directors, managers or trustees of the entity, at the time as of which any determination is being made, is owned by any Borrower, either directly or through an Affiliate.

Supporting Obligations - any and all of each Borrower's presently existing and hereafter acquired supporting obligations (as defined in the Code).

Tangible Net Worth – shall mean, with respect to any Person and as of any applicable date of determination, the excess of Total Assets over all Debt of such Person at such time.

Total Assets - shall mean, with respect to any Person and as of any applicable date of determination, net book value of all assets of such Person (excluding Affiliate Receivables, patent rights, trademarks, trade names, franchises, copyrights, licenses, goodwill, and all other intangible assets of such Person), after all appropriate deductions in accordance with GAAP (including, without limitation, reserves for doubtful receivables, obsolescence, depreciation and amortization).

Trademarks - any trademark and servicemark rights, whether registered or not, applications to register and registrations of the same and like protections, and the entire goodwill of the business of Borrower connected with and symbolized by such trademarks, including without limitation the trademarks and trademark applications set forth on Exhibit C to this Agreement.

Exhibit A

Registered Copyrights

Borrower may amend this exhibit from time to time with written notice to, but without written consent of Bank to add Copyrights assigned to (or authored by) Borrowers and to correct errors. Notwithstanding anything to the contrary in the Revolving Credit Loan and Security Agreement to which this Exhibit is an attachment (the "Agreement") or any of the other Loan Documents, (i) there shall be no obligation to list on this Exhibit A any Copyrights that are not both registered and assigned to (or authored by) a Borrower, (ii) to the extent of an Event of Default occurring as the result of any error in this Exhibit A or any failure to disclose any Copyright to Bank herein, and such Event of Default could not otherwise constitute a Material Adverse Change, such Event of Default may be cured by the amendment of this Exhibit A to correct such error or make appropriate disclosure and (iii) to the extent Borrowers choose to voluntarily list unregistered Copyrights on this Exhibit A, such voluntary listing does not obligate Borrowers to list any other unregistered Copyrights or to register such unregistered Copyrights or to make any filing with the U.S. Copyright Office. The failure to list any Copyright on this Exhibit A shall not diminish the security interest held by Bank in any such unlisted Copyright.

No registered Copyrights.

Exhibit B

U.S. Issued Patents Assigned to Borrowers

Borrower may amend this exhibit from time to time with written notice to, but without written consent of Bank to add issued Patents assigned to Borrowers and to correct errors. Notwithstanding anything to the contrary in the Revolving Credit Loan and Security Agreement to which this Exhibit is an attachment (the "Agreement") or any of the other Loan Documents, (i) there shall be no obligation to list on this Exhibit B any Patents that are not both issued and assigned to a Borrower, (ii) to the extent of an Event of Default occurring as the result of any error in this Exhibit B or any failure to disclose any Patent to Bank herein, and such Event of Default could not otherwise constitute a Material Adverse Change, such Event of Default shall be cured by the amendment of this Exhibit B to correct such error or make appropriate disclosure and (iii) to the extent Borrowers choose to voluntarily list unissued Patents on this Exhibit B, such voluntary listing does not obligate Borrowers to list any other unissued Patents or to apply for patent protection for such unissued Patents or to make any filing with the U.S. Patent and Trademark Office. The failure to list any Patent on this Exhibit B shall not diminish the security interest held by Bank in any such unlisted Patent.

Pat. No. 4,882,678
Sense/Process Device
Issued 11/21/89
Assignee: American Underwater Products

Pat. No. 5,156,055
Ascent Meter
Issued 10/20/92
Assignee: American Underwater Products

Pat. No. 6,201,478
Scuba Air Device
Issued 3/13/01
Assignee: American Underwater Products

Pat. No. 5,218,745
Tank Strap Tightening
Issued 6/15/93
Assignee: American Underwater Products

Pat. No. 4,952,095
Soft Backpack
Issued 8/28/90
Assignee: American Underwater Products

Pat. No. 5,403,123
Bioflex
Issued 4/4/95
Assignee: American Underwater Products

TRADEMARK
REEL: 002290 FRAME: 0160

Pat. No. 5,693,412
Gas Impermeable Lamin
Issued 12/2/97
Assignee: American Underwater Products

Pat. No. 6,098,859
Harness Buckle
Issued 8/8/00
Assignee: American Underwater Products

Pat. No. D409,144
Harness Buckle
Issued 5/4/99
Assignee: American Underwater Products

Pat. No. 5,913,640
Weight Drop System
Issued 6/22/99
Assignee: American Underwater Products

Pat. No. 5,735,504
Variable O/P Relief Vlv
Issued 4/7/98
Assignee: American Underwater Products

Pat. No. 5,660,502
Adj Mec Reg 2nd Stag
Issued 8/26/97
Assignee: American Underwater Products

Foreign Issued Patents Assigned to Borrowers

Notwithstanding anything to the contrary in the Agreement or any of the other Loan Documents, Borrower shall not be obligated to prepare and deliver any filing, notice or other document perfecting Bank's security interest with respect to Patents listed hereunder, except as specifically requested by Bank and then only upon the form provided by Bank and submitted only to the organization(s) specifically requested by Bank.

Pat. No. 0581524A1 (Euro)
BC
Issued 7/29/92
Assignee: American Underwater Products

TRADEMARK
REEL: 002290 FRAME: 0161

Exhibit C

Registered Trademarks

Borrower may amend this exhibit from time to time with written notice to, but without written consent of Bank to add Trademarks owned by Borrowers and to correct errors. Notwithstanding anything to the contrary in the Revolving Credit Loan and Security Agreement to which this Exhibit is an attachment (the "Agreement") or any of the other Loan Documents, (i) there shall be no obligation to list on this Exhibit C any Trademark that is not both registered and owned by a Borrower, (ii) to the extent of an Event of Default occurring as the result of any error in this Exhibit B or any failure to disclose any Trademark to Bank herein, and such Event of Default could not otherwise constitute a Material Adverse Change, such Event of Default shall be cured by the amendment of this Exhibit C to correct such error or make appropriate disclosure and (iii) to the extent Borrowers choose to voluntarily list unregistered Trademarks on this Exhibit C, such voluntary listing does not obligate Borrowers to list any other unregistered Trademarks or to register such unregistered Trademarks or to make any filing with the U.S. Patent and Trademark Office. The failure to list any Trademark on this Exhibit C shall not diminish the security interest held by Bank in any such unlisted Trademark.

Reg. No. 1,617,448
ALPHA (regulators)
Registration Date: 10/16/90
Owner: American Underwater Products

Reg. No. 1,904,915
BI VU (masks)
Registration Date: 7/11/95
Owner: American Underwater Products

Reg. No. 2,100,573
BIOFLEX (BCs)
Registration Date: 9/30/97
Owner: American Underwater Products

Reg. No. 2,187,978
BIOFLEX (BCs)
Registration Date: 9/8/98
Owner: American Underwater Products

Reg. No. 2,194,127
DATA100 (Dive Computers)
Registration Date: 10/6/98
Owner: American Underwater Products

Reg. No. 2,201,896
DATAPLUS (Dive Computers)
Registration Date: 11/3/98
Owner: American Underwater Products

Reg. No. 1,619,612
DELTA (Regulators)
Registration Date: 10/30/90
Owner: American Underwater Products

Reg. No. 2,099,870
DESTINATION OCEANIC (Travel Services)
Registration Date: 9/23/97
Owner: American Underwater Products

Reg. No. 1,721,201
DIVE COMPUTER FACE (Dmx Sport)
Registration Date: 9/29/92
Owner: Pelagic Pressure Systems

Reg. No. 2,141,377
OCEANGLO (Dive Computer Illumination)
Registration Date: 3/3/98
Owner: American Underwater Products

Reg. No. 1,152,213
OCEANIC (Photo Equipment)
Registration Date: 4/28/81
Owner: American Underwater Products

Reg. No. 1,611,125
OCEANIC (Dive Equipment)
Registration Date: 8/28/90
Owner: American Underwater Products

Reg. No. 1,612,156
OCEANIC (Dive Swimwear)
Registration Date: 9/4/90
Owner: American Underwater Products

Reg. No. 1,654,782
OCEANIC (BCs, Bags, mask, snorkles, fins)
Registration Date: 8/27/91
Owner: American Underwater Products

Reg. No. 1,154,802
OCEAN PRO (Dive Lights)
Registration Date: 5/19/81
Owner: American Underwater Products

Reg. No. 2,079,615
SEAVU (Masks)
Registration Date: 7/15/97
Owner: American Underwater Products

Reg. No. 2,345,126
SMARTGLO (Dive Computer Illumination)
Registration Date: 5/30/00
Owner: American Underwater Products

Reg. No. 2,109,625
V-DRIVE (Fins)
Registration Number: 10/28/97
Owner: American Underwater Products

Unregistered Trademarks

* denotes application for registration pending

4 - Site (mask)

500AI (dive computer)

750GT (dive computer)

Adjustable Positioning System APS (BC system)

Aeris (company name)*

100S (dive computer)

300G (dive computer)

Air Time Remaining ATR (dive computer calculation))

Air XS Regulator/BC inflator)

All Terrain (bag)

Alliance Inflator (BC)

Ascend (wet suit)

Atmos* XT (BC), Pro & Sport (dive computers)

Aerdura (dry suit)

Baja (BC)

Burst (snorkel)

Cabo (BC)

Caribe (bag & wet suit)

CDx (regulator)

Chute (BC)

Cobra (snorkel)

Color Design (Data 100, Data Plus, DataTrans Plus)*

Combo (instrument)

Contour* (BC & mask)

Control Console

Cyberskin (wet suit)

Customeyes (mask)

DataLink (high pressure disconnect)

DataMax (instrument)

DataMax Pro (instrument)

Datamax Pro Plus (instrument)

DataMax Sport (instrument)

Data Plus 2 (instrument)

DataTrans (dive computer)

DataTrans Plus (dive computer)

Dive DownLoader (DD)

Diver Replaceable Battery (DRB)

Diving Essentials Redefined (slogan)

DX3 (regulator)

DX4 (regulator)

DXi (regulator)

Eclipse (mask)

Excursion (bag)

Explorers* (children's line of dive products)

Flex (BC & fins)

Gamma (regulator)

Graphic Diver Interface (dive computer feature)

Gulf (glove)

In - Site (mask)

Integrated Inflator System (BC)

ISLA (BC)

Lite Vision (mask)

Loma (mask)

Mako (dive vehicle)

MaxDepth (gauge)

MaxFlo (air hose)

Meridian (bag)

Message Box (dive computer function)

Navcon (instrument)

Nomad (bag)

Norte (dive boots)

OceanLink (PC software / interface hardware)

OceanLog (PC software / interface hardware)

OceanPro (glove)

OceanSport (BC)

Omega (regulator)

Outlook (mask)

Pre Dive Planning Sequence (instrument function)

Premier (bag)

Pro Resort (diving destinations)

Pro Tour (BC)

Probe (BC)

ProEar (mask)

PX2 (regulator)

ReefPro (glove)

ReefSport (snorkeling vest)

Response (snorkel)

Safari (bag)

Savant (dive computer)*

Set Point (dive computer function)

Shadow (mask)

SideScan (compass)

SlimLine (gauge & regulator)

Spring (mask)

SP4 (regulator)

Splash (wet suit)

SubZero (Delta II)

Sunset (dive boot)

Surface Geare (clothing)

Tissue Loading Bar Graph (TLBG)

Tour (BC & snorkel))

Travel Tank Band (BC strap)

Trend (mask)

Variable Ascent Rate Indicator (VARI)

Velocity (fins)

Venture (glove)

Versa (dive computer)

Versa Pro (dive computer)

Visa (BC)

Vortex* (fins, mask, & dive lights)

Voyager (dive vehicle & bag)

X - Site (mask)

XTC-100 (dive computer)

Zeta (regulator)

Exhibit 5.5.4

Compliance Certificate

To: Comerica Bank-California
[Insert Applicable Lending Office Address]

Attn.: [Insert Applicable Lending Officer]

This Compliance Certificate is given pursuant to Section 5.5.4 of that certain Loan and Security Agreement, dated as of April 2, 2001 (the "Agreement"), by and among American Underwater Products, Pelagic Pressure Systems, Hollis Industries, Inc., and Ocean Pulse, Inc. (collectively hereinafter, "Borrowers"), and Comerica Bank-California, a California banking corporation. All initially capitalized terms used but not defined in this Compliance Certificate shall have the meanings assigned to such terms in the Agreement.

THE UNDERSIGNED HEREBY CERTIFIES THAT:

(1) He/She is the duly elected [Insert Applicable Title] of Borrower;

(2) He/She reviewed the terms of the Agreement and has made, or has caused to be made under his/her supervision, a detailed review of the transactions and condition of Borrowers during the accounting period covered by the attached financial statements;

(3) Based on the examination described in Paragraph (2) above, Borrower has performed and observed each and every covenant contained in the Agreement to be performed or observed by it;

(4) The examinations described in Paragraph (2) above did not disclose, and he/she has no knowledge of, the existence of any condition or the occurrence of any event that constitutes, or that upon the lapse of time or upon the giving of notice and the lapse of any time specified therefor shall constitute, an Event of Default during, or at the end of, the accounting period covered by the attached financial statements or as of the date of this Compliance Certificate, except as set forth below; and

(5) Schedule 1 attached hereto and incorporated herein by this reference sets forth financial data and computations evidencing Borrowers' compliance with those covenants set forth in Sections 7.1, 7.2, 7.3, 7.4 and 7.5 of the Agreement, all of which data and computations are to the best of my knowledge, true, complete and correct.

AMERICAN UNDERWATER PRODUCTS

By: _____

Title: _____

PELAGIC PRESSURE SYSTEMS

By: _____

Title: _____

HOLLIS INDUSTRIES, INC.

By: _____

Title: _____

OCEAN PULSE, INC.

By: _____

Title: _____

BANK USE ONLY

Received by: _____ Date _____
Authorized Signer

Verified by: _____ Date _____
Authorized Signer

Compliance Status: Yes No

Borrower: American Underwater Products, Inc. *et al*
Date: April 2, 2001
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COMPLIANCE CERTIFICATE

SCHEDULE 1

Schedule of Compliance
for the [month] [quarter] ended _____, 20___

[Describe Applicable Calculations Here]

Schedule 4.7

Name; Location of Chief Executive Office; Form and Location of Organization

Borrower's Legal Name	Additional Names Borrower has Done Business Under	Borrower's FEIN	Address of Borrower's Chief Executive Office	Borrower's Form of Organization	Borrower's State of Organization
American Underwater Products	Oceanic	94-2166805	2002 Davis Street San Leandro, CA 94577	California	California
Pelagic Pressure Systems	None	94-2583972	2002 Davis Street San Leandro, CA 94577	California	California
Hollis Industries, Inc.	Romi Enterprises	94-3137000	2002 Davis Street San Leandro, CA 94577	California	California
Ocean Pulse, Inc.	Aeris	94-3355545	14212 Doolittle Dr. San Leandro, CA 94577	California	California

TRADEMARK
REEL: 002290 FRAME: 0171

Schedule 4.8

Borrower Subsidiaries

Borrower Name	Subsidiary Name
American Underwater Products	Oceanic-International, Inc. Oceanic (SW) Limited UK[1]
Pelagic Pressure Systems	2002 Design, Inc.
Hollis Industries, Inc.	None
Ocean Pulse, Inc.	None

[1] A joint venture between Oceanic (65% ownership) and Calvin Riches, and individual (35% ownership).

Schedule 5.12

Location of Inventory and Equipment

Borrower Name	Locations of Inventory and Equipment
American Underwater Products	2002 Davis Street San Leandro, CA 94577
Pelagic Pressure Systems	2002 Davis Street San Leandro, CA 94577
Hollis Industries, Inc.,	2002 Davis Street San Leandro, CA 94577
Ocean Pulse, Inc.	14212 Doolittle Dr. San Leandro, CA 94577

Schedule P-1

Permitted Indebtedness

All debts (i) existing or (ii) accruing to the following Persons pursuant to agreements existing on the date of execution and delivery of that certain Revolving Credit Loan & Security Agreement to which this Schedule is an attachment.

	Creditor	Outstanding Amount at Closing Date
1.	C. I. T. Systems Leasing 2285 Franklin Road Bloomfield Hills, MI 48303	$77,305.49
2.	Centerpoint Financial Services 1675 Larimer St., Suite 880 Denver, CO 80202	$26,992.56
3.	First Sierra Financial, Inc. P. O. Box 20000 Houston, TX 77216	$75,298.63
4.	Lanier Worldwide Inc. P. O. Box 105533 Atlanta, GA 30348	$32,620.86

Schedule P-2

Permitted Investments

All Investments or amounts (i) on deposit with the following Persons or (ii) deposited or accrued pursuant to agreements existing on the date of execution and delivery of that certain Revolving Credit Loan & Security Agreement to which this Schedule is an attachment.

Wells Fargo Bank	Union Bank of California	Bank of the West	First Hawaiian Bank
American Underwater Products General Account 4038145942 Payroll Account 4038145983	American Underwater Products General Account 7150168028	American Underwater Products General Account 184007961	Oceanic-International, Inc. General Account 48036228 Imprest Fund a/c 48012213
Pelagic Pressure Systems General Account 4038145918 Payroll Account 4038145959	Pelagic Pressure Systems General Account 715068060	Pelagic Pressure Systems General Account 184007979	
Hollis Industries, Inc. General Account 4038145793 Payroll Account 4038145876	Hollis Industries, Inc. General Account 7150168044	Hollis Industries, Inc. General Account 184007870	
Ocean Pulse, Inc. General Account 4038145751 Payroll Account 4761054352	Ocean Pulse, Inc. General Account 7150175180		
2002 Design, Inc. Payroll Account 4038146015	2002 Design, Inc. General Account 7150180265		

All stock held in the following Persons owned by Borrowers:

Borrower Name	Person Owned's Name	% Ownership on date of execution and delivery
American Underwater Products	Oceanic-International	100%
American Underwater Products	Oceanic SW Ltd.	65%
American Underwater Products	Oceanic Tauchsport Vertriebs	80%
American Underwater Products	Oceanic Europe	100%
American Underwater Products	Oceanic Japan	50%
Pelagic Pressure Systems	2002 Design, Inc.	100%
American Underwater Products	Oceanic Asia Pacific	50%

Borrower: American Underwater Products, Inc. *et al*
Date: April 2, 2001
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Schedule P-3

Permitted Liens

All liens in favor of the following Persons (i) existing or (ii) arising pursuant to agreements existing on the date of execution and delivery of that certain Revolving Credit Loan & Security Agreement to which this Schedule is an attachment.

1. C. I. T. Systems Leasing
   2285 Franklin Road
   Bloomfield Hills, MI 48303

2. Centerpoint Financial Services
   1675 Larimer St., Suite 880
   Denver, CO 80202

3. First Sierra Financial, Inc.
   P. O. Box 20000
   Houston, TX 77216

4. Lanier Worldwide Inc.
   P. O. Box 105533
   Atlanta, GA 30348