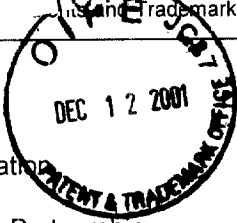


12-17-2001
101917629

12.12.01

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

1. Name of conveying party(ies):
 PM Beef Holdings, L.L.C.
 Individual(s) Association
 General Partnership Limited Partnership
 Corporation-State: _____
 Other: Limited Liability Company of Delaware
 Additional name(s) of conveying party(ies) attached? Yes No



2. Name and address of receiving party(ies):
 Name: The CIT Group/Business Credit, Inc.
 Internal
 Address: Two Wachovia Center
 Street Address: 301 South Tryon Street
 City: Charlotte State: NC ZIP: 28202
 Individual(s) citizenship: _____
 Association _____
 General Partnership of: _____
 Limited Partnership of: _____
 Corporation-State: New York
 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 No

3. Nature of conveyance:
 Assignment Merger
 Security Agreement Change of Name
 Other: _____
 Execution Date: December 10, 2001

4. Application number(s) or registration number(s):
 A. Trademark Application No.(s)
76/245,413 and 76/195,360
 Additional numbers attached Yes No

B. Trademark Registration No.(s)

5. Name and address of party to whom correspondence concerning document should be mailed:
 Name: Adam D. Resnick, Esq.
 Internal Address: _____
PIPER MARBURY RUDNICK & WOLFE LLP
 Street Address: 1200 Nineteenth Street, NW
 City: Washington State: DC ZIP: 20036

6. Total number of applications and registrations involved: 2
 7. Total fee (37 C.F.R. § 3.41). \$ 65.00
 Enclosed
 Authorized to be charged to deposit account
 8. Deposit account number:
501150
 (Attach duplicate copy of this page if paying by deposit account)

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.
Adam D. Resnick, Esq. 12/12/01
 Name of Person Signing Signature Date

Total no. of pages incl. cover sheets, attachments, and document: 50

Mail documents to be recorded with required cover sheet information to:
 Commissioner of Patents & Trademarks, Box Assignments
 Washington, D.C. 20231

12/14/2001 LUMELLER 000617 76/45413
40.00 DP
25.00 DP

RECORDATION FORM COVER SHEET
TRADEMARKS ONLY
CONTINUATION

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

1. Name of conveying party(ies):
 PM Beef Group, L.L.C.
 Individual(s) Association
 General Partnership Limited Partnership
 Corporation-State: _____
 Other: Limited Liability Company of Delaware
 Additional name(s) of conveying party(ies) attached? Yes No

2. Name and address of receiving party(ies):
 Name: The CIT Group/Business Credit, Inc.
 Internal
 Address: Two Wachovia Center
 Street Address: 301 South Tryon Street
 City: Charlotte State: NC ZIP: 28202
 Individual(s) citizenship: _____
 Association _____
 General Partnership of: _____
 Limited Partnership of: _____
 Corporation-State: New York
 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 No

3. Nature of conveyance:
 Assignment Merger
 Security Agreement Change of Name
 Other: _____
 Execution Date: December 10, 2001

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 Enclosed
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 8. Deposit account number:
501150
 (Attach duplicate copy of this page if paying by deposit account)

DO NOT USE THIS SPACE

9. Statement and signature.
To the best of my knowledge and belief, the foregoing information is true and correct and any attached copy is a true copy of the original document.
Adam D. Resnick, Esq.  12/12/01
 Name of Person Signing Signature Date

Total no. of pages incl. cover sheets, attachments, and document: 50

Mail documents to be recorded with required cover sheet information to:
 Commissioner of Patents & Trademarks, Box Assignments
 Washington, D.C. 20231

RECORDATION FORM COVER SHEET
TRADEMARKS ONLY
CONTINUATION

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

1. Name of conveying party(ies):
 PM Global Foods, L.L.C.
 Individual(s) Association
 General Partnership Limited Partnership
 Corporation-State: _____
 Other: Limited Liability Company of Delaware
 Additional name(s) of conveying party(ies) attached? Yes No

2. Name and address of receiving party(ies):
 Name: The CIT Group/Business Credit, Inc.
 Internal Address: Two Wachovia Center
 Street Address: 301 South Tryon Street
 City: Charlotte State: NC ZIP: 28202
 Individual(s) citizenship: _____
 Association _____
 General Partnership of: _____
 Limited Partnership of: _____
 Corporation-State: New York
 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 No

3. Nature of conveyance:
 Assignment Merger
 Security Agreement Change of Name
 Other: _____
 Execution Date: December 10, 2001

4. Application number(s) or registration number(s):
 A. Trademark Application No.(s)
76/245,413 and 76/195,360

B. Trademark Registration No.(s)

Additional numbers attached Yes No

5. Name and address of party to whom correspondence concerning document should be mailed:
 Name: Adam D. Resnick, Esq.
 Internal Address: _____
PIPER MARBURY RUDNICK & WOLFE LLP
 Street Address: 1200 Nineteenth Street, NW
 City: Washington State: DC ZIP: 20036

6. Total number of applications and registrations involved: 2
 7. Total fee (37 C.F.R. § 3.41). \$ 65.00
 Enclosed
 Authorized to be charged to deposit account
 8. Deposit account number:
501150
 (Attach duplicate copy of this page if paying by deposit account)

DO NOT USE THIS SPACE

9. Statement and signature.
To the best of my knowledge and belief, the foregoing information is true and correct and any attached copy is a true copy of the original document.
Adam D. Resnick, Esq. [Signature] 12/12/01
 Name of Person Signing Signature Date

Total no. of pages incl. cover sheets, attachments, and document: 50

Mail documents to be recorded with required cover sheet information to:
 Commissioner of Patents & Trademarks, Box Assignments
 Washington, D.C. 20231

SECURITY AGREEMENT

Made by

**PM BEEF HOLDINGS, L.L.C.
PM BEEF GROUP, L.L.C.
PM BEEF GLOBAL, L.L.C.**

(Debtor)

for the benefit and security of

**THE CIT GROUP/BUSINESS CREDIT, INC.
(Secured Party)**

Dated as of December 10, 2001

SECURITY AGREEMENT

THIS SECURITY AGREEMENT (this "**Agreement**") is made as of the 10th day of December, 2001, by and among PM BEEF HOLDINGS, L.L.C., a Delaware limited liability company, having a mailing address at 7200 Glen Forest Drive, Suite 306, Richmond, Virginia 23226 and having a federal employer identification number of 54-1692384 and an organizational number of 2902588 ("**PM Beef**"); PM BEEF GROUP, L.L.C., a Delaware limited liability company, having a mailing address at 10920 NW Ambassador Drive, Kansas City, Missouri 64153 and having a federal employer identification number of 54-1692384 and an organizational number of 2917899 ("**PM Group**"); and PM GLOBAL FOODS, L.L.C., a Delaware limited liability company, having a mailing address at 550 Pharr Road, Suite 612, Atlanta, Georgia 30305 and having a federal employer identification number of 54-1692384 and an organizational number of 2773962 ("**PM Global**," and together with PM Beef and PM Group collectively, "**Debtor**") for the benefit and security of THE CIT GROUP/BUSINESS CREDIT, INC., a New York corporation, having a mailing address at Two Wachovia Center, 301 South Tryon Street, Charlotte, North Carolina 28202 ("**Secured Party**").

Debtor has requested Secured Party to make one or more loans or other financial accommodations to or for the account of Debtor, and Secured Party has agreed to do so subject to certain terms and conditions, including the condition that Debtor make this Agreement for the benefit of Secured Party.

This Agreement is the "Security Agreement" as referred to in the Financing Agreement dated on or as of December __, 2001, made by Secured Party and Debtor ("**Credit Agreement**," which term shall include all exhibits or schedules thereto, and all amendments, restatements, supplements or other modifications thereto, and shall refer to the Credit Agreement as the same may be in effect at any and all times such reference becomes operative). Capitalized terms used in this Agreement that are not defined in this Agreement, but are defined in the Credit Agreement, shall have the meanings given them in the Credit Agreement.

ACCORDINGLY, in consideration of the foregoing, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Debtor hereby makes the following covenants, agreements, representations, and warranties for the benefit and security of Secured Party:

ARTICLE I CONSTRUCTION AND DEFINED TERMS

SECTION 1.01. *Article and Section Headings.* Article and Section headings and captions in this Agreement are for convenience only and shall not affect the construction or interpretation of this Agreement. Unless otherwise expressly stated in this Agreement, references in this Agreement to Sections shall be read as Sections of this Agreement.

SECTION 1.02. Schedules. Unless a Schedule is referred to in this Agreement as being a Schedule to another Credit Document, the references in this Agreement to specific Schedules shall be read as references to such specific Schedules attached, or intended to be attached, to this Agreement and any counterpart of this Agreement and regardless of whether they are in fact attached to this Agreement, and including any amendments, supplements and replacements to such Schedules from time to time.

SECTION 1.03. Defined Terms. Unless otherwise expressly stated in this Agreement, capitalized terms used in this Agreement shall have the following meanings:

"**Accessions**" Goods that are physically united with other Goods in such a manner that the identity of the original Goods is not lost.

"**Accounts**" As defined in Section 2.01.

"**Account Debtor**" A Person obligated on an Account, Chattel Paper, or General Intangible (other than a Person obligated to pay a negotiable instrument, even if the instrument constitutes part of Chattel Paper).

"**Article 5**" Title 5 of the UCC, also known and cited as New York Uniform Commercial Code – Letters of Credit, as in effect from time to time.

"**Article 8**" Title 8 of the UCC, also known and cited as New York Uniform Commercial Code – Investment Securities, as in effect from time to time.

"**Article 9**" Title 9 of the UCC, also known and cited as New York Uniform Commercial Code – Secured Transactions, as in effect from time to time.

"**Authenticate**" or "**Authenticated**" or "**Authenticating**" or "**Authentication**" To sign (or to have signed), or to execute or otherwise adopt (or to have executed or otherwise adopted) a symbol, or encrypt or similarly process (or to have encrypted or similarly processed) a Record in whole or in part, with the present intent of the authenticating Person to identify the Person and adopt or accept a Record.

"**Bailment Agreement**" Any agreement between Debtor and any Third Party that is in possession of any of Debtor's Property, which agreement evidences the terms under which such Third Party is in possession of such Property.

"**Bank**" As defined in Article 9, and any organization that is engaged in the business of banking, including commercial banks, savings banks, savings and loan associations, credit unions, and trust companies.

"**Blocked Account**" As "Blocked Accounts" is defined in the Credit Agreement.

"**Business Records**" As defined in Section 2.01.

"Chattel Paper" As defined in Section 2.01.

"Collateral" As defined in Section 2.01.

"Collateral Records" Business Records concerning any Collateral.

"Collection Collateral" Accounts, Chattel Paper, General Intangibles, Instruments, Documents, Investment Property, Letter-of-credit rights, Commercial Tort Claims, and Supporting Obligations.

"Collection Collateral Debtor" Each Account Debtor with respect to any Collection Collateral that is an Account, Chattel Paper, or General Intangible, and each Person obligated to Debtor with respect to any Collection Collateral other than an Account, Chattel Paper, or General Intangible.

"Collection Costs" All costs and expenses of enforcing this Agreement and the other Credit Documents, including all costs and expenses of collecting the Obligations and exercising Secured Party's rights and remedies under this Agreement and the other Credit Documents, or under any Law, as against the Collateral, or as against Debtor or any other Person, and any and all costs and expenses incurred by Secured Party at any time in enforcing or defending Secured Party's Lien and priority in the Collateral, and any other costs and expenses incurred by Secured Party after the occurrence of any Default or Event of Default, with regard to any matters relating to this Agreement or the other Credit Documents, regardless of whether a Default or Event of Default shall have been declared or any remedies shall have been exercised, and including all such costs and expenses incurred by Secured Party in or relating to any bankruptcy or insolvency proceedings. Without limiting the generality of the preceding sentence, Collection Costs include all (a) reasonable attorney's fees and legal expenses incurred by Secured Party in enforcing this Agreement and the other Credit Documents, in collecting the Obligations, and in exercising Secured Party's rights and remedies under this Agreement and the other Credit Documents, or under any Law, (b) fees and expenses of experts, consultants, accountants, engineers, appraisers, surveyors, receivers, trustees, warehousemen, and auctioneers, (c) costs and expenses of collecting, repossessing, transporting, holding, storing, and repairing Collateral, (d) costs and expenses of preparing Collateral for sale, lease, license, exchange, or other disposition, (e) costs and expenses of insuring Collateral, and (f) costs and expenses of advertising, marketing, and selling any Collateral.

"Commercial Tort Claim" As defined in Article 9, and any claim arising in tort with respect to which: (a) the claimant is an organization; or (b) the claimant is an individual and the claim: (i) arose in the course of the claimant's business or profession; and (ii) does not include damages arising out of personal injury to or the death of an individual.

"Commingled Goods" Goods that are physically united with other Goods in such a manner that their identity is lost in a product or mass.

"Control Agreement" A written agreement (or other Authenticated record), in form and substance satisfactory to Secured Party, between any Debtor, Secured Party, and a Third Party, that gives Secured Party "control" (within the meaning of Article 8 and Article 9) over certain Collateral, and which contains such additional provisions as Secured Party may deem necessary or appropriate for the protection of Secured Party's rights to such Collateral.

"Control Consent" As applicable to Collateral that is a Letter-of-credit right, "Control Consent" means a written consent (or other Authenticated Record) in form and substance satisfactory to Secured Party, pursuant to which a Letter of Credit Issuer (or any Nominated Person with respect to a Letter of Credit) consents to an assignment of the proceeds of the Letter of Credit, which written consent shall contain such provisions as Secured Party may deem necessary or appropriate for the protection of Secured Party's rights to such Collateral.

"Copyright" or "Copyrights" Any copyright protected under any Law, including any original works of authorship, or other Property, or rights comprised therein, that may be entitled to copyright protection under any Law.

"Core Intellectual Property" Copyrights, Mask Works, Patents, and Trademarks, and all rights relating to any of the foregoing, and all applications, registrations, re-applications, and re-registrations for any of the foregoing, and all amendments, reissues, renewals, or supplementations of, or substitutions or replacements for, any of the foregoing, and including any other rights or interests in any of the foregoing, and including rights to sue for past, present or future violations or infringements of any of the foregoing.

"Credit Agreement" As defined on the first page of this Agreement.

"Credit Document" or "Credit Documents" This Agreement, the Credit Agreement, each Control Agreement, each Control Consent, each Landlord Collateral Agreement, each Mortgagee Collateral Agreement, and each and every other agreement (of any kind), promissory note, instrument, assignment, guaranty, indemnity, bond, financing statement, certificate, notice, acknowledgment, consent, or other document that evidences, secures, guarantees, insures or otherwise relates directly or indirectly to the Obligations, or that is made to perfect (by control or otherwise) the security interests and other rights of Secured Party in and to the Collateral, or that is made to memorialize or escrow any Collateral, or that is made to induce Secured Party to make or extend the loan(s) or other financial accommodations to or for the account of Debtor, and all amendments, modifications, supplements, extensions and replacements hereof and thereof, from time to time. Without limiting the generality of the preceding sentence, Credit Documents include the "Loan Documents" as defined in the Credit Agreement.

"Default" Any event, occurrence, circumstance, act, or failure to act which, with the giving of notice and/or the passage of time, would become an Event of Default.

"Deposit Accounts" As defined in Section 2.01.

"Deposit Account Agreement" With respect to any Deposit Account, any agreement between Debtor and any Bank relating to the Deposit Account.

"Deposit Account Statement" With respect to any Deposit Account, any periodic (or other) account statement, report, or correspondence regarding the Deposit Account provided to Debtor by the Bank with which the Deposit Account is maintained.

"Designated Location" or "Designated Locations" As defined in Section 3.06.

"Documents" As defined in Section 2.01.

"Documentary Credit" Any Letter of Credit, and to the extent not included within the term Letter of Credit, any "standby" letter of credit (as such term is defined in International Standby Practices 1998, ICC Publication No. 590), any documentary credits (as such term is defined in the Uniform Customs and Practice for Documentary Credits, 1993 Revision, ICC Publication No. 500), and any other arrangement, however named or described, whereby a bank or other Person (the "issuing bank") acting at the request and on the instructions of a customer (the "applicant") or on its own behalf (i) is to make a payment to or to the order of a third party (the "beneficiary"), or is to accept and pay bills of exchange ("drafts") drawn by the beneficiary, or (ii) authorizes another bank or other Person to effect such payment, or to accept and pay such bills of exchange ("drafts"), or (iii) authorizes another bank or other Person to negotiate, against stipulated documents, provided that the terms and conditions of the credit are complied with.

"Electronic Chattel Paper" As defined in Article 9, and any Chattel Paper evidenced by a Record or Records consisting of information stored in an electronic medium.

"Equipment" As defined in Section 2.01.

"Event of Default" An Event of Default as defined in the Credit Agreement.

"GAAP" As defined in the Credit Agreement.

"General Intangibles" As defined in Section 2.01.

"Goods" As defined in Article 9, and all things that are movable when a security interest attaches, including (i) fixtures, (ii) standing timber that is to be cut and removed under a conveyance or contract for sale, (iii) the unborn young of animals, (iv) crops grown, growing, or to be grown, even if the crops are produced on trees, vines, or bushes, (v) manufactured homes, and (vi) any computer program embedded in Goods and any supporting information provided in connection with a transaction relating to the program if (A) the program is associated with the Goods in such a manner that it customarily is considered part of the Goods, or (B) by becoming the owner of the Goods, a Person acquires a right to use the program in connection with the Goods. The term "Goods" does not include a computer program embedded in Goods that consist solely of the medium in which the program is embedded, and does not include accounts (as

"account" is defined in Article 9), chattel paper (as "chattel paper" is defined in Article 9), commercial tort claims (as "commercial tort claim" is defined in Article 9), deposit accounts (as "deposit account" is defined in Article 9), documents (as "document" is defined in Article 9), general intangibles (as "general intangible" is defined in Article 9), instruments (as "instrument" is defined in Article 9), investment property (as "investment property" is defined in Article 9), letter-of-credit rights (as "letter-of-credit right" is defined in Article 9), letters of credit (as "letter of credit" is defined in Article 5), money, or oil, gas, or other minerals before extraction.

"Governmental Authority" As defined in the Credit Agreement.

"Governmental Collection Collateral" Any Collection Collateral with respect to which the Collection Collateral Debtor is a Governmental Authority.

"Guarantor" Any Person other than Debtor who at any time provides to Secured Party collateral security or other credit support for the Obligations, including any co-borrower, indorser, guarantor, surety, or accommodation party, any Person who furnishes any bond for the benefit of Secured Party, any Person who makes any guaranty, security agreement, pledge agreement, negative pledge agreement, collateral assignment, indemnity agreement, deed of trust, or similar collateral security document for the benefit of Secured Party, and any Person who pledges or otherwise delivers any property to Secured Party as collateral security for the Obligations. Without limiting the generality of the preceding sentence, the term "Guarantor" includes any Person other than Debtor that is an Obligor with respect to the Obligations secured by any security interest in the Collateral.

"Held Items" As defined in Section 2.01.

"Include" and **"including"** Unless otherwise expressly limited herein (and except where used in the context of "does not include" or "not included"), the words "include" and "including" shall be read to mean "include, without limitation," and "including, without limitation," as the case may be.

"Instruments" As defined in Section 2.01.

"Intellectual Property" Core Intellectual Property, Other Intellectual Property and Intellectual Property Agreements.

"Intellectual Property Agreements" Any agreements relating to Core Intellectual Property or any Other Intellectual Property, and including any agreements, rights, options, or licenses to purchase or otherwise acquire or use or benefit from (or to sell or otherwise permit any other Person to acquire or use or benefit from) any Core Intellectual Property or any Other Intellectual Property, and any Source Code Escrow Agreements, and any personal services contracts, employment contracts, confidentiality agreements and similar covenants and agreements, rights under agreements not to compete and similar covenants and agreements, rights to contract expirations or renewals, and rights to insurance policy expirations or renewals, including any amendments, reissues, renewals, or supplementations of, or

substitutions or replacements for, any of the foregoing, and including any agreements with employees or former employees relating to any of the foregoing.

"Inventory" As defined in Section 2.01.

"Investment Property" As defined in Section 2.01.

"Investment Property Account" Any Investment Property that is a "securities account" (as "securities account" is defined in Article 8) or a "commodity account" (as "commodity account" is defined in Article 9).

"Investment Property Account Agreement" With respect to any Investment Property Account, any agreement between Debtor and any securities intermediary or commodity intermediary, as the case may be, relating to such Investment Property Account.

"Investment Property Account Statement" With respect to any Investment Property Account, any periodic (or other) account statement, report, or correspondence provided to Debtor by any securities intermediary or commodity intermediary with respect to any Investment Property Account.

"Item of Payment" All checks, drafts, cash, and other remittances of payment of, or on account of, any Accounts, Instruments, Chattel Paper, Documents, Investment Property, or General Intangibles, or received as Proceeds of the sale or lease of any of Debtor's Property or as payment for any services rendered by Debtor to any Person.

"Landlord Collateral Agreement" A written agreement made for the benefit of Secured Party, and executed and delivered by the landlord of any property leased or subleased by Debtor, and any other property where Debtor has a place of business or which is otherwise occupied by Debtor or where any Collateral is located, (a) pursuant to which agreement (i) the landlord waives any Lien that the landlord may have in any Collateral or other property of Debtor, and (ii) Secured Party is permitted access to the property to inspect the Collateral, to remove the Collateral from the property and, at Secured Party's option, to use the property for the storage, retaking, processing, maintenance, marketing, sale, leasing, licensing or other disposition of the Collateral, and (b) which agreement shall contain such other provisions as Secured Party may require.

"Law" Any law (including common law), principle, usage, custom, constitution, statute, regulation, ordinance, rule, code, judgment, decision, decree, order (or other directive) of (a) the federal government of the United States (or any branch, department, agency, board, commission, bureau, unit, office, or instrumentality thereof), (b) any state, district, territory, insular possession, county, parish, city, municipal, or local government or jurisdiction of or within the United States (or any branch, department, agency, board, commission, bureau, unit, office or instrumentality thereof), or (c) any national, federal, state, district, provincial, territorial, county, parish, city, municipal, or local government or jurisdiction outside the United States (or

any branch, department, agency, board, commission, bureau, unit, office or instrumentality thereof).

"Letter of Credit" or "Letters of Credit" As "letter of credit" is defined in Article 5.

"Letter of Credit Agreement" With respect to any Documentary Credit, any agreement between (or otherwise binding on) Debtor and any other Person, that, as between Debtor and such other Person, provides for, imposes conditions on, or restricts, (a) Debtor's (or any beneficiary's) right to present any Documentary Credit (or any draft or document thereunder) for payment, or (b) the disposition of proceeds of any Documentary Credit (or any draft or document thereunder).

"Letter of Credit Issuer" A Bank or other Person that issues a Letter of Credit.

"Letter-of-credit right" As defined in Article 9, and any right to payment or performance under a Letter of Credit, whether or not the beneficiary has demanded or is at the time entitled to demand payment or performance, excluding, however, from the definition of Letter-of-credit right, any right of a beneficiary to demand payment or performance under a Letter of Credit.

"Lien" Any security interest (including security interest within the definition of "security interest" in the UCC), encumbrance, lien (including any judgment lien, any contract lien, any lien arising or resulting from nonpayment of any tax, assessment, charge or other imposition, and any lien arising or resulting from nonpayment for labor, materials, or supplies), security agreement (including any agreement that creates or provides for a security interest), deed of trust, mortgage, grant, pledge, assignment, hypothecation, title retention contract, or other arrangement for security purposes, and any agricultural lien (including any agricultural lien within the definition of "agricultural lien" in Article 9), and including any of the foregoing arising by operation of statute or other law or the application of equitable principles, whether perfected or unperfected, avoidable or unavoidable, consensual or nonconsensual, and any financing statement or other similar notice document, whether or not filed, and any agreement to give a financing statement or other similar notice document.

"Lien Notice" Any instrument, document, agreement, notice, acknowledgment, or consent made by, given to, or filed, recorded, or registered with, any Person, and regardless of whether required by any Law, for the purpose of effecting, perfecting, protecting, continuing, maintaining, registering, or giving notice of any Lien (or the possibility of a Lien and regardless of whether any Lien other than the Lien Notice exists or the effect of the Lien Notice) upon, or to perfect any security interest by taking control of (as the term "control" is used in Article 8 or Article 9, as the case may be), any of Debtor's Property (including any Collateral), or for any precautionary purposes, including any of the following that may be given to, or filed, recorded, or registered with, any Person (including any Governmental Authority) for any of the foregoing purposes: security agreements, control agreements, control consents, acknowledgments of possession, financing statements, vehicle security interest or lien filings, mortgages, deeds of

trust, judgments, leases, indentures, collateral assignments, assignments of claims, and notices of any of the foregoing.

"Lien Proceeding" Any action taken (including self help) or proceeding (judicial or otherwise) commenced by any Person other than Secured Party for the purpose of enforcing or protecting any actual or alleged Lien upon any of the Collateral or any of Debtor's other Property, and including any foreclosure, repossession, attachment, execution or other process regarding any of the Collateral or any of Debtor's other Property.

"Lock-Box" A lock-box maintained at a Lock-Box Bank, to which lock-box Collection Collateral Debtors are instructed (by Debtor or Secured Party) to send payments.

"Lock-Box Bank" A Bank with which a Lock-Box is maintained and with which Secured Party and Debtor have a written agreement (applicable to the Lock-Box) in form and substance satisfactory to Secured Party.

"Mask Work" or "Mask Works" Any mask work within the meaning of "mask work" as defined in the Semiconductor Chip Protection Act of 1984, as amended (17 U.S.C.A. §901 et seq.), or protected under any other Law.

"Mortgagee Collateral Agreement" A written agreement made for the benefit of Secured Party, and executed and delivered by the mortgagee or beneficiary, as the case may be, of any mortgage or deed of trust or other security instrument covering any property owned, leased, or subleased by Debtor, and any other property where Debtor has a place of business or which is otherwise occupied by Debtor or where any Collateral is located, (a) pursuant to which agreement (i) the mortgagee or beneficiary, as the case may be, waives any Lien that it may have in any Collateral or other property of Debtor, and (ii) Secured Party is permitted access to the property to inspect the Collateral, to remove the Collateral from the property and, at Secured Party's option, to use the property for the storage, retaking, processing, maintenance, marketing, sale, leasing, licensing or other disposition of the Collateral, and (b) which agreement shall contain such other provisions as Secured Party may require.

"New Location Action" As defined in Section 5.02.

"Nominated Person" With respect to any Letter of Credit, any Person whom a Letter of Credit Issuer (a) designates or authorizes to pay, accept, negotiate, or otherwise give value under a Letter of Credit and (b) undertakes by agreement or custom and practice to reimburse.

"Obligations" As defined in the Credit Agreement.

"Obligor" As defined in the Credit Agreement.

"Other Intellectual Property" All forms and types of financial, business, scientific, technical, economic, or engineering information, including patterns, plans,

compilations, program devices, formulas, designs, prototypes, methods, techniques, processes, procedures, programs, or codes, trade secrets, know-how, shop rights, inventions, discoveries, business systems, business forms, business stationery, software, trade dress, brand names, commercial names, fictitious names, brochures, signs, tags, labels, logos, sales materials, advertising materials, marketing materials, promotional materials, shipping materials, pricing materials, customer lists, distributor lists, franchisee lists, franchisor lists, licensee lists, licensor lists, instruction manuals, operation manuals, service manuals, telephone numbers, post office addresses, mailing addresses, e-mail addresses, Internet protocol numerical addresses, domain names, codes, Web sites, permits, authorizations, consents, and approvals, whether tangible or intangible, and whether or how stored, compiled, or memorialized physically, electronically, graphically, photographically, or in writing, and including any other rights or interests in any of the foregoing, and all rights to sue for past, present or future violations or infringements or misappropriation of any of the foregoing, and the goodwill associated with or related to any of the foregoing (and including the goodwill of any business owning or having rights to any of the foregoing), and including opinions and advice of counsel, consultants, advisors, and experts (including research materials, engineering reports and other work product of employees), as memorialized in any form, regarding any of the foregoing or regarding any Core Intellectual Property.

"Other Personalty" As defined in Section 2.01.

"Patent" or "Patents" Any patent issued under any Law for any invention or discovery, and any discovery of a new or useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, or other Property, that may be entitled to a patent or patent protection under any Law.

"Payment Intangible" As defined in Article 9, and any General Intangible under which the Account Debtor's principal obligation is a monetary obligation.

"Permitted Encumbrances" As defined in the Credit Agreement.

"Person" Any natural person, corporation, limited liability company, partnership, joint venture, entity, association, joint-stock company, trust or unincorporated organization and any Governmental Authority, including any receiver, debtor-in-possession, trustee, custodian, conservator, or liquidator.

"Proceeds" As defined in Section 2.01.

"Products" As defined in Section 2.01.

"Promissory Note" Any "promissory note" as defined in Article 9, and any instrument (as defined in Article 9) that evidences a promise to pay a monetary obligation, does not evidence an order to pay, and does not contain an acknowledgment by a Bank that the Bank has received for deposit a sum of money or funds.

"Property" Any property of any kind whatsoever, whether real, personal, or mixed, and whether tangible or intangible, and any right, title or interest in or to property of any kind whatsoever, whether real, personal, or mixed, and whether tangible or intangible, including the Collateral.

"Receiver" As defined in Section 7.09.

"Record" and **"Records"** As defined in Article 9, and, except as used in "for record," "of record," "record or legal title," and "record owner," any information that is inscribed on a tangible medium or which is stored in an electronic or other medium and is retrievable in perceivable form.

"Secondary Obligor" As defined in Article 9, and any Obligor to the extent that (a) the Obligor's obligation is secondary, or (b) the Obligor has a right of recourse with respect to an obligation secured by Collateral against Debtor, another Obligor, or property of Debtor or another Obligor.

"Scheduled Documentary Credits" As defined in Section 3.15.

"Software" As defined in Article 9, and any computer program both in source code and object code form and any supporting information provided in connection with a transaction relating to the program. Software does not include a computer program that is embedded in Goods or any supporting information provided in connection with a transaction relating to the program if (i) the program is associated with the Goods in such a manner that it customarily is considered part of the Goods, or (ii) by becoming the owner of the Goods, a Person acquires a right to use the program in connection with the Goods.

"Source Code Escrow Agreement" Any agreement under which the parties to such agreement agree to deposit the source code form of identified Software or other identified intellectual property with a third party escrow agent.

"Special Goods" Vehicles, trailers, shipping containers, rolling stock, aircraft, ships, boats, barges and other vessels, broadcasting and other communications equipment, and satellites, and any engines, parts, components, or accessories to any of the foregoing. Special Goods also includes any Goods not covered by the immediately preceding sentence if the creation, perfection, priority, or enforcement of a security interest in such Goods would be subject to (a) any statute, regulation, or treaty of the United States that preempts the Uniform Commercial Code as in effect in any state, (b) a statute of a state (other than the Uniform Commercial Code as in effect in such state), or (c) a statute of a foreign country, or a governmental unit of a foreign country (other than a statute generally applicable to security interests).

"Supporting Obligation" As defined in Article 9, and any Letter-of-credit right or secondary obligation that supports the payment or performance of an Account, Chattel Paper, a Document, a General Intangible, an Instrument, or Investment Property.

"Third Party" A Person other than Debtor or Secured Party.

"Trademark" or "Trademarks" Any trademark, service mark, collective mark, certification mark, or other distinctive mark, or other Property, that may be entitled to trademark protection under any Law.

"UCC" The New York Uniform Commercial Code, as it may be revised from time to time; provided that if, and to the extent that, the Uniform Commercial Code of a jurisdiction other than New York governs the perfection, the effect of perfection or non-perfection, or the priority of a security interest created under this Agreement, then "UCC" shall refer to the Uniform Commercial Code of such other jurisdiction to the extent applicable to the perfection, the effect of perfection or non-perfection, or the priority of such security interest.

"Web site" or "Web sites" The interface, functionality, and content, including all text, pictures, sound, graphics, video and other data, and as such materials may be modified from time to time, made available on the World Wide Web and accessible via a particular domain name, including all HTML (hypertext markup language) files, Java files, graphics files, animation files, data files, technology, scripts, and other programming code, both in object code and source code form, the domain name, and all accompanying documentation.

ARTICLE II

SECURITY INTEREST; PERFECTION

SECTION 2.01. *Security Interest.* To further secure the Obligations, and without limiting the legal operation and effect of any other Credit Document, Debtor hereby collaterally assigns to Secured Party, and grants Secured Party a security interest in, all of Debtor's now owned and hereafter acquired, created or arising Property described below, and in each case regardless of where such Property may be located and whether such Property may be in the possession of Debtor, Secured Party, or a Third Party, and, if any of such Property may be held or stored with any Third Party, together with all of Debtor's rights now owned and hereafter acquired, created or arising relating to the storage, withdrawal and retrieval thereof and access thereto (all of which Property described below and all such rights of storage, withdrawal, retrieval and access, in each case both now owned and hereafter acquired, created or arising, being referred to herein as "**Collateral**"):

(a) All of Debtor's now owned and hereafter acquired, created or arising (i) "accounts" (as "account" is defined in Article 9), (ii) rights to payment of any monetary obligation, whether or not earned by performance, (A) for property that has been or is to be sold, leased, licensed, assigned, or otherwise disposed of, (B) for services rendered or to be rendered, (C) for a policy of insurance issued or to be issued, (D) for a secondary obligation incurred or to be incurred, (E) for energy provided or to be provided, (F) for the use or hire of a vessel under a charter or other contract, (G) arising out of the use of a credit or charge card or information contained on or for use with the card, or (H) as winnings in a lottery or other game of chance operated or sponsored by a state, governmental unit of a state, or Person licensed or authorized to

operate the game by a state or governmental unit of a state, and (iii) rights of stoppage in transit, replevin, repossession and reclamation and other rights and remedies of an unpaid vendor, lienor or secured party, and all guaranties or other contracts of suretyship with respect to any of the foregoing property, and all deposits, Letters of Credit, and other security for the obligation of any Account Debtor relating in any way to any of the foregoing property, and all credit and other insurance for any of the foregoing property ("**Accounts**"). The term Accounts does not include (i) rights to payment evidenced by chattel paper or an instrument (as "chattel paper" and "instrument" are defined in Article 9), (ii) commercial tort claims (as "commercial tort claim" is defined in Article 9), (iii) deposit accounts (as "deposit account" is defined in Article 9), (iv) investment property (as "investment property" is defined in Article 9), (v) letter-of-credit rights or letters of credit (as "letter-of-credit right" and "letter of credit" are defined in Article 9 and Article 5, as the case may be), or (vi) rights to payment for money or funds advanced or sold, other than rights arising out of the use of a credit or charge card or information contained on or for use with the card; and

(b) All of Debtor's now owned and hereafter acquired, created or arising (i) "chattel paper" (as "chattel paper" is defined in Article 9) and (ii) records that evidence both a Monetary Obligation and a security interest in specific Goods, a security interest in specific Goods and software used in the Goods, a security interest in specific Goods and license of software used in the Goods, a lease of specific Goods, or a lease of specific Goods and license of software used in the Goods (and if a transaction is evidenced by Records that include an instrument or series of instruments, the group of Records taken together constitutes Chattel Paper) and any thereof evidenced by a Record or Records consisting of information stored in an electronic medium (as used in this clause "Monetary Obligation" means a monetary obligation secured by the Goods or owed under a lease of the Goods and includes a monetary obligation with respect to software used in the Goods); excluding, however, from the definition of Chattel Paper, (x) charters or other contracts involving the use or hire of a vessel and (y) records that evidence a right to payment arising out of the use of a credit card or information contained on or for use with the card ("**Chattel Paper**"); and

(c) All of Debtor's now owned and hereafter acquired, created or arising (i) "deposit accounts" (as "deposit account" is defined in Article 9), (ii) any Depository Accounts (as defined in the Credit Agreement), and (iii) demand, time, savings, passbook, or similar accounts maintained with any Bank, and all amounts, balances, and contents therein and thereof and all of Debtor's rights under agreements relating thereto ("**Deposit Accounts**"); and

(d) Each Blocked Account, and all amounts, balances, and contents therein and thereof and all of Debtor's rights under agreements relating thereto; and

(e) All of Debtor's Commercial Tort Claims now or hereafter identified on Schedule 2.01(e) to this Agreement; and

(f) All of Debtor's now owned and hereafter acquired, created or arising (i) "documents" (as "document" is defined in Article 9) and (ii) documents of title (as "document of title" is defined in Section 1-201 of the UCC) ("**Documents**"); and

(g) All of Debtor's now owned and hereafter acquired, created or arising (i) "instruments" (as "instrument" is defined in Article 9), (ii) any negotiable instrument or any other writing that evidences a right to the payment of a monetary obligation, is not itself a security agreement or lease, and is of a type that in ordinary course of business is transferred by delivery with any necessary indorsement or assignment, and (iii) Promissory Notes or other instruments or agreements evidencing Debtor's right to payment from any Person or Persons ("**Instruments**"). The term "Instruments" does not include (i) investment property (as "investment property" is defined in Article 9), (ii) letters of credit (as "letter of credit" is defined in Article 5), or (iii) writings that evidence a right to payment arising out of the use of a credit or charge card or information contained on or for use with the card; and

(h) All of Debtor's now owned and hereafter acquired, created or arising (i) "investment property" (as "investment property" is defined in Article 9), (ii) securities (as "security" is defined in Article 8), whether certificated or uncertificated, (iii) security entitlements (as "security entitlement" is defined in Article 8), (iv) securities accounts (as "securities account" is defined in Article 8), (v) commodity contracts (as "commodity contract" is defined in Article 9), and (vi) commodity accounts (as "commodity account" is defined in Article 9) ("**Investment Property**"); and

(i) All of Debtor's now owned and hereafter acquired, created or arising Letter-of-credit rights and all of Debtor's now owned and hereafter acquired, created or arising Documentary Credits; and

(j) All of Debtor's now owned and hereafter acquired, created or arising (i) "inventory" (as "inventory" is defined in Article 9) and (ii) other Goods (other than, as to this clause (ii), farm products (as defined in Article 9)) which (A) are leased by Debtor as lessor, (B) are held by Debtor for sale or lease or to be furnished under a contract of service, (C) are furnished by Debtor under a contract of service, or (D) consist of raw materials, work in process, or materials used or consumed in Debtor's business, including all Accessions to such inventory and other Goods ("**Inventory**"); and

(k) All of Debtor's now owned and hereafter acquired, created or arising (i) "equipment" (as "equipment" is defined in Article 9) and (ii) other Goods, including fixtures and Special Goods, and including all Accessions to such equipment and other Goods ("**Equipment**"); and

(l) All of Debtor's now owned and hereafter acquired, created or arising (i) "general intangibles" (as "general intangible" is defined in Article 9) and (ii) personal property, including things in action, other than accounts (as "account" is defined in Article 9), chattel paper (as "chattel paper" is defined in Article 9), commercial tort claims (as "commercial tort claim" is defined in Article 9), deposit accounts (as "deposit account" is defined in Article 9), documents (as "document" is defined in Article 9), goods (as "goods" are defined in Article 9), instruments (as "instrument" is defined in Article 9), investment property (as "investment property" is defined in Article 9), letter-of-credit rights (as "letter-of-credit right" is defined in

Article 9), letters of credit (as "letter of credit" is defined in Article 5), money, and oil, gas, or other minerals before extraction ("**General Intangibles**"). Without limiting the generality of the preceding sentence, General Intangibles include Debtor's now owned and hereafter acquired, created or arising Payment Intangibles, rights or claims in respect of refunds for taxes paid, Intellectual Property (including, as to any Trademark, and to the extent not otherwise included within the definition of Intellectual Property, the goodwill of the business in which the Trademark is used, or that part of the goodwill of the business connected with the use of and symbolized by the Trademark); and

(m) All of Debtor's now owned and hereafter acquired, created or arising moneys, securities and other property, now or hereafter held or received by, or in transit to, Secured Party, whether for safekeeping, pledge, custody, transmission, collection or otherwise, and any balances, sums and credits of Debtor held by Secured Party at any time existing ("**Held Items**"); and

(n) All of Debtor's now owned and hereafter acquired, created or arising right, title and interest in any tangible or intangible personal property that is not described within the other defined terms included within the definition of Collateral ("**Other Personalty**"); and

(o) All of Debtor's now owned and hereafter acquired, created or arising products of Collateral, including any product or mass that results when any Goods that are Collateral become Commingled Goods ("**Products**"); and

(p) All of Debtor's now owned and hereafter acquired, created or arising Records, and books, records, documents, ledger cards, invoices, bills of lading and other shipping evidence, credit files, computer programs, tapes, discs, diskettes, and other data and software storage medium and devices, and other property and general intangibles evidencing or relating to Collateral or any Account Debtor (including any rights of Debtor with respect to the foregoing maintained with or by any other Person) ("**Business Records**"); and

(q) All of Debtor's now owned and hereafter acquired, created or arising cash and non-cash proceeds (as "proceeds" is defined in Article 9), and all Property received in respect of any sale, lease, license, exchange, transfer, redemption, or other disposition of any Collateral, and any other thing or item of value paid, received or collected in respect of any Collateral, including any cash, check, accepted draft, or other item of value paid or delivered upon honor or giving of value by the issuer or any nominated person under a letter of credit, and including interest and dividend payments made on or in respect of any Collateral, and distributions made in respect of any Collateral, and rights arising out of any Collateral, and claims arising out of the loss, nonconformity, or interference with the use of, defects or infringements of rights in, or damage to, any Collateral, and insurance payable by reason of the loss or nonconformity of, defects or infringement of rights in, or damage to, any Collateral ("**Proceeds**").

SECTION 2.02. Deposit Accounts; Control. (a) To further secure the Obligations, and to more fully protect the security interest of Secured Party against Liens of other creditors of

Debtor, Debtor hereby (i) transfers and assigns exclusively to Secured Party all of Debtor's now owned and hereafter acquired rights of ownership, dominion and control of all of Debtor's Deposit Accounts, including all of Debtor's Deposit Accounts disclosed or listed on any schedule to this Agreement or any other Credit Document and all of Debtor's other Deposit Accounts whether or not so disclosed or listed, and (ii) following the occurrence and during the continuance of an Event of Default, agrees that Secured Party shall have the right to direct the disposition of funds in each of Debtor's Deposit Accounts without further consent of Debtor. Promptly upon Secured Party's request from time to time, Debtor shall Authenticate and deliver to Secured Party, and shall cause each Bank with which any Deposit Account is maintained to Authenticate and deliver to Secured Party, such Control Agreements as Secured Party may request to further confirm and perfect Secured Party's Lien upon Debtor's Deposit Accounts.

(b) With respect to any of Debtor's Deposit Accounts maintained with Secured Party, Secured Party shall have the right, at any time after the occurrence and during the continuance of an Event of Default, to (i) terminate Debtor's right to direct the disposition of funds from the Deposit Accounts and (ii) block Debtor's access to the Deposit Accounts and any funds in the Deposit Accounts.

(c) If Secured Party has agreed in writing that Debtor retains the right to direct the disposition of any funds from the Deposit Accounts unless Secured Party has agreed in writing that Debtor retains the right to direct the disposition of funds from a Deposit Account not maintained with Secured Party, Secured Party shall be entitled to terminate Debtor's right to direct the disposition of funds from such Deposit Account at any time after the occurrence and during the continuance of an Event of Default in Secured Party's sole discretion by giving the Bank with which such Deposit Account is maintained a written notice terminating Debtor's right to direct the disposition of funds from such Deposit Account.

SECTION 2.03. Investment Property; Control. Promptly upon Secured Party's request from time to time, Debtor shall Authenticate and deliver to Secured Party, and shall cause any securities intermediary, commodity intermediary, and any other appropriate parties to Authenticate and deliver to Secured Party, such Control Agreements as Secured Party may request relating to any Collateral that is Investment Property. If Secured Party has agreed in writing that Debtor retains the right to make substitutions for an uncertificated security or security entitlement, to originate instructions or entitlement orders to the issuer or securities intermediary, or otherwise to deal with the uncertificated security or security entitlement, Secured Party shall be entitled to terminate Debtor's right to make substitutions for such uncertificated security or security entitlement, to originate instructions or entitlement orders to the issuer or securities intermediary, or otherwise to deal with such uncertificated security or security entitlement, at any time in Secured Party's sole discretion by giving the issuer or securities intermediary a written notice terminating Debtor's right to make substitutions for such uncertificated security or security entitlement, to originate instructions or entitlement orders to the issuer or securities intermediary, or otherwise to deal with the uncertificated security or security entitlement.

SECTION 2.04. Letter-of-Credit Rights; Control. Promptly upon Debtor obtaining any Letter-of-credit rights, Debtor shall notify Secured Party in writing of such Letter-of-credit rights. Promptly upon Secured Party's request from time to time, Debtor shall Authenticate and deliver to Secured Party, and shall cause any Letter of Credit Issuer or Nominated Person, as the case may be, and any other appropriate parties to Authenticate and deliver to Secured Party, such Control Consents as Secured Party may request relating to any Collateral that is Letter-of-credit rights. Without limiting any other provision of this Agreement (or any other Credit Document), and to further secure the Obligations, Debtor hereby assigns to Secured Party Debtor's now owned and hereafter acquired, created or arising rights to all of the Proceeds of Debtor's now owned and hereafter acquired, created or arising Letters of Credit.

SECTION 2.05. Electronic Chattel Paper; Control. Debtor shall create, store and assign the Record or Records comprising Debtor's Electronic Chattel Paper in such a manner that Secured Party shall have control of Debtor's Electronic Chattel Paper.

SECTION 2.06. Commercial Tort Claims. Promptly upon Debtor obtaining rights to any Commercial Tort Claim, Debtor shall (a) notify Secured Party in writing of the Commercial Tort Claim and (b) Authenticate and deliver to Secured Party an amendment to this Agreement (and Schedule 2.01(e)) in form and substance satisfactory to Secured Party, which amendment shall add to the description of Collateral covered by this Agreement a description of such Commercial Tort Claim that reasonably identifies such Commercial Tort Claim and grant to Secured Party a security interest in such Commercial Tort Claim, and (c) if requested by Secured Party, Authenticate in recordable form and deliver to Secured Party one or more financing statements or financing statement amendments or other Lien Notices covering such Commercial Tort Claim.

SECTION 2.07. Collateral in Possession of Third Party. If the Collateral is in the possession of a Third Party, Debtor shall join with Secured Party in notifying such Third Party of Secured Party's security interest in the Collateral, and Debtor shall obtain for Secured Party a written acknowledgement from such Third Party that such Third Party is holding the Collateral for the benefit of Secured Party. Without limiting the Debtor's obligation to obtain for Secured Party a written acknowledgment (as described in the preceding sentence) from any Third Party holding Collateral, any Collateral held by a Third Party from whom a written acknowledgment has not been received shall not be considered in determining the Debtor's Borrowing Base under the Credit Agreement.

SECTION 2.08. Perfection by Filing. (a) Promptly upon Secured Party's request from time to time, Debtor shall Authenticate, in recordable form, and deliver to Secured Party any financing statement or other Lien Notice or other document, and cause any Third Party to Authenticate and deliver to Secured Party any other document (including financing statement termination statements), requested by Secured Party to perfect the security interests created under this Agreement and to establish, maintain, and continue the first priority of the security interests created under this Agreement.

(b) Debtor hereby appoints Secured Party as Debtor's attorney-in-fact, with power of substitution, which appointment is irrevocable and coupled with an interest, to Authenticate in the name of Debtor, and to transmit to, or file, record, or register with, any Person, and at any time, any Lien Notice that Secured Party may deem necessary or advisable for the purpose of creating, enforcing, defending, protecting, perfecting, continuing, or maintaining any security interest, or the perfection or priority of any security interest, created under this Agreement.

(c) Secured Party shall not be required to obtain Debtor's consent or authorization for Secured Party to file, and Secured Party shall be entitled to file, with or without Authentication by Debtor (or by Secured Party as Debtor's attorney-in-fact), any financing statement, amendment, or other Record that Secured Party may be authorized to file in accordance with the terms of Article 9, including any financing statement, amendment, or other Record that Secured Party may be authorized to file based on Debtor having Authenticated this Agreement or based on Debtor having Authenticated any other security agreement.

(d) Any financing statement or other Record filed to perfect the security interests evidenced by this Agreement may, at Secured Party's option, describe or indicate the Collateral in the manner that the Collateral is described in this Agreement, or as all assets of Debtor, or as all personal property of Debtor, or by any other description or indication of the Collateral that may be sufficient for a financing statement under Article 9.

(e) If prior to Debtor's Authentication of this Agreement, Secured Party shall have filed in any jurisdiction, or with any Governmental Authority, any financing statement, amendment, or other Record describing or indicating the Collateral, or containing a description or indication of all assets of Debtor or all personal property of Debtor, or containing any other description or indication of the Collateral, but which financing statement, amendment, or other Record was not authorized by Debtor, Debtor, by Authenticating this Agreement, irrevocably (i) authorizes, ratifies, confirms, and adopts (A) each such previously filed financing statement, amendment or other Record, and (B) the filing of each such previously filed financing statement, amendment, or other Record, and (ii) agrees that each such previously filed financing statement, amendment, or other Record is valid and effective as though it had been authorized by Debtor and filed with Debtor's authorization.

SECTION 2.09. Perfection by Possession. If Collateral is of a type as to which it is necessary, desirable, or advisable, as determined by Secured Party, for Secured Party to take possession of such Collateral in order to protect, perfect, or maintain the first priority of Secured Party's security interest or other Lien in such (or any other) Collateral, then, promptly upon Secured Party's request from time to time, Debtor shall deliver such Collateral to Secured Party.

SECTION 2.10. Lock-Box. Debtor shall maintain a Lock-Box administered by a Lock-Box Bank in accordance with the Lock-Box Bank's standard lock-box service, and Debtor shall give each Collection Collateral Debtor written instructions to make all payments on Collection Collateral to the Lock-Box address. Secured Party alone shall have control of the Lock-Box.

including the power to access and make withdrawals from the Lock-Box in Secured Party's discretion, at any time, and from time to time.

SECTION 2.11. Blocked Account. Debtor shall open and maintain the Blocked Account for the benefit of Secured Party as set forth in Section 3.4 of the Credit Agreement. Debtor shall cause all payments received and processed through the Lock-Box to be deposited directly into the Blocked Account. Secured Party alone shall have control of the Blocked Account, including the power to access and make withdrawals from the Blocked Account in Secured Party's discretion, at any time, and from time to time.

SECTION 2.12. Other Receipts. If Debtor shall receive Items of Payment (a) Debtor shall deposit, or cause to be deposited, such Items of Payment in the Blocked Account within three (3) business day after receipt thereof by Debtor, in precisely the form received, except for any necessary indorsement of Debtor to permit the collection of such Items of Payment, which indorsement Debtor agrees to make, and (b) pending deposit to the Blocked Account in accordance with clause (a) of this Section, Debtor will not commingle any Items of Payment with any other funds or property, but will hold them separate and in trust for the benefit of Secured Party.

ARTICLE III

REPRESENTATIONS AND WARRANTIES

Debtor jointly and severally makes the following representations and warranties to Secured Party, which shall each be continuing and in effect on and as of each date on which representations and warranties are made under or pursuant to the Credit Agreement, and Secured Party shall be entitled to rely upon the truth, accuracy, and completeness of the following representations and warranties without regard to any other information that may be now or hereafter known by or disclosed to Secured Party or any of Secured Party's directors, officers, employees, agents, attorneys or other advisors:

SECTION 3.01. Debtor's Name and Identification Number. The name of Debtor set forth on the first page and the signature page of this Agreement is Debtor's correct and complete legal name. The federal employer identification number and the organizational identification number for Debtor set forth on the first page of this Agreement are the correct federal employer identification number and organizational identification number for Debtor. The street address for Debtor in this Agreement is Debtor's mailing address, the facsimile number for Debtor set forth in this Agreement is Debtor's facsimile number, and the e-mail address set forth in this Agreement is Debtor's e-mail address. Except as otherwise disclosed to the Secured Party in the Officer's Certificate delivered to Secured Party on or prior to the date of this Agreement, Debtor has not within the five (5) years immediately preceding the date of this Agreement changed Debtor's name or used any other name, or purchased any assets other than assets purchased from a vendor in the ordinary course of such vendor's business, or merged with or consolidated with any other Person.

SECTION 3.02. Reserved.

SECTION 3.03. Reserved.

SECTION 3.04. Lien Notices. Schedule 3.04 contains a true, accurate and complete list (a) of each jurisdiction in which Debtor (or any Person with whom Debtor has merged or consolidated or any Person from whom Debtor purchased assets (other than assets purchased from a vendor in the ordinary course of such vendor's business)) has had a place of business, or conducted business, or owned or stored Property, within the five (5) years immediately preceding the date of this Agreement, and (b) of each jurisdiction where any financing statement, continuation statement, or other Lien Notice naming Debtor, as debtor, lessee, consignee, mortgagor, grantor, or assignor has been filed or recorded within the five (5) years immediately preceding the date of this Agreement.

SECTION 3.05. Ownership of Property; Priority of Security Interest. (a) Except as expressly provided in Section 6.10 of the Credit Agreement, Debtor owns and has good and marketable title to all of the Property occupied, used, consumed, sold, licensed, or leased in Debtor's business, and all other assets that Debtor represents as being owned by Debtor, including any assets listed or referred to in any financial statements, schedules, listings, reports, or other documents submitted to Secured Party at any time.

(b) Debtor's Property is subject to no Liens other than Permitted Encumbrances.

(c) Secured Party's security interest in the Collateral is a perfected security interest, and such security interest is subject only to Permitted Encumbrances expressly described (in the definition thereof) as having priority over Secured Party's security interest. Liens listed on Schedule 1.03 that are described on Schedule 1.03 as being junior in priority to Secured Party's security interest in the Collateral, judgment Liens within the scope of clause (h) of the definition of Permitted Encumbrances, and landlords' Liens within the scope of clause (d) of the definition of Permitted Encumbrances (except landlords' Liens which have priority over Secured Party's security interest under applicable law), are and shall at all times be junior in priority to Secured Party's security interest in the Collateral.

(d) Except as listed on Schedule 1.03 (and excluding this Agreement and any other security agreement, pledge agreement, hypothecation agreement, collateral assignment, mortgage, deed of trust, indenture, or other agreement that creates a Lien for the benefit of Secured Party), Debtor is not a party to, or otherwise bound by the terms of, and none of Debtor's Property is subject to or otherwise bound by the terms of, any security agreement, pledge agreement, hypothecation agreement, collateral assignment, mortgage, deed of trust, indenture, or other agreement that creates (or purports to create) a Lien in any Property.

SECTION 3.06. Location of Collateral. The Collateral is located at the locations listed on Schedule 3.06 (which schedule contains a true, accurate and complete list and description of all of Debtor's places of business) (the "**Designated Locations**"). Debtor's chief executive offices are located at the locations listed on Schedule 3.06. Except as listed on Schedule 3.06, no

Third Party is in possession or custody of any of Debtor's Property. Debtor is not a party to any Bailment Agreements.

SECTION 3.07. *Inventory*. Except as specifically disclosed on the most recent written collateral report delivered to Secured Party (i) the Inventory is located at Debtor's locations set forth on Schedule 3.06, (ii) no Inventory is now, or shall at any time or times hereafter be stored at any other location without Secured Party's prior written consent, and if Secured Party gives such consent, Debtor will concurrently therewith obtain and deliver to Secured Party bailee, landlord and mortgagee agreements and Lien Notices as required by Secured Party and such agreements shall be written on forms approved by Secured Party, (iii) Debtor has good, indefeasible and merchantable title to the Inventory and the Inventory is not subject to any Lien or Lien Notice whatsoever except for Permitted Encumbrances, (iv) the Inventory is of good and merchantable quality, free from any defects, (v) the Inventory is not subject to any Intellectual Property Agreements with any Third Parties which would require any consent of any Third Party upon sale or disposition of the Inventory or the payment of any monies to any Third Party as a precondition of such sale or other disposition, and (vi) the completion of manufacture, sale or other disposition of the Inventory by Secured Party following the occurrence and during the continuance of an Event of Default shall not require the consent of any Person and shall not constitute a breach or default under any contract or agreement to which Debtor is a party or to which the Inventory is subject.

SECTION 3.08. *Accounts*. Except as specifically disclosed on the most recent written collateral report delivered to Secured Party (i) the Accounts represent bona fide sales of Inventory or rendering of services to Account Debtors in the ordinary course of Debtor's business and are not evidenced by a judgment, Instrument or Chattel Paper, (ii) there are no setoffs, claims or disputes existing or asserted with respect to the Accounts (except as described on Schedule 2.01(e) as lawsuits against Account Debtors for collection of Accounts) and Debtor has not made any agreement with any Account Debtor for any extension of time for the payment thereof, any compromise or settlement for less than the full amount thereof, any release of any Account Debtor from liability therefor, or any deduction therefrom except a discount or allowance allowed by Debtor in the ordinary course of Debtor's business for prompt payment, (iii) to Debtor's knowledge, there are no facts, events or occurrences which in any way impair the validity or enforceability of the Accounts or could reasonably be expected to reduce the amount payable thereunder as shown on Debtor's books and records and any invoices, statements and collateral reports delivered to Secured Party with respect thereto, (iv) Debtor has not received any notice of proceedings or actions which are threatened or pending against any Account Debtor which might result in any adverse change in such Account Debtor's financial condition, and (v) Debtor has no knowledge that any Account Debtor is unable generally to pay its debts as they become due. Further with respect to the Accounts (x) the amounts shown on such records and all invoices, statements and collateral reports which may be delivered to Secured Party with respect thereto are actually and absolutely owing to Debtor as indicated thereon and are not in any way contingent, (y) no payments have been or shall be made thereon except payments immediately delivered to the Blocked Account, and (z) to Debtor's knowledge, all Account Debtors have the capacity to contract.

SECTION 3.09. Governmental Collection Collateral. Except as listed on Schedule 3.09 (which schedule contains a true, accurate and complete list and description of all Governmental Collection Collateral), Debtor does not own or hold any Governmental Collection Collateral.

SECTION 3.10. Chattel Paper. Except as listed on Schedule 3.10 (which schedule contains a true, accurate and complete list and description of all Chattel Paper owned or held by Debtor), Debtor does not own or hold any Chattel Paper. No originals of Debtor's tangible Chattel Paper are in the possession or custody of any Third Party. No original (or authoritative copy) of any Record comprising Debtor's Electronic Chattel Paper is in the custody or control of, or maintained or stored by, any custodian or other Third Party.

SECTION 3.11. Documents. No originals of Debtor's Documents are in the possession or custody of any Third Party.

SECTION 3.12. Instruments. Except as listed on Schedule 3.12 (which schedule contains a true, accurate and complete list and description of all Instruments (other than bank checks received by Debtor in the ordinary course of business) owned or held by Debtor), Debtor does not own or hold any Instruments, other than bank checks received by Debtor in the ordinary course of business. No originals of Debtor's Instruments are in the possession of any Third Party.

SECTION 3.13. Deposit Accounts. (a) Except as listed on Schedule 3.13 (which schedule contains a true, accurate, and complete list and description of each of Debtor's Deposit Accounts), Debtor has no Deposit Accounts and is not a party to or otherwise bound by any Deposit Account Agreement.

(b) No Third Party has control (within the meaning of "control" under Article 9) of any of Debtor's Deposit Accounts.

SECTION 3.14. Investment Property. (a) Except as listed on Schedule 3.14 (which schedule contains a true, accurate, and complete list and description of (i) Debtor's Investment Property, including Debtor's Investment Property Accounts, and (ii) each Investment Property Account Agreement relating to Debtor's Investment Property Accounts), Debtor has no Investment Property and is not a party to or otherwise bound by any Investment Property Account Agreement.

(b) The Investment Property Account Agreements listed on Schedule 3.14 are in full force and effect in accordance with their terms, have not been amended (except as disclosed on Schedule 3.14), and are not in dispute.

(c) No Third Party has control (within the meaning of "control" under Article 8 or Article 9) of any of Debtor's Investment Property.

SECTION 3.15. Letter-of-credit rights and Documentary Credits. (a) Except as listed on Schedule 3.15 (which schedule contains a true, accurate, and complete list and description of

(i) each of Debtor's Letter-of-credit rights, (ii) each Documentary Credit as to which Debtor is a beneficiary, and (iii) each Letter of Credit Agreement relating to Debtor's Letter-of-credit rights or relating to any Documentary Credit as to which Debtor is a beneficiary), Debtor has no Letter-of-credit rights, is not a beneficiary of any Documentary Credit, and is not a party to or otherwise bound by any Letter of Credit Agreement.

(b) The Documentary Credits listed on Schedule 3.15 ("**Scheduled Documentary Credits**") (a) are in full force and effect in accordance with their terms and have not been amended, and no provisions thereof have been waived, (b) have not been transferred in whole or in part, (c) are not in dispute, and (d) have not been presented (and no drafts or other documents under the Scheduled Documentary Credits have been presented) for payment. There are no Letter of Credit Agreements relating to any Scheduled Documentary Credits.

(c) No originals of Debtor's Documentary Credits are in the possession or custody of any Third Party. No rights to any Proceeds under any of Debtor's Documentary Credits have been assigned to any Third Party.

SECTION 3.16. Certificates of Title. Except as listed on Schedule 3.16 (which schedule contains a true, accurate and complete list and description of all Goods owned or held by Debtor which are covered by a certificate of title), Debtor does not own any Goods covered by a certificate of title, and Debtor has not applied to any Governmental Authority for a certificate of title to cover any of Debtor's Goods. No originals of Debtor's certificates of title are in the possession or custody of any Third Party.

SECTION 3.17. Special Goods. Except for Goods covered by a certificate of title described on Schedule 3.16, and except as listed on Schedule 3.17 (which schedule contains a true, accurate and complete list and description of all Special Goods owned, leased, or used by Debtor), Debtor does not own, lease, or use any Special Goods.

SECTION 3.18. Fixtures; Timber to be cut; Oil, gas or other minerals. Except as listed on Schedule 3.18 (which schedule is true, accurate, and complete, and includes legal descriptions of any real estate where fixtures, timber to be cut, oil, gas or other minerals are located, the names and addresses of the record owners of such real estate, the names and addresses of the offices designated for the filing or recording of records of mortgages on such real estate, and the jurisdiction in which each wellhead or minehead is located) and other than in respect of Real Estate secured by a Mortgage, Debtor does not own, lease, license, or use any Goods that are or are to become fixtures, does not own or have any rights to any timber to be cut, and does not own or have any rights to any oil, gas or other minerals (whether extracted or not).

SECTION 3.19. Intellectual Property. Except as listed on Schedule 3.19 (which schedule contains a true, accurate and complete list and description of all Core Intellectual Property owned or held by Debtor), Debtor (a) does not own or hold any Patent issued by any Governmental Authority, does not own or hold any patent application pending with any Governmental Authority, and is not licensed to use any Patent, (b) does not own or hold any Trademark registration or pending application with any Governmental Authority and is not

licensed to use any Trademark, (c) does not own or hold any Copyright registration or pending application with any Governmental Authority and is not licensed to use any Copyright, and (d) does not own or hold any Mask Work registration or pending application with any Governmental Authority and is not licensed to use any Mask Work. Debtor's Intellectual Property does not and will not infringe on any Intellectual Property rights or other property rights of any Third Party.

SECTION 3.20. Licenses; Intellectual Property Agreements. Except as listed on Schedule 3.20 (which schedule contains a true, accurate and complete list and description of all Intellectual Property Agreements to which Debtor is a party or otherwise bound), Debtor is not a licensor or licensee under, or a party to, or otherwise bound by the terms of, any Intellectual Property Agreement.

SECTION 3.21. Leases. Except as listed on Schedule 3.21 (which schedule contains a true, accurate and complete list and description of all leases to which Debtor is a lessor, lessee, or other party or otherwise bound), Debtor is not a lessor or lessee under, or a party to, or otherwise bound by the terms of, any lease. Except in any respect which is not material, the leases listed on Schedule 3.21, are in full force and effect in accordance with their terms, have not been amended (except as disclosed on Schedule 3.21), are not in dispute, and no provisions thereof have been waived. Debtor has valid leasehold interests in all Property leased by Debtor as lessee.

SECTION 3.22. Web sites. Except as listed on Schedule 3.22 (which schedule is true, accurate and complete, and identifies all Web sites that Debtor owns, operates or controls, and other documentation related thereto), Debtor does not own, operate or control any Web site or use any Web site in the ordinary course of Debtor's business.

SECTION 3.23. Commercial Tort Claims. Except as listed on Schedule 2.01(e) (which schedule contains a true, accurate, and complete list and description of each of Debtor's Commercial Tort Claims), Debtor has no Commercial Tort Claims.

SECTION 3.24. Additional Representations Regarding Location of Debtor. Debtor is not (a) a registered organization that is organized under the law of the United States, (b) a branch or agency of a bank that is not organized under the law of the United States or a state, or (c) a foreign air carrier under the Federal Aviation Act of 1958, as amended.

ARTICLE IV **AFFIRMATIVE COVENANTS**

Debtor covenants and agrees to the following:

SECTION 4.01. Method of Application of Payment; Purchase-Money Security Interests. If the extent to which a security interest is a purchase-money security interest (within the meaning of "purchase-money security interest" under Section 9-103 of Article 9) depends on the application of a payment to a particular obligation, the payment shall be applied first to Debtor's obligations to Secured Party that are not secured, and second, if more than one obligation of Debtor to Secured Party is secured, the payment shall be applied to obligations

secured by purchase-money security interests in the order in which those obligations were incurred.

SECTION 4.02. Inventory and Equipment. (a) Debtor shall store and maintain all Inventory in good and marketable condition, casualty losses excepted. Debtor shall maintain all Equipment in good repair and condition, normal wear and tear and casualty losses excepted, and shall provide all maintenance and service and make all repairs and replacements as necessary for such purposes. If parts or accessories forming part of the Inventory or Equipment become worn out, lost, destroyed, damaged beyond repair or otherwise permanently rendered unfit for use, Debtor, at Debtor's own expense, shall promptly replace such parts or accessories or cause the same to be replaced by replacement parts or accessories which are free and clear of all Liens (other than Liens in favor of Secured Party) and have a value and utility at least equal to the parts or accessories replaced. All Inventory and Equipment, and accessories, parts and replacements which are added to or become attached to the Inventory and Equipment, as the case may be, shall immediately without further action be deemed incorporated in the Inventory and Equipment, as the case may be, and subject to the security interest granted by Debtor in this Agreement.

(b) At Debtor's own expense, Debtor shall obtain and maintain all-risk insurance covering the Inventory and Equipment for full replacement value of the Inventory and Equipment. The insurance shall be in form and substance and with companies satisfactory to Secured Party. All insurance for loss or damage shall provide that losses, if any, shall be payable to Secured Party, and such policies shall contain, or such insurers shall otherwise provide to Secured Party, waivers of subrogation in favor of Secured Party in form and substance satisfactory to Secured Party. Debtor shall pay the premiums for all insurance and deliver to Secured Party certificates of insurance or other evidence satisfactory to Secured Party of such insurance coverage. Each insurer shall agree, by endorsement upon the policy or policies issued by such insurer, or by independent instrument furnished to Secured Party, that: (i) such insurer will give Secured Party thirty (30) days' prior written notice of the effective date of any reduction in coverage or material alteration or cancellation of such policy; and (ii) the coverage of Secured Party shall not be terminated, reduced or affected in any manner regardless of any breach or violation by Debtor of any warranties, declarations or conditions of such insurance policy or policies. The proceeds of such insurance payable as a result of loss of or damage to Collateral shall be applied, at Secured Party's option in Secured Party's discretion, (a) toward the replacement, restoration or repair of the Collateral which may be lost, stolen, destroyed or damaged, or (b) toward payment of the Obligations. Debtor irrevocably appoints Secured Party as Debtor's attorney-in-fact to make claim for, receive payment of, and Authenticate and indorse all documents, checks or drafts and other Items of Payment received in payment for loss or damage under any of said insurance policies, and any such payments received by Debtor shall be held in trust for the benefit of Secured Party until delivered to Secured Party and shall be promptly delivered by Debtor to Secured Party in the form received, but with any necessary indorsements.

SECTION 4.03. Governmental Collateral. If at any time the Collateral includes Governmental Collection Collateral, Debtor shall give Secured Party prompt written notice identifying the Governmental Collection Collateral and the Governmental Authority that is the

Collection Collateral Debtor, and promptly upon Secured Party's request from time to time, Debtor shall Authenticate and deliver to Secured Party such Lien Notices and other documents as Secured Party may deem necessary or advisable to protect Secured Party's security interest in the Governmental Collection Collateral and to provide for all payments on the Governmental Collection Collateral to be made directly to Secured Party.

SECTION 4.04. Chattel Paper. (a) Debtor shall mark or stamp the first page and the signature page of all Chattel Paper with a legend clearly and conspicuously stating that the Chattel Paper is subject to a continuing security interest in favor of Secured Party. Promptly upon Secured Party's request from time to time, and at the sole cost and expense of Debtor, and without limiting the effect of any other provision of this Agreement or any other Credit Document, Debtor shall deliver to Secured Party such Chattel Paper, and Authenticate and deliver to Secured Party such assignments of Chattel Paper and related indorsements of Chattel Paper as Secured Party may request, and shall cause the makers of the Chattel Paper to deliver to Secured Party such acknowledgments of the assignments of Chattel Paper and the status of the obligations evidenced by the Chattel Paper as Secured Party may request.

(b) Clause (a) of this Section does not apply to Electronic Chattel Paper while Secured Party has control (within the meaning of Section 9-105 of Article 9) of such Electronic Chattel Paper.

SECTION 4.05. Documents; Bailments. If any Third Party obtains possession of Debtor's Goods, Debtor shall give Secured Party prompt written notice thereof, which written notice shall include the name, address, and telephone number for the Third Party in possession of such Goods and a copy of the Bailment Agreement, if any, relating to the Third Party's possession of such Goods. If at any time the Collateral includes one or more Documents, Debtor shall give Secured Party prompt written notice identifying the Documents, the issuer or issuers of the Documents, and the applicable bailee or bailees, and promptly upon Secured Party's request from time to time, Debtor shall deliver to Secured Party (i) a schedule which shall contain a true, accurate and complete list of all Documents owned or held by Debtor and (ii) the originals of the Documents with any indorsement or assignment requested by Secured Party. Debtor shall comply with the terms of each Bailment Agreement. Nothing in this Section shall be construed as permitting Debtor to give possession of any of Debtor's Goods to any Third Party or to enter into any Bailment Agreement.

SECTION 4.06. Instruments. Promptly upon Secured Party's request from time to time, and at the sole cost and expense of Debtor, and without limiting the effect of any other provision of this Agreement or any other Credit Document, Debtor shall deliver to Secured Party such Instruments, and Authenticate and deliver to Secured Party such assignments of Instruments and related indorsements of Instruments as Secured Party may request, and shall cause the makers of the Instruments to deliver to Secured Party such acknowledgments of the assignments of Instruments and the status of the obligations evidenced by the Instruments as Secured Party may request.

SECTION 4.07. Deposit Accounts. If Debtor opens or acquires any Deposit Account (other than any Deposit Account listed on Schedule 3.13), Debtor shall give Secured Party prompt written notice that Debtor has opened or acquired such Deposit Account, which written notice shall include the name, address, and telephone number for the Bank at which the Deposit Account is maintained, the account number for the Deposit Account, and a copy of any Deposit Account Agreement relating to the Deposit Account. Upon Secured Party's request from time to time, Debtor shall provide, or cause the applicable Bank to provide, to Secured Party, complete copies of the Deposit Account Statements for Debtor's Deposit Accounts. Debtor shall comply with the terms of each Deposit Account Agreement. Nothing in this Section shall be construed as permitting Debtor to open or acquire any Deposit Account or to enter into any Deposit Account Agreement.

SECTION 4.08. Investment Property. If Debtor opens or acquires any Investment Property Accounts or acquires any other Investment Property (other than any Investment Property Account or other Investment Property listed on Schedule 3.14), Debtor shall give Secured Party prompt written notice that Debtor has opened or acquired such Investment Property Account or acquired such other Investment Property, which written notice, in the case of any Investment Property Account, shall include the name, address, and telephone number of any securities intermediary or commodity intermediary related to such Investment Property Account and a copy of each Investment Property Account Agreement relating to such Investment Property Account. Upon Secured Party's request from time to time, Debtor shall provide, or cause the applicable securities intermediary or commodity intermediary, as the case may be, to provide, to Secured Party, complete copies of the Investment Property Account Statements for Debtor's Investment Property Accounts. Debtor shall comply with the terms of each Investment Property Account Agreement. Nothing in this Section shall be construed as permitting Debtor to open or acquire any Investment Property Account or to enter into any Investment Property Account Agreement.

SECTION 4.09. Documentary Credits. If Debtor is or becomes the beneficiary of any Documentary Credit: (a) if the Documentary Credit is not a Scheduled Documentary Credit, Debtor shall give Secured Party prompt written notice that Debtor is or has become the beneficiary of the Documentary Credit, which written notice shall include a copy of the Documentary Credit and a copy of any Letter of Credit Agreement relating to the Documentary Credit; (b) promptly upon Secured Party's request, Debtor shall deliver the original of the Documentary Credit to Secured Party; (c) Debtor shall give Secured Party at least three (3) business days' prior written notice before making presentation of the Documentary Credit (or any draft or document thereunder) for payment; provided that if at the time Debtor shall have decided to make presentation of the Documentary Credit (or any draft or document thereunder) for payment it would not be reasonably practicable for Debtor to provide such prior written notice to Secured Party and make presentation of the Documentary Credit (or any draft or document thereunder) for payment prior to the expiration of the Documentary Credit, then Debtor shall give Secured Party written notice of such presentation as soon as possible and in any event within three (3) business days after such presentation; (d) if the conditions for presentation of the Documentary Credit (or any draft or document thereunder) for payment exist, then unless otherwise agreed by Secured Party, Debtor shall make presentation of the Documentary Credit

(and any necessary draft or document thereunder) for payment in accordance with the terms of the Documentary Credit prior to the expiration of the Documentary Credit; and (e) if Debtor shall receive proceeds of the Documentary Credit, then Debtor shall deliver such proceeds to Secured Party in the form received by Debtor, with any necessary indorsement to be held and applied as Collateral under this Agreement. Debtor shall comply with the terms of each Letter of Credit Agreement.

SECTION 4.10. *Titled Collateral*. If at any time the Collateral includes Goods covered by a certificate of title, or Debtor applies to any Governmental Authority for a certificate of title for any of Debtor's Goods, Debtor shall give Secured Party prompt written notice identifying the Goods and the Governmental Authority, and promptly upon Secured Party's request from time to time, Debtor shall Authenticate and deliver such Lien Notices and other documents as Secured Party may deem necessary or advisable to perfect and protect Secured Party's security interest in the Goods covered by the certificate of title, and promptly upon Secured Party's request from time to time, Debtor shall deliver the original of the certificate of title to Secured Party with any indorsement or assignment requested by Secured Party.

SECTION 4.11. *Intellectual Property*. (a) Before Debtor shall become the owner or holder of, or otherwise acquire rights to, (i) any Patent issued by any Governmental Authority or any patent applications pending with any Governmental Authority, (ii) any Trademark registration or pending application with any Governmental Authority, (iii) any Copyright registration or pending application with any Governmental Authority, or (iv) any Mask Work registration or pending application with any Governmental Authority, Debtor shall give Secured Party prompt written notice thereof and shall Authenticate and deliver to Secured Party such Lien Notices as Secured Party may request to register and perfect Secured Party's security interest in such Core Intellectual Property as soon as Debtor has rights thereto, including security agreements, collateral assignments, mortgages, and financing statements.

(b) Before Debtor shall become the licensee of, or otherwise acquire rights to use, any Core Intellectual Property, Debtor shall give Secured Party prompt written notice thereof and shall Authenticate and deliver to Secured Party such Lien Notices as Secured Party may request to register and perfect Secured Party's security interest in such license and related rights as soon as Debtor has rights thereto, including security agreements, collateral assignments, mortgages, and financing statements.

(c) Promptly upon Secured Party's request from time to time, Debtor shall provide to Secured Party a complete copy (including any amendments) of any Intellectual Property Agreement to which Debtor is a party or otherwise bound and such other information regarding Debtor's Intellectual Property as Secured Party may request.

(d) Promptly upon Secured Party's request from time to time, Debtor shall Authenticate and deliver to Secured Party such Source Code Escrow Agreements (among Debtor, Secured Party, and any Third Party escrow agent selected by Secured Party), in form and substance satisfactory to Secured Party, with respect to any Collateral that is Software.

(e) Debtor shall at all times, and at Debtor's sole expense, preserve and maintain, and defend against any misuse, abandonment or infringement of, Debtor's Intellectual Property.

SECTION 4.12. *Collection Collateral.* (a) Debtor shall be privileged, prior to the occurrence and during the continuance of an Event of Default (and until notified of the revocation of such privilege by Secured Party upon or after the occurrence and during the continuance of an Event of Default), to collect Debtor's Collection Collateral. Until otherwise notified by Secured Party upon or after the occurrence and during the continuance of an Event of Default, Debtor shall at all times, and at Debtor's sole cost and expense, maintain, at Debtor's chief executive office, current and complete Collateral Records concerning the Collection Collateral, including copies of all purchase orders, invoices, billing statements, transmittal letters, shipping documents, documents of title (including warehouse receipts, bills of lading, and other documents of title), insurance documents, and ledger sheets (and similar Records maintained in any medium), and Records of all payments received in respect of the Collection Collateral, and of any efforts to collect the Collection Collateral, and Records of all communications with Collection Collateral Debtors, and the name, mailing address, e-mail address (as applicable), telephone number, and facsimile number (as applicable) of each Collection Collateral Debtor.

(b) In collecting the Collection Collateral, and until otherwise notified by Secured Party, Debtor may grant, in the ordinary course of business, to any Collection Collateral Debtor, (i) any rebate, refund or adjustment to which the Collection Collateral Debtor may be lawfully entitled, and may accept, in connection therewith, the return of Goods, the sale or lease of which gave rise to the Collection Collateral, and (ii) normal and customary trade discounts for prompt payment.

(c) Upon and after the occurrence and during the continuance of an Event of Default, Secured Party may revoke Debtor's privilege to collect the Collection Collateral by giving Debtor written notice of such revocation, or by notifying any Collection Collateral Debtor of Secured Party's interest in the Collection Collateral.

(d) Secured Party may at any time following the occurrence and during the continuance of an Event of Default in Secured Party's own name or in the name of Debtor communicate with Collection Collateral Debtors in respect of Collection Collateral to verify with such Person, to Secured Party's satisfaction, the existence, amount and terms of any such Collection Collateral.

(e) In any suit, proceeding or action brought by Secured Party relating to any Collection Collateral for any sum owing thereunder or to enforce any provision of any Account, Chattel Paper, or General Intangible, Debtor will save, indemnify and keep Secured Party harmless from and against all expenses (including reasonable attorneys' fees and expenses), loss or damage suffered by reason of any defense, setoff, counterclaim, recoupment or reduction of liability whatsoever of the Collection Collateral Debtor or other obligor thereunder, arising out of a breach by Debtor of any obligation thereunder or arising out of any other agreement,

indebtedness or liability at any time owing to, or in favor of, such Collection Collateral Debtor or other obligor or its successors from Debtor, except in the case of Secured Party, to the extent such expense, loss, or damage is attributable solely to the gross negligence or willful misconduct of Secured Party as finally determined by a court of competent jurisdiction. All such obligations of Debtor shall be and remain enforceable against and only against Debtor and shall not be enforceable against Secured Party.

SECTION 4.13. Collateral Reports. Promptly upon Secured Party's request from time to time, Debtor shall provide Secured Party with such reports and other information regarding the Collateral as Secured Party may reasonably request.

SECTION 4.14. Records; Access. Debtor shall at all times keep and maintain complete and accurate Collateral Records concerning all Collateral in form and detail satisfactory to Secured Party. Debtor shall maintain Debtor's financial and accounting books and records, including Debtor's Collateral Records, in accordance with GAAP. Secured Party shall have unrestricted access to all of Debtor's places of business during normal business hours and after notice to Debtor, or at any time and without notice to Debtor after the occurrence of a Default, for the purpose of (i) inspecting, verifying, and auditing the Collateral and all Collateral Records, (ii) making copies of such Collateral Records, and (iii) making copies of such evidences of Collateral as may be copied, and Debtor shall promptly furnish to Secured Party such copies thereof as Secured Party may request. Secured Party shall be entitled to use during normal business hours such of Debtor's personnel, equipment, supplies, and places of business and other locations of Collateral as may be necessary, as determined by Secured Party in Secured Party's sole discretion, for the foregoing, and for the collection of Collateral and for the storage, maintenance, repair, marketing, sale, leasing, licensing, or other disposition of Collateral. All of the foregoing shall be at Debtor's sole cost and expense.

SECTION 4.15. Leases; Mortgages; Deeds of Trust. Upon Secured Party's request from time to time, Debtor shall provide to Secured Party, a complete copy (including any amendments) of each lease, mortgage, or deed of trust to which Debtor is a party (or as to which Debtor or any of Debtor's Property is otherwise bound).

SECTION 4.16. Lien Waivers. Promptly upon Secured Party's request from time to time, Debtor shall provide to Secured Party Landlord Collateral Agreements, Mortgagee Collateral Agreements, and other instruments and lien waivers, in form and substance satisfactory to Secured Party, and in favor of Secured Party, and Authenticated by any Persons (including any owners, contract purchasers, option holders, easement holders, lessors, lessees, sublessees, occupants, or mortgagees) having or claiming any interest in any real estate owned, leased or otherwise used or occupied by Debtor, whereby such Persons shall expressly waive all Liens against the Collateral and provide to Secured Party, without cost to Secured Party, and on terms satisfactory to Secured Party, rights of access to such real estate for purposes of storage, holding, retaking, processing, maintenance, marketing, selling, leasing, licensing, and otherwise disposing of such Collateral.

SECTION 4.17. Additional Collateral. If at any time Debtor intends to acquire Property that is personal property or fixtures, or oil, gas, or other minerals, or rights in Property that is personal property or fixtures, or oil, gas, or other minerals, or the power to transfer rights in such Property to a secured party, and if Secured Party would not have a first priority perfected security interest in such Property, subject to Permitted Encumbrances, immediately upon Debtor's acquisition of such Property or such rights or power, then Debtor shall, before acquiring such Property or such rights or power, notify Secured Party of the intended acquisition and take whatever actions Secured Party may require in order that, immediately upon the acquisition of such Property or such rights or power, Secured Party will have a first priority perfected security interest in (or other first priority Lien on) such Property, subject to Permitted Encumbrances.

SECTION 4.18. Schedules. Debtor shall give Secured Party prompt written notice of each event or fact (or change of fact) or circumstance (or change of circumstance) that would require the revision of one or more Schedules to this Agreement in order to cause such Schedule or Schedules (and any corresponding representations or warranties) to be, and to continue to be, true, accurate and complete at all times, and Debtor shall give to Secured Party, with such written notice, a copy of Debtor's proposed revised Schedule or Schedules relating to the event or fact (or change of fact) or circumstances (or change of circumstance) referred to in such written notice. Debtor shall deliver to Secured Party, upon Secured Party's request, copies of any agreements, documents, statements or instruments referred to in any revised Schedule delivered to Secured Party or relating to the fact (or change of fact) or circumstance (or change of circumstance) requiring such Schedule to be revised. If Debtor is required, pursuant to other express terms of this Agreement (or any other Credit Document), to report to Secured Party any event, fact (or change of fact), or circumstance (or change of circumstance) that Debtor would be required to give Secured Party written notice of in accordance with the terms of the preceding sentence, Debtor's full compliance with such other express reporting requirements with respect to such event, fact (or change of fact), or circumstance (or change of circumstance) shall satisfy the requirements of this Section with respect to such event, fact (or change of fact), or circumstance (or change of circumstance). Compliance with the requirements of this Section shall not be construed as curing or waiving any Default or Event of Default, and shall not be construed as satisfying any other express reporting requirements of this Agreement (or any other Credit Document).

SECTION 4.19. Reserved.

SECTION 4.20. Reserved.

SECTION 4.21. Notice of Lien Proceeding. Debtor shall give Secured Party immediate written notice of (a) the threat by any Person to commence any Lien Proceeding, and (b) the commencement of any Lien Proceeding.

SECTION 4.22. Notice of Default. Debtor shall give Secured Party immediate written notice of any Default.

ARTICLE V
NEGATIVE COVENANTS

Debtor covenants and agrees to the following:

SECTION 5.01. *Identity.* Unless it has given Secured Party thirty (30) days prior written notice thereof, Debtor shall not change Debtor's name or limited liability company structure. If Debtor is organized solely under the law of a single state or the United States and as to which the state or the United States must maintain a public record showing the organization to have been organized, Debtor shall not organize under the laws of another jurisdiction.

SECTION 5.02. *Designated Locations.* Debtor shall not (a) change the location of any place of business or open any new place of business, (b) change the location of Debtor's chief executive office, or (c) stock, display, store or use any Collateral at any locations other than the locations described on Schedule 3.06 (each such change, action or event is referred to herein as a "**New Location Action**"), without Secured Party's prior written consent, which consent, prior to the occurrence of a Default, shall not be unreasonably withheld so long as such New Location Action shall not have an adverse effect on Secured Party's Lien and priority in the Collateral, as determined in Secured Party's discretion, and if Secured Party shall have provided such consent, then such New Location Action shall be taken only so long as (i) Debtor shall have given Secured Party at least thirty (30) days' prior written notice of the proposed New Location Action, (ii) prior to such proposed New Location Action, Debtor shall have delivered to Secured Party a proposed revised Schedule 3.06 showing the proposed new locations as a Designated Location, (iii) prior to such proposed New Location Action, Debtor shall have Authenticated and delivered, or caused to be Authenticated and delivered, to Secured Party, at Debtor's expense, such agreements, documents, and instruments as Secured Party may deem necessary or desirable in Secured Party's discretion to create or confirm and perfect Secured Party's Lien in the Collateral at such proposed new location, including, without limitation, UCC financing statements, (iv) if such proposed new location is not in a jurisdiction in which a Designated Location is currently located, then prior to such New Location Action, Debtor shall have provided to Secured Party, at Debtor's expense, such UCC financing statement search reports and other search reports as Secured Party may request to confirm the absence of competing Lien Notices and to create or confirm, and perfect, the first priority of Secured Party's Lien in the Collateral, and (v) prior to such New Location Action, Debtor shall have Authenticated and delivered to Secured Party, or caused to be Authenticated and delivered to Secured Party, and shall have recorded or caused to be recorded, at Debtor's expense, such Landlord Collateral Agreements, Mortgagee Collateral Agreements, and other instruments and lien waivers relating to such proposed new location as Secured Party may request in Secured Party's discretion.

SECTION 5.03. *Bailments.* Debtor shall not store any Collateral with, or give possession or control of any Collateral to, any holder, bailee, warehouseman or other Person, or enter into, modify, terminate, or supplement any Bailment Agreement, without Secured Party's prior written consent.

SECTION 5.04. *Sale, Assignment, Transfer, Factor, Other Dispositions.* Debtor shall not sell, assign, transfer, factor, or otherwise dispose of any Collateral or any other Property of

Debtor, except that Debtor may sell (i) Inventory in the ordinary course of Debtor's business, and (ii) Equipment that is obsolete and no longer useful in Debtor's business, which sales of Equipment shall be for fair consideration.

SECTION 5.05. Collection Collateral; Discount, Adjustment, Modification. Debtor shall not discount, adjust, or modify any Collection Collateral or any other Property of Debtor, except that Debtor may take such actions with regard to Collection Collateral as may be expressly permitted in accordance with the terms of Section 4.12.

SECTION 5.06. Deposit Accounts. Debtor shall not open or close any Deposit Account or modify, terminate, or supplement any Deposit Account Agreement, or waive any rights under any Deposit Account Agreement, without Secured Party's prior written consent.

SECTION 5.07. Investment Property Accounts. Debtor shall not open or close any Investment Property Account, modify, terminate, or supplement any Investment Property Account Agreement, or waive any rights under any Investment Property Account Agreement, without Secured Party's prior written consent.

SECTION 5.08. Documentary Credits. With respect to each Documentary Credit for which Debtor is a beneficiary, Debtor shall not, without Secured Party's prior written consent (a) agree to any amendment or termination of the Documentary Credit, (b) agree to any amendment or termination of any Letter of Credit Agreement relating to the Documentary Credit, (c) transfer the Documentary Credit in whole or in part to any Person, or (d) assign the proceeds of the Documentary Credit to any Person other than Secured Party.

SECTION 5.09. Licenses; Source Code Escrow Agreements. Except as provided in the following sentence, Debtor shall not enter into any Intellectual Property Agreements with any Person to use any Collateral (or any other Property of Debtor) without Secured Party's prior written consent. Prior to the occurrence of a Default, Debtor, as licensor, may enter into commercially reasonable, non-exclusive, arms-length Intellectual Property Agreements that have terms not in excess of one (1) year and, at Secured Party's option, require the licensee to pay royalties (in the form of money) to Debtor, provided that such Intellectual Property Agreements shall be written on forms approved by Secured Party. Debtor shall not enter into any Source Code Escrow Agreement unless such Source Code Escrow Agreement is for the benefit of Secured Party and Secured Party is a party thereto.

SECTION 5.10. Leases. Except as provided in the following sentence, Debtor shall not lease to any Person any Collateral (or any other Property of Debtor), without Secured Party's prior written consent. Prior to the occurrence of a Default, Debtor, as lessor, shall be permitted to enter into commercially reasonable, arms-length, lease agreements that have terms not in excess of one (1) year and require the lessee to pay rent (in the form of money) to Debtor, provided that such lease agreements shall be written on forms approved by Secured Party.

SECTION 5.11. Abandonment, Destruction. Debtor shall not abandon or destroy any Collateral or any other Property of Debtor.

SECTION 5.12. *Accessions*. Goods that are Collateral shall not become Accessions to Goods that are not Collateral. Goods that are not Collateral shall not become Accessions to Goods that are Collateral.

SECTION 5.13. *Commingled Goods*. Goods that are Collateral shall not become Commingled Goods unless the entire product or mass in which the identity of such Goods is lost is (a) owned by Debtor (and not owned in whole or in part by any other Person), (b) part of the Collateral, and (c) not subject to any Lien other than Permitted Encumbrances.

SECTION 5.14. *Fixtures*. Goods that are Collateral shall not be affixed to, or otherwise become fixtures on, any real property, other than real property that is (a) owned and occupied by Debtor (and not owned or occupied in whole or in part by any other Person), (b) subject to a first priority mortgage Lien securing the Obligations in favor of Secured Party, and (c) not subject to any other Lien other than Permitted Encumbrances.

SECTION 5.15. *Reserved*.

SECTION 5.16. *Lien Proceedings*. Debtor shall not enter into or suffer to exist any agreement that would entitle any Third Party, to commence or prosecute any Lien Proceedings under any circumstances. Debtor shall not assist or cooperate (or reach any accommodation in the nature of a forbearance agreement) with any Third Party, in or relating to any Lien Proceeding.

ARTICLE VI ACCELERATION OF OBLIGATIONS

SECTION 6.01. *Acceleration*. Upon the occurrence of any Event of Default, Secured Party may, at Secured Party's option and in Secured Party's sole discretion, and without prior notice to or demand upon Debtor, accelerate some or all of the Obligations, and upon such acceleration, all such Obligations as shall have been accelerated shall be immediately due and payable by Debtor to Secured Party.

ARTICLE VII ENFORCEMENT OF SECURITY INTEREST

SECTION 7.01. *Right to Enforce Claim; Secured Party in Possession or Control*.

(a) After the occurrence and during the continuance of an Event of Default, and in addition to such other rights and remedies as Secured Party may have under other provisions of this Agreement or any other Credit Documents, or under common or statutory law, Secured Party may reduce a claim to judgment, foreclose, or otherwise enforce the claim, security interest, or agricultural lien by any available judicial procedure, and if the Collateral is Documents, Secured Party may proceed either as to the Documents or as to the Goods the Documents cover.

(b) If Secured Party has possession of Collateral (i) reasonable expenses, including the cost of insurance and payment of taxes or other charges, incurred in the custody, preservation, use, or operation of the Collateral are chargeable to Debtor and are secured by the Collateral, (ii) the risk of accidental loss or damage is upon Debtor to the extent of a deficiency in any effective insurance coverage, (iii) Secured Party shall keep the Collateral identifiable, but fungible Collateral may be commingled, and (iv) Secured Party may use or operate the Collateral (A) for the purpose of preserving the Collateral or its value, or (B) as permitted by an order of a court having competent jurisdiction, or (C) for the purpose of transporting the Collateral, or (D) for the purposes of demonstrating the use or operation of the Collateral.

(c) If Secured Party has possession of Collateral or control of Collateral that is Deposit Accounts, Electronic Chattel Paper, Investment Property, or Letter-of-credit rights, then Secured Party (i) may hold as additional security any Proceeds, except money or funds, received from the Collateral, (ii) shall apply money or funds received from the Collateral to reduce the Obligations unless remitted to Debtor, and (iii) may create a security interest in the Collateral.

(d) If Secured Party has possession of Collateral that is Chattel Paper or an Instrument, then as to any such Chattel Paper or Instrument, Secured Party shall not be obligated to take any necessary steps to preserve rights against prior parties.

SECTION 7.02. Collection and Enforcement. After the occurrence and during the continuance of an Event of Default, Secured Party may:

(a) notify any Collection Collateral Debtor or other Person obligated on Collateral to make payment or otherwise render performance to or for the benefit of Secured Party;

(b) take any Proceeds to which Secured Party is entitled under Section 9-315 of Article 9;

(c) enforce the obligations of any Collection Collateral Debtor or other Person obligated on Collateral and exercise the rights of Debtor with respect to the obligations of the Collection Collateral Debtor or other Person obligated on Collateral to make payment or otherwise render performance to Debtor, and with respect to any property that secures the obligations of the Collection Collateral Debtor or other Person obligated on the Collateral;

(d) if Secured Party is a Bank and holds a security interest in a Deposit Account maintained with Secured Party, apply the balance of the Deposit Account to the obligation secured by the Deposit Account; and

(e) if Secured Party holds a security interest in a Deposit Account perfected by control pursuant to an agreement among Debtor, Secured Party and the Bank with which the Deposit Account is maintained, or if Secured Party becomes the Bank's customer with

respect to the Deposit Account, instruct the Bank with which the Deposit Account is maintained to pay the balance of the Deposit Account to or for the benefit of Secured Party.

SECTION 7.03. Application of Proceeds of Collection or Enforcement. (a) Secured Party shall apply or pay over for application the cash Proceeds of collection of Collateral, or enforcement of the obligations of a Collection Collateral Debtor, in the following order to:

(1) the reasonable expenses of collection and enforcement and the reasonable attorney's fees and legal expenses incurred by Secured Party;

(2) the satisfaction of the Obligations; and

(3) the satisfaction of obligations secured by any subordinate security interest in or other lien on the Collateral subject to the security interest or agricultural lien under which the collection or enforcement is made if Secured Party receives an Authenticated demand for Proceeds before distribution of the Proceeds is completed.

(b) Secured Party need not apply or pay over for application non-cash Proceeds of collection and enforcement unless the failure to do so would be commercially unreasonable.

(c) Secured Party shall account to and pay Debtor for any surplus and any Obligor is liable for any deficiency.

SECTION 7.04. Possession of Collateral. (a) After the occurrence and during the continuance of an Event of Default, Secured Party may require Debtor to assemble the Collateral and make the Collateral available to Secured Party at a place designated by Secured Party which is reasonably convenient to Secured Party and Debtor. If Secured Party requires Debtor to assemble the Collateral and make the Collateral available to Secured Party, as described in the preceding sentence, Debtor shall do so promptly, and in any event within three (3) days after Secured Party gives Debtor a notice requesting Debtor to assemble the Collateral and make the Collateral available to Secured Party at the place designated by Secured Party. Without limiting Secured Party's right to designate any place which is reasonably convenient to Debtor for making Collateral available to Secured Party, Debtor agrees that any place designated by Secured Party and located within one hundred (100) miles of any place where Debtor stores, uses, sells, leases, licenses, or maintains Collateral in the ordinary course of Debtor's business shall be conclusively deemed to be a place reasonably convenient to Debtor for making the Collateral available to Secured Party.

(b) After the occurrence and during the continuance of an Event of Default, Secured Party may, pursuant to judicial process, or without judicial process if Secured Party proceeds without breach of peace, (1) take possession of the Collateral and, (2) without removal, render Equipment unusable and dispose of Collateral on Debtor's premises in accordance with Section 7.05.

SECTION 7.05. Disposition of Collateral. (a) After the occurrence and during the continuance of an Event of Default, Secured Party may sell, lease, license, or otherwise dispose of any or all of the Collateral in its present condition or following any commercially reasonable preparation or processing.

(b) Secured Party may dispose of Collateral by public or private proceedings, by one or more contracts, as a unit or in parcels, and at any time and place and on any terms.

(c) Secured Party may purchase Collateral (1) at a public disposition or (2) if the Collateral is of a kind that is customarily sold on a recognized market or the subject of widely distributed standard price quotations, at a private disposition.

(d) If a contract for sale, lease, license, or other disposition includes the warranties relating to title, possession, quiet enjoyment, and the like which by operation of law accompany a voluntary disposition of property of the kind subject to the contract; provided, however, Secured Party may disclaim or modify such warranties (1) in a manner that would be effective to disclaim or modify the warranties in a voluntary disposition of property of the kind subject to the contract of disposition, or (2) by communicating to the purchaser a Record evidencing the contract for disposition and including an express disclaimer or modification of the warranties, and provided further that a Record is sufficient to disclaim such warranties if such Record indicates "There is no warranty relating to title, possession, quiet enjoyment, or the like in this disposition" or uses words of similar import.

(e) Prior to a disposition of Collateral, Secured Party shall give Debtor, and any other parties required to receive notice under Article 9, notification as required under Article 9 before a sale, lease, license, or other disposition of Collateral.

SECTION 7.06. Application of Proceeds of Disposition of Collateral. (a) Secured Party shall apply or pay over for application the cash Proceeds of disposition of Collateral in the following order:

(1) the reasonable expenses of retaking, holding, preparing for disposition, processing, and disposing, and reasonable attorney's fees and legal expenses incurred by Secured Party;

(2) the satisfaction of Obligations; and

(3) the satisfaction of obligations secured by any subordinate security interest in or other subordinate lien on the Collateral if:

(A) Secured Party receives from the holder of the subordinate security interest or other lien an Authenticated demand for Proceeds before distribution of the Proceeds is completed;

(B) in a case in which a consignor has an interest in the Collateral, the subordinated security interest or other lien is senior to the interest of the consignor; and

(4) a secured party that is a consignor of the Collateral if Secured Party receives from the consignor an Authenticated demand for Proceeds before distribution of the Proceeds is completed.

(b) Secured Party need not apply or pay over for application non-cash Proceeds of disposition unless the failure to do so would be commercially unreasonable.

(c) Unless Secured Party is required to apply or pay over cash Proceeds to a consignor under subsection (a)(4) of this Section, Secured Party shall account to and pay Debtor for any surplus, and any Obligor is liable for any deficiency.

SECTION 7.07. Additional Provisions Regarding Sales and Other Dispositions. In the event that Secured Party shall sell or otherwise dispose of the Collateral, or any part thereof, the following additional provisions shall be applicable to such sale or other disposition:

(a) Such sale or other disposition may be at public or private sale (or at any broker's board or on any securities exchange) for cash, upon credit or for future delivery as Secured Party shall deem appropriate. Secured Party shall be authorized at any such sale (if Secured Party deems it advisable to do so with regard to any type or item of Collateral) to restrict the prospective bidders or purchasers to Persons who will represent and agree that they are purchasing the Collateral for their own use (or for their own account for investment, as applicable) and not with a view to the distribution or sale thereof, and upon consummation of any such sale, Secured Party shall have the right to assign, transfer and deliver to the purchaser or purchasers thereof the Collateral so sold. Each such purchaser at any such sale shall hold the property sold absolutely, free from any claim or right on the part of Debtor, and Debtor hereby waives (to the extent permitted by law) all rights of redemption, stay and appraisal which Debtor now has or may at any time in the future have under any rule of law or statute now existing or hereafter enacted. Secured Party shall give Debtor at least ten (10) days' written notice (which Debtor agrees is reasonable notice) of Secured Party's intention to make any sale of Collateral owned by Debtor. Such notice, in the case of a public sale, shall state the time and place for such sale and, in the case of a sale at a broker's board or on a securities exchange, shall state the board or exchange at which such sale is to be made and the day on which the Collateral, or portion thereof, will first be offered for sale at such board or exchange. Any such public sale shall be held at such time or times within ordinary business hours and at such place or places as Secured Party may fix and state in the notice of such sale, and Secured Party shall not be obligated to make any sale of any Collateral if Secured Party shall determine not to do so, regardless of the fact that notice of sale of such Collateral shall have been given, and Secured Party may, without notice or publication, adjourn any public or private sale or cause the same to be adjourned from time to time by announcement at the time and place fixed for sale, and such sale may, without further notice to Debtor or anyone else, be made at the time and place to which the same was so adjourned.

(b) In case any sale of all or any part of the Collateral is made on credit or for future delivery, the Collateral so sold may be retained by Secured Party until the sale price is paid by the purchaser or purchasers thereof, but Secured Party shall not incur any liability in case any such purchaser or purchasers shall fail to take up and pay for Collateral so sold and, in case of any such failure, such of the Collateral may be sold again upon notice to Debtor as set forth in this Section.

(c) At any public sale, Secured Party may bid for or purchase, free (to the extent permitted by law) from any right of redemption, stay or appraisal on the part of Debtor (all said rights being also hereby waived and released to the extent permitted by law), the Collateral or any part thereof offered for sale and may make payment on account thereof by using any claim then due and payable to Secured Party from Debtor as a credit against the purchase price, and Secured Party may, upon compliance with the terms of sale, hold, retain and dispose of such property without further accountability to Debtor therefor.

(d) For purposes of any sale of Collateral in accordance with this Agreement, a written agreement to purchase the Collateral or any portion thereof shall be treated as a sale thereof. Secured Party shall be free to carry out such sale pursuant to such agreement, and Debtor shall not be entitled to the return of the Collateral or any portion thereof subject thereto, notwithstanding the fact that after Secured Party shall have entered into such an agreement, all Events of Default shall have been remedied and the Obligations paid in full.

(e) Upon any sale of Collateral by Secured Party (including a sale pursuant to a power of sale granted by statute or under a judicial proceeding), the receipt of Secured Party or of the officer making the sale shall be a sufficient discharge to the purchaser or purchasers of the Collateral being sold, and such purchaser or purchasers shall not be obligated to see to the application of any part of the purchase money paid over to Secured Party or such officer or be answerable in any way for the misapplication thereof.

SECTION 7.08. License. After the occurrence of an Event of Default (a) Debtor agrees that Secured Party and any Receiver, and any designee of Secured Party or any Receiver, each shall have, and each is hereby granted, an irrevocable, royalty-free, perpetual, and worldwide license to reproduce, distribute, publicly perform, publicly display, create derivative works of, make, have made, sell, offer to sell, or otherwise use (including the right to sublicense) Debtor's Intellectual Property (and including Debtor's rights to any Intellectual Property to the extent that the license granted in this Section would not violate the rights granted to Debtor), including, as to any Trademark, the goodwill of Debtor's business in which the Trademark is used, or that part of the goodwill of Debtor's business connected with the use of and symbolized by the Trademark, in and in connection with (i) collecting Collateral, (ii) manufacturing, completing, and repairing Collateral, (iii) marketing, selling, leasing, licensing, or disposing of Collateral, and (iv) exercising Secured Party's rights and remedies under this Agreement (or otherwise) relating to Collateral.

(b) Debtor shall indemnify and hold harmless Secured Party and any Receiver, and their designees, shareholders, directors, officers, employees, agents, attorneys, accountants, and other advisors, from and against (i) any and all claims (including claims for royalties and/or money damages and/or claims for injunctive relief), liabilities, damages, royalties, and penalties of any Person arising from or relating to the license granted to Secured Party in this Section (or arising from or relating to Secured Party's use of the license granted in this Section), and (ii) Secured Party's costs and expenses (including attorney's fees) incurred by Secured Party to defend against any such claims, liabilities, damages, royalties, and penalties. Debtor's indemnity and hold harmless obligations provided in this Section shall survive the payment and satisfaction of the Obligations, the termination of the security interests created under this Agreement, and the termination of any other provisions of this Agreement.

SECTION 7.09. Appointment of a Receiver. If an Event of Default shall have occurred and be continuing, Secured Party shall be entitled as a matter of right and to the extent permitted by law, without notice to Debtor, and without regard to the adequacy of security, to the immediate ex parte appointment of a receiver, trustee, custodian, liquidator or similar fiduciary (each referred to herein as a "**Receiver**") by a court of competent jurisdiction in order to carry out all rights and remedies available to Secured Party upon such Event of Default, and to manage, protect and preserve the Collateral and continue to operate or liquidate Debtor's business and to collect all revenues and profits thereof and apply the same to the payment of all expenses and other charges of such receivership, custodianship or similar appointment, including compensation of the Receiver, and to the payment of the Obligations secured by this Agreement, and to the payment of such other claims and expenses as may appear appropriate. If Secured Party shall apply for the appointment of, or the taking of possession by, a Receiver of Debtor, to hold or operate or liquidate all or any substantial part of the properties or assets of Debtor, Debtor hereby consents to any such appointment and taking of possession. Debtor shall deliver to any Receiver so appointed upon Secured Party's request all original Records, Collateral Records, and any other records, books, and other information regarding the operations of Debtor's business. Any Receiver so appointed shall have the right to exclude, and prevent the access and entry of, Debtor and any of Debtor's affiliates, shareholders, directors, officers, employees, contractors, agents and advisors to and from any Collateral, Designated Location(s), or other property.

SECTION 7.10. Power of Attorney; Collections by Secured Party. Each Debtor hereby appoints Secured Party as Debtor's attorney-in-fact, with power of substitution, which appointment is irrevocable and coupled with an interest, to do each of the following in the name of Debtor or in the name of Secured Party or otherwise, for the use and benefit of Secured Party, but at the cost and expense of Debtor, and with or without notice to Debtor: (i) notify the Collection Collateral Debtors and insurers to make payments directly to Secured Party, and to take control of the cash and non-cash Proceeds of any Collateral or insurance; (ii) renew, extend or compromise any of the Collateral or deal with the same as Secured Party may deem advisable; (iii) release, exchange, substitute, or surrender all or any part of the Collateral; (iv) remove from Debtor's places of business all Collateral Records without cost or expense to Secured Party; (v) make such use of Debtor's places of business as may be reasonably necessary to administer, control and collect the Collateral; (vi) repair, alter or supply Goods, if any, necessary to fulfill in

whole or in part the purchase order or similar order of any Account Debtor; (vii) demand, collect, give receipt for, and give renewals, extensions, discharges and releases of any of the Collateral; (viii) institute and prosecute legal and equitable proceedings to enforce collection of, or realize upon, any of the Collateral; (ix) settle, renew, extend, compromise, compound, exchange or adjust claims with respect to any of the Collateral or any legal proceedings brought with respect thereto; (x) indorse the name of Debtor upon any Item of Payment relating to the Collateral or upon any proof of claim in bankruptcy against any Collection Collateral Debtor; (xi) institute and prosecute legal and equitable proceedings to reclaim any of the Goods sold to any Account Debtor obligated on an Account at a time when such Account Debtor was insolvent; and (xii) receive and open all mail addressed to Debtor and notify the postal authorities to change the address for the delivery of mail to Debtor to such address as Secured Party may designate. Secured Party agrees that it shall not exercise any power or authority granted under this power of attorney unless an Event of Default shall have occurred and be continuing. NONE OF SECURED PARTY OR ITS AFFILIATES, OFFICERS, DIRECTORS, EMPLOYEES, AGENTS OR REPRESENTATIVES SHALL BE RESPONSIBLE TO DEBTOR FOR ANY ACT OR FAILURE TO ACT UNDER ANY POWER OF ATTORNEY OR OTHERWISE, EXCEPT IN RESPECT OF DAMAGES ATTRIBUTABLE SOLELY TO THEIR OWN GROSS NEGLIGENCE OR WILLFUL MISCONDUCT AS FINALLY DETERMINED BY A COURT OF COMPETENT JURISDICTION, NOR FOR ANY PUNITIVE, EXEMPLARY, INDIRECT OR CONSEQUENTIAL DAMAGES.

SECTION 7.11. Remedies Cumulative. Upon the occurrence and during the continuance of an Event of Default, and in addition to such other rights and remedies as Secured Party may have under other provisions of this Agreement or any other Credit Document, Secured Party may exercise any one or more of its rights and remedies under common or statutory law. No failure or delay on the part of Secured Party in exercising any right, power or privilege hereunder or under any other Credit Document and no course of dealing between Debtor or any other Obligor or other Person and Secured Party shall operate as a waiver thereof; nor shall any single or partial exercise of any right, power or privilege hereunder or under any other Credit Document preclude any other or further exercise thereof or the exercise of any other right, power or privilege hereunder or thereunder. The rights and remedies provided in this Agreement are cumulative and not exclusive of any rights or remedies which Secured Party would otherwise have and may be exercised simultaneously. No notice to or demand on Debtor in any case shall entitle Debtor or any other Obligor or any other Person to any other or further notice or demand in similar or other circumstances or constitute a waiver of the rights of Secured Party to any other or further action in any circumstances without notice or demand.

SECTION 7.12. Secured Party's Rights to Release Obligors; etc. Secured Party may take or release other security, may release any party primarily or secondarily liable for any Obligations or other indebtedness to Secured Party, may grant extensions, renewals or indulgences with respect to such Obligations or other indebtedness and may apply any other security therefor held by Secured Party to the satisfaction of such Obligations or other indebtedness, all without prejudice to any of Secured Party's rights under this Agreement.

ARTICLE VIII
GENERAL PROVISIONS

SECTION 8.01. *Notices.* Any notices to be given under this Agreement shall be given in accordance with the notice provision of the Credit Agreement.

SECTION 8.02. *Term.* The term of this Agreement shall commence with the date of this Agreement and shall continue in full force and effect and be binding upon Debtor until all Obligations of Debtor to Secured Party shall have been fully paid and satisfied and Secured Party shall have given Debtor written notice of the termination of this Agreement (excluding provisions that by their terms survive termination of other provisions of this Agreement or survive the termination of the security interest created under this Agreement), and provided further that Secured Party shall not be obligated to give Debtor written notice of termination of this Agreement, or to terminate any financing statements or other Lien Notices, until all Obligations of Debtor to Secured Party shall have been fully paid and satisfied and there is no commitment on the part of Secured Party to make an advance, incur an obligation or otherwise give value, and Debtor shall have given Secured Party an Authenticated demand requesting the termination of this Agreement and any financing statements. Notwithstanding anything to the contrary in this Agreement or any other Credit Documents, this Agreement shall continue to be effective or be reinstated, as the case may be, if at any time any amount received by Secured Party in respect of the Obligations is rescinded or must otherwise be restored or returned by Secured Party upon the insolvency, bankruptcy, dissolution, liquidation or reorganization of Debtor or upon the appointment of any intervenor or conservator of, or trustee or similar official for, Debtor or any substantial part of Debtor's assets, or otherwise, all as though such payments had not been made.

SECTION 8.03. *Further Assurances.* Debtor shall Authenticate and deliver to Secured Party such further assurances and take such other actions as Secured Party may from time to time request to further the intent and purpose of this Agreement and to maintain and protect the rights and remedies intended to be created in favor of Secured Party under this Agreement.

SECTION 8.04. *Amendments, Waivers and Consents; Successors and Assigns.* Neither this Agreement nor any other Credit Document nor any of the terms hereof or thereof may be amended, changed, waived, discharged or terminated, nor shall any consent be given, unless such amendment, change, waiver, discharge, termination or consent is in writing and Authenticated by Secured Party. This Agreement shall inure to the benefit of Secured Party, and Secured Party's successors and assigns, and shall be binding upon Debtor's successors and (subject to the immediately following sentence) assigns. This Agreement may not be assigned by Debtor without the prior written consent of Secured Party.

SECTION 8.05. *Entire Agreement.* This Agreement and any Credit Documents Authenticated with this Agreement are a complete and exclusive expression of all the terms of the matters expressed therein, and all prior agreements, statements, and representations, whether written or oral, which relate thereto in any way are hereby superseded and shall be given no force

and effect. No promise, inducement, or representation has been made to Debtor which relates in any way to the matters expressed in this Agreement and in any other Credit Document Authenticated with this Agreement, other than what is expressly stated herein and in such Credit Documents.

SECTION 8.06. No Strict Construction. The parties hereto have participated jointly in the negotiation and drafting of this Agreement. In the event of any ambiguity or question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by the parties hereto and no presumption or burden of proof shall arise favoring or disfavoring any party by virtue of the authorship of any provisions of this Agreement.

SECTION 8.07. Governing Law. This Agreement and all other related instruments and documents and the rights and obligations of the parties hereunder and thereunder shall, in all respects, be governed by, and construed in accordance with, the laws of the State of New York (excluding New York conflict of laws rules), including all matters of construction, validity and performance, regardless of the location of the Collateral, excepting, however, that the Uniform Commercial Code (or decisional law) of a jurisdiction other than New York may provide the method of perfection, the effect of perfection or non-perfection, or the priority of liens and security interests created under this Agreement.

SECTION 8.08. JURISDICTION; VENUE; SERVICE. EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY CONSENTS TO THE NON-EXCLUSIVE PERSONAL JURISDICTION OF THE COURTS OF THE STATE OF NEW YORK AND, IF A BASIS FOR FEDERAL JURISDICTION EXISTS, THE NON-EXCLUSIVE PERSONAL JURISDICTION OF THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK. EACH PARTY AGREES THAT VENUE SHALL BE PROPER IN ANY COURT OF THE STATE OF NEW YORK SELECTED BY ANY OTHER PARTY OR, IF A BASIS FOR FEDERAL JURISDICTION EXISTS, IN ANY DIVISION OF THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK. EACH PARTY WAIVES ANY RIGHT TO OBJECT TO THE MAINTENANCE OF ANY SUIT OR CLAIM IN ANY OF THE STATE OR FEDERAL COURTS OF THE STATE OF NEW YORK ON THE BASIS OF IMPROPER VENUE OR INCONVENIENCE OF FORUM. ANY SUIT OR CLAIM BROUGHT BY DEBTOR AGAINST SECURED PARTY THAT IS BASED, IN WHOLE OR IN PART, DIRECTLY OR INDIRECTLY, ON THIS AGREEMENT OR ANY MATTERS RELATING TO THIS AGREEMENT OR THE OTHER CREDIT DOCUMENTS, SHALL BE BROUGHT IN A COURT ONLY IN THE STATE OF NEW YORK. DEBTOR SHALL NOT FILE ANY COUNTERCLAIM AGAINST SECURED PARTY IN ANY SUIT OR CLAIM BROUGHT BY SECURED PARTY AGAINST DEBTOR IN A JURISDICTION OUTSIDE OF THE STATE OF NEW YORK UNLESS UNDER THE RULES OF THE COURT IN WHICH SECURED PARTY BROUGHT SUCH SUIT OR CLAIM, THE COUNTERCLAIM IS MANDATORY, AND NOT PERMISSIVE, AND WOULD BE CONSIDERED WAIVED UNLESS FILED AS A COUNTERCLAIM IN THE CLAIM OR SUIT INSTITUTED BY SECURED PARTY AGAINST DEBTOR. DEBTOR AGREES THAT ANY FORUM OUTSIDE THE STATE OF NEW YORK IS AN INCONVENIENT FORUM AND THAT A SUIT BROUGHT BY DEBTOR AGAINST SECURED PARTY IN ANY

COURT OUTSIDE THE STATE OF NEW YORK SHOULD BE DISMISSED OR TRANSFERRED TO A COURT LOCATED IN THE STATE OF NEW YORK. EACH OF DEBTOR AND SECURED PARTY IRREVOCABLY CONSENT TO THE SERVICE OF PROCESS OUT OF ANY OF THE AFOREMENTIONED COURTS IN ANY SUCH ACTION OR PROCEEDING BY THE MAILING OF COPIES THEREOF BY REGISTERED OR CERTIFIED MAIL POSTAGE PREPAID, TO IT AT THE ADDRESS SET FORTH FOR NOTICES IN THIS AGREEMENT, SUCH SERVICE TO BECOME EFFECTIVE THIRTY (30) DAYS AFTER THE DATE OF MAILING. NOTHING HEREIN SHALL AFFECT THE RIGHT OF SECURED PARTY TO SERVE PROCESS IN ANY OTHER MANNER PERMITTED BY LAW OR TO COMMENCE LEGAL PROCEEDINGS OR TO OTHERWISE PROCEED AGAINST DEBTOR OR ANY OTHER PERSON IN ANY OTHER JURISDICTION.

SECTION 8.09. Severability. Any provision of this Agreement, or of any other Credit Document, that is prohibited by, or unenforceable under, the laws of any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability, without invalidating the remaining provisions of this Agreement, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction. To the extent permitted by applicable Law, Debtor hereby waives any provision of Law which renders any provision of this Agreement or any other Credit Document prohibited or unenforceable in any respect.

SECTION 8.10. Counterparts. This Agreement may be Authenticated in counterparts and each shall be effective as an original, and a photocopy, facsimile or telecopy of this Authenticated Agreement shall be effective as an original. In making proof of this Agreement, it shall not be necessary to produce more than one counterpart, photocopy, facsimile, or telecopy of this Authenticated Agreement.

SECTION 8.11. Time. Time is of the essence of this Agreement.

SECTION 8.12. Miscellaneous. Terms used in this Agreement shall be applicable to the singular and plural, and references to gender shall include all genders.

SECTION 8.13. WAIVER OF JURY TRIAL. DEBTOR AND SECURED PARTY MUTUALLY WAIVE ALL RIGHT TO TRIAL BY JURY OF ALL CLAIMS OF ANY KIND ARISING UNDER THIS AGREEMENT OR THE OTHER CREDIT DOCUMENTS. DEBTOR AND SECURED PARTY ACKNOWLEDGE THAT THIS IS A WAIVER OF A LEGAL RIGHT AND THAT DEBTOR AND SECURED PARTY EACH MAKE THIS WAIVER VOLUNTARILY AND KNOWINGLY AFTER CONSULTATION WITH COUNSEL OF ITS CHOICE. DEBTOR AND SECURED PARTY AGREE THAT ALL SUCH CLAIMS SHALL BE TRIED BEFORE A JUDGE OF A COURT HAVING JURISDICTION, WITHOUT A JURY.

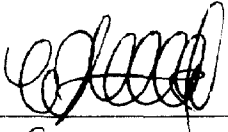
[SIGNATURE PAGE FOLLOWS]


IN WITNESS WHEREOF, and intending to be legally bound hereby, Debtor Authenticates this Agreement, as of the date first above written.

DEBTOR:

WITNESS:

PM BEEF HOLDINGS, L.L.C.



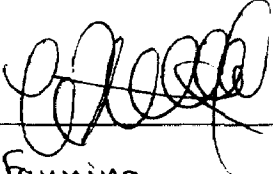
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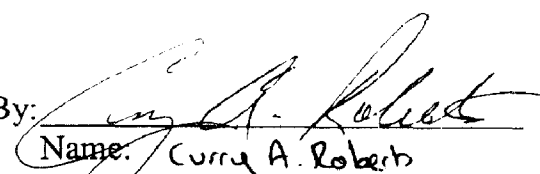
Tim Fanning
Akin, Gump, Strauss, Hauer & Feld, LLP

Name: Curry A. Roberts
Title: President

WITNESS:

PM BEEF GROUP, L.L.C.



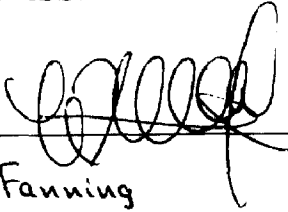
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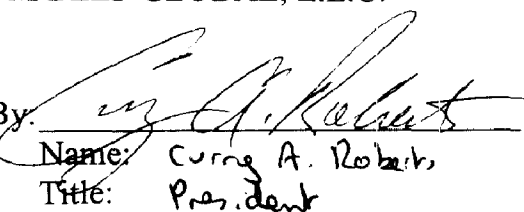
Tim Fanning
Akin, Gump, Strauss, Hauer & Feld, LLP

Name: Curry A. Roberts
Title: President

WITNESS:

PM BEEF GLOBAL, L.L.C.



By: 

Tim Fanning
Akin, Gump, Strauss, Hauer & Feld, LLP
590 Madison Avenue, New York 10022

Name: Curry A. Roberts
Title: President

SCHEDULE A

FEDERAL TRADEMARK APPLICATIONS

<u>Trademark</u>	<u>Ser. No.</u>	<u>Filing Date</u>
PURE REVIEW	76/195,360	January 17, 2001
RANCH TO RETAIL	76/245,413	April 24, 2001

Common Law Trademarks

21ST CENTURY BEEF PARTNERS
BSI USA
PREFERRED STOCK
SHENSON
TASTY SLIM