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09-16-2003



Form PTO-1594 (Rev. 03/01) OMB No. 0651-0027 (exp. 5/31/2002) REC

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

102551733

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

1. Name of conveying party(ies):  
 Murray's Discount Auto Stores, Inc.  
 Individual(s)       Association  
 General Partnership       Limited Partnership  
 Corporation-Michigan  
 Other:  
 Additional name(s) of conveying party(ies) attached?       Yes       No

2. Name and address of receiving party(ies):  
 Name: Fifth Third Bank  
 Internal Address:  
 Street Address: 38 Fountain Square Plaza  
 City: Cincinnati  
 State: OH      Zip: 45263  
 Individual(s) citizenship:  
 Association:  
 General Partnership:  
 Limited Partnership:  
 Corporation-State:  
 Other: Ohio Commercial Bank  
 If assignee is not domiciled in the United States, a domestic representative designation is attached:       Yes  
 (Designations must be a separate document from assignment)       No  
 Additional name(s) & address(es) attached?       Yes       No

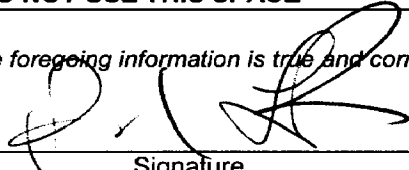
3. Nature of Conveyance:  
 Assignment       Merger  
 Security Agreement       Change of Name  
 Other:  
 Execution Date: 8/8/03

4. Application Number(s) or Registration Number(s):  
 A. Trademark Application No.(s):  
 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: Pamela Hanson, Esq.  
 Ropes & Gray  
 Internal Address: Atty. Dkt.: RBCD-008  
 Street Address: 45 Rockefeller Plaza  
 City: NYC      State: NY      Zip: 10111

6. Total Number of applications and registrations involved: 6  
 7. Total fee (37 CFR 3.41) \$ 165.00  
 Enclosed  
 Authorized to be charged to Deposit Account  
 Authorized to be charged to credit card (Form 2038 enclosed)  
 8. Deposit account number: 18-1945  
 (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.*  
 Paul J. LePore            8/12/03  
 Name of Person Signing      Signature      Date  
 Total number of pages including cover sheet, attachments, and document:

Murray's Discount Auto Stores, Inc.

Mark	App./Reg. No.	App./Reg. Date	Class
WE'RE THE PLACE WITH ALL THE PARTS!	1730061	11/3/92	42
DESIGN ONLY	1672249	1/14/92	42
MURRAY'S DISCOUNT AUTO STORES THE AUTO PARTS SUPERMARKET	1601501	6/12/90	42
MURRAY'S DISCOUNT AUTOSTORES	1506561	9/27/88	42
SUPERPARTS-SUPERPEOPLE-SUPERPRICES	2108692	10/28/97	35
DESIGN ONLY	1956602	2/13/96	42

## SECURITY AGREEMENT

**SECURITY AGREEMENT**, dated as of August 8, 2003 (as amended, supplemented, restated or otherwise modified from time to time, this "Agreement"), made by **MURRAY'S DISCOUNT AUTO STORES, INC.** (the "Borrower") and each of the other Persons (such capitalized term and all other capitalized terms not otherwise defined herein to have the meanings provided for in Article I) listed on the signature pages hereof (such other Persons, together with the Additional Collateral Grantors and the Borrower are collectively referred to as the "Grantors" and individually as a "Grantor"), in favor of **FIFTH THIRD BANK**, an Ohio banking corporation, as administrative agent (in such capacity, the "Agent") for each of the Lender Parties.

### WITNESSETH:

**WHEREAS**, pursuant to a Credit Agreement, dated as of the date hereof (as amended, supplemented, restated or otherwise modified from time to time, the "Credit Agreement"), among the Borrower, the various lending institutions (individually a "Lender" and collectively the "Lenders") as are, or may from time to time become, parties thereto, Royal Bank of Canada, as syndication agent, GMAC Commercial Finance LLC, as documentation agent, and the Agent, the Lenders have extended Commitments to make Credit Extensions to the Borrower;

**WHEREAS**, as a condition precedent to the making of the initial Credit Extension under the Credit Agreement, each Grantor is required to execute and deliver this Agreement; and

**WHEREAS**, each Grantor has duly authorized the execution, delivery and performance of this Agreement;

**NOW THEREFORE**, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and in order to induce the Lenders to make Credit Extensions (including the initial Credit Extension) to the Borrower pursuant to the Credit Agreement, each Grantor agrees, for the benefit of each Lender Party, as follows:

### ARTICLE I DEFINITIONS

The following terms (whether or not underscored) when used in this Agreement, including its preamble and recitals, shall have the following meanings (such definitions to be equally applicable to the singular and plural forms thereof):

**"Account"** means a right to payment of a monetary obligation, whether or not earned by performance (and shall include invoices, contracts, rights, accounts receivable, notes, refunds, indemnities, interest, late charges, fees, undertakings and all other obligations and amounts owing to any Grantor from any Person):

(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.

**“Additional Collateral Grantors”** is defined in clause (b) of Section 7.2.

**“Agent”** is defined in the preamble.

**“Agreement”** is defined in the preamble.

**“Assigned Agreements”** is defined in clause (o) of Section 2.1.

**“Authenticate”** means

- (a) to sign; or
- (b) to execute or otherwise adopt a symbol, or encrypt or similarly process 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.

**“Bank Agency and Control Agreement”** mean a account control agreement in form and substance satisfactory to the Agent entered into among each relevant Grantor, the Agent and a bank where a Deposit Account of such Grantor is maintained, as such agreement may be amended, modified, supplemented, restated or otherwise modified from time to time.

**“Borrower”** is defined in the preamble.

**“Certificated Security”** means a Security that is represented by a certificate.

**“Chattel Paper”** means a record or 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.

**“Collateral”** is defined in Section 2.1.

**“Collateral Account”** is defined in clause (b) of Section 4.2.

**“Commercial Tort Claim”** means a 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.

**“Commodity Account”** means an account maintained by a Commodity Intermediary in which a Commodity Contract is carried out for a Commodity Customer.

**“Commodity Contract”** means a commodity futures contract, an option on a commodity futures contract, a commodity option or any other contract that, in each case, is

- (a) traded on or subject to the rules of a board of trade that has been designated as a contract market for such a contract pursuant to the federal commodities laws; or
- (b) traded on a foreign commodity board of trade, exchange or market, and is carried on the books of a Commodity Intermediary for a Commodity Customer.

**“Commodity Customer”** means a Person for whom a Commodity Intermediary carries a Commodity Contract on its books.

**“Commodity Intermediary”** means

- (a) a Person who is registered as a futures commission merchant under the federal commodities laws; or
- (b) a Person who in the ordinary course of its business provides clearance or settlement services for a board of trade that has been designated as a contract market pursuant to federal commodities laws.

**“Computer Hardware and Software Collateral”** means

- (a) all computer and other electronic data processing hardware, integrated computer systems, central processing units, memory units, display terminals, printers, features, computer elements, card readers, tape drives, hard and soft disk drives, cables, electrical supply hardware, generators, power equalizers, accessories and all peripheral devices and other related computer hardware;
- (b) all software programs (including both source code, object code and all related applications and data files) designed for use on the computers and electronic data processing hardware described in clause (a);

- (c) all licenses and leases of software programs;
- (d) all firmware associated therewith;
- (e) all documentation (including flow charts, logic diagrams, manuals, guides and specifications) with respect to such hardware, software and firmware described in the clauses (a) through (d); and
- (f) all rights with respect to all of the foregoing, including any and all copyrights, licenses, options, warranties, service contracts, program services, test rights, maintenance rights, support rights, improvement rights, renewal rights and indemnifications and any substitutions, replacements, additions or model conversions of any of the foregoing.

**“Control”** means any appropriate method of gaining control of collateral under the U.C.C.

**“Copyright Collateral”** means all copyrights of each Grantor, whether statutory or common law, registered or unregistered, now or hereafter in force throughout the world including all of such Grantor’s right, title and interest in and to all copyrights registered in the United States Copyright Office or anywhere else in the world and also including the copyrights referred to in Item A of Schedule IV attached hereto, and all applications for registration thereof, whether pending or in preparation, all copyright licenses, including each copyright license referred to in Item B of Schedule IV attached hereto, the right to sue for past, present and future infringements of any thereof, all rights corresponding thereto throughout the world, all extensions and renewals of any thereof and all proceeds of the foregoing, including licenses, royalties, income, payments, claims, damages and proceeds of suit.

**“Credit Agreement”** is defined in the first recital.

**“Deposit Account”** means a demand, time, savings, passbook, or similar account (including all bank accounts, collection accounts and concentration accounts, together with all funds held therein and all certificates and instruments, if any, from time to time representing or evidencing such accounts) maintained with a bank.

**“Documents”** means a document of title or a receipt of the type described in Section 7-201(2) of the U.C.C.

**“Electronic Chattel Paper”** means Chattel Paper evidenced by a record or records consisting of information stored in an electronic medium.

**“Entitlement Holder”** means a Person identified in the records of a Securities Intermediary as the Person having a Security Entitlement against the Securities Intermediary. If a Person acquires a Security Entitlement by virtue of Section 8-501(b)(2) or (3) of the U.C.C., such Person is the Entitlement Holder.

**“Equipment”** means all machinery, equipment in all its forms, wherever located, including all computers, furniture and furnishings, all other property similar to the foregoing (including tools, parts, rolling stock and supplies of every kind and description), components,

parts and accessories installed thereon or affixed thereto and all parts thereof, and all Fixtures and all accessories, additions, attachments, improvements, substitutions and replacements thereto and therefor.

**“Financial Asset”** means

(a) a Security;

(b) an obligation of a Person or a share, participation or other interest in a Person or in property or an enterprise of a Person, which is, or is of a type, dealt with in or traded on financial markets, or which is recognized in any area in which it is issued or dealt in as a medium for investment; or

(c) any property that is held by a Securities Intermediary for another Person in a Securities Account if the Securities Intermediary has expressly agreed with the other Person that the property is to be treated as a Financial Asset under Article 8 of the U.C.C. As the context requires, the term Financial Asset shall mean either the interest itself or the means by which a Person’s claim to it is evidenced, including a Certificated or Uncertificated Security, a certificate representing a Security or a Security Entitlement.

**“Fixtures”** means all items of Equipment, whether now owned or hereafter acquired, of any Grantor that become so related to particular real estate that an interest in them arises under any real estate law applicable thereto.

**“General Intangible”** means any personal property, including things in action, payment intangibles and software, other than Accounts, Chattel Paper, Commercial Tort Claims, Deposit Accounts, Documents, Goods, Instruments, Investment Property, Letter-of-Credit Rights, Letters of Credit, money, and oil, gas, or other minerals before extraction.

**“Goods”** means all things that are movable when a security interest attaches, including:

(a) Fixtures;

(b) standing timber that is to be cut and removed under a conveyance or contract for sale;

(c) the unborn young of animals;

(d) crops grown, growing, or to be grown, even if the crops are produced on trees, vines, or bushes;

(e) manufactured homes; and

(f) computer programs embedded in goods and 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 is 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.

**“Grantor”** and **“Grantors”** are defined in the preamble.

**“Health-Care-Insurance Receivable”** means an interest in or claim under a policy of insurance which is a right to payment of a monetary obligation for health-care goods or services provides.

**“Intellectual Property Collateral”** means, collectively, the Computer Hardware and Software Collateral, the Copyright Collateral, the Patent Collateral, the Trademark Collateral and the Trade Secrets Collateral.

**“Instrument”** means a 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 endorsement or assignment.

**“Inventory”** means goods, other than farm products, which:

- (a) are leased by a Person as lessor;
- (b) are held by a Person for sale or lease or to be furnished under a contract of service;
- (c) are furnished by a Person under a contract of service; or
- (d) consist of raw materials, work in process or materials used or consumed in a business,

and includes, without limitation, (i) finished goods, returned goods and materials and supplies of any kind, nature or description which are or might be used in connection with the manufacture, packing, shipping, advertising, selling or finishing of any of the foregoing; (ii) all goods in which a Grantor has an interest in mass or a joint or other interest or right of any kind (including goods in which Grantor has an interest or right as consignee); (iii) all goods which are returned to or repossessed by any Grantor; and (iv) all accessions thereto, products thereof and documents therefor.

**“Investment Property”** means all Securities (whether certificated or uncertificated), Security Entitlements, Securities Accounts, Commodity Contracts and Commodity Accounts of each Grantor; provided, however, that Investment Property shall not include any Certificated Securities constituting Collateral (as defined in the Pledge Agreement).

**“Lender”** and **“Lenders”** are defined in the first recital.

**“Letter-of-Credit Right”** means a 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, but excludes the right of a beneficiary to demand payment or performance under a letter of credit.

**“Patent Collateral”** means:



(a) all letters patent and applications for letters patent throughout the world (including all patent applications in preparation for filing anywhere in the world), including each patent and patent application referred to in Item A of Schedule II attached hereto;

(b) all patent licenses, including each patent license referred to in Item B of Schedule II attached hereto;

(c) all reissues, divisions, continuations, continuations-in-part, extensions, renewals and reexaminations of any of the items described in clauses (a) and (b) above; and

(d) all proceeds of, and rights associated with, the foregoing (including license royalties and proceeds of infringement suits), the right to sue third parties for past, present or future infringements of any patent or patent application, including any patent or patent application referred to in Item A of Schedule II attached hereto, and for breach or enforcement of any patent license, including any patent license referred to in Item B of Schedule II attached hereto, and all rights corresponding thereto throughout the world.

**“Payment Intangible”** means a general intangible under which the account debtor’s principal obligation is a monetary obligation.

**“Proceeds”** means the following property:

(a) whatever is acquired upon the sale, lease, license, exchange, or other disposition of the Collateral;

(b) whatever is collected on, or distributed on account of, the Collateral;

(c) rights arising out of the Collateral;

(d) to the extent of the value of the Collateral, claims arising out of the loss, nonconformity, or interference with the use of, defects or infringement of rights in, or damage to, the Collateral; and

(e) to the extent of the value of the Collateral and to the extent payable to the debtor or the secured party, insurance payable by reason of the loss or nonconformity of, defects or infringement of rights in, or damage to, the Collateral.

**“Receivables Collateral”** means, collectively, Accounts, Documents, Instruments and Chattel Paper.

**“Secured Obligations”** is defined in Section 2.2.

**“Securities”** means any obligations of an issuer or any shares, participations or other interests in an issuer or in property or an enterprise of an issuer which

(a) are represented by a certificate representing a security in bearer or registered form, or the transfer of which may be registered upon books maintained for that purpose by or on behalf of the issuer;

(b) are one of a class or series or by its terms is divisible into a class or series of shares, participations, interests or obligations; and

(c) (i) are, or are of a type, dealt with or trade on securities exchanges or securities markets or (ii) are a medium for investment and by their terms expressly provide that they are a security governed by Article 8 of the U.C.C.

**“Securities Account”** shall mean an account to which a Financial Asset is or may be credited in accordance with an agreement under which the Person maintaining the account undertakes to treat the Person for whom the account is maintained as entitled to exercise rights that comprise the Financial Asset.

**“Security Agreement Supplement”** is defined in clause (b) of Section 7.2.

**“Security Entitlements”** means the rights and property interests of an Entitlement Holder with respect to a Financial Asset.

**“Security Intermediary”** means

(a) a clearing corporation; or

(b) a Person, including a bank or broker, that in the ordinary course of its business maintains securities accounts for others and is acting in that capacity.

**“Supporting Obligation”** means a Letter-of-Credit Right or secondary obligation that supports the payment or performance of an Account, Chattel Paper, Document, General Intangible, Instrument or Investment Property, including, without limitation, all security agreements, guaranties, leases and other contracts securing or otherwise relating to any such Accounts, Chattel Paper, Documents, Instruments, including Goods represented by the sale or lease of delivery which gave rise to any of the foregoing, returned or repossessed merchandise and rights of stoppage in transit, replevin, reclamation and other rights and remedies of an unpaid vendor, lienor or secured party.

**“Tangible Chattel Paper”** means Chattel Paper evidenced by a record or records consisting of information that is inscribed on a tangible medium.

**“Trademark Collateral”** means:

(a) all trademarks, trade names, corporate names, company names, business names, fictitious business names, trade styles, trade dress, service marks, certification marks, collective marks, logos, other source of business identifiers, prints and labels on which any of the foregoing have appeared or appear, designs and general intangibles of a like nature (all of the foregoing items in this clause (a) being collectively called a **“Trademark”**), now existing anywhere in the world or hereafter adopted or acquired, whether currently in use or not, all

registrations and recordings thereof and all applications in connection therewith, whether pending or in preparation for filing, including registrations, recordings and applications in the United States Patent and Trademark Office or in any office or agency of the United States of America or any State thereof or any foreign country, including those referred to in Item A of Schedule III attached hereto;

(b) all Trademark licenses, including each Trademark license referred to in Item B of Schedule III attached hereto;

(c) all reissues, extensions or renewals of any of the items described in clauses (a) and (b) above;

(d) all of the goodwill of the business connected with the use of, and symbolized by the items described in, clauses (a) and (b) above; and

(e) all proceeds of, and rights associated with, the foregoing, including any claim by each Grantor against third parties for past, present or future infringement or dilution of any Trademark, Trademark registration or Trademark license, including any Trademark, Trademark registration or Trademark license referred to in Item B of Schedule III attached hereto, or for any injury to the goodwill associated with the use of any such Trademark or for breach or enforcement of any Trademark license.

**“Trade Secrets Collateral”** means common law and statutory trade secrets and all other confidential or proprietary information and all know-how obtained by or used in or contemplated at any time for use in the business of any Grantor (all of the foregoing being collectively called a “Trade Secret”), whether or not such Trade Secret has been reduced to a writing or other tangible form (including all documents and things embodying, incorporating or referring in any way to such Trade Secret, all Trade Secret licenses), including each Trade Secret license referred to in Schedule V attached hereto, and including the right to sue for and to enjoin and to collect damages for the actual or threatened misappropriation of any Trade Secret and for the breach or enforcement of any such Trade Secret license.

**“U.C.C.”** means the Uniform Commercial Code as the same may be in effect from time to time in the State of New York; provided that if, by reason of applicable law, the validity or perfection or the effect of perfection or non-perfection or the priority of any security interest in any Collateral granted under this Agreement is governed by the Uniform Commercial Code as in effect in a jurisdiction other than New York, then as to the validity or perfection or the effect of perfection or non-perfection or the priority, as the case may be, of such security interest, **“U.C.C.”** shall mean the Uniform Commercial Code as in effect in such other jurisdiction.

**“Uncertificated Security”** means a Security that is not represented by a certificate.

**SECTION 1.2. Credit Agreement Definitions.** Unless otherwise defined herein or the context otherwise requires, terms used in this Agreement, including its preamble and recitals, have the meanings provided in the Credit Agreement.

**SECTION 1.3. U.C.C. Definitions.** Unless otherwise defined herein or the context otherwise requires, terms for which meanings are provided in the U.C.C. are used in this Agreement, including its preamble and recitals, with such meanings.

## **ARTICLE II SECURITY INTEREST**

**SECTION 2.1. Grant of Security.** Each Grantor hereby collaterally assigns, mortgages and pledges to the Agent for its benefit and the ratable benefit of each of the Lender Parties, and hereby grants to the Agent for its benefit and the ratable benefit of each of the Lender Parties a security interest in, all of its right, title and interest in and to the following, whether now or hereafter existing or acquired (collectively, the "Collateral"):

- (a) all Equipment in all of its forms of such Grantor;
- (b) all Inventory in all of its forms of such Grantor;
- (c) all Accounts in all of its forms of such Grantor;
- (d) all Intellectual Property Collateral in all of its forms of such Grantor;
- (e) all General Intangibles in all of its forms of such Grantor;
- (f) all Investment Property in all of its forms of such Grantor;
- (g) all Deposit Accounts in all of its forms of such Grantor;
- (h) all Chattel Paper in all of its forms of such Grantor;
- (i) all Commercial Tort Claims in all of its forms of such Grantor;
- (j) all Goods in all of its forms of such Grantor;
- (k) all Instruments in all of its forms of such Grantor;
- (l) all Payment Intangibles in all of its forms of such Grantor;
- (m) all Documents in all of its forms of such Grantor;
- (n) all Supporting Obligations in all of its forms of such Grantor;

(o) all of such Grantor's right, title and interest in and to the Transaction Documents, all of its Material Agreements (including the Material Agreements specified in Schedule VI attached hereto and excluding the Subordinated Debt Documents), and each Rate Protection Agreement to which such Grantor is now or may hereafter become a party, in each case as such agreements may be amended or otherwise modified from time to time (collectively, the "Assigned Agreements"), including (i) all rights of such Grantor to receive moneys due and to become due under or pursuant to the Assigned Agreements; (ii) all rights of such Grantor to receive proceeds of any insurance, indemnity, warranty or guaranty with respect to the Assigned

Agreements; (iii) all claims of such Grantor for damages arising out of or for breach of or default under the Assigned Agreements; and (iv) the right of such Grantor to terminate the Assigned Agreements, to perform thereunder and to compel performance and otherwise exercise all remedies thereunder;

(p) all of such Grantor's books, records, writings, data bases, information and other property relating to, used or useful in connection with, evidencing, embodying, incorporating or referring to, any of the foregoing in this Section;

(q) all of such Grantor's other property and rights of every kind and description and interests therein, including all moneys, securities and other property, now or hereafter held or received by, or in transit to, the Agent or any Lender Party from or for such Grantor, whether for safekeeping, pledge, custody, transmission, collection or otherwise; and

(r) all Proceeds of any and all of the foregoing Collateral.

provided, however, that any agreement (other than any Transaction Document) to which any Grantor is a party shall be excluded from the security interest granted by such Grantor under this Section 2.1 to the extent that the assignment thereof or the creation of a security interest therein would constitute a breach of the terms of such agreement, or would permit any party to such agreement to terminate such agreement, in each case as such agreement is in effect on the date of this Agreement or the date on which such agreement is first entered into by the applicable Grantor; provided, further, however, that (A) any of the agreements excluded in accordance with this proviso shall cease to be so excluded if, at such time, (1) the prohibition of assignment or creation of a security interest in such agreement is no longer in effect, or is rendered ineffective as a matter of law, or (2) the applicable Grantor has obtained all of the consents of the other parties to such agreement necessary for the assignment of, or creation of a security interest in, such agreement and (B) such Grantor shall use its commercially reasonable efforts to obtain any such necessary consent.

**SECTION 2.2. Security for Obligations.** This Agreement secures the prompt payment in full of all Obligations, including all amounts payable by the Borrower and each other Obligor under or in connection with the Credit Agreement, the Notes and each other Loan Document, whether for principal, interest, costs, fees, expenses, indemnities or otherwise and whether now or hereafter existing (all of such obligations being the "Secured Obligations").

**SECTION 2.3. Continuing Security Interest; Transfer of Notes.** This Agreement shall create a continuing security interest in the Collateral and shall remain in full force and effect until payment in full in cash of all Secured Obligations and the irrevocable termination of all Commitments. Upon the payment in full in cash of all Secured Obligations and the irrevocable termination of all Commitments, the security interest granted herein shall terminate and all rights to the Collateral shall revert to the Grantors. In the event that any part of the Collateral is sold in connection with a sale permitted under the Credit Agreement (other than a sale to a Grantor) the security interest granted herein shall terminate with respect to such Collateral and all rights therein shall revert to the applicable Grantor or Grantors. Upon any such termination or release, the Agent will, at each Grantor's sole expense and without any representations, warranties or recourse of any

kind whatsoever, execute and deliver to such Grantor such documents as such Grantor shall reasonably request to evidence such termination.

**SECTION 2.4. Grantors Remains Liable.** Anything herein to the contrary notwithstanding:

(a) each Grantor shall remain liable under the contracts and agreements included in the Collateral (including the Assigned Agreements) to the extent set forth therein, and shall perform all of its duties and obligations under such contracts and agreements to the same extent as if this Agreement had not been executed;

(b) each Grantor will comply in all material respects with all material Laws relating to the ownership and operation of the Collateral, including, without limitation, all registration requirements under applicable material Laws, and shall pay when due all taxes, fees and assessments imposed on or with respect to the Collateral, except to the extent the validity thereof is being contested in good faith by appropriate proceedings for which adequate reserves in accordance with GAAP have been set aside by such Grantor;

(c) the exercise by the Agent of any of its rights hereunder shall not release any Grantor from any of its duties or obligations under any such contracts or agreements included in the Collateral; and

(d) neither the Agent nor any other Lender Party shall have any obligation or liability under any such contracts or agreements included in the Collateral by reason of this Agreement, nor shall the Agent or any other Lender Party be obligated to perform any of the obligations or duties of any Grantor thereunder or to take any action to collect or enforce any claim for payment assigned hereunder.

**SECTION 2.5. Security Interest Absolute.** All rights of the Agent and the security interests granted to the Agent hereunder, and all obligations of each Grantor hereunder, shall be absolute and unconditional, irrespective of:

(a) any lack of validity or enforceability of any Loan Document;

(b) the failure of any Lender Party

(i) to assert any claim or demand or to enforce any right or remedy against the Borrower, any other Obligor or any other Person under the provisions of any Loan Document or otherwise; or

(ii) to exercise any right or remedy against any other guarantor of, or collateral securing, any Secured Obligation;

(c) any change in the time, manner or place of payment of, or in any other term of, all or any of the Secured Obligations or any other extension, compromise or renewal of any Secured Obligation, including any increase in the Secured Obligations resulting from the extension of additional credit to any Grantor or any other Obligor or otherwise;

(d) any reduction, limitation, impairment or termination of any Secured Obligation for any reason, including any claim of waiver, release, surrender, alteration or compromise, and shall not be subject to (and each Grantor hereby waives any right to or claim of) any defense or setoff, counterclaim, recoupment or termination whatsoever by reason of the invalidity, illegality, nongenuineness, irregularity, compromise, unenforceability of, or any other event or occurrence affecting, any Secured Obligation or otherwise;

(e) any amendment to, rescission, waiver, or other modification of, or any consent to departure from, any of the terms of any Loan Document;

(f) any addition, exchange, release, surrender or non-perfection of any collateral (including the Collateral), or any amendment to or waiver or release of or addition to or consent to departure from any guaranty, for any of the Secured Obligations; or

(g) any other circumstances which might otherwise constitute a defense available to, or a legal or equitable discharge of, the Borrower, any other Obligor or otherwise.

**SECTION 2.6. Waiver of Subrogation.** Each Grantor hereby waives, to the extent permitted by applicable Law until such time as the Secured Obligations shall have been paid in full in cash and the Commitments have irrevocably terminated any claim or other rights which it may now or hereafter acquire against any other Obligor that arises from the existence, payment, performance or enforcement of such Grantor's obligations under this Agreement, including any right of subrogation, reimbursement, exoneration or indemnification, any right to participate in any claim or remedy against any other Obligor or any collateral which the Agent now has or hereafter acquires, whether or not such claim, remedy or right arises in equity or under contract, statute or common law, including the right to take or receive from any other Obligor, directly or indirectly, in cash or other property or by set-off or in any manner, payment or security on account of such claim or other rights. If any amount shall be paid to any Grantor in violation of the preceding sentence, such amount shall be deemed to have been paid to the Lender Parties, and shall forthwith be paid to the Agent to be credited and applied upon the Secured Obligations, whether matured or unmatured. Each Grantor acknowledges that it will receive direct and indirect benefits for the financing arrangements contemplated by the Credit Agreement and that the waiver set forth in this Section is knowingly made in contemplation of such benefits.

### **ARTICLE III REPRESENTATIONS AND WARRANTIES**

Each Grantor represents and warrants unto each Lender Party as set forth in this Article.

**SECTION 3.1. Location of Grantors; Collateral, etc.** Item E of Schedule I hereto identifies for such Grantor the state in which it is organized and the relevant organizational identification number (or states that one does not exist). All of the Equipment and Inventory (other than Inventory that is in-transit to a location specified in Item A or Item B of Schedule I hereto on a vehicle owned or leased by a Grantor) of such Grantor are located, as of the date hereof, at the places specified in Item A and Item B, respectively, of Schedule I hereto. The principal place of business and chief executive office of such Grantor and the office where such Grantor keeps its records concerning the Collateral, and the original copies of each Assigned Agreement and all

originals of all Tangible Chattel Paper, are located at the places specified in Item C of Schedule I hereto. Except as set forth in Item D of Schedule I hereto such Grantor has no trade names and has not been known by any legal name different from the one set forth on the signature page hereto. Except as notified by such Grantor to the Agent in writing, such Grantor is not a party to any one or more Federal, state or local government contracts.

**SECTION 3.2. Ownership, No Liens, etc.** Such Grantor owns its portion of the Collateral free and clear of any Lien, except for the security interest created by this Agreement and except as otherwise permitted by Section 7.2.3 of the Credit Agreement. Except as disclosed in Item F of Schedule II hereto or as disclosed to the Agent from time to time in accordance with Section 7.3, none of the Collateral is in the possession of any consignee, bailee, warehouseman, agent or processor, located on any leased property or subject to the Control of any Person, other than the Agent or such Grantor.

**SECTION 3.3. Negotiable Documents, Instruments, Chattel Paper and Assigned Agreements**. Such Grantor has delivered to the Agent possession of all originals of all negotiable documents, Instruments and Tangible Chattel Paper currently owned or held by such Grantor (duly endorsed in blank, if requested by the Agent), and true and correct copies of each Assigned Agreement. Notwithstanding anything to the contrary in this Agreement, so long as no Event of Default has occurred and is continuing, and, so long as the aggregate amount of negotiable documents, Instruments and Tangible Chattel Paper not delivered to the Agent does not exceed \$100,000 at any time, Grantor shall be required to deliver any negotiable document, Instrument or Tangible Chattel Paper to the Agent if the amount thereof is \$25,000 or less.

**SECTION 3.4. Intellectual Property Collateral**. Except as could not reasonably be expected to have a Material Adverse Effect, with respect to any Intellectual Property Collateral:

(a) such Intellectual Property Collateral is subsisting and has not been adjudged invalid or unenforceable, in whole or in part, and is valid and enforceable;

(b) such Grantor has made all necessary filings and recordations to protect its interest in such Intellectual Property Collateral, including recordations of all of its interests in the Patent Collateral and Trademark Collateral in the United States Patent and Trademark Office and in corresponding offices throughout the world and its claims to the Copyright Collateral in the United States Copyright Office and in corresponding offices throughout the world;

(c) in the case of any such Intellectual Property Collateral that is owned by such Grantor, such Grantor is the exclusive owner of the entire and unencumbered right, title and interest in and to such Intellectual Property Collateral and no claim has been made that the use of such Intellectual Property Collateral does or may violate the asserted rights of any third party;

(d) in the case of any such Intellectual Property Collateral that is licensed by such Grantor, such Grantor is in compliance with the terms of such license; and

(e) each Grantor has performed and will continue to perform all acts and has paid and will continue to pay all required fees and taxes to maintain each and every item of such Intellectual Property Collateral in full force and effect throughout the world, as applicable.



(f) such Grantor owns directly or is entitled to use by license or otherwise, all patents, Trademarks, Trade Secrets, copyrights, licenses, technology, know-how, processes and rights with respect to any of the foregoing used in or necessary for the conduct of such Grantor's business.

**SECTION 3.5. Validity, etc.** This Agreement (together with the filing of financing statements in the U.C.C. filing offices of each jurisdiction referred to in Schedule I hereto, and, if there is any Intellectual Property Collateral, the filing of this Agreement with the United States Patent and Trademark Office and the United States Copyright Office) creates a valid, first priority security interest in the Collateral and all Proceeds thereof, subject to no other Liens other than Liens permitted under Section 7.2.3 of the Credit Agreement, securing the payment of the Secured Obligations, and all filings and other actions necessary or desirable to perfect and protect such security interest have been duly taken.

**SECTION 3.6. Authorization, Approval, etc.** No authorization, approval or other action by, and no notice to or filing with, any Governmental Authority (other than the filing of financing statements in the U.C.C. filing offices of each jurisdiction referred to in Schedule I hereto, and, if there is any Intellectual Property Collateral, the filing of this Agreement with the United States Patent and Trademark Office and the United States Copyright Office, as the case may be) is required either

(a) for the grant by such Grantor of the security interest granted hereby or for the execution, delivery and performance of this Agreement by such Grantor; or

(b) for the perfection of or the exercise by the Agent of its rights and remedies hereunder.

**SECTION 3.7. Due Execution, Validity, Etc.** Such Grantor has full power and authority, and holds all requisite material governmental licenses, permits and other approvals, to enter into and perform its obligations under this Agreement. The execution, delivery and performance by such Grantor of this Agreement does not contravene or result in a default under such Grantor's Organic Documents or contravene or result in a default under any material contractual restriction, Lien or Law binding on such Grantor. This Agreement has been duly executed and delivered on behalf of each Grantor and constitutes the legal, valid and binding obligation of each Grantor enforceable in accordance with its terms subject to the effect of any applicable bankruptcy, insolvency, reorganization, moratorium or similar Law affecting creditor's right generally, and subject to the effect of general principles of equity (regardless of whether considered in a proceeding in equity or at law).

**SECTION 3.8. Assigned Agreements.** The Assigned Agreements of such Grantor, true and complete copies of which have been furnished the Agent, have been duly authorized, executed and delivered by such Grantor and (to the knowledge of such Grantor) each other party thereto, are (to the knowledge of such Grantor) in full force and effect and are binding upon and enforceable against such Grantor and (to the knowledge of such Grantor) each other party thereto, in accordance with their terms, subject to the effect of any applicable bankruptcy, insolvency, reorganization, moratorium or similar Laws affecting creditor's right generally, and subject to the effect of general principles of equity (regardless of whether considered in a proceeding in equity or

at law). To the knowledge of such Grantor, there exists no material default under any Assigned Agreement by any party thereto. With respect to each Assigned Agreement for which the Agent has requested such Grantor to obtain a written consent to an assignment, the Grantor has used its commercially reasonable efforts to obtain from each party to such Assigned Agreement other than such Grantor a consent, in substantially the form of Exhibit A, to the assignment of such Assigned Agreement to the Agent pursuant to this Agreement.

**SECTION 3.9. Commercial Tort Claims.** Except for matters disclosed in Item G of Schedule I hereto, no Grantor owns as of the date hereof any Commercial Tort Claims.

#### **ARTICLE IV COVENANTS**

Each Grantor covenants and agrees that, so long as any portion of the Secured Obligations shall remain unpaid or any Lender shall have any outstanding Commitment, such Grantor will, unless the Required Lenders shall otherwise consent in writing, perform the obligations set forth in this Section.

**SECTION 4.1. Equipment and Inventory.** Each Grantor hereby agrees that it shall:

(a) keep all of its Equipment and Inventory (other than Inventory sold in the ordinary course of business and other than Inventory that is in-transit to a location specified in Item A or Item B of Schedule I hereto on a vehicle owned or leased by a Grantor) at the places therefor specified in Section 3.1, unless such Grantor has given at least 30 days' prior written notice to the Agent of another location;

(b) comply with the covenant contained in Section 7.13 of the Credit Agreement relating to the maintenance of its properties; and

(c) comply with the covenant contained in clause (b) of Section 7.1.2 of the Credit Agreement regarding the payment of taxes and other governmental charges.

**SECTION 4.2. Accounts, Chattel Paper, Documents, Instruments and General Intangibles.**

(a) Each Grantor shall keep its principal place of business and chief executive office and the office where it keeps its records concerning the Receivables Collateral located at the places therefor specified in Section 3.1 unless such Grantor has given at least 30 days' prior written notice to the Agent; not change its name except upon 30 days' prior written notice to the Agent.

(b) Subject to clause (f) of Section 3.1.2 of the Credit Agreement, upon written notice by the Agent to any Grantor pursuant to this Section, all Proceeds of Collateral received by such Grantor shall be delivered in kind to the Agent for deposit to a deposit account (the "Collateral Account") of such Grantor maintained with the Agent or such other Person designated by the Agent, and such Grantor shall not commingle any such Proceeds, and shall hold separate and apart from all other property, all such Proceeds in express trust for the benefit of the Agent until delivery thereof is made to the Agent. The Agent will not give the notice

referred to in the preceding sentence unless there shall have occurred and be continuing any Event of Default.

(c) The Agent shall have the right to apply any amount in the Collateral Account to the payment of any Secured Obligations which are due and payable or payable upon demand, or to the payment of any Secured Obligations at any time that any Event of Default shall exist. Subject to the rights of the Agent, each Grantor shall have the right on each Business Day, with respect to and to the extent of collected funds in the Collateral Account, to require the Agent to purchase any Cash Equivalent Investment, provided that, in the case of Certificated Securities, the Agent will retain possession thereof as Collateral and, in the case of other Investment Property, the Agent will take such actions, including registration of such Investment Property in its name, as it shall determine is necessary to perfect its security interest therein. The Agent may at any time and shall promptly following any Grantor's request therefor, so long as no Event of Default has occurred and is continuing, transfer to such Grantor's general demand deposit account at the Agent or its bank (if not the Agent) any or all of the collected funds in the Collateral Account; provided, however, that any such transfer shall not be deemed to be a waiver or modification of any of the Agent's rights under this Section. Upon the occurrence and during the continuance of any Event of Default, none of the Grantors will, without the Agent's prior written consent, grant any extension of the time of payment of any material Receivables Collateral, compromise, compound or settle the same for less than the full amount thereof, release, wholly or partly, any Person liable for the payment thereof or allow any credit or discount whatsoever thereon, other than extensions, credits, discounts, compromises or settlements granted or made in the ordinary course of business and consistent with its current practices and in accordance with such prudent and standard practices used in industries that are the same as or similar to those in which such Grantor is engaged.

(d) Each Grantor shall, promptly following a request therefor by the Agent, use its commercially reasonable efforts (or best efforts, if an Event of Default has occurred and is continuing) to obtain any consents, waivers or agreements necessary to enable the Agent to exercise its remedies hereunder and under the other Loan Documents with respect to any of such Grantor's rights under any General Intangibles, including Borrower's rights as a licensee of computer software.

**SECTION 4.3. Investment Property.** Each Grantor will take any and all actions necessary to (a) cause the Agent to obtain exclusive Control of any Investment Property owned by such Grantor in a manner acceptable to the Agent and (b) obtain from any issuers of such Investment Property and such other Persons, for the benefit of the Agent, written confirmation of the Agent's Control over such Investment Property upon terms and conditions reasonably acceptable to the Agent. For purposes of this Section, the Agent shall have exclusive Control of Investment Property if (i) such Investment Property consists of Certificated Securities and such Grantor delivers such Certificated Securities to the Agent (with appropriate endorsements if such Certificated Securities are in registered form); (ii) such Investment Property consists of Uncertificated Securities and the issuer thereof agrees, pursuant to documentation in form and substance reasonably satisfactory to the Agent, that it will comply with instructions originated by the Agent without further consent by such Grantor; and (iii) such Investment Property consists of Security Entitlements and either (A) the Agent becomes the Entitlement Holder thereof or (B) the appropriate Securities Intermediary agrees, pursuant to documentation in form and substance

satisfactory to Agent, that it will comply with Entitlement Orders originated by the Agent without further consent by such Grantor.

**SECTION 4.4. Intellectual Property Collateral.**

(a) No Grantor shall, unless such Grantor shall either (i) reasonably and in good faith determine (and notice of such determination shall have been delivered to the Agent) that any of the Patent Collateral is of little or no economic value to such Grantor or (ii) have a valid business purpose (exercised in the ordinary course of business) to do otherwise, do any act, or omit to do any act, whereby any of the Patent Collateral may lapse or become abandoned or dedicated to the public or unenforceable.

(b) No Grantor shall, and no Grantor shall permit any of its licensees to, unless such Grantor shall either (i) reasonably and in good faith determine (and notice of such determination shall have been delivered to the Agent) that any of the Trademark Collateral is of little or no economic value to such Grantor or (ii) have a valid business purpose (exercised in the ordinary course of business) to do otherwise,

(A) fail to continue to use any of the Trademark Collateral in order to maintain all of the Trademark Collateral in full force free from any claim of abandonment for non-use;

(B) fail to maintain as in the past the quality of products and services offered under all of the Trademark Collateral;

(C) fail to employ all of the Trademark Collateral registered with any Federal or state or foreign authority with an appropriate notice of such registration; or

(D) do or permit any act or knowingly omit to do any act whereby any of the Trademark Collateral may lapse or become invalid or unenforceable.

(c) No Grantor shall, unless such Grantor shall either reasonably and in good faith determine (and notice of such determination shall have been delivered to the Agent) that any of the Copyright Collateral or any of the Trade Secrets Collateral is of little or no economic value to such Grantor or have a valid business purpose (exercised in the ordinary course of business) to do otherwise, do or permit any act or knowingly omit to do any act whereby any of the Copyright Collateral or any of the Trade Secrets Collateral may lapse or become invalid or unenforceable or placed in the public domain except upon expiration of the end of an unrenewable term of a registration thereof.

(d) Each Grantor shall notify the Agent immediately if it knows that any application or registration relating to any material item of the Intellectual Property Collateral may become abandoned or dedicated to the public or placed in the public domain or invalid or unenforceable, or of any adverse determination or development (including the institution of, or any such determination or development in, any proceeding in the United States Patent and Trademark Office, the United States Copyright Office or any foreign counterpart thereof or any court) regarding such Grantor's ownership of any of the Intellectual Property Collateral, its right to register the same or to keep and maintain and enforce the same.

(e) In no event shall any Grantor or any of its agents, employees, designees or licensees file an application for the registration of any Intellectual Property Collateral with the United States Patent and Trademark Office, the United States Copyright Office or any similar office or agency in any other country or any political subdivision thereof, unless it promptly informs the Agent and, upon request of the Agent, executes and delivers any and all agreements, instruments, documents and papers as the Agent may reasonably request to evidence the Agent's security interest in such Intellectual Property Collateral and the goodwill and general intangibles of such Grantor relating thereto or represented thereby.

(f) Each Grantor shall take all necessary steps, including in any proceeding before the United States Patent and Trademark Office, the United States Copyright Office or any similar office or agency in any other country or any political subdivision thereof, to maintain and pursue any application (and to obtain the relevant registration) filed with respect to, and to maintain any registration of, the Intellectual Property Collateral, including the filing of applications for renewal, affidavits of use, affidavits of incontestability and opposition, interference and cancellation proceedings and the payment of fees and taxes (except to the extent that dedication, abandonment or invalidation is permitted under the foregoing clauses (a), (b) and (c)).

**SECTION 4.5. Assigned Agreements.** Each Grantor shall at its expense comply with the covenants contained in Sections 7.1.1(r) and 7.2.11 of the Credit Agreement.

**SECTION 4.6. Bailees, Warehouses and Leased Premises.** No Collateral shall at any time be in the possession or Control of any warehouse, bailee or any of any Grantor's agents or processors or located on any leased premises without the Agent's prior written consent and unless the Agent, if the Agent has so requested, has received warehouse receipts or bailee lien waivers satisfactory to the Agent prior to the commencement of such possession or Control. Each Grantor shall, upon the request of the Agent, notify any such warehouse, bailee, agent, processor or lessor of the Liens, shall instruct such Person to hold all such Collateral for the Agent's account subject to the Agent's instructions given after the occurrence of and during the continuance of an Event of Default and shall obtain an acknowledgment from such Person that such Person holds the Collateral for the Agent's benefit.

**SECTION 4.7. Chattel Paper.** Subject to Section 3.3, each Grantor will deliver to the Agent all Tangible Chattel Paper duly endorsed and accompanied by duly executed instruments of transfer or assignment, all in form and substance reasonably satisfactory to the Agent. Each Grantor will provide the Agent with Control of all Electronic Chattel Paper by having the Agent identified as the assignee of the records(s) pertaining to the single authoritative copy thereof and otherwise complying with the applicable elements of Control set forth in the U.C.C. Each Grantor will also deliver to the Agent all security agreements securing any Chattel Paper and execute U.C.C. financing statement amendments assigning to the Agent any U.C.C. financing statements filed by such Grantor in connection with such security agreements. Each Grantor will mark conspicuously all Chattel Paper with a legend, in form and substance reasonably satisfactory to the Agent, indicating that such Chattel Paper is subject to the Liens created hereunder.

**SECTION 4.8. Letters of Credit.** Each Grantor will deliver to the Agent all Letters of Credit in which it is the beneficiary thereof, duly endorsed and accompanied by duly executed

instruments of transfer or assignment, all in form and substance satisfactory to the Agent. Each Grantor will take any and all actions necessary (or requested by the Agent), from time to time, to cause the Agent to obtain exclusive Control of any Letter-of-Credit Rights owned by such Grantor in a manner reasonably acceptable to the Agent.

**SECTION 4.9. Commercial Tort Claims.** Each Grantor shall advise the Agent promptly upon such Grantor becoming aware, after the date hereof, that it owns any additional Commercial Tort Claims. With respect to any such Commercial Tort Claims, such Grantor will execute and deliver such documents as the Agent deems necessary to create, perfect and protect the Agent's first priority security interest in such Commercial Tort Claim.

**SECTION 4.10. Collateral Generally.**

(a) The Agent may, at any time following the occurrence and during the continuance of any Event of Default, whether before or after the maturity of any of the Secured Obligations, notify any parties obligated on any of the Collateral to make payment to the Agent of any amounts due or to become due thereunder and enforce collection of any of the Collateral by suit or otherwise and surrender, release, or exchange all or any part thereof, or compromise or extend or renew for any period (whether or not longer than the original period) any Indebtedness thereunder or evidenced thereby. Upon request of the Agent after the occurrence and during the continuance of any Event of Default, each Grantor will, at its own expense, notify any parties obligated on any of the Collateral to make payment to the Agent of any amounts due or to become due thereunder.

(b) Upon the occurrence and during the continuance of an Event of Default the Agent is authorized to endorse, in the name of each Grantor, any item, howsoever received by the Agent, representing any payment on or other Proceeds of any of the Collateral.

**SECTION 4.11. Insurance.** Each Grantor will maintain or cause to be maintained insurance as provided in Section 7.1.4 of the Credit Agreement. All proceeds of insurance maintained by each Grantor so covering the Collateral shall be applied to the payment of the Secured Obligations under the circumstances provided for in the Credit Agreement. Each Grantor irrevocably makes, constitutes and appoints the Agent (and all officers, employees or agents designated by the Agent) as such Grantor's true and lawful agent and attorney-in-fact for the purpose, during the continuance of an Event of Default, of making, settling and adjusting claims in respect of Collateral under policies of insurance, endorsing the name of such Grantor on any check, draft, instrument or other item of payment for the Proceeds of such policies of insurance and for making all determinations and decisions with respect thereto. In the event that any Grantor at any time or times shall fail to obtain or maintain any of the policies of insurance required by Section 7.1.4 of the Credit Agreement or to pay any premium in whole or part relating thereto, the Agent may, without waiving or releasing any obligation or liability of the Grantors hereunder or any Event of Default, in its sole discretion, obtain and maintain such policies of insurance and pay such premium and take any other actions with respect thereto as the Agent deems advisable. All sums disbursed by the Agent in connection with this Section including reasonable attorneys' fees, court costs, expenses and other charges relating thereto, shall be payable, upon demand, by the Grantors to the Agent and shall be additional Secured Obligations secured hereby.

**SECTION 4.12. Transfers and Other Liens.** No Grantor shall (a) sell, assign (by operation of law or otherwise) or otherwise dispose of any of the Collateral, except as permitted by the Credit Agreement, or (b) create or suffer to exist any Lien upon or with respect to any of the Collateral, except for the security interest created by this Agreement and except those permitted by Section 7.2.3 of the Credit Agreement.

**SECTION 4.13. Further Assurances, etc.** Each Grantor agrees that, from time to time at its own expense, such Grantor will promptly execute and deliver all further instruments and documents, and take all further action, that may be necessary or that the Agent may reasonably request, in order to perfect, preserve and protect any security interest granted or purported to be granted hereby or to enable the Agent to exercise and enforce its rights and remedies hereunder with respect to any Collateral. Without limiting the generality of the foregoing, each Grantor will:

(a) mark conspicuously each Tangible Chattel Paper with a legend, in form and substance reasonably satisfactory to the Agent, indicating that such Chattel Paper is subject to the security interest granted hereby;

(b) subject to Section 3.3, if any Account shall be evidenced by a promissory note or other Instrument or negotiable document, deliver and pledge to the Agent hereunder such promissory note, Instrument or negotiable document duly endorsed and accompanied by duly executed instruments of transfer or assignment, all in form and substance reasonably satisfactory to the Agent;

(c) execute and file such financing or continuation statements, or amendments thereto, and such other instruments or notices (including any assignment of claim form under or pursuant to the federal assignment of claims statute, 31 U.S.C. § 3726, any successor or amended version thereof or any regulation promulgated under or pursuant to any version thereof), as may be necessary, or as the Agent may reasonably request, in order to perfect and preserve the security interests and other rights granted or purported to be granted to the Agent hereby;

(d) furnish to the Agent, from time to time at the Agent's request, statements and schedules further identifying and describing the Collateral and such other reports in connection with the Collateral as the Agent may reasonably request, all in reasonable detail;

(e) if requested by the Agent, each Grantor which owns or leases Equipment which is subject to a certificate of title statute that requires notation of a lien thereon to perfect a security interest therein shall deliver to the Agent all original certificates of title for such Equipment, shall take all necessary steps to cause the Agent's security interest be perfected in accordance with such statute and deliver to the Agent a schedule in reasonable detail describing such Equipment, registration number, license number and all other information required to comply with such statute; provided, however, that until the Agent makes such a request under this clause, the parties hereto acknowledge that the security interest of the Agent in such Collateral has not been perfected and all the representations and warranties, covenants and Events of Default contained herein and in the other Loan Documents which would otherwise be violated shall be deemed modified to reflect the foregoing and not be violated;

(f) if requested by the Agent, cause each Securities Intermediary with which any Grantor maintains a Securities Account to enter into an agreement with respect thereto, in form and substance reasonably satisfactory to the Agent, giving the Agent Control thereof; and

(g) if requested by the Agent, execute and deliver confirmatory written instruments as may be necessary, or as the Agent may reasonably request, in order to perfect and preserve the security interests and other rights granted or purported to be granted to the Agent hereby, but any such Grantor's failure to do so shall not affect or limit the security interest granted hereby or the Agent's other rights in and to the Collateral.

With respect to the foregoing and the grant of the security interest hereunder, each Grantor hereby authorizes the Agent to Authenticate and to file one or more U.C.C. financing or continuation statements, and amendments thereto, and make filings with the United States Patent and Trademark Office or United States Copyright Office (or any successor office or any similar office in any other country), in each case for the purpose of perfecting, confining, continuing, enforcing or protecting the security interest granted by each Grantor, without the signature of any Grantor, and naming any Grantor or the Grantors as debtors and the Agent as secured party. A carbon, photographic, telecopied or other reproduction of this Agreement or any financing statement covering the Collateral or any part thereof shall be sufficient as a financing statement where permitted by Law.

## **ARTICLE V THE AGENT**

**SECTION 5.1. Agent Appointed Attorney-in-Fact.** Each Grantor hereby irrevocably constitutes and appoints the Agent and any officer or agent thereof, with full power of substitution, as its true and lawful attorney-in-fact with full irrevocable power and authority in the place and stead of such Grantor and in the name of such Grantor or in its own name, for the purpose of carrying out the terms of this Agreement, to take, upon the occurrence and during the continuance of any Event of Default, any and all appropriate action and to execute any and all documents and instruments that may be necessary or desirable to accomplish the purposes of this Agreement. Without limiting the generality of the foregoing, during the continuance of any Event of Default each Grantor hereby gives the Agent the power and right, on behalf of such Grantor, without notice to or assent by such Grantor, to do any or all of the following:

(a) (i) demand payment of its Receivables Collateral; (ii) enforce payments of its Receivables Collateral by legal proceedings or otherwise; (iii) exercise all of its rights and remedies with respect to proceedings brought to collect its Receivables Collateral; (iv) sell or assign its Receivables Collateral upon such terms, for such amount and at such times as the Agent deems advisable; (v) settle, adjust, compromise, extend or renew any of its Receivables Collateral; (vi) discharge and release any of its Receivables Collateral; (vii) prepare, file and sign such Grantor's name on any proof of claim in bankruptcy or other similar document against any obligor of any of its Receivables Collateral; (viii) notify the post office authorities to change the address for delivery of the such Grantor's mail to an address designated by the Agent, and open and dispose of all mail addressed to such Grantor; and (ix) endorse such Grantor's name upon any Chattel Paper, document, instrument, invoice, or similar document or agreement relating to any Receivables Collateral or any goods pertaining thereto;



(b) in the case of any Intellectual Property Collateral, execute and deliver, and have recorded, any and all agreements, instruments, documents and papers as the Agent may request to evidence the Lender Parties' security interest in such Intellectual Property Collateral and the goodwill and general intangibles of such Grantor relating thereto or represented thereby;

(c) pay or discharge taxes and Liens levied or placed on or threatened against the Collateral, effect any repairs or any insurance called for by the terms of this Agreement and pay all or any part of the premiums therefor and the costs thereof;

(d) execute, in connection with any sale or other disposition provided for in Section 6.1, any endorsements, assignments or other instruments of conveyance or transfer with respect to the Collateral; and

(e) (i) direct any Person liable for any payment under any of the Collateral to make payment of any and all moneys due or to become due thereunder directly to the Agent or as the Agent shall direct; (ii) ask or demand for, collect, and receive payment of and give receipt for, any and all moneys, claims and other amounts due or to become due at any time in respect of or arising out of any Collateral; (iii) sign and endorse any invoices, freight or express bills, bills of lading, storage or warehouse receipts, drafts against debtors, assignments, verifications, notices and other documents in connection with any of the Collateral; (iv) commence and prosecute any suits, actions or proceedings at law or in equity in any court of competent jurisdiction to collect the Collateral or any portion thereof and to enforce any other right in respect of any Collateral; (v) defend any suit, action or proceeding brought against such Grantor with respect to any Collateral; (vi) settle, compromise or adjust any such suit, action or proceeding and, in connection therewith, give such discharges or releases as the Agent may deem appropriate; (vii) notify, or require any Grantor to notify, Account Debtors to make all payments directly to the Agent and change the post office box number or other address to which the Account Debtors make payments; (viii) assign any Intellectual Property Collateral (along with the goodwill of the business to which any such Intellectual Property Collateral pertains), throughout the world for such terms, on such conditions, and in such manner, as the Agent shall in its sole discretion determine; and (ix) generally, sell, transfer, pledge and make any agreement with respect to or otherwise deal with any of the Collateral as fully and completely as though the Agent were the absolute owner thereof for all purposes, and do, at the Agent's option and such Grantor's expense, at any time, or from time to time, all acts and things that the Agent deems necessary to protect, preserve or realize upon the Collateral and the Lender Parties' security interests therein and to effect the intent of this Agreement, all as fully and effectively as such Grantor might do.

Each Grantor hereby acknowledges, consents and agrees that the power of attorney granted pursuant to this Section is irrevocable and coupled with an interest.

**SECTION 5.2. Agent May Perform.** If any Grantor fails to perform any agreement contained herein, the Agent may itself perform, or cause performance of, such agreement, and the reasonable expenses of the Agent incurred in connection therewith shall be payable by such Grantor pursuant to Section 6.2.

**SECTION 5.3. Agent Has No Duty.** (a) In addition to, and not in limitation of, Section 2.4, the powers conferred on the Agent hereunder are solely to protect its interest (on behalf of the Lender Parties) in the Collateral and shall not impose any duty on it to exercise any such powers. Neither the Agent nor any of its officers, directors, employees or agents shall be liable for failure to demand, collect or realize upon any of the Collateral or for any delay in doing so or shall be under any obligation to sell or otherwise dispose of any Collateral upon the request of any Grantor or any other Person or to take any other action whatsoever with regard to the Collateral or any part thereof (including the taking of any necessary steps to preserve rights against prior parties or any other rights pertaining to any Collateral). Neither the Agent nor any of its officers, directors, employees or agents shall be responsible to any Grantor for any act or failure to act hereunder, except for their own gross negligence or willful misconduct.

(b) Each Grantor assumes all responsibility and liability arising from or relating to the use, sale or other disposition of the Collateral. The Obligations shall not be affected by any failure of the Agent to take any steps to perfect the security interest granted hereunder or to collect or realize upon the Collateral, nor shall loss of or damage to the Collateral release any Grantor from any of its Obligations.

## **ARTICLE VI REMEDIES**

**SECTION 6.1. Remedies.** If any Event of Default shall have occurred and be continuing:

(a) The Agent may exercise in respect of the Collateral, in addition to other rights and remedies provided for herein or otherwise available to it, all the rights and remedies of a secured party on default under the U.C.C. and also may

(i) require each Grantor to, and each Grantor hereby agrees that it will, at its expense and upon the request of the Agent forthwith, assemble all or part of the Collateral as directed by the Agent and make it available to the Agent at its premises or another place designated by the Agent (whether or not the U.C.C. applies to the affected Collateral);

(ii) without demand of performance or other demand, presentment, protest, advertisement or notice of any kind (except any notice required by law referred to below) to or upon any Grantor or any other Person (all and each of which demands, defenses, advertisements and notices are hereby waived), sell, lease, assign, give option or options to purchase, or otherwise dispose of and deliver the Collateral or any part thereof (or contract to do any of the foregoing), in one or more parcels at public or private sale, at any of the Agent's offices or elsewhere, for cash, on credit or for future delivery, and upon such other terms as the Agent may deem commercially reasonable. Each Grantor agrees that, to the extent notice of sale shall be required by law, at least ten days' prior notice to such Grantor of the time and place of any public sale or the time after which any private sale is to be made shall constitute reasonable notification. The Agent shall not be obligated to make any sale of Collateral regardless of notice of sale having been given. The Agent may adjourn any public or private sale from time to time by announcement at the time and place fixed therefor, and such sale may, without further notice, be made at the time and place to which it was so adjourned;

(iii) with respect to the Intellectual Property, on demand, to cause the security interest to become an assignment, transfer and conveyance of any of or all such Collateral by the applicable Grantors to the Agent, or to license or sublicense, whether general, special or otherwise, and whether on an exclusive or non-exclusive basis, any such Collateral throughout the world on such terms and conditions and in such manner as the Agent shall determine (other than in violation of any then existing licensing arrangements to the extent that waivers cannot be obtained); and

(iv) with or without legal process and with or without prior notice or demand for performance, to take possession of the Collateral and without liability for trespass to enter any premises where the Collateral may be located for the purpose of taking possession of or removing the Collateral.

(b) All cash proceeds received by the Agent in respect of any sale of, collection from, or other realization upon all or any part of the Collateral may, in the discretion of the Agent, be held, to the extent permitted under applicable Law, by the Agent as additional collateral security for all or any part of the Secured Obligations, and/or then or at any time thereafter shall be applied (after payment of any amounts payable to the Agent pursuant to Section 10.3 of the Credit Agreement and Section 6.2) in whole or in part by the Agent for the ratable benefit of the Lender Parties against all or any part of the Secured Obligations in accordance with Section 8.5 of the Credit Agreement. Any surplus of such cash or cash proceeds held by the Agent and remaining after payment in full of all the Secured Obligations, and the termination of all Commitments, shall be paid over to the Grantors or to whomsoever may be lawfully entitled to receive such surplus.

(c) The Agent may exercise any and all rights and remedies of each Grantor under or in connection with the Collateral, including the right to sue upon or otherwise collect, extend the time for payment of, modify or amend the terms of, compromise or settle for cash, credit, or otherwise upon any terms, grant other indulgences, extensions, renewals, compositions, or releases, and take or omit to take any other action with respect to the Collateral, any security therefor, any agreement relating thereto, any insurance applicable thereto, or any Person liable directly or indirectly in connection with any of the foregoing, without discharging or otherwise affecting the liability of any Grantor for the Obligations or under this Agreement or any other Loan Document and the Assigned Agreements or otherwise in respect of the Collateral, including any and all rights of such Grantor to demand or otherwise require payment of any amount under, or performance of any provision of, any Collateral.

The Agent shall give the Grantors 10 days' written notice (which each Grantor agrees is reasonable notice within the meaning of Section 9-610 of the U.C.C.) of the Agent's intention to make any sale of Collateral. 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 time within ordinary business hours and at such place or places as the Agent may fix and state in the notice (if any) of such sale. At any such sale, the Collateral, or portion thereof, to be sold may be sold in one lot as an entirety or in separate parcels, as the Agent may (in its sole and absolute discretion) determine. The Agent shall not be obligated to

make any sale of any Collateral if it shall determine not to do so, regardless of the fact that notice of sale of such Collateral shall have been given. The Agent 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, be made at the time and place to which the same was so adjourned. 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 the Agent until the sale price is paid by the purchase or purchasers thereof, but the Agent shall not incur any liability in case any such purchaser or purchasers shall fail to take up and pay for the Collateral so sold and, in case of any such failure, such Collateral may be sold again upon like notice. At any public (or, to the extent permitted by Law, private) sale made pursuant to this Section, any Lender Party may bid for or purchase, free (to the extent permitted by Law) from any right of redemption, stay, valuation or appraisal on the part of any Grantor (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 such Lender Party from any Grantor as a credit against the purchase price, and such Lender Party may upon compliance with the terms of sale, hold, retain and dispose of such property without further accountability to any Grantor therefor.

**SECTION 6.2. Indemnity and Expenses.** Each Grantor agrees to jointly and severally indemnify the Agent from and against any and all claims, losses and liabilities arising out of or resulting from this Agreement (including enforcement of this Agreement), except claims, losses or liabilities resulting from the Agent's gross negligence or willful misconduct as determined by a final judgment of a court of competent jurisdiction. Each Grantor will upon demand pay to the Agent the amount of any and all reasonable expenses, including the reasonable fees and disbursements of its counsel and of any experts and agents, which the Agent may incur in connection with:

- (a) the administration of this Agreement;
- (b) the custody, preservation, use or operation of, or the sale of, collection from, or other realization upon, any of the Collateral;
- (c) the exercise or enforcement of any of the rights of the Agent or the Lender Parties hereunder; or
- (d) the failure by any Grantor to perform or observe any of the provisions hereof.

## **ARTICLE VII MISCELLANEOUS PROVISIONS**

**SECTION 7.1. Loan Document.** This Agreement is a Loan Document executed pursuant to the Credit Agreement and shall (unless otherwise expressly indicated herein) be construed, administered and applied in accordance with the terms and provisions thereof, including Article X thereof.

**SECTION 7.2. Amendments, etc.; Additional Grantors; Successors and Assigns.**

(a) No amendment to, or waiver of any provision of, this Agreement nor consent to any departure by any Grantor herefrom, shall in any event be effective unless the same shall be in writing and signed by the Agent and, with respect to any such amendment, by the Grantors, and then such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given.

(b) Upon the execution and delivery by any Person of a security agreement supplement in substantially the form of Exhibit B hereto (each a “Security Agreement Supplement”), (i) such Person shall be referred to as an “Additional Collateral Grantor” and shall be and become a Grantor, and each reference in this Agreement to “Grantor” shall also mean and be a reference to such Additional Collateral Grantor and (ii) the schedule supplements attached to each Security Agreement Supplement shall be incorporated into and become a part of and supplement Schedules I through VI hereto, as appropriate, and the Agent may attach such schedule supplements to such Schedules, and each reference to such Schedules shall mean and be a reference to such Schedules, as supplemented pursuant hereto.

(c) Any Grantor that becomes an Excluded Foreign Subsidiary or is sold in accordance with the terms of the Credit Agreement after the date hereof shall, following written request of such Grantor to the Agent and at the sole cost of such Grantor, be released from the terms hereof pursuant to documentation reasonably satisfactory to the Agent.

(d) This Agreement shall be binding upon each Grantor and its successors, transferees and assigns and shall inure to the benefit of and be enforceable by the Agent and each other Lender Party and their respective successors, transferees and assigns; provided, however, that no Grantor may assign its obligations hereunder without the prior written consent of the Agent. Without limiting the generality of the foregoing, any Lender may assign or otherwise transfer (in whole or in part) any Credit Extension held by it to any other Person, and such other Person shall thereupon become vested with all the rights and benefits in respect thereof granted to such Lender under any Loan Document (including this Agreement) or otherwise, subject, however, to any contrary provisions in such assignment or transfer, and to the provisions of Section 10.11 and Article IX of the Credit Agreement.

**SECTION 7.3. Addresses for Notices.** All notices and other communications provided for hereunder shall be in writing and mailed, delivered or transmitted by facsimile to either party hereto at the address set forth in the Credit Agreement, or at such other address as shall be designated by such party in a written notice to each other party. Any notice, if mailed and properly addressed with postage prepaid, shall be deemed given three Business Days after posting; any notice sent by prepaid overnight express mail shall be deemed delivered on the next following Business Day; and any notice transmitted by facsimile shall be deemed given upon electronic confirmation of transmission by the sender thereof.

**SECTION 7.4. Section Captions.** Section captions used in this Agreement are for convenience of reference only, and shall not affect the construction of this Agreement.

**SECTION 7.5. Severability.** Wherever possible each provision of this Agreement shall be interpreted in such manner as to be effective and valid under applicable Law, but if any provision of this Agreement shall be prohibited by or invalid under such Law, such provision shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Agreement.

**SECTION 7.6. Counterparts.** This Agreement may be executed by the parties hereto in several counterparts, each of which shall be deemed to be an original and all of which shall constitute together but one and the same agreement.

**SECTION 7.7. Waivers.** Each Grantor hereby waives any right, to the extent permitted by applicable Law, to receive prior notice of a judicial or other hearing with respect to any action or prejudgment remedy or proceeding by the Agent to take possession, exercise control over or dispose of any item of Collateral where such action is permitted under the terms of this Agreement or any other Loan Document or by applicable Law or the time, place or terms of sale in connection with the exercise of the Agent's rights hereunder. Each Grantor waives, to the extent permitted by applicable Law, any bonds, security or sureties required by the Agent with respect to any of the Collateral. Each Grantor also waives any damages (direct, consequential or otherwise) occasioned by the enforcement of the Agent's rights under this Agreement or any other Loan Document, including, the taking of possession of any Collateral or the giving of notice to any Account Debtor or the collection of any Receivables Collateral, all to the extent that such waiver is permitted by Law. Each Grantor also consents that the Agent, in connection with the enforcement of the Agent's rights and remedies under this Agreement, may enter upon any premises owned by or leased to it without obligations to pay rent or for use and occupancy, through self-help, without judicial process and without having first obtained an order of any court. These waivers and all other waivers provided for in this Agreement and the other Loan Documents have been negotiated by the parties and each Borrower acknowledges that it has been represented by counsel of its own choice and has consulted such counsel with respect to its rights hereunder.

**SECTION 7.8. Governing Law, Entire Agreement, etc.** **THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE INTERNAL LAWS OF THE STATE OF NEW YORK, EXCEPT TO THE EXTENT THAT THE VALIDITY OR PERFECTION OF THE SECURITY INTEREST HEREUNDER, OR REMEDIES HEREUNDER, IN RESPECT OF ANY PARTICULAR COLLATERAL ARE GOVERNED BY THE LAWS OF A JURISDICTION OTHER THAN THE STATE OF NEW YORK. THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS CONSTITUTE THE ENTIRE UNDERSTANDING AMONG THE PARTIES HERETO WITH RESPECT TO THE SUBJECT MATTER HEREOF AND SUPERSEDE ANY PRIOR AGREEMENTS, WRITTEN OR ORAL, WITH RESPECT THERETO.**


**SECTION 7.9. Forum Selection and Consent to Jurisdiction.** **ANY LITIGATION BASED HEREON, OR ARISING OUT OF, UNDER, OR IN CONNECTION WITH, THIS AGREEMENT, OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER ORAL OR WRITTEN) OR ACTIONS OF THE LENDER PARTIES OR ANY GRANTOR SHALL BE BROUGHT AND MAINTAINED IN THE FEDERAL AND STATE COURTS LOCATED IN THE BOROUGH OF MANHATTAN OF THE STATE OF NEW YORK; PROVIDED, HOWEVER, THAT ANY SUIT SEEKING**

ENFORCEMENT AGAINST ANY COLLATERAL OR OTHER PROPERTY SHALL BE BROUGHT, AT THE AGENT'S OPTION, IN THE COURTS OF ANY JURISDICTION WHERE SUCH COLLATERAL OR OTHER PROPERTY MAY BE FOUND. EACH GRANTOR HEREBY EXPRESSLY AND IRREVOCABLY SUBMITS TO THE EXCLUSIVE JURISDICTION OF SUCH COURTS FOR THE PURPOSE OF ANY SUCH LITIGATION AS SET FORTH ABOVE AND IRREVOCABLY AGREES TO BE BOUND BY ANY JUDGMENT RENDERED THEREBY IN CONNECTION WITH SUCH LITIGATION. EACH GRANTOR FURTHER IRREVOCABLY CONSENTS TO SERVICE OF PROCESS BY REGISTERED MAIL, POSTAGE PREPAID, OR BY PERSONAL SERVICE WITHIN OR WITHOUT THE STATE OF NEW YORK. EACH GRANTOR HEREBY EXPRESSLY AND IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, ANY OBJECTION WHICH IT MAY HAVE OR HEREAFTER MAY HAVE TO THE LAYING OF VENUE OF ANY SUCH LITIGATION BROUGHT IN ANY SUCH COURT REFERRED TO ABOVE AND ANY CLAIM THAT ANY SUCH LITIGATION HAS BEEN BROUGHT IN AN INCONVENIENT FORUM. TO THE EXTENT THAT ANY GRANTOR HAS OR HEREAFTER MAY ACQUIRE ANY IMMUNITY FROM JURISDICTION OF ANY COURT OR FROM ANY LEGAL PROCESS (WHETHER THROUGH SERVICE OR NOTICE, ATTACHMENT PRIOR TO JUDGMENT, ATTACHMENT IN AID OF EXECUTION OR OTHERWISE) WITH RESPECT TO ITSELF OR ITS PROPERTY, SUCH GRANTOR, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, HEREBY IRREVOCABLY WAIVES SUCH IMMUNITY IN RESPECT OF ITS OBLIGATIONS UNDER THIS AGREEMENT.


**SECTION 7.10. Waiver of Jury Trial.** THE LENDER PARTIES AND EACH GRANTOR HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVE ANY RIGHTS THEY MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION BASED HEREON, OR ARISING OUT OF, UNDER, OR IN CONNECTION WITH, THIS AGREEMENT, OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER VERBAL OR WRITTEN) OR ACTIONS OF THE LENDER PARTIES OR ANY GRANTOR. EACH GRANTOR ACKNOWLEDGES AND AGREES THAT IT HAS RECEIVED FULL AND SUFFICIENT CONSIDERATION FOR THIS PROVISION (AND EACH OTHER PROVISION OF EACH OTHER LOAN DOCUMENT TO WHICH IT IS A PARTY) AND THAT THIS PROVISION IS A MATERIAL INDUCEMENT FOR THE LENDERS ENTERING INTO THE CREDIT AGREEMENT AND EACH SUCH OTHER LOAN DOCUMENT. IN NO EVENT SHALL ANY LENDER PARTY BE LIABLE FOR ANY CONSEQUENTIAL DAMAGES WHICH MAY BE ALLEGED IN CONNECTION HERewith OR THE TRANSACTIONS CONTEMPLATED HEREBY.

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

**MURRAY'S DISCOUNT AUTO STORES, INC.**

By:   
Name: James Rhee  
Title: Vice President

**MDAS INC.**

By:   
Name: James Rhee  
Title: Vice President

ACKNOWLEDGED AND ACCEPTED:

**FIFTH THIRD BANK,**  
as Agent

By: \_\_\_\_\_  
Name:  
Title:



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

**MURRAY'S DISCOUNT AUTO STORES, INC.**


By: \_\_\_\_\_  
Name:  
Title:

**MDAS INC.**

By: \_\_\_\_\_  
Name:  
Title:

**ACKNOWLEDGED AND ACCEPTED:**

**FIFTH THIRD BANK,**  
as Agent

By:   
Name: *Timothy L. Keir*  
Title: *AVP*

Item A. Location of Equipment

**MDAS Inc.**

None.

**Murray's Discount  
Auto Stores, Inc.**

STORE #	ADDRESS
w101	8080 Haggerty Road Belleville, MI 48111
w102	7850 Haggerty Road Belleville, MI 48111
240	4656 Monroe Street Toledo, OH 43623
241	2539 Reynolds Road Toledo, OH 43614
242	2350 Woodville Road Oregon, OH 43616
243	5737 Lewis Avenue Toledo, OH 43612
261	4071 Lee Road, S.E. #120 Cleveland, OH 44128
262	6862 Pearl Road Middleburg Hts., OH 44130
263	5878 Mayfield Road Cleveland, OH 44124
264	11011 Lorain Avenue Cleveland, OH 44111

<b>STORE #</b>	<b>ADDRESS</b>
<b>265</b>	14325 Euclid East Cleveland, OH 44112
<b>266</b>	3742 Pearl Road Cleveland, OH 44109
<b>267</b>	34581 Vine Street Eastlake, OH 44095
<b>268</b>	115 Sheffield Lorain, OH 44055
<b>269</b>	5489 Warrensville Ctr Road Maple Heights, OH 44137
<b>270</b>	24131 Lorain Road North Olmsted, OH 44070
<b>301</b>	23300 Van Born Road Dearborn Heights, MI 48125
<b>302</b>	2035 McKinley Lincoln Park, MI 48146
<b>303</b>	29051 Dequindre Madison Heights, MI 48071
<b>304</b>	33350 Schoenherr Sterling Heights, MI 48312
<b>305</b>	6144 N. Wayne Road Westland, MI 48185
<b>306</b>	2165 Washtenaw Road Ypsilanti, MI 48197
<b>307</b>	28281 W. Eight Mile Road Livonia, MI 48152
<b>308</b>	47250 Van Dyke Utica, MI 48317
<b>309</b>	255 Summit Drive Waterford, MI 48329
<b>310</b>	14517 E. Eight Mile Road Warren, MI 48089

<b>STORE #</b>	<b>ADDRESS</b>
311	7407 E. Ten Mile Road Centerline, MI 48015
312	5120 Schaefer Dearborn, MI 48126
313	640 W. Eight Mile Road Ferndale, MI 48220
314	16444 Evergreen Detroit, MI 48209
315	27906 N. Woodward Avenue Royal Oak, MI 48073
316	14615 Eureka Road Southgate, MI 48195
317	2182 Stadium Ann Arbor, MI 48103
318	31958 Gratiot Avenue Roseville, MI 48066
319	44908 Ford Road Canton, MI 48187
320	6938 Telegraph Road Dearborn Heights, MI 48127
321	15510 Joy Road Detroit, MI 48228
322	23171 Allen Road Woodhaven, MI 48183
323	5300 Dixie Highway Waterford, MI 48239
324	9197 Joseph Campau Hamtramck, MI 48212
325	957 E. Auburn Road Rochester, MI 48307

<b>STORE #</b>	<b>ADDRESS</b>
<b>326</b>	28600 Harper Avenue St. Clair Shores, MI 48081
<b>327</b>	1293 N. Telegraph Road Monroe, MI 48162
<b>328</b>	40590 Garfield Clinton Twp., MI 48038
<b>329</b>	14510 Livernois Detroit, MI 48238
<b>330</b>	7737 Gratiot Avenue Detroit, MI 48213
<b>331</b>	50581 Gratiot Avenue Chesterfield Twp., MI 48051
<b>332</b>	17600 E. Warren Detroit, MI 48224
<b>333</b>	22110 Coolidge Highway Oak Park, MI 48237
<b>334</b>	3830 W. Vernor Highway Detroit, MI 48216
<b>335</b>	6680 Highland Park Waterford, MI 48327
<b>336</b>	16830 Schaefer Highway Detroit, MI 48235
<b>337</b>	14118 Woodward Avenue Highland, MI 48203
<b>338</b>	110 W. Grand River Avenue Brighton, MI 48116
<b>339</b>	27565 Michigan Avenue Inkster, MI 48141

<b>STORE #</b>	<b>ADDRESS</b>
<b>345</b>	G3316 South Dort Highway Suite #1 Flint, MI 48507
<b>346</b>	3483 W. Pierson Road Mt. Morris, MI 48504
<b>347</b>	3804 Pine Grove Avenue Fort Gratiot Township, MI 48059
<b>348</b>	3700 W. Saginaw Suite 6 Lansing, MI 48917
<b>350</b>	815 East Street Lapeer, MI 48446
<b>351</b>	8417 Vernor Detroit, MI 48209
<b>401</b>	2120 South Oak Park Berwyn, IL 60402
<b>402</b>	9255 S. Western Avenue Chicago, IL 60620
<b>403</b>	4719 S. Cottage Grove Chicago, IL 60615
<b>404</b>	6619 Halsted Chicago, IL 60621
<b>405</b>	5227 N. Broadway Avenue Chicago, IL 60640
<b>406</b>	4720 N. Milwaukee Avenue Chicago, IL 60630
<b>407</b>	14921 S. Dixie Highway Harvey, IL 60426
<b>408</b>	3305 W 115 <sup>th</sup> Street Merrionette Park, IL 60655

<b>STORE #</b>	<b>ADDRESS</b>
409	3237 West Addison Chicago, IL 60618
410	5010 W North Avenue Chicago, IL 60639
411	1314 Winston Plaza Melrose Park, IL 60160
412	55 E 111 <sup>th</sup> Street Chicago, IL 60628
414	75 W. Golf Road Arlington Heights, IL 60005
415	6331 S. Western Avenue Chicago, IL 60636
416	5516 W. 159 <sup>th</sup> Street Oak Park, IL 60452-2195
417	7250 W. Foster Avenue Chicago, IL 60656
418	539 Roosevelt Avenue Glen Ellyn, IL 60137
419	2551 W. Cermak Chicago, IL 60608
420	7845 S. Cicero Avenue Chicago, IL 60652
421	3310 W. Roosevelt Chicago, IL 60608
422	2625 S. Cicero Avenue Cicero, IL 60804
423	1434 E. 87 <sup>th</sup> Street Chicago, IL 60619
424	2500 W. North Avenue Chicago, IL 60647

STORE #	ADDRESS
425	4740 S. Kedzie Chicago, IL 60632
426	2105 W. 75 <sup>th</sup> Street Darien, IL 60561
427	1261 N. Lake Street Aurora, IL 60656
428	797 Civic Center Drive Niles, IL 60714
429	3201 S. Ashland Chicago, IL 60608
430	2801 N. Cicero Avenue Chicago, IL 60639
431	4511 Calumet Avenue Hammond, IN 46327
432	327 S. Barrington Road Schaumburg, IL 60193
433	6800 S. Pulaski Chicago, IL 60629

Item B. Location of Inventory

See locations listed under Item A of Schedule I.

Item C. Principal Place of Business/Chief Executive Office

<u>Grantor Mailing Address</u>	<u>County</u>	<u>State</u>
8080 Haggerty Road, Belleville	Wayne County	Michigan



Item D. Trade Names

<u>Grantor</u>	<u>Trade Name</u>
Murray's Discount Auto Stores, Inc.	Murray's Discount Auto Stores

Item E. State of Organization and Identification Number

<u>Grantor</u>	<u>State of Organization</u>	<u>Identification Number</u>
MDAS Inc.	Delaware	2520175
Murray's Discount Auto Stores, Inc.	Michigan	307-308

Item F. Bailments

None.

Item G. Commercial Tort Claims

None.

SCHEDULE II  
to  
Security Agreement

Item A. Patents

None.

Item B. Patent Licenses

None.

Item A. Trademarks

Registered Trademarks

<u>Grantor</u>	<u>Country</u>	<u>Trademark</u>	<u>Registration No.</u>	<u>Registration Date</u>
Murray's Discount Auto Stores, Inc.	USA	DESIGN (Murray in car)	1,672,249	January 14, 1992
Murray's Discount Auto Stores, Inc.	USA	DESIGN (Murray's head)	1,956,602	February 13, 1996
Murray's Discount Auto Stores, Inc.	USA	MURRAY'S DISCOUNT AUTO STORES THE AUTO PARTS SUPERMARKET	1,601,501	June 12, 1990
Murray's Discount Auto Stores, Inc.	USA	MURRAY'S DISCOUNT AUTO STORES (and Design – Murray with shopping cart)	1,506,561	September 27, 1988
Murray's Discount Auto Stores, Inc.	USA	SUPERPARTS-SUPERPEOPLE-SUPERPRICES	2,108,692	October 28, 1997
Murray's Discount Auto Stores, Inc.	USA	WE'RE THE PLACE WITH ALL THE PARTS!	1,730,061	November 3, 1992

Pending Trademark Applications

None.

Trademark Applications in Preparation

None.

Item B. Trademark Licenses

None.

Item A. Copyrights

Registered Copyrights

None.

Copyrights Pending Registration Applications

None.

Copyright Registration Applications in Preparation

None.

Item B. Copyright Licenses

None.

Trade Secret of Know-How Licenses

None.