

10-17-2003

1-FORM PTO-1594 (modified)

(Rev. 03/01)

OMB No. 0651-0027 (exp. 5/31/2002)



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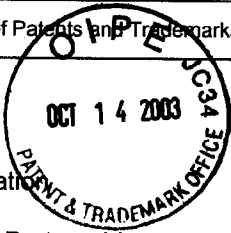
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U.S. DEPARTMENT OF COMMERCE

U.S. Patent and Trademark Office

10-14-03

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



1. Name of conveying party(ies):

DeCorp Americas, Inc.

- Individual Association
- General Partnership Limited Partnership
- Corporation: DELAWARE
- Other: _____

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

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

Name: Earl S. Wellschlager

Street Address: c/o Piper Rudnick LLP

6225 Smith Avenue

Baltimore, Maryland 21209

- Individual(s) citizenship: United States
- Association _____
- General Partnership of: _____
- Limited Partnership of: _____
- Corporation: _____
- Other: _____

If assignee is not domiciled in the United States, a domestic representative designation is attached? Yes No
(Designations must be a separate document from Assignment)
Additional name(s) & address(es) attached? Yes No

3. Nature of conveyance:

- Assignment Merger
- Security Agreement Change of Name
- Other: _____

Execution Date: September 12, 2003

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

A. Trademark Application No.(s)

75/318,030 75/570,037 76/282,043
76/288,306 76/288,307 76/288,308
76/311,394 76/310,988 76/288,567

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: Raymond Millien, Esq.

Internal Address: PIPER RUDNICK LLP

Street Address: 1200 Nineteenth Street, NW

City: Washington State: DC ZIP: 20036

10/16/2003 LMUELLER 00000181 75318030

01 FC:8521 40.00 DP
02 FC:8522 400.00 UP

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

7. Total fee (37 C.F.R. § 3.41). \$ 440.00

- Enclosed
- Authorized to be charged to deposit account

8. Deposit account number: _____

(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.

Raymond Millien, Esq.
Name of Person Signing

Signature

10/14/2003
Date

Total no. of pages incl. cover sheets, attachments, and document: 66

**TRADEMARK COLLATERAL ASSIGNMENT
AND SECURITY AGREEMENT**

THIS TRADEMARK COLLATERAL ASSIGNMENT AND SECURITY AGREEMENT (this "**Agreement**") made as of the 12th day of September, 2003, by DeCorp Americas, Inc., a Delaware corporation, having a mailing address at 214 Molly Walton Drive, Hendersonville, Tennessee 37075, and having an organizational number of 3140048 ("**Debtor**"), in favor of Earl S. Wellschlager, Esquire, having a mailing address at Piper Rudnick LLP, 6225 Smith Avenue, Baltimore, Maryland 21209, for the benefit of the lenders that are a party to the Loan Agreement (as hereinafter defined) ("**Agent**").

RECITALS

Debtor, the lenders named therein ("**Lenders**") and the Agent are parties to a Loan Agreement dated as of September 12, 2003 (the "**Loan Agreement**"), pursuant to which Debtor has requested Lenders to make one or more loans or other financial accommodations to or for the account of Debtor.

Debtor, Lenders and Agent are parties to that certain Security Agreement dated as of September 12, 2003 (the "**Security Agreement**") pursuant to which the Debtor granted a security interest in all assets of the Debtor to the Agent for the benefit of the Lenders.

In order to induce the Lenders to enter into the Loan Agreement and to further evidence the security interest for the benefit of the Lenders in certain assets of the Debtor, Debtor has agreed to execute and deliver this Agreement.

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

ARTICLE I
CONSTRUCTION AND DEFINED TERMS

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

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

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

"AAA" As defined in Section 9.09.

"Account Debtor" As "account debtor" is defined in Article 9, and including any Person obligated on an "account," "chattel paper," or "general intangible," as such terms are defined in Article 9.

"Agent Representatives" As defined in Section 9.03.

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

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

"Business Records" As defined in Section 2.01.

"Collateral" As defined in Section 2.01.

"Collection Costs" As defined in the Security Agreement.

"Credit Administration Costs" As defined in the Security Agreement.

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

"Disputes" As defined in Section 9.09.

"Event of Default" An Event of Default as set forth in Article VI.

"Goodwill" As defined in Section 2.01.

"Governmental Authority" As defined in the Security Agreement.

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

"Law" or **"Laws"** All laws, statutes, regulations, ordinances, rules, codes, decrees, orders, and other directives of any federal, state, district, territorial, or local government within the United States of America (or any national, state, provincial or local government outside the United States), or any branch, department, agency or office thereof, applicable to any party to any Loan Document, or to any assets or properties (including any Collateral) of any party to any Loan Document, or to any business, industry, or other activity in which any party to the Loan Documents may be engaged from time to time.

"License" As defined in Section 2.02.

"License Disclosure Certificate" A certificate in form and substance satisfactory to Agent, and executed by Debtor's president or chief financial officer, which certificate lists each assignment, license, or other agreement, to which Debtor is a party or otherwise bound, relating to the Trademarks.

"Lien" As defined in the Security Agreement.

"Lien Notice" As defined in the Security Agreement.

"Loan Agreement" As defined in the recitals of this Agreement.

"Loan Document" or **"Loan Documents"** As defined in the Security Agreement.

"Note" As "Notes" is defined in the Loan Agreement.

"Obligations" The "Secured Obligations" as defined in the Security Agreement.

"Obligor" Any Person that (i) owes payment or other performance of any or all of the Obligations, (ii) has provided Property, other than the Collateral, to secure payment or other performance of any or all of the Obligations, or (iii) is otherwise accountable in whole or in part for payment or other performance of any or all of the Obligations. Notwithstanding the preceding sentence, the term "Obligor" does not include letter of credit issuers or nominated persons. Without limiting the generality of the first sentence of this definition, the term "Obligor" includes any Secondary Obligor.

"Permitted License" Any license that is permitted by the terms of the Security Agreement.

"Permitted Lien" As "Permitted Encumbrance" is defined in the Loan Agreement.

"Person" Any natural person, corporation, limited liability company, partnership, joint venture, entity, association, joint-stock company, trust or unincorporated organization and any Governmental Authority.

"Proceeds" As defined in Section 2.01.

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

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

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

"Security Agreement" As defined in the Recitals.

"Trademark" or **"Trademarks"** As defined in Section 2.01.

"Trademark Office" The United States Patent and Trademark Office and any successor thereto.

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

other jurisdiction to the extent applicable to the perfection, the effect of perfection or non-perfection, or the priority of such security interest.

ARTICLE II
COLLATERAL ASSIGNMENT; SECURITY INTEREST; LICENSE

SECTION 2.01. *Collateral Assignment; Security Interest.* To secure the full and timely payment, performance and satisfaction of the Obligations, Debtor hereby grants, assigns, conveys, and transfers to Agent for the benefit of Lenders, a collateral assignment of, and security interest in, all of Debtor's now owned and hereafter acquired property described below (referred to herein as "**Collateral**"):

(a) All of Debtor's trademarks (which shall include all service marks), domestic and foreign, (whether or not registered), trademark registrations, trademark applications, trade names (which shall include all fictitious, assumed and business names) certification marks (whether or not registered), other distinctive marks, and registered user rights, including the trademarks, trademark registrations, trademark applications, trade names, certification marks, other distinctive marks, and registered user rights listed on **Schedule 2.01** attached hereto and made a part hereof, and (i) all renewals and recordations of any of the foregoing, (ii) all income, royalties, license fees, damages and payments now and hereafter due or payable with respect thereto, including payments under all licenses entered into in connection therewith and damages and payments for past or future infringements thereof, (iii) the right to sue for past, present and future infringements thereof, and (iv) all rights corresponding thereto throughout the world (all of the foregoing, together with the items described in clauses (i) - (iv) above, are referred to herein, either individually or collectively, as the "**Trademarks**"); and

(b) All of Debtor's goodwill of Debtor's business connected with or associated with and symbolized by the Trademarks (referred to herein as "**Goodwill**"); and

(c) All of Debtor's cash and non-cash proceeds (as "proceeds" is defined in Article 9) and all other amounts and royalties received or to be received in respect of any sale, exchange, lease, license or other disposition of any Trademarks or Goodwill, and including insurance proceeds (referred to herein as "**Proceeds**"); and

(d) All of Debtor's Records and franchise agreements, licenses, manufacturing formulas, research materials, engineering reports and other work product, trade secrets, opinions of trademark counsel, agreements with employees and former employees, books, records, documents, ledger cards, invoices, bills of lading and other shipping evidence, credit files, computer programs, tapes, discs, diskettes, and other data and software storage medium and devices, customer lists, mailing lists, mailing labels, business forms and stationery, and other property and general intangibles evidencing or relating to the Trademarks, Goodwill, and/or Proceeds, together with any containers or media in which the foregoing are stored (including any rights of Debtor with respect to the foregoing maintained with or by any other person), and if any of the foregoing are stored with any other person, all of Debtor's rights relating to the storage and retrieval thereof and access thereto (referred to herein as "**Business Records**").

SECTION 2.02. *License to Debtor.* Agent hereby grants to Debtor, for so long as no Event of Default shall have occurred and be continuing, an exclusive, revocable, nontransferable license under the Trademarks to use the Trademarks for Debtor's own benefit only in connection with the business that Debtor is engaged in on the date of this Agreement (referred to herein as the "**License**"). Debtor shall not sell or assign Debtor's interest in the License or grant any sublicense under the License without the prior written consent of Agent, which consent may be withheld in Agent's sole discretion. The License is granted to Debtor without any representation or warranty of any kind by, or any other obligation or duty

of any kind on, Agent, all of which are expressly disclaimed. Debtor shall indemnify and hold harmless Agent from and against any and all claims, penalties, damages, costs, fees and expenses (including attorney's fees and litigation expenses) arising out of or relating to the License, and Debtor's obligations to indemnify and hold harmless Agent shall survive the termination of this Agreement. Without limiting the generality or legal effect of any provision of this Agreement, it is a requirement of the License that Debtor shall comply fully with the terms of this Agreement and the other Loan Documents, including the provisions regarding quality control and rights of inspection in Sections 3.08 and 4.05 of this Agreement, and the License is conditioned upon such full compliance by Debtor.

SECTION 2.03. *Termination of Security Interest.* At such time as Debtor shall completely satisfy all Obligations, this Agreement shall terminate (excepting any provisions which expressly survive the termination of this Agreement) and Agent shall, at Debtor's sole cost and expense, execute and deliver to Debtor all deeds, assignments and other instruments as may be reasonably necessary to re-vest in Debtor all remaining right, title and interest in and to the Trademarks, without any representation or warranty of any kind by, or any other obligation or duty of any kind on, Agent, and subject to any disposition thereof which may have been made by Agent pursuant to this Agreement.

ARTICLE III **REPRESENTATIONS AND WARRANTIES**

Debtor makes the following representations and warranties to Agent and Lenders, each of which representations and warranties shall be true and in effect at all times, and Agent and Lenders shall be entitled to rely upon the truth, accuracy, and completeness of the following representations and warranties without regard to any other information that may be now or hereafter known by or disclosed to Agent or any Lender or any of Agent's or any Lender's directors, officers, employees, agents, attorneys or other advisors:

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

SECTION 3.02. *Organization, Power.* Debtor (a) is a corporation duly incorporated, and validly existing and in good standing under the laws of the State of Delaware, (b) has the corporate power and authority to own Debtor's properties and assets and to carry on Debtor's business as now conducted, (c) has the corporate power and authority to Authenticate, deliver and perform this Agreement and the other Loan Documents and each agreement or instrument contemplated thereby to which Debtor is or will be a party, and (d) is qualified to do business in every jurisdiction where such qualification is necessary except where the failure to so qualify would not have a materially adverse effect on Debtor's business, properties, operations, prospects or condition, financial or otherwise, and would not impair Debtor's ability to perform Debtor's obligations under or in connection with the Loan Documents.

SECTION 3.03. *Authorization.* The Obligations, and the Authentication, delivery and performance of this Agreement and the other Loan Documents have been duly authorized by all requisite corporate action on the part of Debtor and will not (a) contravene any provision of Law, any order of any court or other agency of government, or (b) contravene the Certificate of Incorporation or By-laws of

Debtor, or (c) contravene, be in conflict with, result in the breach of, or constitute (with due notice or lapse of time or both) a default under, any indenture, agreement or other instrument binding upon Debtor or binding upon any of Debtor's Property, or (d) result in the creation or imposition of any Lien upon the property or assets of Debtor, except pursuant to this Agreement or any other Loan Document.

SECTION 3.04. *Ownership.* Except for the rights granted under the documents evidencing or securing the Permitted Liens and as otherwise provided in the Loan Agreement or in any other Loan Document, Debtor is the owner of all right, title and interest in the Trademarks, free from any Lien. Debtor has made no previous assignment, transfer or agreement in conflict with this Agreement or constituting a present or future assignment, transfer, or encumbrance on any of the Trademarks. Agent's security interest in the Collateral is a first priority security interest subject to no Liens other than Permitted Liens. Debtor represents and warrants that Debtor is not a party to, or otherwise bound by, any assignment, license, or other agreement relating to the Trademarks, other than any assignment, license, or other agreement expressly disclosed in a License Disclosure Certificate delivered to Agent with this Agreement.

SECTION 3.05. *Trademarks.* Debtor represents and warrants that the Trademarks listed on **Schedule 2.01** constitute all of the trademarks, trademark registrations, trademark applications, trade names, certification marks, other distinctive marks, and registered user rights that are as of the date hereof owned by Debtor or are pending on behalf of Debtor in the United States or in any other country or jurisdiction (as set forth on **Schedule 2.01**).

SECTION 3.06. *Infringement; Unauthorized Use.* No material infringement exists or unauthorized use presently is being made of any of the Trademarks that would adversely affect in any material respect the fair market value of the Trademarks or the benefits of this Agreement granted to Agent, including the remedies of Agent or Lenders hereunder. The Trademarks do not and will not infringe on any third party intellectual property or proprietary rights.

SECTION 3.07. *Invalidity; Unenforceability.* There has been no judgment holding any of the Trademarks invalid or unenforceable, in whole or part, nor is the validity or enforceability of any of the Trademarks presently being questioned in any litigation or proceeding to which Debtor is a party.

SECTION 3.08. *Quality Control.* Debtor has used consistent standards of quality in Debtor's manufacture of products sold under the Trademarks. Debtor has continuously used and not abandoned each of the Trademarks, has not licensed any of the Trademarks without adequate quality control of the licensee's goods or services, has reasonably enforced Debtor's rights to the Trademarks against third parties, has not agreed to concurrent use rights, and has registered or recorded such Trademarks where required by law.

ARTICLE IV AFFIRMATIVE COVENANTS

Debtor covenants and agrees to the following:

SECTION 4.01. *New Trademarks.* (a) Before Debtor shall become the owner or holder of, or otherwise acquire rights to, any Trademark registration or pending application with any Governmental Authority, Debtor shall give Agent prompt written notice thereof and shall Authenticate and deliver to Agent such Lien Notices as Agent may request to register and perfect Agent's security interest in such trademarks as soon as Debtor has rights thereto, including security agreements, collateral assignments, mortgages, and financing statements.

(b) Without limiting the effect of any other provision of this Agreement, if, after the date hereof and before the Obligations shall have been satisfied in full, Debtor shall (i) obtain rights in any trademarks, trademark registrations, trademark application, trade names, certification marks, other distinctive marks, or registered user rights, or apply for any new registration in the United States Patent and Trademark Office or in any similar office or agency of a state, territory or possession of the United States or shall obtain any trademark trade name, certification mark, or other distinctive mark registration, or apply for any registration (which is material to the business of Debtor as then conducted) in any other country or jurisdiction or (ii) become the owner of any trademark, trade name, certification mark, or other distinctive mark registrations or applications for trademark, trade name, certification mark, or other distinctive mark registration used in the United States or any state, territory, or possession thereof or, if material to Debtor's business as then conducted, in any other country, the provisions of this Agreement shall automatically apply thereto and Debtor shall give Agent prompt written notice thereof.

(c) Without limiting the effect of any other provision of this Agreement, whenever the information contained on Schedule 2.01 shall become inaccurate in any material respect, Debtor shall promptly forward to Agent a proposed replacement Schedule 2.01 together with a certificate of an officer of Debtor certifying that such proposed Schedule 2.01 accurately and completely sets forth all of Debtor's Trademarks that as of the date thereof are owned by or pending on behalf of Debtor in the United States or in any other country or jurisdiction. Debtor further hereby authorizes Agent to modify this Agreement by amending or restating Schedule 2.01 so as to include any updated information concerning any Trademarks, and hereby irrevocably authorizes Agent to Authenticate and deliver, and file or record, any such modification in Debtor's name.

SECTION 4.02. *Maintenance and Protection of Trademarks.* Until the Obligations shall have been paid and performed in full and the Loan Agreement and the other Loan Documents shall have been terminated, Debtor shall (i) prosecute diligently any Trademark pending as of the date hereof and thereafter, (ii) make application on any trademarks, trade names, certification marks, or other distinctive marks as appropriate in accordance with Debtor's ordinary practices and make reasonable efforts to register trademarks, trade names, certification marks, and other distinctive marks, and (iii) preserve, maintain, and protect all rights in the Trademarks, including all rights to registrations, that are material to the business of Debtor as then conducted. Any expenses incurred in connection with the applications referred to in this Section shall be paid by Debtor. Debtor agrees to retain or employ an experienced trademark attorney for the filing and prosecution of all such applications and other proceedings. Debtor shall keep Agent advised in writing on a current basis of the filing of any trademark, trade name, certification mark, or other distinctive mark application, the grant of any trademark, trade name, certification mark, or other distinctive mark, the abandonment of any trademark, trade name, certification mark, or other distinctive mark or applications thereof, and the grant of any non-exclusive trademark, trade name, certification mark, or other distinctive mark license, to the extent such trademark, trade name, certification mark, or other distinctive mark, or registrations or applications thereof are or become part of the Trademarks. Debtor shall defend against any abandonment, misuse, infringement or dilution of any Trademarks, and for that purpose, Agent hereby grants Debtor the right to sue and bring other proceedings in Debtor's name and that of Agent to enforce the rights in the Trademarks, at Debtor's expense, provided that Agent shall have the right to appear and participate in its own behalf. If Debtor fails to comply with any of the foregoing duties, Agent may, but shall not be required to, so comply in Debtor's name to the extent permitted by law, but at Debtor's expense, and Debtor hereby agrees to reimburse Agent in full for all expenses, including the fees and disbursements of experts, attorneys (including experienced trademark counsel) and paralegals (including charges for inside counsel) at any time incurred by Agent in protecting, defending and maintaining the Trademarks. If Debtor shall fail to pay when due any fees required to be paid by Debtor hereunder, or shall fail to discharge any Lien prohibited hereby, or shall fail to comply with any other duty hereunder, Agent may, but shall not be

required to, pay, satisfy, discharge or bond the same for the account of Debtor, and all moneys so paid out shall be Obligations of Debtor repayable on demand. Debtor shall take all action necessary to preserve and maintain the validity, perfection and first priority of Agent's interest granted herein in the Trademarks, subject only to Permitted Liens. Upon Agent's request from time to time, and at Debtor's expense, Debtor shall execute and deliver to Agent, collateral assignments, security agreements, mortgages, or similar security documents, in form and substance satisfactory to Agent, for any intellectual or intangible property, including trademarks used or useful in Debtor's business, and shall file or record or cause to be filed or recorded with the appropriate governmental authorities and offices such assignments, security agreements, mortgages, or similar security documents as may be necessary or desirable to perfect, maintain, or register Agent's Lien upon such properties.

SECTION 4.03. Collateral Reports. Promptly upon Agent's request from time to time, Debtor shall provide Agent from time to time with: (i) written statements or schedules identifying and describing the Collateral, and all additions, substitutions, and replacements thereof, in such detail as Agent may require; (ii) copies of licensees' and other customers' invoices and billing statements; (iii) evidence of performance of services for licensees and other customers; and (iv) such other information as Agent may require. The items to be provided under this Section shall be in form satisfactory to Agent and are to be prepared by Debtor and/or executed and delivered to Agent from time to time, at Debtor's expense, solely for Agent's convenience in maintaining records of the Collateral. Debtor's failure to give any of such items to Agent shall not affect, terminate, modify or otherwise limit Agent's or Lenders' security interest in the Collateral.

SECTION 4.04. Records; Access. Debtor shall keep and maintain, at Debtor's own cost and expense, complete and accurate books and records of all Collateral throughout the term of this Agreement and in form and detail satisfactory to Agent. Agent shall have unrestricted access to all of Debtor's places of business during normal business hours and after notice to Debtor, or at any time and without notice to Debtor after the occurrence of a Default, for the purpose of inspecting, verifying, copying, and auditing the Collateral and all books and records relating to the Collateral, including all Business Records, and Debtor shall promptly furnish to Agent such copies thereof or extracts therefrom as Agent may request, and Agent shall be entitled to use during normal business hours such of Debtor's personnel, equipment, supplies, and places of business and other locations of Collateral as may be necessary, as determined by Agent in Agent's sole discretion, for the foregoing, and, if an Event of Default shall have occurred, for the collection and realization of Collateral, and all of the foregoing shall be at Debtor's sole cost and expense.

SECTION 4.05. Quality Control; Inspection. (a) Debtor shall, for the duration of this Agreement, (i) continue to use consistent standards of quality in Debtor's manufacture of products sold under the Trademarks, and (ii) do any and all things required by Agent to cause and maintain the use of consistent standards of quality in the manufacture of products, and the provision of services, sold under the Trademarks.

(b) Debtor grants to Agent and Agent's employees and agents the right to visit all plants and facilities which manufacture, inspect or store products, and any such places where services are provided, which are sold under any of the Trademarks, and to inspect and review the products, services and quality control records relating thereto at reasonable times during regular business hours.

(c) If any plants or facilities which manufacture, inspect or store products, or any places where services are provided, which are sold under any of the Trademarks, are not owned or operated by Debtor, Debtor shall cause the owners and operators of such plants, facilities, and places to grant to Agent and Agent's employees and agents the right to visit such plants, facilities and places and to

inspect and review the products, services and quality control records relating thereto at reasonable times during regular business hours.

SECTION 4.06. Laws; Taxes. Debtor shall comply in all material respects with all applicable Laws, except where the failure to comply, individually or in the aggregate, would not have a material adverse effect on the business, operations, properties, prospects, or condition, financial or otherwise, of Debtor or the Collateral or Agent's rights or remedies under this Agreement or any other Loan Document. Debtor shall pay promptly when due all taxes and other private or governmental fees relating to Debtor's use or ownership of the Collateral.

SECTION 4.07. Applications, Approvals and Consents. Debtor shall, at Debtor's sole cost and expense, promptly execute and deliver, or cause the execution and delivery of, all applications, certificates, instruments, registration statements, and all other documents and papers Agent may request in connection with the obtaining of any consent, approval, registration, qualification, or authorization of any Governmental Authority or of any other Person necessary or appropriate for the effective exercise of any rights or remedies under this Agreement. Without limiting the generality of the foregoing, Debtor agrees that in the event Agent shall exercise Agent's rights to sell, transfer, license or otherwise dispose of or take any other action in connection with any of the Collateral pursuant to this Agreement or any other Loan Document, Debtor shall execute and deliver all applications, certificates, and other documents Agent may request, and, if requested by Agent, Debtor shall otherwise promptly, fully, and diligently cooperate with Agent and any other necessary Persons, in making any application for the prior consent or approval of any Governmental Authority or any other Person in connection with the exercise by Agent of any of such rights relating to all or any part of the Collateral. Debtor agrees that Agent's remedy at law for failure of Debtor to comply with the provisions of this Section would not be adequately compensable in damages, and Debtor agrees that the covenants of this Section may be specifically enforced.

SECTION 4.08. Credit Administration Costs. Debtor shall pay to Agent, in accordance with the Loan Agreement, all Credit Administration Costs.

SECTION 4.09. Representations; Schedules. (a) In the event that any representation made in this Agreement shall become untrue, inaccurate or incomplete, or if any event or circumstance occurs which would make Debtor unable to re-make any such representation after such representation shall have been made in accordance with the terms of this Agreement, Debtor shall give Agent prompt written notice thereof. This Section does not entitle Debtor to Agent's consent to any change in any representation or warranty set forth in this Agreement, and compliance with this Section does not entitle Debtor to any waiver of any Default or Event of Default relating thereto.

(b) In the event that any Schedule to this Agreement shall be or become incomplete or be no longer complete, or be or become incorrect, or be no longer correct, in any respect, and before Debtor shall take or fail to take any action, or make any decision, that would cause any Schedule to this Agreement to be or become incomplete or no longer complete, or to be or become incorrect or no longer correct, Debtor shall give Agent prompt written notice of such change of facts or pending change of facts, together with Debtor's proposed new complete and correct Schedule with regard to such change of facts. This Section does not entitle Debtor to Agent's consent to any change in any information on any Schedule, or the revision or substitution of any Schedule or information thereon, and does not entitle Debtor to any waiver of any obligation or restriction contained in this Agreement or any other Loan Documents.

SECTION 4.10. Notice of Default. Debtor shall give Agent immediate written notice of the occurrence or existence of any Default or Event of Default.

ARTICLE V
NEGATIVE COVENANTS

Debtor covenants and agrees to the following:

SECTION 5.01. *Identity.* Debtor shall not change Debtor's name or corporate structure. If Debtor is organized solely under the laws of a single state or the United States and as to which the state or the United States must maintain a public record showing the organization to have been organized, Debtor shall not organize under the laws of another jurisdiction.

SECTION 5.02. *Liens; Lien Notices; Dispositions.* Debtor shall not create, incur, assume or suffer to exist any Liens upon any Collateral other than Permitted Liens. Debtor shall not create, incur, assume or suffer to exist any judgment against Debtor or Debtor's property, unless such judgment is and shall be subordinate to Agent's first priority security interest and lien in the Collateral. Debtor shall not execute or authorize, and shall not file or permit to be on file in any public office, any Lien Notice regarding any Collateral except with respect to this Agreement (and except as may otherwise be permitted by the Loan Agreement). Debtor shall not sell, assign, lease, transfer, surrender, or otherwise dispose of any Collateral.

SECTION 5.03. *Restrictions on Future Agreements.* Until the Obligations shall have been satisfied in full and the Loan Agreement and the other Loan Documents shall have been terminated, Debtor shall not without Agent's prior written consent, which consent may be withheld in Agent's sole discretion, (a) enter into any agreement, including any license agreement, that is inconsistent with Debtor's obligations under this Agreement, the Loan Agreement or any other Loan Document to which Debtor is a party, (b) as licensor, grant or extend any license other than a Permitted License, (c) take any action, or permit any action to be taken by others subject to Debtor's control, including licensees subject to Debtor's control, or fail to take any action (including the abandonment of any Trademark), that would adversely affect in any material respect the validity or enforceability of the rights transferred to Agent under this Agreement, (d) agree to concurrent use rights as to any Trademark, or (e) enter into any other contractual obligations that would restrict or inhibit in any material respect Agent's rights to assign or otherwise dispose of the Collateral or any part thereof after the occurrence of an Event of Default.

SECTION 5.04. *Abandonment.* Debtor shall not (a) abandon any right to file a trademark, trade name, certification mark, or other distinctive mark application nor any pending trademark, trade name, certification mark, or other distinctive mark application that is material to the business of Debtor as then conducted, or (b) abandon any Trademark that is material to the business of Debtor as then conducted.

ARTICLE VI
DEFAULTS

SECTION 6.01. *Events of Default.* As used in this Agreement, Event of Default means an Event of Default under the Loan Agreement.

ARTICLE VII
ACCELERATION OF OBLIGATIONS

SECTION 7.01. *Acceleration.* Upon the occurrence of any Event of Default, Agent may, at Agent's option or the option of a Majority of Lenders (as defined in the Loan Agreement), and without prior notice to or demand upon Debtor, accelerate some or all of the Obligations, and upon such

acceleration, and upon any acceleration (including any automatic or immediate acceleration) pursuant to the terms of any other Loan Documents, all such Obligations as shall have been accelerated shall be immediately due and payable by Debtor to Agent. Nothing in this Agreement shall be construed as modifying or limiting, or as prohibiting or restricting Agent or Lenders from exercising, any right to demand immediate payment of any Obligations payable on demand (or then due and payable) in accordance with the terms of any other Loan Document.

ARTICLE VIII
REMEDIES

SECTION 8.01. Right to Enforce Claim; Agent in Possession or Control.

(a) After the occurrence of a Default or an Event of Default and during the continuance thereof, and in addition to such other rights and remedies as Agent may have under other provisions of this Agreement or any other Loan Documents, or under common or statutory law, Agent, on behalf of Lenders, may reduce a claim to judgment, foreclose, or otherwise enforce the claim or security interest by any available judicial procedure.

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

(c) If Agent has possession of Collateral that is chattel paper or an instrument, then as to any such chattel paper or instrument, Agent shall not be obligated to take any necessary steps to preserve rights against prior parties.

SECTION 8.02. Collection and Enforcement. After the occurrence of a Default or an Event of Default and during the continuance thereof, Agent may:

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

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

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

SECTION 8.03. Application of Proceeds of Collection or Enforcement. (a) Agent shall apply or pay over for application the cash Proceeds of collection of Collateral, or enforcement of the obligations of an Account Debtor or other Person obligated on Collateral, in the following order to:

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

(2) the satisfaction of obligations secured by the security interest under which the collection or enforcement is made; and

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

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

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

SECTION 8.04. *Possession of Collateral.* (a) After the occurrence of a Default or an Event of Default and during the continuance thereof, Agent may require Debtor to assemble the Collateral and make the Collateral available to Agent at a place designated by Agent which is reasonably convenient to Agent and Debtor. If Agent requires Debtor to assemble the Collateral and make the Collateral available to Agent, as described in the preceding sentence, Debtor shall do so promptly, and in any event within three (3) days after Agent gives Debtor a notice requesting Debtor to assemble the Collateral and make the Collateral available to Agent at the place designated by Agent. Without limiting Agent's right to designate any place which is reasonably convenient to Debtor for making Collateral available to Agent, Debtor agrees that any place designated by Agent and located within one hundred (100) miles of any place where Debtor stores, uses, sells, leases, licenses, or maintains Collateral in the ordinary course of Debtor's business shall be conclusively deemed to be a place reasonably convenient to Debtor for making the Collateral available to Agent.

(b) After the occurrence of a Default or an Event of Default and during the continuance thereof, Agent may, pursuant to judicial process, or without judicial process if Agent proceeds without breach of peace, (1) take possession of the Collateral and (2) dispose of Collateral on Debtor's premises in accordance with Section 8.05.

SECTION 8.05. *Disposition of Collateral.* (a) After the occurrence of a Default or an Event of Default and during the continuance thereof, Agent may sell, lease, license, or otherwise dispose of any or all of the Collateral in its present condition or following any commercially reasonable preparation or processing.

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

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

(d) A contract for sale, lease, license, or other disposition includes the warranties relating to title, possession, quiet enjoyment, and the like which by operation of law accompany a voluntary disposition of property of the kind subject to the contract; provided, however,

Agent may disclaim or modify such warranties (1) in a manner that would be effective to disclaim or modify the warranties in a voluntary disposition of property of the kind subject to the contract of disposition, or (2) by communicating to the purchaser a Record evidencing the contract for disposition and including an express disclaimer or modification of the warranties, and provided further that a Record is sufficient to disclaim such warranties if such Record indicates "There is no warranty relating to title, possession, quiet enjoyment, or the like in this disposition" or uses words of similar import.

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

SECTION 8.06. Application of Proceeds of Disposition of Collateral. (a) Agent shall apply or pay over for application the cash Proceeds of disposition of Collateral in the following order:

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

(2) the satisfaction of obligations secured by the security interest under which the disposition is made; and

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

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

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

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

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

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

SECTION 8.07. Additional Provisions Regarding Sales and Other Dispositions. In the event that Agent shall sell or otherwise dispose of the Collateral, or any part thereof, the following additional provisions shall be applicable to such sale or other disposition:

(a) Such sale or other disposition may be at public or private sale for cash, upon credit or for future delivery as Agent shall deem appropriate. Agent shall be authorized at any such sale (if Agent deems it advisable to do so with regard to any type or item of Collateral) to restrict the prospective bidders or purchasers to Persons who will represent and agree that they are purchasing the

Collateral for their own use (or for their own account for investment, as applicable) and not with a view to the distribution or sale thereof, and upon consummation of any such sale, Agent shall have the right to assign, transfer and deliver to the purchaser or purchasers thereof the Collateral so sold. Each such purchaser at any such sale shall hold the property sold absolutely, free from any claim or right on the part of Debtor, and Debtor hereby waives (to the extent permitted by law) all rights of redemption, stay and appraisal which Debtor now has or may at any time in the future have under any rule of law or statute now existing or hereafter enacted. Agent shall give Debtor at least ten (10) days' written notice (which Debtor agrees is reasonable notice) of Agent's intention to make any sale of Collateral owned by Debtor. Such notice, in the case of a public sale, shall state the time and place for such sale. Any such public sale shall be held at such time or times within ordinary business hours and at such place or places as Agent may fix and state in the notice of such sale, and Agent shall not be obligated to make any sale of any Collateral if Agent shall determine not to do so, regardless of the fact that notice of sale of such Collateral shall have been given, and 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 to Debtor or anyone else, be made at the time and place to which the same was so adjourned.

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

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

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

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

(f) Debtor agrees that in assigning or otherwise disposing of the Collateral and in exercising Agent's rights and remedies to the Collateral, Agent shall have the unrestricted and irrevocable right to advertise, sell, lease, license or otherwise dispose of the Collateral under and together with, and shall otherwise have the unrestricted and irrevocable right to use, without limitation, in connection therewith, any and all of Debtor's advertisements in any medium (and other marketing and promotional materials in any medium), brochures, signs, stationery, business forms, packaging and shipping materials, programs, software, licenses, permits, consents, approvals, patents, trademarks,

copyrights, mask works and other intellectual property relating to such Collateral and/or Debtor's business, and all agreements with employees and former employees relating to any of the foregoing, and Debtor shall indemnify and hold harmless Agent, and its designees, shareholders, directors, officers, employees, agents, attorneys, accountants, and other advisors, from and against any and all claims (including claims for royalties and/or money damages and/or claims for injunctive relief), liabilities, damages, royalties, and penalties of any Person, and Agent's costs and expenses (including attorney's fees) incurred by Agent to defend against any thereof.

(g) The commencement of any action, legal or equitable, or the rendering of any judgment or decree for deficiency shall not affect Agent's interest in the Collateral until the Obligations are fully paid.

(h) Debtor agrees that Agent has no obligation to preserve rights to the Trademarks against any other Persons.

SECTION 8.08 *Additional Rights Regarding Collateral.* Upon the occurrence of an Event of Default, Agent shall have the right, but shall in no way be obligated, to bring suit in Agent's own name to enforce the Trademarks and any licenses thereunder, and, if Agent shall commence any such suit, Debtor shall, at the request of Agent, do any and all lawful acts and execute any and all proper documents as may be reasonably required by Agent in aid of such enforcement, and Debtor shall indemnify and shall, upon demand, promptly reimburse Agent for all damages, costs and expenses incurred by Agent in the exercise of Agent's rights under this Section, including the reasonable fees and disbursements of (i) experts and (ii) attorneys (including experienced trademark counsel) and paralegals (including charges for inside counsel) incurred by Agent in connection therewith.

SECTION 8.09. *Separate Assignment; Attorney-in-Fact.* (a) Upon the occurrence of any Event of Default, and in addition to such other rights and remedies as Agent may have under other provisions of this Agreement or any other Loan Documents, or under common or statutory law, Agent may require Debtor forthwith to (i) execute and deliver an assignment, substantially in the form of **Exhibit A** hereto, of all right, title and interest in and to the Trademarks and (ii) take such other action as Agent may request to evidence the outright assignment of such Trademarks or to exercise, register or further perfect and protect Agent's and Lenders' rights and remedies with respect to such assigned Trademarks, in which event Debtor immediately shall execute and deliver such assignment and take such other action as Agent so requests.

(b) Debtor hereby authorizes Agent to make, constitute and appoint any officer or agent of Agent as Agent may select, in Agent's sole discretion, as Debtor's true and lawful attorney-in-fact, with power of substitution, from and after the occurrence of an Event of Default to (i) sign and endorse Debtor's name on all applications, documents, papers and instruments necessary or desirable for Agent in the use of the Trademarks, including, if Debtor fails to execute and deliver to Agent a separate assignment apart from this Agreement substantially in the form of **Exhibit A** hereto within two (2) days after Agent's written request to Debtor therefor, a separate assignment apart from this Agreement substantially in the form of **Exhibit A** hereto, (ii) take any other actions with respect to the Trademarks as Agent deems in the best interest of Agent, (iii) grant or issue any exclusive or non-exclusive license under the Trademarks to anyone, or (iv) assign, pledge, convey or otherwise transfer title in or dispose of the Trademarks to anyone. Debtor hereby ratifies all that such attorney shall lawfully do or cause to be done by virtue hereof. This power of attorney, being coupled with an interest, shall be irrevocable until all Obligations shall have been paid in full and the Loan Agreement and the other Loan Documents have been terminated. Debtor acknowledges and agrees that this Agreement is not intended to limit or restrict

in any way the rights and remedies of Agent under the Loan Agreement and the other Loan Documents but rather is intended to facilitate the exercise of such rights and remedies.

ARTICLE IX
GENERAL PROVISIONS

SECTION 9.01. *Remedies Cumulative.* Upon the occurrence of any Event of Default, and in addition to such other rights and remedies as Agent may have under other provisions of this Agreement or any other Loan Document, Agent may exercise any one or more of its rights and remedies under common or statutory law. No failure or delay on the part of Agent in exercising any right, power or privilege hereunder or under any other Loan Document and no course of dealing between Debtor or any other Obligor or other Person and Agent shall operate as a waiver thereof; nor shall any single or partial exercise of any right, power or privilege hereunder or under any other Loan Document preclude any other or further exercise thereof or the exercise of any other right, power or privilege hereunder or thereunder. The rights and remedies provided in this Agreement are cumulative and not exclusive of any rights or remedies which Agent would otherwise have and may be exercised simultaneously. No notice to or demand on Debtor in any case shall entitle Debtor or any other Obligor or any other Person to any other or further notice or demand in similar or other circumstances or constitute a waiver of the rights of Agent to any other or further action in any circumstances without notice or demand.

SECTION 9.02. *Agent's Rights to Release Obligors; etc.* Agent may take or release other security, may release any party primarily or secondarily liable for any Obligations or other indebtedness to Agent, may grant extensions, renewals or indulgences with respect to such Obligations or other indebtedness and may apply any other security therefor held by Agent to the satisfaction of such Obligations or other indebtedness, all without prejudice to any of Agent's rights under this Agreement.

SECTION 9.03. *Agent Representatives.* Agent shall have and be entitled to exercise all powers hereunder that are specifically delegated to Agent by the terms hereof, together with such powers as are reasonably incident thereto. Agent may perform any of Agent's duties hereunder or in connection with the Collateral by or through employees, agents or designees and shall be entitled to retain counsel and to act in reliance upon the advice of counsel concerning all such matters. Agent and Agent's directors, officers, employees, agents, designees, attorneys and advisors (collectively, the "**Agent Representatives**") shall be entitled to rely on any communication, instrument or document believed by it or them to be genuine and correct and to have been signed or sent by the proper person or persons. Neither Agent, nor any Agent Representative, shall be liable to Debtor for any action taken or omitted to be taken by it or them hereunder, except for its or their own gross negligence or willful misconduct, nor shall Agent be responsible for the validity, effectiveness or sufficiency hereof or of any document or security furnished pursuant hereto. Debtor agrees to indemnify and hold harmless Agent and Agent Representatives from and against any and all claims, liabilities and costs and/or expenses (including fees and expenses of attorneys and paralegals (including charges of in-house counsel)) which may be imposed on, asserted against or incurred by Agent or Agent Representatives in performing or exercising any duty or right hereunder or under any other Loan Document or in any way relating to or arising out of this Agreement or any other Loan Document hereunder, unless such claim or liability shall be due to willful misconduct or gross negligence on the part of Agent or such other party.

SECTION 9.04. *Notices.* Any notice or other communication required or permitted by or in connection with this Agreement shall be given in the manner provided in the Security Agreement.

SECTION 9.05. *Term.* The term of this Agreement shall commence with the date of this Agreement and shall continue in full force and effect and be binding upon Debtor until all Obligations of

Debtor to Agent or Lenders shall have been fully paid and satisfied and Agent shall have given Debtor written notice of the termination of this Agreement (excluding provisions that by their terms survive termination of other provisions of this Agreement or survive the termination of the security interest created under this Agreement), and provided further that Agent shall not be obligated to give Debtor written notice of termination of this Agreement, or to terminate any financing statements or other lien notices, until all Obligations of Debtor to Agent or Lenders shall have been fully paid and satisfied and there is no commitment on the part of Agent or Lenders to make an advance, incur an obligation or otherwise give value. Upon any termination of this Agreement or release of Collateral as permitted by the Security Agreement, Agent will execute and deliver to Debtor such documents and take such other actions as Debtor shall reasonably request to evidence the termination of this Agreement and Agent's and Lenders' rights in the Collateral or the release of such Collateral, as the case may be. Any such action taken by Agent shall be at the sole expense of Debtor and without warranty by or recourse to Agent, except as to the absence of any prior assignments by Agent of Agent's or Lenders' interests in the Collateral which has not previously been sold, disposed of, retained or applied by Agent in accordance with the terms hereof. Notwithstanding anything to the contrary in this Agreement or any other Loan Documents, this Agreement shall continue to be effective or be reinstated, as the case may be, if at any time any amount received by Agent or Lenders in respect of the Obligations is rescinded or must otherwise be restored or returned by Agent or Lenders upon the insolvency, bankruptcy, dissolution, liquidation or reorganization of Debtor or upon the appointment of any intervenor or conservator of, or trustee or similar official for, Debtor or any substantial part of Debtor's assets, or otherwise, all as though such payments had not been made.

SECTION 9.06. Amendments; Waivers. Neither this Agreement nor any other Loan Document nor any of the terms hereof or thereof may be amended, modified, changed, waived, discharged or terminated, nor shall any consent be given, unless such amendment, modification, change, waiver, discharge, termination or consent is in writing signed by Agent.

SECTION 9.07. Successors and Assigns. This Agreement shall create a continuing security interest in the Collateral and shall (i) remain in full force and effect until payment in full of all Obligations, (ii) be binding upon Debtor and its successors and assigns, and (iii) inure, together with the rights and remedies of Agent hereunder, to the benefit of Agent and Agent's respective successors, transferees and assigns. This Agreement may not be assigned by Debtor without prior written consent of Agent, which consent may be withheld in Agent's sole discretion.

SECTION 9.08. Further Assurances. Debtor shall execute and deliver to Agent such further assurances and take such other further actions as Agent may from time to time request to further the intent and purpose of this Agreement and to maintain and protect the rights and remedies intended to be created in favor of Agent and Lenders under this Agreement. Debtor shall execute and deliver to Agent any financing statement or other notice document requested, or procure any other document requested (including financing statement termination statements, as necessary, and terminations or releases of any filings with the Trademark Office, as necessary), and record such financing statements or other notice documents, to perfect the Liens, and the first priority of the Liens, created under this Agreement. If the Collateral is of a type as to which it is necessary or desirable for Agent to take possession of the Collateral in order to perfect, or maintain the priority of, Agent's or Lenders' Lien, then upon Agent's request, Debtor shall deliver such Collateral to Agent.

SECTION 9.09. Arbitration. (a) Any and all disputes, claims or controversies of any kind now existing or hereafter arising between or among the parties (each, a "**Dispute**"), including Disputes pertaining to the formation, interpretation or breach of this Agreement or the documents delivered in connection herewith, shall be finally settled by binding arbitration held in the City of Baltimore,

Maryland in accordance with the Commercial Arbitration Rules of the American Arbitration Association (the "AAA"). The arbitration shall take place before one arbitrator chosen by the mutual agreement of the parties. If the parties cannot select an arbitrator, then the AAA shall appoint the arbitrator. Judgment upon the award of the arbitrator shall be final and binding on the parties, and any right of appeal thereof is hereby waived. Judgment upon the award rendered may be entered in any court having jurisdiction, or application may be made to such court for confirmation of the award. Unless otherwise divided or awarded by the panel, the costs for arbitration shall be finally paid by the losing party or parties or, if the arbitrator rules in favor of all parties, shall be paid by each party in proportion to their respective awards, except that each party shall bear its own attorneys' fees.

(b) Notwithstanding the preceding binding arbitration provisions, the parties agree to preserve, without diminution, certain remedies that any party hereto may employ or exercise freely, independently or in connection with an arbitration proceeding or after an arbitration action is brought. The parties shall have the right to proceed in any court of proper jurisdiction or by self-help to exercise or prosecute the following remedies, as applicable: (i) foreclosure against or other disposal of any personal property or other security by exercising a power or right granted under this Agreement or under applicable law or by judicial foreclosure and sale or otherwise, including a proceeding to confirm any sale or other disposition; (ii) all rights of self-help including peaceful possession of personal property; (iii) provisional or ancillary remedies including injunctive relief, sequestration, garnishment, attachment, appointment of receiver and filing an involuntary bankruptcy proceeding; (iv) when applicable, a judgment by confession of judgment, and (v) the application for relief from any actual or threatened breach or default of this Agreement which could give rise to irreparable harm. Preservation of these remedies does not limit the power of an arbitrator to grant similar remedies that may be requested by a party in a Dispute.

(c) The parties agree that they shall not have a remedy of punitive or exemplary damages against the other in any Dispute and hereby waive any right or claim to punitive or exemplary damages they have now or which may arise in the future in connection with any Dispute whether the Dispute is resolved by arbitration or judicially.

SECTION 9.10. *Filing and Recording.* Either party may file, record or register this Agreement (or a photocopy of this Agreement) with any Governmental Authority to give notice of, and to further the legal operation and effect of, and perfect the interests of Agent for the benefit of Lenders under, this Agreement, including any filing, recording or registration with the Trademark Office or any public office for recording UCC financing statements. Debtor shall pay all of Agent's fees, costs, taxes, and expenses (including attorney's fees) of filing, recording or registering this Agreement.

SECTION 9.11. *Special Power of Attorney.* On the date hereof, and to supplement Debtor's rights under this Agreement, Debtor shall execute and deliver to Agent the Special Power of Attorney in the form attached to this Agreement as **Exhibit B**, which Special Power of Attorney shall be effective as of the date hereof, but shall not be exercised by Agent until the occurrence of an Event of Default.

SECTION 9.12. *Miscellaneous.* Time is of the essence of this Agreement. Any provision of this Agreement or of any related instrument or document executed pursuant hereto which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof or thereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction. To the extent permitted by applicable law, Debtor hereby waives any provision of law which renders any provision hereof or thereof prohibited or unenforceable in any respect. This Agreement may be executed in counterparts and each shall be effective as an original, and a telecopy

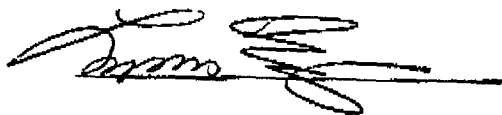
of this executed Agreement shall be effective as an original. In making proof of this Agreement, it shall not be necessary to produce more than one counterpart of this Agreement. A carbon, photographic, photocopy or other reproduction of this Agreement or any financing statement signed by Debtor shall be sufficient as, and may be recorded among any public records as, a financing statement under the UCC. All representations, warranties and covenants of Debtor contained herein shall survive the execution and delivery of this Agreement and shall terminate only upon the full and final payment and performance by Debtor of the Obligations and termination of the Loan Agreement and the other Loan Documents. This Agreement is a Loan Document within the definition of "Loan Documents" in the Loan Agreement.

SECTION 9.13. Governing Law. This Agreement and all other related instruments and documents and the rights and obligations of the parties hereunder and thereunder shall, in all respects, be governed by, and construed in accordance with, the laws of the State of Tennessee (excluding Tennessee conflict of laws rules), including all matters of construction, validity and performance, regardless of the location of the Collateral, excepting, however, that the Uniform Commercial Code (or decisional law) of a jurisdiction other than Tennessee may provide the method of perfection, the effect of perfection or non-perfection, or the priority of liens and security interests created under this Agreement.

[SIGNATURE PAGE FOLLOWS]

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

WITNESS:



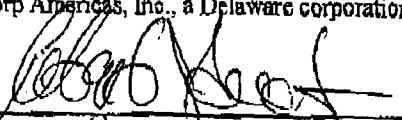
DEBTOR:

DeCorp Americas, Inc., a Delaware corporation

By:

Name:

Title:



Robert J. Sexton

President CEO

BALT2:675951

Attachments:

Schedule 2.01 (Trademarks)

Exhibit A (Form of Assignment of Trademarks)

Exhibit B (Special Power of Attorney)

**SCHEDULE 2.01 TO
TRADEMARK COLLATERAL ASSIGNMENT AND SECURITY AGREEMENT**

<i>Trademarks</i>	<i>Trademarks Registration Number (Application, Registration, or Serial Number)</i>	<i>Filing Date</i>
DECORP	76/282,043	July 7, 2001
PRECISION WAVE RESPONSE	76/288,306	July 23, 2001
DEPWR	76/288,307	July 23, 2001
DEPOWER	76/288,308	July 23, 2001
DEWIRE	75/318,030	July 1, 1997
FLAT LINK TECHNOLOGY	76/311,394	September 10, 2001
QLT	76/310,988	September 12, 2001
DESWITCH	76/288,567	July 23, 2001
FLATWIRE READY	76/235,194	April 5, 2001
DEVERSIONS	76/256,290	May 14, 2001
DECORD	76/283,313	July 11, 2001
DECABLE	76/352,958	December 28, 2001
FLT	76/314,118	September 19, 2001
DELIGHT	75/570,037	October 2, 1998
DECONNECT	76/352,959	December 28, 2001
DEPLUG	76/320,988	October 4, 2001
FL	76/236,995	April 9, 2001

**EXHIBIT A TO
TRADEMARK COLLATERAL ASSIGNMENT AND SECURITY AGREEMENT**

ASSIGNMENT OF TRADEMARKS

THIS ASSIGNMENT OF TRADEMARKS ("**Assignment**") is made as of _____, 200____ by and between DeCorp Americas, Inc., a Delaware corporation ("**Assignor**"), in favor of Earl S. Wellschlager, Esquire, for the benefit of the Lenders (as defined in the Agreement (as defined below)) ("**Assignee**").

WHEREAS, Assignor, Assignee and Lenders are parties to that certain Trademark Collateral Assignment and Security Agreement dated as of September 12, 2003 made by Assignor to Assignee for the benefit of Lenders (the "**Agreement**") providing that under certain conditions specified therein Assignor shall execute this Assignment; and

WHEREAS, the aforementioned conditions have been fulfilled;

NOW, THEREFORE, Assignor hereby agrees as follows:

1. Assignment of Trademarks. Assignor hereby grants, assigns and conveys to Assignee (a) Assignor's entire right, title and interest in and to (i) the trademarks, service marks, trade names, certification marks, and other distinctive marks, and any applications thereof, listed on **Schedule 2.01** attached hereto and made part hereof, and (A) all renewals thereof, (B) all income, royalties, damages, payments and other proceeds now and hereafter due or payable with respect thereto, including payments under all licenses entered into in connection therewith and damages and payments for past or future infringements thereof, (C) the right to sue for past, present and future infringements thereof, and (D) all rights corresponding thereto throughout the world (all of the foregoing are sometimes hereinafter referred to, either individually or collectively, as the "**Trademarks**"), and (b) all of Assignor's goodwill of Assignor's business connected with or associated with and symbolized by the Trademarks (referred to herein as "**Goodwill**").

2. Representations and Warranties. Assignor represents and warrants that Assignor has the full right and power to make the assignment of the Trademarks and Goodwill made hereby and that Assignor has made no previous assignment, transfer, agreement in conflict herewith or constituting a present or future assignment or encumbrance of any or all of the Trademarks or Goodwill except as set forth in the Agreement including the Schedules thereto.

3. Modification. This Assignment cannot be altered, amended or modified in any way, except by a writing signed by the parties hereto.

4. Binding Effect; Governing Law. This Assignment shall be binding upon Assignor and its successors and shall inure to the benefit of Assignee and its successors and assigns. This Assignment shall, except to the extent that federal law or laws of another state apply to the Trademarks or any part thereof, be governed by and construed in accordance with the internal (as opposed to the conflict of laws provisions) and decisions laws of the State of Tennessee (excluding Tennessee conflict of laws rule), including all matters of construction, validity and performance.

IN WITNESS WHEREOF, Assignor has caused this Assignment to be executed and delivered as of the date first above written.

DeCorp Americas, Inc., a Delaware corporation

By: _____
Name: _____
Title: _____

SCHEDULE 2.01 TO ASSIGNMENT OF TRADEMARKS

<i>Trademarks</i>	<i>Trademarks Registration Number (Application, Registration, or Serial Number)</i>	<i>Filing Date</i>
DECORP	76/282,043	July 7, 2001
PRECISION WAVE RESPONSE	76/288,306	July 23, 2001
DEPWR	76/288,307	July 23, 2001
DEPOWER	76/288,308	July 23, 2001
DEWIRE	75/318,030	July 1, 1997
FLAT LINK TECHNOLOGY	76/311,394	September 10, 2001
QLT	76/310,988	September 12, 2001
DESWITCH	76/288,567	July 23, 2001
FLATWIRE READY	76/235,194	April 5, 2001
DEVERSIONS	76/256,290	May 14, 2001
DECORD	76/283,313	July 11, 2001
DECABLE	76/352,958	December 28, 2001
FLT	76/314,118	September 19, 2001
DELIGHT	75/570,037	October 2, 1998
DECONNECT	76/352,959	December 28, 2001
DEPLUG	76/320,988	October 4, 2001
FL	76/236,995	April 9, 2001

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EXHIBIT B TO
TRADEMARK COLLATERAL ASSIGNMENT AND SECURITY AGREEMENT

SPECIAL POWER OF ATTORNEY

STATE OF Tennessee, COUNTY OF Sumner

KNOW ALL MEN BY THESE PRESENTS, that DeCorp Americas, Inc., a Delaware corporation, with its principal office at 214 Molly Walton Drive, Hendersonville, Tennessee 37075 (referred to herein as the "Debtor"), pursuant to a Trademark Collateral Assignment and Security Agreement dated the date hereof (referred to herein as the "Agreement"), between the Debtor and Earl S. Wellschlager, Esquire, with a mailing address of c/o Piper Rudnick LLP, 6225 Smith Avenue, Baltimore, MD 21209, for the benefit of Lenders (as defined in the Agreement) (referred to herein as "Agent"), hereby appoints and constitutes Agent as Debtor's true and lawful attorney, with full power of substitution, and with full power and authority to perform the following acts on behalf of Debtor:

1. Assigning, selling or otherwise disposing of all right, title and interest of Debtor in and to the trademarks listed on Schedule 2.01 attached hereto, and including those trademarks which are added to the same subsequent hereto, and all registrations and recordings thereof, and all pending applications therefor, and for the purpose of the recording, registering and filing of, or accomplishing any other formality with respect to, the foregoing, and assigning, selling or otherwise disposing therewith all right, title and interest of Debtor in and to the goodwill of Debtor's business connected with or associated with and symbolized by the trademarks, and to execute and deliver any and all agreements, documents, instruments of assignment or other writings necessary or advisable to effect such purpose;

2. To execute any and all documents, statements, certificates or other writings necessary or advisable in order to effect the purposes described above as Agent may in its sole discretion determine.

This power of attorney is made to supplement the Agreement and may not be revoked until the payment in full of all Obligations as defined in the Agreement. This power of attorney is not in limitation of any power of attorney or other rights granted to Agent, or obligations imposed upon Debtor, in or by the Agreement.

DeCorp Americas, Inc., a Delaware corporation

By: Robert J. Sexton

Name: Robert J. Sexton

Title: President CEO

(Acknowledgment following page)

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STATE OF Tennessee, COUNTY OF Sumner

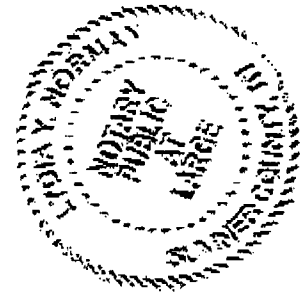
On this 12th day of September, 2003 before me, a Notary Public in and for the State and County aforesaid, personally appeared Robert J. Sexton, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, under oath, acknowledged himself to be the President of DeCorp Americas, Inc., a Delaware corporation, and that he as such President, being duly authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the corporation by himself as such President.

AS WITNESS my hand and notarial seal.

Yvonne H. Norman
Notary Public

My commission expires _____
My Commission Expires Sept. 24, 2006

(Schedule 2.01 on following page)



SCHEDULE 2.01 TO SPECIAL POWER OF ATTORNEY

**SCHEDULE 2.01 TO
TRADEMARK COLLATERAL ASSIGNMENT AND SECURITY AGREEMENT**

<i>Trademarks</i>	<i>Trademarks Registration Number (Application, Registration, or Serial Number)</i>	<i>Filing Date</i>
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FL	76/236,995	April 9, 2001

INTERCREDITOR AGREEMENT
(Shared Collateral)

THIS INTERCREDITOR AGREEMENT (this "**Agreement**") made as of the 12th day of September, 2003, by (1) First Creditors (herein defined) who may be a party to this Agreement from time to time, (2) the Additional Creditors (herein defined) who may be a party to this Agreement from time to time, and (3) DECORP AMERICAS, INC., a Delaware corporation ("**Debtor**").

First Creditors and Additional Creditors have extended and may from time to time extend certain financing or other credits to Debtor. First Creditors have obtained and may obtain from time to time liens and security interests in Debtor's property to secure the indebtedness of Debtor owed to First Creditors, and Additional Creditors have obtained and may obtain from time to time liens and security interests in Debtor's property to secure the indebtedness of Debtor owed to Additional Creditors. First Creditors and Additional Creditors desire to set forth their relative rights and priorities with respect to their respective liens and security interests in Debtor's property and for an orderly sharing between First Creditors and Additional Creditors of the proceeds of such properties upon any foreclosure, collection or other disposition of such properties.

NOW, THEREFORE, in consideration of the foregoing, and the receipt of One Dollar (\$1.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, First Creditors and Additional Creditors hereby covenant and agree as follows:

ARTICLE I
CONSTRUCTION AND DEFINED TERMS

SECTION 1.01. *Articles and Sections.* The Article and Section headings and captions in this Agreement are for convenience only and shall not affect the construction or interpretation of this Agreement.

SECTION 1.02. *Defined Terms.* Unless otherwise expressly stated in this Agreement, capitalized terms used in this Agreement shall have the following meanings:

"Accounts" As defined in Section 2.01.

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

"Additional Creditors" Each of the following Persons who are Lenders under the Additional Creditor Loan Documents and execute this Agreement or a counterpart of this Agreement: Delaplaine B Trust and Additional Creditors Agent, acting in its capacity as the agent for the Additional Creditors. When the term "Additional Creditors" is used in this Agreement, such term shall refer only to such parties in their capacities as Additional Creditors.

"Additional Creditors Agent" Earl S. Wellschlager, Esquire.

"Additional Creditor Lien Documents" Lien Documents regarding Liens in favor of Additional Creditors.

"Additional Creditor Loan Documents" Loan Documents regarding Obligations of Debtor to Additional Creditors listed on Schedule 3.02 hereto.

"Additional Creditor Obligations" All Obligations of Debtor to Additional Creditors pursuant to the Additional Creditor Loan Documents.

"Affiliate" As to any Person, any other Person directly or indirectly controlling or owning, or controlled by or owned by, or under direct or indirect common control or ownership with, such Person, and including without limitation any subsidiary of such Person.

"Article 8" Article 8 of the UCC.

"Article 9" Article 9 of the UCC.

"Bankruptcy Code" The United States Bankruptcy Code, as it may be amended from time to time.

"Chattel Paper" As defined in Section 2.01.

"Collateral" All Subject Property in which both First Creditors and Additional Creditors have (a) Perfected Liens or (b) Enforceable Liens (but not Perfected Liens).

"Collateral Expenses" All reasonable out-of-pocket costs and expenses of collection with regard to Collateral (including, without limitation, reasonable attorneys fees), and all reasonable out-of-pocket costs and expenses of preserving, insuring, maintaining, advertising, and selling Collateral (including, without limitation, reasonable attorneys fees), actually incurred by First Creditors or Additional Creditors, and including, without limitation, any of the foregoing incurred upon and during the continuance of any Insolvency Event.

"Cumulative Net Proceeds" At any time, the cumulative total of Net Proceeds of Collateral from all Dispositions.

"Delaplaine B Trust" Delaplaine Trust B, u/d George B. Delaplaine, Sr., George B. Delaplaine, Jr., and George B. Delaplaine, III, Trustees, a trust formed under the laws of the State of Maryland.

"Disposition" Any of the following occurrences with regard to any Collateral:

(a) payment by an Account Debtor (and including any payment therefrom made by any Person holding a Lien with priority over the Liens of First Creditors or Additional Creditors) to First Creditors or Additional Creditors pursuant to any Enforcement Action or the terms of any Loan Documents, or any payment received or collected by First Creditors or Additional Creditors from any Person in respect of any disposition of Collateral that is a Deposit Account, a Document, an Instrument, Investment Property, or a Commercial Tort Claim (or payment

therefrom made by any Person holding a Lien with priority over the Liens of First Creditors or Additional Creditors); or

(b) payment of rent, insurance premiums, or Impositions by any Person (and including any payment therefrom made by any Person holding a Lien with priority over the Liens of First Creditors and Additional Creditors) to First Creditors or Additional Creditors pursuant to any Enforcement Action or the terms of any Loan Documents; or

(c) payment of Impositions relating to such Collateral by Debtor pursuant to the terms of any Loan Documents; or

(d) casualty to such Collateral covered by insurance; or

(e) condemnation or other governmental taking of such Collateral; or

(f) sale or other disposition of such Collateral (i) by a holder of a Lien other than First Creditors and Additional Creditors, (ii) by Debtor with the written consent of First Creditors and Additional Creditors, or (iii) by, or on behalf of, First Creditors or Additional Creditors, or any Receiver of Debtor's assets, or any director, officer, employee, agent, representative or trustee of any of them, with or without the consent of Debtor, and including, without limitation, any thereof occurring pursuant to any Enforcement Action; or

(g) any other events or circumstances out of which, or arising from which, proceeds of Collateral or other similar amounts relating to Collateral may be generated or arise.

"Enforceable Lien" Any Lien that is enforceable and nonavoidable.

"Enforcement Action" Any action taken to declare any default or event of default under any Loan Documents, or to accelerate or declare due any Obligations, or to demand payment of any Obligations, or any action taken and any public or private proceeding commenced (including, without limitation, any litigation whether at law or in equity, any mediation, and any arbitration) to collect any Obligations from any borrower, guarantor or any other obligor, or to collect, repossess, sell, liquidate, or otherwise dispose of any Collateral, or to foreclose any Lien in any Collateral (including without limitation, any foreclosure conducted pursuant to any power-of-sale, or pursuant to any assent to the passage of a decree, or through judicial foreclosure), or to otherwise enforce any Lien in any Collateral, or to transfer or assign to First Creditors or Additional Creditors any Collateral in full or partial satisfaction of any Obligations, or to enforce any Loan Documents evidencing any Obligations secured by any Collateral, or to move or store any Collateral, or to prepare any Collateral for sale or other disposition, or to advertise or conduct any such sale or other disposition, or to exercise any right of set-off or counterclaim, or to make demand for payment of or under any standby letter of credit, bond, guaranty, or indorsement in which First Creditors and Additional Creditors have a Lien, or to form or join any committee of creditors regarding Debtor, or to meet or communicate with any Person regarding any of the foregoing, or to waive, terminate, delay or forebear from any of the foregoing, or to seek the appointment of a Receiver to do any of the foregoing.

"Equipment" As defined in Section 2.01.

"Expense Payments" Payments made by First Creditors and/or Additional Creditors in respect of Collateral Expenses and/or Impositions.

"First Creditors" Each of the following Persons who are Lenders under the First Creditor Loan Documents and execute this Agreement or a counterpart of this Agreement: (1) Delaplaine B Trust, (2) Barry P. Gossett, (3) William A. Long, (4) Robert J. Sexton, (5) Carole L. Worthington, (6) Ralph P. Genovese, and (7) First Creditors Agent, acting in its capacity as Agent for the other First Creditors. When the term "First Creditors" is used in this Agreement, such term shall refer only to such parties in their capacities as First Creditors.

"First Creditors Agent" LoGen Capital, LLC, a Delaware limited liability company.

"First Creditor Lien Documents" Lien Documents regarding Liens in favor of First Creditors.

"First Creditor Loan Documents" Loan Documents regarding Obligations of Debtor to First Creditors listed on Schedule 3.01 hereto.

"First Creditor Obligations" All Obligations of Debtor to First Creditors pursuant to the First Creditor Loan Documents.

"General Intangibles" As defined in Section 2.01.

"Gross Proceeds" (a) With respect to any Disposition:

(i) that is a payment by an Account Debtor (or payment therefrom made by any Person holding a Lien with priority over the Liens of First Creditors or Additional Creditors), or a payment received or collected from any Person in respect of any disposition of Collateral that is a Deposit Account, a Document, an Instrument, Investment Property, or a Commercial Tort Claim (or payment therefrom made by any Person holding a Lien with priority over the Liens of First Creditors or Additional Creditors), to First Creditors or Additional Creditors pursuant to any Enforcement Action or the terms of any Loan Documents, the total amount of such payment received by First Creditors and/or Additional Creditors; or

(ii) that is payment of rent, insurance premiums, or Impositions by any Person (or payment therefrom made by any Person holding a Lien with priority over the Liens of First Creditors and Additional Creditors) to First Creditors or Additional Creditors pursuant to any Enforcement Action or the terms of any Loan Documents, the total amount of such payment received by First Creditors and/or Additional Creditors; or

(iii) that is a payment of Impositions by Debtor, the total amount of such payment received by First Creditors and/or Additional Creditors; or

(iv) that is an insured casualty, the total insurance proceeds paid by such insurer in respect of such loss; or

(v) that is a condemnation or governmental taking, the total condemnation proceeds or other payments paid by the applicable governmental authority with respect thereto; or

(vi) that is a sale or other disposition of Collateral, the total purchase price or other amount paid by the purchaser, assignee, grantee, or transferee of such Collateral to the seller, assignor, grantor, or transferor of such Collateral (or such other Person conducting such Disposition) pursuant to the terms of such Disposition;

provided, however, if a Person other than First Creditors or Additional Creditors holds a Lien that entitles such Person to priority over First Creditors and Additional Creditors with regard to any Disposition or any proceeds thereof, then, for purposes of this Agreement, the Gross Proceeds of such Disposition shall be the portion, if any, of the proceeds of such Disposition as shall be distributed to First Creditors and/or Additional Creditors from such Disposition; and

(b) Any other proceeds and amounts not within the scope of clause (a) of this definition that may be received by First Creditors or Additional Creditors from time to time and arising from or relating to any Collateral.

"Impositions" All taxes, assessments, fees, charges, costs, and other impositions imposed by any governmental authority with regard to the use or ownership of Subject Property, including, without limitation, real estate taxes, permit fees, registration fees, and license fees.

"Insolvency Event" Any of the following: (a) Debtor commencing any case, proceeding or other action (i) under any existing or future law of any jurisdiction, domestic or foreign, relating to bankruptcy, insolvency, reorganization, conservatorship, or relief from debtors, seeking to have any order for relief entered with respect to it, or seeking to adjudicate it a bankrupt or insolvent, or seeking reorganization, arrangement, adjustment, winding-up, liquidation, dissolution, composition or other relief with respect to it or its debts, or (ii) seeking appointment of a Receiver for it or for all or any substantial part of its assets, or Debtor making a general assignment for the benefit of its creditors, or (b) there being commenced against Debtor any case, proceeding or other action of a nature referred to herein, or (c) there being commenced against Debtor any case, proceeding or other action seeking issuance of a warrant of attachment, execution, distraint or similar process against all or any substantial part of its assets which results in the entry of any order for any such relief, or (d) Debtor taking any action in furtherance of, or indicating its consent to, approval of, or acquiescence in, any of the acts set forth in clause (a), (b) or (c) above, (e) Debtor generally not paying, or being unable to pay, or admitting in writing its inability to pay, its debts as they become due, or (f) the occurrence of a "Default" or "Event of Default" pursuant to Sections 6.01(d) or (e) of the Loan Agreement by and among Debtor, First Creditors and the "Agent" identified therein, dated June 13, 2002, or (g) the occurrence of a "Default" or "Event of Default" pursuant to Sections 6.01(d) or (e) of the Loan Agreement by and among Debtor, Additional Creditors and the "Agent" identified therein, dated September 4, 2002.

"Instruments" As defined in Section 2.01.

"Inventory" As defined in Section 2.01.

"Item of Payment" All checks, drafts, cash, and other remittances of payment of, or on account of, any Account, Instrument, Chattel Paper, General Intangible, or Document, or received as proceeds of the sale or lease of any of Debtor's Property or as payment for any services rendered by Debtor to any person.

"Laws" All laws, statutes, regulations, ordinances, rules, codes, decrees, orders, and other directives of any governmental authority applicable to any party to this Agreement, any Subject Property, or Debtor.

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

"Lien Documents" Any instrument, document, or agreement, and any Lien Notice, that evidences, creates or otherwise relates to any Lien in any Property, and all amendments, supplements, and continuations thereof, and/or all exhibits, schedules, attachments and annexes thereto from time to time.

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

"Lien Payments" Amounts received by First Creditors or Additional Creditors as proceeds of Collateral or any Disposition that are properly payable to a Person holding a Lien prior to the Liens of First Creditors and/or Additional Creditors, and that are paid by First Creditors or Additional Creditors to such Person.

"Loan Documents" Any Lien Documents and any promissory note, loan agreement or other instruments, agreements or documents that evidence, secure or guarantee any Obligations of Debtor to First Creditors and/or Additional Creditors.

"Net Proceeds" Upon the Disposition of Collateral, or otherwise arising from or relating to Collateral, the amount of the Gross Proceeds therefrom, less the amount of any Lien Payments, and less the amount of any Expense Payments.

"Obligations" All now existing and hereafter arising obligations, indebtedness, and liabilities of Debtor to First Creditors and/or Additional Creditors, as the case may be, of any kind, whether primary, secondary, contingent, direct or indirect, joint or several, or for payment or for performance, or for any claims for indemnity or to be held harmless, or for any claims for contribution or reimbursement or otherwise, and including, but not limited to, Debtor's obligations to pay to either of them as and when due all principal, interest, costs and expenses and fees arising from or relating to loans made, or other credits granted or created, or financial accommodations extended, by either of them to Debtor at any time and in any amount, and including, but not limited to, future advances, and such thereof as may arise in respect of letters of credit issued, advised, confirmed, or paid by either of them on Debtor's application or for Debtor's account, and including any other claims or judgments that either of them may have against Debtor at any time, and including any of the foregoing arising before, during, or after the initial or any renewal term of the applicable Loan Documents and after the commencement of any case with respect to Debtor under the Bankruptcy Code or any similar statute (including, without limitation, the payment of interest and other amounts which would accrue and become due but for the commencement and pendency of such case).

"Order of Distribution of Net Proceeds" The following priority of distribution of Cumulative Net Proceeds as between First Creditors and Additional Creditors:

(a) First, if all Obligations to First Creditors have not been paid in full, and all Obligations to Additional Creditors have not been paid in full, Net Proceeds shall be distributed between the First Creditors and the Additional Creditors as follows:

(i) to First Creditors (or to the First Creditors Agent for the benefit of First Creditors), that portion of the Net Proceeds bearing the same ratio as the outstanding Obligations to the First Creditors bears to the total outstanding Obligations; and

(ii) to Additional Creditors (as a group if there shall be more than one Additional Creditor), that portion of the Net Proceeds bearing the same ratio as the outstanding Obligations to the Additional Creditors bears to the total outstanding Obligations;

(b) Second, (i) if all Obligations to First Creditors have been paid in full, but all Obligations to Additional Creditors have not been paid in full, to Additional Creditors, and (ii) if all Obligations to Additional Creditors have been paid in full, but all Obligations to First Creditors have not been paid in full, to First Creditors;

(c) Third, to holders of subordinate Liens in the Subject Property, if any, or to Debtor, as their interests may appear.

The Order of Distribution of Net Proceeds used in connection with any Enforcement Action shall be calculated immediately prior to the occurrence of the event giving rise to the Enforcement Action.

"Perfect" or "Perfected" As to any Lien in any Subject Property, (a) the taking by the secured party or other holder of such Lien of whatever actions, if any, may be necessary under applicable law (including, without limitation, under the UCC) to perfect, or to give effective notice of, a Lien in such Subject Property, or (b) if no action needs to be taken to perfect such Lien, the existence of such facts and circumstances that cause such Lien to be perfected; including, without limitation, as applicable, (i) taking possession of such Subject Property, (ii) the filing of UCC financing statements in appropriate form covering such Subject Property with the appropriate governmental authorities, (iii) filing vehicle security interest filings with the appropriate governmental authorities, (iv) recording real estate mortgage instruments and fixture financing statements in appropriate form covering such Subject Property among the among appropriate land records, (v) recording security agreements or mortgages in appropriate form covering Subject Property subject to federal filing or registration (such as vessels, aircraft, patents, trademarks, and copyrights) in the appropriate federal filing offices, (vi) the giving of such notices of security interest or collateral assignments and the receipt of such confirmations or acknowledgments thereof as may be necessary under other applicable Law, to protect and secure such Lien against unsecured creditors of Debtor.

"Perfected Lien" Any Enforceable Lien that is Perfected.

"Person" Any natural person, corporation, limited liability company, partnership, joint venture, entity, association, joint-stock company, trust or unincorporated organization and any governmental authority.

"Prime Rate" As of any date, the prime rate published in the "Money Rates" column of *The Wall Street Journal* on such date, or if the prime rate is not published on such date, then the prime rate most recently published prior to such date. If *The Wall Street Journal* ceases to publish the prime rate, then Additional Creditors shall select a new comparable interest rate to use as the Prime Rate.

"Proceeds" As defined in Section 2.01.

"Products" As defined in Section 2.01.

"Property" Any right, title or interest in or to property of any kind whatsoever, whether real, personal, or mixed, and whether tangible or intangible, including without limitation the Subject Property.

"Receiver" Any receiver, trustee, custodian, conservator, liquidator or other similar court-appointed fiduciary or official.

"Subject Personal Property" As defined in Section 2.01.

"**Subject Property**" Subject Personal Property.

"**Subordination Notice**" or "**Subordination Notices**" Any instrument, deed, memorandum, agreement, letter, notice, UCC-3 statement relating to any UCC financing statement, or other document made for the purpose of being given to, or filed, recorded, or registered with, any Person (including any governmental authority) to give notice (public or private) of this Agreement or any of the relative rights or priorities established by this Agreement or to give further necessary or appropriate legal effect to this Agreement and/or any of such relative rights or priorities.

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

"**Unperfected**" As to any Lien, the such Lien not being Perfected.

ARTICLE II

SUBJECT PROPERTY

SECTION 2.01. *Subject Personal Property.* This Agreement applies to the following personal Property of Debtor (the "**Subject Personal Property**"):

(a) All of Debtor's now owned and hereafter acquired or arising "accounts" (as defined in Article 9) ("**Accounts**"); and

(b) All of Debtor's now owned and hereafter acquired or arising "chattel paper" (as defined in Article 9) ("**Chattel Paper**"); and

(c) All of Debtor's now owned and hereafter acquired or arising "commercial tort claims" (as defined in Article 9) ("**Commercial Tort Claims**"); and

(d) All of Debtor's now owned and hereafter acquired "documents" (as defined in Article 9) ("**Documents**"); and

(e) All of Debtor's now owned and hereafter acquired "deposit accounts" (as defined in Article 9) ("**Deposit Accounts**"); and

(f) All of Debtor's now owned and hereafter acquired or arising "equipment" (as defined in Article 9) (referred to herein as "**Equipment**"); and

(g) All of Debtor's now owned and hereafter acquired "general intangibles" (as defined in Article 9), including, without limitation, patents, trademarks, copyrights, and mask works ("**General Intangibles**"); and

(h) All of Debtor's now owned and hereafter acquired money, securities and other property, now or hereafter held or received by, or in transit to, First Creditors or Additional Creditors, whether for safekeeping, pledge, custody, transmission, collection or otherwise, and any balances, sums and credits of Debtor held by First Creditors or Additional Creditors at any time existing (and including all deposit accounts held with First Creditors or Additional Creditors, if any) (referred to herein as "**Held Items**"); and

(i) All of Debtor's now owned and hereafter acquired "instruments" (as defined in Article 9) ("**Instruments**"); and

(j) All of Debtor's now owned and hereafter acquired "inventory" (as defined in Article 9) ("**Inventory**"); and

(k) All of Debtor's now owned and hereafter acquired "investment property" (as defined in Article 9) ("**Investment Property**"); and

(l) All of Debtor's now owned and hereafter acquired rights in any tangible or intangible personal property that is not described within the other defined terms included within the definition of Subject Property ("**Other Personalty**"); and

(m) All now existing and hereafter arising cash and noncash proceeds (as that term is used in Article 9) of the Subject Personal Property ("**Proceeds**"); and

(n) All products of Subject Personal Property, wherever located, and whether in the possession of Debtor or a third party, and if any of the foregoing are stored with any other person, all of Debtor's rights relating to the storage and retrieval thereof and access thereto ("**Products**"); and

(o) All of Debtor's now owned and existing and hereafter acquired or created books and records relating to the foregoing Subject Personal Property (or any other Subject Property) (including any rights of Debtor with respect to the foregoing maintained with or by any other person), and if any of the foregoing are stored with any other person, all of Debtor's rights relating to the storage and retrieval thereof and access thereto ("**Records**").

ARTICLE III

REPRESENTATIONS AND WARRANTIES

SECTION 3.01. *First Creditors.* Each of the First Creditors makes the following representations and warranties to Additional Creditors:

(a) If an entity, such First Creditor is duly incorporated or organized, validly existing and in good standing under the laws of the jurisdiction in which it is incorporated or organized, and has the power (corporate or other) to execute, deliver and perform this Agreement.

(b) The execution, delivery and performance of this Agreement have been duly authorized by all requisite action (corporate or other) required on the part of such First Creditor and will not (i) contravene any provision of law, any order of any court or other agency of

government, or (ii) contravene the First Creditor's organizational documents, operating agreement, or by-laws, or any indenture, agreement or other instrument binding upon the First Creditor, or (iii) be in conflict with, result in the breach of or constitute (with due notice or lapse of time or both) a default under any such indenture, agreement or other instrument binding upon the First Creditor, or (iv) result in the creation or imposition of any Lien upon the property or assets of the First Creditor, except pursuant to this Agreement.

(c) this Agreement constitutes a legal, valid and binding obligation of such First Creditor, which is enforceable against such First Creditor in accordance with its terms.

(d) the First Creditor Loan Documents listed on Schedule 3.01 to this Agreement are the only Loan Documents that evidence, create, Perfect or otherwise relate to any Obligations of Debtor to First Creditors or any interest of First Creditors in the Subject Property or any other Property of Debtor, and Schedule 3.01 is true, accurate and complete in all material respects. The First Creditor Obligations have been created for good and valuable consideration, are owned by First Creditors free and clear of any security interests, Liens, charges or encumbrances whatsoever arising from, through or under First Creditors, other than the interest of Additional Creditors under this Agreement, and are payable solely and exclusively to First Creditors and to no other Person and are payable without deduction for any defense, set-off or counterclaim.

(e) no consent or authorization of, filing with, or other act by or in respect of, any arbitrator or regulatory body or governmental authority and no consent of any other Person (including, without limitation, any stockholder, holder or partnership interests or creditor of such First Creditor), is required in connection with the execution, delivery, performance, validity or enforceability of this Agreement.

SECTION 3.02. Additional Creditors. Each of the Additional Creditors makes the following representations and warranties to First Creditors:

(a) If an entity, such Additional Creditor is duly incorporated or organized, validly existing and in good standing under the laws of the jurisdiction in which it is incorporated or organized, and has the power (corporate or other) to execute, deliver and perform this Agreement.

(b) The execution, delivery and performance of this Agreement have been duly authorized by all requisite action (corporate or other) on the part of such Additional Creditor and will not (i) contravene any provision of law, any order of any court or other agency of government, or (ii) contravene the Additional Creditor's organizational documents, operating agreement or by-laws or any indenture, agreement or other instrument binding upon the Additional Creditor, or (iii) be in conflict with, result in the breach of or constitute (with due notice or lapse of time or both) a default under any such indenture, agreement or other instrument binding upon the Additional Creditor, or (iv) result in the creation or imposition of any Lien upon the property or assets of the Additional Creditor, except pursuant to this Agreement.

(c) This Agreement constitutes a legal, valid and binding obligation of such Additional Creditor, which is enforceable against such Additional Creditor in accordance with its terms.

(d) The Additional Creditor Loan Documents listed on Schedule 3.02 to this Agreement are the only Loan Documents that evidence, create, Perfect or otherwise relate to any Obligations of Debtor to Additional Creditors or any interest of Additional Creditors in the Subject Property or any other Property of Debtor, and Schedule 3.02 is true, accurate and complete in all material respects. The Additional Creditor Obligations have been created for good and valuable consideration, are owned by Additional Creditors free and clear of any security interests, Liens, charges or encumbrances whatsoever arising from, through or under Additional Creditors, other than the interest of First Creditors under this Agreement, and are payable solely and exclusively to Additional Creditors and to no other Person and are payable without deduction for any defense, set-off or counterclaim.

(e) no consent or authorization of, filing with, or other act by or in respect of, any arbitrator or regulatory body or governmental authority and no consent of any other Person (including, without limitation, any stockholder, trustee, holder or partnership interests or creditor of such Additional Creditor), is required in connection with the execution, delivery, performance, validity or enforceability of this Agreement.

ARTICLE IV **COVENANTS**

First Creditors and Additional Creditors covenant and agree to the following:

SECTION 4.01. *Obligations.* This Agreement does not affect the legal operation or effect of, or the relative priorities of, any payment Obligations.

SECTION 4.02. *Prepayments.* (a) First Creditors agree not to consent to or accept any voluntary prepayment of any First Creditor Obligations without the prior written consent of the Majority of Lenders (as defined in the Additional Creditor Loan Documents), which consent may be withheld in the Majority of Lenders' sole discretion, and, if such written consent is granted, such voluntary prepayment shall not be considered a payment arising from a Disposition of Collateral.

(b) Additional Creditors, by written consent of the Majority of Lenders, shall be permitted to accept any voluntary prepayment of any Additional Creditor Obligations owed to Additional Creditors without the prior written consent of First Creditors, and such voluntary prepayment shall not be considered a payment arising from a Disposition of Collateral.

(c) Amounts that are received or collected by First Creditors or Additional Creditors through or as the result of Enforcement Actions, and distributed to First Creditors and Additional Creditors in accordance with the terms of this Agreement, shall not be deemed to be prepayments for purposes of this Section 4.02.

SECTION 4.03. *Shared Collateral.* (a) First Creditors and Additional Creditors agree that, as between First Creditors and Additional Creditors, their respective Perfected Liens, if any, in the Collateral shall be deemed to be at all times equal and ratable, and that First Creditors and Additional Creditors each shall share and be equal in rights in the Collateral with the other, subject to the provisions of this Agreement regarding the Order of Distribution of Net Proceeds; provided, however, if one or more Persons (including, without limitation, any other creditor and any debtor-in-possession) other than First Creditors and Additional Creditors shall have a Lien of priority between

a Lien held by First Creditors and a Lien held by Additional Creditors, then as between the Liens of First Creditors and Additional Creditors the higher priority Lien shall have priority and the holder of the prior Lien shall have the benefits of such priority as to such Collateral without any obligation to share such benefits with the holder of the subordinate Lien. The sharing provided for in this clause (a) is expressly conditioned upon the respective Liens of First Creditors and Additional Creditors being Perfected Liens, absent which the arrangements provided for in this clause (a) shall not apply.

(b) If First Creditors and Additional Creditors have Enforceable Liens (but not Perfected Liens) in the same Collateral, then, as between First Creditors and Additional Creditors, the Enforceable Liens of First Creditors and Additional Creditors in the Collateral shall be deemed to be at all times equal and ratable, and First Creditors and Additional Creditors each shall share and be equal in rights with the other, subject to the provisions of this Agreement regarding the Order of Distribution of Net Proceeds. The sharing provided for in this clause (b) is expressly conditioned upon the respective Liens of both First Creditors and Additional Creditors being Enforceable Liens (but not Perfected Liens), absent which the arrangements provided for in this clause (b) shall not apply.

(c) The sharing of Liens in the Collateral as provided in clauses (a) and (b) of this Section shall not be altered or otherwise affected by any modification, renewal, restatement, extension or refinancing of any Obligations, nor by any timing of perfection of the Liens of either of them.

(d) Each party to this Agreement shall be solely responsible for its own Loan Documents and for establishing and maintaining the enforceability, nonavoidability and Perfection of its Liens, and no party to this Agreement shall have any responsibility for any Loan Documents benefiting another party or for establishing or maintaining the enforceability, nonavoidability or Perfection of any Lien in favor of another party. Notwithstanding the foregoing, and without limiting the rights of the First Creditors and the Additional Creditors, any original Documents (including, without limitation, original certificates of title) or original bailment agreements (collectively, "**Original Documents**") delivered to the Agent pursuant to the First Creditor Loan Documents shall also be deemed delivered to the Agent on behalf of the Additional Creditors pursuant to the Additional Creditor Loan Documents, and any Original Document delivered to the Agent pursuant to the First Creditor Loan Documents shall also be deemed delivered to the Agent on behalf of the Additional Creditors.

(e) Notwithstanding anything to the contrary set forth in this Agreement, this Agreement does not apply to a type or item of Subject Property unless First Creditors and Additional Creditors (i) both have Perfected Liens in the same type or item of Subject Property or (ii) both have Enforceable Liens (but not Perfected Liens) in the same type or item of Subject Property.

(f) If after the date of this Agreement either First Creditors or Additional Creditors shall obtain a Lien in Property of Debtor as to which such party would not have a Lien in accordance with the terms of the Loan Documents in effect on the date hereof, then the party obtaining such Lien shall be deemed to hold such Lien for the shared benefit and security of First Creditors and Additional Creditors under this Agreement.

SECTION 4.04. *Insurance.* (a) Subject to the rights of the parties contained in this Agreement, First Creditors and Additional Creditors shall each be entitled to be designated mortgagee/secured party and to obtain loss payee endorsements and additional insured status with respect to any and all policies of insurance now or hereafter obtained by Debtor insuring against casualty or other loss to any Subject Property in which First Creditors or Additional Creditors may have a Lien, and, in connection therewith, and subject to clause (b) of this Section, each may file claims, settle disputes, make adjustments and take any and all other action otherwise then permitted to each party hereto pursuant to their respective Loan Documents with regard thereto which it may deem advisable with respect to any Subject Property.

(b) Upon the occurrence of an insured casualty, if First Creditors and/or Additional Creditors shall have rights under their respective Loan Documents to determine and/or control the application of insurance proceeds, then as between First Creditors and Additional Creditors, Additional Creditors shall determine and/or control the application of insurance proceeds and (i) if the determination is made by Additional Creditors to apply insurance proceeds as partial or full payment of indebtedness, and both Additional Creditors and First Creditors are entitled to such proceeds pursuant to their respective Loan Documents, then the balance of the proceeds after first deducting for Collateral Expenses incurred in collecting such proceeds and second reimbursing Additional Creditors or First Creditors, as the case may be, for any additional Expense Payments paid by Additional Creditors or First Creditors from their own funds regarding such Collateral, shall be shared between Additional Creditors and First Creditors in accordance with the Order of Distribution of Net Proceeds, and (ii) if the determination is made by Additional Creditors to apply insurance proceeds to repair, rebuild, restore or replace Property subject to the casualty loss then Additional Creditors shall control the application of such proceeds in their sole and absolute discretion in accordance with their own procedures for such purposes and with the good faith cooperation of First Creditors. The provisions of this Agreement shall govern the respective rights of Additional Creditors and First Creditors to insurance proceeds despite any inconsistent provisions or any inconsistent designation of rights or priorities among secured creditors in any insurance policy. Proceeds of insurance received by Additional Creditors and/or First Creditors shall be held in trust for the benefit of Additional Creditors and First Creditors, as their interests may appear, subject to distribution in accordance with the terms of this Agreement. First Creditors hereby grant to Additional Creditors (and any Person designated by Additional Creditors) the power-of-attorney, with right of substitution, to act in First Creditors' name and stead for all purposes of this Section with regard to any insurance covering any Subject Property in which First Creditors hold a Lien, including, without limitation, the filing of claims, the prosecution and settlement of disputes, the making of any adjustments, and the application of insurance proceeds, and including, without limitation, the making any necessary endorsements, assignments, releases or waivers in connection with any thereof. The foregoing power-of-attorney is coupled with an interest and is irrevocable.

SECTION 4.05. *Impositions.* Subject to the rights of the parties contained in this Agreement, each party to this Agreement shall be entitled to require Debtor to pay, and to make satisfactory provision for payment of, Impositions. If First Creditors and/or Additional Creditors shall have rights under their respective Loan Documents with regard to the payment of Impositions or the provision for payment of Impositions, including, without limitation, any requirement that Debtor establish and fund any escrow or provide any other security therefor, then as between First Creditors and Additional Creditors, if both have such rights Additional Creditors shall administer the provisions in the Loan Documents regarding Impositions, and if only one of them has such rights

then that party shall administer the provisions of its Loan Documents regarding Impositions. As between First Creditors and Additional Creditors, payments and/or other security received by First Creditors and/or Additional Creditors in respect of Impositions shall be held in trust for the benefit of First Creditors and Additional Creditors, as their interests may appear, subject to the application of such amounts and/or security to the payment of Impositions (or to reimburse First Creditors or Additional Creditors for such payments, as the case may be) or to the application thereof to the Obligations in accordance with the Order of Distribution of Net Proceeds. First Creditors hereby grants to Additional Creditors (and any Person designated by Additional Creditors) the power-of-attorney, with right of substitution, to act in First Creditors' name and stead for all purposes of this Section with regard to any Impositions affecting any Subject Property in which First Creditors hold a Lien, and any proceeds thereof, including, without limitation, the filing of claims and contests, the prosecution and settlement of disputes, the making of any adjustments, and the application of proceeds, and including, without limitation, the making any necessary endorsements, assignments, releases or waivers in connection with any thereof. The foregoing power-of-attorney is coupled with an interest and is irrevocable.

SECTION 4.06. Account Debtors and other Persons. With regard to any Collateral as to which an Account Debtor or other Person may be requested or directed to make payments to First Creditors or Additional Creditors, Additional Creditors shall be entitled to control the administration of such Collateral and shall be entitled to request or direct that such payments be made to Additional Creditors to the extent that Additional Creditors are otherwise entitled to do so pursuant to the Additional Creditor Loan Documents, applicable Law or otherwise. Such payments from Account Debtors received by Additional Creditors or First Creditors as are proceeds of Collateral shall be held in trust for the benefit of Additional Creditors and First Creditors, subject to distribution in accordance with the terms of this Agreement; and after first deducting any Collateral Expenses incurred in collecting such proceeds, and next reimbursing Additional Creditors or First Creditors, as the case may be, for any additional Expense Payments paid by Additional Creditors or First Creditors from their own funds regarding such Collateral, the remainder of such proceeds of Collateral shall be shared between Additional Creditors and First Creditors in accordance with the Order of Distribution of Net Proceeds. First Creditors hereby grant to Additional Creditors (and any Person designated by Additional Creditors) the power-of-attorney, with right of substitution, to act in First Creditors' name and stead for all purposes of this Section with regard to any Account Debtors relating to any Subject Property in which First Creditors holds a Lien, and any proceeds thereof, including, without limitation, the filing of claims and contests, the prosecution and settlement of disputes, the making of any adjustments, and the application of proceeds, and including, without limitation, the making any necessary endorsements, assignments, releases or waivers in connection with any thereof. The foregoing power-of-attorney is coupled with an interest and is irrevocable.

SECTION 4.07. Intercreditor Notices. (a) First Creditors shall give Additional Creditors notice of any event of default or demand for payment under the First Creditor Loan Documents promptly when First Creditors become aware thereof, and First Creditors shall also give Additional Creditors a copy of any notice that First Creditors give to Debtor (which copy shall be given contemporaneously with the notice given to Debtor) regarding any breach or default under the First Creditor Loan Documents (or any indebtedness or other obligations secured thereby) and regarding any Enforcement Actions proposed to be taken by First Creditors against Debtor or the Subject Property or any other Property of Debtor.

(b) Additional Creditors shall give First Creditors notice of any event of default or demand for payment under the Additional Creditor Loan Documents promptly when Additional Creditors become aware thereof, and Additional Creditors shall also give First Creditors a copy of any notice that Additional Creditors may give to Debtor (which copy shall be given contemporaneously with the notice given to Debtor) regarding any breach or default under the Additional Creditor Loan Documents (or any indebtedness or other obligations secured thereby), and regarding any Enforcement Actions proposed to be taken by Additional Creditors against Debtor or the Subject Property or any other Property of Debtor.

(c) The failure of First Creditors or Additional Creditors, as the case may be, to provide the notices described in this Section shall not adversely affect or impair the effectiveness of any notice of default or declaration of default given by either of them to Debtor or any guarantor or other obligor.

SECTION 4.08. *Enforcement Actions.* (a) Neither First Creditors nor Additional Creditors, as the case may be, shall take any Enforcement Action against any Subject Property or Debtor without giving prior notice of its intention to do so to First Creditors or Additional Creditors, as the case may be.

(b) Additional Creditors shall be entitled to exclusive control of the manner and method of realization upon any Subject Property in which Additional Creditors hold a Lien, including, without limitation, exclusive control of any Enforcement Actions affecting any such Subject Property or Debtor, and First Creditors shall not take any actions to realize upon any such Subject Property, including, without limitation, any Enforcement Action against such Subject Property or Debtor, without Additional Creditors' prior written consent, which consent may be withheld in Additional Creditors' sole and absolute discretion; provided, however,

(i) with regard to Collateral that is Subject Personal Property other than Equipment, if Additional Creditors do not commence Enforcement Action against such Collateral within thirty (30) days after Additional Creditors receive a notice referred to in clause (a) above from First Creditors, then First Creditors shall be entitled to commence Enforcement Action against such Collateral, provided that (X) First Creditors shall give Additional Creditors prior written notice of the commencement of such Enforcement Action and shall immediately cede exclusive control of such Enforcement Action to Additional Creditors upon Additional Creditors' written demand at any time within thirty (30) days after First Creditors' commencement of such Enforcement Action, whereupon First Creditors shall do whatever may be necessary to cede exclusive control of such Enforcement Action to Additional Creditors, and (Y) First Creditors shall not commence any Enforcement Action as to any Collateral if Additional Creditors shall have commenced an Enforcement Action with regard to the same Collateral; and

(ii) with regard to Collateral that is Equipment, if Additional Creditors do not commence Enforcement Action against such Collateral within sixty (60) days after Additional Creditors receive a notice referred to in clause (a) above from First Creditors, then First Creditors shall be entitled to commence Enforcement Action against such Collateral, provided that (X) First Creditors shall give Additional Creditors prior written notice of the commencement of such Enforcement Action and shall immediately cede exclusive control of such Enforcement Action to Additional Creditors upon Additional Creditors' written demand therefor at

any time within thirty (30) days after First Creditors' commencement of such Enforcement Action, whereupon First Creditors shall do whatever may be necessary to cede exclusive control of such Enforcement Action to Additional Creditors, and (Y) First Creditors shall not commence any Enforcement Action as to any Collateral if Additional Creditors shall have commenced an Enforcement Action with regard to the same Collateral.

(c) In exercising control over the manner and method of realization upon any Subject Property in which Additional Creditors and First Creditors each hold Liens, the parties exercising such control (which shall be Additional Creditors except in the event that First Creditors may be entitled to exercise such control in accordance with the terms of clause (b) of this Section) shall be entitled, in their sole and absolute discretion, to determine whether to collect, repossess, liquidate (or otherwise dispose of) any Subject Property or foreclose any Lien therein.

(d) With respect to any banker's lien or set-off rights of Additional Creditors or First Creditors, the proceeds of any such liens or set-offs to which either party may be entitled, after deducting the Collateral Expenses of such realization shall be shared between Additional Creditors and First Creditors in accordance with the terms of this Agreement, provided that neither Additional Creditors nor First Creditors shall be entitled to require the other to exercise any such banker's lien or right of set-off. Additional Creditors and First Creditors hereby appoint each other, and each agrees to serve, as agent and bailee for the other for the limited purpose to Perfect their respective Liens in Subject Personal Property that may at any time be in their possession during the term of this Agreement.

(e) All proceeds realized by First Creditors and Additional Creditors from Collateral shall, after deducting Expense Payments relating to such Subject Property, be shared by First Creditors and Additional Creditors in accordance with the Order of Distribution of Net Proceeds.

(f) First Creditors agree that all Enforcement Actions taken by Additional Creditors, and any collections, repossessions, sales, liquidations, or other dispositions of Debtor's Property by Additional Creditors pursuant to any Enforcement Actions or otherwise, and including without limitation the method, manner, time, place and terms of any thereof as determined by Additional Creditors, shall conclusively be presumed to have been taken, conducted and determined in a commercially reasonable manner and First Creditors hereby irrevocably waives any claim, challenge, or contest against Additional Creditors alleging the commercial unreasonableness of any thereof.

SECTION 4.09. Settlement. If First Creditors and/or Additional Creditors shall receive any proceeds of Collateral and which are to be shared between First Creditors and Additional Creditors in accordance with the terms of this Agreement, First Creditors and Additional Creditors shall with reasonable promptness make such payments in good funds to the other as may be required by the terms of this Agreement, and without limiting the generality of the foregoing, neither party that shall have received such proceeds of Collateral shall apply its share of such proceeds to Obligations owed to it unless it shall concurrent therewith pay to the Additional Creditors and/or First Creditors its share of such proceeds. As between First Creditors and Additional Creditors, any amounts due from one to the other which are not paid promptly in accordance with the terms of this Agreement shall bear interest at the Prime Rate until paid, and when received such payments shall be applied first to

any such interest payments as may be due. First Creditors and Additional Creditors shall provide to each other upon request from time to time reasonably detailed statements of amounts received by First Creditors and Additional Creditors, as the case may be, in respect of Collateral, as to any applicable Collateral Expenses incurred by, and any Impositions paid by, First Creditors or Additional Creditors, as the case may be, and as to the distribution of such amounts in accordance with the terms of this Agreement.

SECTION 4.10. *Loan Documents.* (a) First Creditors and Additional Creditors shall provide to each other upon request copies of all First Creditor Loan Documents and Additional Creditor Loan Documents.

(b) The provisions of this Agreement shall govern in the event of any conflict between the provisions of any First Creditor Loan Documents with the provisions of any Additional Creditor Loan Documents, including any negative covenants restricting or prohibiting borrowing or encumbrances of any Subject Property which may be set forth in any such documents. First Creditors and Additional Creditors hereby consent to the creation by Debtor of Liens in favor of First Creditors and Additional Creditors in the Subject Property.

(b) Nothing in this Agreement shall be construed as giving First Creditors or Additional Creditors, as the case may be, Liens in any Subject Property.

SECTION 4.11. *Information.* First Creditors and Additional Creditors shall have no duty to each other to advise each other of information known to them regarding the financial condition of Debtor or any circumstances bearing upon the risk of nonpayment of any indebtedness or impairment of any Lien. In the event that either First Creditors or Additional Creditors in their discretion undertake, at any time or from time to time, to provide any such information to the Additional Creditors or First Creditors, as the case may be, they shall be under no obligation (a) to provide any such information to the Additional Creditors or First Creditors, as the case may be, on any subsequent occasion or (b) to undertake any investigation not part of their regular business routine and shall be under no obligation to disclose any information which First Creditors or Additional Creditors, as the case may be, wish to maintain confidential. Debtor authorizes and consents to the disclosure of any such information by any party to this Agreement to any other party to this Agreement.

SECTION 4.12. *Certain Actions.* (a) Neither First Creditors nor Additional Creditors shall without the prior written consent of the other: (i) subordinate or agree to subordinate any Lien held by a party to this Agreement to any Lien held by any Person not a party to this Agreement; (ii) enter into any agreement whereby a Lien in Subject Property held by a lienholder not a party to this Agreement shall be subordinated in favor of a Lien held by First Creditors or Additional Creditors unless both First Creditors and Additional Creditors shall realize the same benefit from the legal operation and effect of such subordination; or (iii) sell or assign an interest in less than all of a Lien, or less than all of any indebtedness or obligation secured thereby, to any Person not a party to this Agreement.

(b) If any First Creditor or Additional Creditor shall sell any participation interest in any Lien or any indebtedness or obligation secured thereby, (i) such participation interest shall be subject to this Agreement, (ii) the party selling the participation interest shall remain

obligated to the other parties under this Agreement to the same extent as it would if it had not sold such participation interest, (iii) the party selling the participation interest shall remain solely responsible to the other parties hereto for the performance of this Agreement, and (iv) the parties not selling the participation interest shall continue to deal solely and directly with the party selling the participation interest and shall not be required to deal with any participant.

(c) The subordinations, agreements, and priorities provided by this Agreement shall remain in full force and effect regardless of whether either party hereto shall at any time seek to rescind, amend, terminate or reform, by liquidation or otherwise, its Liens in the Subject Property or its respective agreements with Debtor.

SECTION 4.13. *Expense Payments.* If First Creditors and/or Additional Creditors shall commence an Enforcement Action in accordance with the terms of this Agreement with regard to a type or item of Collateral, the parties administering the Enforcement Action shall be entitled to reimbursement for their Expense Payments in such Enforcement Action from the proceeds obtained through such Enforcement Action before the remaining proceeds of the Enforcement Action are shared in accordance with the terms of this Agreement. Except as expressly set forth in this Agreement with regard to the application of proceeds of Collateral, this Agreement does not obligate First Creditors or Additional Creditors to pay (or reimburse any other Person for) any Expense Payments.

SECTION 4.14. *Further Assurances.* First Creditors and Additional Creditors shall execute and deliver, or cause to be executed and delivered, and do or make, or cause to be done or made, upon the request of First Creditors or Additional Creditors, any and all instruments, papers, acts or things, supplemental, confirmatory or otherwise, as may be required for the purpose of effecting the agreements and transactions described herein, including, without limitation, such further assurances of this Agreement as may be requisite, and including, without limitation, Subordination Notices, in recordable form, as applicable, to be given to Persons who are not parties to this Agreement, or to be filed among the appropriate public records, to give notice of and effect to the provisions of this Agreement.

SECTION 4.15. *Insolvency.* (a) The provisions of this Agreement shall continue in full force and effect notwithstanding the occurrence of any Insolvency Event. To the extent that First Creditors have or acquire any rights under Section 363 or Section 364 of the Bankruptcy Code with respect to Subject Property in which Additional Creditors hold a Lien, First Creditors hereby agree not to assert such rights without the prior written consent of Additional Creditors; provided that, if requested by Additional Creditors, First Creditors shall seek to exercise such rights in the manner requested by the Additional Creditors, including the rights in payments in respect of such rights.

(b) Upon the occurrence of any Insolvency Event commenced by or against Debtor,

(i) First Creditors hereby irrevocably authorize and empower Additional Creditors, (A) for and on behalf of any First Creditor Obligations that are secured by Subject Property in which Additional Creditors hold a Lien, to vote to accept or reject any plan of reorganization or restructure, (B) to demand, sue for, collect and receive every payment or distribution on account of such First Creditor Obligations payable or deliverable in connection with

such event or proceeding and give acquittance therefor, and (C) in the event that First Creditors do not perform their obligations under clauses (ii) and (iii) below to the satisfaction of Additional Creditors in their sole discretion, to file claims and proofs of claim in any statutory or nonstatutory proceeding and take such other actions, in its own name as Additional Creditors may deem necessary or advisable for the enforcement of the provisions of this Agreement; provided, however, that the foregoing authorization and empowerment imposes no obligation on Additional Creditors to take any such action; and

(ii) First Creditors shall take such action, duly and promptly, as Additional Creditors may request from time to time, (A) to collect for the account of Additional Creditors, any First Creditor Obligations that are secured by Subject Property in which Additional Creditors hold a Lien, and (B) to file appropriate proofs of claim in respect of such First Creditor Obligations; and

(iii) First Creditors shall execute and deliver such powers of attorney, assignments or proofs of claim or other instruments as Additional Creditors may request to enable Additional Creditors to enforce and vote any and all claims in respect of the First Creditor Obligations that are secured by Subject Property in which Additional Creditors hold a Lien and to collect and receive any and all payments and distributions which may be payable or deliverable at any time upon or in respect of such First Creditor Obligations.

Notwithstanding anything to the contrary set forth herein, amounts received by Additional Creditors in respect of First Creditor Obligations in accordance with the operation of the foregoing provisions after the occurrence of an Insolvency Event shall be applied or distributed by Additional Creditors in accordance with the Order of Distribution of Net Proceeds. This Agreement shall be applicable both before and after the filing of any petition by or against Debtor under the Bankruptcy Code and all converted or succeeding cases in respect thereof, and all references herein to Debtor shall be deemed to apply to a trustee for it or any of them as debtor-in-possession. The relative rights of the First Creditors and Additional Creditors in or to any distributions from or in respect of any Collateral or proceeds of Collateral shall continue after the filing thereof on the same basis as prior to the date of the petition, subject to any court order approving the financing or use of cash collateral by Debtor as Debtor in possession.

ARTICLE V **GENERAL PROVISIONS**

SECTION 5.01. *Term.* The term of this Agreement shall commence with the date of this Agreement and continue in full force and effect and be binding upon First Creditors and Additional Creditors until all Obligations of Debtor to Additional Creditors shall have been fully paid and satisfied and Additional Creditors shall have given First Creditors written notice of the termination of this Agreement, and provided further that neither First Creditors nor Additional Creditors shall be obligated to give Debtor written notice of termination of this Agreement.

SECTION 5.02. *Notices.* Any notice required or permitted by or in connection with this Agreement shall be in writing and shall be made by telecopy, or by hand delivery, or by overnight delivery service, or by certified mail, return receipt requested, postage prepaid, addressed to First Creditors or Additional Creditors at the appropriate address set forth below or to such other address as may be hereafter specified by written notice by First Creditors or Additional Creditors. Notice

shall be considered given as of the earlier of the date of actual receipt, or the date of the telecopy or hand delivery, one (1) calendar day after delivery to an overnight delivery service, or three (3) calendar days after the date of mailing, independent of the date of actual delivery or whether delivery is ever in fact made, as the case may be, provided the giver of notice can establish that notice was given as provided herein.

If to First Creditors: LoGen Capital, LLC
Attention: William A. Long
7001 Armat Drive
Bethesda, Maryland 20817
Telecopy No.: 301-365-7104

If to Additional Creditors: DELAPLAINE TRUST B, u/d George B.
Delaplaine, Sr.
c/o George B. Delaplaine, Jr.
244 West Patrick Street
P.O. Box 3829
Frederick, MD 21701
Telecopy No.: (301) 620-1689

With a copy to: Earl S. Wellschlager, Esquire
Piper Rudnick LLP
6225 Smith Avenue
Baltimore, Maryland 21209-3600
Telecopy No: (410) 580-3001

SECTION 5.03. Amendments, Waivers and Consents. This Agreement shall not be amended, changed, waived, discharged or terminated unless such amendment, change, waiver, discharge or termination is in writing signed by First Creditors and Additional Creditors.

SECTION 5.04. Entire Agreement. This Agreement is a complete and exclusive expression of all the terms of the matters expressed herein and all prior agreements, statements, and representations, whether written or oral, which relate thereto in any way are hereby superseded and shall be given no force and effect. This Agreement shall inure to the benefit of the parties hereto and their successors and assigns.

SECTION 5.05. Governing Law. This Agreement and all other related instruments and documents and the rights and obligations of the parties hereunder and thereunder shall, in all respects, be governed by, and construed in accordance with, the laws of the State of Maryland (excluding Maryland conflict of laws rules).

SECTION 5.06. Jurisdiction; Venue. First Creditors and Additional Creditors hereby irrevocably consent to the non-exclusive personal jurisdiction of the courts of the State of Maryland and, if a basis for federal jurisdiction exists, the non-exclusive jurisdiction of the United States District Court for the District of Maryland. First Creditors and Additional Creditors agree that venue shall be proper in any circuit court of the State of Maryland or, if a basis for federal jurisdiction exists, in any Division of the United States District Court for the District of Maryland. First

Creditors and Additional Creditors waive any right to object to the maintenance of any suit or claim in any of the state or federal courts of the State of Maryland on the basis of improper venue or of inconvenience of forum.

SECTION 5.07. No Third Party Beneficiaries. This Agreement and the terms and provisions of this Agreement are for the benefit of First Creditors and Additional Creditors and their successors and assigns, and shall not benefit in any way any person not specifically a party to this Agreement. Neither Debtor nor any guarantor or other obligor, nor any other creditor, shall be a beneficiary of this Agreement in any way. Nothing in this Agreement shall affect, lessen or impair the Liens that First Creditors and Additional Creditors hold in any Subject Property vis a vis Debtor or any third parties. First Creditors and Additional Creditors expressly reserve each and every of their Liens and their right to assert their Liens as against Debtor and any third parties. This Agreement does not amend any Loan Documents or waive any rights or remedies under any Loan Documents as between any party to this Agreement and Debtor.

SECTION 5.08. No Agency or Partnership. Nothing in this Agreement shall be construed as creating any agency relationship between First Creditors and Additional Creditors, or establishing any fiduciary responsibility between them (excepting any obligation under this Agreement for Additional Creditors to hold any funds in trust for the benefit of First Creditors, and any obligation to act as bailee for each other to perfect certain security interests in Subject Property), or as creating any partnership between them, and each of the foregoing are expressly disclaimed. Without limiting the generality of the foregoing, rights and benefits provided to Additional Creditors pursuant to this Agreement are solely for the benefit of Additional Creditors and do not impose any duties upon Additional Creditors for any benefit of First Creditors. Additional Creditors shall not, for example, have any duty or responsibility to First Creditors with regard to the manner in which Additional Creditors may exercise any rights or remedies that Additional Creditors may have, or any Enforcement Actions that Additional Creditors may pursue, as against any Property of Debtor, or as against Debtor, any Account Debtor, or as against any guarantor or other obligor of any Obligations.

SECTION 5.09. Subrogation. (a) Notwithstanding any payments that may be made by Debtor to First Creditors, or any setoff or application by First Creditors of any Collateral, Additional Creditors shall not be subrogated to any rights of First Creditors against any Collateral or under any First Creditor Loan Documents until such time as First Creditors shall have received payment (and performance, as applicable) in full of all Obligations of Debtor to First Creditors.

(b) Notwithstanding any payments that may be made by Debtor to Additional Creditors, or any setoff or application by Additional Creditors of any Collateral, First Creditors shall not be subrogated to any rights of Additional Creditors against any Collateral or under any Additional Creditor Loan Documents until such time as Additional Creditors shall have received payment (and performance, as applicable) in full of all Obligations of Debtor to Additional Creditors.

(c) Neither First Creditors nor Additional Creditors shall have any duty to protect the other's right of subrogation and neither shall have any liability to the other for any loss or impairment of the other's subrogation rights.

SECTION 5.10. Same Person as First Creditor and Additional Creditor. In the event that a Person shall be a lender under the First Creditor Loan Documents and a lender under the Additional

Creditor Loan Documents, then for purposes of this Agreement such Person shall be (a) a First Creditor with respect to Obligations governed by the First Creditor Loan Documents, and (b) an Additional Creditor with respect to Obligations governed by the Additional Creditor Loan Documents.

SECTION 5.11. Miscellaneous. Time is of the essence of this Agreement. Any provision of this Agreement or of any related instrument or document executed pursuant hereto which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof or thereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction. This Agreement may be executed in counterparts and each shall be effective as an original, and a telecopy of this executed Agreement shall be effective as an original. In making proof of this Agreement, it shall not be necessary to produce more than one counterpart of this Agreement. The parties to this Agreement hereby waive any right to require any other party to this Agreement to marshal any security or collateral or otherwise to compel the other party to seek recourse against or satisfaction of any indebtedness owed to it from one source before seeking recourse or satisfaction from another source. All powers and authorizations contained in this Agreement are coupled with an interest, and are irrevocable without the consent of the Additional Creditors.

SECTION 5.12. Waiver of Jury Trial. First Creditors and Additional Creditors waive all right to trial by jury of all claims of any kind arising under this Agreement or any Loan Documents. First Creditors and Additional Creditors each acknowledge that this is a waiver of a legal right and that each makes this waiver voluntarily and knowingly after consultation with counsel of its choice. First Creditors and Additional Creditors agree that all such claims shall be tried before a judge of a court of competent jurisdiction without a jury.

IN WITNESS WHEREOF, and intending to be legally bound hereby, First Creditors and Additional Creditors execute this Agreement under seal as of the day and year first above written.

FIRST CREDITORS:

WITNESS:

DELAPLAINE TRUST B, u/d George B. Delaplaine, Sr., George B. Delaplaine, Jr., and George B. Delaplaine, III, Trustees, a trust formed under the laws of the state of Maryland

By: George B. Delaplaine, Jr.
George B. Delaplaine, Jr., as Trustee

and

By: _____
George B. Delaplaine, III, as Trustee

WITNESS:

Barry P. Gossett

WITNESS:

Robert J. Sexton

WITNESS:

Carole L. Worthington

WITNESS:

Ralph P. Genovese

WITNESS:

William A. Long

IN WITNESS WHEREOF, and intending to be legally bound hereby, First Creditors and Additional Creditors execute this Agreement under seal as of the day and year first above written.

FIRST CREDITORS:

WITNESS:

DELAPLAINE TRUST B, u/d George B. Delaplaine, Sr., George B. Delaplaine, Jr., and George B. Delaplaine, III, Trustees, a trust formed under the laws of the state of Maryland

By: _____
George B. Delaplaine, Jr., as Trustee

Barb Kraff

and
By: *L B*
George B. Delaplaine, III, as Trustee

WITNESS:

Barry P. Gossett

WITNESS:

Robert J. Sexton

WITNESS:

Carole L. Worthington

WITNESS:

Ralph P. Genovese

WITNESS:

William A. Long

IN WITNESS WHEREOF, and intending to be legally bound hereby, First Creditors and Additional Creditors execute this Agreement under seal as of the day and year first above written.

FIRST CREDITORS:

WITNESS:

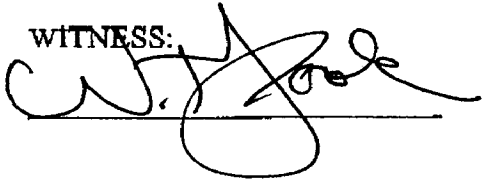
DELAPLAINE TRUST B, u/d George B. Delaplaine, Sr., George B. Delaplaine, Jr., and George B. Delaplaine, III, Trustees, a trust formed under the laws of the state of Maryland

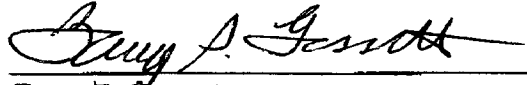
By: _____
George B. Delaplaine, Jr., as Trustee

and

By: _____
George B. Delaplaine, III, as Trustee

WITNESS:





Barry P. Gossett

WITNESS:

Robert J. Sexton

WITNESS:

Carole L. Worthington

WITNESS:

Ralph P. Genovese

WITNESS:

William A. Long

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DELAPLAINE TRUST B, u/d George B. Delaplaine, Sr., George B. Delaplaine, Jr., and George B. Delaplaine, III, Trustees, a trust formed under the laws of the state of Maryland

By: _____
George B. Delaplaine, Jr., as Trustee

and

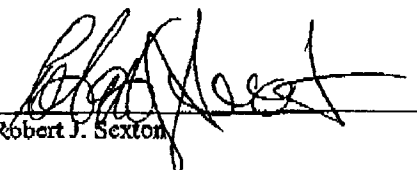
By: _____
George B. Delaplaine, III, as Trustee

WITNESS:

Barry P. Gossett

WITNESS:




Robert J. Sexton

WITNESS:

Carole L. Worthington

WITNESS:

Ralph P. Genovese

WITNESS:

William A. Long

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FIRST CREDITORS:

WITNESS:

DELAPLAINE TRUST B, u/d George B. Delaplaine, Sr., George B. Delaplaine, Jr., and George B. Delaplaine, III, Trustees, a trust formed under the laws of the state of Maryland

By: _____
George B. Delaplaine, Jr., as Trustee

and

By: _____
George B. Delaplaine, III, as Trustee

WITNESS:

Barry P. Gossett

WITNESS:

Robert J. Sexton

WITNESS:

[Handwritten Signature]

[Handwritten Signature]
Carole L. Worthington

WITNESS:

Ralph P. Genovese

WITNESS:

William A. Long

IN WITNESS WHEREOF, and intending to be legally bound hereby, First Creditors and Additional Creditors execute this Agreement under seal as of the day and year first above written.

FIRST CREDITORS:

WITNESS:

DELAPLAINE TRUST B, w/d George B. Delaplaine, Sr., George B. Delaplaine, Jr., and George B. Delaplaine, III, Trustees, a trust formed under the laws of the state of Maryland

By: _____
George B. Delaplaine, Jr., as Trustee

and

By: _____
George B. Delaplaine, III, as Trustee

WITNESS:

Barry P. Gossett

WITNESS:

Robert J. Sexton

WITNESS:

Carole L. Worthington

WITNESS:

Ralph P. Genovese

WITNESS:

William A. Long
William A. Long

FIRST CREDITORS AGENT:

WITNESS:

LOGEN CAPITAL, LLC, a Delaware limited liability company

By: William A. Long (SEAL)
Name:
Title:

ADDITIONAL CREDITORS:

WITNESS:

DELAPLAINE TRUST B, u/d George B. Delaplaine, Sr., George B. Delaplaine, Jr., and George B. Delaplaine, III, Trustees, a trust formed under the laws of the state of Maryland

By: _____
George B. Delaplaine, Jr., as Trustee

and

By: _____
George B. Delaplaine, III, as Trustee

ADDITIONAL CREDITORS AGENT:

WITNESS:

Earl S. Wellschlager, Esquire

DEBTOR:

Debtor signs below under seal to acknowledge that Debtor consents to the terms of the foregoing Agreement, and to evidence Debtor's agreement to be bound by the provisions of the foregoing Agreement.

WITNESS:

DECORP AMERICAS, INC., a Delaware corporation

By: _____ (SEAL)
Name:
Title:

FIRST CREDITORS AGENT:

WITNESS:

LOGEN CAPITAL, LLC, a Delaware limited liability company

By: _____ (SEAL)
Name:
Title:

ADDITIONAL CREDITORS:

WITNESS:

DELAPLAINE TRUST B, u/d George B. Delaplaine, Sr., George B. Delaplaine, Jr., and George B. Delaplaine, III, Trustees, a trust formed under the laws of the state of Maryland

By: George B. Delaplaine, Jr.
George B. Delaplaine, Jr., as Trustee

and

By: _____
George B. Delaplaine, III, as Trustee

[WITNESS:

_____]

ADDITIONAL CREDITORS AGENT:

WITNESS:

Earl S. Wellschlager, Esquire

DEBTOR:

Debtor signs below under seal to acknowledge that Debtor consents to the terms of the foregoing Agreement, and to evidence Debtor's agreement to be bound by the provisions of the foregoing Agreement.

WITNESS:

DECORP AMERICAS, INC., a Delaware corporation

By: _____ (SEAL)
Name:
Title:

FIRST CREDITORS AGENT:

WITNESS:

LOGEN CAPITAL, LLC, a Delaware limited liability company

By: _____ (SEAL)

Name:
Title:


ADDITIONAL CREDITORS:

WITNESS:

DELAPLAINE TRUST B, u/d George B. Delaplaine, Sr., George B. Delaplaine, Jr., and George B. Delaplaine, III, Trustees, a trust formed under the laws of the state of Maryland

By: _____
George B. Delaplaine, Jr., as Trustee

and

By: 
George B. Delaplaine, III, as Trustee



[WITNESS:

ADDITIONAL CREDITORS AGENT:

WITNESS:


Earl S. Wellschlager, Esquire

DEBTOR:

Debtor signs below under seal to acknowledge that Debtor consents to the terms of the foregoing Agreement, and to evidence Debtor's agreement to be bound by the provisions of the foregoing Agreement.

WITNESS:

DECORP AMERICAS, INC., a Delaware corporation

By: _____ (SEAL)

Name:
Title:

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PIPER RUDNICK LLP

PAGE 13/21

FIRST CREDITORS AGENT:

WITNESS:

LOGEN CAPITAL, LLC, a Delaware limited liability company

By: _____ (SEAL)

Name:

Title:

ADDITIONAL CREDITORS:

WITNESS:

DELAPLAINE TRUST B, u/d George B. Delaplaine, Sr., George B. Delaplaine, Jr., and George B. Delaplaine, III, Trustees, a trust formed under the laws of the state of Maryland

By: _____
George B. Delaplaine, Jr., as Trustee

and

By: _____
George B. Delaplaine, III, as Trustee

[WITNESS:

_____]

ADDITIONAL CREDITORS AGENT:

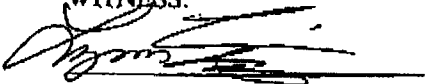
WITNESS:

Earl S. Wellschlager, Esquire

DEBTOR:

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WITNESS:



DECORP AMERICAS, INC., a Delaware corporation

By:  (SEAL)

Name:

Title:

-BALTA:757698
303699-5

First Creditor Loan Documents

1. Loan Agreement dated as of June 13, 2002 among Debtor, First Creditors and the First Creditors Agent.
2. Security Agreement dated as of June 13, 2002 among Debtor, First Creditors and First Creditors Agent.
3. Letter Agreement Regarding Certain Post-Closing Requirements dated as of June 13, 2002 between Debtor and First Creditors Agent.
4. UCC-1 Financing Statement as filed with the Secretary of State of the State of Delaware on June 11, 2002 by First Creditors Agent, on behalf of the First Creditors.
5. Promissory Notes dated as of June 13, 2002, in an aggregate principal amount of \$490,000, issued by Debtor to the First Creditors.
6. Amended and Restated Control Agreement (Deposit Accounts) dated as of September 4, 2002, by and among SunTrust Bank, a Georgia state banking corporation, Debtor and Additional Creditors Agent.
7. Patent Collateral Assignment and Security Agreement dated as of July 12, 2002 by and between Debtor and First Creditors Agent.
8. Trademark Collateral Assignment and Security Agreement dated as of July 12, 2002 by and between Debtor and First Creditors Agent.

Additional Creditor Loan Documents

1. Loan Agreement dated as of September 12, 2003 among Debtor, Additional Creditors and the Additional Creditors Agent.
2. Security Agreement dated as of September 12, 2003 among Debtor, Additional Creditors and Additional Creditors Agent.
3. Promissory Notes dated as of September 12, 2003, in an aggregate principal amount of \$1,000,000, issued by the Debtor to the Additional Creditors.
4. UCC-1 Financing Statement as filed with the Secretary of State of the State of Delaware on September 12, 2003, by Additional Creditors Agent on behalf of the Additional Creditors.
5. Amended and Restated Control Agreement (Deposit Accounts) dated as of September 12, 2003, by and among SunTrust Bank, a Georgia state banking corporation, Debtor and Earl S. Wellschlager, Esquire (as agent).
6. Patent Collateral Assignment and Security Agreement dated as of September 12, 2003, by and between Debtor and Additional Creditors Agent.
7. Trademark Collateral Assignment and Security Agreement dated as of September 12, 2003, by and between Debtor and Additional Creditors Agent.