

10-30-2003



102588051

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

1. Name of conveying party(ies):  
Seminis Vegetable Seeds, Inc.

10-6-03

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

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

2. Name and address of receiving party(ies)

Name: Citicorp North America, Inc.,

Internal Address: as Collateral Agent

Street Address: 390 Greenwich Street

City: New York State: NY Zip: 10013

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

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

3. Nature of conveyance:

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

Execution Date: 09/29/2003

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

A. Trademark Application No.(s) \_\_\_\_\_  
SEE ATTACHED EXHIBIT A

B. Trademark Registration No.(s) \_\_\_\_\_  
SEE ATTACHED EXHIBIT A

Additional number(s) attached  Yes  No

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

Name: Tonya Chappe

Internal Address: C/O CSC

Street Address: 80 State St.

City: Albany State: NY Zip: 12207

6. Total number of applications and registrations involved: \_\_\_\_\_

44

7. Total fee (37 CFR 3.41).....\$ 1115.00

- Enclosed
- Authorized to be charged to deposit account

8. Deposit account number: \_\_\_\_\_

DO NOT USE THIS SPACE

9. Signature.

Maureen P. Murphy  
Name of Person Signing

*Maureen P. Murphy*  
Signature

September 29, 2003  
Date

Total number of pages including cover sheet, attachments, and document: **59**

10/29/2003 LMUELLER 00000217 73322067

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

01 FC:8521  
02 FC:8522

40.00 OP  
1075.00 OP

**EXHIBIT A**  
**to**  
**Recordation Form Cover Sheet**

**relating to**

**Trademark Registrations & Trademark Applications**

TRADEMARK REGISTRATIONS

Owner	Trademark	Country Name	Application Number	Filing Date	Registration Number	Registration Date	Goods
Seminis Vegetable Seeds, Inc.	CALIFORNIA	USA	73/322087	03-Aug-81	1226105	01-Feb-83	SEEDS FOR HORTICULTURAL PURPOSES, NAMELY, BEET, CAULIFLOWER, CANTALOUPE, CABBAGE, CARROT, CUCUMBER, EGGPLANT, ENDIVE, LETTUCE, ONION, PARSLEY, HOT PEPPER, SWEET PEPPER, PUMPKIN, RADISH, SQUASH, TOMATO AND WATERMELON
Seminis Vegetable Seeds, Inc.	CALIFORNIA & Design	USA	73/322086	03-Aug-81	1226104	01-Feb-83	SEEDS FOR HORTICULTURAL PURPOSES, NAMELY, BEET, CAULIFLOWER, CANTALOUPE, CABBAGE, CARROT, CUCUMBER, EGGPLANT, ENDIVE, LETTUCE, ONION, PARSLEY, HOT PEPPER, SWEET PEPPER, PUMPKIN, RADISH, SQUASH, TOMATO AND WATERMELON
Seminis Vegetable Seeds, Inc.	DENHOLM SEEDS	USA	73/362392	30-Apr-82	1254701	18-Oct-83	FLOWER SEEDS FOR HORTICULTURAL PURPOSES
Seminis Vegetable Seeds, Inc.	DESIGN ONLY (for HUNGNGONG VEGETABLE SEEDS)	USA	75/813174	28-Sep-99	2360428	20-Jun-00	VEGETABLE SEEDS
Seminis Vegetable Seeds, Inc.	DS & DESIGN	USA	73/362393	30-Apr-82	1256326	01-Nov-83	FLOWER SEEDS FOR HORTICULTURAL PURPOSES
Seminis Vegetable Seeds, Inc.	GENECORP & DESIGN	USA	73/666318	30-Apr-87	1476131	09-Feb-88	AGRICULTURAL SEEDS
Seminis Vegetable Seeds, Inc.	GOLD SHIELD	USA	73/299751	05-Mar-81	1224451	18-Jan-83	HORTICULTURAL SEED
Seminis Vegetable Seeds, Inc.	HUNGNGONG	USA	75/811483	28-Sep-99	2389799	26-Sep-00	VEGETABLE SEEDS
Seminis Vegetable Seeds, Inc.	HYPEEL	USA	75/080794	29-Mar-96	2104778	14-Oct-97	SEEDS FOR AGRICULTURAL PURPOSES, NAMELY TOMATO AND PRODUCE, NAMELY FRESH FRUITS AND VEGETABLES

**Schedule 15(a)**  
**Patents, Patent Licenses, Trademarks and Trademark Licenses**

Owner	Trademark	Country Name	Application Number	Filing Date	Registration Number	Registration Date	Goods
Seminis Vegetable Seeds, Inc.	IMPACT	USA	74/382561	26-Apr-93	1848683	09-Aug-94	SEEDS FOR AGRICULTURAL PURPOSES; NAMELY, LETTUCE, AND PRODUCE; NAMELY, FRESH FRUITS AND FRESH VEGETABLES
Seminis Vegetable Seeds, Inc.	NEMA	USA	75/084751	08-Apr-96	2104796	14-Oct-97	SEEDS FOR AGRICULTURAL PURPOSES, NAMELY TOMATO AND PRODUCE, NAMELY FRESH FRUITS AND VEGETABLES
Seminis Vegetable Seeds, Inc.	ONGARD	USA	74/097100	14-Sep-90	1698477	30-Jun-92	FILM COATING FOR SEEDS
Seminis Vegetable Seeds, Inc.	PACESETTER	USA	73/347683	29-Jan-82	1240536	31-May-83	TOMATO SEEDS
Seminis Vegetable Seeds, Inc.	PETOCOAT & Design	USA	73/811496	10-Jul-89	1605842	10-Jul-90	HORTICULTURAL SEEDS; NAMELY, VEGETABLE SEED AND FLOWER SEED
Seminis Vegetable Seeds, Inc.	PETOPLUS	USA	73/460759	13-Jan-84	1312900	08-Jan-85	HORTICULTURAL SEED TREATMENT- NAMELY, CHEMICAL TREATMENT FOR PROMOTING GROWTH OF VEGETABLE SEEDS
Seminis Vegetable Seeds, Inc.	PETOPLUS & Design	USA	73/811709	10-Jul-89	1605843	10-Jul-90	HORTICULTURAL SEEDS; NAMELY, VEGETABLE SEED AND FLOWER SEED
Seminis Vegetable Seeds, Inc.	PETOSEED	USA	74/424890	16-Aug-93	1844621	12-Jul-94	VEGETABLE AND FRUIT SEEDS FOR PLANTING
Seminis Vegetable Seeds, Inc.	POLYGARD	USA	75/758382	23-Jul-99	2357508	13-Jun-00	POLYMER COATING FOR VARIOUS VEGETABLE SEEDS
Seminis Vegetable Seeds, Inc.	PS	USA	72/439630	30-Oct-72	970462	16-Oct-73	SEED FOR HORTICULTURAL PURPOSES- NAMELY, PEPPER, TOMATO, CUCUMBER, SQUASH, CANTALOUPE, EGGPLANT AND WATERMELON SEED
Seminis Vegetable Seeds, Inc.	PS PETOSEED & Design	USA	72/340822	15-Oct-69	916946	27-Jul-71	SEED FOR HORTICULTURAL PURPOSES, SPECIFICALLY PEPPER, TOMATO, CUCUMBER, SQUASH, CANTALOUPE, EGGPLANT AND WATERMELON SEED
Seminis Vegetable Seeds, Inc.	ROYAL SLUIS	Yemen, Republic of	15597	21-Feb-00	12869	02-Apr-01	AGRICULTURAL, HORTICULTURAL AND FORESTRY PRODUCTS AND GRAINS, FRESH FRUIT AND VEGETABLE SEEDS, NATURAL PLANTS AND FLOWERS, COATED SEEDS

**Schedule 15(a)**  
**Patents, Patent Licenses, Trademarks and Trademark Licenses**

Owner	Trademark	Country Name	Application Number	Filing Date	Registration Number	Registration Date	Goods
Seminis Vegetable Seeds, Inc.	ROYAL SLUIS & Design	Yemen, Republic of	15601	21-Feb-00	12873	02-Apr-01	AGRICULTURAL, HORTICULTURAL AND FORESTRY PRODUCTS AND GRAINS, FRESH FRUIT AND VEGETABLE SEEDS, NATURAL PLANTS AND FLOWERS, COATED SEEDS
Seminis Vegetable Seeds, Inc.	SEED PROTECTANT POLYGARD & Design	USA	75/758381	23-Jul-99	2418877	09-Jan-01	POLYMER COATING FOR VARIOUS VEGETABLE SEEDS
Seminis Vegetable Seeds, Inc.	SEEDS FOR THE WORLD	USA	75/224899	13-Jan-97	2130422	20-Jan-98	VEGETABLE SEEDS AND FLOWER SEEDS
Seminis Vegetable Seeds, Inc.	SEMINIS	USA	75/172061	26-Sep-96	2404461	14-Nov-00	VEGETABLE SEEDS; AND FLOWER SEEDS
Seminis Vegetable Seeds, Inc.	SPECTRUM	USA	75/084752	08-Apr-96	2104797	14-Oct-97	SEEDS FOR AGRICULTURAL PURPOSES, NAMELY TOMATO AND PRODUCE, NAMELY FRESH FRUITS AND VEGETABLES
Seminis Vegetable Seeds, Inc.	ULTRASEED	USA	73/522953	19-Feb-85	1363648	01-Oct-85	VEGETABLE SEEDS
Seminis Vegetable Seeds, Inc.	X3R	USA	74/648541	20-Mar-95	1968198	16-Apr-96	VEGETABLE SEEDS

Schedule 15(a)  
Patents, Patent Licenses, Trademarks and Trademark Licenses

**TRADEMARK APPLICATIONS**

Owner	Trademark	Country Name	Application Number	Filing Date	Goods
Seminis Vegetable Seeds, Inc.	BAMBINO	USA	78/149517	31-Jul-02	FRESH FRUITS AND VEGETABLES
Seminis Vegetable Seeds, Inc.	BAMBINO	USA	76/460139	16-Oct-02	VEGETABLES
Seminis Vegetable Seeds, Inc.	BLUE MOUNTAIN SELECT	USA	76/357093	10-Jan-02	AGRICULTURAL SEEDS, EXCLUDING SEEDS FOR SWEET PEPPERS, PIMENTOS, MAIZE, SUNFLOWERS AND PECANS.
Seminis Vegetable Seeds, Inc.	BLUE MOUNTAIN SELECT	USA	76/511338	02-May-03	FRUITS AND VEGETABLES.
Seminis Vegetable Seeds, Inc.	COSMOPOLITAN	USA	78/218857	25-Feb-03	FRESH PRODUCE
Seminis Vegetable Seeds, Inc.	CUKETTE	USA	75/731590	16-Jun-99	CUCUMBER SEEDS FOR AGRICULTURAL PURPOSES.
Seminis Vegetable Seeds, Inc.	CUKETTE	USA	78/217513	21-Feb-03	FRESH PRODUCE, NAMELY, CUCUMBERS
Seminis Vegetable Seeds, Inc.	HORTICERES	Venezuela	13663/99	10-Aug-99	VEGETABLE SEEDS
Seminis Vegetable Seeds, Inc.	HORTICERES SEMENTES & Design	Venezuela	13659/99	10-Aug-99	VEGETABLE SEEDS
Seminis Vegetable Seeds, Inc.	MELODY	USA	78/174554	15-Oct-02	FRUITS, VEGETABLES AND SEEDS
Seminis Vegetable Seeds, Inc.	NUTRI-FIT	USA	76/526625	30-Jun-03	CLASS 31: VEGETABLES, FRUITS AND SEEDS; CLASS 35: ADVERTISING, MARKETING AND PROMOTION OF THE PRODUCTS LISTED IN CLASS 31.
Seminis Vegetable Seeds, Inc.	RAMIRO	USA	76/440256	09-Aug-02	AGRICULTURAL AND HORTICULTURAL PRODUCTS, FRESH VEGETABLES, SEEDS, SEEDLINGS, LIVE PLANTS AND FLOWERS, DRIED PLANTS
Seminis Vegetable Seeds, Inc.	SCARLET	USA	76/509490	25-Apr-03	VEGETABLES, FRUITS AND SEEDS

**Schedule 15(a)**  
**Patents, Patent Licenses, Trademarks and Trademark Licenses**

Owner	Trademark	Country Name	Application Number	Filing Date	Goods
Seminis Vegetable Seeds, Inc.	SCARLET SELECT	USA	76/505678	11-Apr-03	VEGETABLES, FRUITS AND SEEDS
Seminis Vegetable Seeds, Inc.	STAY-FIT	USA	76/526624	30-Jun-03	CLASS 31: VEGETABLES, FRUITS AND SEEDS; CLASS 35: ADVERTISING, MARKETING AND PROMOTION OF THE PRODUCTS LISTED IN CLASS 31.
Seminis Vegetable Seeds, Inc.	SVP	USA	76/523473	18-Jun-03	VEGETABLES, FRUITS AND SEEDS
Seminis Vegetable Seeds, Inc.	TACOLETT	USA	76/523469	18-Jun-03	VEGETABLES, FRUITS AND SEEDS
Seminis Vegetable Seeds, Inc.	THE GREENER, THE SWEETER MELON	USA	78/182848	07-Nov-02	FRESH FRUITS, FRESH VEGETABLES AND AGRICULTURAL SEEDS.
Seminis Vegetable Seeds, Inc.	VEGGIETOWN	USA	76/511343	02-May-03	VEGETABLES, FRUITS AND SEEDS
Seminis Vegetable Seeds, Inc.	X5R	USA	78/217635	21-Feb-03	PEPPER SEEDS

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SECURITY AGREEMENT

By

SEMINIS VEGETABLE SEEDS, INC.,

SEMINIS, INC.

and

THE DOMESTIC SUBSIDIARIES PARTY HERETO,  
as Grantors,

and

CITICORP NORTH AMERICA, INC.,  
as Collateral Agent

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Dated as of September 29, 2003

#559734

TRADEMARK  
REEL: 002856 FRAME: 0387



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## SECURITY AGREEMENT

SECURITY AGREEMENT (as amended, amended and restated, supplemented or otherwise modified from time to time, this "Agreement") dated as of September 29, 2003 among SEMINIS VEGETABLE SEEDS, INC., a California corporation (the "Borrower"), SEMINIS, INC., a Delaware corporation (the "Parent Guarantor"), each Domestic Subsidiary of the Borrower listed on Schedule I hereto (collectively, together with each Domestic Subsidiary that becomes a party hereto pursuant to Section 7.15 of this Agreement, the "Subsidiary Guarantors" and, together with Borrower and the Parent Guarantor, the "Grantors") and CITICORP NORTH AMERICA, INC., as collateral agent (in such capacity, and together with any successors in such capacity, the "Collateral Agent") for the Secured Parties (as defined herein).

### RECITALS

A. The Borrower under the Credit Agreement (as hereinafter defined), the Parent Guarantor, Citicorp North America, Inc., as administrative agent (in such capacity and together with any successors in such capacity, the "Administrative Agent") for the Lenders (as defined herein), Coöperatieve Centrale Raiffeisen-Boerenleenbank B.A., "Rabobank International", New York Branch and CIBC World Markets Corp., as co-documentation agents (in such capacity and together with any successors in such capacity, the "Co-Documentation Agents"), Harris Trust and Savings Bank ("Harris"), as syndication agent, and Citicorp Global Markets Inc. and Harris, as joint lead arrangers and joint bookrunners (in such capacity and together with any successors in such capacity, the "Joint Lead Arrangers"), and the lending institutions from time to time party thereto (together with the Administrative Agent, the Co-Documentation Agents and the Joint Lead Arrangers in their capacity as lenders, the "Lenders") have, in connection with the execution and delivery of this Agreement, entered into that certain credit agreement, dated as of September 29, 2003 (as amended, amended and restated, supplemented or otherwise modified from time to time, the "Credit Agreement"), providing for the making of Loans to the Borrower and the issuance of and participations in Letters of Credit for the account of the Borrower, pursuant to, and upon the terms and subject to the conditions specified in, the Credit Agreement.

B. Each Subsidiary Guarantor has, pursuant to the Guarantee Agreement, dated as of the date hereof, among other things, unconditionally guaranteed the obligations of the Borrower under the Credit Agreement.

C. The Borrower and each Subsidiary Guarantor will receive substantial benefits from the execution, delivery and performance of the obligations under the Credit Agreement and is, therefore, willing to enter into this Agreement.

D. It is contemplated that, to the extent permitted by the Credit Agreement, one or more of the Grantors may enter into one or more Hedging Agreements with one or more Persons that were Lenders or Affiliates of a Lender at the time such Hedging Agreements were entered into (collectively, the "Hedging Exchangers") fixing interest rates, commodity prices or foreign currency rates.

E. It is contemplated that, to the extent permitted by the Credit Agreement, one or more of the Grantors may from time to time enter into one or more Cash Management Agreements (as hereinafter defined) with one or more Persons that were Lenders or Affiliates of a Lender at the time such Cash Management Agreements were entered into (collectively, the "Cash Management Exchangers").

F. Contemporaneously with the execution and delivery of this Agreement, the Borrower, the Parent Guarantor and the Subsidiary Guarantors have executed and delivered to the Collateral Agent a Pledge Agreement (as amended, amended and restated, supplemented or otherwise modified from time to time, the "Pledge Agreement").

G. This Agreement is given by each Grantor in favor of the Collateral Agent for the benefit of the Secured Parties (as hereinafter defined) to secure the payment and performance of all of the Obligations (as hereinafter defined).

NOW THEREFORE, in consideration of the foregoing and other benefits accruing each Grantor, the receipt and sufficiency of which are hereby acknowledged, each Grantor hereby makes the following representations and warranties to the Collateral Agent for the benefit of the Secured Parties (and each of their respective successors and assigns), as follows:

## ARTICLE I

### *Definitions*

SECTION 1.01. *Uniform Commercial Code Defined Terms.* Unless otherwise defined herein, terms used herein that are defined in the UCC shall have the meanings assigned to them in the UCC, including the following which are capitalized herein:

"Accounts"; "Bank"; "Certificates of Title"; "Chattel Paper"; "Commercial Tort Claim"; "Commodity Account"; "Commodity Contract"; "Commodity Customer"; "Commodity Intermediary"; "Deposit Accounts"; "Documents"; "Electronic Chattel Paper"; "Entitlement Holder"; "Entitlement Order"; "Equipment"; "Financial Asset"; "Fixtures"; "Goods"; "Instruments" (as defined in Article 9 rather than Article 3); "Inventory"; "Investment Property"; "Letter-of-Credit Rights"; "Letters of Credit"; "Securities"; "Securities Account"; "Securities Intermediary"; "Security Entitlement"; "Supporting Obligations"; and "Tangible Chattel Paper".

SECTION 1.02. *Credit Agreement Defined Terms.* Capitalized terms used but not otherwise defined herein that are defined in the Credit Agreement shall have the meanings given to them in the Credit Agreement.

SECTION 1.03. *Definition of Certain Terms Used Herein.* As used herein, the following terms shall have the following meanings:

"Account Debtor" shall mean any Person who is or who may become obligated to any Grantor under, with respect to or on account of an Account.

"Accounts Receivable" shall mean all Accounts and all right, title and interest in any returned goods, together with all rights, titles, securities and guarantees with respect thereto, including any rights to stoppage in transit, replevin, reclamation and resales, and all related security interests, liens and pledges, whether voluntary or involuntary, in each case whether now existing or owned or hereafter arising or acquired.

"Books and Records" shall mean all instruments, files, records, ledger sheets and documents evidencing, covering or relating to any of the Collateral.

**“Borrower”** shall have the meaning assigned to such term in the Recitals of this Agreement.

**“Cash Management Agreements”** means agreements of the Borrower or any of its Domestic Subsidiaries arising from treasury, depository and cash management services provided by one or more Cash Management Exchangers.

**“Cash Management Exchangers”** shall have the meaning assigned to such term in the Recitals of this Agreement.

**“Charges”** shall mean any and all property and other taxes, assessments and special assessments, levies, fees and all governmental charges imposed upon or assessed against, and all claims (including, without limitation, landlords’, carriers’, mechanics’, maritime, workmen’s, repairmen’s, laborers’, materialmen’s, suppliers’ and warehousemen’s Liens and other claims arising by operation of law) against, all or any portion of the Collateral.

**“Collateral”** shall mean with respect to each of the Grantors all of the following, in each case, whether now owned or hereafter acquired:

- (a) Accounts Receivable;
- (b) Books and Records;
- (c) cash and Deposit Accounts;
- (d) Chattel Paper;
- (e) Collateral Account and Collateral Account Funds;
- (f) Commercial Tort Claims described on Schedule II annexed hereto;
- (g) Documents;
- (h) Equipment;
- (i) Fixtures;
- (j) General Intangibles;
- (k) Goods;
- (l) Instruments;
- (m) Inventory;
- (n) Investment Property;
- (o) Letter-of-Credit Rights;
- (p) Letters of Credit;

- (q) Recapitalization Documents;
- (r) Supporting Obligations;
- (s) Patents, Copyrights, Trademarks and Plant Variety Protection Certificates;
- (t) to the extent not covered by clauses (a) through (s) of this definition, all other personal property, whether tangible or intangible; and
- (u) Proceeds of any and all of the foregoing;

provided that, for purposes of this Agreement, "Collateral" shall not include any Securities Collateral (as defined in the Pledge Agreement).

"Collateral Account" shall mean that collateral account established pursuant to Section 6.01 of this Agreement.

"Collateral Account Funds" shall mean, collectively, the following from time to time on deposit in the Collateral Account: all funds, investments (including, without limitation, all Permitted Investments) and all certificates and instruments from time to time representing or evidencing such investments; all notes, certificates of deposit, checks and other instruments from time to time hereafter delivered to or otherwise possessed by the Collateral Agent for or on behalf of any Grantor in substitution for, or in addition to, any or all of the Collateral; and all interest, dividends, cash, instruments and other property from time to time received, receivable or otherwise distributed in respect of or in exchange for any or all of the items constituting Collateral.

"Collateral Sharing Agreement" shall mean the Collateral Sharing Agreement, dated as of September 29, 2003, between the Collateral Agent, the Borrower and the other Grantors for the benefit of the Secured Parties.

"Control" shall mean in the case of any Security Entitlement, "control," as such term is defined in Section 8-106(d) of the UCC.

"Control Agreement" shall mean an agreement in form and substance reasonably acceptable to the Collateral Agent for the purpose of effecting Control with respect to any Deposit Account or Securities Account.

"Copyright License" shall mean each written agreement, now or hereafter in effect, granting any right to any third party under any Copyright now or hereafter owned by any Grantor or which such Grantor otherwise has the right to license, or granting any right to such Grantor under any Copyright now or hereafter owned by any third party, and all rights of such Grantor under any such agreement.

"Copyrights" shall mean, collectively, with respect to each Grantor, all copyrights (whether statutory or common law, whether established or registered in the United States by a Grantor or established or registered in any other country or any political subdivision thereof by a Grantor if the beneficial interest is owned by such Grantor, whether registered or unregistered and whether published or unpublished) and all copyright registrations and applications made by such Grantor, in each case, whether now owned or hereafter created or acquired by or assigned to such Grantor, including, without limitation, the copyrights, registrations and applications listed in Schedule 15(b) of the Perfection Cer-

tificate, together with any and all (i) rights and privileges arising under applicable law with respect to such Grantor's use of such copyrights, (ii) reissues, renewals, continuations and extensions thereof, (iii) income, fees, royalties, damages, claims and payments now or hereafter due and/or payable with respect thereto, including, without limitation, damages and payments for past, present or future infringements thereof, (iv) rights corresponding thereto throughout the world and (v) rights to sue for past, present or future infringements thereof.

**"Credit Agreement"** shall have the meaning assigned to such term in the Recitals of this Agreement.

**"General Intangibles"** shall mean, collectively, all "general intangibles," as such term is defined in the UCC, and in any event shall include, without limitation, all choses in action and causes of action and all other intangible personal property of any Grantor of every kind and nature now owned or hereafter acquired by any Grantor, including all rights and interests in partnerships, limited partnerships, limited liability companies and other unincorporated entities, corporate or other business records, indemnification claims, contract rights (including rights under leases, whether entered into as lessor or lessee, Hedging Agreements and other agreements), Intellectual Property, goodwill, registrations, franchises and tax refund claims.

**"Hedging Exchangers"** shall have the meaning assigned to such term in the Recitals of this Agreement.

**"Intellectual Property"** shall mean all intellectual and similar property of any Grantor of every kind and nature now owned in the United States by a Grantor, or with respect to any country other than the United States, established, registered or recorded by a Grantor and beneficially owned by such Grantor, or hereafter acquired by any Grantor, including inventions, designs, Patents, Copyrights, Licenses, Trademarks, Plant Variety Protection Certificates, trade secrets, confidential or proprietary technical and business information, know-how, show-how or other data or information, software and databases and all embodiments or fixations thereof and related documentation, registrations and franchises, and all additions, improvements and accessions to, and books and records describing or used in connection with, any of the foregoing.

**"Lenders"** shall have the meaning assigned to such term in the Recitals of this Agreement.

**"License"** shall mean any Patent License, Trademark License, Copyright License or other license or sublicense to which any Grantor is a party, including, without limitation, those listed on Schedules 15(a) and 15(b) of the Perfection Certificate and any license-back agreement or similar arrangement entered into by the IP Subsidiary (other than those license agreements in existence on the date hereof and listed on Schedules 15(a) and 15(b) of the Perfection Certificate and those license agreements entered into after the date hereof, which, in either case, by their terms prohibit assignment or a grant of a security interest by such Grantor as licensee thereunder except to the extent such prohibitions are rendered ineffective by the provisions of the UCC or other applicable law).

**"Obligations"** shall mean all obligations (whether or not constituting future advances, obligatory or otherwise) of the Grantors from time to time arising under or in respect of this Agreement, the Credit Agreement, any Hedging Agreement with a Hedging Exchanger, any Cash Management Agreements entered into with a Cash Management Exchanger and the other Loan Documents (together the **"Agreements"**) (including, without limitation, the obligations to pay principal, interest and all other charges, fees, expenses, commissions, reimbursements, premiums, indemnities and other payments



related to or in respect of the obligations contained in the Agreements), in each case whether (i) such obligations are direct or indirect, secured or unsecured, joint or several, absolute or contingent, due or to become due whether at stated maturity, by acceleration or otherwise, (ii) arising in the regular course of business or otherwise, (iii) for payment or performance and/or (iv) now existing or hereafter arising (including, without limitation, interest and other obligations arising or accruing after the commencement of any bankruptcy, insolvency, reorganization or similar proceeding with respect to any Grantor or any other Person, or which would have arisen or accrued but for the commencement of such proceeding, even if such obligation or the claim therefor is not enforceable or allowable in such proceeding).

**“Patent License”** shall mean any written agreement, now or hereafter in effect, granting to any third party any right to make, use or sell any invention on which a Patent, now or hereafter owned by any Grantor or which any Grantor otherwise has the right to license, is in existence, or granting to any Grantor any right to make, use or sell any invention on which a Patent, now or hereafter owned by any third party, is in existence, and all rights of any Grantor under any such agreement.

**“Patents”** shall mean all of the following now owned in the United States by a Grantor, or with respect to any country other than the United States, registered or recorded by a Grantor and beneficially owned by such Grantor, or hereafter acquired by any Grantor: (a) all letters patent of the United States or any other country, all registrations and recordings thereof, and all applications for letters patent of the United States or any other country, including registrations, recordings and pending applications in the United States Patent and Trademark Office or any other country, including those listed on Schedule 15(a) of the Perfection Certificate, and (b) all reissues, continuations, divisions, continuations-in-part, renewals or extensions thereof, and the inventions disclosed or claimed therein, including the right to make, use and/or sell the inventions disclosed or claimed therein.

**“Perfection Certificate”** shall mean a certificate substantially in the form of Annex II hereto, completed and supplemented with the schedules and attachments contemplated thereby, and duly executed by the Grantors.

**“Plant Variety Protection Certificates”** shall mean any of the following now owned in the United States by a Grantor, or with respect to any country other than the United States, registered or recorded by a Grantor and beneficially owned by such Grantor, or hereafter acquired by any Grantor: all Plant Variety Protection Certificates of the United States, all registrations and recordings thereof, and all applications for Plant Variety Protection Certificates, including certificates, recordings and pending applications in the United States Plant Variety Protection Office, including those listed on Schedule 15(c) of the Perfection Certificate.

**“Pledge Agreement”** shall have the meaning assigned to such term in the Recitals of this Agreement.

**“Pledged Securities”** shall have the meaning assigned to such term in the Pledge Agreement.

**“Prior Liens”** shall mean, collectively, the Liens identified in Schedule 3.04 annexed hereto relating to those items of Collateral identified in such Schedule.

**“Proceeds”** shall mean, collectively, all “proceeds,” as such term is defined in the UCC, and in any event shall include, without limitation, any consideration received from the sale, exchange, license, lease or other disposition of any asset or property that constitutes Collateral, any value received

as a consequence of the possession of any Collateral and any payment received from any insurer or other Person or entity as a result of the destruction, loss, theft, damage or other involuntary conversion of whatever nature of any asset or property that constitutes Collateral, and shall include (a) all cash and negotiable instruments received by or held on behalf of the Collateral Agent, (b) any claim of any Grantor against any third party for (and the right to sue and recover for and the rights to damages or profits due or accrued arising out of or in connection with) (i) past, present or future infringement of any Patent now or hereafter owned by any Grantor, or licensed under a Patent License, (ii) past, present or future infringement or dilution of any Trademark now or hereafter owned by any Grantor or licensed under a Trademark License or injury to the goodwill associated with or symbolized by any Trademark now or hereafter owned by any Grantor, (iii) past, present or future breach of any License and (iv) past, present or future infringement of any Copyright now or hereafter owned by any Grantor or licensed under a Copyright License and (c) any and all other amounts from time to time paid or payable under or in connection with any of the Collateral.

“Secured Parties” shall mean, collectively, the Collateral Agent, the Administrative Agent, the Joint Lead Arrangers, the Co-Documentation Agents, the Syndication Agent, the Lenders, the Hedging Exchangers and the Cash Management Exchangers.

“Security Interest” shall have the meaning assigned to such term in Section 2.01.

“Subsidiary Guarantors” shall have the meaning assigned to such term in the Recitals of this Agreement.

“Trademark License” shall mean any written agreement, now or hereafter in effect, granting to any third party any right to use any Trademark now or hereafter owned by any Grantor or that any Grantor otherwise has the right to license, or granting to any Grantor any right to use any Trademark now or hereafter owned by any third party, and all rights of any Grantor under any such agreement.

“Trademarks” shall mean all of the following now owned in the United States by a Grantor, or with respect to any country other than the United States, registered or recorded by a Grantor and beneficially owned by such Grantor, or hereafter acquired by any Grantor: (a) all trademarks, service marks, trade names, corporate names, company names, business names, fictitious business names, trade styles, trade dress, logos, other source or business identifiers, designs and general intangibles of like nature, now existing or hereafter adopted or acquired, all registrations and recordings thereof, and all registration and recording applications filed in connection therewith, including registrations and registration applications in the United States Patent and Trademark Office, any State of the United States or any similar offices in any other country or any political subdivision thereof, and all extensions or renewals thereof, including those listed on Schedule 15(a) of the Perfection Certificate, (b) all goodwill associated therewith or symbolized thereby and (c) all other assets, rights and interests that uniquely reflect or embody such goodwill.

“UCC” shall mean the Uniform Commercial Code as in effect on the date hereof in the State of New York; provided, however, that if by reason of mandatory provisions of law, any or all of the attachment, perfection or priority of the Collateral Agent’s and the Secured Parties’ security interest in any item or portion of the Collateral is governed by the Uniform Commercial Code as in effect in a jurisdiction other than the State of New York, the term “UCC” shall mean the Uniform Commercial Code as in effect on the date hereof in such other jurisdiction for purposes of the provisions hereof relating to such attachment, perfection or priority and for purposes of definitions relating to such provisions.

SECTION 1.04. *Rules of Construction.* Unless the context otherwise requires:

- (1) a term has the meaning assigned to it;
  - (2) an accounting term not otherwise defined has the meaning assigned to it in accordance with GAAP;
  - (3) “or” is not exclusive;
  - (4) words in the singular include the plural, and in the plural include the singular;
- or
- (5) provisions apply to successive events and transactions.

SECTION 1.05. [Reserved].

## ARTICLE II

### *Security Interest*

SECTION 2.01. *Security Interest.* (a) As security for the payment or performance, as the case may be, in full of the Obligations, each Grantor hereby conveys, assigns, sets over, mortgages, pledges, hypothecates and transfers to the Collateral Agent and its successor and assigns, for the ratable benefit of the Secured Parties, and hereby grants to the Collateral Agent for the ratable benefit of the Secured Parties, a security interest in, all of such Grantor’s right, title and interest in, to and under the Collateral. The Liens granted hereunder to secure the Obligations are referred to herein as the “Security Interest”.

(b) Without limiting the foregoing, the Collateral Agent is hereby authorized to file one or more financing statements (including fixture filings), continuation statements, filings with the United States Patent and Trademark Office, United States Copyright Office or United States Plant Variety Protection Office (or any successor office or any similar office in any other country) or other documents for the purpose of perfecting, confirming, continuing, enforcing or protecting the Security Interest granted by each Grantor, without the signature of any Grantor, and naming any Grantor or the Grantors as debtors and the Collateral Agent as secured party.

SECTION 2.02. *No Assumption of Liability.* The Security Interest is granted as security only and shall not subject the Collateral Agent or any other Secured Party to, or in any way alter or modify, any obligation or liability of any Grantor with respect to or arising out of the Collateral.

## ARTICLE III

### *Representations and Warranties*

The Grantors jointly and severally represent and warrant to the Collateral Agent and the Secured Parties that:

SECTION 3.01. *Title and Authority.* Except as otherwise disclosed in the Transaction Documents or Schedule 4.12(h) attached hereto, each Grantor has good and valid title to (or other

similar title in jurisdictions outside the United States of America) or other personal property interests in, or is licensed to use, all its material personal properties and assets, except for minor defects in title that do not interfere with its ability to conduct its business as currently conducted or to utilize such personal property and assets for their intended purposes and except where the failure to have such title, individually or in the aggregate, could not reasonably be expected to have a Material Adverse Effect. All such material personal property and assets are free and clear of Liens, other than Permitted Liens.

**SECTION 3.02. Filings.** (a) All information set forth herein and in the Perfection Certificate, including the Schedules annexed hereto and thereto, has been duly prepared, completed and executed and the information set forth herein and therein is correct and complete. Except with regard to foreign Intellectual Property, the Collateral described on the Schedules annexed to the Perfection Certificate constitutes all of the property of such type of Collateral owned or held by the Grantors. Fully completed UCC financing statements (including fixture filings, as applicable) or other appropriate filings, recordings or registrations containing a description of the Collateral have been delivered to the Collateral Agent for filing in each governmental, municipal or other office specified in Schedule 7 to the Perfection Certificate, which, except with regard to foreign Intellectual Property, are all the filings, recordings and registrations that are necessary to publish notice of and protect the validity of and to establish a legal, valid and perfected security interest in favor of the Collateral Agent (for the benefit of the Secured Parties, in respect of all Collateral in which the Security Interest may be perfected by filing, recording or registration under Article 9 of the UCC in the United States (or any political subdivision thereof) and its territories and possessions, and, no further or subsequent filing, re-filing, re-recording, rerecording, registration or reregistration under Article 9 of the UCC is necessary in any such jurisdiction, except as provided under applicable law with respect to the filing of continuation statements.

(b) Each Grantor represents and warrants that fully executed security agreements in the form hereof and containing a description of all Collateral consisting of Intellectual Property with respect to United States Patents, United States registered Trademarks (and Trademarks for which United States registration applications are pending) and with respect to United States registered Copyrights and United States Plant Variety Protection Certificates have been delivered to the Collateral Agent for registration with the United States Patent and Trademark Office and for recordation with the United States Copyright Office and the United States Plant Variety Protection Office pursuant to 35 U.S.C. § 261, 15 U.S.C. § 1060, 17 U.S.C. § 205 or 7 U.S.C. § 2531 and the regulations thereunder, as applicable, and otherwise as may be required pursuant to the laws of any other necessary jurisdiction to protect the validity of and to establish a legal, valid and perfected security interest in favor of the Collateral Agent for the benefit of the Secured Parties in respect of all Collateral consisting of Patents, Trademarks, Copyrights and Plant Variety Protection Certificates in which a security interest may be perfected by filing, recording or registration in the United States (or any political subdivision thereof) and its territories and possessions, and, except with regard to foreign Intellectual Property, no further or subsequent filing, re-filing, recording, prerecording, registration or preregistration is necessary (other than such actions as are necessary to perfect the Security Interest with respect to any Collateral consisting of Patents, Trademarks, Copyrights and Plant Variety Protection Certificates (or registration or application for registration thereof) acquired or developed after the date hereof).

**SECTION 3.03. Validity of Security Interest.** The Security Interest constitutes (a) a legal and valid security interest under New York law in all the Collateral securing the payment and performance of the Obligations, (b) subject to the filings described in Section 3.02 above, a perfected security interest in all Collateral in which a security interest may be perfected by filing, recording or registering a financing statement or analogous document in the United States (or any political subdivision

thereof) and its territories and possessions pursuant to the UCC in such jurisdictions, (c) a security interest that shall be perfected in all Collateral in which a security interest may be perfected upon the receipt and registering and recording of this Agreement with the United States Patent and Trademark Office and the United States Copyright Office and the United States Plant Variety Protection Office, as applicable, and (d) a perfected Security Interest in all Collateral in which a security interest may be perfected by possession or control by the Collateral Agent, in each case, to the extent required pursuant to the provisions hereof. The Security Interest is and shall be prior to any other Lien on any of the Collateral, other than Prior Liens and Permitted Liens of the type described in Section 6.02 of the Credit Agreement ("Permitted Collateral Liens").

**SECTION 3.04. *Limitations on and Absence of Other Liens.*** The Collateral is owned by the Grantors free and clear of any Lien, except for Permitted Collateral Liens. The Grantors have not filed or consented to the filing of (a) any financing statement or analogous document under the UCC or any other applicable laws covering any Collateral, (b) any assignment in which any Grantor assigns any Collateral or any security agreement or similar instrument covering any Collateral with the United States Patent and Trademark Office, the United States Copyright Office and the United States Plant Variety Protection Office or (c) any assignment in which any Grantor assigns any Collateral or any security agreement or similar instrument covering any Collateral with any foreign governmental, municipal or other office, which financing statement or analogous document, assignment, security agreement or similar instrument is still in effect, except, in each case, for Permitted Collateral Liens.

**SECTION 3.05. *Other Actions.*** In order to further ensure the attachment, perfection and priority of, and the ability of the Collateral Agent to enforce, the Collateral Agent's security interest in the Collateral, each Grantor agrees, in each case at such Grantor's own expense, to take the following actions with respect to the following Collateral:

(a) ***Instruments and Tangible Chattel Paper.*** As of the date hereof, each Instrument and each item of Tangible Chattel Paper specified in Schedule 13 to the Perfection Certificate has been properly endorsed, assigned and delivered to the Collateral Agent, and, if necessary, accompanied by instruments of transfer or assignment duly executed in blank. If any amount individually or in the aggregate in excess of \$100,000 payable under or in connection with any of the Collateral shall be evidenced by any Instrument or Tangible Chattel Paper, the Grantor acquiring such Instrument or Tangible Chattel Paper shall, on a quarterly basis, notify the Collateral Agent thereof and on an annual basis (unless earlier requested by the Collateral Agent) endorse, assign and deliver the same to the Collateral Agent, accompanied by such instruments of transfer or assignment duly executed in blank as the Collateral Agent may from time to time reasonably request; provided, however, that so long as no Event of Default shall have occurred and be continuing, the Collateral Agent shall return such Instrument or Tangible Chattel Paper to such Grantor from time to time, to the extent necessary for collection in the ordinary course of such Grantor's business.

(b) ***Deposit Accounts.*** No Grantor shall hereafter establish and maintain any Deposit Account unless (1) the applicable Grantor shall have given the Collateral Agent 30 days' prior written notice (or such shorter period as the Collateral Agent shall agree to) of its intention to establish such new Deposit Account with a Bank, (2) such Bank shall be reasonably acceptable to the Collateral Agent and (3) such Bank and such Grantor shall have duly executed and delivered to the Collateral Agent a Control Agreement with respect to such Deposit Account. The Collateral Agent agrees with each Grantor that the Collateral Agent shall not give any instructions directing the disposition of funds from time to time credited to any De-

posit Account or withhold any withdrawal rights from such Grantor with respect to funds from time to time credited to any Deposit Account unless an Event of Default of the type specified in Section 7.01(a) of the Credit Agreement has occurred or upon the occurrence of the Loans or other Obligations becoming declared immediately due and payable and/or the Commitments being declared terminated. No Grantor shall grant Control of any Deposit Account to any Person other than the Collateral Agent.

(c) *Investment Property.* (i) If any Grantor shall at any time hold or acquire any certificated securities constituting Investment Property that are not Pledged Securities under the Pledge Agreement, such Grantor shall immediately endorse, assign and deliver the same to the Collateral Agent, accompanied by such instruments of transfer or assignment duly executed in blank, all in form and substance reasonably satisfactory to the Collateral Agent; provided, that in no event shall such Grantor be required to pledge more than 65% of the voting stock of any non-U.S. Subsidiary. If any securities now or hereafter acquired by any Grantor constituting Investment Property that are not Pledged Securities under the Pledge Agreement are uncertificated, such Grantor shall promptly notify the Collateral Agent thereof and use its commercially reasonable efforts to, within five (5) Business Days and in any event no later than 30 days (except where legally prohibited therefrom), pursuant to an agreement in form and substance satisfactory to the Collateral Agent, either (at such Grantor's option) (a) cause the issuer to agree to comply with instructions from the Collateral Agent as to such securities, without further consent of any Grantor, or (b) arrange for the Collateral Agent to become the registered owner of the securities. No Grantor shall hereafter establish and maintain any Securities Account or Commodity Account with any Securities Intermediary or Commodity Intermediary unless (1) the applicable Grantor shall have given the Collateral Agent 30 days' prior written notice of its intention to establish such new Securities Account or Commodity Account with such Securities Intermediary or Commodity Intermediary and (2) such Securities Intermediary or Commodity Intermediary, as the case may be, and such Grantor shall have duly executed and delivered a Control Agreement with respect to such Securities Account or Commodity Account, as the case may be. Each Grantor shall accept any cash and Investment Property (not subject to the Pledge Agreement) in trust for the benefit of the Collateral Agent and within five (5) Business Days of actual receipt thereof, deposit such Investment Property and any new securities, instruments, documents or other Investment Property by reason of ownership of such Investment Property received by it into a Securities Account or Commodity Account subject to a Control Agreement in favor of the Collateral Agent. The Collateral Agent agrees with each Grantor that the Collateral Agent shall not give any Entitlement Orders or instructions or directions to any issuer of uncertificated securities, Securities Intermediary or Commodity Intermediary, and shall not withhold its consent to the exercise of any withdrawal or dealing rights by such Grantor, unless an Event of Default has occurred and is continuing. No Grantor shall grant control over any Investment Property to any Person other than the Collateral Agent.

(ii) Each Grantor shall promptly pay all Charges and fees with respect to the Investment Property pledged by it under this Agreement. In the event any Grantor shall fail to make such payment contemplated in the immediately preceding sentence, the Collateral Agent may do so for the account of such Grantor and the Grantors shall promptly reimburse and indemnify the Collateral Agent from all costs and expenses incurred by the Collateral Agent under this Section 3.05(c).

(d) *Electronic Chattel Paper and Transferable Records.* If any amount individually or in the aggregate in excess of \$100,000 payable under or in connection with any of the Collateral shall be evidenced by any Electronic Chattel Paper or any "transferable record," as that term is defined in Section 201 of the Federal Electronic Signatures in Global and National Commerce Act, or in Section 16 of the Uniform Electronic Transactions Act as in effect in any relevant jurisdiction, the Grantor acquiring such Electronic Chattel Paper or transferable record shall, on a quarterly basis, notify the Collateral Agent thereof and shall, on an annual basis (unless earlier requested by the Collateral Agent), take such action as the Collateral Agent may reasonably request to vest in the Collateral Agent control under UCC Section 9-105 of such Electronic Chattel Paper or control under Section 201 of the Federal Electronic Signatures in Global and National Commerce Act or, as the case may be, Section 16 of the Uniform Electronic Transactions Act, as so in effect in such jurisdiction, of such transferable record. The Collateral Agent agrees with such Grantor that the Collateral Agent will arrange, pursuant to procedures satisfactory to the Collateral Agent and so long as such procedures will not result in the Collateral Agent's loss of control, for the Grantor to make alterations to the Electronic Chattel Paper or transferable record permitted under UCC Section 9-105 or, as the case may be, Section 201 of the Federal Electronic Signatures in Global and National Commerce Act or Section 16 of the Uniform Electronic Transactions Act for a party in control to allow without loss of control, unless an Event of Default has occurred and is continuing or would occur after taking into account any action by such Grantor with respect to such Electronic Chattel Paper or transferable record.

(e) *Letter-of-Credit Rights.* If any Grantor is at any time a beneficiary under a Letter of Credit now or hereafter issued in favor of such Grantor in an amount individually in excess of \$250,000 or in the aggregate in excess of \$1,000,000, such Grantor shall notify the Collateral Agent on a quarterly basis thereof and such Grantor shall, annually (unless the Collateral Agent requests otherwise) pursuant to an agreement in form and substance reasonably satisfactory to the Collateral Agent, either (at the option of such Grantor) (i) arrange for the issuer and any confirmer of such Letter of Credit to consent to an assignment to the Collateral Agent of the proceeds of any drawing under the Letter of Credit or (ii) arrange for the Collateral Agent to become the transferee beneficiary of such Letter of Credit, with the Collateral Agent agreeing, in each case, that the proceeds of any drawing under the Letter of Credit are to be applied as provided in the Collateral Sharing Agreement.

(f) *Commercial Tort Claims.* As of the date hereof each Grantor hereby represents and warrants that it holds no Commercial Tort Claims other than those listed in Schedule II hereto. If any Grantor shall at any time hold or acquire a Commercial Tort Claim having a value individually or in the aggregate in excess of \$1,000,000, such Grantor shall, on a quarterly basis, notify the Collateral Agent in writing signed by such Grantor of the brief details thereof and, on an annual basis (unless earlier requested by the Collateral Agent) grant to the Collateral Agent in such writing a security interest therein and in the Proceeds thereof, all upon the terms of this Agreement, with such writing to be in form and substance satisfactory to the Collateral Agent.

SECTION 3.06. [Reserved].

SECTION 3.07. [Reserved].

**SECTION 3.08.** *Condition and Maintenance of Equipment.* The Equipment of such Grantor is in good repair, working order and condition, reasonable wear and tear excepted. Each Grantor shall cause the Equipment to be maintained and preserved in good repair, working order and condition, reasonable wear and tear excepted, and shall as quickly as commercially practicable make or cause to be made all repairs, replacements and other improvements which are necessary or appropriate in the conduct of such Grantor's business.

**SECTION 3.09.** *No Conflicts, Consents, etc.* In the event that the Collateral Agent desires to exercise any remedies, voting or consensual rights or attorney-in-fact powers set forth in this Agreement and determines it necessary to obtain any approvals or consents of any Governmental Authority or any other Person therefor, then, upon the reasonable request of the Collateral Agent, such Grantor agrees to use its reasonable best efforts to assist and aid the Collateral Agent to obtain as soon as practicable any necessary approvals or consents for the exercise of any such remedies, rights and powers.

## ARTICLE IV

### *Covenants*

**SECTION 4.01.** *Change of Name; Location of Collateral; Records; Place of Business.*

(a) Each Grantor agrees promptly to notify the Collateral Agent in writing of any change in corporate name or its "location" for purposes of Section 9-307 of the UCC. Each Grantor agrees not to effect or permit any change referred to in the preceding sentence unless all filings have been made under the UCC that are required in order for the Collateral Agent to continue at all times following such change to have a valid, legal and perfected first priority security interest in all the Collateral subject to no Liens other than Prior Liens, Permitted Collateral Liens and Liens for the benefit of the Secured Parties.

(b) Each Grantor agrees to maintain, at its own cost and expense, such complete and accurate records with respect to the Collateral owned by it as is consistent with its current practices and, at such time or times as the Collateral Agent may reasonably request (but unless an Event of Default is continuing not more than once in any fiscal quarter), promptly to prepare and deliver to the Collateral Agent a duly certified schedule or schedules in form and detail reasonably satisfactory to the Collateral Agent showing the identity, amount and location of any and all Collateral.

**SECTION 4.02.** *Protection of Security.* Each Grantor shall, at its own cost and expense, take any and all actions necessary and reasonable to defend title to the Collateral against all Persons and to defend the Security Interest of the Collateral Agent in the Collateral and the priority thereof against any Lien other than Prior Liens and Permitted Collateral Liens.

**SECTION 4.03.** *Further Assurances.* Each Grantor agrees, at its own expense, to execute, acknowledge, deliver and cause to be duly filed all such further instruments and documents and take all such actions as the Collateral Agent may from time to time reasonably request to better assure, preserve, protect and perfect the Security Interest and the rights and remedies created hereby, including the payment of any fees and taxes required in connection with the execution and delivery of this Agreement, the granting of the Security Interest and the filing of any financing statements (including fixture filings) or other documents in connection herewith or therewith.



**SECTION 4.04. *Inspection and Verification.*** The Collateral Agent and such Persons as the Collateral Agent may reasonably designate shall have the right, at the Grantors' own cost and expense, to at all reasonable times and upon reasonable prior notice inspect the Collateral, all records related thereto (and to make extracts and copies from such records) and the premises upon which any of the Collateral is located in each case during business hours. The Collateral Agent shall have the absolute right to share any information it gains from such inspection or verification with any Secured Party (subject to Section 10.16 of the Credit Agreement).

**SECTION 4.05. *Taxes; Encumbrances.*** At its option, the Collateral Agent may discharge past due taxes, assessments, charges, fees, Liens, security interests or other encumbrances at any time levied or placed on the Collateral except to the extent the same constitute Prior Liens or Permitted Collateral Liens, and may pay for the maintenance and preservation of the Collateral to the extent any Grantor fails to do so as required by this Agreement (in each case with reasonable prior notice to such Grantor), and each Grantor jointly and severally agrees to reimburse the Collateral Agent on demand for any payment made or any expense incurred by the Collateral Agent pursuant to the foregoing authorization; provided, however, that nothing in this Section 4.05 shall be interpreted as excusing any Grantor from the performance of, or imposing any obligation on the Collateral Agent or any Secured Party to cure or perform, any covenants or other promises of any Grantor with respect to taxes, assessments, charges, fees, liens, security interests or other encumbrances and maintenance as set forth herein or in the other Loan Documents.

**SECTION 4.06. *Assignment of Security Interest.*** If at any time any Grantor shall take a security interest in any property of an Account Debtor or any other Person to secure payment and performance of an Account in an amount in excess of \$100,000, such Grantor shall promptly assign such security interest to the Collateral Agent. Such assignment need not be filed of public record unless necessary to continue the perfected status of the security interest against creditors of and transferees from the Account Debtor or other Person granting the security interest.

**SECTION 4.07. *Continuing Obligations of the Grantors.*** Each Grantor shall remain liable to observe and perform all the conditions and obligations to be observed and performed by it under each contract, agreement or instrument relating to the Collateral, all in accordance with the terms and conditions thereof, and each Grantor jointly and severally agrees to indemnify and hold harmless the Collateral Agent and the Secured Parties from and against any and all liability for such performance.

**SECTION 4.08. *Use and Disposition of Collateral.*** None of the Grantors shall make or permit to be made an assignment for security, pledge or hypothecation of the Collateral or shall grant any other Lien in respect of the Collateral other than Liens securing the Obligations, Prior Liens and Permitted Collateral Liens.

**SECTION 4.09. *Limitation on Modification of Accounts.*** None of the Grantors will, without the Collateral Agent's prior written consent, grant any extension of the time of payment of any of the Accounts Receivable, compromise, compound or settle the same for less than the full amount thereof, release, wholly or partly, any Person liable for the payment thereof or allow any credit or discount whatsoever thereon, other than extensions, credits, discounts, compromises or settlements granted or made in the ordinary course of business and consistent with its current practices and in accordance with such prudent and standard practices used in industries that are the same as or similar to those in which such Grantor is engaged.

**SECTION 4.10. Insurance.** The Grantors, at their own expense, shall maintain or cause to be maintained insurance covering physical loss or damage to the Inventory and Equipment in accordance with Section 5.04 of the Credit Agreement. Each Grantor irrevocably makes, constitutes and appoints the Collateral Agent (and all officers, employees or agents designated by the Collateral Agent) as such Grantor's true and lawful agent (and attorney-in-fact) for the purpose, during the continuance of an Event of Default, of making, settling and adjusting claims in respect of Collateral under policies of insurance, endorsing the name of such Grantor on any check, draft, instrument or other item of payment for the proceeds of such policies of insurance and for making all determinations and decisions with respect thereto. In the event that any Grantor at any time or times shall fail to obtain or maintain any of the policies of insurance required hereby or to pay any premium in whole or part relating thereto, the Collateral Agent may, without waiving or releasing any obligation or liability of the Grantors hereunder or any Event of Default, in its sole discretion, obtain and maintain such policies of insurance and pay such premium and take any other actions with respect thereto as the Collateral Agent deems advisable. All sums disbursed by the Collateral Agent in connection with this Section 4.10, including reasonable attorneys' fees, court costs, expenses and other charges relating thereto, shall be payable, upon demand, by the Grantors to the Collateral Agent and shall be additional Obligations secured hereby ratably and in the same priority as the original Obligations. So long as no Event of Default has occurred and is continuing, all actions to be taken with respect to the making, settling and adjusting of claims under insurance policies may be taken by the Grantors without any requirement of participation or consent from the Collateral Agent and all proceeds received from any insurance with respect to any claim may be paid directly to the applicable Grantor to be applied in accordance with the provisions of Section 6.02 hereof.

**SECTION 4.11.** [Reserved].

**SECTION 4.12. Certain Covenants and Provisions Regarding Patent, Trademark and Copyright Collateral.** (a) Each Grantor agrees that it will not, nor will it permit any of its licensees to, do any act, or omit to do any act, whereby any Patent which is material to the conduct of such Grantor's business may become invalidated or dedicated to the public, and agrees that it shall continue to mark any products covered by a Patent with the relevant patent number as necessary and sufficient to establish and preserve its maximum rights under applicable patent laws.

(b) Each Grantor (either itself or through its licensees or its sublicenses) will, for each Trademark material to the conduct of such Grantor's business, use its commercially reasonable efforts to (i) maintain such Trademark in full force free from any claim of abandonment or invalidity for non-use, (ii) maintain the quality of products and services offered under such Trademark, (iii) display such Trademark with notice of Federal or foreign registration to the extent necessary and sufficient to establish and preserve its rights under applicable law and (iv) not knowingly use or knowingly permit the use of such Trademark in violation of any third party rights.

(c) Each Grantor (either itself or through licensees) will, for each work covered by a material Copyright, publish, reproduce, display, adopt and distribute such work with such appropriate copyright notice as necessary and sufficient to establish and preserve its maximum rights under applicable copyright laws.

(d) Each Grantor shall notify the Collateral Agent as soon as practicable if it knows or has reason to know that any Patent, Trademark, Copyright or Plant Variety Protection Certificate material to the conduct of its business may become abandoned, lost or dedicated to the public, or of any adverse determination or development including the institution of, or any such determination or devel-

opment in, any proceeding in the United States Patent and Trademark Office, United States Copyright Office, United States Plant Variety Protection Office (or any court or similar office of any country) regarding such Grantor's ownership of any Patent, Trademark, Copyright, or Plant Variety Protection Certificate, or its right to register the same, or to keep and maintain the same.

(e) In the event that any Grantor, either itself or through any agent, employee, licensee or designee, files an application for any Patent, Trademark, Copyright or Plant Variety Protection Certificate (or for the registration of any Trademark, Copyright or Plant Variety Protection Certificate) with the United States Patent and Trademark Office, United States Copyright Office, United States Plant Variety Protection Office or any office or agency in any political subdivision of the United States or in any other country or any political subdivision thereof, such Grantor shall notify the Collateral Agent on a quarterly basis thereof, and, on an annual basis (or upon the earlier written request of the Collateral Agent), execute and deliver any and all agreements, instruments, documents and papers as the Collateral Agent may reasonably request to evidence the Collateral Agent's security interest in such Patent, Trademark, Copyright or Plant Variety Protection Certificate or application therefor, and each Grantor hereby appoints the Collateral Agent as its attorney-in-fact to execute and file such writings solely for the foregoing purposes, all acts of such attorney being hereby ratified and confirmed; such power, being coupled with an interest, is irrevocable.

(f) Each Grantor will take all necessary steps that are consistent with its reasonable business judgment in any proceeding before the United States Patent and Trademark Office, United States Copyright Office, United States Plant Variety Protection Office or any office or agency in any political subdivision of the United States or in any other country or any political subdivision thereof, to maintain and pursue each material application relating to the Patents, Trademarks, Copyrights and/or Plant Variety Protection Certificate (and to obtain the relevant grant or registration) and to maintain each issued Patent and each registration of the Trademarks, Copyrights or Plant Variety Protection Certificate that is material to the conduct of any Grantor's business, including timely filings of applications for renewal, affidavits of use, affidavits of incontestability and payment of maintenance fees, and, if consistent with commercially reasonable business judgment, to initiate opposition, interference and cancellation proceedings against third parties.

(g) In the event that any Grantor has reason to believe that any Collateral consisting of a Patent, Trademark, Copyright or Plant Variety Protection Certificate has been or is about to be infringed, misappropriated or diluted by a third party, such Grantor promptly shall notify the Collateral Agent and shall, if consistent with commercially reasonable business judgment, promptly sue for infringement, misappropriation or dilution and to recover any and all damages for such infringement, misappropriation or dilution, and take such other actions as are reasonably appropriate under the circumstances to protect such Collateral.

(h) To each Grantor's knowledge, on and as of the date hereof, such Grantor is not infringing upon any Patent, Trademark, Copyright or Plant Variety Protection Certificate of any other Person other than such infringement that, individually or in the aggregate, would not (or would not reasonably be expected to) result in a material adverse effect on the value or utility of the Collateral consisting of Intellectual Property or any portion thereof material to the use and operation of the Collateral and no proceedings have been instituted or are pending against such Grantor or, to such Grantor's knowledge, threatened, and no claim against such Grantor has been received by such Grantor, alleging any such violation, except as may be set forth in Schedule 4.12(h).

(i) Upon and during the continuance of an Event of Default, each Grantor shall upon the written request of the Collateral Agent use its commercially reasonable efforts to obtain all requisite consents or approvals by the licensor of each Copyright License, Patent License or Trademark License to effect the assignment of all of such Grantor's right, title and interest thereunder to the Collateral Agent or its designee.

Notwithstanding anything herein to the contrary, any Grantor may, for commercially reasonable cause, abandon or allow to become lost or dedicated to the public any Patent, Trademark, Copyright or Plant Variety Protection Certificate.

## ARTICLE V

### *Remedies*

SECTION 5.01. *Remedies upon Default.* Upon the occurrence and during the continuance of an Event of Default, each Grantor agrees upon written request to deliver each item of Collateral at such place or places reasonably convenient to such Grantor and the Collateral Agent, and it is agreed that the Collateral Agent shall have the right to take any of or all the following actions at the same or different times: (a) with respect to any Collateral consisting of Intellectual Property, on demand, to cause the Security Interest to become an assignment, transfer and conveyance of any of or all such Collateral by the applicable Grantors to the Collateral Agent, or to license or sublicense, whether general, special or otherwise, and whether on an exclusive or nonexclusive basis, any such Collateral throughout the world on such terms and conditions and in such manner as the Collateral Agent shall determine (other than in violation of applicable law or any then existing licensing arrangements to the extent that waivers cannot be obtained), and (b) with or without legal process and with or without prior notice or demand for performance, to take possession of the Collateral and without liability for trespass to enter any premises where the Collateral may be located for the purpose of taking possession of or removing the Collateral and, generally, to exercise any and all rights afforded to a secured party under the UCC or other applicable law. Without limiting the generality of the foregoing, each Grantor agrees that the Collateral Agent shall have the right, subject to the mandatory requirements of applicable law, to sell or otherwise dispose of all or any part of the Collateral, at public or private sale or at any broker's board or on any securities exchange, for cash, upon credit or for future delivery as the Collateral Agent shall deem appropriate. The Collateral Agent shall be authorized at any such sale (if it deems it advisable to do so) to restrict the prospective bidders or purchasers to Persons who will represent and agree that they are purchasing the Collateral for their own account for investment and not with a view to the distribution or sale thereof, and upon consummation of any such sale the Collateral 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 any Grantor, and each Grantor hereby waives (to the extent permitted by law) all rights of redemption, stay and appraisal which such Grantor now has or may at any time in the future have under any rule of law or statute now existing or hereafter enacted.

The Collateral Agent shall give a Grantor ten (10) Business Days' prior written notice (which each Grantor agrees is reasonable notice within the meaning of Section 9-611 of the UCC) of the Collateral Agent's intention to make any sale or other disposition of such Grantor's Collateral. Such notice, in the case of a public sale, shall state the time and place for such sale and, in the case of a sale at a broker's board or on a securities exchange, shall state the board or exchange at which such sale is to be made and the day on which the Collateral, or portion thereof, will first be offered for sale at such board or exchange. Any such public sale shall be held at such time or times within ordinary business

hours and at such place or places as the Collateral Agent may fix and state in the notice of such sale. At any such sale, the Collateral, or portion thereof, to be sold may be sold in one lot as an entirety or in separate parcels, as the Collateral Agent may (in its sole and absolute discretion) determine. The Collateral Agent shall not be obligated to make any sale of any Collateral if it shall determine not to do so, regardless of the fact that notice of sale of such Collateral shall have been given. The Collateral Agent may, without notice or publication, adjourn any public or private sale or cause the same to be adjourned from time to time by announcement at the time and place fixed for sale, and such sale may, without further notice, be made at the time and place to which the same was so adjourned. In case any sale of all or any part of the Collateral is made on credit or for future delivery, the Collateral so sold may be retained by the Collateral Agent until the sale price is paid by the purchaser or purchasers thereof, but the Collateral Agent shall not incur any liability in case any such purchaser or purchasers shall fail to take up and pay for the Collateral so sold and, in case of any such failure, such Collateral may be sold again upon like notice. At any public (or, to the extent permitted by law, private) sale made pursuant to this Section, any Secured Party may bid for or purchase, free (to the extent permitted by law) from any right of redemption, stay, valuation or appraisal on the part of any Grantor (all said rights being also hereby waived and released), the Collateral or any part thereof offered for sale and may make payment on account thereof by using any Obligation then due and payable to such Secured Party from any Grantor as a credit against the purchase price, and such Secured Party may, upon compliance with the terms of sale, hold, retain and dispose of such property without further accountability to any Grantor therefor. For purposes hereof, a written agreement to purchase the Collateral or any portion thereof shall be treated as a sale thereof; the Collateral Agent shall be free to carry out such sale pursuant to such agreement and no Grantor shall be entitled to the return of the Collateral or any portion thereof subject thereto, notwithstanding the fact that after the Collateral Agent shall have entered into such an agreement all Events of Default shall have been remedied and the Obligations paid in full. As an alternative to exercising the power of sale herein conferred upon it, the Collateral Agent may proceed by a suit or suits at law or in equity to foreclose this Agreement and to sell the Collateral or any portion thereof pursuant to a judgment or decree of a court or courts having competent jurisdiction or pursuant to a proceeding by a court-appointed receiver. Any sale pursuant to the provisions of this Section shall be deemed to conform to the commercially reasonable standards as provided in Section 9-611 of the UCC.

SECTION 5.02. *Application of Proceeds.* The proceeds of any sale of Collateral pursuant to Section 5, as well as any Collateral consisting of cash, shall be applied by the Collateral Agent as provided in the Collateral Sharing Agreement.

SECTION 5.03. *Grant of License to Use Intellectual Property.* For the purpose of enabling the Collateral Agent to exercise rights and remedies under this Article at such time as the Collateral Agent shall be lawfully entitled to exercise such rights and remedies, each Grantor hereby grants to the Collateral Agent an irrevocable, nonexclusive license (exercisable without payment of royalty or other compensation to the Grantors) to use, license or sublicense any of the Collateral, except to the extent that such license may not be granted as a result of a pre-existing exclusive license arrangement, consisting of Intellectual Property now owned or hereafter acquired by such Grantor, and wherever the same may be located, and including in such license reasonable access to all media in which any of the licensed items may be recorded or stored and to all computer software and programs used for the compilation or printout thereof. The use of such license by the Collateral Agent shall be exercised, at the option of the Collateral Agent, upon the occurrence and during the continuation of an Event of Default; provided that any license, sublicense or other transaction entered into by the Collateral Agent in accordance herewith shall be binding upon the Grantors notwithstanding any subsequent cure of an Event of Default.

## ARTICLE VI

### COLLATERAL ACCOUNT

SECTION 6.01. *Establishment of Collateral Account.* (a) The Collateral Agent is hereby authorized to establish and maintain at its office at 390 Greenwich Street, New York, New York 10013, in the name of the Collateral Agent and pursuant to a Control Agreement, a restricted deposit account designated "Seminis Vegetable Seeds, Inc. Collateral Account." Each Grantor shall deposit into the Collateral Account from time to time all amounts required to be deposited in the Collateral Account by the Credit Agreement and any amounts specifically required to be deposited therein by any other Loan Documents.

(b) The balance from time to time in the Collateral Account shall constitute part of the Collateral and shall not constitute payment of the Obligations until applied as hereinafter provided. So long as no Event of Default has occurred and is continuing or will result therefrom and to the extent Grantor is not required to repay debt under any Loan Documents, the Collateral Agent shall within two Business Days of receiving a request of the applicable Grantor for release of cash proceeds constituting (A) Net Proceeds from any Destruction or Taking from the Collateral Account remit such cash proceeds on deposit in the Collateral Account to or upon the order of such Grantor, so long as such Grantor has satisfied the conditions relating thereto set forth in Section 6.02 hereof and, (B) Net Proceeds from any Asset Sale from the Collateral Account, remit such cash proceeds on deposit in the Collateral Account, so long as such Guarantor has satisfied the conditions relating thereto set forth in Section 6.02 hereof. At any time following the occurrence and during the continuance of an Event of Default, the Collateral Agent may (and, if instructed by the Requisite Obligees as specified in the Collateral Sharing Agreement, shall) in its (or their) discretion apply or cause to be applied (subject to collection) the balance from time to time outstanding to the credit of the Collateral Account to the payment of the Obligations in the manner specified in the Collateral Sharing Agreement; provided, however, notwithstanding the foregoing, moneys deposited in the Collateral Account pursuant to Section 2.06(j) of the Credit Agreement shall be held and applied as set forth therein.

(c) Amounts on deposit in the Collateral Account shall be invested from time to time in Permitted Investments as the applicable Grantor (or, after the occurrence and during the continuance of an Event of Default, the Collateral Agent) shall determine, which Permitted Investments shall be held in the name and be under the control of the Collateral Agent (or any subagent); provided, that at any time after the occurrence and during the continuance of an Event of Default, the Collateral Agent may (and, if instructed by the Requisite Obligees as specified in the Collateral Sharing Agreement, shall) in its (or their) discretion at any time and from time to time elect to liquidate any such Permitted Investments and to apply or cause to be applied the proceeds thereof to the payment of the Obligations in the manner specified in the Collateral Sharing Agreement.

SECTION 6.02. *Proceeds of Destruction, Taking and Excluded Asset Sale.* (a) So long as no Default or Event of Default shall have occurred and be continuing, and to the extent the applicable Grantor is permitted by Section 2.05(c)(iii) or (iv) of the Credit Agreement to apply any Net Proceeds as contemplated therein, in the event there shall be any Net Proceeds in respect of any Taking or any Destruction or from any Asset Sale, the applicable Grantor shall have the right, at such Grantor's option, to apply such Net Proceeds within the time periods provided in Section 2.05(c)(iii) or (iv) of the Credit Agreement for purposes permitted thereby and the Collateral Agent shall release such Net Proceeds to such Grantor in accordance with the provisions of Section 6.01(b) hereof.

(b) Notwithstanding Section 6.02(a), the Collateral Agent shall not release any amounts in the Cash Collateral Account constituting Net Proceeds of a Taking or Destruction or from an Asset Sale, until the applicable Grantor has furnished to the Collateral Agent an Officers' Certificate, at least ten (10) days' prior to the proposed date of release, setting forth: (1) a brief description of the application to be made (including the dollar amount thereof), (2) to the extent the application is a reinvestment in properties or assets, such reinvestment properties or assets will be Collateral to the extent required by the Credit Agreement and all security agreements and mortgages and other items required to subject such reinvestment properties or assets to the Lien of this Agreement in favor of the Collateral Agent, for its benefit and for the benefit of the other Secured Parties, shall be accomplished at the times required hereby and by Section 5.11 of the Credit Agreement and (3) the reinvestment otherwise complies with the terms of the Credit Agreement.

SECTION 6.03. [Reserved].

## ARTICLE VII

### *Miscellaneous*

SECTION 7.01. *Notices.* All communications and notices hereunder shall (except as otherwise expressly permitted herein) be in writing and given as provided in Section 10.01 of the Credit Agreement. All communications and notices hereunder to any Subsidiary Guarantor shall be given to it at its address or telecopy number set forth on Schedule I, with a copy to Borrower.

SECTION 7.02. [Reserved].

SECTION 7.03. *Survival of Agreement.* All covenants, agreements, representations and warranties made by any Grantor herein and in the certificates or other instruments prepared or delivered in connection with or pursuant to this Agreement or any other Loan Document shall be considered to have been relied upon by the Collateral Agent and the other Secured Parties and shall survive the making by the Lenders of the Loans and the Lenders' issuance of and participations in Letters of Credit, regardless of any investigation made by the Secured Parties or on their behalf, and shall continue in full force and effect until this Agreement shall terminate.

SECTION 7.04. *Binding Effect.* This Agreement shall become effective as to any Grantor when a counterpart hereof executed on behalf of such Grantor shall have been delivered to the Collateral Agent and a counterpart hereof shall have been executed on behalf of the Collateral Agent, and thereafter shall be binding upon such Grantor and the Collateral Agent and their respective successors and assigns, and shall inure to the benefit of such Grantor, the Collateral Agent and the other Secured Parties and their respective successors and assigns, except that no Grantor shall have the right to assign or transfer its rights or obligations hereunder or any interest herein or in the Collateral (and any such assignment or transfer shall be void) except as expressly permitted by each of the other Loan Documents.

SECTION 7.05. *Successors and Assigns.* Whenever in this Agreement any of the parties hereto is referred to, such reference shall be deemed to include the successors and assigns of such party; and all covenants, promises and agreements by or on behalf of any Grantor or the Collateral Agent that are contained in this Agreement shall bind and inure to the benefit of their respective successors and assigns.

**SECTION 7.06. GOVERNING LAW. THIS AGREEMENT SHALL BE CONSTRUED IN ACCORDANCE WITH AND GOVERNED BY THE LAWS OF THE STATE OF NEW YORK.**

**SECTION 7.07. *Waivers; Amendment; Several Agreement.*** (a) No failure or delay of the Collateral Agent in exercising any power or right hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any such right or power, or any abandonment or discontinuance of steps to enforce such a right or power, preclude any other or further exercise thereof or the exercise of any other right or power. The rights and remedies of the Collateral Agent hereunder and of the other Secured Parties under the other Loan Documents are cumulative and are not exclusive of any rights or remedies that they would otherwise have. No waiver of any provisions of this Agreement or any other Loan Document or consent to any departure by any Grantor therefrom shall in any event be effective unless the same shall be permitted by paragraph (b) below, and then such waiver or consent shall be effective only in the specific instance and for the purpose for which given. No notice to or demand on any Grantor in any case shall entitle such Grantor or any other Grantor to any other or further notice or demand in similar or other circumstances.

(b) Neither this Agreement nor any provision hereof may be waived, amended or modified except pursuant to an agreement or agreements in writing entered into among the Borrower, the Collateral Agent and the Grantors with respect to which such waiver, amendment or modification is to apply, subject to any consents required in accordance with Section 10.08 of the Credit Agreement.

(c) This Agreement shall be construed as a separate agreement with respect to each Grantor and may be amended, modified, supplemented, waived or released with respect to any Grantor without the approval of any other Grantor and without affecting the obligations of any other Grantor hereunder.

**SECTION 7.08. WAIVER OF JURY TRIAL. EACH PARTY HERETO HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION DIRECTLY OR INDIRECTLY ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS AGREEMENT OR ANY OF THE OTHER LOAN DOCUMENTS. EACH PARTY HERETO (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS, AS APPLICABLE, BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION 7.08.**

**SECTION 7.09. *Severability.*** In the event any one or more of the provisions contained in this Agreement should be held invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein shall not in any way be affected or impaired thereby (it being understood that the invalidity of a particular provision in a particular jurisdiction shall not in and of itself affect the validity of such provision in any other jurisdiction). The parties shall endeavor in good-faith negotiations to replace the invalid, illegal or unenforceable provisions with valid provisions the economic effect of which comes as close as possible to that of the invalid, illegal or unenforceable provisions. It is understood and agreed among the parties that this Agreement shall create separate security interests in the Collateral securing the Obligations as pro-



vided in Section 2.01, and that any determination by any court with jurisdiction that the security interest securing any Obligation or class of Obligations is invalid for any reason shall not in and of itself invalidate the Security Interest securing any other Obligations hereunder.

**SECTION 7.10. Counterparts.** This Agreement may be executed in two or more counterparts, each of which shall constitute an original but all of which when taken together shall constitute a single contract and shall become effective as provided in Section 7.04. Delivery of an executed signature page to this Agreement by facsimile transmission shall be effective as delivery of a manually executed counterpart hereof.

**SECTION 7.11. Headings.** Article and Section headings used herein are for the purpose of reference only, are not part of this Agreement and are not to affect the construction of, or to be taken into consideration in interpreting, this Agreement.

**SECTION 7.12. Jurisdiction; Consent to Service of Process.** (a) Each party hereto hereby irrevocably and unconditionally submits, for itself and its property, to the nonexclusive jurisdiction of any New York State court or Federal court of the United States of America sitting in New York City, and any appellate court from any thereof, in any action or proceeding arising out of or relating to this Agreement or the other Loan Documents, or for recognition or enforcement of any judgment, and each of the parties hereto hereby irrevocably and unconditionally agrees that all claims in respect of any such action or proceeding may be heard and determined in such New York State court or, to the extent permitted by law, in such Federal court. Each of the parties hereto agrees that a final judgment in any such action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law. Nothing in this Agreement shall affect any right that the Collateral Agent or any other Secured Party may otherwise have to bring any action or proceeding relating to this Agreement or the other Loan Documents against any Grantor or its properties in the courts of any jurisdiction.

(b) Each party hereto hereby irrevocably and unconditionally waives, to the fullest extent it may legally and effectively do so, any objection which it may now or hereafter have to the laying of venue of any suit, action or proceeding arising out of or relating to this Agreement or the other Loan Documents in any New York State or Federal court referred to in paragraph (c) of this Section. Each of the parties hereto hereby irrevocably waives, to the fullest extent permitted by law, the defense of an inconvenient forum to the maintenance of such action or proceeding in any such court.

(c) Each party to this Agreement irrevocably consents to service of process in the manner provided for notices in Section 7.01. Nothing in this Agreement will affect the right of any party to this Agreement to serve process in any other manner permitted by law.

**SECTION 7.13. Termination.** (a) This Agreement and the Security Interest (i) shall terminate when all the Obligations have been indefeasibly paid in full, the Lenders have not further commitment to lend under the Credit Agreement or to issue or participate in Letters of Credit and the LC Exposure has been reduced to zero (at which time the Collateral Agent shall execute and deliver to the Grantors, at the Grantors' expense, all UCC termination statements and other documents which the Grantors shall reasonably request to evidence such termination) and (ii) shall continue to be effective or shall be reinstated, as the case may be, if at any time any payment in respect of any Obligation is rescinded or must otherwise be restored by any Secured Party upon any bankruptcy or reorganization of any Grantor or otherwise. Any execution and delivery of termination statements or documents pursuant to this Section 7.13(a) shall be without recourse to or warranty by the Collateral Agent. A Sub-

sidiary Guarantor shall automatically be released from its obligations hereunder and the Security Interest in the Collateral of such Subsidiary Guarantor shall be automatically released in the event that the Equity Interests of such Subsidiary Guarantor shall be sold, transferred or otherwise disposed of to a Person that is not an Affiliate of Borrower such that such Person is no longer a Subsidiary of Borrower in accordance with the terms of each Loan Document.

(b) Upon any sale or other transfer by any Grantor of any Collateral that is permitted under each Loan Document or, upon the effectiveness of any written consent to the release of the security interest granted hereby in any Collateral pursuant to Section 10.08 of the Credit Agreement, that security interest in such Collateral shall be automatically released. In connection with such release, the Collateral Agent shall execute and deliver to any Grantor, at such Grantor's expense, all UCC termination statements and other documents that such Grantor shall reasonably request to evidence such termination or release. Any execution and delivery of UCC termination statements and similar documents pursuant to this Section 7.13(b) shall be without recourse to or warranty by the Collateral Agent.

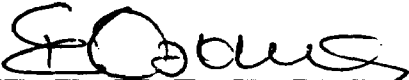
SECTION 7.14. *Additional Grantors.* To the extent any Domestic Subsidiary shall be required to become a Grantor pursuant to any Loan Document, upon execution and delivery by the Collateral Agent and such Domestic Subsidiary of an instrument in the form of Annex I hereto, such Domestic Subsidiary shall become a Grantor hereunder with the same force and effect as if originally named as a Grantor herein. The execution and delivery of any such instrument shall not require the consent of any other Grantor hereunder. The rights and obligations of each Grantor thereunder shall remain in full force and effect notwithstanding the addition of any new Grantor as a party to this Agreement.

SECTION 7.15. *Execution of Financing Statements.* Pursuant to Section 9-509 of the UCC, each Grantor authorizes the Collateral Agent to file financing statements with respect to the Collateral owned by it without the signature of such Grantor in such form and in such filing offices as the Collateral Agent reasonably determines appropriate to perfect the security interests of the Collateral Agent under this Agreement. A carbon, photographic or other reproduction of this Agreement shall be sufficient as a financing statement for filing in any jurisdiction. Copies of such financing statements, as filed, should be sent promptly to the Borrower at 2700 Camino del Sol, Oxnard, California 93030, Attention: General Counsel.

SECTION 7.16. *No Deemed Dividend.* Notwithstanding the foregoing, no Loan Party shall be required to take any action pursuant to this Agreement that the Borrower has reasonably determined would either result in material adverse tax consequences under Section 956 of the Code or would contravene any applicable law, rule or regulation.

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement as of the day and year first above written.

SEMINIS VEGETABLE SEEDS, INC.

By:   
Name: **Enrique Fernando Osorio**  
Title: **Vice President of Treasury**

SEMINIS, INC.

By: 

**Name: Bernardo Jimenez**  
**Title: Executive Senior Vice President  
and Chief Financial Officer**

BAXTER SEED CO., INC.

By:  \_\_\_\_\_

Name: **Enrique Fernando Osorio**  
Title: **Authorized Representative of  
Gaspar Alvarez, Chief  
Financial Officer of  
Baxter Seed Co., Inc.**

PETOSEED INTERNATIONAL, INC.

By: 

Name: **Enrique Fernando Osorio**  
Title: **Authorized Representative of  
Gaspar Alvarez, Chief  
Financial Officer of  
Petoseed International, Inc.**

PGI ALFALFA, INC.



By: \_\_\_\_\_

**Name: Enrique Fernando Osorio**  
**Title: Authorized Representative of**  
**Gaspar Alvarez, Chief**  
**Financial Officer of**  
**PGI Alfalfa, Inc.**

CITICORP NORTH AMERICA, INC., as Collateral  
Agent,

By:

  
Name: **John Peruzzi**  
Title: **Vice President**



Domestic Subsidiaries

Name

Address

- |                                 |                                          |
|---------------------------------|------------------------------------------|
| 1. Baxter Seed Co., Inc.        | 416 Missouri Avenue<br>Weslaco, TX 78596 |
| 2. Petoseed International, Inc. | 2700 Camino del Sol<br>Oxnard, CA 93030  |
| 3. PGI Alfalfa, Inc.            | 2700 Camino del Sol<br>Oxnard, CA 93030  |

Commercial Tort Claims

None.

Prior Liens

Entity	Jurisdiction	Type of Filing Found	Secured Party	Original File Date	Original File #	Collateral Description
Genecorp, Inc.	California (SOS)	UCC	Citicorp Del Lease, Inc.	06/01/01	0115860162	Listed leased equipment
Seminis Vegetable Seeds, Inc.	California (SOS)	UCCs	General Electric Capital Corporation	01/20/98	9802060522	One 1982 Cessna 441 Conquest II, with listed equipment
			General Electric Capital Corporation – Continuation	10/11/02	02284CO451 [This is a continuation of the above]	This is a continuation of file number #02284C0451
			General Electric Capital Corporation – Amendment	10/11/02	02284CO448 [This is an amendment to 9802060522]	
			TMCC Equipment Finance MS R307	08/24/98	9823960377	Listed leased equipment
			TMCC Equipment Finance MS R307	01/11/98	9901960222	Listed leased equipment
			Oliver Allen Corporation	04/06/99	9910360061	Listed leased equipment
			BCL Capital	04/26/99	9912360781	Listed leased equipment
			Oliver Allen Corporation	06/25/99	9918160276	Listed leased equipment
			Oliver Allen Corporation	08/10/99	9923660796	Listed leased equipment
			Heller Financial, Inc.	09/22/99	99273C0045 [Assignment of collateral for 9918160276]	Full assignment of all collateral on original statement

Entity	Jurisdiction	Type of Filing Found	Secured Party	Original File Date	Original File #	Collateral Description
			Oliver Allen Corporation	08/11/99	9923760558	Listed leased equipment
			Oliver Allen Corporation	08/26/99	9925360131	Listed leased equipment
			Oliver Allen Corporation	10/14/99	9929860367	Listed leased equipment
			Albany Bank & Trust Company, N.A.	05/15/00	00139C0726 [Assignment of collateral for 9929860367]	Full assignment of all collateral listed on 9929860367 to Albany Bank & Trust Company
			New Holland Credit Company	11/24/99	9933560332	NH T8360 Tractor
			Wells Fargo Equipment Finance, Inc.	01/26/00	0003160039	Listed leased equipment
			Albany Bank & Trust Company, N.A.	09/29/00	00285C0313 [Assignment of collateral for 0003160039]	Full assignment of all collateral listed on 0003160039 to Albany Bank & Trust Company
			Wells Fargo Equipment Finance, Inc.	01/26/00	0003160678	Listed leased equipment
			Albany Bank & Trust Company, N.A.	01/16/01	01023C0459 [Assignment of collateral for 0003160678]	Full assignment of all collateral listed on 0003160678 to Albany Bank & Trust Company
			Power Machinery Center	03/30/00	0009560985	One Taylor-Dunn Stock Chaser – Serial #139854

Entity	Jurisdiction	Type of Filing Found	Secured Party	Original File Date	Original File #	Collateral Description
			Albany Bank & Trust Company, N.A.	04/24/00	0012260766	Listed leased equipment
			IBM Credit Corporation	02/01/01	0103860986	All Computer information processing and other peripheral equipment and goods
			NMHG Financial Services	02/20/01	0105460106	All equipment now or hereafter leased by Lessor to lessee; and all accessions, additions, replacements and proceeds
			Lease Plan USA, Inc.	11/02/01	0130960063	1996 C60KLP Nissan Enduro Forklift – Serial #901308
			California First Leasing Corporation	02/25/02	0205760343	All leased goods, furniture, fixtures, equipment, general intangibles including all licenses and other personal property investment property, deposits, etc...
			California First Leasing Corporation	07/03/02	02186C0126 [Amendment of Collateral referenced on 0205760343]	Amendment of #0205760343 Adding to leased equipment
			California First Leasing Corporation	07/02/03	03188C0413 [Amendment of Collateral referenced on 020576343]	Amendment of #0205760343 Adding to leased equipment
			Pitney Bowes Credit Corporation	06/24/02	0217660222	All equipment manufactured, sold or distributed by Pitney Bowes, Monarch Marketing System, Dictaphone Corp.  Leased office products

Entity	Jurisdiction	Type of Filing Found	Secured Party	Original File Date	Original File #	Collateral Description
			US Bancorp	07/22/02	0220460377	
			California First Leasing Corporation	08/02/02	0221760685	Computer Hardware with operating software
			NMHG Financial Services Inc.	10/22/02	0229660049	All leased equipment including accessories, additions, replacements, substations and insurance proceeds
			IOS Capital, LLC	11/14/02	0231960100	All leased equipment including accessories, additions, replacements, substations and insurance proceeds
			Agra Tech, Inc.	03/17/03	0307860163	Commercial greenhouses and related equipment
			California First Leasing Corporation	04/03/03	0309460689	All goods, furniture, equipment, computer equipment, software, including desktops, laptops, etc
			California First Leasing Corporation	08/01/03	03216C0217 [This is an amendment to the collateral description of 0309460689]	All goods, furniture, equipment, computer equipment, software, including desktops, laptops, etc
			California First Leasing Corporation	08/01/03	03216C0215 [This is an amendment to the secured party address 0309460689]	Listed equipment; DMX800, DMX-40U Rack, DMX-2gdae
			Fleet Business Credit, LLC	04/14/03	0310560715	All leased equipment now or hereafter leased in an equipment lease including accessories, additions, replacements, substitutions, etc..
			IOS Capital LLC	05/15/03	0314061151	

Entity	Jurisdiction	Type of Filing Found	Secured Party	Original File Date	Original File #	Collateral Description
			Hyster Credit Company	05/27/03	0314860201 [This is an in-lieu filing for the following:  Idaho SOS File # B 808594 File Date 08/26/98	One Hyster lift truck Model H60XM  All goods, furniture, fixtures, including licenses under lease no. cl-00140 including computer hardware and software
			California First Leasing Corporation	06/19/03	0317560074	Newhol TB110 Tractor
			New Holland Credit Company	07/09/03	0319660392	
			Wells Fargo Bank, National Association	09/29/03		All lots 40 to 42 inclusive of Tract No. 4506-2 in the City of Oxnard.  Leased equipment  Leased equipment
			Oliver Allen Corporation	09/11/1998	9825960392	
			Oliver Allen Corporation	03/11/1999	9908160727	
	Arizona (SOS)	UCC's	Norwest Equipment Finance, Inc.	03/02/98	01006589	Computer equipment, printers, software and hardware
			Heller Financial, Inc.	06/02/98	01018980	Computer equipment, printers, software and hardware
			Heller Financial,	04/19/99	01064784	Computer equipment, printers, software and

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Entity	Jurisdiction	Type of Filing Found	Secured Party	Original File Date	Original File #	Collateral Description
			Inc.  Oliver-Allen Corporation  Oliver-Allen Corporation	  08/10/99  08/26/99	  01079803  01082137	hardware  Computer equipment, printers, software and hardware  Computer equipment, printers, software and hardware
	Florida (SOS)	UCC-1's	Oliver-Allen Corporation  Heller-Financial, Inc.	08/10/98  04/16/99	99000018288 2-3  99000008407 8--7	Printer equipment  Computer equipment, software, scanners, cables, printers etc..
	Georgia (SOS)	UCC's	Sterling Bank and Trust  Oliver Allen Corporation	04/18/97  08/26/99	044-1997-003880 (DeKalb County)  007-1999-008879 (Barrow County)	Computer equipment, modems, keyboards, printers, software  Computer equipment, monitors, modems, cables, warranties, etc
	Georgia: Tift County	Fixture Liens	Heller Financial Inc.  Heller Financial Inc.  Norwest Equipment Finance, Inc.  Heller Financial Inc.  Heller Financial Inc.  Heller Financial Inc.	10/30/97  10/30/97  03/02/98  03/17/98  04/27/98  04/19/99	137-1997-002582  137-1997-002582 [This is an amendment changing the Debtor name "Seminis Vegetables" to "Seminis Vegetable"]  137-1998-000558  137-1998-000700  137-1998-001104  137-1999-001018	Computer equipment, monitors, software, etc...    Computer equipment, printers, monitors, modems, etc..  Computer equipment, printers, monitors, modems, etc..  Computer equipment, printers, monitors, modems, etc..  Computer equipment, printers, monitors, modems, etc..
	Idaho (SOS)	UCC filings	Hyster Credit	08/26/98	B 808954	One Hyster lift truck model H600M with



Entity	Jurisdiction	Type of Filing Found	Secured Party	Original File Date	Original File #	Collateral Description
			Company			tires, wheels & all other attachments
			Wells Fargo Equipment Finance, Inc.	03/26/99	B 829726	Computer equipment, software, printers, monitors, etc..
			Heller Financial, Inc.	04/19/99	B 832536	Computer equipment, software, printers, monitors etc..
			Oliver Allen Corporation	08/11/99	B 844771	Computer equipment, software, monitors, printers warranties, etc
			Oliver Allen Corporation	08/26/99	B 846243	Computer equipment hardware, monitors, modems, warranties, etc
			Hyster Credit Company	01/20/00	B 859112	One Hyster lift truck model H60XM
	Texas (SOS)	UCC's	Oliver Allen Corporation	08/09/99	99-161519	Printer equipment
Seminis, Inc.	California: Ventura County		General Electric Capital Business Asset Funding Corporation	3/31/00	2000-0055057-00	Commercial Deed of Trust, Financing Statement, Security Agreement, Assignment of Leases and Rents, and Fixture Filing
	California (SOS)		Lease Plan U.S.A., Inc.	10/28/96	9630460772	Forklift
			LPI Software Funding Group, Inc.	6/10/99	9916760869	Software and computer equipment
			NTFC Capital Corporation	7/20/99	9920460777	Equipment and Software
			NTFC Capital Corporation	2/4/99	9903660761	Equipment and Software
			BCL Capital	9/25/00	0027961186	Gestether Digital Imaging System
			Deere & Company	8/13/03	0323160115	Row Crop Tractor; Powergard Protection Plan

Entity	Jurisdiction	Type of Filing Found	Secured Party	Original File Date	Original File #	Collateral Description
			GE Capital Colonial Pacific Leasing	9/28/01	0127460105	Equipment
			Dietrich Schmidt	12/23/02	0236460760	Judgment Lien
	Delaware (SOS)		California First Leasing Corporation	1/29/02	2024882 7 2024888 4	Equipment, Hardware, and Software
MB&S, Inc.	Iowa (SOS)	UCC's	Kiekes Material Handling, Co.	10/20/98	K956308	2 used Yale forklifts GLC050; and all accessories, additions, replacements, substitutions and insurance proceeds
			Commodity Credit Corp.	06/04/99	P021469	Harvested crops
			MBS Genetics, L.L.C.	06/07/00	P109610	Any and all Alfalfa seed owned or held by debtor
			NMHG Financial Services, Inc.	11/29/00	P146377	All equipment now or hereafter leased by lessor to lessee; and all accessions, additions, replacements, substitutions and insurance proceeds
			*Commodity Credit Corporation	01/02/02	E433514	All corn, soybeans; All proceeds, products, replacements, substitutions, additions and security hereafter acquired

Intellectual Property Violations

## ACTUAL LITIGATION, ARBITRATION OR MEDIATION

None.

## POTENTIAL LITIGATION, ARBITRATION OR MEDIATION

Case Name	Description
Cornell- Papaya Administrative Committee	Cornell is concerned because they are not receiving any royalties on the Papaya Administrative Committee's sales which Seminis Vegetable Seeds, Inc. is required to pay under a license agreement.
Seminis Vegetable Seeds, Inc. v. Karlen Walser	Spinach infringement.
Seminis Vegetable Seeds, Inc. v. United Genetics	Variety name misrepresentation by United Genetics.
Seminis Vegetable Seeds, Inc. v. United Genetics and/or US AgriSeed	Discovery of United Genetics or US AgriSeed squash and cucumber in Middle East which is suspected to be copies of multiple squash products.

Form of Joinder Agreement

SUPPLEMENT NO. \_\_\_ dated as of [ ], to the Security Agreement (the "Security Agreement") dated as of September 29, 2003, among SEMINIS VEGETABLE SEEDS, INC., a California corporation ("Borrower"), SEMINIS, INC., a Delaware corporation (the "Parent Guarantor"), each Domestic Subsidiary of Borrower listed on Schedule I hereto (the "Domestic Subsidiaries" and, together with the Borrower, the "Grantors") and CITICORP NORTH AMERICA, INC., as collateral agent (in such capacity, the "Collateral Agent") for the Secured Parties (as defined herein).

A. Reference is made to (a) the Credit Agreement dated as of September 29, 2003, (as amended, supplemented or otherwise modified from time to time, the "Credit Agreement"), among the Borrower, the Parent Guarantor, the lenders party thereto (the "Lenders") and the Administrative Agent, the Joint Lead Arrangers, the Co-Documentation Agents and the Syndication Agent, (b) the Guarantee Agreement dated as of September 29, 2003 (as amended, supplemented or otherwise modified from time to time, the "Guarantee Agreement"), among the Domestic Subsidiaries and the Collateral Agent, (c) the Pledge Agreement dated September 29, 2003 (as amended, supplemented or otherwise modified from time to time, the "Pledge Agreement"), among the Grantors, the Parent Guarantor and the Collateral Agent, (d) Collateral Sharing Agreement dated as of September 29, 2003 (as amended, supplemented or otherwise modified from time to time, the "Collateral Sharing Agreement") among, the Grantors, the Parent Guarantor and the Collateral Agent and (e) the Indemnity Subrogation and Contribution Agreement dated as of September 29, 2003 (as amended, supplemented or otherwise modified from time to time, the "Indemnity Agreement" and, together with the Security Agreement, Guarantee Agreement, Pledge Agreement and Collateral Sharing Agreement, the "Collateral Documents") among the Grantors, the Parent Guarantor and the Collateral Agent.

B. Capitalized terms used herein and not otherwise defined herein shall have the meanings assigned to such terms in the Security Agreement.

C. Pursuant to Section 5.16 of the Credit Agreement, each Domestic Subsidiary of Borrower that was not in existence or not a Domestic Subsidiary on the date of the Credit Agreement is required to enter into the Collateral Documents upon becoming a Domestic Subsidiary. Each of the Collateral Documents provides that such New Domestic Subsidiary may become a party to the Collateral Documents by execution and delivery of an instrument in the form of this Supplement. The undersigned Domestic Subsidiary (the "New Domestic Subsidiary") is executing this Supplement in accordance with the requirements of the Credit Agreement to become a party to the Collateral Documents.

Accordingly, the Collateral Agent and the New Domestic Subsidiary agree as follows:

SECTION 1. In accordance with Section 5.16 of the Credit Agreement, the New Domestic Subsidiary by its signature below becomes a Domestic Subsidiary under each of the Collateral Documents with the same force and effect as if originally named therein as a party thereto and hereby (a) agrees to all terms and provisions of the Collateral Documents applicable to it as a Domestic Subsidiary thereunder and (b) represents and warrants that the representations and warranties made by it as a Domestic Subsidiary thereunder are true and correct on and as of the date hereof. In furtherance of the foregoing, the New Domestic Subsidiary, as

security for the payment and performance in full of the Obligations (as defined in the Security Agreement), does hereby create and grant to the Collateral Agent, its successors and assigns, for the benefit of the Secured Parties, their successors and assigns, a security interest in and lien on all of the New Domestic Subsidiary's right, title and interest in and to the Collateral (as defined in the Security Agreement) of the New Domestic Subsidiary. Each of the Collateral Documents is hereby incorporated herein by reference.

**SECTION 2.** The New Domestic Subsidiary represents and warrants to the Collateral Agent and the other Secured Parties that this Supplement has been duly authorized, executed and delivered by it and constitutes its legal, valid and binding obligation, enforceable against it in accordance with its terms.

**SECTION 3.** This Supplement may be executed in counterparts (and by different parties hereto on different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. This Supplement shall become effective when the Collateral Agent shall have received counterparts of this Supplement that, when taken together, bear the signatures of the New Domestic Subsidiary and the Collateral Agent. Delivery of an executed signature page to this Supplement by facsimile transmission shall be as effective as delivery of a manually signed counterpart of this Supplement.

**SECTION 4.** The New Domestic Subsidiary hereby represents and warrants that (a) set forth on Schedule II attached hereto is a true and correct schedule of the location of any and all Collateral of the New Domestic Subsidiary, (b) set forth under its signature hereto, is the true and correct location of the chief executive office of the New Domestic Subsidiary and (c) set forth on Schedule III attached hereto is a true and correct schedule describing the securities of the New Domestic Subsidiary being pledged hereunder.

**SECTION 5.** Except as expressly supplemented thereby, each of the Collateral Documents shall remain in full force and effect.

**SECTION 6.** THIS SUPPLEMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK.

**SECTION 7.** In case any one or more of the provisions contained in this Supplement should be held invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein and in the Collateral Documents shall not in any way be affected or impaired thereby (it being understood that the invalidity of a particular provision in a particular jurisdiction shall not in and of itself affect the validity of such provision in any other jurisdiction). The parties hereto shall endeavor in good-faith negotiations to replace the invalid, illegal or unenforceable provisions with valid provisions the economic effect of which comes as close as possible to that of the invalid, illegal or unenforceable provisions.

**SECTION 8.** All communications and notices hereunder shall be in writing and given as provided in Section 7.01 of the Security Agreement. All communications and notices hereunder of the New Domestic Subsidiary shall be given to it at the address set forth under its signature below.

**SECTION 9. The New Domestic Subsidiary agrees to reimburse the Collateral Agent for its reasonable out-of-pocket expenses in connection with this Supplement, including the reasonable fees, other charges and disbursements of counsel for the Collateral Agent.**

**IN WITNESS WHEREOF, the New Domestic Subsidiary and the Collateral Agent have duly executed this Supplement to the Security Agreement as of the day and year first above written.**

[Name Of New Subsidiary],

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

CITICORP NORTH AMERICA, INC.,  
as Collateral Agent,

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

SCHEDULE I  
to the Joinder Agreement

Guarantors



SCHEDULE II  
to the Joinder Agreement

**Location of Collateral**

Description

Location

**SCHEDULE III  
to the Joinder Agreement**

**Pledged Securities of the New Pledgor**

PLEDGED STOCK

<u>Issuer</u>	<u>Number of Certificate</u>	<u>Registered Owner</u>	<u>Number and Class of Shares</u>	<u>Percentage of Shares</u>
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DEBT SECURITIES

<u>Issuer</u>	<u>Principal Amount</u>	<u>Date of Note</u>	<u>Maturity Date</u>
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Annex II to the  
Security Agreement

Form of Perfection Certificate