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Form PTO-1594 (Rev. 10/02) OMB No. 0651-0027 (exp. 6/30/2005) Tab settings



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U.S. DEPARTMENT OF COMMERCE U.S. Patent and Trademark Office

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

1. Name of conveying party(ies): The WellCare Management Group, Inc. 7.1.04 [] Individual(s) [] Association [] General Partnership [] Limited Partnership [x] Corporation-State [] Other Additional name(s) of conveying party(ies) attached? [] Yes [x] No

2. Name and address of receiving party(ies) Name: Credit Suisse First Boston Internal Address: Street Address: 11 Madison Avenue City: New York State: NY Zip: 10010 [] Individual(s) citizenship [] Association [] General Partnership [] Limited Partnership [x] Corporation-State NY [] Other If assignee is not domiciled in the United States, a domestic representative designation is attached: [] Yes [] No (Designations must be a separate document from assignment) Additional name(s) & address(es) attached? [] Yes [x] No

3. Nature of conveyance: [] Assignment [] Merger [x] Security Agreement [] Change of Name [] Other Execution Date: May 13, 2004

4. Application number(s) or registration number(s): A. Trademark Application No.(s) SEE SCHEDULE 1 ATTACHED. B. Trademark Registration No.(s) SEE SCHEDULE 1 ATTACHED. Additional number(s) attached [x] Yes [] No

5. Name and address of party to whom correspondence concerning document should be mailed: Name: Penelope Agodoa Internal Address: Federal Research Corporation Street Address: 1030 15th Street, NW Suite 920 City: Washington State: DC Zip: 20005

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

DO NOT USE THIS SPACE

9. Statement and signature. To the best of my knowledge and belief, the foregoing information is true and correct and any attached copy is a true copy of the original document. Taline N. Aynilian Name of Person Signing Signature: [Signature] Date: 6/30/04

Total number of pages including cover sheet, attachments, and document: []

07/02/2004 LMUELLER 00000018 1343516

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

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TRADEMARK REEL: 003000 FRAME: 0901

SCHEDULE 1
TRADEMARKS

Registered Owner: The WellCare Management Group, Inc.

<u>Mark</u>	<u>Registration Number</u>	<u>Expiration Date</u>
"WELLCARE"	1,343,516	Must be renewed by June 18, 2005
"WELLCARE" & Design	1,443,611	Must be renewed by June 16, 2007

GUARANTEE AND COLLATERAL AGREEMENT

dated as of May 13, 2004

among

WELLCARE HOLDINGS, LLC,

the Subsidiaries of

WELLCARE HOLDINGS, LLC

party hereto

and

CREDIT SUISSE FIRST BOSTON,
as Collateral Agent

[CS&M No. 2162-126]

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Exhibit III	Form of Trademark Security Agreement
Exhibit IV	Form of Patent Security Agreement
Exhibit V	Form of Copyright Security Agreement

GUARANTEE AND COLLATERAL AGREEMENT (this "*Agreement*") dated as of May 13, 2004, among WELLCARE HOLDINGS, LLC, a Delaware limited liability company ("*Parent*"), WELLCARE HEALTH PLANS, INC., a Delaware corporation ("*WHP*"), THE WELLCARE MANAGEMENT GROUP, INC., a New York corporation ("*WMG*"), COMPREHENSIVE HEALTH MANAGEMENT, INC. a Florida corporation ("*CHM*" and, together with WHP and WMG, the "*Borrowers*"), COMPREHENSIVE HEALTH MANAGEMENT OF FLORIDA, L.C. ("*CHMF*"), a Florida limited liability company, and WELLCARE BEHAVIORAL HEALTH, INC. ("*WBH*"), a Delaware corporation; and CREDIT SUISSE FIRST BOSTON, as Collateral Agent.

Reference is made to the Credit Agreement dated as of May 13, 2004 (as amended, supplemented or otherwise modified from time to time, the "*Credit Agreement*"), among Parent, the Borrowers, the Lenders party thereto and Credit Suisse First Boston, as Administrative Agent. The Lenders and the Issuing Banks have agreed to extend credit to the Borrowers subject to the terms and conditions set forth in the Credit Agreement. The obligations of the Lenders and the Issuing Banks to extend such credit are conditioned upon, among other things, the execution and delivery of this Agreement. Parent and the Subsidiary Loan Parties are Affiliates of the Borrowers, will derive substantial benefits from the extension of credit to the Borrowers pursuant to the Credit Agreement and are willing to execute and deliver this Agreement in order to induce the Lenders and the Issuing Banks to extend such credit. Accordingly, the parties hereto agree as follows:

ARTICLE I

Definitions

SECTION 1.01. *Credit Agreement.* (a) Capitalized terms used in this Agreement (including the preamble hereto) and not otherwise defined herein have the meanings specified in the Credit Agreement. All terms defined in the New York UCC (as defined herein) and not defined in this Agreement have the meanings specified therein; the term "instrument" shall have the meaning specified in Article 9 of the New York UCC.

(b) The rules of construction specified in Section 1.02 of the Credit Agreement also apply to this Agreement.

SECTION 1.02. *Other Defined Terms.* As used in this Agreement, the following terms have the meanings specified below:

"*Account Debtor*" means any Person who is or who may become obligated to any Loan Party under, with respect to or on account of an Account.

“Article 9 Collateral” has the meaning assigned to such term in Section 4.01 hereof.

“Borrowers” has the meaning assigned to such term in the preliminary statement to this Agreement.

“Collateral” means Article 9 Collateral and Pledged Collateral.

“Copyright License” means any written agreement, now or hereafter in effect, granting any right to any third party under any copyright now or hereafter owned by any Loan Party or that such Loan Party otherwise has the right to license, or granting any right to any Loan Party under any copyright now or hereafter owned by any third party, and all rights of such Loan Party under any such agreement.

“Copyrights” means all of the following now owned or hereafter acquired by any Loan Party: (a) all copyright rights in any work subject to the copyright laws of the United States or any other country, whether as author, assignee, transferee or otherwise, and (b) all registrations and applications for registration of any such copyright in the United States or any other country, including registrations, recordings, supplemental registrations and pending applications for registration in the United States Copyright Office, including those listed on Schedule III.

“Credit Agreement” has the meaning assigned to such term in the preliminary statement of this Agreement.

“Federal Securities Laws” has the meaning assigned to such term in Section 5.04 hereof.

“General Intangibles” means all choses in action and causes of action and all other intangible personal property of every kind and nature (other than Accounts) now owned or hereafter acquired by any Loan Party, including 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, tax refund claims and any letter of credit, guarantee, claim, security interest or other security held by or granted to any Loan Party to secure or support payment by an Account Debtor of any of the Accounts.

“Intellectual Property” means all intellectual and similar property of every kind and nature now owned or hereafter acquired by any Loan Party, including inventions, designs, Patents, Copyrights, Licenses, Trademarks, 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.

“IP Security Agreements” has the meaning assigned to such term in Section 4.02(b) hereof.

“License” means any Patent License, Trademark License, Copyright License or other license or sublicense agreement to which any Loan Party is a party, including those listed on Schedule III.

“Loan Parties” means Parent, the Borrowers and the Subsidiary Loan Parties.

“New York UCC” means the Uniform Commercial Code as from time to time in effect in the State of New York.

“Obligations” means (a) the due and punctual payment by the Borrowers of (i) the principal of and interest (including interest accruing during the pendency of any bankruptcy, insolvency, receivership or other similar proceeding, regardless of whether allowed or allowable in such proceeding) on the Loans, when and as due, whether at maturity, by acceleration, upon one or more dates set for prepayment or otherwise, (ii) each payment required to be made by any Borrower in respect of any Letter of Credit issued under the Credit Agreement, when and as due, including payments in respect of reimbursement of LC Disbursements, interest thereon (including interest accruing during the pendency of any bankruptcy, insolvency, receivership or other similar proceeding, regardless of whether allowed or allowable in such proceeding) and obligations to provide cash collateral, and (iii) all other monetary obligations of Parent or any Borrower to any of the Secured Parties under the Credit Agreement and each of the other Loan Documents, including obligations to pay Fees, expense reimbursement obligations and indemnification obligations, whether primary, secondary, direct, contingent, fixed or otherwise (including monetary obligations incurred during the pendency of any bankruptcy, insolvency, receivership or other similar proceeding, regardless of whether allowed or allowable in such proceeding), (b) the due and punctual payment of all the monetary obligations of each other Loan Party under or pursuant to the Credit Agreement and each of the other Loan Documents, (c) the due and punctual payment and performance of all monetary obligations of each Loan Party under each Hedging Agreement that (i) is in effect on the Effective Date with a counterparty that is a Lender or an Affiliate of a Lender as of the Effective Date or (ii) is entered into after the Effective Date with any counterparty that is a Lender or an Affiliate of a Lender at the time such Hedging Agreement is entered into and (d) the due and punctual payment and performance of all obligations of any Loan Party to a Lender or an Affiliate of a Lender in respect of cash management services (other than cash management services provided after (i) the principal of and interest on each Loan and all Fees payable under the Credit Agreement have been paid in full, (ii) the Lenders have no further commitment to lend under the Credit Agreement, (iii) the LC exposure has been reduced to zero and (iv) the Issuing Banks have no further obligations to issue Letters of Credit under the Credit Agreement), including obligations in respect of overdrafts, temporary advances, interest and fees.

“Parent” has the meaning assigned to such term in the preamble to this Agreement.

“Patent License” means 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 Loan Party or that any Loan Party otherwise has the right to license, is in existence, or granting to any Loan Party 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 Loan Party under any such agreement.

“Patents” means all of the following now owned or hereafter acquired by any Loan Party: (a) all letters patent of the United States or the equivalent thereof in any other country, all registrations and recordings thereof, and all applications for letters patent of the United States or the equivalent thereof in any other country, including registrations, recordings and pending applications in the United States Patent and Trademark Office or any similar offices in any other country, including those listed on Schedule III, 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” means a certificate substantially in the form of Exhibit II, completed and supplemented with the schedules and attachments contemplated thereby, and duly executed by a Financial Officer of Parent.

“Pledged Collateral” has the meaning assigned to such term in Section 3.01 hereof.

“Pledged Debt Securities” has the meaning assigned to such term in Section 3.01 hereof.

“Pledged Equity Interests” has the meaning assigned to such term in Section 3.01 hereof.

“Pledged Securities” means any promissory notes, stock certificates or other securities now or hereafter included in the Pledged Collateral, including all certificates, instruments or other documents representing or evidencing any Pledged Collateral.

“Proceeds” has the meaning specified in Section 9-102 of the New York UCC.

“Secured Parties” means (a) the Lenders, (b) the Administrative Agent, (c) the Collateral Agent, (d) the Issuing Banks, (e) each other Person to whom any of the Obligations (including Obligations under any Hedging Agreement or in connection with the providing of cash management services) is owed and (f) the permitted successors and assigns of each of the foregoing.

“Security Interest” has the meaning assigned to such term in Section 4.01 hereof.

“Subsidiary Loan Parties” means (a) the Subsidiaries identified on Schedule I and (b) each other Subsidiary that becomes a party to this Agreement as a Subsidiary Loan Party after the Effective Date.

“Trademark License” means 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 Loan Party or that any Loan Party otherwise has the right to license, or granting to any Loan Party any right to use any trademark now or hereafter owned by any third party, and all rights of any Loan Party under any such agreement.

“Trademarks” means all of the following now owned or hereafter acquired by any Loan Party: (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 or any similar offices in any State of the United States or any other country or any political subdivision thereof, and all extensions or renewals thereof, including those listed on Schedule III, (b) all goodwill associated therewith or symbolized thereby and (c) all other assets, rights and interests that uniquely reflect or embody such goodwill.

ARTICLE II

Guarantee

SECTION 2.01. **Guarantee.** Each Loan Party (including each Borrower) unconditionally guarantees, jointly with the other Loan Parties and severally, as a primary obligor and not merely as a surety, the due and punctual payment of the Obligations. Each Loan Party further agrees that the Obligations may be extended or renewed, in whole or in part, or amended or modified without notice to or further assent from it, and that it will remain bound upon its guarantee notwithstanding any extension or renewal, or amendment or modification, of any Obligation. Each Loan Party waives presentment to, demand of payment from and protest to any Borrower or any other Loan Party of any of the Obligations, and also waives notice of acceptance of its guarantee and notice of protest for nonpayment.

SECTION 2.02. **Guarantee of Payment.** Each Loan Party further agrees that its guarantee hereunder constitutes a guarantee of payment when due and not of collection, and waives any right to require that any resort be had by the Collateral Agent or any other Secured Party to any security held for the payment of the Obligations or to any balance of any deposit account or credit on the books of the Collateral Agent or any other Secured Party in favor of any Borrower or any other Person.

SECTION 2.03. **No Limitations.** (a) Except for termination of a Loan Party’s obligations hereunder as expressly provided in Section 7.13, the obligations of

each Loan Party hereunder shall not be subject to any reduction, limitation, impairment or termination for any reason, including any claim of waiver, release, surrender, alteration or compromise of any of the Obligations, and shall not be subject to any defense or set-off, counterclaim, recoupment or termination whatsoever by reason of the invalidity, illegality or unenforceability of the Obligations or otherwise. Without limiting the generality of the foregoing, the obligations of each Loan Party hereunder shall not be discharged or impaired or otherwise affected by (i) the failure of the Collateral Agent or any other Secured Party to assert any claim or demand or to enforce any right or remedy under the provisions of any Loan Document or otherwise; (ii) any rescission, waiver, amendment or modification of, or any release from any of the terms or provisions of, any Loan Document or any other agreement, including with respect to any other Loan Party under this Agreement; (iii) the release of, or any impairment of or failure to perfect any Lien on or security interest in, any security held by the Collateral Agent or any other Secured Party for the Obligations or any of them; (iv) any default, failure or delay, wilful or otherwise, in the performance of the Obligations; or (v) any other act or omission that may or might in any manner or to any extent vary the risk of any Loan Party or otherwise operate as a discharge of any Loan Party as a matter of law or equity (other than the indefeasible payment in full in cash of all the Obligations). Each Loan Party expressly authorizes the Secured Parties to take and hold security for the payment and performance of the Obligations, to exchange, waive or release any or all such security (with or without consideration), to enforce or apply such security and direct the order and manner of any sale thereof in their sole discretion or to release or substitute any one or more other Loan Parties or obligors upon or in respect of the Obligations, all without affecting the obligations of any Loan Party hereunder.

(b) To the fullest extent permitted by applicable law, each Loan Party waives any defense based on or arising out of any defense of any Borrower or any other Loan Party or the unenforceability of the Obligations or any part thereof from any cause, or the cessation from any cause of the liability of any Borrower or any other Loan Party, other than the indefeasible payment in full in cash of all the Obligations. The Collateral Agent and the other Secured Parties may, at their election, foreclose on any security held by one or more of them by one or more judicial or nonjudicial sales, accept an assignment of any such security in lieu of foreclosure, compromise or adjust any part of the Obligations, make any other accommodation with any Borrower or any other Loan Party or exercise any other right or remedy available to them against any Borrower or any other Loan Party, without affecting or impairing in any way the liability of any Loan Party hereunder except to the extent the Obligations have been fully and indefeasibly paid in full in cash. To the fullest extent permitted by applicable law, each Loan Party waives any defense arising out of any such election even though such election operates, pursuant to applicable law, to impair or to extinguish any right of reimbursement or subrogation or other right or remedy of such Loan Party against any Borrower or any other Loan Party, as the case may be, or any security.

SECTION 2.04. **Reinstatement.** Each Loan Party agrees that its guarantee hereunder shall continue to be effective or be reinstated, as the case may be, if at any time payment, or any part thereof, of any Obligation is rescinded or must

otherwise be restored by the Collateral Agent or any other Secured Party upon the bankruptcy or reorganization of any Borrower, any other Loan Party or otherwise.

SECTION 2.05. *Agreement To Pay; Subrogation.* In furtherance of the foregoing and not in limitation of any other right that the Collateral Agent or any other Secured Party has at law or in equity against any Loan Party by virtue hereof, upon the failure of any Borrower or any other Loan Party to pay any Obligation when and as the same shall become due, whether at maturity, by acceleration, after notice of prepayment or otherwise, each Loan Party hereby promises to and will forthwith pay, or cause to be paid, to the Collateral Agent for distribution to the applicable Secured Parties in cash the amount of such unpaid Obligation. Upon payment by any Loan Party of any sums to the Collateral Agent as provided above, all rights of such Loan Party against any Borrower or any other Loan Party arising as a result thereof by way of right of subrogation, contribution, reimbursement, indemnity or otherwise shall in all respects be subject to Article VI.

SECTION 2.06. *Information.* Each Loan Party assumes all responsibility for being and keeping itself informed of each Borrower's and each other Loan Party's financial condition and assets, and of all other circumstances bearing upon the risk of nonpayment of the Obligations and the nature, scope and extent of the risks that such Loan Party assumes and incurs hereunder, and agrees that none of the Collateral Agent or the other Secured Parties will have any duty to advise such Loan Party of information known to it or any of them regarding such circumstances or risks.

ARTICLE III

Pledge of Securities

SECTION 3.01. *Pledge.* As security for the payment or performance, as the case may be, in full of the Obligations, each Loan Party (including each Borrower) hereby assigns and pledges to the Collateral Agent, its permitted successors and assigns, for the ratable benefit of the Secured Parties, and hereby grants to the Collateral Agent, its successors and assigns, for the ratable benefit of the Secured Parties, a security interest in, all such Loan Party's right, title and interest in, to and under (a) (i) the shares of capital stock and other Equity Interests directly owned by it on the date hereof (including all such shares and other Equity Interests listed on Schedule II), (ii) any other Equity Interests obtained in the future by such Loan Party and (iii) the certificates representing all such Equity Interests (all the foregoing being called the "***Pledged Equity Interests***"); *provided* that the Pledged Equity Interests shall not include (i) more than 65% of the issued and outstanding voting Equity Interests of any Foreign Subsidiary, (ii) any Equity Interests of any Immaterial Subsidiary or (iii) prior to the release of a pledge thereof in accordance with the terms of the Seller Note, the Seller Note Pledged Stock; (b)(i) the debt securities owned by such Loan Party on the date hereof (including all such debt securities listed on Schedule II), (ii) any debt securities in the future issued to such Loan Party and (iii) the promissory notes and any other instruments evidencing such debt securities (all the foregoing being called the "***Pledged Debt Securities***"); (c) all other property that may be delivered to and held by the Collateral Agent pursuant to the terms

of this Section 3.01; (d) subject to Section 3.06 hereof, all payments of principal or interest, dividends, cash, instruments and other property from time to time received, receivable or otherwise distributed in respect of, in exchange for or upon the conversion of, and all other Proceeds received in respect of, the securities referred to in clauses (a) and (b) above; (e) subject to Section 3.06 hereof, all rights and privileges of such Loan Party with respect to the securities and other property referred to in clauses (a), (b), (c) and (d) above; and (f) all Proceeds of any of the foregoing (the items referred to in clauses (a) through (f) above being collectively referred to as the "***Pledged Collateral***").

TO HAVE AND TO HOLD the Pledged Collateral, together with all right, title, interest, powers, privileges and preferences pertaining or incidental thereto, unto the Collateral Agent, its successors and assigns, for the ratable benefit of the Secured Parties, forever; *subject, however*, to the terms, covenants and conditions hereinafter set forth.

SECTION 3.02. ***Delivery of the Pledged Collateral.*** (a) Each Loan Party agrees promptly to deliver or cause to be delivered to the Collateral Agent any and all Pledged Securities.

(b) Each Loan Party will cause any Indebtedness for borrowed money owed to such Loan Party by any Person to be evidenced by a duly executed promissory note that is pledged and delivered to the Collateral Agent pursuant to the terms hereof.

(c) Upon delivery to the Collateral Agent, (i) any Pledged Securities shall be accompanied by undated stock powers duly executed in blank or other undated instruments of transfer satisfactory to the Collateral Agent and duly executed in blank and by such other instruments and documents as the Collateral Agent may reasonably request and (ii) all other property comprising part of the Pledged Collateral shall be accompanied by proper instruments of assignment duly executed by the applicable Loan Party and such other instruments or documents as the Collateral Agent may reasonably request. Each delivery of Pledged Securities shall be accompanied by a schedule describing such Pledged Securities, which schedule shall be attached hereto as a supplement to Schedule II and made a part hereof; *provided* that failure to attach any such schedule hereto shall not affect the validity of such pledge of such Pledged Securities.

SECTION 3.03. ***Representations, Warranties and Covenants.*** The Loan Parties jointly and severally represent, warrant and covenant to and with the Collateral Agent, for the benefit of the Secured Parties, that:

(a) Schedule II correctly sets forth the percentage of the issued and outstanding units of each class of the Equity Interests of the issuer thereof represented by the Pledged Equity Interests and includes all Equity Interests, debt securities and promissory notes required to be pledged hereunder in order to satisfy the Guarantee and Collateral Requirement;

(b) the Pledged Equity Interests and Pledged Debt Securities, in each case that have been issued or made by a Subsidiary, have been duly and validly authorized and

issued by the issuers thereof and (i) in the case of Pledged Equity Interests (other than interests in any limited liability company), are fully paid and nonassessable and (ii) in the case of Pledged Debt Securities, are legal, valid and binding obligations of the issuers thereof, and there exists no defense, offset or counterclaim to any obligation of the maker or issuer of any Pledged Debt Securities;

(c) except for the security interests granted hereunder, each Loan Party (i) is and, subject to any transfers made in compliance with the Credit Agreement, will continue to be the direct owner, beneficially and of record, of the Pledged Securities indicated on Schedule II as owned by such Loan Party, (ii) holds the same free and clear of all Liens, other than Liens created by the Loan Documents, Permitted Encumbrances and transfers made in compliance with the Credit Agreement, (iii) will make no further assignment, pledge, hypothecation or transfer of, or create or permit to exist any security interest in or other Lien on, the Pledged Collateral, other than Liens created by the Loan Documents, Permitted Encumbrances and transfers made in compliance with the Credit Agreement, and (iv) will defend its title or interest thereto or therein against any and all Liens (other than the Lien created by the Loan Documents and Permitted Encumbrances), however arising, of all Persons whomsoever;

(d) except for restrictions and limitations imposed by the Loan Documents or securities laws generally, the Pledged Collateral is and will continue to be freely transferable and assignable, and none of the Pledged Collateral is or will be subject to any option, right of first refusal, shareholders agreement, charter or by-law provisions or contractual restriction of any nature that might prohibit, impair, delay or otherwise affect the pledge of such Pledged Collateral hereunder, the sale or disposition thereof pursuant hereto or the exercise by the Collateral Agent of rights and remedies hereunder;

(e) each Loan Party has the power and authority to pledge the Pledged Collateral pledged by it hereunder in the manner hereby done or contemplated;

(f) no consent or approval of any Governmental Authority, any securities exchange or any other Person was or is necessary to the validity of the pledge effected hereby (other than such as have been obtained and are in full force and effect);

(g) by virtue of the execution and delivery by the Loan Parties of this Agreement, when any Pledged Securities are delivered to the Collateral Agent in accordance with this Agreement, the Collateral Agent will obtain, for the benefit of the Secured Parties, a legal, valid and perfected first priority lien upon and security interest in such Pledged Securities as security for the payment and performance of the Obligations; and

(h) each pledge effected hereby is effective to vest in the Collateral Agent, for the benefit of the Secured Parties, the rights of the Collateral Agent in the Pledged Collateral as set forth herein.

SECTION 3.04. *Certification of Limited Liability Company and Limited Partnership Interests.* Each Loan Party shall cause each interest in any limited liability

company or limited partnership controlled by such Loan Party and pledged hereunder to be represented by a certificate and to be a "security" within the meaning of Article 8 of the New York UCC and governed by Article 8 of the New York UCC.

SECTION 3.05. *Registration in Nominee Name; Denominations.* The Collateral Agent, on behalf of the Secured Parties, shall have the right (in its sole and absolute discretion) to hold the Pledged Securities in its own name as pledgee, the name of its nominee (as pledgee or as sub-agent) or the name of the applicable Loan Party, endorsed or assigned in blank or in favor of the Collateral Agent. Each Loan Party will promptly give to the Collateral Agent copies of any notices or other communications received by it with respect to Pledged Securities registered in the name of such Loan Party. The Collateral Agent shall at all times have the right to exchange the certificates representing Pledged Securities for certificates of smaller or larger denominations for any purpose consistent with this Agreement.

SECTION 3.06. *Voting Rights; Dividends and Interest.* (a) Unless and until an Event of Default shall have occurred and be continuing and the Collateral Agent shall have notified the Loan Parties that their rights under this Section 3.06 are being suspended:

(i) Each Loan Party shall be entitled to exercise any and all voting and/or other consensual rights and powers inuring to an owner of Pledged Securities or any part thereof for any purpose consistent with the terms of this Agreement, the Credit Agreement and the other Loan Documents; *provided* that such rights and powers shall not be exercised in any manner that could materially and adversely affect the rights inuring to a holder of any Pledged Securities or the rights and remedies of any of the Collateral Agent or the other Secured Parties under this Agreement or the Credit Agreement or any other Loan Document or the ability of the Secured Parties to exercise the same.

(ii) The Collateral Agent shall execute and deliver to each Loan Party, or cause to be executed and delivered to such Loan Party, all such proxies, powers of attorney and other instruments as such Loan Party may reasonably request for the purpose of enabling such Loan Party to exercise the voting and/or consensual rights and powers it is entitled to exercise pursuant to subparagraph (i) above.

(iii) Each Loan Party shall be entitled to receive and retain any and all dividends, interest, principal and other distributions paid on or distributed in respect of the Pledged Securities to the extent and only to the extent that such dividends, interest, principal and other distributions are permitted by, and otherwise paid or distributed in accordance with, the terms and conditions of the Credit Agreement, the other Loan Documents and applicable laws; *provided* that any noncash dividends, interest, principal or other distributions that would constitute Pledged Equity Interests or Pledged Debt Securities, whether resulting from a subdivision, combination or reclassification of the outstanding Equity Interests of the issuer of any Pledged Securities or received in exchange for Pledged Securities or any part thereof, or in redemption thereof, or as a result of

any merger, consolidation, acquisition or other exchange of assets to which such issuer may be a party or otherwise, shall be and become part of the Pledged Collateral, and, if received by any Loan Party, shall not be commingled by such Loan Party with any of its other funds or property but shall be held separate and apart therefrom, shall be held in trust for the benefit of the Collateral Agent and the other Secured Parties and shall be forthwith delivered to the Collateral Agent in the same form as so received (with any necessary endorsement, stock powers and other instruments of transfer).

(b) Upon the occurrence and during the continuance of an Event of Default, after the Collateral Agent shall have notified the Loan Parties of the suspension of their rights under paragraph (a)(iii) of this Section 3.06, then all rights of any Loan Party to dividends, interest, principal or other distributions that such Loan Party is authorized to receive pursuant to paragraph (a)(iii) of this Section 3.06 shall cease, and all such rights shall thereupon become vested in the Collateral Agent, which shall have the sole and exclusive right and authority to receive and retain such dividends, interest, principal or other distributions. All dividends, interest, principal or other distributions received by any Loan Party contrary to the provisions of this Section 3.06 shall be held in trust for the benefit of the Collateral Agent and the other Secured Parties, shall be segregated from other property or funds of such Loan Party and shall be forthwith delivered to the Collateral Agent upon demand in the same form as so received (with any necessary endorsement). Any and all money and other property paid over to or received by the Collateral Agent pursuant to the provisions of this paragraph (b) shall be retained by the Collateral Agent in an account to be established by the Collateral Agent upon receipt of such money or other property and shall be applied in accordance with the provisions of Section 5.02 hereof. After all Events of Default have been cured or waived and Parent has delivered to the Collateral Agent a certificate to that effect, the Collateral Agent shall promptly repay to each Loan Party (without interest) all dividends, interest, principal or other distributions that such Loan Party would otherwise be permitted to retain pursuant to the terms of paragraph (a)(iii) of this Section 3.06 and that remain in such account.

(c) Upon the occurrence and during the continuance of an Event of Default, after the Collateral Agent shall have notified the Loan Parties of the suspension of their rights under paragraph (a)(i) of this Section 3.06, then all rights of any Loan Party to exercise the voting and consensual rights and powers it is entitled to exercise pursuant to paragraph (a)(i) of this Section 3.06, and the obligations of the Collateral Agent under paragraph (a)(ii) of this Section 3.06, shall cease, and all such rights shall thereupon become vested in the Collateral Agent, which shall have the sole and exclusive right and authority to exercise such voting and consensual rights and powers; *provided* that, unless otherwise directed by the Required Lenders, the Collateral Agent shall have the right from time to time following and during the continuance of an Event of Default to permit the Loan Parties to exercise such rights.

(d) Any notice given by the Collateral Agent to the Loan Parties suspending their rights under paragraph (a) of this Section 3.06 (i) may be given by telephone if promptly confirmed in writing, (ii) may be given to one or more of the Loan

Parties at the same or different times and (iii) may suspend the rights of the Loan Parties under paragraph (a)(i) or paragraph (a)(iii) in part without suspending all such rights (as specified by the Collateral Agent in its sole and absolute discretion) and without waiving or otherwise affecting the Collateral Agent's rights to give additional notices from time to time suspending other rights so long as an Event of Default has occurred and is continuing.

ARTICLE IV

Security Interests in Personal Property

SECTION 4.01. **Security Interest.** (a) As security for the payment or performance, as the case may be, in full of the Obligations, each Loan Party (including each Borrower) hereby assigns and pledges to the Collateral Agent, its permitted successors and assigns, for the benefit of the Secured Parties, and hereby grants to the Collateral Agent, its successors and assigns, for the benefit of the Secured Parties, a security interest (the "**Security Interest**") in, all right, title or interest in or to any and all of the following assets and properties now owned or at any time hereafter acquired by such Loan Party or in which such Loan Party now has or at any time in the future may acquire any right, title or interest (collectively, the "**Article 9 Collateral**"):

- (i) all Accounts;
- (ii) all Chattel Paper;
- (iii) all cash and Deposit Accounts;
- (iv) all Documents;
- (v) all Equipment;
- (vi) all General Intangibles;
- (vii) all Instruments;
- (viii) all Inventory;
- (ix) all Investment Property;
- (x) all letter-of-credit rights;
- (xi) all commercial tort claims specified on Schedule V;
- (xii) all books and records pertaining to the Article 9 Collateral; and
- (xiii) to the extent not otherwise included, all Proceeds and products of any and all of the foregoing and all collateral security and guarantees given by any Person with respect to any of the foregoing.

(b) Each Loan Party hereby irrevocably authorizes the Collateral Agent at any time and from time to time to file in any relevant jurisdiction any initial financing statements (including fixture filings) with respect to the Article 9 Collateral or any part thereof and amendments thereto and continuations thereof that contain the information required by Article 9 of the Uniform Commercial Code of each applicable jurisdiction for the filing of any financing statement or amendment, including (a) whether such Loan Party is an organization, the type of organization and any organizational identification number issued to such Loan Party and (b) in the case of a financing statement filed as a fixture filing, a sufficient description of the real property to which such Article 9 Collateral relates. Without limiting the foregoing, each Loan Party hereby irrevocably authorizes the Collateral Agent at any time and from time to time to file in the proper jurisdictions financing statements covering "all assets" of such Loan Party. Each Loan Party agrees to provide such information to the Collateral Agent promptly upon request.

Each Loan Party also ratifies its authorization for the Collateral Agent to file in any relevant jurisdiction any initial financing statements or amendments thereto if filed prior to the date hereof.

The Collateral Agent is further authorized to file with the United States Patent and Trademark Office or United States Copyright Office (or any successor office or any similar office in any other country) such documents as may be necessary or advisable for the purpose of perfecting, confirming, continuing, enforcing or protecting the Security Interest granted by each Loan Party, without the signature of any Loan Party, and naming any Loan Party or the Loan Parties as debtors and the Collateral Agent as secured party.

(c) 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 Loan Party with respect to or arising out of the Article 9 Collateral (other than the duties expressly created hereunder).

SECTION 4.02. *Representations and Warranties.* The Loan Parties jointly and severally represent and warrant to the Collateral Agent and the other Secured Parties that:

(a) Each Loan Party has good and valid rights in and title to the Article 9 Collateral with respect to which it has purported to grant a Security Interest hereunder and has full power and authority to grant to the Collateral Agent, for the benefit of the Secured Parties, the Security Interest in such Article 9 Collateral pursuant hereto and to execute, deliver and perform its obligations in accordance with the terms of this Agreement, without the consent or approval of any other Person other than any consent or approval that has been obtained.

(b) The Perfection Certificate has been duly prepared, completed and executed and the information set forth therein, including the exact legal name and place of organization of each Loan Party, is correct and complete as of the Effective Date. The Uniform Commercial Code financing statements (including fixture filings, as applicable)

or other appropriate filings, recordings or registrations prepared by the Collateral Agent based upon the information provided to the Collateral Agent in the Perfection Certificate for filing in each governmental, municipal or other office specified in Schedule 5 to the Perfection Certificate (or specified by notice from Parent or a Borrower to the Collateral Agent after the Effective Date in the case of filings, recordings or registrations required by Section 5.06 or 5.10 of the Credit Agreement), are all the filings, recordings and registrations (other than filings required to be made in the United States Patent and Trademark Office and the United States Copyright Office in order to perfect the Security Interest in Article 9 Collateral consisting of United States Patents, Trademarks and Copyrights) that are necessary as of the Effective Date to publish notice of, perfect 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 Article 9 Collateral in which the 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 no further or subsequent filing, refiling, recording, rerecording, registration or reregistration is necessary in any such jurisdiction, except as provided under applicable law with respect to the filing of continuation statements. Each Loan Party shall ensure that a fully executed Trademark Security Agreement and, if any of Article 9 Collateral consists, on the date hereof, of Patents or Copyrights, Patent Security Agreement and Copyright Security Agreement (collectively, the "***IP Security Agreements***") in the form of Exhibits III, IV and V, respectively, hereto and containing a description of all Article 9 Collateral consisting of applicable Intellectual Property shall be received and recorded within three months after the execution of this Agreement with respect to United States Patents and United States registered Trademarks (and Trademarks for which United States registration applications are pending) and within one month after the execution of this Agreement with respect to United States registered Copyrights by the United States Patent and Trademark Office and the United States Copyright Office pursuant to 35 U.S.C. § 261, 15 U.S.C. § 1060 or 17 U.S.C. § 205 and the regulations thereunder, as applicable, 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 Article 9 Collateral consisting of Patents, Trademarks and Copyrights 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 no further or subsequent filing, refiling, recording, rerecording, registration or reregistration is necessary (other than such actions as are necessary to perfect the Security Interest with respect to any Article 9 Collateral consisting of Patents, Trademarks and Copyrights (or registration or application for registration thereof) acquired or developed after the date hereof).

(c) The Security Interest constitutes (i) a legal and valid security interest in all the Article 9 Collateral securing the payment and performance of the Obligations, (ii) subject to the filings described in Section 4.02(b) hereof, a perfected security interest in all Article 9 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 Uniform Commercial Code or other applicable law in such jurisdictions and (iii) a security interest that shall be perfected in all Article 9 Collateral in which a security

interest may be perfected upon the receipt and recording of the IP Security Agreements with the United States Patent and Trademark Office and the United States Copyright Office, as applicable, within the three-month period (commencing as of the date hereof) pursuant to 35 U.S.C. § 261 or 15 U.S.C. § 1060 or the one-month period (commencing as of the date hereof) pursuant to 17 U.S.C. § 205. The Security Interest is and shall be prior to any other Lien on any of the Article 9 Collateral, other than Permitted Encumbrances that have priority as a matter of law and Liens expressly permitted to be prior to the Security Interest pursuant to Section 6.02 of the Credit Agreement.

(d) The Article 9 Collateral is owned by the Loan Parties free and clear of any Lien, except for Liens expressly permitted pursuant to Section 6.02 of the Credit Agreement. None of the Loan Parties has filed or consented to the filing of (i) any financing statement or analogous document under the Uniform Commercial Code or any other applicable laws covering any Article 9 Collateral, (ii) any assignment in which any Loan Party assigns any Collateral or any security agreement or similar instrument covering any Article 9 Collateral with the United States Patent and Trademark Office or the United States Copyright Office or (iii) any assignment in which any Loan Party assigns any Article 9 Collateral or any security agreement or similar instrument covering any Article 9 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 Liens expressly permitted pursuant to Section 6.02 of the Credit Agreement.

SECTION 4.03. *Covenants.* (a) Each Loan Party agrees to maintain, at its own cost and expense, such complete and accurate records with respect to the Article 9 Collateral owned by it as is 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 Loan Party is engaged, but in any event to include complete accounting records indicating all payments and proceeds received with respect to any part of the Article 9 Collateral, and, at such time or times as the Collateral Agent may reasonably request, to prepare and deliver as soon as reasonably practicable to the Collateral Agent a duly certified schedule or schedules in form and detail satisfactory to the Collateral Agent showing the identity, amount and location of any and all Article 9 Collateral.

(b) Each Loan Party shall, at its own expense, take any and all actions necessary to defend title to the Article 9 Collateral against all Persons and to defend the Security Interest of the Collateral Agent in the Article 9 Collateral and the priority thereof against any Lien not expressly permitted pursuant to Section 6.02 of the Credit Agreement.

(c) Each Loan Party 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. If any amount payable to any Loan Party under or in connection with any of the Article 9 Collateral shall be or become evidenced by any promissory note or other instrument, such note or instrument (if such instrument is for an amount at least equal to \$250,000) shall be promptly pledged and delivered to the Collateral Agent, duly endorsed in a manner reasonably satisfactory to the Collateral Agent.

Without limiting the generality of the foregoing, each Loan Party hereby authorizes the Collateral Agent, with prompt notice thereof to the Loan Parties, to supplement this Agreement by supplementing Schedule III or adding additional schedules hereto to specifically identify any asset or item that may constitute Copyrights, Licenses, Patents or Trademarks; *provided* that any Loan Party shall have the right, exercisable within 10 days after it has been notified by the Collateral Agent of the specific identification of such Collateral, to advise the Collateral Agent in writing of any inaccuracy (i) with respect to such supplement or additional schedule or (ii) of the representations and warranties made by such Loan Party hereunder with respect to such Collateral. Each Loan Party agrees that it will use its best efforts to take such action as shall be necessary in order that all representations and warranties hereunder shall be true and correct with respect to such Collateral within 30 days after the date it has been notified by the Collateral Agent of the specific identification of such Collateral.

(d) The Collateral Agent and such Persons as the Collateral Agent may reasonably designate shall have the right, at the Loan Parties' own cost and expense, to inspect the Article 9 Collateral, all records related thereto (and to make extracts and copies from such records) and the premises upon which any of the Article 9 Collateral is located, to discuss the Loan Parties' affairs with the officers of the Loan Parties and their independent accountants and to verify under reasonable procedures, in accordance with Section 5.06 of the Credit Agreement, the validity, amount, quality, quantity, value, condition and status of, or any other matter relating to, the Article 9 Collateral, including, in the case of Accounts or other Article 9 Collateral in the possession of any third person, by contacting Account Debtors (only during the existence of a Default) or the third person possessing such Article 9 Collateral for the purpose of making such a verification. The Loan Parties shall be required to pay all costs and expenses incurred by the Collateral Agent or any other Person in connection with any inspection or verification referred to in this paragraph that is (i) the first inspection or verification conducted in any calendar year or (ii) conducted after the occurrence and during the continuation of a Default or an Event of Default.

(e) The Collateral Agent shall have the absolute right to share any information it gains from such inspection or verification with any Secured Party (it being understood that any such information shall be deemed to be "Information" for the purpose of the confidentiality provisions set forth in Section 9.16 of the Credit Agreement).

(f) 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 Article 9 Collateral and not permitted pursuant to Section 6.02 of the Credit Agreement, and may pay for the maintenance and preservation of the Article 9 Collateral to the extent any Loan Party fails to do so as required by the Credit Agreement or this Agreement, and each Loan Party 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* that nothing in this paragraph shall be interpreted as excusing any Loan Party 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 Loan Party 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.

(g) If at any time any Loan Party shall take a security interest in any property of an Account Debtor or any other Person to secure payment and performance of an Account that is at least equal to \$250,000, such Loan Party shall promptly assign such security interest to the Collateral Agent for the benefit of the Secured Parties. 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.

(h) As between each Loan Party, the Collateral Agent and the Secured Parties, each Loan Party 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 Article 9 Collateral, all in accordance with the terms and conditions thereof, and the Loan Parties jointly and severally agree to indemnify and hold harmless the Collateral Agent and the other Secured Parties from and against any and all liability for such performance.

(i) None of the Loan Parties shall make or permit to be made an assignment, pledge or hypothecation of the Article 9 Collateral or shall grant any other Lien in respect of the Article 9 Collateral, except as permitted by the Credit Agreement. None of the Loan Parties shall make or permit to be made any transfer of the Article 9 Collateral and each Loan Party shall remain at all times in possession of the Article 9 Collateral owned by it, except that unless and until the Collateral Agent shall notify the Loan Parties (which notice may be given by telephone if promptly confirmed in writing) that an Event of Default shall have occurred and be continuing and that during the continuance thereof the Loan Parties shall not sell, convey, lease, assign, transfer or otherwise dispose of any Article 9 Collateral, the Loan Parties may use and dispose of the Article 9 Collateral in any lawful manner not inconsistent with the provisions of this Agreement, the Credit Agreement or any other Loan Document. Without limiting the generality of the foregoing, each Loan Party agrees that it shall not permit any Inventory to be in the possession or control of any warehouseman, agent, bailee, or processor at any time unless such warehouseman, bailee, agent or processor shall have been notified of the Security Interest and shall have acknowledged in writing, in form and substance reasonably satisfactory to the Collateral Agent, that such warehouseman, agent, bailee or processor holds the Inventory for the benefit of the Collateral Agent subject to the Security Interest and shall act upon the instructions of the Collateral Agent without

further consent from the Loan Party, and that such warehouseman, agent, bailee or processor further agrees to fully subordinate any Lien held by it with respect to such Inventory, whether arising by operation of law or otherwise.

(j) None of the Loan Parties will, without the Collateral Agent's prior written consent (which consent shall not be unreasonably withheld), grant any extension of the time of payment of any Accounts included in the Article 9 Collateral, compromise, compound or settle the same for less than the full amount thereof, release, wholly or partly, any Person liable for the payment thereof or allow any credit or discount whatsoever thereon, other than extensions, compromises, settlements, releases, credits or discounts granted or made in the ordinary course of business and consistent with its current practices and in accordance with such prudent and standard practice used in industries that are the same as or similar to those in which such Loan Party is engaged.

(k) The Loan Parties, 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 the requirements set forth in Schedule IV hereto and Section 5.02 of the Credit Agreement. Each Loan Party irrevocably makes, constitutes and appoints the Collateral Agent (and all officers, employees or agents designated by the Collateral Agent) as such Loan Party'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 Article 9 Collateral under policies of insurance, endorsing the name of such Loan Party 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 Loan Party 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 Loan Parties 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 paragraph, including reasonable attorneys' fees, court costs, expenses and other charges relating thereto, shall be payable, upon demand, by the Loan Parties to the Collateral Agent and shall be additional Obligations secured hereby.

(l) Each Loan Party shall maintain, in form and manner reasonably satisfactory to the Collateral Agent, records of its Chattel Paper and its books, records and documents evidencing or pertaining thereto.

SECTION 4.04. *Other Actions.* In order to further insure the attachment, perfection and priority of, and the ability of the Collateral Agent to enforce, the Security Interest, each Loan Party agrees, in each case at such Loan Party's own expense, to take the following actions with respect to the following Article 9 Collateral:

(a) ***Instruments.*** If any Loan Party shall at any time hold or acquire any Instruments for an amount at least equal to \$250,000, such Loan Party shall forthwith endorse, assign and deliver the same to the Collateral Agent, accompanied by such

undated instruments of endorsement, transfer or assignment duly executed in blank as the Collateral Agent may from time to time reasonably request.

(b) **Deposit Accounts.** For each deposit account that any Loan Party at any time opens or maintains, such Loan Party shall, either (i) cause the depository bank to agree to comply with instructions from the Collateral Agent to such depository bank directing the disposition of funds from time to time credited to such deposit account, without further consent of such Loan Party or any other Person, pursuant to an agreement satisfactory to the Collateral Agent, or (ii) arrange for the Collateral Agent to become the customer of the depository bank with respect to the deposit account, with the Loan Party being permitted, only with the consent of the Collateral Agent, to exercise rights to withdraw funds from such deposit account. The Collateral Agent agrees with each Loan Party that the Collateral Agent shall not give any such instructions or withhold any withdrawal rights from any Loan Party unless an Event of Default has occurred and is continuing, or after giving effect to any withdrawal, would occur. The provisions of this paragraph shall not apply to (A) any deposit account for which any Loan Party, the depository bank and the Collateral Agent have entered into a cash collateral agreement specially negotiated among such Loan Party, the depository bank and the Collateral Agent for the specific purpose set forth therein, (B) deposit accounts for which the Collateral Agent is the depository bank, (C) any deposit account funds on deposit in which are used for funding (i) payroll, (ii) 401(k) and other retirement plans and employee benefits, including rabbi trusts and deferred compensation and (iii) employee health care benefits, (D) any escrow deposit account (other than any escrow account established in connection with any sale or other disposition of assets) and (E) any other account with a balance not in excess of \$25,000 on any day.

(c) **Investment Property.** Except to the extent otherwise provided in Article III, if any Loan Party shall at any time hold or acquire any certificated securities, such Loan Party shall forthwith endorse, assign and deliver the same to the Collateral Agent, accompanied by such undated instruments of transfer or assignment duly executed in blank as the Collateral Agent may from time to time reasonably request. If any securities now or hereafter acquired by any Loan Party are uncertificated and are issued to such Loan Party or its nominee directly by the issuer thereof, such Loan Party shall promptly notify the Collateral Agent thereof and, at the Collateral Agent's request and option, pursuant to an agreement in form and substance reasonably satisfactory to the Collateral Agent, either (i) cause the issuer to agree to comply with instructions from the Collateral Agent as to such securities, without further consent of any Loan Party or such nominee, or (ii) arrange for the Collateral Agent to become the registered owner of the securities. If any securities, whether certificated or uncertificated, or other Investment Property now or hereafter acquired by any Loan Party are held by such Loan Party or its nominee through a securities intermediary or commodity intermediary, such Loan Party shall immediately notify the Collateral Agent thereof and, at the Collateral Agent's request and option, pursuant to an agreement in form and substance reasonably satisfactory to the Collateral Agent, either (i) cause such securities intermediary or (as the case may be) commodity intermediary to agree to comply with entitlement orders or other instructions from the Collateral Agent to such securities intermediary as to such security entitlements, or to apply any value distributed on account of any commodity

contract as directed by the Collateral Agent to such commodity intermediary, in each case without further consent of any Loan Party or such nominee, or (ii) in the case of Financial Assets or other Investment Property held through a securities intermediary, arrange for the Collateral Agent to become the entitlement holder with respect to such Investment Property, with the Loan Party being permitted, only with the consent of the Collateral Agent, to exercise rights to withdraw or otherwise deal with such Investment Property. The Collateral Agent agrees with each of the Loan Parties that the Collateral Agent shall not give any such entitlement orders or instructions or directions to any such issuer, securities intermediary or commodity intermediary, and shall not withhold its consent to the exercise of any withdrawal or dealing rights by any Loan Party, unless an Event of Default has occurred and is continuing, or, after giving effect to any such investment and withdrawal rights would occur. The provisions of this paragraph shall not apply to any Financial Assets credited to a securities account for which the Collateral Agent is the securities intermediary.

(d) ***Electronic Chattel Paper and Transferable Records.*** If any Loan Party at any time holds or acquires an interest in 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, such Loan Party shall promptly notify the Collateral Agent thereof and, at the request of the Collateral Agent, shall take such action as the Collateral Agent may reasonably request to vest in the Collateral Agent control under New York 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 Loan Party that the Collateral Agent will arrange, pursuant to procedures reasonably satisfactory to the Collateral Agent and so long as such procedures will not result in the Collateral Agent’s loss of control, for the Loan Party 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 Loan Party with respect to such electronic chattel paper or transferable record.

(e) ***Letter-of-Credit Rights.*** If any Loan Party is at any time a beneficiary under a letter of credit now or hereafter issued in favor of such Loan Party, such Loan Party shall promptly notify the Collateral Agent thereof and, at the request and option of the Collateral Agent, such Loan Party shall, pursuant to an agreement in form and substance reasonably satisfactory to the Collateral Agent, either (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 such 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 such

letter of credit are to be paid to the applicable Loan Party unless an Event of Default has occurred or is continuing.

(f) **Commercial Tort Claims.** If any Loan Party shall at any time hold or acquire a commercial tort claim in an amount reasonably estimated to exceed \$100,000, the Loan Party shall promptly notify the Collateral Agent thereof in a writing signed by such Loan Party including a summary description of such claim and grant to the Collateral Agent for the benefit of the Secured Parties 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 reasonably satisfactory to the Collateral Agent.

SECTION 4.05. Covenants Regarding Patent, Trademark and Copyright Collateral. (a) Each Loan Party agrees that it will not do any act or omit to do any act (and will exercise commercially reasonable efforts to prevent its licensees from doing any act or omitting to do any act) whereby any Patent that is material to the conduct of such Loan Party'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 Loan Party (either itself or through its licensees or its sublicensees) will, for each Trademark material to the conduct of such Loan Party's business, (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) if registered, display such Trademark with notice of Federal or foreign registration to the extent necessary and sufficient to establish and preserve its maximum 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 Loan Party (either itself or through its licensees or sublicensees) will, for each work covered by a material Copyright, continue to publish, reproduce, display, adopt and distribute the work with appropriate copyright notice as necessary and sufficient to establish and preserve its maximum rights under applicable copyright laws.

(d) Each Loan Party shall notify the Collateral Agent promptly if it knows or has reason to know that any Patent, Trademark or Copyright material to the conduct of its business may become abandoned, lost or dedicated to the public, or of any materially adverse determination or development (including the institution of, or any such determination or development in, any proceeding in the United States Patent and Trademark Office, United States Copyright Office or any court or similar office of any country) regarding such Loan Party's ownership of any Patent, Trademark or Copyright, its right to register the same, or its right to keep and maintain the same.

(e) In the event that any Loan Party, either itself or through any agent, employee, licensee or designee, file an application for any Patent, Trademark or Copyright (or for the registration of any Trademark or Copyright) with the United States Patent and Trademark Office, United States Copyright Office or any office or agency in

any political subdivision of the United States or in any other country or any political subdivision thereof, it shall inform the Collateral Agent within 10 Business Days of such application and, upon the reasonable request of the Collateral Agent, execute and deliver any and all agreements (including any IP Security Agreements), instruments, documents and papers as the Collateral Agent may reasonably request to evidence the Collateral Agent's security interest in such Patent, Trademark or Copyright, and each Loan Party hereby appoints the Collateral Agent as its attorney-in-fact to execute and file such writings 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 Loan Party will take all necessary steps that are consistent with the practice in any proceeding before the United States Patent and Trademark Office, the United States Copyright 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 and/or Copyrights (and to obtain the relevant grant or registration) and to maintain each issued Patent and each registration of the Trademarks and Copyrights that is material to the conduct of any Loan Party's business, including timely filings of applications for renewal, affidavits of use, affidavits of incontestability and payment of maintenance fees, and, if consistent with good business judgment, to initiate opposition, interference and cancellation proceedings against third parties.

(g) In the event that any Loan Party has reason to believe that any Article 9 Collateral consisting of a Patent, Trademark or Copyright material to the conduct of any Loan Party's business has been or is about to be infringed, misappropriated or diluted by a third party, such Loan Party promptly shall notify the Collateral Agent and shall, if consistent with good 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 appropriate under the circumstances to protect such Article 9 Collateral. Such Loan Party may discontinue or settle any such suit or other action if the Loan Party deems such discontinuance or settlement to be appropriate in its business judgment.

(h) Upon and during the continuance of an Event of Default, each Loan Party shall, at the 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 such Loan Party's right, title and interest thereunder to the Collateral Agent or its designee for the benefit of the Secured Parties.

ARTICLE V

Remedies

SECTION 5.01. *Remedies Upon Default.* Upon the occurrence and during the continuance of an Event of Default, each Loan Party agrees to deliver, on demand, each item of Collateral to the Collateral Agent or any Person designated by 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 Article 9 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 Article 9 Collateral by the applicable Loan Parties to the Collateral Agent (for the benefit of the Secured Parties), or to license or sublicense, whether general, special or otherwise, and whether on an exclusive or nonexclusive basis, any such Article 9 Collateral throughout the world on such terms and conditions and in such manner as the Collateral Agent shall determine (other than in violation of 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 Article 9 Collateral and without liability for trespass to enter any premises where the Article 9 Collateral may be located for the purpose of taking possession of or removing the Article 9 Collateral and, generally, to exercise any and all rights afforded to a secured party under the Uniform Commercial Code or other applicable law. Without limiting the generality of the foregoing, each Loan Party 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 a 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 of securities (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 sale of Collateral shall hold the property sold absolutely, free from any claim or right on the part of any Loan Party, and each Loan Party hereby waives (to the extent permitted by law) all rights of redemption, stay and appraisal which such Loan Party 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 the applicable Loan Parties 10 days' written notice (which each Loan Party agrees is reasonable notice within the meaning of Section 9-611 of the New York UCC or its equivalent in other jurisdictions) of the Collateral Agent's intention to make any sale of Collateral. Such notice, in the case of a public sale, shall state the time and place for such sale and, in the case of a sale at a broker's board or on a securities exchange, shall state the board or exchange at which such sale is to be made and the day on which the Collateral, or portion thereof, will first be offered for sale at such board or exchange. Any such public sale shall be held at such time or times within ordinary business hours and at such place or places as the Collateral Agent may fix and state in the notice (if any) of such sale. At any such sale, the Collateral, or portion thereof, to be sold may be sold in one lot as an entirety or in separate parcels, as the 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

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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 and the other Secured Parties 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 Agreement, 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 Loan Party (all said rights being also hereby waived and released to the extent permitted by law), the Collateral or any part thereof offered for sale and may make payment on account thereof by using any claim then due and payable to such Secured Party from any Loan Party 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 Loan Party 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 Loan Party 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 5.01 shall be deemed to conform to the commercially reasonable standards as provided in Section 9-610(b) of the New York UCC or its equivalent in other jurisdictions.

SECTION 5.02. *Application of Proceeds.* The Collateral Agent shall apply the proceeds of any collection or sale of or foreclosure or other realization upon any Collateral, including any Collateral consisting of cash, as follows:

FIRST, to the payment of all costs and expenses incurred by the Collateral Agent in connection with such collection, sale, foreclosure or realization or otherwise in connection with this Agreement, any other Loan Document or any of the Obligations, including all court costs and the fees and expenses of its agents and legal counsel, the repayment of all advances made by the Collateral Agent hereunder or under any other Loan Document on behalf of any Loan Party and any other costs or expenses incurred in connection with the exercise of any right or remedy hereunder or under any other Loan Document;

SECOND, to the payment in full of the Obligations (the amounts so applied to be distributed among the Secured Parties pro rata in accordance with the amounts of the Obligations owed to them on the date of any such distribution); and

THIRD, to the Loan Parties, their successors or assigns, or as a court of competent jurisdiction may otherwise direct.

The Collateral Agent shall have absolute discretion as to the time of application of any such proceeds, moneys or balances in accordance with this Agreement. Upon any sale of Collateral by the Collateral Agent (including pursuant to a power of sale granted by statute or under a judicial proceeding), the receipt of the Collateral Agent or of the officer making the sale shall be a sufficient discharge to the purchaser or purchasers of the Collateral so sold and such purchaser or purchasers shall not be obligated to see to the application of any part of the purchase money paid over to the Collateral Agent or such officer or be answerable in any way for the misapplication thereof.

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 Agreement at such time as the Collateral Agent shall be lawfully entitled to exercise such rights and remedies, each Loan Party hereby grants to the Collateral Agent an irrevocable, nonexclusive license (exercisable without payment of royalty or other compensation to the Loan Parties) to use, license or sublicense any of the Article 9 Collateral consisting of Intellectual Property now or hereafter owned by such Loan Party, 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 may be exercised, at the option of the Collateral Agent, only upon the occurrence and during the continuation of an Event of Default as part of the Collateral Agent's exercise of remedies hereunder.

SECTION 5.04. **Securities Act.** In view of the position of the Loan Parties in relation to the Pledged Collateral, or because of other current or future circumstances, a question may arise under the Securities Act of 1933, as now or hereafter in effect, or any similar statute hereafter enacted analogous in purpose or effect (such Act and any such similar statute as from time to time in effect being called the "**Federal Securities Laws**") with respect to any disposition of the Pledged Collateral permitted hereunder. Each Loan Party understands that compliance with the Federal Securities Laws might very strictly limit the course of conduct of the Collateral Agent if the Collateral Agent were to attempt to dispose of all or any part of the Pledged Collateral, and might also limit the extent to which or the manner in which any subsequent transferee of any Pledged Collateral could dispose of the same. Similarly, there may be other legal restrictions or limitations affecting the Collateral Agent in any attempt to dispose of all or part of the Pledged Collateral under applicable Blue Sky or other state securities laws or similar laws analogous in purpose or effect. Each Loan Party recognizes that in light of such restrictions and limitations the Collateral Agent may, with respect to any sale of the Pledged Collateral, limit the purchasers to those who will agree, among other things, to acquire such Pledged Collateral for their own account, for investment, and not with a view to the distribution or resale thereof. Each Loan Party acknowledges and agrees that in light of such restrictions and limitations, the Collateral Agent, in its sole and absolute discretion (a) may proceed to make such a sale whether or not a registration statement for the purpose of registering such Pledged Collateral or part

thereof shall have been filed under the Federal Securities Laws and (b) may approach and negotiate with a single potential purchaser to effect such sale. Each Loan Party acknowledges and agrees that any such sale might result in prices and other terms less favorable to the seller than if such sale were a public sale without such restrictions. In the event of any such sale, the Collateral Agent and the other Secured Parties shall incur no responsibility or liability for a sale of all or any part of the Pledged Collateral at a price that the Collateral Agent, in its sole and absolute discretion, may in good faith deem reasonable under the circumstances, notwithstanding the possibility that a substantially higher price might have been realized if the sale were deferred until after registration as aforesaid or if more than a single purchaser were approached. The provisions of this Section 5.04 will apply notwithstanding the existence of a public or private market upon which the quotations or sales prices may exceed substantially the price at which the Collateral Agent sells.

ARTICLE VI

Indemnity, Subrogation and Subordination

SECTION 6.01. *Indemnity and Subrogation.* In addition to all such rights of indemnity and subrogation as the Loan Parties may have under applicable law (but subject to Section 6.03 hereof), Parent and each Borrower agrees that (a) in the event a payment of an Obligation of such Borrower shall be made by any other Subsidiary Loan Party under this Agreement, Parent and such Borrower shall indemnify such Subsidiary Loan Party for the full amount of such payment and such Subsidiary Loan Party shall be subrogated to the rights of the Person to whom such payment shall have been made to the extent of such payment and (b) in the event any assets of any Subsidiary Loan Party shall be sold pursuant to this Agreement or any other Security Document to satisfy in whole or in part an Obligation of such Borrower owed to any Secured Party, Parent and such Borrower shall indemnify such Subsidiary Loan Party in an amount equal to the greater of the book value or the fair market value of the assets so sold.

SECTION 6.02. *Contribution and Subrogation.* Each Loan Party (a “*Contributing Party*”) agrees (subject to Section 6.03 hereof) that, in the event a payment shall be made by any other Loan Party hereunder in respect of any Obligation or assets of any other Loan Party shall be sold pursuant to any Security Document to satisfy any Obligation owed to any Secured Party and such other Loan Party (the “*Claiming Party*”) shall not have been fully indemnified by Parent or the applicable Borrower as provided in Section 6.01 hereof, the Contributing Party shall indemnify the Claiming Party in an amount equal to the amount of such payment or the greater of the book value or the fair market value of such assets, as the case may be, in each case multiplied by a fraction of which the numerator shall be the net worth of the Contributing Party on the date hereof and the denominator shall be the aggregate net worth of all the Subsidiary Loan Parties on the date hereof (or, in the case of any Loan Party becoming a party hereto pursuant to Section 7.14 hereof, the date of the supplement hereto executed and delivered by such Loan Party). Any Contributing Party making any payment to a Claiming Party pursuant to this Section 6.02 shall be subrogated to the rights of such Claiming Party under Section 6.01 hereof to the extent of such payment.

SECTION 6.03. *Subordination.* (a) Notwithstanding any provision of this Agreement to the contrary, all rights of the Loan Parties under Sections 6.01 and 6.02 hereof and all other rights of indemnity, contribution or subrogation under applicable law or otherwise shall be fully subordinated to the indefeasible payment in full in cash of the Obligations. No failure on the part of any Borrower or other Loan Party to make the payments required by Sections 6.01 and 6.02 hereof (or any other payments required under applicable law or otherwise) shall in any respect limit the obligations and liabilities of any Loan Party with respect to its Obligations hereunder, and each Loan Party shall remain liable for the full amount of the obligations of such Loan Party hereunder.

(b) Each Loan Party hereby agrees that all Indebtedness and other monetary obligations owed by it to any other Loan Party or any other Subsidiary shall be fully subordinated to the indefeasible payment in full in cash of the Obligations.

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 9.01 of the Credit Agreement. All communications and notices hereunder to any Subsidiary Loan Party shall be given to it in care of Parent as provided in Section 9.01 of the Credit Agreement.

SECTION 7.02. *Waivers; Amendment.* (a) No failure or delay by the Collateral Agent, any Issuing Bank or any Lender in exercising any right or power hereunder or under any other Loan Document 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, the Administrative Agent, the Issuing Banks and the Lenders hereunder and 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 provision of this Agreement or consent to any departure by any Loan Party therefrom shall in any event be effective unless the same shall be permitted by paragraph (b) of this Section 7.02, and then such waiver or consent shall be effective only in the specific instance and for the purpose for which given. Without limiting the generality of the foregoing, the making of a Loan or issuance of a Letter of Credit shall not be construed as a waiver of any Default, regardless of whether the Collateral Agent, any Lender or any Issuing Bank may have had notice or knowledge of such Default at the time. No notice or demand on any Loan Party in any case shall entitle any Loan Party 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 by the Collateral Agent and the Loan Party or Loan Parties with respect to which

such waiver, amendment or modification is to apply, subject to any consent required in accordance with Section 9.08 of the Credit Agreement.

SECTION 7.03. *Collateral Agent's Fees and Expenses;*

Indemnification. (a) The parties hereto agree that the Collateral Agent shall be entitled to reimbursement of its reasonable expenses incurred hereunder as provided in Section 9.05 of the Credit Agreement.

(b) Without limitation of its indemnification obligations under the other Loan Documents, each Loan Party jointly and severally agrees to indemnify the Collateral Agent and the other Indemnitees (as defined in Section 9.05 of the Credit Agreement) against, and hold each Indemnitee harmless from, any and all losses, claims, damages, liabilities and related expenses, including reasonable fees, charges and disbursements of any counsel for any Indemnitee, incurred by or asserted against any Indemnitee arising out of, in connection with, or as a result of, the execution, delivery or performance of this Agreement or any claim, litigation, investigation or proceeding relating to any of the foregoing or to the Collateral, whether based on contract, tort or any other theory and regardless of whether any Indemnitee is a party thereto; *provided* that such indemnity shall not, as to any Indemnitee, be available to the extent that such losses, claims, damages, liabilities or related expenses resulted from the gross negligence or willful misconduct of such Indemnitee or any of its Affiliates. To the extent permitted by applicable law, no Loan Party shall assert, and each Loan Party hereby waives, any claim against any Indemnitee, on any theory of liability, for special, indirect, consequential or punitive damages (as opposed to direct or actual damages) arising out of, in connection with, or as a result of, this Agreement or any agreement or instrument contemplated hereby, the Transactions, any Loan or Letter of Credit or the use of the proceeds thereof.

(c) Any such amounts payable as provided hereunder shall be additional Obligations secured hereby and by the other Security Documents. The provisions of this Section 7.03 shall survive and remain in full force and effect regardless of the termination of this Agreement or any other Loan Document, the consummation of the transactions contemplated hereby, the repayment of any of the Obligations, the invalidity or unenforceability of any term or provision of this Agreement or any other Loan Document, or any investigation made by or on behalf of the Collateral Agent or any other Secured Party. All amounts due under this Section 7.03 shall be payable promptly after written demand therefor.

SECTION 7.04. *Successors and Assigns.* Whenever in this Agreement any of the parties hereto is referred to, such reference shall be deemed to include the permitted successors and assigns of such party; and all covenants, promises and agreements by or on behalf of any Loan Party or the Collateral Agent that are contained in this Agreement shall bind and inure to the benefit of their respective successors and assigns.

SECTION 7.05. *Survival of Agreement.* All covenants, agreements, representations and warranties made by the Loan Parties in the Loan Documents 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 Lenders and shall survive the execution and delivery of the Loan Documents and the making of any Loans and issuance of any Letters of Credit, regardless of any investigation made by any Lender or on its behalf and notwithstanding that the Collateral Agent, any Issuing Bank or any Lender may have had notice or knowledge of any Default or incorrect representation or warranty at the time any credit is extended under the Credit Agreement, and shall continue in full force and effect as long as the principal of or any accrued interest on any Loan or any fee or any other amount payable under any Loan Document is outstanding and unpaid or any Letter of Credit is outstanding and so long as the Commitments have not expired or terminated.

SECTION 7.06. *Counterparts; Effectiveness; Several Agreement.* This Agreement 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. Delivery of an executed signature page to this Agreement by facsimile transmission shall be as effective as delivery of a manually signed counterpart of this Agreement. This Agreement shall become effective as to any Loan Party when a counterpart hereof executed on behalf of such Loan Party 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 Loan Party and the Collateral Agent and their respective permitted successors and assigns, and shall inure to the benefit of such Loan Party, the Collateral Agent and the other Secured Parties and their respective successors and assigns, except that no Loan Party 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 contemplated by this Agreement or the Credit Agreement. This Agreement shall be construed as a separate agreement with respect to each Loan Party and may be amended, modified, supplemented, waived or released with respect to any Loan Party without the approval of any other Loan Party and without affecting the obligations of any other Loan Party hereunder.

SECTION 7.07. *Severability.* Any provision of this Agreement held to be invalid, illegal or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such invalidity, illegality or unenforceability without affecting the validity, legality and enforceability of the remaining provisions hereof; and the invalidity of a particular provision in a particular jurisdiction shall not invalidate such provision in any other jurisdiction.

SECTION 7.08. *Right of Set-Off.* If an Event of Default shall have occurred and be continuing, each Lender and each of its Affiliates is hereby authorized at any time and from time to time, to the fullest extent permitted by law, to set off and apply any and all deposits (general or special, time or demand, provisional or final) at any time held and other obligations at any time owing by such Lender or Affiliate to or for the credit or the account of any Loan Party against any of and all the Obligations of such Loan Party now or hereafter existing under this Agreement owed to such Lender, irrespective of whether or not such Lender shall have made any demand under this Agreement and although such obligations may be unmatured. The rights of each Lender

under this Section 7.08 are in addition to other rights and remedies (including other rights of set-off) which such Lender may have.

SECTION 7.09. *Governing Law; Jurisdiction; Consent to Service of Process.* (a) This Agreement shall be construed in accordance with and governed by the law of the State of New York.

(b) Each of the parties hereto hereby irrevocably and unconditionally submits, for itself and its property, to the nonexclusive jurisdiction of the Supreme Court of the State of New York sitting in New York County and of the United States District Court of the Southern District of New York, and any appellate court from any thereof, in any action or proceeding arising out of or relating to this Agreement or any other Loan Document, 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 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 or any other Loan Document shall affect any right that the Collateral Agent, any Issuing Bank or any Lender may otherwise have to bring any action or proceeding relating to this Agreement or any other Loan Document against any Loan Party, or its properties in the courts of any jurisdiction.

(c) Each of the parties 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 any other Loan Document in any court referred to in paragraph (b) of this Section 7.09. 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.

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

SECTION 7.10. *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 ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT, ANY OTHER LOAN DOCUMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY). 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 BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION 7.10.

SECTION 7.11. *Headings*. Article and Section headings and the Table of Contents used herein are for convenience 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. *Security Interest Absolute*. All rights of the Collateral Agent hereunder, the Security Interest, the grant of a security interest in the Collateral and all obligations of each Loan Party hereunder shall be absolute and unconditional irrespective of (a) any lack of validity or enforceability of the Credit Agreement, any other Loan Document, any agreement with respect to any of the Obligations or any other agreement or instrument relating to any of the foregoing, (b) any change in the time, manner or place of payment of, or in any other term of, all or any of the Obligations, or any other amendment or waiver of or any consent to any departure from the Credit Agreement, any other Loan Document or any other agreement or instrument, (c) any exchange, release or non-perfection of any Lien on other collateral, or any release or amendment or waiver of or consent under or departure from any guarantee, securing or guaranteeing all or any of the Obligations, or (d) any other circumstance that might otherwise constitute a defense available to, or a discharge of, any Loan Party in respect of the Obligations or this Agreement.

SECTION 7.13. *Termination or Release*. (a) This Agreement, the Guarantees made herein, the Security Interest and all other security interests granted hereby shall terminate when all the Obligations (other than, with respect to the termination of the Security Interest and all other security interests granted hereby only, any Obligation that consists solely of contingent obligations) have been indefeasibly paid in full and the Lenders have no further commitment to lend under the Credit Agreement, the LC Exposure has been reduced to zero and the Issuing Banks have no further obligations to issue Letters of Credit under the Credit Agreement. In connection with any termination pursuant to this paragraph, the Collateral Agent shall execute and deliver to any Loan Party, at such Loan Party's expense, all Uniform Commercial Code termination statements and any other documents that such Loan Party shall reasonably request to evidence such termination. Any execution and delivery of documents pursuant to this Section 7.13 shall be without recourse to, or representation of warranty by, the Collateral Agent or any other Secured Party.

(b) Release of any Subsidiary Loan Party from its obligations hereunder and of the Security Interest in any Collateral shall be governed by Section 9.16 of the Credit Agreement.


SECTION 7.14. *Additional Subsidiaries*. Certain subsidiaries not originally parties hereto may be required from time to time to enter in this Agreement as Subsidiary Loan Parties pursuant to Section 5.10 of the Credit Agreement. Upon execution and delivery by the Collateral Agent and a Subsidiary of an instrument in the

form of Exhibit I hereto, such Subsidiary shall become a Subsidiary Loan Party hereunder with the same force and effect as if originally named as a Subsidiary Loan Party herein. The execution and delivery of any such instrument shall not require the consent of any other Loan Party hereunder. The rights and obligations of each Loan Party hereunder shall remain in full force and effect notwithstanding the addition of any new Loan Party as a party to this Agreement.

SECTION 7.15. *Collateral Agent Appointed Attorney-in-Fact.* Each Loan Party hereby appoints the Collateral Agent the attorney-in-fact of such Loan Party for the purpose of carrying out the provisions of this Agreement and taking any action and executing any instrument that the Collateral Agent may deem necessary or advisable to accomplish the purposes hereof, which appointment is irrevocable and coupled with an interest. Without limiting the generality of the foregoing, the Collateral Agent shall have the right, but only upon the occurrence and during the continuance of an Event of Default, with full power of substitution either in the Collateral Agent's name or in the name of such Loan Party (a) to receive, endorse, assign and/or deliver any and all notes, acceptances, checks, drafts, money orders or other evidences of payment relating to the Collateral or any part thereof; (b) to demand, collect, receive payment of, give receipt for and give discharges and releases of all or any of the Collateral; (c) to sign the name of any Loan Party on any invoice or bill of lading relating to any of the Collateral; (d) to send verifications of Accounts Receivable to any Account Debtor; (e) to commence and prosecute any and all suits, actions or proceedings at law or in equity in any court of competent jurisdiction to collect or otherwise realize on all or any of the Collateral or to enforce any rights in respect of any Collateral; (f) to settle, compromise, compound, adjust or defend any actions, suits or proceedings relating to all or any of the Collateral; (g) to notify, or to require any Loan Party to notify, Account Debtors to make payment directly to the Collateral Agent; and (h) to use, sell, assign, transfer, pledge, make any agreement with respect to or otherwise deal with all or any of the Collateral, and to do all other acts and things necessary to carry out the purposes of this Agreement, as fully and completely as though the Collateral Agent were the absolute owner of the Collateral for all purposes; *provided* that nothing herein contained shall be construed as requiring or obligating the Collateral Agent to make any commitment or to make any inquiry as to the nature or sufficiency of any payment received by the Collateral Agent, or to present or file any claim or notice, or to take any action with respect to the Collateral or any part thereof or the moneys due or to become due in respect thereof or any property covered thereby. The Collateral Agent and the other Secured Parties shall be accountable only for amounts actually received as a result of the exercise of the powers granted to them herein, and neither they nor their officers, directors, employees or agents shall be responsible to any Loan Party for any act or failure to act hereunder, except for their own gross negligence, bad faith or wilful misconduct.

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


WELLCARE HOLDINGS, LLC,

By 
Name: Todd S. Farha
Title: Manager


WELLCARE HEALTH PLANS, INC.,

By 
Name: Todd S. Farha
Title: President & Chief Executive Officer


THE WELLCARE MANAGEMENT GROUP, INC.,

By 
Name: Todd S. Farha
Title: President & Chief Executive Officer

COMPREHENSIVE HEALTH MANAGEMENT, INC.,

By 
Name: Todd S. Farha
Title: President & Chief Executive Officer

COMPREHENSIVE HEALTH MANAGEMENT OF FLORIDA, L.C.,

By 
Name: Todd S. Farha
Title: Chief Manager

WELLCARE BEHAVIORAL HEALTH,
INC.,

By

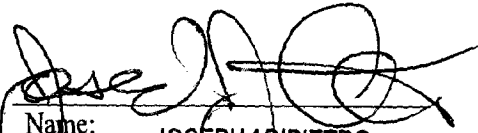


Name: Todd S. Farha

Title: *President & Chief Executive officer*

CREDIT SUISSE FIRST BOSTON, acting
through its Cayman Islands Branch and as
Collateral Agent,

By


Name: JOSEPHADIPIETRO
Title: DIRECTOR

By


Name:
Title: JOSHUA PARRISH
ASSOCIATE

TRADEMARK
REEL: 003000 FRAME: 0942

Schedule I

Subsidiary Loan Parties

WellCare Health Plans, Inc.

The WellCare Management Group, Inc.

Comprehensive Health Management, Inc.

Comprehensive Health Management of Florida, L.C.

WellCare Behavioral Health, Inc.

TRADEMARK
REEL: 003000 FRAME: 0944

Schedule II

Pledged Equity Interests; Debt Securities

Equity Interests



WellCare Health Plans, Inc.	3	WellCare Holdings, LLC	49 shares of common stock	49%
The WellCare Management Group, Inc.	1	WellCare Health Plans, Inc.	100 shares of common stock	100%
Well Care HMO, Inc.	77	The WellCare Management Group, Inc.	5,275,312.5 shares of common stock	100%
HealthEase of Florida, Inc.	17	The WellCare Management Group, Inc.	1,000 shares of common stock	100%
Comprehensive Health Management, Inc.	11	The WellCare Management Group, Inc.	1,000 shares of common stock	100%
Comprehensive Health Management of Florida, L.C.	9	The WellCare Management Group, Inc.	100% of membership interests	100%
WellCare of New York, Inc.	1	The WellCare Management Group, Inc.	100 shares of common stock	100%
WellCare of Louisiana, Inc.	5	The WellCare Management Group, Inc.	100 shares of common stock	100%
WellCare Behavioral Health, Inc.	1	The WellCare Management Group, Inc.	100 shares of common stock	100%

Debt Securities

<u>Creditor</u>	<u>Debtor</u>	<u>Type</u>	<u>Amount</u>
WellCare Holdings, LLC	Kiran C. Patel	Non-Recourse Promissory Note	\$4,424,045
WellCare Holdings, LLC	Rupesh Shah	Non-Recourse Promissory Note	\$1,317,333
WellCare Holdings, LLC	Pradip C. Patel	Non-Recourse Promissory Note	\$1,119,733
Comprehensive Health Management of Florida, L.C.	Well Care HMO, Inc.	Subordinated Surplus Promissory Note	\$327,944
Comprehensive Health Management of Florida, L.C.	Well Care HMO, Inc.	Subordinated Surplus Promissory Note	\$1,500,000
Comprehensive Health Management of Florida, L.C.	Well Care HMO, Inc.	Subordinated Surplus Promissory Note	\$2,500,000
Comprehensive Health Management of Florida, L.C.	Well Care HMO, Inc.	Subordinated Surplus Promissory Note	\$160,000
Comprehensive Health Management of Florida, L.C.	Well Care HMO, Inc.	Subordinated Surplus Promissory Note	\$640,821
Comprehensive Health Management of Florida, L.C.	Well Care HMO, Inc.	Subordinated Surplus Promissory Note	\$1,178,297
Comprehensive Health Management of Florida, L.C.	Well Care HMO, Inc.	Subordinated Surplus Promissory Note	\$176,590
Comprehensive Health Management of Florida, L.C.	Well Care HMO, Inc.	Subordinated Surplus Promissory Note	\$500,000
Comprehensive Health Management of Florida, L.C.	Well Care HMO, Inc.	Subordinated Surplus Promissory Note	\$8,000,000
Comprehensive Health Management of Florida, L.C.	HealthEase of Florida Inc.	Subordinated Surplus Promissory Note	\$30,000

TRADEMARK
REEL: 003000 FRAME: 0947

Schedule III

Intellectual Property

Copyrights

None

Copyright Applications

None

Copyright Licenses

None

Patents

None

Patent Applications

None

Patent Licenses

None

Trademarks



The WellCare Management Group, Inc.	"WELLCARE"	1,343,516	Must be renewed by June 18, 2005
The WellCare Management Group, Inc.	"WELLCARE" & Design	1,443,611	Must be renewed by June 16, 2007

Trademark Applications

None

Trademark Licenses

None

TRADEMARK
REEL: 003000 FRAME: 0949

Schedule IV

Insurance Requirements

INSURANCE REQUIREMENTS

(a) The Company and each Subsidiary Loan Party will maintain (or cause to be maintained on their behalf), with financially sound and reputable insurance companies:

(i) fire and extended coverage insurance, on a replacement cost basis, with respect to all personal property and improvements to real property (in each case constituting Collateral), in such amounts and against such risks as are customarily maintained by companies of established repute engaged in the same or similar business operating in the same or similar locations;

(ii) commercial general liability insurance against claims for bodily injury, death or property damage occurring upon, about or in connection with the use of any properties owned, occupied or controlled by it, providing coverage on an occurrence basis with a combined single limit of not less than \$1,000,000 and including the broad form CGL endorsement;

(iii) business interruption insurance, insuring against loss of gross earnings for a period of not less than 12 months arising from any risks or occurrences required to be covered by insurance pursuant to clause (i) above;

(iv) professional liability insurance providing coverage in such amounts and against such risks as are maintained by such Persons on the Effective Date or as reasonably required by the Collateral Agent; and

(v) such other insurance as may be required by law.

Deductibles or self-insured retention shall not exceed \$25,000 for fire and extended coverage policies, \$25,000 for commercial general liability policies and business interruption policies.

(b) Fire and extended coverage policies maintained with respect to any Collateral shall be endorsed or otherwise amended to include (i) a lenders' loss payable clause in favor of the Collateral Agent and providing for losses thereunder to be payable to the Collateral Agent or its designee, (ii) a provision to the effect that neither any Loan Party, the Collateral Agent nor any other party shall be a coinsurer and (iii) such other provisions as the Collateral Agent may reasonably require from time to time to protect the interests of the Secured Parties. Commercial general liability policies and professional liability policies shall be endorsed to name the Collateral Agent as an additional insured. Business interruption policies shall name the Collateral Agent as loss payee. Each such policy referred to in this paragraph also shall provide that it shall not be canceled, modified or not renewed (i) by reason of nonpayment of premium except upon not less than 10 days' prior written notice thereof by the insurer to the Collateral Agent (giving the Collateral Agent the right to cure defaults in the payment of premiums) or (ii) for any other reason except upon not less than 30 days' prior written notice thereof

by the insurer to the Collateral Agent. The Loan Parties shall deliver to the Collateral Agent, prior to the cancellation, modification or nonrenewal of any such policy of insurance, a copy of a renewal or replacement policy (or other evidence of renewal of a policy previously delivered to the Collateral Agent) together with evidence reasonably satisfactory to the Collateral Agent of payment of the premium therefor.

TRADEMARK
REEL: 003000 FRAME: 0953

Schedule V

Commercial Torts Claim

None

TRADEMARK
REEL: 003000 FRAME: 0955

SUPPLEMENT NO. __ dated as of [], to the Guarantee and Collateral Agreement dated as of May 13, 2004, among WELLCARE HOLDINGS, LLC, a Delaware limited liability company ("**Parent**"), WELLCARE HEALTH PLANS, INC., a Delaware corporation ("**WHP**"), THE WELLCARE MANAGEMENT GROUP, INC., a New York corporation ("**WMG**"); COMPREHENSIVE HEALTH MANAGEMENT, INC. a Florida corporation ("**CHM**" and, together with WHP and WMG, the "**Borrowers**"), COMPREHENSIVE HEALTH MANAGEMENT OF FLORIDA, L.C. ("**CHMF**"), a Florida limited liability company, and WELLCARE BEHAVIORAL HEALTH, INC. ("**WBH**"), a Delaware corporation; and CREDIT SUISSE FIRST BOSTON, as Collateral Agent.

A. Reference is made to the Credit Agreement dated as of May 13, 2004 (as amended, supplemented or otherwise modified from time to time, the "**Credit Agreement**"), among Parent, the Borrowers, the Lenders party thereto and CSFB, as Administrative Agent.

B. Capitalized terms used herein and not otherwise defined herein shall have the meanings assigned to such terms in the Credit Agreement and the Collateral Agreement referred to therein.

C. The Loan Parties have entered into the Collateral Agreement in order to induce the Lenders to make Loans and the Issuing Banks to issue Letters of Credit. Section 7.14 of Collateral Agreement provides that additional Subsidiaries of the Company may become Subsidiary Loan Parties under the Collateral Agreement by execution and delivery of an instrument in the form of this Supplement. The undersigned Subsidiary (the "**New Subsidiary**") is executing this Supplement in accordance with the requirements of the Credit Agreement to become a Subsidiary Loan Party under the Collateral Agreement in order to induce the Lenders to make additional Loans and the Issuing Banks to issue additional Letters of Credit and as consideration for Loans previously made and Letters of Credit previously issued.

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

SECTION 1. In accordance with Section 7.14 of the Collateral Agreement, the New Subsidiary by its signature below becomes a Subsidiary Loan Party and Loan Party under the Collateral Agreement (and accordingly, becomes a guarantor and a grantor thereunder) with the same force and effect as if originally named therein as a Subsidiary Loan Party and the New Subsidiary hereby (a) agrees to all the terms and provisions of the Collateral Agreement applicable to it as a Subsidiary Loan Party and a guarantor and a grantor thereunder and (b) represents and warrants that the representations and warranties made by it as a Loan Party thereunder are true and correct

on and as of the date hereof. In furtherance of the foregoing, the New Subsidiary, as security for the payment and performance in full of the Obligations does hereby (a) 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 Subsidiary's right, title and interest in and to the Collateral of the New Subsidiary and (b) guarantee the Obligations as set forth in Section 2 of the Collateral Agreement. Each reference to a "Subsidiary Loan Party" or a "Loan Party" in the Collateral Agreement shall be deemed to include the New Subsidiary. The Collateral Agreement is hereby incorporated herein by reference.

SECTION 2. The New 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 a counterpart of this Supplement that bears the signature of the New Subsidiary and the Collateral Agent has executed a counterpart hereof. 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 Subsidiary hereby represents and warrants that (a) set forth on Schedule I attached hereto is a true and correct schedule of the location of any and all Collateral of the New Subsidiary and (b) set forth under its signature hereto, is the true and correct legal name of the New Subsidiary, its jurisdiction of formation and the location of its chief executive office.

SECTION 5. Except as expressly supplemented hereby, the Collateral Agreement shall remain in full force and effect.

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

SECTION 7. Any provision of this Supplement held to be invalid, illegal or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such invalidity, illegality or unenforceability without affecting the validity, legality and enforceability of the remaining provisions hereof and of the Collateral Agreement and the Credit Agreement; and the invalidity of a particular provision in a particular jurisdiction shall not invalidate such provision in any other jurisdiction.

SECTION 8. All communications and notices hereunder shall be in writing and given as provided in Section 7.01 of the Collateral Agreement.

SECTION 9. The New 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 Subsidiary and the Collateral Agent have duly executed this Supplement to the Collateral Agreement as of the day and year first above written.

[NAME OF NEW SUBSIDIARY],

by

Name:

Title:

Legal Name:

Jurisdiction of Formation:

Location of Chief Executive office:

CREDIT SUISSE FIRST BOSTON,
as Collateral Agent,

by

Name:

Title:

TRADEMARK
REEL: 003000 FRAME: 0961

[FORM OF]
PERFECTION CERTIFICATE

Reference is made to the Credit Agreement dated as of May 13, 2004 (as amended, supplemented or otherwise modified from time to time, the "Credit Agreement"), among WellCare Holdings, LLC ("Holdings"), the Borrowers party thereto, the Lenders party thereto and Credit Suisse First Boston, as Administrative Agent. Capitalized terms used but not defined herein have the meanings assigned in the Credit Agreement or the Guarantee and Collateral Agreement referred to therein, as applicable.

The undersigned, a Responsible Officer of Holdings, hereby certifies to the Collateral Agent and each other Secured Party as follows:

SECTION 1. Names. (a) Attached hereto as Schedule 1 is (i) the exact legal name of each Loan Party as such name appears in its document of formation, (ii) each other legal name such Loan Party has had in the past five years, including the date of the relevant name change, and (iii) each other name, including trade names and similar appellations, such Loan Party or any of its divisions or other business units has used in connection with the conduct of its business or the ownership of its properties at any time during the past five years.

(b) Except as set forth on Schedule 1 hereto, no Loan Party has changed its identity or business structure in any way within the past five years. Changes in identity and business structure include mergers, acquisitions and consolidations, as well as any change in form, nature or jurisdiction of formation. If any such change has occurred, Schedule 1 sets forth the information required by Sections 1 and 2 of this Certificate as to each acquiree or constituent party to such merger, acquisition or consolidation.

SECTION 2. Locations. (a) Attached hereto as Schedule 2A is the (i) jurisdiction of formation and the form of organization of each Loan Party, (ii) organizational identification number, if any, assigned by such jurisdiction and (iii) address (including the county) of the chief executive office of such Loan Party.

(b) Attached hereto as Schedule 2B is (i) the name and address of any Person other than a Loan Party that has possession of any Collateral (indicating whether such Person holds such Collateral subject to a Lien (including, but not limited to, warehousemen's, mechanics' and other statutory liens)) and (ii) any other addresses where a Loan Party maintains a place of business or any Collateral (other than Accounts and General Intangibles) not otherwise identified on Schedule 2A or 2B.

SECTION 3. Unusual Transactions. All Accounts have been originated, and all Inventory has been acquired, by the Loan Parties in the ordinary course of business.

SECTION 4. File Search Reports. File search reports have been obtained from (a) the Uniform Commercial Code ("UCC") filing office related to each location of a Loan Party identified in Schedules 2A and 2B (other than locations identified pursuant to clause (i) of Section 2(b)) and (b) county recorder's office related to the county where each Mortgaged Property is located. The search reports obtained pursuant to this Section 4 reflect no Liens against any of the Collateral or any Mortgaged Property other than those permitted under the Credit Agreement.

SECTION 5. UCC Filings. UCC financing statements have been prepared for filing in the appropriate (a) UCC filing office related to the jurisdiction of formation for each Loan Party and (b) county recorder's office related to the county where each Mortgaged Property is located. Attached hereto as Schedule 5 is a true and correct list of each such filing and the UCC filing office or county recorder's office in which such filing is to be made. All filing fees and taxes payable in connection with the filings described in this Section 5 have been paid or will be paid promptly after the Closing Date.

SECTION 6. Equity Interests. Attached hereto as Schedule 6 is a true and correct list of all the Equity Interests that each Loan Party is required to pledge under the Guarantee and Collateral Agreement, specifying the Loan Party, issuer and certificate number of, and the number and percentage of ownership represented by, such Equity Interests.

SECTION 7. Debt Instruments. Attached hereto as Schedule 7 is a true and correct list of all debt instruments and other indebtedness that each Loan Party is required to pledge under the Guarantee and Collateral Agreement, specifying any promissory notes or intercompany notes evidencing such debt instruments or indebtedness.

SECTION 8. Mortgage Filings. Attached hereto as Schedule 8 is a true and correct list, with respect to each Mortgaged Property, of (a) the exact name of the Person that owns or leases, as the case may be, such property as such name appears in its document of formation, (b) if different from the name identified pursuant to the immediately preceding clause, the exact name of the current record owner of such property as such name appears in the records of the county recorder's office for such property identified pursuant to the immediately succeeding clause, (c) the county recorder's office in which a Mortgage with respect to such property must be filed or recorded in order for the Collateral Agent to obtain a perfected security interest therein and (d) an estimate of the fair market value apportioned to each such owned real property and each such leased real property. Copies of any deeds, title insurance policies, surveys and other records relating to the Mortgaged Property listed on Schedule 8 have been delivered to the Collateral Agent.

SECTION 9. Intellectual Property. Attached hereto as Schedule 9, in proper form for filing with the United States Patent and Trademark Office or the United States Copyright Office, as applicable, is a true and correct list of each Loan Party's (i) Copyrights, Copyright Applications and Copyright Licenses, (ii) Patents, Patent

Applications and Patent Licenses and (iii) Trademarks, Trademark Applications and Trademark Licenses, in each case including, the name of the registered owner, registration number, expiration date, a brief description thereof and, if applicable, the licensee and licensor.

SECTION 10. Commercial Tort Claims. Attached hereto as Schedule 10 is a true and correct list of commercial tort claims in excess of \$100,000 held by any Loan Party, including a brief description thereof.

SECTION 11. Deposit Accounts. Attached hereto as Schedule 11 is a true and correct list of deposit accounts maintained by each Loan Party, including the name and address of the depository institution, the type of account and the account number.

SECTION 12. Securities Accounts. Attached hereto as Schedule 12 is a true and correct list of securities accounts maintained by each Loan Party, including the name and address of the financial institution holding the securities account (including a securities intermediary or commodities intermediary), the type of account and the account number.

SECTION 13. Advances. Attached hereto as Schedule 13 is a true and correct list of all (a) advances made by (i) Holdings to any Subsidiary and (ii) any Subsidiary to Holdings or any other Subsidiary, in each case other than those identified on Schedule 7, which advances will be, on and after the date hereof, evidenced by one or more intercompany notes pledged to the Collateral Agent under the Guarantee and Collateral Agreement and (b) unpaid intercompany transfer of goods sold and delivered by Holdings to any Subsidiary or by any Subsidiary to any other Subsidiary.

IN WITNESS WHEREOF, the undersigned has duly executed this certificate on this ____ day of May, 2004.

WELLCARE HOLDINGS, LLC,

by

Name:

Title:

Schedule 1

Names

<u>Loan Party's Exact Legal Name</u>	<u>Former Names (including date of change)</u>	<u>Other Names</u>

[[NYCORP:2373813v1]]

Schedule 2A

Jurisdiction of Formation, Organizational Identification Number
and Chief Executive Office Address

<u>Loan Party</u>	<u>Jurisdiction of Formation</u>	<u>Form of Organization</u>	<u>Organizational Identification Number (if any)</u>	<u>Chief Executive Office Address (including county)</u>

[[NYCORP:2373813v1]]

Schedule 2B

Other Addresses

<u>Loan Party</u>	<u>Other Addresses</u> ¹	<u>Name and Addresses of Other Persons who hold Collateral (including county)</u> ²

¹Indicate (a) addresses where chattel paper is kept with an asterisk (“*”) and (b) addresses where Collateral (other than Accounts Receivable and General Intangibles) is kept with a dagger (“†”).

²Indicate each Person that holds Collateral subject to a Lien (including, but not limited to, warehousemen’s, mechanics’ and other statutory liens) with a double asterisk (“**”).

Schedule 5

UCC Filings

<u>Loan Party/Mortgaged Property</u>	<u>UCC Filing Office/County Recorder's Office</u>

[[NYCORP:2373813v1]]

Schedule 6

Equity Interests

<u>Loan Party</u>	<u>Issuer</u>	<u>Certificate Number</u>	<u>Number of Equity Interests</u>	<u>Percentage of Ownership</u>

[[NYCORP:2373813v1]]

Schedule 7

Debt Instruments

<u>Creditor</u>	<u>Debtor</u>	<u>Type</u>	<u>Amount</u>

Schedule 8

Mortgaged Property

I. Owned Real Properties

<u>Loan Party</u>	<u>Record Owner</u>	<u>Address</u>	<u>County Recorder's Office</u>	<u>Fair Market Value</u>

II. Leased Real Properties

<u>Loan Party</u>	<u>Record Owner</u>	<u>Address</u>	<u>County Recorder's Office</u>	<u>Fair Market Value</u>

Schedule 9
Intellectual Property

I. Copyrights

<u>Registered Owner</u>	<u>Title</u>	<u>Registration Number</u>	<u>Expiration Date</u>

II. Copyright Applications

<u>Registered Owner</u>	<u>Title</u>	<u>Registration Number</u>	<u>Date Filed</u>

III. Copyright Licenses

<u>Licensee</u>	<u>Licensor</u>	<u>Title</u>	<u>Registration Number</u>	<u>Expiration Date</u>

IV. Patents

<u>Registered Owner</u>	<u>Type</u>	<u>Registration Number</u>	<u>Expiration Date</u>

[[NYCORP:2373813v1]]

V. Patent Applications

<u>Registered Owner</u>	<u>Type</u>	<u>Registration Number</u>	<u>Date Filed</u>

VI. Patent Licenses

<u>Licensee</u>	<u>Licensor</u>	<u>Type</u>	<u>Registration Number</u>	<u>Expiration Date</u>

VII. Trademarks

<u>Registered Owner</u>	<u>Mark</u>	<u>Registration Number</u>	<u>Expiration Date</u>

VIII. Trademark Applications

<u>Registered Owner</u>	<u>Mark</u>	<u>Registration Number</u>	<u>Date Filed</u>

IX. Trademark Licenses

<u>Licensee</u>	<u>Licensor</u>	<u>Mark</u>	<u>Registration Number</u>	<u>Expiration Date</u>

[[NYCORP:2373813v1]]

Schedule 10

Commercial Tort Claims

<u>Loan Party/Plaintiff</u>	<u>Defendant</u>	<u>Description</u>

[[NYCORP:2373813v1]]

Schedule 11

Deposit Accounts

<u>Loan Party</u>	<u>Depository Institution (Including Address)</u>	<u>Type of Account</u>	<u>Account Number</u>

[[NYCORP:2373813v1]]

Schedule 12

Securities Accounts

<u>Loan Party</u>	<u>Financial Institution (Including Address)</u>	<u>Type of Account</u>	<u>Account Number</u>

[[NYCORP:2373813v1]]

Schedule 13

Advances and Transfers

I. Advances

<u>Creditor</u>	<u>Debtor</u>	<u>Type</u>	<u>Amount</u>

II. Transfers

<u>Transferor</u>	<u>Transferee</u>	<u>Goods</u>	<u>Amount</u>

TRADEMARK
REEL: 003000 FRAME: 0979

[FORM OF] TRADEMARK SECURITY AGREEMENT,
dated as of [], among [], a [] (the
"Grantor") and CREDIT SUISSE FIRST BOSTON ("CSFB"), as
Collateral Agent (in such capacity, the "Collateral Agent").

Reference is made to (a) the Credit Agreement dated as of May 13, 2004 among WellCare Holdings, LLC ("**Holdings**"), WellCare Health Plans, Inc. ("**WHP**"), The WellCare Management Group, Inc. ("**WMG**"), Comprehensive Health Management, Inc. ("**CHM**" and, together with WHP and WMG, the "**Borrowers**"), the lenders from time to time party thereto (the "**Lenders**") and CSFB, as administrative agent and collateral agent (as amended, supplemented or otherwise modified from time to time, the "**Credit Agreement**") and (b) the Guarantee and Collateral Agreement dated as of May 13, 2004 (as amended, supplemented or otherwise modified from time to time, the "**Collateral Agreement**"), among Holdings, the Borrowers, the Subsidiary Loan Parties and the Collateral Agent. The Lenders and the Issuing Banks have agreed to extend credit to the Borrowers subject to the terms and conditions set forth in the Credit Agreement. The obligations of the Lenders and the Issuing Banks to extend such credit are conditioned upon, among other things, the execution and delivery of this Agreement. Holdings and the Grantor are Affiliates of the Borrowers, will derive substantial benefits from the extension of credit to the Borrowers pursuant to the Credit Agreement and the Grantor is willing to execute and deliver this Agreement in order to induce the Lenders and the Issuing Banks to extend such credit. Accordingly, the parties hereto agree as follows:

SECTION 1. Terms. Capitalized terms used in this Agreement and not otherwise defined herein have the meanings specified in the Collateral Agreement. The rules of construction specified in Section 1.01(b) of the Collateral Agreement also apply to this Agreement.

SECTION 2. Grant of Security Interest. As security for the payment in full of the Obligations, the Grantor, pursuant to the Collateral Agreement, did and hereby does grant to the Collateral Agent, its permitted successors and assigns, for the benefit of the Secured Parties, a security interest in, all right, title or interest in or to any and all of the following assets and properties now owned or at any time hereafter acquired by it or in which it now has or at any time in the future may acquire any right, title or interest (collectively, the "**Trademark Collateral**"):

(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 or any similar offices in any State of the United

States or any other country or any political subdivision thereof, and all extensions or renewals thereof, including those listed on Schedule I (the "**Trademarks**");

(b) all goodwill associated with or symbolized by the Trademarks; and

(c) all assets, rights and interests that uniquely reflect or embody the Trademarks.

SECTION 3. Collateral Agreement. The security interest granted to the Collateral Agent herein is granted in furtherance, and not in limitation of, the security interests granted to the Collateral Agent pursuant to the Collateral Agreement. The Grantor hereby acknowledges and affirms that the rights and remedies of the Collateral Agent with respect to the Trademark Collateral are more fully set forth in the Collateral Agreement, the terms and provisions of which are hereby incorporated herein by reference as if fully set forth herein. In the event of any conflict between the terms of this Agreement and the Collateral Agreement, the terms of the Collateral Agreement shall govern.

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

[_____],

by

Name:
Title:

CREDIT SUISSE FIRST BOSTON acting through its Cayman Islands Branch and, as Collateral Agent,

by

Name:
Title:

by

Name:
Title:

Schedule I

I. Trademarks

<u>Registered Owner</u>	<u>Mark</u>	<u>Registration Number</u>	<u>Registration Date</u>

II. Trademark Applications

<u>Application Owner</u>	<u>Mark</u>	<u>Application Number</u>	<u>Date Filed</u>

III. Trademark Licenses

<u>Licensee</u>	<u>Licensor</u>	<u>Mark</u>	<u>Registration Number</u>	<u>Registration Date</u>	<u>Expiration Date of License</u>

[[2388593v3]]

TRADEMARK
REEL: 003000 FRAME: 0984

[FORM OF] PATENT SECURITY AGREEMENT, dated as of [], among [], a [] (the "**Grantor**") and CREDIT SUISSE FIRST BOSTON ("**CSFB**"), as Collateral Agent (in such capacity, the "**Collateral Agent**").

Reference is made to (a) the Credit Agreement dated as of May 13, 2004 among WellCare Holdings, LLC ("**Holdings**"), WellCare Health Plans, Inc. ("**WHP**"), The WellCare Management Group, Inc. ("**WMG**"), Comprehensive Health Management, Inc. ("**CHM**" and, together with WHP and WMG, the "**Borrowers**"), the lenders from time to time party thereto (the "**Lenders**") and CSFB, as administrative agent and collateral agent (as amended, supplemented or otherwise modified from time to time, the "**Credit Agreement**") and (b) the Guarantee and Collateral Agreement dated as of May 13, 2004 (as amended, supplemented or otherwise modified from time to time, the "**Collateral Agreement**"), among Holdings, the Borrowers, the Subsidiary Loan Parties and the Collateral Agent. The Lenders and the Issuing Banks have agreed to extend credit to the Borrowers subject to the terms and conditions set forth in the Credit Agreement. The obligations of the Lenders and the Issuing Banks to extend such credit are conditioned upon, among other things, the execution and delivery of this Agreement. Holdings and the Grantor are Affiliates of the Borrowers, will derive substantial benefits from the extension of credit to the Borrowers pursuant to the Credit Agreement and the Grantor is willing to execute and deliver this Agreement in order to induce the Lenders and the Issuing Banks to extend such credit. Accordingly, the parties hereto agree as follows:

SECTION 1. Terms. Capitalized terms used in this Agreement and not otherwise defined herein have the meanings specified in the Collateral Agreement. The rules of construction specified in Section 1.01(b) of the Collateral Agreement also apply to this Agreement.

SECTION 2. Grant of Security Interest. As security for the payment in full of the Obligations, the Grantor, pursuant to the Collateral Agreement, did and hereby does grant to the Collateral Agent, its permitted successors and assigns, for the benefit of the Secured Parties, a security interest in, all right, title or interest in or to any and all of the following assets and properties now owned or at any time hereafter acquired by it or in which it now has or at any time in the future may acquire any right, title or interest (collectively, the "**Patent Collateral**"):

(a) all letters patent of the United States or the equivalent thereof in any other country, all registrations and recordings thereof, and all applications for letters patent of the United States or the equivalent thereof in any other country, including registrations, recordings and pending applications in the United States Patent and Trademark Office or any similar offices in any other country, including those listed on Schedule I (the "**Patents**"), and 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.

SECTION 3. Collateral Agreement. The security interest granted to the Collateral Agent herein is granted in furtherance, and not in limitation of, the security interests granted to the Collateral Agent pursuant to the Collateral Agreement. The Grantor hereby acknowledges and affirms that the rights and remedies of the Collateral Agent with respect to the Patent Collateral are more fully set forth in the Collateral Agreement, the terms and provisions of which are hereby incorporated herein by reference as if fully set forth herein. In the event of any conflict between the terms of this Agreement and the Collateral Agreement, the terms of the Collateral Agreement shall govern.

[[2388556v2]]

Schedule I

I. Patents

<u>Registered Owner</u>	<u>Type</u>	<u>Patent Number</u>	<u>Expiration Date</u>

II. Patent Applications

<u>Application Owner</u>	<u>Type</u>	<u>Patent Application Number</u>	<u>Date Filed</u>

III. Patent Licenses

<u>Licensee</u>	<u>Licensor</u>	<u>Type</u>	<u>Patent Number</u>	<u>Expiration Date</u>

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TRADEMARK
REEL: 003000 FRAME: 0989

[FORM OF] COPYRIGHT SECURITY AGREEMENT,
dated as of [], among [], a [] (the
“Grantor”) and CREDIT SUISSE FIRST BOSTON (“CSFB”), as
Collateral Agent (in such capacity, the “Collateral Agent”).

Reference is made to (a) the Credit Agreement dated as of May 13, 2004 among WellCare Holdings, LLC (“Holdings”), WellCare Health Plans, Inc. (“WHP”), The WellCare Management Group, Inc. (“WMG”), Comprehensive Health Management, Inc. (“CHM” and, together with WHP and WMG, the “Borrowers”), the lenders from time to time party thereto (the “Lenders”) and CSFB, as administrative agent and collateral agent (as amended, supplemented or otherwise modified from time to time, the “Credit Agreement”) and (b) the Guarantee and Collateral Agreement dated as of May 13, 2004 (as amended, supplemented or otherwise modified from time to time, the “Collateral Agreement”), among Holdings, the Borrowers, the Subsidiary Loan Parties and the Collateral Agent. The Lenders and the Issuing Banks have agreed to extend credit to the Borrowers subject to the terms and conditions set forth in the Credit Agreement. The obligations of the Lenders and the Issuing Banks to extend such credit are conditioned upon, among other things, the execution and delivery of this Agreement. Holdings and the Grantor are Affiliates of the Borrowers, will derive substantial benefits from the extension of credit to the Borrowers pursuant to the Credit Agreement and the Grantor is willing to execute and deliver this Agreement in order to induce the Lenders and the Issuing Banks to extend such credit. Accordingly, the parties hereto agree as follows:

SECTION 1. Terms. Capitalized terms used in this Agreement and not otherwise defined herein have the meanings specified in the Collateral Agreement. The rules of construction specified in Section 1.01(b) of the Collateral Agreement also apply to this Agreement.

SECTION 2. Grant of Security Interest. As security for the payment in full of the Obligations, the Grantor, pursuant to the Collateral Agreement, did and hereby does grant to the Collateral Agent, its permitted successors and assigns, for the benefit of the Secured Parties, a security interest in, all right, title or interest in or to any and all of the following assets and properties now owned or at any time hereafter acquired by it or in which it now has or at any time in the future may acquire any right, title or interest (collectively, the “Copyright Collateral”):

(a) all copyright rights in any work subject to the copyright laws of the United States or any other country, whether as author, assignee, transferee or otherwise, and all registrations and applications for registration of any such copyright in the United States or any other country, including registrations, recordings, supplemental registrations and pending applications for registration in the United States Copyright Office, including those listed on Schedule II (the “Copyrights”).

SECTION 3. Collateral Agreement. The security interest granted to the Collateral Agent herein is granted in furtherance, and not in limitation of, the security interests granted to the Collateral Agent pursuant to the Collateral Agreement. The Grantor hereby acknowledges and affirms that the rights and remedies of the Collateral Agent with respect to the Copyright Collateral are more fully set forth in the Collateral Agreement, the terms and provisions of which are hereby incorporated herein by reference as if fully set forth herein. In the event of any conflict between the terms of this Agreement and the Collateral Agreement, the terms of the Collateral Agreement shall govern.

[[2388594v2]]

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

[_____],

by

Name:

Title:

CREDIT SUISSE FIRST BOSTON, acting through its Cayman Islands Branch and as Collateral Agent,

by

Name:

Title:

by

Name:

Title:

Schedule I

Subsidiary Loan Parties

[[2388594v2]]

Schedule II

I. Copyrights

<u>Registered Owner</u>	<u>Title</u>	<u>Registration Number</u>	<u>Expiration Date</u>

II. Copyright Applications

<u>Registered Owner</u>	<u>Title</u>	<u>Registration Number</u>	<u>Date Filed</u>

III. Copyright Licenses

<u>Licensee</u>	<u>Licensor</u>	<u>Title</u>	<u>Registration Number</u>	<u>Expiration Date</u>

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