

**TRADEMARK ASSIGNMENT**

Electronic Version v1.1  
 Stylesheet Version v1.1

<b>SUBMISSION TYPE:</b>	NEW ASSIGNMENT		
<b>NATURE OF CONVEYANCE:</b>	SECURITY INTEREST		
<b>CONVEYING PARTY DATA</b>			
<b>Name</b>	<b>Formerly</b>	<b>Execution Date</b>	<b>Entity Type</b>
Jody Coyote, Inc.		09/15/2005	CORPORATION: OREGON
Jody Coyote LLC	FORMERLY Jody Coyote, Inc.	09/15/2005	LIMITED LIABILITY COMPANY: DELAWARE
<b>RECEIVING PARTY DATA</b>			
<b>Name:</b>	Sterling Savings Bank		
<b>Street Address:</b>	411 N. Wall		
<b>City:</b>	Spokane		
<b>State/Country:</b>	WASHINGTON		
<b>Postal Code:</b>	99201		
<b>Entity Type:</b>	CORPORATION: WASHINGTON		
<b>PROPERTY NUMBERS Total: 2</b>			
<b>Property Type</b>	<b>Number</b>	<b>Word Mark</b>	
<b>Serial Number:</b>	76532650	JODY COYOTE	
<b>Registration Number:</b>	2434612	COYOTE KLEIN	
<b>CORRESPONDENCE DATA</b>			
<b>Fax Number:</b>	(509)458-2728		
	<i>Correspondence will be sent via US Mail when the fax attempt is unsuccessful.</i>		
<b>Phone:</b>	509-624-5265		
<b>Email:</b>	cgv@wkdttlaw.com		
<b>Correspondent Name:</b>	Christopher G. Varallo		
<b>Address Line 1:</b>	422 W. Riverside Suite 1100		
<b>Address Line 4:</b>	Spokane, WASHINGTON 99201		
<b>NAME OF SUBMITTER:</b>	Christopher G. Varallo		
<b>Signature:</b>	/Christopher G. Varallo/		

OP \$65.00 76532650

Date:

10/11/2005

**Total Attachments: 47**

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**ASSIGNMENT OF SERVICE MARKS AND TRADEMARKS**

THIS ASSIGNMENT OF SERVICE MARKS AND TRADEMARKS (the "Assignment") is made effective as of 11:59:59 p.m., Pacific time, October 1, 2003 (the "Effective Date") by JODY COYOTE, INC., an Oregon corporation, (the "Assignor"), and J-CO LLC, a Delaware limited liability company (the "Assignee").

**RECITAL**

<sup>September 8</sup>~~October~~ A. Assignee and Assignor are parties to an Asset Purchase Agreement dated as of ~~October~~ September 8, 2003 (the "Purchase Agreement"), pursuant to which Assignor has agreed to sell to Assignee and Assignee has agreed to buy from Assignor the Acquired Assets (as defined in the Purchase Agreement), including without limitation the service marks, trademarks and trade names of Assignor;

B. Pursuant to the Purchase Agreement, Assignor has agreed to execute such instruments as the Assignee may reasonably request in order to more effectively assign, transfer, grant, convey, assure and confirm to Assignee and its successors and assigns, or to aid and assist in the collection of or reducing to possession by the Assignee of, all of such assets; and

C. Assignor desires to transfer and assign to Assignee, and Assignee desires to accept the transfer and assignment of, all of Assignor's worldwide right, title and interest in, to and under Assignor's registered and unregistered domestic and foreign service marks, trademarks, trademark applications and trade names, including without limitation the service marks, trademarks, service mark and trademark applications and trade names listed on Schedule A annexed to this Assignment and incorporated in this Assignment by reference (all of the foregoing being referred to in this Assignment as the "Marks").

THEREFORE, Assignor does hereby transfer and assign to Assignee, and Assignee hereby accepts the transfer and assignment of, all of Assignor's worldwide right, title and interest in, to and under the Marks, together with the goodwill of the business associated therewith and which is symbolized by such Marks, all rights to sue for infringement of any Mark, whether arising prior to or subsequent to the date of this Assignment of Service marks and Trademarks, and any and all renewals and extensions of such Marks that may hereafter be secured under the laws now or hereafter in effect in the United States, Canada and in any other jurisdiction, the same to be held and enjoyed by the said Assignee, its successors and assigns from and after the date of this Assignment as fully and entirely as the same would have been held and enjoyed by the said Assignor had this Assignment of Service marks and Trademarks not been made.

Except to the extent that federal law preempts state law with respect to the matters covered by this Assignment, this Assignment of Service marks and Trademarks shall be governed by and construed in accordance with the laws of the state of Oregon without giving effect to the principles of conflicts of laws of the state of Oregon.



SCHEDULE A

Registered Trademarks

Coyote Klein

Unregistered Service marks and Trademarks

Jody Coyote  
Coyote Rose  
Gypsy Dreams  
Indigo Moon  
Sugar & Spice  
Discovery

Trade Names

None

## LOAN AND SECURITY AGREEMENT

THIS LOAN AND SECURITY AGREEMENT (the "Agreement") is made as of the 15<sup>th</sup> day of September \_\_\_\_, 2005, by and between JODY COYOTE LLC, a Delaware limited liability company (hereinafter jointly and severally referred to as "Borrower") and STERLING SAVINGS BANK, a Washington chartered savings bank (hereinafter referred to as "Lender").

### RECITALS

WHEREAS, Borrower desires to establish certain financing arrangements with and borrow funds from Lender, including a reducing revolving commercial Line of Credit, in the original principal amount of \$650,000.00 (the "Reducing Revolving Credit Loan");

WHEREAS, Lender is willing to establish such arrangements for and make loans and extensions of credit to Borrower, on the terms and conditions set forth below;

WHEREAS, Borrower understands and agrees that: (1) in granting, renewing, or extending the Loan, or any advance there under, Lender is relying upon Borrower's representations, warranties, and agreements, as set forth in this Agreement; (2) the granting, renewing, or extending of any Loan, or any advance on any Loan, by Lender at all times shall be subject to Lender's judgment and discretion, subject to the terms hereof; and (3) any Loan shall be and shall remain subject to the following terms and conditions of this Agreement; and

WHEREAS, the parties desire to define the terms and conditions of their relationship and to reduce their agreements to writing.

NOW, THEREFORE, in consideration of the promises and covenants contained in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties covenant and agree as follows:

### ARTICLE I DEFINITIONS

As used in this Agreement, unless otherwise specified, all references to "Sections" shall be deemed to refer to Sections of this Agreement, and, unless otherwise defined herein, the following terms shall have the meanings set forth below:

SECTION 1.1. ACCOUNT. "Account" means any right to payment of a monetary obligation, whether or not earned by performance, including, but not limited to, the right to payment of management fees. Without limiting the generality of the foregoing, the term "Account" shall further include any "account" (as that term is defined in the Uniform Commercial Code now or hereafter in effect), any accounts receivable, any "payment intangibles" (as that term is defined in the Uniform Commercial Code now or hereafter in effect) and all other rights to payment of every kind and description, whether or not earned by performance.

SECTION 1.2. ACCOUNT DEBTOR. "Account Debtor" means any Person obligated on any Account of Borrower.

SECTION 1.3. AFFILIATE. "Affiliate" means, with respect to a specified Person, any Person directly or indirectly controlling, controlled by, or under common control with the specified Person, including without limitation their stockholders and any Affiliates thereof. A Person shall be deemed to control a corporation or other entity if the Person possesses, directly or indirectly, the power to direct or cause the direction of the management and business of the corporation or other entity, whether through the ownership of voting securities, by contract, or otherwise.

SECTION 1.4. AGREEMENT. "Agreement" means this Loan and Security Agreement, as it may be amended or supplemented from time to time, together with all attachments, exhibits, schedules, riders and addenda, all of which are incorporated herein by this reference and made a part hereof.

SECTION 1.5. BASE RATE. "Base Rate" means either the Prime Rate of Interest plus the Prime Rate Margin (as defined in the Notes), or the LIBOR Rate, plus the LIBOR Rate Margin (as defined in the Notes), depending upon the rate selected by Borrower in the Notes, but shall not include interest at a Fixed Rate.

SECTION 1.6. BORROWED MONEY. "Borrowed Money" means, with respect to any Person, without duplication (a) all indebtedness for borrowed money, (b) all obligations of such Person evidenced by bonds, debentures, notes or similar instruments, or upon which interest payments are customarily made, (c) that portion of obligations with respect to capital leases that is properly classified as a liability on a balance sheet in conformity with GAAP, (d) any obligations of such Person issued or assumed as the deferred purchase price of property or services purchased by such Person if the purchase price is due more than six (6) months from the date the obligation is incurred (other than trade debt incurred in the ordinary course of business and due under ordinary business terms within six (6) months of the incurrence thereof) or is evidenced by a note or other instrument, (e) all Borrowed Money of others secured by (or for which the holder of such Borrowed Money has an existing right, contingent or otherwise, to be secured by) any Lien on, or payable out of the proceeds of production from, any property or asset owned, held or acquired by such Person regardless of whether the indebtedness secured thereby shall have been assumed by that Person or is non-recourse to the credit of that Person, (f) all guaranty obligations of such Person in respect of any Borrowed Money of any other person, (g) the maximum amount of all standby letters of credit issued or bankers' acceptances facilities created for the account of such Person and, without duplication, all drafts drawn there under (to the extent un-reimbursed), (h) the principal balance outstanding under any synthetic lease, tax retention operating lease, off-balance sheet loan or similar off-balance sheet financing product plus any accrued interest thereon, and (i) the Borrowed Money of any partnership or unincorporated joint venture in which such Person is a general partner or joint venturer.

SECTION 1.7. BORROWER. "Borrower" has the meaning set forth in the Preamble.

SECTION 1.8. BORROWING BASE. "Borrowing Base" shall mean fifty five (55.0%) percent of Qualified Accounts (provided dilution is less than thirty five (35.0%) percent), measured monthly on

a rolling 12 month basis, plus twenty five (25.0%) percent of eligible raw materials and finished goods inventory, all as determined by Lender from time to time or, at Lender's option, as evidenced by a certificate of an executive officer of Borrower, submitted monthly, identifying the Borrowing Base (a "Borrowing Base Certificate"), less the outstanding balance, principal and interest, of the Reducing Revolving Line of Credit Promissory Note. Ninety (90) days subsequent to the satisfactory implementation of MAS500, Lender will conduct a follow-up collateral audit of the inventory, at Borrower's expense, to substantiate adequate internal controls. Upon review and acceptance of the follow-up collateral audit, Lender will reevaluate and possibly recalculate the inventory advance rates, but not to exceed fifty percent (50%) of eligible inventory.

SECTION 1.9. BUSINESS DAY. "Business Day" means any day on which financial institutions are open for business in the State of Oregon, excluding Saturdays and Sundays.

SECTION 1.10 CASH FLOW. "Cash Flow" means Borrower's net income, plus its interest expense, depreciation expense, amortization expense and capital contributions, minus draws and distributions paid to equity owners, all as determined under GAAP;

SECTION 1.11. CLOSING; CLOSING DATE. "Closing" and "Closing Date" have the meanings set forth in Section 5.3.

SECTION 1.12. COLLATERAL. "Collateral" has the meaning set forth in Section 3.1.

SECTION 1.13. COMMITMENT FEE. "Commitment Fee" shall mean the Reducing Revolving Line of Credit Commitment Fee as set forth in Section 2.3(a).

SECTION 1.14. CONTROLLED GROUP. "Controlled Group" means all businesses that would be treated as a single employer under Section 401(b) of ERISA.

SECTION 1.15. DEFAULT RATE. "Default Rate" means a rate per annum equal to four percent (4.00%) per annum above the then applicable Base Rate.

SECTION 1.16. DEBT SERVICE COVERAGE RATIO. "Debt Service Coverage Ratio" means the ratio determined by the fraction, the numerator of which is Borrower's Cash Flow and the denominator of which is Borrower's Total Debt Service, all as determined under GAAP.

SECTION 1.17. ERISA. "ERISA" has the meaning set forth in Section 4.12.

SECTION 1.18. EVENT OF DEFAULT. "Event of Default" and "Events of Default" have the meanings set forth in Section 8.1.

SECTION 1.19 FIXED RATE. "Fixed Rate", shall mean interest accruing under the Note at the 1, 2, or 3 year USD SWAP rate of interest, depending upon the selection made by Borrower under the Note, plus two and one half (2.50%) percent (the "Fixed Rate Margin").



SECTION 1.20. GAAP. "GAAP" means generally accepted accounting principles as adopted from time to time by the American Institute of Certified Public Accountants, applied in a consistent manner.

SECTION 1.21. GOVERNMENTAL AUTHORITY. "Governmental Authority" means and includes any federal, state, District of Columbia, county, municipal, or other government and any department, commission, board, bureau, agency or instrumentality thereof, whether domestic or foreign.

SECTION 1.22. HAZARDOUS MATERIAL. "Hazardous Material" means any substances defined or designated as hazardous or toxic waste, hazardous or toxic material, hazardous or toxic substance, or similar term, by any environmental statute, rule or regulation or any Governmental Authority applicable to Borrower or its business, operations or assets.

SECTION 1.23. HIGHEST LAWFUL RATE. "Highest Lawful Rate" means the maximum lawful rate of interest referred to in Section 2.6 that may accrue pursuant to this Agreement.

SECTION 1.24. INVENTORY. "Inventory" shall have the meaning ascribed to such term by the Uniform Commercial Code, as adopted in the State of Delaware, as the same may be amended from time to time.

SECTION 1.25. LENDER. "Lender" has the meaning set forth in the Preamble.

SECTION 1.26. LIEN. "Lien" shall mean any mortgage, pledge, hypothecation, assignment, deposit arrangement, encumbrance, lien (statutory or otherwise), charge or other security interest or any preference, priority or other security agreement or preferential arrangement of any kind or nature whatsoever (including, without limitation, any conditional sale or other title retention agreement and any capital lease having substantially the same practical effect as any of the foregoing).

SECTION 1.27. LIBOR. "LIBOR" means the London Interbank Offer Rate, adjusted at the Lender's option for statutory reserves, deposit insurance, regulatory capital, taxes and assessments, if any, and is the average of the rates of interest, on a per annum basis, at which deposits in United States dollars having a term equal to the applicable LIBOR Index period as quoted in the Wall Street Journal, weekly, on Tuesday, or if Tuesday falls on a holiday, then on the next business day, for so long as the Wall Street Journal continues to make such interest rate reports. If the Wall Street Journal no longer publishes or reports LIBOR Rates for 30-day maturities, a comparable publication or report containing such information selected by the Lender will be used. If there is no such publication or comparable publication containing such information, the 30, 90, 180 or 365-day LIBOR, as applicable, shall be the average rate (rounded upward if necessary to the nearest one-thousandth of a percent) at which dollar deposits having a maturity of 30, 90, 180 or 365 days, as applicable, are offered by at least two major banks in an interbank market where Eurodollars are being traded, to prime banks in immediately available funds on the LIBOR Interest Change Date, under the Notes, or as soon thereafter as such offer quotes can be obtained.

SECTION 1.28. Reserved.

LOAN AND SECURITY AGREEMENT - 4

SECTION 1.29. LIBOR RATE. "LIBOR Rate" means the thirty (30), ninety (90), one hundred eighty (180), or three hundred sixty five (365) day London Inter-Bank Overnight Rate(s), as selected by Borrower under the Notes, as adjusted from time to time as provided in the Notes.

SECTION 1.30. LIBOR RATE MARGIN. "LIBOR Rate Margin" mean the LIBOR Rate plus two and one half (2.50%) percent.

SECTION 1.31. LOAN. "Loan" shall mean the loan from Lender to Borrower evidenced by the Note.

SECTION 1.32. LOAN DOCUMENTS. "Loan Documents" means and includes this Agreement, the Reducing Revolving Line of Credit Promissory Note, and each and every other document now or hereafter delivered by Borrower in connection with this Agreement or the Loan, as the same may be amended, modified, increased, renewed or restated from time to time, plus the Related Documents.

SECTION 1.33. MAXIMUM LINE AMOUNT. "Maximum Line Amount" is \$650,000.00, the maximum amount available to Borrower under the Reducing Revolving Line of Credit Promissory Note, which Maximum Line Amount shall be reduced by \$32,500.00 per calendar quarter, beginning with the calendar quarter ending December 31, 2005 and further reduced by the amount of \$32,500.00 at the end of each calendar quarter thereafter.

SECTION 1.34. NOTE. "Note" shall mean the Reducing Revolving Line of Credit Promissory Note, with a maturity date of August 31, 2010 (the "Maturity Date").

SECTION 1.35. OBLIGATIONS. "Obligations" has the meaning set forth in Section 3.1.

SECTION 1.36. PERMITTED LIENS. "Permitted Liens" means: (a) deposits or pledges to secure obligations under workmen's compensation, social security or similar laws, or under unemployment insurance; (b) deposits or pledges to secure bids, tenders, contracts (other than contracts for the payment of money), leases, statutory obligations, surety and appeal bonds and other obligations of like nature arising in the ordinary course of business; (c) mechanic's, workmen's, materialmen's or other like Liens arising in the ordinary course of business with respect to obligations which are not due, or which are being contested in good faith by appropriate proceedings which suspend the collection thereof and in respect of which adequate reserves have been made (provided that such proceedings do not, in Lender's sole discretion, involve any substantial risk of the sale, loss or forfeiture of such property or assets or any interest therein); (d) Liens and encumbrances in favor of Lender; (e) Liens set forth on Schedule 1.36, (f) Liens for taxes, assessments, charges or other governmental levies not yet due or as to which the applicable grace period (not to exceed sixty (60) days) has not expired or which are being contested in good faith by appropriate proceedings and in respect of which adequate reserves have been made; (g) Liens on property or assets which are not Collateral for the Loans; and (h) Liens placed upon assets to secure the purchase price thereof.

SECTION 1.37. PERSON. "Person" means an individual, partnership, corporation, trust, joint venture, joint stock company, limited liability company, association, unincorporated organization, Governmental Authority, or any other entity.

SECTION 1.38. PLAN. "Plan" has the meaning set forth in Section 4.12.

SECTION 1.39. PREMISES. "Premises" has the meaning set forth in Section 4.14.

SECTION 1.40. PRIME RATE OF INTEREST. "Prime Rate of Interest" means that rate of interest designated as such by the Wall Street Journal, or any successor thereto, as the same may from time to time fluctuate.

SECTION 1.41. PROHIBITED TRANSACTION. "Prohibited Transaction" means a "prohibited transaction" within the meaning of Section 406 of ERISA or Section 4975(c)(1) of the Internal Revenue Code that is not exempt under Section 407 or Section 408 of ERISA or Section 4975(c)(2) or (d) of the Internal Revenue Code or under a class exemption granted by the U.S. Department of Labor.

SECTION 1.42. QUALIFIED ACCOUNT. "Qualified Account" means an Account of Borrower generated in the ordinary course of Borrower's business from the sale of Inventory which Lender, in its credit judgment, deems to be a Qualified Account. Without limiting the generality of the foregoing, no Account shall be a Qualified Account if: (a) the Account remains unpaid more than one hundred twenty (120) days past the claim or invoice date (but in no event more than ninety (90) days after the applicable services have been rendered); (b) any portion of the Account that is subject to any defense, set-off, counterclaim, deduction, discount, credit, chargeback, freight claim, allowance, or adjustment of any kind; (c) if the Account arises from the performance of services, the services have not been actually performed or the services were undertaken in violation of any law; (d) the Account is subject to a Lien other than a Permitted Lien; (e) Borrower knows or should have known based on information to which participants in the industry can reasonably be expected to have access of the bankruptcy, receivership, reorganization, or insolvency of the Account Debtor; (f) the Account is evidenced by chattel paper or an instrument of any kind, or has been reduced to judgment; (g) the Account is an Account of an Account Debtor having its principal place of business or executive office outside the United States; (h) the Account Debtor is an Affiliate or subsidiary of Borrower; (i) the Account Debtor is an employee of Debtor; (j) any covenant, representation or warranty contained in the Loan Documents with respect to such Account has been breached; (k) the Account Debtor is a governmental entity; (l) twenty (20%) percent or more of the total accounts owed by same Account Debtor are more than one hundred twenty (120) days past due after the date of invoice for such accounts; (m) twenty (20%) percent or more of Borrower's total Accounts are with the same Account Debtor or with Affiliates of the same Account Debtor, unless Lender has pre-approved such Account concentration with any such Account Debtor; or (n) the Account fails to meet such other specifications and requirements which may from time to time be established by Lender in its reasonable credit judgment.

SECTION 1.43. REPORTABLE EVENT. "Reportable Event" means a "reportable event" as defined in Section 4043(c) of ERISA for which the notice requirements of Section 4043(a) of ERISA are not waived.

SECTION 1.44. REDUCING REVOLVING CREDIT LOAN. "Reducing Revolving Credit Loan" has the meaning set forth in Section 2.1.

SECTION 1.45. REDUCING REVOLVING LINE OF CREDIT PROMISSORY NOTE. "Reducing Revolving Line of Credit Promissory Note" shall mean the Note given by Borrower to Lender concurrently herewith, in the maximum principal amount of \$650,000.00, evidencing the Reducing Revolving Credit Loan.

SECTION 1.46. RELATED DOCUMENTS. "Related Documents" shall mean any and all loan documents and instruments executed by Borrower and delivered to lender in connection with any obligation of Borrower to Lender, other than the Loan.

SECTION 1.47. SUBORDINATED DEBT. "Subordinated Debt" means indebtedness owed by Borrower, as described in Schedule 1.44 attached, and indebtedness owed by Borrower to any third party that has been expressly subordinated to Borrower's Obligations to Lender under the Notes and Loan Documents.

SECTION 1.48. TERM. "Term" has the meaning set forth in Section 2.7.

SECTION 1.49. TANGIBLE NET WORTH. "Tangible Net Worth" means Borrower's total owner's equity, less its intangible assets.

SECTION 1.50. TOTAL DEBT SERVICE. "Total Debt Service" means Borrower's mandatory debt reductions on all Indebtedness (including payments on any capitalized lease), plus interest expense, as determined under GAAP.

SECTION 1.51. USD. "USD" shall mean United States Dollars.

## ARTICLE II LOAN

SECTION 2.1. TERMS. The Loan evidenced by the Reducing Revolving Line of Credit Promissory Note shall have the following terms: (i) The maximum aggregate principal amount of credit extended by Lender to Borrower under the Reducing Revolving Line of Credit Promissory Note, that will be outstanding at any time, is the Maximum Line Amount, and shall be due and payable as provided in the Note. (ii) Once repaid, so long as Borrower is not in default on its obligations under the Loan Documents, at any time before Borrower has selected a Fixed Rate of interest, principal may be re-borrowed, and shall include sums advanced and other credit extended by Lender to or for the benefit of Borrower from time to time under this Article II (each a "Reducing Revolving Credit Loan") up to the Maximum Line Amount, depending upon the availability in the Borrowing Base, the requests of

Borrower pursuant to the terms and conditions of Section 2.2, and on such other basis as Lender may reasonably determine. The outstanding principal balance of the Reducing Revolving Line of Credit Promissory Note may fluctuate from time to time, be reduced by repayments made by Borrower (which may be made without penalty or premium, except LIBOR advances which may be subject to payment of such charges and costs as may be necessary to reimburse Lender, and except for Fixed Rate advances, which shall be subject to a prepayment fee, as provided in the Note) and be increased by future Reducing Revolving Credit Loans, advances and other extensions of credit to or for the benefit of Borrower, and shall be due and payable in full upon the expiration of the Term. For purposes of this Agreement, any determination as to whether there is availability within the Borrowing Base for advances or extensions of credit shall be made by Lender in its sole discretion and is final and binding upon Borrower. Borrower shall have no right to the re-advance of principal, in any amount, after selection of a Fixed Rate of interest. (iii) At Closing, Borrower shall execute and deliver to Lender the Note, evidencing Borrower's unconditional obligation to repay Lender for Reducing Revolving Credit Loans, advances, and other extensions of credit made under the Loan, dated the date of this Agreement, payable to the order of Lender in accordance with the terms thereof. The Reducing Revolving Line of Credit Promissory Note shall bear interest on the outstanding principal balance from the date of each advance there under until repaid, with interest payable monthly in arrears on the first Business Day of each month, at a rate per annum (on the basis of the actual number of days elapsed over a year of 360 days) at the interest rate selected for such Reducing Revolving Credit Loan under the Note, provided that after the occurrence and during the continuance of an Event of Default such rate shall be equal to the Default Rate. Each Reducing Revolving Credit Loan, advance and other extension of credit shall be deemed evidenced by the Reducing Revolving Line of Credit Promissory Note, which is deemed incorporated into and made a part of this Agreement by this reference. (iv) Subject to the terms and conditions of this Agreement, advances under the Note shall be made against the Borrowing Base.

**SECTION 2.2. ADMINISTRATION OF REDUCING REVOLVING CREDIT LOAN.** Borrowings under the Reducing Revolving Line of Credit Promissory Note shall be as follows:

(a) A request for a Reducing Revolving Credit Loan shall be made, or shall be deemed to be made, in the following manner: (i) Borrower may give Lender notice of its intention to borrow, in which notice Borrower shall specify the amount of the proposed borrowing, the interest rate selected by Borrower for such Reducing Revolving Credit Loan, and the proposed borrowing date, not later than noon Pacific time on the proposed borrowing date, by telephone (which telephonic notice shall be promptly confirmed by Borrower in writing); provided, however, that no such request may be made at a time when there exists an Event of Default; and (ii) the becoming due of any amount required to be paid under this Agreement, any Obligation, or the Loan Documents, shall be deemed irrevocably to be a request for a Reducing Revolving Credit Loan on the day following the due date in the amount required to pay such interest or other Obligation if such was not paid by Borrower on the due date;

(b) Borrower hereby irrevocably authorizes Lender to disburse the proceeds of each Reducing Revolving Credit Loan requested, or deemed to be requested, as follows: (i) the proceeds of each Reducing Revolving Credit Loan requested under subsection 2.2(a)(i) shall be deposited into a

depository account of Borrower, maintained at one of Lender's bank branches, or as may be agreed upon by Borrower and Lender from time to time or elsewhere if pursuant to written direction from Borrower and agreed to by Lender; and (ii) the proceeds of each Reducing Revolving Credit Loan deemed to be requested under subsection 2.2(a)(ii) shall be disbursed by Lender by way of direct payment of the relevant interest or other Obligation;

(c) All Reducing Revolving Credit Loans, advances and other extensions of credit to or for the benefit of Borrower shall constitute one general Obligation of Borrower, and shall be secured by Lender's Lien upon all of the Collateral;

(e) Lender shall enter all Reducing Revolving Credit Loans as debits to a loan account in the name of Borrower and shall also record in said loan account all payments made by Borrower on any Obligations and all proceeds of Collateral which are indefeasibly paid to Lender, and may record therein, in accordance with customary accounting practice, other debits and credits, including interest and all charges and expenses properly chargeable to Borrower. All payments received by Lender shall be applied first to fees, costs and expenses due and owing under the Loan Documents, then to late charges owing under the Loan Documents, then to interest due and owing under the Loan Documents, and then to principal;

(f) Lender will account to Borrower monthly with a statement of Reducing Revolving Credit Loans, charges and payments made pursuant to this Agreement, and such accounting rendered by Lender shall be deemed final, binding and conclusive upon Borrower, absent manifest error, unless Lender is notified by Borrower in writing to the contrary within thirty (30) days of the date each accounting is mailed to Borrower. Such notice shall be deemed an objection to those items specifically objected to in the notice.

SECTION 2.3. FEES. (a) By executing this Agreement, Borrower agrees unconditionally to pay to Lender a commitment fee equal to one half of one percent (.50%) of the Maximum Line Amount, or \$3,250.00 (the "Reducing Revolving Line of Credit Commitment Fee"), due and payable on the Closing Date; (b) Subject to the provisions of this Section 2.3(b), Borrower shall pay to or reimburse Lender for, as the case may be, up to \$7500.00 in reasonable out-of-pocket fees incurred by Lender in connection with the Loan, including, without limitation (i) the costs of perfection of Lender's security interest in the Collateral, (ii) the costs of preparation of the Loan Documents; (iii) the costs of any Collateral examination, with respect to Accounts and Inventory. Except as otherwise expressly provided herein, all amounts to be paid or reimbursed by Borrower hereunder shall be due and payable on the first Business Day of the month following the date of issuance by Lender of a request for payment or reimbursement thereof to Borrower; provided, however, that on the occurrence and during the continuance of any Event of Default under this Agreement or any of the other Loan Documents, the foregoing limitation on the number of audits to be paid for or reimbursed by Borrower shall not apply, and (i) Borrower shall be required to pay or reimburse Lender for any and all fees described in this Section 2.3(b) that are incurred by Lender in connection with any audits conducted by Lender during such period, without regard to the foregoing cap on such fees, and (ii) any audits conducted Lender during such period shall not be applied towards the number of audits for which Borrower is required to pay or reimburse Lender as provided herein.

SECTION 2.4. PAYMENTS. Principal and interest shall be paid in accordance with the terms of the Reducing Revolving Line of Credit Promissory Note, as follows: (a) Accrued interest shall be payable monthly and the principal balance of the Reducing Revolving Line of Credit Promissory Note shall be reduced quarterly by the amount of \$32,500.00 per quarter, either through payment or non-use, on the last day of each calendar quarter commencing December 31, 2005, and continuing on each March 31, June 30, and September 30 thereafter (e.g., for purposes of illustration only, if (i) on December 31, 2005, the outstanding principal balance of the Note is \$650,000.00, then, in addition to its obligation to pay accrued interest monthly, Borrower shall make a principal payment of \$32,500.00; but (ii) if, on such date, the outstanding principal balance of the Note was \$625,000.00, Borrower shall only be required to make a principal payment in the amount of \$7,500.00; and (iii) if the principal balance on such date were \$617,500.00, then Borrower would not be required to make any principal payment). In addition, all principal and accrued interest shall be immediately due and payable upon the earliest of (a) the Maturity Date of the Reducing Revolving Line of Credit Promissory Note, (b) the occurrence of an Event of Default if the Loan and the maturity of the payment of the Obligations are accelerated, or (c) the termination of this Agreement pursuant to Section 2.7 of this Agreement; provided, however, that if the outstanding principal balance of the Reducing Revolving Credit Loan is at any time in excess of the Borrowing Base, Borrower shall, immediately upon demand, repay such excess. All payments of principal and of interest on the Loan, all other charges and any other obligations of Borrower under this Agreement, shall be made to Lender in immediately available funds. All payments shall be made without deduction for any set-off, recoupment, counterclaim or defense that Borrower now has or may have in the future.

SECTION 2.5. USE OF PROCEEDS. The proceeds of Lender's advances under the Reducing Revolving Line of Credit Promissory Note shall be used solely for working capital and for other costs of Borrower arising in the ordinary course of Borrower's business, and for repayment or refinancing of Borrower's existing indebtedness as approved by Lender.

SECTION 2.6. INTEREST RATE LIMITATION. The parties intend to conform strictly to the applicable usury laws in effect from time to time during the term of the Loan. Accordingly, if any transaction contemplated by this Agreement would be usurious under such laws, then notwithstanding any other provision of this Agreement: (a) the aggregate of all interest that is contracted for, charged, or received under this Agreement or under any other Loan Document shall not exceed the maximum amount of interest allowed by applicable law (the "Highest Lawful Rate"), and any excess shall be promptly credited to Borrower by Lender (or, to the extent that such consideration shall have been paid, such excess shall be promptly refunded to Borrower by Lender); (b) neither Borrower nor any other Person now or hereafter liable under this Agreement shall be obligated to pay the amount of such interest to the extent that it is in excess of the Highest Lawful Rate; and (c) the effective rate of interest shall be reduced to the Highest Lawful Rate. All sums paid, or agreed to be paid, to Lender for the use, forbearance, and detention of the debt of Borrower to Lender shall, to the extent permitted by applicable law, be allocated throughout the full term of the Note until payment is made in full so that the actual rate of interest does not exceed the Highest Lawful Rate in effect at any particular time during the full term thereof. If at any time the rate of interest under the Note exceeds the Highest Lawful Rate, the rate of interest to accrue pursuant to this Agreement shall be limited, notwithstanding anything to the contrary in this Agreement, to the

Highest Lawful Rate, but any subsequent reductions in the Base Rate shall not reduce the interest to accrue pursuant to this Agreement below the Highest Lawful Rate until the total amount of interest accrued equals the amount of interest that would have accrued if a varying rate per annum equal to the interest rate under the Note had at all times been in effect.

#### SECTION 2.7. TERM OF REDUCING REVOLVING LINE OF CREDIT PROMISSORY NOTE.

(a) Subject to Lender's right to cease making Reducing Revolving Credit Loans to Borrower upon or after any Event of Default, Lender's obligation to make Reducing Revolving Credit Loans shall be in effect until the earlier of Borrower's conversion of the interest rate under the Reducing Revolving Line of Credit Promissory Note to a Fixed Rate of interest or the Maturity Date of the Reducing Revolving Line of Credit Promissory Note (the "Line Term"), unless terminated as provided in this Section 2.7, and unless thereafter renewed and extended upon the mutual written agreement of the parties; provided, however, Borrower expressly recognizes that Lender has made no agreement or commitment to extend or otherwise renew this Agreement beyond the LineTerm; (b) Notwithstanding anything in this Agreement to the contrary, Lender may terminate this Agreement, and its obligation to make Reducing Revolving Credit Loans without notice upon or after the occurrence of an Event of Default. All undertakings, agreements, covenants, warranties, and representations of Borrower contained in the Loan Documents shall survive any such termination and Lender shall retain its Liens in the Collateral and all of its rights and remedies under the Loan Documents notwithstanding such termination until Borrower has paid the Obligations to Lender, in full, in immediately available funds.

### ARTICLE III COLLATERAL SECTION

3.1. GENERALLY. As security for the payment of all liabilities of Borrower to Lender, including without limitation: (x) indebtedness evidenced under the Note, repayment of Reducing Revolving Credit Loans, advances and other extensions of credit, all fees and charges owing by Borrower and all other liabilities and obligations of every kind or nature whatsoever of Borrower to Lender under the Loan Documents and Related Documents, whether now existing or hereafter incurred, joint or several, matured or unmatured, direct or indirect, primary or secondary, related or unrelated, due or to become due, including but not limited to any extensions, modifications, substitutions, increases and renewals thereof, (y) the payment of all amounts advanced by Lender to preserve, protect, defend, and enforce its rights under this Agreement and in the following property in accordance with the terms of this Agreement, and (z) the payment of all expenses incurred by Lender in connection therewith ((x), (y) and (z) collectively, the "Obligations"), Borrower hereby assigns and grants to Lender a continuing first priority Lien (subject to any Permitted Lien described in Section 1.38 that may have priority over Lender's first priority Lien hereunder) on and security interest in, upon, and to the following property whether now owned or hereafter acquired or arising (the "Collateral"); unless otherwise defined in this Agreement, all terms used herein shall have the meanings given them in the Uniform Commercial Code as now or hereafter in effect): (i) Accounts; (ii) all of Borrower's goods and equipment, and all replacements of, additions to, and substitutions for such all equipment, as evidenced from time to time in an addendum to Schedule 3.1 executed by Borrower and delivered to Lender, (iii) all of Borrower's now owned and hereafter acquired goods, general intangibles



(including, without limitation, all of Borrower's trade names and trade marks, including the names "Jody Coyote", "Coyote Rose" and "Sugar & Spice", and all good will and other tangible and intangible benefit associated therewith), payment intangibles, and Inventory and (vi) the proceeds and products of the foregoing.

**SECTION 3.2. LIEN DOCUMENTS.** At Closing and thereafter as Lender deems necessary in its sole discretion, Borrower shall execute and deliver to Lender, or have executed and delivered (all in form and substance satisfactory to Lender in its sole discretion) any agreements, documents, instruments, certificates and writings deemed necessary by Lender or as Lender may otherwise request from time to time in its sole discretion to evidence, perfect, or protect Lender's Lien and security interest in the Collateral required under this Agreement. Borrower hereby authorizes Lender to file one or more financing statements and amendments thereto describing the Collateral and describing any liens held by Lender.

**SECTION 3.3. COLLATERAL ADMINISTRATION.** (a) Borrower shall keep accurate and complete records of the insurance on and condition, maintenance and location of the Collateral and shall submit to Lender, on such periodic basis as Lender shall request, a report for the preceding period, in form satisfactory to Lender; (b) As between Borrower and Lender, Borrower shall bear the risk of loss on all Collateral, regardless of whether such Collateral is in the possession or control of Borrower, Lender, a bailee or any other Person, provided that Lender agrees to treat any Collateral in its possession in a commercially reasonable manner.

**SECTION 3.4. OTHER ACTIONS.** In addition to the foregoing, Borrower: (a) shall do and hereby authorizes Lender to do anything further that may be lawfully required by Lender to perfect the security interest in the Collateral given to Lender and to effectuate the intentions and objects of this Agreement and the Loan Documents, including but not limited to the execution and delivery of certificates of title, applications for certificates of title, registrations, financing statements, continuation statements, amendments to financing statements, and any other documents required under this Agreement or the Loan Documents; (b) at Lender's request, shall immediately deliver to Lender all items for which Lender must receive possession to obtain a perfected security interest; (c) shall, on Lender's demand, join with Lender in notifying any third party of Lender's security interest in the Collateral; and (d) shall do any other act reasonably necessary to perfect Lender's lien on the Collateral.

**SECTION 3.5. SEARCHES.** Before Closing, and thereafter (as and when determined by Lender in its sole discretion), Lender will perform the searches described in clauses (a), (b), and (c) below against Borrower, all at Borrower's expense in accordance with and subject to Section 2.3 above: (a) Uniform Commercial Code searches with the Secretary of State and local filing offices of the jurisdiction in which the Borrower is organized, confirming that Lender's security interest in the personal property Collateral will be in a first priority position; and (b) judgment, federal tax lien and corporate and partnership tax lien searches, in the jurisdiction searched under clause (a) above; and (c) searches of applicable corporate and related records to confirm the continued existence, organization and good standing of Borrower and the exact legal name under which Borrower is organized.

**SECTION 3.6. POWER OF ATTORNEY.** Each of the officers of Lender is hereby irrevocably made, constituted and appointed the true and lawful attorney for Borrower (without requiring any of them to act as such) with full power of substitution to do the following: (a) endorse the name of Borrower upon any and all checks, drafts, money orders, and other instruments for the payment of money that are payable to Borrower and constitute collections on Borrower's Accounts; (b) execute in the name of Borrower any financing statements, schedules, assignments, instruments, documents, and statements that Borrower is obligated to give Lender under this Agreement; (c) take any action Borrower is required to take under Section 3.4 above; and (d) do such other and further acts and deeds in the name of Borrower that Lender may deem necessary or desirable to enforce any Account or other Collateral or perfect Lender's security interest or Lien in any Collateral.

#### **ARTICLE IV REPRESENTATIONS AND WARRANTIES**

Borrower represents and warrants to Lender that:

**SECTION 4.1. SUBSIDIARIES.** Except as set forth in Schedule 4.1, Borrower has no subsidiaries.

**SECTION 4.2. ORGANIZATION AND GOOD STANDING.** Borrower is a legal entity, duly organized, validly existing, and in good standing under the laws of its state of formation, is in good standing as a foreign entity in each jurisdiction in which the character of the properties owned or leased by it therein or the nature of its business makes such qualification necessary, has the necessary power and authority to own its and their assets and transact the business in which it is or they are engaged, and has obtained all certificates, licenses and qualifications required under all laws, regulations, ordinances, or orders of public authorities necessary for the ownership and operation of all of its properties and transaction of all of its business, all of which are in the name of Borrower. Borrower's state of organization is the state of Delaware and its exact legal name is as set forth in the signature block of this Agreement.

**SECTION 4.3. AUTHORITY.** Borrower has full power and authority to enter into, execute, and deliver this Agreement and the Loan Documents and to perform its obligations under this Agreement, to borrow the Loan, to execute and deliver the Reducing Revolving Line of Credit Promissory Note and to incur and perform the obligations provided for in the Loan Documents, all of which have been duly authorized by all necessary entity action. No consent or approval of members, managers, shareholders, directors of, or lenders to, Borrower and no consent, approval, filing or registration with any Governmental Authority is required as a condition to the validity of the Loan Documents or the performance by Borrower of its obligations under the Loan Documents.

**SECTION 4.4. BINDING AGREEMENT.** This Agreement and all other Loan Documents constitute, and the Reducing Revolving Line of Credit Promissory Note when issued and delivered pursuant to this Agreement for value received, will constitute, the valid and legally binding obligations of Borrower, enforceable against Borrower in accordance with their respective terms.

SECTION 4.5. LITIGATION. Except as disclosed in Schedule 4.5, there are no actions, suits, proceedings or investigations pending or, to the best of Borrower's knowledge, threatened against Borrower before any court or arbitrator or before or by any Governmental Authority which, in any one case or in the aggregate, if determined adversely to the interests of Borrower, could have a material adverse effect on the business, properties, condition (financial or otherwise) or operations, current or prospective, of Borrower, or upon its ability to perform its obligations under the Loan Documents. Borrower is not in default with respect to any order of any court, arbitrator, or Governmental Authority applicable to Borrower or its properties.

SECTION 4.6. NO CONFLICTS. The execution and delivery by Borrower of this Agreement and the other Loan Documents do not, and the performance of its obligations under the Loan Documents will not, violate, conflict with, constitute a default under, or result in the creation of a Lien or encumbrance upon the property of Borrower (other than for the benefit of Lender) under: (a) any provision of Borrower's organizational documents or operating agreement, (b) any provision of any law, rule, or regulation applicable to Borrower, (c) any indenture or other agreement or instrument to which Borrower is a party or by which Borrower or its property is bound, or (d) any judgment, order or decree of any court, arbitration tribunal, or Governmental Authority having jurisdiction over Borrower which is applicable to Borrower.

SECTION 4.7. FINANCIAL CONDITION. The most recent annual and interim financial statements of Borrower which have been delivered to Lender fairly present the financial condition of Borrower and the results of its operations and changes in financial condition as of the dates and for the periods referred to, and have been prepared in accordance with GAAP. There are no material unrealized or anticipated liabilities, direct or indirect, fixed or contingent, of Borrower as of the dates of such financial statements which are not reflected in such financial statements or in the notes to such financial statements except for those arising in the ordinary course of business. There has been no adverse change in the business, properties, condition (financial or otherwise) or operations (current or prospective) of Borrower since the date of the last financial statement delivered to Lender. The federal tax identification number and fiscal year of Borrower is set forth on Schedule 4.7 attached hereto.

SECTION 4.8. NO DEFAULT. Borrower is not in default under or with respect to any obligation in any respect which could be materially adverse to its business, operations, property or financial condition, or which could materially adversely affect the ability of Borrower to perform its obligations under the Loan Documents. No Event of Default or event that, with the giving of notice or lapse of time, or both, could become an Event of Default, has occurred and is continuing.

SECTION 4.9. TITLE TO PROPERTIES. Borrower has good and marketable title to a valid leasehold interest in, or rights in and the power to transfer its properties and assets, including the Collateral, and the properties and assets reflected in the financial statements described in Section 4.7, subject to no Lien, mortgage, pledge, encumbrance or charge of any kind, other than Permitted Liens. Borrower has not agreed or consented to cause any of its properties or assets whether owned now or hereafter acquired to be subject in the future (upon the happening of a contingency or otherwise) to any Lien, mortgage, pledge, encumbrance or charge of any kind other than Permitted Liens. All of

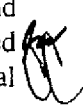
the Collateral, and all other property and assets of Borrower that are necessary to the conduct of Borrower's business, is owned or leased by Borrower or the rights to same are held by Borrower in its name, and none of the Collateral, or any such property or assets are owned, leased, or the rights thereto held in the name of any other entity.

SECTION 4.10. TAXES. Borrower has filed, or has obtained extensions for the filing of, all federal, state and other tax returns which are required to be filed, and has paid all taxes shown as due on those returns and all assessments, fees and other amounts due as of the date of this Agreement. All tax liabilities of Borrower are adequately provided for on Borrower's books. No tax liability has been asserted by the Internal Revenue Service or other taxing authority against Borrower for taxes in excess of those already paid, except for such liabilities as are being contested by Borrower in good faith by appropriate proceedings and in respect of which adequate reserves have been made.

SECTION 4.11. SECURITIES AND BANKING LAWS AND REGULATIONS. (a) The use of the proceeds of the Loan and Borrower's issuance of the Note will not directly or indirectly violate or result in a violation of the Securities Act of 1933 or the Securities Exchange Act of 1934, as amended, or any regulations issued pursuant thereto, including without limitation Regulations U, T or X of the Board of Governors of the Federal Reserve System. Borrower is not engaged in the business of extending credit for the purpose of the purchasing or carrying "margin stock" within the meaning of those regulations. No part of the proceeds of the Loan under this Agreement will be used to purchase or carry any margin stock or to extend credit to others for such purpose. (b) Borrower is not an investment company within the meaning of the Investment Company Act of 1940, as amended, nor is it, directly or indirectly, controlled by or acting on behalf of any Person which is an investment company within the meaning of that Act.

SECTION 4.12. ERISA. No employee benefit plan (a "Plan") subject to the Employee Retirement Income Security Act of 1974 ("ERISA") and regulations issued pursuant to ERISA that is maintained by Borrower or under which Borrower could have any material liability under ERISA (i) has failed to meet minimum funding standards established in Section 302 of ERISA, (ii) has failed to substantially comply with all applicable requirements of ERISA and of the Internal Revenue Code, including all applicable rulings and regulations thereunder, or (iii) has engaged in or been involved in a prohibited transaction (as defined in ERISA) under ERISA or under the Internal Revenue Code. Neither Borrower nor any member of a Controlled Group that includes Borrower has assumed, or received notice of a claim asserted against Borrower or another member of the Controlled Group for, withdrawal liability (as defined in the Multi-Employer Pension Plan Amendments Act of 1980, as amended) with respect to any multi-employer pension plan. Borrower has timely made when due all contributions with respect to any multi-employer pension plan in which it participates and no event has occurred triggering a material claim against Borrower for withdrawal liability with respect to any multi-employer pension plan in which Borrower participates.

SECTION 4.13. COMPLIANCE WITH LAWS. To the best of Borrower's knowledge, Borrower is not in violation of any statute, rule or regulation of any Governmental Authority (including, without limitation, any statute, rule or regulation relating to employment practices or to environmental, occupational and health standards and controls). Borrower has obtained all licenses, permits,

franchises, and other governmental authorizations necessary for the ownership of its properties and the conduct of its business. Borrower is current with all reports and documents required to be filed with any state or federal securities commission or similar Governmental Authority and is in material compliance with all applicable rules and regulations of such commissions. 

SECTION 4.14. ENVIRONMENTAL MATTERS. To the best of Borrower's knowledge, other than in the ordinary course of business and in compliance with all applicable laws, rules and regulations governing same, no use, exposure, release, generation, manufacture, storage, treatment, transportation or disposal of Hazardous Material has occurred or is occurring on or from any real property on which the Collateral is located or which is owned, leased or otherwise occupied by Borrower (the "Premises"), or off the Premises as a result of any action of Borrower, except as described in Schedule 4.14. All Hazardous Material used, treated, stored, transported to or from, generated or handled on the Premises, or off the Premises by Borrower, has been disposed of on or off the Premises by or on behalf of Borrower in a lawful manner. To the best of Borrower's knowledge, after reasonable investigation, there are no underground storage tanks present on or under the Premises owned or, to Borrower's knowledge after due inquiry, leased by Borrower. To Borrower's knowledge, no other environmental, public health or safety hazards exist with respect to the Premises.

SECTION 4.15. INTENTIONALLY OMMITTED.

SECTION 4.16. MATERIAL FACTS. To the best of Borrower's knowledge, after reasonable investigation, neither this Agreement nor any other Loan Document nor any other agreement, document, certificate, or statement furnished to Lender by or on behalf of Borrower in connection with the transactions contemplated by this Agreement contains any untrue statement of material fact or omits to state a material fact necessary to make the statements contained in this Agreement or other Loan Document not misleading. There is no fact known to Borrower that adversely affects or in the future may materially adversely affect the business, operations, affairs or financial condition of Borrower, or any of its properties or assets.

SECTION 4.17. INVESTMENTS, GUARANTEES, AND CERTAIN CONTRACTS. Borrower does not own or hold any equity or long-term debt investments in, have any outstanding advances to, have any outstanding guarantees for the obligations of, or have any outstanding borrowings from, any Person, except as described on Schedule 4.17. Borrower is not a party to any contract or agreement, or subject to any corporate restriction, which materially adversely affects its business.

SECTION 4.18. BUSINESS INTERRUPTIONS. Within five years before the date of this Agreement, neither the business, property or assets, or operations of Borrower has been adversely affected in any way by any casualty, strike, lockout, combination of workers, or order of the United States of America or other Governmental Authority, directed against Borrower. There are no pending or, to Borrower's knowledge, threatened labor disputes, strikes, lockouts, or similar occurrences or grievances against Borrower or its business.

SECTION 4.19. NAMES. Within five years before the date of this Agreement, Borrower has not conducted business under or used any other name (whether corporate or assumed) than its own name and as set forth in Schedule 4.20, and any and all business done and invoices issued in such names are Borrower's sales, business, and invoices.

SECTION 4.20 JOINT VENTURES. Borrower is not engaged in any joint venture or partnership with any other Person, except as set forth on Schedule 4.21.

SECTION 4.21. SOLVENCY. Both before and after giving effect to the transactions contemplated by the terms and provisions of this Agreement, Borrower (a) owns property whose fair saleable value is greater than the amount required to pay all of Borrower's Indebtedness (including contingent debts), (b) was and is able to pay all of its Indebtedness as such Indebtedness matures, and (c) had and has capital sufficient to carry on its business and transactions and all business and transactions in which it is about to engage. For purposes of this Agreement, the term "Indebtedness" means, without duplication (x) all items which in accordance with GAAP would be included in determining total liabilities as shown on the liability side of a balance sheet of such Borrower as of the date on which Indebtedness is to be determined, (y) all obligations of any other person or entity which such Borrower has guaranteed, and (z) the Obligations.

## **ARTICLE V CLOSING AND CONDITIONS OF LENDING**

SECTION 5.1. CONDITIONS PRECEDENT TO AGREEMENT. The obligation of Lender to enter into and perform this Agreement, make Reducing Revolving Credit Loans, is subject to the following conditions precedent: (a) Lender shall have received two (2) originals of this Agreement, and all other Loan Documents required to be executed and delivered at or before Closing (other than the Note, as to which Lender shall receive only one (1) original), executed by Borrower; (b) Lender shall have received all searches required by Section 3.5, the results of which shall be satisfactory to Lender; (c) Borrower shall have complied and shall then be in compliance with all the terms, covenants and conditions of the Loan Documents; (d) there shall have occurred and be continuing no Event of Default and no event that, with the giving of notice or the lapse of time, or both, could constitute such an Event of Default; (e) the representations and warranties contained in Article IV shall be true and correct in all material respects; (f) Lender shall have received two (2) duly executed copies of a certificate of the Secretary of Borrower, together with all attachments thereto, which attachments shall include, at a minimum, (i) copies, certified as true, correct and complete by the secretary of state of the state of formation of Borrower, of the certificate of incorporation or organization of Borrower, together with any and all amendments thereto, (ii) copies, certified by the Secretary of Borrower of the Bylaws or operating agreement of Borrower, together with any and all amendments thereto, (iii) the names and signatures of the officers of the Borrower authorized to execute documents on its behalf in connection with this Agreement and the Loan, including but not limited to any Borrowing Base certificates submitted to Lender by Borrower, and (iv) copies of all board of directors or manager resolutions of Borrower and any other action taken by or on behalf of Borrower to authorize the execution, delivery and performance of the Loan Documents and the borrowing of the Loan under the Loan Documents; (g) Lender shall have received certificates of

good standing for Borrower by the state of incorporation of Borrower; (h) At Lender's option, Lender shall have received a written opinion of counsel for Borrower, dated the date of this Agreement, to be reasonably acceptable to Lender and its counsel, in form and content, opining that Borrower has taken all steps necessary to authorize the execution of any and all documents and instruments evidencing the Loan and to incur the Obligations; (i) Lender shall have received such financial statements, reports, certifications, and other operational information required to be delivered under this Agreement, including, without limitation, an initial borrowing base certificate calculating the Borrowing Base; and (j) Lender shall have received the Commitment Fee.

**SECTION 5.2. CONDITIONS PRECEDENT TO ADVANCES.** Notwithstanding any other provision of this Agreement, no Loan proceeds shall be disbursed under this Agreement unless the following conditions have been satisfied or waived immediately before such disbursement: (a) the representations and warranties on the part of Borrower contained in Article IV of this Agreement shall be true and correct in all material respects at and as of the date of each disbursement or advance, as though made on and as of such date (except to the extent that such representations and warranties expressly relate solely to an earlier date and except that the references in Section 4.7 to financial statements shall be deemed to be a reference to the then most recent annual and interim financial statements of Borrower furnished to Lender pursuant to Section 6.1); (b) no Event of Default or event that, with the giving of notice or the lapse of time, or both, could become an Event of Default shall have occurred and be continuing or would result from the making of the disbursement or advance; and (c) no material adverse change in the condition (financial or otherwise), properties, business, or operations of Borrower shall have occurred and be continuing with respect to Borrower since the date of this Agreement.

**SECTION 5.3. CLOSING.** Subject to the conditions of this Article V, the Loan shall be made available on the date as is mutually agreed by the parties (the "Closing Date"), at such time as may be mutually agreeable to the parties upon the execution of this Agreement (the "Closing"), and at such place as may be requested by Lender.

**SECTION 5.4. WAIVER OF RIGHTS.** By completing the Closing under this Agreement, or by making advances under the Loan, Lender does not waive a breach of any representation or warranty of Borrower under this Agreement or under any other Loan Document, and all of Lender's claims and rights resulting from any breach or misrepresentation by Borrower are specifically reserved by Lender.

## **ARTICLE VI AFFIRMATIVE COVENANTS**

Borrower covenants and agrees that for so long as Borrower may borrow under this Agreement and until payment in full of the Note and performance of all other obligations of Borrower under the Loan Documents:

**SECTION 6.1. FINANCIAL STATEMENTS AND COLLATERAL REPORTS.** Borrower will furnish to Lender (a) a sales and collections report and accounts receivable aging schedule on a form

acceptable to Lender within thirty (30) days after the end of each calendar month, which shall include, but not be limited to, a report of accounts receivable, including agings; (b) payables aging schedules within thirty (30) days after the end of each calendar month; (c) a Borrowing Base Certificate, certified as true and correct by an executive officer of Borrower, within thirty (30) days after the end of each calendar month, certifying the then existing Borrowing Base; (d) internally prepared monthly financial statements for Borrower, certified by the chief financial officer of Borrower, within thirty (30) days of the end of each calendar month; (e) annual reviewed financial statements for Borrower prepared by a firm of independent public accountants satisfactory to Lender, within one hundred twenty (120) days after the end of each of Borrower's fiscal years; (f) upon request by Lender, evidence satisfactory to Lender that all federal and state taxes, including, without limitation payroll taxes, sales taxes, fuel taxes and excise taxes, that are due have been paid in full; (g) no later than the end of each calendar year, a detailed budget, including projections, of Borrower's expected income and expenses, for the upcoming calendar year; and (j) such additional information, reports or statements as Lender may from time to time request. Annual financial statements shall set forth in comparative form figures for the corresponding periods in the prior fiscal year. All financial statements of Borrower shall include a balance sheet and statement of earnings and shall be prepared in accordance with GAAP.

**SECTION 6.2. PAYMENTS UNDER THIS AGREEMENT.** Borrower will make all payments of principal, interest, fees, and all other payments required under this Agreement and under the Loan, and under any other agreements with Lender to which Borrower is a party, as and when due.

**SECTION 6.3. EXISTENCE, GOOD STANDING, AND COMPLIANCE WITH LAWS.** Borrower will do or cause to be done all things necessary (a) to obtain and keep in full force and effect its corporate existence, all material rights, licenses, permits, privileges, agreements, and franchises (collectively, "Permits") of Borrower necessary to the ownership of its property or the conduct of its business, and comply with all applicable current and future laws, ordinances, rules, regulations, orders and decrees of any Governmental Authority having or claiming jurisdiction over Borrower; (b) to maintain and protect the properties used or useful in the conduct of the operations of Borrower, in a prudent manner, including without limitation the maintenance at all times of such insurance upon its insurable property and operations as required by law or by Section 6.7; and (c) to maintain all Permits free from restrictions or known conflicts which could materially impair their use or operation or cause the Permits to be provisional, probationary or restricted in any way.

**SECTION 6.4. LEGALITY.** The making of the Loan and each disbursement or advance under the Loan shall not be subject to any penalty or special tax, shall not be prohibited by any governmental order or regulation applicable to Lender.

**SECTION 6.5. LENDER'S SATISFACTION.** All instruments and legal documents and proceedings in connection with the transactions contemplated by this Agreement shall be satisfactory in form and substance to Lender and its counsel, and Lender shall have received all documents, including records of corporate proceedings and opinions of counsel, which Lender may have requested in connection therewith.



SECTION 6.6. TAXES AND CHARGES. Borrower will timely file all tax reports and pay and discharge all taxes, assessments and governmental charges or levies imposed upon Borrower, or its income or profits or upon its properties or any part thereof, before the same shall be in default and before the date on which penalties attach thereto, as well as all lawful claims for labor, material, supplies or otherwise which, if unpaid, might become a Lien or charge upon the properties or any part thereof of Borrower; provided, however, that Borrower shall not be required to pay and discharge or cause to be paid and discharged any such tax, assessment, charge, levy or claim so long as the validity or amount thereof shall be contested in good faith and by appropriate proceedings by Borrower, and Borrower shall have set aside on their books adequate reserve therefor; and provided further, that such deferment of payment is permissible only so long as Borrower's title to, and its right to use, the Collateral is not adversely affected thereby and Lender's Lien and priority on the Collateral are not adversely affected, altered or impaired thereby.

SECTION 6.7. INSURANCE. Until such time as the Obligations are paid in full, and Lender is under no further obligation or duty to advance additional funds to Borrower, Borrower will carry (i) liability and damage insurance on the Collateral in an amount not less than the Maximum Line Amount, listing Lender as an additional insured under such policies, together with a lender's loss payable clause in favor of lender, which policies shall (x) include a Lender's loss payable endorsement; (y) shall not be cancelable except upon thirty (30) days written notice to Lender; (z) shall be issued by companies acceptable to Lender; and (xx) the proceeds of which shall be paid to Lender for application to the then outstanding balance owing under the Loan; and (ii) adequate public liability and professional liability insurance with responsible companies reasonably satisfactory to Lender in such amounts and against such risks as is customarily maintained by similar businesses and by owners of similar property in the same general area.

SECTION 6.8. VISITS AND INSPECTIONS. Borrower shall permit any officer, employee, agent or representative of Lender to visit and inspect any of the properties of Borrower, to inspect, audit and make copies of or prepare extracts from Borrower's minute books, books of account and other records, including management letters prepared by Borrower's auditors, of Borrower, and make copies thereof or extracts therefrom, and to discuss the business affairs, finances and accounts of Borrower with, and be advised as to the same by, the officers, employees and independent accountants Borrower, all at such times and as often as Lender may reasonably require.

SECTION 6.9. MAINTENANCE OF PROPERTY. Borrower will maintain, keep and preserve all of its properties in good repair, working order and condition, ordinary wear and tear excepted, and from time to time make all necessary repairs, renewals, replacements, betterments and improvements thereto, so that the business carried on in connection therewith may be properly conducted at all times.

SECTION 6.10. NOTIFICATION OF EVENTS OF DEFAULT AND ADVERSE DEVELOPMENTS. Borrower promptly will notify Lender upon the occurrence of: (a) any Event of Default; (b) any event that, with the giving of notice or lapse of time, or both, could constitute an Event of Default; (c) any event, development or circumstance whereby the financial statements previously furnished to Lender fail in any material respect to present fairly, in accordance with

GAAP, the financial condition and operational results of Borrower; (d) any judicial, administrative or arbitration proceeding pending against Borrower, and any judicial or administrative proceeding known by Borrower to be threatened against it which, if adversely decided, could adversely affect its condition (financial or otherwise) or operations (current or prospective) or which may expose Borrower to uninsured liability of \$20,000.00 or more, in the aggregate (not including any applicable deductibles); (e) any default claimed by any other creditor for Borrowed Money of Borrower other than Lender, when the amount in default, either individually or in the aggregate, exceeds \$20,000.00; and (f) any other development in the business or affairs of Borrower which may be materially adverse; in each case describing the nature of the event or development. In the case of notification under clauses (a) and (b)), Borrower should set forth the action Borrower proposes to take with respect to such event.

SECTION 6.11. EMPLOYEE BENEFIT PLANS. Borrower will (a) comply with the funding requirements of ERISA with respect to the Plans for its employees, or will promptly satisfy any accumulated funding deficiency that arises under Section 302 of ERISA; (b) furnish Lender, promptly after filing the same, with copies of all reports or other statements filed with the United States Department of Labor, the Pension Benefit Guaranty Corporation, or the Internal Revenue Service with respect to all Plans, or which Borrower, or any member of a Controlled Group, may receive from such Governmental Authority with respect to any such Plans, and (c) promptly advise Lender of the occurrence of any Reportable Event or Prohibited Transaction with respect to any such Plan and the action which Borrower proposes to take with respect thereto. Borrower will make all contributions when due with respect to any multi-employer pension plan in which it participates and will promptly advise Lender: (x) upon its receipt of notice of the assertion against Borrower of a claim for withdrawal liability; (y) upon the occurrence of any event that could trigger the assertion of a claim for withdrawal liability against Borrower; and (z) upon the occurrence of any event that would place Borrower in a Controlled Group as a result of which any member (including Borrower) thereof may be subject to a claim for withdrawal liability, whether liquidated or contingent.

SECTION 6.12. FINANCING STATEMENTS. Borrower shall provide to Lender evidence satisfactory to Lender as to the due recording of termination statements, releases of collateral, and Forms UCC-3, and shall cause to be recorded financing statements on Form UCC-1, in all places necessary to release all existing security interests and other Liens in the Collateral (other than as permitted by this Agreement) and to perfect and protect Lender's first priority Lien and security interest in the Collateral, as Lender may request.

SECTION 6.13. FINANCIAL RECORDS. Borrower shall keep current and accurate books of records and accounts in which full and correct entries will be made of all of its business transactions, and will reflect in its financial statements adequate accruals and appropriations to reserves, all in accordance with GAAP.

SECTION 6.14. PLACES OF BUSINESS. Borrower shall give thirty (30) days' prior written notice to Lender of any change in the location of any of its places of business, of the places where the Collateral is kept, or of the establishment of any new, or the discontinuance of any existing, places of business.

SECTION 6.15. BUSINESS CONDUCTED. Borrower shall not engage, directly or indirectly, in any line of business substantially different from the business conducted by it immediately before the Closing Date, or engage in business or lines of business which are not reasonably related thereto.

SECTION 6.16. LITIGATION AND OTHER PROCEEDINGS. Borrower shall give prompt notice to Lender of any litigation, arbitration, or other proceeding before any Governmental Authority against or affecting Borrower if the amount claimed is more than \$500,000.00, in the aggregate.

SECTION 6.17. BANK ACCOUNTS. Borrower shall maintain with Lender its primary bank deposit accounts.

SECTION 6.18. SUBMISSION OF COLLATERAL DOCUMENTS. Borrower will, on demand of Lender, make available to Lender copies of shipping and delivery receipts evidencing the shipment of goods that gave rise to an Account or other proof of the satisfactory performance of services that gave rise to an Account, a copy of the claim or invoice for each Account and copies of any written contract or order from which the Account arose, and a copy of any invoice showing the purchase of Inventory.

SECTION 6.19. OFFICER'S CERTIFICATES. Together with the financial statements delivered pursuant to Section 6.1, and together with the audited annual financial statements delivered pursuant to that Section, Borrower shall deliver to Lender a certificate of its chief financial officer, in form and substance satisfactory to Lender: (a) setting forth the information (including detailed calculations) required to establish whether Borrower is in compliance with the requirements of Articles VI and VII as of the end of the period covered by the financial statements then being furnished; and (b) stating that such officer has reviewed the relevant terms of this Agreement, and has made (or caused to be made under such officer's supervision) a review of the transactions and conditions of Borrower from the beginning of the accounting period covered by the income statements being delivered to the date of the certificate, and that such review has not disclosed the existence during such period of any fact, event or circumstance that constitutes an Event of Default or that is then, or with the passage of time or giving of notice or both, could become an Event of Default, and if any such condition or event existed during such period or now exists, specifying the nature and period of existence thereof and what action Borrower has taken or proposes to take with respect thereto.

SECTION 6.20. TANGIBLE NET WORTH. Borrower shall maintain a minimum Tangible Net Worth, measured monthly from September 30, 2005, of \$2,000,000.00.

SECTION 6.21. DEBT TO TANGIBLE NET WORTH RATIO. Borrower shall maintain a maximum Debt to Tangible Net Worth Ratio, measured monthly from September 30, 2005 of 1.5:1.0.

SECTION 6.22. DEBT SERVICE COVERAGE. Borrower's shall maintain a minimum Debt Service Coverage Ratio, measured quarterly on a rolling four (4) quarter basis, commencing

September 30, 2005, of at least 2.00:1.00.

SECTION 6.23. CURRENT RATIO. Borrower shall maintain a ratio, measured monthly beginning September 30, 2005, of current assets to current liabilities, of no less than 1.50:1.00, all as determined under GAAP.

SECTION 6.24. TAXES. (a) No Deductions. Any and all payments or reimbursements made under the Loan Documents shall be made free and clear of and without deduction for any and all taxes, levies, imposts, deductions, charges or withholdings, and all liabilities with respect thereto of any nature whatsoever imposed by any taxing authority, excluding such taxes to the extent imposed on Lender's net income by the jurisdiction in which Lender is organized. If Borrower shall be required by law to deduct any such amounts from or in respect of any sum payable hereunder to Lender, then the sum payable hereunder shall be increased as may be necessary so that, after making all required deductions, Lender receives an amount equal to the sum it would have received had no such deductions been made; (b) Changes in Tax Laws. In the event that, subsequent to the initial advance under the Loan, (1) any changes in any existing law, regulation, treaty or directive or in the interpretation or application thereof, (2) any new law, regulation, treaty or directive enacted or any interpretation or application thereof, or (3) compliance by Lender with any request or directive (whether or not having the force of law) from any governmental authority, agency or instrumentality: (A) does or shall subject Lender to any tax of any kind whatsoever with respect to this Agreement or the other Loan Documents, or change the basis of taxation of payments to Lender of principal, fees, interest or any other amount payable hereunder (except for net income taxes, or franchise taxes imposed in lieu of net income taxes, imposed generally by federal, state or local taxing authorities with respect to interest or commitment fees or other fees payable hereunder or changes in the rate of tax on the overall net income of Lender); or (B) does or shall impose on Lender any other condition or increased cost in connection with the transactions contemplated hereby or participations herein; and the result of any of the foregoing is to increase the cost to Lender of making or continuing the Loan hereunder, as the case may be, or to reduce any amount receivable hereunder, then, in any such case, Borrower shall promptly pay to Lender, upon its demand, any additional amounts necessary to compensate Lender, on an after-tax basis, for such additional cost or reduced amount receivable, as determined by Lender with respect to this Agreement or the other Loan Documents. If Lender becomes entitled to claim any additional amounts pursuant to this subsection, it shall promptly notify Borrower of the event by reason of which Lender has become so entitled. A certificate as to any additional amounts payable pursuant to the foregoing sentence submitted by Lender to Borrower shall, absent manifest error, be final, conclusive and binding for all purposes.

SECTION 6.25. SUBORDINATE DEBT. The holders of the Subordinated Debt from Borrower owing to its stockholders, former stockholders, Affiliates and other related parties shall have been subordinated to the Obligations pursuant to such Subordination Agreements as Lender may require.

SECTION 6.26. FURTHER DOCUMENTATION. In the event any further documentation or information is (a) required by Lender or any prospective transferee in connection with selling, transferring, delivering, assigning, securitizing or granting a participation in the Loan (or transferring the servicing of the Loan), or (b) deemed necessary or appropriate by Lender in the exercise of its

rights under the Loan Documents or to correct patent mistakes in the Loan Documents, materials relating to mortgagee's land title insurance or the funding of the Loan, Borrower shall provide, or cause to be provided to Lender, at Borrower's cost and expense, such documentation or information. Borrower shall execute and deliver to Lender and/or the prospective transferee or servicer such documentation, including but not limited to, any amendments, corrections, deletions or additions to the Loan Documents as is required by Lender and/or the prospective transferee; provided, however, that Borrower shall not be required to do anything that has the effect of changing the essential economic terms of the Loan set forth in the Loan Documents.

## **ARTICLE VII NEGATIVE COVENANTS**

Borrower covenants and agrees that so long as Borrower may borrow under this Agreement and until payment in full of the Note and performance of all other obligations of Borrower under the Loan Documents:

**SECTION 7.1. BORROWING.** Borrower will not create, incur, assume or suffer to exist any liability for Borrowed Money except: (a) indebtedness to Lender; (b) accounts payable to trade creditors and current operating expenses (other than for borrowed money) which are not aged more than sixty (60) days from the billing date or more than thirty (30) days from the due date, in each case incurred in the ordinary course of business and paid within such time period, unless the same are being contested in good faith and by appropriate and lawful proceedings, and Borrower shall have set aside such reserves, if any, with respect thereto as are required by GAAP and deemed adequate by Borrower and its independent accountants; and (c) indebtedness secured by Permitted Liens.

**SECTION 7.2. CONTINUITY OF OPERATIONS.** (a) Engage in any business activities substantially different than those in which Borrower is presently engaged, or (b) cease operations, liquidate, merge, transfer, acquire or consolidate with any other entity, change ownership, dissolve or transfer or sell property out of the ordinary course of business.

**SECTION 7.3. LOANS, ACQUISITIONS AND GUARANTIES.** (a) Loan, invest in or advance money or assets, (b) purchase, create or acquire any interest in any other enterprise or entity, or (c) incur any obligation as surety or guarantor, all other than in the ordinary course of business.

**SECTION 7.4. INDEBTEDNESS.** Borrower shall not permit any mortgage, security interest, lien or other encumbrance of any kind against the Collateral acting as security for the Loan other than those contemplated or permitted under the Loan Documents.

**SECTION 7.5. SUBSIDIARIES.** Borrower will not form any subsidiary, or make any investment in or any loan in the nature of an investment to, any other Person, without first obtaining Lender's written consent, unless such subsidiary assumes and agrees to pay Borrower's obligations to Lender under the Loan.

**SECTION 7.6. COMPLIANCE WITH ERISA.** Borrower will not permit with respect to any Plan

covered by Title IV of ERISA any Prohibited Transaction or any Reportable Event.

**SECTION 7.7. TRANSACTIONS WITH AFFILIATES.** Borrower will not enter into any transaction, including without limitation the purchase, sale, or exchange of property, or the loaning or giving of funds to any Affiliate or subsidiary, except in the ordinary course of business and pursuant to the reasonable requirements of Borrower's business and upon terms substantially the same and no less favorable to Borrower as it would obtain in a comparable arm's length transaction with any Person not an Affiliate or subsidiary, and so long as the transaction is not otherwise prohibited under this Agreement. For purposes of the foregoing, Lender consents to the transactions described on Schedule 7.7.

**SECTION 7.8. CHANGE IN CAPITAL STRUCTURE.** Without Lender's prior written consent, (a) there shall occur no change in the legal or beneficial ownership of the capital units, or in the capital structure, of Borrower, (b) there shall occur no pledge, assignment or hypothecation of or Lien or encumbrance on any of the legal or beneficial equity interests in the Borrower and (c) Borrower shall not consent to or acknowledge any of the transactions described in the foregoing subparts (a) and (b) of this sentence; provided, however, Lender consents to minimal transfers of Borrower's capital units to facilitate the estate planning of any shareholder and to the issuance of units to employees and consultants in accordance with the Borrower's Operating Agreement.

**SECTION 7.9. CONTRACTS AND AGREEMENTS.** Borrower will not become or be a party to any contract or agreement which would breach this Agreement, or breach any other instrument, agreement, or document to which Borrower is a party or by which it is or may be bound.

**SECTION 7.10. MARGIN STOCK.** Borrower will not carry or purchase any "margin security" within the meaning of Regulations U, T or X of the Board of Governors of the Federal Reserve System.

**SECTION 7.11. TRUTH OF STATEMENTS AND CERTIFICATES.** Borrower will not furnish to Lender any certificate or other document that contains any untrue statement of a material fact or that omits to state a material fact necessary to make it not misleading in light of the circumstances under which it was furnished.

**SECTION 7.12. CERTAIN FUNDAMENTAL CHANGES.** Borrower will not, without providing Lender with thirty (30) days' prior written notice, change the state of its formation or change its legal name.

## **ARTICLE VIII EVENTS OF DEFAULT**

**SECTION 8.1. EVENTS OF DEFAULT.** Each of the following (individually, an "Event of Default" and collectively, the "Events of Default") shall constitute an event of default under this Agreement: (a) a default in the payment of any principal of, or interest upon, the Note when due and payable, whether at maturity or otherwise, which default or breach, as applicable, shall have continued unremedied for a period of ten (10) days; (b) a default in the payment of any other charges, fees, or

other monetary obligations owing to Lender arising out of or incurred in connection with this Agreement when such payment is due and payable, which default shall have continued unremedied for a period of thirty (30) days after written notice of the default from Lender to Borrower; (c) a default in the due observance or performance by Borrower of the Obligations of any other term, covenant or agreement contained in any of the Loan Documents, which default shall have continued unremedied for a period of ten (10) days after written notice of the default from Lender to Borrower; provided, however, in the event Borrower defaults on its obligation to insure any Collateral, Lender shall not be required to provide ten (10) days notice of such default prior to declaring an Event of Default; (d) any representation or warranty made by Borrower in this Agreement or in any of the other Loan Documents, any financial statement, or any statement or representation made in any other certificate, report or opinion delivered in connection with this Agreement or the other Loan Documents proves to have been incorrect or misleading in any material respect when made; (e) any obligation of Borrower (other than its Obligations under this Agreement) for the payment of Borrowed Money having an aggregate principal amount in excess of \$100,000.00 is not paid when due or within any applicable grace period, or such obligation becomes or is declared to be due and payable before the expressed maturity of the obligation, or there shall have occurred an event that, with the giving of notice or lapse of time, or both, would cause any such obligation to become, or allow any such obligation to be declared to be, due and payable; (f) Borrower makes an assignment for the benefit of creditors, offers a composition or extension to creditors, or makes or sends notice of an intended bulk sale of any business or assets now or hereafter conducted by Borrower; (g) Borrower (i) files a petition in bankruptcy, (ii) is adjudicated insolvent or bankrupt, petitions or applies to any tribunal for any receiver of or any trustee for itself or any substantial part of its property, (iii) commences any proceeding relating to itself under any reorganization, arrangement, readjustment or debt, dissolution or liquidation law or statute of any jurisdiction, whether now or hereafter in effect, or any such proceeding is commenced against Borrower and such proceeding remains undismissed for a period of sixty (60) days, (iv) by any act indicates its consent to, approval of, or acquiescence in, any such proceeding or the appointment of any receiver of or any trustee for a Borrower or any substantial part of its property, or suffers any such receivership or trusteeship to continue undischarged for a period of sixty (60) days, or (v) admits in writing its inability to pay its debts as they become due; (h) one or more (i) final judgments against Borrower or attachments against its property shall be rendered by a court, arbitrator, arbitration panel, mediator or any individual(s) or entity with the authority to issue binding judgments against Borrower or (ii) final settlements by or on behalf of Borrower of any pending litigation, arbitration or other claim or otherwise disputed matter, in any event not fully and unconditionally covered by insurance, shall remain unpaid, unstayed on appeal, undischarged, unbonded and undismissed for a period of ten (10) days; (i) a Reportable Event that might constitute grounds for termination of any Plan covered by Title IV of ERISA or for the appointment by the appropriate United States District Court of a trustee to administer any such Plan or for the entry of a Lien or encumbrance to secure any deficiency, has occurred and is continuing thirty (30) days after its occurrence, or any such Plan is terminated, or a trustee is appointed by an appropriate United States District Court to administer any such Plan, or the Pension Benefit Guaranty Corporation institutes proceedings to terminate any such Plan or to appoint a trustee to administer any such Plan, or a Lien or encumbrance is entered to secure any deficiency or claim; (j) upon the issuance of any execution or distraint process against Borrower or any of its property or assets in excess of \$20,000.00 individually or in the aggregate; (k) Borrower ceases any

material portion of its business operations as currently conducted; (l) any indication or evidence is received by Lender that Borrower may have directly or indirectly been engaged in any type of activity which, in Lender's discretion, may result in the forfeiture of any property of Borrower to any Governmental Authority, which default shall have continued unremedied for a period of ten (10) days after written notice from Lender; (m) Borrower or any Affiliate of Borrower, shall challenge or contest, in any action, suit or proceeding, the validity or enforceability of this Agreement, or any of the other Loan Documents, the legality or the enforceability of any of the Obligations or the perfection or priority of any Lien granted to Lender; (n) Borrower shall be criminally indicted or convicted under any law that could lead to a forfeiture of any Collateral; or (o) there shall occur a material adverse change in the financial condition or business prospects of Borrower, or if Lender in good faith deems itself insecure as a result of acts or events bearing upon the financial condition of Borrower or the repayment of the Note, which default shall have continued unremedied for a period of ten (10) days after written notice from Lender.

**SECTION 8.2. ACCELERATION.** Upon the occurrence of any of the foregoing Events of Default, the Obligations under the Notes, and each of them, shall become and be immediately due and payable upon declaration to that effect delivered by Lender to Borrower; provided that, upon the happening of any event specified in Section 8.1(g), all Obligations, shall be immediately due and payable without declaration or other notice to Borrower.

**SECTION 8.3. REMEDIES.** (a) Upon the occurrence of and during the continuance of an Event of Default under this Agreement or the other Loan Documents, Lender, in addition to all other rights, options, and remedies granted to Lender under this Agreement or at law or in equity, may take any of the following steps (which list is given by way of example and is not intended to be an exhaustive list of all such rights and remedies): (i) terminate the Loan, whereupon all outstanding Obligations shall be immediately due and payable; (ii) exercise all other rights granted to it under this Agreement and all rights under the UCC in effect in the applicable jurisdiction(s) and under any other applicable law; and (iii) exercise all rights and remedies under all Loan Documents now or hereafter in effect, including but not limited to: (A) the right to take possession of, send notices regarding, and collect directly the Collateral, with or without judicial process; (B) the right to (by its own means or with judicial assistance) enter any of Borrower's premises and take possession of the Collateral, or render it unusable, or dispose of the Collateral on such premises in compliance with subsection (C) below, without any liability for rent, storage, utilities, or other sums, and Borrower shall not resist or interfere with such action; (C) the right to require Borrower at Borrower's expense to assemble all or any part of the Collateral and make it available to Lender at any place designated by Lender; and (D) the right to enforce Borrower's rights against Account Debtors and other obligors, including, but not limited to, the right to collect Accounts directly in Lender's own name and to charge the collection costs and expenses, including reasonable attorneys' fees, to Borrower; (b) Borrower agrees that a notice received by it at least five (5) business days before the time of any intended public sale, or the time after which any private sale or other disposition of the Collateral is to be made, shall be deemed to be reasonable notice of such sale or other disposition. If permitted by applicable law, any perishable Collateral which threatens to speedily decline in value or which is sold on a recognized market may be sold immediately by Lender without prior notice to Borrower. At any sale or disposition of Collateral, Lender may (to the extent permitted by applicable law) purchase all or any



part of the Collateral, free from any right of redemption by Borrower, which right is hereby waived and released. Borrower covenants and agrees not to interfere with or impose any obstacle to Lender's exercise of its rights and remedies with respect to the Collateral. Lender may sell the Collateral without giving any warranties as to the Collateral. Lender may specifically disclaim any warranties of title or the like. This procedure will not be considered to adversely affect the commercial reasonableness of any sale of the Collateral. If Lender sells any of the Collateral upon credit, Borrower will be credited only with payments actually made by the purchaser, received by Lender and applied to the indebtedness of the purchaser. In the event the purchaser fails to pay for the Collateral, Lender may resell the Collateral and Borrower shall be credited with the proceeds of the sale. (c) Lender shall have no obligation to marshal any assets in favor of Borrower, or against or in payment of the Notes, any of the other Obligations or any other obligation owed to Lender by Borrower or any other person.

SECTION 8.4. NATURE OF REMEDIES. Lender shall have the right to proceed against all or any portion of the Collateral to satisfy in any order the liabilities and Obligations of Borrower to Lender under this Agreement or any other Loan Documents evidencing financings provided to Borrower. All rights and remedies granted Lender under this Agreement and under any agreement referred to in this Agreement, or otherwise available at law or in equity, shall be deemed concurrent and cumulative, and not alternative remedies, and Lender may proceed with any number of remedies at the same time until the Loan, and all other existing and future liabilities and Obligations of Borrower to Lender, are satisfied in full. The exercise of any one right or remedy shall not be deemed a waiver or release of any other right or remedy, and Lender, upon the occurrence of an Event of Default, may proceed against Borrower, and/or the Collateral, at any time, under any agreement, with any available remedy and in any order. All sums received from Borrower and/or the Collateral in respect of the Loan may be applied by Lender to the any other liabilities and Obligations of Borrower under the Loan Documents in such order of application and in such amounts as Lender shall deem appropriate in its sole and absolute discretion. Borrower waives any right it may have to require Lender to pursue any Person for any of the Obligations.

## ARTICLE IX MISCELLANEOUS

SECTION 9.1. EXPENSES AND TAXES. (a) Borrower agrees to pay, whether or not the Closing occurs, a reasonable documentation preparation fee, together with reasonable legal, audit and appraisal fees and all other reasonable charges and expenses (including actual out-of-pocket expenses) incurred by Lender in connection with the negotiation, preparation, legal review and execution of each of the Loan Documents, including but not limited to real property title report search charges, UCC and judgment lien searches and recording fees, UCC filings and fees for post-Closing UCC and judgment lien searches in accordance with and subject to Section 2.3 above. In addition, Borrower shall pay all such reasonable fees associated with any amendments, modifications and terminations to the Loan Documents following Closing, except those amendments necessitated by the syndication, participation or other transfer of the Loan by Lender; (b) Borrower also agrees to pay all reasonable out-of-pocket charges and expenses incurred by Lender (including the fees and expenses of Lender's counsel) in connection with the enforcement, protection or preservation of any

right or claim of Lender, the termination of this Agreement, the termination of any Liens of Lender on the Collateral, or the collection of any amounts due under the Loan Documents; (c) Borrower shall pay all taxes (other than taxes based upon or measured by Lender's income or revenues or any personal property tax), if any, in connection with the issuance of the Note and the recording of the security documents therefor. The obligations of Borrower under this clause (c) shall survive the payment of Borrower's indebtedness under this Agreement and the termination of this Agreement.

SECTION 9.2. ENTIRE AGREEMENT; AMENDMENTS. This Agreement and the other Loan Documents constitute the full and entire understanding and agreement among the parties with regard to their subject matter and supersede all prior written or oral agreements, understandings, representations and warranties made with respect thereto. No amendment, supplement or modification of this Agreement nor any waiver of any provision thereof shall be made except in writing executed by the party against whom enforcement is sought.

SECTION 9.3. NO WAIVER; CUMULATIVE RIGHTS. No waiver by any party to this Agreement of any one or more defaults by the other party in the performance of any of the provisions of this Agreement shall operate or be construed as a waiver of any future default or defaults, whether of a like or different nature. No failure or delay on the part of any party in exercising any right, power or remedy under this Agreement, nor acceptance of partial performance or partial payment, shall operate as a waiver of such right, power or remedy nor shall any single or partial exercise of any such right, power or remedy preclude any other or further exercise of such right, power or remedy or the exercise of any other right, power or remedy. The remedies provided for in this Agreement are cumulative and are not exclusive of any remedies that may be available to any party to this Agreement at law, in equity or otherwise.

SECTION 9.4. NOTICES. Any notice or other communication required or permitted under this Agreement shall be in writing and personally delivered, mailed by registered or certified mail (return receipt requested and postage prepaid), sent by telecopier (with a confirming copy sent by regular mail), or sent by prepaid overnight courier service, and addressed to the relevant party at its address set forth below, or at such other address as such party may, by written notice, designate as its address for purposes of notice under this Agreement:

If to Lender:                    Mr. Gary Collins  
   Corporate Banking  
   Sterling Savings Bank  
   360 East 10<sup>th</sup>, Suite 105  
   Eugene, OR 97401  
   Fax: (503) 342-1532

Copy to:                            Michael D. Currin, Esq.  
   Witherspoon, Kelley, Davenport & Toole, P.S.  
   W. 422 Riverside Ave., Suite 1100  
   Spokane, WA 99201  
   Fax: (509) 458-2717

If to Borrower: Peter Day  
Chairman  
Jody Coyote, LLC  
1205 Oak Patch Road  
Eugene, OR 97402  
Fax: (541) 343-5097

Copy to: Walt Maas III  
Karr Tuttle Campbell P.S.  
1201 Third Avenue, Suite 2900  
Seattle, WA 98101-3028  
Fax: (206) 682-7100

SECTION 9.5. SEVERABILITY. If any term, covenant or condition of this Agreement, or the application of such term, covenant or condition to any party or circumstance shall be found by a court of competent jurisdiction to be, to any extent, invalid or unenforceable, the remainder of this Agreement and the application of such term, covenant, or condition to parties or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term, covenant or condition shall be valid and enforced to the fullest extent permitted by law. Upon determination that any such term is invalid, illegal or unenforceable, Lender may, but is not obligated to, advance funds to Borrower under this Agreement until the parties to this Agreement amend this Agreement so as to effect the original intent of the parties as closely as possible in a valid and enforceable manner.

SECTION 9.6. SUCCESSORS AND ASSIGNS. This Agreement, the Note, and the other Loan Documents shall be binding upon and inure to the benefit of Borrower and Lender and their respective successors and assigns and shall bind all Persons who become bound as a debtor to this Agreement. Notwithstanding the foregoing, Borrower may not assign any of its rights or delegate any of its obligations under this Agreement without the prior written consent of Lender, which may be withheld in its sole discretion. Lender may sell, assign, transfer, or participate any or all of its rights or obligations under this Agreement upon notice to, but without the consent of, Borrower.

SECTION 9.7. COUNTERPARTS. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute but one instrument. Each party may rely upon the facsimile signature of the other. If any party executes this Agreement and sends it to any other party by facsimile transmission, such party agrees to send a hard copy original, including an original execution signature, to the other party, by next day delivery service.

SECTION 9.8. INTERPRETATION. No provision of this Agreement or any other Loan Document shall be interpreted or construed against any party because that party or its legal representative drafted that provision. The titles of the paragraphs of this Agreement are for convenience of reference only and are not to be considered in construing this Agreement. Any pronoun used in this Agreement shall be deemed to include singular and plural and masculine, feminine and neuter gender

as the case may be. The words "herein," "hereof," and "hereunder" shall be deemed to refer to this entire Agreement, except as the context otherwise requires.

**SECTION 9.9. SURVIVAL OF TERMS.** All covenants, agreements, representations and warranties made in this Agreement, any other Loan Document, and in any certificates and other instruments delivered in connection with this Agreement shall be considered to have been relied upon by Lender and shall survive the making by Lender of the Loans contemplated by this Agreement and the execution and delivery to Lender of the Note, and shall continue in full force and effect until all liabilities and obligations of Borrower to Lender are satisfied in full.

**SECTION 9.10. RELEASE OF LENDER.** For and in consideration of the Loan and each advance or other financial accommodation hereunder, Borrower, voluntarily, knowingly, unconditionally, and irrevocably, with specific and express intent, for and on behalf of itself and its agents, attorneys, heirs, successors, and assigns (collectively the "Releasing Parties") does hereby fully and completely release, acquit and forever discharge Lender, and its successors, assigns, heirs, affiliates, subsidiaries, parent companies, principals, directors, officers, employees, shareholders and agents (hereinafter called the "Lender Parties"), and any other person, firm, business, corporation, insurer, or association which may be responsible or liable for the acts or omissions of the Lender Parties taken or omitted in good faith, or who may be liable for the injury or damage resulting therefrom (collectively the "Released Parties"), of and from any and all actions, causes of action, suits, debts, disputes, damages, claims, obligations, liabilities, costs, expenses and demands of any kind whatsoever, at law or in equity, whether matured or unmatured, liquidated or unliquidated, vested or contingent, choate or inchoate, known or unknown that the Releasing Parties (or any of them) have or may have, against the Released Parties or any of them (whether directly or indirectly), other than acts or omissions arising from the negligence or willful misconduct of Lender. Borrower acknowledges that the foregoing release is a material inducement to Lender's decision to extend to Borrower the financial accommodations hereunder and has been relied upon by Lender in agreeing to make the Loan and in making each advance of Loan proceeds hereunder.

**SECTION 9.11. TIME.** Whenever Borrower is required to make any payment or perform any act on a Saturday, Sunday, or a legal holiday under the laws of the State of Oregon (or other jurisdiction where Borrower is required to make the payment or perform the act), the payment may be made or the act performed on the next Business Day. Time is of the essence in Borrower's performance under this Agreement and all other Loan Documents.

**SECTION 9.12. THIRD PARTIES.** No rights are intended to be created under this Agreement or under any other Loan Document for the benefit of any third party donee, creditor, or incidental beneficiary of Borrower.

**SECTION 9.13. DISCHARGE OF BORROWER'S OBLIGATIONS.** Lender, in its sole discretion, shall have the right at any time, and from time to time, without prior notice to Borrower if Borrower fails to do so, to: (a) obtain insurance covering any of the Collateral as required under this Agreement; (b) pay for the performance of any of Borrower's obligations under this Agreement; (c) discharge taxes, Liens, security interests, or other encumbrances at any time levied or placed on any

of the Collateral in violation of this Agreement unless Borrower is in good faith with due diligence by appropriate proceedings contesting those items; and (d) pay for the maintenance and preservation of any of the Collateral. Expenses and advances shall be added to the Loan, until reimbursed to Lender and shall be secured by the Collateral. Any such payments and advances by Lender shall not be construed as a waiver by Lender of an Event of Default.

SECTION 9.14. INFORMATION TO PARTICIPANTS. Lender may divulge to any participant it may obtain in the Loan, or any portion of the Loan, all information, and furnish to such participant copies of reports, financial statements, certificates, and documents obtained under any provision of this Agreement or any other Loan Document; provided that Lender shall require that any such participant execute a confidentiality agreement with respect to such information.

SECTION 9.15. INDEMNITY. Borrower hereby indemnifies and agrees to defend (with counsel acceptable to Lender) and hold harmless Lender, its partners, officers, agents and employees (collectively, "Indemnitee") from and against any liability, loss, cost, expense (including reasonable attorneys' fees and expenses), claim, damage, suit, action or proceeding ever suffered or incurred by Lender or in which Lender may ever be or become involved (whether as a party, witness or otherwise) (a) arising from Borrower's failure to observe, perform or discharge any of its covenants, obligations, agreements or duties under this Agreement, (b) arising from the breach of any of the representations or warranties contained in Article IV of this Agreement, (c) by reason of this Agreement, the other Loan Documents or the transactions contemplated hereby or thereby, or (d) relating to claims of any Person with respect to the Collateral other than Permitted Liens and, in each case, to the extent arising from the gross negligence or willful misconduct of Indemnitee. Notwithstanding any contrary provision in this Agreement, the obligation of Borrower under this Section 9.16 shall survive the payment in full of the Obligations and the termination of this Agreement.

SECTION 9.16. LENDER APPROVALS. Unless expressly provided herein to the contrary, any approval, consent, waiver or satisfaction of Lender with respect to any matter that is the subject of this Agreement or the other Loan Documents may be granted or withheld by Lender in its sole and absolute discretion.

SECTION 9.17. FURTHER ASSURANCES. Borrower hereby agrees that at any time and from time to time, at the expense of Borrower, Borrower will promptly execute and deliver all further instruments and documents, and take all further action, that may be necessary or that Lender may reasonably request, in order to perfect and protect any security interest granted or purported to be granted hereby, or to enable Lender or any of its agents to exercise and enforce its rights and remedies under this Agreement with respect to any portion of such collateral.

SECTION 9.18. COSTS AND EXPENSES. Borrower agrees to pay all of Lender's reasonable out-of-pocket expenses, including reasonable attorneys' fees, incurred in connection with the enforcement and collection of this Agreement, including but not limited to reasonable attorneys' fees and costs incurred by Lender in connection with any bankruptcy proceeds, any bankruptcy motions for relief from stay, bankruptcy proofs of claim, and support of or opposition to any plan of

reorganization proposed in any such bankruptcy proceeding. Lender may pay someone else to help collect the Loan or Loans and to enforce this Agreement, and Borrower will pay reasonable fees and expenses associated with such collection. This includes, subject to any limits under applicable law, Lender's reasonable attorneys' fees and Lender's legal expenses, whether or not there is a lawsuit, including reasonable attorneys' fees for bankruptcy proceedings (including efforts to modify or vacate any automatic stay or injunction), appeals, and any anticipated post-judgment collection services. Borrower also will pay any court costs, in addition to all other sums provided by law.

**SECTION 9.19. ARBITRATION.** Lender and Borrower agree that, except for Lender's exercise of its remedies to sue upon the note and foreclose upon the collateral, by reason of Borrower's failure to pay as required under any Loan or the Obligations, all other disputes, claims and controversies between them, whether individual, joint, or class in nature, arising from this Agreement or otherwise, including without limitation contract and tort disputes, shall be arbitrated pursuant to the Rules of the American Arbitration Association, upon request of either party. No act to take or dispose of any Collateral shall constitute a waiver of this arbitration agreement or be prohibited by this arbitration agreement, including, without limitation, obtaining injunctive relief or a temporary restraining order; invoking a power of sale under any deed of trust or mortgage; obtaining a writ of attachment or imposition of a receiver; or exercising any rights relating to personal property, including taking or disposing of such property with or without judicial process pursuant to Article 9 of the Uniform Commercial Code. Any disputes, claims, or controversies concerning the lawfulness or reasonableness of any act, or exercise of any right, concerning any collateral for any Loan or Loans, including any claim to rescind, reform, or otherwise modify any agreement relating to the collateral, shall also be arbitrated, provided however that no arbitrator shall have the right or the power to enjoin or restrain any act of any party. Judgment upon any award rendered by any arbitrator may be entered in any court having jurisdiction. Nothing in this Agreement shall preclude any party from seeking equitable relief from a court of competent jurisdiction. The statute of limitations, estoppel, waiver, laches, and similar doctrines which would otherwise be applicable in an action brought by a party shall be applicable in any arbitration proceeding, and the commencement of an arbitration proceeding shall be deemed the commencement of an action for these purposes. The Federal Arbitration Act shall apply to the construction, interpretation, and enforcement of this arbitration provision. The prevailing party in any dispute brought under this Section 9.19 shall be entitled to recover from the other party its costs and reasonable attorneys fees.

**SECTION 9.20. CHOICE OF LAW; CONSENT TO JURISDICTION.** THIS AGREEMENT, THE NOTE AND LOAN DOCUMENTS SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF OREGON, WITHOUT REGARD TO ANY OTHERWISE APPLICABLE PRINCIPLES OF CONFLICTS OF LAWS. IF ANY ACTION ARISING OUT OF THIS AGREEMENT OR THE NOTE IS COMMENCED BY LENDER IN THE STATE COURTS OF THE STATE OF OREGON OR IN THE U.S. DISTRICT COURT FOR THE DISTRICT OF OREGON, BORROWER HEREBY CONSENTS TO THE JURISDICTION OF ANY SUCH COURT IN ANY SUCH ACTION AND TO THE LAYING OF VENUE IN THE STATE OF OREGON. ANY PROCESS IN ANY SUCH ACTION SHALL BE DULY SERVED IF MAILED BY REGISTERED MAIL, POSTAGE PREPAID, TO BORROWER AT ITS ADDRESS

DESCRIBED IN SECTION 9.4. OR IF SERVED BY ANY OTHER MEANS PERMITTED BY APPLICABLE LAW.

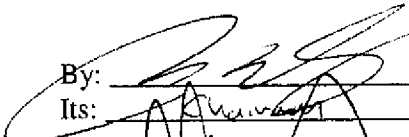
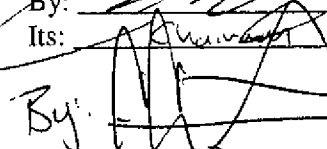
SECTION 9.21. WAIVER OF RIGHT TO JURY TRIAL. BORROWER HEREBY EXPRESSLY WAIVES ANY RIGHT TO A TRIAL BY JURY IN ANY ACTION OR PROCEEDING TO JUDICIALLY ENFORCE OR DEFEND ANY RIGHTS UNDER THIS AGREEMENT OR THE LOAN INSTRUMENTS OR UNDER ANY AMENDMENT, INSTRUMENT, DOCUMENT OR AGREEMENT DELIVERED (OR WHICH MAY IN THE FUTURE BE DELIVERED) IN CONNECTION HERewith OR ARISING FROM ANY LENDING RELATIONSHIP EXISTING IN CONNECTION WITH THIS AGREEMENT OR THE LOAN INSTRUMENTS. BORROWER AGREES THAT ANY SUCH ACTION OR PROCEEDING SHALL BE TRIED BEFORE A COURT AND NOT BEFORE A JURY. BORROWER ACKNOWLEDGES HAVING READ ALL OF THE PROVISIONS OF THIS AGREEMENT, AND BORROWER AGREES TO ITS TERMS AND EACH HAS BEEN ADVISED OF ITS RIGHT TO CONSULT LEGAL COUNSEL REGARDING THIS AND ALL OTHER LOAN INSTRUMENTS.

BORROWER AGREES THAT IT HAS RECEIVED VALUABLE CONSIDERATION HEREUNDER, THAT IT SIGNS THIS AGREEMENT AS A BORROWER AND NOT AS A SURETY, AND THAT ANY AND ALL SURETYSHIP DEFENSES ARE HEREBY WAIVED.

UNDER OREGON LAW, MOST AGREEMENTS, PROMISES AND COMMITMENTS MADE BY A LENDER AFTER OCTOBER 3, 1989, CONCERNING LOANS AND OTHER CREDIT EXTENSIONS WHICH ARE NOT FOR PERSONAL, FAMILY OR HOUSEHOLD PURPOSES OR SECURED SOLELY BY THE BORROWER'S RESIDENCE, MUST BE IN WRITING, EXPRESS CONSIDERATION AND BE SIGNED BY THE LENDER TO BE ENFORCEABLE.

IN WITNESS WHEREOF, intending to be legally bound, the parties have caused this Loan and Security Agreement to be executed as of the date first written above.

JODY COYOTE, LLC,  
a Delaware limited liability company

By:   
Its: \_\_\_\_\_  
By:   
Its: CEO

SCHEDULE 1.36 – PERMITTED LIENS

1. Purchase money financing incurred from time to time, so long as such Lien attaches only to the asset purchased or acquired and the proceeds thereof.
2. Such other liens and security interests which have been disclosed to Lender by Borrower, or which appear in the public records, and which have been approved by Lender in writing.



SCHEDULE 1.47- SUBORDINATED DEBT

None

SCHEDULE 4.1 – SUBSIDIARIES

SCHEDULE 4.5 – LITIGATION

None.

SCHEDULE 4.7  
(Borrower Tax Identification Numbers)

SCHEDULE 4.14 – ENVIRONMENTAL MATTERS

None.

SCHEDULE 4.17 – INVESTMENTS, GUARANTEES AND CERTAIN CONTRACTS

None.

SCHEDULE 4.19 - ASSUMED BUSINESS NAMES

SCHEDULE 4.20 – JOINT VENTURES

None.



SCHEDULE 7.7 – TRANSACTIONS WITH AFFILIATES

None.