

TRADEMARK ASSIGNMENT

Electronic Version v1.1

Stylesheet Version v1.1

SUBMISSION TYPE:	NEW ASSIGNMENT		
NATURE OF CONVEYANCE:	SECURITY INTEREST		
CONVEYING PARTY DATA			
Name	Formerly	Execution Date	Entity Type
e-Cycle, LLC	FORMERLY e-Cycle, L.L.C., a California limited liability company	07/28/2006	LIMITED LIABILITY COMPANY:
RECEIVING PARTY DATA			
Name:	The Bank of New York		
Street Address:	600 East Las Colinas Blvd.		
Internal Address:	Suite 1300		
City:	Irving		
State/Country:	TEXAS		
Postal Code:	75039		
Entity Type:	CORPORATION: NEW YORK		
PROPERTY NUMBERS Total: 1			
Property Type	Number	Word Mark	
Registration Number:	2559365	ECYCLE	
CORRESPONDENCE DATA			
Fax Number:	(212)822-5442		
<i>Correspondence will be sent via US Mail when the fax attempt is unsuccessful.</i>			
Phone:	212-530-5442		
Email:	mkurzer@milbank.com		
Correspondent Name:	Michael D. Kurzer		
Address Line 1:	One Chase Manhattan Plaza		
Address Line 2:	Milbank, Tweed, Hadley & McCloy LLP		
Address Line 4:	New York, NEW YORK 10005		
ATTORNEY DOCKET NUMBER:	38540-00000		
NAME OF SUBMITTER:	Michael D. Kurzer		
Signature:	/Michael D. Kurzer/		

TRADEMARK

900056476

REEL: 003377 FRAME: 0093

CH 2559365 \$40.00

Date:

08/24/2006

Total Attachments: 34

source=security and pledge agmt#page1.tif
source=security and pledge agmt#page2.tif
source=security and pledge agmt#page3.tif
source=security and pledge agmt#page4.tif
source=security and pledge agmt#page5.tif
source=security and pledge agmt#page6.tif
source=security and pledge agmt#page7.tif
source=security and pledge agmt#page8.tif
source=security and pledge agmt#page9.tif
source=security and pledge agmt#page10.tif
source=security and pledge agmt#page11.tif
source=security and pledge agmt#page12.tif
source=security and pledge agmt#page13.tif
source=security and pledge agmt#page14.tif
source=security and pledge agmt#page15.tif
source=security and pledge agmt#page16.tif
source=security and pledge agmt#page17.tif
source=security and pledge agmt#page18.tif
source=security and pledge agmt#page19.tif
source=security and pledge agmt#page20.tif
source=security and pledge agmt#page21.tif
source=security and pledge agmt#page22.tif
source=security and pledge agmt#page23.tif
source=security and pledge agmt#page24.tif
source=security and pledge agmt#page25.tif
source=security and pledge agmt#page26.tif
source=security and pledge agmt#page27.tif
source=security and pledge agmt#page28.tif
source=security and pledge agmt#page29.tif
source=security and pledge agmt#page30.tif
source=security and pledge agmt#page31.tif
source=security and pledge agmt#page32.tif
source=security and pledge agmt#page33.tif
source=security and pledge agmt#page34.tif

SECURITY AND PLEDGE AGREEMENT

This SECURITY AND PLEDGE AGREEMENT, dated as of July 28, 2006 (as the same may from time to time be amended, modified or supplemented, this "Agreement"), among Telogy, LLC, a Delaware limited liability company (the "Borrower"), e-Cycle, LLC, a Delaware limited liability company and direct wholly owned subsidiary of the Borrower (together with each other entity that shall become a guarantor under the Loan Agreements (as defined below) after the date hereof pursuant thereto, the "Guarantor(s)"), and, together with the Borrower, the "Obligors"), and The Bank of New York, as collateral agent (in such capacity, the "Collateral Agent") for the Secured Creditors (as defined below).

Telogy, LLC and e-Cycle, LLC have entered into a Revolving Credit and Guaranty Agreement, dated as of July 28, 2006 with the lenders thereunder (collectively, with any successors and permitted assigns, the "Exit Lenders"), among others (as such agreement may be amended, modified and supplemented and in effect from time to time, the "Exit Facility Agreement"), providing, subject to the terms and conditions thereof, for extensions of credit to be made by the Exit Lenders to the Borrower.

Telogy, LLC and e-Cycle, LLC have also entered into a Term Loan and Guaranty Agreement, dated as of July 28, 2006, with the lenders thereunder (collectively, with any successors and permitted assigns, the "Term Loan Lenders"), among others (as such agreement may be amended, modified and supplemented and in effect from time to time, the "Term Loan Agreement"), pursuant to which the term notes described therein shall have been issued by the Borrower to the Term Loan Lenders, subject to the terms and conditions thereof.

To induce the Exit Lenders to enter into the Exit Facility Agreement and to induce the Term Loan Lenders to enter into the Term Loan Agreement, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, each Obligor has agreed to grant a security interest in the Collateral (as defined below) thereof as security for the Secured Obligations (as defined below).

Accordingly, the parties hereto agree as follows:

Section 1. Definitions, Etc.

1.01 Terms Generally. Capitalized terms used but not otherwise defined herein are used herein as defined in the Term Loan Agreement.

1.02 Certain Uniform Commercial Code Terms. As used herein, the terms "Accession", "Account", "As-Extracted Collateral", "Chattel Paper", "Commodity Account", "Commodity Contract", "Deposit Account", "Document", "Electronic Chattel Paper", "Equipment", "Fixture", "General Intangible", "Goods", "Instrument", "Inventory", "Investment Property", "Letter-of-Credit Right", "Payment Intangible", "Proceeds", "Promissory Note", "Software" and "Tangible Chattel Paper" have the respective meanings set forth in Article 9 of the NYUCC, and the terms "Certificated Security", "Entitlement Holder", "Financial Asset",

Security and Pledge Agreement

NY2-#4688284v8

TRADEMARK
REEL: 003377 FRAME: 0095

"Instruction", "Securities Account", "Security", "Security Certificate", "Security Entitlement" and "Uncertificated Security" have the respective meanings set forth in Article 8 of the NYUCC.

1.03 Additional Definitions. In addition, as used herein:

"Aggregate Loans" means, at any time, the sum of (i) the Loans (as defined in the Exit Facility Agreement) then outstanding and (ii) the Loans (as defined in the Term Loan Agreement) then outstanding.

"Aggregate Required Lenders" means, at any time, both (i) the Required Lenders under the Exit Facility Agreement at such time and (ii) the Required Lenders under the Term Loan Agreement at such time.

"Collateral" has the meaning assigned to such term in Section 3.

"Collateral Account" has the meaning assigned to such term in Section 4.01.

"Collateral Documents" has the meaning assigned to such term in Section 6.16.

"Copyright Collateral" means all Copyrights, whether now owned or hereafter acquired by any Obligor, including each Copyright identified in Annex 4.

"Copyrights" means all copyrights, copyright registrations and applications for copyright registrations, including all renewals and extensions thereof, all rights to recover for past, present or future infringements thereof and all other rights whatsoever accruing thereunder or pertaining thereto.

"Default" means an event or condition which, with the giving of notice or the passage of time (or both), would constitute an Event of Default.

"Event of Default" means an "Event of Default" under the Exit Facility Agreement or an "Event of Default" under the Term Loan Agreement.

"Initial Pledged Shares" means the Shares of each Issuer beneficially owned by any Obligor on the date hereof and identified in Annex 3 (Part A).

"Intellectual Property" means, collectively, all Copyright Collateral, all Patent Collateral and all Trademark Collateral, together with (a) all inventions, processes, production methods, proprietary information, know-how and trade secrets; (b) all licenses or user or other agreements granted to any Obligor with respect to any of the foregoing, in each case whether now or hereafter owned or used; (c) all information, customer lists, identification of suppliers, data, plans, blueprints, specifications, designs, drawings, recorded knowledge, surveys, engineering reports, test reports, manuals, materials standards, processing standards, performance standards, catalogs, computer and automatic machinery software and programs; (d) all field repair data, sales data and other information relating to sales or service of products now or hereafter manufactured; (e) all accounting information and all media in which or on which any information or

Security and Pledge Agreement

knowledge or data or records may be recorded or stored and all computer programs used for the compilation or printout of such information, knowledge, records or data; (f) all licenses, consents, permits, variances, certifications and approvals of governmental agencies now or hereafter held by any Obligor; and (g) all causes of action, claims and warranties now or hereafter owned or acquired by any Obligor in respect of any of the items listed above.

"Intercreditor Agreement" means the Intercreditor Agreement dated as of _____, 2006 among the Term Loan Lenders, the Exit Lenders and the Collateral Agent, among others, as amended, modified or supplemented and in effect from time to time.

"Issuers" means, collectively, (a) the respective Persons identified on Annex 3 (Part A) under the caption **"Issuer"**, (b) any other Person that shall at any time be a Subsidiary of any Obligor, and (c) the issuer of any equity securities hereafter owned by any Obligor.

"Lenders" means, collectively, the Term Loan Lenders and the Exit Lenders.

"Loan Agreements" means, collectively, the Exit Facility Agreement and the Term Loan Agreement.

"Loan Percentage" means (i) for each Term Loan Lender at any time, the percentage that the Loans of such Term Loan Lender under the Term Loan Agreement constitute of the Aggregate Loans outstanding at such time; and (ii) for each Exit Lender at any time, the percentage that the Loans of such Exit Lender under the Exit Facility Agreement constitute of the Aggregate Loans outstanding at such time.

"Motor Vehicles" means motor vehicles, tractors, trailers and other like property, if the title thereto is governed by a certificate of title or ownership.

"NYUCC" means the Uniform Commercial Code as in effect from time to time in the State of New York.

"Patent Collateral" means all Patents, whether now owned or hereafter acquired by any Obligor, including each Patent identified in Annex 5, and all income, royalties, damages and payments now or hereafter due and/or payable under or with respect thereto.

"Patents" means all patents and patent applications, including the inventions and improvements described and claimed therein together with the reissues, divisions, continuations, renewals, extensions and continuations-in-part thereof, all income, royalties, damages and payments now or hereafter due and/or payable with respect thereto, all damages and payments for past or future infringements thereof and rights to sue therefor, and all rights corresponding thereto throughout the world.

"Pledged Shares" means, collectively, (i) the Initial Pledged Shares and (ii) all other Shares of any Issuer now or hereafter owned by any Obligor (other than, in the case

Security and Pledge Agreement

of Telogy International, N.V., Shares therein representing in excess of the percentage of the Shares therein set forth in Annex 3 (Part A)), together in each case with (a) all certificates representing the same, (b) all shares, securities, moneys or other property representing a dividend on or a distribution or return of capital on or in respect of the Pledged Shares, or resulting from a split-up, revision, reclassification or other like change of the Pledged Shares or otherwise received in exchange therefor, and any warrants, rights or options issued to the holders of, or otherwise in respect of, the Pledged Shares, and (c) without prejudice to any provision of any of the Loan Documents prohibiting any merger or consolidation by an Issuer, all Shares of any successor entity of any such merger or consolidation.

"Secured Creditors" means, collectively, the Exit Lenders, the administrative agent under the Exit Facility Agreement, the Term Loan Lenders, the administrative agent under the Term Loan Agreement, the Collateral Agent, any other holder from time to time of any of the Secured Obligations and, in each case, their respective successors and assigns.

"Secured Obligations" means, collectively, (a) in the case of the Borrower, all obligations of the Borrower (i) under the Exit Facility Agreement and the other Loan Documents referred to therein, to pay the principal of and interest on the Loans thereunder and all fees, indemnification payments and other amounts whatsoever, whether direct or indirect, absolute or contingent, now or hereafter from time to time owing to the Secured Creditors or any of them under such Loan Documents and (ii) under the Term Loan Agreement and the other Loan Documents referred to therein, to pay the principal of and interest on the Loans thereunder and all fees, indemnification payments and other amounts whatsoever, whether direct or indirect, absolute or contingent, now or hereafter from time to time owing to the Secured Creditors or any of them under such Loan Documents; (b) in the case of each Guarantor, all obligations of such Guarantor (i) under the Exit Facility Agreement and the other Loan Documents referred to therein (including without limitation in respect of its guarantee under the Exit Facility Agreement) and (ii) under the Term Loan Agreement and the other Loan Documents referred to therein (including without limitation in respect of its guarantee under the Term Loan Agreement); and (c) all obligations of the Obligors to the Secured Creditors (or any of them) that arise hereunder.

"Shares" means shares of capital stock of a corporation, limited liability company interests, partnership interests and other ownership or equity interests of any class in any Person.

"Trademark Collateral" means all Trademarks, whether now owned or hereafter acquired by any Obligor, including each Trademark identified in Annex 6, together, in each case, with the product lines and goodwill of the business connected with the use of, and symbolized by, each such trade name, trademark and service mark. Notwithstanding the foregoing, the Trademark Collateral does not and shall not include any Trademark that would be rendered invalid, abandoned, void or unenforceable by reason of its being included as part of the Trademark Collateral.

Security and Pledge Agreement

"Trademarks" means all trade names, trademarks and service marks, logos, trademark and service mark registrations, and applications for trademark and service mark registrations, including all renewals of trademark and service mark registrations, all rights to recover for all past, present and future infringements thereof and all rights to sue therefor, and all rights corresponding thereto throughout the world.

Section 2. **Representations and Warranties.** Each Obligor represents and warrants to the Lenders and the Collateral Agent for the benefit of the Secured Creditors that:

2.01 **Title.** Such Obligor is the sole beneficial owner of the Collateral in which it purports to grant a security interest pursuant to Section 3 and no Lien exists upon the Collateral (and no right or option to acquire the same exists in favor of any other Person) other than (a) the security interest created or provided for herein, which security interest constitutes a valid first and prior perfected Lien on the Collateral other than to the extent expressly disclosed under the Loan Agreements, and (b) the Liens expressly permitted by Section 6.01 of each of the Loan Agreements.

2.02 **Names, Etc.** The full and correct legal name, type of organization, jurisdiction of organization, organizational ID number (if applicable) and mailing address of each Obligor as of the date hereof are correctly set forth in Annex 1. Said Annex 1 correctly specifies (a) each location where Goods of each Obligor are located (other than Motor Vehicles constituting Equipment and Goods in transit), and (b) each location where any financing statement naming any Obligor as debtor is currently on file.

2.03 **Changes in Circumstances.** Such Obligor has not (a) within the period of four months prior to the date hereof, changed its location (as defined in Section 9-307 of the NYUCC), (b) except as specified in Annex 1, heretofore changed its name, or (c) except as specified in Annex 2, heretofore become a "new debtor" (as defined in Section 9-102(a)(56) of the NYUCC) with respect to a currently effective security agreement previously entered into by any other Person.

2.04 **Pledged Shares.** The Initial Pledged Shares constitute (a) 100% of the issued and outstanding Shares of each Issuer beneficially owned by such Obligor on the date hereof (other than any Shares held in a Securities Account referred to in Annex 7 and other than as expressly set forth in Annex 3 (Part A)), whether or not registered in the name of such Obligor. Annex 3 (Part A) correctly identifies, as at the date hereof, the respective Issuers of the Initial Pledged Shares and (in the case of any corporate Issuer) the respective class and par value of such Shares and the respective number of such Shares (and registered owner thereof) represented by each such certificate.

The Initial Pledged Shares are, and all other Pledged Shares in which such Obligor shall hereafter grant a security interest pursuant to Section 3 will be, (i) duly authorized, validly existing, fully paid and non-assessable (in the case of any Shares issued by a corporation) and (ii) duly issued and outstanding (in the case of any equity interest in any other entity), and none of such Pledged Shares are or will be subject to any contractual restriction, or any restriction under the charter, by-laws, partnership agreement or other organizational instrument

Security and Pledge Agreement

of the respective Issuer thereof, upon the transfer of such Pledged Shares (except for any such restriction contained herein or in the Loan Documents, or under such organizational instruments).

2.05 Promissory Notes. Annex 3 (Part B) sets forth a complete and correct list of all Promissory Notes (other than any held in a Securities Account referred to in Annex 7) held by any Obligor on the date hereof.

2.06 Intellectual Property. Annexes 4, 5 and 6, respectively, set forth under the name of each Obligor a complete and correct list of all copyright registrations, patents, patent applications, trademark registrations and trademark applications owned by such Obligor on the date hereof (or, in the case of any supplement to said Annexes 4, 5 and 6, effecting a pledge thereof, as of the date of such supplement).

Except pursuant to licenses and other user agreements entered into by any Obligor in the ordinary course of business that are listed in said Annexes 4, 5 and 6 (including as supplemented by any supplement effecting a pledge thereof), such Obligor has done nothing to intentionally authorize or enable any other Person to use any Copyright, Patent or Trademark listed in said Annexes 4, 5 and 6 (as so supplemented), and, to each Obligor's knowledge, all registrations listed in said Annexes 4, 5 and 6 (as so supplemented) are, except as noted therein, in full force and effect.

To each Obligor's knowledge, (i) except as set forth in said Annexes 4, 5 and 6 (as supplemented by any supplement effecting a pledge thereof), there is no violation by others of any right of such Obligor with respect to any Copyright, Patent or Trademark listed in said Annexes 4, 5 and 6 (as so supplemented), respectively, and (ii) such Obligor is not infringing in any respect upon any Copyright, Patent or Trademark of any other Person; and no proceedings alleging such infringement have been instituted or are pending against such Obligor and no written claim against such Obligor has been received by such Obligor, alleging any such violation, except as may be set forth in said Annexes 4, 5 and 6 (as so supplemented).

To each Obligor's knowledge, such Obligor does not own any Trademarks registered in the United States of America to which the last sentence of the definition of Trademark Collateral applies.

2.07 Deposit Accounts and Securities Accounts. Annex 7 sets forth a complete and correct list of all Deposit Accounts, Securities Accounts and Commodity Accounts of the Obligors on the date hereof.

2.08 Commercial Tort Claims. To the knowledge of the Obligors, Annex 8 sets forth a complete and correct list of all commercial tort claims of the Obligors in existence on the date hereof.

Section 3. Collateral. As collateral security for the payment in full when due (whether at stated maturity, by acceleration or otherwise) of the Secured Obligations, each Obligor hereby pledges and grants to the Collateral Agent for the benefit of the Secured

Security and Pledge Agreement

Creditors as hereinafter provided a security interest in all of such Obligor's right, title and interest in, to and under the following property, in each case whether tangible or intangible, wherever located, and whether now owned by such Obligor or hereafter acquired and whether now existing or hereafter coming into existence (all of the property described in this Section 3 being collectively referred to herein as "Collateral"):

- (a) all Accounts;
- (b) all As-Extracted Collateral;
- (c) all Chattel Paper;
- (d) all Deposit Accounts;
- (e) all Documents;
- (f) all Equipment;
- (g) all Fixtures;
- (h) all General Intangibles;
- (i) all Goods not covered by the other clauses of this Section 3;
- (j) the Pledged Shares;
- (k) all Instruments, including all Promissory Notes;
- (l) all Intellectual Property;
- (m) all Inventory;
- (n) all Investment Property not covered by other clauses of this Section 3, including all Securities (other than, with respect to Telogy International, N.V., Shares in excess of the percentage of Shares therein set forth in Annex 3, Part A), all Securities Accounts and all Security Entitlements with respect thereto and Financial Assets carried therein, and all Commodity Accounts and Commodity Contracts;
- (o) all Letter-of-Credit Rights;
- (p) all commercial tort claims, as defined in Section 9-102(a)(13) of the NYUCC, arising out of the events described in Annex 8;
- (q) all other tangible and intangible personal property whatsoever of such Obligor; and

Security and Pledge Agreement

(r) all Proceeds of any of the Collateral, all Accessions to and substitutions and replacements for, any of the Collateral, and all offspring, rents, profits and products of any of the Collateral, and, to the extent related to any Collateral, all books, correspondence, credit files, records, invoices and other papers (including all tapes, cards, computer runs and other papers and documents in the possession or under the control of such Obligor or any computer bureau or service company from time to time acting for such Obligor),

IT BEING UNDERSTOOD, HOWEVER, that (A) in the case of any of the foregoing that consists of general or limited partnership interests in a general or limited partnership, the security interest hereunder shall be deemed to be created only to the maximum extent permitted under the applicable organizational instrument pursuant to which such partnership is formed and (B) in no event shall the security interest granted under this Section 3 attach to any lease, license, contract, property rights or agreement to which any Obligor is a party (or to any of its rights or interests thereunder) if the grant of such security interest would constitute or result in either (i) the abandonment, invalidation or unenforceability of any right, title or interest of any Obligor therein or (ii) in a breach or termination pursuant to the terms of, or a default under, any such lease, license, contract, property rights or agreement (other than to the extent that any such term would be rendered ineffective by Section 9-406, 9-407, 9-408 or 9-409 of the Uniform Commercial Code as in effect in the relevant jurisdiction).

Section 4. Cash Proceeds of Collateral.

4.01 Collateral Account. The Collateral Agent will cause to be established at a banking institution to be selected by the Collateral Agent a cash collateral account (the "Collateral Account"), that

(i) to the extent of all Investment Property or Financial Assets (other than cash) credited thereto shall be a Securities Account in respect of which the Collateral Agent shall be the Entitlement Holder, and

(ii) to the extent of any cash credited thereto shall be a Deposit Account in respect of which the Collateral Agent shall be the depository bank's customer, and

into which each Obligor agrees, to the extent that the Lien granted to the Collateral Agent in such Collateral constitutes a first priority Lien therein, to deposit from time to time the cash proceeds of any of the Collateral (including proceeds of insurance thereon) required to be delivered to the Collateral Agent pursuant to any of the Exit Financing Agreement, the other Loan Documents referred to therein, the Term Loan Agreement or the other Loan Documents referred to therein, or pursuant hereto, and into which the Obligors may from time to time deposit any additional amounts that it wishes to provide as additional collateral security hereunder. The Collateral Account, and any money or other property from time to time therein, shall constitute part of the Collateral hereunder and shall not constitute payment of the Secured Obligations until applied as hereinafter provided.

Security and Pledge Agreement

4.02 Proceeds of Casualty or Condemnation Events. Without limiting the generality of the provisions of the foregoing Section 4.01, promptly following the occurrence of any casualty to or condemnation of any Collateral or any portion thereof resulting in a loss in excess of \$50,000, such Obligor (through the Borrower) shall give prompt notice thereof to the Collateral Agent and, to the extent that the Lien granted to the Collateral Agent in such Collateral constitutes a first priority Lien therein, shall cause the proceeds of insurance, condemnation award or other compensation received as a result of such event to be paid to the Collateral Agent, for deposit into the Collateral Account, as additional collateral security for the payment of the Secured Obligations.

4.03 Withdrawals. The balance from time to time in the Collateral Account shall be subject to withdrawal only as provided in this Section 4.03 and Section 4.04 below. The Collateral Agent shall (except as otherwise provided in the proviso immediately following this clause) remit the collected balance standing to the credit of the Collateral Account to or upon the order of the relevant Obligor as such Obligor (through the Borrower) shall from time to time instruct, provided that (A) deposits in the Collateral Account that constitute any proceeds of insurance, condemnation award or other compensation in respect of any event described in Section 4.02 affecting any Collateral shall be subject to withdrawal only as provided in Section 4.04 below and (B) at any time following the occurrence and during the continuance of an Event of Default, the Collateral Agent may (and, if instructed by the Aggregate Required Lenders, shall) in its (or their) discretion apply or cause to be applied (subject to collection) the balance from time to time standing to the credit of the Collateral Account (regardless of the origin thereof) to the prepayment of the principal of the loans then outstanding under the Loan Agreements in accordance with the terms of the Loan Agreements and the Intercreditor Agreement.

4.04 Restoration or Replacement of Property. With respect to any proceeds that are required to be paid into the Collateral Account pursuant to Section 4.02 above, the Borrower may, at its option, to be exercised by delivery of notice to the Collateral Agent within 60 days of the receipt of such proceeds, elect to apply any proceeds of insurance, condemnation award or other compensation received as a result of such event either (A) to the rebuilding or replacement of the property affected by such event (the "Damaged Property") or (B) to the prepayment of such of the Secured Obligations as shall be selected by it.

If the Borrower elects to rebuild or replace the Damaged Property, any such proceeds (and any earnings thereon) held in the Collateral Account shall be applied by the Borrower to the rebuilding and replacement of the Damaged Property and such proceeds shall be advanced to the Borrower by the Collateral Agent in periodic installments upon compliance by the Borrower with such reasonable conditions to disbursement as may be imposed by the Collateral Agent, including, but not limited to, reasonable retention amounts and receipt of lien releases.

Following the occurrence and during the continuance of any Event of Default, the Collateral Agent shall have no obligation to release any of such proceeds to the Borrower for rebuilding or replacement of Damaged Property. All insurance proceeds remaining after the payment for rebuilding and replacement of Damaged Property pursuant to this Section 4.04 may,

Security and Pledge Agreement

at the option of the Collateral Agent, be applied to the prepayment of the principal of the loans then outstanding under the Loan Agreements in accordance with the terms of the Loan Agreements and the Intercreditor Agreement.

4.05 Investment of Balance in Collateral Account. The cash balance standing to the credit of the Collateral Account shall be invested from time to time (upon receipt of investment directives, incumbency certificates or other documents reasonably required to be delivered by the Collateral Agent) in such Permitted Investments as the respective Obligor (through the Borrower) (or, after the occurrence and during the continuance of an Event of Default, the Collateral Agent) shall determine, which Permitted Investments shall be held in the name and be under the control of the Collateral Agent (and credited to the Collateral Account), provided that at any time after the occurrence and during the continuance of an Event of Default, the Collateral Agent may (and, if instructed by the Aggregate Required Lenders, shall) in its (or their) discretion at any time and from time to time elect to liquidate any such Permitted Investments and to apply or cause to be applied the proceeds thereof to the payment of the Secured Obligations then due and payable in accordance with Section 5.09.

Section 5. Further Assurances; Remedies. In furtherance of the grant of the security interest pursuant to Section 3, the Obligors hereby jointly and severally agree with the Collateral Agent for the benefit of the Secured Creditors as follows:

5.01 Delivery and Other Perfection. Each Obligor shall promptly from time to time give, execute, deliver, file, record, authorize or obtain all such financing statements, continuation statements, notices, instruments, documents, agreements or consents or other papers as may be necessary or desirable to create, preserve, perfect, maintain the perfection of or validate the security interest granted pursuant hereto or to enable the Collateral Agent to exercise and enforce its rights hereunder with respect to such security interest, and without limiting the foregoing, shall:

(a) if any of the Pledged Shares, Investment Property or Financial Assets constituting part of the Collateral are received by such Obligor, forthwith (x) deliver to the Collateral Agent the certificates or instruments representing or evidencing the same, duly endorsed in blank or accompanied by such instruments of assignment and transfer in such form and substance as the Collateral Agent may reasonably request, all of which thereafter shall be held by the Collateral Agent, pursuant to the terms of this Agreement, as part of the Collateral and (y) take such other action as the Collateral Agent may reasonably deem necessary or appropriate to duly record or otherwise perfect the security interest created hereunder in such Collateral;

(b) promptly from time to time deliver to the Collateral Agent any and all Instruments constituting part of the Collateral in which the Collateral Agent has a first priority Lien, endorsed and/or accompanied by such instruments of assignment and transfer in such form and substance as the Collateral Agent may reasonably request; provided that (other than in the case of the promissory notes described in Annex 3 (Part B)) so long as no Event of Default shall have occurred and be continuing, such Obligor may retain for collection in the ordinary course any Instruments received by such

Security and Pledge Agreement

Obligor in the ordinary course of business and the Collateral Agent shall, promptly upon request of such Obligor (through the Borrower), make appropriate arrangements for making any Instrument delivered by such Obligor available to such Obligor for purposes of presentation, collection or renewal (any such arrangement to be effected, to the extent requested by the Collateral Agent, against trust receipt or like document);

(c) promptly from time to time enter into such control agreements as may be required to perfect the security interest created hereby in any and all Deposit Accounts, Investment Property, Electronic Chattel Paper and Letter-of-Credit Rights, and will promptly furnish to the Collateral Agent true copies thereof;

(d) promptly deliver such short-form security agreements as may be necessary or desirable to protect the interests of the Collateral Agent in respect of that portion of the Collateral consisting of Intellectual Property;

(e) promptly cause the Collateral Agent to be listed as the lienholder on any certificate of title or ownership covering any Motor Vehicle (other than Motor Vehicles constituting Inventory) in which the Collateral Agent has a first priority Lien and within 120 days of such request deliver evidence of the same to the Collateral Agent;

(f) keep full and accurate books and records relating to the Collateral, and stamp or otherwise mark such books and records in order to reflect the security interests granted by this Agreement; and

(g) permit representatives of the Collateral Agent, upon reasonable notice, at any time during normal business hours to inspect and make abstracts from its books and records pertaining to the Collateral, and permit representatives of the Collateral Agent to be present at such Obligor's place of business to receive copies of communications and remittances relating to the Collateral, and forward copies of any notices or communications received by such Obligor with respect to the Collateral, all in such manner as the Collateral Agent may reasonably require.

5.02 Other Financing Statements or Control. Except as otherwise expressly disclosed under (or, as to clause (b) below, to the extent permitted in favor of any party as expressly disclosed under) the Loan Agreements, no Obligor shall (a) file or suffer to be on file, or authorize or permit to be filed or to be on file, in any jurisdiction, any financing statement or like instrument with respect to any of the Collateral in which the Collateral Agent is not named as the sole secured party for the benefit of the Secured Creditors, or (b) cause or permit any Person other than the Collateral Agent to have "control" (as defined in Section 9-104, 9-105, 9-106 or 9-107 of the NYUCC) of any Deposit Account, Electronic Chattel Paper, Investment Property or Letter-of-Credit Right constituting part of the Collateral.

5.03 Preservation of Rights. The Collateral Agent shall not be required to take steps necessary to preserve any rights against prior parties to any of the Collateral.

Security and Pledge Agreement

5.04 Special Provisions Relating to Certain Collateral.

(a) Pledged Shares.

(i) The Obligors will cause the Pledged Shares to constitute at all times 100% of the total number of Shares of each Issuer then outstanding owned by the Obligors (except as otherwise expressly set forth in Annex 3 (Part A)).

(ii) So long as no Event of Default shall have occurred and be continuing, the Obligors shall have the right to exercise all voting, consensual and other powers of ownership pertaining to the Pledged Shares for all purposes not inconsistent with the terms of this Agreement, the Exit Facility Agreement, the other Loan Documents referred to therein, the Term Loan Agreement, the other Loan Documents referred to therein, or any other instrument or agreement referred to herein or therein, provided that the Obligors jointly and severally agree that they will not vote the Pledged Shares in any manner that is inconsistent with the terms of this Agreement, such loan documents or any such other instrument or agreement; and the Collateral Agent shall execute and deliver to the Obligors or cause to be executed and delivered to the Obligors all such proxies, powers of attorney, dividend and other orders, and all such instruments, without recourse, as the Obligors may reasonably request for the purpose of enabling the Obligors to exercise the rights and powers that they are entitled to exercise pursuant to this Section 5.04(a)(ii).

(iii) Except while an Event of Default shall have occurred and be continuing, the Obligors shall be entitled to receive and retain any dividends, distributions or proceeds on the Pledged Shares paid in cash out of earned surplus.

(iv) If an Event of Default shall have occurred, whether or not the Secured Creditors or any of them exercise any available right to declare any Secured Obligations due and payable or seek or pursue any other relief or remedy available to them under applicable law or under this Agreement, the Exit Facility Agreement, the other Loan Documents referred to therein, the Term Loan Agreement, the other Loan Documents referred to therein, or any other agreement relating to such Secured Obligation, all dividends and other distributions on the Pledged Shares, to the extent the Lien granted to the Collateral Agent hereunder in such Collateral is a first priority Lien therein, shall (x) be paid directly to the Collateral Agent and retained by it in the Collateral Account as part of the Collateral, subject to the terms of this Agreement, and, (y) if the Collateral Agent shall so request in writing, the Obligors jointly and severally agree to execute and deliver to the Collateral Agent appropriate additional dividend, distribution and other orders and documents to that end, provided that if such Event of Default is cured, any such dividend or distribution theretofore paid to the Collateral Agent shall, upon request of the Obligors (except to the extent theretofore applied to the Secured Obligations), be returned by the Collateral Agent to the Obligors.

Security and Pledge Agreement

(b) Intellectual Property.

(i) For the purpose of enabling the Collateral Agent to exercise rights and remedies under Section 5.05 at such time as the Collateral Agent shall be lawfully entitled to exercise such rights and remedies hereunder, and for no other purpose, each Obligor hereby grants to the Collateral Agent, to the extent assignable, an irrevocable, non-exclusive license (exercisable without payment of royalty or other compensation to such Obligor) to use, assign, license or sublicense any of the Intellectual Property now owned or hereafter acquired by such Obligor, wherever the same may be located, including in such license reasonable access to all media in which any of the licensed items may be recorded or stored and to all computer programs used for the compilation or printout thereof.

(ii) Notwithstanding anything contained herein to the contrary, but subject to any and all provisions in the Loan Agreements that limit the rights of the Obligors to dispose of their property, so long as no Event of Default shall have occurred and be continuing, the Obligors will be permitted to exploit, use, enjoy, protect, license, sublicense, assign, sell, dispose of or take other actions with respect to the Intellectual Property in the ordinary course of the business of the Obligors. In furtherance of the foregoing, so long as no Event of Default shall have occurred and be continuing, the Collateral Agent shall from time to time, upon the request of the respective Obligor (through the Borrower), execute and deliver any instruments, certificates or other documents, in the form so requested, that such Obligor (through the Borrower) shall have certified are appropriate in its judgment to allow it to take any action permitted above (including relinquishment of the license provided pursuant to clause (i) immediately above as to any specific Intellectual Property). Further, upon the payment in full of all of the Secured Obligations and cancellation or termination of the Commitments under the Exit Financing Agreement or earlier expiration of this Agreement or release of the Collateral, the Collateral Agent shall grant back to the Obligors and fully relinquish the license granted pursuant to clause (i) immediately above. The exercise of rights and remedies under Section 5.05 by the Collateral Agent shall not terminate the rights of the holders of any licenses or sublicenses theretofore granted by the Obligors in accordance with the first sentence of this clause (ii).

(c) Chattel Paper. The Obligors will (i) deliver to the Collateral Agent each original of each item of Chattel Paper at any time constituting part of the Collateral in which the Collateral Agent is the holder of a first priority Lien, and (ii) cause each such original and each copy thereof to bear a conspicuous legend, in form and substance reasonably satisfactory to the Collateral Agent, indicating that such Chattel Paper is subject to the security interest granted hereby and that purchase of such Chattel Paper by a Person other than the Collateral Agent without the consent of the Collateral Agent would violate the rights of the Collateral Agent.

5.05 Remedies.

(a) Rights and Remedies Generally upon Default. If an Event of Default shall have occurred and be continuing, the Collateral Agent shall, subject to the provisions of Section

Security and Pledge Agreement

7.01 of each of the Loan Agreements, have all of the rights and remedies with respect to the Collateral of a secured party under the NYUCC (whether or not the NYUCC is in effect in the jurisdiction where the rights and remedies are asserted) and such additional rights and remedies to which a secured party is entitled under the laws in effect in any jurisdiction where any rights and remedies hereunder may be asserted, including the right, to the fullest extent permitted by law, subject only to the rights of any holder of a Permitted Lien in any Collateral having priority over the Lien in such Collateral granted to the Collateral Agent hereunder, to exercise all voting, consensual and other powers of ownership pertaining to the Collateral as if the Collateral Agent were the sole and absolute owner thereof (and each Obligor agrees to take all such action as may be appropriate to give effect to such right); and without limiting the foregoing:

- (i) the Collateral Agent in its discretion may, in its name or in the name of any Obligor or otherwise, demand, sue for, collect or receive any money or other property at any time payable or receivable on account of or in exchange for any of the Collateral, but shall be under no obligation to do so;
- (ii) the Collateral Agent may make any reasonable compromise or settlement deemed desirable with respect to any of the Collateral and may extend the time of payment, arrange for payment in installments, or otherwise modify the terms of, any of the Collateral;
- (iii) the Collateral Agent may require the Obligors to notify (and each Obligor hereby authorizes the Collateral Agent to so notify) each account debtor in respect of any Account, Chattel Paper or General Intangible, and each obligor on any Instrument, constituting part of the Collateral that such Collateral has been assigned to the Collateral Agent hereunder, and to instruct that any payments due or to become due in respect of such Collateral shall be made directly to the Collateral Agent or as it may direct (and if any such payments, or any other Proceeds of Collateral, are received by any Obligor they shall be held in trust by such Obligor for the benefit of the Collateral Agent and as promptly as possible remitted or delivered to the Collateral Agent for application as provided herein);
- (iv) the Collateral Agent may require the Obligors to assemble the Collateral at such place or places, reasonably convenient to the Collateral Agent and the Obligors, as the Collateral Agent may direct;
- (v) the Collateral Agent may apply the Collateral Account and any money or other property therein to payment of the Secured Obligations;
- (vi) the Collateral Agent may require the Obligors to cause the Pledged Shares to be transferred of record into the name of the Collateral Agent or its nominee (and the Collateral Agent agrees that if any of such Pledged Shares is transferred into its name or the name of its nominee, the Collateral Agent will thereafter promptly give to respective Obligor (through the Borrower) copies of any notices and communications received by it with respect to such Pledged Shares); and

Security and Pledge Agreement

(vii) the Collateral Agent may sell, lease, assign or otherwise dispose of all or any part of the Collateral, at such place or places as the Collateral Agent deems best, and for cash or for credit or for future delivery (without thereby assuming any credit risk), at public or private sale, without demand of performance or notice of intention to effect any such disposition or of the time or place thereof (except such notice as is required by applicable statute and cannot be waived), and the Collateral Agent or any other Secured Creditor or anyone else may be the purchaser, lessee, assignee or recipient of any or all of the Collateral so disposed of at any public sale (or, to the extent permitted by law, at any private sale) and thereafter hold the same absolutely, free from any claim or right of whatsoever kind, including any right or equity of redemption (statutory or otherwise), of the Obligors, any such demand, notice and right or equity being hereby expressly waived and released. In the event of any sale, assignment, or other disposition of any of the Trademark Collateral, the goodwill connected with and symbolized by the Trademark Collateral subject to such disposition shall be included. The Collateral Agent may, without notice or publication, adjourn any public or private sale or cause the same to be adjourned from time to time by announcement at the time and place fixed for the sale, and such sale may be made at any time or place to which the sale may be so adjourned.

The Proceeds of each collection, sale or other disposition under this Section 5.05, including by virtue of the exercise of any license granted to the Collateral Agent in Section 5.04(b), shall be applied in accordance with Section 5.09.

(b) Certain Securities Act Limitations. The Obligors recognize that, by reason of certain prohibitions contained in the Securities Act of 1933, as amended, and applicable state securities laws, the Collateral Agent may be compelled, with respect to any sale of all or any part of the Collateral, to limit purchasers to those who will agree, among other things, to acquire the Collateral for their own account, for investment and not with a view to the distribution or resale thereof. The Obligors acknowledge that any such private sales may be at prices and on terms less favorable to the Collateral Agent than those obtainable through a public sale without such restrictions, and, notwithstanding such circumstances, agree that any such private sale shall be deemed to have been made in a commercially reasonable manner and that the Collateral Agent shall have no obligation to engage in public sales and no obligation to delay the sale of any Collateral for the period of time necessary to permit the issuer thereof to register it for public sale.

(c) Notice. The Obligors agree that to the extent the Collateral Agent is required by applicable law to give reasonable prior notice of any sale or other disposition of any Collateral, ten Business Days' notice shall be deemed to constitute reasonable prior notice.

5.06 Deficiency. If the proceeds of sale, collection or other realization of or upon the Collateral pursuant to Section 5.05 are insufficient to cover the costs and expenses of such realization and the payment in full of the Secured Obligations, the Obligors shall remain liable for any deficiency.

5.07 Locations; Names, Etc. Without at least 30 days' prior written notice to the Collateral Agent, no Obligor shall (i) change its location (as defined in Section 9-307 of the

Security and Pledge Agreement

NYUCC), (ii) change its name from the name shown as its current legal name on Annex 1, or (iii) agree to or authorize any modification of the terms of any item of Collateral that would result in a change thereof from one Uniform Commercial Code category to another such category (such as from a General Intangible to Investment Property), if the effect thereof would be to result in a loss of perfection of, or diminution of priority for, the security interests created hereunder in such item of Collateral, or the loss of control (within the meaning of Section 9-104, 9-105, 9-106 or 9-107 of the NYUCC) over such item of Collateral.

5.08 Private Sale. The Secured Creditors shall incur no liability as a result of the sale of the Collateral, or any part thereof, at any private sale pursuant to Section 5.05 conducted in a commercially reasonable manner. Each Obligor hereby waives any claims against the Secured Creditors arising by reason of the fact that the price at which the Collateral may have been sold at such a private sale was less than the price that might have been obtained at a public sale or was less than the aggregate amount of the Secured Obligations, even if the Collateral Agent accepts the first offer received and does not offer the Collateral to more than one offeree.

5.09 Application of Proceeds. Except as otherwise herein expressly provided, the Proceeds of any collection, sale or other realization of all or any part of the Collateral pursuant hereto, and any other cash at the time held by the Collateral Agent under Section 4 or this Section 5, shall be applied by the Collateral Agent in accordance with the provisions of the Intercreditor Agreement.

5.10 Attorney-in-Fact. Without limiting any rights or powers granted by this Agreement to the Collateral Agent while no Event of Default has occurred and is continuing, upon the occurrence and during the continuance of any Event of Default the Collateral Agent is hereby appointed the attorney-in-fact of each Obligor for the purpose of carrying out the provisions of this Section 5 and taking any action and executing any instruments that the Collateral Agent may deem necessary or advisable to accomplish the purposes hereof, which appointment as attorney-in-fact is irrevocable and coupled with an interest. Without limiting the generality of the foregoing, so long as the Collateral Agent shall be entitled under this Section 5 to make collections in respect of the Collateral, the Collateral Agent shall have the right and power to receive, endorse and collect all checks made payable to the order of any Obligor representing any dividend, payment or other distribution in respect of the Collateral or any part thereof and to give full discharge for the same.

5.11 Perfection and Recordation. Each Obligor authorizes the Collateral Agent to file Uniform Commercial Code financing statements describing the Collateral as "all assets" or "all personal property and fixtures" of such Obligor (provided that no such description shall be deemed to modify the description of Collateral set forth in Section 3).

5.12 Termination. When all Secured Obligations shall have been paid in full and the Commitments of the Exit Lenders shall have expired or been terminated, this Agreement shall terminate, and the Collateral Agent shall forthwith, at the Obligors' sole cost and expense, cause to be assigned, transferred and delivered, against receipt but without any recourse, warranty or representation whatsoever, any remaining Collateral and money received in respect

Security and Pledge Agreement

thereof, to or on the order of the respective Obligor and to be released and canceled all licenses and rights referred to in Section 5.04(b). The Collateral Agent shall also, at the expense of the relevant Obligor, execute and deliver to the respective Obligor upon such termination such Uniform Commercial Code termination statements, certificates for terminating the Liens on the Motor Vehicles and such other documentation as shall be reasonably requested by the respective Obligor to effect the termination and release of the Liens on the Collateral as required by this Section 5.12.

5.13 Further Assurances. Each Obligor agrees that, from time to time upon the written request of the Collateral Agent, such Obligor will execute and deliver such further documents and do such other acts and things as the Collateral Agent may reasonably request in order fully to effect the purposes of this Agreement. The Collateral Agent shall release any Lien covering any asset that has been disposed of with the consent of the Aggregate Required Lenders or otherwise in accordance with the provisions of the Intercreditor Agreement.

Section 6. Miscellaneous.

6.01 Notices. All notices, requests, consents and demands hereunder shall be in writing and telecopied or delivered, if to the Collateral Agent, at 600 East Las Colinas Blvd. Suite 1300, Irving, TX 75039, Attention Director of Agent Services, Steve Jerard; Telephone: (972) 401-8600; Facsimile: (972) 401-8557, and if to the Borrower or any Guarantor, at its address for notices specified or referenced under Section 10.01 of the Term Loan Agreement, and shall be deemed to have been given at the times specified therein. Any notice to be delivered to any Guarantor hereunder shall be delivered to the Borrower (at its aforesaid address) on behalf of such Guarantor.

6.02 No Waiver. No failure on the part of any Secured Creditor to exercise, and no course of dealing with respect to, and no delay in exercising, any right, power or remedy hereunder shall operate as a waiver thereof; nor shall any single or partial exercise by any Secured Creditor of any right, power or remedy hereunder preclude any other or further exercise thereof or the exercise of any other right, power or remedy. The remedies herein are cumulative and are not exclusive of any remedies provided by law.

6.03 Amendments, Etc. The terms of this Agreement may be waived or amended only by an instrument in writing duly executed by each Obligor and the Collateral Agent (with the consent of the Exit Lenders as specified in respect of such amendment or waiver under the Exit Facility Agreement and with the consent of the Term Loan Lenders as specified in respect of such amendment or waiver under the Term Loan Agreement). Any such amendment or waiver shall be binding upon the Secured Creditors and each Obligor.

6.04 Expenses. The Obligor jointly and severally agree to reimburse each of the Secured Creditors for all reasonable costs and expenses incurred by them (including the reasonable fees and expenses of legal counsel) in connection with (i) any Default and any enforcement or collection proceeding resulting therefrom, including all manner of participation in or other involvement with (w) performance by the Collateral Agent of any obligations of the Obligor in respect of the Collateral that the Obligor have failed or refused to perform, (x) any

Security and Pledge Agreement

actual or attempted sale, or any exchange, enforcement, collection, compromise or settlement in respect of any of the Collateral, and for the care of the Collateral and defending or asserting rights and claims of the Collateral Agent in respect thereof, by litigation or otherwise, including expenses of insurance, (y) judicial or regulatory proceedings and (z) workout, restructuring or other negotiations or proceedings (whether or not the workout, restructuring or transaction contemplated thereby is consummated) and (ii) the enforcement of this Section 6.04, and all such costs and expenses shall be Secured Obligations entitled to the benefits of the collateral security provided pursuant to Section 3.

6.05 Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the respective successors and assigns of each Obligor and the Secured Creditors (provided that no Obligor shall assign or transfer its rights or obligations hereunder without the prior written consent of the Collateral Agent).

6.06 Counterparts. This Agreement may be executed in any number of counterparts, all of which taken together shall constitute one and the same instrument and any of the parties hereto may execute this Agreement by signing any such counterpart.

6.07 Governing Law. This Agreement shall be construed in accordance with and governed by the law of the State of New York.

6.08 Captions. The captions and section headings appearing herein are included solely for convenience of reference and are not intended to affect the interpretation of any provision of this Agreement.

6.09 Agents and Attorneys-in-Fact. The Collateral Agent may employ agents, subagents and attorneys-in-fact in connection herewith and shall not be responsible for the negligence or misconduct of any such agents, subagents or attorneys-in-fact selected by it in good faith.

6.10 Severability. If any provision hereof is invalid and unenforceable in any jurisdiction, then, to the fullest extent permitted by law, (a) the other provisions hereof shall remain in full force and effect in such jurisdiction and shall be liberally construed in favor of the Secured Creditors in order to carry out the intentions of the parties hereto as nearly as may be possible and (b) the invalidity or unenforceability of any provision hereof in any jurisdiction shall not affect the validity or enforceability of such provision in any other jurisdiction.

6.11 Jurisdiction; Venue; Service; Waiver of Jury Trial.

(a) Submission to Jurisdiction. Each Obligor hereby irrevocably and unconditionally submits, for itself and its property, to the nonexclusive jurisdiction of the Supreme Court of the State of New York sitting in New York County and of the United States District Court of the Southern District of New York, and any appellate court from any thereof, in any action or proceeding arising out of or relating to this Agreement, or for recognition or enforcement of any judgment, and each of the parties hereto hereby irrevocably and unconditionally agrees that all claims in respect of any such action or proceeding may be heard

Security and Pledge Agreement

and determined in such New York State or, to the extent permitted by law, in such Federal court. Each of the parties hereto agrees that a final judgment in any such action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law. Nothing in this Agreement shall affect any right that any Secured Creditor may otherwise have to bring any action or proceeding relating to this Agreement against any Obligor or its properties in the courts of any jurisdiction.

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

(c) Service of Process. Each party to this Agreement irrevocably consents to service of process in the manner provided for notices in Section 6.01. Nothing in this Agreement will affect the right of any party to this Agreement to serve process in any other manner permitted by law.

(d) WAIVER OF JURY TRIAL. EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY WAIVES ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY PROCEEDING ARISING OUT OF OR RELATED TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY.

6.12 Agreement of Aggregate Required Lenders. Upon any occasion requiring or permitting an approval, consent, waiver, election or other action on the part of the Aggregate Required Lenders, action shall be taken by the Collateral Agent for and on behalf or for the benefit of all Lenders upon the direction of the Aggregate Required Lenders, and any such action shall be binding on all Lenders.

6.13 Limitation of Liability of Collateral Agent.

(a) The Collateral Agent may execute any of its respective duties under this Agreement by or through any of its respective officers, agents, and employees, and neither the Collateral Agent nor its directors, officers, agents, employees or Affiliates shall be liable to any Person for any action taken or omitted to be taken in good faith, or be responsible to any Person or to any of them for the consequences of any oversight or error of judgment, or for any loss, unless the same shall happen through its gross negligence or willful misconduct. The Collateral Agent and its respective directors, officers, agents, employees and Affiliates shall in no event be liable to any Person for any action taken or omitted to be taken by them pursuant to instructions received by them from the Aggregate Required Lenders or in reliance upon the advice of counsel selected by it. Without limiting the foregoing, neither the Collateral Agent nor any of its directors, officers, employees, agents or Affiliates shall be responsible to any Lender for the due execution, validity, genuineness, effectiveness, sufficiency, or enforceability of, or for any statement, warranty, or representation in, this Agreement, any Loan Document (as defined in either of the Loan Agreements, the "Loan Documents") or any related agreement, document or

Security and Pledge Agreement

order, or shall be required to ascertain or to make any inquiry concerning the performance or observance by any Obligor of any of the terms, conditions, covenants, or agreements of this Agreement or any of the Loan Documents. Notwithstanding any provision to the contrary elsewhere in this Agreement or any of the Loan Documents, the Collateral Agent shall not have any duties or responsibilities, except those expressly set forth herein, or any fiduciary relationship with any Lender, Obligor or other Person, and no implied covenants, functions, responsibilities, duties, obligations or liabilities shall be read into this Agreement or any other Loan Document or otherwise exist against the Collateral Agent. The Collateral Agent shall be fully justified in failing or refusing to take any action under this Agreement or any other Loan Document unless it shall first receive such advice or concurrence of the Aggregate Required Lenders as it deems appropriate or it shall first be indemnified to its reasonable satisfaction by the Lenders against any and all liability and expense which may be incurred by it by reason of taking or continuing to take any such action. The obligation of the Collateral Agent to commence, continue, cease or refrain from any act, action or proceeding for the purpose of enforcing or ceasing to enforce any rights of the Collateral Agent or the Secured Parties under the Collateral Documents shall be conditional upon the Lenders furnishing, when required by notice in writing by the Collateral Agent to the Lenders, sufficient funds to commence or continue such act, action or proceeding.

(b) Neither the Collateral Agent nor any of its directors, officers, employees, agents or Affiliates shall have any responsibility to any Obligor on account of the failure or delay in performance or breach by any Lender or by any Obligor of any of their respective obligations under this Agreement or any of the Loan Documents or in connection herewith or therewith.

(c) The Collateral Agent, in its capacity as Collateral Agent hereunder, shall be entitled to rely on any communication, instrument, or document reasonably believed by such person to be genuine or correct and to have been signed or sent by a person or persons believed by such person to be the proper person or persons, and such person shall be entitled to rely on advice of legal counsel, independent public accountants, and other professional advisers and experts selected by such person.

(d) The Collateral Agent shall not be responsible for the perfection, or priority, of any liens.

(e) None of the provisions contained in the Collateral Documents shall require the Collateral Agent to expend or risk its own funds or otherwise incur financial liability in the performance of any of its duties or in the exercise of any of its rights or powers.

(f) The Collateral Agent shall not be liable for (i) any failure or defect of title to the Collateral, (ii) any failure to perfect a lien in the Collateral, or (iii) any statements of fact in the recitals in this Agreement or in any of the Loan Documents. The Collateral Agent shall not be responsible for the sufficiency, adequacy or form of any insurance provided to the Collateral Agent pursuant to any Collateral Documents. In no event shall the Collateral Agent be liable or responsible for any funds or investments of funds, or the value or performance of the Permitted Investments.

Security and Pledge Agreement

(g) The Collateral Agent shall have no duty to maintain any financing statements or maintain perfected liens granted to it hereunder. The Collateral Agent is not responsible for the sufficiency, validity or enforceability of any Collateral Documents or any other documents related thereto.

(h) The Collateral Agent shall not be deemed to be in a relation of trust or confidence with any Lender or Obligor by reason of the Collateral Documents, and shall not owe any fiduciary, trust or other special duties to any Lender or Obligor by reason of the Collateral Documents. To the extent the Collateral Agent is requested to exercise any discretion or to make any determination with respect to any provision of the Collateral Documents or with respect to any of the Collateral, including the sufficiency, adequacy or acceptability of any document or any other item furnished to the Collateral Agent, or compliance by any Obligor with any of the provisions of the Collateral Documents, the Collateral Agent shall notify the Lenders in writing, together with a copy of the document, item or request, as applicable.

(i) The parties hereto acknowledge that Collateral Agent's duties do not include any discretionary authority, determination, control or responsibility with respect to any Collateral Document or any Collateral, notwithstanding any rights or discretion that may be granted to the Collateral Agent in such Collateral Documents. The Collateral Agent shall have no obligation, duty or responsibility to exercise any such discretion except as directed in writing by the Aggregate Required Lenders and solely to the extent the Collateral Agent is indemnified to its reasonable satisfaction. The provisions of this Agreement, including, without limitation those provisions relating to the rights, duties, powers, privileges, protections and indemnification of the Collateral Agent shall apply with respect to any actions taken or not taken by the Collateral Agent under any Collateral Documents.

(j) No claim may be made by any Person against the Collateral Agent or its Affiliates, directors, officers, employees, attorneys or agents for any special, indirect, consequential or punitive damages in respect of any claim for breach of contract or any other theory of liability arising out of or related to the transactions contemplated by this Agreement or any other Collateral Document, or any act, omission or event occurring in connection herewith or therewith, and each such party hereby waives, releases, and agrees not to sue upon any claim for any such special, indirect, consequential or punitive damages, whether or not accrued and whether or not known or suspected to exist in its favor.

(k) Notwithstanding any agreement in the Collateral Documents to the contrary, the Collateral Agent shall be responsible only for the performance of such duties as are expressly set forth herein. The Collateral Agent shall not be responsible for any action taken or not taken by it under this Agreement or with respect to any Collateral Documents at the request or direction of the Aggregate Required Lenders.

6.14 Reimbursement and Indemnification by Lenders. Each Lender agrees (i) to reimburse (x) the Collateral Agent for such Lender's Loan Percentage of any expenses and fees incurred pursuant to the terms of this Agreement, including, without limitation, reasonable counsel fees and reasonable compensation of agents and employees and any other reasonable expense incurred in connection with the operations or enforcement thereof not reimbursed by the

Security and Pledge Agreement

Obligors and (y) the Collateral Agent for such Lender's Loan Percentage of any reasonable expenses of the Collateral Agent incurred hereunder that the Borrower has agreed to reimburse pursuant to the terms hereof and has failed to so reimburse and (ii) to indemnify and hold harmless the Collateral Agent and its directors, officers, employees, agents or Affiliates, on demand, in the amount of such Lender's Loan Percentage, from and against any and all liabilities (including without limitation costs of court and reasonable costs of defense), obligations, losses, damages, penalties, actions, judgments, suits, or other reasonable costs, expenses, or disbursements of any kind or nature whatsoever which may be imposed on, incurred by, or asserted against it or any of them in any way relating to or arising out of this Agreement or any of the Loan Documents or any action taken or omitted by it or any of them under this Agreement or any of the Loan Documents to the extent not reimbursed by the Obligors (except such as shall result from their respective gross negligence or willful misconduct as determined by a final non-appealable judgment of a court of competent jurisdiction).

6.15 Successor Collateral Agent. The Collateral Agent at any time may, and upon the direction of the Aggregate Required Lenders shall, resign by giving written notice thereof to the Lenders and the Borrower. Upon any such resignation, the Aggregate Required Lenders shall have the right to appoint a successor Collateral Agent, which shall be reasonably satisfactory to the Borrower. If no successor Collateral Agent shall have been so appointed by the Aggregate Required Lenders and shall have accepted such appointment within 90 days after the retiring Collateral Agent's giving of notice of resignation, such resignation shall nonetheless be effective as of the end of such 90-day period and the resigning Collateral Agent shall be discharged as of such date from its duties and obligations under this Agreement. Upon the acceptance of any appointment as Collateral Agent hereunder by a successor Collateral Agent, such successor Collateral Agent shall thereupon succeed to and become vested with all the rights, powers, privileges and duties of the resigning Collateral Agent, and the resigning Collateral Agent shall be discharged from its duties and obligations under this Agreement. After any resigning Collateral Agent's resignation hereunder as Collateral Agent, the provisions of Section 6.04 and Sections 6.13 through 6.17 shall inure to its benefit as to any actions taken or omitted to be taken by it while it was Collateral Agent under this Agreement.

6.16 Indemnity by Obligors. The Obligors hereby, jointly and severally, indemnify the Collateral Agent (in its capacity as Collateral Agent and in its individual or corporate capacity) and each of its officers, directors, attorneys in fact and agents and Affiliates (each, an "Indemnified Party") for, and holds it harmless against, any cost, claim, damages, loss or liability or expense (including reasonable attorneys' fees and expenses) incurred by it in connection with, or related to or arising from: (i) any action or omission of any Obligor; (ii) the execution, acceptance and administration of this Agreement and the performance of its duties hereunder or in connection with any Collateral; (iii) the execution of any documents evidencing or relating to the Collateral (the "Collateral Documents"), or the granting of any lien or security interest on any Collateral for the benefit of the Collateral Agent; or (iv) any action taken or not taken by the Collateral Agent upon the request or instruction of any Obligor or any Lender, in each case with the prior written consent of the Aggregate Required Lenders, including the reasonable costs and expenses of defending itself against any claim or liability in connection with the exercise or performance of any of its powers or duties under the Collateral Documents, except for any loss, liability or expense incurred by reason of the Collateral Agent's gross

Security and Pledge Agreement

negligence or willful misconduct to the extent that they are determined by a final non-appealable judgment of a court of competent jurisdiction to have resulted from the gross negligence or willful misconduct of such Indemnified Party. If the Collateral Agent incurs expenses in connection with the occurrence of a bankruptcy or the appointment of a receiver relating to the any of the Obligors, the reasonable expenses and compensation for those services are intended to constitute expenses of administration under any bankruptcy or receivership law. In the event that the Obligors fail to pay any amount due under this Section 6.16, the Collateral Agent shall give notice to each of the Lenders of the Obligors' failure to pay such amount due and of its intention to assess the Collateral for the payment of such amount, in which case the Lenders shall have the right, within twenty Business Days of such notice, to pay such amount to the Collateral Agent and, if such amount due has not been paid to Collateral Agent, in full, by the end of such twenty Business Day period, the Collateral Agent shall be entitled to assess the Collateral for the payment of the same. The obligations of the Company under this Section 6.16 shall survive any satisfaction and discharge or termination of this Agreement, including any termination under any bankruptcy or receivership law.

6.17 Knowledge of Default. The Collateral Agent shall not be deemed to have knowledge or notice of the occurrence of any Event of Default unless it shall have received notice from a Lender or Obligor referring to this Agreement, describing such Event of Default and stating that such notice is a "notice of default."

[signatures commence on the following page]

Security and Pledge Agreement

IN WITNESS WHEREOF, the parties hereto have caused this Security and Pledge Agreement to be duly executed and delivered as of the day and year first above written.

BORROWER:

TELOGY, LLC

By: Anthony Schiavo
Name: Anthony Schiavo
Title: Chief Executive Officer

GUARANTOR:

E-CYCLE, LLC

By: Anthony Schiavo
Name: Anthony Schiavo
Title: Chief Executive Officer

COLLATERAL AGENT:

THE BANK OF NEW YORK

By: _____
Name: _____
Title: _____

Security and Pledge Agreement

IN WITNESS WHEREOF, the parties hereto have caused this Security and Pledge Agreement to be duly executed and delivered as of the day and year first above written.

BORROWER:

TELOGY, LLC

By: _____
Name:
Title:

GUARANTOR:

E-CYCLE, LLC

By: _____
Name:
Title:

COLLATERAL AGENT:

THE BANK OF NEW YORK

By: 
Name: **Stephen C. Jerard**
Title: **Vice President**

Security and Pledge Agreement

FILING DETAILS

[See Sections 2.02, 2.03 and 5.07]

Telogy, LLC (formerly known as Telogy, Inc.,
a California corporation).
3200 Whipple Road
Union City, CA 94587
94-3033646

e-Cycle, LLC (formerly known as e-Cycle, L.L.C.,
a California limited liability company)
1210 California Circle
Milpitas, CA 95035-3019
NA

Location of Goods of Telogy and e-Cycle:

Other than inventory of Telogy or e-Cycle which is rented to customers and located at customers' locations, all inventory of Telogy and e-Cycle is located at Telogy's facility at 3200 Whipple Road, Union City, California and the respective furniture, fixtures, equipment and furnishings of each are located at Telogy's and e-Cycle's respective addresses set forth above.

Existing Financing Statements Naming e-Cycle, LLC, or Telogy, Inc., as debtor:

As to Section 2.02(b) of the Security and Pledge Agreement to which this Annex 1 is attached, reference is made to Schedule 3.05 to that certain Revolving Credit and Guaranty Agreement dated _____, 2006, among Telogy, LLC as borrower, e-Cycle, LLC, as guarantor, the lenders party thereto, as lenders, and The Bank of New York, as administrative agent, which Schedule 3.05 is incorporated in full herein by such reference.

Annex 1 to Security and Pledge Agreement

NY2 #4688284\8

ANNEX 2

NEW DEBTOR EVENTS

[See Section 2.03]

NONE.

Annex 2 to Security and Pledge Agreement

NY2 #4688284v8

ANNEX 3

PLEDGED SHARES AND PROMISSORY NOTES

[See definitions of "Initial Pledged Shares" and "Issuers" in Section 1.03, and Sections 2.04, 2.05 and 5.01(b)]

PART A

<u>Initial Pledged Shares</u>	<u>Issuer</u>	<u>Obligor</u>
100% membership interest	e-Cycle, LLC	Telogy, LLC
650 registered shares (representing 65% of the total issued and outstanding shares thereof)	Telogy International N.V.	Telogy, LLC

PART B

<u>Promissory Notes</u>	<u>Issuer</u>	<u>Obligor</u>
-------------------------	---------------	----------------

NONE.

Annex 3 to Security and Pledge Agreement

NY274688284v8

ANNEX 4

**LIST OF COPYRIGHTS, COPYRIGHT REGISTRATIONS AND APPLICATIONS FOR
COPYRIGHT REGISTRATIONS**

[See definition of "Copyright Collateral" in Section 1.03 and Section 2.06]

NONE.

Annex 4 to Security and Pledge Agreement

NY2:74688284v8

ANNEX 5

LIST OF PATENTS AND PATENT APPLICATIONS

[See definition of "Patent Collateral" in Section 1.03 and Section 2.06]

NONE.

Annex 5 to Security and Pledge Agreement

NY2-#4688284v8

ANNEX 6**LIST OF TRADE NAMES, TRADEMARKS, SERVICES MARKS, TRADEMARK AND SERVICE MARK REGISTRATIONS AND APPLICATIONS FOR TRADEMARK AND SERVICE MARK REGISTRATIONS**

[See definition of "Trademark Collateral" in Section 1.03 and Section 2.06]

<u>Trade Name</u>	<u>Owner</u>	<u>Registration Number</u>
Telogy	Telogy, LLC	None (other than the trademark registration number set forth below)
eCycle	e-Cycle, LLC	2559365

Notwithstanding anything to the contrary in these Annexes or in the Security and Pledge Agreement to which these Annexes are attached, other than stating that neither of the Debtors currently uses the name "Telogy BMS" in connection with their respective businesses, the Debtors make no representations or warranties of any kind or character whatsoever (including, without limitation, as to ownership or other interest therein or registration thereof) regarding the name "Telogy BMS".

<u>Trademark, Service mark registrations</u>	<u>Owner</u>	<u>Registration Number</u>
TECENTRAL	Telogy, LLC	2,562,754
TELOGY	Telogy, LLC	2,456,654

Annex 6 to Security and Pledge Agreement

NY2.#4688284v8

**LIST OF DEPOSIT ACCOUNTS, SECURITIES ACCOUNTS AND COMMODITY
ACCOUNTS**

[See Sections 2.04 and 2.07]

List of Deposit Accounts,

Operating Disbursements / Concentration

Bank of America
555 California Street
San Francisco, Ca 94104
Acct # 12337 – 07822

Tax Disbursements

Bank of America
555 California Street
San Francisco, Ca 94104
Acct # 12337 -- 07827

Payroll

Bank of America
555 California Street
San Francisco, Ca 94104
Acct # 12337 -- 07808

Investment/Securities

Bank of America
555 California Street
San Francisco, Ca 94104
Acct # 249-00398

Lockbox

Bank of America
555 California Street
San Francisco, Ca 94104
Acct # 81880 -- 02729

Letter of Credit (in support of e-Cycle Lease)

Bank of America
555 California Street
San Francisco, Ca 94104
Acct # 81880-02729

Letter of Credit (in support of Telogy Lease)

Bank of America
555 California Street
San Francisco, Ca 94104
Acct # 75227-00027

Annex 7 to Security and Pledge Agreement

NY2-#4688284v8

Other Securities Accounts and Commodities Accounts

NONE

Annex 7 to Security and Pledge Agreement

NY2:4688284v8

ANNEX 8

LIST OF COMMERCIAL TORT CLAIMS

[See Sections 2.08 and 3(p)]

NONE.

Annex 8 to Security and Pledge Agreement

NY2 #4688284v8