

TRADEMARK ASSIGNMENT

Electronic Version v1.1
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SUBMISSION TYPE:	NEW ASSIGNMENT
NATURE OF CONVEYANCE:	Amended and Restated Loan and Security Agreement

CONVEYING PARTY DATA

Name	Formerly	Execution Date	Entity Type
InstanTel Inc.		11/16/2001	CORPORATION: ONTARIO

RECEIVING PARTY DATA

Name:	Fifth Third Bank
Street Address:	233 S. Wacker Drive
Internal Address:	Suite 400
City:	Chicago
State/Country:	ILLINOIS
Postal Code:	60606
Entity Type:	CORPORATION: MICHIGAN

PROPERTY NUMBERS Total: 8

Property Type	Number	Word Mark
Registration Number:	1628968	BLASTMATE
Registration Number:	1637432	INSTANTEL
Registration Number:	1823615	WATCHMATE
Registration Number:	2292993	FINDIT
Registration Number:	2390878	HUGS
Registration Number:	2833459	KEEPIT
Registration Number:	2844176	KISSES
Registration Number:	2833540	HEARTBEAT

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Signature:	/dsg/
Date:	03/28/2007

Total Attachments: 83

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AMENDED AND RESTATED
LOAN AND SECURITY AGREEMENT

BY AND BETWEEN

FIFTH THIRD BANK

AND

INSTANTEL INC.

DATED AS OF NOVEMBER 16, 2001

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**AMENDED AND RESTATED
LOAN AND SECURITY AGREEMENT**

This Amended and Restated Loan and Security Agreement, together with all exhibits and schedules attached hereto and hereby made a part hereof ("Agreement"), is made as of November 16, 2001 by and between INSTANTEL INC., a corporation formed by amalgamation under the Business Corporations Act (Ontario) (the "Borrower"), and FIFTH THIRD BANK, a Michigan banking corporation (the "Bank").

WITNESSETH:

WHEREAS, Borrower was formed by the amalgamation of InstanTEL Acquisition Corp. ("IAC") and InstanTEL Inc. ("Predecessor InstanTEL"), each a corporation which existed under the Business Corporations Act (Ontario) ("IAC"); and

WHEREAS, IAC and Bank are parties to that certain Loan and Security Agreement dated as of October 22, 2001 (as amended, the "Existing LSA"); and

WHEREAS, pursuant to the Amalgamation (as hereinafter defined) Borrower is succeeding to all of the rights and liabilities of IAC under the Existing LSA;

NOW, THEREFORE, in consideration of the terms and conditions contained herein, and of any loans or extensions of credit heretofore, now or hereafter made to or for the benefit of Borrower by Bank, and for other consideration the receipt and adequacy of which are hereby acknowledged, Borrower and Bank hereby agree that the Existing LSA is hereby amended and restated in its entirety as follows:

1. **DEFINITIONS.**

1.1 **General Terms.** When used herein, the following terms shall have the following meanings:

"**Account Debtor**" means the party who is obligated on or under an Account.

"**Accounts**" means all "accounts" (as defined in the UCC), all "accounts" (as defined in the PPSA) and all other present and future rights of Borrower to payment for Goods sold or leased or for services rendered, which are not evidenced by Instruments or Chattel Paper, and whether or not they have been earned by performance.

"**Accounts Trial Balance**" shall have the meaning given such term in **Section 5.2(i)**.

"**Acquisition**" means any transaction or series of related transactions for the purpose of or resulting, directly or indirectly, in (a) the acquisition of all or substantially all of the assets of a Person, or of any business or division of a Person, (b) the acquisition of in excess of fifty percent (50%) of the capital stock, partnership interests or equity of any Person or otherwise causing any Person to become a Subsidiary of Borrower, or (c) a merger, amalgamation or consolidation or any other combination with another Person.

“Acquisition Agreement” means the Securities Purchase Agreement dated as of September 6, 2001 among IAC, Holdings, Borrower and each of Borrower’s former security holders listed on the signature pages to such agreement, as amended, modified, supplemented or restated in accordance with the terms hereof.

“Acquisition Documents” means the Acquisition Agreement together with any and all agreements, documents and instruments executed and delivered thereunder.

“Adjusted Working Capital” means the remainder of: (a) (i) the current assets less (ii) the amount of cash and Cash Equivalents included in such current assets; minus (b) (i) current liabilities, less (ii) the amount of Indebtedness included in such current liabilities, all as determined for Borrower and its Subsidiaries on a consolidated basis in accordance with GAAP.

“Affiliate” means, as to any Person, any other Person which, directly or indirectly, is in control of, is controlled by, or is under common control with, such Person. A Person shall be deemed to control another Person if the controlling Person possesses, directly or indirectly, the power to direct or cause the direction of the management and policies of the other Person, whether through the ownership of voting securities, by contract or otherwise. Without limitation, any director, executive officer or beneficial owner of ten percent (10%) or more of the equity of a Person shall, for the purposes of this Agreement, be deemed to control the other Person. Notwithstanding the foregoing, neither the Bank nor the Senior Subordinated Creditor shall be deemed an “Affiliate” of Borrower or of any Subsidiary of Borrower.

“Agreement” means this Amended and Restated Loan and Security Agreement, as amended, modified, supplemented or restated from time to time.

“Amalgamation” means the amalgamation of IAC with Borrower pursuant to the Business Corporations Act (Ontario) to form Instantel Inc., a corporation amalgamated under the Business Corporations Act (Ontario).

“Applicable Margin” means:

(a) for the period commencing on the Closing Date through and including the day immediately preceding the First Adjustment Date, the Applicable Margin shall equal:

(i) with respect to the Revolving Loan (y) for Index Rate Advances, one-half percent (0.50%) per annum, and (z) for LIBOR Rate Advances, three and one-quarters percent (3.25%) per annum; and

(ii) with respect to the Term Loan (y) for Index Rate Advances, one percent (1.00%) per annum, and (z) for LIBOR Rate Advances, three and three-quarters (3.75%) per annum; and

(b) commencing on the First Adjustment Date and thereafter, the Applicable Margin shall equal the percentage per annum in effect from time to time determined as set forth below based upon the Loan Type and the Senior Leverage Ratio then in effect pursuant to the appropriate column of the table below:

Senior Leverage Ratio	Revolving Loan		Term Loan	
	LIBOR Rate Advances	Index Rate Advances	LIBOR Rate Advances	Index Rate Advances
Greater than 2.25:1.00	3.50%	.75%	4.00%	1.25%
Greater than 1.75:1.00, but less than or equal to 2.25:1.00	3.25%	.50%	3.75%	1.00%
Less than or equal to 1.75:1.00	3.00%	.25%	3.50%	.75%

The Applicable Margin shall be adjusted from time to time upon delivery to Bank of the audited annual financial statements of Holdings and its Subsidiaries, as required by Section 5.1, for each Fiscal Year (commencing with such financial statement for the Fiscal Year ending December 31, 2002), accompanied by a written calculation of the Senior Leverage Ratio certified on behalf of Borrower by a Responsible Officer as of the end of the fiscal quarter for which such financial statements are delivered. If such calculation indicates that the Applicable Margin shall increase or decrease, then on the first day of the month following the date of delivery of such financial statements and written calculation the Applicable Margin shall be adjusted in accordance therewith; provided, however, that if Borrower shall fail to deliver any such financial statements for any such fiscal quarter by the date required pursuant to Section 5.1, then, at Bank's election, effective as of the first day of the month following the end of the fiscal month during which such financial statements were to have been delivered, and continuing through the first day of the month following the date (if ever) when such financial statements and such written calculation are finally delivered, the Applicable Margin shall be conclusively presumed to equal the highest Applicable Margin specified in the pricing table set forth above.

"Bank" shall have the meaning given in the preamble hereto.

"Bankruptcy Code" means the Federal Bankruptcy Reform Act of 1978 (11 U.S.C. § 101, et seq.), as amended and in effect from time to time and regulations issued from time to time thereunder.

"BIA" shall mean the Bankruptcy and Insolvency Act (Canada).

"BOMC Warrant" means that certain Common Partnership Interest Warrant, dated October 22, 2001 issued by Holdings to Senior Subordinated Creditor, as amended, modified, supplemented or restated from time to time in accordance with the terms hereof and in accordance with the terms of the Senior Subordination Agreement.

"Borrower" means Instantel Inc., a corporation formed by amalgamation under the Business Corporations Act (Ontario), and its permitted successors and assigns; provided,

however, that, prior to the Amalgamation, Borrower shall mean InstanTel Acquisition Corp., a corporation formed under the Business Corporations Act (Ontario).

“Borrowing Base” shall have the meaning given such term in Section 2.1(A).

“Borrowing Base Certificate” shall have the meaning given such term in Section 5.2.

“Business Day” means any day other than a Saturday, Sunday or other day on which commercial banks in Chicago, Illinois are authorized or required by law to close and, if the applicable Business Day relates to any LIBOR Rate Advance, a day on which dealings are carried on in the London interbank market.

“Canadian GAAP” means generally accepted accounting principles as used in Canada and as set forth from time to time in the opinions and pronouncements of the relevant Canadian public and private accounting boards and institutes, which are applicable to the circumstances as of the date of determination consistently applied.

“Capital Expenditures” means all expenditures which, in accordance with GAAP, would be required to be capitalized and shown on the consolidated balance sheet of Borrower, including without limitation, Capital Leases, but excluding expenditures made in connection with the replacement, substitution or restoration of assets to the extent financed (i) from insurance proceeds (or other similar recoveries) paid on account of the loss of or damage to the assets being replaced or restored or (ii) with awards of compensation arising from the taking by eminent domain or condemnation of the assets being replaced.

“Capital Lease” means any leasing or similar arrangement which, in accordance with GAAP, is classified as a capital lease.

“Capital Lease Obligations” means all monetary obligations of Borrower or any of its Subsidiaries under any Capital Lease.

“Cash Collateral Account” shall have the meaning given such term in the EVI LSA.

“Cash Equivalents” means: (a) securities issued or fully guaranteed or insured by the United States Government, the federal government of Canada or any agency or subdivision thereof having maturities of not more than twelve (12) months from the date of acquisition; (b) certificates of deposit, time deposits, repurchase agreements, reverse repurchase agreements, or bankers’ acceptances, having in each case a tenor of not more than six (6) months, issued by (i) Bank, (ii) any U.S. commercial bank, or (iii) any branch or agency of a non-U.S. bank licensed to conduct business in the U.S. or Canada or any Canadian-chartered bank, in each case having combined capital and surplus of not less than \$250,000,000; (c) commercial paper of an issuer rated at least A-I by Standard & Poor’s Corporation or P-I by Moody’s Investors Service Inc. and in either case having a tenor of not more than six (6) months.

“CCAA” shall mean the Companies’ Creditors Arrangement Act (Canada).

“Change in Control” means (A) any Person other than Prairie shall control Holdings, (B) Prairie ceases to possess the power to elect at least two of the four members of the Board (as defined in the Partnership Agreement) and no person other than Prairie possesses the voting power to elect a majority of the Board (as defined in the Partnership Agreement), (C) InterAir GP, Inc. shall cease to be the general partner of Holdings, (D) any sale, transfer or issuance or series of sales or issuances of Holdings’ partnership interests by Holdings or any holder or holders thereof, or any merger, consolidation or other transaction involving Holdings, immediately after which Prairie no longer holds record and beneficial ownership of a majority of Holdings’s Preferred Partnership Interests (as defined in the Partnership Agreement) or (E) any sale of all or substantially all of Holdings’s and its Subsidiaries’ assets on a consolidated basis.

“Chattel Paper” means, collectively, “chattel paper” (as defined in the UCC) and “chattel paper” (as defined in the PPSA), together with any and all accessions and appurtenances thereto, whether presently owned or hereafter arising or acquired by Borrower.

“Closing Date” means the date on which the initial loan or advance is made by Bank to Borrower hereunder.

“Code” means the Internal Revenue Code of 1986, and regulations promulgated thereunder.

“Collateral” means all property and interests in property and Proceeds thereof now owned or hereafter arising or acquired by Borrower or any other Person as debtor and their respective Subsidiaries in or upon which a Lien now or hereafter exists in favor of Bank, whether under this Agreement or under any other documents executed by any such Persons and delivered to Bank.

“Collateral Documents” means, collectively, this Agreement, the EVI Guaranty, the Holdings Guaranty, the Parent Guaranty, the Holdings Pledge Agreements, the Parent Pledge Agreement, any collateral assignment of the Acquisition Documents in favor of Bank, any patent, copyright, license and trademark security agreement, any assignment of life insurance policies as collateral, and all other security agreements, lease assignments, guarantees and other similar agreements, and all amendments, restatements, modifications or supplements thereof or thereto, by or between any one or more of Borrower or its Subsidiaries and Bank, now or hereafter delivered to Bank pursuant to or in connection with the transactions contemplated hereby, and all Financing Statements (or comparable documents now or hereafter filed in accordance with the UCC, the PPSA or comparable law) against Borrower or its Subsidiaries, as debtor, in favor of Bank, as secured party, in each case as amended, restated, supplemented or otherwise modified from time to time.

“Commitment” means the Revolving Commitment, as hereinafter defined.

“Computation Period” means each period of four consecutive Fiscal Quarters ending on the last day of a Fiscal Quarter beginning with the Fiscal Quarter ending December 31, 2001; provided, however, the Computation Period for the Fixed Charge Coverage Ratio and for the Interest Coverage Ratio for any Computation Period ending on or before June 30, 2002 shall begin with the Closing Date and end with the last day of such Computation Period.

“Consolidated Net Income” means, for any period for any Person and its Subsidiaries, the consolidated net after-tax income (or loss) of such Person and its Subsidiaries for such period determined in accordance with GAAP consistently applied; provided that in determining Consolidated Net Income hereunder, the following items shall be excluded: (i) gains from the sale or disposition of assets outside of the ordinary course of business and extraordinary gains (determined in accordance with GAAP consistently applied) and any gains from discontinued operations, (ii) income (and losses) of any other Person (other than Wholly-Owned Subsidiaries of such Person) in which such Person or any of its Subsidiaries has an ownership interest unless received by such Person or one of its Subsidiaries in a cash distribution and (iii) income (and losses) of any other Person realized prior to the date it became a Subsidiary of such Person or is merged into or consolidated with such Person or any of its Subsidiaries or prior to the date such other Person’s assets are acquired by such Person or any of its Subsidiaries.

“Consulting Agreement” means that certain Amended and Restated Consulting Agreement dated as of October 22, 2001, by and between Holdings and SE Capital, as amended, modified, supplemented or restated to the extent permitted hereunder, together with any and all agreements, documents and instruments executed and delivered thereunder.

“Consulting Fee Distributions” shall have the meaning given such term in Section 6.7(b).

“Contingent Obligation” means, as to any Person, any direct or indirect liability, contingent or otherwise, of such Person: (i) with respect to any indebtedness, lease, dividend or other obligation of another Person if the primary purpose or intent of the Person incurring such liability, or the primary effect thereof, is to provide assurance to the obligee of such liability that such liability will be paid or discharged, or that any agreements relating thereto will be complied with, or that the holders of such liability will be protected (in whole or in part) against loss with respect thereto; (ii) with respect to any letter of credit issued for the account of such Person or as to which such Person is otherwise liable for reimbursement of drawings; (iii) under any Rate Contracts; (iv) to make take-or-pay or similar payments if required regardless of nonperformance by any other party or parties to an agreement; or (v) for the obligations of another Person through any agreement to purchase, repurchase or otherwise acquire such obligation or any property constituting security therefor, to provide funds for the payment or discharge of such obligation or to maintain the solvency, financial condition or any balance sheet item or level of income of another Person, including without limitation any “Guarantee” (as such term is defined in the Senior Subordinated Purchase Agreement). The amount of any Contingent Obligation shall be equal to the amount of the obligation so guaranteed or otherwise supported or, if not a fixed and determined amount, the maximum amount so guaranteed or supported.

“Contractual Obligations” means, as to any Person, any provision of any security issued by such Person or of any agreement, undertaking, contract, indenture, mortgage, deed of trust or other instrument, document or agreement to which such Person is a party or by which it or any of its property is bound.

“Controlled Group” means Borrower and all Persons (whether or not incorporated) under common control or treated as a single employer with Borrower pursuant to Section 414(b), (c), (m) or (o) of the Code.

“Default” means the occurrence or existence of any one or more of the events described in Section 9.1 hereof.

“Depository Bank” shall have the meaning given such term in Section 5.20.

“Designated Portion” means, at any particular time, that portion of the Term Loan or the Revolving Loan selected by Borrower for any single Interest Period to bear interest at a LIBOR Rate, which amount is \$50,000 or an integral multiple thereof.

“Disposition” means (a) the sale, lease, conveyance or other disposition of Property (excluding sales or other dispositions expressly permitted under Sections 6.3(a) and (c)), and (b) the sale or transfer by Borrower or any Subsidiary of Borrower of any equity securities issued by any Subsidiary of Borrower and held by such transferor Person, but specifically excluding (i) the granting of Liens to the extent otherwise permitted under Section 6.1 and (ii) the making or liquidation of Investments to the extent permitted under Section 6.5.

“Documents of Title” means, collectively, “documents” (as defined in the UCC) and “documents of title” (as defined in the PPSA), together with any and all accessions and appurtenances thereto, whether presently owned or hereafter arising or acquired by Borrower.

“Dollars”, “dollars” and “\$” each mean lawful money of the United States of America and “Cdn.\$” shall mean Canadian dollars.

“EBITDA” means, for any period, Consolidated Net Income for such period plus, to the extent deducted in determining such Consolidated Net Income, Interest Expense, income tax expense, Instantel Acquisition Fees, Consulting Fee Distributions, Parent Operating Expense Distributions, Permitted Prairie Subordinated Debt Distributions, depreciation and amortization for such period. For the purposes of any calculations required pursuant to Sections 7.2, 7.3 and 7.4 hereof, EBITDA shall be deemed to be the applicable amount set forth below for each month set forth below:

<u>Month:</u>	<u>EBITDA:</u>
January 2001	\$(19,000)
February 2001	206,000
March 2001	202,000
April 2001	239,000
May 2001	328,000
June 2001	100,000
July 2001	257,000
August 2001	199,000
September 2001	206,000

“Eligible Accounts” means Accounts of Borrower other than the following: (i) Accounts which remain unpaid more than ninety (90) days after the original date of the applicable invoice; (ii) all Accounts owing by a single Account Debtor, including a currently scheduled Account, if twenty-five percent (25%) or more of the balance owing by such Account

Debtor to Borrower is not an Eligible Account as a result of the application of the provisions of the preceding clause (i); (iii) Accounts with respect to which the Account Debtor is a director, officer, employee, Subsidiary or Affiliate of Borrower; (iv) Accounts with respect to which the Account Debtor is the United States of America or any department, agency or instrumentality thereof, unless with respect to any such Account, Borrower has complied to Bank's reasonable satisfaction with the provisions of the Federal Assignment of Claims Act of 1940, including, without limitation, executing and delivering to Bank all statements of assignment and/or notification which are in form and substance acceptable to Bank and which are deemed necessary by Bank to effectuate the assignment to Bank of such Accounts; (v) Accounts with respect to which the Account Debtor is the federal government of Canada or any subdivision thereof, or any Canadian provincial or municipal government, unless, in all cases, the Bank is satisfied that it holds first priority security, and the means to undertake collection, including, without limitation, executing and delivering to Bank all statements of assignment and/or notification which are in form and substance acceptable to Bank and which are deemed necessary by Bank to effectuate the assignment to Bank of such Accounts; (vi) Accounts with respect to which the Account Debtor is not a resident of the United States or Canada, unless the Account Debtor has supplied Borrower with an irrevocable letter of credit, issued by a financial institution satisfactory to Bank, sufficient to cover such Account and in form and substance satisfactory to Bank, or unless Bank shall otherwise consent to the inclusion of such Account as an Eligible Account; (vii) Accounts with respect to which the Account Debtor has asserted a counterclaim or a right of setoff, but only to the extent of such counterclaim or setoff; (viii) Accounts for which the prospect of payment or performance by the Account Debtor is or may be impaired as determined by Bank in its reasonable discretion; (ix) Accounts with respect to which Bank does not have a first and valid fully perfected security interest; (x) Accounts with respect to which the Account Debtor is the subject of bankruptcy or a similar insolvency proceeding or has made an assignment for the benefit of creditors or whose assets have been conveyed to a receiver or trustee; (xi) Accounts with respect to which the Account Debtor's obligation to pay the Account is conditional upon the Account Debtor's approval or is otherwise subject to any repurchase obligation or return right, as with sales made on a bill-and-hold, guaranteed sale, sale-or-return, sale on approval or consignment basis; (xii) Accounts to the extent that the Account Debtor's indebtedness to Borrower exceeds a credit limit determined by Bank in Bank's sole discretion; and (xiii) Accounts with respect to an Account Debtor that is located in any jurisdiction which has adopted a statute or other requirement with respect to which any Person that obtains business from within such jurisdiction must file a notice of business activities report or make any other required filings in a timely manner in order to enforce its claims in such jurisdiction's courts unless such notice of business activities report has been duly and timely filed or Borrower is exempt from filing such report and has provided Bank with satisfactory evidence of such exemption.

"Eligible Inventory" means Inventory of Borrower other than the following: (i) Inventory which is obsolete, not in good condition, or not either currently usable or currently salable in the Ordinary Course of Business; (ii) Inventory which Bank determines, in Bank's reasonable discretion and in accordance with Bank's customary business practices, to be unacceptable due to age, type, category and/or quantity and such Inventory shall include, but not be limited to, supplies; (iii) Inventory which is not subject to internal control and management procedures acceptable to Bank, in Bank's reasonable discretion; (iv) Inventory with respect to

which Bank does not have a first and valid fully perfected security interest; (v) Inventory which is stored or placed with a customer, bailee, consignee, warehouseman, supplier, lessor (unless Borrower has obtained and delivered to Bank a landlord's waiver, in form and substance satisfactory to Bank, executed by such lessor), processor or similar party; (vi) Inventory delivered to Borrower on consignment; (vii) any Goods sold or subject to a sale on a bill-and-hold basis; (viii) Inventory which is not located at one of the locations designated on Schedule 4.21 hereto; and (ix) work-in-process.

"Employment Agreements" means, collectively, the employment, non-compete and confidentiality agreements between Borrower and each of Brian Martin and Daniel A. Gunther, as amended, modified, supplemented or restated to the extent permitted hereunder, together with any and all agreements, documents and instruments executed and delivered thereunder.

"Environmental Claims" means all written claims by any Governmental Authority or other Person alleging potential liability or responsibility for violation of any Environmental Law, or for release or injury to the environment or threat to public health, personal injury (including sickness, disease or death), property damage, natural resources damage, or otherwise alleging liability or responsibility for damages (punitive or otherwise), cleanup, removal, remedial or response costs, restitution, civil or criminal penalties, injunctive relief, or other type of relief, resulting from or based upon the presence, placement, discharge, emission or release (including intentional and unintentional, negligent and non-negligent, sudden or non-sudden, accidental or non-accidental, placement, spills, leaks, discharges, emissions or releases) of any Hazardous Material at, in, or from Property, whether or not owned by Borrower.

"Environmental Laws" means all applicable federal, state, provincial or local laws, statutes, rules, regulations, ordinances and codes, together with all administrative orders, directed duties, licenses, authorizations and permits of, and agreements with, any Governmental Authorities, in each case relating to environmental, health, safety and land use matters; including, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, the Clean Air Act, the Federal Water Pollution Control Act of 1972, the Solid Waste Disposal Act, the Federal Resource Conservation and Recovery Act, the Toxic Substances Control Act, the Emergency Planning and Community Right-to-Know Act and all applicable Canadian, foreign, federal, provincial, state, municipal, or local laws, statutes or by-laws or ordinances relating to the environment, occupational safety, health, product liability, and transportation, including, without limitation, the following: The Environmental Quality Act R.S.Q. c.Q-2, the Hazardous Products Act, R.S. c. 1185, c. H-3, the Canadian Environmental Protection Act, S.C. 1988, c. 22, the Environmental Protection Act, R.S.O. 1980, c. 141, the Ontario Water Resources Act, R.S.O. 1980, c. 3 and any other applicable laws, in each case as amended from time to time.

"Environmental Permits" shall have the meaning given such term in Section 4.12.

"Equipment" means, collectively, all of the "equipment" (as defined in the UCC), all "equipment" (as defined in the PPSA) and all "fixtures" (as defined in the UCC) of Borrower, together with any and all accessions, parts and appurtenances thereto, whether presently owned or hereafter arising or acquired by Borrower.

“Equity Documents” means that certain Amended and Restated Securities Purchase Agreement dated as of October 22, 2001 between Holdings and Prairie, as the same may be amended, modified or supplemented in accordance with the terms hereof, together with any and all agreements, documents and instruments executed and delivered thereunder.

“ERISA” means the Employee Retirement Income Security Act of 1974, as amended from time to time, and regulations promulgated thereunder.

“ERISA Affiliate” means any trade or business (whether or not incorporated) under common control with Borrower within the meaning of Section 414(b), 414(c) or 414(m) of the Code.

“ERISA Event” means (a) a Reportable Event with respect to a Plan or a Multiemployer Plan; (b) a withdrawal by Borrower or any ERISA Affiliate from a Plan subject to Section 4063 of ERISA during a plan year in which it was a substantial employer (as defined in Section 4001(a)(2) of ERISA); (c) a complete or partial withdrawal by Borrower or any ERISA Affiliate from a Multiemployer Plan; (d) the filing of a notice of intent to terminate with the PBGC, the treatment of a plan amendment as a termination under Section 4041 or 4041A of ERISA or the commencement of proceedings by the PBGC to terminate, a Plan or Multiemployer Plan subject to Title IV of ERISA; (e) a failure by Borrower or any member of the Controlled Group to make required contributions to a Qualified Plan or Multiemployer Plan; (f) an event or condition which might reasonably be expected to constitute grounds under Section 4042 of ERISA for the termination of, or the appointment of a trustee to administer, any Plan or Multiemployer Plan; (g) the imposition of any liability under Title IV of ERISA, other than PBGC premiums due but not delinquent under Section 4007 of ERISA, upon Borrower or any ERISA Affiliate; (h) an application for a funding waiver or an extension of any amortization period pursuant to Section 412 of the Code with respect to any Qualified Plan; (i) a non-exempt prohibited transaction occurs with respect to any Qualified Plan for which Borrower or any Subsidiary of Borrower may be directly or indirectly liable; or (j) a violation of the applicable requirements of Section 404 or 405 of ERISA or the exclusive benefit rule under Section 401(a)(2) of the Code by any fiduciary or disqualified person with respect to any Qualified Plan for which Borrower or any member of the Controlled Group may be directly or indirectly liable.

“Escrow Agreement” means that certain Escrow Agreement dated as of October 22, 2001 among Borrower, Mark Norton, on behalf of himself and the other Sellers (as defined in the Acquisition Agreement) and CIBC Mellon Trust Company.

“Event of Default” means a Default or an event which through the passage of time or the giving of notice or both would mature into a Default.

“Event of Loss” means, with respect to any Property, any of the following: (a) any loss, destruction or damage of such Property; or (b) any actual condemnation, seizure or taking, by exercise of the power of eminent domain or otherwise, of such Property, or confiscation of such Property or the requisition of the use of such Property.

“EVI” means EVI Technology LLC, a Delaware limited liability company, formerly known as EVI Acquisition Company LLC.

“EVI Guaranty” means that certain Limited Guaranty, dated as of October 22, 2001, substantially in the form attached hereto as Exhibit 1.1-C, made by EVI in favor of Bank, as amended, restated, supplemented or otherwise modified from time to time.

“EVI LSA” means that certain Loan and Security Agreement, dated as of October 4, 2001, between EVI and Bank, as amended, restated, supplemented or otherwise modified from time to time.

“Excess Cash Flow” means, for any period, the remainder of (a) EBITDA for such period (but excluding any period prior to the “Closing Date” (as defined in the Acquisition Agreement)), less (b) the sum, without duplication, of (i) all required payments of principal, interest and other amounts on all Indebtedness (including payments on Capital Leases), plus (ii) Capital Expenditures for such period to the extent (x) not financed with purchase money Indebtedness provided by third parties or (y) not representing the incurrence of Capital Leases, plus (iii) all federal, state, provincial, local and foreign income taxes paid in cash during such period, plus (iv) Consulting Fee Distributions, plus (v) Parent Operating Expense Distributions, less (c) any net increase in Adjusted Working Capital during such period (plus in the case of any net decrease in Adjusted Working Capital).

“Exchange Act” means the Securities and Exchange Act of 1934, and regulations promulgated thereunder.

“Federal Reserve Board” means the Board of Governors of the Federal Reserve System, or any entity succeeding to any of its principal functions.

“Fifth Third Index Rate” means the rate which Bank publicly announces, publishes or designates from time to time as its index rate, or any successor rate thereto, in effect at its principal office. The Fifth Third Index Rate is a reference rate and does not necessarily represent the lowest or best rate actually charged to any customer. Bank may make commercial loans or other loans at rates of interest at, above or below the Fifth Third Index Rate. Any change in the Fifth Third Index Rate shall be effective for purposes of this Agreement on the date of such change without notice to Borrower.

“Financing Agreements” means this Agreement, the Notes, the Collateral Documents, any Rate Contracts entered into by Borrower with Bank or any Affiliate of Bank and all documents delivered to Bank in connection therewith, in each case as amended, restated, supplemented or otherwise modified from time to time.

“Financing Statement” means, collectively, “financing statement” (as defined in the UCC), “financing statement” (as defined in the PPSA) and “financing change statement” (as defined in the PPSA).

“First Adjustment Date” means the date on which the audited annual financial statements of Holdings and its Subsidiaries shall have been delivered to Bank pursuant to Section 5.1 for the fiscal year ending December 31, 2002, accompanied by a written calculation of the Senior Leverage Ratio.

“Fiscal Quarter” means a fiscal quarter of a Fiscal Year.

“Fiscal Year” means the fiscal year of Borrower ending on December 31 of each year.

“Fixed Charge Coverage Ratio” means Operating Cash Flow Available divided by Fixed Charges, all as determined for Borrower and its Subsidiaries on a consolidated basis in accordance with GAAP.

“Fixed Charges” means for any period the sum of, without duplication, (i) Interest Expense paid or payable in cash plus (ii) scheduled or required payments of principal on Indebtedness (other than payments required under Sections 2.3(C) and 2.3(D) of this Agreement) and all scheduled permanent revolving credit commitment reductions on all Indebtedness of such Person and its Subsidiaries for such period plus, (iii) all federal, state, provincial, local and foreign or other income or similar taxes paid or payable in cash for such period and all Restricted Payments made to Holdings or Parent for the purpose of paying such taxes of Holdings, Parent or their partners or shareholders, plus (iv) all Permitted Prairie Subordinated Debt Distributions, plus (v) scheduled payments on Capital Leases, each as paid or payable for such period and all as determined for Borrower and its Subsidiaries on a consolidated basis in accordance with GAAP.

“GAAP” means generally accepted accounting principles as used in the United States and as set forth from time to time in the opinions and pronouncements of the Accounting Principles Board and the American Institute of Certified Public Accountants and statements and pronouncements of the Financial Accounting Standards Board (or agencies with similar functions of comparable stature and authority within the accounting profession), which are applicable to the circumstances as of the date of determination consistently applied.

“General Intangibles” means all “general intangibles” (as defined in the UCC), all “intangibles” (as defined in the PPSA) and all other choses in action, causes of action and all other intangible personal property of Borrower of every kind and nature (other than Accounts) now owned or hereafter arising or acquired by Borrower, including, without limitation, corporate or other business records, inventions, designs, patents, patent applications, service marks, trademarks, trademark applications, trade names, trade styles, trade secrets, goodwill, registrations, computer software, domain names, operational manuals, product formulas, blueprints, drawings, copyrights, copyright applications, licenses, franchises, customer lists, rights and claims against carriers and shippers, rights to indemnification and the like, wherever located, Proceeds of insurance covering the lives of key employees on which Borrower is beneficiary, tax refunds, tax refund claims, and any letter of credit, guaranty, security interest, lien rights or other security held by or granted to Borrower to secure payment by an Account Debtor and the like, wherever located.

“Goods” means, collectively, “goods” (as defined in the UCC) and “goods” (as defined in the PPSA), together with any and all accessions and appurtenances thereto, whether presently owned or hereafter arising or acquired by Borrower.

“Governmental Authority” means any nation or government, any state, province or other political subdivision thereof, any central bank (or similar monetary or regulatory

authority) thereof, any entity exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to government, and any corporation or other entity owned or controlled, through stock or capital ownership or otherwise, by any of the foregoing.

“Hazardous Materials” means all those substances which are regulated by, or which may form the basis of liability under, any Environmental Law.

“Holdings” means InterAir, L.P., a Delaware limited partnership.

“Holdings Guaranty” means that certain Guaranty, dated as of October 22, 2001, substantially in the form attached hereto as Exhibit 1.1-D, made by Holdings in favor of Bank, as amended, restated, supplemented or otherwise modified from time to time.

“Holdings Pledge Agreements” means those certain Pledge Agreements, dated as of October 22, 2001, substantially in the forms attached hereto as Exhibits 1.1-E, 1.1-F and 1.1-G, made by Holdings in favor of Bank, as amended, restated, supplemented or otherwise modified from time to time.

“IAC” means InstanTel Acquisition Corp., a corporation incorporated under the Ontario Business Corporation Act that has amalgamated with Predecessor InstanTel pursuant to the Amalgamation to form Borrower.

“Indebtedness” of any Person means, without duplication: (a) all indebtedness for borrowed money; (b) all obligations issued, undertaken or assumed as the deferred purchase price of property or services (other than trade payables entered into in the Ordinary Course of Business or accrued expenses paid on customary terms in the Ordinary Course of Business); (c) all reimbursement or payment obligations with respect to letters of credit, surety bonds and other similar instruments; (d) all obligations evidenced by notes, bonds, debentures or similar instruments, including obligations so evidenced incurred in connection with the acquisition of property, assets or businesses; (e) all indebtedness created or arising under any conditional sale or other title retention agreement, or incurred as financing, in either case with respect to Property acquired by the Person (even though the rights and remedies of the seller or the Person providing financing under such agreement in the event of default are limited to repossession or sale of such property); (f) all Capital Lease Obligations; (g) all indebtedness referred to in clauses (a) through (f) above secured by (or for which the holder of such Indebtedness has an existing right, contingent or otherwise, to be secured by) any Lien upon or in Property (including accounts and contracts rights) owned by such Person, even though such Person has not assumed or become liable for the payment of such indebtedness; and (h) all Contingent Obligations described in clause (i) of the definition thereof in respect of indebtedness or obligations of others of the kinds referred to in clauses (a) through (g) above; provided, however, for the purposes of Section 7 of this Agreement, Indebtedness shall include without limitation all “Consolidated Indebtedness” (as such term is defined in the Senior Subordinated Purchase Agreement).

“Indemnified Matters” shall have the meaning given such term in Section 10.19.

“Indemnitees” shall have the meaning given such term in Section 10.19.

“Index Rate Advance” means that portion of the Revolving Loan or the Term Loan bearing interest calculated by reference to the Fifth Third Index Rate.

“InstanTel Acquisition” means the acquisition by IAC of at least 90% of the capital stock of Predecessor InstanTel, as contemplated by the Acquisition Documents.

“InstanTel Acquisition Fees” means fees and expenses incurred in connection with the InstanTel Acquisition not to exceed \$1,400,000 in the aggregate.

“Instrument” means, collectively, “instruments” (as defined in the UCC) and “instruments” (as defined in the PPSA), together with any and all accessions and appurtenances thereto, whether presently owned or hereafter arising or acquired by Borrower.

“Interest Coverage Ratio” means Operating Cash Flow Available divided by cash Interest Expense, all as determined for Borrower and its Subsidiaries on a consolidated basis in accordance with GAAP.

“Interest Expense” means, for any period, the consolidated interest expense of Borrower and its Subsidiaries for such period (including all imputed interest on Capital Leases paid in cash), all as determined on a consolidated basis in accordance with GAAP.

“Interest Period” means any period relating to LIBOR Rate Advances, the commencement of which shall be determined in accordance with Section 2.11 and expiring one, two or three months thereafter, as specified by Borrower in accordance with Section 2.10.

“Inventory” means all “inventory” (as defined in the UCC), all “inventory” (as defined in the PPSA) and any and all other Goods, including, without limitation, Goods in transit, wheresoever located, whether now owned or hereafter arising or acquired by Borrower, which are held for sale or lease, furnished under any contract of service or held as raw materials, work-in-process or supplies, and all materials used or consumed in Borrower’s business, and shall include such property the sale or other disposition of which has given rise to Accounts and which has been returned to or repossessed or stopped in transit by Borrower.

“Investment Property” means, collectively, “investment property” (as defined in the UCC) and “security” (as defined in the PPSA), together with any and all accessions and appurtenances thereto, whether presently owned or hereafter arising or acquired by Borrower.

“Inventory Sublimit” mean \$850,000.

“Investments” shall have the meaning given such term in Section 6.5.

“knowledge” or “aware” means and includes (i) the actual knowledge or awareness of the Borrower and its Subsidiaries (which shall include the actual knowledge and awareness of each of the other officers, directors and general managers of the Borrower and each of its Subsidiaries), including without limitation, their successors in their respective capacities and (ii) the knowledge or awareness which a prudent business person would have obtained in the conduct of his business after making reasonable inquiry and reasonable diligence with respect to the particular matter in question.

“L/C Facility” shall have the meaning given such term in Section 2.1(B).

“L/C Fee” shall have the meaning given such term in Section 2.6(D).

“Lending Affiliate” means (a) each office and branch of Bank, and (b) each entity which, directly or indirectly, is controlled by or under common control with Bank or which controls Bank and each office and branch thereof.

“Letters of Credit” means any letters of credit which are now or at any time hereafter issued by Bank at the request of and for the account of Borrower and which have not expired or been revoked or terminated.

“Liabilities” means all of Borrower’s liabilities, obligations, and indebtedness to Bank of any and every kind and nature, whether heretofore, now or hereafter owing, arising, due or payable and howsoever evidenced, created, incurred, acquired, or owing, whether primary, secondary, direct, contingent, fixed or otherwise (including obligations of performance) and whether arising or existing under written agreement, oral agreement or operation of law, including, without limitation, all of Borrower’s reimbursement obligations, whether contingent or liquidated, with respect to any Letter of Credit and all of Borrower’s other indebtedness and obligations to Bank under this Agreement and the other Financing Agreements.

“LIBOR” means, for each Interest Period, the offered rate per annum for deposits of Dollars for the applicable Interest Period that appears on Telerate Page 3750 (or its successor) as of 11:00 A.M. (London, England time) two (2) Business Days prior to the first day in such Interest Period. If no such offered rate exists, such rate will be the rate of interest per annum, as determined by Bank (rounded upwards, if necessary, to the nearest 1/16th of 1%) at which deposits of Dollars in immediately available funds are offered at 11:00 A.M. (London, England time) two (2) Business Days prior to the first day in such Interest Period by major financial institutions reasonably satisfactory to the Bank in the London interbank market for such Interest Period for the applicable principal amount on such date of determination.

“LIBOR Rate” means the annual rate of interest, rounded upward to the nearest 1/16th of 1% determined by Bank with respect to an Interest Period, in accordance with the following formula:

$$\text{LIBOR Rate} = \frac{\text{LIBOR}}{(1 - \text{Reserve Rate})}$$

“LIBOR Rate Advances” means that portion of the Revolving Loan or the Term Loan bearing interest calculated by reference to the LIBOR Rate.

“Lien” means any mortgage, deed of trust, pledge, hypothecation, assignment, charge or deposit arrangement, encumbrance, lien (statutory or other) or preference, priority or other security interest or preferential arrangement of any kind or nature whatsoever (including, but not limited to, those created by, arising under or evidenced by any conditional sale or other title retention agreement, the interest of a lessor under a Capital Lease, any financing lease having substantially the same economic effect as any of the foregoing, or the filing of any

Financing Statements naming the owner of the asset to which such lien relates as debtor, under the UCC, the PPSA or any comparable law), any “Liens” (as such term is defined in the Senior Subordinated Purchase Agreement) and any contingent or other agreement to provide any of the foregoing, but not including the interest of a lessor under a lease which is not a Capital Lease.

“Loan Account” shall have the meaning given such term in Section 2.4.

“Loan Types” shall have the meaning given such term in Section 2.9.

“Loans” means, collectively, the Revolving Loan and the Term Loan.

“Loss” shall have the meaning given such term in Section 9.1(F).

“Margin Stock” means “margin stock” as such term is defined in Regulation T, U or X of the Federal Reserve Board.

“Material Adverse Effect” means (a) a material adverse change in, or a material adverse effect upon, the operations, business, properties or financial condition of Borrower and its Subsidiaries taken as a whole; (b) a material impairment of the ability of Borrower and its Subsidiaries taken as a whole to perform in any material respect its obligations under any Financing Agreement; or (c) a material adverse effect upon (i) the legality, validity, binding effect or enforceability of any Financing Agreement such that the Bank would be unable to realize the benefits thereof, or (ii) the perfection or priority of any Lien granted to Bank on any material Property under any of the Collateral Documents.

“Maximum Revolving Facility” means \$2,000,000.

“Money” means, collectively, “money” (as defined in the UCC) and “money” (as defined in the PPSA), together with any and all accessions and appurtenances thereto, whether presently owned or hereafter arising or acquired by Borrower.

“Multiemployer Plan” means a “multiemployer plan” (within the meaning of Section 4001(a)(3) of ERISA) and to which Borrower or any member of the Controlled Group makes, is making, or is obligated to make contributions or, during the preceding three calendar years, has made, or been obligated to make, contributions.

“Net Issuance Proceeds” means, in respect of any issuance of debt or equity, cash proceeds received (and receivable, but only upon receipt) in connection therewith (including, without limitation, cash proceeds received (and receivable, but only upon receipt) in connection with any non-cash proceeds received or receivable in respect of such issuance), net of reasonable out-of-pocket costs and expenses paid or incurred in connection therewith in favor of any Person not an Affiliate of Borrower.

“Net Proceeds” means proceeds in cash, checks or other cash equivalent financial instruments (including Cash Equivalents) as and when received by the Person making a Disposition, net of: (a) the direct costs relating to such Disposition excluding amounts payable to Borrower or any Affiliate of Borrower, (b) sale, use or other transaction taxes, including income taxes, paid or payable as a result thereof, (c) amounts required to be applied by such Person to

repay principal, interest and prepayment premiums and penalties on Indebtedness secured by a Lien on the asset which is the subject of such Disposition, and (d) amounts required to be maintained as a reserve against liabilities associated with such Disposition in accordance with GAAP. "Net Proceeds" shall also include proceeds received on account of any Event of Loss net of (i) all money actually applied to, or committed to be applied to, repair, reconstruct or replace the damaged property or property affected by the condemnation or taking, (ii) all of the costs and expenses reasonably incurred in connection with the collection of such proceeds, award or other payments, (iii) any amounts retained by or paid to parties having superior rights to such proceeds, awards or other payments and (iv) any taxes (including income, transfer, stamp, duty, customs, withholding and other taxes) paid or payable in respect of amounts so received on account of such Event of Loss.

"Notes" means, collectively, the Revolving Note and the Term Note.

"Operating Cash Flow Available" means EBITDA less Capital Expenditures (other than Capital Expenditures financed with the proceeds of purchase money Indebtedness or Capital Leases), all as determined for Borrower and its Subsidiaries on a consolidated basis in accordance with GAAP.

"Ordinary Course of Business" means, in respect of any transaction involving Borrower or any Subsidiary of Borrower, the ordinary course of such Person's business, as conducted by such Person in accordance with past practice and undertaken by such Person in good faith and not for purposes of evading any covenant or restriction in any Financing Agreement.

"Organization Documents" means, (a) for any corporation, the certificate or articles of incorporation, the bylaws, any certificate of determination or instrument relating to the rights of preferred shareholders of such corporation, any shareholder rights agreement, and all applicable resolutions of the board of directors (or any committee thereof) of such corporation, (b) for any partnership, the partnership agreement and, if applicable, certificate of limited partnership or (c) for any limited liability company, the operating agreement and articles or certificate of formation, and all applicable resolutions of the board of managers (or any committee thereof) of such limited liability company.

"Parent" means InstanTEL Holding Company s.a.r.l., a Luxembourg société à responsabilité limitée.

"Parent Guaranty" means that certain Guaranty, dated as of October 22, 2001, substantially in the form attached hereto as Exhibit 1.1-H, made by Parent in favor of Bank, as amended, restated, supplemented or otherwise modified from time to time.

"Parent Operating Expense Distributions" shall have the meaning given such term in Section 6.7.

"Parent Pledge Agreement" means that certain Pledge Agreement, dated as of October 22, 2001, substantially in the form attached hereto as Exhibit 1.1-I, made by Parent in favor of Bank, as amended, restated, supplemented or otherwise modified from time to time.

“Partnership Agreement” means that certain Agreement of Limited Partnership of InterAir, L.P., dated as of June 13, 2001, among InterAir GP, Inc., a Delaware corporation, as general partner, Prairie, SE Capital, Jeffrey C. Kvam and Brad A. Bernstein, as the same may be amended, modified or supplemented from time to time.

“PBGC” means the Pension Benefit Guaranty Corporation or any entity succeeding to any of its principal functions under ERISA.

“Permitted Liens” shall have the meaning given such term in Section 6.1.

“Permitted Prairie Subordinated Debt Distribution” shall have the meaning given such term in Section 6.11(c).

“Person” means an individual, partnership, corporation, limited liability company, business trust, joint stock company, trust, unincorporated association, joint venture or Governmental Authority.

“Plan” means any defined benefit plan (as defined in Section 3(35) of ERISA), which Borrower or any member of the Controlled Group sponsors or maintains or to which Borrower or any member of the Controlled Group makes, is making or is obligated to make contributions.

“Pledged Collateral” means “Collateral” as such term is defined in each of the Holdings Pledge Agreements and the Parent Pledge Agreement.

“Post-Default Rate” shall have the meaning given such term in Section 2.6(A).

“PPSA” means the Personal Property Security Act (Ontario), as in effect from time to time.

“Prairie” means Prairie Capital II, L.P., a Delaware limited partnership, and its Affiliates.

“Prairie Subordinated Note” shall have the meaning given such term in the EVI LSA.

“Proceeds” means, collectively, “proceeds” (as defined in the UCC) and “proceeds” (as defined in the PPSA).

“Pro-Forma Balance Sheet” shall have the meaning given such term in Section 4.11.

“Property” means any interest in any kind of property or asset, whether real, personal or mixed, and whether tangible or intangible.

“Qualified Plan” means a pension plan (as defined in Section 3(2) of ERISA) intended to be tax-qualified under Section 401(a) of the Code and which Borrower or any member of the Controlled Group sponsors, maintains, or to which Borrower or any member of

the Controlled Group makes, is making or is obligated to make contributions, or in the case of a multiple employer plan (as described in Section 4064(a) of ERISA) has made contributions at any time during the immediately preceding period covering at least five (5) plan years, but excluding any Multiemployer Plan.

“Rate Contracts” means swap agreements (as such term is defined in Section 101 of Bankruptcy Code), eligible financial contracts (as such term is defined in the BIA) and any other agreements or arrangements designed to provide protection against fluctuations in interest or currency exchange rates.

“Related Documents” means, collectively, the Acquisition Documents, the Consulting Agreement, the Partnership Agreement, the Escrow Agreement, the Employment Agreements and the Equity Documents.

“Related Transactions” means the transactions contemplated by the Senior Subordinated Debt Documents, and the Related Documents and includes, without limitation, the InstanTel Acquisition and the Amalgamation.

“Remittance Account” shall have the meaning given such term in Section 5.21.

“Remittance Bank” shall have the meaning given such term in Section 5.21.

“Reportable Event” means, as to any Plan, (a) any of the events set forth in Section 4043(c) of ERISA or the regulations thereunder, other than any such event for which the 30-day notice requirement under ERISA has been waived in regulations issued by the PBGC, (b) a withdrawal from a Plan described in Section 4063 of ERISA, or (c) a cessation of operations described in Section 4062(e) of ERISA.

“Requirement of Law” means, as to any Person, any law (statutory or common), ordinance, treaty, rule, regulation, order, policy, other legal requirement or determination of an arbitrator or of a Governmental Authority, in each case applicable to or binding upon such Person or any of its property or to which such Person or any of its property is subject.

“Reserve Rate” means the maximum reserve rate (including, without limitation, supplemental, marginal and emergency reserve requirements), expressed as a decimal, determined by Bank to be the rate which would be applicable to the relevant Interest Period under Regulation D of the Board of Governors of the Federal Reserve System (or any successor or similar regulation relating to such reserve requirements) with respect to eurocurrency funding (currently referred to as “Eurocurrency Liabilities” in Regulation D) of a member of the Federal Reserve System, whether or not such fundings were outstanding. The Reserve Rate on the Closing Date is zero, but may change thereafter.

“Responsible Officer” means the chief executive officer or the president of Borrower, or any other officer having substantially the same authority and responsibility; or, with respect to compliance with financial covenants or delivery of financial information, the chief financial officer or the treasurer of Borrower, or any other officer having substantially the same authority and responsibility.

“Restricted Payments” shall have the meaning given such term in Section 6.11.

“Revolving Commitment” shall have the meaning given such term in Section 2.1(A).

“Revolving Loan” shall have the meaning given such term in Section 2.1(A).

“Revolving Note” shall have the meaning given such term in Section 2.1(A).

“SE Capital” means SE Capital Fund I, LP.

“SEC” means the Securities and Exchange Commission, or any entity succeeding to any of its principal functions.

“Sellers” has the meaning given such term in the Acquisition Agreement.

“Senior Funded Debt” means all Indebtedness of Borrower and its Subsidiaries (other than the aggregate outstanding principal amount of the Senior Subordinated Debt), all as determined for Borrower and its Subsidiaries on a consolidated basis in accordance with GAAP.

“Senior Leverage Ratio” means, as of the end of any calendar quarter, the ratio of Senior Funded Debt as of the end of such calendar quarter to EBITDA for the four calendar quarter period then ended, all as determined for Borrower and its Subsidiaries on a consolidated basis in accordance with GAAP.

“Senior Subordinated Creditor” means Banc One Mezzanine Corporation and its successors and assigns.

“Senior Subordinated Debt” means the Indebtedness of Borrower to the Senior Subordinated Creditor in the original principal amount of \$5,500,000, as evidenced by the Senior Subordinated Debt Documents.

“Senior Subordinated Debt Documents” means the documents listed on Schedule 1.1 hereto.

“Senior Subordinated Purchase Agreement” means that certain Note and Warrant Purchase Agreement, dated as of October 22, 2001 by and among IAC, EVI, Parent and the Senior Subordinated Creditor, as amended, modified, supplemented or restated in accordance with the terms hereof.

“Spot F/X Rate” shall mean at any time and from time to time the spot rate in the U.S. for purchase of Canadian dollars with U.S. dollars in effect at such time.

“Subordination Agreement” means that certain Subordination Agreement dated as of October 22, 2001, substantially in the form attached hereto as Exhibit 1.1-J, between the Senior Subordinated Creditor, Borrower and Bank, as the same may be amended, modified or supplemented from time to time.

“Subsidiary” means, with respect to any Person, any corporation, limited liability company, partnership, association or other business entity of which (i) if a corporation, a majority of the total voting power of shares of stock entitled (without regard to the occurrence of any contingency) to vote in the election of directors, managers or trustees thereof is at the time owned or controlled, directly or indirectly, by that Person or one or more of the other Subsidiaries of that Person or a combination thereof, or (ii) if a limited liability company, partnership, association or other business entity, a majority of the partnership or other similar ownership interest thereof is at the time owned or controlled, directly or indirectly, by any Person or one or more Subsidiaries of that Person or a combination thereof. For purposes hereof, a Person or Persons shall be deemed to have a majority ownership interest in a limited liability company, partnership, association or other business entity if such Person or Persons shall be allocated a majority of limited liability company, partnership, association or other business entity gains or losses or shall be or control (or have the power to be or control) a managing director, manager or general partner of such limited liability company, partnership, association or other business entity.

“Tangible Capital Funds” means the sum of Tangible Net Worth and the aggregate unpaid principal amount of the Senior Subordinated Debt.

“Tangible Net Worth” means the total of shareholder’s equity, less any intangible assets, including, without limitation, prepayments, vendor deposits, advances to affiliates, notes receivable from shareholders and goodwill, all as determined for Borrower and its Subsidiaries on a consolidated basis in accordance with GAAP.

“Term” shall have the meaning given such term in Section 2.8.

“Term Loan” shall have the meaning given such term in Section 2.2.

“Term Note” shall have the meaning given such term in Section 2.2.

“Termination Date” shall have the meaning given such term in Section 2.8.

“Total Leverage Ratio” means, as of the end of any calendar quarter, the ratio of Indebtedness as of the end of such calendar quarter to EBITDA for the four calendar quarter period then ended, all as determined for Borrower and its Subsidiaries on a consolidated basis in accordance with GAAP. Notwithstanding any provision of GAAP to the contrary, Indebtedness as used in this definition of the term Total Leverage Ratio shall include the face amount of any promissory notes and other instruments evidencing Indebtedness (including, without limitation, any Note) of Borrower and its Subsidiaries on a consolidated basis.

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

“UFCA” shall have the meaning given such term in Section 4.22.

“UFTA” shall have the meaning given such term in Section 4.22.

“Unfunded Pension Liabilities” means the excess of a Plan’s benefit liabilities under Section 4001(a)(16) of ERISA, over the current value of that Plan’s assets, determined in accordance with the assumptions used by the Plan’s actuaries for funding the Plan pursuant to Section 412 for the applicable plan year.

“United States” and “U.S.” each means the United States of America.

“Withdrawal Liabilities” means, as of any determination date, the aggregate amount of the liabilities, if any, pursuant to Section 4201 of ERISA if the Controlled Group made a complete withdrawal from all Multiemployer Plans and any increase in contributions pursuant to Section 4243 of ERISA.

1.2 Accounting Terms. Calculations and determinations of financial and accounting terms used and not otherwise specifically defined hereunder shall be made and determined, both as to classification of items and as to amount, in accordance with GAAP and in Dollars; and all financial statements shall be prepared in accordance with GAAP in Dollars. If any changes in accounting principles or practices from GAAP are occasioned by the promulgation of rules, regulations, pronouncements and opinions by or required by the Financial Accounting Standards Board or the American Institute of Certified Public Accountants (or any successor thereto or agencies with similar functions), which results in a change in the method of accounting in the calculation of financial covenants, standards or terms contained in this Agreement or any other Financing Agreement, the parties hereto agree to enter into negotiations to amend such provisions so as equitably to reflect such changes to the end that the criteria for evaluating Borrower’s financial condition and performance will be the same after such changes as they were before such changes; and if the parties fail to agree on the amendment of such provisions, Borrower shall continue to provide calculations for all financial covenants, perform all financial covenants and otherwise observe all financial standards and terms in accordance with applicable accounting principles and practices in effect immediately prior to such changes. Calculations with respect to financial covenants required to be stated in accordance with applicable accounting principles and practices in effect immediately prior to such changes shall be reviewed and certified by Borrower’s independent certified public accountants.

1.3 Definition of Terms. All terms contained in this Agreement (and which are not otherwise specifically defined herein) which are defined in the UCC shall have the meanings provided in the UCC as the same is in effect on the date hereof to the extent the same are used or defined therein.

1.4 Other Definitional Provisions. Whenever the context so requires, the neuter gender includes the masculine and feminine, the singular number includes the plural, and vice versa.

2. CREDIT.

2.1 Revolving Loan and Letter of Credit Facilities.

(A) Revolving Loan Facility. Subject to the provisions of Section 3 below and subject to the other provisions and conditions of this Agreement, Bank shall advance to

Borrower on a revolving credit basis (the "Revolving Loan"), the lesser of (i) the Maximum Revolving Facility minus the sum of the undrawn face amount of any Letters of Credit outstanding at the time any particular advance is made and (ii) the Borrowing Base (as hereinafter defined) (such commitment being referred to herein as the "Revolving Commitment"). As used herein the term "Borrowing Base" means (i) 80% of the face amount (less maximum discounts, credits and allowances which may be taken by or granted to Borrower's Account Debtors in connection therewith) then outstanding under Borrower's existing Eligible Accounts (based on the Dollar equivalent, based on the Spot F/X Rate on the date of determination), less such reserves as Bank in its sole but reasonable discretion elects to establish, plus (ii) the lesser of (a) the Inventory Sublimit and (b) 40% of the value of Borrower's existing Eligible Inventory (based on the Dollar equivalent, based on the Spot F/X Rate on the date of determination), valued at the lower of cost or market (on a "first-in, first-out" basis), less such reserves as Bank in its sole but reasonable discretion elects to establish, minus (iii) the sum of the undrawn face amount of any Letters of Credit outstanding, plus (iv) 100% of cash on deposit with Bank in money market or certificate of deposit accounts in which Bank has a first priority perfected security interest (excluding cash on deposit with Bank in demand deposit accounts). Bank, in its sole and absolute discretion, may elect to make advances to Borrower in excess of the amounts available pursuant to the advance rates set forth above. Each advance to Borrower under this Section 2.1 shall be in integral multiples of \$50,000, subject to Section 2.9 regarding LIBOR Rate Advances, and shall, on the day of such advance, be deposited in immediately available funds in Borrower's demand deposit account with Bank, or in such other account as Borrower may, from time to time, designate. The Revolving Loan made by Bank to Borrower under this Section 2.1 shall be evidenced, in part, by a promissory note of even date herewith in the form attached hereto as Exhibit 2.1 (the "Revolving Note") with the blanks appropriately filled. The Liabilities evidenced by the Revolving Note shall become immediately due and payable as provided in Section 9.1 hereof, and, without notice or demand, upon the termination of the Revolving Commitment pursuant to Section 2.8 hereof.

(B) Letter of Credit Facility. Subject to the provisions of Section 3 hereof and subject to the other provisions and conditions of this Agreement, Bank may in its sole discretion and at Borrower's request and for the account of Borrower, issue one or more Letters of Credit in an aggregate undrawn face amount outstanding at any one time of up to \$250,000 (the "L/C Facility"). The L/C Facility is a sublimit of the Maximum Revolving Facility. The Letters of Credit shall be in form and substance acceptable to Bank. Borrower shall reimburse Bank, immediately upon demand, for any payments made by Bank to any Person with respect to any Letter of Credit and for any other out-of-pocket costs, fees and expenses incurred by Bank in connection with the application for, issuance of or amendment to any Letter of Credit, and until Bank shall be so reimbursed by Borrower, such payments by Bank shall be deemed to be part of the Revolving Loan. Borrower shall execute Bank's standard form of application and reimbursement agreement for each Letter of Credit.

2.2 Term Loan Facility. Subject to the provisions of Section 3 hereof, Bank agrees, immediately following Borrower's execution of this Agreement, to extend to Borrower a term loan in the principal amount of \$5,000,000 (the "Term Loan"). The Term Loan shall be evidenced, in part, by and shall be repayable in accordance with the terms of an installment note in the form attached hereto as Exhibit 2.2 (the "Term Note") with the blanks appropriately filled. The provisions of the Term Note notwithstanding, the Liabilities evidenced by the Term Note

shall become immediately due and payable as provided in Section 9.1 hereof, and, without notice or demand, upon the termination of this Agreement pursuant to Section 2.8 hereof.

2.3 Prepayments.

(A) The aggregate outstanding principal balance of the Revolving Loan shall not at any time exceed the lesser of (i) the Maximum Revolving Facility minus the sum of the undrawn face amount of any Letters of Credit outstanding and (ii) the amount of the Borrowing Base. Borrower shall, if at any time any such excess shall arise, promptly pay to Bank such amount for application to the Revolving Loan as may be necessary to eliminate the excess.

(B) Borrower shall pay the unpaid principal balance of the Term Loan in eight equal monthly principal installments of \$62,500 each, payable beginning on March 1, 2002 and continuing on the first day of each month thereafter through and including October 1, 2002, twelve equal monthly principal installments of \$54,167 each, payable beginning on November 1, 2002 and continuing on the first day of each month thereafter through and including October 1, 2003, eleven equal monthly principal installments of \$70,833 each, payable beginning on November 1, 2003 and continuing on the first day of each month thereafter through and including September 1, 2004, and one final payment in an aggregate amount equal to the unpaid principal balance of the Term Loan on October 1, 2004.

(C) Within five (5) days after the annual financial statements are required to be delivered under Section 5.1(a) hereof, commencing with the annual financial statements that are required to be delivered to the Bank for the Fiscal Year of Borrower ending December 31, 2001, Borrower shall deliver to the Bank a written calculation of Excess Cash Flow of Borrower for such year in the form of Exhibit 2.3(C) and certified as correct on behalf of Borrower by a Responsible Officer and concurrently therewith shall deliver to the Bank, for application to the Loans in accordance with the provisions of Section 2.3(E) hereof, an amount equal to (i) fifty percent (50%) of such Excess Cash Flow, plus (ii) the aggregate amount of Permitted Prairie Subordinated Debt Distributions made by Borrower during such fiscal year.

(D) If Borrower or any of its Subsidiaries shall at any time or from time to time make or agree to make a Disposition or suffer an Event of Loss and the aggregate amount of the Net Proceeds received by Borrower and its Subsidiaries in connection with such Disposition or Event of Loss and all other Dispositions and Events of Loss occurring during the then current Fiscal Year exceeds \$50,000, then (A) Borrower shall promptly notify the Bank of such proposed Disposition or Event of Loss (including the amount of the estimated Net Proceeds to be received by Borrower in respect thereof) and (B) subject to the immediately succeeding sentence, promptly upon receipt by Borrower or its Subsidiary of the Net Proceeds of such Disposition or Event of Loss, Borrower shall deliver such Net Proceeds which exceed \$50,000 for the then current Fiscal Year to the Bank as a prepayment of the Loans, which prepayment shall be applied in accordance with Section 2.3(E) hereof. Notwithstanding the foregoing, such prepayment shall not be required to the extent Borrower reinvests the Net Proceeds of such Disposition or Event of Loss, or a portion thereof, in productive assets of a kind then used or usable in the business of Borrower within one hundred eighty (180) days after the date of receipt of the Net Proceeds of such Disposition or Event of Loss or enters into a binding commitment

therefor within said one hundred eighty (180) day period and subsequently makes such reinvestment.

(E) Any proceeds of any key-man life insurance received by the Bank and any prepayments pursuant to Sections 2.3(C) and (D) shall be applied to reduce the unpaid principal installments of the Term Loan in inverse order of their maturity, and then, subject to Section 2.13(iv), to prepay the principal amount of the Revolving Loan. To the extent permitted by the foregoing sentence, amounts prepaid shall be applied first to any Index Rate Advances then outstanding and then to outstanding LIBOR Rate Advances with the shortest Interest Periods remaining.

(F) Subject to Section 2.13(iv), Borrower may prepay the Liabilities in full or in part, without premium or penalty, upon three (3) days' prior written notice to Bank for LIBOR Rate Advances and upon the same day as written notice is provided to Bank for Index Rate Advances, provided that to the extent the same is not received by the Bank together with notice thereof prior to 1:00 p.m. (Chicago time) on a Business Day, the same shall be deemed to be received on the following Business Day.

2.4 Borrower's Loan Account. Bank shall maintain a loan account (the "Loan Account") on its internal data control system in which shall be recorded (i) all Revolving Loans made by Bank to Borrower pursuant to this Agreement, including without limitation all payments made by Bank under any Letter of Credit, (ii) all payments made by Borrower on all such Loans and advances and (iii) all other appropriate debits and credits as provided in this Agreement, including, without limitation, all fees, charges, expenses and interest. All entries in Borrower's Loan Account shall be made in accordance with Bank's customary accounting practices as in effect from time to time. Bank shall deliver to Borrower on a monthly basis a loan statement setting forth such Loan Account for the immediate preceding month. Subject to the manifest error of Bank, Borrower promises to pay to Bank the amount reflected as owing by it under its Loan Account and all of its other obligations hereunder and under any other Financing Agreements as such amounts become due or are declared due (whether by scheduled maturity, required prepayment, acceleration, demand or otherwise) pursuant to the terms of this Agreement and the other Financing Agreements.

2.5 Statements. All advances and other financial accommodations to Borrower, and all other debits and credits provided for in this Agreement, shall be evidenced by entries made by Bank in its internal data control systems showing the date, amount and reason for each such debit or credit. Until such time as Bank shall have rendered to Borrower written statements of account as provided herein, the balance in Borrower's Loan Account, as set forth on Bank's most recent printout, shall be rebuttably presumptive evidence of the amounts due and owing Bank by Borrower.

2.6 Interest and Fees.

(A) Borrower shall pay to Bank interest on the outstanding principal balance of the Loans, other than the outstanding principal amount of LIBOR Rate Advances, at a per annum rate equal to the Fifth Third Index Rate plus the Applicable Margin. Borrower shall pay to Bank interest on the outstanding balance of all other Liabilities (other than the Loans) at the

rate applicable to Index Rate Advances comprising the Revolving Loan. Borrower shall pay to Bank interest on the outstanding principal balance of LIBOR Rate Advances at a per annum rate equal to the LIBOR Rate plus the Applicable Margin, it being expressly understood and agreed that interest shall be computed by charging for the first day in each Interest Period but not for the last day in such Interest Period. Interest shall be payable monthly in arrears not later than the first day of each following month, upon termination of the Revolving Commitment and, at any time after the occurrence of an Event of Default, upon demand. All interest and fees provided for under this Agreement shall be computed on the basis of a 360-day year for the actual number of days elapsed, subject to Section 2.6(G). Following the occurrence of a Default and during the continuance thereof, Borrower shall pay to Bank interest from the date of such Default at a rate (the "Post-Default Rate") equal to the applicable rate set forth above for each of the Liabilities plus two percent (2.00%) per annum on the outstanding principal balance of all of the Liabilities.

(B) Borrower shall pay to Bank a non-refundable closing fee of \$105,000, which shall be paid upon the execution of this Agreement, less the unused portion of any deposit held by Bank on the Closing Date.

(C) Borrower shall pay to Bank, within three (3) Business Days after demand therefor, an audit fee in an amount equal to Bank's customary charge per day for each Person employed to perform any field audit, inventory analysis or other business analysis for the benefit of Bank which Person may be an employee of Bank or an independent contractor, plus all reasonable costs and expenses incurred by Bank in the performance of such audit or analysis. Prior to the occurrence of a Default, Bank shall not charge for auditing any location of Borrower more than once in any year.

(D) For each Letter of Credit, Borrower shall pay to Bank a fee (the "L/C Fee") equal to the Applicable Margin (as to LIBOR Rate Advances under the Revolving Loan), plus at any time after the occurrence and during the continuance of a Default, two percent (2%) per annum of the undrawn face amount of each Letter of Credit, provided, that the L/C Fee shall not be less than \$500 for any such Letter of Credit. The L/C Fee shall be payable in advance (i) upon the issuance of each Letter of Credit for the number of days remaining in the month during which such Letter of Credit was issued and (ii) thereafter, monthly, on the last day of each month during which each such Letter of Credit remains outstanding. The L/C Fee shall be computed on the basis of a 360-day year for the actual number of days elapsed, subject to Section 2.6(G). In addition to the L/C Fee, Borrower shall pay to Bank all of Bank's customary charges for out-of-pocket and administrative expenses upon the issuance of any Letter of Credit.

(E) Borrower shall pay to Bank its customary foreign exchange fees on foreign exchange transactions effective pursuant to Section 9.6 hereof or otherwise.

(F) For purposes of the Interest Act (Canada), where interest is calculated pursuant hereto at a rate based upon a 360 day year (the "Applicable Rate"), the rate or percentage of interest on a yearly basis is equivalent to the Applicable Rate multiplied by the actual number of days in the year divided by 360.

(G) Notwithstanding the provisions of this Section 3 or any other provision of this Agreement, in no event shall the aggregate "interest" (as that term is defined in Section 347

of the Criminal Code (Canada)) exceed the effective annual rate of interest on the "credit advanced" (as defined therein) lawfully permitted under Section 347 of the Criminal Code (Canada). The effective annual rate of interest shall be determined in accordance with generally accepted actuarial practices and principles over the term of the applicable Loan, and in the event of a dispute, a certificate of a Fellow of the Canadian Institute of Actuaries appointed by Bank will be conclusive for the purposes of such determination.

(H) Borrower agrees to pay to Bank a commitment fee (the "Commitment Fee") at a per annum rate equal to .5% on the daily amount by which the Maximum Revolving Facility exceeds the sum of the outstanding principal amount of the Revolving Loans and the undrawn amount of any outstanding Letters of Credit from the date hereof to and including the Termination Date, payable beginning November 1, 2001, on the last day of each calendar month thereafter and on the Termination Date.

2.7 Method for Making Payments. Unless otherwise agreed in writing from time to time hereafter, all payments which Borrower is required to make to Bank under this Agreement or under any of the other Financing Agreements shall be made by appropriate debits to Borrower's Loan Account. Bank may in its sole discretion elect to bill Borrower for such amounts in which case the amount shall be immediately due and payable. All payments to be made under this Agreement shall be made in immediately available funds in Dollars.

2.8 Termination of Revolving Commitment. The Revolving Commitment shall be effective until October 1, 2004, unless sooner terminated by Borrower (the "Term"). Upon expiration of the Term or earlier termination of the Revolving Commitment (the "Termination Date"), all of the Liabilities shall become immediately due and payable without notice or demand. Notwithstanding any termination, until all of the Liabilities shall have been fully paid and satisfied, and all of the Letters of Credit shall have expired, been canceled or terminated and all Financing Agreements between Borrower and Bank shall have been terminated, all of Bank's rights and remedies under this Agreement and the other Financing Agreements shall survive and Bank shall be entitled to retain its security interest in and to all existing and future Collateral. All of Bank's rights and remedies under this Agreement and all of Bank's security interests shall survive such termination until all of the Liabilities have been fully paid and satisfied (including, without limiting the generality of the foregoing, the termination or expiration of all Letters of Credit and the presentment of all drafts issued or accepted thereunder).

2.9 Loan Types. The Revolving Loan and the Term Loan shall consist of either Index Rate Advances or LIBOR Rate Advances (the "Loan Types"), as duly requested by Borrower pursuant to this Agreement. In addition, Borrower may request the conversion of any portion of the Revolving Loan or the Term Loan from one Loan Type to another pursuant to this Agreement; provided that conversions of all or any portion of a LIBOR Rate Advance may be made only as of the last date of the Interest Period applicable thereto; provided, further such conversion would not violate any other provisions of this Agreement. LIBOR Rate Advances, and any conversions to LIBOR Rate Advances, shall be in an aggregate principal amount of \$50,000 or an integral multiple thereof.

2.10 Continuation of LIBOR Rate Advances; Conversion of Loan Types.

Continuation of any LIBOR Rate Advance or conversion of any portion of the Revolving Loan or the Term Loan from one Loan Type to another may be made upon irrevocable written notice in the form of Exhibit 2.10 given to Bank by Borrower no later than 10:00 a.m. (Chicago time) two Business Days prior to the commencement of the Interest Period specified in such notice. In each such notice, Borrower shall specify, as to conversions, the Designated Portion relating thereto, as to new LIBOR Rate Advances, the requested principal amount thereof, and in any case the applicable Interest Period and the first day of the Interest Period, which shall be a Business Day. In the event that Index Rate Advances are to be converted to LIBOR Rate Advances, such conversion shall be automatic on the date specified by Borrower. LIBOR Rate Advances shall automatically convert to Index Rate Advances at the end of the applicable Interest Period unless Borrower gives the requisite notice in accordance with the procedures set forth above to continue the same as LIBOR Rate Advances. Borrower shall not be entitled to elect any Interest Period with respect to a LIBOR Rate Advance if the provisions of this Agreement would require Borrower to repay or prepay any portion of such LIBOR Rate Advance prior to the end of such Interest Period.

2.11 Determination of Interest Period. By giving notice to Bank as set forth in Section 2.10 above with respect to a borrowing of a LIBOR Rate Advance, or with respect to a conversion into or continuation of a LIBOR Rate Advance, Borrower shall, subject to the other provisions of this Section 2, specify the applicable Interest Period. The determination of the Interest Period shall be subject to the following provisions:

(i) the initial Interest Period for any LIBOR Rate Advance shall commence on the date of such LIBOR Rate Advance which shall be a Business Day and each Interest Period (if any) occurring thereafter for such LIBOR Rate Advance shall commence on the day on which the next preceding Interest Period for such LIBOR Rate Advance expires;

(ii) if any Interest Period would otherwise expire on a day which is not a Business Day, such Interest Period shall expire on the next succeeding Business Day; provided, however, that if any such Interest Period would otherwise expire on a day which is after the last Business Day of the last month of such Interest Period, such Interest Period shall expire on the next preceding Business Day;

(iii) there shall be no more than four Interest Periods for Borrower in the aggregate in effect at any one time; and

(iv) no Interest Period may be selected which extends beyond the Term.

2.12 Additional Costs, Etc. With Respect to LIBOR Rate Advances.

(i) If, in the reasonable determination of Bank, any applicable "law," which expression, as used in this Section 2, includes statutes, rules and regulations thereunder and interpretations thereof by any competent court or by any governmental or other regulatory body or official charged with the administration or the interpretation thereof and requests, directives, instructions and notices at any time or from time to time hereafter made upon or otherwise issued to Bank or any Lending Affiliate by any central bank or other fiscal, monetary, or other authority

(whether or not having the force of law) adopted, becoming effective, or any change in the interpretation or administration thereof, or compliance by Bank or any Lending Affiliate maintaining any LIBOR Rate Advance, in each case after the date hereof, shall in the case of LIBOR Rate Advances:

(a) subject Bank or any Lending Affiliate to any tax, levy, impost, duty, charge, fee, deduction or withholding of any nature with respect to LIBOR Rate Advances (other than taxes imposed on or measured by the overall net income of Bank), or

(b) change the taxation of payments to Bank of principal or interest on or any other amount relating to any LIBOR Rate Advances (other than taxes imposed on or measured by the overall net income or capital of Bank and doing business and franchise taxes), or

(c) impose or increase or render applicable any special deposit, assessment, insurance charge, reserve or liquidity or other similar requirement (whether or not having the force of law) against assets held by, or deposits in or for the account of, or loans by Bank or any Lending Affiliate, or

(d) impose on Bank or any Lending Affiliate any other conditions or requirements with respect to LIBOR Rate Advances, and the result of any of the foregoing is:

(I) to increase the cost to Bank of making, funding or maintaining its LIBOR Rate Advances, or

(II) to reduce the amount of principal, interest or other amount payable to Bank hereunder on account of LIBOR Rate Advances, or

(III) to require Bank to make any payment or to forego any interest or other sum payable under this Agreement,

then, and in each such case, Borrower will, upon demand made by Bank at any time and from time to time and as often as the occasion therefor may arise, pay to Bank such additional amounts as will be sufficient to compensate Bank for such additional cost, reduction, payment or foregone interest or other sum. The foregoing shall not be deemed to apply to any change in the Reserve Rate applied in the calculation of the LIBOR Rate.

(ii) Bank shall not in any event be responsible to Borrower in any way if Bank is not able for any reason beyond its control to quote a LIBOR Rate with respect to any proposed Interest Period. If, on any proposed date of determination of a LIBOR Rate, Bank shall determine (which determination shall be conclusive and binding on Borrower) that it is unable to determine the requested LIBOR Rate with respect to any proposed Interest Period, Bank shall promptly notify Borrower of such determination. In such event, any then pending notice by Borrower requesting the making of a LIBOR Rate Advance, or conversion of any portion of the Revolving Loan to a LIBOR Rate Advance, shall be deemed and shall constitute a request for the

making of an Index Rate Advance or the conversion of such portion of the Revolving Loan to an Index Rate Advance, as the case may be.

(iii) If Bank determines that either maintenance of a LIBOR Rate Advance would violate any applicable law, or that deposits of a type and maturity appropriate to match fund any LIBOR Rate Advance does not accurately reflect the cost of making or maintaining such a LIBOR Rate Advance, then Bank shall suspend the availability of proposed LIBOR Rate Advances of the affected Interest Period so long as any such condition exists, and all affected LIBOR Rate Advances outstanding shall be immediately repaid upon notice to Borrower from Bank to do so; provided, however, that if otherwise permitted under this Agreement Borrower may reborrow, as a Index Rate Advance, an amount equal to the principal amount of all such affected LIBOR Rate Advances so repaid.

2.13 Indemnification for Losses. Without limiting any of the other provisions of this Agreement, Borrower will, on demand by Bank, at any time and from time to time and as often as the occasion therefor may arise, indemnify Bank against any losses, costs or expenses which Bank may at any time or from time to time sustain or incur with respect to LIBOR Rate Advances as a consequence of:

(i) the failure by Borrower to borrow any LIBOR Rate Advance on the date of borrowing designated by Borrower (except in the case of a failure due to any of the circumstances set forth in Sections 2.12(i) and 2.12(ii) hereof), or

(ii) the failure by Borrower to pay, punctually on the due date thereof, any amount payable by Borrower under this Agreement, or

(iii) the accelerated payment of Borrower's obligations under this Agreement as a result of a Default, or

(iv) any voluntary repayment or prepayment of any principal of any LIBOR Rate Advance, or the conversion of such LIBOR Rate Advance, on a date other than the last day of the Interest Period relating to the principal so repaid or prepaid or so converted.

Such losses, costs or expenses will include, but will not be limited to, the reimbursement for any loss, expense or cost in liquidating or employing deposits acquired to fund any affected LIBOR Rate Advance.

2.14 Payments to be Free of Deductions. All payments by Borrower on the Liabilities (including LIBOR Rate Advances) shall be made without setoff or counterclaim, and free and clear of and without deduction for any taxes, levies, imposts, duties, charges, fees, deductions, withholdings, compulsory loans, restrictions or conditions of any nature now or hereafter imposed or levied by any country or any political subdivision thereof or taxing or other authority therein unless Borrower is required by law to make such deduction or withholding. If any such obligation is imposed upon Borrower with respect to any amount payable by it hereunder, it will pay to Bank on the date on which such amount becomes due and payable hereunder and in United States Dollars, such additional amount as shall be necessary to enable Bank to receive the same net amount which it would have received on such due date had no such

obligation been imposed upon Borrower. If Borrower shall be required by law to make such deduction or withholding it will deliver to Bank tax receipts or other appropriate evidence of payment. Without limiting the generality of the foregoing:

(a) All sums payable by the Borrower whether in respect of principal, interest, fees or otherwise shall be paid without deduction for any present and future taxes, levies, imposts, deductions, charges or withholdings imposed by any governmental agency thereof or therein and any political subdivision or taxing authority thereof or therein (collectively, "taxes"), which amounts shall be paid by the Borrower as provided in subsection (b) below. The Borrower will pay the Bank the amounts necessary such that the net amount of the principal, interest, fees or other sums received and retained by the Bank is not less than the amount payable under this Agreement.

(b) If the Borrower or any other Person is required by Canadian federal or provincial law to make any deduction or withholding on account of any such tax or other amount described in paragraph (a) above from any sum paid or expressed to be payable by the Borrower to the Bank under this Agreement:

(i) the Borrower shall notify the Bank of any such requirement or any change in any such requirements as soon as the Borrower becomes aware of it;

(ii) the Borrower shall pay any such tax or other amount described in paragraph (a) above before the date on which penalties attached thereto become due and payable, such payment to be made (if the liability to pay is imposed on the Borrower) for its own account or (if that liability is imposed on the Bank) on behalf of and in the name of that party;

(iii) the sum payable by the Borrower in respect of which the relevant deduction, withholding or payment is required shall (except, in the case of any such payment, to the extent that the amount thereof is not ascertainable when that sum is paid) be increased to the extent necessary to ensure that, after the making of that deduction, withholding or payment, that Bank receives on the due date and retains (free from any liability in respect of any such deduction, withholding or payment) a sum equal to that which it would have received and so retained had no such deduction, withholding or payment been required or made; and

(iv) within thirty (30) days after payment of any sum from which the Borrower is required by law to make any deduction or withholding, and within thirty (30) days after the due date of payment of any tax or other amount which it is required by paragraph (ii) to pay, it shall deliver to the Bank all such certified documents and other evidence as to the making of such deduction, withholding or payment as (a) are satisfactory to the Bank as proof of such deduction, withholding or payment and of the remittance thereof to the relevant taxing or other authority and (b) are required by the Bank to enable it to claim a tax credit with respect to such deduction, withholding or payment.

By way of example of the foregoing, the Convention Between Canada and the United States of America with respect to Taxes on Income and on Capital signed at Washington on September 26,

1980 as amended by the protocols signed on June 14, 1983, March 28, 1984, March 17, 1985 and July 29, 1997 currently requires the withholding of a 10% Canadian tax on interest payments made to Bank by Borrower. Therefore, if for any month in 2001, if (i) the foregoing tax did not change, (ii) the Revolving Loans consisted solely of Index Rate Advances, (iii) the principal of the Revolving Loans was a constant \$1,000,000, (iv) the Fifth Third Index Rate was a constant 6.5%, (v) the Applicable Margin was a constant .50%, (v) the number of days in such month was 30, and (vi) no Default or Event of Default had occurred, then Borrower would pay interest on the Revolving Loan for such month in an amount equal to \$6,481.48, \$648.15 of which would be withheld in accordance with the Income Tax Act (Canada) and paid to the appropriate recipient of such tax payment, and \$5,833.33 of which would be paid to Bank.

$(6.5\% + 0.5\%) \times \$1,000,000 \times (30/360)$	$=$	Amount of interest to be paid in example month
----- 90%		
Amount of interest to be paid in example month x 10%		Amount of interest to be paid in example month x 90%
= Amount of interest to be withheld and paid to Canadian taxing authorities		= Amount of interest to be paid to Bank

2.15 Capital Adequacy. In addition to the payments required under Section 2.14, if, after the date hereof, either (i) the introduction of or any change in or in the interpretation of any law or (ii) compliance by Bank with any guideline or request from any central bank or other governmental authority (whether or not having the force of law) (a) affects or would affect the amount of capital required or expected to be maintained by Bank or any Lending Affiliate and Bank reasonably determines that the amount of such capital is increased by or based upon the existence of the LIBOR Rate Advances then, upon demand by Bank, Borrower shall immediately pay to Bank, from time to time as specified by Bank, additional amounts sufficient to compensate Bank in light of such circumstances, to the extent that Bank reasonably determines such increase in capital to be allocable to the existence of LIBOR Rate Advances or (b) has or would have the effect of reducing the rate of return on the capital or assets of Bank or any Person controlling Bank as a consequence of, as determined by Bank in its sole discretion, the existence of the Bank's commitments or obligations under this Agreement or any of the other Financing Agreements, then, upon demand by Bank, Borrower immediately shall pay to Bank, from time to time as specified by Bank, additional amounts sufficient to compensate Bank in light of such circumstances.

2.16 Certificate. A certificate signed by an officer of Bank, setting forth any additional amount required to be paid by Borrower to Bank under any provision of Sections 2.12 through 2.15 and the computations made by Bank to determine such additional amount, shall be submitted by Bank to Borrower in connection with each demand made at any time by Bank upon Borrower under any of such provisions. Such certificate, in the absence of manifest error, shall be conclusive as to the additional amount owed.

3. CONDITIONS OF ADVANCES.

Notwithstanding any other provisions contained in this Agreement, the making of any Loan or advance and the issuance of any Letter of Credit, including, without limitation, the continuation of any LIBOR Rate Advance from one Interest Period to another or conversion of one Loan Type into another Loan Type, shall be conditioned upon the following:

3.1 Borrower's Written Request - Revolving Loan and Letters of Credit. (i) As to any LIBOR Rate Advance (including, without limitation, the continuation of any LIBOR Rate Advance and the conversion of an Index Rate Advance to a LIBOR Rate Advance), Bank shall have received written notice of the type required by Section 2.10 within the time period required by Section 2.10, and (ii) as to any Index Rate Advance, Bank shall have received by 12:00 noon (Chicago time) on the date such advance is to be made a written request (or telephonic request promptly confirmed in writing) from Borrower for such an advance specifying the principal amount thereof, and (iii) with respect to a request by Borrower for a Letter of Credit to be issued hereunder, Bank shall have received not later than two (2) Business Days prior to the Business Day the Letter of Credit is to be issued, a written request therefor from a Responsible Officer of Borrower in a specific amount accompanied by Bank's form of application and reimbursement agreement, duly completed and executed by Borrower. In addition, prior to making any advance or loan or issuing any Letter of Credit, Bank shall have received copies of all documents required to have been delivered to the Bank pursuant to this Agreement. Advances under the Revolving Loan may be made upon irrevocable written notice in the form of Exhibit 3.1 given to Bank by Borrower for Index Rate Advances, no later than 10:00 a.m. (Chicago time) one Business Day prior to the commencement of the effective date specified therein, and for LIBOR Rate Advances, no later than 10:00 a.m. (Chicago time) two Business Days prior to the commencement of the Interest Period specified therein.

3.2 Financial Condition. No change in the financial condition or operations of Borrower shall have occurred (a) at any time or times subsequent to the most recent annual financial statements provided pursuant to Section 5.1(a) of this Agreement and (b) prior to the receipt of the first of such statements, at any time subsequent to December 31, 2000 and excluding changes based on the consummation of the transaction contemplated by the Acquisition Documents, which has a Material Adverse Effect on Borrower, as determined by Bank in its reasonable discretion.

3.3 No Event of Default. There shall not have occurred any Event of Default which is then continuing, nor shall any Event of Default occur after giving effect to the advance, Loans or Letter of Credit, as the case may be.

3.4 Representations and Warranties True and Correct. The representations and warranties of Borrower contained in this Agreement shall be true and correct in all material respects on and as of the date of (i) any advance or loan, (ii) each notice given pursuant to Section 2.10, or (iii) the issuance of any Letter of Credit, as the case may be, as though made on and as of such date (except to the extent such representations and warranties expressly refer to an earlier date, in which case they shall be true and correct in all material respects as of such earlier date); provided, however, that Borrower shall, within ten (10) days after the end of each quarter (or more frequently if the applicable information is required to be provided more frequently

under another provision of this Agreement), update, in writing to Bank, Schedules 4.2, 4.5, 4.7, 4.16, 4.21, and 5.20 so that such Schedules accurately reflect the state of Borrower's affairs as of the last day of the immediately preceding quarter end (or, if applicable, other more frequent period); provided, further, that any such updated Schedule which does not reflect events or conditions which constitute violations of any provision of either Section 5 or 6 hereof, or otherwise reflect any Material Adverse Effect, shall not be deemed a violation of Borrower's representations and warranties contained in this Agreement.

3.5 Conditions to Initial Extension of Credit. Prior to the initial advance, Loan or issuance of the initial Letter of Credit, each of the conditions precedent set forth on annexed Schedule 3.5 shall have been satisfied.

3.6 Other Requirements. Bank shall have received, in form and substance satisfactory to Bank, all certificates, orders, authorities, consents, affidavits, applications, schedules, opinions, instruments, security agreements, Financing Statements, mortgages and other documents which are provided for hereunder or under the Financing Agreements, or which Bank may at any time reasonably request.

4. WARRANTIES, ETC.

Borrower represents and warrants that as of the date of the execution of this Agreement, and continuing so long as any of Liabilities remain outstanding, and (even if there shall be no Liabilities outstanding) so long as this Agreement remains in effect as follows:

4.1 Corporate/Company Existence and Power. Except as set forth on Schedule 4.1, Borrower and each of its Subsidiaries: (a) is a corporation, limited liability company or limited partnership, as applicable, duly organized, validly existing and in good standing under the laws of the jurisdiction of its incorporation or formation, as applicable; (b) has the corporate power and authority and all governmental licenses, authorizations, consents and approvals to (i) own its assets, carry on its business, and (ii) execute, deliver, and perform its obligations under, the Financing Agreements and the Related Documents to which it is a party; (c) is duly qualified as a foreign corporation, limited liability company or limited partnership, as applicable, and licensed and in good standing, under the laws of each jurisdiction where its ownership, lease or operation of property or the conduct of its business requires such qualification or license; and (d) is in compliance with all Requirements of Law; except, in each case referred to in clauses (b)(i), (c) or (d), to the extent that the failure to do so could not reasonably be expected to have a Material Adverse Effect.

4.2 Corporate Authorization; No Contravention. (a) The execution, delivery and performance by Borrower of this Agreement, and Borrower and its Subsidiaries of any other Financing Agreement and Related Document to which such Person is party, have been duly authorized by all necessary action, and do not and will not: (i) contravene the terms of any of such Person's Organization Documents; (ii) conflict with or result in any material breach or contravention of, or the creation of any Lien under, any document evidencing any material Contractual Obligation to which such Person is a party or any order, injunction, writ or decree of any Governmental Authority to which such Person or its Property is subject; or (iii) violate any material Requirement of Law in any material respect.

(b) Schedule 4.2 sets forth the authorized equity securities of Borrower and its Subsidiaries. All issued and outstanding equity securities of Borrower and its Subsidiaries are duly authorized and validly issued, fully paid, non-assessable, and free and clear of all Liens other than, with respect to the equity securities of Borrower and Subsidiaries of Borrower, those in favor of Bank, and such securities were issued in compliance with all applicable state, federal and provincial laws concerning the issuance of securities. As of the Closing Date, all of the issued and outstanding equity securities of Borrower are owned by the Persons and in the amounts set forth on Schedule 4.2. Except as set forth on Schedule 4.2, there are no pre-emptive or other outstanding rights, options, warrants, conversion rights or other similar agreements or understandings for the purchase or acquisition of any shares of capital stock or other securities of any such entity.

4.3 Governmental Authorization. No approval, consent, authorization, or other action by, or notice to, or filing with, any Governmental Authority is necessary or required in connection with the execution, delivery or performance by, or enforcement against, Borrower or any of its Subsidiaries of this Agreement, any other Financing Agreement or Related Document except (a) for recordings and filings in connection with the Liens granted to Bank under the Collateral Documents, (b) those obtained or made on or prior to the Closing Date and (c) in the case of any Related Document, those which, if not obtained or made, could not reasonably be expected to have, either individually or in the aggregate, a Material Adverse Effect.

4.4 Binding Effect. This Agreement and each other Financing Agreement and Related Document to which Borrower or any of its Subsidiaries is a party constitute the legal, valid and binding obligations of Borrower and each Subsidiary which is a party thereto, enforceable against such Person in accordance with their respective terms, except as enforceability may be limited by applicable bankruptcy, insolvency, or similar laws affecting the enforcement of creditors' rights generally or by equitable principles relating to enforceability.

4.5 Litigation. Except as specifically disclosed in Schedule 4.5, there are no actions, suits, proceedings, claims or disputes pending, or to the best knowledge of Borrower, threatened or contemplated, at law, in equity, in arbitration or before any Governmental Authority, against Borrower, or its Subsidiaries or any of their respective Properties which: (a) purport to affect or pertain to this Agreement, any other Financing Agreement or Related Document, or any of the transactions contemplated hereby or thereby; or (b) could reasonably be expected to result in equitable relief or monetary judgment(s), individually or in the aggregate, in excess of \$50,000. No injunction, writ, temporary restraining order or any order of any nature has been issued by any court or other Governmental Authority purporting to enjoin or restrain the execution, delivery or performance of this Agreement, any other Financing Agreement or any Related Document, or directing that the transactions provided for herein or therein not be consummated as herein or therein provided.

4.6 No Default. No Default or Event of Default exists or would result from the incurring of any Liabilities by Borrower or the grant or perfection of Bank's Liens on the Collateral. Neither Borrower nor any of its Subsidiaries is in default under or with respect to any Contractual Obligation in any respect which, individually or together with all such defaults,

could reasonably be expected to have a Material Adverse Effect or that would, if such default had occurred after the Closing Date, create an Event of Default.

4.7 ERISA Compliance. Neither Borrower nor any of its Subsidiaries has any Qualified Plan. Neither Borrower nor any of its Subsidiaries participate or have participated in, or have any liability, including contingent liability, to, any Multiemployer Plans. Borrower and each of its Subsidiaries is in compliance in all material respects with all requirements of each Qualified Plan, and each Qualified Plan complies in all material respects, and is operated in compliance in all material respects, with all applicable provisions of law, in each case except as such non-compliance would not reasonably be expected to have a Material Adverse Effect. Borrower is not aware, after due inquiry, of any item of non-compliance which could potentially result in the loss of Qualified Plan qualification or tax-exempt status, or give rise to a material excise tax or other penalty imposed by a Governmental Authority. No material proceeding, claim, lawsuit and/or investigation is pending concerning any Qualified Plan. All required contributions have been and will be made in accordance with the provisions of each Qualified Plan and, if applicable, each Multiemployer Plan, and with respect to Borrower or any ERISA Affiliate, there are, and have been, no material Unfunded Pension Liabilities or Withdrawal Liabilities. No ERISA Event has occurred or is expected to occur with respect to any Qualified Plan or, if applicable, any Multiemployer Plan, which would reasonably be expected to have a Material Adverse Effect. Members of the Controlled Group currently comply and have complied in all material respects with the notice and continuation coverage requirements of Section 4980B of the Code.

4.8 Use of Proceeds; Margin Regulations. The proceeds of the Loans are intended to be and shall be used solely for the purposes set forth in and permitted by Section 5.11, and are intended to be and shall be used in compliance with Section 6.8. Neither Borrower nor any of its Subsidiaries is generally engaged in the business of purchasing or selling Margin Stock or extending credit for the purpose of purchasing or carrying Margin Stock. Proceeds of the Loans shall not be used for the purpose of purchasing or carrying Margin Stock.

4.9 Title to Properties. Borrower and each of its Subsidiaries have good record and marketable title in fee simple to, or valid leasehold interests in, all real Property necessary or used in the ordinary conduct of their respective businesses, except for Permitted Liens. Except as set forth on Schedule 4.9, as of the Closing Date, the Property of Borrower and its Subsidiaries is subject to no Liens, other than Permitted Liens.

4.10 Taxes. Borrower and its Subsidiaries have filed all federal and other material tax returns and reports required to be filed, and have paid all federal and other material taxes, assessments, fees and other governmental charges levied or imposed upon them or their Properties, income or assets otherwise due and payable, except those which are being contested in good faith by appropriate proceedings diligently prosecuted and for which adequate reserves have been provided in accordance with GAAP. There is no proposed tax assessment against Borrower or any of its Subsidiaries which would, if the assessment was made, have a Material Adverse Effect.

4.11 Financial Condition. Each of (i) the unaudited balance sheets of Borrower dated December 31, 1998, December 31, 1999 and December 31, 2000, and the related

unaudited statements of income or operations, shareholders' equity and cash flows for the fiscal year ended on that date, and (ii) the unaudited interim consolidated balance sheet of Borrower dated May 31, 2001 and the related unaudited consolidated statements of income, shareholders' equity and cash flows for the 4 months then ended: (x) were prepared in accordance with GAAP consistently applied throughout the respective periods covered thereby, except as otherwise expressly noted therein, subject to, in the case of the unaudited interim financial statements, normal year-end adjustments and the lack of footnote disclosures; and (y) present fairly in all material respects the consolidated financial condition of Borrower as of the dates thereof and results of operations for the periods covered thereby. Since May 31, 2001, there has been no Material Adverse Effect. Borrower and its Subsidiaries have no Indebtedness other than Indebtedness permitted pursuant to Section 6.2 and have no Contingent Obligations other than Contingent Obligations permitted pursuant to Section 6.9. Attached hereto as Exhibit 4.11 is the pro forma balance sheet of Borrower as of the Closing Date after giving effect to all Related Transactions to occur on such date (the "Pro Forma Balance Sheet"). The Pro Forma Balance Sheet presents fairly Borrower's financial position in accordance with GAAP as of the Closing Date in all material respects, subject to changes occurring in the Ordinary Course of Business since May 31, 2001.

4.12 Environmental Matters. The on-going operations of Borrower and each of its Subsidiaries comply in all respects with all Environmental Laws, except such non-compliance which would not (if enforced in accordance with applicable law) reasonably be expected to result in, either individually or in the aggregate, a Material Adverse Effect. Borrower and each of its Subsidiaries have obtained all licenses, permits, authorizations and registrations required under any Environmental Law ("Environmental Permits") and necessary for their respective ordinary course operations, all such Environmental Permits are in good standing, and Borrower and each of its Subsidiaries are in compliance with all material terms and conditions of such Environmental Permits, except where the failure to obtain, to maintain in good standing, or to be in compliance with such Environmental Permits would not reasonably be expected to result in material liability to Borrower or any of its Subsidiaries and could not reasonably be expected to result in, either individually or in the aggregate, a Material Adverse Effect. None of Borrower, any of its Subsidiaries or any of their respective present Property or operations, is subject to any outstanding written order from or agreement with any Governmental Authority (except where the failure to be in compliance with such written order or agreement could not reasonably be expected to result in a Material Adverse Effect), nor subject to any judicial or docketed administrative proceeding, respecting any Environmental Law, Environmental Claim or Hazardous Material. There are no Hazardous Material spills, leakages or other conditions or circumstances existing with respect to any Property owned, leased or operated by Borrower or any of its Subsidiaries, or, to Borrower's knowledge, arising from operations thereon prior to the Closing Date, that would reasonably be expected to result, either individually or in the aggregate, in a Material Adverse Effect. In addition, to Borrower's knowledge, neither Borrower nor any of its Subsidiaries has any underground storage tanks that are (i) not properly registered or permitted under applicable Environmental Laws or (ii) to Borrower's knowledge, leaking or releasing Hazardous Materials.

4.13 Collateral Documents. All representations and warranties of Borrower, any of its Subsidiaries or any other party to any Collateral Document (other than Bank) contained in the Collateral Documents are true and correct in all material respects on the Closing

Date (except to the extent such representations and warranties expressly refer to an earlier date, in which case they shall be true and correct in all material respects as of such earlier date).

4.14 Regulated Entities. None of Borrower, any Person controlling Borrower, or any Subsidiary of Borrower, is (a) an "investment company" within the meaning of the Investment Company Act of 1940; or (b) subject to regulation under the Public Utility Holding Company Act of 1935, the Federal Power Act, the Interstate Commerce Act, any state or provincial public utilities code, or any other federal, state or provincial statute or regulation limiting its ability to incur Indebtedness.

4.15 Labor Relations. There are no strikes, lockouts or other labor disputes against Borrower or any of its Subsidiaries, or, to the best of Borrower's knowledge, threatened against or affecting Borrower or any of its Subsidiaries, in any case which would reasonably be expected to have, either individually or in the aggregate, a Material Adverse Effect and no significant unfair labor practice complaint is pending against Borrower or any of its Subsidiaries or, to the best knowledge of Borrower, threatened against any of them before any Governmental Authority in any case which would reasonably be expected to have, either individually or in the aggregate, a Material Adverse Effect.

4.16 Copyrights, Patents, Trademarks and Licenses, Etc. Schedule 4.16 identifies all United States, Canadian and foreign patents, trademarks, service marks, trade names and copyrights, and all registrations and applications for registration thereof and all licenses thereof, owned or held by Borrower or any of its Subsidiaries on the Closing Date after giving effect to the Related Transactions, and identifies the jurisdictions in which such registrations and applications have been filed. Except as otherwise disclosed in Schedule 4.16, as of the Closing Date, Borrower and its Subsidiaries are the sole beneficial owners of, or have the right to use, free from any restrictions, claims, rights, encumbrances or burdens, the intellectual property identified on Schedule 4.16 and all other processes, designs, formulas, computer programs, computer software packages, trade secrets, inventions, product manufacturing instructions, technology, research and development, know-how and all other intellectual property that are necessary for the operation of Borrower's and its Subsidiaries' businesses as being operated on the Closing Date after giving effect to the Related Transactions. Each patent, trademark, service mark, trade name, copyright and license listed on Schedule 4.16 is in full force and effect except to the extent the failure to be in effect will not and would not reasonably be expected to have a Material Adverse Effect. Except as set forth in Schedule 4.16, to the best knowledge of Borrower, as of the Closing Date (a) none of the present or contemplated products or operations of Borrower or its Subsidiaries infringes any patent, trademark, service mark, trade name, copyright, license of intellectual property or other right owned by any other Person, and (b) there is no pending or threatened claim or litigation against or affecting Borrower or any of its Subsidiaries contesting the right of any of them to manufacture, process, sell or use any such product or to engage in any such operation except for claims and/or litigation which will not and could not reasonably be expected to have a Material Adverse Effect. None of the trademark registrations set forth on Schedule 4.16 is an "intent-to-use" registration.

4.17 Subsidiaries. Except as disclosed on Schedule 4.17, Borrower has no Subsidiaries or equity investments in any other corporation or entity.

4.18 Brokers' Fees; Transaction Fees. Neither Borrower nor any of its Subsidiaries has any obligation to any Person in respect of any finder's, broker's or investment banker's fee in connection with the transactions contemplated hereby, except as set forth in the Acquisition Agreement.

4.19 Insurance. Borrower and its Subsidiaries and their respective Properties are insured with financially sound and reputable insurance companies which are not Affiliates of Borrower, in such amounts, with such deductibles and covering such risks as are customarily carried by companies engaged in similar businesses and owning similar Properties in localities where Borrower or such Subsidiary operates. A true and complete listing of such insurance, including issuers, coverages and deductibles, has been provided to Bank.

4.20 Full Disclosure. None of the representations or warranties made by Borrower or any of its Subsidiaries in the Financing Agreements as of the date such representations and warranties were made or deemed made, and none of the statements contained in each exhibit, report, statement or certificate furnished by or on behalf of Borrower or any of its Subsidiaries in connection with the Financing Agreements (including the offering and disclosure materials, if any, delivered by or on behalf of Borrower to Bank prior to the Closing Date), contains any untrue statement of a material fact or omits any material fact required to be stated therein or necessary to make the statements made therein, in light of the circumstances under which they were made, not misleading as of the time when made or delivered.

4.21 Collateral. Borrower has rights in or the power to transfer the Collateral. Except for Permitted Liens all of Borrower's Collateral is and will continue to be owned by Borrower (except for Inventory sold in the Ordinary Course of Business and other dispositions of equipment made in the Ordinary Course of Business), has been or will (in the Ordinary Course of Business) be fully paid for and is free and clear of all security interests, liens, claims and encumbrances. The Collateral is located at the locations set forth on Schedule 4.21 attached hereto, except for Inventory in transit.

4.22 Solvency. Before and after giving effect to the Instantel Acquisition and the Amalgamation, Borrower (i) is not "insolvent" as that term is defined in Section 101(32) of the Bankruptcy Code (11 U.S.C. § 101(32)), Section 2 of the Uniform Fraudulent Transfer Act ("UFTA") or Section 2 of the Uniform Fraudulent Conveyance Act ("UFCA"), (ii) does not have "unreasonably small capital," as that term is used in Section 548 (a)(2)(B)(ii) of the Bankruptcy Code or Section 5 of the UFCA, (iii) is not engaged or about to engage in a business or a transaction for which its remaining property is "unreasonably small" in relation to such business or transaction as that term is used in Section 4 of the UFTA, (iv) is able to pay its debts as they mature or become due, within the meaning of Section 548(a)(2)(B) (iii) of the Bankruptcy Code, Section 4 of the UFTA and Section 6 of the UFCA, and (v) now owns assets having a value both at "fair valuation" and at "present fair salable value" greater than the amount required to pay Borrower's "debts" as such terms are used in Section 2 of the UFTA and Section 2 of the UFCA. Borrower shall not be rendered insolvent (as defined above) by the execution and delivery of this Agreement or any of the other Financing Agreements or by the transactions contemplated hereunder or thereunder.

4.23 Chief Place of Business. As of the execution hereof, the principal place of business and chief executive office of Borrower is located at 309 Legget Drive, Kanata, Ontario, Canada. If any change in such location occurs, Borrower shall promptly notify Bank thereof in accordance with Section 6.16 hereof. As of the execution hereof, the books and records of Borrower and Chattel Paper and all records of account are located at the principal place of business and chief executive office of Borrower, and if any change in such location occurs, Borrower shall promptly notify Bank thereof in accordance with Section 6.16 hereof.

4.24 Other Corporate Names. Except as disclosed on Schedule 4.24 attached hereto, Borrower has not used in the past five (5) years any corporate or fictitious name other than the name shown for Borrower in the preamble to this Agreement.

4.25 Survival of Warranties. All representations and warranties contained in this Agreement or any of the other Financing Agreements shall survive the execution and delivery of this Agreement.

4.26 Account Warranties. With respect to Accounts scheduled, listed or referred to on any Borrowing Base Certificate, Borrower's initial Accounts Trial Balance or any subsequent Accounts Trial Balance, Borrower warrants and represents to Bank that, as of the date of such Borrowing Base Certificate or Accounts Trial Balance (except as to an aggregate amount of Accounts, other than Accounts which Borrower has designated to Bank as Accounts that are not Eligible Accounts, not to exceed \$50,000 at any time and except as set forth on Schedule 4.26): (i) they are genuine, are in all respects what they purport to be, and are not evidenced by a judgment; (ii) they represent undisputed, bona fide transactions the performance of which has been completed by Borrower in accordance with the terms and provisions contained in the documents delivered to Bank with respect thereto; (iii) the amounts shown on the respective Accounts Trial Balance, Borrower's books and records and all invoices and statements which may be delivered to Bank with respect thereto are actually and absolutely owing to Borrower and are not in any way contingent; (iv) to the best of Borrower's knowledge, there are no setoffs, counterclaims or disputes; (v) no payments have been made thereon; (vi) Borrower has not made any agreement with any Account Debtor for any deduction therefrom except a discount or allowance allowed by Borrower in the Ordinary Course of Business for prompt payment; (vii) to the best of Borrower's knowledge, there are no facts, events or occurrences known to Borrower which in any way impair the validity or enforcement thereof or tend to reduce the amount payable thereunder as shown on the Accounts Trial Balance, Borrower's books and records and all invoices and statements delivered to Bank with respect thereto; (viii) to Borrower's knowledge, all Account Debtors have the capacity to contract and are solvent; (ix) the services furnished and/or Goods sold giving rise thereto are not subject to any lien, claim, encumbrance or security interest except that of Bank and except as specifically permitted below; (x) Borrower has no knowledge of any fact or circumstance which would tend to impair the validity or collectibility thereof; and (xi) to Borrower's knowledge, there are no proceedings or actions which are threatened or pending against any Account Debtor which might result in any material adverse change in such Account Debtor's financial condition. Borrower agrees to notify Bank with respect to any Accounts (except for those designated by Borrower as excluded from Eligible Accounts) with respect to which the warranties in this Section 4.26 are not true.

4.27 Inventory Warranties. With respect to all Inventory listed, scheduled or described by Borrower in a report to Bank or any financial statement of Borrower as Inventory of Borrower, Borrower warrants that, as of the date referred to in such report or financial statement (except as to an aggregate amount of Inventory, other than Inventory which Borrower has designated to Bank as Inventory that is not Eligible Inventory, not to exceed \$50,000 at any time): (i) it is located at one of the premises listed on Schedule 4.21 and is not in transit; (ii) it is located at the location shown thereon for it; (iii) it is not subject to any lien or security interest whatsoever except for the security interest granted to Bank hereunder and except as specifically permitted in Section 8.1 below; and (iv) to the best of Borrower's knowledge, it is of good and merchantable quality, free from any defects which would affect the market value of such Inventory. Borrower agrees to notify Bank with respect to any Inventory (except for Inventory designated by Borrower as excluded from Eligible Inventory) with respect to which the warranties in this Section 4.27 are not true.

4.28 Equipment Warranties. With respect to all Equipment listed, scheduled or described by Borrower in a report to Bank as Equipment of Borrower or in any equipment listing or inventory of Borrower provided to Bank, Borrower warrants that, as of the date referred to in such report or financial statement and except as set forth on Schedule 4.28, (i) it is owned by Borrower, Borrower has the right to subject the same to a security interest in favor of Bank, and it is located on premises listed on Schedule 4.21; (ii) it is not subject to any lien or security interest whatsoever except for the security interest granted to Bank hereunder and except as specifically permitted by Section 8.1 below; and (iii) it is in good condition and repair (ordinary wear and tear excepted) and is currently used or usable in Borrower's business.

4.29 Acquisition, Merger and Related Matters. The InstanTEL Acquisition has been consummated in accordance with the terms of the Acquisition Documents. The Borrower has received not less than \$5,500,000 in consideration of the issuance of the Senior Subordinated Debt and not less than \$4,000,000 in equity contributions. To Borrower's knowledge, the representations and warranties in the Acquisition Documents are true and correct in all material respects on and as of the Closing Date (except as set forth on Schedule 4.29 and except to the extent such representations and warranties expressly refer to an earlier date, in which case they shall be true and correct in all material respects as of such earlier date). The Amalgamation has occurred in accordance with the terms of the documents relating thereto heretofore furnished Bank. All consents and approvals of, and filings and registrations with, and all other actions in respect of, all Governmental Authorities required in order to make or consummate the Amalgamation have been obtained, given, filed or taken and are in full force and effect, and all required waiting periods will have elapsed. All actions by Borrower and IAC pursuant to or in furtherance of the Amalgamation will have been taken in compliance with all Requirements of Law.

4.30 Senior Subordinated Debt Documents. Except as set forth on Schedule 4.30, the representations and warranties of Borrower contained in the Senior Subordinated Debt Documents are true and correct in all material respects on and as of the Closing Date.

5. AFFIRMATIVE COVENANTS.

Borrower covenants and agrees that, so long as Bank shall have any Commitment hereunder, or any Loan or other Liability (other than contingent indemnification Liabilities to the extent no claim giving rise thereto has been asserted) shall remain unpaid or unsatisfied, unless Bank waives compliance in writing:

5.1 Financial Statements. Borrower shall maintain, and shall cause each of its Subsidiaries to maintain, a system of accounting established and administered in accordance with sound business practices to permit the preparation of financial statements in conformity with GAAP (provided that monthly financial statements shall not be required to have footnote disclosure and are subject to normal year-end adjustments). Borrower shall deliver to Bank in form and detail reasonably satisfactory to Bank:

(a) as soon as available, but not later than ninety (90) days after the end of each Fiscal Year, a copy of the audited consolidated and consolidating balance sheet of Holdings and each of its Subsidiaries as at the end of such year and the related consolidated and consolidating statements of income or operations, shareholders' equity and cash flows for such Fiscal Year (or, in the case of the Fiscal Year ending December 31, 2001, for the period from and including the "Closing Date" (as defined in the Acquisition Agreement) to and including December 31, 2001), setting forth in each case in comparative form the figures for the previous Fiscal Year (if any), and accompanied by the opinion of any "Big Five" or other nationally-recognized independent public accounting firm reasonably acceptable to Bank which report shall state that such consolidated and consolidating financial statements present fairly in all material respects the financial position for the periods indicated in conformity with GAAP applied on a basis consistent with prior years. Such opinion shall not be qualified or limited because of a restricted or limited examination by such accountant, beyond an accountant's standard limitation for an audit conducted in accordance with GAAP, of any material portion of Holdings' or any Subsidiary's records;

(b) as soon as available, but not later than thirty (30) days after the end of each Fiscal Quarter (beginning with the Fiscal Quarter ending on March 31, 2002), a copy of the unaudited consolidated and consolidating balance sheets of Holdings and each of its Subsidiaries, and the related consolidated and consolidating statements of income, shareholders' equity and cash flows as of the end of such Fiscal Quarter and for the portion of the Fiscal Year then ended, all certified on behalf of Holdings by an appropriate Responsible Officer as being complete and correct and fairly presenting in all material respects, in accordance with GAAP, the financial position and the results of operations of Holdings and the Subsidiaries, subject to normal year-end adjustments and absence of footnote disclosure; and

(c) as soon as available, but not later than thirty (30) days after the end of each month, a copy of the unaudited consolidated and consolidating balance sheets of Borrower and each of its Subsidiaries, and the related consolidated and consolidating statements of income, shareholders' equity and cash flows as of the end of such month and for the portion of the Fiscal Year then ended, all certified on behalf of Borrower by an appropriate Responsible Officer as being complete and correct and fairly presenting in all material respects, in accordance with GAAP (or, for any financial statements delivered

pursuant to this clause (c) of Section 5.1 for the months of October 2001, November 2001 and December 2001, in accordance with Canadian GAAP), the financial position and the results of operations of Borrower and the Subsidiaries, subject to normal year-end adjustments and absence of footnote disclosure.

Bank shall exercise reasonable efforts, in accordance with its customary procedures for handling confidential information, to keep such information, and all information acquired as a result of any inspection conducted in accordance with Section 5.10 hereof or as a result of any documents or reports delivered hereunder, confidential, provided that Bank may communicate such information and any other information received pursuant to this Agreement and the other Financing Agreements (a) to any other Person in accordance with the customary practices of commercial banks relating to routine trade inquiries, (b) to any regulatory authority having jurisdiction over Bank, (c) to any other Person in connection with Bank's sale of any participations in the Liabilities or assignment of any rights and obligations of Bank under this Agreement and the other Financing Agreements, provided that such Person agrees to keep such information confidential on the terms set forth herein, (d) to any other Person in connection with the exercise of Bank's rights hereunder or under any of the other Financing Agreements during the continuance of an Event of Default, (e) after notice to Borrower, to any Person in any litigation in which Bank is a party, or (f) after notice to Borrower, to any Person if Bank reasonably believes in its discretion that disclosure is necessary or appropriate to comply with any applicable law, rule or regulation or in response to a subpoena, order or other legal process or informal investigative demand, whether issued by a court, judicial or administrative or legislative body or committee or other governmental authority; provided that, in the case of clauses (e) and (f), Bank shall use reasonable efforts to furnish Borrower with prior notice and an opportunity to object. Notwithstanding the foregoing, information shall not be deemed to be confidential to the extent such information (i) is available in the public domain, (ii) becomes available in the public domain other than as a result of unauthorized disclosure by Bank or (iii) is acquired from a Person not known by Bank to be in breach of an obligation of confidentiality to Borrower. Borrower authorizes Bank to discuss the financial condition of Borrower with Borrower's independent certified public accountants and agrees that such discussion or communication shall be without liability to either Bank or Borrower's independent certified public accountants.

5.2 Borrowing Base Certificates. Borrower shall submit to Bank, not later than the twentieth (20th) day of each month, a Borrowing Base Certificate (the "Borrowing Base Certificate"), in the form attached hereto as Exhibit 5.2 or such other form as Bank may require, which shall be signed by a Responsible Officer. The Borrowing Base Certificate shall be accompanied by, as of the last Business Day of the preceding month:

(i) an aged trial balance of Borrower's Accounts ("Accounts Trial Balance") prepared in a manner reasonably acceptable to Bank;

(ii) a schedule of Inventory owned by Borrower and in Borrower's possession or otherwise, by location, valued at the lesser of cost or market (determined on a first-in, first-out basis) and adjusted for such reserves that Bank, in its sole determination, has previously indicated to Borrower are appropriate, including a report of any variances or

other results of inventory counts performed by Borrower since the date of the last Borrowing Base Certificate;

(iii) an aged trial balance of Borrower's accounts payable aged by invoice date and prepared in a manner reasonably acceptable to Bank and showing the name of each party to whom a payable is due and the amounts, including an aging thereof, in such form as Bank may reasonably request;

(iv) a reconciliation of Borrower's Accounts and Inventory between the amount shown on Borrower's books and Borrower's collateral reports delivered to Bank;

(v) the outstanding principal balance of the Liabilities (other than the Term Loan);

(vi) a statement that there exists no Default or Event of Default, or, if any Default or Event of Default exists, a specific description of the nature and the period of existence thereof and the action Borrower has taken and proposes to take with respect thereto; and

(vii) a statement that no Equipment has been sold, damaged, destroyed, abandoned, become obsolete or has otherwise diminished in value (except for (a) ordinary depreciation and wear and tear and (b) damage to or the destruction or retirement of Equipment with a book value not in excess of \$10,000 in the aggregate in any one calendar year) since the later of the date of the last Borrowing Base Certificate or the schedule of Equipment most recently delivered to Bank by Borrower or, if any such events have occurred, describing the same with such specificity as is satisfactory to Bank.

5.3 Certificates; Other Information. Borrower shall furnish to Bank:

(a) upon the Bank's request, an aged trial balance of Borrower's accounts payable aged by invoice date and prepared in a manner reasonably acceptable to Bank and showing the name of each party to whom a payable is due and the amounts, including an aging thereof, in such form as Bank may reasonably request;

(b) concurrently with the delivery of the annual financial statements referred to in Section 5.1(a) above, a certificate of the independent certified public accountants reporting on such financial statements stating that in making the examination necessary therefor no knowledge was obtained of any Default or Event of Default, except as specified in such certificate;

(c) concurrently with the delivery of the financial statements referred to in Sections 5.1(a) and (b) above, a fully and properly completed Compliance Certificate in the form of Exhibit 5.3(b), certified on behalf of Borrower by a Responsible Officer;

(d) promptly after the same are sent, copies of all financial statements and financial reports which Borrower sends to its shareholders generally; and promptly after the same are filed, copies of all financial statements and regular, periodic or special reports which Borrower may make to, or file with, the Securities and Exchange

Commission, Ontario Securities Commission or any successor or similar Governmental Authority;

(e) (i) at the same time such reports are provided to the Board of Directors of Borrower, a copy of any financial management reports or similar financial information or report of operations delivered to the Board of Directors of Borrower, (ii) to the extent any Event of Default exists, together with each delivery of financial statements pursuant to Section 5.1, a management report, in reasonable detail, signed by the chief financial officer of Borrower, describing the operations and financial condition of Borrower and its Subsidiaries for the month and the portion of the Fiscal Year then ended (or for the Fiscal Year then ended in the case of annual financial statements), and (iii) together with each delivery of financial statements pursuant to Section 5.1, a report setting forth in comparative form the corresponding figures for the corresponding periods of the previous Fiscal Year and the corresponding figures from the most recent projections for the current Fiscal Year delivered pursuant to Section 5.3(f) and discussing the reasons for any significant variations;

(f) as soon as available and in any event no later than fifteen (15) Business Days after the last day of each Fiscal Year of Borrower, projections of Borrower's (and its Subsidiaries') consolidated and consolidating financial performance for the forthcoming three Fiscal Years (prepared on a month by month basis for the succeeding Fiscal Year and on an annual basis for the second and third Fiscal Years);

(g) promptly upon receipt thereof, copies of any reports submitted by Borrower's certified public accountants in connection with each annual, interim or special audit or review of any type of the financial statements or internal control systems of Borrower made by such accountants, including any comment letters submitted by such accountants to management of Borrower in connection with their services;

(h) from time to time, if Bank reasonably determines that obtaining appraisals is necessary in order for Bank to comply with applicable laws or regulations, and at any time if a Default or an Event of Default shall have occurred and be continuing, Bank may, or may require Borrower to, in any such case at Borrower's expense, obtain appraisals in form and substance and from appraisers reasonably satisfactory to Bank stating the then current fair market value of all or any portion of the real or personal property of Borrower or any of its Subsidiaries;

(i) promptly upon receipt thereof, copies of any notices of default or any event of default and other material deliveries under any agreements and documents evidencing the Prairie Subordinated Debt or the Senior Subordinated Debt; and

(j) promptly, such additional business, financial, corporate affairs and other information as Bank may from time to time reasonably request.

5.4 Notices. Borrower shall promptly notify Bank of any of the following (and in no event later than three (3) Business Days after a Responsible Officer becoming aware thereof): (a) the occurrence or existence of any Default or Event of Default; (b) any breach or

non-performance of, or any default under, any Contractual Obligation of Borrower or any of its Subsidiaries, or any violation of, or non-compliance with, any Requirement of Law, which, in either case, could reasonably be expected to result, either individually or in the aggregate, in a Material Adverse Effect, including a description of such breach, non-performance, default, violation or non-compliance and the steps, if any, Borrower or such Subsidiary has taken, is taking or proposes to take in respect thereof; (c) any dispute, litigation, investigation, proceeding or suspension which may exist at any time between Borrower or any of its Subsidiaries and any Governmental Authority which could reasonably be expected to result, either individually or in the aggregate, in a Material Adverse Effect; (d) the commencement of, or any material development in, any litigation or proceeding affecting Borrower or any Subsidiary (i) in which the amount of damages claimed is \$50,000 (or its equivalent in another currency or currencies) or more, (ii) in which injunctive or similar relief is sought and which could reasonably be expected to have a Material Adverse Effect, or (iii) in which the relief sought is an injunction or other stay of the performance of this Agreement, any Financing Agreement or any Related Document; (e) any of the following if the same would reasonably be expected to have, either individually or in the aggregate, a Material Adverse Effect: (i) any enforcement, cleanup, removal or other governmental or regulatory actions instituted, completed or threatened against Borrower or any of its Subsidiaries or any of their respective Properties pursuant to any applicable Environmental Laws, (ii) any other Environmental Claims, and (iii) any environmental or similar condition on any real property adjoining the Property of Borrower or any Subsidiary that could reasonably be anticipated to cause Borrower's or any of its Subsidiaries' Property or any part thereof to be subject to any material restrictions on the ownership, occupancy, transferability or use of such Property under any Environmental Laws; (f) any of the following if the same is applicable to Borrower or any Subsidiary and would reasonably be expected to have, either individually or in the aggregate, a Material Adverse Effect, together with a copy of any notice with respect to such event that may be required to be filed with a Governmental Authority and any notice delivered by a Governmental Authority to Borrower or any member or its Controlled Group with respect to such event: (i) an ERISA Event; (ii) the adoption of any new Qualified Plan that is subject to Title IV of ERISA or Section 412 of the Code by any member of the Controlled Group; (iii) the adoption of any amendment to a Qualified Plan that is subject to Title IV of ERISA or Section 412 of the Code, if such amendment results in a material increase in benefits or unfunded liabilities; or (iv) the commencement of contributions by any member of the Controlled Group to any Qualified Plan that is subject to Title IV of ERISA or Section 412 of the Code; (g) any Material Adverse Effect subsequent to the date of the most recent audited financial statements of Borrower delivered to Bank pursuant to this Agreement; (h) any material change in accounting policies or financial reporting practices by Borrower or any of its Subsidiaries; (i) any labor controversy resulting in or threatening to result in any strike, work stoppage, boycott, shutdown or other labor disruption against or involving Borrower or any of its Subsidiaries if the same would reasonably be expected to have, either individually or in the aggregate, a Material Adverse Effect; and (j) the creation, establishment or acquisition of any Subsidiary. Each notice pursuant to this Section shall be accompanied by a written statement by a Responsible Officer on behalf of Borrower setting forth details of the occurrence referred to therein, and stating what action Borrower proposes to take with respect thereto and at what time. Each notice of an Event of Default shall describe with particularity any and all clauses or provisions of this Agreement or other Financing Agreement that have been breached or violated.

5.5 Preservation of Existence, Etc. Except for the Amalgamation, Borrower shall, and shall cause each of its Subsidiaries to: (a) preserve and maintain in full force and effect its corporate, partnership, limited liability company or other existence and good standing under the laws of its state, province or jurisdiction of incorporation or formation; (b) preserve and maintain in full force and effect all rights, privileges, qualifications, permits, licenses and franchises necessary in the normal conduct of its business and except as would not reasonably be expected to have, either individually or in the aggregate, a Material Adverse Effect; (c) use its reasonable efforts, in the Ordinary Course of Business, to preserve its business organization and preserve the goodwill and business of the customers, suppliers and others having material business relations with it; and (d) preserve or renew all of its registered trademarks, trade names and service marks, the non-preservation of which would reasonably be expected to have, either individually or in the aggregate, a Material Adverse Effect.

5.6 Maintenance of Property. Borrower shall maintain and preserve, and shall cause each of its Subsidiaries to maintain and preserve, all its Property which is used or useful in its business in good working order and condition (ordinary wear and tear excepted) and make all necessary repairs thereto and renewals and replacements thereof, except, in each case, where the failure to do so would not reasonably be expected to have, either individually or in the aggregate, a Material Adverse Effect.

5.7 Borrower's Property Insurance and Business Interruption Insurance. Borrower shall maintain, and Borrower shall cause each of its Subsidiaries to maintain, at its expense, such public liability and third party property damage insurance in such amounts and with such deductibles as is customary for businesses similar to Borrower owning properties similarly situated. Borrower shall maintain, and Borrower shall cause each of its Subsidiaries to maintain, at Borrower's expense, business interruption insurance (in amounts reasonably satisfactory to Bank) and keep and maintain its assets insured against loss or damage by fire, theft, burglary, pilferage, loss in transit, explosion, spoilage and all other hazards and risks ordinarily insured against by other owners or users of such properties in similar businesses, in an amount at least equal to the greater of the full insurable value of all such property or the amount which is necessary to avoid the application of co-insurance provisions, and in any event insurance on Equipment and Inventory in amounts greater than the respective amount of the Term Loan and the portion of the Borrowing Base attributable to Inventory. All such policies of insurance shall be in form and substance satisfactory to Bank and Borrower shall not, and Borrower shall not permit any of its Subsidiaries to, amend or otherwise change any such policies in any way which may adversely affect Bank without the prior written consent of Bank. Borrower shall deliver to Bank the original (or a certified) copy of each policy of insurance and evidence of payment of all premiums therefor. Such policies of insurance shall contain an endorsement, in substantially the form of Exhibit 5.7 hereto, showing all loss payable to Bank as provided below in this Section 5.7. Borrower hereby directs all insurers under such policies of insurance to pay all proceeds of insurance policies directly to Bank. Borrower irrevocably makes, constitutes and appoints Bank (and all officers, employees or agents designated by Bank) as Borrower's true and lawful attorney-in-fact for the purpose of making, settling and adjusting claims as to the Collateral under all such policies of insurance, endorsing the name of Borrower on any check, draft, instrument or other item of payment pertaining to the Collateral received by Borrower or Bank pursuant to any such policies of insurance and for making all determinations and decisions with respect to such policies of insurance as they relate to the Collateral. If

Borrower or any Subsidiary, at any time or times hereafter, shall fail to obtain or maintain any of the policies of insurance required above or to pay any premium in whole or in part relating thereto, then Bank, without waiving or releasing any obligation or default by Borrower hereunder, may at any time or times thereafter (but shall be under no obligation to do so) obtain and maintain such policies of insurance and pay such premiums and take any other action with respect thereto which Bank deems advisable.

5.8 Payment of Liabilities. Borrower shall, and shall cause its Subsidiaries to, pay, discharge and perform as the same shall become due and payable or required to be performed, all their respective obligations and liabilities, including: (a) all material tax liabilities, assessments and governmental charges or levies upon it or its properties or assets, unless the same are being contested in good faith by appropriate proceedings diligently prosecuted which stay the enforcement of any Lien and for which adequate reserves in accordance with GAAP are being maintained by Borrower or such Subsidiary; (b) all lawful claims which, if unpaid, would by law become a Lien upon a material portion of its Property unless the same are being contested in good faith by appropriate proceedings diligently prosecuted which stay the imposition or enforcement of the Lien and for which adequate reserves in accordance with GAAP are being maintained by Borrower; (c) all Indebtedness, as and when due and payable, but subject to any subordination provisions contained herein and/or in the Subordination Agreement or any instrument or agreement evidencing such Indebtedness; and (d) the performance of all obligations under any Contractual Obligation to which Borrower or any of its Subsidiaries is bound, or to which it or any of its properties is subject, including the Related Documents, except where the failure to perform would not reasonably be expected to have a Material Adverse Effect.

5.9 Compliance with Laws. Borrower shall comply, and shall cause each of its Subsidiaries to comply, in all material respects, with all Requirements of Law of any Governmental Authority having jurisdiction over it or its business (including, without limitation, all Environmental Laws), except (a) such as may be contested in good faith by appropriate proceedings diligently prosecuted without risk of loss of any material portion of the Collateral, (b) as to which a bona fide dispute exists, (c) for which appropriate reserves have been established on Borrower's financial statements, or (d) where the failure to comply could not reasonably be expected to have, either individually or in the aggregate, a Material Adverse Effect.

5.10 Inspection of Property and Books and Records. Borrower shall maintain and shall cause each of its Subsidiaries to maintain proper books of record and account, in which full, true and correct entries in conformity with GAAP consistently applied shall be made of all financial transactions and matters involving the assets and business of Borrower and such Subsidiaries. Borrower shall permit, and shall cause each of its Subsidiaries to permit, representatives and independent contractors of Bank (not to exceed one (1) time per year at the expense of Borrower unless an Event of Default has occurred and is continuing) to visit and inspect any of their respective Properties, to examine their respective corporate, financial and operating records, and make copies thereof or abstracts therefrom, and to discuss their respective affairs, finances and accounts with their respective directors, officers, and independent public accountants, at such reasonable times during normal business hours and as often as may be reasonably desired, upon reasonable advance notice to Borrower; provided, however, when an

Event of Default exists Bank may do any of the foregoing at the expense of Borrower at any time during normal business hours and without advance notice.

5.11 Use of Proceeds. Borrower shall use the proceeds of the Loans solely as follows: (a) to pay amounts required to be paid to consummate the Instantel Acquisition and the Amalgamation, and (b) for working capital and other general corporate purposes not in contravention of any Requirement of Law and not in violation of this Agreement.

5.12 Further Assurances. Borrower shall ensure that all written information, exhibits and reports furnished to Bank do not and will not contain any untrue statement of a material fact and do not and will not omit to state any material fact necessary to make the statements contained therein not misleading in light of the circumstances in which made, and will promptly disclose to Bank and correct any defect or error that may be discovered therein or in any Financing Agreement or in the execution, acknowledgment or recordation thereof. Promptly upon request by Bank, Borrower shall (and shall cause each of its Subsidiaries to) take such additional actions as Bank may reasonably require from time to time in order (i) to carry out more effectively the purposes of this Agreement or any other Financing Agreement, (ii) to subject to the Liens created by any of the Collateral Documents any of the Properties, rights or interests covered by any of the Collateral Documents, (iii) to perfect and maintain the validity, effectiveness and priority of any of the Collateral Documents and the Liens intended to be created thereby, and (iv) to better assure, convey, grant, assign, transfer, preserve, protect and confirm to Bank the rights granted or now or hereafter intended to be granted to Bank under any Financing Agreement or under any other document executed in connection therewith. Without limiting the generality of the foregoing and except as otherwise approved in writing by Bank, (i) Borrower shall cause each of its Subsidiaries to guaranty the Liabilities and to cause each such Subsidiary to grant to Bank a security interest in all of such Subsidiary's property to secure such guaranty and (ii) except as otherwise approved in writing by Bank, Borrower shall pledge the stock or other equity interest of each of its Subsidiaries to Bank to secure the Liabilities; provided, that no foreign Subsidiary of Borrower shall be required to guaranty the Liabilities or grant to Bank a security interest in its property to secure any such guaranty, and neither Borrower nor any of its Subsidiaries shall be required to so pledge the equity interests of any of its foreign Subsidiaries. In connection with each pledge of stock or other equity interests, Borrower shall deliver, or cause to be delivered, to Bank, such documents, instruments and agreements as Bank may reasonably require.

5.13 Interest Rate Protection. Within thirty (30) days of the Closing Date, Borrower shall enter into Rate Contracts with the Bank providing protection against fluctuations in interest rates in the amount of at least \$3,750,000, which Rate Contracts shall provide for not less than a three (3) year term and contain such other terms as are customary and are satisfactory to Bank.

5.14 Acquisition Agreement. Borrower shall comply in all material respects with its obligations under the Acquisition Agreement.

5.15 Locations of Collateral. Borrower shall maintain all Collateral at the locations listed on Schedule 4.21.

5.16 Bank's Costs and Expenses as Additional Liabilities. Borrower shall reimburse Bank on demand for all reasonable expenses and fees paid or incurred in connection with the analysis, documentation, negotiation and closing of the Loans and other extensions of credit described herein, including, without limitation, lien search, filing and recording fees and the reasonable fees and expenses of Bank's attorneys and paralegals and consultants (whether such attorneys and paralegals are employees of Bank or are separately engaged by Bank), whether such expenses and fees are incurred prior to or after the date hereof. All costs and expenses incurred by Bank with respect to the negotiation, documentation, enforcement, collection and protection of Bank's interests in the Collateral shall be additional Liabilities of Borrower to Bank, payable on demand, repaid as provided in Section 2.7 hereof and secured by the Collateral.

5.17 Supervening Illegality. If, at any time or times hereafter, there shall become effective any amendment to, deletion from or revision, modification or other change in any provision of any statute, or any rule, regulation or interpretation thereunder or any similar law or regulation, affecting, in Bank's reasonable determination, Bank's extension of credit described in this Agreement or the selling of participations therein, Borrower shall, at Borrower's option, either (i) pay to Bank the then outstanding balance of the Liabilities, and hold Bank harmless from and against any and all obligations, fees, liabilities, losses, penalties, costs, expenses and damages, of every kind and nature, imposed upon or incurred by Borrower by reason of Bank's failure or inability to comply with the terms of this Agreement or any of the other Financing Agreements, or (ii) indemnify and hold Bank harmless from and against any and all obligations, fees, liabilities, losses, penalties, costs, expenses and damages, of every kind and nature, imposed upon or incurred by Bank by reason of such amendment, deletion, revision, modification, or other change. The obligations of Borrower under this Section 5.18 shall survive payment of the Liabilities and termination of this Agreement.

5.18 Landlord Consents and Waivers. Borrower shall use reasonable efforts, with respect to each lease then in effect on the date hereof and on or before the date of execution of any lease of premises to Borrower with respect to any lease in effect thereafter, to obtain and deliver to Bank a landlord's waiver (including, upon Bank's request therefor, a consent to a leasehold mortgage) executed by the lessor of each location leased to Borrower. Each landlord's waiver so delivered shall be in form and substance satisfactory to Bank. Borrower shall pay all of its obligations under such leases of real property when due and promptly shall notify Bank of any breach of, or default under, any such lease.

5.19 Key Man Life Insurance. Within ninety (90) days after the Closing Date, Borrower shall obtain, and thereafter at all times shall maintain in effect, (a) a life insurance policy insuring the life of Brian Martin in the amount of \$1,000,000, and (b) a life insurance policy insuring the life of Daniel A. Gunther in the amount of \$1,000,000, each under a policy or policies of insurance in form and substance reasonably satisfactory to Bank (in addition to amounts and/or policies required under any Senior Subordinated Debt Documents). Borrower shall deliver to Bank the original of each of such policies of insurance and evidence of payment of all premiums therefor. Borrower shall assign each such policy to Bank and shall take such other action with respect thereto as Bank shall require. Each such policy of insurance shall name Borrower as the sole named beneficiary thereof and shall contain endorsements providing that (i) such policy may not be canceled except after 30 days' prior written notice to Bank, and (ii) the

beneficiary of such policy may not be changed, or additional beneficiaries named, without Bank's prior written consent. If Borrower at any time or times hereafter shall fail to obtain or maintain any of the policies of insurance required above or to pay any premium in whole or in part relating thereto, then Bank, without waiving or releasing any obligation or default by Borrower hereunder, may at any time or times thereafter (but shall be under no obligation to do so) obtain and maintain such policies of insurance and pay such premiums and take any other action with respect thereto which Bank deems advisable.

5.20 Primary Depository. Borrower shall, and shall cause its Subsidiaries to, cause either (i) the Bank, or (ii) any bank or other financial institution designated by Bank in its sole discretion (the "Depository Bank"), to act as Borrower's and each Subsidiary's primary depository and remittance bank and shall cause average monthly demand deposit balances to be in an amount necessary to cover the cost of services provided by the Depository Bank in accordance with the Depository Bank's customary charges and balance credit formula. If average demand deposit balances fall short of the required level in any given calendar quarter, Bank may charge the deficiency in the cost of services to Borrower's and each Subsidiary's operating accounts, as Bank shall determine in its sole discretion. Borrower shall not, and Borrower shall not permit any of its Subsidiaries to, maintain any deposit, investment, custodial or other account of any kind whatsoever with any other bank, brokerage house or financial institution; provided, however, that Borrower and each Subsidiary specified thereon may maintain the petty cash and payroll accounts listed on Schedule 5.20 hereto at the financial institutions indicated thereon, provided that (a) the aggregate amount of funds on deposit in each such (i) petty cash account shall not exceed \$10,000; and (ii) payroll account shall not at any time exceed the sum of all accrued payroll and payroll tax obligations then payable by Borrower or such Subsidiary on its next regular payroll or payroll tax payment date on account of payroll obligations payable from such account; and (b) upon and during the continuance of an Event of Default, Borrower and such Subsidiary shall have irrevocably instructed the relevant financial institution, at the request of Bank, to provide Bank with information concerning such accounts, and (c) such financial institution shall have acknowledged such instructions in writing for the benefit of Bank.

5.21 Remittance Accounts. Borrower shall, and shall cause its Subsidiaries to, establish an account (the "Remittance Account") with either (i) the Bank, or (ii) any bank(s) or other financial institution(s) designated by Bank in its sole discretion (the "Remittance Bank"), to which all Account Debtors shall directly remit all payments on Accounts and in which Borrower or such Subsidiary will immediately deposit all cash and other payments made for Inventory and other payments constituting Proceeds of its Collateral in the identical form in which such payment was made, whether by cash or check. Such Remittance Account shall be subject to a blocked account agreement in form and substance satisfactory to Bank in its reasonable discretion.

6. NEGATIVE COVENANTS.

Borrower covenants and agrees that, so long as Bank shall have any Commitment hereunder, or any Loan or other Obligation (other than contingent indemnification Liabilities to the extent no claim giving rise thereto has been asserted) shall remain unpaid or unsatisfied, unless Bank waives compliance in writing:

6.1 Encumbrances. Borrower shall not, and Borrower shall not permit any of its Subsidiaries to, create, incur, assume or suffer to exist any security interest, mortgage, pledge, lien or other encumbrance of any nature whatsoever on any of its assets, including, without limitation, the Collateral, other than (collectively, "Permitted Liens") the following which are also "Permitted Liens" (as defined in the Senior Subordinated Purchase Agreement): (i) liens securing the payment of taxes, either not yet due or the validity of which is being contested in good faith by appropriate proceedings, and as to which Borrower shall, if appropriate under GAAP, have set aside on its books and records adequate reserves; (ii) deposits or pledges under workmen's compensation, unemployment insurance, social security and other similar laws, or to secure the performance of bids, tenders or contracts (other than for the repayment of borrowed money) or to secure indemnity, performance or other similar bonds for the performance of bids, tenders or contracts (other than for the repayment of borrowed money) or to secure statutory obligations or surety or appeal bonds, or to secure indemnity, performance or other similar bonds in the Ordinary Course of Business; (iii) the liens and security interests in favor of Bank; (iv) the liens in favor of the Senior Subordinated Creditor on any key man life insurance policy required to be obtained and maintained pursuant to the Senior Subordinated Debt Documents, respectively, and any proceeds thereof; (v) liens which arise by operation of law, other than Environmental Liens; (vi) zoning restrictions, easements, licenses, covenants and other restrictions affecting the use of real property; (vii) liens described on Schedule 6.1 hereof; (viii) liens on equipment securing purchase money Indebtedness permitted by Section 6.2(ii); (ix) judgment or judicial attachment Liens if the underlying judgment or order is not an Event of Default or Default under Section 9.1(D); (x) Liens in connection with Rate Contracts required hereunder provided such Liens are subordinate to the Liens created under the Financing Agreements, (xi) rights of setoff or banker's liens upon deposits in favor of banks or other depository institutions solely to the extent incurred in connection with the maintenance of such accounts in the Ordinary Course of Business, (xii) any interest or title of a licensor, lessor, sublicensor or sublessor under any license or lease permitted by this Agreement, (xiii) liens arising from precautionary Financing Statements filed under any lease permitted by this Agreement, and (xiv) other liens and encumbrances on property which do not, in Bank's sole determination, (a) materially impair the use of such property, or (b) materially lessen the value of such property for the purposes for which the same is held by Borrower. Borrower shall not, and Borrower shall not permit any of its Subsidiaries to, permit the filing of any Financing Statements naming Borrower or any Subsidiary as debtor, except for Financing Statements filed with respect to liens or security interests expressly permitted by this Agreement.

6.2 Indebtedness. Borrower shall not, and Borrower shall not permit any of its Subsidiaries to, incur, create, assume, become or be liable in any manner with respect to, or permit to exist, any obligations or indebtedness, except for any of the following which also constitute "Permitted Indebtedness" (as defined in the Senior Subordinated Purchase Agreement): (i) the Liabilities, (ii) Capital Leases and purchase money Indebtedness not to exceed \$200,000 in the aggregate at any time outstanding, (iii) the Senior Subordinated Debt, (iv) trade obligations and normal accruals in the Ordinary Course of Business not yet due and payable, or with respect to which Borrower is contesting in good faith the amount or validity thereof by appropriate proceedings, and then only to the extent that Borrower has set aside on its books adequate reserves therefor, if appropriate under GAAP, (v) any subordinated promissory notes of Borrower issued pursuant to a put of the BOMC Warrant, provided such notes are

subject to the Senior Subordination Agreement or subject to another subordination agreement, which subordinates such notes to the Liabilities, in form and substance satisfactory to Bank in its reasonable discretion, and (vi) Indebtedness described on Schedule 6.2. Except as otherwise permitted by this Agreement, Borrower shall not, and Borrower shall not permit any of its Subsidiaries to, pay any obligations or indebtedness before the same is due, except for the early payment of trade obligations and normal accruals in the Ordinary Course of Business.

6.3 Disposition of Assets. Bank does not authorize Borrower to, and Borrower shall not, and shall not suffer or permit any of its Subsidiaries to, directly or indirectly, sell, assign, license, lease, convey, transfer or otherwise dispose of (whether in one or a series of transactions) any Property (including accounts and notes receivable, with or without recourse) or enter into any agreement to do any of the foregoing, except:

(a) dispositions of Inventory, or used, worn-out or surplus Equipment, all in the Ordinary Course of Business;

(b) dispositions not otherwise permitted hereunder which are made for fair market value and the mandatory prepayment in the amount of the Net Proceeds of such disposition is made as provided in Section 2.3(D); provided, that (i) at the time of any disposition, no Event of Default shall exist or shall result from such disposition, (ii) the aggregate sales price from such disposition shall be paid in cash, and (iii) the aggregate value of all assets so sold by Borrower and its Subsidiaries, together, shall not exceed \$50,000 in any Fiscal Year; and (iv) after giving effect to such disposition, Borrower is in compliance on a proforma basis with the covenants set forth in Section 7 recomputed as of the last day of the most recent month for which financial statements have been delivered;

(c) the sale or discount, in each case without recourse, of accounts receivable past due arising in the Ordinary Course of Business, but only in connection with the compromise or collection thereof; and

(d) the sale or license of intellectual property, provided that the aggregate value of all such intellectual property so sold or licensed shall not exceed \$50,000 in any Fiscal Year.

6.4 Consolidations and Mergers. Borrower shall not, and shall not suffer or permit any of its Subsidiaries to, merge, amalgamate, consolidate with or into, or convey, transfer, lease or otherwise dispose of (whether in one transaction or in a series of transactions) all or substantially all of its assets (whether now owned or hereafter arising or acquired) to or in favor of any Person, except for the Amalgamation provided that the Borrower satisfies each of the conditions precedent as set forth on annexed Schedule 6.4.

6.5 Loans and Investments. Borrower shall not and shall not suffer or permit any of its Subsidiaries to (i) purchase or acquire, or make any commitment therefor, any capital stock, equity interest, or any obligations or other securities of, or any interest in, any Person, including the establishment or creation of a Subsidiary or enter into any joint ventures, or (ii) except for the Amalgamation, make or commit to make any Acquisitions, or any other

acquisition of all or substantially all of the assets of another Person, or of any business or division of any Person, including without limitation, by way of merger, amalgamation, consolidation or other combination or (iii) make or commit to make any advance, loan, extension of credit or capital contribution to or any other investment in, any Person including any Affiliate of Borrower (the items described in clauses (i), (ii) and (iii) are referred to as "Investments"), except for: (a) Investments in cash and Cash Equivalents; (b) loans and advances to employees in the Ordinary Course of Business not to exceed \$25,000 in the aggregate at any time outstanding; and (c) Rate Contracts required pursuant to Section 5.13.

6.6 Transactions with Affiliates. Borrower shall not, and shall not suffer or permit any of its Subsidiaries to, enter into any transaction with any Affiliate of Borrower or of any such Subsidiary, except: (a) as expressly permitted by this Agreement; (b) as described on annexed Schedule 6.6; and (c) Borrower may enter into any transaction with any Subsidiary of Holdings in the ordinary course of Borrower's business undertaken by Borrower in good faith and not for purposes of evading any covenant or restriction in any Financing Agreement and upon fair and reasonable terms no less favorable to Borrower than Borrower would obtain in a comparable arms-length transaction.

6.7 Management Fees and Compensation. Borrower shall not pay, and shall not permit any of its Subsidiaries to pay, any management, consulting or similar fees to any Affiliate of Borrower or to any officer, director or employee of Borrower or any of its Subsidiaries or any Affiliate of Borrower, except (a) payment of reasonable compensation to officers and employees for actual services rendered to Borrower and its Subsidiaries in the Ordinary Course of Business and reasonable severance compensation upon termination of employment of employees in the Ordinary Course of Business, (b) so long as no Default or Event of Default has occurred and is continuing or would occur as a result thereof, payments to Holdings to enable Holdings to promptly pay the consulting fee due and payable to SE Capital pursuant to the Consulting Agreement, provided that the aggregate amount of such payments does not to exceed \$125,000 in any year (the "Consulting Fee Distributions"), (c) payments to Parent to enable Parent to (x) pay the reasonable out-of-pocket operating expenses of Parent reasonably allocable to its investment in Borrower, and (y) make payments to Holdings to enable Holdings to pay the reasonable out-of-pocket operating expenses of Holdings reasonably allocable to its investment in Parent, provided that the aggregate amount of such payments under this clause (c) does not to exceed \$80,000 in any year (the "Parent Operating Expense Distributions"), (d) payments of reasonable directors' fees, and (e) reimbursement of reasonable and actual out-of-pocket expenses incurred in connection with attending Board of Directors meetings, provided that the aggregate amount permitted to be paid pursuant to the foregoing clauses (d) and (e), shall not exceed \$25,000 in any Fiscal Year of Borrower; further provided, that no such fees described in clause (d) above shall be paid during any period while an Event of Default has occurred and is continuing or would arise as a result of such payment.

6.8 Use of Proceeds. Borrower shall not and shall not suffer or permit any of its Subsidiaries to use any portion of the Loan proceeds, directly or indirectly, to purchase or carry Margin Stock or repay or otherwise refinance Indebtedness of Borrower or others incurred to purchase or carry Margin Stock, or otherwise in any manner which is in contravention of any Requirement of Law or in violation of this Agreement.

6.9 Contingent Obligations. Borrower shall not, and shall not suffer or permit any of its Subsidiaries to, create, incur, assume or suffer to exist any Contingent Obligations except in respect of the Liabilities and except: (a) endorsements for collection or deposit in the Ordinary Course of Business; (b) Rate Contracts entered into in the Ordinary Course of Business with Bank's prior written consent or pursuant to Section 5.13; (c) Contingent Obligations incurred in the Ordinary Course of Business with respect to surety and appeal bonds, performance bonds and other similar obligations; (d) Contingent Obligations arising under indemnity agreements to title insurers to cause such title insurers to issue to Bank title insurance policies; (d) guaranties in favor of Bank; and (e) as set forth on Schedule 6.9.

6.10 Compliance with ERISA. Borrower shall not, and shall not suffer or permit any of its Subsidiaries to: (a) terminate any Plan subject to Title IV of ERISA so as to result in any material liability to Borrower; (b) permit to exist any ERISA Event or any other event or condition, which would reasonably be expected to have a Material Adverse Effect; (c) make a complete or partial withdrawal (within the meaning of ERISA Section 4201) from any Multiemployer Plan so as to result in any material liability to Borrower; (d) enter into any new Qualified Plan or modify any existing Qualified Plan so as to increase its obligations thereunder which would reasonably be expected to have a Material Adverse Effect, unless such modification is required by ERISA or the Code; or (e) permit the present value of all nonforfeitable accrued benefits under any Plan (using the actuarial assumptions utilized by the PBGC upon termination of a Plan) materially to exceed the fair market value of Plan assets allocable to such benefits, all determined as of the most recent valuation date for each such Plan.

6.11 Restricted Payments. Borrower shall not, and shall not suffer or permit any of its Subsidiaries to, (i) declare or make any dividend payment or other distribution of assets, properties, cash, rights, obligations or securities on account of any shares of any class of its capital stock, partnership interests, membership interests or other equity securities (including warrants), or (ii) purchase, redeem or otherwise acquire for value any shares of its capital stock, partnership interests, membership interests or other equity securities or any warrants, rights or options to acquire such shares, interests or securities now or hereafter outstanding (the items described in clauses (i) and (ii) are referred to as "Restricted Payments"); except (a) to the extent permitted by Section 6.7 hereof, Consulting Fee Distributions and Parent Operating Expense Distributions, (b) amounts paid to Holdings for the purchase, redemption or other acquisition any of its equity interests held by employees or by the former employees of Borrower, provided that the aggregate amount paid in connection with all such purchases does not exceed \$200,000 in the aggregate, and (c) so long as no Default or Event of Default has occurred and is continuing or would occur as a result thereof, quarterly distributions (for the three-month periods ending January 31, April 30, July 31 and October 31 of each Fiscal Year) by Borrower to Holdings in an amount not to exceed the lesser of (x) \$75,000, and (y) the accrued and unpaid interest (at a coupon rate not to exceed twelve percent (12%) per annum) on the Prairie Subordinated Note during such three-month period minus the interest earned by Holdings on any Cash Collateral Account during such three-month period, minus distributions made by EVI to Holdings during such three-month period, whether before or after the date of any such distribution hereunder, pursuant to clause (c) of Section 6.11 of the EVI LSA, but only to the extent permitted by any "Subordination Agreement" (as such term is defined in the EVI LSA) (the "Permitted Prairie Subordinated Debt Distributions").

6.12 Change in Business. Borrower shall not, and shall not permit any of its Subsidiaries to, engage in any material line of business substantially different from those lines of business carried on by it on the date hereof.

6.13 Change in Structure. Except for the Amalgamation, Borrower shall not and shall not permit any of its Subsidiaries to make any changes in its equity capital structure (including in the terms of its outstanding equity securities) or amend any of its Organization Documents, in any such case, in any respect adverse to Bank.

6.14 Accounting Changes. Borrower shall not, and shall not suffer or permit any of its Subsidiaries to, make any significant change in accounting treatment or reporting practices, except as required by GAAP, or change the Fiscal Year of Borrower or of any of its consolidated Subsidiaries.

6.15 Amendments to Related Documents. Borrower shall not, and shall not permit any of its Subsidiaries, to (i) amend, supplement, waive or otherwise modify any provision of, any of the Related Documents in a manner adverse to Bank or which could reasonably be expected to have a Material Adverse Effect, or (ii) take or fail to take any action under any of the Related Documents that could reasonably be expected to have a Material Adverse Effect.

6.16 Amendment of Certificate of Formation; Name; Places of Business. Except as a result of the Amalgamation, Borrower shall not, and Borrower shall not permit any Subsidiary to, amend its Organizational Documents, except that Borrower may change its name, provided that Borrower furnishes to Bank such Financing Statements and other documents executed by Borrower which Bank may request prior to the filing of such amendment and furnishes to Bank a copy of such amendment within fifteen (15) days of the date of such amendment. Borrower shall not make any change to the state or province of its organization, or the location of its principal place of business or chief executive office unless prior to the effective date of such change in location, Borrower delivers to Bank such Financing Statements executed by Borrower which Bank may request to reflect such change in location. Borrower shall deliver such other documents and instruments as Bank may request in connection with such change in name or location within ten (10) days of the effectiveness of such change or Bank's request therefor.

6.17 Fiscal Year. Borrower shall not change its Fiscal Year.

6.18 Subsidiaries. Borrower shall not form or acquire any Subsidiaries.

6.19 Subordinated Debt. Borrower shall not: make any payment of principal or interest on the Subordinated Debt except as permitted pursuant to the terms of the Subordination Agreement; purchase any Subordinated Debt or take any other action with respect to any Subordinated Debt in contravention of any of the Senior Subordinated Debt Documents and the Subordination Agreement; take or omit to take any action whereby the subordination of the indebtedness or any part thereof evidenced by the Senior Subordinated Debt Documents to the Liabilities might be terminated, impaired or adversely affected; omit to give Bank prompt written notice of any notice received from any holder of the Senior Subordinated Debt, including,

without limitation, any notice of any default under any agreement or instrument relating thereto by reason whereof such indebtedness might become or be declared to be due or payable. Other than as expressly permitted by Section 15 of the Senior Subordination Agreement, Borrower shall not enter into or consent to any modification or alteration of the Senior Subordinated Debt Documents or otherwise amend, modify, cancel or supplement in any respect any provisions of the Senior Subordinated Debt Documents or any document related thereto. Bank may from time to time give such notices to Senior Subordinated Creditor as are contemplated by the Subordination Agreement and Bank may otherwise, in its discretion, furnish the Senior Subordinated Creditor information without any liability to Borrower.

6.20 Environmental. Borrower shall not, and Borrower shall not permit any of its Subsidiaries to, fail to conduct its business so as to comply in all material respects with all federal, state, provincial or local environmental laws and regulations applicable to Borrower, including, without limitation, environmental, land use, rules, regulations, requirements or permits in all jurisdictions in which it is or may at any time be doing business, including without limitation all Environmental Laws as the same may be amended from time to time; provided, however, that nothing contained in this Section 6.20 shall prevent Borrower or such Subsidiary from contesting, in good faith by appropriate legal proceedings, any such law, regulation, interpretation thereof or application thereof if adequate reserves in accordance with GAAP are being maintained therefor by Borrower or such Subsidiary, provided, further, that Borrower shall not fail to comply with the order of any court or other governmental body of applicable jurisdiction relating to such laws unless Borrower shall currently be prosecuting an appeal or proceedings for review and shall have secured a stay of enforcement or execution or other arrangement postponing enforcement or execution pending such appeal or proceedings for review.

6.21 Inventory Covenants. Except as to Inventory with an aggregate value not to exceed \$50,000 at any time, (a) no Inventory shall, without Bank's prior written consent, be at any time or times hereafter stored with a bailee, warehouseman, consignee or similar third party, and (b) Borrower shall not sell any of its Inventory on a bill-and-hold, guaranteed sale, sale-or-return, sale on approval or consignment basis or any other basis subject to a repurchase obligation or return right.

6.22 Account Covenants. With respect to Eligible Accounts, Borrower shall promptly upon Borrower's learning thereof: (i) inform Bank in writing of any material delay in Borrower's performance of any of its obligations to any Account Debtor or of any assertion of any claims, setoff or counterclaims by any Account Debtor (provided, however, that Borrower shall not be deemed to be in breach of clause (i) hereof unless the aggregate amount of Accounts as to which Borrower has failed to inform Bank as required above exceeds \$10,000); (ii) furnish to and inform Bank of all material adverse information of which Borrower obtains knowledge relating to the financial condition of any Person who is then an Account Debtor as to open Accounts with a face amount, in the aggregate, in excess of \$10,000; and (iii) notify Bank in writing if any of its then existing Accounts previously scheduled to Bank with respect to which Bank has made an advance are no longer Eligible Accounts.

6.23 Senior Subordinated Covenants. Without limiting Borrower's obligations under any under covenants contained in this Agreement or any of the other Financing Agreements, Borrower shall not, and Borrower shall not permit any of its Subsidiaries to, breach any of the covenants contained in Sections 4.4 or 4.5 of the Senior Subordinated Purchase Agreement.

7. FINANCIAL COVENANTS.

7.1 Fixed Charge Coverage Ratio. Borrower shall not permit the Fixed Charge Coverage Ratio for any Computation Period to be less than 1.20 to 1.00.

7.2 EBITDA. Borrower shall not permit EBITDA for any Computation Period to be less than the applicable amount set forth below for such Computation Period:

<u>Computation Periods Ending:</u>	<u>EBITDA:</u>
December 31, 2001 through and including September 30, 2002	\$2,200,000
December 31, 2002 through and including September 30, 2003	2,800,000
December 31, 2003 and thereafter	3,200,000

7.3 Senior Leverage Ratio. Borrower shall not permit the Senior Leverage Ratio as of the last day of any Computation Period to exceed the applicable amount set forth below for such Computation Period:

<u>Computation Periods Ending:</u>	<u>Senior Leverage Ratio:</u>
December 31, 2001 through and including September 30, 2002	2.50 to 1.00
December 31, 2002 through and including September 30, 2003	1.85 to 1.00
December 31, 2003 and thereafter	1.50 to 1.00

7.4 Total Leverage Ratio. Borrower shall not permit the Total Leverage Ratio as of the last day of any Computation Period to exceed the applicable amount set forth below for such Computation Period:

<u>Computation Periods Ending:</u>	<u>Total Leverage Ratio:</u>
December 31, 2001 through and including September 30, 2002	5.00 to 1.00
December 31, 2002 through and including September 30, 2003	3.75 to 1.00
December 31, 2003 and thereafter	3.00 to 1.00

7.5 Tangible Capital Funds. Borrower shall not permit the Tangible Capital Funds of Borrower as of the last day of any Computation Period to be less than the applicable amount set forth below for such Computation Period:

<u>Computation</u>	<u>Minimum Tangible</u>
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Periods Ending:

Capital Funds:

December 31, 2001 through and including September 30, 2002	\$(3,350,000)
December 31, 2002 through and including September 30, 2003	(2,000,000)
December 31, 2003 and thereafter	(100,000)

7.6 Interest Coverage Ratio. Borrower shall not permit the Interest Coverage Ratio for any Computation Period to be less than the applicable amount set forth below for such Computation Period:

Computation

Periods Ending:

Interest Coverage Ratio:

December 31, 2001 through and including September 30, 2002	1.50 to 1.00
December 31, 2002 through and including September 30, 2003	2.00 to 1.00
December 31, 2003 and thereafter	2.50 to 1.00

7.7 Capital Expenditures. Borrower shall not permit the aggregate amount of all Capital Expenditures in any Fiscal Year to exceed \$100,000, as determined for Borrower and its Subsidiaries on a consolidated basis in accordance with GAAP.

8. COLLATERAL.

8.1 Security Interest. To secure payment and performance of the Liabilities, Borrower hereby grants to Bank a right of setoff against and a continuing security interest in and to all of the personal property, and interests in the personal property of Borrower, whether now owned or hereafter arising or acquired by Borrower and wheresoever located, including without limitation the following: (i) Accounts, contract rights, General Intangibles, tax refunds, Chattel Paper, Instruments, notes, Investment Property, letters of credit, letter-of-credit rights, documents, and Documents of Title; (ii) Inventory; (iii) Equipment, fixtures and other Goods; (iv) all of Borrower's deposit accounts (general or special) with and credits and other claims against Bank, or any other financial institution with which Borrower maintains deposits; (v) all of Borrower's Money, and any and all other property and interests in property of Borrower, now or hereafter coming into the actual possession, custody or control of Bank or any agent or affiliate of Bank in any way or for any purpose (whether for safekeeping, deposit, custody, pledge, transmission, collection or otherwise); (vi) all insurance Proceeds of or relating to any of the foregoing; (vii) insurance Proceeds relating to any key man life insurance policy covering the life of any director, officer, employee or former director, officer or employee of Borrower (excluding insurance Proceeds relating to any such key man life insurance policy required to be obtained and maintained pursuant to any Senior Subordinated Debt Documents); (viii) insurance Proceeds relating to business interruption insurance; (ix) all of Borrower's other personal property; (x) all of Borrower's books and records relating to any of the foregoing; and (xi) all accessions and additions to, substitutions for, and replacements, products and Proceeds of any of the foregoing.

8.2 Preservation of Collateral and Perfection of Security Interests Therein. Borrower shall execute and deliver to Bank at any time or times at the request of Bank, all

Financing Statements or other documents (and pay the cost of filing or recording the same in all public offices deemed necessary by Bank) as Bank may request, in a form satisfactory to Bank, to perfect and keep perfected the security interest in the Collateral granted by Borrower to Bank or to otherwise protect and preserve the Collateral and Bank's security interest therein or to enforce Bank's security interests in the Collateral. Should Borrower fail to do so, Bank is authorized to sign any such Financing Statements as Borrower's agent. Borrower further agrees that, to the extent permitted by law, a carbon, photographic, photostatic or other reproduction of this Agreement or of a Financing Statement is sufficient as a Financing Statement. In addition, Borrower authorizes Bank to file Financing Statements describing the Collateral. Borrower ratifies its authorization for Bank to have filed in any jurisdiction any Financing Statement. To the extent Borrower uses proceeds of Loans to purchase Collateral, Borrower's repayment of such Loans shall apply on a "first-in-first-out" basis so that the portion of the Loans used to purchase a particular item of Collateral shall be paid in the chronological order Borrower purchased the Collateral.

8.3 Loss of Value of Collateral. Borrower shall immediately notify Bank of any loss or depreciation in an amount in excess of \$10,000 in the aggregate in the value of the Collateral promptly upon Borrower's obtaining knowledge thereof, other than loss or depreciation occurring in the Ordinary Course of Business.

8.4 Setoff. Borrower agrees that Bank has all rights of setoff and banker's lien provided by applicable law and, in addition thereto, Borrower agrees that (in addition to Bank's rights with respect to Proceeds of Collateral) at any time (a) any amount owing by it under this Agreement or any other Financing Agreement is then due or (b) any Default exists, Bank may apply to the payment of the Liabilities, any and all balances, credits, deposits, accounts or monies of Borrower then or thereafter with Bank. Without limitation of the foregoing and in addition to Bank's rights with respect to the Proceeds of the Collateral, Borrower agrees that upon and after the occurrence and during the continuance of a Default, Bank and each of its branches and offices is hereby authorized, at any time and from time to time, without notice, (i) to setoff against, and to appropriate and apply to the payment of, the Liabilities (whether matured or unmatured, fixed or contingent or liquidated or unliquidated) any and all amounts owing by Bank or any such office or branch to Borrower (whether matured or unmatured, and, in the case of deposits, whether general or special, time or demand and however evidenced) and (ii) pending any such action, to the extent necessary, to hold such amounts as collateral to secure such Liabilities and to return as unpaid for insufficient funds any and all checks and other items drawn against any deposits so held as Bank may elect in its sole discretion exercised.

8.5 Cash Collateral. In the event that Bank has issued any Letters of Credit, Bank may, at any time after (i) the occurrence and during the continuance of a Default, (ii) demand by Bank for payment of the Liabilities as provided in Section 9.1 hereof, (iii) there exists no unpaid principal balance of the Liabilities, (iv) this Agreement shall terminate for any reason pursuant to Section 2.8 hereof, or (v) the amount of (a) the aggregate outstanding principal balance of the Revolving Loan plus the sum of the undrawn face amount of any Letters of Credit outstanding shall exceed the amount of (b) the Borrowing Base plus the sum of the undrawn face amount of any Letters of Credit outstanding, request of Borrower, and Borrower thereupon shall deliver to Bank, cash collateral for any Letter of Credit. If Borrower fails to deliver such cash to

Bank promptly upon Bank's request therefor, Bank may, without limiting Bank's rights or remedies arising from such failure to deliver cash, retain, as cash collateral, cash Proceeds of the Collateral in an amount equal to the aggregate undrawn face amount of all Letters of Credit then outstanding. Bank may at any time apply any or all of such cash and cash collateral to the payment of any or all of the Liabilities, including, without limitation, to the payment of any or all of Borrower's reimbursement obligations with respect to any Letter of Credit. Pending such application, Bank may (but shall not be obligated to) (i) invest the same in a savings account, under which deposits are available for immediate withdrawal, with Bank or such other bank as Bank may, in its sole discretion, select, or (ii) hold the same as a credit balance in an account with Bank in Borrower's name. Interest payable on any such savings account described in the foregoing sentence shall be collected by Bank and shall be paid to Borrower as it is received by Bank, less any fees owing by Borrower to Bank with respect to any Letter of Credit and less any amounts necessary to pay any of the Liabilities which may be due and payable at such time. Bank shall have no obligation to pay interest on any credit balances in any account opened for Borrower pursuant to this Section 8.5.

8.6 Verification of Accounts. Bank shall have the right, upon and during the continuance of a Default or an Event of Default, in Bank's name or in the name of a nominee of Bank, to verify the validity, amount or any other matter relating to any Accounts, by mail, telephone, telegraph or otherwise and to sign Borrower's name on any verification of Accounts and notices thereof to Account Debtors.

8.7 Instruments and Chattel Paper. Immediately upon Borrower's receipt thereof, Borrower shall deliver or cause to be delivered to Bank, with appropriate endorsement and assignment to vest title and possession in Bank, with full recourse to Borrower, all material Chattel Paper and Instruments which Borrower now owns or may at any time or times hereafter acquire. Borrower will cooperate with Bank in obtaining control with respect to Collateral consisting of deposit accounts, Investment Property, letter-of-credit rights, and electronic Chattel Paper. Borrower will not create any Chattel Paper without placing a legend on the Chattel Paper acceptable to Bank indicating that Bank has a security interest in the Chattel Paper.

8.8 Notice to Account Debtors. Bank may, in its sole discretion, at any time or times following the occurrence of a Default and during the continuance thereof, and without prior notice to Borrower, (i) notify any or all Account Debtors that the Accounts have been assigned to Bank and that Bank has a security interest therein, and (ii) direct any or all Account Debtors to make all payments upon the Accounts directly to Bank. Bank shall furnish Borrower with a copy of such notice.

8.9 Inventory Records. Borrower shall at all times hereafter maintain a perpetual inventory, keeping materially correct and accurate records itemizing and describing the kind, type, quality and quantity of Inventory, Eligible Inventory and Borrower's cost therefor and daily withdrawals therefrom and additions thereto, all of which records shall be available during Borrower's usual business hours at the request of any of Bank's officers, employees or agents. Borrower shall conduct a physical count of the Inventory at least once each year (and, following the occurrence of an Event of Default, Borrower shall make such additional counts as may be reasonably requested by Bank) and, upon Bank's request, promptly following any such counts of

Inventory shall supply Bank with a report in a form and with such specificity as may be reasonably satisfactory to Bank concerning such physical count of the Inventory.

8.10 Equipment Records. Borrower shall at all times hereafter keep materially correct and accurate records itemizing and describing the kind, type, age and condition of Equipment, Borrower's cost therefor and accumulated depreciation thereof; and retirements, sales or other dispositions thereof, all of which records shall be available during Borrower's usual business hours on demand to any of the officers, employees or agents of Bank. All Equipment is and shall be kept at the locations specified on Schedule 4.21.

8.11 Safekeeping. Bank shall not be responsible for: (i) the safekeeping of the Collateral (ii) any loss of or damage to the Inventory; (iii) any diminution in the value of the Collateral or (iv) any act or default of any carrier, warehouseman, bailee, forwarding agency, any repairman, bailee or any other Person with respect to the Collateral. All risk of loss, damage, destruction or diminution in value of the Collateral shall be borne by Borrower.

9. DEFAULT, RIGHTS AND REMEDIES OF BANK.

9.1 Defaults. If any of the following events ("Defaults") shall occur:

(A) Borrower fails to pay (i) any of its Liabilities (other than interest or fees) when such Liabilities are due or are declared due (whether by scheduled maturity, required prepayment, acceleration or otherwise) or (ii) any of its Liabilities constituting interest or fees within three (3) days of the date such Liabilities are due or declared due (whether by scheduled maturity, required prepayment, acceleration or otherwise);

(B) Borrower, Holdings, Parent, any of their respective Subsidiaries, any Pledgor or any guarantor of any of the Liabilities fails or neglects to perform, keep or observe any of its covenants, conditions or agreements contained in any of the other Financing Agreements within any applicable grace period provided thereby or Borrower fails or neglects to perform, keep or observe any of its covenants, conditions or agreements contained in:

(i) Sections 5.1, 5.2 or 5.17 above and such failure shall continue for five (5) days; provided that such grace period shall not apply, and a Default shall be deemed to have occurred promptly upon such breach, if such breach cannot, in Bank's reasonable determination, be cured during such grace period;

(ii) Section 5.6, 5.8 and 5.9 and such failure shall continue for thirty (30) days; provided that such grace period shall not apply, and a Default shall be deemed to have occurred promptly upon such breach, if such breach cannot, in Bank's reasonable determination, be cured during such grace period; and

(iii) any other covenant, condition or agreement contained in this Agreement and such failure shall continue until after the grace period, if any, provided by any Related Document relating to such covenant, condition or agreement;

(C) any warranty or representation now or hereafter made by Borrower, Holdings, Parent, any of their Subsidiaries, any Pledgor, or any guarantor of any of the Liabilities is untrue or incorrect in any material respect when made, or any schedule, certificate, written statement, report, financial data, written notice, or writing furnished at any time by Borrower, Holdings, Parent, any of their respective Subsidiaries, any Pledgor, or any guarantor of any of the Liabilities to Bank is untrue or incorrect in any material respect on the date as of which the facts set forth therein are stated or certified or any of the foregoing omits to state a fact necessary to make the statements therein contained not misleading in any material respect;

(D) a judgment or order requiring payment in excess of \$100,000 (except for judgments which are not a lien on personal property, which are being contested by Borrower in good faith and for which adequate reserves in accordance with GAAP are being maintained by Borrower) shall be rendered against Borrower, Holdings, Parent or any of their respective Subsidiaries and such judgment or order shall remain unsatisfied or undischarged and in effect for sixty (60) consecutive days without a stay of enforcement or execution, provided that this Section 9.1(D) shall not apply to any judgment for which Borrower, Holdings, Parent or any of their respective Subsidiaries is fully insured (except for normal deductibles in connection therewith) and with respect to which the insurer has assumed the defense and is not defending under reservation of right and with respect to which Bank reasonably believes the insurer will pay the full amount thereof (except for normal deductibles in connection therewith);

(E) a notice of lien, levy or assessment is filed or recorded with respect to all or a substantial part of the assets of Borrower, Holdings, Parent or any of their respective Subsidiaries by the United States, or any department, agency or instrumentality thereof, by Canada, or any department, agency, subdivision or instrumentality thereof, or by any state, provincial, county, municipality or other governmental agency or any taxes or debts owing at any time or times hereafter to any one or more of them become a lien upon all or a substantial part of Borrower's Collateral or the assets of or collateral provided by any such Subsidiary, and (i) such lien, levy or assessment is not discharged or released or the enforcement thereof is not stayed within thirty (30) days of the notice or attachment thereof, or (ii) if the enforcement thereof is stayed, such stay shall cease to be in effect, provided that this Section 9.1(E) shall not apply to any liens, levies or assessments which relate to current taxes not yet due and payable;

(F) there shall occur any loss, theft, substantial damage or destruction of any item or items of Collateral which is not fully insured as required by this Agreement, the other Financing Agreements or any guarantee (a "Loss"), to the extent the amount of such Loss not fully covered by insurance (including any deductible in connection therewith), together with the amount of all other Losses not fully covered by insurance (including any deductibles in connection therewith) occurring in the same Fiscal Year, exceeds \$100,000;

(G) all or any part of the Collateral is attached, seized, subjected to a writ or distress warrant, or is levied upon, or comes within the possession of any receiver, trustee, custodian or assignee for the benefit of creditors and on or before the thirtieth

(30th) day thereafter such assets are not returned to and/or such writ, distress warrant or levy is not dismissed, stayed or lifted and if the amount of such Collateral or assets or collateral, together with any other such Collateral, assets and collateral that is so attached, seized, subjected to writ or distress warrant or levied upon, exceeds \$100,000 at any time;

(H) a proceeding under any bankruptcy, reorganization, arrangement of debt, insolvency, readjustment of debt or receivership law or statute (including without limitation the CCAA or the BIA or similar legislation) is filed (i) against Borrower, Holdings, Parent, the or any of their respective Subsidiaries and any assignment, adjudication or appointment is made or order for relief is entered, or such proceeding remains undismissed for a period in excess of sixty (60) days, or (ii) by Borrower, Holdings, Parent or any of their respective Subsidiaries or Borrower, Holdings, Parent or any of their respective Subsidiaries makes an assignment for the benefit of creditors or Borrower, Holdings, Parent or any of their respective Subsidiaries takes any corporate action to authorize any of the foregoing;

(I) a proceeding under any bankruptcy, reorganization, arrangement of debt, insolvency, readjustment of debt or receivership law or statute (including without limitation the CCAA or the BIA or similar legislation) is filed (i) against any guarantor of any of the Liabilities and any assignment, adjudication or appointment is made or order for relief is entered, or such proceeding remains undismissed for a period in excess of sixty (60) days, or (ii) by any guarantor of any of the Liabilities or any guarantor of any of the Liabilities makes an assignment for the benefit of creditors or any guarantor of any of the Liabilities takes any corporate action to authorize any of the foregoing;

(J) Borrower, Holdings, Parent or any of their respective Subsidiaries or any guarantor of any of the Liabilities voluntarily or involuntarily dissolves or is dissolved, terminates or is terminated;

(K) Borrower, Holdings, Parent any of their respective Subsidiaries or any guarantor of any of the Liabilities becomes insolvent or fails generally to pay its debts as they become due;

(L) Borrower, Holdings, Parent or any of their respective Subsidiaries or any guarantor of any of the Liabilities is enjoined, restrained, or in any way prevented by the order of any court or any administrative or regulatory agency from conducting all or any material part of its business affairs;

(M) a breach, which could reasonably be expected to have a Material Adverse Effect, by Borrower, Holdings, Parent any of their respective Subsidiaries or any guarantor of any of the Liabilities shall occur under any agreement, document or instrument (other than an agreement, document or instrument evidencing the lending of money), whether heretofore, now or hereafter existing between Borrower, Holdings, Parent any of their respective Subsidiaries or such guarantor and any other Person, and such breach continues unwaived for more than thirty (30) days after such breach first occurs, provided that such grace period shall not apply, and a Default shall be deemed to have occurred promptly upon such breach, if such breach cannot, in Bank's reasonable

determination, be cured by Borrower, Holdings, Parent such Subsidiary or such guarantor during such thirty (30) day grace period;

(N) as to more than \$100,000 in indebtedness in the aggregate at any time (i) Borrower, Holdings, Parent, any of their respective Subsidiaries or any guarantor of any of the Liabilities shall fail to make any payment due (whether by scheduled maturity, required prepayment, acceleration, demand or otherwise) on any other obligation for borrowed money and such failure shall continue after the applicable grace period, if any, specified in the agreement or instrument relating to such indebtedness; (ii) any other default under any agreement or instrument relating to any such indebtedness, or any other event, shall occur and shall continue after the applicable grace period, if any, specified in such agreement or instrument if the effect of such default or event is to accelerate, or to permit the acceleration of, the maturity of such indebtedness; or (iii) any such indebtedness shall be declared to be due and payable or required to be prepaid (other than by a regularly scheduled required prepayment) prior to the stated maturity thereof;

(O) any guarantor of any of the Liabilities shall, or shall attempt to, terminate or revoke any of its obligations under the applicable guarantee agreement or breach any of the terms of such guarantee agreement, or any Person executing a fidelity guaranty in favor of Bank in connection with the Liabilities shall, or shall attempt to, terminate or revoke such guaranty;

(P) a material adverse change shall occur (i) in the operations, business, properties or condition (financial or otherwise) of Borrower or Borrower and its Subsidiaries taken as a whole, or (ii) which materially impairs the ability of Borrower to perform Borrower's obligations under this Agreement and the other Financing Agreements, in each case as determined by Bank in its reasonable discretion;

(Q) (i) Holdings shall cease to own and control 100% of the capital stock of Parent or (ii) Parent shall cease to own and control 100% of the capital stock of Borrower;

(R) a Change in Control shall occur with respect to Holdings;

(S) Brian Martin or Daniel A. Gunther (or any replacement reasonably satisfactory to Bank) shall for any reason cease to be employed by Borrower in their current capacities for more ninety (90) days;

(T) any breach or violation of any term or provision of the Subordination Agreements or any Collateral Document shall occur or any Person shall, or shall attempt to (provided that a mere verbal threat of termination which is not maintained shall not be such an "attempt" for the purposes of this Agreement), terminate, discontinue or revoke any of its obligations thereunder or any breach, default, event of default, "Default", or "Event of Default" shall occur under any Senior Subordinated Debt Document;

(U) (i) a member of the Controlled Group shall fail to pay when due, after the expiration of any applicable grace period, any installment payment with respect to its

Withdrawal Liability under a Multiemployer Plan; (ii) a member of the Controlled Group shall fail to satisfy its contribution requirements under Section 412(c)(11) of the Code, whether or not it has sought a waiver under Section 412(d) of the Code; (iii) the occurrence of an ERISA Event; (iv) a Qualified Plan that is intended to be qualified under Section 401(a) of the Code shall lose its qualification; (v) any member of the Controlled Group engages in or otherwise becomes liable for a non-exempt prohibited transaction; (vi) a violation of section 404 or 405 of ERISA or the exclusive benefit rule under section 401(a)(2) of the Code; (vii) any member of the Controlled Group is assessed a tax under section 4980B of the Code or incurs a liability under Section 601 et seq of ERISA; and, the occurrence of any such event listed in clauses (i) through (vii), or the occurrence of any combination of events listed in clauses (i) through (vii) results in, or could reasonably be expected to result in, a Material Adverse Effect or result in exposure to Borrower in an amount in excess of \$100,000; or

(V) the occurrence of any "Default" (as such term is defined in the EVI LSA) or the occurrence of any default or event of default under any credit agreement, loan agreement, or loan and security agreement between Bank and any one or more of Borrower's Affiliates;

then Bank may, upon notice to Borrower (i) terminate Bank's obligation to make advances to Borrower pursuant to Section 2.1 hereof, and/or (ii) declare all of the Liabilities, including, without limitation, all of Borrower's contingent liabilities with respect to any Letters of Credit, to be immediately due and payable, whereupon all of the Liabilities, including, without limitation, all of Borrower's contingent liabilities with respect to any Letters of Credit, shall become immediately due and payable, except that in the event a Default described in Section 9.1(H) hereof shall exist or occur, all of the Liabilities, including, without limitation, all of Borrower's contingent liabilities with respect to any Letters of Credit, shall automatically, without notice of any kind, be immediately due and payable.

9.2 Rights and Remedies Generally. In the event of a Default, Bank shall have, in addition to any other rights and remedies contained in this Agreement or in any of the other Financing Agreements, all of the rights and remedies of a secured party under the UCC, the PPSA or other applicable laws, all of which rights and remedies shall be cumulative, and non-exclusive, to the extent permitted by law. In addition to all such rights and remedies, the sale, lease or other disposition of the Collateral, or any part thereof, by Bank after Default may be for cash, credit or any combination thereof, and Bank may purchase all or any part of the Collateral at public or, if permitted by law, private sale, and in lieu of actual payment of such purchase price, may set off the amount of such purchase price against the Liabilities then owing. Any sales of the Collateral may be adjourned from time to time with or without notice. Bank may, in its sole discretion, cause the Collateral to remain on Borrower's premises, at Borrower's expense, pending sale or other disposition of the Collateral. Bank shall have the right to conduct such sales on Borrower's premises, at Borrower's expense, or elsewhere, on such occasion or occasions as Bank may see fit.

9.3 Entry Upon Premises and Access to Information. In the event of a Default, Bank shall have the right to enter upon the premises of Borrower where the Collateral is located (or is believed to be located) without any obligation to pay rent to Borrower, or any other

place or places where the Collateral is believed to be located and kept, and render the Collateral unusable or remove the Collateral therefrom to the premises of Bank or any agent of Bank, for such time as Bank may desire, in order effectively to collect or liquidate the Collateral, and/or Bank may require Borrower to assemble the Collateral and make it available to Bank at a place or places to be designated by Bank. In the event of a Default, Bank shall have the right to obtain access to Borrower's data processing equipment, computer hardware and software relating to the Collateral and to use all of the foregoing and the information contained therein in any manner Bank deems appropriate; and Bank shall have the right to notify post office authorities to change the address for delivery of Borrower's mail to an address designated by Bank and to receive, open and deal with all mail addressed to Borrower.

9.4 Sale or Other Disposition of Collateral by Bank. Any notice required to be given by Bank of a sale, lease or other disposition or other intended action by Bank with respect to any of the Collateral which is deposited in the United States mails, postage prepaid and duly addressed to Borrower at the address specified in Section 10.17 below, at least ten (10) Business Days prior to such proposed action shall constitute fair and reasonable notice to Borrower of any such action. The net proceeds realized by Bank upon any such sale or disposition, after deduction for the expense of retaking, holding, preparing for sale, selling or the like and the reasonable attorneys' fees and legal expenses incurred by Bank in connection therewith, shall be applied as provided herein toward satisfaction of the Liabilities including, without limitation, the Liabilities described in Section 10.2. Bank shall account to Borrower for any surplus realized upon such sale or other disposition, and Borrower shall remain liable for any deficiency. The commencement of any action, legal or equitable, or the rendering of any judgment or decree for any deficiency shall not affect Bank's security interest in the Collateral until the Liabilities are fully paid. Borrower agrees that Bank has no obligation to preserve rights to the Collateral against any other parties. Bank is hereby granted a license or other right to use, without charge, Borrower's labels, patents, copyrights, rights of use of any name, trade secrets, trade names, trade styles, trademarks, service marks and advertising matter, or any property of a similar nature, as it pertains to the Collateral, in completing production of, advertising for sale and selling any Collateral and all of Borrower's rights under all licenses and all franchise agreements shall inure to Bank's benefit until the Liabilities are paid. Bank has no obligation to clean-up or otherwise prepare the Collateral for sale. Borrower waives any right it may have to require Bank to pursue any third person for any of the Liabilities. Bank may comply with any applicable state, provincial or federal law requirements in connection with a disposition of the Collateral and compliance will not be considered adversely to affect the commercial reasonableness of any sale of the Collateral. Bank may specifically disclaim any warranties of title or the like. This procedure will not be considered adversely to affect the commercial reasonableness of any sale of the Collateral. If Bank sells any of the Collateral upon credit, Borrower will be credited only with payments actually made by the purchaser, received by Bank and applied to the indebtedness of the purchaser. In the event the purchaser fails to pay for the Collateral, Bank may resell the Collateral and Borrower shall be credited with the proceeds of the sale.

9.5 Waiver of Demand. Demand, presentment, protest and notice of nonpayment are hereby waived by Borrower. Borrower also waives the benefit of all valuation, appraisal and exemption laws.

9.6 Collection of Accounts and Payments. After the occurrence and during the continuance of a Default or upon the request of Bank, all payments made to the Remittance Account or otherwise received by the Bank or the Remittance Bank, whether on the Accounts or as Proceeds of other Collateral or otherwise, will be the sole and exclusive property of Bank and may be applied by the Bank in its discretion on account of Borrower's Liabilities as follows: (i) when collected, for collection of checks and other instruments (including automatic clearing house electronic funds transfers and depository transfer checks) received by Bank at its offices in Chicago, Illinois, Bank will credit (conditional upon final collection) all such payments to the Liabilities in such order as Bank shall determine and (ii) all cash payments received by Bank at its offices in Chicago, Illinois, including, without limitation, payments made by wire transfer of immediately available funds received by Bank in time for posting to the account of Bank on the date received, will be credited to the Liabilities in such order as Bank shall determine; provided, however, that if at any time Bank shall receive Canadian Dollars for application to the Liabilities (a) Bank shall convert Canadian Dollars received by it to Dollars at the Spot F/X Rate in effect at the time of conversion by Bank, and (b) Bank shall be deemed to have received the Dollar equivalent based on such Spot F/X Rate and Bank may apply the same to Borrower's Liabilities on either the date of receipt by Bank or the Business Day following such date of receipt by Bank in Dollars in good funds at its offices in Chicago, Illinois. After the occurrence and during the continuance of a Default, Borrower and all of its Affiliates, Subsidiaries, shareholders, directors, officers, employees, agents or those Persons acting for or in concert with Borrower shall, acting as trustee for Bank, receive, as the sole and exclusive property of Bank, any monies, checks, notes, drafts or any other payment relating to and/or Proceeds of Borrower's Accounts or the other Collateral which come into the possession or under the control of Borrower or any of its Affiliates, Subsidiaries, shareholders, directors, officers, employees, agents or those Persons acting for or in concert with Borrower and immediately upon receipt thereof, Borrower shall remit the same or cause the same to be remitted, in kind, to Bank, at Bank's address set forth below. Borrower agrees to pay to Bank or the Remittance Bank, as applicable, any and all reasonable fees, costs and expenses which Bank or the Remittance Bank incurs in connection with opening and maintaining Borrower's Remittance Account and depositing for collection by Bank or the Remittance Bank any check or item of payment received and/or delivered to Bank or the Remittance Bank on account of the Liabilities.

9.7 Appointment of Bank as Borrower's Attorney-in-Fact. Borrower hereby irrevocably designates, makes, constitutes and appoints Bank (and all Persons designated by Bank) as Borrower's true and lawful attorney-in-fact, and authorizes Bank, in Borrower's or Bank's name, at any time and from time to time following the occurrence and during continuance of a Default to: (i) demand payment of Borrower's Accounts; (ii) enforce payment of such Accounts by legal proceedings or otherwise; (iii) exercise all of Borrower's rights and remedies with respect to proceedings brought to collect any Account; (iv) sell or assign any of Borrower's Accounts upon such terms, for such amount and at such time or times as Bank deems advisable; (v) settle, adjust, compromise, extend or renew any of Borrower's Accounts; (vi) discharge and release any of Borrower's Accounts; (vii) take control in any manner of any item of payment or Proceeds thereof; (viii) prepare, file and sign Borrower's name on any proof of claim in bankruptcy or other similar document against an Account Debtor of Borrower; (ix) endorse Borrower's name upon any items of payment or Proceeds thereof and deposit the same in Bank's account for application by Bank to such Liabilities; (x) endorse Borrower's name upon

any Chattel Paper, document, Instrument, invoice, or similar document or agreement relating to any of Borrower's Accounts or any Goods pertaining thereto; (xi) sign Borrower's name on any verification of its Accounts and notices thereof to Borrower's Account Debtors; (xii) notify the post office authorities to change the address for delivery of Borrower's mail to an address designated by Bank, have access to any lock box or postal box into which any of the Borrower's mail is deposited, and open and deal with all mail addressed to Borrower; and (xiii) do all acts and things which are necessary, in Bank's sole discretion, to fulfill Borrower's obligations under this Agreement. This power of attorney, which is coupled with an interest, is irrevocable.

9.8 WAIVER OF NOTICE. ON THE OCCURRENCE OF A DEFAULT, BORROWER (PURSUANT TO AUTHORITY GRANTED BY ITS BOARD OF DIRECTORS) HEREBY WAIVES ALL RIGHTS TO NOTICE AND HEARING OF ANY KIND PRIOR TO THE EXERCISE BY BANK OF ITS RIGHTS TO REPOSSESS THE COLLATERAL WITHOUT JUDICIAL PROCESS OR TO REPLEVY, ATTACH OR LEVY UPON THE COLLATERAL WITHOUT PRIOR NOTICE OR HEARING TO THE FULLEST EXTENT PERMITTED BY LAW.

9.9 Receiver. Upon the occurrence of and during the continuance of a Default, Bank may appoint or reappoint by instrument in writing, any Person or Persons, whether an officer or officers or an employee or employees of Bank or not, to be a receiver or receivers (a "Receiver", which term shall include a receiver and manager) of Collateral (including any interest, income or profits therefrom) and may remove any Receiver so appointed and appoint another in his stead. Any such Receiver shall, so far as concerns responsibility for his acts, be deemed the agent of the Borrower and not of Bank, and Bank shall not be in any way responsible for any misconduct, negligence or non-feasance on the part of any such Receiver, his servants, agents or employees. Subject to the provisions of the instrument appointing him, any such Receiver shall have power to take possession of Collateral, to preserve Collateral or its value, to carry on or concur in carrying on all or any part of the business of the Borrower and to sell, lease or otherwise dispose of or concur in selling, leasing or otherwise disposing of Collateral. To facilitate the foregoing powers, any such Receiver may, to the exclusion of all others, including the Borrower, enter upon, use and occupy all premises owned or occupied by the Borrower wherein Collateral may be situate, maintain Collateral upon such premises, borrow money on a secured or unsecured basis and use Collateral directly in carrying on the Borrower's business or as security for loans or advances to enable him to carry on the Borrower's business or otherwise, as such Receiver shall, in his discretion, determine. Except as may be otherwise directed by Bank, all money received from time to time by such Receiver in carrying out his appointment shall be received in trust for and paid over to Bank. Every such Receiver may, in the discretion of Bank, be vested with all or any of the rights and powers of Bank. Upon the occurrence of and during the continuance of a Default, Bank may, either directly or through its agents or nominees, exercise any or all of the powers and rights given to a Receiver by virtue of this Section 9.9.

9.10 Expenses. Without limiting Section 10.2, the Borrower agrees to be liable for and to pay all costs, charges and expenses reasonably incurred by Bank or any Receiver appointed by it, whether directly or for services rendered (including reasonable legal counsels' and auditors' costs and other legal expenses and Receiver remuneration), in collecting the Borrower's Accounts, in preparing or enforcing this Agreement, taking and maintaining custody of, preserving, repairing, processing, preparing for disposition and disposing of Collateral and in

enforcing or collecting the Liabilities and all such costs, charges and expenses, together with any amounts owing as a result of any borrowing by Bank or any Receiver appointed by it, as permitted hereby, shall be a first charge on the Proceeds of realization, collection or disposition of Collateral and shall be secured hereby.

10. MISCELLANEOUS

10.1 Waiver. Bank's failure, at any time or times hereafter, to require strict performance by Borrower of any provision of this Agreement shall not waive, affect or diminish any right of Bank thereafter to demand strict compliance and performance therewith. Any suspension or waiver by Bank of a Default by Borrower under this Agreement or any of the other Financing Agreements shall not suspend, waive or affect any other Default by Borrower under this Agreement or any of the other Financing Agreements, whether the same is prior or subsequent thereto and whether of the same or of a different kind or character. None of the undertakings, agreements, warranties, covenants and representations of Borrower contained in this Agreement or any of the other Financing Agreements and no Default by Borrower under this Agreement or any of the other Financing Agreements shall be deemed to have been suspended or waived by Bank unless such suspension or waiver is in writing signed by an officer of Bank, and directed to Borrower specifying such suspension or waiver. All Defaults shall continue until the same are waived by Bank in accordance with the preceding sentence.

10.2 Costs and Attorneys' Fees. If at any time or times hereafter Bank employs counsel in connection with protecting or perfecting Bank's security interest in the Collateral or in connection with any matters contemplated by or arising out of this Agreement or any of the other Financing Agreements, whether (a) to prepare, negotiate or execute (i) any amendment to or modification or extension of this Agreement, any other Financing Agreements or any instrument, document or agreement executed by any Person in connection with the transactions contemplated by this Agreement, (ii) any new or supplemental Financing Agreements, or any instrument, document or agreement to be executed by any Person in connection with the transactions contemplated by this Agreement, or (iii) any instrument, document or agreement in connection with any sale or attempted sale of any interest herein to any participant, (b) to commence, defend, or intervene in any litigation or to file a petition, complaint, answer, motion or other pleadings, (c) to take any other action in or with respect to any suit or proceeding (bankruptcy or otherwise), (d) to consult with officers of Bank to advise Bank, (e) to protect, collect, lease, sell, take possession of, release or liquidate any of the Collateral, or (f) to attempt to enforce or to enforce any security interest in any of the Collateral, or to enforce any rights of Bank, including, without limitation, Bank's rights to collect any of the Liabilities, then in any of such events, all of the reasonable attorneys' fees arising from such services, and any reasonable expenses, costs and charges relating thereto, including, without limitation, all reasonable fees of all paralegals and other staff employed by such attorneys, together with interest following demand for payment thereof at the from time to time rate prescribed in Section 2.6(A) hereof, shall be part of the Liabilities, payable on demand and secured by the Collateral.

10.3 Expenditures by Bank. In the event Borrower shall fail to pay taxes, insurance, assessments, costs or expenses which Borrower is, under any of the terms hereof, required to pay, or fails to keep the Collateral free from Liens (other than Permitted Liens) Bank may, in its sole discretion, make expenditures for any or all of such purposes, and the amount so

expended, together with interest thereon at the rate prescribed in Section 2.6(A) hereof, shall be part of the Liabilities, payable on demand and secured by the Collateral.

10.4 Custody and Preservation of Collateral. Bank shall be deemed to have exercised reasonable care in the custody and preservation of any of the Collateral in its possession if it takes such action for that purpose as Borrower shall request in writing, but failure by Bank to comply with any such request shall not of itself be deemed a failure to exercise reasonable care, and no failure by Bank to preserve or protect any right with respect to such Collateral against prior parties, or to do any act with respect to the preservation of such Collateral not so requested by Borrower shall of itself be deemed a failure to exercise reasonable care in the custody or preservation of such Collateral.

10.5 Reliance by Bank. All covenants, agreements, representations and warranties made herein by Borrower shall, notwithstanding any investigation by Bank, be deemed to be material to and to have been relied upon by Bank.

10.6 Parties. Whenever in this Agreement there is reference made to any of the parties hereto, such reference shall be deemed to include, wherever applicable, a reference to the successors and assigns of Borrower and the successors and assigns of Bank, and the provisions of this Agreement shall be binding upon and shall inure to the benefit of said successors and assigns. Notwithstanding anything herein to the contrary, Borrower may not assign or otherwise transfer its rights or obligations under this Agreement without the prior written consent of Bank. Without in any way limiting Bank's rights, Bank may sell participations in the Liabilities or sell or assign its rights hereunder and under the other Financing Agreements, in whole or in part, on such terms as Bank may determine. In connection with any such proposed participations or assignments, Bank may disclose information required to be kept confidential hereunder provided such disclosure shall not be made unless the party to whom it is disclosed shall have agreed to keep such information confidential as set forth herein.

10.7 CHOICE OF LAW. THIS AGREEMENT SHALL BE DEEMED TO BE EXECUTED AND HAS BEEN DELIVERED AND ACCEPTED IN CHICAGO, ILLINOIS BY SIGNING AND DELIVERING IT THERE. ANY DISPUTE BETWEEN THE PARTIES HERETO ARISING OUT OF, CONNECTED WITH, RELATED TO, OR INCIDENTAL TO THE RELATIONSHIP ESTABLISHED BETWEEN THEM IN CONNECTION WITH THIS AGREEMENT, AND WHETHER ARISING IN CONTRACT, TORT, EQUITY, OR OTHERWISE, SHALL BE RESOLVED IN ACCORDANCE WITH THE INTERNAL LAWS AND NOT THE CONFLICTS OF LAW PROVISIONS OF THE STATE OF ILLINOIS. THE BANK RESERVES AND IS ENTITLED TO ALL RIGHTS, BENEFITS AND ENTITLEMENTS AVAILABLE TO THE BANK UNDER THE LAWS OF THE PROVINCE OF ONTARIO AS TO ITS CAPACITY AS A SECURED CREDITOR AND AS TO THE EXERCISE OF ITS RIGHTS UNDER THE GRANT OF SECURITY HEREUNDER.

10.8 CONSENT TO JURISDICTION.

(A) EXCLUSIVE JURISDICTION. EXCEPT AS PROVIDED IN SECTION 10.8(B) HEREOF, BANK AND BORROWER AGREE THAT ALL DISPUTES BETWEEN THEM ARISING OUT OF, CONNECTED WITH, RELATED TO OR

INCIDENTAL TO THE RELATIONSHIP ESTABLISHED BETWEEN THEM IN CONNECTION WITH THIS AGREEMENT, AND WHETHER ARISING IN CONTRACT, TORT, EQUITY OR OTHERWISE, SHALL BE RESOLVED ONLY BY STATE OR FEDERAL COURTS LOCATED IN COOK COUNTY, ILLINOIS, AND BORROWER AND BANK WAIVE ANY OBJECTION BASED ON VENUE OR FORUM NON CONVENIENS WITH RESPECT TO ANY ACTION INSTITUTED THEREIN, BUT BANK AND BORROWER ACKNOWLEDGE THAT ANY APPEALS FROM THOSE COURTS MAY HAVE TO BE HEARD BY A COURT LOCATED OUTSIDE OF COOK COUNTY, ILLINOIS. BORROWER WAIVES IN ALL DISPUTES ANY OBJECTION THAT IT MAY HAVE TO THE LOCATION OF THE COURT CONSIDERING THE DISPUTE. PROVIDED THAT THE BANK RESERVES THE RIGHT TO ACCESS ITS REMEDIES AS SECURED CREDITOR IN THE COURTS OF THE PROVINCE OF ONTARIO.

(B) OTHER JURISDICTIONS. BORROWER AGREES THAT BANK SHALL HAVE THE RIGHT TO PROCEED AGAINST BORROWER OR ITS PROPERTY IN A COURT IN ANY LOCATION TO ENABLE BANK TO REALIZE ON THE COLLATERAL OR ANY OTHER SECURITY FOR THE LIABILITIES, OR TO ENFORCE A JUDGMENT OR OTHER COURT ORDER ENTERED IN FAVOR OF BANK. BORROWER AGREES THAT IT WILL NOT ASSERT ANY PERMISSIVE COUNTERCLAIM IN ANY PROCEEDING BROUGHT BY BANK TO REALIZE ON PROPERTY, COLLATERAL OR ANY OTHER SECURITY FOR THE LIABILITIES, OR TO ENFORCE A JUDGMENT OR OTHER COURT ORDER IN FAVOR OF BANK. BORROWER WAIVES ANY OBJECTION THAT IT MAY HAVE TO THE LOCATION OF THE COURT IN WHICH BANK HAS COMMENCED A PROCEEDING DESCRIBED IN THIS SECTION 10.8(B).

10.9 SERVICE OF PROCESS. BORROWER HEREBY WAIVES PERSONAL SERVICE OF ANY AND ALL PROCESS UPON IT AND IRREVOCABLY APPOINTS DANIELS AND KING CAPITAL II, L.L.C., 300 SOUTH WACKER DRIVE, SUITE 2400, CHICAGO, ILLINOIS 60606, AS BORROWER'S AGENT FOR THE PURPOSE OF ACCEPTING SERVICE OF PROCESS WITHIN THE STATE OF ILLINOIS. BANK AGREES TO PROMPTLY FORWARD BY CERTIFIED MAIL (NO RETURN RECEIPT REQUIRED) A COPY OF ANY PROCESS SO SERVED UPON SAID AGENT TO BORROWER AT ITS ADDRESS SET FORTH IN SECTION 10.17 HEREOF. BORROWER HEREBY CONSENTS TO SERVICE OF PROCESS AS AFORESAID. BORROWER FURTHER IRREVOCABLY CONSENTS TO THE SERVICE OF PROCESS OUT OF THE COURTS REFERRED TO IN SECTION 10.8 HEREOF IN ANY SUCH ACTION OR PROCEEDING BY MAILING COPIES OF SUCH SERVICE BY CERTIFIED MAIL, POSTAGE PREPAID TO BORROWER AT SAID ADDRESS. NOTHING IN THIS AGREEMENT SHALL AFFECT THE RIGHT OF BANK TO SERVE PROCESS IN ANY OTHER MANNER PERMITTED BY LAW BUT ANY FAILURE TO RECEIVE SUCH COPY SHALL NOT AFFECT IN ANY WAY THE SERVICE OF SUCH PROCESS.

10.10 WAIVER OF JURY TRIAL AND BOND.

(A) WAIVER OF JURY TRIAL. BORROWER AND BANK WAIVE ANY RIGHT TO HAVE A JURY PARTICIPATE IN RESOLVING ANY DISPUTE, WHETHER SOUNDING IN CONTRACT, TORT, OR OTHERWISE, BETWEEN BANK AND

BORROWER ARISING OUT OF, CONNECTED WITH, RELATED TO OR INCIDENTAL TO THE RELATIONSHIP ESTABLISHED BETWEEN THEM IN CONNECTION WITH THIS AGREEMENT OR ANY OTHER INSTRUMENT, DOCUMENT OR AGREEMENT EXECUTED OR DELIVERED IN CONNECTION THEREWITH OR THE TRANSACTIONS RELATED THERETO. BORROWER AND BANK HEREBY AGREE AND CONSENT THAT ANY SUCH CLAIM, DEMAND, ACTION OR CAUSE OF ACTION SHALL BE DECIDED BY COURT TRIAL WITHOUT A JURY AND THAT ANY PARTY MAY FILE AN ORIGINAL COUNTERPART OR A COPY OF THIS AGREEMENT WITH ANY COURT AS WRITTEN EVIDENCE OF THE CONSENT OF THE PARTIES HERETO TO THE WAIVER OF THEIR RIGHT TO TRIAL BY JURY.

(B) WAIVER OF BOND. BORROWER WAIVES THE POSTING OF ANY BOND OTHERWISE REQUIRED OF BANK IN CONNECTION WITH ANY JUDICIAL PROCESS OR PROCEEDING TO OBTAIN POSSESSION OF, REPLEVY, ATTACH OR LEVY UPON COLLATERAL OR ANY OTHER SECURITY FOR THE LIABILITIES, TO ENFORCE ANY JUDGMENT OR OTHER COURT ORDER ENTERED IN FAVOR OF BANK, OR TO ENFORCE BY SPECIFIC PERFORMANCE, TEMPORARY RESTRAINING ORDER, PRELIMINARY OR PERMANENT INJUNCTION, THIS AGREEMENT, OR ANY OTHER AGREEMENT OR DOCUMENT BETWEEN BANK AND BORROWER.

10.11 ADVICE OF COUNSEL. BORROWER ACKNOWLEDGES AND REPRESENTS TO BANK THAT IT HAS DISCUSSED THIS AGREEMENT WITH ITS LAWYERS.

10.12 Severability. Wherever possible, each provision of this Agreement shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Agreement shall be prohibited by or invalid under applicable law, such provision shall be ineffective only to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Agreement.

10.13 Application of Payments. Notwithstanding any contrary provision contained in this Agreement or in any of the other Financing Agreements, Borrower irrevocably waives the right to direct the application of any and all payments at any time or times hereafter received by Bank from Borrower or with respect to any of the Collateral, and Borrower does hereby irrevocably agree that Bank shall have the continuing exclusive right to apply and reapply any and all payments received at any time or times hereafter, whether with respect to the Collateral or otherwise, against the Liabilities in such manner as Bank may deem advisable, notwithstanding any entry by Bank upon any of its books and records.

10.14 Marshaling; Payments Set Aside. Bank shall be under no obligation to marshal any assets in favor of Borrower or any other party or against or in payment of any or all of the Liabilities. To the extent that Borrower makes a payment or payments to Bank or Bank enforces its security interests or exercises its rights of setoff, and such payment or payments or the proceeds of such enforcement or setoff or any part thereof are subsequently invalidated, declared to be fraudulent or preferential, set aside and/or required to be repaid to a trustee, receiver or any other party under any Bankruptcy law, state, provincial or federal law, common law or equitable cause, then, to the extent of such recovery, the obligation or part thereof

originally intended to be satisfied shall be revived and continued in full force and effect as if such payment had not been made or such enforcement or setoff had not occurred.

10.15 Section Titles. Article, section and subsection titles contained in this Agreement shall be without substantive meaning or content of any kind whatsoever and are not a part of the agreement between the parties.

10.16 Continuing Effect. This Agreement, Bank's security interests in the Collateral, and all of the other Financing Agreements shall continue in full force and effect so long as any Liabilities shall be owed to Bank, and (even if there shall be no Liabilities outstanding) so long as this Agreement has not been terminated as provided in Section 2.8 hereof.

10.17 Notices. Except as otherwise expressly provided herein, any notice required or desired to be served, given or delivered hereunder shall be in writing, and shall be deemed to have been validly served, given or delivered (i) three (3) days after deposit in the United States or Canadian mails, with proper postage prepaid, (ii) when sent after receipt of confirmation or answerback if sent by telecopy, or other similar facsimile transmission, (iii) one (1) business day after deposited with a reputable overnight courier with all charges prepaid, or (iv) when delivered, if hand-delivered by messenger, all of which shall be properly addressed to the party to be notified and sent to the address or number indicated as follows:

(i) If to Bank at:

Fifth Third Bank
233 South Wacker Drive
Chicago, IL 60606
Attention: K. C. Beuker
Telecopy: 312/876-4720
Confirmation: 312/876-4793

With a copy to:

Schiff Hardin & Waite
6600 Sears Tower
Chicago, IL 60606
Attention: Scott E. Pickens
Telecopy: 312/258-5700
Confirmation: 312/258-5515

(ii) If to Borrower at:

Instantel Inc.
c/o Prairie Capital II, L.P.
300 South Wacker Drive, Suite 2400
Chicago, Illinois 60606
Attention: C. Bryan Daniels

Telecopy: 312/360-1193
Confirmation: 312/360-1133

With copies to:

Kirkland & Ellis
200 E. Randolph Drive
Chicago, Illinois 60601
Attention: Margaret A. Gibson and Teri A. Lindquist
Telecopy: 312/861-2200
Confirmation: 312/861-2223

or to such other address or number as each party designates to the other in the manner herein prescribed.

10.18 Equitable Relief. Borrower recognizes that, in the event Borrower fails to perform, observe or discharge any of its obligations or liabilities under this Agreement, any remedy at law may prove to be inadequate relief to Bank; therefore, Borrower agrees that Bank, if Bank so requests, shall be entitled to temporary and permanent injunctive relief in any such case without the necessity of proving actual damages and the granting of any such relief shall not preclude Bank from pursuing any other relief or remedies for such breach.

10.19 Indemnification. Borrower agrees to defend, protect, indemnify and hold harmless Bank and each of its officers, directors, employees, attorneys, consultants and agents (collectively, the "Indemnitees") from and against any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, claims, costs, expenses and disbursements of any kind or nature whatsoever (including, without limitation, the reasonable fees and disbursements of counsel for and consultants of such Indemnitees in connection with any investigative, administrative or judicial proceeding, whether or not such Indemnitees shall be designated a party thereto), which may be imposed on, incurred by, or asserted against such Indemnitees (whether direct, indirect, or consequential and whether based on any federal, state or provincial laws or other statutory regulations, including, without limitation, securities, environmental and commercial laws and regulations, under common law or at equitable cause or on contract or otherwise) in any manner relating to or arising out of this Agreement or the other Financing Agreements, or any act, event or transaction related or attendant thereto, the agreements of Bank contained herein, the making of the Loans, the issuance of any Letter of Credit hereunder, the management of such Loans or the Collateral (including any liability under federal, state, provincial or local environmental laws or regulations) or the use or intended use of the proceeds of such Loans or use of such Letters of Credit (collectively, the "Indemnified Matters"); provided that Borrower shall have no obligation to any Indemnitee hereunder with respect to Indemnified Matters caused by or resulting from the willful misconduct or gross negligence of such Indemnitee. To the extent that the undertaking to indemnify, pay and hold harmless set forth in this Section 10.19 may be unenforceable because it is violative of any law or public policy, Borrower shall contribute the maximum portion which it is permitted to pay and satisfy under applicable law, to the payment and satisfaction of all Indemnified Matters incurred by the Indemnitees.

10.20 Counterparts. This Agreement may be executed and accepted in any number of counterparts, each of which shall be an original with the same effect as if the signatures were on the same instrument. The delivery of an executed counterpart of a signature page to this Agreement by telecopier shall be effective as delivery of a manually executed counterpart of this Agreement.

10.21 Judgment. (a) If for the purposes of obtaining judgment in any court it is necessary to convert a sum due hereunder or under any instrument delivered hereunder in any currency into another currency, the parties hereto agree, to the fullest extent permitted by law, that the rate of exchange used shall be the Spot F/X Rate.

(b) The obligation of Borrower in respect of any sum due from it to the Bank hereunder or under such instrument shall, notwithstanding any judgment in any Other Currency, be discharged only to the extent that on the Business Day following receipt by the Bank of any sum adjudged to be so due in the Other Currency, the Bank may, in accordance with normal banking procedures, purchase the Original Currency with the Other Currency. If the amount of the Original Currency so purchased is less than the sum originally due to the Bank in the Original Currency, the Borrower agrees to indemnify the Bank against such loss, and if the amount of the Original Currency so purchased exceeds the sum originally due to the Bank in the Original Currency, the Bank agrees to remit to the Borrower such excess. This indemnity shall constitute an obligation separate and independent from the other obligations contained in this Agreement, shall give rise to a separate and independent cause of action, shall apply irrespective of any indulgence granted by the Bank from time to time and shall continue in full force and effect notwithstanding any judgment or order for a liquidated sum in respect of any amount due hereunder or under any judgment or order.

10.22 Amendment and Restatement. The Existing LSA is amended and restated in its entirety in the form hereof as of the effectiveness of this Agreement; provided, however, that any representations and warranties made by Borrower or IAC to Bank shall survive the execution and delivery hereof and any existing "Defaults" (as such terms are defined in the Existing LSA) shall be a Default hereunder. Borrower acknowledges and agrees that the security interests granted in the Existing LSA and restated in this Agreement secure the Loans and the other Liabilities, including, without limitation all of the "Liabilities" as such term was defined in the Existing LSA.

10.23 No Novation. The terms and conditions of the Existing LSA and the notes originally issued thereunder to evidence the Revolving Loans and the Term Loan (the "Old Notes") are amended as set forth in, and restated in their entirety and superseded by, this Agreement and the Revolving Note and the Term Note. It is expressly understood and acknowledged that nothing in this Agreement shall be deemed to cause or otherwise give rise to a novation of the Old Notes, or any prior promissory note or any obligation under the Existing LSA or any prior loan and security agreement. Notwithstanding any provision of this Agreement or any other Financing Agreements, the execution and delivery of this Agreement and the incurrence of Liabilities hereunder and under the Revolving Note shall be in substitution for, but not in payment of, the Old Notes and obligations owing to the Bank under the Existing LSA and any prior loan and security agreement.

IN WITNESS WHEREOF, this Loan and Security Agreement has been duly executed as of the day and year first above written.

FIFTH THIRD BANK

By: *Kurt C. Beuker*
Name: *Kurt C. Beuker*
Title: *Officer*

INSTANTEL INC.

By: _____
Name: _____
Title: _____

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IN WITNESS WHEREOF, this Loan and Security Agreement has been duly executed as of the day and year first above written.

FIFTH THIRD BANK

By: _____
Name: _____
Title: _____

INSTANTEL INC.

By: *C. Bryan Daniels*
Name: C. Bryan Daniels
Title: Director

CHI_DOCS1:CS1\397082.3 11.16.01 10.43