

TRADEMARK ASSIGNMENT

Electronic Version v1.1
 Stylesheet Version v1.1

SUBMISSION TYPE:	NEW ASSIGNMENT			
NATURE OF CONVEYANCE:	SECURITY INTEREST			
CONVEYING PARTY DATA				
	Name	Formerly	Execution Date	Entity Type
	Golden State Medical Supply, Inc.		07/11/2012	CORPORATION: CALIFORNIA
	GSMS, Inc.		07/11/2012	CORPORATION: TEXAS
RECEIVING PARTY DATA				
Name:	Comerica Bank			
Street Address:	39200 Six Mile Road			
Internal Address:	M/C 7578			
City:	Livonia			
State/Country:	MICHIGAN			
Postal Code:	48152			
Entity Type:	a Texas banking association: TEXAS			
PROPERTY NUMBERS Total: 7				
	Property Type	Number	Word Mark	
	Serial Number:	85014584	SMARTER BOTTLE	
	Registration Number:	3839980	GSMS INCORPORATED	
	Registration Number:	3915258	SAFETY LABEL	
	Registration Number:	3924522	GSMS COLORMAP	
	Serial Number:	77780481	PRESCRIPTIONREADY	
	Serial Number:	77780505	PRESCRIPTIONREADY	
	Registration Number:	2174998	GSMS, INC.	
CORRESPONDENCE DATA				
Fax Number:	7349302494			
	<i>Correspondence will be sent to the e-mail address first; if that is unsuccessful, it will be sent via US Mail.</i>			
Phone:	734-761-3780			
Email:	asujek@bodmanlaw.com			

OP \$190.00 85014584

Correspondent Name: Angela Alvarez Sujek - Bodman PLC
Address Line 1: 201 South Division, Ste. 400
Address Line 4: Ann Arbor, MICHIGAN 48104

NAME OF SUBMITTER: Angela Alvarez Sujek

Signature: /Angela Alvarez Sujek/

Date: 07/19/2012

Total Attachments: 36

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SECURITY AGREEMENT

THIS SECURITY AGREEMENT (the "Agreement") dated as of July 11, 2012, is entered into by and among the Borrowers (as defined below), such other entities which from time to time become parties hereto (collectively, including the Borrowers, the "Debtors" and each individually a "Debtor") and Comerica Bank, a Texas banking association ("Bank"). The addresses for the Debtors and Bank, as of the date hereof, are set forth on the signature pages attached hereto.

RECITALS:

A. Golden State Medical Supply, Inc. ("Golden State") together with GSMS, Inc. ("Holdings", and together with Golden State, the "Borrowers" and each a "Borrower") have entered into that certain Credit Agreement dated as of the date hereof (as amended, supplemented, amended and restated or otherwise modified from time to time the "Credit Agreement") with Bank pursuant to which Bank has agreed, subject to the satisfaction of certain terms and conditions, to extend or to continue to extend financial accommodations to the Borrowers, as provided therein.

B. Pursuant to the Credit Agreement, Bank has required that each of the Debtors grant (or cause to be granted) certain Liens to Bank, all to secure the obligations of the Borrowers or any Debtor under the Credit Agreement or any related Loan Document (including any Guaranty).

C. The Debtors have directly and indirectly benefited and will directly and indirectly benefit from the transactions evidenced by and contemplated in the Credit Agreement and the other Loan Documents.

NOW, THEREFORE, in consideration of the premises and for other good and valuable consideration, the adequacy, receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

ARTICLE 1 Definitions

Section 1.1 Definitions. As used in this Agreement, capitalized terms not otherwise defined herein have the meanings provided for such terms in the Credit Agreement. References to "Sections," "subsections," "Exhibits" and "Schedules" shall be to Sections, subsections, Exhibits and Schedules, respectively, of this Agreement unless otherwise specifically provided. All references to statutes and regulations shall include any amendments of the same and any successor statutes and regulations. References to particular sections of the UCC should be read to refer also to parallel sections of the Uniform Commercial Code as enacted in each state or other jurisdiction which may be applicable to the grant and perfection of the Liens held by Bank pursuant to this Agreement.

The following terms have the meanings indicated below, all such definitions to be equally applicable to the singular and plural forms of the terms defined:

“Account” means any “account,” as such term is defined in Article 9 of the UCC, now owned or hereafter acquired by a Debtor, and, in any event, shall include, without limitation, each of the following, whether now owned or hereafter acquired by such Debtor: (a) all rights of such Debtor to payment for goods sold or leased or services rendered, whether or not earned by performance, (b) all accounts receivable of such Debtor, (c) all rights of such Debtor to receive any payment of money or other form of consideration, (d) all security pledged, assigned or granted to or held by such Debtor to secure any of the foregoing, (e) all guaranties of, or indemnifications with respect to, any of the foregoing, and (f) all rights of such Debtor as an unpaid seller of goods or services, including, but not limited to, all rights of stoppage in transit, replevin, reclamation and resale.

“Chattel Paper” means any “chattel paper,” as such term is defined in Article 9 of the UCC, now owned or hereafter acquired by a Debtor, and shall include both electronic Chattel Paper and tangible Chattel Paper.

“Collateral” has the meaning specified in Section 2.1 of this Agreement.

“Computer Records” means any computer records now owned or hereafter acquired by any Debtor.

“Copyright Collateral” means all Copyrights and Copyright Licenses of the Debtors.

“Copyright Licenses” means all license agreements with any other Person in connection with any of the Copyrights or such other Person’s copyrights, whether a Debtor is a licensor or a licensee under any such license agreement, including, without limitation, the license agreements listed on *Schedule 1.1* hereto and made a part hereof, subject, in each case, to the terms of such license agreements and the right to prepare for sale, sell and advertise for sale, all inventory now or hereafter covered by such licenses.

“Copyrights” means all copyrights and mask works, whether or not registered, and all applications for registration of all copyrights and mask works, including, but not limited to all copyrights and mask works, and all applications for registration of all copyrights and mask works identified on *Schedule 1.1* attached hereto and made a part hereof, and including without limitation (a) the right to sue or otherwise recover for any and all past, present and future infringements and misappropriations thereof; (b) all income, royalties, damages and other payments now and hereafter due and/or payable with respect thereto (including, without limitation, payments under all Copyright Licenses entered into in connection therewith, and damages and payments for past or future infringements thereof); and (c) all rights corresponding thereto and all modifications, adaptations, translations, enhancements and derivative works, renewals thereof, and all other rights of any kind whatsoever of a Debtor accruing thereunder or pertaining thereto.

“Deposit Account” means a demand, time, savings, passbook, or similar account maintained with a bank. The term does not include investment property, investment accounts or accounts evidenced by an instrument.

“Document” means any “document,” as such term is defined in Article 9 of the UCC, now owned or hereafter acquired by any Debtor, including, without limitation, all documents of

title and all receipts covering, evidencing or representing goods now owned or hereafter acquired by a Debtor.

Equipment means any "equipment," as such term is defined in Article 9 of the UCC, now owned or hereafter acquired by a Debtor and, in any event, shall include, without limitation, all machinery, equipment, furniture, trade fixtures, tractors, trailers, rolling stock, vessels, aircraft and Vehicles now owned or hereafter acquired by such Debtor and any and all additions, substitutions and replacements of any of the foregoing, wherever located, together with all attachments, components, parts, equipment and accessories installed thereon or affixed thereto.

General Intangibles means any "general intangibles," as such term is defined in Article 9 of the UCC, now owned or hereafter acquired by a Debtor and, in any event, shall include, without limitation, each of the following, whether now owned or hereafter acquired by such Debtor: (a) all of such Debtor's Intellectual Property Collateral; (b) all of such Debtor's books, records, data, plans, manuals, computer software, computer tapes, computer disks, computer programs, source codes, object codes and all rights of such Debtor to retrieve data and other information from third parties; (c) all of such Debtor's contract rights, commercial tort claims, partnership interests, membership interests, joint venture interests, securities, deposit accounts, investment accounts and certificates of deposit; (d) all rights of such Debtor to payment under chattel paper, documents, instruments and similar agreements; (e) letters of credit, letters of credit rights supporting obligations and rights to payment for money or funds advanced or sold of such Debtor; (f) all tax refunds and tax refund claims of such Debtor; (g) all choses in action and causes of action of such Debtor (whether arising in contract, tort or otherwise and whether or not currently in litigation) and all judgments in favor of such Debtor; (h) all rights and claims of such Debtor under warranties and indemnities, (i) all health care receivables; and (j) all rights of such Debtor under any insurance, surety or similar contract or arrangement.

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.

Instrument means any "instrument," as such term is defined in Article 9 of the UCC, now owned or hereafter acquired by any Debtor, and, in any event, shall include all promissory notes (including without limitation, any Intercompany Notes held by such Debtor), drafts, bills of exchange and trade acceptances, whether now owned or hereafter acquired.

Intellectual Property Collateral means Patents, Patent Licenses, Copyrights, Copyright Licenses, Trademarks, Trademark Licenses, trade secrets, registrations, goodwill, franchises, permits, proprietary information, customer lists, designs, inventions and all other intellectual property and proprietary rights, including without limitation those described on *Schedule 1.1* attached hereto and incorporated herein by reference.

Inventory means any "inventory," as such term is defined in Article 9 of the UCC, now owned or hereafter acquired by a Debtor, and, in any event, shall include, without

limitation, each of the following, whether now owned or hereafter acquired by such Debtor: (a) all goods and other Personal property of such Debtor that are held for sale or lease or to be furnished under any contract of service; (b) all raw materials, work-in-process, finished goods, supplies and materials of such Debtor; (c) all wrapping, packaging, advertising and shipping materials of such Debtor; (d) all goods that have been returned to, repossessed by or stopped in transit by such Debtor; and (e) all Documents evidencing any of the foregoing.

“Investment Property” means any “investment property” as such term is defined in Article 9 of the UCC, now owned or hereafter acquired by a Debtor, and in any event, shall include without limitation all shares of stock and other equity, partnership or membership interests constituting securities, of the Domestic Subsidiaries of such Debtor from time to time owned or acquired by such Debtor in any manner (including, without limitation, the Pledged Shares), and the certificates and all dividends, cash, instruments, rights and other property from time to time received, receivable or otherwise distributed or distributable in respect of or in exchange for any or all of such shares, but excluding any shares of stock or other equity, partnership or membership interests in any Foreign Subsidiaries of such Debtor.

“Patent Collateral” means all Patents and Patent Licenses of the Debtors.

“Patent Licenses” means all license agreements with any other Person in connection with any of the Patents or such other Person’s patents, whether a Debtor is a licensor or a licensee under any such license agreement, including, without limitation, the license agreements listed on *Schedule 1.1* hereto and made a part hereof, subject, in each case, to the terms of such license agreements and the right to prepare for sale, sell and advertise for sale, all inventory now or hereafter covered by such licenses.

“Patents” means all letters patent, patent applications and patentable inventions, including, without limitation, all patents and patent applications identified on *Schedule 1.1* attached hereto and made a part hereof, and including without limitation, (a) all inventions and improvements described and claimed therein, and patentable inventions, (b) the right to sue or otherwise recover for any and all past, present and future infringements and misappropriations thereof, (c) all income, royalties, damages and other payments now and hereafter due and/or payable with respect thereto (including, without limitation, payments under all Patent Licenses entered into in connection therewith, and damages and payments for past or future infringements thereof), and (d) all rights corresponding thereto and all reissues, divisions, continuations, continuations-in-part, substitutes, renewals, and extensions thereof, all improvements thereon, and all other rights of any kind whatsoever of a Debtor accruing thereunder or pertaining thereto.

“Pledged Shares” means the shares of capital stock or other equity, partnership or membership interests described on *Schedule 1.2* attached hereto and incorporated herein by reference, and all other shares of capital stock or other equity, partnership or membership interests (other than in an entity which is a Foreign Subsidiary) acquired by any Debtor after the date hereof.

“Proceeds” means any “proceeds,” as such term is defined in Article 9 of the UCC and, in any event, shall include, but not be limited to, (a) any and all proceeds of any insurance, indemnity, warranty or guaranty payable to a Debtor from time to time with respect to any of the

Collateral, (b) any and all payments (in any form whatsoever) made or due and payable to a Debtor from time to time in connection with any requisition, confiscation, condemnation, seizure or forfeiture of all or any part of the Collateral by any Governmental Authority (or any Person acting, or purporting to act, for or on behalf of any Governmental Authority), and (c) any and all other amounts from time to time paid or payable under or in connection with any of the Collateral.

“Records” are defined in Section 3.2 of this Agreement.

“Software” means all (i) computer programs and supporting information provided in connection with a transaction relating to the program, and (ii) computer programs embedded in goods and any supporting information provided in connection with a transaction relating to the program whether or not the program is associated with the goods in such a manner that it customarily is considered part of the goods, and whether or not, by becoming the owner of the goods, a Person acquires a right to use the program in connection with the goods, and whether or not the program is embedded in goods that consist solely of the medium in which the program is embedded.

“Trademark Collateral” means all Trademarks and Trademark Licenses of the Debtors.

“Trademark Licenses” means all license agreements with any other Person in connection with any of the Trademarks or such other Person’s names or trademarks, whether a Debtor is a licensor or a licensee under any such license agreement, including, without limitation, the license agreements listed on *Schedule 1.1* hereto and made a part hereof, subject, in each case, to the terms of such license agreements, and the right to prepare for sale, and to sell and advertise for sale, all inventory now or hereafter covered by such licenses.

“Trademarks” means all trademarks, service marks, trade names, trade dress or other indicia of trade origin, trademark and service mark registrations, and applications for trademark or service mark registrations (except for “intent to use” applications for trademark or service mark registrations filed pursuant to Section 1(b) of the Lanham Act, unless and until an Amendment to Allege Use or a Statement of Use under Sections 1(c) and 1(d) of said Act has been filed), and any renewals thereof, including, without limitation, each registration and application identified on *Schedule 1.1* attached hereto and made a part hereof, and including without limitation (a) the right to sue or otherwise recover for any and all past, present and future infringements and misappropriations thereof, (b) all income, royalties, damages and other payments now and hereafter due and/or payable with respect thereto (including, without limitation, payments under all Trademark Licenses entered into in connection therewith, and damages and payments for past or future infringements thereof) and (c) all rights corresponding thereto and all other rights of any kind whatsoever of a Debtor accruing thereunder or pertaining thereto, together in each case with the goodwill of the business connected with the use of, and symbolized by, each such trademark, service mark, trade name, trade dress or other indicia of trade origin.

“UCC” means the Uniform Commercial Code as in effect in the State of Michigan; provided, that if, by applicable law, the perfection or effect of perfection or non-perfection of the security interest created hereunder in any Collateral is governed by the Uniform Commercial

Code as in effect on or after the date hereof in any other jurisdiction, "UCC" means the Uniform Commercial Code as in effect in such other jurisdiction for purposes of the provisions hereof relating to such perfection or the effect of perfection or non-perfection.

"Vehicles" means all cars, trucks, trailers, construction and earth moving equipment and other vehicles covered by a certificate of title law of any state and all tires and other appurtenances to any of the foregoing.

ARTICLE 2 Security Interest

Section 2.1 Grant of Security Interest. As collateral security for the prompt payment and performance in full when due of the Indebtedness (whether at stated maturity, by acceleration or otherwise), each Debtor hereby pledges, and collaterally assigns to Bank, and grants Bank a continuing Lien on and security interest in, all of such Debtor's right, title and interest in and to the following, whether now owned or hereafter arising or acquired and wherever located (collectively, the "Collateral"):

- (a) all Accounts;
- (b) all Chattel Paper;
- (c) all General Intangibles, including but not limited to, the Acquisition Documents and all rights arising thereunder;
- (d) all Equipment;
- (e) all Inventory;
- (f) all Documents;
- (g) all Instruments;
- (h) all Deposit Accounts and any other cash collateral, deposit or investment accounts, including all cash collateral, deposit or investment accounts established or maintained pursuant to the terms of this Agreement or the other Loan Documents;
- (i) all Computer Records and Software, whether relating to the foregoing Collateral or otherwise, but in the case of such Software, subject to the rights of any non-affiliated licensee of software;
- (j) all Investment Property; and
- (k) the Proceeds, in cash or otherwise, of any of the property described in the foregoing clauses (a) through (j) and all Liens, security, rights, remedies and claims of such Debtor with respect thereto (provided that the grant of a security interest in Proceeds set forth in this subsection (k) shall not be deemed to give

the applicable Debtor any right to dispose of any of the Collateral, except as may otherwise be permitted pursuant to the terms of the Credit Agreement);

provided, however, that "Collateral" shall not include, and no Debtor shall be deemed to have granted a security interest in (i) any of such Debtor's rights under or with respect to any General Intangible, Instrument, lease, license, agreement, permit or authorization to the extent any such General Intangible, Instrument, lease, license, agreement, permit or authorization, by its terms or by law, prohibits the assignment of, or the granting of a Lien over the rights of a Debtor thereunder or which would be breached or give the other party the right to terminate upon any such assignment or grant (the "Restricted Assets"), provided that (A) the Proceeds of any Restricted Asset shall be deemed to be "Collateral" (unless such Proceeds are Restricted Assets), and (B) this provision shall not limit the grant of any Lien on or collateral assignment of any Restricted Asset to the extent that the UCC or any other applicable law provides that such grant of Lien or assignment is effective irrespective of any prohibitions to such grant provided in any Restricted Asset (or the underlying documents related thereto), (ii) the Equity Interests of any Foreign Subsidiary, and (iii) any Equipment owned by a Debtor that is subject to a lien securing a purchase money obligation or Capital Lease permitted to exist pursuant to the provisions of the Credit Agreement if the contract or other agreement in which such lien is granted (or the documentation providing for such purchase money obligation or Capital Lease) prohibits the creation of any other lien on such Equipment or which would be breached as a result of the creation of such security interest.

Section 2.2 Debtors Remain Liable. Notwithstanding anything to the contrary contained herein, (a) the Debtors shall remain liable under the contracts, agreements, documents and instruments included in the Collateral to the extent set forth therein to perform all of its duties and obligations thereunder to the same extent as if this Agreement had not been executed, (b) the exercise by Bank of any of its rights or remedies hereunder shall not release the Debtors from any of their duties or obligations under the contracts, agreements, documents and instruments included in the Collateral, and (c) Bank shall have no indebtedness, liability or obligation (by assumption or otherwise) under any of the contracts, agreements, documents and instruments included in the Collateral by reason of this Agreement, and none of them shall be obligated to perform any of the obligations or duties of the Debtors thereunder or to take any action to collect or enforce any claim for payment collaterally assigned hereunder.

ARTICLE 3 **Representations and Warranties**

To induce Bank to enter into this Agreement and Bank to enter into the Credit Agreement, each Debtor represents and warrants to Bank as follows:

Section 3.1 Title. Such Debtor is, and with respect to Collateral acquired after the Effective Date such Debtor will be, the legal and beneficial owner of the Collateral free and clear of any Lien or other encumbrance, except for the Permitted Liens and Liens identified on Schedule 10.5 of the Credit Agreement, provided that, other than the Lien created under this Agreement and any inchoate Permitted Liens, no Lien on any Pledged Shares shall constitute a Lien permitted hereunder.

Section 3.2 Change in Form or Jurisdiction; Successor by Merger; Location of Books and Records. As of the Effective Date, each Debtor (a) is duly organized and validly existing as a corporation (or other business organization) under the laws of its jurisdiction of organization; (b) is formed in the jurisdiction of organization and has the organizational identification number (if applicable) and tax identification number set forth on *Schedule 3.2* attached hereto; (c) has not changed its respective corporate form or its jurisdiction of organization at any time during the four months immediately prior to the Effective Date, except as set forth on such *Schedule 3.2*; (d) except as set forth on such *Schedule 3.2* attached hereto, no Debtor has, at any time during the four months immediately prior to the Effective Date, become the successor by merger, consolidation, acquisition, change in form, nature or jurisdiction of organization or otherwise of any other Person, and (e) keeps books and records regarding the Collateral that are true, and correct in all material respects (the "Records") in the office indicated on such *Schedule 3.2*.

Section 3.3 Representations and Warranties Regarding Certain Types of Collateral.

- (a) **Location of Inventory and Equipment.** As of the Effective Date hereof, (i) all Inventory (except Inventory in transit) and Equipment (except (x) trailers, rolling stock, vessels, aircraft, Vehicles and (y) Equipment with an aggregate fair market value of less than \$100,000) of each Debtor are located at the places specified on *Schedule 3.3(a)* attached hereto, (ii) the name and address of the landlord leasing any location to any Debtor is identified on such *Schedule 3.3(a)*, and (iii) the name of and address of each customer, bailee or warehouseman which holds any Collateral and the location of such Collateral is identified on such *Schedule 3.3(a)*.
- (b) **Account Information.** As of the Effective Date hereof, all Deposit Accounts, cash collateral account or investment accounts of each Debtor (except for those Deposit Accounts located with Bank) are located at Banks specified on *Schedule 3.3(b)* attached hereto which Schedule sets forth the true and correct name of each bank where such accounts are located, such bank's address, the type of account and the account number.
- (c) **Documents.** As of the Effective Date hereof, except as set forth on *Schedule 3.3(c)*, none of the Inventory (of the type specified in clauses (a) through (d) of the definition thereof) or Equipment of such Debtor (other than trailers, rolling stock, vessels, aircraft and Vehicles) is evidenced by a Document (including, without limitation, a negotiable document of title).
- (d) **Intellectual Property.** As of the Effective Date and as of any date Schedule 1.1 is amended, set forth on *Schedule 1.1* is a true and correct list of the registered Patents, Patent Licenses, registered Trademarks, Trademark Licenses, registered Copyrights and Copyright Licenses owned by the Debtors (including, in the case of the Patents, Trademarks and Copyrights, the applicable name, date of registration (or of application if registration not completed) and application or registration number).

Section 3.4 Pledged Shares.

- (a) Duly Authorized and Validly Issued. The Pledged Shares that are shares of a corporation have been duly authorized and validly issued and are fully paid and nonassessable, and the Pledged Shares that are membership interests or partnership units (if any) have been validly granted, under the laws of the jurisdiction of organization of the issuers thereof, and, to the extent applicable, are fully paid and nonassessable.
- (b) Valid Title; No Liens; No Restrictions. Each Debtor is the legal and beneficial owner of the Pledged Shares, free and clear of any Lien (other than the Liens created by this Agreement and inchoate Permitted Liens), and such Debtor has not sold, granted any option with respect to, assigned, transferred or otherwise disposed of any of its rights or interest in or to the Pledged Shares except as permitted under the Credit Agreement. None of the Pledged Shares of any Credit Party which are required to be pledged under the Credit Agreement are subject to any contractual or other restrictions upon the pledge or other transfer of such Pledged Shares, other than those imposed by securities laws generally. No issuer of Pledged Shares of any Credit Party required to have its shares pledged under the Credit Agreement is party to any agreement granting "control" (as defined in Section 8-106 of the UCC) of such Debtor's Pledged Shares to any third party. All such Pledged Shares are held by each Debtor directly and not through any securities intermediary.
- (c) Description of Pledged Shares; Ownership. The Pledged Shares constitute the percentage of the issued and outstanding shares of stock, partnership units or membership interests of the issuers thereof indicated on *Schedule 1.2* (as the same may be amended from time to time promptly following the issuance of such equity interests) and such Schedule contains a description of all shares of all of the Pledged Shares owned by such Debtor.

Section 3.5 Intellectual Property.

- (a) Filings and Recordation. Except as permitted under the Credit Agreement, as of the Effective Date, each Debtor has made all necessary filings and recordations to protect and maintain its interest in the Trademarks, Patents and Copyrights set forth on *Schedule 1.1* (as the same may be amended from time to time), including, without limitation, all necessary filings and recordings, and payments of all maintenance fees, in the United States Patent and Trademark Office and United States Copyright Office to the extent such Trademarks, Patents and Copyrights are, in the Debtor's reasonable business judgment, material to the business of the Debtors and their Subsidiaries, taken as a whole. Also set forth on *Schedule 1.1* is a complete and accurate list of all of the material Trademark Licenses, Patent Licenses and Copyright Licenses owned by the Debtors as of the Effective Date.

- (b) **Trademarks and Trademark Licenses Valid.** Except as permitted under the Credit Agreement, (i) each Trademark of the Debtors that, in Debtors' reasonable business judgment, is material to the business of the Debtors, taken as a whole, is subsisting and has not been adjudged invalid, unregistrable or unenforceable, in whole or in part, and, to the Debtors' knowledge, is valid, registrable and enforceable, and (ii) each of the Trademark Licenses that, in the Debtors' reasonable business judgment, is material to the business of the Debtors, taken as a whole, is validly subsisting and has not been adjudged invalid or unenforceable, in whole or in part, and, to the Debtors' knowledge, is valid and enforceable.
- (c) **Patents and Patent Licenses Valid.** Except as permitted under the Credit Agreement, (i) each Patent of the Debtors that, in Debtors' reasonable business judgment, is material to the business of the Debtors, taken as a whole, is subsisting and has not been adjudged invalid, unpatentable or unenforceable, in whole or in part, and, to the Debtors' knowledge, is valid, patentable and enforceable, and (ii) each of the Patent Licenses that in the Debtors' reasonable business judgment, is material to the business of the Debtors, taken as a whole, is validly subsisting and has not been adjudged invalid or unenforceable, in whole or in part, and, to the Debtors' knowledge, is valid and enforceable.
- (d) **Copyright and Copyright Licenses Valid.** Except as permitted under the Credit Agreement, (i) each Copyright of the Debtors that, in Debtors' reasonable business judgment, is material to the business of the Debtors, taken as a whole, is subsisting and has not been adjudged invalid, uncopyrightable or unenforceable, in whole or in part, and, to the Debtors' knowledge, is valid, copyrightable and enforceable, and (ii) each of the Copyright Licenses that, in Debtors' reasonable business judgment, is material to the business of the Debtors, taken as a whole, is validly subsisting and has not been adjudged invalid or unenforceable, in whole or in part, and, to the Debtors' knowledge, is valid and enforceable.
- (e) **No Assignment.** The Debtors have not made a previous assignment, sale, transfer or agreement constituting a present or future assignment, sale, or transfer of any of the Intellectual Property Collateral, except with respect to non-exclusive licenses granted in the ordinary course of business or as permitted by this Agreement or the other Loan Documents.
- (f) **Products Marked.** Each Debtor has marked its products with the trademark registration symbol, copyright notices, the numbers of all appropriate patents, the common law trademark symbol or the designation "patent pending," as the case may be, to the extent that Debtor, in its good faith business judgment, believes is reasonably and commercially practicable.
- (g) **Other Rights.** Except for the Trademark Licenses, Patent Licenses and Copyright Licenses listed on *Schedule 1.1* hereto under which a Debtor is a licensee, no Debtor has knowledge of the existence of any right or any claim (other than as provided by this Agreement) that is likely to be made under or against any item of Intellectual Property Collateral contained on *Schedule 1.1* to

the extent such claim could reasonably be expected to have a Material Adverse Effect.

- (h) No Claims. Except as set forth on *Schedule 1.1* or as otherwise disclosed to Bank in writing, no claim has been made and is continuing or, to any Debtor's knowledge, threatened that the use by any Debtor of any item of Intellectual Property Collateral is invalid or unenforceable or that the use by any Debtor of any Intellectual Property Collateral does or may violate the rights of any Person, in each case to the extent such claim could reasonably be expected to have a Material Adverse Effect. To the Debtors' knowledge, there is no infringement or unauthorized use of any item of Intellectual Property Collateral contained on *Schedule 1.1* that could reasonably be expected to have a Material Adverse Effect, except as otherwise disclosed to Bank in writing.
- (i) No Consent. Except as permitted under the Credit Agreement, each Patent License, Copyright License and Trademark License constituting Intellectual Property Collateral that is, the Debtors' reasonable business judgment, material to the business of the Debtors and their Subsidiaries taken as a whole, is in full force and effect and constitutes a valid and legally enforceable obligation of the applicable Debtor except as enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the enforcement of creditor's rights generally and by general equitable principles (whether enforcement is sought by proceedings in equity or at law). No consent or authorization of, filing with or other act by or in respect of any Governmental Authority is required in connection with the execution, delivery, performance, validity or enforceability of any of the Patent Licenses, Copyright Licenses or Trademark Licenses that is material to the business of the Debtors and their Subsidiaries taken as a whole, by any Debtor party thereto other than those which have been duly obtained, made or performed and are in full force and effect. No Debtor party to any Patent License, Copyright License or Trademark License that is, in the Debtors' reasonable business judgment, material to the business of the Debtors and their Subsidiaries taken as a whole, constituting Collateral is in default in the performance or observance of any of the terms thereof, except for such defaults as would not reasonably be expected, in the aggregate, to have a Material Adverse Effect. To the knowledge of such Debtor, the right, title and interest of the applicable Debtor in, to and under each Patent License, Copyright License and Trademark License constituting Intellectual Property Collateral is not subject to any defense, offset, counterclaim or claim that could reasonably be expected to have a Material Adverse Effect.

Section 3.6 Priority. No financing statement, security agreement or other Lien instrument, in each case authorized by a Debtor, covering all or any part of the Collateral is on file in any public office with respect to any outstanding obligation of such Debtor except (i) as may have been filed in favor of Bank pursuant to this Agreement and the other Loan Documents and (ii) financing statements filed to perfect Permitted Liens and other Liens identified on

Schedule 10.5 of the Credit Agreement (which shall not, in any event, grant a Lien over the Pledged Shares other than inchoate Permitted Liens).

Section 3.7 Perfection. Upon (a) the filing of Uniform Commercial Code financing statements in the jurisdictions listed on *Schedule 3.7* attached hereto, and (b) the recording of this Agreement in the United States Patent and Trademark Office and the United States Copyright Office, the security interest in favor of Bank created herein will constitute a valid and perfected Lien upon and security interest in the Collateral which may be created and perfected either under the UCC by filing financing statements or by a filing with the United States Patent and Trademark Office and the United States Copyright Office.

ARTICLE 4 **Covenants**

Each Debtor covenants and agrees with Bank, until termination of this Agreement in accordance with the provisions of **Section 7.12** hereof, as follows:

Section 4.1 Covenants Regarding Certain Kinds of Collateral.

(a) **Promissory Notes and Tangible Chattel Paper.** If Debtors, now or at any time hereafter, collectively hold or acquire any promissory notes or tangible Chattel Paper for which the principal amount thereof or the obligations evidenced thereunder are, in the aggregate, in excess of \$100,000, the applicable Debtors shall promptly deliver the same to Bank, accompanied by such instruments of transfer or assignment duly executed in blank as Bank may from time to time reasonably specify, and cause all such Chattel Paper to bear a legend reasonably acceptable to Bank indicating that Bank has a security interest in such Chattel Paper.

(b) **Electronic Chattel Paper and Transferable Records.** If Debtors, now or at any time hereafter, collectively hold or acquire an interest in any electronic Chattel Paper or any "transferable record," as that term is defined in the federal Electronic Signatures in Global and National Commerce Act, or in the Uniform Electronic Transactions Act as in effect in any relevant jurisdiction, worth, in the aggregate, in excess of \$100,000, the applicable Debtors shall promptly notify Bank thereof and, at the request and option of Bank, shall take such action as Bank may reasonably request to vest in Bank control, under Section 9-105 of the UCC, of such electronic chattel paper or control under the federal Electronic Signatures in Global and National Commerce Act, or the Uniform Electronic Transactions Act, as so in effect in such jurisdiction, of such transferable record.

(c) **Letter-of-Credit Rights.** If Debtors, now or at any time hereafter, collectively are or become beneficiaries under letters of credit, with an aggregate face amount in excess of \$100,000, the applicable Debtors shall promptly notify Bank thereof and, at the request of Bank, the applicable Debtors shall, pursuant to an agreement in form and substance reasonably satisfactory to Bank either arrange (i) for the issuer and any confirmer of such letters of credit to consent to a collateral assignment to Bank of the proceeds of the letters of credit or (ii) for Bank to become the transferee beneficiary of the letters of credit, together with, in each case, any such other actions as reasonably requested by Bank to perfect its first priority Lien in such letter of

credit rights. Unless requested by Bank upon the occurrence and during the continuance of an Event of Default, the applicable Debtor shall retain the proceeds of the applicable letters of credit.

(d) **Commercial Tort Claims.** If Debtors, now or at any time hereafter, collectively hold or acquire any commercial tort claims, which, the reasonably estimated value of which are in aggregate excess of \$100,000, the applicable Debtors shall immediately notify Bank in a writing signed by such Debtors of the particulars thereof and grant to Bank in such writing a security interest therein and in the proceeds thereof, all upon the terms of this Agreement, with such writing to be in form and substance reasonably satisfactory to Bank.

(e) **Pledged Shares.** All certificates or instruments representing or evidencing the Pledged Shares or any Debtor's rights therein shall be delivered to Bank promptly upon Debtor gaining any rights therein, accompanied by duly executed stock powers or instruments of transfer or assignments in blank, all in form and substance reasonably acceptable to Bank.

(f) **Equipment and Inventory.**

(i) **Location.** Each Debtor shall keep the Equipment (other than (x) trailers, rolling stock, vessels, aircraft, Vehicles and (y) Equipment with an aggregate fair market value of less than \$100,000) and Inventory (other than Inventory in transit) which is in such Debtor's possession or in the possession of any bailee or warehouseman at any of the locations specified on *Schedule 3.3(a)* attached hereto or properly tracked in such Debtor's fixed asset system, provided that location reports generated by such system shall be provided to Bank from time to time at its request, subject to compliance with the other provisions of this Agreement.

(ii) **Intentionally Omitted.**

(iii) **Maintenance.** Each Debtor shall maintain the Equipment and Inventory in such condition as may be required by the terms of the Credit Agreement.

(g) **Intellectual Property.**

(i) **Trademarks.** Except as permitted under the Credit Agreement, each Debtor agrees to take all necessary steps, including, without limitation, in the United States Patent and Trademark Office or in any court, to (x) defend, enforce, preserve the validity and ownership of, and maintain each Trademark registration and each Trademark License identified on *Schedule 1.1* hereto, and (y) pursue each Trademark application now or hereafter identified on *Schedule 1.1* hereto, including, without limitation, the filing of responses to office actions issued by the United States Patent and Trademark Office, the filing of applications for renewal, the filing of affidavits under Sections 8 and 15 of the United States Trademark Act, and the participation in opposition, cancellation, infringement and misappropriation proceedings, except, in each case to the extent the

Debtors have determined, using their commercially reasonable judgment, that any of the foregoing Trademark registrations, Trademark Licenses or Trademark applications is not material to the business of the Debtors and their Subsidiaries, taken as a whole. Each Debtor agrees to take corresponding steps with respect to each new or acquired Trademark registration, Trademark application or any rights obtained under any Trademark License, in each case, which it is now or later becomes entitled, except in each case to the extent such Debtor has determined, using its commercially reasonable judgment, that any of the foregoing Trademark registrations, Trademark Licenses or Trademark applications is not material to the business of the Debtors and their Subsidiaries, taken as a whole. Any expenses incurred in connection with such activities shall be borne by the Debtors.

- (ii) Patents. Except as otherwise permitted under the Credit Agreement, each Debtor shall take all necessary steps, including, without limitation, in the United States Patent and Trademark Office or in any court, to (x) defend, enforce, preserve the validity and ownership of, and maintain each Patent and each Patent License identified on *Schedule 1.1* hereto, and (y) pursue each patent application, now or hereafter identified on *Schedule 1.1* hereto, including, without limitation, the filing of divisional, continuation, continuation-in-part and substitute applications, the filing of applications for reissue, renewal or extensions, the payment of maintenance fees, and the participation in interference, reexamination, opposition, infringement and misappropriation proceedings, except in each case to the extent the Debtors have determined, using their commercially reasonable judgment, that any of the foregoing Patents, Patent Licenses or patent applications is not material to the business of the Debtors and their Subsidiaries, taken as a whole. Except as permitted under the Credit Agreement, each Debtor agrees to take corresponding steps with respect to each new or acquired Patent, patent application, or any rights obtained under any Patent License, in each case, which it is now or later becomes entitled, except in each case to the extent the Debtors have determined, using their commercially reasonable judgment, that any of the foregoing Patents, Patent Licenses or patent applications is not material to the business of the Debtors and their Subsidiaries, taken as a whole. Any expenses incurred in connection with such activities shall be borne by the Debtors.
- (iii) Copyrights. Except as otherwise permitted under the Credit Agreement, each Debtor agrees to take all necessary steps, including, without limitation, in the United States Copyright Office or in any court, to (x) defend, enforce, and preserve the validity and ownership of each Copyright and each Copyright License identified on *Schedule 1.1* hereto, and (y) pursue each Copyright and mask work application, now or hereafter identified on *Schedule 1.1* hereto, including, without limitation, the payment of applicable fees, and the participation in infringement and misappropriation proceedings, except in each case to the extent the

Debtors have determined, using their commercially reasonable judgment, that any of the foregoing Copyrights, Copyright and mask work applications, or Copyright License is not material to the business of the Debtors and their Subsidiaries, taken as a whole. Each Debtor agrees to take corresponding steps with respect to each new or acquired Copyright, Copyright and mask work application, or any rights obtained under any Copyright License, in each case, which it is now or later becomes entitled, except in each case to the extent the Debtors have determined, using their commercially reasonable judgment, that any of the foregoing Copyrights, Copyright and mask work applications, or Copyright Licenses is not material to the business of the Debtors and their Subsidiaries, taken as a whole. Any expenses incurred in connection with such activities shall be borne by the Debtors.

(iv) **No Abandonment.** Except as permitted under the Credit Agreement, the Debtors shall not abandon any Trademark, Patent, Copyright or any pending Trademark, Copyright, mask work or Patent application, without the written consent of Bank, unless the Debtors shall have determined, using their commercially reasonable judgment, that such use or the pursuit or maintenance of such Trademark registration, Patent, Copyright registration or pending Trademark, Copyright, mask work or Patent application is not material to the business of the Debtors and their Subsidiaries, taken as a whole.

(v) **No Infringement.** In the event that a Debtor becomes aware that any item of the Intellectual Property Collateral which such Debtor has determined, using its commercially reasonable judgment, to be material to the business of the Debtors and their Subsidiaries, taken as a whole, is infringed or misappropriated by a third party, such Debtor shall promptly notify Bank promptly and in writing, in reasonable detail, and shall take such actions as such Debtor or, if a Default or Event of Default exists, Bank deems reasonably appropriate under the circumstances to protect such Intellectual Property Collateral, including, without limitation, suing for infringement or misappropriation and for an injunction against such infringement or misappropriation. Any expense incurred in connection with such activities shall be borne by the Debtors.

(h) **Accounts and Contracts.** Except as permitted under the Credit Agreement, each Debtor shall, in accordance with its usual business practices (including, but not limited to the offering of (i) a refund or credit due as a result of returned or damaged or defective merchandise or services, and (ii) extensions of time to pay amounts due in respect of Accounts and such other modifications of payment terms or settlements in respect of Accounts as shall be commercially reasonable in the circumstances, all in accordance with such Debtor's ordinary course of business consistent with its collection practices as in effect from time to time), endeavor to collect or cause to be collected from each account debtor under its Accounts, as and when due, any and all amounts owing under such Accounts. So

long as no Event of Default has occurred and is continuing in respect of which Bank has given the Debtors notice of its intent to exercise remedies hereunder and except as otherwise provided in Section 6.3, each Debtor shall have the right to collect and receive payments on its Accounts, and to use and expend the same in its operations in each case in compliance with the terms of each of the Credit Agreement.

- (i) Vehicles: Aircraft and Vessels. Each Debtor shall make such filings as may be necessary to perfect Bank's Lien on its Vehicles, aircraft and vessels promptly following the acquisition thereof, provided, however, that such requirement shall not apply to Vehicles purchased after the Effective Date and subject to a purchase money security interest otherwise permitted under the Credit Agreement.
- (j) Life Insurance Policies. If any Debtor, now or any time hereafter, is the beneficiary of a "key man life insurance policy", it shall promptly notify Bank thereof, provide Bank with a true and correct list of the Persons insured, the name and address of the insurance company providing the coverage, the amount of such insurance and the policy number, and, unless otherwise waived by Bank in writing, take such actions as Bank may deem necessary or Bank shall deem reasonably desirable to collaterally assign policy to Bank.
- (k) Deposit Accounts. Each Debtor agrees to comply with Section 9.13 of the Credit Agreement.

Section 4.2 Encumbrances. Each Debtor shall not create, permit or suffer to exist, and shall defend the Collateral against any Lien (other than the Permitted Liens and Liens identified on Schedule 10.5 to the Credit Agreement, provided that no Lien, other than the Lien created hereunder and inchoate Permitted Liens, shall exist over the Pledged Shares) or any restriction upon the pledge or other transfer thereof (other than as specifically permitted this Agreement or in the Credit Agreement), and shall defend such Debtor's title to and other rights in the Collateral and Bank's pledge and collateral assignment of and security interest in the Collateral against the claims and demands of all Persons, except against Persons holding Liens on such Collateral that are Permitted Liens and are permitted by the terms of the Credit Agreement to be prior to Bank's Lien). Except to the extent specifically permitted by the Credit Agreement or in connection with any release of Collateral under Section 7.13 hereof (but only to the extent of any Collateral so released), such Debtor shall do nothing to impair the rights of Bank in the Collateral.

Section 4.3 Disposition of Collateral. Except as otherwise permitted under the Credit Agreement, no Debtor shall consummate any transfer or other disposition of Collateral.

Section 4.4 Insurance. The Collateral pledged by such Debtor or the Debtors will be insured (to the extent such Collateral is insurable) with insurance coverage in such amounts and of such types as are required by the terms of the Credit Agreement. Upon the occurrence and during the continuance of an Event of Default, Bank may, at its option, act as each such Debtor's attorney-in-fact in obtaining, adjusting, settling and compromising such insurance and endorsing any drafts.

Section 4.5 Corporate Changes; Books and Records; Inspection Rights. (a) Each Debtor shall not change its respective name, identity, corporate structure or jurisdiction of organization, or organizational identification number in any manner that might make any financing statement filed in connection with this Agreement seriously misleading within the meaning of Section 9-506 of the UCC unless such Debtor shall have given Bank fifteen (15) days prior written notice with respect to any change in such Debtor's corporate structure, jurisdiction of organization, name or identity and shall have taken all action deemed reasonably necessary by Bank under the circumstances to protect its Liens and the perfection and priority thereof, (b) each Debtor shall keep the Records at the location specified on *Schedule 3.2* as the location of such books and records or as otherwise specified in writing to Bank and (c) the Debtors shall permit Bank and its agents and representatives to conduct inspections, discussion and audits of the Collateral in accordance with and to the extent required under the terms of the Credit Agreement.

Section 4.6 Notification of Lien; Continuing Disclosure. Each Debtor shall promptly notify Bank in writing of any Lien, encumbrance or claim (other than a Permitted Lien or any Lien identified on Schedule 10.5 to the Credit Agreement, to the extent not otherwise subject to any notice requirements under the Credit Agreement) that has attached to or been made or asserted against any of the Collateral upon becoming aware of the existence of such Lien, encumbrance or claim.

Section 4.7 Covenants Regarding Pledged Shares

(a) **Voting Rights and Distributions.**

(i) So long as no Event of Default shall have occurred and be continuing (both before and after giving effect to any of the actions or other matters described in clauses (A) or (B) of this subparagraph) and Bank has not provided a written notice to any of the Borrowers indicating its intent to exercise remedies under this Section 4.7:

(A) Each Debtor shall be entitled to exercise any and all voting and other consensual rights (including, without limitation, the right to give consents, waivers and ratifications) pertaining to any of the Pledged Shares or any part thereof; provided, however, that no vote shall be cast or consent, waiver or ratification given or action taken without the prior written consent of Bank which would violate any provision of this Agreement or the Credit Agreement; and

(B) Except as otherwise provided by the Credit Agreement, such Debtor shall be entitled to receive and retain any and all dividends, distributions and interest paid in respect to any of the Pledged Shares (including, without limitation, Permitted Tax Distributions).

- (ii) Upon the occurrence and during the continuance of an Event of Default and upon receipt by any of the Borrowers of a written notice from Bank indicating its intent to exercise remedies under this Section 4.7:
- (A) Bank may transfer or register in the name of Bank or any of its nominees, any or all of the Pledged Shares and the Proceeds thereof (in cash or otherwise) held by Bank hereunder, and Bank or its nominee may thereafter exercise all voting and corporate rights at any meeting of any corporation issuing any of the Pledged Shares and any and all rights of conversion, exchange, subscription or any other rights, privileges or options pertaining to any of the Pledged Shares as if Bank were the absolute owner thereof, including, without limitation, the right to exchange, at its discretion, any and all of the Pledged Shares upon the merger, consolidation, reorganization, recapitalization or other readjustment of any corporation issuing any of such Pledged Shares or upon the exercise by any such issuer or Bank of any right, privilege or option pertaining to any of the Pledged Shares, and in connection therewith, to deposit and deliver any and all of the Pledged Shares with any committee, depository, transfer agent, registrar or other designated agency upon such terms and conditions as Bank may determine, all without liability except to account for property actually received by it, but Bank shall have no duty to exercise any of the aforesaid rights, privileges or options, and Bank shall not be responsible for any failure to do so or delay in so doing.
- (B) All rights of such Debtor to exercise the voting and other consensual rights which it would otherwise be entitled to exercise pursuant to Section 4.7(a)(i)(A) and to receive the dividends, interest and other distributions which it would otherwise be authorized to receive and retain pursuant to Section 4.7(a)(i)(B) shall be suspended until such Event of Default shall no longer exist, and all such rights shall, until such Event of Default shall no longer exist, thereupon become vested in Bank which shall thereupon have the sole right to exercise such voting and other consensual rights and to receive, hold and dispose of as Pledged Shares such dividends, interest and other distributions.
- (C) All dividends, interest and other distributions which are received by such Debtor contrary to the provisions of this Section 4.7(a)(ii) shall be received in trust for the benefit of Bank, shall be segregated from other funds of such Debtor and shall be forthwith paid over to Bank as Collateral in the same form as so received (with any necessary endorsement).

- (D) Each Debtor shall execute and deliver (or cause to be executed and delivered) to Bank all such proxies and other instruments as Bank may reasonably request for the purpose of enabling Bank to exercise the voting and other rights which it is entitled to exercise pursuant to this Section 4.7(a)(ii) and to receive the dividends, interest and other distributions which it is entitled to receive and retain pursuant to this Section 4.7(a)(ii). The foregoing shall not in any way limit Bank's power and authority granted pursuant to the other provisions of this Agreement.

(b) Possession; Reasonable Care. Regardless of whether a Default or an Event of Default has occurred or is continuing, Bank shall have the right to hold in its possession all Pledged Shares pledged or collaterally assigned hereunder and from time to time constituting a portion of the Collateral. Bank may appoint one or more agents (which in no case shall be a Debtor or an affiliate of a Debtor) to hold physical custody, for the account of Bank, of any or all of the Collateral. Bank shall be deemed to have exercised reasonable care in the custody and preservation of the Collateral in its possession if the Collateral is accorded treatment substantially equal to that which Bank accords its own property, it being understood that Bank shall not have any responsibility for (i) ascertaining or taking action with respect to calls, conversions, exchanges, maturities, tenders or other matters relative to any Collateral, whether or not Bank has or is deemed to have knowledge of such matters, or (ii) taking any necessary steps to preserve rights against any parties with respect to any Collateral.

Section 4.8 New Subsidiaries; Additional Collateral

- (a) With respect to each Person which becomes a Subsidiary of a Debtor subsequent to the date hereof, execute and deliver such joinders or security agreements or other pledge documents to the extent required by the Credit Agreement, within the time periods set forth therein.
- (b) Each Debtor agrees that, (i) except with the written consent of Bank, it will not permit any Domestic Subsidiary (whether now existing or formed after the date hereof) to issue to such Debtor or any other Debtor any shares of stock, membership interests, partnership units, notes or other securities or instruments (including without limitation the Pledged Shares) in addition to or in substitution for any of the Collateral, unless, concurrently with each issuance thereof, any and all such shares of stock, membership interests, partnership units, notes or instruments are encumbered in favor of Bank under this Agreement or otherwise (it being understood and agreed that all such shares of stock, membership interests, partnership units, notes or instruments issued to such Debtor shall, without further action by such Debtor or Bank, be automatically encumbered by this Agreement as Pledged Shares) and (ii) it will promptly following the issuance thereof deliver to Bank if requested by Bank (A) an amendment, duly executed by such Debtor, in substantially the form of *Exhibit A* hereto in respect of such shares of stock, membership interests, partnership units, notes or instruments issued to Debtor or (B) if reasonably required by Bank, a new stock pledge, duly executed by the applicable Debtor, in substantially the form of this Agreement (a

"New Pledge"), in respect of such shares of stock, membership interests, partnership units, notes or instruments issued to any Debtor granting to Bank, a first priority (subject to inchoate Permitted Liens) security interest, pledge and Lien thereon, together in each case with all certificates, notes or other instruments representing or evidencing the same, together with such other documentation as Bank may reasonably request. Such Debtor hereby (x) authorizes Bank to attach each such amendment to this Agreement, (y) agrees that all such shares of stock, membership interests, partnership units, notes or instruments listed in any such amendment delivered to Bank shall for all purposes hereunder constitute Pledged Shares, and (z) is deemed to have made, upon the delivery of each such amendment, the representations and warranties contained in Section 3.4 of this Agreement with respect to the Collateral covered thereby.

- (c) With respect to any Intellectual Property Collateral owned, licensed or otherwise acquired by any Debtor after the date hereof, and with respect to any Patent, Trademark or Copyright which is not registered or filed with the U.S. Patent and Trademark Office and/or the U.S. Copyright Office at the time such Collateral is pledged by a Debtor to Bank pursuant to this Security Agreement, and which is subsequently registered or filed by such Debtor in the appropriate office, such Debtor shall at least quarterly notify Bank thereof and, if requested by Bank, execute or cause to be executed and delivered to Bank, (i) an amendment, duly executed by such Debtor, in substantially the form of *Exhibit A* hereto, in respect of such additional or newly registered collateral or (ii) at Bank's option, a new security agreement, duly executed by the applicable Debtor, in substantially the form of this Agreement, in respect of such additional or newly registered collateral, granting to Bank, a first priority security interest, pledge and Lien thereon (subject only to the Permitted Liens), together in each case with all certificates, notes or other instruments representing or evidencing the same, and shall, upon Bank's request, execute or cause to be executed any financing statement or other document (including without limitation, filings required by the U.S. Patent and Trademark Office and/or the U.S. Copyright Office in connection with any such additional or newly registered collateral) granting or otherwise evidencing a Lien over such new Intellectual Property Collateral. Each Debtor hereby (x) authorizes Bank to attach each amendment to this Agreement, (y) agrees that all such additional collateral listed in any amendment delivered to Bank shall for all purposes hereunder constitute Collateral, and (z) is deemed to have made, upon the delivery of each such Amendment, the representations and warranties contained in Section 3.3(d) and Section 3.5 of this Agreement with respect to the Collateral covered thereby.

Section 4.9 Further Assurances (a) At any time and from time to time, upon the request of Bank, and at the sole expense of the Debtors, each Debtor shall promptly execute and deliver all such further agreements, documents and instruments and take such further action as Bank may reasonably deem necessary or appropriate to (i) preserve, ensure the priority, effectiveness and validity of and perfect Bank's security interest in and pledge and collateral assignment of the Collateral (including causing Bank's name to be noted as secured party on

any certificate of title for a titled good if such notation is a condition of Bank's ability to enforce its security interest in such Collateral), unless such actions are specifically waived under the terms of this Agreement and the other Loan Documents, (ii) carry out the provisions and purposes of this Agreement and (iii) to enable Bank to exercise and enforce its rights and remedies hereunder with respect to any of the Collateral. Except as otherwise expressly permitted by the terms of the Credit Agreement relating to disposition of assets and except for Permitted Liens and Liens identified on Schedule 10.5 of the Credit Agreement (except for Pledged Shares, over which the only Liens shall be that Lien created under this Agreement and inchoate Permitted Liens), each Debtor agrees to maintain and preserve Bank's security interest in and pledge and collateral assignment of the Collateral hereunder and the priority thereof.

(b) Each Debtor hereby irrevocably authorizes Bank at any time and from time to time to file in any filing office in any jurisdiction any initial financing statements and amendments thereto that (i) indicate any or all of the Collateral upon which the Debtors have granted a Lien, and (ii) provide any other information required by Part 5 of Article 9 of the UCC, including organizational information and in the case of a fixture filing or a filing for Collateral consisting of as-extracted collateral or timber to be cut, a sufficient description of real property to which the Collateral relates. Each Debtor agrees to furnish any such information required by the preceding paragraph to Bank promptly upon request.

ARTICLE 5 Rights of Bank

Section 5.1 Power of Attorney. Each Debtor hereby irrevocably constitutes and appoints Bank and any officer or agent thereof, with full power of substitution, as its true and lawful attorney-in-fact with full irrevocable power and authority in the name of such Debtor or in its own name, to take, after the occurrence and during the continuance of an Event of Default, any and all actions, and to execute any and all documents and instruments which Bank at any time and from time to time deems necessary, to accomplish the purposes of this Agreement and, without limiting the generality of the foregoing, such Debtor hereby gives Bank the power and right on behalf of such Debtor and in its own name to do any of the following after the occurrence and during the continuance of an Event of Default, without notice to or the consent of such Debtor:

- (a) to demand, sue for, collect or receive, in the name of such Debtor or in its own name, any money or property at any time payable or receivable on account of or in exchange for any of the Collateral and, in connection therewith, endorse checks, notes, drafts, acceptances, money orders, documents of title or any other instruments for the payment of money under the Collateral or any policy of insurance;
- (b) to pay or discharge taxes, Liens (other than Permitted Liens) or other encumbrances levied or placed on or threatened against the Collateral;
- (c) (i) to direct account debtors and any other parties liable for any payment under any of the Collateral to make payment of any and all monies due and to become

due thereunder directly to Bank or as Bank shall direct; (ii) to receive payment of and receipt for any and all monies, claims and other amounts due and to become due at any time in respect of or arising out of any Collateral; (iii) to sign and endorse any invoices, freight or express bills, bills of lading, storage or warehouse receipts, drafts against debtors, assignments, proxies, stock powers, verifications and notices in connection with accounts and other documents relating to the Collateral; (iv) to commence and prosecute any suit, action or proceeding at law or in equity in any court of competent jurisdiction to collect the Collateral or any part thereof and to enforce any other right in respect of any Collateral; (v) to defend any suit, action or proceeding brought against such Debtor with respect to any Collateral; (vi) to settle, compromise or adjust any suit, action or proceeding described above and, in connection therewith, to give such discharges or releases as Bank may deem appropriate; (vii) to exchange any of the Collateral for other property upon any merger, consolidation, reorganization, recapitalization or other readjustment of the issuer thereof and, in connection therewith, deposit any of the Collateral with any committee, depository, transfer agent, registrar or other designated agency upon such terms as Bank may determine; (viii) to add or release any guarantor, indorser, surety or other party to any of the Collateral; (ix) to renew, extend or otherwise change the terms and conditions of any of the Collateral; (x) to make, settle, compromise or adjust any claim under or pertaining to any of the Collateral (including claims under any policy of insurance); (xi) subject to any pre-existing rights or licenses, to assign any Patent, Copyright or Trademark constituting Intellectual Property Collateral (along with the goodwill of the business to which any such Patent, Copyright or Trademark pertains), for such term or terms, on such conditions and in such manner, as Bank shall in its sole discretion determine, and (xii) to sell, transfer, pledge, convey, make any agreement with respect to, or otherwise deal with, any of the Collateral as fully and completely as though Bank were the absolute owner thereof for all purposes (including the delivery of any notices and the taking of such action as may be necessary give rise to the obligation of a customer to purchase Inventory as set forth in the applicable customer contract and any enforcement of such obligation), and to do, at Bank's option and such Debtor's expense, at any time, or from time to time, all acts and things which Bank deems necessary to protect, preserve, maintain, or realize upon the Collateral and Bank's security interest therein.

This power of attorney is a power coupled with an interest and shall be irrevocable. Bank shall be under no duty to exercise or withhold the exercise of any of the rights, powers, privileges and options expressly or implicitly granted to Bank in this Agreement, and shall not be liable for any failure to do so or any delay in doing so. This power of attorney is conferred on Bank solely to protect, preserve, maintain and realize upon its security interest in the Collateral. Bank shall not be responsible for any decline in the value of the Collateral and shall not be required to take any steps to preserve rights against prior parties or to protect, preserve or maintain any Lien given to secure the Collateral.

Section 5.2 Setoff. In addition to and not in limitation of any rights of Bank under applicable law, Bank shall, upon the occurrence and continuance of an Event of Default, without notice or demand of any kind, have the right to appropriate and apply to the payment of

the Indebtedness owing to it (whether or not then due) any and all balances, credits, deposits, accounts or moneys of Debtors then or thereafter on deposit with Bank; provided, however, that any such amount so applied by Bank on any of the Indebtedness owing to it shall be subject to the provisions of the Credit Agreement.

Section 5.3 Assignment by Bank. Bank may at any time assign or otherwise transfer all or any portion of its rights and obligations as Bank under this Agreement and the other Loan Documents (including, without limitation, the Indebtedness) to any other Person, to the extent permitted by, and upon the conditions contained in, the Credit Agreement and such Person shall thereupon become vested with all the benefits and obligations thereof granted to Bank herein or otherwise.

Section 5.4 Performance by Bank. If, during the continuance of an Event of Default, any Debtor shall fail to perform any covenant or agreement contained in this Agreement, Bank may (but shall not be obligated to) perform or attempt to perform such covenant or agreement on behalf of the Debtors, in which case Bank shall exercise good faith and make diligent efforts to give Debtors prompt prior written notice of such performance or attempted performance. In such event, the Debtors shall, at the request of Bank, promptly pay any reasonable amount expended by Bank in connection with such performance or attempted performance to Bank, together with interest thereon at the interest rate set forth in the Credit Agreement, from and including the date of such expenditure to but excluding the date such expenditure is paid in full. Notwithstanding the foregoing, it is expressly agreed that Bank shall not have any liability or responsibility for the performance (or non-performance) of any obligation of the Debtors under this Agreement.

Section 5.5 Certain Costs and Expenses. The Debtors shall pay or reimburse Bank within five (5) Business Days after demand for all reasonable costs and expenses (including reasonable attorney's and paralegal fees) incurred by it in connection with the enforcement, attempted enforcement, or preservation of any rights or remedies under this Agreement or any other Loan Document during the existence of an Event of Default or after acceleration of any of the Indebtedness (including in connection with any "workout" or restructuring regarding the Indebtedness, and including in any insolvency proceeding or appellate proceeding). The agreements in this **Section 5.5** shall survive the payment in full of the Indebtedness. Notwithstanding the foregoing, the reimbursement of any fees and expenses incurred by Bank shall be governed by the terms and conditions of the applicable Credit Agreement.

Section 5.6 Indemnification. The Debtors shall indemnify, defend and hold Bank and its officers, directors, employees, counsel, agents and attorneys-in-fact (each, an "**Indemnified Person**") harmless from and against any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, charges, expenses and disbursements (including reasonable attorneys' and paralegals' fees) of any kind or nature whatsoever which may at any time (including at any time following repayment of the Indebtedness and the termination, resignation or replacement of Bank) be imposed on, incurred by or asserted against any such Indemnified Person in any way relating to or arising out of this Agreement or any other Loan Document or any document relating to or arising out of or referred to in this Agreement or any other Loan Document, or the transactions contemplated hereby, or any action taken or omitted by any such Indemnified Person under or in connection with any of the

foregoing, including with respect to any investigation, litigation or proceeding (including any bankruptcy proceeding or appellate proceeding) related to or arising out of this Agreement or the Indebtedness or the use of the proceeds thereof, whether or not any Indemnified Person is a party thereto (all the foregoing, collectively, the "Indemnified Liabilities"); provided, that the Debtors shall have no obligation under this Section 5.6 to any Indemnified Person with respect to Indemnified Liabilities to the extent resulting from the gross negligence or willful misconduct of such Indemnified Person. The agreements in this Section 5.6 shall survive payment of all other Indebtedness.

ARTICLE 6 Default

Section 6.1 Rights and Remedies. If an Event of Default shall have occurred and be continuing, Bank shall have the following rights and remedies:

- (a) Bank may exercise any of the rights and remedies set forth in this Agreement (including, without limitation, Article 5 hereof), in the Credit Agreement, or in any other Loan Document, or by applicable law.
- (b) In addition to all other rights and remedies granted to Bank in this Agreement, the Credit Agreement or by applicable law, Bank shall have all of the rights and remedies of a secured party under the UCC (whether or not the UCC applies to the affected Collateral) and Bank may also, without previous demand or notice except as specified below or in the Credit Agreement, sell the Collateral or any part thereof in one or more parcels at public or private sale, at any exchange, broker's board or at any of Bank's offices or elsewhere, for cash, on credit or for future delivery, and upon such other terms as Bank may, in its reasonable discretion, deem commercially reasonable or otherwise as may be permitted by law. Without limiting the generality of the foregoing, Bank may (i) without demand or notice to the Debtors (except as required under the Credit Agreement or applicable law), collect, receive or take possession of the Collateral or any part thereof, and for that purpose Bank (and/or its agents, servicers or other independent contractors) may enter upon any premises on which the Collateral is located and remove the Collateral therefrom or render it inoperable, and/or (ii) sell, lease or otherwise dispose of the Collateral, or any part thereof, in one or more parcels at public or private sale or sales, at Bank's offices or elsewhere, for cash, on credit or for future delivery, and upon such other terms as Bank may, in its reasonable discretion, deem commercially reasonable or otherwise as may be permitted by law. Bank shall have the right at any public sale or sales, and, to the extent permitted by applicable law, at any private sale or sales, to bid (which bid may be, in whole or in part, in the form of cancellation of indebtedness) and become a purchaser of the Collateral or any part thereof free of any right of redemption on the part of the Debtors, which right of redemption is hereby expressly waived and released by the Debtors to the extent permitted by applicable law. Bank may require the Debtors to assemble the Collateral and make it available to Bank at any place designated by Bank to allow Bank to take possession or dispose of such Collateral. The Debtors agree that Bank shall not

be obligated to give more than ten (10) days' prior written notice of the time and place of any public sale or of the time after which any private sale may take place and that such notice shall constitute reasonable notice of such matters. The foregoing shall not require notice if none is required by applicable law. Bank shall not be obligated to make any sale of Collateral if, in the exercise of its reasonable discretion, it shall determine not to do so, regardless of the fact that notice of sale of Collateral may have been given. Bank may, without notice or publication (except as required by applicable law), adjourn any public or private sale or cause the same to be adjourned from time to time by announcement at the time and place fixed for sale, and such sale may, without further notice, be made at the time and place to which the same was so adjourned. The Debtors shall be liable for all reasonable expenses of retaking, holding, preparing for sale or the like, and all reasonable attorneys' fees, legal expenses and other costs and expenses incurred by Bank in connection with the collection of the Indebtedness and the enforcement of Bank's rights under this Agreement and the Credit Agreement. The Debtors shall, to the extent permitted by applicable law, remain liable for any deficiency if the proceeds of any such sale or other disposition of the Collateral (conducted in conformity with this clause (ii) and applicable law) applied to the Indebtedness are insufficient to pay the Indebtedness in full. Bank shall apply the proceeds from the sale of the Collateral hereunder against the Indebtedness in such order and manner as provided in the Credit Agreement.

- (c) Bank may cause any or all of the Collateral held by it to be transferred into the name of Bank or the name or names of Bank's nominee or nominees.
- (d) Bank may exercise any and all rights and remedies of the Debtors under or in respect of the Collateral, including, without limitation, any and all rights of the Debtors to demand or otherwise require payment of any amount under, or performance of any provision of any of the Collateral and any and all voting rights and corporate powers in respect of the Collateral.
- (e) On any sale of the Collateral, Bank is hereby authorized to comply with any limitation or restriction with which compliance is necessary (based on a reasoned opinion of Bank's counsel) in order to avoid any violation of applicable law or in order to obtain any required approval of the purchaser or purchasers by any applicable Governmental Authority.
- (f) Bank may direct account debtors and any other parties liable for any payment under any of the Collateral to make payment of any and all monies due and to become due thereunder directly to Bank or as Bank shall direct.
- (g) In the event of any sale, assignment or other disposition of the Intellectual Property Collateral, the goodwill of the business connected with and symbolized by any Collateral subject to such disposition shall be included, and the Debtors shall supply to Bank or its designee the Debtors' know-how and expertise related to the Intellectual Property Collateral subject to such disposition, and the Debtors' notebooks, studies, reports, records, documents and things embodying the same or

relating to the inventions, processes or ideas covered by and to the manufacture of any products under or in connection with the Intellectual Property Collateral subject to such disposition.

- (h) For purposes of enabling Bank to exercise its rights and remedies under this Section 6.1 and enabling Bank and its successors and assigns to enjoy the full benefits of the Collateral, the Debtors hereby grant to Bank an irrevocable, nonexclusive license (exercisable without payment of royalty or other compensation to the Debtors) to use, assign, license or sublicense any of the Intellectual Property Collateral, Computer Records or Software (including in such license reasonable access to all media in which any of the licensed items may be recorded or stored and all computer programs used for the completion or printout thereof), exercisable upon the occurrence and during the continuance of an Event of Default (and thereafter if Bank succeeds to any of the Collateral pursuant to an enforcement proceeding or voluntary arrangement with Debtor), except as may be prohibited by any licensing agreement relating to such Computer Records or Software. This license shall also inure to the benefit of all successors, assigns, transferees of and purchasers from Bank.

Section 6.2 Private Sales.

- (a) In view of the fact that applicable securities laws may impose certain restrictions on the method by which a sale of the Pledged Shares may be effected during the continuance of an Event of Default, Debtors agree that upon the occurrence and during the continuance of an Event of Default, Bank may from time to time attempt to sell all or any part of the Pledged Shares by a private sale in the nature of a private placement, restricting the bidders and prospective purchasers to those who will represent and agree that they are "accredited investors" within the meaning of Regulation D promulgated pursuant to the Securities Act of 1933, as amended (the "Securities Act"), and are purchasing for investment only and not for distribution. In so doing, Bank may solicit offers for the Pledged Shares, or any part thereof, from a limited number of investors who might be interested in purchasing the Pledged Shares. Without limiting the methods or manner of disposition which could be determined to be commercially reasonable, if Bank hires a firm of regional or national reputation that is engaged in the business of rendering investment banking and brokerage services to solicit such offers and facilitate the sale of the Pledged Shares, then Bank's acceptance of the highest offer (including its own offer) obtained through such efforts of such firm shall be deemed to be a commercially reasonable method of disposition of such Pledged Shares. Bank shall not be under any obligation to delay a sale of any of the Pledged Shares for the period of time necessary to permit the issuer of such securities to register such securities under the laws of any jurisdiction outside the United States, under the Securities Act or under any applicable state securities laws, even if such issuer would agree to do so.
- (b) The Debtors further agree to do or cause to be done, to the extent that the Debtors may do so under applicable law, all such other reasonable acts and things as may

be necessary to make such sales or resales of any portion or all of the Collateral valid and binding and in compliance with any and all applicable laws, regulations, orders, writs, injunctions, decrees or awards of any and all courts, arbitrators or governmental instrumentalities, domestic or foreign, having jurisdiction over any such sale or sales, all at the Debtors' expense.

Section 6.3 Establishment of Cash Collateral Account; and Lock Box.

- (a) At the option of Bank, upon the occurrence of an Event of Default, there shall be established by each Debtor (other than the Holding Companies) with Bank in the name of Bank, a segregated non-interest bearing cash collateral account (the "Cash Collateral Account") bearing a designation clearly indicating that the funds deposited therein are held for the benefit of Bank. Furthermore in connection with the establishment of a Cash Collateral Account under the first sentence of this Section 6.3 (and on the terms and within the time periods provided thereunder), (i) each Debtor agrees to establish and maintain (and Bank may establish and maintain) at Debtor's sole expense a United States Post Office lock box (the "Lock Box"), to which Bank shall have exclusive access and control and each Debtor expressly authorizes Bank, from time to time, to remove the contents from the Lock Box for disposition in accordance with this Agreement; and (ii) each Debtor shall notify all account debtors that all payments made to Debtor (a) other than by electronic funds transfer, shall be remitted, for the credit of Debtor, to the Lock Box, and Debtor shall include a like statement on all invoices, and (b) by electronic funds transfer, shall be remitted to the Cash Collateral Account, and Debtor shall include a like statement on all invoices. Each Debtor agrees to execute all documents and authorizations as reasonably required by Bank to establish and maintain the Lock Box and the Cash Collateral Account. It is acknowledged by the parties hereto that any lockbox presently maintained or subsequently established by a Debtor with Bank may be used, subject to the terms hereof, to satisfy the requirements set forth in the first sentence of this Section 6.3.
- (b) At the option of Bank, upon the occurrence of an Event of Default, any and all cash (including amounts received by electronic funds transfer), checks, drafts and other instruments for the payment of money received by each Debtor at any time, in full or partial payment of any of the Collateral consisting of Accounts or Inventory, shall forthwith upon receipt be transmitted and delivered to Bank, properly endorsed, where required, so that such items may be collected by Bank. Any such amounts and other items received by a Debtor shall not be commingled with any other of such Debtor's funds or property, but will be held separate and apart from such Debtor's own funds or property, and upon express trust for the benefit of Bank until delivery is made to Bank. Immediately upon the occurrence and during the continuance of a Default or an Event of Default, all items or amounts which are remitted to a Lock Box or otherwise delivered by or for the benefit of a Debtor to Bank on account of partial or full payment of, or any other amount payable with respect to, any of the Collateral shall, at Bank's option, be applied to any of the Indebtedness, whether then due or not, in the order and

manner set forth in the Credit Agreement and no Debtor shall have any right whatsoever to withdraw any funds so deposited. Each Debtor further grants to Bank a first security interest in and Lien on all funds on deposit in such account. Each Debtor hereby irrevocably authorizes and directs Bank to endorse all items received for deposit to the Cash Collateral Account, notwithstanding the inclusion on any such item of a restrictive notation, e.g., "paid in full", "balance of account", or other restriction.

Section 6.4 Default Under Credit Agreement. Subject to any applicable notice and cure provisions contained in the Credit Agreement, the occurrence of any Event of Default (as defined in the Credit Agreement), shall be deemed to be an Event of Default under this Agreement. This **Section 6.4** shall not limit the Events of Default set forth in the Credit Agreement.

ARTICLE 7 Miscellaneous

Section 7.1 No Waiver; Cumulative Remedies. No failure on the part of Bank to exercise and no delay in exercising, and no course of dealing with respect to, any right, power or privilege under this Agreement shall operate as a waiver thereof, nor shall any single or partial exercise of any right, power or privilege under this Agreement preclude any other or further exercise thereof or the exercise of any other right, power, or privilege. The rights and remedies provided for in this Agreement are cumulative and not exclusive of any rights and remedies provided by law.

Section 7.2 Successors and Assigns. Subject to the terms and conditions of the Credit Agreement, this Agreement shall be binding upon and inure to the benefit of the Debtors and Bank and their respective heirs, successors and assigns, except that the Debtors may not assign any of their rights or obligations under this Agreement without the prior written consent of Bank.

Section 7.3 Amendment. The provisions of this Agreement may be amended or waived only by an instrument in writing signed by the parties hereto.

Section 7.4 Notices. All notices, requests, consents, approvals, waivers and other communications hereunder shall be in writing (including, by facsimile transmission) and mailed, faxed or delivered to the address or facsimile number specified for notices on signature pages hereto; or, as directed to the Debtors or Bank, to such other address or number as shall be designated by such party in a written notice to the other. All such notices, requests and communications shall, when sent by overnight delivery, or faxed, be effective when delivered for overnight (next business day) delivery, or transmitted in legible form by facsimile machine (with electronic confirmation of receipt), respectively, or if mailed, upon the third Business Day after the date deposited into the U.S. mail, or if otherwise delivered, upon delivery.

**Section 7.5 GOVERNING LAW; SUBMISSION TO JURISDICTION;
SERVICE OF PROCESS.**

- (a) THIS AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE INTERNAL LAWS OF THE STATE OF MICHIGAN (WITHOUT GIVING EFFECT TO ITS PRINCIPLES OF CONFLICTS OF LAWS).
- (b) ANY LEGAL ACTION OR PROCEEDING WITH RESPECT TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT MAY BE BROUGHT IN THE COURTS OF THE STATE OF MICHIGAN OR OF THE UNITED STATES FOR DETROIT, MICHIGAN, AND BY EXECUTION AND DELIVERY OF THIS AGREEMENT, EACH OF THE DEBTOR AND BANK CONSENTS, FOR ITSELF AND IN RESPECT OF ITS PROPERTY, TO THE NON-EXCLUSIVE JURISDICTION OF THOSE COURTS. EACH OF THE DEBTOR AND BANK IRREVOCABLY WAIVES ANY OBJECTION, INCLUDING ANY OBJECTION TO THE LAYING OF VENUE OR BASED ON THE GROUNDS OF FORUM NON CONVENIENS, WHICH IT MAY NOW OR HEREAFTER HAVE TO THE BRINGING OF ANY ACTION OR PROCEEDING IN SUCH JURISDICTION IN RESPECT OF THIS AGREEMENT OR ANY LOAN DOCUMENT.

Section 7.6 Headings. The headings, captions, and arrangements used in this Agreement are for convenience only and shall not affect the interpretation of this Agreement.

Section 7.7 Survival of Representations and Warranties. All representations and warranties made in this Agreement or in any certificate delivered pursuant hereto shall survive the execution and delivery of this Agreement, and no investigation by Bank shall affect the representations and warranties or the right of Bank to rely upon them.

Section 7.8 Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

Section 7.9 Waiver of Bond. In the event Bank seeks to take possession of any or all of the Collateral by judicial process, the Debtors hereby irrevocably waive any bonds and any surety or security relating thereto that may be required by applicable law as an incident to such possession, and waives any demand for possession prior to the commencement of any such suit or action.

Section 7.10 Severability. Any provision of this Agreement which is determined by a court of competent jurisdiction to be prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions of this Agreement, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

Section 7.11 Construction. Each Debtor and Bank acknowledge that each of them has had the benefit of legal counsel of its own choice and has been afforded an opportunity to

review this Agreement with its legal counsel and that this Agreement shall be construed as if jointly drafted by the Debtors and Bank.

Section 7.12 Termination. This Agreement and all Liens granted hereby shall terminate when all of the Indebtedness (other than contingent liabilities pursuant to any indemnity, including without limitation Section 5.5 and Section 5.6 hereof, for claims which have not been asserted, or which have not yet accrued) shall have been paid in full (in cash) and Bank have no further commitments to extend credit or other credit accommodations under the Credit Agreement (at which time in compliance with the Credit Agreement) Bank shall, upon the written request of the Debtors, execute and deliver to the Debtors all UCC termination statement and other documents and instruments reasonably requested by Debtors to evidence the release and termination of the security interests created by this Agreement, and shall duly assign and deliver to the Debtors (without recourse and without any representation or warranty) such of the Collateral as may be in the possession of Bank and has not previously been sold or otherwise applied pursuant to this Agreement, provided, however, that, the effectiveness of this Agreement shall continue or be reinstated, as the case may be, in the event that any payment received or credit given by Bank is returned, disgorged, rescinded or required to be recontributed to any party as an avoidable preference, impermissible setoff, fraudulent conveyance, restoration of capital or otherwise under any applicable state, federal, or local law of any jurisdiction, including laws pertaining to bankruptcy or insolvency, and this Agreement shall thereafter be enforceable against the Debtors as if such returned, disgorged, recontributed or rescinded payment or credit has not been received or given by Bank, and whether or not Bank relied upon such payment or credit or changed its position as a consequence thereof.

Section 7.13 Release of Collateral. Bank shall, upon the written request of the Debtors, execute and deliver to the Debtors a proper instrument or instruments acknowledging the release of the security interest and Liens established hereby on any Collateral to the extent permitted under the Credit Agreement.

Section 7.14 WAIVER OF JURY TRIAL. EACH DEBTOR AND BANK WAIVES ITS RIGHTS TO A TRIAL BY JURY OF ANY CLAIM OR CAUSE OF ACTION BASED UPON OR ARISING OUT OF OR RELATED TO THIS AGREEMENT, THE OTHER LOAN DOCUMENTS, OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY, IN ANY ACTION, PROCEEDING OR OTHER LITIGATION OF ANY TYPE BROUGHT BY EITHER SUCH PARTY AGAINST THE OTHER, WHETHER WITH RESPECT TO CONTRACT CLAIMS, TORT CLAIMS, OR OTHERWISE. EACH DEBTOR AND BANK AGREE THAT ANY SUCH CLAIM OR CAUSE OF ACTION SHALL BE TRIED BY A COURT TRIAL WITHOUT A JURY. WITHOUT LIMITING THE FOREGOING, EACH SUCH PARTY FURTHER AGREES THAT ITS RIGHT TO A TRIAL BY JURY IS WAIVED BY OPERATION OF THIS SECTION AS TO ANY ACTION, COUNTERCLAIM OR OTHER PROCEEDING WHICH SEEKS, IN WHOLE OR IN PART, TO CHALLENGE THE VALIDITY OR ENFORCEABILITY OF THIS AGREEMENT OR THE OTHER LOAN DOCUMENTS OR ANY PROVISION HEREOF OR THEREOF. THIS WAIVER SHALL APPLY TO ANY SUBSEQUENT AMENDMENTS, RENEWALS, SUPPLEMENTS OR MODIFICATIONS TO THIS AGREEMENT.

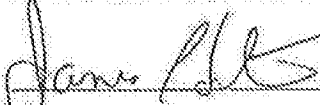
Section 7.15 Consistent Application. The rights and duties created by this Agreement shall, in all cases, be interpreted consistently with, and shall be in addition to (and not in lieu of), the rights and duties created by the Credit Agreement or the other Loan Documents. In the event that any provision of this Agreement shall be inconsistent with any provision of the Credit Agreement, such provision of the Credit Agreement shall govern.

Section 7.16 Continuing Lien. The security interest granted under this Agreement shall be a continuing security interest in every respect (whether or not the outstanding balance of the Indebtedness is from time to time temporarily reduced to zero) and Bank's security interest in the Collateral as granted herein shall continue in full force and effect for the entire duration that the Credit Agreement remains in effect and until all of the Indebtedness (other than contingent indemnification obligations for which no claim has been made) is repaid and discharged in full, and no commitment (whether optional or obligatory) to extend any credit under the Credit Agreement remain outstanding or until such Collateral is released from the Lien hereunder in accordance with the Credit Agreement or Sections 7.12 or 7.13 of this Agreement.

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

DEBTORS:

GOLDEN STATE MEDICAL SUPPLY, INC.

By: 
Name: _____
Title: _____

Address for Notices:
5187 Camino Ruiz
Camarillo, California 93012
Fax No.: _____
Telephone No.: _____
Attention: _____

GSMS, INC.

By: _____
Name: _____
Title: _____

Address for Notices:
301 Commerce, Suite 1600
Fort Worth, TX 76102
Fax No.: _____
Telephone No.: _____
Attention: _____

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


DEBTORS:

GOLDEN STATE MEDICAL SUPPLY, INC.

By: _____
Name: _____
Title: _____

Address for Notices:
5187 Camino Ruiz
Camarillo, California 93012
Fax No.: _____
Telephone No.: _____
Attention: _____

GSMS, INC.

By: 
Name: Michael D. Bernitz
Title: President

Address for Notices:
301 Commerce, Suite 1600
Fort Worth, TX 76102
Fax No.: 817-332-4630
Telephone No.: 817-332-3235
Attention: Michael Bernitz

COMERICA BANK

By: 
Name: Steven Colwick
Title: Vice President -- Texas Division

Address for Notices:
421 West Third Street, Suite 600
Fort Worth, TX 76102
Fax No.: (817) 338-7850
Telephone No.: (817) 338-7834
Attention: Steven Colwick

Schedule 1.1
Intellectual Property Collateral

U.S. TRADEMARKS

Mark	App. No.	Filing Date	Reg. No.	Reg. Date	Owner	Issues
SMARTER BOTTLE	85/014584	4/15/10	n/a	n/a	Golden State Medical Supply, Inc. (a California corp.)	None
GSMS INCORPORATED (and Design)	77/780723	7/14/09	3,839,980	8/31/10	Golden State Medical Supply, Inc. (a California corp.)	None
SAFETY LABEL	77/780492	7/14/09	3,915,258	2/1/11	Golden State Medical Supply, Inc. (a California corp.)	None
GSMS COLORMAP	77/780604	7/14/09	3,924,522	3/1/11	Golden State Medical Supply, Inc. (a California corp.)	None
PRESCRIPTION-READY	77/780481	7/14/09	n/a	n/a	Golden State Medical Supply, Inc. (a California corp.)	None
PRESCRIPTION-READY	77/780505	7/14/09	n/a	n/a	Golden State Medical Supply, Inc. (a California corp.)	None

Mark	App. No.	Filing Date	Reg. No.	Reg. Date	Owner	Issues
GSMS, INC.	75/316233	6/27/97	2,174,998	7/21/98	Golden State Medical Supply, Inc. dba GSMS, Inc. (a California corp.)	None

U.S. PATENTS

None.

STATE INTELLECTUAL PROPERTY

State of California -- Trademark 112864, Service mark 63822, Service mark 045888